

Contract Procedure Rules

(for Income & Expenditure Contracts)

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Using these Procedures –

Section 1 details the legal reasons for this document and requirement imposed upon us by law.

Section 2 explains the processes to be followed when carrying out a procurement process.

Section 3 details if, when and how these rules can be deviated from.

1. Contract Procedure Rules

1.1. Introduction (Legal & Council Requirements)

- 1.1.1. The Local Government Act 1972 section 135 requires the Council to have standing orders for how it enters into contracts. These Contract Procedure Rules (“Rules”) are the standing orders required by the 1972 Act. They form part of the Council's Constitution and are, in effect, the instructions of the Council, to officers and elected members, for entering into contracts on behalf of the Council.
- 1.1.2. These Rules govern ALL purchases of works, goods and services across the whole Council; they cover UK and EU legislative requirements as well as good practice. Should there be any discrepancies between these Rules and legislation, legislation is the dominant authority and MUST be followed. A list of current legislation, that supports these Rules, is attached in appendix 4.
- 1.1.3. All Council procurements MUST demonstrate; true and fair competition, public accountability, an open, fair and transparent process, seek to prevent bribery and corruption, whilst ensuring probity. All procurements MUST demonstrate a full audit trail.
- 1.1.4. Following the Contract Procedure Rules will also help to ensure that the Council obtains best value when it buys works, goods or services.
- 1.1.5. These Contract Procedure Rules are to protect the interests of the Council, its officers and elected Members and the public.

1.2. Application & Scope of Rules (Legal & Council Requirements)

- 1.2.1. These Rules DO apply to:
 - all contracts for the supply of works, goods or services (including consultancy) to the Council, regardless of value; and

- partnership and collaborative arrangements with other public bodies; and
- concession contracts.

1.2.2. They DO NOT apply to:

- contracts for the purchase or sale of any interest in land, (including leasehold interests);
- contracts of employment for the appointment of individual members of staff, including members of staff sourced through employment agencies under a corporate contract;
- sponsorship agreements;
- supply of works, goods and services by the council or one of its public sector partners. However, the Head of Legal Practice and Strategic Procurement must be consulted where the Council is contemplating this route.

1.3. Compliance (Legal & Council Requirements)

1.3.1. ALL CONTRACTS, (as defined by 1.2.1) on behalf of the Council, must comply with:

- these Contract Procedure Rules;
- the Council's Financial Regulations; and
- all relevant UK and EU legislation.

1.3.2. Each Director and Head of Service is responsible for ensuring that his/her department complies with these Contract Procedure Rules, the Financial Regulations and ALL applicable legislation. They MUST ensure that procurement requirements are appropriately planned, reported, monitored and awarded. They may delegate the practical elements of the processes to competent personnel within their departments, who are then equally responsible for ensuring these Rules are adhered to.

1.3.3. All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council MUST comply with these Contract Procedure Rules. Attention is drawn to the Council's Code of Conduct and Disciplinary Policy.

1.3.4. NON-COMPLIANCE WITH THESE RULES MAY CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION.

1.3.5. ALL Council spend MUST have a valid purchase order raised and approved in the Council's Financial Management System BEFORE delivery of the works, goods or services commence; where the value of spend ALSO requires a formal contract, work must not begin until the contract document has been appropriately completed by both parties, see appendix 1. Any deviations from this process must be approved and signed-off by the appropriate Director, BEFORE commencement.

1.4. Conflicts of Interest (Council Requirements)

1.4.1. All members of staff must avoid any conflict between their own interests and the interests of the Council as detailed in the Council's Code of Conduct, this includes: but is not limited to

- not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;
- not working for, or having a pecuniary shareholding in organisations or suppliers that the Council has dealings with;

- notifying the Head of Legal Practice and relevant Director if an officer has links with (e.g. they previously worked for, or a family member or close friend works for) an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council.

1.4.2. All consultants engaged to act on behalf of the Council must declare that:

- they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council; and
- they will notify the relevant Director if they have any links with (e.g. a family member or close friend works for) an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council.
- if an elected Member of the Council or a member of staff has an interest, financial or otherwise, in a contract or proposed contract, he/she must declare it in writing to the Director as soon as he/she becomes aware of the interest. An elected Member or member of staff who has an interest in a contract must not take part in the procurement or management of that Contract.

1.4.3. A shareholding in a body not exceeding a total nominal value of £1000 or 1% of the nominal value of the issued share capital (whichever is less) is not a pecuniary interest (1.4.1) for the purpose of this Rule.

1.4.4. The Chief Executive must maintain a record of all declarations of interest notified by elected Members and officers.

1.5. Prevention of Bribery and Corruption (Legal Requirements)

1.5.1. Where evidence suggests inappropriate action or events have occurred, a contract may be terminated immediately, and any losses to the Council arising from the termination recovered from the supplier, if the supplier, or anyone acting on his behalf (with or without the supplier's knowledge):

- offers or promises, or gives a financial, or other advantage, to any elected Member of the Council, any member of staff or any consultant in connection with the contract; or
- requests, agrees to receive or accepts a financial or other advantage so that some action in relation to the contract is performed improperly; and
- a declaration to this effect must be included in the Invitation to Tender (ITT).

1.5.2. Any elected Member of the Council, member of staff or consultant who becomes aware or has reason to believe that a supplier or potential supplier has committed one of the improper acts referred to in 1.5.1, must report that to the Monitoring Officer and the Head of Internal Audit immediately.

1.6. Pre-Procurement Requirements (Council Requirements)

(To be read in conjunction with the Council's Financial Regulations and the Constitution.)

1.6.1. As part of the Council's scrutiny process, officers and Heads of Service are required to obtain the necessary approvals BEFORE commencing a procurement process. (The values stated are accumulated spends over the life of the contract.) These approvals vary according to value and whether the procurement is considered a Key Decision.

1.6.2. A Key Decision (for procurement) is a requirement to seek authority to procure (and delegated authority to award) from the appropriate scrutiny committee, it applies where:

- The spend is over £1,000,000;

- There is a proposed change to the strategic procurement processes.

The principles apply as follows.

1.6.1. **Capital Projects**

All Capital projects (over £15,000) seeking funding, MUST first bid for funding as part of the budget setting cycle and then submit a report to the Capital Programme Board for approval to proceed. Officers are required to detail the proposed procurement strategy as part of the funding bid, such that the budget application requests funding allocation, approval to procure and delegated authority to award.

1.6.2. **Revenue Spend under £1,000,000 (Non Key Decision)**

Cyclical requirements and 'business as usual' expenditure, under £1,000,000 can be procured and awarded subject to the budget having been approved, compliance with these procedures and the appropriate delegation of authority to award.

