

## **Procurement Standing Orders**

Rules to be followed when buying on behalf of the council

September 2013

Version 0.8 draft

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# 1 Introduction

**Note:** In these Orders, 'You' means anyone who needs to buy from an external supplier.

## 1.1 Key Principles

These Procurement Standing Orders are based on these key principles:

- To get good **value for money** through appropriate market competition for contracts, so that we offer best value for services to Surrey residents.
- To be **transparent** to our residents about how we spend their money.
- To make sure we spend public money **legally and fairly**, and to **protect** us from undue criticism or allegation of wrongdoing.
- To support **sustainability** and **social value** objectives, and our public sector **equality** duty, encouraging local small businesses in Surrey.

## 1.2 Compliance

All Officers, and any external contractors empowered to form contracts on behalf of the council, must comply with these Orders at all times. If you breach them, you are breaching the council's Constitution and this will lead to disciplinary action.

You must not artificially separate contracts or spending to avoid these orders applying at any level, except insofar as this is necessary to enable small or medium-sized enterprises to compete, whilst remaining compliant with the law.

Where there is a difference between current legislation governing procurement and these Orders, the legislation prevails and you must comply with it.

Where these Orders appear to conflict with other council-determined rules the Head of Procurement and Commissioning determines which takes precedence.

The Procurement & Commissioning Service reports breaches of these Orders to the Procurement Review Group (PRG) see section 3.6.2), which has the option of two courses of action:

**Informal Notice** – Where the non-compliance was as a result of lack of information or beyond your control, the PRG makes recommendations to ensure future compliance.

**Formal Warning** – Where there is evidence of deliberate non-compliance the PRG advises the Head of Human Resources of a formal breach of your terms and conditions for appropriate action to be taken and recommendations made to ensure future compliance.

## 1.3 Scope

These Orders set out how the council authorises spending by Officers. This includes all types of goods, works and services, as well as non-permanent workforce such as temporary and agency staff and consultants.

Apart from the exceptions listed below, these Orders cover all spend with external suppliers regardless of how they are funded (for example, revenue, capital, grants, ring-fenced government money and/or any third party funding).

These Orders do not apply to the following items, which are managed by separate policies:

<b>Exclusion</b>	<b>Relevant Policy/Law</b>
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
Works or Orders placed with utility companies (eg re-routing pipe-work)	This is carried out as part of larger construction contracts
Direct payments to customers following care assessment (for example, payments under Self-Directed Support or Individual Budgets)	Dept of Health Community Care Assessment Guidance 2004
Non-trade mandatory payments to third parties, such as insurance claims, pension payments, payments to public bodies	These are not subject to competition due to their nature
Fees for external auditors	These are appointed by the Audit Commission under the Local Govt Finance Act 1982
A declared emergency authorised by the Emergency Planning Officer	The Civil Contingencies Act 2004

#### **1.4 Roles and Responsibilities**

The Head of Procurement and Commissioning is responsible for the complete process from procurement through to ordering and paying suppliers (known as 'Procure-to-Pay') across all Services and local systems. Any developments in the design of the process require the approval of the Head of Procurement and Commissioning or authorised delegate.

The Procurement and Commissioning Service is responsible for:

- (a) Providing expert market knowledge to help you find the best supplier to meet specified needs
- (b) Managing and executing all tenders and contract awards over £100,000
- (c) Engaging colleagues from Finance, Legal and HR in all contract strategies and awards
- (d) Developing strategic action plans for each category of spend
- (e) Taking a commercial lead on all strategic or critical contracts and relationships with suppliers
- (f) Ensuring that good practice contract and supplier management is written in to agreements with our strategic and critical suppliers
- (g) Developing our supply chain to deliver performance improvements
- (h) Ensuring transparency over spend, contracts and contract opportunities
- (i) Embedding social value across the supply chain

- (j) Working closely with Shared Services to manage a master database on SAP of suppliers that you may use
- (k) Working closely with Shared Services to ensure effective purchasing practice

Anyone who buys from external suppliers is responsible for:

- (a) Following these Orders
- (b) Using suppliers on the Product Directory or via consultation with Care Sourcing teams
- (c) Checking there is adequate budget available
- (d) Involving Procurement and Commissioning at the earliest opportunity when you need a new supplier
- (e) For new purchases of £50,000 and over, consulting with and obtaining approval from your Finance Manager
- (f) Ensuring technical specifications meet your requirements
- (g) Ensuring specifications take into account equality and diversity as well as social value implications, and carrying out Impact Assessments where appropriate
- (h) Putting in place effective monitoring of the performance and management of contracts

## **1.5 Transparency**

This section sets out how we meet our obligations to be transparent in our procurement, and maintain proper accountability to the public.

### **1.5.1 Publication of Contract Opportunities, Spend and Contracts**

We publish details of all spend with suppliers over £500 on our website, in accordance with current government requirements, as well as a list of current contracts.

