NHS
North East Lincolnshire
Clinical Commissioning Group

North East Lincolnshire (NEL)

Independent Advocacy Service

Memorandum of Information (MOI)

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1 PURPOSE, STRUCTURE AND NEXT STEPS FOR BIDDERS 4
1.1 Purpose of this document 4
1.2 Organisation of this document 4
1.3 Next Steps for Bidders 5
1.4 Closing Date 5
2 INTRODUCTION AND OVERVIEW 6
2.1 Background to Procurement 6
1. Local Context 6
2. National Context 6
2.2 Standards 6
2.3 Objectives and Scope of the Procurement 7
2.4 Service Accessibility 7
2.5 Integration 7
2.6 Innovation 7
2.7 Care Pathways 7
2.8 Quality of Care provision 7
2.9 Service Monitoring, Performance Management and Evaluation System 7
2.10 Bidder Pool 8
2.11 Critical Success Factors (CSFs) 8
3 COMMISSIONING ORGANISATION 9
3.1 Commissioning Organisations 9
3.2 Scheme(s) 9
4 PROCUREMENT PROCESS – OVERVIEW 10
4.1 Procurement Timeline 10
4.2 Advert, MOI & EOI 10
4.2.1 Advert 10
4.2.2 Memorandum of Information 10
4.3 Selection Questionnaire (SQ) 10
4.4 Invitation to Tender 10
4.5 Questions and Answer process 11
4.6 Deadline for Responses 12
4.7 Address for Responses 12
4.8 Format of Bids 12
4.9 Incusion of Other Information 12
4.10 Consortia and Sub contracting 13
4.11 Evaluation 18
4.12 Contract Award 18
4.13 Service Commencement 18
5 COMMERCIAL FRAMEWORK 19
5.1 Contract 19
5.2 Contract Duration 19
5.3 Workforce 19
5.3.1 Policies and Strategies 19
5.3.2 Management and staffing arrangements 20
5.3.3 Pensions 20
5.3.4 Staff Transfers (TUPE) 20
5.4 Health Record Management 21
5.4.1 Information Governance 21
5.4.2 Statement of Confidentiality 23
5.4.3 Related legislation 23
5.5 Health and Safety and Risk Management 24
5.6 Payment Mechanism 24
5.7 Financial Standing 24
5.8 Insurance 24
5.9 Environmental Sustainability 25
6 GOVERNANCE AND ADMINISTRATION 26
6.1 Requirements 26
6.1.1 Procurement Costs 26
6.1.2 Consultation 26
6.1.3 Standards 26

6.1.4 Conflicts of interest 26
6.1.5 Non-collusion and Canvassing 27
6.1.6 Freedom of Information 28
6.1.7 Disclaimer 29
7 GLOSSARY OF TERMS AND ABBREVIATIONS 30

1 PURPOSE, STRUCTURE AND NEXT STEPS FOR BIDDERS

1.1 Purpose of this document

This Memorandum of Information (**MOI**) provides an overview of the North East Lincolnshire Clinical Commissioning Group (hereinafter referred to as NELCCG) procurement and details of the:

- Procurement and its objectives;
- The joint service requirements;
- Procurement process;
- Procurement commercial framework; and
- Procurement governance and administration requirements.

The purpose of this MOI is to provide potential bidders with sufficient information on the Procurement to enable them:

- To make an informed decision about whether they wish to participate; and
- To submit an application for the service being procured.

In evaluating bids from potential bidders, NELCCG will only consider information provided in response to this publication.

English will be the official language for all means of communications between bidders and NELCCG on all matters relating to this procurement.

1.2 Organisation of this document

This MOI is organised into the following sections:

Section 1: **Purpose, Structure and Next Steps for Bidders**
Detailing the purpose and organisation of the MOI and the next steps for potential Bidders.

Section 2: **Introduction and Overview**
Detailing the background and objectives to the procurement, the scope of services to be procured, the bidder pool and the factors critical to the success of the Procurement.

Section 3: **Commissioning Organisation**
Details of the Commissioning organisation and scheme.

Section 4: **Procurement Process Overview**
Detailing the steps involved in the Procurement

Section 5: **Commercial Framework**
Detailing the key commercial terms and other legal and contractual arrangements for the Procurement

Section 6: **Governance and Administration**
Detailing key governance and administration requirements of NELCCG.

Section 7: **Glossary of Terms and Abbreviations**
Providing a glossary of the terms used in the MOI.

Annexes: **Annex A – Service Specification**
Detailing specific summary information for the service being procured.

Annex B – Local Advocacy Information for North East Lincolnshire
Annex C – Question and Answer Template
Annex D – Form of Application / Non-Collusive declaration
Annex E – Conflict of Interest declaration
Annex F – TUPE Declaration (to be returned before TUPE information is released)
Annex G – TUPE Information

1.3 Next Steps for Bidders

Interested parties wishing to participate in the Procurement should register and download a tender pack on NELCCG e-procurement system https://eprocurement.northeastlincolnshireccg.nhs.uk/ and submit an application using the supplied documentation.

Registration does not require approval and will provide automatic access to the tender pack.

Should you have problems accessing the e-procurement system, please email nelccg.nelpcprocurement@nhs.net

Please take note of section 5.3.4 (provision of TUPE information) which requires immediate action by email.

1.4 Closing Date

The closing date for submissions is **12 noon on 11th June 2021.**

2 INTRODUCTION AND OVERVIEW

2.1 Background to Procurement

2.1.1 Local Context

The specification is included at Annex A and outlines the requirements for the service. The successful provider will be expected to provide effective and innovative solutions to fulfil these requirements, although any changes to agreed pathways, protocols and procedures will require prior agreement from NELCCG.

Further information on local demographics can be found at:

Welcome to North East Lincolnshire Council | NELC (nelincs.gov.uk)
Joint Strategic Needs Assessment (JSNA) | Home - InstantAtlas™ Server (nelincsdata.net)

Also refer to **Annex B** – Local Advocacy Information for North East Lincolnshire.

2.1.2 National Context

Advocacy promotes equality, social justice, social inclusion and human rights. It aims to make things happen in the most direct and empowering ways possible. It recognises that self-advocacy – whereby people, perhaps with encouragement and support, speak out and act on their own behalf – is the ultimate aim. This is the goal which underpins all forms of high quality advocacy, as emphasised in the **'Advocacy Code of Practice**

There are statutory requirements on Local Authorities to deliver advocacy. This contract seeks to discharge this responsibility under;

- Care Act (2014)
- Mental Capacity Act (2005)
- Mental Health Act (1983 as amended 2007)

It does not seek to deliver NHS complaints advocacy under the Health and Social Care Act 2012.

