

Part 9.6

Contract Procedure Rules

Contract Procedure Rules

The Contract Procedure Rules set out the principles, roles and processes involved in procurement at the Council. Whenever the Council is seeking works, goods or services they must comply with these Rules. They should be read in conjunction with the rest of the constitution, Financial Procedure Rules and any other relevant legislation.

All procurements must realise value for money through the combination of costs and quality.

These rules seek to protect the Council’s reputation by minimising the risk of allegations or corruption, dishonesty and failure to meet legal obligations. Following these rules will ensure that how the Council procures works, goods and services is as transparent and fair as possible.

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Part 1 – Introduction, Scope and Responsibilities

1. Introduction

- 1.1 These Rules are part of the Council's Constitution and apply to all procurement activities (the purchase of goods, services and works) undertaken by the Council. They must be read in conjunction with any other relevant laws, regulations, policies and/or procedures.
- 1.2 Anyone making procurement decisions on behalf of the Council must be familiar with these Rules.
- 1.3 These Rules are required by law and failure to comply with them could lead to disciplinary action. Officers have a duty to report breaches of these Rules to their line manager and/or the Monitoring Officer.
- 1.4 If there is any conflict between these Rules and relevant law, the legislation shall take precedence. The Council also reserves the right to consider the application of intervening government guidance when making decisions about the application of these Rules.

2. Basic Principles

- 2.1 Whether or not a procurement is subject to the UK Procurement Regulations, it must be conducted in accordance with the Agreement on Government Procurement (GPA). This means all procurements must be carried out in a fair, open and transparent way.
- 2.2 These Rules are designed to ensure that procurements:
 - 2.2.1 Achieve Value for Money for public money spent;
 - 2.2.2 Are consistent with the highest standards of integrity;
 - 2.2.3 Ensure fairness and transparency;
 - 2.2.4 Ensure that the Council complies with all legal requirements and established government and commercial codes of conduct;
 - 2.2.5 Comply with the Council's associated policies;
 - 2.2.6 Manage the Council's risk effectively;
 - 2.2.7 Are proportionate in regard to value and risk; and
 - 2.2.8 Ensure that non-commercial considerations e.g. prior knowledge of contractors do not influence any contracting decision.

3. Advice and Guidance

- 3.1 It is a mandatory requirement that advice and guidance on all procurement activities equal to and above £100,000 must be sought, in the first instance, from the Purchasing Gateway Group (PGG).
- 3.2 Advice on compliance with legislative requirements may be obtained from Legal Services who will liaise with the Head of Procurement as necessary.

4. Responsibilities

4.1 Chief Officers

- 4.1.1. Chief Officers are responsible for all procurement activity in their Directorates. They must ensure sufficient oversight and governance is in place to satisfy themselves of compliance with these Rules;
- 4.1.2. Chief Officers must ensure that procurement activities are undertaken by authorised Officers who can demonstrate knowledge and understanding of these Rules and have the skills appropriate to the task.
- 4.1.3. Chief Officers must ensure that:
 - a. staff within their Directorates are adequately trained and that their procurements are in compliance with these Rules;
 - b. they have in place a scheme of delegation that records in writing what action Officers in their Directorates are authorised to take under these Rules;
 - c. there is full budgetary provision for the contract and that the sources of funding are fully detailed before starting the procurement process;
 - d. Value for Money is achieved in all procurements within their Directorates;
 - e. They keep a register of contracts completed by signature (rather than by the Council's Seal) within their Directorate and arrange for their safe keeping, ensuring that all contracts from £5,000 are added to the Council's Contract Register; and
 - f. They maintain records of all waivers or exemptions of these Rules.

4.2 Officers

- 4.2.1 The Officer responsible for the procurement must comply with these Rules, the Financial Regulations and UK or English (including any treaties incorporated into UK Law) Legislation;
- 4.2.2 The Officer is responsible for ensuring that agents acting on behalf of the Council agree in writing that they will also comply with these Rules;
- 4.2.3 Officers must keep records of all Quotations, Tender documentation and contracts, including those documents relating to unsuccessful bids and quotes in accordance with the relevant legislation and the Council's policy on the retention of documents;

- 4.2.4 Officers must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure that they deliver the requirement as intended;
- 4.2.5 When any employee of the Council or of an external service provider may be affected by the transfer arrangement, the Officer must ensure that TUPE issues are considered and obtain advice from Legal Services before proceeding with any procurement;
- 4.2.6 Where an Officer has a potential conflict of interest with a Supplier from whom a Quotation/ Tender is being sought, the Officer must declare this immediately to the Monitoring Officer. The Officer may be required to withdraw from the procurement process;
- 4.2.7 Any Officer who fails to declare a conflict of interest may be subject to disciplinary proceedings and sanctions and risks being prosecuted under the Bribery Act 2010; and
- 4.2.8 Officers must ensure that no contract commences without a purchase order being raised for the goods, services and/or works in accordance with the provisions detailed in the Financial Procedure Rules.
- 4.2.9 The Officer must consider whether the procurement constitutes a Key Decision. If it does then the Officer must seek approval from the Executive prior to the procurement commencing.

