

# **Contract Standing Orders**

Rules to be followed when buying works, supplies and services on behalf of the Council

Issue 3 – 1<sup>st</sup> January 2026

## **Version History**

Issue 1 - 24 February 2025

Issue 2 – 3<sup>rd</sup> June 2025

Issue 3 – 1<sup>st</sup> January 2026

## 1. Introduction

These Contract Standing Orders (“the Orders”) set out how the Council authorises and manages expenditure and resulting commercial contracts with other organisations. The purpose of these Orders is to ensure that prior to any significant expenditure there is proper consideration of whether there is a need to buy or if the need could be serviced internally, and that when external expenditure is required it is done in a fair, open and transparent way whilst delivering value and maximising public benefit. Anyone who buys on behalf of the Council, including staff, suppliers and consultants, is responsible for following these Orders and all relevant policies and statutory guidance (see Appendix 1) as well as guidance provided by Procurement. Senior Officers (Heads of Service and above) are accountable for all procurement in their respective area of responsibility. Functions delegated to particular Officers under these Orders may be carried out by other Officers specifically authorised by them, in writing, for that purpose.

All definitions and interpretations used in these Orders, are set out in the definitions table in Appendix 2.

### 1.1. Legal status of these Contract Standing Orders

The Council is required by section 135 of the Local Government Act 1972 to maintain these Orders as part of its Constitution.

The Council’s Monitoring Officer is the custodian of these Orders and is responsible for keeping them under review. If the law is changed in a way that significantly affects these Orders, then the Director of Procurement and/or the Director of Governance and Law will recommend an update to the Audit, Standards and General Purposes Committee/full Council.

The Director of Procurement, in consultation with the Head of Cabinet Office and the Director of Governance and Law, shall have delegated authority to make incidental amendments, from time to time to these Orders, for example when minor updates are required to the guidance in Appendix 1 due to changes to procurement legislation and to job titles and roles of staff.

### 1.2. Governing Legislation

Procurement Legislation has been updated significantly since the publication of the Public Contracts Regulations 2015 (“PCR”). New procurements undertaken by the Council, apart from those for certain health care services, are regulated by the Procurement Act 2023 and the Procurement Regulations 2024 from 24 February 2025.

Procurement of certain health care services is regulated by the Health Care Services (Provider Selection Regime) Regulations 2023 (“PSR”). Schedule 1 of the PSR set out those services that are subject to this regime.

Other legislation may also be applicable, such as the Public Services (Social Value) Act 2012 and the Transparency Code 2015, which also impact on procurement. It is important that Officers are aware of the wider legislative Framework.

Where a procurement was started under the PCR, governance for that procurement or contract continues to be under the PCR rather than the Procurement Act 2023 (“PA 23”).

### 1.3. Key Principles

These Orders are based on the following key principles:

- a. To ensure that the Council meets its statutory duty to deliver **Best Value** and creates healthy competition and markets for the Goods, Services and Works purchased;
- b. To share information and be **transparent** to our residents and suppliers about how the Council spends its money and its procurement policies and decisions;
- c. To ensure that public money is spent **legally and fairly**;
- d. To act and be seen to act, with integrity;
- e. To treat suppliers the same unless a difference between the suppliers justifies different treatment and not put any supplier at an unfair advantage or disadvantage;
- f. To address the environmental impacts of our supply chain in accordance with the Council's Climate and Biodiversity Emergency declaration;
- g. To support **social value** objectives and the Council's public sector **equality** duty, encouraging local small businesses and maximise public benefit; and
- h. To consider how to remove or reduce any barriers to participation for small and medium sized enterprises.

#### 1.4. Compliance

Any breach of the Orders will be reported to the Audit, Standards and General Purposes Committee and may be subject to disciplinary action in line with the Council's Disciplinary Policy.

Every contract for works, supplies and services, made by, or on behalf of the Council, must comply with Procurement Legislation, all other applicable legislation, these Orders and the Council's Financial Regulations and Standard Financial Procedures. Where there is a difference between Procurement Legislation and these Orders, the Procurement Legislation prevails. Where these Orders appear to conflict with other Council determined rules, the Director of Governance and Law shall determine which takes precedence.

#### 1.5. Roles and Responsibilities

The Director of Procurement is responsible for all stages of procurement up to and including contract award across all Services and local systems. The Director's responsibility is managed on a day-to-day basis by the Procurement Team, who advise and assist service areas in undertaking their procurement activities.

##### All Officers are responsible for:

- a. Complying with these Orders, all relevant policies and statutory guidance (see Appendix 1);
- b. Complying with prevailing Procurement Legislation; and
- c. Adopting the key principles set out in paragraph 1.3 throughout all procurement activities.

##### The Procurement Team is responsible for:

- a. Working closely with key stakeholders, Commissioners and Corporate Directors to agree and deliver the Procurement Forward Plan (PFP);
- b. Providing expert procurement advice to secure the right suppliers for the Council;
- c. Maintaining the Contract Management Framework for how contracts are managed - See Appendix 1;
- d. Ensuring transparency of contract spend, contracts and contract opportunities;
- e. Maintaining accurate procurement records as required by internal and external governance; and
- f. Ensuring agreed social value and environmental sustainability requirements are embedded in relevant procurement activities.

**All Commissioners and those who buy on behalf of the Council are responsible for:**

- a. Purchasing from existing compliant contracts where they are available and appropriate;
- b. Ensuring there is adequate budget available for any purchase;
- c. Ensuring that the requirement and specification takes into account and addresses environmental impacts, wherever possible;
- d. Considering how the social value priorities should be supported by the requirements and the supplier;
- e. Ensuring suppliers act ethically and responsibly in accordance with legislation and Council policies;
- f. Raising a properly completed Purchase Order and ensuring it is approved before the requirements are delivered to the Council, regardless of which system is used;
- g. Ensuring specifications meet the defined need and requirements and properly take into account wider local and national priorities where applicable;
- h. Ensuring that Human Resources is consulted and the appropriate approval obtained for requirements of temporary workers or consultants outside any agreed corporate contract; and
- i. Following the guidance and procedures set out in the Contract Management Framework, according to the value, risk and complexity of the contract.

**All Contract Managers and those who manage contracts on behalf of the Council are responsible for:**

- a. Following the guidance and procedures set out in the Contract Management Framework, according to the value, risk and complexity of the contract;
- b. Ensuring Contracts are monitored and managed in accordance with prevailing Procurement Regulations as well as individual contractual requirements, including transparency notifications; and
- c. Ensuring, where applicable, Social Value and Environmental commitments are tracked and delivered.

**1.6. Procurement Type**

Prior to commencing any procurement activity, identify which of the procurement types below, the activity falls into as this will determine which Procurement Legislation and subsequently which thresholds<sub>2</sub> will be applicable:

- a. Goods and Services;
- b. Works;
- c. Light Touch (certain social, health, education and other public services);
- d. Provider Selection Regime (some healthcare services); or
- e. Concession.

There is no flexibility in the application of the Procurement Legislation, so it is crucial the correct provisions are applied.

The Procurement Legislation contains a list of CPV Codes which can be used to identify the types of services where the Light Touch and Provider Selection Regime can be applied. Similarly, CPV Codes can be used to determine where a requirement will be regarded as 'Works' for the purposes of the Procurement Legislation. A link to the CPV code lists is provided in Appendix 1.

Table 1 below shows the definitions for the types of procurement, the Regulatory Thresholds for them and the Procurement Legislation that could apply.

To determine which Regulatory Threshold applies, it is necessary to estimate the value of the Contract. Further guidance on how to do this is included in paragraph 1.8.

**Table 1:**

Procurement Type	Definition	* Thresholds (inc. VAT) (1 <sup>st</sup> Jan 2026)	Procurement Legislation applicable post 24 February 2025
<b>a) Goods &amp; Services</b>	Goods or Services	£207,720	Procurement Act 2023
<b>b) Works</b>	<b>Works</b> - A contract is a “works contract” if its main purpose is— (a) the carrying out of works under the contract (whether or not resulting in a complete work), or (b) to facilitate the carrying out of works otherwise than under the contract, where those works are intended to result in a complete work that complies with specifications set out in, or determined under, the contract. “Works” means the activities which fall within the CPV codes listed in Schedule 3 to the Procurement Regulations 2024.	£5,193,000	Procurement Act 2023
<b>c) Light Touch</b>	Contracts wholly or mainly for the supply of services of a kind specified in regulations. These “light touch services” are set out in Schedule 1 of the Procurement Regulations 2024, using common procurement vocabulary (CPV) codes.	£663,540	Procurement Act 2023
<b>d) Provider Selection Regime</b>	The PSR 2023 are bespoke procurement regulations covering procurement of certain healthcare services in England (not Wales). The services in scope of PSR 2023 are set out in Schedule 1 of those regulations and describe services delivered to patients and service users by ‘relevant authorities’, which include NHS trusts and local authorities.	<b>No minimum threshold all procurements are subject to the PSR requirements</b>	Provider Selection Regime
<b>e) Concessions</b>	<b>Concessions</b> - A contract for the supply, for pecuniary interest, of works or services to a contracting authority where— (a) at least part of the consideration for that supply is a right for the supplier to exploit the works or services, and (b) under the contract the supplier is exposed to a real operating risk.	£5,193,000	Procurement Act 2023

**\*World Trade Organisation General Procurement Agreement Procurement Thresholds change every 2 years. Thresholds listed here are applicable between 1<sup>st</sup> January 2026 and 31<sup>st</sup> December 2028.**

## 1.7. Exempted Contracts

Apart from the exceptions listed below, these Orders cover all spend with external suppliers, regardless of how they are funded, or which systems are used to place orders with suppliers.

The exceptions listed below are managed by separate legislation, policies and / or procedures as well as the applicable Constitutional requirements and Internal Schemes of Delegation (all of which may be amended, repealed and superseded, from time to time):

Exclusion	Notes
Services exempt under Schedule 2 of Procurement Act 2023.	See link in Appendix 1
Contracts for the acquisition or lease of land and/or real estate	Managed via Property Services
Contracts for permanent or fixed-term employment	HR/Recruitment Policies
Direct payments to customers following care assessment (for example, payments under Self-Directed Support or Individual Budgets)	Governed under The Care Act 2014
Non-trade mandatory payments to third parties, such as insurance claims, pension payments, payments to public bodies	
A declared emergency authorised by the Emergency Planning & Resilience Team	The Civil Contingencies Act 2004 / Council's emergency planning or business continuity procedures.
Placement of a child with Special Educational Needs where already directed following statutory assessment, including but not limited to, overarching contracts with independent schools	Children and Families Act 2014, Education Act 1996, SEND Code of Practice: 0 to 25 years and/or any guidance issued by the Education and Skills Funding Agency.

## 1.8. Valuation of Contracts

Procurement Legislation defines how contract values should be estimated and this must be complied with at all times. Guidance on the financial valuation of contracts and principles to be applied is included in Appendix 1. Accurately estimating the value of the contract is important because it determines whether the contract is above or below the Regulatory Threshold and therefore the legal obligations that must be complied with (and the relevant procedure as set out in paragraph 1.9 below).

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of these Orders or Procurement Legislation. Requirements that can reasonably be aggregated for the purposes of their estimation should be included, unless there are good reasons for not doing so.

'Contract value' means the estimated total aggregate value payable in pounds sterling **inclusive of Value Added Tax (VAT)** over the entire contract period and must include all of the facts which are material to the estimate and available at the time, including for example any permitted extensions of the contract, any additional options to procure, or fees, commissions or interest payments.

In the case of Framework Agreements (for the purposes of the PSR) and Dynamic Markets (for the purposes of the PA 23), the contract value must be calculated to include the total estimated value, inclusive of VAT, of all the contracts that could be awarded for the total term of the contract. If it is not possible to estimate the value of the contract, it must be treated as above threshold and the relevant Procurement Legislation applied.

## 1.9. Procurement Method

Procurement must maintain a proper audit trail of all decisions and record all savings and benefits committed by the successful provider(s).

The Procurement Type Summary tables below detail who is authorised to carry out each of the procurement types, the procurement methods available and the Regulatory Thresholds.

If the procurement exercise value falls below the Regulatory Threshold, the guidance set out in paragraph 1.11 must be followed.

The person responsible for carrying out the procurement (as determined by the Procurement Type Summary Tables in paragraph 1.10) must ensure that all requirements are met, including publishing the required procurement notices within legislative timescales.

Any procurement, including contract modifications and extensions, is to be awarded and signed/sealed in line with the Procurement Type Summary Tables below (see paragraph 2.1 for further information about the Procurement Forward Plan (PFP)).

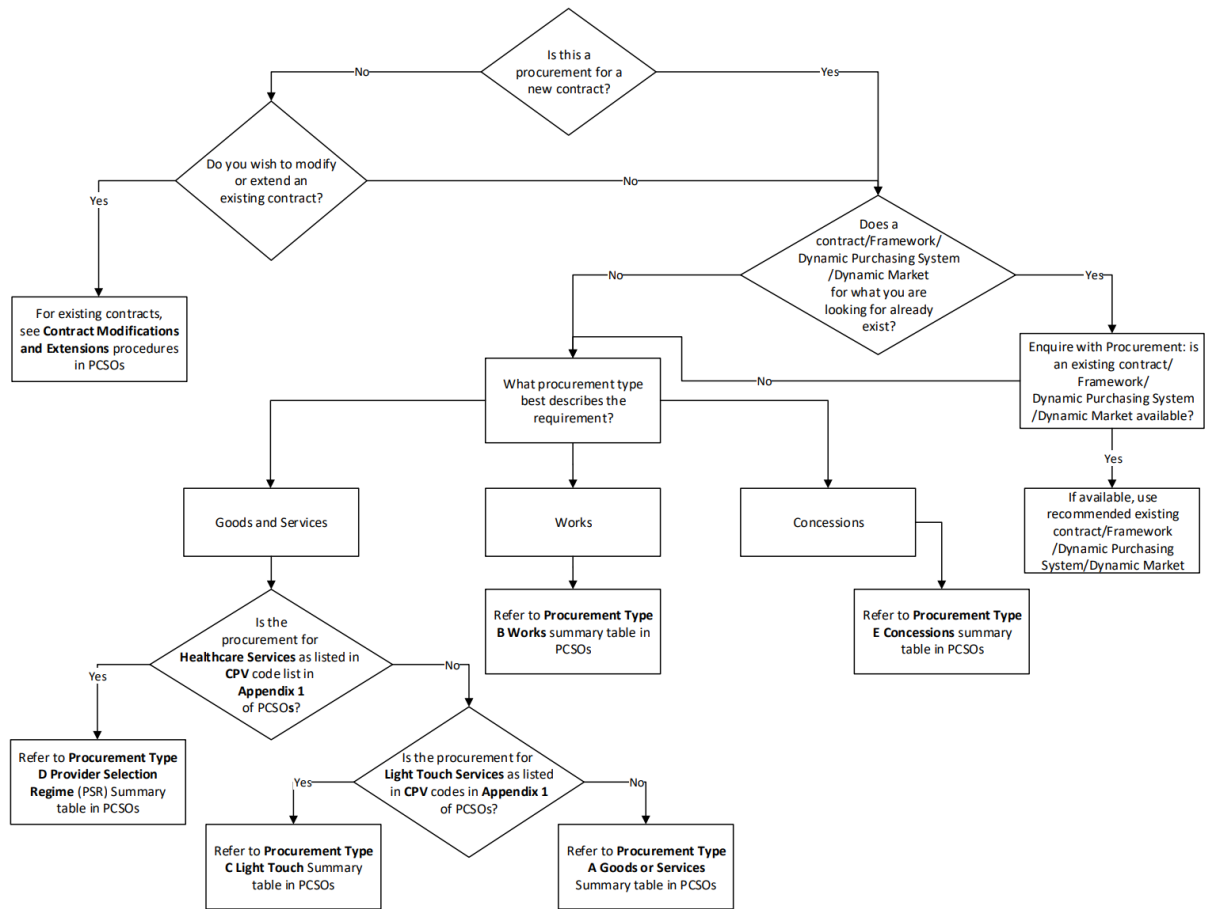
## 1.10. Procurement Type Summary Tables:

**Step 1** Identify which Procurement Type applies to your procurement using **Table 1** located in paragraph 1.6.

**Step 2** Identify which Procurement Legislation applies (this will depend on when the procurement was started and the Procurement type).

**Step 3** Once the Procurement Type and Procurement Legislation that applies has been identified, undertake the procurement accordingly.

The decision tree below be used to help identify which Procurement Type Summary Table applies – if unsure, contact Procurement for support/advice.



**Procurement Type A: Goods or Services\***

Procurements Below the Regulatory Threshold must also meet specific Procurement Legislation obligations and you should familiarise yourself with the requirements of Below the Regulatory Threshold procurements set out in Appendix 1.

Estimated Contract Value (see section 1.8)	Procurement Method	Teams authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award prior to commencement	Who signs the contract on the Council's behalf
<b>£0 - £29,999</b>	Use available Frameworks or DPS' where they offer Best Value; or  Minimum one written quote or commercial negotiation with supplier.	All Council Officers	Order Form or Letter	Budget Holder	Budget Holder's approval of the Purchase Order is sufficient  If Framework or DPS: Budget holder to sign both Access Agreements and subsequent Call-Off Contracts.
<b>£30,000 – £207,719</b> Below Regulatory Threshold	Use available Frameworks or Dynamic Purchasing Systems where they offer Best Value; or  Seek a minimum of 3 quotes or tenders	Procurement, unless agreed otherwise by Head of Procurement (or delegate)	Council's Standard Terms & Conditions or the established Framework or DPS Terms	Up to £100k – Head of Service £100k - £250k – Director	Budget holder
<b>£207,720 - £1m</b> Equal to or above Regulatory Threshold	Via a new procurement process in accordance with PA 2023 or via existing compliant Frameworks/DPS or Dynamic Markets.	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework, DPS or Dynamic Market Terms	Under £250k – Director £250k - £1m – Corporate Director	Under £250k –Budget holder £250k - £1m – Corporate Director
<b>Over £1m</b>	Via a new procurement process in accordance with PA 2023 or via existing compliant Frameworks/DPS or Dynamic Markets.	Procurement	Contract Terms agreed by Legal Services	Beginning a procurement for £1m+ contracts must be authorised by Cabinet as a key decision. This may be via the PFP.  Once authorised by Cabinet, contract awards within 5% of the agreed budget must be agreed by a Corporate Director.  Contract awards over the agreed budget by more than 5% must be authorised by the relevant Lead Member.	Executed under Deed by Legal Services

**Procurement Type B: Works**

Procurements Below the Regulatory Threshold must also meet specific Procurement Legislation obligations, and you should familiarise yourself with the requirements for Below the Regulatory Threshold procurements set out in Appendix 1.

Estimated Contract Value (see section 1.8)	Procurement Method	Teams authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award prior to commencement	Who signs the contract on the Council's behalf
<b>£0 - £29,999</b>	Use available Frameworks or Dynamic Purchasing Systems where they offer Best Value; or  One written quote or commercial negotiation with supplier.	All Council Officers	Industry standard form of contract with Council amendments	Budget Holder	Not Required if Council's standard terms apply – (Approval of Purchase Order)  If Framework, DPS: Budget holder to sign
<b>£30,000 – £1m</b>	Use available Frameworks or DPS' where they offer Best Value, or  Seek minimum of 3 quotes/tenders.	Procurement, unless agreed otherwise by Head of Procurement (or delegate)	Industry standard form of contract with Council amendments, bespoke  Contract terms agreed by Legal Services or established Framework Terms, DPS Terms or JCT / NEC Model Forms.	Up to £100k – Head of Service £100k - £250k –Director £250k - £1m – Corporate Director	Up to £250k – Budget holder £250k - £1m – Corporate Director
<b>Over £1m</b>	<b>If below £5,193,000 (inc VAT):</b> Use available Frameworks or DPS where they offer Best Value; or  Minimum of 3 tenders;  <b>If equal to or over £5,193,000 (inc VAT):</b> Via a new procurement process in accordance with the PA 23, or via existing compliant Frameworks, DPS's or Dynamic Markets.	Procurement	Contract terms agreed by Legal Services	Beginning a procurement for £1m+ contracts must be authorised by Cabinet as a key decision. This may be via the PFP.  Once authorised by Cabinet, contract awards within 5% of the agreed budget must be agreed by a Corporate Director.  Contract awards over the agreed budget by more than 5% must be authorised by the relevant Lead Member.	Executed under Deed by Legal Services

**Procurement Type C: Light Touch**

Procurements Below the Regulatory Threshold must also meet specific Procurement Legislation obligations, and you should familiarise yourself with the requirements for Below the Regulatory Threshold procurements set out in Appendix 1.

Estimated Contract Value (see section 1.8)	Procurement Method	Teams authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award (prior to commencement)	Who signs the contract on the Council's behalf
<b>£0 - £29,999</b>	Use available Frameworks, Approved Lists or DPS' where they offer Best Value; or  One written quote or commercial negotiation with supplier.	All Council Officers	Order Form or Letter	Budget Holder	Budget Holder's approval of the Purchase Order. If Framework or DPS or Approved List: Budget holder to sign both Access Agreements and subsequent Call-Off Contracts.
<b>£30,000 – £663,540*</b> *Current Regulatory Threshold	In consultation with Procurement, determine the best and most proportionate route to market for below threshold.  This may include a full or limited competition or direct award, with consideration of the relevant market. This may include use of available Frameworks or DPS where they offer Best Value.	Procurement, unless agreed otherwise by Head of Procurement (or delegate)	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework/DPS Terms.	Up to £100k – Head of Service £100k - £250k – Director £250k - £1m – Corporate Director  <b>If direct award:</b>  Up to £250K – Director Over £250k – Corporate Director	Up to £250k – Budget Holder £250k - £663,540* – Corporate Director
<b>£663,540- £1m</b> Above Regulatory Threshold	Via a new procurement process in accordance with the PA 23, or via existing compliant Frameworks, DPS or Dynamic Market	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework, DPS or Dynamic Market Terms.	Under £250k – Director £250k - £1m – Corporate Director	Corporate Director
<b>Over £1m</b>	This may be through a new procurement process in accordance with the PA 23, or via existing compliant Frameworks, DPS or Dynamic Market	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework, DPS or Dynamic Market Terms.	Beginning a procurement for £1m+ contracts must be authorised by Cabinet as a key decision. This may be via the PFP.  Once authorised by Cabinet, contract awards within 5% of the agreed budget must be agreed by a Corporate Director.  Contract awards over the agreed budget by more than 5% must be authorised by the relevant Lead Member.	Executed under Deed by Legal Services

**Procurement Type D: Provider Selection Regime (PSR)**

Healthcare and Public Health Services that are in-scope of PSR have no minimum threshold.

Estimated Contract Value (see section 1.8)	Procurement Method	Teams authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award prior to commencement	Who signs the contract on the Council's behalf
£0 - £29,999	One of the following PSR procedures: <ul style="list-style-type: none"> <li>• Direct Award A</li> <li>• Direct Award B</li> <li>• Direct Award C</li> <li>• Most Suitable Provider</li> <li>• Competitive Process</li> </ul>	All Council Officers, with consultation with Procurement as required	Order Form or Letter	Budget Holder	Not Required – (Approval of Purchase Order)
£30,000 - £1m	One of the following PSR procedures: <ul style="list-style-type: none"> <li>• Direct Award A</li> <li>• Direct Award B</li> <li>• Direct Award C</li> <li>• Most Suitable Provider</li> <li>• Competitive Process</li> </ul>	Procurement	Council's Standard Terms	Up to £100k – Head of Service £100k - £250k –Director £250k - £1m – Corporate Director	Under £250k –Budget Holder £250k - £1m – Corporate Director
Over £1m	One of the following PSR procedures: <ul style="list-style-type: none"> <li>• Direct Award A</li> <li>• Direct Award B</li> <li>• Direct Award C</li> <li>• Most Suitable Provider</li> <li>• Competitive Process</li> </ul>	Procurement	Contract terms agreed by Legal Services	Beginning a procurement for £1m+ contracts must be authorised by Cabinet as a key decision. This may be via the PFP.  Once authorised by Cabinet, contract awards within 5% of the agreed budget must be agreed by a Corporate Director.  Contract awards over the agreed budget by more than 5% must be authorised by the relevant Lead Member.	Executed under Deed by Legal Services

**Procurement Type E: Concessions**

Procurements below Regulatory Threshold must also meet specific procurement legislation obligations, and you should familiarise yourself with the requirements of below threshold requirements in Appendix 1.

Estimated Contract Value (see section 1.8)	Procurement Method	Person authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award	Who signs the contract on the Council's behalf
<b>£0 - £29,999</b>	One written quote or commercial negotiation with supplier.	All officers	Standard Terms	Budget Holder	Budget Holder
<b>£30,000 - £1m</b>	Seek at least 3 quotes/tenders/proposals	Procurement	Standard Contract in line with agreed level of risk and complexity	Up to £100k – Head of Service £100k - £250k –Director £250k - £1m – Corporate Director	Under £250k –Budget Holder £250k - £1m – Corporate Director
<b>£1m - £5,192, 999</b>	Competitive quotations Utilise the flexibilities for sourcing the best route to market for below threshold	Procurement	Contract terms agreed by Legal Services	Beginning a procurement for £1m+ contracts must be authorised by Cabinet as a key decision. This may be via the PFP.  Once authorised by Cabinet, contract awards within 5% of the agreed budget must be agreed by a Corporate Director.  Contract awards over the agreed budget by more than 5% must be authorised by the relevant Lead Member	Executed under Deed by Legal Services
<b>£5,193,000 and above</b>	Procure in compliance with the relevant Procurement Legislation.	Procurement	Contract terms agreed by Legal Services	Beginning a procurement for £1m+ contracts must be authorised by Cabinet as a key decision. This may be via the PFP.  Once authorised by Cabinet, contract awards within 5% of the agreed budget must be agreed by a Corporate Director.  Contract awards over the agreed budget by more than 5% must be authorised by the relevant Lead Member	Executed under Deed by Legal Services

### **1.11. Below Threshold Procurements**

Below threshold procurements must also meet Procurement Legislation obligations and you should familiarise yourself with the requirements of Below Regulatory Threshold requirements in Appendix 1.

Any existing below threshold contracts which, when modified, exceed the Regulatory Threshold should be brought to Procurement for review and consideration if it can become a convertible contract (see paragraphs 2.2 and 2.3).

### **1.12. Direct award**

It may be permissible to direct award contracts above and below the Regulatory Threshold, subject to conformance with procurement legislation and consideration of CSO 1.10 above.

You must contact Procurement prior to undertaking a direct award to ensure the criteria is met and a waiver may be required.

### **1.13. Evaluation**

Tenders over Regulatory Thresholds are evaluated in accordance with prevailing Procurement Regulations.

### **1.14. Collaboration with other public bodies and Private Entities**

The Council may enter into collaborative agreements for the procurement of goods and services with other public bodies or Central Purchasing Bodies and partnership agreements with private entities where this offers value for money for residents. Where this is proposed, you must seek advice from Procurement in the first instance.

### **1.15. Framework agreements, Dynamic Purchasing Systems (DPS) and Dynamic Markets**

All proposals to establish or use existing Frameworks, Dynamic Markets or pre-existing DPS', must be referred to Procurement, who will make appropriate arrangements in consultation with Legal Services as required. There are strict legislative requirements for the use of Frameworks and Dynamic Markets and additional guidance for their appropriate use can be found in Appendix 1.

### **1.16. Access Agreements**

Where a contracting authority requires the Council to sign an access agreement relating to a Framework Agreement, DPS or DM, and there is no commitment to call-off, the signing of the access agreement must be authorised by the Head of Procurement.

### **1.17. Concession Contracts**

Concession Contracts are contracts under which the council outsources works or services to a contractor or provider, who then has the right to commercially exploit those works or services in

order to recoup its investment and make a return. The key feature is that the contractor/provider bears the operating risk of the arrangement and so has no guarantee of recouping its investment or operating costs. Concession Contracts must meet certain requirements and advice must be sought from Procurement in the first instance if a concession contract is required.

### 1.18. Procurement Notices

All procurements must follow publication requirements as set out in the prevailing Procurement Regulations (Guidance in Appendix 1).

## 2. Approvals

### 2.1. Procurement Forward Plan

Corporate Directors have a general delegated authority to authorise procurements with a value of up to £1m in relation to the services for which they are responsible. This includes authorising the procurement of goods, works and services, where they deem this appropriate, provided they do so in accordance with these Orders and the Council's Financial Procedure Rules and Financial Regulations. Procurements with a value of £1m or more must be approved by Cabinet.

To enable the Council to maintain an accurate oversight of procurement activity across the full range of council services, the Director of Procurement is responsible for the development of Procurement Forward Plan. This Procurement Forward Plan will be in two parts as follows:

#### Approval to Procure and Award

A 12-month detailed forward plan is developed to identify, for each directorate, all contracts over £1m which are due for renewal, replacement or a new requirement in the coming financial year.

The Procurement Forward Plan: Approval to Procure and Award must be developed and agreed with the Directors of the relevant services and submitted to the Corporate Leadership Team for information and monitoring purposes during the business planning cycle each year. The Approval to Procure and Award must be approved by Cabinet and will identify the level of approval given as follows:

- (i) **Proceed and Award:** Approval for the project to proceed to market, and for the resultant contract to be awarded with no other delegated authority required either from the lead Cabinet Member or from Cabinet itself. In this scenario, Cabinet would be satisfied that they do not require further briefings.
- (ii) **Proceed and Award – With Briefings:** The project can proceed to market without any additional delegated authority, but the lead Cabinet Member is to receive regular briefings from the service throughout the process. In this scenario, Cabinet would be satisfied that the lead Cabinet Member will be given all the visibility required for the project. No authority is required from Cabinet to award the contract.
- (iii) **Cabinet Member Oversight:** The project be prepared for tender, but the lead Cabinet Member has the opportunity to review the commissioning and procurement strategy before the project goes out to market. In this scenario, the lead Cabinet Member is seeking oversight of the strategy before the project proceeds to market and is also kept apprised of progress, through to award, but no additional delegated authority is required from Cabinet to award the contract.

- (iv) **Cabinet Reserves Decision Making:** The project must not proceed to market until approved by Cabinet by way of a full report. In this scenario, Cabinet is reserving decision-making on the contract itself. To be utilised for projects that (for example) are very high value or high profile and that therefore require a significant amount of additional input. Following Cabinet approval the project proceeds, with the lead Cabinet Member apprised of progress through to contract award. This scenario may impact the timeline and is therefore anticipated to be used in exceptional circumstances only.

If a need arises during the year for procurement activity on contracts over £1m which have not been reported through the Approval to Procure and Award, this must be approved by Cabinet in order to enable the procurement to proceed, unless previously authorised by Cabinet.

### Procurement Pipeline

Under Procurement Legislation, the Council is required to publish a 'Pipeline Notice' for all procurement activity proposed to take place in the forthcoming 18-month period and where the project is over £2m. Procurement will publish all planned procurements over £1M and for a 24-month period, to fit better with the key decision making process and financial planning cycle.

The Procurement Pipeline will include procurements proposed to take place in the financial year which follows the Approval to Procure and Award part of the Procurement Forward Plan. For the avoidance of doubt, appearance in the Procurement Pipeline part of the Procurement Forward Plan alone does not constitute an approval to procure or award.

The Procurement Pipeline will be published on the government's Central Digital Platform (and/or any related platform as required by Procurement Legislation from time to time).

## 2.2. Contract Modifications and Extensions

For all modifications and extensions above £30k (inclusive of VAT), you must contact Procurement.

Contracts that have been originally advertised with extension or modification options can be extended / modified (as applicable) in accordance with prevailing Procurement Legislation.

Extensions or modifications of an existing contract which are not included in the original published contract notice or the contract itself can potentially be made without triggering a requirement for a new Procurement exercise provided one of the safe harbours set out in the prevailing Procurement Legislation are satisfied and doing so would offer Best Value.

Procurement guidance is available in Appendix 1 setting out the circumstances under which contract modifications or extensions are permitted.

Permitted contract extensions and modifications must be approved based on the value of the proposed modification/extension, in accordance with the table below:

Value of extension/modification	Who must approve extension/modification
£0 - £29,999	Budget Holder
£30k - £99,999	Head of Service
£100k - £249,999	Director
£250k - £1m	Corporate Director
Over £1m	Corporate Director acting under delegated authority from Cabinet

## **2.3. Convertible Contracts**

Any existing below Regulatory Threshold contracts which, when modified, exceed the Regulatory Threshold, should be brought to Procurement for review and consideration if it can become a Convertible Contract.

Where the extension or modification of a below Regulatory Threshold contract is to become a Convertible Contract under Section 74 of the Procurement Act 2023, the approval to convert the contract must be approved by the Head of Procurement (or delegate).

## **2.4. Technology, Digital Services and Software**

Procurement works closely with IT & Digital to manage the Council's technology and digital needs and the security of the Council's data and network. This applies to any provision of technology, digital services and software that is used by the Council. No technology, digital services or software, including Software as a Service (SaaS), may be procured by the Council without prior approval from IT&D.

## **2.5. Temporary Staff, Consultants and Professional Services**

Temporary and agency staff, and other consultants or contractors, must abide by the terms of their contract with the Council and follow the Council's Code of Conduct and Conflict of Interest Policy.

# **3. Waivers and Emergencies**

## **3.1. Waivers**

A waiver is required for any proposed procurement or contractual action which is not compliant with these Orders. All waivers must be documented by completing a Waiver Report which must be approved by the Head of Procurement and relevant Corporate Director. The Waiver Report must be in the format of the template included on the Procurement Templates section of the Wave.

A waiver cannot be given if it would contravene Procurement Legislation or any other applicable legislation.

A waiver cannot be granted retrospectively; this is viewed as non-compliance with these Orders and may be reported to Audit Standards and General Purposes Committee.

Procurement must maintain a log of all waivers and store documentation for waivers.

## **3.2. Emergency Purchases**

An emergency purchase is only allowed for purchasing where there is an imminent risk to life or property, for example where there is a need to secure Council property or assets when there has been a break in, equipment failure or event such as a flood. You can use a Purchase Card, within your allocated limits, to pay. If the supplier does not accept Purchase Cards then you may give a verbal order and raise a formal Purchase Order the following working day. You must also inform Business Operations of any emergency purchases on the following working day.

Issues arising with contracts leading to a requirement for urgent mitigation action are not necessarily considered Emergency Purchases. This will be dealt with as part of risk mitigation within the contract management process.

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## **4. Contracting with Suppliers**

### **4.1. Purchase Orders**

Once you have found the right supplier as required by these Orders, you must not make verbal commitments but must raise a Purchase Order (via prevailing accounting system). This must be approved in accordance with the Council's Financial Standing Orders before it is sent to the supplier and before any goods or services have been received. Details of financial approval levels are included in the summary tables in paragraph 1.10.

### **4.2. Using Purchase Cards**

The Council makes use of general Purchase Cards to make small purchases in a wide range of situations.

You must use purchase cards only as set out in the Purchasing Cards guidance on the Wave unless otherwise agreed in writing by Procurement, or in life-critical circumstances (see also paragraph 3.2).

### **4.3. Bribery, Corruption, Canvassing and Collusion**

#### **Bribery and Corruption**

You must comply with the Council's Code of Conduct for Employees and the Council's Counter-Fraud Strategy and Framework. You must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for you, the Officer, to prove that anything received was not received corruptly. Gifts and Hospitality must be declared (See Appendix 1 for link).

#### **Canvassing and Collusion**

All Invitations to Tender must include a requirement for bidders to declare their compliance in relation to canvassing and non-collusion. Every contract must contain a clause entitling the Council to terminate the contract and to recover from the contractor the amount of any loss resulting from such termination if the contractor or its representative has practised collusion in tendering for the contract or any other contract with the Council.

#### **Conflict of Interest**

All Officers with influence or involvement in a procurement should comply with Procurement Legislation and must declare any actual, potential or perceived conflict of interest related to a specific procurement / contract and comply with any mitigating actions agreed. This may include the requirement to complete a conflict-of-interest assessment at the start of the procurement process that is proportionate to the procurement being undertaken. This must be updated at key points during the procurement or when new information becomes available. Guidance on the Conflict-of-Interest Assessment and how to comply can be found in Appendix 1.

All Officers must also comply with the Council's Declarations of Interest Guidance and any declarations required as part of a specific procurement.

### **4.4. Audit Requirements**

The procurement process must be documented throughout and a record of all material decisions must be kept.

## **4.5. Grants**

Nothing in respect of the receiving, administration or management of grants into the Council is covered by these rules. However, if any grant money received or issued is to be used for the procurement of goods, services or works then these rules may apply, and advice must be sought from Procurement before proceeding

## **5. Council Requirements / Obligations**

### **5.1. Social Value**

The Public Services (Social Value) Act 2012 places an obligation on the Council to consider the economic, social and environmental well-being of our local area when we award contracts over the Regulatory Thresholds. All Officers should review the requirements and procurement strategies prior to carrying out procurement activity to ensure that opportunities for maximising public benefit in relation to the use of social value are utilised. The factors to consider include but are not limited to:

- a. Requirements and specifications should be designed to enable suppliers to contribute to wider local and national social outcomes, such as local business, skills and employment, community needs, when performing the requirement;
- b. Bidders should be provided with relevant and targeted information in order to enable more effective social value commitments;
- c. As part of the tendering process, an assessment of relevant social value must be carried out and Procurement record the results in the statutory procurement reports and relevant systems as identified;
- d. Appropriate weighting, criteria or other mechanisms should be included in the procurement strategy to secure social value;
- e. Appropriate measures should be included to ensure that social value requirements and commitments are monitored, delivered and, where required, reported on during performance of the requirement;
- f. Officers should consult the Council's Social Value toolkit (see Appendix 1) which provides a practical guide as to how to include social value outcomes in tenders, evaluate bidders and monitor the delivery of these outcomes during the contract; and
- g. Contract Managers are responsible for tracking and reporting social value delivery in line with the Contract Management Framework and prevailing legislation.

### **5.2. Environmental Sustainability**

The Council is committed to ensuring its operations (including the goods, works and services purchased) are environmentally sustainable and resilient to future climate change, promote a circular economy and protect and enhance the natural environment.

Officers are required to support the implementation of the Council's environmental priorities and policies through inclusion of considerations into market engagement, specifications, questions and contract management.

If undertaking a procurement, you must ensure that procurement policy requirements are included in any procurement and contract management activity, this includes but is not limited to:

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- a. Ensuring consideration is given to including environmental sustainability as an award criteria for relevant contracts;
  - b. Ensuring all relevant procurements and contracts include the requirement for a supplier Carbon Reduction Plan;
  - c. Ensuring specifications and requirements are reviewed in line with current local procedures and objectives, using any relevant systems, and appropriate measures which address environmental impacts;
  - d. Having regard to current related environmental policies and measures adopted by the Council and act to address these in the requirement and procurement activity; and
  - e. Contract Managers are responsible for tracking and reporting any environmental measures in line with the Contract Management Framework and prevailing legislation.

### **5.3. Modern Slavery**

The Council has pledged to tackle modern slavery to support global and national efforts to eradicate slavery and exploitation. This includes a commitment to mitigating risks in our procurement activity and associated supply chains. Officers have a responsibility to have due regard to the risk of modern slavery and unethical labour practices in the supply chains of the goods, services and works that are being procured. Officers should implement appropriate due diligence measures in procurement and contract management activity to ensure that suppliers and their supply chain partners are conducting their business dealings fairly and ethically to mitigate the risk of exploitative practices. This includes, but is not limited to:

- a. Ensuring adherence to Section 54 (transparency in supply chains) of the Modern Slavery Act 2015;
- b. Building modern slavery considerations into specification requirements;
- c. Including modern slavery considerations in conditions of participation and tender stage to assess supplier capability to manage risks; and
- d. Embedding due diligence requirements in contractual terms and conditions.

The Council may also introduce from time to time particular local and national policies which support ethical, environmental and sustainable procurement and support social value priorities, and Officers should include these in relevant procurement documentation and procedures. See Appendix 1.

## **6. Liability and Security**

### **6.1. Insurance Liability**

To protect the Council, insurance is required where we use goods, works or services provided by a supplier (including consultancy).

The standard levels of cover for Public Liability Insurance, Employers' Liability Insurance and Professional Indemnity Insurance are set out below:

- a. Public Liability - £10m
- b. Employers' Liability - £10m depending on the contract used

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- c. Professional Indemnity - £2m (undertake a risk assessment and take advice from the Insurance Team)

In some instances where the contract value, risk or scope may be particularly high, additional insurance cover may be required. Equally, lower levels of insurance for some contracts, where appropriate, may be considered. To obtain advice on what level of insurance is appropriate, contact the relevant Officer within the Insurance Team. The agreed level of insurance should be recorded in the contract.

You may ask for insurance where it is proportionate to the delivery of the Contract. You cannot ask for this insurance to be in place prior to the commencement of the contract.

Insurance and turnover requirements must be reasonable and proportionate to the Contract.

## **6.2. Supplier Exclusion**

Procurement legislation requires that suppliers are assessed to determine if they are excluded or excludable from the procurement. Refer to guidance in Appendix 1 on how to assess a supplier.

## **6.3. Financial Security**

The Council must confirm that suppliers are financially robust both prior to contract award and during the life of the contract as appropriate. Where required, details of any bonds, guarantees or other financial security a supplier may need to provide must be set out in the procurement documents.

## **6.4. Document Retention periods**

The retention of tenders and contractual documentation is prescribed in the Limitation Act 1980 and the Procurement Legislation and must be followed. In summary:

- a. All received Tenders and supporting documentation must be retained for a minimum of eighteen months following the issue of the Contract Award Notice.
- b. All signed contracts (including all tender documentation) must be retained for a minimum of twelve years for Deeds and six years for simple contracts following contract expiry or as stated in the Information Asset Register, if different.
- c. Records to be kept that are significant to explain material decisions throughout the procurement (including communications with suppliers). Appendix 1 provides guidance on how to record and keep appropriate records, including after contract award.

Procurement must maintain an online record confirming the location of the contract/tender.

## **7. Managing Contracts**

The Council manages the process of awarding contracts via its e-tendering and contract management systems, to ensure that contracts are properly filed and documented.

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Heads of Service are responsible for the performance of contracts in their area in line with the Contract Management Framework.

All Contracts must have a designated Contract Manager named on relevant systems throughout the life of the contract. Contract Management activities are to be delivered either by a dedicated contract manager or by someone with that responsibility as part of a wider role.

If the Contract Manager changes, this should be declared to Procurement so that the contract records can be updated.

Contracts should be proportionately managed in line with the Contract Management Framework. See Appendix 1. All Level 1 and 2 contracts must have a written business continuity plan, and a contract management plan.

Where contract funding is received by the Council from a third party (for example, an incoming grant), the contract terms must include a provision for dealing with liabilities under the contract should that funding cease to be available.

## **7.1. Contract Formation and Sealing**

Electronic signatures may be used provided that they are in a format approved for use by Legal Services.

Officers should seek advice from Procurement before entering into any contract with an estimated value of £30,000 or less which does not use the Council's standard terms and conditions.

Any contract with an estimated value of £30,000 to £100,000 which does not use the Council's standard terms and conditions must be referred to Procurement for advice before executing the contract.

Any contract with an estimated value over £100,000 which does not use the Council's standard terms and conditions must be forwarded to Legal Services prior to use for advice as to whether the proposed contract adequately protects the Council's interests.

On a case by case basis, the Monitoring Officer may approve other terms and conditions to be used in respect of a particular contract or type of contracts when appropriate to protect the Council's interests.

Contracts with an estimated value over £1,000,000 shall be executed as a deed using the Common Seal of the Council.

Contracts with an estimated value of £1,000,000 or less may be executed as a simple contract and signed by an officer duly authorised for that purpose.

The Monitoring Officer may, on a case by case basis or in relation to a particular class of contracts and taking all relevant circumstances into account, stipulate the method by which a particular contract or class of contracts is to be executed, irrespective of the overall estimated value of the Contract.

## **7.2. Contracts Register**

All contracts over £30,000 (inclusive of VAT), including any variations or amendments, must be registered and maintained in the appropriate Contract Management System (CMS). The Council is required by law to publish transparency data. Data regarding contracts may additionally be maintained in other systems for local use.

### **7.3. Notices required during the life of the Contract**

All contracts must follow publication requirements as set out in the prevailing Procurement Legislation. See Guidance in Appendix 1.