This contract will also deliver advocacy to a level above the statutory requirement through the inclusion of a generic or non-statutory provision.

During the course of this contract there will be changes in statute that affect delivery of this service, notably the outcome of the review of Mental Capacity Act & implementation of Liberty Protection Safeguards, and the upcoming amendments to the Mental Health Act. The impact of changes in legislation on delivery of advocacy delivered during the course of this contract will be addressed jointly and collaboratively between commissioner and provider as guidance and impact becomes clear.

2.2 Standards

It will be the responsibility of the successful provider to ensure that all services commissioned by NELCCG follow the aims, objectives and standards as described in the specification and are delivered as per the submitted bid.

2.3 Objectives and Scope of the Procurement

The objective is to provide a high quality Independent Advocacy service across North East Lincolnshire

Further details of the services required can be found in the service specification at Annex A of this MOI.

2.4 Service Accessibility

The provider must ensure that services are provided in an environment that promotes access for all and ensures safe and effective support, including working in partnership with professionals and housing providers to ensure the safety of the premises. This includes ensuring that there is adequate privacy and confidentiality, cleanliness, maintenance and fire precautions.

The provider must ensure they have paid due regard to the Equality Act 2010 and can evidence, where statutory obligations require, that they meet the needs of those covered by the requirements of the protected characteristics.

Further information on service accessibility is provided in the annexed specifications.

2.5 Integration

The provider must demonstrate how it plans to enhance partnerships and provide an integrated service that works across health, social care, education, voluntary and other agencies within North East Lincolnshire, providing a seamless approach. This is to be backed up where possible by examples of the provider's track record in this regard.

2.6 Innovation

We are keen to encourage innovative ideas and approaches. The provider is therefore expected to keep abreast of regional and national best practice to achieve and implement innovative approaches to delivering the service.

2.7 Care Pathways

The system of support described in the attached specification should be integrated and able to respond to changing individual needs over time. It should also be able to provide access to appropriate interventions that meet an individual's needs in a holistic way.

2.8 Quality

The provider will adhere to the quality indicators as set out in the attached specification at Annex A.

2.9 Service Monitoring, Performance Management and Evaluation System

The provider will be responsible for delivering and responding to quarterly monitoring and evaluation mechanisms implemented by the Commissioner including providing requested data in a format provided by the Commissioner.

The provider will be subject to a formal service review on a quarterly basis with representatives from the Commissioner, based on the service specification. The system is designed to monitor the procured service against the service specification criteria and enhance service improvement. It will be reviewed on a regular basis to ensure that it is relevant and effective.

The provider will need to comply with additional requests for data from the commissioners from time to time, which will not generally involve the production of a report, but can be dealt with by verbal or emailed response. The provider will not charge for responding to these requests.

2.10 Bidder Pool

NELCCG wishes to receive responses to this tender from suitably qualified and experienced providers with the necessary capacity and capability (or a demonstrable ability to provide the necessary capacity and capability) to provide the range of services as set out in Annex A, in a safe and effective manner and to meet the requirements of paragraph 2.11 below.

2.11 Critical Success Factors (CSFs)

NELCCG requires the Provider to meet the following CSFs throughout the life of the Contract:

- Access
- Quality
- Continuity of Care
- Safety
- Best practice
- Value for Money and Affordable
- Partnership working
- Capacity/Resilience

3 COMMISSIONING ORGANISATION

3.1 Commissioning Organisations

This is a NELCCG procurement.

NELCCG, Municipal Offices, Town Hall Square, Grimsby, DN31 1HU.

3.2 Scheme(s)

Bids will be sought for the following service:

Independent Advocacy Service – further information has been detailed in Annex A.

4 PROCUREMENT PROCESS – OVERVIEW

The NELCCG timeline is summarised in 4.1 - Table 1 and further detailed in paragraphs 4.2 to 4.13 below.

4.1 Procurement Timeline

The timeline for the procurement is set out in Table 1 below. It should be noted that the dates are expected dates at the time of issuing this MOI and may be subject to change.

NELCCG reserves the right to change any of the dates or stages set out in the table below at its absolute discretion.

Milestones	Date
Advert published and applications invited	w/c 12.04.2021
Question and answer period	Published date until 04.06.21 (12 noon)
Deadline for Receipt of Application	11.06.21 (12 noon)
Initial Evaluation period	11.06.21 – 02.07.21
Clarifications of Application (written) and Invitation to Interview	w/c 05.07.21
Interview (presentation of scenarios)	w/c 12.07.21
Notify Providers of Outcome	on or before 16.07.21
Standstill period	16.07.21 – 26.07.21
Appoint Preferred Provider	27.07.21
Mobilisation	28.07.21 – 30.09.21
Service commencement	01.10.21

Table 1: NELCCG Independent Advocacy Service Procurement Timeline

4.2 Advert, MOI & EOI

4.2.1 Advert

This procurement has been advertised in accordance with the requirements of the Public Contract Regulations 2015 and to the guidelines issued by the Department of Health for this procurement to be advertised on Contract Finder, Find a Tender Service (FTS) and NELCCG's e-procurement website. The Advert has described, in general terms, the services being procured by NELCCG.

4.2.2 Memorandum of Information

This MOI provides details of the NELCCG Procurement.

This MOI should provide potential bidders with sufficient information on the Procurement process and service requirements to enable them to make an informed decision about whether they wish to submit an application for this Procurement.

4.3 Selection Questionnaire (SQ)

NELCCG are undertaking an "Open" Procedure, as such the SQ is not appropriate.

4.4 Invitation to Tender

Interested bidders are to register on NELCCG's e-procurement system via https://eprocurement.northeastlincolnshireccg.nhs.uk/. Registration does not require approval and will provide instant access to the tender pack.

Tender pack documents will consist of:

- Memorandum of Information (MOI) Including:
  - Annex A – Service Specification
  - Annex B – Local Advocacy Information for North East Lincolnshire
  - Annex C – Question and Answer Template
  - Annex D – Form of Application
  - Annex E – Conflict of Interest declaration
  - Annex F – TUPE declaration (to be returned before TUPE information is released)
  - Annex G – TUPE Information
- Tender questionnaire

4.5 Question and Answer process

A question and answer process will operate during the application stage as explained below. The objective of this process is to give potential bidders the opportunity to submit questions to the NELCCG where they require clarification on the information contained in the MOI or associated documents. Responses to the questions submitted will be published on NELCCG e-procurement system.