5. Amendments to these Rules

- 5.1. The Monitoring Officer in consultation with the Head of Procurement shall have the power to make incidental amendments from time to time to these Rules, to ensure that they remain consistent with legislation, the Council's organisational structure and generally with best practice.

6. Exemptions to the Rules

- 6.1. These Rules do not apply to the following transactions:

- 6.1.1. Any contracts entered through collaboration with another contracting authority and/or public body, where the person awarding the contract (the lead authority) can demonstrate the arrangements comply with the requirements for Value for Money and other applicable legislation, including where relevant UK Procurement Regulations;
- 6.1.2. Employment contracts;
- 6.1.3. Land transactions to acquire or dispose of some interest in land;
- 6.1.4. Lending or borrowing of money; and

- 6.1.5. For existing goods, services or works where there is no genuine satisfactory alternative available such as public utility infrastructure providers, e.g. Gas mains, sewage and water supply.

7. Exceptions for Care Placements

- 7.1. Exceptions are granted for Adult Social Care and Children Care Placements when underpinned by the following tiered placing of contractual arrangements. This must be approved by the Chief Officer of the relevant Directorate:

- 7.1.1. Tier 1: Placements from Block Contracts – when a Supplier is procured with guaranteed service levels and pre-agreed prices;

- 7.1.2. Tier 2: Placements made from a Dynamic Purchasing System (DPS) or Framework Agreement – must contain fixed or average rates. Tier 2 is utilised only when Tier 1 is unable to meet the required needs; or

- 7.1.3. Tier 3: Spot Placements – may be awarded when the required needs cannot be met by Tier 1 or Tier 2 and if the placement is urgent, complex and unique to the receiver of the care. Tier 3 Placements must be reviewed by the Chief Officer and will form part of a quarterly report to the relevant Member detailing the following:

- a. The nature, extent and value of spot contracts entered into in the previous quarter;
- b. The specific rationale for utilising Rule 7.1; and
- c. Append a summary of the previous instances where this Rule is used in the current financial year.

8. Requesting a Waiver /Exception from these Rules

- 8.1 Subject to the UK Procurement Regulations and any other relevant legislation, an Officer may seek a waiver where they are unable to comply with these Rules.
- 8.2 Officers must follow the procedure for obtaining a waiver detailed in Appendix 3 by utilising the online form found on the intranet.
- 8.3 Waiver requests cannot be sought for requests equal to or above the Council's Key Decision threshold.
- 8.4 Any Officer who is to submit a waiver which has a total value of £25k or more will be required to firstly complete the Procurement Waiver Review Template, submitting this to the Procurement team for review. The Procurement Waiver Review Template is available on the intranet.
- 8.5 A waiver will only be granted in exceptional or unavoidable circumstances. Lack of appropriate planning will not be considered as sufficient justification to be granted a waiver.

- 8.6 In cases of emergency and where there is a significant risk of danger to life, or damage to property or a major impact on the Council or its service users, the Monitoring Officer, or their nominated deputy may choose to waive these Rules.
- 8.7 Where a waiver is to be used, the waiver must be formally requested and approved prior to entering into any contract for goods, services and/or works.
- 8.8 In instances where a repeat waiver is requested, then the Total Value of the requested waiver must be added to any previous waivers and the appropriate rule/ regulation relating to the Total Value will apply.
- 8.9 Retrospective waivers will not be supported or approved but exceptions to this principle will be allowed where it has been necessary to act urgently because of an unforeseen emergency which involves immediate risk or injury or to prevent disruption to services.
- 8.10 The Officer must ensure that the actual spend incurred as a result of the waiver does not exceed the Total Value stipulated in the approved waiver.
- 8.11 Where less than the minimum number of bids have been received following a procurement process (which includes where a direct award has been undertaken from an external framework) or where the Officer is unable to obtain at least one (1) quote from a local provider (up to £100k), an exception will need to be applied for utilising the online form found on the intranet.
- 8.12 An exception can be requested at all values.
- 8.13 Any Officer who is to submit an exception which has a total value of £25k or more will be required to firstly complete the Procurement Exception Review Template, submitting this to the Procurement team for review. The Exception Review Template is available on the intranet.
- 8.14 The Officer must not notify bidders of an intention to award or carry out an award of contract unless they have a fully approved exception.

9. Prevention of Corruption and Conflict of Interest

- 9.1 The Officer responsible for the procurement must comply with the Council's Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract.
- 9.2 Officers must have regard to and comply with the Council's Anti-Fraud and Corruption Policy when undertaking a procurement exercise.
- 9.3 Officers are advised that any inappropriate behaviour that is deemed contrary to the Bribery Act 2010 could result in dismissal and the matter may be reported to the police.

10. Recommended Reading

10.1 It is strongly recommended that Officers and Chief Officers read the following documents in conjunction with these Rules:

- 10.1.1. Financial Procedure Rules;
- 10.1.2. Procurement Best Practice Guide;
- 10.1.3. The Council's policies and processes relevant to the procurement;
and
- 10.1.4. Contract Register guidance, system instructions and protocol.