1.6.3. **Revenue Spend over £1,000,000 – statutory obligations (Non Key Decision)**

Where the expenditure relates to the Council delivering against statutory obligations, subject to the budget having been approved, no additional reporting is required. This must be advised as part of the budget setting cycle and is subject to compliance with these procedures and the appropriate delegation of authority to award.

1.6.4. **Revenue Spend over £1,000,000 – (Key Decision)**

Requirements and expenditure funded from the annual budgets, that exceed £1,000,000, MUST submit a report to the appropriate scrutiny committee to seek approval to procure and delegated authority to the appropriate Strategic Director, to award.

1.6.5. **Corporate Contracts over £1,000,000 – (Key Decision)**

Where a contract is to be established for corporate use and no specific budgetary or capital approval process has been carried out, the project/ contract manager is required to present a report to scrutiny committee to approve the procurement and award of a corporate strategy.

1.6.6. Members may request a committee report on any project, not otherwise required to submit a report, where it is deemed of high public or political interest or significant risk to the Council. This requirement is to be identified as part of the budget setting cycle (Non-Key Decisions).

1.6.7. Where a requirement for approval arises outside of the budgeting or committee cycle, the officer may request an urgent decision where:

- waiting for the next committee cycle puts funding at risk;
- there are health and safety considerations;
- it is in the best interest of the community to proceed with urgency;
- the Strategic Director responsible believes there is another justifiable reason;

this must be managed in accordance with the Council's processes.

1.6.8. All Key Decisions MUST be entered onto the Forward Plan in accordance with Council processes.

1.6.9. Evidence of the relevant approval to procure and award must be provided before the procurement process can be commenced and again before the contract can be awarded.

Section 12.3.2 Key Decisions of the constitution will need to be amended to reflect this.

1.7. Duties and Powers of Delegation (Council Requirements)

- 1.7.1. Where a procurement is deemed a Key Decision, approval to procure is required from the appropriate scrutiny committee; this approval to include delegated authority, to the Strategic Director, to award the contract, subject to compliance with these procedures and the proposed contract award value being within a 10% tolerance of the approved budget
- 1.7.2. Where the proposed contract award is greater than the approved and available budget, the officer is required to submit a report to the appropriate scrutiny committee to seek additional funding.
- 1.7.3. Where the procurement is not a Key Decision, under the scheme of delegation, Directors have the authority to delegate to Heads of Service, the ability to procure, subject to a budget having been approved; they also have delegated authority to award the contract as per **Error! Reference source not found.**
- 1.7.4. Where the value of the contract is level three and below (see appendix 1), this power of delegation includes the ability for the Director to delegate to the Head of Service, the ability to award the contract subject to compliance with these procedures.
- 1.7.5. Both the Director and the Head of Service have the authority to delegate the practical delivery of the procurement process to any officer deemed suitably competent in the given discipline; however responsibility for compliance with these procedures is the joint responsibility of the project manager, Head of Service and Strategic Director accordingly.

1.8. Separation of Duties (Council requirement)

- 1.8.1. A contract or purchase order cannot be raised or recommended and then approved by the same person.
- 1.8.2. The Council requires that the procurement process and any resultant awards are authorised by separate officers; most usually by the officer's line manager.
- 1.8.3. Where a Head of Service manages the practical element of a procurement process, completes a deviation form or makes another recommendation, the award must be agreed by either another Head of Service or a Director.

1.9. Creating a Contract (Council & Legal Requirements)

- 1.9.1. The Council requires ALL expenditure at level 2 (see appendix 1) or above to be placed against a formal and legally binding contract and supported by a purchase order to enable payment. The Council has a policy of - no purchase order no payment.
- 1.9.2. A contract is a defined set of requirements, TERMS & CONDITIONS, specified by the Council, regarding how both parties will engage during the contract period.
- 1.9.3. A contract requires:
 - OFFER – the tender submitted by the supplier; and
 - ACCEPTANCE – confirmation by the Council that its wishes the supplier to do as offered;
 - CONSIDERATION – a valid and legal benefit exists from the contract; e.g. payment for a service or goods.
- 1.9.4. The Contract MUST state:
 - duration – length of agreement plus any available extensions;

- value – a fixed sum, schedule of rates or estimate spend over the duration of the contract and any extensions;
- the contract parties – those between who the contract applies; (If a framework, the Framework Agreement will list all eligible parties); and
- change process – variations and extensions.

- 1.9.5. Each party to the contract acquires rights and duties – failure by either party to fulfil their duties set out in the contract may constitute a breach of contract.
- 1.9.6. The Council holds standard contract templates for level 3 (see appendix 1) and below expenditure; these are to be used unless expressly agreed otherwise by Legal and Procurement.
- 1.9.7. All contracts for Level 4 (see appendix 1) and above must be agreed by Legal BEFORE issuing tender documentation.
- 1.9.8. The Council requires ALL construction contracts to use industry standard forms, with minimal amendments, unless expressly agreed otherwise by Legal, Procurement and the relevant Head of Service.
- 1.9.9. The Council WILL NOT accept amendments to the proposed Council terms and conditions nor sign a supplier's terms and conditions of business, unless pre-agreed with Legal, Procurement, the Head of Service and the relevant Director prior to the procurement commencing.
- 1.9.10. ALL contracts must be collated and signed (or executed), by the appropriate person (see Appendix 1), BEFORE commencement, unless expressly agreed by Legal, Procurement, the Head of Service and the relevant Director.

1.10. Calculating the Contract Value (Legal & Council Requirements)

- 1.10.1. The value of the contract is the TOTAL amount the Council, as a whole, plans or might spend over the whole duration of the contract (including extensions) on a given requirement. The total is ALL and ANY spend with the supplier, for the specific requirement/ scope of works, regardless of the department or individual initiating the purchase. A contract value should be calculated as follows:
- a lump sum contract – this is a one-off, capital project, only used by one person/ department – the value is the total budget available (including any contingency);
 - a periodic contract – this is where there is an annual, regular, potentially on-going requirement, by either one or all departments – the contract value is the potential annual spend (across the whole Council) multiplied by the number of years the contract is to run (including any extension). Often managed through initiating a framework or establishing a term (schedule of rates) contract.
- 1.10.2. Where a contract is designed to be utilised by multiple authorities, the value must reflect the total potential spend, across all participants, for the whole duration; this should be listed as a price range in the relevant advertisements. It is advisable to include some contingency.
- 1.10.3. The contract needs to reflect any known and reasonably foreseeable requirements over the next few years; the duration is to be decided based on achieving economy of scale, commerciality of the requirements, best value and applicability; considering criteria such as whole-life-cycle, so as to address the life span of any equipment and capital write-off costs etc.
- 1.10.4. The Council MUST NOT disaggregate or sub-divide like or similar works by procuring multiple, smaller or shorter contracts. This includes not segregating any requirements by department

or reducing the contract duration, so as to reduce the contract value, in order that it avoids the requirement to follow a specified procurement level's advertising or process requirements. Where there is a commercial benefit to have multiple suppliers for a given requirement, this should usually be procured as a compliant, corporate framework.