Potential Bidders should submit questions <u>and attach the template provided at Annex C,</u> via the 'questions' function on the e-procurement system https://eprocurement.northeastlincolnshireccg.nhs.uk/

Questions received by any other method will not receive a response.

The period in which potential bidders can raise questions commences on the day the tender documents are published. NELCCG will seek to answer questions within five working days following the day of receipt. Potential bidders are urged to review the documents immediately upon receipt and identify and submit any questions as soon as possible and in any event no later than 12 noon **4th June 2021**. Any questions received after this time will not be answered.

Potential bidders will be notified when a new document has been uploaded. This will be provided in digest form, periodically updated and published on the e-Procurement system once questions are answered. Bidders should ensure they regularly review the responses.

Provision will be made for potential bidders to request answers in confidence, but in responding to such requests NELCCG will reserve the right to act in what it considers a fair manner and in the best interests of the Procurement, which may include circulating the response to all potential bidders. NELCCG will normally provide an anonymised copy of any questions, and the answers to those questions, to all potential bidders. Questions and answers will be published under 'Supporting Documentation' on the online e-Procurement system.

Potential bidders should note that no further information in addition to that provided in the Tender Pack documentation will be provided. Potential bidders should use the NELCCG eProcurement portal messaging facility for all future communications with NELCCG. Under no circumstances should potential bidders approach NELCCG, their staff or advisors seeking further information in relation to the requirements of the procurement, aside from asking clarification questions about the service or procurement documentation through the NELCCG eProcurement portal messaging facility. Any such approaches (direct or indirect)

may result in the potential bidder's exclusion from further consideration in the procurement process.

4.6 Deadline for Responses

The submission must be completed in accordance with the instructions. Completed submissions must be received by **12 noon on the 11th June 2021.** Failure to return a completed application by the deadline above will normally result in the disqualification of the potential bidder from participating in this Procurement.

Please note completed submissions may be submitted at any time before the submission deadline but will not be accessed until after the submission deadline has passed

4.7 Address for Responses

Potential Bidders are to apply and submit their bids for the tender using the NELCCG e-procurement system https://eprocurement.northeastlincolnshireccg.nhs.uk/. Applications received by any other method will not be accepted.

4.8 Format of Bids

Potential Bidders are to provide their response via the e-procurement system only.

Where a maximum word limit is referenced, the response should not exceed the stated word limit. Text submitted in excess of the stated word limit will not be taken into consideration as part of the evaluation process.

Please note that words included in diagrams will be included in the word count.

Where requested, attachments do not form part of the word count of the question.

The following additional annexes, as included within the tender pack, are to be uploaded as part of the potential bidder's response:

- Annex D - Form of Application/ Non-Collusion declaration
- Annex E - Conflicts of Interest declaration

4.9 Inclusion of other Information

The inclusion of general marketing and company literature or any separate statement of reasons for selection is not permitted. Bidders should not include in their response any information beyond that requested in the tender questionnaire.

Supporting information

Where bidders are required to attach other supporting documents, such as staffing plans, the attachment should be named as follows:

- "[insert Potential Provider name] – [insert question reference]-[insert description of document]"

4.10 Consortia and Sub-Contracting

Where a consortium or sub-contracting approach is proposed, all information requested should be given in respect of the proposed prime contractor (Lead Provider) or consortium

leader. Relevant information should also be provided in respect of consortium members or sub-contractors who will play a significant role in the delivery of services or products under any ensuing contract. Information must be provided in respect of each of the arrangements, together with the details of any proposed consortium structure, explaining equity participation and other roles.

Where the proposed prime contractor is a special purpose vehicle ("SPV") or holding company, information should be provided about the extent to which the SPV/holding Company will call upon the resources and expertise of its sub-contractors to fulfil the Requirement.

NELCCG recognises that arrangements in relation to consortia and sub-contracting may be subject to future change. Bidders should therefore respond in the light of such arrangements as are currently envisaged. Bidders are reminded that any future change in relation to consortia and sub-contracting must promptly be notified to NELCCG so that it can make a further assessment by applying the selection criteria to the new information provided. NELCCG reserves the right to de-select a bidder prior to any award of Contract, based on an assessment of the updated information.

Details should also be provided in relation to the proportion of any contract awarded that the Bidder proposes to sub-contract.

4.11 Evaluation

Potential Bidders should note that NELCCG reserves the right to vary the selection procedure to support continued competition, avoid unnecessary bidding costs, and adhere to subsequent technical or legal guidance, or for other reasons at its sole discretion.

The evaluation of responses will consist of three elements as outlined below:

Preliminary compliance review;

The information supplied by each potential bidder will be checked for completeness and compliance with the requirements of the tender before responses are evaluated. The preliminary compliance review will check that submissions:

- Complies with the requirements of regulation 57 as certified on the Tender Questionnaire;
- Answer all questions (or explain satisfactorily if considered not applicable);
- Failure on any of the mandatory exclusions;
- Failure on any of the discretionary exclusions without sufficient self-cleaning or action taken;
- Identify the proposed supplier(s) of any services not intended to be delivered by themselves;
- Are made in the format, medium and quantity requested; and
- Have been uploaded with the signed declarations within the required deadline.

Where, in the opinion of NELCCG, a response is non-compliant, the potential bidder may be excluded from further consideration. Failure to provide a satisfactory response (or any response) to any element may result in NELCCG not proceeding further with that potential Bidder.

“Self-Cleaning”

If a bidder provides sufficient evidence that remedial action has taken place subsequently and “self-cleanse”, by paying necessary compensation, collaborating with investigations and taking concrete technical, organisational and personnel steps to prevent recurrence of

the offence or misdeeds, NELCCG will use its discretion as to whether the bidder may proceed, provided the bidder can demonstrate remedial action to the satisfaction of NELCCG.

Self-cleaning applies to both mandatory and discretionary exclusions.

Exclusion grounds may apply at any point in the procurement process up to the award of Contract.