Part 2 – Pre-Procurement

1. Competition Requirements

- 1.1 Officers must establish the Total Value of the procurement for the life of the contract, including any potential extension periods which may be awarded.
- 1.2 Officers shall not sub-divide goods, services and/or works that could reasonably be treated as a single contract to avoid these Rules, thresholds, or any legal requirements.
- 1.3 Based on the Total Value, Quotations or Tenders must then be invited in line with the financial thresholds detailed in Appendix 2.

2. Steps Prior to Procurement

- 2.1. Where a procurement is required, the Officer must establish:
 - 2.1.1. The contract term, this must not exceed four (4) years in total (including any optional extension period(s)) for contracts, Frameworks or Dynamic Purchasing Systems (DPSs) equal to or above £100k unless otherwise agreed by the PGG in advance of the procurement commencing.
 - 2.1.2. The size, scope, term and specification of the goods, services and/or works required;
 - 2.1.3. The duration of the contract that will provide the most economically advantageous outcome for the Council. This decision must be made in advance of the procurement process and done in accordance with these Rules;
 - 2.1.4. That they have the appropriate authority to start the procurement activity under the scheme of delegation;
 - 2.1.5. That they have the relevant budget approval to cover the Total Value of the contract; and
 - 2.1.6. A project plan to allow sufficient time for Bidders to prepare and submit Tenders or Quotations to maximise the opportunity for Value for Money to be achieved.
- 2.2. The Officer must consult Finance, where the procurement is of a specialist nature or poses a new potential risk to the Council to discuss the potential risks to ensure they are adequately mitigated.

3. Pre-Tender Market Research and Consultation

- 3.1 The Officer responsible for the procurement may consult potential Suppliers in general terms about the nature, level and standard of the contract packaging

and other relevant matters, provided this does not prejudice any potential Bidder.

- 3.2 The Officer must not adopt any technical advice in the preparation of an Invitation to Tender or Quotations from anyone where this may prejudice the equal treatment of all potential Bidders or distort competition.
- 3.3 Pre-tender consultation with service users on what is being procured is encouraged and is considered good practice to ensure the Specification correctly addresses what is required.
- 3.4 When considering undertaking any of these activities, the Officer must seek advice from the Procurement Team.

4. Public Services (Social Value) Act 2012

- 4.1 The Public Services (Social Value) Act 2012 requires the Council to consider at the pre-procurement stage:
 - 4.1.1. How the proposed procurement might improve the economic, social, and environmental well-being of the area;
 - 4.1.2. How the Council may act with a view to securing that improvement in conducting the process of the procurement; and
 - 4.1.3. Whether it should undertake any community consultation on the above.
- 4.2. Officers must consult the Procurement Team for advice on specifying requirements under Social Value and how to evaluate this as a part of any bids received.

5. Corporate Contracts and Corporate Frameworks

- 5.1 The Council has a selection of Corporate Contracts, Frameworks and Dynamic Purchasing Systems (DPSs) created by the Procurement Team for goods, services and works where the prices and terms have been negotiated to achieve Value for Money for the Council as a whole.
- 5.2 Before undertaking a procurement exercise, Officers must check if a Corporate Contract, Framework or DPS exists, and where they do, the Officer must use the relevant contract.
- 5.3 Where the Officer is conducting a collaborative procurement, the Council's sole financial value alone will be the amount the Officer must use to determine the Key Decision threshold.

6. Framework Agreements

- 6.1 Any Officer intending on using an externally let Framework Agreement must

ensure that they have approval from the Procurement Team and Legal Services before they call-off any goods, services and/or works from the framework.

7. Contracts Reserved for Social Enterprises and Mutuals

7.1 Officers must contact the Procurement Team and Legal Services for advice where they are considering using this procedure.

8. Consultants and/or External Subject Matter Experts

8.1 Officers must follow the Council's HR Consultancy policy published on the Council's intranet when considering the appointment of consultants or external subject matter experts to assist in the preparation of procurement documents and/or providing advice throughout the procurement process. The procurement of consultants and/or external subject matter experts must be conducted in accordance with the appropriate procurement rules, as determined by cost threshold.

9. Setting up a Dynamic Purchasing System (DPS)

9.1 Officers must contact the Procurement Team and Legal Services for support and advice if they intend to create a DPS

10. Electronic Auctions

10.1 Officers must contact the Procurement Team and Legal Services for support and advice if they intend to enter into an Electronic Auction.

11. Concessionary Contracts

11.1 The Council may wish to enter into contracts where the Supplier receives payment from a third party, or where the Supplier receives non-monetary benefits. Such contracts must be let in accordance with these Rules and where relevant the Concession Contracts Regulations 2016.

11.2 Officers must contact Legal Services for advice if they intend to enter into such contracts.

Part 3 – Procurement Thresholds

1. General Requirements

- 1.1 Please see Appendix 2 for the procurement thresholds and the process to be followed.

