

---

DRAFT STATUTORY INSTRUMENTS

---

**2023 No.**

**The Health Care Services (Provider Selection Regime) Regulations 2023**

**PART 5**

**Advice, information and audit**

**Advice**

**23.**—(1) When making decisions in accordance with these Regulations, a relevant authority may seek or otherwise receive independent expert advice.

(2) The provision of information by a relevant authority for the purpose of paragraph (1)—

- (a) does not breach any obligation of confidence owed by the relevant authority, but
- (b) is subject to any express restriction on disclosure imposed by any enactment (other than a restriction which allows disclosure if authorised by an enactment).

(3) For the purposes of this regulation, “independent expert advice” means advice relating to the procurement of relevant health care services under these Regulations from a person with relevant expertise, qualifications or experience who is made available by, or endorsed by, NHS England or the Secretary of State for that purpose.

(4) Nothing in this regulation prevents the relevant authority seeking or otherwise receiving advice, including advice relating to the procurement of relevant health care services under these Regulations, at any time.

**Information requirements**

**24.** A relevant authority must keep a record of—

- (a) the name of any provider to whom it awards a contract;
- (b) the name of any provider who is a party to a framework agreement;
- (c) the address of the registered office or principal place of business of each provider referred to in paragraph (a) or (b);
- (d) the decision-making process followed, including the identity of individuals making decisions;
- (e) where Direct Award Process C or the Most Suitable Provider Process was followed, a description of the way in which the key criteria were taken into account and the basic selection criteria were assessed when making a decision;
- (f) where the Competitive Process was followed, a description of the way in which the key criteria were taken into account, the basic selection criteria were assessed and contract or framework award criteria were evaluated when making a decision;
- (g) the reasons for decisions made under these Regulations;
- (h) declared conflicts or potential conflicts of interest;

- (i) how any conflicts or potential conflicts of interest were managed for each decision;
- (j) where a procurement is abandoned, the date on which it is abandoned.

### **Annual summary**

**25.**—(1) A relevant authority must publish online, on a publicly available website accessible free of charge, an annual summary of its contracting activity for the provision of relevant health care services.

(2) The annual summary must include—

- (a) the number of contracts awarded in the year to which the summary relates where Direct Award Process A, Direct Award Process B or Direct Award Process C was followed;
- (b) the number of contracts awarded in the year to which the summary relates where the Most Suitable Provider Process was followed;
- (c) the number of contracts awarded in the year to which the summary relates where the Competitive Process was followed;
- (d) the number of framework agreements concluded in the year to which the summary relates;
- (e) the number of contracts awarded based on a framework agreement in the year to which the summary relates;
- (f) the number of contracts awarded and modifications made in reliance on regulation 14 (urgent award or modification) in the year to which the summary relates;
- (g) the number of new providers to whom a contract was awarded in the year to which the summary relates;
- (h) the number of providers who held a contract in the previous year but no longer hold any contracts in the year to which the summary relates;
- (i) the number of written representations made in accordance with regulation 12(3) and received during standstill periods which ended in the year to which the summary relates and a summary of the nature and impact of those representations.

### **Monitoring requirements**

**26.** A relevant authority must—

- (a) monitor its compliance with these Regulations, and
- (b) publish online, on a publicly available website accessible free of charge, an annual report of the results of that monitoring including information as to how any non-compliance will be addressed.