The Bidder will need to pass all the criteria to make it through to the Compliance Assessment part of the evaluation process. **If a Potential Bidder fails to achieve a PASS through this part of the evaluation process, their application will not be taken any further**

Full Compliance Assessment;

Compliance Requirements (Organisation; Section A)

The assessment at this part of the evaluation stage will comprise of a number of questions on the following topics:

- Organisation,
- Grounds for Mandatory Exclusion;
- Grounds for Discretionary Exclusion;
- Modern Slavery Act 2015;
- Finance;
- Health and Safety

A full assessment of Section A and will be checked for compliance, unsatisfactory answers in the following areas may result in a failure to be short-listed:

- Failure to satisfy the requirements under Section A 'Organisational' (Details of the bidder & its business structure, exclusions, financial information, health & safety);
- Previous failure to complete a significant contract (if one held) and/or previous or on-going damages claims;
- On-going liabilities which threaten the potential bidder's solvency;
- Unresolved conflicts of interest;
- Failure to accept the key commercial terms as set out in the MOI;
- Failure to provide details of referees;
- Failure to provide 3 years audited accounts or bankers letter;
- Failure to comply with the Equality Act 2010;

Detailed Evaluation

At the detailed evaluation stage, potential bidders will be scored against their answers to questions grouped in the following categories:

- **Delivering the Service (Section B)** (Transition/Implementation, Service Delivery, Staffing, IM&T, Equality & Diversity, Quality Assurance & Administration, Knowledge and experience of the district & Partnerships, Financial and Activity model)
- **People's Panel (Section C)** (Service delivery aimed at community members and/or service users- no more than 1500 words)

A short list will then be drawn up and the highest scoring tenderers will progress to the interview stage.

Invitation to interviews will be made via the NELCCG e-procurement portal messaging facility.

The Interview(s) contributes to the assessment of a Bidder's proposal. The Interview(s) will consist of the following:

- **Professional Panel Interview**
  Response to clarification questions if required.
  Presentation and response to Scenario's.
- **People's Panel Interview**
  Response to Clarification questions if required.
  Presentation and response to Scenario's

The evaluation will be undertaken by a panel consisting of professionals including the CCGs Service Lead for Disability, Mental Health, Families and Disabilities, focus Independent Social Work Advanced Practitioner and the CCG's Policy and Practice Development Lead.

The people's panel will be made up of community representatives.

Potential bidders will be scored against their responses using the following scoring criteria:

Quality Criteria Score	**Marks**
Response is significantly above the minimum requirements offering added value and innovation throughout.	10
Meets minimum requirements and offers a level of added value, innovation.	8
The response meets the minimum requirements (this is the "average" or benchmark)	5
Meets some minimum requirements but fails to include significant factors	2
Fails to meet any requirements	0

Questions that require a YES/NO response with further information detailed or enclosed, will receive a score of either 0 or 5.

Individual questions will not be weighted, however complete parts of the tender will be weighted, and these are identified on the Application Questionnaire.

In order to score parts of the questionnaire with varying sizes (numbers of questions) with equal measure, the top available score for each section will be identified.
Bidders' individual actual section scores will be recorded.

The percentage between the actual and top possible score will give the overall score for each section,
e.g.
Top score available = 145
Actual Score = 119
% = 82

Potential Providers must score a minimum of 50% of the total available quality marks across Service Delivery (Section B) to be considered for contract award.

In the event that no bid meets this minimum standard, NELCCG reserves the right to cancel the tender process.

The overall section breakdown of scores are evaluated on the following basis:

	Criteria	**Weighted Score**
1	Price *(The hourly rate is fixed)*	0%
2	Quality *Breakdown:* Organisational (Section A) Service Delivery (Section B) *Of which:* *80% written submission, 20% Professional Panel presentation and response to scenarios* People's Panel (Section C) *Of which:* *80% written submission, 20% People's Panel presentation and response to scenarios*	100% 0% (PASS/FAIL) 70% 30%

At this stage, providers will be evaluated based on:
(a) Their initial responses to the tender questionnaire.
(b) Their responses to the written clarification questions following the initial evaluation.
(c) Interview.

The scoring for the detailed evaluation is outlined below:

Criteria	Section	Weighting	Section Breakdown	Break-down Weighting	Part	Questions	Scoring
Organisational	Section A	0%	Professional written submission	0%	1	All	Pass/Fail
					2	All	Pass/Fail
					3	All	Pass/Fail
					4	All	Pass/Fail
Quality	Section B	70%	Professional written submission	80%	5	All	0, 2, 5, 8 or 10
					6	All	0, 2, 5, 8 or 10
					7	All	0, 2, 5, 8 or 10
					8	All	0, 2, 5, 8 or 10
					9	All	0 or 5 and 0, 2, 5, 8 or 10
					10	All	0, 2, 5, 8 or 10
					11	All	0, 2, 5, 8 or 10
					12	All	Pass/Fail then 0, 2, 5, 8 or 10
			Professional presentation/ scenarios	20%		N/A	0, 2, 5, 8 or 10
	Section C 'People's Panel'	30%	Written Submission	80%		All	0, 2, 5, 8 or 10
			Presentation/ scenarios	20%		N/A	0, 2, 5, 8 or10
Price				0%	Whilst price is not weighted, the activity model is considered and scored (part 12) as part of Section B Bids that do not operate within the stated rate will be discounted		

Consensus Process

In order to make a final selection for the preferred Provider(s), the Evaluation Team will meet to discuss a final agreed score, taking into consideration the scores from all Evaluation Team Members. The meeting will review individual scores, review scoring differences and agree the final score. Consensus scoring will be required from the Evaluation Team across all bids assessed for all questions evaluated by more than one person.

Some specialist areas may need to be evaluated by a single subject matter expert and will therefore not be subject to moderation. Any such area will be discussed at the Consensus Meeting to ensure all submissions have been evaluated consistently.

A final moderated score will be given for each scored question. This will be a consensus score based on the scoring methodology 0, 2, 5, 8 and 10, 0, or 5 (Yes/No) or PASS/FAIL as detailed above.

Further clarification questions on applications may be identified at this stage and form part of the continued evaluation process and included in interview process detailed below.
The consensus score will be a whole number score rather than an average score.

Immediate bid clarifications.

During the bid evaluation stage, NELCCG, may request immediate written clarification from bidders on their application, however the NELCCG is not under any obligation to do so. Any such request will be made via the NELCCG e-procurement portal messaging facility.

It is likely that any response to an immediate clarification question will be required within 2 working days of request. It is the bidder's sole responsibility to ensure that it monitors the messaging facility and responds to any such requests within the specified time period.

Failure to respond adequately or in a timely manner to clarification questions raised by the Contracting Authority may result in a bidder not being considered further in the procurement process.

Tenderers should note that NELCCG regards the evaluation of Tenders as a continuous process up to the point of award. Any relevant factors that come to light during this process will be considered and you may be asked to submit further information at any time. In the event of an unsatisfactory finding at any stage in the evaluation process, NELCCG reserves the right to disqualify the Tenderer concerned from the competition without compensation.

In evaluating Bids NELCCG will only consider information provided in response to tender documents. Potential bidders should not assume that NELCCG has prior knowledge of them delivering the services under the Contract.

