**Procurement agreement between [name of organisation]**

**and recognised trade unions**

1. **General principles**
   1. This agreement sets out how [name of organisation] and all its departments/ sections will involve and consult the recognised trade unions (hereafter called the trade unions) in all parts of the procurement process.
   2. Involvement and consultation will apply to the pre-procurement steps of service review and options appraisals. If the process proceeds further, it will also apply to advertising of contracts and contract award, followed by any transfer arrangements necessary and subsequent contract monitoring.
   3. [Name of organisation] and the trade unions are committed to providing high quality services that meet the needs of local communities. The trade unions recognise the need to deliver value for money in the use of public money. [Name of organisation] recognises that trade union involvement is positive for facilitating change, protecting the workforce, encouraging positive staff engagement and raising service standards.
   4. The parties will agree appropriate structures and timetables that enable input and comment on all aspects of the procurement process before key decisions are made.
   5. Any proposed reorganisation of services will comply with the agreement between [name of organisation] and the trade unions on handling of organisational change.
   6. Any proposed reorganisation of services will pay ‘due regard’ to the need to avoid discrimination and promote equality of opportunity, as set out in the Equality Act 2010 and [Name of organisation]’s published equalities scheme(s)
   7. Equality impact assessments, which include consideration of the impact on staff and on equal pay, will be undertaken to ensure ‘due regard’ to equalities considerations is taken as part of evaluating all proposals and equality schemes will detail application to the procurement processes.

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| For Northern Ireland, replace 1.6 and 1.7 with versions below:   * 1. Any proposed reorganisation of services will pay ‘due regard’ to the need to promote equality of opportunity, as set out in section 75 of the Northern Ireland Act 1998 and [Name of organisation]’s approved equality scheme.   2. [Name of organisation] accepts that in the context of section 75, policy decisions on procurement and employment are functions to which the above statutory equality duty applies. Assessment of a proposed policy on these matters through screening and equality impact assessment will occur at the time a business case or similar document is prepared. Such assessment will include consideration of the impact on staff and on equal pay. [Name of organisation]’s approved equality scheme will be amended to recognise these requirements as necessary. |

* 1. [Name of organisation] recognises that the procurement process can be complex and time consuming and that meaningful involvement in the process by trade union representatives brings a significant additional workload. Therefore, the trade unions will be granted appropriate additional facility time to fulfil these duties.

1. **Service review and options appraisal**
   1. [Name of organisation] will inform the trade unions of any proposed service reviews and fully consult with them throughout the process over the terms of the review and the conclusions drawn from the review.
   2. If the service review leads to the conclusion that an options appraisal is required, the trade unions will be consulted over the terms of the appraisal and the conclusions drawn from the appraisal.
   3. Recognising that the founding directive of the UK’s procurement regulations specifically states that there is no obligation on public authorities to contract out services, the options appraisal will include due consideration of addressing any concerns with existing service delivery through:
   * A properly resourced in-house service improvement plan;
   * Provision of services through appropriate other parts of [Name of organisation]’s operations or co-operation with other public sector bodies, in accordance with procurement regulation definitions for public sector exemption from the regulations.
   1. In assessing the various options, a comprehensive assessment of costs and benefits will be made that takes account of the impact on the organisation as a whole of fragmenting services to an external provider, rather than providing a narrow focus on the cost of one part of the service.
2. **Advertising and award of contracts**
   1. [Name of organisation] will consult the trade unions on the drafting of any prior information notice, contract notice or selection questionnaire before publication.
   2. Selection shall include a consideration of the bidders’ performance in terms of fair work practices, defined as:
   * A fair and equal pay policy that includes a commitment to supporting the Living Wage, including, for example being a Living Wage Accredited Employer;
   * Promoting equality of opportunity and developing a workforce which reflects the local community in terms of characteristics such as age, gender, religion or belief, race, sexual orientation and disability;
   * Support for learning and development;
   * Stability of employment and hours of work, thereby avoiding exploitative employment practices, such as inappropriate use of zero hours contracts;
   * Flexible working (including for example practices such as flexi-time and career breaks) and support for family friendly working and wider work-life balance;
   * Support for progressive workforce engagement, such as trade union recognition and representation
   1. Trade unions shall be consulted on evidence for mandatory grounds to exclude a bid i.e. violation of bribery, fraud or money laundering legislation [in Scotland, add “blacklisting” to this list.]
   2. Trade unions shall be consulted on evidence for discretionary grounds to exclude a bid, including

