

# Procurement and Contract Standing Orders

Rules to be followed when buying on behalf of the Council  
Issue 13 February 2025

Part 5  
Procurement and Contract Standing Orders

## **Version History**

Issue 2 April 2007  
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## **1. Introduction**

These Procurement and 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, that 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 (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 for that purpose.

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

### **1.1. Legal status of these Procurement & Contract Standing Orders**

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

The Director of Procurement is the custodian of these Orders and is responsible for keeping them under review. The Director of Procurement shall have delegated authority to make the following incidental amendments from time to time to these Orders:

- a. Changes to the thresholds set out in the applicable Procurement Legislation to reflect changes made by central government;
- b. Changes to job titles, departments and roles of staff;
- c. Links or references to or contained within Appendix 1; and
- d. Changes required to clarify or add or remove definitions.

### **1.2. Governing Legislation**

Procurement Legislation has been updated significantly since the publication of the Public Contracts Regulations 2015 (PCR). The Council's procurements, apart from those for certain health care services, are regulated by the Procurement Act 2023 and the Procurement Regulations 2024.

Procurement of certain health care services is regulated by the Provider Selection Regime (PSR) and set out in Schedule 1 of the Regulations.

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

Where a procurement was started under the Public Contract Regulations 2015, governance for that procurement or contract continues to be those Regulations rather than the Procurement Act 2023.

### 1.3. Key Principles

These Orders are based on the following key principles:

1. To ensure that the Council meets its statutory duty to deliver **best value, continuous improvements** and supports healthy competition and markets for the Goods, Services and Works purchased.
2. To share information and be **transparent** to our residents and supply chain about how the Council spends its money and its procurement policies and decisions.
3. To ensure that public money is spent **legally and fairly**.
4. To act and be seen to act with **integrity**.
5. 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.
6. To **address the environmental impacts** of our supply chain in accordance with the Council's Organisation Strategy, Climate Change Strategy and Climate Emergency declaration.
7. To support **social value** objectives, and our public sector **equality** duty, encouraging local small businesses and maximise public benefit.
8. To consider how to **remove or reduce any barriers** to participation for **small and medium sized** enterprises.

### 1.4. Compliance

All officers and any external agents empowered to form contracts on behalf of the Council must comply with these Orders at all times. Any breaches of these Orders may be subject to disciplinary action in line with the Council's Disciplinary Policy.

Every contract 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. Where there is a difference between Procurement Legislation and these Orders, the Procurement Legislation prevails.

## 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 Services 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.
- c. Adopting the Key Principles set out in paragraph 1.3 throughout all procurement activities.

### Procurement is responsible for:

- a. Working closely with key stakeholders and Executive Directors to agree and deliver the Procurement Forward Plan.
- 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.
- 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 HR is consulted, and the appropriate approval obtained for requirements of temporary workers or consultants outside any agreed corporate contract.

- 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 Legislation requirements as well as individual contractual requirements, including transparency notifications.
- c. Ensuring, where applicable, Social Value and, Environmental commitments are tracked and delivered.

### **1.6. Procurement Type**

Prior to commencing any procurement activity, you are required to identify which of the below procurement types the activity falls into as this will determine which Procurement Legislation, and subsequently which thresholds 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);
- e. Concessions.

There is no flexibility in the application of the Procurement Legislation, so it is crucial the correct provisions are applied. The decision tree in paragraph 1.10 can be used to determine the correct Procurement Type.

The Procurement Legislation contains a list of Common Procurement Vocabulary (CPV) codes which can be used to identify the types of Service 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 Relevant Thresholds for them and the Procurement Legislation that could apply.

To determine which Relevant 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 where applicable)
<b>A: Goods or Services</b> Procurement Act 2023	Goods or Services* (Excluding Light-Touch and Healthcare services – see <b>Type C/D</b> below as applicable)	<b>£214,904</b>
<b>B: Works</b> Procurement Act 2023	<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.	<b>£5,372,609</b>
<b>C: Light Touch</b> Procurement Act 2023	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 CPV codes These services include adult and children’s social care, community services and legal services	<b>£663,540</b>
<b>D: Provider Selection Regime (PSR 2023)</b> Health Care Services Regulations 2023	PSR 2023 covers procurement of certain healthcare services in England. 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, contracted by local authorities and NHS Trusts. Examples include some Public Health services which are aimed at providing healthcare interventions for individuals.	<b>No threshold</b> Purchases of any value
<b>E: Concessions</b> Procurement Act 2023	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.  NB. For the purposes of this section of the Orders, Concession contracts also include Light Touch Services Concession Contracts.	<b>£5,372,609</b>

\*World Trade Organisation (WTO) General Procurement Thresholds change every 2 years. The Thresholds listed here are applicable between 1 January 2024 and 31 December 2025.