- 1.10.5. Spend thresholds will be monitored against each supplier with whom the Council spends money; where a supplier provides multiple services which could reasonable be procured as separate contracts, staff are required to clearly identify on every purchase order to which contract the spend is to be attributed.
- 1.10.6. The Council encourages the use of corporate contracts by way of term contracts, Framework Agreements and dynamic purchasing systems (see 1.14.5). Particularly where there are interrelated services that can be delivered by multi-disciplinary suppliers so as to achieve potential savings and quality benefits. In these instances the contract value is across all disciplines and lots, across the whole duration and all authorities participating in the contract.

1.11. Market Research (Council & Legal Requirements)

- 1.11.1. The Council encourages the use of a 'Request for Information' process, market research and benchmarking, prior to defining the specification requirements for the contract.
- 1.11.2. Such research MUST NOT create an anti-competitive environment, be positively or negatively discriminatory to any potential bidders or use any specific, exact information or advice from a company, to write the specification or contract, where they have a commercial interest in the contract.

1.12. Choice of Procedure (Legal Requirements)

- 1.12.1. The following terminologies are used to describe EU compliant procurement processes; however, the principles can be applied to below EU threshold processes.
 - Open tenders – all tender information, specifically the Invitation to Tender (ITT) is published at one time (tender pack) and any interested supplier can submit a tender, subject to meeting minimum specified standards;
 - Competitive with negotiation – this route includes multiple ITT steps allowing the negotiation of specific requirements. The elements subject to negotiation and the shortlisting process need to be clearly identified from the beginning as part of the tender pack;
 - Design competition – this route follows an open tender process but with a less defined specification. It must be scored by appropriate persons in a neutralised format, to ensure fair competition, based on design only.
 - Concession Contracts – this is where there is an operating risk, that includes real exposure to uncertainty and where the risk is not nominal or marginal, and there is a real risk of making a financial loss e.g. the management of a café within a council building. (this procurement has different EU thresholds)
- 1.12.2. The following is usually only used for above the EU threshold procurements
 - Competitive Dialogue – this is for when the ideal solution cannot be readily identified and ideas and input from the market are sought to aid in identifying a suitable solution. This route usually includes multiple short listing stages, meetings and information sharing before a final solution and price is agreed with a single supplier;
- .12.3. The Council supports the use of any of the above, but they MUST be managed in compliance with current regulations.

1.13. Corporate Contracts (Council requirements)

- 1.13.1. The Council has adopted a strategy of using corporate contracts to deliver common, regular, routine, group-able requirements; this is designed to ensure compliance with legislation, achieve economy of scales and standardise performance and quality, whilst facilitating the ability to build relationships and effective contract management.
- 1.13.2. Where the Council has routine spend associated with the practical delivery of Council services, e.g. stationery, utilities, printing, etc., these are to be consolidated into single corporate contracts, managed by an agreed department, in the best interests of the whole Council.
- 1.13.3. Where there are commonalities of requirements across the Council, e.g. technical consultants, training etc., these are to be aggregated into either a Framework Agreement or a DPS (see 1.14). These will be procured and monitored by Procurement, facilitated by working groups to include representatives from all departments.
- 1.13.4. A corporate contract is one which is designed to be used by everyone in the Council with no one service having the monopoly of use or design.
- 1.13.5. In contrast, a collaborative contract is one commissioned by a single department, specifically designed to meet a particular requirement, but accessible to others parts of the Council if beneficial.
- 1.13.6. Where the Council holds a corporate contract, this contract MUST be used unless expressly agreed by Procurement, the Head of Service and if required by procurement (due to risk or value), the appropriate Director.
- 1.13.7. When procuring a corporate contract, managed by a centralised resource, without a specific, identifiable budget, the procurement must be approved by way of a Key Decision approval process as detailed in 1.6.5.

1.14. Corporate Frameworks Agreements and Dynamic Purchasing Systems (DPS) (Council & Legal requirements)

- 1.14.1. The Council wishes to balance consolidating spend, supporting smaller businesses and the local economy; the preferred way by which to achieve this, and legislative compliance, is through the use of Framework Agreements and Dynamic Purchasing Systems, with various Lots.
- 1.14.2. A Lot is the segregation or grouping of a specific requirement, targeted at a particular sector of the market, so as to enable direct contracting and supporting opportunities for smaller businesses to engage with the Council.
- 1.14.3. A Framework Agreement enables multiple suppliers, across one or multiple Lots (disciplines, trades, services, specific requirements), to be pre-approved for quality, and a maximum price, for use as and when a need arises.
- 1.14.4. A Framework Agreement is a fixed list of suppliers, for up to a maximum of four years. A Framework Agreement cannot be extended beyond 4 years.
- 1.14.5. The duration of an award under the Framework Agreement (the call-off), may extend past the framework end date, where the Framework Agreement or DPS expressly allows and defines this.
- 1.14.6. A DPS enables the creation of an approved list of multiple suppliers, across multiple Lots (disciplines, trades, services, specific requirements) to be pre-approved based on a predefined list of minimum skills, experience and specification requirements.

- 1.14.7. A DPS is a flexible list which includes a refresh cycle enabling new suppliers to join the arrangement throughout the life of the contract.
- 1.14.8. The value of a Framework Agreement or DPS is the total potential spends, across all lots, all suppliers, all users and the entire life of the arrangement.
- 1.14.9. Framework Agreements and DPSs procured by the Council may include access for our partnering authorities (and in some cases, other public bodies; in the case of other public bodies, they may be required to complete an access agreement should they wish to use the Framework Agreement).
- 1.14.10. The terms and conditions of participation in and use of the Framework Agreement or DPS must be clearly set out as part of the tender documents.
- 1.14.11. A Framework Agreement or DPS is designed to be flexible and does not guarantee selected suppliers any work or a minimum level of work.
- 1.14.12. Use of the Framework Agreement must be by way of a transparent, clearly defined process, specifically:
- a mini competition where all listed companies are invited; or
 - a direct draw-down based on a specific consideration e.g. location, tendered prices, specification requirements/ services etc.; or
 - on a rotation basis.
- 1.14.13. Use of the DPS must be by way of a transparent, clearly defined mini tendering process.
- 1.14.14. When applying the principles of mini-competition to a Framework Agreement or DPS, ALL suppliers accepted onto the arrangement (for the relevant Lot), MUST be invited to tender every time there is a requirement. The specification and requirements being refined and stated at this point.
- 1.14.15. ALL mini competitions MUST be carried out electronically using the Council's e-tendering portal.
- 1.14.16. A record of each contract awarded under the Framework Agreement must be entered onto the electronic Contract Register.

1.15. Advertising (Legal Requirements)

- .15.1. The Council is required by law to advertise ALL contract opportunities at level 3 and above on the Central Government Portal. (See appendix 1).
- .15.2. The Council will comply with this requirement through the use of an automated, interactive e-tendering system. (See appendix 3).
- .15.3. The Council is required to advertise all contracts over the EU threshold in the Official Journal of the Europe Union (OJEU process).
- .15.4. Where there is a genuine urgency, the Public Contract Regulation includes a provision to reduce the period of advertisement; this must be with the approval of procurement and the Strategic Director. Examples of such urgency include Health and Safety or Environmental risks.

1.16. Electronic Tendering (Council & Legal requirements)

- 1.16.1. The Council is required to advertise and manage all level 3 (see appendix 1) and above procurements electronically.

- 1.16.2. The Council has contracted with a third party for this service in partnership with our neighbouring Councils. (See Appendix 3).
- 1.16.3. The Council WILL, through the procuring officers:
- advertise ALL opportunities, in accordance with Appendix 1;
 - will provide the appropriate amount of time to respond, based on the procurement level, (see appendix 2);
 - issue ALL tender information via the portal;
 - manage ALL questions through the portal, ensuring all information is made public (except where commercially sensitive or subject to the Data Protection Act);
 - only accept tenders correctly returned via the portal;
 - only accept on-time tenders (unless expressly agreed otherwise by Procurement, Legal, Audit and the relevant Head of Service).

Deviation from these requirements must be with the express approval of procurement and audit, and where necessary, the Strategic Director.

- 1.16.4. Following the closing of the tender period, the seal MUST be removed as follows:
- by the procuring officer for procurements that are level 3 (see appendix 1) and below;
 - by the Procurement team where the procurement is level 4 (see appendix 1) and above.
- 1.16.5. Following release of tenders:
- ALL ON-TIME tenders can be accepted and released for download immediately;
 - ALL LATE returns can only be accepted and released by Procurement. On identifying that the returns include a late submission, please contact Procurement immediately.

1.16.6. All post tender clarifications MUST be via the portal.

1.16.7. ALL successful and unsuccessful award notifications MUST be via the portal.

1.16.8. A copy of the Tender Report MUST be added to the award step on the portal.

1.17. Electronic Contract Register (Legal Requirements)

- 1.17.1. The Council is required to publish ALL CONTRACTs over £5,000 on an electronic Contract Register. This will be provided as part of the e-tendering package.
- 1.17.2. A Contract Register is a list of all contracts previously let by the council. It should include the relevant contract name, various contract dates, estimated value and all supporting documents and reports.
- 1.17.3. Procurements at level 2 (see appendix 1) are to be added manually to the register where the procurement was not facilitated by the e-tendering system.
- 1.17.4. All procurements managed through the e-tendering portal will be imported on to the Contract Register following the award step of the procurement exercise.
- 1.17.5. Any contract variations are to be added to and appropriately amended on the Contract Register manually.
- 1.17.6. All procurement related advice and supporting documentation to be added to the Contract Register manually where not available for direct import.
- 1.17.7. All information added to the Contract Register is to be consistent with the requirements of the Data Protection Act and the Council's retention policy.

1.18. Purchase Cards (Council Requirements)

- 1.18.1. The Council operates a purchase card facility; these are available, with the approval of the Head of Service and Finance.
- 1.18.2. Purchase cards are to be used for low value or one-off incidental spend where it is not efficient to add the suppliers to the Finance Management System
- 1.18.3. Purchase cards **MUST NOT** be used to bypass corporate contracts without the express permission of the corporate contract manager and procurement.
- 1.18.4. The principle of disaggregation applies to spend on purchase cards both in relation to the individual and the Council as a whole.

1.19. High Risk Contracts (Council Requirements)

- 1.19.1. The Council defines a high risk contract as where ANY of the following apply to the contract:
 - has a value over £1,000,000;
 - involves leasing arrangements;
 - may require the supplier to hold money on behalf of the Council;
 - may include an advance payment requirement;
 - appertains to software or licences;
 - is for a duration over 5 years;
 - is considered commercially sensitive; such as representing a significant change to income or costs to the council;
 - includes significant, additional Contractual requirements or risks such as; TUPE, Intellectual Property Rights, collateral warranties for design considerations, etc.
 - is of significant interest to residents due to investment, desirability, disruption etc.
- 1.19.2. Where a leasing arrangement is being considered, approval from Finance and legal is required before entering into any agreement. Leasing includes property, vehicles and equipment etc.
- 1.19.3. Where a contract is considered high risk, officers are required to carry out a risk assessment and to liaise with Procurement, Legal and Audit, regardless of value, to ensure all appropriate actions are taken to mitigate the Council of the identified risks.

1.20. Risk Assessments (Council Requirements)

- .20.1. Officers are required to complete a risk assessment on all procurements that are deemed high risk or over the EU threshold.
- .20.2. Officers should use the Council's standard templates and liaise with Audit to complete and add these to the corporate risk register.

1.21. Bonds & Parent Company Guarantees (Council Requirements)

- 1.21.1. The requirement for a bond or parent company guarantee (and its value) is at the discretion of the relevant Head of Service.
- 1.21.2. Where the project is deemed as a high risk for service failure (likelihood and/ or impacts), advice should be sought from Procurement, Finance and Audit so as to consider the benefits versus the costs of requiring a bond.

1.21.3. Where a bond or parent company guarantee is deemed necessary – this should be in a form acceptable to the council.

1.22. Grant Funding paid or received by the Council (Legal Requirements)

1.22.1. A grant is a gratuitous payment of monies for which there is no consideration.

1.22.2. ALL Grant Agreements paid to third parties must be executed as a deed.

1.22.3. The spending of a grant, received by the Council from a third party, is subject to these procedures and the conditions of the grant.

1.22.4. A grant payment by the Council to another organisation is NOT subject to the Council's procurement procedures.

1.22.5. Where a grant is received, officers are required to inform legal of the grant conditions to ensure that the requirements are consistent with the contract with the supplier.

1.22.6. Where a grant is paid by the Council, officers are required to ensure all conditions have been met before any payments are made.

1.22.7. Officers are required to ensure that any funding requirements have been completed satisfactorily before entering into any contractual commitments with suppliers, in respect of grants received from a third party.

1.23. Authority to Award (Council Requirements)

1.23.1. A contract can only be awarded by those with delegated authority to do so. See appendix 1.

1.23.2. Before awarding a contract, the authorised person must confirm compliance with these procedures, budgetary approval and where a Key Decision, committee approval.

1.23.3. Where it is identified that the necessary approvals have not been achieved, the process cannot continue until ALL approvals are in place.