We also publish all opportunities for contracts over £10,000 via our website, and on the national Contracts Finder website. Contracts over the current EU threshold are advertised via the Official Journal of the European Union (OJEU).

### **1.5.2 Freedom of Information**

Under the Freedom of Information Act 2000, we have an obligation to publish specific information in the public domain on request. However, the FOIA enables certain confidential information and commercially sensitive material to be withheld. You must therefore ensure tender information is kept confidential at all stages, especially during tender evaluation and after the contract is awarded. Suppliers must also be given the opportunity to highlight in their tender any information that they would not wish disclosed under FOIA.

### **1.5.3 Developing Surrey suppliers**

The Council is committed to encouraging businesses in the county to compete for contract opportunities in order to support the development of the local economy, and provides information and support via dedicated websites and through supplier events. For purchases under £100,000 we actively encourage the use of Surrey-based suppliers where they can offer best value for money.

#### 1.5.4 Conflict of Interest

Our market searches, procurement and purchasing must be carried out free from any conflict of interest to support our transparency objectives. An 'interest' means any consideration or anything of economic value, including future consideration.

Conflicts of interest can arise when someone who is involved in these processes has a close connection with another party who is also involved which may mean they could influence, or be influenced by, the outcome of a buying decision.

Conflicts of interest can arise in the procurement process in a number of ways, including:

- a. Where someone who is actually buying goods or services for the council, or giving budgetary approval for the purchase, has an interest in the supplier's business
- b. Where someone with an involvement in a tender or other sourcing process has an interest in the a potential supplier's business
- c. Where Suppliers bidding for a contract with the council have an interest which could enable them to influence unfairly the outcome of a sourcing process

If you are a council employee you must follow the [HR Policy on Conflicts of Interest](#), ensure they are declared appropriately, and ensure you do not participate in any buying activity where these Conflicts of Interest could arise.

Temporary & agency staff, and other consultants or contractors must abide by the terms of their contract with the council and follow the council's HR policy on Conflicts of Interest and on Equalities and Diversity.

Staff may supply goods, works and services as long as the policy has been followed, and any interests declared at the time a contract is agreed. Staff who become suppliers must not have access to systems to raise Shopping Carts or other Purchase Orders, or to view spend reports. There must be demonstrable transparency and fairness in any transactions of this nature.

Suppliers bidding for contracts with the council are required to declare any conflict of interest.

## 2 Buying via existing contracts

### 2.1 *Using the Product Directory to find an existing supplier*

To buy goods, works or services from external suppliers you must use the Product Directory, which is a searchable A-Z list of products and suppliers maintained by Procurement and Commissioning on S-Net.

Once you have found the right supplier, you must not make verbal commitments but must raise a Purchase Order (via a SAP SRM Shopping Cart or equivalent service-specific system). This must be approved according to the council's Financial Regulations before it is sent to the supplier.

You must not raise the order retrospectively (that is, once the invoice has already arrived from the supplier). This is to ensure that the purchase is properly approved in advance and that the commitment against the budget is clearly visible to the budget-holder. Failure to raise an order in advance is a breach of these orders.

## **2.2 Service-specific arrangements**

### **2.2.1 Ordering using Service-based systems**

Several Council Services use local systems to send orders to suppliers, for example: Adults Social Care, Transport, Highways, Property and Libraries. All such systems must support financial approval of orders in accordance with the Financial Regulations. Shared Services will maintain all supplier master data on these systems to ensure it is of high quality and consistent with the master database of suppliers kept in accordance with section 1.3 of these orders.

### **2.2.2 Buying Direct Care**

Direct Care is defined as 'services commissioned to directly support the well-being and health of an individual'. Procurement ensures that only suppliers pre-qualified according to external regulation and insurance liabilities (referred to as Approved Suppliers) are permitted to provide services for Direct Care. All Approved Suppliers are published on the Product Directory on S-Net.

Anyone buying Direct Care, regardless of value, must use the Product Directory. Once you have identified the approved supplier, you must have a care instruction financially approved and issued to the supplier. Approval, as with all orders, must be in accordance with the council's Financial Regulation

#### **2.2.2.1 Where a suitable Approved Supplier is available**

The council provides Care Sourcing teams to advise and order certain types of Direct Care. These are identified on the Product Directory, and where they exist you may not engage any other supplier unless Care Sourcing team has first approved them in writing.

When buying Direct Care via a Care Sourcing team, you must submit a completed Care Plan (confirming the individual's needs and approved budget) to the appropriate Team who review and recommend the most appropriate supplier(s). You must then update the Care Plan and provide a care instruction to the approved supplier.

#### **2.2.2.2 Where no suitable Approved Supplier is yet available**

Where the Care Sourcing team or Product Directory cannot identify a suitable approved supplier for a named individual, then you may propose an alternative via a request to Shared Services using the appropriate on-line form, who will issue a Pre-Qualification Questionnaire to the identified supplier to assess their suitability. Where the conditions are satisfied, the supplier will be contracted and logged. You will then be authorised to raise a care instruction to the supplier.