## 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.

This also includes services sourced from other local authorities or public bodies under the relevant legislation.

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

<b>Exclusion</b>	<b>Notes</b>
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 Officer / Emergency Planning and Resilience Team.	The Civil Contingencies Act 2004 / Council's emergency planning or business continuity procedures.
Awarding of Grants	Managed according to locally agreed Grant process or Grant Procedure Rules.
Placement of a Child & Young Person with Special Educational Needs & Disabilities 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 should 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 Relevant Threshold and therefore the legal obligations that must be complied with (and the relevant procedure as set out in paragraph 1.10 that applies).

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 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 PSR) and Dynamic Markets (for the purposes of PA23), 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 Agreement.

If Officers are unable 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 Relevant Thresholds.

If the procurement exercise value falls below the Relevant Threshold, please follow the guidance set out in paragraph 1.11.

The person responsible for carrying out the procurement must ensure that all requirements are met, including publishing the required procurement notices within legislative timescales.

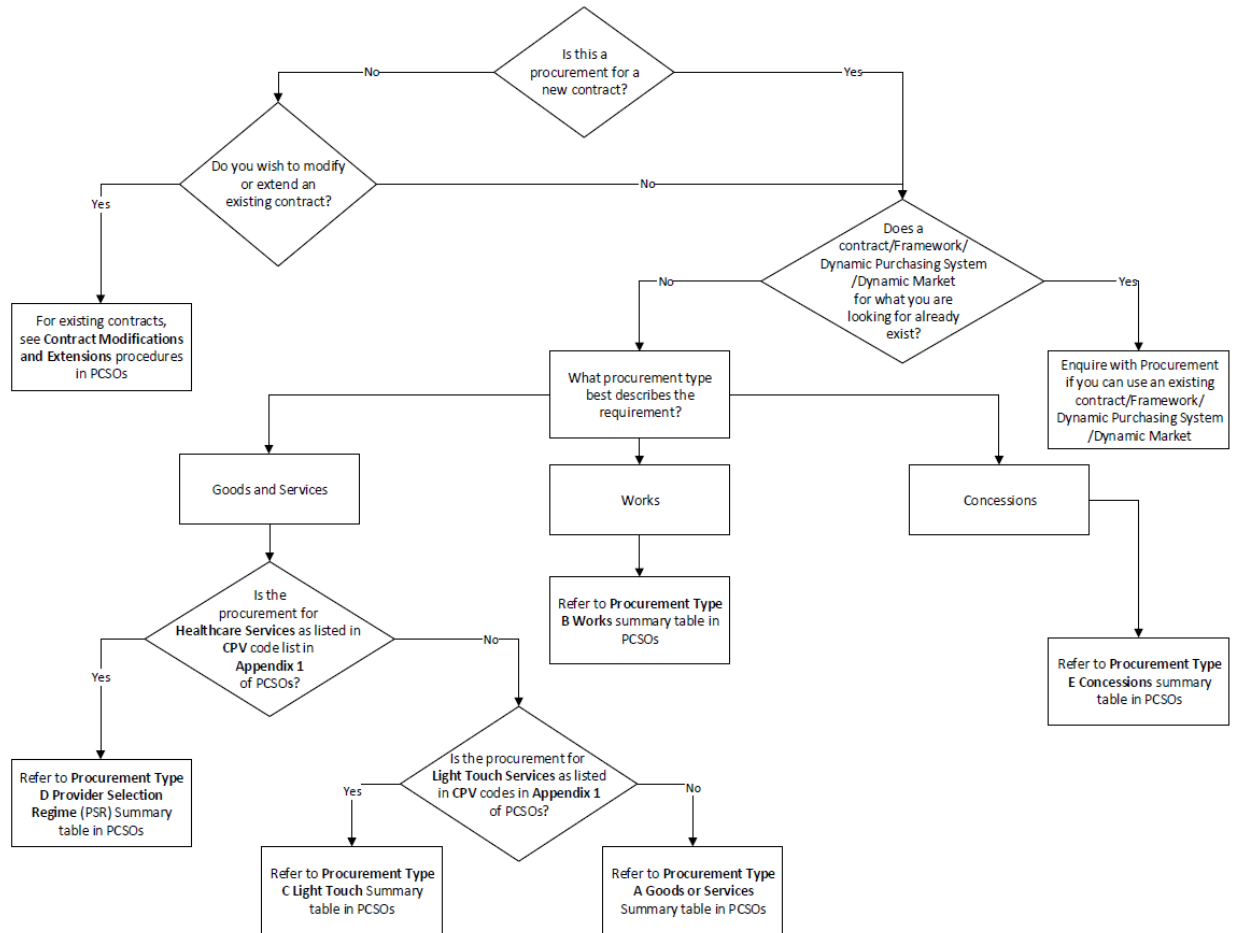
## 1.10. Procurement Type Summary Tables:

**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 you have identified the Procurement Type and Procurement Legislation that applies, undertake the procurement accordingly.