1.23.4. Where there is a discrepancy in the budget or funding approved and the returned prices, the following MUST be applied:

- insufficient funding – ALL requests for additional funding, usually with regards to capital projects, must be requested via a specific report, submitted to the appropriate scrutiny committee, detailing the value required and the reason or justification for the overspend;
- variance reporting - Where the prices returned, following a procurement exercise, vary from the budget by more than +10%, the relevant officer MUST submit a report to the appropriate scrutiny committee to seek approval to award, regardless of whether additional funding is required, e.g. requirements funded from revenue budgets;
- where both insufficient funding and variance reporting apply, this can be addressed in a single report;
- this is not an automatic justification for an out of cycle decision.

1.23.5. Where as a result of the procurement process an additional approval process is required, the process applied and any decisions must be included in the Tender Report.

1.24. Award Letters and the Collating, Signing or Sealing of contracts (Council Requirements)

1.24.1. All award letters and notifications are to be issued using the Council's standard templates.

- 1.24.2. Where the procurement is managed through the e-tendering portal, the award notifications must also be via the portal.
- 1.24.3. Letters must be signed according to delegated authority and contract value. (see Appendix 1).
- 1.24.4. Where the Contract exceeds the EU threshold, a Standstill Period must be applied
- 1.24.5. All suppliers are to be notified at the same time as to the outcome of the procurement process.
- 1.24.6. Suppliers are to be provided with feedback as requested, in accordance with the Public Contract Regulations
- 1.24.7. A contract must be collated and printed (minimum 2 copies, one for the supplier and one to be held by Legal) by the project manager, checked by Legal (where at level 4 and above, or using non-standard terms and conditions), bound and signed/ executed by both parties before commencement (unless expressly agreed otherwise **Error! Reference source not found.**).
- 1.24.8. The Contract MUST include the following:
- The formal, final version of the contract document, to be completed with names and dates, and the appropriate pages for signature or sealing included.
 - this could be, either the Council standard terms and conditions; or
 - a bespoke set of terms and conditions;
 - the relevant Construction booklet with the project information completed and relevant amendments attached;
 - the Project Brief and Specification (in full);
 - the tenderer's submission (in full);
 - an anonymised transcript of all questions and answers issued through the portal;
 - a transcript of all post tender clarifications;
 - a schedule of all drawings, data sheets etc. including revision numbers (drawings may be included hard copy or on CD as most appropriate to the contract);
- It does NOT need to include references, insurance documents, any questionnaires or sales brochures supplied; these should however be stored as a Contract Register attachment.
- 1.24.9. Executing the contract can be by signing or sealing the contract; first by the supplier and then the Council.
- 1.24.10. Signing a contract requires two signatures:
- one by the supplier – by an authorised person (usually a director). Someone with authority to bind them to the agreement; and
 - one by the Council - a Head of Service or Director of the Council.
- 1.24.11. Executing as a deed, the way in which this is done depends on the type of organisation involved (e.g. company/ charity / person) etc.).
- for companies, the company may :
 - affix its company seal (if it has one); or
 - it can be signed by two authorised directors of the company (or by one director and the company secretary): or

- the deed can be signed by one director in the presence of a witness who attests the signature.
- for the Council, they must affix its common seal and this shall be attested by the Chief Executive, Strategic Director or Head of Legal Practice or some other person authorised by him/her. Legal must be consulted before a document is executed as a deed.

1.24.12. Where the contract is for Goods and Services, and is:

- below EU threshold – this can be signed in accordance with Appendix 1;
- above EU threshold – these must all be executed as a deed;

1.24.13. Where the contract is for works and is awarded using a construction industry contract; these MUST all be executed as a deed.

1.24.14. All new Frameworks Agreements must be executed as a deed.

1.24.15. All Grant Agreements and other agreements where there is NO CONSIDERATION, must be executed as a deed.

1.24.16. Other high risk contracts (see 1.19), where advised by Legal, are to be executed as a deed.

1.24.17. A scanned copy of the signed section of the contract should be stored on the Contract Register.

1.24.18. Where Legal are required to execute a contract as a deed, a copy of the committee approval agreeing budget, capital expenditure and/ or permission to procure (where a Key Decision); must be provided with the collated contract documents.

1.24.19. Contracts are sealed once a week; this must be factored into the procurement planning phase.

1.25. Tender Reports and Award Publication (Legal Requirements)

1.25.1. A Tender Report must be completed and agreed by the Head of Service before any award is notified.

1.25.2. A Tender Report is a summary of the process followed, the responses received, the evaluation process, any problems and ultimately, a recommendation to award.

1.25.3. All level 3 (see appendix 1) and above procurements must use the Council's standard template, and comply with the Public Contract Regulations requirements. Central Government may request to see any Tender Report of interest.

1.25.4. A copy of the Tender Report must be stored on the Contract Register.

1.25.5. For level 3 (see appendix 1) and above procurements, an award notice needs to be published on Contracts Finder, via the e-tendering portal.

1.25.6. For above EU level procurements, following award of the contract, an award notice must be published in the EU, via the e-tendering portal.

1.26. Varying a Contract (Legal Requirements)

1.26.1. A contract can be varied, post award, if agreed by both parties.

1.26.2. Any contract variation MUST be 'in scope' and suitably similar and relevant, to the original contract advert and specification.

1.26.3. A contract can NOT be varied where, the additional value would either:

- cause it to breach the EU threshold, where it was procured as a below EU tender or;
- cause an EU procurement to exceed the advertised value by more than 50%.

1.26.4. A variation must be approved by the appropriate Head of Service and signed by a Director.

1.27. Extending the Contract Duration

1.27.1. A contract can only be extended if the original contract included a provision to extend it in both duration and value.

1.27.2. The contract extension cannot:

- cause the value to breach the EU threshold where it was procured as a below EU tender or;
- cause the value to exceed what was advertised in the EU by more than 50%.

1.27.3. The contract extension needs to represent best value to the Council.

1.27.4. Where the contract does not include an extension option, but there are no other suppliers capable of providing the services – specifically relating to ICT and/ or maintenance of equipment by a specific manufacturer – an extension may be agreed subject to 1.28.2. using the deviation process (see 3.3).

1.28. Summary Table

Please see Appendix 1 and Appendix 2 regarding a summary of the levels and relevant approvals, plus the related financial thresholds.

2. Cambridge City Council's Internal Procurement Requirements

The Council is required to comply with the current Public Contract Regulation whilst ensuring best value, efficient delivery of council services and maintaining an audit trail of all decisions; the following section defines the process by which the Council requires this to be achieved.

A procurement process should not be commenced until ALL necessary approvals regarding budget and process have been agreed.