* Health and Safety Executive enforcement and remedial orders;
* Complaints upheld by the Equality and Human Rights Commission or other violations documented by human rights bodies;
* Findings against the bidder by an employment tribunal or employment appeal tribunal [for Northern Ireland, add the Industrial Tribunal and Fair Employment Tribunal];
* Breaches of National Minimum Wage or Immigration Asylum and Nationality Acts.
* Persistent deficiencies in prior public contracts which led to early termination of a contract, damages or other comparable sanction within the previous three years.
  1. Consultation shall include the award criteria and the weightings given to the criteria.
  2. Contract award will not be based solely on price, but will take account of both price and appropriate quality criteria in deciding the most economically advantageous tender.
  3. Contract award criteria will take account of the requirement to consider the economic, social and environmental well-being of the local area, in accordance with the Public Services (Social Value) Act (2012) [applicable in England and Wales] / Procurement Reform (Scotland) Act (2014) / social clauses advanced by the Central Procurement Directive [applicable in Northern Ireland]
  4. The trade unions will be given the opportunity to participate 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.
  5. Where the competitive dialogue or competitive negotiation procedure is used, arrangements will be made for trade union involvement and consultation at the stage prior to a final tender being invited.
  6. An adequately resourced in-house bid will be permitted to tender for the contract.

1. **Contract transfer**
   1. Where a contract award is made that requires a transfer of staff under TUPE, the information and consultation requirements specified under TUPE will commence at the earliest possible opportunity.
   2. Where a contract award is made that requires a transfer of staff under TUPE arrangements, in addition to the legislative requirements, [name of organisation] will seek agreement on the following terms for transfer:

* TUPE transferred terms and conditions will remain in place for the full duration of the contract;
* Any variation to conditions of service will only be introduced following a collective agreement with the appropriate trade unions;
* New starters engaged in delivery of the contract will have the same terms and conditions as transferred staff, therefore ensuring that a two-tier workforce does not emerge;
* Staff will have the option of remaining within or joining the [insert scheme title as appropriate] pension scheme on the basis of admitted body status;
* Annual pay settlements will continue to align with those agreed at [insert appropriate national negotiating body] unless otherwise agreed with the trade unions;
* The new employer will provide a workforce development, education and training plan in partnership with [Name of organisation] and the trade unions;
* The job evaluation scheme in use at the point of transfer will be applied for the duration of the contract;
* The current trade union recognition will be maintained, unless changed by joint agreement, for the duration of the contract;
* The new employer will provide a check-off facility for the deduction of trade union subscriptions;
* Transferred employees will continue to be able to receive support from the trade union branch and the new employer will be required to make a contribution to the [name of organisation] facility time budget;
* No staff on the contract will earn less than the Living Wage as specified by the Living Wage Foundation;
* No staff on the contract will be employed on a zero hours basis;
* There will be no offshoring of employment in delivery of the contract;
* Any sub-contractor commissioned to run any of the services included in the contract will be required to adopt the same commitments set out above.
  1. Where TUPE does not apply by law, transfer will nonetheless take place as if it did, in accordance with the best practice set out under the Cabinet Office Statement of Practice (COSOP)

1. **Post transfer**
   1. Monitoring processes shall be put in place to assess both the standard of service delivered post transfer and compliance with the agreement on terms and conditions.
   2. The trade unions shall be involved and consulted over the terms of these monitoring processes
2. **Access to information**
   1. [Name of organisation] will provide the trade unions with timely access to all relevant information at each stage of the process and seek agreement with bidders for similarly timely access.
   2. Information will be provided on the basis that the trade unions may use it for reasonable communication of relevant issues with their members and advisers.
   3. Where [name of organisation] considers that any information is commercially confidential, the union will be informed that the information is being withheld and the reasons.
   4. Where information is classified as commercially confidential, the trade unions will be provided with the opportunity to reach a confidentiality agreement under which the trade unions will agree that the information is kept securely [note that any such agreement must be authorised by a UNISON regional officer].
   5. Information made accessible shall include employee liability information at the earliest possible opportunity if a decision is made to put a service out to tender
   6. [Name of organisation] will provide assistance to the trade unions in the interpretation of information and proposals, including where appropriate financial support to enable the trade union to have complex information analysed.

**Note for Northern Ireland Branches**

In Northern Ireland, UNISON utilises a centralised, regional approach to procurement in order to ensure that universal expertise is available to members and branches from the earliest possible stage.  Members and branches in Northern Ireland should contact the Area Organiser and/or Regional Organiser in the first instance before seeking to engage employers in reviewing their existing procurement policies.  For further information relating to procurement in Northern Ireland contact John Patrick Clayton - [j.clayton@unison.co.uk](mailto:j.clayton@unison.co.uk)