2. Purchases over the Regulation Threshold

- 2.1 All goods, services and/or works over the Regulation Threshold are covered by the Public Contracts Regulations 2015. These Regulations govern the processes for advertising, timetabling and Supplier selection.
- 2.2 The latest thresholds and regulations can be found at the following site <https://www.ojec.com/Thresholds.aspx>.
- 2.3 Officers must consult with the Procurement Team and Legal Services before commencing the procurement or any soft market testing over the Regulation Threshold.
- 2.4 The Officer, in collaboration with the Procurement Team, shall decide the procurement process which is most appropriate (e.g. quotation or another compliant competitive model) where the procurement is identified as falling in the scope of the Light Touch Regime in the Public Contracts Regulations 2015 and is under the Light Touch Regime threshold.

Part 4 – Procurement Documents

1. Invitations to Tender and Quotations

1.1 All Invitations to Tender or Quote must:

- 1.1.1. Clearly specify the goods, services or works that are required. The specification must describe the requirements in sufficient detail to ensure the submission of competitive bids which may easily be compared;
- 1.1.2. Include evaluation methodology, such as the selection and award criteria which details the cost and quality split;
- 1.1.3. Clearly and unambiguously specify the award procedure on which Tenders or Quotations will be evaluated, such as on the most economically advantageous tender;
- 1.1.4. Attach a copy of the contract terms and conditions that will apply;
- 1.1.5. Ensure that the same information is issued to Bidders at the same time and on the same terms; and
- 1.1.6. Any additional information or amendments must be provided to the Bidders on the same basis.

2. Local Providers

- 2.1 For requirements up to £100,000, the Officer must obtain at least one (1) quote from a Local provider.

3. Advertising Requirements

- 3.1 Under these Rules it is not mandatory for procurements valued below £100,000 to be advertised unless the Officer decides that the procurement would benefit from this e.g. to increase awareness, potential competition and to achieve best value. If the opportunity is advertised anywhere, it must also be advertised on Contracts Finder.
- 3.2 Procurements equal to and above £100,000 must be advertised on Contracts Finder and any other relevant media portal.
- 3.3 Procurements above the Regulation Threshold must be advertised in accordance with the UK Procurement Regulations on Find a Tender and also Contracts Finder.

4. Submission of Tenders or Quotations

- 4.1 Bidders must be given sufficient time to prepare and submit a proper Tender

or Quotation, consistent with the urgency and complexity of the contract requirements.

5. Late Tenders

5.1 Late Tenders or Tenders that are not submitted in accordance with these Rules will be disqualified unless approved by the Monitoring Officer and Legal Services.

6. Evaluation

6.1 Tenders and Quotations must be evaluated in accordance with the pre-determined evaluation criteria set out in the procurement documents.

6.2 The evaluation must be carried out by a panel consisting of the Officer and at least one (1) other officer of appropriate seniority, supported and moderated by the Procurement Team.

6.3 If, despite all reasonable efforts having been made to obtain the required minimum number of responses, fewer respond to the Council's requirement, then the procurement may progress with the Bidders who have provided a valid response.

6.4 The Officer must keep a record of the efforts made to obtain the minimum number of responses.

6.5 The Officer must retain the results of the Tender evaluation.

6.6 Officers shall ensure the successful Bidder has any required insurance cover in place before performance of the contract begins, and shall further ensure, at appropriate intervals, that such cover is maintained by the Supplier throughout the contract period.

7. Clarification Procedures

7.1 Officers may ask Bidders for clarifications to any of the details submitted as part of their bid. However, such clarifications must not result in a significant change to the bid or related documentation.

7.2 Prior to making any request for clarifications from a Bidder, the Officer must discuss this with the Procurement Team, where the requirement is over £100,000.

7.3 Full written records of all clarification decisions must be made and retained by the Officer. These records must also be provided to the Procurement Team, where the Procurement Team have led the procurement.

8. Notification of Award

8.1 Following contract award the Officer must inform successful and

unsuccessful Bidders simultaneously in writing whether or not their bid was successful.

- 8.2 Where the value of the contract is £25,000 or more (regardless of whether or not the contract was advertised) the Officer must also publish an award notice on Contracts Finder within 90 calendar dates of the award date. The requirement applies to contracts for all procurements processes including quotations, tenders, DPS or Framework call-offs (internal and external) and waivers. For further information, please visit the Advertising Contract Opportunities intranet page.
- 8.3 Where a Tender is subject to the UK Procurement Regulations, the Procurement Team will adhere to the relevant Standstill Period.
- 8.4 If a Bidder requests in writing, a further debrief in relation to the award, the lead Officer is responsible for providing the appropriate response.
- 8.5 Any complaints from unsuccessful Bidders must be provided in writing and Officers must submit these to the Procurement Team for review. The Procurement Team must be notified immediately of any challenge to a procurement process, in order that appropriate action may be taken.

9. Legal Challenge

- 9.1 If there is a formal legal challenge to the award of a contract, then the Officer must notify immediately his or her Chief Officer, Legal Services and the Head of Procurement.