The decision tree below can be used to help you identify which Summary table applies– if you are unsure, contact Procurement for support/advice.



**Procurement Type A: Goods or Services**

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

Estimated Contract Value (see paragraph 1.8) Inc VAT	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 System's (DPS) where they offer best value; or  One written quote or commercial negotiation with supplier.	All Council Officers	Council's Standard Terms & Conditions (see the Council's Website) or the established Framework, or DPS Terms	Budget Holder	Not Required if Council's standard terms apply – Budget Holder's approval of the Purchase Order is sufficient).  If Framework or DPS or DM: Budget holder to sign both Access Agreements and subsequent Call-Off Contracts
<b>£30,000 – £214,903*</b> *Currently Regulatory Threshold	Use available Frameworks or Dynamic Purchasing System's (DPS) where they offer best value; or  Seek a minimum of 3 quotes.	Procurement, unless agreed otherwise by Head of Procurement or Delegate.	Council's Standard Terms & Conditions (see the Council's website) or the established Framework or DPS Terms.	Head of Service or Delegated Manager	Head of Service or Delegated Manager
<b>£214,904 - £999,999</b>	Procurement in compliance with Procurement Act 2023.  This may be through a new procurement process or via existing compliant Frameworks, DPS's or Dynamic Markets.	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework, DPS or Dynamic Market Terms	If within +5% of budget: Exec Director Approval (or delegated).  If not within budget: Exec Director and S151 Officer	Under 500k, Head of Procurement and Head of Service.  Over £500k: to be executed by authorised signatory in legal services under seal as determined by Legal Services.
<b>Over £1m</b>	Procurement in compliance with Procurement Act 2023.  This may be through a new procurement process or via existing compliant frameworks/DPS's/Dynamic Markets.	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework/DPS /Dynamic Market Terms	If within +5% of budget: Exec Director Approval (or delegated). If not within budget and under £5M: Exec Director, Portfolio Holder and S151 Officer.  If not within budget and over £5M: Full Cabinet.	Executed under Deed by Legal Services

**Procurement Type B: Works**

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

Estimated Contract Value (see paragraph 1.8) Inc VAT	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 System's 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 – (Approval of Purchase Order)
<b>£30,000 – £214,903</b>	Use available Frameworks or Dynamic Purchasing System's (DPS) where they offer best value; Alternatively, seek a minimum of 3 quotes.	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.	Procurement & Head of Service	Head of Service.
<b>£214,904 – £1m</b>	Use available Frameworks, Dynamic Purchasing Systems or Dynamic Markets ) where they offer best value. Alternatively, seek a minimum of 3 quotes.	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, Dynamic Market Terms or JCT / NEC Model Forms.	If within +5% of budget: Exec Director Approval (or delegated) & Head of Procurement (or delegated). If not within budget: Exec Director and S151 Officer	Under 500k, Head of Procurement and Head of Service. Over £500k: to be executed by authorised signatory in legal services under seal as determined by Legal Services.
<b>Over £1m</b>	<b>If below £5,372,608:</b>  Use available Frameworks, Dynamic Purchasing	Procurement	Industry standard form of contract with Council amendments, bespoke	If within +5% of budget: Exec Director Approval (or delegated). If not within budget and under £5M: Exec	To be executed by authorised signatory in legal services under seal as determined by Legal Services.

	<p>Systems or Dynamic Markets where they offer best value. Alternatively, seek a minimum of 3 quotes.</p> <p><b>If over £5,372,608:</b> This may be through a new procurement process in accordance with the PA 23, or via existing compliant Frameworks, DPS's or Dynamic Markets.</p>		<p>Contract terms agreed by Legal Services or established Framework Terms, DPS Terms, Dynamic Market Terms or JCT / NEC Model Forms.</p>	<p>Director, Portfolio Holder and S151 Officer.</p> <p>If not within budget and over £5M: Full Cabinet.</p>	
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**Procurement Type C: Light Touch**

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

Estimated Contract Value (see paragraph 1.8) Inc VAT	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>	<p>Use available Frameworks, Approved Lists or Dynamic Purchasing System's where they offer best value; or</p> <p>One written quote or commercial negotiation with supplier</p>	All Council Officers	Council's Standard Terms & Conditions (see the Council's Website)	Budget Holder	Not Required – (Approval of Purchase Order)
<b>£30,000 – £214,903</b>	<p>In consultation with Procurement, determine the best and most proportionate route to market for below threshold.</p> <p>This may include use of available established Frameworks/DPS's where they offer best value; