

CONTRACT PROCEDURE RULES

PORTSMOUTH CITY COUNCIL CONTRACT PROCEDURE RULES

As approved by Full Council on the 18th March 2025 with effect from 1 April 2025¹

Contents

1	PROCUREMENT OVERVIEW	3
1.1	Background	3
1.2	Governing Legislation.....	3
1.3	Application of the Rules (Regulated Procurements)	3
1.4	Excluded/ Exempted Contracts (Not Regulated).....	3
1.5	Procurement Objectives	4
1.6	Roles & Responsibilities.....	4
1.7	Separation of Duties	7
1.8	Conflicts of Interest.....	7
1.9	Procurement Policy & Social Value	7
1.10	Partnership Arrangements	7
1.11	Corporate Arrangements.....	7
1.12	Contractor Quality.....	7
1.13	Use of Consultants	8
1.14	Working with SMEs and VCSEs	8
1.15	Excluding Suppliers & Subcontractors	8
1.16	Identifying Opportunities.....	9
1.17	Contracts Register and Storage.....	9
2	PROCUREMENT – RISK ASSESSMENT, PLANNING, DESIGN, TIMINGS & DOCUMENTATION.	9
2.1	Risk Assessments.....	9
2.2	Contract Types and Regimes	10
2.3	Defining the Need.....	11
2.4	Option Appraisal	11
2.5	Contract Durations.....	11
2.6	Estimating Contract Values	11
2.7	Duty to Consider Lots	12
2.8	Statutory & Council Specific Thresholds	12
2.9	Gateway Process.....	13
2.10	Preliminary Market Engagement.....	13
2.11	Legal / Finance Considerations	13
2.12	Procurement Programme	15
3	PROCUREMENT DOCUMENTATION	15

¹ These rules DO NOT generally govern procurement processes and contract management activities formally commenced prior to the go live date of 1st April 2025. Such procurement processes and contracts will instead generally be subject to the Council's previous Contract Procedure Rules and the overriding *Relevant Procurement Legislation* in place when the procurement process to establish the contract was formally commenced. NB: undertaking soft market testing activities does not qualify with the definition of 'formal commencement'.

However, it is expected that the contract management best practice summarised within Section 5 and Roles & responsibilities consideration set out within Section 1 is adopted for existing contracts let prior to these rules coming into force on a relevant and proportionate basis.

3.1	Overview	15
3.2	Notices	15
3.3	Invitation to Tender	15
3.4	Specification.....	16
3.5	Due Diligence / Procurement Specific Questionnaire/ Conditions of Participation.....	16
3.6	Award Criteria.....	16
3.7	Form of Tender	17
3.8	Sensitive Commercial Information.....	17
3.9	Document Format.....	17
3.10	Document Retention	17
4	PROCUREMENT PROCESS & CONTRACT MANAGEMENT	17
4.1	Procurement Launch	17
4.2	Process Management	17
4.3	Receiving and Opening Tenders.....	17
4.4	Evaluation Process	18
4.5	Post Tender Clarifications	18
4.6	Negotiations	18
4.7	Preferred Supplier Identification & Assurance.....	18
4.8	Tender Record.....	19
4.9	Award Governance.....	19
4.10	Supplier Notifications	19
4.11	Standstill Period & Contract Notices.	19
4.12	Contract Execution (Thresholds/ Approval).....	19
5	CONTRACT MANAGEMENT.....	20
5.1	Overview	20
5.2	Strategic Contract Support Board.....	20
5.3	Meetings & Performance Management.....	20
5.4	Contract Modifications.....	20
5.5	Poor Performance & Termination	21
5.6	Notices	21
6	OTHER PROCUREMENT CONSIDERATIONS	22
6.1	Waivers Approvals	22
6.2	Collaborative Procurements.....	22
6.3	Purchasing Cards.....	22
6.4	Community Right of Challenge	22
6.5	Grants	22
7	GLOSSARY OF TERMS	23

1 Procurement Overview

1.1 Background

- 1.1.1 In these rules, **Council** means **Portsmouth City Council**
- 1.1.2 Public Sector **Procurement** is the process of acquiring goods, services and works as needed to deliver our services. Depending on the nature of the procurement, the value, and any specific social interests that the contract may attract, the procurement process must be proportionate, and designed to facilitate competition, optimise quality, and deliver **Value for Money** across the whole life cycle of the contract. **Value for Money**, defined as *"the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought"*.
- 1.1.3 Furthermore, the **Council** has an obligation to deliver **Best Value** and secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness.
- 1.1.4 To ensure delivery of the above, all procurements must be carried out within a specific legal framework and based on principles of equal treatment, transparency, and non-discrimination.

1.2 Governing Legislation

- 1.2.1 The **Local Government Act 1972 section 135** requires Public Bodies to have standing orders for how they enter into contracts. These **Contract Procedure Rules** ("Rules"), which form part of the **Council's** Constitution, set out how the **Council** will deliver against this obligation.
- 1.2.2 All **Procurements** for **Contracts**, by **Responsible Officers, Directors** or **Councillors** (including where managed by an external organisation or another public body on the **Council's** behalf), **MUST** comply with these **Rules**, the **Council's** Financial Regulations, **Relevant Procurement Legislation** and all other relevant UK Legislation; with '**relevant**' relating to the date on which the **Procurement** is commenced/ advertised, the framework/ DPS/ Dynamic Market was established or where no competitive process is required, a purchase order is raised.
- 1.2.3 Where there is a discrepancy between these rules and the **Relevant Procurement Legislation**, **Officers** are to comply with the legislation.
- 1.2.4 Where there is a conflict between the **Relevant Procurement Legislation** and any other **Relevant Public Sector Legislation** (as identified during procurement planning) **Procurement Services, Legal Services** and **Finance** must be consulted immediately to carry out a legal/ project risk assessment.
- 1.2.5 Central government guidance should be considered when designing a procurement; specifically, Procurement Policy Notes (PPNs), Procurement Act 2023 - Guidance documents and the National Procurement Policy Statement (NPPS), The Sourcing Playbook, The Consultancy Playbook, The Construction Playbook, Health Care Services (Provider Selection Regime) Regulations 2023, and any other relevant public sector guidance as deemed applicable by **Procurement Services, Legal Services** and/ or **Finance** such as guidance issued by the Local Government Association, CIPFA, CIPS, etc..
- 1.2.6 Non-compliance with these **Rules** could result in court action via a **Judicial Review (JR)** being brought against the **Council**, equally, non-compliance with **Relevant Procurement Legislation** and/ or **Relevant Public Sector legislation** could result in court action via a claim/ challenge.
- 1.2.7 Any **JR** or claim/ challenge is likely to result in any or all of the following:
 - (a) significant public reputational damage,
 - (b) compromise or even frustrate entirely the delivery of critical functions / projects
 - (c) payment of substantial damages to the aggrieved suppliers to cover loss of opportunity, profit, legal fees, etc.
 - (d) the payment of civil fines as instructed by the court.
- 1.2.8 **Therefore non-compliance with these Rules may constitute grounds for disciplinary action against the individual/s at clear direct or supervisory fault.**

1.3 Application of the Rules (Regulated Procurements)

- 1.3.1 These rules govern:
 - (a) any **Contract** for the supply, of goods, services or works, (not exempt/ excluded under 1.4 below and the **Relevant Procurement Legislation**) (for pecuniary interest) regardless of value,
 - (b) Public **Concession Agreement** (see definition)
 - (c) **Utilities Contract** (relating to the Council being the Transport Authority)
 - (d) using Frameworks or Dynamic Purchasing Systems, or Dynamic Markets.
 - (e) collaborative procurements,
 - (f) consultancy requirements,
 - (g) equipment hires or lease through rental agreements,
 - (h) disposal of assets (where they include obligations/ consideration such as planning constraints and/ or development agreements). In such cases, please consult **Procurement Services**. Any other disposals to be in accordance with the **Council's Financial Regulations**.

1.4 Excluded/ Exempted Contracts (Not Regulated)

- 1.4.1 These rules do not apply to contracts that are classified as excluded/ exempted, as defined by the **Relevant Procurement Legislation**; including but not limited to:
 - (a) **Council to Contracting Authority** (Subsidiary) arrangements, vertical or horizontal (shared services agreements, Teckal companies etc.)— subject to approval by **Procurement Services** in the first instance.

- (b) Subject matter exemptions:
- (i) Certain types of legal advice e.g., relating to judicial proceedings and/ or dispute resolution
 - (ii) Certain types of financial advice e.g., funding or financing arrangements, investment services
 - (iii) Employment contracts (*excluding consultants on secondments or appointment through third parties*)
 - (iv) Purchases made at public auction or of goods sold due to insolvency.
 - (v) Land contracts (including leases (which are not part of a **Concession Contract**), licences, and transfers (where they do not involve establishment of a **Joint Venture Partnership**). Any such exemption must be agreed by **Procurement Services** and **Legal Services** where the value of the contract equals or exceeds £150,000.
 - (vi) Grants of money, (these are covered in the **Council's Financial Regulations**) – however, grants/ financial arrangements that include a **Council** specification, KPIs or other delivery obligations may actually amount to a contract for services (payment in consideration of a specific benefit rendered). Advice should therefore be obtained from **Procurement Services** before any agreement is completed or monies paid where the value equals or exceeds £150,000.
 - (vii) Works or orders placed with utility companies.
 - (viii) Services delivered by a **Council** in-house service (save for where the services are delivered by any PCC owned private company).
 - (ix) Direct payments to customers following care assessment (e.g. direct payments or a personal budget).
 - (x) Non-trade payments to third parties, such as insurance claims, pension payments, court judgments, and statutory payments to public bodies; or
 - (xi) Grant of a licence (unless a licence involves the letting of a **Concession Contract** (market/food concessions etc.). Advice should be sought from **Procurement Services** if unclear and where the value of the contract equals or exceeds £150,000.
 - (xii) Advertising or Sponsorship arrangements where a third party leases space (land, wall, etc.), without any council requirements/ constraints. (Where such obligation exists, the arrangement may become a **Concession Contract**.) In all cases, advice must be sought from **Procurement Services** where the value equals or exceeds £150,000.
 - (xiii) Where the requirement refers to a proposal to sell or trade in services, supplies, or assets or to enter into collaboration or partnership agreement (such as under section 75 of the **National Health Service Act 2006**) this must be referred to **Legal Services**.
- (c) Any other arrangements excluded by the **Relevant Procurement Legislation**.
- 1.4.2 If unclear whether something is captured by these rules, **Responsible Officers** should seek advice from **Procurement Services** who will escalate to **Legal Services** for further advice if required.

1.5 Procurement Objectives

- 1.5.1 **Procurement** aims and objectives cover not only those objectives set out in the **Relevant Procurement Legislation**, but also those set out in the **NPPS** and the **Council's** own guidance and policies; these objectives should be used to determine the contract specific outcomes to be achieved by a specific procurement during the planning process.
- 1.5.2 These objectives may include, but are not limited to, all or any of the following: and their inclusion should be informed by and tailored to the subject matter of the contract (legal, technical, and commercial requirements).
- (a) **Delivering Value for Money**
 - (b) **Maximising public benefit** (such as delivering Social Value)
 - (c) **Sharing Information** - for the purpose of allowing suppliers and others to understand the authority's requirements, procurement policies and decision-making process.
 - (d) **Equal Treatment** (non-discrimination), unless a difference justifies otherwise, and avoiding unfair advantage or disadvantage.
 - (e) **Removing Barriers** for Small and Medium Enterprises (SMEs)
 - (f) **Acting** (and being seen to act with) Integrity (inc. accountability)
 - (g) **Fair and transparent** (effective) competition
- 1.5.3 Further Guidance on what these mean and how to include them within a procurement is available in the **National Procurement Policy Statement** and **Procurement Policy Notes (PPNs)**.

1.6 Roles & Responsibilities

- 1.6.1 **Councillor Responsibilities**
- (a) The **Council** is composed of its elected **Councillors** who provide democratic accountability on behalf of the whole community of Portsmouth. The **Councillors**, meeting as "the **Council**" will set the policy and budgetary framework for the **Council** as a whole. The **Cabinet**, as the part of the **Council**, which is responsible for most day-to-day decisions, will be responsible for making decisions which are in line with these **Rules**.
 - (b) Individual **Cabinet Members** have public accountability for the budget and contracting framework within their portfolio and will be informed by the key **Council** Officers who are responsible for advising, implementing, and managing the day-to-day delivery of services by **Responsible Officers**.
 - (c) **Cabinet Members** will be asked to approve certain "**Key Decisions**". These **Key Decisions** (as defined in the Constitution) are decisions which are likely to.

- (i) Result in the **Council** incurring expenditure which is, or the making of savings which are, significant having regard to the **Council's** budget for the service or function to which the decision relates; or
 - (ii) Be significant in terms of its effects on communities living or working in an area comprising 2 or more wards in the **Council's** administrative area.
- (d) **Officer** accountability for **procurement** will be with its **Chief Officers** (in accordance with the **Constitution**). Those **Chief Officers** (referred to in these **Rules** as "**Directors**"), have responsibility for procurement in accordance with the Council's **Scheme of Delegation**.

1.6.2 **Director responsibilities**

- (a) All **Directors** are responsible for ensuring that the **Rules** are correctly applied and understood in accordance with the areas for which they are responsible including for any emerging relevant best practice, policy, and statutory obligations, in regular consultation with **Procurement Services**, **Legal Services** and **Finance**.
- (b) **Directors** must not commence or permit the commencement of a **procurement** process without a specific delegated authority to act under the **Scheme of Delegation** or from the relevant **Cabinet Member**, through a published decision or as otherwise authorised in accordance with the **Council's Constitution**.
- (c) **Directors** shall be responsible for.
 - (i) ensuring the appropriate planning of all future requirements, including budgeting, resources, and publication on the **Forward Plan** and in **Pipeline Notices**.
 - (ii) undertaking a review of their projected procurement pipeline at least annually in the last quarter of each calendar year with support from **Procurement Services**.
 - (iii) undertaking a proportionate focused review of their spend at least annually on a 3 year horizon - past year, current year, next year projection - at least annually in the last quarter of each calendar year with support from **Procurement Services** and **Finance**.
 - (iv) undertaking a review of contract and spend compliance with these rules and wider **Relevant Procurement Legislation**, focusing upon higher value (above £150,000) / risk areas, at least annually with support from **Procurement Services** and, as required, **Legal Services**.
 - (v) undertaking a review of contract performance focusing upon higher value (above £150,000) / risk at least annually with support from **Procurement Services** and, as required, **Legal Services**.
 - (vi) providing strategic direction for all procurements undertaken in their directorate.
 - (vii) ensuring that all **procurement** and delegated decision making adheres to the **Scheme of Delegation**.
 - (viii) complying with the **Financial Rules** as set out in the **Council's Constitution**.
 - (ix) ensuring that all sourcing decisions represent **Value for Money** and are within approved budgets.
 - (x) engaging with **Procurement Services**, **Legal Services** and **Finance**.
 - (xi) ensuring that that options appraisal, design of procurement processes, execution of procurement processes and contract management delivery within their area of responsibility is undertaken in line with these Rules, the Relevant Procurement Legislation, the relevant Public Sector Legislation, relevant mandated / adopted national and Council policies and relevant developing best practice.
 - (xii) ensuring that they delegate to appropriately skilled and qualified **Responsible Officers** to undertake procurement activity.
 - (xiii) ensuring that, as proportionate to the level of procurement and contracting activity they oversee, that they assign appropriately skilled and qualified **Procurement Champions** to assist with the development and implementation of procurement best practice within their service area. All directors must ensure that they have assigned at least one **Procurement Champion** unless otherwise agreed with the **Assistant Director of Procurement** and the **Chief Executive**.
 - (xiv) Ensuring that all those involved in the **procurement** and/ or management of a contract are familiar with the **Employees Code of Conduct** and complete a **Conflict-of-Interest** form as part of a contract/project **Conflict Assessment**.
 - (xv) ensuring risk assessments are completed in line with these **Rules**.
 - (xvi) ensuring that all resultant contracts in their directorate are properly managed and reported on in line with these Rules and the **Relevant Procurement Legislation**.
 - (xvii) Ensuring that sufficient funds and supporting are available in their budget for relevant procurement and contracting activities; and
 - (xviii) ensuring that they update their directorate risk register to include any identified procurement and contract risks.

1.6.3 **Responsible Officers.**

- (a) The **Responsible Officers** will be the person nominated by their **Director** to conduct a compliant procurement process or to participate in or lead a team of **Officers** assembled for that purpose.
- (b) Detailed Terms of Reference for the role of **Responsible Officer** can be found in **Procurement Services Guidance**.
- (c) The **Responsible Officers** shall.
 - (i) ensure compliance these **Rules**, and the principles and objectives therein.
 - (ii) ensure compliance the **Council's Financial Rules**.
 - (iii) ensure that they are suitably competent in their duties in relation to procurement activity.
 - (iv) ensure that they have sufficient information and capacity to support and justify all commissioning, procurement, and contract management activities.

- (v) ensure that an options appraisal has been undertaken in line with these Rules and the specifics of the contract.
- (vi) manage the procurement process in compliance with the **Rules**, the **Relevant Procurement Legislation**, **Relevant Public Sector Legislation**, the National Procurement Policy Statement and relevant Procurement Policy Notes, relevant **Council** policy and/ or any other relevant obligations e.g., funding constraints, as advised by **Procurement Services**, **Legal Services** and **Finance**.
- (vii) seek appropriate advice and support from their **Director**, **Procurement Services**, **Legal Services** and **Finance**.
- (viii) plan an appropriate and proportionate timetable for any procurement exercises, taking into account any advice from **Procurement Services**, **Legal Services** and **Finance** as necessary.
- (ix) devise a procurement plan which is efficient and suitable for the requirement and the market concerned which considers any other relevant sourcing options such as the use of existing **Corporate Contracts**, or **Approved Frameworks**, **Dynamic Markets**, or a **Dynamic Purchasing System** the potential to in-source and taking into account any advice from **Procurement Services**, **Finance** and **Legal Services**.
- (x) Ensure that all necessary notices, contracts and transparency information are published throughout the lifecycle of the **Procurement** and **Contract** in line with the **Relevant Procurement Legislation**.
- (xi) maintain a **Tender Record** in line with these **Rules** and the **Relevant Procurement Legislation** of each step of the process, all decisions made and all communications with Suppliers.
- (xii) Ensure that the resultant contracts (or an electronic copy) are recorded and stored on the E-sender **Contracts Register** including for ensuring than an up-to-date accurate record of any variations, modifications, extensions, etc, to the contract are maintained on file and communicated promptly to **Procurement Services**.
- (xiii) Manage the resultant contracts in accordance with the agreed terms and conditions, KPIs, reporting requirements and provide monitoring information at regular defined intervals and upon request including for the recording of summary level KPI scores and justification summaries on the e-sender **Contracts Register** as instructed by **Procurement Services**.
- (xiv) Inform **Procurement Services** of any emerging poor performance with immediate effect and request support as required.
- (xv) As proportionate, relevant and required, produce a summary **Contract Operations Manual** to enable effective operational management of the contract in a manner which is clearly understood by all parties and will enable effective handover in the event of unplanned absence and / or personnel changes.

1.6.4 **The City Solicitor and Assistant Director of Procurement**

- (a) The **City Solicitor** is responsible for updating and maintaining these **Rules**.
- (b) If an issue arises upon which the **Rules** are silent or incomplete, the matter shall be referred to the **City Solicitor** for determination. The **Contracts, Commercial and Procurement Legal Team** within **Legal Services** (for simplicity referred to as "**Legal Services**" in these rules) will be responsible, on behalf of the **City Solicitor**, for the provision of such advice and guidance.
- (c) The **Director of Finance and Resources & section 151 Officer (s151 Officer)** has delegated authority under the **Council's constitution** for the **Council's** procurement function and undertaking such processes as may be required to ensure the most effective procurement of services, goods, works and all other contractual arrangements required by the **Council**. This responsibility has been onward delegated to the **Assistant Director of Procurement**.
- (d) The **Assistant Director of Procurement** and the **City Solicitor** shall jointly be responsible for ensuring the compliance of the **Council** with these **Rules**.
- (e) **Directors, Responsible Officers** and **Procurement Champions** shall seek and comply with any advice from the **City Solicitor (Legal Services)**, the **Assistant Director of Procurement** and the **s151 Officer**.
- (f) The **Assistant Director of Procurement**, in consultation with the **City Solicitor** and **s151 Officer**, shall be responsible for setting out an assurance process (known as "**Gateway Process**") which will take into account such matters as financial, legal, and reputational risks that a procurement process or resultant contract may have on the **Council**.

1.6.5 **Procurement Champions**

- (a) The **Procurement Champion** is required to assist with the development and implementation of the **Relevant Procurement Legislation**, mandated / adopted relevant national / **council** policies and procurement best practice within their service area.
- (b) They should share the development of service specific best practice approaches with **Procurement Services** and fellow **Procurement Champion** peers to assist with wider organisational development.
- (c) They should attend training, engage in operational forums and review and disseminate best practice guidance, policy and tools provided by **Procurement Services** or any other support services such as HR, **Legal Services** and **Finance** as well as by other external bodies such as Crown Commercial Services, CIPS, CIPFA, Local Government Association, etc.
- (d) If required by their **Director**, assist with the maintaining of procurement pipelines, monitoring compliance, spend review and monitoring contract performance within their service area.
- (e) Detailed Terms of Reference for the role of **Procurement Champion** can be found in **Procurement Services** Guidance.

1.6.6 **Governance and Audit and Standards Committee**

- (a) The **Council** has established a Governance and Audit and Standards Committee to oversee, maintain and strengthen high standards of conduct in public office.
- (b) The Committee is tasked with considering amendments to the **Council's** constitution and has powers to make Standing Orders which cover the **Council's Contract Procedure Rules**. As a part of the **Council's** constitution, any material changes to the **Council's Rules** are subject to review and endorsement by the Committee before the changes can be formally approved and adopted into the constitution by Full Council.
- (c) The Committee is also required to monitor and take decisions in respect of the effective development and operation of corporate governance, agree necessary actions to ensure compliance with best practice and consider the **Council's** compliance with its own and other published standards and controls, which includes for compliance with the **Rules**.

- (d) The **Assistant Director of Procurement** is tasked with monitoring and reporting upon compliance with the **Rules** in accordance with parameters, scope, targets and reporting frequencies set by the Committee.
- (e) The **Assistant Director of Procurement** is also tasked with identifying and implementing improvements to the **Council's** corporate governance structures and processes in respect of procurement and contract management activities with regard to performance trends, developing best practice, policy changes and legislative changes.

1.7 Separation of Duties

- 1.7.1 As part of the commitment to transparency, accountability and service integrity, an individual that conducts a procurement, raises a purchase order, or requests a waiver cannot also approve one.
- 1.7.2 All requests and approvals/ awards therefore should be raised by one individual and approved by a different individual and in accordance with the contract value and these **Rules**.

1.8 Conflicts of Interest

- 1.8.1 As part of ensuring that all processes are managed fairly and with integrity, all **Officers (Responsible Officers, Service Champions, Directors etc.)** and **Suppliers** involved in any stage of the contract life cycle, are required to both identify/ disclose and mitigate any perceived, potential and/ or actual conflicts of interest.
- 1.8.2 Compliance with this requirement will require all **Officers** completing a **Conflict-of-Interest** form at the point they get involved in a procurement/ the management of a contract.
- 1.8.3 Officers involved in procurement processes must ensure they are familiar with the Employees' Code of Conduct, part of the **Council's** constitution.
- 1.8.4 All **Conflict-of-Interest** forms for spend over £150,000 must be recorded on a **Conflict-of-Interest Register/** in the **Conflict Assessment** and kept under review during the whole life cycle of the **Contract**. Where a conflict or potential conflict is identified advice must be sought from Procurement Services and Legal Services, if there is any doubt then advice must be sought.
- 1.8.5 Conflict of Interest forms should also be completed for below £150,000 contracts and held on file. Whilst seeking of advice from **Procurement Services** and **Legal Services** is not mandated this is still encouraged.
- 1.8.6 The assessment must also include details of all and any mitigations taken/ to be undertaken to mitigate potentially unfair or distorted outcomes, e.g., use of **Ethical Wall Agreements**, use of additional evaluators, independent observers and in some circumstances, the removal of an individual or exclusion of a **Supplier** from the procurement/ management of the **Contract**.
- 1.8.7 Although **Procurement Services** will own the register and in conjunction with the **City Solicitor** and **s.151 Officer**, advise on appropriate mitigations and risks, **Responsible Officers** will be responsible for completing/ updating the forms and providing to **Procurement Services** to include on the **Conflict-of-Interest Register**.
- 1.8.8 **Officers** who are also directors of **Council** owned companies must ensure their interests in the companies are disclosed in line with the above; and subject to appropriate mitigations being put in place, may still be able to be involved in the procurement/ management of the resultant contract.
- 1.8.9 Further detail and guidance are available from **Procurement Services**.

1.9 Procurement Policy & Social Value

- 1.9.1 The **Council** has created their own Social Value Policy, this sets out how Responsible Officers should include social value in their procurements, in compliance with **Relevant Procurement Legislation**, and in consideration of the **Public Sector (Social Value) Act 2012** and relevant guidance.
- 1.9.2 The **Council's** commitments relate to *creating opportunities to support the local economy, local jobs, training opportunities, as well as ensuring the wellbeing of both the staff and the communities in which we work*. This to include considering how the **Council** can support those on the **Real Living Wage**, at risk of **Modern Slavery**, covered by the **Armed Forces Covenant** or are **Care Leavers**, and the aims and objectives of the **Council's Environmental Policy**. The **Council** is also **Disability Confident** and aligned with the **White Ribbon** commitment and seeks to encourage their supply chain to also achieve this accreditation.
- 1.9.3 The **Council's** approach to delivery of social value will continue to be developed to meet the changing needs of the communities that the **Council** serves in a local level as well as taking into account the wider objectives set out within the **National Procurement Policy Statement, Procurement Policy Notes** and emerging best practice.
- 1.9.4 Where Social Value is included within a procurement, it should be allocated an appropriate and proportionate weighting, must be related to the **Subject Matter** of the contract and its inclusion should not increase costs. **Responsible Officers** should seek guidance from **Procurement Services** if there is a concern that this is not possible.

1.10 Partnership Arrangements

- 1.10.1 Where the **Council** has entered into arrangements with partner **Councils** or other public sector bodies for the delivery of specific activities, **Responsible Officers** must liaise with **Procurement Services** before commencing a new procurement for similar/ additional requirements to ensure that those arrangements are not breached or cause relationship problems across the partners.

1.11 Corporate Arrangements

- 1.11.1 The **Council** has established a number of **Corporate Contracts** and **Frameworks**, including but not limited to, stationery, insurance, ICT goods/services, and maintenance. **Officers** must check the **Council's Contract Register** and liaise with **Procurement Services** before carrying out a separate/ additional procurement for such requirements.
- 1.11.2 Regardless of whether a requirement is being let under a **Corporate Contract** or **Framework**, advice must be sought from **Procurement Services** where the value equals or exceeds £150,000.

1.12 Contractor Quality

- 1.12.1 In appointing a **Suitable Supplier** to provide goods, services or works, a **Responsible Officer** must ensure, in accordance with these rules, and the **Relevant Procurement Legislation**, that the supplier has the requisite experience, qualifications and standing to contract with the **Council** for those requirements, and that they will contract on a basis acceptable to the **Council** and will provide the required insurance and assurances in line with these rules and the **Constitution** more broadly. Guidance should be

sought from **Procurement Services**, in the first instance, for all contracts with a value over £150,000 or for those contracts that are considered high risk. **Procurement Services** may also liaise with Legal Services and/or Finance where they deem necessary.

1.13 Use of Consultants

- 1.13.1 Where the **Council** requires the technical input of industry experts/ consultants, **Officers** are required to procure said consultant in line with these **Rules** and ensure the following is applied:
- (a) The service is for a discrete (or multiple discrete) piece of work. Advice should be sought from Procurement in instances where the service is backfilling a post.
 - (b) There is a clear specification of requirements and responsibilities set out in their appointment,
 - (c) Where acting as an agent to the **Council**, creating procurement documentation (including the contract) and/or conducting a procurement, or the management of a subsequent contract, consultants will need to act in full accordance with the **Relevant Procurement Legislation**.
 - (d) The consultants commit to adherence to these **Rules**, and **Relevant Public Sector Legislation**
 - (e) All consultant appointments are checked against IR35 obligations and complete a **Conflict-of-Interest** form in line with **Relevant Procurement Legislation**
- 1.13.2 The above to be documented in a contract.
- 1.13.3 Where a consultant is engaged, the **Responsible Officer** will need to consider the rules for 'off-payroll workers'. The off-payroll working legislation is likely to apply to consultancy engagement if;
- The Consultant personally performs services for the **Council**;
 - The Consultant is not contracting personally but chooses to contract via their own company / personal service company: or
 - The nature of the contract and working practices means that the consultant is working in a similar way to an employee and would be considered 'employed' for tax purposes were they not engaged via their own company / personal services company
- 1.13.4 To establish the off-payroll status of a Consultant, the **Responsible Officer** must complete the IR35 Toolkit "Check Employment Status for Tax" (CEST) to establish whether or not an individual consultant is in scope for PAYE (tax and national insurance) contributions. Any queries on the CEST test following its completion must be referred to the Payroll and Pensions manager.
- 1.13.5 The CEST test will also enable the **Responsible Officer** to determine whether the engagement will derive employment rights to the Consultant (i.e. the rights to paid leave, pensions etc). Any queries on the employment status of the Consultant must be referred to the HR Business Partner.
- 1.13.6 The result of the CEST test must be kept on the procurement file. No payment will be made by accounts payable until the CEST test and payroll status has been confirmed.
- 1.13.7 Failure to comply with the rules for off-payroll workers can result in financial penalties (as well as the back-payment of unpaid taxes) from HM Revenue and Customs. Failure to properly account for the employment status of the Consultant may result in the back-payment of paid leave, pensions contributions etc. Such financial penalties will be the liabilities of the relevant **Council** department.
- 1.13.8 Further guidance can be found on the **Council's** intranet site. Notwithstanding any other rule, advice may be sought from **Legal Services**, Finance and **Procurement Services** on consultancy agreements.

1.14 Working with SMEs and VCSEs

- 1.14.1 In line with its **Social Value Policy** and the objectives set out within the **National Procurement Policy Statement**, the **Council** is committed to making contracting opportunities accessible to all interested suppliers; and where appropriate (and not disproportionate to do so) remove barriers to SMEs (Small to Medium Sized Enterprises) and VCSEs (Voluntary & Community Sector Organisations) participating in the procurement.
- 1.14.2 **Responsible Officers**, when designing a procurement, must consider the use of Lots, allow for consortia bids, structuring the documents to be SME / VCSE friendly, and set financial participation thresholds to the minimum needed to manage performance risk/ failure.

1.15 Excluding Suppliers & Subcontractors

- 1.15.1 The **Council** may exclude a supplier where they or one of their proposed subcontractors where there are valid grounds in the **Relevant Procurement Legislation**. **Procurement Services** must be consulted when considering excluding a supplier for contracts with a value over £150,000.
- 1.15.2 Details of when and for what (mandatory and discretionary grounds) a supplier may/ must be excluded is available in the **Relevant Procurement Legislation**; this may include (but is not limited to) breaches of law, non-payment of tax, cartel offences, poor contract delivery performance, unavoidable unfair advantage / conflict, labour & environmental misconduct, insolvency / bankruptcy, professional misconduct and/ or improper behaviour (failing to comply with the rules of the procurement).
- 1.15.3 The **Council** will not award a contract to any **Supplier** included on the **Debarment List**, be that either for **Public Contract** or **Regulated Below Threshold Contract** unless there is an overriding public interest ground for doing so.
- 1.15.4 Where a **Supplier** is subject to a mandatory or discretionary exclusion ground, they may, in accordance with the **Procurement/ Associated Tender Documents**, be provided with an opportunity to demonstrate that the issue is no longer on-going and/ or unlikely to reoccur. This response to be reviewed with **Procurement Services** and **Legal Services**, and where the mitigation is accepted, the **Supplier's** participation/ award may be considered further.
- 1.15.5 The **Council** has the option to terminate a contract where a supplier has, since the award of the contract, become an excluded supplier or excludable supplier or where a supplier to which the supplier is sub-contracting the performance of all or part of the public contract is an excluded or excludable supplier. Procurement must be engaged in all instances.

1.16 Identifying Opportunities

- 1.16.1 All **Advertised Procurements** must be advertised initially on the **Central Digital Platform/ Find a Tender Platform** in line with the contract value and the **Relevant Procurement Legislations**. It will also be advertised on and managed through the **Council's** e-sender Portal.
- 1.16.2 Suppliers wishing to bid for **Council** contracts covered by the **Relevant Procurement Legislation** should be encouraged to register on both **the Central Digital Platform/ Find a Tender Service** and the referenced e-sender portal
- 1.16.3 Further guidance for **Suppliers** is available on the **Council's** website.

1.17 Contracts Register and Storage.

- 1.17.1 The **Council** is required to keep a record of all **Contracts** and **Purchase Orders** (however awarded) with a value in excess of £5,000 inc. VAT, in an online **Contracts Register** in line with **Relevant Public Sector Legislation** and the **Council's** own document & records guidance and policies.
- 1.17.2 This requirement includes providing details of all current **Contracts, Purchase Orders, Frameworks, Dynamic Purchasing Systems** and **Dynamic Markets** awarded by the **Council**, details of the **Supplier(s)**, the value, the expiry date, details of any options to extend and any other information that might be pertinent to the management, replacement, or modification of the **Contract** during its lifecycle.
- 1.17.3 **Responsible Officers** must advise **Procurement Services** of all new awards over £5,000 (regardless of how they were procured) and any amendments to a such contract, so they can be added to/ updated on the online **Contracts Register**.
- 1.17.4 An electronic copy of all **Contracts, Frameworks, Dynamic Purchasing Systems** and **Dynamic Market** documentation must also be stored on this **Contract Register** for internal purposes only; likewise, all amendments to said contracts. Any hard copy documents are to be stored by the **Council Records Team** in line with the Council's document & records guidance and policies. (**Grants** to be stored on a separate register).
- 1.17.5 Where a **Public Contract** has a value in excess of £5 million inc. VAT, an appropriately redacted version of the **Public Contract** must also be published on the **Central Digital Platform/ Find a Tender Service**, unless exempted by the **Relevant Procurement Legislation**.

2 Procurement – Risk Assessment, Planning, Design, Timings & Documentation.

2.1 Risk Assessments

- 2.1.1 **Responsible Officers** are required to carry out a risk assessment as part of the project initiation and planning process to identify the risk level and associated governance requirements, consulting with **Procurement** as required.
- 2.1.2 The purpose of undertaking the risk assessment is to ensure that **Responsible Officers** seek advice and support from **Procurement** and other subject matter professionals based upon risk features which goes beyond the simple valuation of the contract. This will help protect **Responsible Officers**, their service area and the **Council** as a whole through effective risk management of procurement and contract management processes.
- 2.1.3 **Low Risk**
- 2.1.4 A **Contract** is a Low-Risk Self Service Contract and **Procurement Services** do not need to be consulted where ALL the following apply:
 - (a) The value of the contract is less than £150,000 over the lifetime of the contract including for extension provisions and any other options
 - (b) The total duration of the contract including for any extension options does not exceed a maximum duration of 5 years
 - (c) The procurement of the contract is unlikely to give rise to TUPE transfer considerations
 - (d) The procurement of the contract does not include for complex GDPR and data processing issues
 - (e) The procurement of the contract is not for the purchase of IT Systems
 - (f) The procurement of the contract does not involve the out-sourcing of an in-house service / function
 - (g) The contract is not subject to complex open book, revenue share, target costing or other more complex financial arrangements
 - (h) Is unlikely to be subject to significant inflation risks or other financial pressures
 - (i) The contract will not create a Joint Venture / Special Purpose Vehicle.
 - (j) The contract is for requirements which are standardised or the Council has successfully procured on previous occasions.
 - (k) Has been declared as such by the **Assistant Director of Procurement**
- 2.1.5 **Medium Risk**
- 2.1.6 A **Contract** is likely to be a Medium-Risk Contract and **Procurement Services** need to be consulted where ANY of the following apply:
 - (a) The value of the contract is higher than £150,000 over the lifetime of the contract including for extension provisions and any other options
 - (b) The contracting opportunity is to be advertised / publicised publicly using any form of media.
 - (c) The total base term duration of the contract does not exceed 4 years and including for any extension options does not exceed a maximum duration of 7 years. This includes for rolling contracts with no set maximum duration.
 - (d) The procurement of the contract may give rise to TUPE transfer considerations
 - (e) The procurement of the contract may include for complex GDPR and data processing issues

- (f) The procurement of the contract involves the out-sourcing of an in-house service / function
 - (g) The contract may be subject to complex open book, revenue share, target costing or other more complex financial arrangements
 - (h) Is likely to be subject to significant inflation risks or other financial pressures.
 - (i) The procurement of the contract is establishing a new **Council Framework** or **Dynamic Market** or similar **Below Threshold** arrangement.
 - (j) The contract is required to support the delivery of a major project and / or support the discharge of the Council's statutory responsibilities and / or support the effective day to day operation of the Council
 - (k) The award of the contract may be subject to public and / or political scrutiny
 - (l) The procurement and award of the contract is subject to additional rules imposed by external funders / stakeholders / approvers - e.g. central government funding, heritage lottery funding, etc.
 - (m) The procurement is subject to collaboration with other contracting authorities
 - (n) The award of the contract is classed a **Key Decision**
- (o) Has been declared as such by the **Assistant Director of Procurement**

2.1.7 **High Risk**

2.1.8 A **Contract** is likely to be a High-Risk Contract and **Procurement Services** and **Legal Services** need to be consulted where ANY of the following apply:

- (a) The value of the contract is higher than £5 million over the lifetime of the contract including for extension provisions and any other options
- (b) The total base term duration of the contract exceeds 4 years
- (c) The contract will create a **Joint Venture / Special Purpose Vehicle**
- (d) The procurement of the contract involves the creation of jointly owned Intellectual Property Rights / Copyright / Branding / Trademarks, etc. and the production of products and services for onward resale
- (e) The procurement of the contract is a singular critical component that cannot be easily substituted / switched for the delivery of a major project and / or the discharge of the **Council's** statutory responsibilities and / or the effective day to day operation of the **Council**
- (f) The procurement process to award the contract will involve staged development of solutions, significant dialogue with tenderers, staged development of requirements over the course of the procurement, negotiation of terms, development of complex commercial arrangements, etc.
- (g) Has been declared as such by the **Assistant Director of Procurement** and the **City Solicitor**

2.1.9 **Critical Risk**

2.1.10 A **Contract** is likely to be a Critical Risk Strategic Contract and **Procurement Services**, **Legal Services** and **Finance** need to be consulted where ANY of the following apply:

- (a) The value of the contract is higher than £20M over the lifetime of the contract including for extension provisions and any other options
- (b) The recurring per annum value of the contract is higher than £5 million
- (c) The total base term duration of the contract exceeds 4 years and including for any extension options exceeds a maximum duration of 10 years
- (d) Has been declared as such by the **Assistant Director of Procurement**, the **City Solicitor**, the **S151 Officer** and the **Chief Executive**.

2.1.11 **Risk Assessment Outcome**

2.1.12 The outcome of the risk assessment must be forwarded to **Procurement Services** and as proportionate / relevant:

- (a) Documented into the Procurement **Self Service** Document (below £150,000 and generally low risk), **Gateway Document** (above £150,000 or generally at least medium risk) and accompanying **Tender Record** (above £150,000 and classed as **Covered Procurement**), and
- (b) Added to the Corporate Risk Register for monthly monitoring as advised by **Procurement Services** and **Legal Services**.

2.2 Contract Types and Regimes

- 2.2.1 All spend must be classified by type and regime before a procurement process can be designed; this is due to different types and regimes having different financial thresholds and obligations. The types and regimes include.
- 2.2.2 **Types - Goods** (goods or products), **Services** (labour, consultants, or technical resources); or **Works** (Construction Projects). (These being procured under the **Rules**).
- 2.2.3 **Regimes - Utilities** (Gas, electric, Water, transport e.g., Buses on a fixed network), **Light Touch** (social care, legal services, education), **Concession** (Supplier risk/ paid by service users), **Provider Selection Regime** (provision of health care services to individuals). **Exempt/ Excluded** (Not covered).
- 2.2.4 Where a **Contract** includes elements from multiple types of spend, (**Mixed Procurement**) the **Responsible Officers**, working with **Procurement Services**, must identify the type/ regime of the spend and if they could reasonably split out into separate contracts and the **Council** decides not to, then if any element is above the relevant threshold, then the contract must be procured as a **Covered Procurement**.

- 2.2.5 Where a **Contract** includes elements from multiple different regimes (**General Legislation** and **Special Regimes**) and the **Council** again chooses not to separate out the requirements into separate contracts, then the mixed contract must be awarded in accordance with the **General Rules**.

2.3 Defining the Need

- 2.3.1 **Responsible Officers** are required, before commencing a procurement to identify and specify the size, scope and quantity of the goods, services, or works required clearly and carefully; this to include not just any initial requirements, but also any optional extras, variations or extensions that may be required during the life of the contract.

2.4 Option Appraisal

- 2.4.1 **Responsible Officers**, having determined their requirements must consider.
- (a) The strategic aims and objectives of the **Council** and the contract more specifically
 - (b) If and how these requirements are currently being delivered
 - (c) Whether there are any budgetary or time constraints that may impact the approach to delivering the identified requirements.
 - (d) Whether there is a requirement to conduct any consultations, including engaging with residents and service users to understand their needs.
 - (e) Whether there is any historic/ current performance information and/ or other market data that needs to be considered/ peer reviewed in the design of the procurement/ contract.
 - (f) Whether the requirements could be best delivered in-house, via establishment of a local authority trading Teckal exempted company, provided collaboratively via establishment of or entering into an existing inter-authority shared services agreement.
 - (g) Whether the requirements could be best delivered via a procured concession agreement, joint venture partnership, establishment of special purpose vehicle.
 - (h) Whether **Preliminary Market Engagement** should be used (for **Covered Procurements** this should generally be used) to:
 - (i) Understand the market, e.g., for complex and specialist requirements, where the market may be saturated or limited.
 - (ii) Inform the procurement design and/ or
 - (iii) The development of the technical requirements/ **Associated Tender Documents**.
 - (iv) Support **SMEs** in collaborating/ designing a consortia delivery model.
 - (i) The risk assessment rating of the contract and any subsequent advice provided by **Procurement Services, Legal Services, Finance** or any other professional support functions such as HR.
 - (j) Whether the requirements may be procured more efficiently, effectively or economically through undertaking collaborative procurement with other fellow contracting authorities.
 - (k) Where a procurement is required, whether there are any existing, compliant means by which these requirements could be delivered, e.g.
 - (i) Corporate **Contracts**
 - (ii) **Frameworks, Dynamic Markets** or **Dynamic Purchasing Systems** either compliantly established directly by the **Council** or by other public sector organisations or central purchasing bodies such as Crown Commercial Service.
- The above being in consideration of **Council Policies, Best Practice** and **Relevant Public Sector Legislation**.
- (l) Whether it is appropriate to include a requirement to deliver additional Social Value (Public Benefit).
 - (m) Whether it is proportionate to apply enhanced modern slavery mitigation measures.
 - (n) Whether it is proportionate and relevant to apply enhanced environmental impact mitigation measures.
- 2.4.2 The outcome of the above to be recorded in the **Self Service Procurement Document / Gateway Document / Tender Record**.

2.5 Contract Durations

- 2.5.1 Before a procurement process can be commenced, **Responsible Officers** need to decide both the initial and maximum contract durations (including any optional extension) and what might be the justification to apply those extensions; noting the obligation to comply with these **Rules**, deliver against the **Council's** policy aims and achieve **Best Value**. The duration should not be set with the intention of circumventing these Rules or the **Relevant Procurement Legislation**.
- 2.5.2 Depending on the value and nature of the contract being procured, the duration may be limited by the **Relevant Procurement Legislation**. **Responsible Officers** must check the proposed duration including for extension options with **Procurement Services** before finalising this decision. All rolling contracts which do not have defined maximum duration must be formally approved by **Procurement Services**. Any rolling contracts which are procured are likely to be treated as above threshold **Covered Procurements** in line with the **Regulations**.

2.6 Estimating Contract Values

- 2.6.1 The **Estimated Contract Value** for any **Contract** subject to these **Rules** must include **ALL** monies that could be paid over the maximum life span of the contract (or Framework/ Dynamic Market), to the successful tenderer(s) regardless of the source; e.g., all planned and potential costs, additional requirements, fees/ commissions, contract extensions and/ or prizes/ participation costs plus any contingencies, whether funded by the authority, other grants or paid by service users. The total must also include VAT at 20%.
- 2.6.2 In the case of **concession contracts** the estimated value must include for a documented estimated value of the revenue that could be generated over the maximum life span of the contract through sales, fees, etc. as well as from any subsidy advantages gained via grant funding, discounting of rents, receipt / use of assets, etc.

- 2.6.3 This value must not be artificially inflated or disaggregated as it will feed into various decisions, including deciding the route to market, and assessing whether a supplier has the capacity and capability to deliver the contract.
- 2.6.4 The above calculated value, calculations and assumptions must be documented in the **Tender Record** and where it exceeds the **Council's** threshold for a **Key Decision**, this must be reported in accordance with the **Key Decision** rules. The value must also be included in the relevant **Pipeline, Planned** and/ or **Tender Notices**.

2.7 Duty to Consider Lots

- 2.7.1 When considering the above, **Responsible Officers** must consider the use of **Lots** and the potential benefit of working with (local) SMEs (e.g., reduce overhead costs, local knowledge, public benefit) with the opportunity to achieve economy of scale discounts, manage market uncertainty, and the potential contract management benefits of appointing a single supplier.
- 2.7.2 However, in considering how to make opportunities accessible to SMEs, **Responsible Officers** MUST ensure that they do NOT disaggregate, or sub-divide like of similar requirements purely for the sole purpose of avoiding the rules for above threshold/ public contracts. They must also ensure that the process for removing barriers for SMEs, does not unfairly advantage them.
- 2.7.3 This decision and the reason for it must be included in a **Tender Notice (Covered Procurements)**, the **Gateway Document** and/ or the **Tender Record** in line with the **Relevant Procurement Legislation**.

2.8 Statutory & Council Specific Thresholds

- 2.8.1 The statutory Procurement Thresholds are determined by category/ Type and sector (regime); they determine which routes to market are available and what rules must be followed.
- 2.8.2 The statutory thresholds come from the **Relevant Procurement Legislation** (and are updated by **PPNs** and are based on the Government Procurement Agreement (GPA)²; as laid out in **Table 1** below.

Table 1 - Statutory Thresholds

Type of contract	Threshold amounts (inc. VAT) from 1 st January 2024 to 31 st December 2025
Works contract	£5,372,609
Supply of goods or services	£214,904
Concession contract	£5,372,609
Light touch contract	£663,540
Light touch contract that is a concession contract	£5,372,609

- 2.8.3 The rules and available routes to market are determined by whether the estimated contract value is deemed to be 'Above Threshold' (Covered Procurements/ Public Contracts) or below, 'Regulated Below Threshold.' See [Procurement policy notes](#).
- 2.8.4 The following table sets out the Council Specific procedures and thresholds to be applied by **Responsible Officers**. These thresholds and processes have been designed to align with the Council's governance structures and to help protect the Council from acting unlawfully in respect of application of the statutory thresholds referred to above.

Table 2 – Council Specific Thresholds

Level	Estimated Contract Value	Procedure / Notes
1	(Unregulated Below Threshold Contracts) Contacts up to £30,000	- Identify and obtain single / multiple quote/s (generally minimum of 3 is possible / practicable) from ideally local Suitable Supplier/s OR - Identify a suitable supplier from a Framework, e-catalogue, or corporate contract and obtain a quote
2	(Regulated Below Threshold Contracts) Contracts from £30,000.01 – to statutory Covered Procurement threshold ³	- Identify a Framework or Dynamic Purchasing System and conduct a Competitive Selection Process in line with the Framework. OR - Advertise the opportunity as a Regulated Below Threshold Procurement in line with the Relevant Procurement Legislation and conduct a competitive process. OR - Identify and obtain three quotes from Suitable Suppliers where it can be demonstrated that this will deliver Value for Money OR - Identify a suitable supplier from a Framework, e-catalogue, or corporate contract and obtain a Quote OR - For contracts with a value below than £150,000, identify and obtain a single quote (where it provides Value for Money, and subject to approval from the relevant Director or Assistant Director in line with the Scheme of Delegation, approval is not required from Procurement Services, but Procurement Services must be notified for monitoring purposes OR - For contracts with a value above £150,000, identify and obtain a single quote (where it

² values are updated bi-annually. The latest statutory procurement thresholds came into force on 1st January 2024:

³ noting that contracts with a value equal to or greater than £150k or are risk assessed as at least medium risk, will require approval / input from Procurement

		provides Value for Money , and subject to approval from the relevant Director or Assistant Director in line with the Scheme of Delegation and Procurement Services)
3	Above threshold Covered Procurements	- Conduct an advertised Competitive Tendering Procedure, either an Open Procedure or a Competitive Flexible Procedure. (Where subject to a Special Regime, these processes should be adapted accordingly) - Use a suitable/ approved Framework. - Use a suitable/ approved Dynamic Market and publish a notice in accordance with that Dynamic Market - Use a suitable Dynamic Purchasing System (on the condition that the arrangement can still be compliantly accessed - all DPS arrangements must end by law on 23rd February 2029, although call off contracts made via DPS can go beyond this date). - Apply a Direct Award – where permitted by and in line with the Relevant Procurement Legislation, e.g., <i>urgency, additional Goods and Services, only Supplier, or Service User Contracts</i>, and it is approved by Procurement Services and Legal Services.
4	Healthcare Contracts (all values)	In line with the Provider Selection Regime Direct Award - Options A, B or C; or from a Framework or via the Most Suitable Provider Process or Competitive process.

2.8.5 Regardless of the minimum obligations, **Responsible Officers** may choose (or may be instructed by **Procurement Services**) to conduct a procedure in line with a higher value, including one which is for **Above Threshold/** used for **Covered Procurement**; including issuing a **Tender Notice** to invite interested suppliers to submit a tender/ participate in the procurement.

2.8.6 **Procurement Services** may also mandate such a process where the estimate contract value is very close to the relevant **Threshold**, or the contract is high profile/ of public interest, or where it is a condition of the funding that a specific process must be applied.

2.8.7 **Self Service** procurement documentation must be completed for all spend over £30,000, copies can be requested from **Procurement Services**.

2.8.8 An explanation of what is required for each procurement process/ values is provided for in **Procurement Services** Guidance.

2.9 Gateway Process

2.9.1 The **Council's Gateway Process** applies to all contracts equal to or in excess of £150,000 with varying approvals required dependant on value.

2.9.2 The key functions of the **Council's Gateway Process** will be to ensure that that the **Council**:

- Makes appropriate strategic decisions relating to insurance, bonds, PCGs, liabilities, business continuity, etc.
- is able to proportionately manage all procurement related risks.
- acts lawfully in accordance with legislation, the **Council's Constitution**, and these **Rules**.
- acts consistently across all procurement and sourcing activity.
- provides support and advice to maximise **Best Value** to the **Council** at all stages of the procurement cycle; and
- follows emerging best practice and supports the delivery of national and **Council** policy and strategies.

2.9.3 **Gateway Board** shall consider.

- Contracts** with a total value of £5 million or more; or
- Any contract considered High Risk or a Critical Risk Strategic Contract, as decided by the **Assistant Director of Procurement** or their respective delegate

2.9.4 **Gateway Board** will include the **Assistant Director of Procurement** and **City Solicitor** (or their respective delegates).

2.10 Preliminary Market Engagement

2.10.1 Where, as part of the **Option Appraisal**, **Responsible Officers** have determined a need to conduct some **Preliminary Market Engagement**, it must be conducted in line with this paragraph.

2.10.2 Where a **Preliminary Market Engagement Event** is to be used, it must be advertised using an appropriate notice, and the **Council** must take reasonable steps to ensure that participants at an event do not have an unfair advantage in the subsequent procurement; this to be assessed using the **Conflict-of-Interest** forms/ **Conflict Assessments** and documented in the **Tender Record**.

2.10.3 All information shared before, during or after a **Preliminary Market Engagement Event** must also be included within the subsequent **Associated Tender Documents** (tender pack) in line with the objective of sharing information.

2.10.4 This decision and reason are to be recorded in the **Tender Record**.

2.11 Legal / Finance Considerations

2.11.1 Purchase Orders

(a) A **Purchase Order** is required for all purchases (unless it is appropriate to use a purchasing card see 6.3), and must specify the the goods, services, or works to be provided, the price to be paid, the terms of payment and the terms and conditions that apply to the delivery of the purchase.

(b) For purchases with a value of less than £30,000 incl. VAT, the standard **Purchase Order** terms and conditions (available on the **Council's** website) are likely to be sufficient; however, should the **Responsible Officer** determine that there are obligations or risks

which are not sufficiently addressed within the **Purchase Order** terms and conditions or that they are not appropriate for the purchase, then an alternative contract (including a Suppliers standard terms) may be selected.

2.11.2 Contracts

- (a) For purchases with a value in excess of £30,000 and up to a value of £5 million, the **Responsible Officer** should use a **Standard Form Contract** as approved by **Legal Services** but can choose to accept the supplier's standard terms, provided that such terms are fair and reasonable in the circumstances.
- (b) For **Contracts** with a value in excess of £5 million **Legal Services** are responsible for working with the **Responsible Officer** to agree upon on the most appropriate terms and conditions.
- (c) All contracts must clearly detail the goods, services, or works to be provided, the price to be paid, details on any VAT, the terms of payment (maximum 30 days), the terms and conditions that apply to the delivery of the purchase, details of any inflation or other indexation, the insurance requirements, the assurance requirements, any variations and/ or extensions permitted (and the process), service credits and KPIs, termination clauses and behavioral clauses in line with **Relevant Procurement Legislation** and **Relevant Public Sector Legislation**.
- (d) **Contracts** should not normally exceed 5 years in duration (including extensions), but contracts may be set for longer periods where the relevant industry practice, mobilisation and financing or partnership arrangements to be entered into, make it in the interests of the **Council** to do so.
- (e) The **Assistant Director of Procurement** must be consulted on any **Option Appraisal/** business case for proposing a contract term longer than 5 years and the reasons for doing so must be recorded in the **Tender Record**.
- (f) **Contracts** should generally not be let on a rolling basis with no definite end date. The **Assistant Director of Procurement** must be consulted on any **Option Appraisal/** business case for proposing a rolling contract and the reasons for doing so must be recorded in the **Tender Record**.
- (g) All **Contracts** must be completed either in hardcopy or electronically and signed (electronically or wet copy) by authorised individuals from within the relevant parties. These authorised individuals are identified by the value of the contract and the **Scheme of Delegation**.
- (h) The **Contract**, be it a standard form, an amended standard form, a bespoke/ project specific contract, (depending on the value and procurement process being applied) must be provided with the other procurement/ **Associated Tender Documents**.
- (i) Where the **Council** may require a limitation/ retention period of more than 6 years, e.g., works or construction consultancy, **Legal Services** must be consulted to determine whether the Contract should be made under seal to extend the limitation and retention period to 12 years.
- (j) The **Responsible Officer** must record the decision/ choice of **Contract** in the **Tender Record**.

2.11.3 Certification of the contract

- (a) The **City Solicitor** shall be responsible for determining whether any contract should be certified under the **Local Government (Contracts) Act 1997**. This Act empowers local authorities to agree terms that will survive the main contract being set aside in the event of a finding that the **Council** has exceeded its statutory powers in entering into the contract. In these circumstances, the certification process ensures that the private sector party is compensated. All such certificates shall be in a form approved by and executed by the **City Solicitor**.

2.11.4 Bonds & Guarantees

- (a) The **Council** reserves the right to request a **Performance Bond** and/ or a **Parent Company Guarantee**; or retain funds to protect the **Council** from **Supplier** failure where a contract or Supplier is identified as high risk (risk of failure) (likelihood and/or impacts). Advice is available from **Procurement Services, Legal Services** and **Finance**.
- (b) Where a bond or guarantee is deemed necessary – this should be in a form acceptable to the **Council** and in consideration of the form of contract being used.

2.11.5 Service Credits and Liquidated Damages

- (a) **Responsible Officers** should, as part of designing the requirement, determine whether there is a requirement to include **Service Credits** and/ or **Liquidated Damages** as a means of managing the quality and timely delivery of the required performance. These should be proportionate to the complexity and risks inherent in the contract.

2.11.6 Insurance

- (a) **Insurance Requirements** must be set at levels that are appropriate to the nature and complexity of the requirements and the risk associated with the contract; these to be agreed with **Procurement Services**.

Table 3 – Insurance Levels

Insurance	Minimum level	
Public Liability	For all services	Not less than £5,000,000 each & every claim
	Social care	Not less than £10,000,000 each & every claim
	Construction	As advised by Risk and Insurance Officer based on the activity undertaken and the contractor
Employer's Liability	£5,000,000 each & every claim	
Professional Indemnity	Not less than £1,000,000 each & every claim but as advised by the Insurance Officer based on the activity undertaken and the contractor	

- (b) These amounts may only be lowered on the written advice of the **Council's Risk and Insurance Officer** whose advice shall be sought on any other insurances required. The **Responsible Officer** must provide an account for the reasons for the lower level of cover and include an assessment of risk associated with the contract. This to be recorded in the **Tender Record**.

2.11.7 Procurement Legislation

- (a) The design of any procurement must take into account all relevant legislation; as applies to the **Council**, the project, and the supply chain.
- (b) In the event that there is an incompatibility identified between two or more relevant pieces of legislation; this must be escalated to **Procurement Services** and **Legal Services**/for advice and a decision on how to manage the conflict.

2.12 Procurement Programme

- 2.12.1 **Responsible Officers** will need to plan for and include time allowances for complying with the **Council's** approvals and reporting requirements in the design of the procurement. This being particularly significant where a procurement is classified as a **High-Risk/ Strategic Contract** or a **Key Decision** and/ or is to be monitored through the **Gateway Process**.
- 2.12.2 **Responsible Officers** should work with **Procurement Services** to create a procurement programme against which resource requirements can be managed.

3 Procurement Documentation

3.1 Overview

- 3.1.1 The **Procurement/ Associated Tender Documents** required will depend on the selected route to market, the stages, and the activities to be completed; **Table 2** above set out the minimum process and **Table 4** the minimum notifications required.
- 3.1.2 Where the procurement is a **Level 2, 3, or 4** procurement and is being advertised, it must be managed through the **Council's** e-sender system and the template documentation provided by **Procurement Services** must be used unless otherwise agreed with **Procurement Services**.

3.2 Notices

- 3.2.1 The publication of the various notices, that are to be given at various stages of the procurement process, is a legal requirement both to create effective competition and ensure transparency in the spending of public funds, the most commonly used notices and reasons for use are detailed below:

Table 4 - notices

Type of Notice	Below Threshold advertised Competition	Above Threshold Advertised Competition	Award under a Framework
Preliminary Market Engagement Notice		Optional, to be used where determining the appropriate route to market, approach to delivering the contract	
Tender Notice (in line with the procedure design)	If advertising anywhere, then must also advertise on the Central Digital Platform	must be advertised on the Central Digital Platform	Not required
Procurement Termination Notice	Not required	Required	Required

- 3.2.2 The above list is non-exhaustive and the **Council** may also be required to be published other notices in relation to their plans, events, and/ or other decisions depending on the **Relevant Procurement Legislation**, **Responsible Officers** should liaise with **Procurement Services** for all **Level 2 (where advertised or over £150,000)**, **Level 3** and **Level 4** contracts

3.3 Invitation to Tender

- 3.3.1 **Responsible Officers** must ensure that they effectively and transparently communicate with all **Suppliers** being invited to submit a quote/ tender.
- 3.3.2 This document must detail.
- (a) The exclusion grounds to apply, the conditions of participation, the award criteria, and the assessment methodology.
- (b) The design of the procurement,
- (i) Where under a Framework – this document will set out the process in line with the framework requirements.
- (ii) Where tendered openly - whether there will be a discrete **Conditions of Participation** stage, the number of **Tender Rounds**, whether **Suppliers** will be limited between stages/ rounds and whether there will be any **Supplier** interactions such as negotiations/ Dialogue/ presentations (subject to such being permitted by the **Relevant Procurement Legislation**). It must also detail what is required from the supplier at each stage to enable them to progress/ have a chance to be awarded the contract.
- (c) The procedural rules including providing detail as to how the **Council** will manage clarification, incomplete tenders or other issues, the breach of which could amount to their being excluded from the procurement process.

- (d) The deadline/ time allowed for **Suppliers** to submit a **Quote/ Tender**, this to be proportionate with the complexity of the requirements and in line with the minimum timescales set out in the **Relevant Procurement Legislation**.
 - (e) The means in which the tender must be submitted.
 - (f) It must also make clear whether there is scope to refine the award criteria/ modify the procurement after the **Tender Notice** has been published (this also needing to have been stated in the Tender Notice).
 - (g) It must also detail how suppliers should communicate with the **Council** during the procurement process and the various rounds/ activities.
- 3.3.3 This document must be accompanied by a specification document, a set of terms and conditions, detail of how the contract will be managed and reported on (KPIs, contract performance, payment terms, supply chain management, termination) and any other information as may be needed to allow interested **Suppliers** to submit a compliant tender and understand the delivery obligation against which they must deliver.
- 3.3.4 Support and guidance are available from **Procurement Services** where needed.

3.4 Specification

- 3.4.1 In collating details of the **Council's** requirements, **Responsible Officers** should detail their outcome / output requirements by reference to "**performance or functional requirements**" in order to maximise the opportunity for market innovation in line with the objectives set out within the National Procurement Policy Statement. If this is not possible, and reference to standards, models, or product etc is the only way to set out the requirements, the Specification must make clear that the **Council** will accept equivalences. This is mandated for above threshold contracts and any mandating of specific brands, models, standards, etc. must be in line with the exemptions permitted within the **Regulations** and formally approved by the **Assistant Director for Procurement**.
- 3.4.2 Additionally, in setting these requirements, the **Council** must not seek to artificially narrow competition or favour/ disadvantage a particular **Supplier(s)**.
- 3.4.3 This **Specification** must be legally enforceable and must contain appropriate service levels and/or **Key Performance Indicators**/ monitoring arrangements and/or outcome measures.

3.5 Due Diligence / Procurement Specific Questionnaire/ Conditions of Participation

- 3.5.1 It is essential that the **Council** only appoint **Suitable Suppliers** to deliver public sector contracts. This includes checking whether they are an excluded or excludable Supplier in line with **paragraph 1.15 above** and whether they have the requisite capacity, capability, and experience.
- 3.5.2 To check that a **Supplier** has the technical, legal, and financial capability, capacity, and experience needed to deliver the specified requirements; the **Responsible Officer** must use one of the following approaches.
- (a) **Goods & Services**
- (i) **Above threshold/ Covered Procurement** – in line with the government template Procurement Specific Questionnaire (PSQ)
 - (ii) **Regulated Below threshold** - a basic/ reduced version of the above PSQ/ "suitability" check, included as part of the single stage assessment.
- (b) **Works**
- (i) **Above threshold/ Covered Procurement** – suitability to be assessed either using the PSQ or **Common Assessment Standard (CAS)** either as a discrete **Conditions of Participation** stage or at the same time as the **Tender**.
 - (ii) **Regulated Below threshold** – a reduced/ simplified version of the PSQ or CAS applied as a single or two stage process (where the value exceeds the threshold for Goods & Services).
- 3.5.3 Where a **Supplier** fails a **Suitability** test as set out above, they will be excluded from the procurement/ the award of the contract.
- 3.5.4 All assessments of the supplier's economic and financial standing must be conducted by Finance and Procurement and in accordance with Procurement Guidance. Only those suppliers who meet the **Council's** minimum requirements of economic and financial standing should be awarded a contract.

3.6 Award Criteria

- 3.6.1 The following applies to the design of a procurement, on a proportionate basis and must be applied to the award of all contracts with a value of £150,000 or above, generally applied to contracts above £30,000 and applied as relevant and proportionate to contracts below £30,000.
- (a) **Responsible Officers** are required to design the **Award Criteria** and **Assessment Methodology** to identify the **Most Advantageous Tender**; this to be in line with these **Rules** and the **Relevant Procurement Legislation**.
- (b) This must include detailing whether the **Assessment Methodology** will be based on **lowest price, Price per Quality Point**, or a **price: quality ratio**.
- (c) In all case, the following will apply.
- (i) **For technical/ quality, social value and/ or Value for Money considerations** - the detailed questions (award criteria) should include specific response guidance, the importance/ weighting to be applied to each question and the **Assessment Methodology**/ scoring matrix (usually 0-5). They must also be related to the **Subject Matter of The Contract** and incorporate **Council** policy where appropriate to do so.
 - (ii) **For Price consideration** – details on how the value will be calculated and then how it will be evaluated (e.g., the weighting allocated to the price as a whole or parts therein or divided by the quality score).
- 3.6.2 For **Public Contracts**, once the **Tender Notice** has been published, this **Award Criteria** cannot be amended (refined); unless specifically allowed for in the **Tender Notice**, the amendment is not substantial, and the change is implemented before the last chance to submit tenders as per the **Relevant Procurement Legislation**.

3.6.3 Further guidance on designing the **Award Criteria** and **Assessment Methodology** is available from **Procurement Services**.

3.7 Form of Tender

3.7.1 All **Suppliers** will be required to sign a disclaimer when submitting their tender; specifically relating to their conduct during the procurement, their adherence to the condition of tendering, the acceptance of the contract terms and their agreement to hold their price open for a specific amount of time.

3.8 Sensitive Commercial Information

3.8.1 The **Council** has a duty not to disclose any information agreed to be **Sensitive Commercial Information** in line with the **Relevant Procurement Legislation**.

3.8.2 Suppliers should be requested to clearly identify, either in the Quote/ Tender or a register, the information they deem to be Sensitive Commercial Information, the reason for the assertion and the potential adverse impacts that disclosing this information.

3.9 Document Format

3.9.1 All documentation and communication will be issued and returned electronically, the documents may, therefore, be issued as attachment in Microsoft or Adobe formats (unless otherwise explicitly stated) or built into and answered in the e-sender portal.

3.10 Document Retention

3.10.1 For all Procurements, irrespective of value, the **Responsible Officer** shall keep a copy of all Procurement/ **Associated Tender Documents** in accordance with the **Council's** records retention policy.

4 Procurement Process & Contract Management

4.1 Procurement Launch

4.1.1 All tenders and quotations with a value equal to or in excess of £30,000 must be conducted through the **Council's** e-sender portal except as permitted in these Rules or with the prior written approval of the **Assistant Director of Procurement**

4.1.2 The **Council** is required to publish a full set of procurement/ **Associated Tender Documents** when they publish the **Tender Notice**.

4.1.3 **Suppliers** can access these opportunities from the following links:

(a) [E- Sender Portal](#)

(b) [Find a Tender Service](#)

4.2 Process Management

4.2.1 All competitive procedures (level 3 and above) must be managed through the **Council's** e-sender Portal, including all of the following activities.

(a) Communication with Suppliers

(i) All communication with **Suppliers** should be, as far as practicable, be via electronic means, e.g., the e-sender portal.

(b) Clarifications

(i) The **Council** reserves the right to clarify any omissions, ambiguities, or errors as part of its procurement procedure.

(ii) All **Clarifications** (by suppliers and the **Council**) must be raised and managed through the e-sender portal.

(iii) Where a **Supplier** asks a question, the questions and responses within a **Clarification Log** and must be shared with all **Suppliers**; an exception being where the **Supplier** specifies that the question relates to **Sensitive Commercial Information**, and the **Council** accepts this.

(iv) Where, as part of the evaluation process, the **Council** identifies something that appears erroneous, needs to be clarified or was omitted, this must also be raised through the e-sender portal in line with these **Rules**.

(v) A record of all **Clarifications** must be maintained.

(c) Modification of a Procurement

(i) Where the **Council** modifies a procurement, a notice may be required in line with the **Relevant Procurement Legislation**.

(ii) Modification includes - publishing missing documents, updating documentation in response to a clarification, amending the **Council's** requirements, or amending the design of the procurement.

(iii) Where a modification to the procurement is made, the **Responsible Officer** must ensure that **Suppliers** will have sufficient time to address any changes and submit a compliant **Tender Response**.

(iv) Any decision or requirement to modify a procurement must be agreed by the **Assistant Director of Procurement** and the **City Solicitor** and must be made in line with the **Relevant Procurement Legislation**.

4.3 Receiving and Opening Tenders

4.3.1 **Suppliers** must submit tenders in line with the **Invitation to Tender**, and these will be opened in line with said document. Tender returns must be submitted electronically by suppliers via the **Council's** e-sender portal. Hard copy submissions may only be accepted in exceptional circumstances and this must be approved in advance by the **Assistant Director of Procurement** Where tenders are submitted in hard copy, these tenders will only be opened after the published deadline has passed and details of who opened them (a minimum of two people) and when will be recorded and witnessed; these to then be stored securely (before and after) and in line with the **Council's Retention Policy**. Where a **High Value/ Strategic Contract**, the witnesses must include a member of **Procurement Services**.

- 4.3.2 Any **Tender Responses** received late may be recorded as such and excluded as non-compliant, except in the following circumstances, and at the sole discretion of the **Council**.
- (a) the delay was caused by a mistake or failure of the **Council** including for the **Council's** e-sender; or
 - (b) the document or submission in question clearly pre-dated the deadline for receipt of tenders and the decision not to exclude the tenderer would not unduly favour any or disadvantage the other Suppliers.
 - (c) There were no other **Tender Responses** received.
 - (d) The other **Tender Responses** received do not meet the technical requirements/ Specification or do not accept the contract terms and conditions as set out in the procurement/ **Associated Tender Documents**.
- 4.3.3 Where a late Tender Response is to be accepted this must be approved in line with the following
- (a) for contracts valued at £150,000 or less: the **Director** (as per the **Scheme of Delegation**); and
 - (b) for contracts valued at £150,000 or more, the **Assistant Director of Procurement** as well as the **Director** (as per the **Scheme of Delegation**).
- 4.3.4 Any decisions relating to this must be noted in the **Tender Record**.
- 4.3.5 Except in the case given in 4.3.2 (c) Late **Tender Responses** should not be accepted once any opening ceremony has been executed.

4.4 Evaluation Process

- 4.4.1 Where a **Competitive Tendering Procedure** or **Competitive Selection Process** has been applied.
- (a) The **Council** will identify **Suitably Qualified and Experienced Persons (SQEP)** to carry out the evaluations of the various requirements/ question(s) in accordance with the **Conditions of Participation/ Award Criteria** and **Assessment Methodology**. All evaluators will then be required to attend a moderation session (even where there is only one evaluator) with moderation being led by a member of **Procurement Services** for all **Covered Procurements** and any procurements above £150,000 deemed as higher risk.
 - (b) At some/ multiple points in the procurement, the **Council** will/ must check a Supplier (and their supply chain's) suitability to deliver the contract. Where a supplier is assessed as **Excluded or Excludable** (mandatory or discretionary exclusion grounds) the supplier will/ may not be permitted to continue within the process.
 - (c) At **Conditions of Participation** stage, depending on the route to market, the **Council** may limit the number of suppliers to invite through to the next round, depending on how the **Competitive Tendering Procedure** has been designed.
 - (d) Additionally, at intermitted tender stages, the **Council** may, through evaluation, limit the number of suppliers to invite through to the next round.
 - (e) The evaluation of the quality, social value award criteria and the price must be conducted using the **Council's** evaluation guidance, template score sheet and note keeping templates (all of which are then to be sent to and retained by **Procurement Services**).
- 4.4.2 Where a **Direct Award Process** is applied
- (a) Any proposal by a Supplier invited by reference to a **Direct Award Process** must still be assessed for suitability, **Value for Money**, and compliance with the **Council's** requirements.
- 4.4.3 The outcome of the above process to be recorded in the **Tender Report**.

4.5 Post Tender Clarifications

- (a) Where, as part of the evaluation process, evaluators identify any information as incomplete, inaccurate, or misleading, the **Council** may seek **Clarifications/** must give **Suppliers** reasonable opportunity to make representation/ provide relevant evidence, where it would not be unfair to do so; this to be conducted in line with the **Relevant Procurement Legislation**.
- (b) Where a Supplier is being given an opportunity to provide missing information, correct erroneous information or clarify an ambiguity, this must be approved in line with paragraph 4.3.3 above.

4.6 Negotiations

- 4.6.1 Negotiations will only be permitted where it is expressly stated in the procurement documentation (Covered Procurement), or the contract is being awarded by way of a **Direct Award Process**. All negotiations must be conducted in compliance with the process set out in the procurement documentation, these **Rules**, and the **Relevant Procurement Legislation**. Where the contract is £150,000 or above, **Procurement Services** must be consulted and involved in both the process design and the conduct of the negotiation process.
- 4.6.2 If a supplier attempts to negotiate a contract post award, where this is not permitted, the **Council** may disregard the **Supplier** and award the contract to the next ranked compliant **Supplier**.

4.7 Preferred Supplier Identification & Assurance

- 4.7.1 Once the evaluation process in a **Competitive Tendering Procedure** or **Competitive Selection Process** is complete, and the **Most Advantageous Tender/** the **Preferred Supplier** has been identified in line with the published **Award Criteria** and **Assessment Methodology**, the **Supplier** suitability checks referenced above must be refreshed to ensure that they are still a **Suitable Supplier** (have not become an **Excluded Supplier**).
- 4.7.2 Where a **Direct Award** is being made, the preferred Supplier's suitability must be checked before award.
- 4.7.3 Authority to award the **Contract** shall be by the **Officer** with appropriate delegation in accordance with the **Council's Scheme of Delegation**.

4.8 Tender Record

- 4.8.1 **Responsible Officers** must, throughout the design and administration of a **Covered Procurement**, record all decisions in a **Tender Record** in accordance with **Relevant Procurement Legislation**. As a minimum, this report must cover decisions and reasons for the following,
- (a) How the **Council** has “*had regard*” to the **Procurement Objectives**, **NPPS** and broader **Social Value** considerations.
 - (b) Use of **Preliminary Market Engagement**
 - (c) Considerations around the Use of **Lots**
 - (d) Whether the **Contract** has been assessed a **Strategic Contract**.
 - (e) The **Risk Assessment** outcome.
 - (f) **Conflict of Interest** statement
 - (g) Route to market decisions, e.g., **Competitive Tendering Procedure**, use of a **Framework** etc.
 - (h) Decisions made any each and all stage of a procurement process, e.g. limiting **Suppliers**.
 - (i) **Abnormally Low Tenders**
 - (j) **Improper Behaviours**
 - (k) **Excluding Suppliers**.
 - (l) The recommendation to award including who, why and the benefit their **Tender Response** provides. OR
 - (m) Where no award is to be made, the reason for terminating the procurement.
 - (n) Details of all notices published, when and why.
- 4.8.2 This record is also required where a **Direct Award** is made and must include details of the justification with appropriate referencing to the with **Relevant Procurement Legislation**.

4.9 Award Governance

- 4.9.1 Before **Suppliers** can be notified of the recommendation, the decision to award must be approved in accordance with the **Council’s Scheme of Delegation** (and depending on value/ risk, in accordance with the **Gateway process**)

4.10 Supplier Notifications

- 4.10.1 Once the recommendation is approved, and depending on the **Contract Value**, **Suppliers** must be notified of the outcome, at the same time, and in line with the following.
- (a) For **Public Contracts**, **Suppliers** must be issued with an **Assessment Summary BEFORE**, a **Contract Award Notice** is published.
 - (b) For **Regulated Below Threshold Contract**, **Suppliers** should be provided with a similar and proportionate information as to enable them to understand the reason for the decision (as best practice) but there is no requirement to publish a **Contract Award Notice**.
- 4.10.2 This summary/ notification must include the scores and the reason for those scores, for each of the award criteria, in consideration of the **Assessment Methodology** as set out in the procurement/ **Associated Tender Documents**. For Covered Procurement, **Unsuccessful Suppliers** must also be provided with the same information relating to the **Successful Supplier**.

4.11 Standstill Period & Contract Notices.

- 4.11.1 For all **Above Threshold/ Covered Procurements**, the **Council** must apply a Mandatory **Standstill Period** before entering into the **Contract** and in line with the **Relevant Procurement Legislation**. (Excluding **Contracts** awarded under a **Special Regime** or under a **Framework**, in which cases a **Standstill Period** is optional, but encouraged)
- 4.11.2 Following the expiry of the **Standstill Period**, the **Council** will also be required to publish a notice to confirm the contract has been awarded, usually within 30 days of that award (dependant on whether it is subject to the **General Rules** or a **Special Regime**).
- 4.11.3 For **Below Threshold Contracts**, there are no obligations to apply a **Standstill Period**; however, where the contract is deemed **High Risk** and/ or **Strategic** then advice should be sought from **Procurement Services** as to whether to apply a **Voluntary Standstill Period**.
- 4.11.4 Where the **Below Threshold Contract** has a value in excess of £30,000 inc. VAT, the **Council** will be required to publish a notice to confirm the contract has been awarded, this within 30 days of that award.
- 4.11.5 Further guidance on Standstill Periods and Notice obligations are available from **Procurement Services**.

4.12 Contract Execution (Thresholds/ Approval)

- 4.12.1 All contracts must be signed or executed in accordance with the following rules:

Table 5 – Contract approval

Authorised Signatory	Values and method
Directors	Contracts up to £5 million inc. VAT - signed underhand (wet copy or electronic signature)
City Solicitor	Contracts with a value in excess of £5 million inc. VAT executed as a Deed.

	Contracts below this value may also be executed as a Deed by the City Solicitor where an increased liability / retention period is of likely benefit to the Council - e.g. works contracts, design contracts, etc. - or in any other case where the City Solicitor considers this appropriate.
--	--

- 4.12.2 When acting under a general delegation in awarding a contract, **Responsible Officers** must make an appropriate record of the decision and notify democratic services.
- 4.12.3 A record of the contract and a copy of all executed contracts must be added to the **Contracts Register** (with physical copies of contracts executed as a deed stored securely).

5 Contract Management

5.1 Overview

- 5.1.1 **Contracts** must be managed in accordance with both these **Rules**, **Relevant Procurement Legislation** and the **Council's** own processes.
- 5.1.2 **Contracts** deemed as large/ strategically important are likely to have a dedicated project manager to ensure compliance with these Rules.

5.2 Strategic Contract Support Board

- 5.2.1 The **Strategic Contract Support Board** shall be responsible for oversight of Critical Risk Strategic Contracts.
- 5.2.2 This to include periodic reports and assessments of performance.

5.3 Meetings & Performance Management

- 5.3.1 The **Responsible Officers/ Managers** will set up a series of meetings to kick off, administer and manage delivery of the contract. For contracts above £150,000 these meetings will as a minimum monitor and report on;
- (a) Supplier & Supply Chain Suitability – ensure the **Council** is not contracting directly or indirectly (key sub-contractors) with unsuitable (Excluded/ Excludable) suppliers. **Procurement Services** and **Legal Services** must be consulted before any action is taken against a supplier.
 - (b) **Key Performance Indicators** – these levels/ delivery requirements to be set in consideration of government guidance and the reporting mechanisms within the e-sender portal. All contracts above £150,000 will be subject to summary KPI reporting on the **Council's** In-tend contract register on a quarterly, milestone or combination basis as instructed by **Procurement Services**. For Public Contracts with a value in excess of £5 million, performance against a minimum of 3 KPIs will need to be published using the set criteria and in accordance with the **Relevant Procurement Legislation**.
 - (c) Contract Performance – e.g., satisfactory delivery of the contract.
 - (d) **Council** Payment Performance –the **Council** is required to pay the Supplier within 30 days of receiving a valid/ undisputed invoice.
 - (e) Supplier Payment Performance - the Supplier is required to pay their supply chain within 30 days of receiving a valid/ undisputed invoice.
 - (f) Supplier Contracts – the **Supplier** is required to enter into a legally binding agreement with suppliers on whom they are relying on to meet the technical, legal, or financial **Conditions of Participation**.
 - (g) Modifications – all modifications to a **Contract** must be documented, along with their value and justification. Where the **Contract** has a value of £150,000 or more, or the modification will result in a **Contract** value that exceeds £150,000, the **Responsible Officer** must consult with **Procurement Services** before making any such modifications.
- 5.3.2 Further guidance is available from **Procurement Services** and / or in the **Contract Operations Manual**.

5.4 Contract Modifications

- 5.4.1 All modifications must be managed in accordance with the contract, the contract value, and the **Relevant Procurement Legislation**. Where required by said legislation, a **Contract Change Notice** must be published.
- 5.4.2 Contract modifications typically refer to changes made to an existing contract's terms, conditions, scope, price, or duration. Types of contract modifications include but are not limited to the following -

Table 6 - Contract modification types

Type of Change	Description
Scope	Extension of Scope – Adding new work, services, or deliverables
	Reduction in Scope – Removing or scaling down certain aspects of the contract.
	Technical Changes – Adjusting specifications or requirements due to unforeseen circumstances or advancements
Duration	Extension of Contract Duration – Increasing the contract term due to delays, additional requirements, or project complexity.
	Acceleration of Timelines – Revising the schedule to deliver the contract sooner than planned.
Financial	Price Adjustments – Changes in the contract price due to inflation, material costs, or exchange rate fluctuations.
	Change in Payment Terms – Revising how and when payments are made
Legal & Compliance	Regulatory Compliance Updates – Amending the contract to reflect new laws or industry standards.

	Risk Allocation Changes – Modifying liability, indemnities, or insurance requirements.
Contractor & Subcontractor	Change of Contractor – Allowing for a new contractor due to insolvency, poor performance, or a company takeover (Novation).
	Introduction or Removal of Named/Specified Subcontractors – Approving new subcontractors or replacing existing ones.
Performance & Operational	Service Level Adjustments – Changing key performance indicators (KPIs) or performance targets.
	Operational Restructuring – Revising how services are delivered, such as moving from on-site to remote services.

5.4.3 All **Contract Modifications** explicitly included for within the original contract may be approved in line with the value of the modification and the thresholds in **Table 7** this being subject to the **Supplier's** performing to the satisfaction of the **Council**.

5.4.4 Any modification **not** explicitly included for within the original contract must be approved in accordance with the cumulative value of all and any previous modification in line with **Table 7**. Advice must be sought from Procurement Services in all instances.

Table 7 - Modification approvals

Type of contract	Approvals required
Services/Supplies	Modifications to a contract with a value equal to or greater than £150,000, will require approval from Procurement Services
Light Touch Regime Services	Modifications to a contract with a value equal to or greater than £500,000, will require approval from Procurement Services
Provider Selection Regime Services	Modifications to a contract with a value equal to or greater than £150,000, will require approval from Procurement Services
Works	Modifications to a contract with a value equal to or greater than £5 million, will require approval from Procurement Services and Legal Services

5.4.5 where the **Contract** was subject to the **Gateway Process**, the modification will need to be approved through the same process.

5.4.6 Where the modification results in a **Regulated Below Threshold Contract** becoming an above threshold/ **Public Contract**, an **assessment** must be carried out by **Procurement Services** to ensure compliance with the **Relevant Procurement Legislation**; *before the modification can be approved.*

5.4.7 All modifications must be completed in writing, the amendments added to the **Contracts Register** and where they relate to a **Public Contract**, the **Responsible Officer** must publish any **Notices** required by the **Relevant Procurement Legislation** and where that **Public Contract** has a value in excess of £5 million inc. VAT, the **Contract** or the modifications to that **Contract** must be published.

5.5 Poor Performance & Termination

5.5.1 In the event that any performance requirements are not being met the **Responsible Officer** must address the issues pro-actively with the supplier in line with the terms of the contract. Where the value of the contract is in excess of £150,000 **Procurement Services** must be notified and advice sought.

5.5.2 In almost all cases the supplier must be notified of the performance issues and be given a reasonable opportunity to agree and implement a rectification plan. Immediate termination may only be applied in the most serious circumstances and approval must be gained from the **City Solicitor** to proceed on this basis.

5.5.3 In the event that any performance requirements are not being met despite efforts to rectify the issues, or there is some other breach of the **Relevant Procurement Legislation**, the **Council** may terminate the contract in accordance with either the stated contract clauses and/ or the **Relevant Procurement Legislation**.

5.5.4 Before considering terminating a **Contract**, the **Responsible Officer** must consult with **Procurement Services** and **Legal Services** to ensure they have complied with the remedial mechanisms in the Contract, specifically, applying a remediation plan, service credits, liquidated and ascertained damages or other remedies. Where this has failed, the contract may be terminated in line with the **Contract** and/ or the implied terms in the **Relevant Procurement Legislation** subject to agreement from **Legal Services**. Unless the **City Solicitor** has approved grounds for immediate termination, the supplier must be notified of the **Council's** intention to terminate the contract in line with any notice periods included for within the contract terms.

5.5.5 Where a **Contract** is terminated, all relevant notices will be published in line with the **Relevant Procurement Legislation**.

5.6 Notices

5.6.1 Where required under the **Relevant Procurement Legislation**, the **Council** will publish the following notices. These notices include.

(a) **Contract Performance Notice** – used to report on KPIs and whether the contract is being delivered to the required standards (on **Public Contracts** over £5 million inc. VAT unless subject to **Exemptions**).

(b) **Payment Compliance Notice** – used to publish the Contracting Authorities payment performance against all Public Contracts as a minimum.

(c) **Contract Change Notice** – used to publish detail of a proposed modification to a contract where there is an increase of decrease in the estimated contract value over a specific value/ percentage.

(d) **Contract Termination Notice** – used where a Contract expires/ is completed, or the **Council** terminates a contract in full.

5.6.2 Further Guidance is available from **Procurement Services**.

6 Other Procurement Considerations

6.1 Waivers Approvals

- 6.1.1 Where a **Responsible Officer** seeks to deviate from the requirements of this document the **Self Service Procurement Document** must be completed and approved in accordance with the following rules:

Table 8 – Waiver Form Approvals

Values	Authorised Signatory
Value up to £150,000 inc. VAT	Director of Service , subject to notifying Procurement Services for monitoring purposes and seeking advice as required
Value in excess of £150,000, inc. VAT but below relevant statutory threshold	Director of Service , and the Assistant Director of Procurement
Value in excess of £150,000, inc. VAT and above relevant statutory threshold	Director of Service , the Assistant Director of Procurement and the City Solicitor

- 6.1.2 The **Responsible Officer** shall ensure that all **Single Tender Forms** and Contracts with a value of £5k or above are recorded on the relevant register/ **Contracts Register** and if over £30,000 inc. VAT, a Notice must be published in accordance with **Relevant Procurement Legislation**.

6.2 Collaborative Procurements

- 6.2.1 Where the **Council** is required under its own powers or at the request of a partner authority to procure on its behalf, those procurements must comply with **Relevant Procurement Legislation**, and other relevant legislation more generally,
- 6.2.2 Each **Contracting Authority** must comply with their own rules with regards **Financial, Procurement** and **Delegated Authority** requirements; and then equally, their own **Scheme of Delegation** for contract signature.

6.3 Purchasing Cards

- 6.3.1 The **Council** operates a purchasing card facility; these are used for low value or one-off incidental spend where it is not efficient to add a supplier to the finance system and carry out a competitive procurement process. They may not be used as a means to disaggregate or bypass these rules.

6.4 Community Right of Challenge

- 6.4.1 Section 81 of the Localism Act 2011 permits relevant bodies (charities, community bodies, town and parish Authority Services and Staff) to submit Expressions of Interest to provide Authority Services. Any such expressions shall be forwarded to **Procurement Services**.

6.5 Grants

- 6.6.1 The **Council** is the recipient and administrator of substantial funding from central government and potentially, other funders.
- 6.6.2 Where this funding is to be granted to organisation to deliver specific aims and objectives for the **Council's** community, this will be administered through a formal process as set out in the **Council's** Financial Rules.
- 6.6.3 It is important to note the differences between a **Grant** and a **Contract**, as the rules which apply are different. The following sets a basic guide.
- (a) A Grant is applied for by an Applicant to deliver a set of aims and objectives; they will set out.
- (i) what they can deliver,
- (ii) how they will deliver it, and
- (iii) how much funding they require.
- There is no consideration in this arrangement as the outputs is not of benefit to the **Council**/ does not fulfil their obligations.
- (b) A Contract sets out the **Council's** requirements that are to be priced and delivered by a supplier. The **Council** will set out.
- (i) Their specific requirements (a specification) and any obligations to be met.
- (ii) The particulars of how they want it delivered and by when, and
- (iii) Their budget.
- Where a **Supplier** is being paid to delivers against a **Council** obligation, there is consideration, and the arrangement becomes a contract.
- 6.6.4 In summary, if the documents to be used include a **"Specification"**, the services are needed to deliver against the **Council's** obligations and/ or includes specific instructions and/ or constraints then it may be a **Contract** and advice should be sought from **Procurement Services**,

7 Glossary of Terms

For the purpose of these Rules the following terms have the meanings set out below:

Term	Meaning of Term
Above Threshold	Means a contract with a value above the threshold set by the Government Procurement Agreement, which is reviewed every 2 years.
Abnormally Low Tender	Means a price that the contracting authority considers too low to deliver the Contract Requirements
Advertised Procurement	Means a procurement whereby the opportunity is placed within the public domain such that any interested supplier may express an interest/ submit a quote/ tender for consideration/ evaluation.
Approved Dynamic Market or DPS	A Dynamic Market approved for use by Procurement Services
Approved Framework	A Framework (including Open Frameworks) approved for use by Procurement Services
Armed Forces Covenant	The Council has signed up to Armed Forces Covenant, in doing so, they have made a promise of mutual support between a civilian community and its local armed forces community. Further guidance is available in the following link. Armed Forces Covenant: guidance
Assessment Summary	A letter detailing the outcome of the assessment of any Tenders received. For the winning Supplier it will include their scores and reasons for those scores against each of the published Award Criteria . For all losing Suppliers , the letter will include their scores and the reason for those scores against each of the published Award Criteria and the same information for the winning Supplier
Associated Tender Documents	Means the suite of documentation that sets out what the Council wants to buy, how, when why and the terms and conditions under which the resultant contract will be administered. These documents together need to provide a Supplier with a level of information that is sufficient for them to submit a compliant tender.
Award Criteria/ Assessment Methodology	criteria set in accordance with section 23 of PA23 against which Tenders may be assessed for the purpose of awarding a Public Contract ; these criteria must. - Relate to the subject-matter of the Contract, - Be sufficiently clear, measurable, and specific, - Not break the rules on technical specifications in section 56, and - Be a proportionate means of assessing Tenders, having regard to the nature, complexity, and cost of the Contract. And where there are more than one, their weighting or relative importance must be stated. Responsible Officers are also required to describe how the Tenders will be assessed (a scoring matrix), and the document must state whether failing to meet a specific score could amount to a Supplier being excluded from the procurement
(Regulated/ nominated) Below Threshold Procurement	A procurement which is below the Covered Procurement threshold and not exempt from the PA23. PPN-11 23-New-Thresholds.pdf (publishing.service.gov.uk) These values apply for 2024 and 2025.
Best Value	The Best Value Duty relates to the statutory requirement for local authorities and other public bodies defined as best value authorities in Part 1 of the Local Government Act 1999 ("the 1999 Act") 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 "
Breach of Contract	Failure to meet any or all of the terms and conditions of the Contract as executed
Capital Expenditure	Expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment, or vehicles.
Capital Programme	The programme of Capital expenditure agreed by Cabinet.
Categories	Where establishing a dynamic market, the Council may divide the DM into categories (Lots/ specialism) to facilitate access by SMEs and effective competition

Central Digital Platform	The central digital platform (CDP) will be where all UK contracting authorities publish information relating to procurement. It is also the place where identifiers are recorded and/or issued and for suppliers to input their commonly used information. It will be a fully integrated digital platform where noticing, sign-in and registration, supplier information all work together to support public sector procurement.
Clarification Log	A record of all clarifications received/ answered during a procurement process.
Competitive Flexible Procedure	This is a multi-staged procurement which can include a discrete Conditions Of Participation stage, limiting Suppliers (following the PSQ or other assessments), one or more Tender rounds (and intermediate assessments), refinement of the Award Criteria , modification of the Tender procedure, interaction with the Suppliers (e.g., negotiations, presentations, site visits) and then following a final submission, there is a potential to finesse the submission and subsequent staged awards – all this being subject to what was specified in the Invitation to Tender document.
Competitive Selection Process	A procurement process where all of the Suppliers on the Framework (or a specific Lot) are invited to submit a Tender in line with the Framework rules and in line with the Specification for the Contract to be let, and the Specification of the Framework .
Competitive Tendering Procedures	This includes the Open Procedure and the Competitive Flexible Procedure
Concession Contracts	a Contract for the supply, for pecuniary interest, of works or services to a Council where— a) at least part of the consideration for that supply is a right to exploit, and b) under the Contract the Supplier is exposed to a real operating risk. (it may also be paid for by service users rather than the Council).
Conditions Of Participation	this is a condition that a Supplier must satisfy if the Supplier is to be awarded the public Contract . These conditions must be a proportionate means of assuring that a Supplier has. - the legal and financial capacity to perform the Contract, or - the technical ability to perform the Contract.
Conditions of Tendering	The rules/ conditions by which a competitive procurement process will be conducted, and with which a Supplier must comply if they are not to be excluded from the procurement process.
Conflict Assessments	Means an assessment that has been carried out by the Council and in which, it identifies all and any potential or actual conflicts and the actions taken/ to be taken to mitigate them to ensure equal treatment.
Conflict of Interest	There is a Conflict of Interest in relation to a Covered Procurement if— A person acting for or on behalf of the Council in relation to the Procurement has a Conflict of Interest, or A Minister acting in relation to the Procurement has Conflict of Interest
Contract (Public Contract or Regulated Below Threshold Contract)	an agreement to be made/ concluded in writing between the Council and a Supplier for a specific set of requirements. For a low value contract, this may be made by way of raising a Purchase Order (PO) and attaching the Council's standard PO terms and conditions.
Contract Award Notice	A notice that is published on the Central Digital Platform and that informs the market of and intent to award and where a Mandatory Standstill Period (or Voluntary Standstill Period) is required, this notice initiates that Standstill Period . There is a different form of notice for below and above threshold procurements.
Contract Change Notice	For Contracts let under the Procurement Act 2023 (after 24th February 2025) A notice that must be published before a Contract modification is applied, where that modification increases or decreases the estimated value of the Contract by— in the case of a Contract for goods or services, 10 per cent or less, - in the case of a Contract for works, 15 per cent or less, or - the modification increases or decreases the term of the Contract by 10 per cent or less of the \Issued in accordance with section 75. For Contracts let under the Public Contracts Regulations 2015 A modification notice must be published where a modification is made under Regulation72(b) or 72(c).
Contract Details Notice	A notice that confirms that the Contract has been entered into within the previous 30 days. There is a different form of notice for below and above threshold procurements.

Contract Management	Contract Management is the active management of the relationship between the Council and the Supplier over the term of the Contract for the provision of services, goods and works to a set of agreed standards.
Contract Management Notices	For Contracts let under the Procurement Act 2023 (PA23) (after 24th February 2025) The Council will be required to publish the following in line with the PA23. Contract Performance Notice – required for all Public Contracts over £5 million and used to report on KPIs and whether the Contract is being delivered to the Council's required standards e.g., satisfactory performance against the KPIs, and/ or a breach of Contract which resulted in, partial termination, and/ or damages. • Payment Compliance Notice – used to publish the Contracting Authorities payment performance. • Contract Termination Notice – used where the Council terminates a Contract in full.
Contract Managers/ Responsible Officer	An Officer with responsibility for conducting the purchasing processes for the purchase of works, goods (goods) or services on behalf of the Council and that manages the resultant Contract and ensure day to day activities are conducted in accordance with its terms and conditions. Full duties are detailed in paragraph 1.6 of these Rules .
Contract Modification	For Contracts let under the Procurement Act 2023 (PA23) (after 24th February 2025) A modification permitted under section 74 and schedule eight of the PA2023 or is not a substantial modification or is a below-threshold modification. For Contracts let under the Public Contracts Regulations 2015 (PCR2015) A modification permitted under Regulation 72.
Contract Operations Manual	Purpose of the Contracts Operations manual is to provide an overview and general summary of a Contract to assist with contract management and governance
Contracting Authority	Means— (a) A public authority, or (b) In the case of a utilities contract, a public authority, public undertaking, or private utility, other than an excluded authority.
Contract Procedure Rules (Rules)	This document setting out the principles of procurement, roles and responsibilities, Contract procedure rules and processes involved in purchasing services, goods, and works Contracts .
Contracts Register	A register of Council Contracts that exceed £5k held by Procurement Services and made publicly available via the Council website.
Contract Value	The estimated total monetary value of a Contract over its full duration and any extensions or potential variations. (N.B. not just the annual value.) Where the duration of a Contract is indeterminate, this will be taken to be an amount of more than the threshold amount for the type of contract.
Council	Portsmouth City Council
Council Amendments	The amendments/ additional contract requirements identified by the Council as being needed to make an industry standard contract suitable for their and a specific project/ contract requirement.
Council Retention Policy	Means the rules that set out how long any individual document must be stored/ retained by the Council .
Councillor/ Member	An elected Member of the Council .
Covered Procurement	Means an above threshold procurement that is intended to result in a Public Contract .
Data Protection Act 2018	Means the legislation that controls how personal information is used by organisations, businesses, and/ or the government.
Contract Managers	These are Officers within service areas across the Council that manage and oversee Contracts and would consult with Procurement Services when re-Tendering or procuring new Contracts .
Dialogue	Means a discussion between the Council and Suppliers about any aspect of the procurement.
Direct Award	Means the award of a Contract without a competitive process.
Direct Award Process	Means awarding a contract to a Supplier without a Competitive Tendering Procedure (Advertised Procurement) and in line with one of the justifications set out the Relevant Procurement Legislation .

Director	An officer of the Council with responsibilities as laid out in Section 2.s5B of the Constitution
Disability Confident	The Council has signed up to being a Disability Confident Supplier and is encouraging Suppliers seeking to do business with the Council to do the same. Further details on what this involves and the benefits for the community are available from the following link. <u>Disability Confident employer scheme</u>
Discretionary Exclusion Grounds	Schedule 7 of the Act sets out the discretionary exclusion grounds, which mostly do not require a conviction but represent situations which may pose unacceptable risks. Schedule 7 Labour market misconduct • Environmental misconduct • Insolvency, bankruptcy, etc • Potential competition infringements • Professional misconduct • Breach of Contract and poor performance • Acting improperly in procurement • Threat to national security
Dynamic Market	a list of Suppliers who have met the published Conditions of Membership and are eligible to submit a Tender against a competition let under the market. These markets can be set up to purchase Covered Procurement requirements that a Council may wish to purchase and require the use of the competitive flexible procedure to award a Contract .
Dynamic Purchasing System (DPS)	A completely electronic system used by a Council (buyer) to purchase commonly used goods, works or services. Unlike a traditional framework, Suppliers can apply to join at any time.
E-Sender System	A system for the end-to-end Tendering process, both Suppliers and buyers submit and respond to Tenders electronically removing the need for paper submissions.
Employees Code of Conduct	The code of conduct binding on all Officers of the Council and being within Part X of the Council's Constitution and viewable on the Council's website.
Equalities Act 2010	Protects individuals from various forms of discrimination and harassment relating to disability, age, gender, religion / belief, and sexuality.
Estimated Contract Value	Means the value being estimated by the Council for the entire possible scope (including any optional extras) and duration (including any possible extensions) of the potential Contract requirements including all other options, premiums, fees etc as may become due under the contract.
Ethical Wall Agreements	Means a legally binding agreement which creates a process for avoiding Conflicts of Interest by limiting disclosure of information to certain individuals within an organisation, thereby building a metaphorical wall between the holders of information and colleagues who may unfairly benefit should they have access to that information.
Excludable Supplier	An Excludable Supplier is a Supplier . To whom a discretionary exclusion ground applies, and such exclusion ground circumstances are continuing/ likely to occur again ; or • They are on the debarment list by virtue of a discretionary exclusion ground. Tenders from excludable Suppliers may be disregarded in any Competitive Tendering Process (s.26(2)) and Contracting Authorities may exclude an Excludable Supplier from participating in a Competitive Flexible Procedure (s.27(1)(b)). The Council may also terminate a Contract with a Supplier who becomes an excluded Supplier after the award of the Contract or where one of their sub-Contractors is an excludable Supplier and they fail to replace them when instructed.
Excluded Supplier	An excluded Supplier is a Supplier . To whom a Mandatory Exclusion Ground applies to, and such exclusion ground is continuing/ likely to occur again; or • They are on the Debarment List by virtue of a Mandatory Exclusion Ground. Tenders from excluded Suppliers must be disregarded in any competitive Tendering process and Contracting Authorities must exclude an Excluded Supplier from participating in a Competitive Flexible Procedure . Supplier must be removed from a Dynamic Market if it is on the Debarment List by virtue of a Mandatory Exclusion Ground and may be removed if otherwise an Excluded Supplier or an Excludable Supplier . The Council may also terminate a Contract with a Supplier who becomes an Excluded Supplier after the award of the Contract or where one of their Sub-Contractors is an Excluded Supplier and they fail to replace them when instructed.

Exempt Contracts	The kind of Contract listed in <u>Schedule 2</u> of the Procurement Act 2023 , and for which the rules of the PA23 do not apply.
Finance	Means the finance team
Financial Rules	The Council's rules relating to financial procedures in Part 3C of the council's constitution and available on the council's website.
Find a Tender Service	Means the website <u>Find a Tender Service</u> , where the Contracting Authorities and Suppliers must register (and receive a Unique identifier), Contracting Authorities will publish notices and other information required under the Relevant Procurement Legislation, and where supplier are to store their core company information.
Framework	An agreement with Suppliers which sets out terms and conditions under which specific purchases can be made throughout the term of the agreement and which has been Tendered in accordance with UK Directives.
Freedom of Information Act	Freedom of Information Act 2000 is an act defining the ways in which the public may obtain access to government-held information.
Gateway Board	Means the group of individual/ roles that oversee and agree the progression of a procurement and/ or a contract through a number of check points.
Gateway Process	Means a process that scrutinises the intention to purchase the referenced requirements, the proposed procurement process, the intention to down select or limit suppliers, award a contract and separately modify the contract. The specific requirements to be determined by the value and risk associated with the contract.
Grant	Means the payment of funds against the delivery of specific aims and objectives.
Improper Behaviour	Means (a) Failing to provide information requested by the contracting authority, (b) Providing information that is incomplete, inaccurate, or misleading, (c) Accessing Confidential Information , or (d) Unduly influencing the contracting authority's decision-making. And, Despite any reasonable opportunity to— (a) make representations, and/ or (b) provide relevant evidence. Fails to do so, such that the Supplier may be excluded.
Invitation to Tender (ITT)	The document that invites Suppliers to submit a Request to Participate or a Tender in response to a Tender Notice . It must include clear instructions of what is required, a description of the procurement process, the Conditions of Tendering , and the Award Criteria/ Assessment Methodology as a minimum.
Judicial Review (JR)	Means a review by a judge in a court regarding the lawfulness of a decision or action taken by a public body. It is a challenge to the way in which a decision has been made, rather than the rights and wrongs of the conclusion reached. There are three grounds for a JR, these are, illegality , irrationality , and procedural impropriety . Remedies under a JR include mandatory orders, prohibitory orders, and quashing orders. There is no right in a JR to claim damages; that does not mean that damages under a different cause of action can be claimed. A successful JR will however damage the Council's reputation.
Joint Venture Partnership	A Joint Venture (JV) is business arrangement where two or more parties agree to collaborate on a specific project or business activity while remaining separate legal entities. Joint ventures are often used to leverage combined resources, reduce costs, and combine expertise. They can take various legal forms, such as corporations, partnerships, or limited liability companies
Key Performance Indicator (KPIs)	a factor or measure against which a Supplier's performance of a Contract can be assessed during the life cycle of the Contract .
Key Decision	A decision as defined within Chapter 13.3.2 of the Constitution . Includes transactions with a value of £250k or 25% of the relevant budget, whichever is the greater.
Legal Services	The Contracts, Commercial and Procurement Legal Team as may be replaced from time to time by the City Solicitor .
Light Touch Regime	These are Contracts /procurements for certain social, health education and other public services and are subject to more flexible procurement rules.
Limit Suppliers	Means the reduction of the number of Suppliers to progress from one stage to the next in a procurement process, based on the evaluation of the submission of a response to Conditions of Participation and/ or Tender Rounds

Liquidated (ascertained) Damages	Means damages/ payments to be made to an injured party where a specific breach (e.g., late performance) has occurred. They are usually set out in the procurement documentation/ draft contract and should be based on ascertainable/ realistic costs. They are established up front to increase certainty of delivery and reduce legal costs at a later stage.
Local Supplier	Means suppliers who have an office with one of the following postcodes PO1, PO2, PO3, PO4, PO5, PO6, PO7, PO8, PO9, PO10, PO11, PO12, PO13, PO14, PO15, PO16, PO17, PO18, PO19, PO20, PO21, PO22, PO30, PO31, PO32, PO33, PO34, PO35, PO36, PO37, PO38, PO39, PO40, and PO41.
Lots	Means splitting the goods, services or works to be supplied into more than one Contract to make them accessible to SME and facilitate effective competition. This is not to be done to circumvent the PA23 .
Mandatory Exclusion Grounds	Schedule 6 of the Act sets out the mandatory exclusion grounds, which are the most serious, high-risk scenarios. Schedule 6 - Part 1 Corporate manslaughter or corporate homicide • Terrorism • Theft, fraud, bribery, etc • Labour market, slavery, and trafficking offences • Organised crime • Tax offences. • Cartel offences • Ancillary offences Schedule 6 - Part 2 • National Security, • Tax Misconduct, • Competition Law Infringements, Or the Equivalent for Conduct Outside The UK, • Failure To Cooperate with An Investigation
MAT	Most Advantageous Tender – Is the Tender that the Council considers— a) Satisfies the Council's requirements, and b) Best satisfies the Award Criteria when assessed against them
Mixed Procurement	A mixed contract may comprise two or more elements that, if procured separately, would have different applicable thresholds.
Modern Slavery	Means when an individual is exploited by others, for personal or commercial gain as set out in the following link. Modern slavery and public health
Negotiation	Means a discussion between the Council and a Supplier with a view to improving the content of Tenders
Notices	Means the publication of information in the public domain (on the central digital platform) where required under the Relevant Procurement Legislation to inform the market of opportunities, decisions made and performance against various requirements.
Officer	Means an employee of the Council
Open Framework	A scheme of successive Frameworks where the initial Framework is open for 3 years or less, and the subsequent Frameworks for a maximum of 5 years The maximum overall term being 8 years
Open Procedure	This is a single stage procedure where any interested Supplier can submit a Tender ; and a Supplier's suitability, capacity and capability and their Tender response are all evaluated together.
Parent Company Guarantee	A contract between a parent company and the Council , guaranteeing that their subsidiary will perform its obligations of their contract.
Performance Bond	A performance bond is issued to by a Supplier to the Council as a guarantee against the failure of the other party to meet the obligations of the Contract . A performance bond is usually issued by a bank or an insurance company.
Pipeline Notice	Means the annual notice to be published by the Council to inform the market of the Contracts to be procured/ awarded in the coming reporting period. This to include all Contracts with a value of £2m or above.

Planned Procurement Notice	Means a notice setting out an intention to launch a procurement in the near future (between 40 days and 12 months after the date of the planned procurement notice)
Preferred Supplier	Means the supplier who has offered the Most Advantageous Tender and to whom, subject to internal approval, the Council intends to award a contract.
Preliminary Market Engagement	This can be used for the purpose of— developing the authority's requirements and approach to the procurement. - designing a procedure, Conditions of Participation or Award Criteria. - preparing the Tender notice and Associated Tender Documents. - identifying Suppliers that may be able to supply the goods, services or works required. - identifying likely Contractual terms. - building capacity among Suppliers in relation to the Contract being awarded.
Presentation, Demonstration, Interview	Mean a meeting with a Supplier where they present their proposed delivery methodology or demonstrate a specific element/ product within their proposal to aid the Council in understanding the proposed solution and how it meets the Specification . These may be scored and may also lead to the Council limiting the number of Suppliers to participate in the next Tender Round .
Procurement	Procurement is the process of acquiring the goods, services and works that the Council needs to operate and meet its statutory obligations, such as equipment and business services. It involves activities such as identifying requirements, selecting Suppliers, negotiating contracts, and managing orders and payments to obtain the best value for the Council (in accordance with these Rules)
Procurement Service	The Procurement Team
Purchasing Card	Corporate credit card used for low value procurements
Procurement Legislation Guidance	Means the guidance issued by the Cabinet Office that is to be considered in the development and delivery of the procurement process. <u>Procurement Act 2023 - Guidance documents - GOV.UK (www.gov.uk)</u> <u>Procurement policy notes - GOV.UK (www.gov.uk)</u>
Procurement Objectives	a) Value for Money b) Sharing information c) Public Benefit d) Acting with integrity e) Removing barriers to SMEs f) Equal treatment
Procurement Thresholds	the values (inclusive of VAT) that determine which route to market to use
Public Contract	All Contract Values which are Covered Procurement (above threshold) under the Relevant Procurement Legislation (this value to be inclusive of VAT)
Public Services (Social Value) Act 2012	This Act places a requirement on procurers to consider the economic, environmental, and social benefits. Please refer to the Corporate Social Value Policy and toolkit
Purchase Order	Mean a legally binding agreement issued by the Council to a Supplier that outlines the specific details of the transaction, such as the goods or services being purchased, their cost, and any other relevant information. This being a standard document accessible on the Council's website.
Quotation/ Quote	The provision of a price to deliver the Council's requirements (may include a method statement too), without the conduct of a formal (advertised) procurement process.
Real Living Wage	Means a wage calculated on the cost of living. The payment of the Real Living Wage is optional. Further information on signing up to this commitment is available in the following link. <u>Living Wage Foundation</u>
Regulated Below Threshold Contract	means a below-threshold contract which is not— a. an exempted contract, b. a concession contract, or

	c. utilities contract.
Relevant Public Sector Legislation	Including but not limited to • Local government Act 1999 – which requires the Council (as a 'best value authority') to make arrangements to secure the continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness. • Local Government Act 2000 – Constitution requirements • Local Government (Contracts) Act 1997 - This Act empowers local authorities to agree terms that will survive the main contract being set aside. • Equalities Act 2010 - the Council must always comply with the Public Sector Equality Duty when conducting public procurement. • TUPE 2006 - which protects employees and may be relevant where the Council is changing contractor or outsourcing/insourcing services. • Localism Act 2011 – which empowers to conduct their business as an individual would, unless otherwise stated and/ or prohibited. • Small Business, Enterprise, and Employment Act 2015 – which requires authorities consider how they can make opportunities accessible by SMEs. • Modern Slavery Act 2015 • The Public Services (Social Value) Act 2012 - Council must consider how what it is procuring may improve the social, environmental, and economic well-being of the area in which the contract will be applied, how it might secure any such improvements and to consider the need to consult. • Local Government Transparency Code 2015 - which requires the Council to publish certain information about public contracts. • The Health and Safety at Work etc. Act 1974 • The Late Payment of Commercial Debts Regulations 2013 - which aims to make pursuing payment a simpler process, reducing the culture of paying late and making payment on time the norm
Relevant Procurement Legislation	• Public Contracts Regulations 2015, Concession Contracts Regulations 2016, or Utility Contracts Regulations 2016 – the legislation that applies to Contracts where the procurement process commenced before 24th February 2025 and where the Contract continues to be used/ delivers post this date. • Procurement Act 2023, and Procurement Regulations 2024 – for Contracts where the procurement process commences post 24th February 2025 • Provider Selection Regime 2023 where the procurement relates to health care services.
Relevant Procurement Policy Notes	Procurement policy notes - GOV.UK
Request to Participate	The submission of a response to the Conditions of Participation published with a Tender Notice where this Conditions of Participation are a discrete stage in a Competitive Flexible Procedure .
Sensitive Commercial Information	Means information which. - Constitutes a trade secret, or - Would be likely to prejudice the commercial interests of any person if it were published or otherwise disclosed.
Section 151 Officer (s151 Officer)	Means the individual (usually the chief financial officer) of the local authority who is responsible for making the necessary arrangements for local financial and management controls, under S151 of the Local Government Act 1972.
Service Credits	Means the amount to be deducted from a payment to a supplier by the Council where the Supplier have not met the stated KPIs/ standards/ deadlines or other contracted obligations.
Site Visit	Means a visit to an office, or project location to aid a Supplier in understanding the Contract requirements/ Specification and to aid in putting in an effective and compliant Tender .
Specification	Means the document that sets out the Council's requirements for a specific contract/ project.
SME/VCSE	Small to Medium Enterprise – fewer than 250 employees; and annual turnover not exceeding approximately £50 million Voluntary, Community, and Social Enterprise - organisations that work for the benefit of communities e.g. charities, community interest companies, or community benefit societies.
Scheme of Delegation	The rules as to who has the authority to make which decisions, as set out Chapter 13/ Part 2 and the procedure in Part 3 of the council's constitution and being available on the council's website.

Self Service	Means a procurement where it is not mandated that the Responsible Officers consults/ requests support from Procurement Services and Legal Service to conduct the procurement of a contract
Standstill Period	Means period of eight working days commencing on the day that the Contract Award Notice was published on the Central Digital Platform. Mandatory for all Covered Procurement other than for the following exception, for which a Voluntary Standstill Period of eight working days may still be applied. ▪ Direct Award under sections 41 or 43 ▪ Award under a Framework. ▪ Award by reference to a Dynamic Market ▪ A light touch Contract. A standstill period can be applied on a voluntary basis; where applied it must still apply a minimum of eight working days.
Strategic Contract Support Board	Responsible for oversight of Strategic Contract Performance. Membership consists of the Assistant Director of Procurement, the City Solicitor and the S151 Officer who will schedule the board as/when necessary.
Subject Matter of the Contract	(a) The goods, services or works to be supplied under the contract, including in respect of any aspect of their production, trading, or other stage in their life cycle. (b) How or when those goods, services or works are to be supplied. (c) The qualifications, experience, ability, management, or organisation of staff where those factors are likely to make a material difference to the quality of goods, services or works being supplied. (d) Price, other costs, or value for money in all the circumstances. For Light Touch Contracts, this also includes. (a) The views of an individual for whose benefit the services are to be supplied (a “service recipient”), or of a person providing care to a service recipient, in relation to— (i) Who should supply the services, and (ii) How and when they should be supplied. (b) The different needs of different service recipients. The importance of proximity between the Supplier and service recipients for the effective and efficient supply of the services.
Suitable Supplier	Means a Supplier who meets the technical, commercial, and legal requirements of the contract and is not excluded on the grounds of mandatory or discretionary grounds, as set out in these Rules.
Suppliers	Means all or any of economic operators, tenderers, bidders, contractors (or subcontractors), third party organisations supplying goods, services or works to the Council
Tender Notices	Regulated Below Threshold Tender Notice - A call for competition (advert) where a Below Threshold Contract which is published on the Central Digital Platform/ FTS. Tender Notice (separate forms for Open Procedure, Competitive Flexible Procedure, Frameworks and Dynamic Markets) - A call for competition (advert) for a Public Contract which is published on the Central Digital Platform/ FTS.
Tender Response	Means a written or formal offer to supply goods, services or works at an agreed price and in response to a set of Procurement/ Associated Tender Documents .
Tender Record	Means a record of all decisions made during the life of a Covered Procurement
Tender Rounds	Means an initial, intermediate, and/ or final Tender stage, in a Competitive Flexible Procedure .
Thresholds	Means the value that determines the rules to be applied to the procurement of a specific contract.
Treaty State Supplier	Means a Supplier that is entitled to the benefits of an international agreement (part of the World Trade Organisation WTO or other formal arrangement)
Unsuccessful Supplier	Means a Supplier that has submitted a tender response but has not been identified as the Most Advantageous Tender .
Utilities Contracts	a Contract for the supply of goods, services or works wholly or mainly for the purpose of a utility activity. (Gas, electric, Water, transport e.g., buses on a fixed network).
Value for Money	the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought - the Most Advantageous Tender
White Ribbon	Further details about this commitment are available in the following link.

	<u>White Ribbon UK</u>
World Trade Organisation (WTO)	The World Trade Organization (WTO) is made of governments and customs territories that set, apply and enforce the global rules for trade between themselves.