

Livewell Southwest

**Procurement Agreement between
Livewell Southwest
and
Joint Trade Union Forum**

Version No. 2.1
Review: March 2018

Notice to staff using a paper copy of this guidance

The policies and procedures page of LSW intranet holds the most recent version of this document and staff must ensure that they are using the most recent guidance.

Author: Joint Trade Union Forum

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Reader Information

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Document review history

Version No.	Type of Change	Date	Originator of Change	Description of Change
0.1	New document	November 2011	Chair Joint Trade Union Forum	0.1
	Ratified	16 th November 2011	JCCN.	
1	Ratified	February 2012	Policy Ratification Group	
1.1	Extended	June 2014	Learning & Development Manager	Extended no changes
2	Ratified	December 2014	JTUF Joint Chair / Unison Branch Chair-Representative	Ratified no changes.
2.1	Updated	March 2015	HR Policy Group	Signature block added

Contents		Page
1	Introduction	4
2	Purpose	4
3	Statutory/Policy Background	4
4	Service Review and Options Appraisal	5
5	The Procurement Process	5
6	Access to Information	6
7	Workforce Issues	6

Procurement Agreement between Livewell Southwest and Joint Trade Union Forum

1 Introduction

- 1.1 This agreement sets out how **Livewell Southwest (hereafter called the Company)** and all its departments / sections will involve and consult the trade unions in the key stages of the service review, service transformation and/or procurement process. This will not apply to the purchase of goods.

2 Purpose

- 2.1 **The Company** will involve and consult the recognised trades unions (hereafter called the Joint Trade Union Forum (JTUF)) on any proposal to procure and/or commission services or proposals to provide services or change contracts to agree JTUF involvement in the procurement and commissioning cycle before any key decisions are made and to agree structures and timetables that enable this to happen.
- 2.2 **The Company** agrees there will be regular engagement and consultation with JTUF throughout the commissioning and procurement cycle, including service reviews, option appraisals and where relevant throughout the active procurement stage from advertisement to subsequent contract award and contract monitoring. This will be in relation to the company being both a provider and commissioner of services.
- 2.3 **The Company** and the trades unions are committed to providing high quality services that meet the needs of local communities. **The Company** recognises that trade union involvement is positive for facilitating change, supporting the workforce, encouraging positive staff engagement, and raising service standards.
- 2.4 Any proposed reorganisation of services will be equality impact assessed, including the impact on staff and on equal pay in line with the statutory public sector equality duties and **the Company's** Equalities scheme(s).
- 2.5 A consistent and common approach, based on the principles of this agreement, will be applied to procurement teams (or any relevant department) to all activities relating to procurement.

3 Statutory/Policy background

- 3.1 **The Company** will follow statutory and policy guidance that procurement decisions should take proper account of workforce issues in that both the Transforming Community Services document “enabling new patterns of provision” and the NHS constitution state that;

“robust arrangements are in place for staff engagement and trade union consultation throughout the process”

4. Service review and options appraisal

- 4.1 **The Company** will inform the trade unions of any proposed service reviews and fully consult and engage with them throughout the review process.
- 4.2 **The Company** will carry out a full options appraisal before any formal procurement process is commenced. Trades unions will be consulted over the appraisal method, assessment criteria, and involved in the options appraisal itself.
- 4.3 **The Company** will assess social, economic, equality and environmental impact at both options appraisal and bid evaluation stages. The assessment and evaluation of all proposals will take into account the costs, loss of direct management control and any risks to service provision from out-sourcing services.
- 4.4 **The Company** will evidence that a first consideration in any service review and option appraisal is a properly resourced in house provision or service improvement plan. Where it is decided to carry out a formal procurement exercise, wherever possible, it will include a fully supported in house bid.
- 4.5 **The Company** will ensure that a full review of existing services takes place with the opportunity for the provider to have a service improvement plan considered prior to a decision on procurement.

5. The Procurement Process

- 5.1 **The Company** will consult the JTUF on the drafting of any procurement notice which might include Prior information Notice (PIN) or Official Journal European Union (OJEU) it proposes to issue. JTUF will also be invited to participate in and have input into the contents of these notices, soft market testing exercises and bidder conferences and open days.
- 5.2 **The Company** will facilitate joint meetings between the trade unions and potential service providers and short listed bidders at key stages of process.
- 5.3 Trade unions will be invited to participate in the selection process of contractors. The trades unions will be given the opportunity to meet with and be included in the interviewing of short-listed bidders. Where requested the authority will also facilitate visits by union representatives to sites where the bidders have contracts jointly and where appropriate.
- 5.4 Where the competitive dialogue procedure is used, arrangements will be made for trade union involvement and consultation at the solutions stages prior to a final tender being invited.

5.5 Where the negotiated procedure is used **the Company** will facilitate full discussions between trade unions and **the Company's** preferred bidder prior to contract award.

6. Access to information

6.1 The trades unions will be given timely access to all of the relevant information at each stage of the service review, options appraisal, and procurement process.

6.2 **The Company** will seek agreement with bidders that will ensure appropriate and timely access by the trades unions to all relevant information.

6.3 Information will be provided on the basis that the trades unions may use it for reasonable communication of relevant issues with their members and advisers.

6.4 Where **the Company** considers that any information is commercially confidential the union will be informed that the information is being withheld and the reasons. The commercially confidential information will be made available to the nominated representative(s) and adviser(s) of the trade union(s) subject to a requirement to sign a confidentiality agreement. The trade union(s) will be required to agree to ensure this information is kept securely.

6.5 **The Company** will provide assistance to the trades unions in the interpretation of information and proposals, including where appropriate financial support to enable the trade union to have complex information analysed.

7. Workforce issues

7.1 **The Company** recognises that major procurement exercises are complex and time-consuming for the authority, and that meaningful involvement in this process by trade union representatives brings a significant additional workload. Therefore, the JTUF will be granted facility time to fulfil these duties and have access to meeting with members in the lead up to and during a significant procurement process.

7.2 Staff will be given paid time off to attend trades union meetings at key points in the process in accordance with current facility agreements.

7.3 In any service changes, **the Company** will take steps to avoid compulsory redundancies and maximise redeployment opportunities.

7.4 **The Company** is committed to workforce development which maximises opportunities for training and development and recognises the positive role of trade unions and union learning reps in workforce development. A similar approach will be required from bidders for **the Company's** contracts.

- 7.5 **The Company** will support its own compliance with statutory public sector equality duties and its own Equalities scheme(s) by including specific requirements for, and monitoring of, contractors to improve equality for the workforce providing public services.
- 7.6 **The Company** is committed to fully protecting the pay, conditions, and pensions of the workforce where possible through a “TUPE plus” type agreement or where appropriate a transfer agreement **the Company** will ensure protection either through secondment arrangements/ transfer agreement or by ensuring that workforce commitments and protections are embedded within tender documentation, contracts and re-tenders.
- 7.7 Where permissible **the Company** will endeavour any successful contractor to secure a directions order in the continued membership of the NHSPS or a broadly similar scheme.
- 7.8 **The Company** will encourage contractors to recognise trades unions for new starters as well as transferred employees.

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

Signed:	David Furze	Karen Smith
Job Title:	Head of HR	Joint JTUF Chair
Date:	17 th March 2015	17 th March 2015