2.1. Procurement Planning, Approvals & Timescales

Officers are required to allow sufficient time to carry out a procurement process compliant with all of the requirements within these procedures, specifically

2.1.1. Officers are advised to consider establishing a project team, based on risk and complexity, the suggested key members being:

- Project Sponsor – Head of Services over seeing the contract;
- Project Manager – person managing the procurement and the ultimate contract;
- Procurement;
- Audit;
- Legal;
- Finance;
- Climate Change Officer/ HR representative/ Poverty Officers/ ICT officer (where applicable);

- external technical consultants; or
- any other officer as project manager requires.

If unsure if the procurement requires a project team, please liaise with Audit & Procurement.

2.1.2. Approval to procure:

- capital spend - Where spend requires capital investment officers are required to complete a business case and attend Capital Programme Board and then comply with the Council's requirement to report to committee for funding approval, as detailed in the Constitution. Officers are advised to allow between three and six months to achieve these approvals (depending on timing of the committee cycle);
- cyclical spend over £1,000,000 - Where spend is funded as part of the annual or mid-financial-year budgeting process, but exceed £1,000,000, an additional report to committee regarding the procurement strategy is required. In these cases, officers are advised to allow between three and six months to achieve these approvals (depending on timing of the committee cycle);
- cyclical requirements under £1,000,000 and statutory requirements - where funding has been agreed as part of the annual or mid-financial-year budgeting process, the procurement timetable does not need to add any additional time requirements as approval to procure is not required.

2.1.3. All high risk contracts (see 3.3) and or Key Decisions should have a risk assessment and be entered on the corporate risk register.

2.1.4. Tenders that are below the EU threshold should be advertised for a minimum of 21 days. They do not mandate a Standstill Period (although one can be included as good practice).

2.1.5. Tenders that are above the EU threshold should be advertised for a minimum of 35 days. The procurement is subject to a Standstill period of 10 days.

2.1.6. Officers are advised to allow between 3 months (level 3) and 6 months for an EU tender, plus the relevant approval timescales as detailed in 2.1.1 and 2.1.2.

2.1.7. A guidance timetable is included at Appendix 5;

2.2. Procurement Considerations, Social Value and Localism

2.2.1. The Council is committed to supporting the local economy by ensuring all tendering opportunities are accessible and tenderer friendly.

2.2.2. Where applicable, ALL Council Contracts MUST include the Voluntary Living Wage as defined by the Living Wage Foundation - www.livingwage.org.uk.

2.2.3. Where practical and relevant, tenders should also address the following local social benefits, (as part of the supply chain) through the use of tender quality assessments and method statements.

- employment;
- supply chain;
- apprenticeships;
- community benefit schemes;
- any other benefit that supports the local economy and well-being of the City of Cambridge.

- .2.4. The Council commits to work with local enterprises through supplier events to offer support and guidance around bidding and working for the Council.

2.3. General Considerations

- 2.3.1. When writing the project brief and specification document and collating the tender pack, officers are advised to consider the following and seek appropriate guidance where required:
- risk management;
 - EQIA;
 - climate change assessment;
 - sustainability and environmental impacts; and
 - any other policy or service delivery commitments.

2.4. Procurement Routes

- 2.4.1. Officers MUST be mindful when carrying out a procurement process, to calculate the contract value realistically.
- 2.4.2. Contract spend should be based on an estimate of potential requirements over the next three to five years, across the whole council, (longer if agreed with Procurement and Legal).
- 2.4.3. Officers MUST NOT disaggregate spend intentionally, (or through ignorance of other Council activities) to avoid the required procurement route:

- Level 1 – officers are required to seek a single quote, (by phone or email) from a local supplier. Where one cannot be identified, the e-tendering system can be used to search for a suitable supplier.
- Level 2 – officers are required to :
 - either seek three quotes from local suppliers via email; or
 - seek three quotes, through direct invite on the e-tendering system; or
 - advertise such opportunities, where local suppliers cannot be identified or it is deemed that advertisement will offer greater value for money;

The outcome of this process must be added to the Contract Register along with a summary Tender Report.

- Level 3 – officers MUST advertise ALL procurement at this level on the e-tendering portal. These must be published for the timescales detailed above. All Q&A must be via the portal and all new information made available to everyone. The contract must be awarded via the portal and a copy of the Tender Report attached when imported into the Contract Register.
- Level 4 – The advertisement and loading of procurements at this level are managed by Procurement. The timescales are as Appendix 2. The Q&A process will be managed by the project officer (and overseen by Procurement) using the portal, with all information being made available to everyone. The contract must be awarded via the portal and a copy of the Tender Report attached when imported into the Contract Register.
- Level 5 – These procurements exceed the EU thresholds and must be advertised accordingly. They must be published and various requirements of the process managed by Procurement to ensure compliance with legislation. The contract must

be awarded via the portal and a copy of the Tender Report attached when imported into the Contract Register.

- .4.4. Choice of procedures; the Council, as standard will apply the Open Tender process. If officers wish to use any other route, they MUST seek input from Procurement and Legal.

2.5. Procurement Documents

- 2.5.1. The Council is committed to making the procurement process as simple, standard and straight forward as possible, for both officers and suppliers.
- 2.5.2. All procurements require a tender pack; this to be made up of the council's standard templates, supplemented by any additional technical information.
- 2.5.3. Where possible, the Council's standard templates have been created as generic documents in a PDF format and are available on the intranet and e-tendering portal. A list of templates is included in Appendix 6.
- 2.5.4. All procurements require a 'Project Brief and Specification' document to be completed by a technically capable officer or an appointed consultant; where an industry standard format exists this can be inserted into this template.
- 2.5.5. Any drawings, plans, data sheets or other specification information should be included as an appendix to the 'Project Brief and Specification' document.
- 2.5.6. Where a project requires bespoke documents rather than the agreed templates, this must be justified to and agreed with procurement and legal before the procurement process commences.
- 2.5.7. Suppliers are required to confirm acceptance of the Council's requirements, provide a price and complete the method statement requirements as part of the 'Bidders' response' document. Officers are required to include their questions, responses and any lump sum pricing in this document. Where the pricing is complex or includes a schedule, this can be attached separately and should be provided as an excel document for ease of completion and evaluation.
- 2.5.8. Officers are advised to work with legal, procurement and audit where the project involves a complex specification requirement or pricing model, or another risk to the Council. Early involvement facilitates easier risk management later in the process.

2.6. Tender Period

- 2.6.1. During the tender period, all questions and answers MUST be managed via the portal and made public.
- 2.6.2. Where additional information is provided in response to a question, officers are advised to consider if there is adequate time remaining, before the tender deadline, in which suppliers can address and incorporate the additional information.
- 2.6.3. Extensions to the deadline should only be granted where:
- additional information is provided within the last week of the tender period;
 - additional information is contrary to previously advised requirements such that suppliers need to re-do previous work; or
 - there are ICT issues with the portal on the day of submission.
- 2.6.4. Extensions are not available because:
- a supplier 'only just' found the tender;

- the supplier requesting the extension is the current provider;
- someone is on holiday or off-sick; or
- the supplier needs a bit more time.