Part 5 – Contract Formalities

1. Principals Relevant to Contracts at all Values

1.1 Every contract must be in writing and must clearly state:

- 1.1.1 The goods, services and/or works to be provided;
- 1.1.2 The start and end date;
- 1.1.3 The agreed programme of delivery;
- 1.1.4 The price and terms of payment;
- 1.1.5 All other terms that are agreed, e.g. insurance;
- 1.1.6 Exit procedures, for when the contract comes to its natural end; and
- 1.1.7 Termination procedures for early termination of the contract including when the Supplier has not fulfilled its contractual obligations.

2. Execution of Contracts

2.1 Contracts let under the UK Procurement Regulations may only be signed/sealed after the mandatory standstill period has elapsed without any challenge being received.

2.2 Contracts may only be executed by Officers with delegated powers as detailed below:

- 2.2.1 Up to £250,000 shall be in writing and signed by the Chief Officer or Officer with appropriate authority to enter into a contract.
- 2.2.2 Over £250,000 but less than £1,000,000 shall be in writing and signed by the Chief Officer or Officer with appropriate authority to enter into a contract and the Chief Finance Officer.
- 2.2.3 £1,000,000 or over shall be in writing and signed by the Chief Officer or Officer with appropriate authority to enter into a contract, the Chief Finance Officer and Member portfolio holder or an authorised representative.
- 2.2.4 £1,000,000 or over shall be in writing and sealed by affixing the Common Seal of the Council and attested by the Monitoring Officer. The use of electronic seal is permitted.

2.3 If after acceptance of its Tender or Quotation, a Supplier fails, within a reasonable period of time and without reasonable justification, to sign or enter into a formal written contract, the Council reserves the right to withdraw the Supplier from the contract. This decision shall be made by the relevant Chief

Officer in consultation with Legal Services.

3. Commencement of Contracts

- 3.1 No supply of goods, services or works shall commence until all contract documents have been completed.

4. Social Impact Bonds (SIBS)

- 4.1 Details of Social Impact Bonds (SIBs) are available in the Financial Regulations.

5. Contract Register

- 5.1 Contracts valued at £5,000 or more must be record on the Contract Register.
- 5.2 The Procurement Team will provide access to the Contract Register of current contracts and framework agreements. The Contract Register will be published on the Council's website in accordance with Local Government Transparency Code 2015.
- 5.3 The Procurement Team will enter any contracts they have led the procurement process for on the Contract Register, however, it is the Officer's responsibility to ensure these details are correct and updated with any changes and/or extensions.

6. Letters of Intent

- 6.1 Letters of Intent shall only be used in exceptional circumstances and where approved by the Chief Officer in consultation with Legal Services.

7. Parent Company Guarantees and Performance Bonds

- 7.1 A parent company guarantee or performance bond shall be required:
- 7.1.1. where the Total Value of the contract exceeds £500,000; and/or
 - 7.1.2. where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the Contract; and/or
 - 7.1.3. where there is concern about the stability of the Supplier, regardless of value.
- 7.2 Where a parent company guarantee or performance bond is required this must be clearly stated in the Invitation to Tender or Quotation and must be in place before the contract is completed by the Council.
- 7.3 Where a bidder or bidders request not using either of these provisions in a procurement process, the Officer must discuss this with the Chief Officer and

Chief Finance Officer. If the decision is made not to request either of these provisions, it must be agreed in writing between the Chief Officer and Chief Finance Officer.

- 7.4 If the Officer can justify the disadvantages of this requirement being requested, they must agree this in writing between the Chief Officer and Chief Finance Officer.

Part 6 – Contract Management

1. General Requirements

- 1.1 During the contract period the Officer must monitor the overall performance of the contract closely to ensure any issues of under-performance are addressed as soon as possible and that the contract remains in-budget.

2. Contract Monitoring, Evaluation and Review

- 2.1 The Procurement Team will provide a high-level contract governance function that can offer a helicopter view of the Councils' contract management to ensure better strategic procurement delivery across the organisation. This is not a substitute for sound contract management and governance by the relevant Officer, but seeks to nurture, support and enhance that function.
- 2.2 The Procurement Team must have sight of the final contract and everything that has been agreed between the Officer and the Supplier. This may include but not be limited to:
 - 2.2.1 Service Level Agreements; and
 - 2.2.2 Key Performance Indicators (KPI's) and/or Key Milestones.
- 2.3 Where the Supplier defaults on the Contract it shall be the duty of the Officer to take appropriate action and, in the case of a significant default, to report any such action to the Chief Officer and Legal Services.
- 2.4 Officers shall ensure that Suppliers maintain adequate insurance for the duration of the contract period and shall verify this at appropriate intervals throughout the term.