Interview Process

Shortlisted bidders will be invited to a presentation and interview meeting and asked to present responses to a number of scenarios. These will be provided in the invitation to interview letter.

In addition, clarification of aspects of their written bid, that were not immediate as above, may be requested. This will contribute to the overall assessment of your proposal and take place during the evaluation period listed at 4.1 Procurement timeline.

The top 5 highest scoring bidders, taking into account the scores from the evaluations, will be invited to attend a presentation / interview meeting and will be asked to present responses to a number of scenarios.

The scenarios will be provided in the invitation to interview letter.

4.12 Contract Award

Based on the outcome of the evaluation, recommendations will be made to NELCCG Care Contracting Committee for their consideration and authorisation to award contracts. Following approval, NELCCG and the recommended Bidders may enter into a contract.

4.13 Service Commencement

NELCCG will work together with the Provider(s) towards the agreed contracted service commencement date, and completion of the contracts which is intended to be **1st October 2021.**

NELCCG reserves the right to re-engage with any other Potential Provider(s) whose Bids meet the required evaluation standards in the event that it is unable to conclude the Contract with the Preferred Potential Provider(s).

5 COMMERCIAL FRAMEWORK

Potential Bidders' attention is drawn to the following commercial information:

5.1 Contract

The contract to be entered into by NELCCG and the selected Providers for this Procurement will be based on the NHS Standard Contract for Community Services. The Community Services contract will be adapted as necessary to reflect the requirements of the service specification (the Contract).

The NHS Standard Contract for Community Services contract will form the base of the terms and conditions; however, revisions to certain terms and conditions are imposed and must be accepted by the successful Provider before service commencement. Bidders should base their submission on the current version (March 2021) and take any changes into account as soon as possible.

Each Contract will be separate to and independent of any existing contract currently in place between a Provider and NELCCG.

Following the procurement process including the stand-still period, NELCCG will prepare the contract for signature and conclude the Contract with the successful provider(s)

5.2 Contract Duration

The Contract will be for a term of 36 months, with the possibility of extending the term for a period of 24 additional months beyond the initial contracted duration by agreement between the NELCCG and the Provider.

5.3 Workforce

5.3.1 Policies and Strategies

Bidders will be required to provide evidence that all proposed workforce policies, strategies, processes and practices comply with all relevant employment legislation applicable in the UK and in addition comply with the provisions outlined in:

- Safer Recruitment – A Guide for NHS Employers (May 2005);
- NHS Employers: Right to Work Checks (Sept 2017);
- NHS Employment Check Standards;
- The Code of Practice for the International Recruitment of Healthcare Professionals (December 2004) (the Code of Practice); and
- Human Rights Act 1998;
- Equality Act 2010;
- Companies Act 2006;
- National Minimum Wage Act 1998

Bidders will be required to indicate that they have workforce policies, strategies, processes and practices on:

- Staffing levels, Health & Safety and other relevant policies including those on environmental protection;
- Ensuring staff meet the Continuing Professional Development (CPD) requirements of their professional and regulatory bodies (if appropriate);
- Staff handbook setting out terms and conditions of employment for staff; and

- Procedures for ensuring compliance that all staff are registered with the relevant UK professional and regulatory bodies;

5.3.2 Management and staffing arrangements

The service will be managed on a day to day basis by the provider, who will ensure that there are effective management and leadership systems. The provider will ensure that a nominated individual will be responsible for the running of the service, including managing systems to collect and collate performance management data.

The provider will provide the Commissioner with a detailed staffing structure of its organisation and that of other providers who deliver sub-contracted work. These should indicate the managerial responsibilities for the provision of the service.

The provider will manage the process of recruiting and preparing a team. The provider will, when recruiting potential employees for the purpose of the Contract, act in accordance with the specification.

The provider shall also ensure that employees of appropriate levels of experience and expertise perform the services to achieve cost efficiency.

The provider will guarantee that during periods of staff absence such as sickness and holidays, the service will not be adversely affected and arrangements for cover will enable the service to continue in line with this specification.

The provider will, in accordance with the Commissioner's instructions and requirements, work closely with colleagues in NELCCG to ensure that a robust IT infrastructure is in place and that computerised record keeping and data collection is used, including for reporting/monitoring purposes.

5.3.3 Pensions

Potential bidders should assume that their staff would not be able to participate in NHS pension and injury benefit arrangements. The only exception to this is if the Provider is an organisation that meets eligibility conditions for Primary Medical Services (PMS) or General Medical Services (GMS) contracting, and staff meet eligibility conditions for the NHS Pension Scheme.

5.3.4 Staff Transfers (TUPE)

The CCG considers that TUPE at this stage will apply.

Bidders are advised to form their own view on TUPE, obtaining their own legal advice as necessary throughout the process.

The successful provider will be required to indemnify NELCCG against all possible claims under TUPE.

Detailed in Annex G is a high level summary of existing providers and their staffing compliment.

This will be made available on completion and return of the TUPE confidentiality agreement - Annex F - by emailing NELCCG.NELPCProcurement@nhs.net

This should be requested as soon as possible in order to inform your application.

Information contained within Annex G is subject to change and NELCCG offers no guarantee of accuracy. Potential bidders are required to make their own assessment of the consequences of TUPE.

The attention of potential Bidders is drawn to the provisions of the TUPE (Transfer of Undertakings Protection of Employment Regulations). TUPE may apply to the transfer of the contract from the present provider to the new one, giving the present provider's staff (and possibly also staff employed by any present sub-contractors) the right to transfer to the employment of the preferred provider or its sub-contractors on the same terms and conditions. The above does not apply to the self-employed.

It is a requirement that successful providers will pass on all details of their own workforce towards the end of this contract period so that this information can be passed to other bona fide providers to enable them to assess their obligations under TUPE in the event of a subsequent transfer.

Where TUPE applies, the Code of Practice on Workforce Matters in Public Sector Service Contracts Guidance (Cabinet Office, March 2005)[1] will apply. This means that staff transferring under TUPE should receive access to a pension scheme that is certified as "broadly comparable" with the NHS Pension Scheme by the Government Actuary's Department (**GAD**).

5.4 Health Record Management

The provider(s) must have local policies in place that describe access to health records.

The Records Management: NHS Code of Practice has been published by the Department of Health as a guide to the required standards of practice in the management of records for those who work within or under contract to NHS organisations in England. It is based on current legal requirements and professional best practice.

It is a fundamental requirement that all of the health records are retained for a minimum period of time for legal, operational, research and safety reasons. The length of time for retaining records will depend on the type of record and its importance to NELCCG business functions.

The provider(s) must regularly audit its records management practices for compliance with NELCCG's Record Management framework.

All provider(s) staff must be made aware of their responsibilities for record-keeping and health record management through generic and specific training programmes and guidance.

5.4.1 Information Governance

The provider(s) must ensure that their systems join up with the national agenda for integrated health records. Any organisation that receives services from NHS Digital, either directly or indirectly, or has access to NHS patient data and systems must complete the Data Security and Protection Toolkit (previously the NHS Information Governance Toolkit (level 2).

[1] Code of Practice on Workforce Matters in Public Sector Service Contracts Guidance

The telephone and information systems used by the provider(s) must be consistent with the requirements of the NHS Digital. The provider(s) must have an information, management and technology system that can:

- monitor performance and outcomes;
- support performance review and improvement of advocacy support;
- ensure confidentiality of information;
- assure data quality;
- review and improve practice;
- facilitate the efficient delivery of performance reports as required by the performance management system

The provider(s) shall arrange the effective secure electronic transmission of data between the provider(s) and other service providers; and to establish a protocol which confirms that information has passed from the provider to another provider using the NHS number as the key client identifier and complying with the DH security guidelines.

The provider(s) shall have in place links to enable data to be transferred electronically. Where organisations do not have a facility to receive such electronic messages, the provider(s) must ensure a facility is in place by the commencement of the service.

The provider(s) must comply with all legitimate information requests made under for example the Freedom of Information Act, Access to Health Records Act and Data Protection Act.

The provider(s) shall ensure that information technology is able to communicate with other providers such that professionals can be redirected, or service users can be referred on to other services as efficiently and conveniently as possible.

It is the provider's responsibility to ensure that all their staff accessing NHS information, documents, IT systems, and networks are properly authorised to do so. The Commissioner reserves the right to impose sanctions on the provider(s) if they fail to comply in this regard.

All aspects of the assessments and records of the support will be made available to Commissioners by the provider(s) and will take all necessary and reasonably practicable steps to ensure that the accuracy and safe storage of data is maintained. Data will be backed up, encrypted and securely held according to best industry standards.

The provider(s) will ensure that the client records will be stored in a safe and confidential manner that allows ready access to them to comply with the DH record retention requirements.

The provider(s) will make available to the Commissioner the original record, or a faithful transcript thereof, of any assessment between the provider(s) and a client within twenty (20) working days of a written request from the commissioner. Such a request, which would be in response to a serious situation for example a cause of concern having been raised about the performance of a professional; or as part of an independent review of a complaint; or as part of an investigation into an adverse incident or significant event.

The provider(s) will provide information management and technology systems capable of delivering the effective secure transmission of client data across North East Lincolnshire.

The provider(s) will act in accordance with the Caldecott Principles, whereby clients have a right to expect that any employee of the Provider will not disclose any personal information that is learnt during the course of their professional duties, unless they give permission.

The provider(s) will ensure that anonymised data will be used where information is not used for direct care, e.g. research.

5.4.2 Statement of Confidentiality

The provider(s) must embed into its culture their responsibilities as contractors and their sub-contractors the Records Management Code of Practice for Health and Social Care 2016, the Data Protection Act 1998 and The General Data Protection (GDPR) Regulation 2016 when providing services for NELCCG.

The provider(s) must adhere to its common law duty to ensure that confidential information is protected from inappropriate disclosure. Furthermore, under Principle 1 of the Data Protection Act 1998 personal information must be processed (disclosed) lawfully.

In this specification the definition of confidential information arises when one person discloses information to another (e.g. client to practitioner; colleague to colleague; employee to employer; commissioner to contractor) in circumstances where it is reasonable to expect that information will be held in confidence. It:

- is a legal obligation that is derived in case law.
- is a requirement established within professional codes of conduct.
- must be included within employment contracts as a requirement linked to disciplinary procedures.

The public entrust the NHS with, or allow us to gather, sensitive information relating to the clinical and business activities of the NHS. They do so in confidence, and they have a legitimate expectation that all persons who may be exposed to, or process information will respect the confidentially of that information and act appropriately. It is essential, if the legal requirements are to be met and the trust of the public retained and that the NHS provides, and is seen to provide, a confidential service in all of its clinical and business activities.

5.4.3 Related legislation

- The Common Law Duty of Confidentiality.
- Code of Conduct for Employees in Respect of Confidentiality.
- General Data Protection Regulation (GDPR).

The provider(s) must ensure that they have read and comply with the Code of Conduct for employees in respect of confidentiality and other relevant Information Governance policies and procedures.

The provider(s) must ensure compliance with the above policies and procedures and ensure the reliability of its staff that have access to any confidential information held by NELCCG. In addition, if the provider(s) is required to access or process confidential information held by NELCCG, the provider(s) shall keep all such information secure at all times and shall only process such data in accordance with instructions received from the respective organisations.

The provider(s) must be aware of the possible impact of the Freedom of Information Act 2000 on the documentation connected with a contract.

The provider(s) shall indemnify NELCCG against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith made or brought by any person in respect of any loss, damage or distress caused to that person as a result of the provider(s) loss, damage, destruction or unauthorised disclosure of, or unauthorised access to or the unauthorised and/or unlawful processing of any confidential information, (including medical records and notes) held by the contractor, its employees or agents.

The carer record will, at all times, remain the property of NELCCG and must be returned in its entirety on completion or termination of this agreement.

Under the Data Protection Act 2018 a breach of confidentiality may constitute an offence which may lead to a prosecution.

5.5 Health and Safety and Risk Management

The provider(s) must analyse and address the risks associated with all of their activities in compliance with The Corporate Manslaughter and Corporate Homicide Act 2007. The provider(s) should focus on keeping their health and safety management systems under review.

The provider(s) will ensure that they have in place documented risk management plans that will include, but not limited to:

- Incident reporting, investigation, resolution and audit to inform learning and service development.
- Implementation of NICE guidance.
- Safe and effective storage and transport of confidential information.
- A written policy outlining the level of risk the team is able to manage and an operational policy addressing staff safety. This will incorporate staff safety on service premises as well as when on home visits.
- The need to keep confidential all information howsoever acquired whether relating to NELCCG and its business, or relating to clients, including but not limited to identity, personal circumstances.

5.6 Payment Mechanism

Payment to the Provider will be quarterly in advance on production of invoices:

	Year 1	**Year 2**	**Year 3**	**Total over 3 years**
Contract value	£234,011	£234,011	£234,011	£702,033

Inflationary uplift will be applied to the contract values stated above at the discretion of the Commissioner and providers will be notified accordingly.