2.6.5. Where the project has identified a benefit from arranging site visits, officers are to be mindful not to have everyone attend at once (if possible) as this could result in a reduced response rate or an anti-competitive set of returns. If concerned, advice should be sought from Legal, Procurement and Audit.

2.7. Tender returns

3.7.1. Tenders MUST be returned via the portal. Submitted tenders are to be released in accordance with 1.16. Where it is identified that a tender has been returned late, Procurement must be consulted immediately.

2.8. Procurement Evaluation Process

2.8.1. The Council applies the principle of Most Economically Advantage Tender as the evaluation principles; with a proposed split of 60% for price and 40% for Quality. This can be amended with the agreement of procurement and the Head of Service up to 80:20 split in favour of either element.

2.8.2. Questionnaires – as part of the Public Contract Regulations, a procurement process can only use a questionnaire as ‘vetting’ process on above EU threshold procurements:

- they cannot be used to shortlist suppliers to decide who to invite to tender;
- the new Standard Selection Questionnaire is a fixed document, it cannot be amended, but officers may add project specific requirements in section 8 (with guidance from Procurement);
- it is a tool by which to confirm that the supplier is suitably qualified, experienced and able to deliver a specific contract. It includes a reference section and an ability to add pass fail requirements around accreditations and minimal technical requirements;
- it is the mechanism by which suppliers are selected onto a DPS (see 1.14);
- it addresses mandatory and discretionary financial requirements and supplier’s responses must be reviewed in conjunction with Procurement and Finance;
- turnover requirements are capped at a maximum of two times the annual value of the contract. Officers are mindful not to set minimum requirements that are anti-competitive, discriminatory to small or new businesses or that could prevent desirable competition. An understanding of the market and aspirations for the contract should be considered with input from Procurement and Finance, all on a balance of risk.

2.8.3. Shortlisting – as most procurements are published as ‘Open’ tenders, there is a chance that a large number of returns are received. As a means of ensuring economic value and achieving efficiencies, officers can detail a process by which tenders are evaluated in stages and only the most favourable and suitable tenders are considered for the next stage of the evaluation process. E.g. the three highest scoring tenders based on price are progressed on to the quality evaluation stage. Where such a process is required, this must be agreed with Procurement and an appropriate clear, transparent and objective description of the shortlisting mechanism included in the tender documents.

- 2.8.4. Price evaluation – officers are required to define a clear pricing structure and explain how scores will be allocated. This can be:
- a lump sum price covering everything in a single price (including risk);
 - a bill of quantities/ pricing list of requirements/ phased or sectional pricing document;
 - a Schedule of Rates (SOR), (either as an industry standard with pricing adjustments or a bespoke list to be completed).

For the purpose of evaluation, the pricing may need to be turned into a single value that can then be compared. Alternatively a weighted calculation can be applied for the various parts of the pricing document. Officers are advised to liaise with procurement and audit where the pricing evaluation is not based on a lump sum price or based on an SOR.

- 2.8.5. Quality Evaluation – officers are required to create a list of questions, relevant to the contract, from which suppliers are required to write a number of method statements. These questions should be designed to address various elements of the contract specification and delivering a quality, economic solution. Officers are advised that supplier’s method statements become part of the contract and therefore the questions should be designed to facilitate contract management. The evaluation questions need to be clear in what they are asking and well defined as to their weighting or score allocation, and any page or word limits need to be detailed. The higher the value, the more complex and high risk the contract, the more questions that should be asked/ method statements required.
- 2.8.6. Scoring quality method statements – the quality element of the tenderers’ submissions should be scored by a minimum of three people. Officers are required to create score sheets that reflect the questions asked in the ‘Bidders’ Response’ document, including the weightings and word/ page limits. Officers are required to provide a justification for the score provided based on an objective, pre-defined list of criteria (key concepts). All scores should then be averaged and an aggregated descriptive summary agreed; in a format that can be used to provide feedback to the suppliers following the award notification. It is advisable to establish the score sheets and test them before the evaluation process. Audit can provide further guidance/support in this area.
- 2.8.7. Credit checks – the council requires a credit check to be carried out on all procurements that are level 4 or above (see appendix 1), or are deemed high risk. The credit check cannot be used as an automatic pass or fail, but rather to inform discussions with suppliers regarding any risk of financial failure. Where a risk is identified through the check, officers are advised to liaise with Procurement and Finance to ensure any decisions made are not contrary to legislation.
- 2.8.8. Abnormally low or unsustainable tenders – where the evaluator identifies a concern as to the accuracy of the submitted prices, officers are advised to liaise with Procurement to carry out a review (in accordance with the Public Contract Regulations) to ascertain if the submission is deliverable or to be dismissed from further evaluation.
- 2.8.9. Post tender clarifications – following the evaluation of the tenders, officers are able to ask clarification questions of the suppliers either through the Q&A facility on the portal, or where stated in the documents, via a clarification meeting:
- where the clarification process relates to quality considerations and results in the scores being adjusted, this must be clearly documented in the Tender Report.
 - where the clarification relates to price, officers may seek clarification regarding any anomalies or omissions, but the prices CANNOT be changed.

- where an arithmetical error is identified, this can be corrected but the error must be confirmed by an independent party (ideally Audit).

2.8.10. Once all the scores have been collated, an arithmetical check is required by an independent party (ideally Audit)

2.8.11. Supplier feedback – officers are required to notify ALL suppliers at the same time through the portal. As part of the feedback, officers need to advise suppliers of ‘the relative advantages and disadvantages of the tender compared to the successful supplier’, this to be collated from the individual score sheets. Officers cannot provide any information deemed commercially sensitive or potentially anti-competitive, but they are required to provide the contract value and a breakdown of scores.

2.9. Contracts Management

3.9.1. Work under a contract must not begin until the Contract Document has been signed or sealed and dated.

3.9.2. The contract manager is responsible for :

- ensuring that the contract is carried out in accordance with its terms and conditions;
- monitoring the supplier's performance and ensuring compliance;
- monitoring cost and Best Value requirements;
- monitoring equalities and sustainability data, where appropriate;
- monitoring user satisfaction;
- monitoring risk management;
- formal and documented periodic reviews (as a minimum, these should be quarterly);
- ensuring the supplier complies with the Council's policies;
- ensuring that the supplier maintains the insurance policies required by the contract;
- ensuring any minor changes to the contract are agreed and approved before they are carried out;
- monitoring sub-contracting in accordance to the requirements and limitations detailed in the contract;
- keeping a record of all valuations, payments, claims, monitoring, changes and certificates under the contract. Payments must only be made against a valid invoice;
- deducting liquidated damages, if appropriate;
- in consultation with Legal Services and the Head of Finance, consenting to sub-contracts, assignment or novation to new suppliers; and
- managing the transition between the ending of one contract and the beginning of another.