3. Variations

- 3.1 Where a variation means that the value of a contract would exceed the relevant Regulation Threshold, or where there is any material change to the contract, the contract must be treated as a new procurement under these Rules.
- 3.2 A change will not be deemed material if the value of the modification is both below the Regulation Threshold and below 10% of the original contract value (15% for works) after any contract indexation.
- 3.3 Officers must consult with Legal Services if they intend to make variations to their contracts.
- 3.4 The Officer will need to calculate how the Total Value of the contract will change as a result of any variation to determine the authority the Officer needs to obtain, (any option, extension periods and/or previous variations must be included in this calculation).

3.5 All variations must be kept with the Officer's signed copy of the contract and once agreed, all variations on contracts with a Total Value of £5,000 or more must be noted on the Contract Register.

3.6 Officers must be satisfied that they have sufficient budget to cover any variation and that the variation will achieve Value for Money and be reasonable in all the relevant circumstances.

4. Assignments and Novations

4.1 Officers must contact Legal Services where it is proposed that an assignment or novation should take place.

5. Termination of Contract

5.1 Officers must consult with Legal Services if they are considering the early termination of their contracts.

Appendix 1 – Definitions, Abbreviations and Glossary

Term	Explanation
Bidder	Means a potential Supplier, vendor or organisation who responds to an invitation to bid, Tender or Quote or any person who asks or is invited to submit a Quotation or Tender.
Call-Off	Individual contracts which fall under a Framework or Dynamic Purchasing System (DPS).
Chief Officer	An Officer(s) as defined in the Constitution.
Contracts Finder	The Government's procurement advertising website (https://www.gov.uk/contracts-finder)
Contract Register	Means a register process managed by the Procurement Team that stores details of the Council's Contracts such as duration and expiry dates. The register is published on the Council's intranet.
Corporate Contract and/or Corporate Framework	A Contract let by the Council to support the Council's aim of achieving Value for Money.
Dynamic Purchasing System (DPS)	An electronic tool that is used to purchase goods, services or works that are both commonly used by the Council and readily available on the market. Like a Framework Agreement but has the functionality to add new suppliers at any time.
eProcurement Portal	Web-based portal to be used by Potential Suppliers to submit their response to a procurement opportunity.
Financial Regulations	Means the financial regulations outlining Officer responsibilities for financial matters issued by the Chief Finance Officer in accordance with the Constitution.
Find a Tender	The Government's procurement advertising website for high value tenders (https://www.gov.uk/find-tender)
Framework Agreement	A formal tendered arrangement which sets out terms and conditions under which specific purchases can be made from the successful Bidders in unpredicted quantities at different times during the term of the Framework Agreement.
Invitation	Invitation to Tender or Quote in the form required by these Rules.
Key Decision	Means decisions that are defined as Key Decisions in the Constitution.
Light Touch Regime	Refers to social and other specific services covered by Part 2 Chapter 3, Section 7 of the Public Contracts Regulations 2015.
Local	Areas covered within the boundary of North Northamptonshire Council.
Lots	Procurement exercises can be divided into lots to make the contract more favourable to small and medium sized enterprises (SMEs). If the contract is divided into lots, the contract notice must indicate whether tenders may be submitted for one, for several or for all of the lots.

Non-Commercial Considerations	Those that are listed in section 17(5) of the LGA 1988.
Officer	An Officer of the Council designated by the Chief Officer to be responsible for undertaking the procurement exercise and for the administration of the contract to include ensuring compliance with its terms and conditions and implementation of any required variations.
Parent Company Guarantee	Means a Contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a Contract with the Council, they can require the parent company to do so instead.
Performance Bond	An agreement that if the Supplier does not do what it has promised under a contract with the Council, the Council can claim from the Bondsman the sum of money specified in the Bond (usually 10% of the contract sum). It is intended to protect the Council against a level of cost arising from the Suppliers failure to comply with the terms of the contract.
Procurement Best Practice Guidance	Means the relevant procurement guidance document issued by the Procurement Team.
Purchasing Gateway Group (PGG)	Means an identified group of Officers responsible for offering collective advice on procurement, legal and financial issues amongst others.
Quotation	Means a quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Request for Quotation	Means a formal quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Rules	These Contract Procedure Rules.
Soft Market Testing	A soft market test is an exercise designed to test a commercial markets capability of meeting a set of requirements.
Specification	A part of the procurement document suite, which describes as far as possible, the goods, services or works that the Council requires.
Standstill Period	The standstill period provides for a short (at least 10 calendar days) pause between the point when the contract award decision is notified to bidders, and the final contract conclusion, during which time suppliers can challenge the decision. It is a legal requirement imposed through the Remedies Directive.
Supplier	Any person or organisation, including companies or other bodies of persons providing, or seeking to provide, goods, services or works to the Council.
Tender	Means a Bidder's proposal submitted in response to an Invitation to Tender.
Terms and Conditions	Terms and conditions are part of a contract the ensure parties understand their contractual rights and obligations.
Total Value	Means the whole of the value or estimated value (in terms of money or equivalent value) for a single purchase, whether or not the purchase comprises several lots or stages across the Council as a whole and whether or not it is to be paid or