Procurement rejects new requests where there is a suitable approved supplier that can meet the individual's needs as defined within the Care Plan, or where the proposed supplier does not fulfil minimum safeguarding / social care requirements

You may not engage any supplier not already pre-qualified by Procurement unless it is defined as an Emergency Placement, where it can be demonstrated an individual's health or well-being is at risk. Only the individuals below may authorise an Emergency Placement:

- *Business Hours (0700 – 1900)* The Adults Sourcing Manager may authorise a placement prior to the return of the pre-qualification questionnaire as long as an emergency placement letter is signed and returned by the supplier and the full questionnaire is subsequently completed.
- *Out of business hours (1900 – 0700)* the Emergency Duty Manager may authorise the use of a non-approved supplier; all such requests must be communicated to Procurement the next working day.

### **3 Finding and contracting with new suppliers**

#### **3.1 Overview and summary table**

Whenever it is necessary to contract with a new supplier, you must take into account the 'aggregate' spend forecast. That is, the total amount you expect to spend with a supplier for the duration of the contract. This value is used to determine the approach to be used to find a supplier and put a suitable contract in place.

If you are discussing developments with new suppliers you should take care to ensure that you do not inadvertently share key commercial information such as budgets, existing pricing from other suppliers, or suggestions for improvements unless you have a non-disclosure agreement in place. This protects the council's interests and our intellectual property. Procurement and Commissioning are responsible for putting these agreements in place where appropriate, and can provide commercial advice in dealing with suppliers.

A summary table overleaf sets out these different approaches for each threshold aggregate value, and is followed by more detail of each.

**3.1.1 Summary table – Process for finding new suppliers at each threshold level**

Aggregate value	Purchase Card permitted?	How many quotes are required?	How should you approach the market?	Who approves the Market Search?	Who leads Market Search?	Should the contract be formally advertised?	What type of contract is required?	Who must approve the contract award?	Who signs the contract on our behalf?	What is the minimum sourcing time?
£0 to £9,999	Yes, within individual card transaction/ credit limits	One	Email / Call Supplier. Use a Surrey supplier if they offer best value.	Shared Services Buying Solutions Team (contact My Helpdesk)	Service Officer	No	SCC Standard Terms (see SCC website)	Service Officer	Not Required	n/a
£10,000 to £99,999	Only in formal emergency cases	Minimum of Three	Send the Request For Quotation to the Buying Solutions Team  Seek at least one quote from a Surrey supplier if available.	Shared Services Buying Solutions Team (contact My Helpdesk)	Shared Services Buying Solutions Team	Yes, via Contracts Finder, or via mini-competition against a framework. Suppliers must be given 7 working days to respond	SCC Standard Terms, or if via tender, a specific contract approved by Legal Services	Shared Services Buying Solutions Team	Head of Service or delegated manager	7 Days, or 30 days if via tender
£100,000 to £499,999	No	(via tender process)	Issue Tender via Procurement	Procurement and PRG	Procurement	Yes, via Contracts Finder & OJEU for 30 days or as determined by Procurement and regulations	Specific contract approved by Legal services	PRG	Chair of PRG & Head of Service	80 Days (when over EU procurement threshold)
£500,000 and over	No	(via tender process)	Issue Tender via Procurement	Procurement and PRG	Procurement		Specific contract approved by Legal services	PRG and Cabinet	Sealed as a deed via Legal Services	85 Days (to include cabinet call-in)

### 3.2 *Collaboration and the use of frameworks and collaborative agreements*

The council enters into collaborative agreements with other public bodies wherever possible. The council may also chose to award framework agreements, or make use of framework agreements awarded by other public sector bodies. A framework agreement is a general term for an agreement with suppliers that sets out terms and conditions, under which specific purchases, or call-offs, can be made throughout the life of the agreement. The procurement activity to establish a framework agreement is subject to the EU procurement rules. There are different mechanisms for placing call-off orders under a framework agreement and at all times the council must ensure transparency and non-discrimination.

There are a number of established central purchasing bodies, such as the Government Procurement Service and the 'Pro5' organisations, who establish framework agreements which the council can use via a 'mini-competition' to select the best value supplier from the framework.

Use of these contracts remains subject to the internal approval procedures and requirements. Legal Services must be instructed to satisfy themselves that to the best of their knowledge the original agreement:

- (i) was tendered for in accordance with the Public Contracts Regulations 2006 for the potential use by the council,
- (ii) is in the interests of the council and
- (iii) contains conditions of contract acceptable to the council.

Procurement & Commissioning can provide advice on all aspects of the operation and use of collaborative and framework agreements.