3.9.3. The Head of Service must consult Legal Services for consideration of the Council's legal position:

- before any contract is to be terminated or suspended;
- in the event of a claim for payment not clearly within the terms and conditions of contract;

- before making any deduction from payments due to a supplier or withholding payment from a supplier (unless provision is made for this in the contract);
- before settling any dispute;
- before making any extension to a contract or variation of the scope of a contract; and
- In the event that a supplier enters into receivership or goes into liquidation.

3.9.4. At the end of any contract over the EU threshold, the contract manager must provide a written report to the relevant Director evaluating the extent to which the contract met the purchasing need and contractual objectives as set out in the original Project Appraisal or Business Case.

3.9.5. If the contract is to be re-let, the contract manager's report should be available in sufficient time to inform the approach to re-letting any subsequent contract.

3. Deviation from these Procedures

3.1. Restrictions

3.1.1. The Council is bound by the Legal requirement to advertise at Level 3 (see appendix 1); as such, the Council has NO ability to opt-out or exempt from this requirement.

3.1.2. The Council can exempt from the procedural requirements for level 1 & 2 (see appendix 1).

3.1.3. The Council refers to this process as a Deviation.

3.2. Deviation from Procurement Process Requirements

3.2.1. Level 1 & 2 – Deviation. Spend that is level 2 or below is subject to the Council's rules, as such, the Head of Service can agree a deviation where it is demonstrated that:

- there is only one supplier in the market;
- the time required to seek quotes could cause environmental or health and safety risks; and/ or
- the time required to seek quotes could result in funding being lost.

Where such requirements are requested by a Head of Service, this must be approved by another Head of service to ensure a separation of duties.

3.2.2. Level 3 and above – Deviations. Where an officer can demonstrate exceptional circumstances, e.g. a monopoly, an officer may seek agreement to deviate from these requirements.

3.2.3. All Deviations require a detailed explanation as to why a deviation is sought, the value of the deviation, a completed risk assessment and the impacts if not agreed.

3.2.4. Procurement is not obliged to agree any deviations. Any award of contract, following the decline of such as request; by any of the parties listed in 3.4.1, is at the risk of the Head of Service and may be treated as gross misconduct.

3.3. Extensions to Contracts

3.3.1. Officers may seek an extension of time, not provided for within the current contract, by way of the deviation form. This will be considered where:

- there is only one supplier able to deliver the requirement; e.g. maintenance is restricted to the manufacturer of the equipment;

- the requirement relates to ICT;
- the extension will not make a non EU procurement breach the EU threshold;
- the extension will not make an EU procurement exceed its advertised value by more than 50%;
- the extension covers an unforeseeable requirement;
- the extension facilitates consolidating contracting arrangements and end dates to enable value for money and economy of scale is subsequent procurements;
- the extension facilitates a current, compliant procurement process, assuming none of the above points are in conflict, and the requirement is not due to a wilful lack of action.

5.3.2. Any extensions agreed will only be to facilitate effective service delivery and replacement procurement.

3.4. Approval Process

3.4.1. As these decisions are made on a balance of risk, it must be agreed by Procurement, Audit, the Head of Service and the non-service-director.

3.4.2. Approval will be subject to the arguments and justifications proposed being seen as valid and an acceptable level of risk to the Council.

3.4.3. Legal will review the request to confirm there is authority to proceed.

4. Definitions

Award Criteria	means the criteria by which the successful Quotation or Tender is to be evaluated
Best Value	means the duty under the Local Government Act 1999 requiring an authority to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness
Bond	means an agreement whereby the surety or insurer under the bond pays out a sum of money (often 10% of the Contract value) in the event that the Supplier in a Contract commits a serious breach of contract (that cannot be remedied) or becomes insolvent
Business Case	means a written commercial assessment that provides the key facts and rationale for the proposed purchase.
Concession	means a Contract where the payment or part-payment of the Services or Works consists of the grant by the Council of the right for the Supplier to exploit the Services or Works to be carried out
Contract	means the bargain or agreement between the Council and a Supplier for the supply of Works, Goods or Services in return for a valuable benefit (usually money)
Contract Document	means the document setting out the terms and conditions of the Contract. A purchase order is a contract document. Although at law a verbal agreement may be a Contract, Contracts for the Council must always be supported by appropriate written contract documents
Contract Register	means a list of all expired and current contracts held by the Council
Contractor	see Supplier
Director	means one of the Officers defined in Article 11 para 11.1.2 of Part 2 of the Council’s Constitution

EU Threshold	means the value in pounds sterling above which the EU Regulations apply to a proposed public contract. The thresholds are set out in the table above.
Deviation Form	means the form to be used when applying for an exemption
Financial Regulations	means the rules at Part 4F of the Council's Constitution
Goods	see Supplies
Grant	means a voluntary transfer of money by the Council to a third party.
Head of Service	see Officer
Key Decision	means a decision made in exercise of an executive function by any persons (including Officers) or body which meets one or more of the conditions set out in Article 12.3.2 in Part 2 of the Constitution. In relation to incurring expenditure or making savings, the value is £1,000,000 and above.
Levels	means the procurement thresholds that determine the procurement processes that need to be followed
Mobilisation	means the period of time allocated to resource, set up and initiate a new contract, e.g. TUPE requirements, site set up on a construction project, lead time for ordering materials.
Officer	means an individual who holds a post on the Council's establishment
OJEU	means the Official Journal of the European Union
Parent Company Guarantee	means the guarantee from a parent company to act in accordance with the Contract in the event that the subsidiary company fails to perform under the terms of the Contract with the Council
Specification	means a clear and comprehensive description of the Council's requirements. This will vary according to the value and complexity of the purchase
Standard Terms and Conditions	means the terms and conditions of contract used for purchase up to level 3
Standstill	means the period between notifying all tenderers of your award intentions and the actual contract award (10 days) during which suppliers can challenge the process if they feel it has been incorrectly managed.
Supplier	means a supplier of Works, Goods or Services to the Council
Supplies contract	means a contract for the sale or hire of goods to the Council and includes, where appropriate, installation of goods
Tender	means an offer by a Supplier in response to an ITT to undertake a contract
Tender Report	means a report that documents the process followed, the evaluation scores and the proposed recommended award
TUPE	means the Transfer of Undertaking (Protection of Employment) Regulations 2006 and any amendment, re-enactment or replacement of them. In general terms, the rules protect employees when their business is taken over by a new employer.
Works contract	means a contract for the construction, repair or maintenance of built asset, e.g. a building or a road