	<p>received by the Council or a discrete operational unit within the Council.</p> <p>The Total Value shall be calculated as follows:</p> <ol style="list-style-type: none"> 1. Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the proposed contract period; 2. Where the contract is for an uncertain duration by multiplying the monthly payment by forty-eight (48); 3. For feasibility studies, the value of the scheme or contracts which may be awarded as a result; 4. For nominated Suppliers and sub-contractors, the Total Value shall be the value of that part of the main contract to be fulfilled by the nominated Supplier or sub-contractor; 5. Where an in-house service provider is involved, by taking into account redundancy and similar/associated costs; and/or 6. In the case of a Framework Agreement or DPS, the estimated call off during the period of the contract.
TUPE	<p>Means the Transfer of Undertaking (Protection of Employment) Regulations 2006. These regulations were introduced to ensure the protection of employees when, for example, a business is taken over by another organisation. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the service.</p>
UK Procurement Regulations	<p>Regulations which become part of English Law through the Public Contracts Regulations 2015 as amended and any successor regulations which specify in detail the procedures by which public authorities shall undertake their procurements.</p>
UK Regulation Threshold	<p><u>Means the Total Value threshold at which PCR2015 public procurement directives must be applied. The current procurement thresholds and regulations can be found at the following site https://www.ojec.com/Thresholds.aspx</u></p>
Value for Money (VfM)	<p>It is not necessarily the lowest possible price as it combines goods or services that fully meet the Council's needs, with the level of quality required, delivered at the time required and at an appropriate price.</p>
Waiver	<p>A means of seeking exemption from one or more of the Contract Procedure Rules.</p>

Appendix 2 – Summary of Procurement Thresholds

Please note, the values in the table below are displayed net of VAT.

Value of Contract	Pre-Procurement Authorisation	Advertising	Procurement Process	Contract Execution
Under £5,000.	Officer. If “Key Decision”, relevant Officer and Executive approval.	No requirement to advertise.	At least one (1) written quotation required from a Local provider. Officers should ensure they achieve value for money.	Contract terms issued via purchase order.
£5,000 to £25,000.	Officer. If “Key Decision”, relevant Officer and Executive approval.	No requirement to advertise.	Seek to obtain at least three (3) written Quotations (at least one (1) from a Local provider). The eQuotation form may be used. Officers should ensure they achieve value for money.	Contract terms issued via purchase order. Contract must be published on the Contract Register.

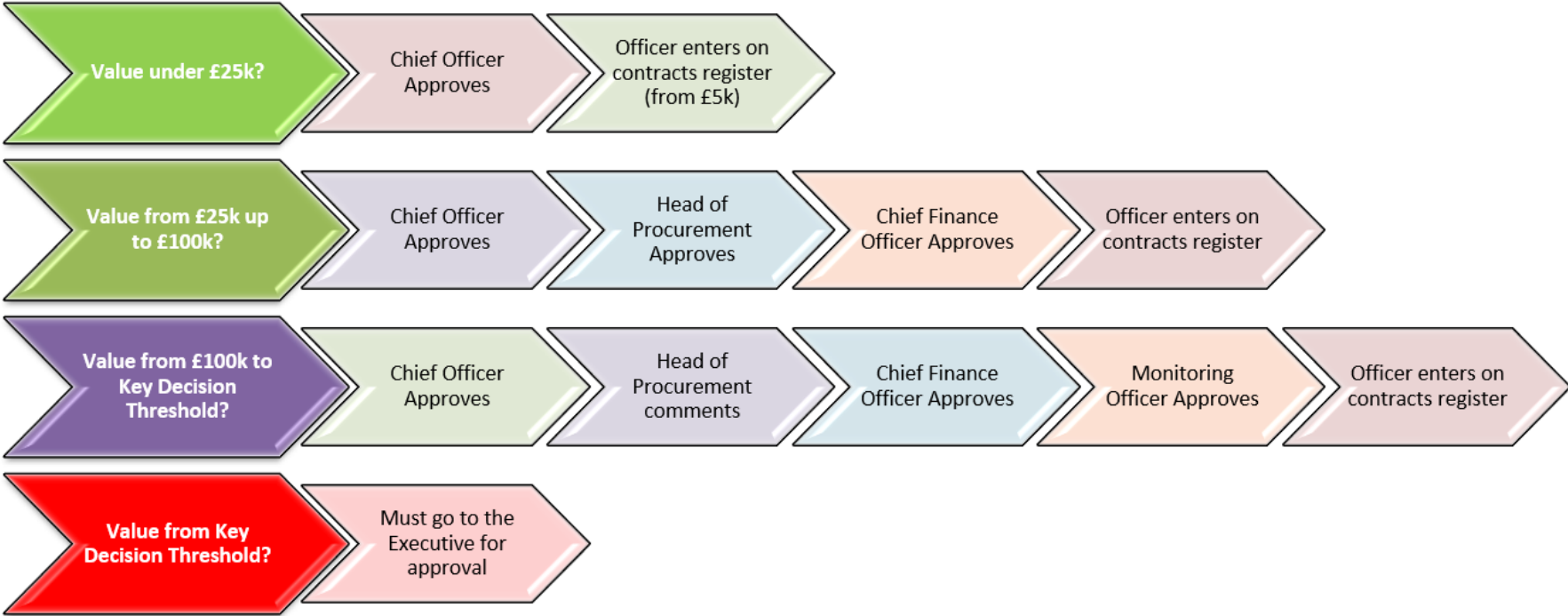
Value of Contract	Pre-Procurement Authorisation	Advertising	Procurement Process	Contract Execution
£25,000 to £100,000.	<p>Officer.</p> <p>If “Key Decision”, relevant Officer and Executive approval.</p>	<p>Advertising on Contracts Finder is recommended, but not mandatory.</p> <p>Award notice must also be published on Contracts Finder (from £25k).</p>	<p>Seek to obtain at least three (3) written Quotations (at least one (1) from a Local provider) using the formal RFQ process.</p> <p>Officers should ensure they achieve value for money.</p>	<p>Written contract signed by the Chief Officer or Officer with appropriate authority to enter into a Contract.</p> <p>Contract prepared by Legal Services.</p> <p>Contract must be published on the Contract Register and Contracts Finder.</p>
£100,000 to UK Regulation Threshold.	<p>Officer and the Procurement Team.</p> <p>If “Key Decision”, relevant Officer and Executive approval.</p> <p>Requirement to present requirement to PGG.</p>	<p>Advertising on Contracts Finder is mandatory unless the Regulations stipulate otherwise.</p> <p>All procurement Notices must be issued by the Procurement Team.</p> <p>Award notice must also be published on Contracts Finder.</p>	<p>Seek to obtain at least three (3) written Quotations.</p> <p>The Procurement Team must be consulted.</p> <p>Officers should ensure they achieve value for money.</p>	<p>Up to £250,000 - Written contract signed by the Chief Officer or Officer with appropriate authority to enter into a Contract.</p> <p>£250,000 but less than £1,000,000 - Written contract signed by the Chief Officer or Officer with appropriate authority to enter into a Contract and the Chief Finance Officer.</p>

Value of Contract	Pre-Procurement Authorisation	Advertising	Procurement Process	Contract Execution
				<p>Over £1,000,000 - Written contract signed by the Chief Officer, the Chief Finance Officer and Member portfolio holder or an authorised representative.</p> <p>Over £1,000,000 - Written contract sealed by affixing the Common Seal of the Council and attested by the Monitoring Officer .</p> <p>Contract prepared by Legal Services.</p> <p>Contract must be published on the Contract Register and Contracts Finder.</p>
Above UK Regulation Threshold.	Officer and Procurement Team.	Advertising on Contracts Finder is mandatory	Procurement must be run in accordance with	Up to £250,000 - Written contract signed by the

Value of Contract	Pre-Procurement Authorisation	Advertising	Procurement Process	Contract Execution
	<p>If “Key Decision”, relevant Officer and Executive approval.</p> <p>Requirement to present requirement to PGG.</p>	<p>unless the Regulations stipulate otherwise.</p> <p>Advertising on Find a Tender is mandatory unless the Regulations stipulate otherwise.</p> <p>All procurement Notices must be issued by the Procurement Team.</p> <p>Award notice must also be published on Contracts Finder and Find a Tender.</p>	<p>the Regulations and in consultation with the Procurement Team.</p> <p>Officers should ensure they achieve value for money.</p>	<p>Chief Officer or Officer with appropriate authority to enter into a Contract.</p> <p>£250,000 but less than £1,000,000 - Written contract signed by the Chief Officer or Officer with appropriate authority to enter into a Contract and the Chief Finance Officer.</p> <p>Over £1,000,000 - Written contract signed by the Chief Officer, the Chief Finance Officer and Member portfolio holder or an authorised representative.</p> <p>Over £1,000,000 - Written contract sealed by affixing the Common Seal of the Council and attested by the Monitoring Officer.</p>

Value of Contract	Pre-Procurement Authorisation	Advertising	Procurement Process	Contract Execution
				<p>Contract prepared by Legal Services.</p> <p>Contract must be published on the Contract Register and Contracts Finder.</p>
<p>Call-off from Framework Agreement or DPS.</p>	<p>Officer (and Council’s Procurement Team if over £100,000).</p> <p>If “Key Decision”, relevant Officer and Executive approval.</p> <p>Requirement to present requirement to PGG (from £100k).</p>	<p>Advertising the call-off on Contracts Finder is not required.</p> <p>Award notice must be published on Contracts Finder (from £25k).</p>	<p>Follow call-off procedure within Framework Agreement or DPS.</p> <p>The award procedure will be determined by the Framework or DPS.</p> <p>Officers should ensure they achieve value for money.</p>	<p>Written Contract created from Framework Agreement or DPS.</p> <p>Sign-off as per above thresholds.</p> <p>Contract must be published on the Contract Register and Contracts Finder.</p>

Appendix 3 – Procurement Waiver Process Flowchart



End of Contract Procedure Rules

November 2022