The financial envelope includes the set-up and close down costs of the business as part of the entire contract lifecycle.

5.7 Financial Standing

Financial standing requirements for the NELCCG Procurement will be confirmation of identity, solvency and proposed business structure. Bidders will also be required to put forward detailed proposals as to how the funding requirements will be met.

5.8 Insurance

A comprehensive schedule of insurances that the Provider(s) will be required to obtain will be set out in the tender documents. This will typically include public liability, corporate medical malpractice (if appropriate) and certain property cover. These required insurances are in addition to any insurance required by individual professionals.

The insurance requirements will also require Providers to ensure that:

- Members of the public utilising the Service are fully protected to the extent that they have a valid claim against the Provider and/or NELCCG; and
- NELCCG are fully protected;
- The Provider maintains insurance which meets at least the minimum statutory requirements.

Provider(s) will be required to indemnify NELCCG against any claims that may be made against it arising from the provision of the Service by the Provider(s). NELCCG will expect the Provider(s) to offer evidence that they have sourced appropriate (and sufficient) insurance or other arrangements.

5.9 Environmental Sustainability

The Commissioner recognises that its actions as an organisation have an effect on the local, regional and global environment. The Commissioner is committed to continuous improvement in environmental performance and the prevention of any actions that may cause damage or do not support attempts to improve the sustainability of the environment.

The provider(s) is expected to comply with environmental regulations, legislation and codes of practice as the minimum standards. The Commissioner will look to ensure that the provider(s) performance exceeds these requirements wherever possible.

The organisation should agree to a range of sustainability and environmental impact targets and standards to include:

- Active monitoring of staff and client travel.
- Waste management.
- Energy consumption.

Environmental sustainability impacts should be considered in all key decisions by the use of impact assessments.

6 GOVERNANCE AND ADMINISTRATION

6.1 Requirements

6.1.1 Procurement Costs

Each Relevant Organisation will be responsible for its own costs incurred throughout each stage of the Procurement process. NELCCG will not be responsible for any costs incurred by any Relevant Organisation or any other person through this process.

6.1.2 Consultation

NELCCG will lead on all local stakeholder engagement issues. The consultation will follow the requirements of the National Health Services Act 2006.

All consultation outcomes will be received and considered and included in the final tender documents.

6.1.3 Standards

Any commissioned service must meet all national standards of service quality set out in the service specification, including those set out in Standards for Better Health. It will be the responsibility of the provider(s) to ensure that all services commissioned by NELCCG achieve these standards. The provider(s) will follow the aims and objectives described in the specification for the service ensuring it meets all appropriate standards in delivery of same. See Annex A of this MOI for a detailed requirement on the services and the specific standards to be achieved for this tender.

6.1.4 Conflicts of interest

In order to ensure a fair and competitive procurement process, NELCCG requires that all actual or potential conflicts of interest that a potential bidder may have are identified and resolved to the satisfaction of NELCCG.

Potential Bidders should notify NELCCG of any actual or potential conflicts of interest in their response.

Potential Bidders should submit conflicts of interest using the template provided at Annex E.

If the potential Bidder becomes aware of an actual or potential conflict of interest following submission it should immediately notify NELCCG via the e-procurement website https://eprocurement.northeastlincolnshireccg.nhs.uk/ using the messaging function. Such notifications should provide details of the actual or potential conflict of interest.

Without limitation, such conflicts of interest may be perceived by NELCCG to arise in circumstances where:

- A Relevant Organisation or any person employed or engaged by or otherwise connected with a Relevant Organisation is carrying out, or has carried out, any work for NELCCG in the last three (3) years; or
- A Relevant Organisation (or its advisors or any person employed or engaged by it) is potentially providing services for more than one prospective Potential Provider in respect of the procurement; or

- A Relevant Organisation employs or engages, or has employed or engaged, any person currently or formerly employed or engaged by or otherwise connected NELCCG.

If, following consultation with the potential Bidder or Bidder, such actual or potential conflict(s) are not resolved to the satisfaction of NELCCG, then NELCCG reserves the right to exclude at any time any potential Bidder or Bidder from the Procurement process should any actual or potential conflict(s) of interest be found by NELCCG to confer an unfair competitive advantage on one or more potential Bidder(s), or otherwise to undermine a fair and competitive procurement process.

6.1.5 Non-collusion and Canvassing

Each potential Bidder or Bidder must neither disclose to, nor discuss with any other potential Bidder, or Bidder (whether directly or indirectly), any aspect of any response to any NELCCG Procurement documents.

Any such collusion with another potential Bidder may constitute an infringement of the Chapter 1 prohibition contained in Section 2(1) of the Competition Act 1998 and the potential Bidder may also be liable to disqualification.

Each potential Bidder and Bidder must not canvass or solicit or offer any gift or consideration whatsoever as an inducement or reward to any officer or employee of, or person acting as an adviser to, either the NHS or the DH in connection with the selection of Bidders or the Provider in relation to the NELCCG Procurement.

Each Bidder must not do anything which would constitute a breach of the Bribery Act 2010.

No attempt should be made to contact any member of NELCCG staff regarding the Procurement outside of the processes detailed in the MOI and associated documents.

Potential Providers Changes

Bidders are subject to an ongoing obligation to notify NELCCG of any material changes in their financial or other circumstances. This includes, but is not limited to, changes to the identity of Relevant Organisations or sub-contractors or the ownership or financial or other circumstances thereof and solvency of the potential bidder.

NELCCG should be notified of any material change as soon as it becomes apparent, regardless of whether this occurs before or after the deadline for submission for this procurement.

Failure to notify NELCCG of any material changes or to comply with any of these provisions may lead to a potential Bidder being liable for disqualification.

NELCCG reserves the right to refuse to allow such a change and to disqualify any potential Bidder from further participation in the procurement process in the event that such a change is made. In exercising its absolute discretion to either refuse or allow such a change, NELCCG may take into account whether such change is material to the delivery of the Services and whether the change would have impacted upon the evaluation of the potential Provider as part of the process.

In the event that NELCCG is prepared to consider such a change, further evaluation of the bidder, including its Relevant Organisations, is likely to be required and may result in NELCCG refusing to allow the change.

Disqualification of Potential Providers

Potential Providers, or the Preferred Potential Provider, acting in contravention of the provisions set out in the tender documents or any other information provided by may, at NELCCG's sole discretion, be disqualified from further participation in the procurement process (without prejudice to any other civil or legal remedies available and without prejudice to any criminal liability which such conduct by a Potential Provider may attract).

