**REQUIREMENTS FOR NEW PROVIDERS SEEKING TO BE AWARDED WITH A CONTRACT UNDER THE HEALTH CARE SERVICES (PROVIDER SELECTION REGIME) REGULATIONS 2023 DIRECT AWARD PROCESS B FOR SERVICES WHERE THE PATIENT HAS A LEGAL RIGHT TO CHOOSE**

**Background**

NHS Humber and North Yorkshire ICB support every person’s Right To Choose, as set out in the [NHS Choice Framework](https://www.gov.uk/government/publications/the-nhs-choice-framework/the-nhs-choice-framework-what-choices-are-available-to-me-in-the-nhs) and in the [NHS Constitution for England](https://www.gov.uk/government/publications/the-nhs-constitution-for-england).

The ICB has put in place an assessment process to ensure that it is satisfied that the provider can undertake the service required by the patient following an elective referral, while enabling patient's right to choose as set out in the NHS Constitution and the 2022 Act.

Expressions of interest from providers wishing to be assessed for an NHS Standard contract and become a choice for patients under Right to Choose should be sent to [hnyicb.serviceplanning@nhs.net](mailto:hnyicb.serviceplanning@nhs.net).

The legal Right to Choose applies when:

* The service to be referred to is consultant led / mental health professional led as appropriate, and
* The patient is being appropriately referred from primary care (GP, dentist or optometrist) for a new episode of care (usually a 1st appointment), inclusive of subsequent treatment.

The NHS Humber and North Yorkshire Integrated Care Board (“the ICB”) has identified requirements for the commissioning of those services where the patient has a legal right to Choose.

The ICB reserves the right to amend, or to add further detail, to these requirements.

The requirements have been prepared in the context of the following legal and regulatory framework:

[The Health Care Services (Provider Selection Regime) Regulations 2023](https://www.legislation.gov.uk/ukdsi/2023/9780348252613/contents)

[The Provider Selection Regime: statutory guidance](https://www.england.nhs.uk/long-read/the-provider-selection-regime-statutory-guidance/#:~:text=How%20does%20the%20PSR%20work,have%20regard%20to%20this%20guidance.)

[The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (legislation.gov.uk)](https://www.legislation.gov.uk/uksi/2012/2996/contents)

[NHS England » Patient choice guidance](https://www.england.nhs.uk/long-read/patient-choice-guidance/)

**Summary of Requirements and Process**

The process is initiated by an expression of interest (EOI) from a Provider.

In the expression of interest the Provider will be asked to confirm:

* What pathway/s the Provider is expressing an interest in
* That each individual pathway/service in the EOI is inclusive of a first outpatient appointment **and** subsequent treatment (for example diagnostic, pathology and other discrete therapy/treatment).

Direct Award Process B will only be considered where the ICB commissions the service in question from other providers, and the proposed pathways fall within the definition of the legal right to choose inclusive of subsequent treatment. In order to confirm this, the ICB may seek further information from the Provider, including full details of their specific pathways.

In seeking further information, the ICB will request Providers to respond within 28 days from the date of the ICB's request. If additional information is not provided the ICB will make a decision as to the appropriateness of the EOI under Direct Award Process B based on the initial information provided.

The ICB will compare this information with contracts it already commissions to determine whether the expression of interest falls within the scope of Right to Choose. The ICB will also make available any existing local terms and conditions in relation to the relevant service and how it is currently commissioned. If the service does not fall within the right to choose, the provider will be advised accordingly

The local requirements of NHS Humber and North Yorkshire ICB is for the Provider to complete a two-part assessment. Providers may complete and submit part 1 and 2 together or separately. Details of the questionnaires can be found on the ICB website: [Operational - Humber and North Yorkshire Integrated Care Board (ICB)](https://humberandnorthyorkshire.icb.nhs.uk/documents-and-publications/operational/)

Part 1 is a Questionnaire consisting of a number of requirements and declarations, most of which are Pass/Fail and designed to determine the Provider’s ability to deliver services that are commensurate with the terms and conditions of the NHS Standard Contract. Financial accounts are also requested as a requirement of Part 1 which are used to assess the economic and financial standing of the Provider.

The Provider will be informed in writing of the outcome of stage 1 including any feedback.

Part 2 is a qualitative assessment to understand the clinical provision being proposed and seek assurances against National Criteria domains and ICB outcomes relating to quality, safety, clinical effectiveness, service sustainability and governance.

The Part 2 assessment will be evaluated by an ICB moderation panel made up of at least 1 representative from Nursing and Quality, Clinical and Professional, Commissioning and Contracting/Procurement. Other representatives may be asked to provide specialist input and subject matter expertise depending on the service/pathway requested to be provided.

The panel will evaluate the information provided, against the services/pathways to be delivered as provided in the EOI and the key criteria described in the part 2 process. The panel will agree a consensus score and what if any further information or evidence is required against each of the National Criteria domains. The Provider will be notified in writing of the scoring and feedback from the panel.

The level of evidence required will be proportionate to reflect the risks associated with the service or services requested to be provided and therefore a maximum word limit of 1000 words for each National Criteria domain Providers may submit an additional evidence file of any key policies and procedures that are in place against each domain.

As part of the Part 1 and Part 2 evaluation further information may be required to be supplied to the ICB by the Provider to support or clarify the information submitted. Where additional information is requested, the Provider will have 28 days from the date of the request to supply any additional information. If additional information is not received in this time, the ICB will proceed with evaluation on the basis of the information already provided.

The outcome of the part 1 assessment will be determined prior to assessment of part 2. The outcome of part 2 will be:

* Contract award – all key criteria achieved
* Contract may be awarded – some key criteria not achieved but further information could be provided to enable this to be met in full or with action plan in place. In this instance the provider will be asked to submit additional information to address the specific issues identified.
* Contract not awarded – no evidence or demonstration that key criteria requirement will be achieved.

Following receipt and evaluation of the information supplied by the Provider, a decision will be taken by ICB Executives whether the Provider meets the ICB’s requirements in line with the NHS Humber and North Yorkshire ICB Operational Scheme of Delegation. The outcome of the evaluation will be at the sole discretion of NHS Humber and North Yorkshire ICB and will be shared with the provider.

If a Provider successfully meets the ICB’s requirements an NHS Standard Contract will be awarded using Direct Award Process B of the Health Care Services (Provider Selection Regime) Regulations 2023. In order to ensure that all providers are held to similar levels of scrutiny and standards, contracts will include any specific terms, conditions and standards which relate to incumbent providers of those services.

The Provider will only be permitted to accept referrals for, and deliver, the services and pathways for which it expressed an interest and has been subsequently successfully accredited.

The Provider must not accept referrals until the assessment process is successfully complete, all assurances are in place and the NHS Standard Contract has been signed by both the Provider and the ICB.

If the Provider does not successfully meet the ICB’s requirements for part one or part two the unsuccessful Provider will be notified of this in writing. If a Provider has failed the evaluation, they will only be re-evaluated for the same service if they re-submit their application and can demonstrate that they have addressed all the risks and issues identified in the feedback to the original evaluation and meet the key criteria and requirements in part one and part two .

**Economic and Financial Standing Assessment**

Part 1 will include a review of the last two years of the Provider’s accounts to assess the financial sustainability of the provider.

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| --- | --- | --- |
| Assessment | Measure | Threshold |
| Turnover | Turnover as reported in the Provider’s accounts in each of the last two years | Minimum of £250,000 |
| Current Ratio | = Current Assets  Current Liabilities  As reported in the Provider’s accounts in each of the last two years | Minimum of 1.2 |

Providers failing to meet the threshold(s) may possibly still proceed if there are exceptional circumstances affecting their published accounts and sufficient alternative financial assurance is in place, such decision will be at the sole discretion of the ICB.

**Part 2: moderation panel outcomes**

|  |  |  |
| --- | --- | --- |
| **Key Criteria** |  |  |
| **Assessment** | **Description** | **Score** |
| Meets requirements | Demonstration and evidence of the Key Criteria requirement will be achieved, which is proportionate to the healthcare service being commissioned. | 3 |
| Meets requirements with some reservation - action plan in place | Demonstration and evidence of the Key Criteria requirement with some reservations, which is proportionate to the healthcare service being commissioned. For identified reservations an action plan is in place to address concerns / issues with clear timescales for resolution. | 2 |
| Meets requirements with some reservation - no action plan in place | Demonstration and evidence of the Key Criteria requirement with some reservations, which is proportionate to the healthcare service being commissioned. For identified reservations no action plan in place to address concerns / issues. | 1 |
| Doesn’t meet requirements | No demonstration, or evidence that the Key Criteria requirement will be achieved. | 0 |

**Requirements and Process Flowchart**

Provider submits Expression of Interest which includes information on each individual pathway it wishes to be considered for, to the ICB

\*In considering this ICB will require information from the provider on each pathway that the provider is expressing an interest in, and confirmation that each pathway in the EOI is inclusive of a first outpatient appointment and subsequent treatment.

Is the proposed service included in Patient Choice Regulations 2012\* and included in Direct Award Process B

Yes

No

Close EOI. Provider notified

Provider completes part 1 and part 2 of the accreditation questionnaire. These can be submitted separately or together.

ICB considers the application.

Part 1: Pass

Part 1: Pass

Part 1: Fail

Part 1: Pass

BUT

\*\*additional information and/or meeting put in place to discuss and agree additional requirements or information requirements prior to contract award

AND

AND

Part 2: Some key criteria not achieved – if areas successfully addressed contract **may** be awarded\*\*

Part 2: Key criteria not achieved

Part 2: All key criteria achieved

Provider notified. Application must be re-submitted prior to consideration of part 2.

Contract not awarded. Provider may resubmit EOI for the same services if they can demonstrate that they have addressed all of the risks and issues identified in the feedback.

Approval for contract award by any 2 of Director of Finance and Chief Operating Officer, Chief Executive Officer