### 3.3 *Deciding when to use a grant or a contract*

A grant is a non-repayable sum of money given to an individual or organisation for a specific project or service. A grant usually covers only part of the total costs involved in the project or service. The grant process involves an applicant submitting a proposal (or submission) to a potential funder, either on the applicant's own initiative or in response to a Request for Proposal from the funder.

A procedure is provided on S-Net, which must be followed to decide if a project or service should be delivered via a grant or by a contract.

If, having followed this procedure, your requirement can be delivered through a **grant** then you must follow the grant process on S-Net.

If, having followed this procedure, your requirement can be delivered through a **contract** then follow the instructions at sections 3.6 to 3.8 below.

If you are not clear, then contact My Helpdesk.

### 3.4 *Using Purchasing Cards*

You may only use a Purchase Card where there is no suitable supplier available on the Product Directory and the spend value is below £10,000, unless otherwise agreed in writing by Procurement, or in life-critical circumstances (see also section 3.9)

Shared Services monitor all Purchase Card expenditure to ensure new suppliers are only used when no existing supplier is available.

Purchase Cards are only issued to permanent council employees and are allocated according to OM position.

- Heads of Service and above are issued with a Purchase Card as standard.
- Other Officers may be issued with a Purchase Card following completion of an application form (details available on “S” Net), with the approval of the Budget Holder or Head of Service.

Except in the case of a declared emergency, Purchase Cards **must not** be used for the following types of spend:

- Where a suitable supplier is available on the Product Directory
- Direct Care
- Cash
- Consultants
- Agency Staff
- Construction work
- Stationery for SCC office use
- Alcohol
- IT equipment or consumables for SCC Office use and/or connected to the network
- To settle outstanding invoices
- Travel and subsistence. This must be claimed via the expenses system.
- For any personal spend

### Key Responsibilities

All Card-holders must:

- Comply with the ‘Purchase Card Rules and Guidance’ maintained on S-Net.
- Complete the available e-learning prior to a card being issued, and signify their agreement to comply with the rules.
- Ensure that all transactions are both promptly and properly reconciled on the system provided in accordance with the Rules and Guidance.
- Complete transaction reconciliation within the monthly deadline.
- Retain physical evidence of all purchases, eg receipts.
- Ensure their card is returned when they leave the Council.

Budget holders:

- Are responsible for monitoring and approving expenditure via Purchasing Cards in accordance with the Rules and Guidance
- Must ensure best value is being obtained.
- Must approve (or challenge) all transactions in a timely way – at least every month.

Shared Services are:

- Responsible for maintaining a database of authorised Card-holders.
- Responsible for monitoring compliance
- Storing monitored data and logging consequent actions. Responsible for informing Audit department of any misuse.

## Accountability

Everyone involved in using and monitoring Purchase Cards is accountable to the Council and Surrey residents for proper use, in line with the Council's Code of Conduct. Any misuse may result in a Card being suspended or withdrawn and disciplinary action being taken.

### **3.5 Approval for Consultant/Contractor engagements**

#### **3.5.1 Definition**

A consultant/contractor is defined by HR as a person or company that advises on organisational change and/or provides subject matter expertise on technical, functional and business topics during development or implementation.

- No contract of employment is involved, even if one individual consultant is retained, but there is a contract for services that is defined as being 'self-employed'.
- This should be made clear in all documentation and payment made for the service on the basis of a fee, not a salary.
- Ordinarily consultants / contractors will be VAT registered; subject to Schedule D tax, and have professional indemnity insurance.

All external legal opinion and advice as required by the Head of Legal Services is exempt from the provisions of this section and is classified as goods, works and services.

#### **3.5.2 Approval for Consultant/Contractor engagements**

If you are contemplating using consultants/contractors you must refer to the processes and limits in section 3.1.1 of these Orders. You must raise all requests for consultants via My HelpDesk, who will pass them on to Procurement. At least three quotes must be sought for **all** engagements under £100,000, with one being from a Surrey-based supplier if possible.

You must refer all engagements of an aggregate value of £50,000 per annum *pro rata* for approval from the Leader of the Council and the Chief Executive before the contract can be started. Engagements of £100,000 or over must be referred to procurement, who will decide the appropriate approach to market subject to the approval of the Procurement Review Group. Under no circumstances may this approval be sought retrospectively.

Consultant/Contractors must have clearly defined project objectives and performance targets. You should also evaluate the use of a consultant/contractor in terms of delivery against these.

You should include a requirement for skills transfer to internal staff where appropriate.

Consultants/Contractors must have the appropriate level of professional indemnity insurance – see para 3.10.1.

You must source all other interim staff covering OM positions, and all temporary or agency staff by reference to the Product Directory and the appropriate contract.

### **3.6 New suppliers for spend up to £9,999**

If you need to use a new supplier and the aggregate value is under £10,000 you should search the market for a suitable supplier, and you must get a written quotation. However, to ensure best value, it is advisable to seek further quotations. If they offer best value, you should use a Surrey-based supplier. Note the separate arrangements for consultancy engagements at para 3.5.2 above.

If you are a Purchase Card-holder, you may use it within your assigned limits to pay the supplier. Otherwise you must raise a 'Describe Requirement' Shopping Cart and the Shared Services Buying Solutions team will set the supplier up on the system and process the order. If the supplier is to be used regularly then they will be added to the online catalogue and Product Directory on S-Net. If the supplier is a 'one-off', this must be indicated in a note on the Shopping Cart.

In the case of purchases relating to Service-specific ordering systems, you must request the setup of the supplier via Shared Services.

**Note:** If the aggregate spend with the supplier is expected to exceed a higher threshold over time then you must use the appropriate sourcing approach as set out in the table above (3.1.1).

### **3.7 New suppliers for spend £10,000 to £99,999**

Note: for new consultancy engagements, see para 3.5.2 above.

If you need to use a new supplier and the aggregate value is between £10,000 and £99,999, you must first contact My Helpdesk to confirm that the Product Directory cannot meet your requirements. If you do need to find a new supplier there are two main options – a Request for Quotation, or a mini-competition under an existing framework agreement. The Shared Services Buying Solutions team will carry out these activities for you.

My Helpdesk can supply a Request for Quotation form, which you complete and attach to a Describe Requirement Shopping Cart. This sets out your requirement for the purchase, and you can propose a preferred vendor to be included in the market search.

The Shared Services Buying Solutions team then decide the most appropriate approach to the market to get you the best value. Where a framework agreement exists and offers best value, they will carry out a mini-competition exercise to select an included supplier. This is normally done via the agreement owner's website. The Buying Solutions team will check with Legal Services before starting a mini-competition, in order to ensure the council can legally access the agreement

Otherwise, they will advertise the opportunity to the market. All such opportunities are also advertised to Surrey suppliers via the Supply2Surrey website. If practicable, at least one quote should be sought from a Surrey-based supplier.

Prior to contract award you must confirm budget availability with the appropriate Finance Manager. Once a suitable supplier has been accepted, the Buying Solutions team will add them to the online catalogue and Product Directory.

All purchases must be delivered under a form of contract approved by Legal Services and Procurement & Commissioning. Where a standard contract cannot be used, the Buying Solutions team will inform Legal Services as early as possible in order for the

appropriate legal resources to be made available. Documents such as a specification and tender submissions may also be sent to Legal Services to assist with the contract drafting.

Note: If the aggregate spend with a supplier is expected to exceed a higher threshold over time then you must use the appropriate sourcing approach as set out in table 3.1.1.

### **3.8 New suppliers for spend £100,000 or over**

#### **3.8.1 Procurement Strategic Sourcing Gateway Process**

If the aggregate value is £100,000 or over Procurement and Commissioning must lead the sourcing exercise. This exercise and the subsequent contract award follows the Procurement Strategic Sourcing Gateway Process. This ensures we

- follow proper legal procedure, where the value exceeds the current threshold under EU/UK law.
- manage the progress of our projects,
- maintain a record of the sourcing decisions made on behalf of the council.

The process has five gateways that must be completed by a project as it progresses from stage to stage:

**Gateway Zero:** Used internally in Procurement & Commissioning to identify pipeline projects agreed at a strategic level with senior Service managers as part of the business planning process.

**Gateway One: Initiate**, where the requirement is confirmed and work begins on the Strategic Procurement Plan (Project Brief section)

**Gateway Two: Formal Approval**, where the PRG reviews the Strategic Procurement Plan and approves those that are acceptable

**Gateway Three: Implement**, where the resulting contract is awarded

**Gateway Four: Handover & close**, where the contract is mobilised and ongoing responsibilities are identified and implemented, including contract and supplier management

Note that the acceptance, opening and evaluation of formal tenders must be carefully controlled to ensure fairness to all bidders. This process is managed within Procurement and Commissioning and is controlled by the electronic tendering system.

Because we must comply with EU and UK law on procurement, we must observe certain minimum timescales for delivery that are designed to ensure that fair competition is maintained at each stage. When planning for procurement projects, you need to allow several months for this, depending on the exact process that is to be used. Procurement Category Specialists can advise you about the detailed timescales relevant to your particular project.

#### **3.8.2 Procurement Review Group**

The Procurement Review Group (PRG) is mandated to control expenditure, ensure best value and monitor compliance for all procurement activity for an aggregate value

of £100,000 or more. The PRG approves the procurement strategy and contract awards as set out in a Strategic Procurement Plan document and in accordance with the Procurement Gateway process. The PRG also enforces compliance with these Orders and advises Human Resources of any areas of deliberate disregard. Procurement keeps a record of all submissions to the PRG, which is cross-referenced to contract documents in the contract management system.

To be approved, you must obtain both written budget approval from the appropriate Finance Manager and the unanimous consent of all of the managers listed below who are present at the meeting. There must be a minimum of 2 representatives present, of which one must be from Procurement:

- Head of Procurement and Commissioning, or delegated substitute
- Section 151 Officer, or delegated substitute
- Head of Legal Services, or delegated substitute

The PRG is chaired by Procurement. Any delegated substitute is responsible and has the authority as if the Officer themselves had attended. The PRG meets regularly; all submissions must be provided at least 3 working days prior to the meeting.

Whilst awaiting PRG approval you may take no further action regarding your purchase.

### 3.8.3 Sustainability and Social Value

The Social Value Act 2012 places an obligation on us to consider the economic, social and environmental well-being of our area when we award services contracts over the EU threshold. We apply this informally to all procurement over £100,000 as well.

The council has adopted a Sustainability Framework, which commits us to sustainable economic development for Surrey, minimises the impact on the environment and supports social cohesion. Our procurement approach covers these areas:

- (i) Economic Sustainability – we aim to purchase goods, works and services which enhance the local economy of Surrey. We recognise the importance of Small & Medium Enterprises to the local community and ensure every effort is made to make our contract opportunities and tender processes accessible to them.
- (ii) Social Sustainability - we aim to purchase goods, works and services which promote community well-being, and that supply chain partners operate fair and ethical working practices.
- (iii) Environmental Sustainability – we aim to purchase goods, works and services which minimise our carbon footprint, encourage a positive impact on the local environment, and have the best value costs and benefits taking into account their whole life cycle from origination to disposal.
- (iv) Equalities & Diversity - we only purchase goods, works and services from suppliers who meet our standards of equality of employment and service delivery, and we ensure that the tender process is free from discrimination or perceived discrimination in accordance with the council's Equality Policy
- (v) Surrey Compact – where we are purchasing from the voluntary, community and faith sector you must comply with the [Surrey Compact](#) best practice code.

Procurement & Commissioning must consider Social Value when planning tenders for all contracts over £100,000. A Social Value Assessment must be carried out and the

results recorded in the Strategic Procurement Plan. Procurement & Commissioning ensures that our practice is aligned with the council's policies in this area, for example in driving apprenticeship opportunities and increasing local spend.

### 3.8.3.1 Sourcing of sustainable timber

The EU Timber Regulation 2013 prohibits anyone from placing illegally sourced timber on the EU market. To support and encourage compliance, the council has signed up to the WWF Gold Pledge in relation to the purchase of forest products, which commits us to using only products which are legally and sustainably sourced and establishes a monitoring system in Property Services to record such purchases. Further information is available on S-Net and via My Helpdesk.

## 3.9 *Waivers and emergencies*

These Orders are mandatory and must be adhered to at all times, so **Waivers** are only granted in exceptional circumstances and cannot be given if they would contravene the Public Contracts Regulations 2006 or any other applicable legislation.

In any remaining exceptional circumstances you must obtain approval in writing prior to progressing with your purchase, as follows:

**Where the aggregate purchase value is for less than £100,000** a Procurement Category Manager or above may grant a waiver to these Orders. This will be very much the exception; opportunities must normally be advertised to the market via the Buying Solutions Team in Shared Services.

**Where the aggregate value of the purchase is for £100,000 or more** the Procurement Review Group (PRG) must ratify the waiver. In certain circumstances the PRG may refer the waiver request to the Cabinet for further approval. **No** waiver is granted retrospectively; this is viewed as non-compliance with these Orders and is reported to PRG.

It is important to note that a waiver can only be made with respect to these Orders. A waiver cannot be made with respect to the council's obligations under the Public Contracts Regulations 2006 or any other legislation.

Procurement maintains a log of all waivers approved by Procurement and by PRG.

An **emergency** purchase is only allowed in the case of life-critical requirements for purchasing outside the hours 9am to 5pm. You can use a Purchasing 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 My Helpdesk of any emergency purchases on the following working day.

## 3.10 *Liability and Security*

### 3.10.1 Insurance Liability

To protect the Council, the following insurance liability criteria should be applied:

- All procurements where there is a direct advice and/or design service provided by a contractor, including all consultancy arrangements, must have and maintain Professional Indemnity insurance.

For contracts up to £499,999 cover of £1 million or higher is required,

For contracts £500,000 and over cover of £5m is required.

- All suppliers of works (and designated services) must have and maintain Public Liability insurance and Employers' Liability insurance.

For contracts up to £499,999 cover of £5 million or higher is required,

For contracts £500,000 and over cover of £10m is required, in addition to any other insurance recommended by the Insurance Section. (Sole traders with no employees are not required to have Employers' Liability insurance.)

The Head of Procurement and Commissioning may agree other insurance values for public liability and professional indemnity cover. All variations to agreed levels must be made in discussion with the Principal Insurance Officer or Litigation and Insurance Group Manager. All variations must be recorded in writing and stored on the contract management system.

### **3.10.2 Financial Security**

Procurement and/or Finance must confirm that suppliers are financially robust prior to contract award.

If either the total aggregate value of the contract exceeds £2m within twelve months, or there is doubt as to the financial credibility of a supplier but the council has decided to accept the level of risk, then additional forms of security to a level determined between Legal and Financial Services are required, for example:

- a Parent Company, Ultimate Company or Holding Company guarantee where their finances prove acceptable;
- a Director's Guarantee or Personal Guarantee where finances prove acceptable;
- a Performance Bond, retained funds or cash deposit;
- any other security as determined by Finance and/or Legal Services.

All documents inviting tenders must contain a statement that the supplier needs to provide security of performance and the level of security needed.

Additional documentation, where required, should be stored on the electronic tendering system.

### **3.10.3 Document Retention periods**

The retention of tenders and contractual documentation is prescribed in the Limitation Act 1980 and the Public Contracts Regulations 2006

- All received Tenders & PQQs must be retained for a minimum of eighteen months following the issue of the Contract Award Notice.
- All signed contracts under £499,999 (including all tender documentation) must be retained for a minimum of six years following contract expiry.
- All signed contracts signed over £500,000 (including all tender documentation) must be retained for a minimum of twelve years following contract expiry.

Procurement must maintain an online record confirming location of contract/tender and scheduled date of destruction.

## 4 Awarding and Managing Contracts for best value

All purchases must be delivered under a form of contract approved by Legal Services and Procurement & Commissioning. 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.

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 the termination of the contract should that funding cease to be available.

### 4.1 Evaluation

Tenders over £100,000 are evaluated by Procurement based on the identification of the 'Most Economically Advantageous Tender (MEAT)'. This takes price into account, alongside quality and social value considerations, but does not require the tender to be awarded to the lowest priced bidder.

### 4.2 Mobilisation of new contracts

All contracts, including any variations or amendments, must be registered and maintained by Procurement & Commissioning. The Council's contract management system can be used to store both scanned copies and summary data relating to all contracts over £10,000.

All original signed contracts must have a completed summary contract certificate and be stored in a secure fireproof location. Contract certificates are supplied by the Category Specialist, who ensures the signed contract is submitted for scanning and safe storage.

All contracts over £100,000 must have a designated Contract Manager, recorded on the contract certificate and on the contract management system. This role is agreed as part of Gateway Four Handover and Close.

In the case of suppliers where spend is via Purchase Order rather than a specific signed contract, the council's standard terms and conditions apply. The suppliers are logged on the SAP system as part of the vendor approval process, and their availability listed on the Product Directory.

### 4.3 Who must sign contracts, amendments and extensions?

The arrangements for contract signature are shown in table 3.1.1. All contracts over £500,000 must be sealed as a deed, via Legal Services. These arrangements include amendments and extensions and the aggregate value of the contract determines the signatory requirement.

### 4.4 Remedies Directive

Should a successful challenge be made after a contract has been awarded the Court could order the contract to be ineffective. This means that the contract will be cancelled and an alternative method of delivering the service will have to be found. This could result in significant costs to the council, but if the appropriate standstill periods are correctly applied the council will be able to minimise the risk of any challenge. Procurement Category Managers are responsible for ensuring the correct contract award processes are followed, including observing a standstill period and publishing an Award Contract Notice for all contracts over OJEU thresholds.

#### **4.5 Contract Extensions / Amendments**

A contract may only be amended (or varied) if the contract permits such a variation and is allowable under the Public Contract Regulations, which state that any variation may only be up to 50% of the original advertised value of the contract. The agreement of Legal Services and the Head of Procurement and Commissioning is also required. The amendment (or variation) must be evidenced in writing and signed by the Authorised Officers as detailed in table 3.1.1 The amendment must then be recorded and retained with the original contract.

Requests to extend or amend contracts must be discussed with the relevant Procurement Category Specialist. Such variations must be planned in a timely way, and not be used as a way to avoid the proper tender procedures. Variations must also take into account any requirement for supplier diversity in the specification and consider if this needs updating to meet current needs.

#### **4.6 The management of critical and strategic contracts**

The Procurement Service identifies the strategic and critical contracts (based upon value, business and reputational risk) required to deliver key council services in consultation with the relevant Service. Procurement takes responsibility for the commercial relationships with these suppliers, working with the designated contract managers who lead on the operational performance of the contract. For all other remaining contracts, the Service is responsible for contract management. Training for contract managers is available via S-Net. Procurement will provide second line support where performance failure is demonstrated and ensure best practice guidance and frameworks are communicated.

All identified strategic and critical contracts must have a written business continuity plan, to be held on the contract management system. Commercial discussions about the development of products/services provided via these contracts must be led by Procurement and Commissioning..

### **5 Paying our suppliers**

#### **5.1 Invoice Payments**

Suppliers must issue all invoices direct to the address provided by Shared Services. No invoice may be received or processed directly by the Service unless it is agreed as a payment exception by the Head of Procurement and Commissioning, who may agree general exceptions where Service-specific systems are in use – for example, Swift for Adult Social Care. Shared Services are responsible for maintaining a register of all agreed payment exceptions.

All invoices received in Shared Services must include a purchase order number. Invoices without a PO number will be returned to the supplier.

In the case of certain pre-defined Goods, Works and Services, (usually non-fixed price category items) the supplier cannot be paid until you have confirmed that the requirement has been satisfactorily delivered. It is the 'shopper's' responsibility to ensure all purchases are receipted to the appropriate value and in a timely fashion.

#### **5.2 Payment Terms**

Payments to suppliers are normally made 30 days in arrears, from the invoice date, via BACS (electronic bank transfer). You must obtain the agreement of the Category Specialist for the spend category concerned for any deviation from the standard

payment terms. This must be in writing as a Payment Exception. The council discourages paper invoices and suppliers are expected to provide electronic invoices.

The Late Payment of Commercial Debt Regulations 2013 require us to pay interest and fixed charges if we pay suppliers late. The council is a signatory of the Government/ICM Prompt Payment Code, and aims to pay all invoices within the agreed terms.

## 6 Disposing of surplus goods

The same competitive process for buying supplies, services and works is also applied to the disposal of surplus goods, though separate procedures apply to the sale of land and/or property. In principle:

£0 - £9,999	A minimum of 1 bid is required
£10,000 - £99,999	A minimum of three bids must be invited;
£100,000 and over	A minimum of three sealed bids must be invited

You must seek advice from Procurement & Commissioning when making valuations and the book value of the asset will be primarily used to calculate value. In most cases, it is anticipated that the highest bid received will be accepted.

Care must be taken to ensure that environmental sustainability as well as security and other associated issues are considered when arranging for the disposals of goods.

## 7 Legal status of these Procurement Standing Orders

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

The Head of Procurement and Commissioning is the custodian of these Orders and is responsible for keeping them under review. If the EU Directives or any other law is changed in a way that affects these Orders then the Head of Procurement and Commissioning will issue a bulletin and the change must be observed until the Orders can be revised.

## 8 Glossary of terms

Term	Description
Aggregate value	The total spend with a supplier over the period of a contract, or the proposed period for new contracts. Individual or annual costs are irrelevant where goods, services or works are of the same type or have similar characteristics. The total cost of the contract (including any extensions available) must be used when deciding which process to use to find a new supplier
Collaborative agreement	A contract tendered by a group of authorities acting together, which can usually then be accessed by other authorities through a simple form of access agreement.

Consortium	A grouping of two or more organisations who agree to work together in order to deliver goods, works or services to the council.
Consultant	A person or company that advises on organisational change and/or provides subject matter expertise on technical, functional and business topics during development or implementation
Contract	An agreement having a lawful objective entered into voluntarily by two or more parties, each of whom intends to create one or more legal obligations between them. The elements of a contract are "offer" and "acceptance" by "competent persons" having legal capacity, who exchange "consideration" to create "mutuality of obligation."
Contract Management	The monitoring and development of the performance of a contract during its lifetime
Framework Agreement	An agreement or other arrangement between one (or more) contracting authorities and one or three or more suppliers which establishes the terms (in particular the terms as to price and, where appropriate, quantity) under which the supplier will enter into one or more contracts with a contracting authority in the period during which the framework agreement applies. Generally framework agreements do not have any guaranteed minimum volumes of spend. Contracts awarded via a framework can be via a direct award to a supplier on the framework or by holding a secondary (mini-competition) process that specifies the specifics of the actual contract being procured.
Gateway (in project)	A milestone in a project where formal approval is given to move to the next stage
Grant	A non-repayable sum of money given to an individual or organisation for a specific project or service, usually covering only part of the total costs.
Purchase Card	A credit card which can be used by authorised people to buy low-value goods or services for the council. The bill for the card is settled centrally in Shared Services, once the card-holder has assigned all transactions to the appropriate cost codes
Purchase Order	A formal order to a supplier for goods or services. This can refer to an order generated by a service-specific system such as PAMS or Swift, as well as from SAP.
Request for Quotation	A formal request to a supplier to provide a price for specified goods or services. The RFQ will also indicate how the quote will be evaluated in comparison with others to decide best value
Shopping Cart	A preliminary request in SAP SRM to buy goods or services, which, once approved financially, is turned into a purchase order to the supplier
Social Value	Those aspects of a contract which support a) community well-being, fair and ethical working practices by the supply chain, b) the local economy and local businesses, and c) improvements to the environment
Supplier Management	The process of driving improvements from contracts by

	developing robust performance plans with the supplier
Supply chain	The chain of suppliers and customers of all the component goods and services that go into delivering a given finished good or service
Tender	The procurement process of inviting and evaluating sealed bids from people and organisations to provide goods, works or services