For the avoidance of doubt, disqualified Potential Providers will be excluded from any further participation in the procurement process and in no circumstances will NELCCG or their advisors be liable for any costs or expenses incurred by the disqualified Potential Provider and/or its Relevant Organisations as a result, directly or indirectly, of such disqualification.

Availability of Information to Bidders

Any information additional to the tender documents which NELCCG deems necessary for a bidders to be issued with, will be issued via the NELCCG's e-procurement system. It is the bidder's responsibility to ensure they check this portal regularly.

6.1.6 Freedom of Information

NELCCG is committed to open government and meeting its legal responsibilities under the Freedom of Information Act (**FOIA**). Accordingly, any information created by or submitted to NELCCG, (including, but not limited to, the information contained in the MOI, or tender documents and the submissions, bids and clarification answers received from Bidders, may need to be disclosed by NELCCG in response to a request for information.

In making a submission or bid or corresponding with the NELCCG at any stage of the NELCCG Procurement, each Bidder and each Relevant Organisation acknowledges and accepts that NELCCG may be obliged under the FOIA to disclose any information provided to it:

- Without consulting the Bidder; or
- Following consultation with the Bidder and having taken its views into account.

Bidders must clearly identify any information supplied in response to the NELCCG tender that they consider to be confidential or commercially sensitive and attach a brief statement of the reasons why such information should be so treated and for what period.

Where it is considered that disclosing information in response to a FOIA request could cause a risk to the procurement process or prejudice the commercial interests of any Bidder, NELCCG may wish to withhold such information under the relevant FOIA exemption.

However, potential Bidders should be aware that NELCCG is responsible for determining at its absolute discretion whether the information requested falls within an exemption to disclosure, or whether it must be disclosed.

Potential Bidders should therefore note that the receipt by NELCCG of any information marked "confidential" or equivalent does not mean that NELCCG accepts any duty of confidence by virtue of that marking, and that NELCCG has the final decision regarding the disclosure of any such information in response to a request for information.

6.1.7 Disclaimer

The information contained in this MOI is presented in good faith and does not purport to be comprehensive or to have been independently verified.

NELCCG or any of their advisers does not accept any responsibility or liability in relation to its accuracy or completeness or any other information which has been, or which is subsequently, made available to any potential Bidder, Provider, Bidder Member, financiers or any of their advisers, orally or in writing or in whatever media.

Interested parties and their advisers must therefore take their own steps to verify the accuracy of any information that they consider relevant. They must not, and are not entitled to, rely on any statement or representation made by NELCCG or any of their advisers.

This MOI is intended only as a preliminary background explanation of NELCCG activities and plans and is not intended to form the basis of any decision on the terms upon which NELCCG will enter into any contractual relationship.

NELCCG reserves the right to change the basis of, or the procedures (including the timetable) relating to the NELCCG Procurement process, to reject any, or all, of the submissions and bids, not to invite a potential Bidder to proceed further, not to furnish a potential Bidder with additional information nor otherwise to negotiate with a potential Bidder in respect of the Procurement.

NELCCG shall not be obliged to appoint any of the Bidders and reserves the right not to proceed with the NELCCG Procurement, or any part thereof, at any time.

Nothing in this MOI is, nor shall be relied upon as, a promise or representation as to any decision by NELCCG in relation to this Procurement. No person has been authorised by NELCCG or its advisers or consultants to give any information or make any representation not contained in this MOI and, if given or made, any such information or representation shall not be relied upon as having been so authorised.

Nothing in this MOI or any other pre-contractual documentation shall constitute the basis of an express or implied contract that may be concluded in relation to the NELCCG Procurement, nor shall such documentation/information be used in construing any such contract. Each Bidder must rely on the terms and conditions contained in any contract when, and if, finally executed, subject to such limitations and restrictions that may be specified in such contract. No such contract will contain any representation or warranty in respect of the MOI or other pre-contract documentation.

In this section, references to this MOI include all information contained in it and any other information (whether written, oral or in machine-readable form) or opinions made available by or on behalf of NELCCG, DH or any of their advisers or consultants in connection with this MOI or any other pre-contract documentation.

7 GLOSSARY OF TERMS AND ABBREVIATIONS

Term	*Description*
Authorised Representative	The nominated person authorised on behalf of the Potential Bidder
Bid	A bid response submitted in response to the tender.
Bidder	A single operating organisation/person that has been invited to participate in the application stage and is bidding for one or more NHS Schemes
Bidder Guarantor	An organisation providing a guarantee, indemnity or other undertaking in respect of a Bidder's or a Bidder Member's obligations
Bidder Member	A shareholder or member or proposed shareholder or member in, or controlling entity of, the Bidder and / or that shareholder's or member's or proposed shareholder's or member's ultimate holding company or controlling entity
CfH	Connecting for Health
Compliant Bid	a Bid which has met all the conditions imposing the request for tenders by NELCCG as set out in the tender documents
Contract	The NHS Standard Contract for Community Services, to be entered into between the relevant commissioning party and Recommended Bidder for the provision of the Service.
CPD	Continuing Professional Development
DH	Department of Health
E-Procurement System	NELCCG's online procurement portal https://eprocurement.northeastlincolnshireccg.nhs.uk/
EOI	Expression of Interest
FOIA / Freedom of Information Act	The Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner, the Department of Constitutional Affairs, the Office of Government Commerce and the NHS in relation to such legislation or relevant codes of practice to which the DH and NELCCG is subject
GP	General Practitioner
IM&T	Information Management and Technology
ITT	Invitation to Tender. It is specific to the Service that the Lead Contracting Authority wish to procure and downloaded by Potential Providers who have registered on NELCCG e-procurement portal.
MOI	This Memorandum of Information setting out the details of the Scheme and the requirements of the NELCCG Procurement
NHS	National Health Service
NELCCG	North East Lincolnshire Clinical Commissioning Group
Potential Bidder	A single operating organisation or person that is participating in the NELCCG Procurement, but that has not at the relevant time been invited to respond.
Provider(s)	The successful Bidder who has entered into a Contract with NELCCG to provide the service specified in the relevant service specification
Relevant Organisation	An organisation(s) or person connected with a response to a tender and / or connected with a bid submission including (without limitation): (i) the potential Bidder; (ii) the Bidder; (iii) the Provider; (iv) each Bidder Member; (v) each Bidder Guarantor; and (vi) each Clinical Services Supplier
TUPE	Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI/2006/246)
VfM	Value for Money which is the optimum combination of whole-life cost and quality (fitness for purpose) to meet the overall service requirement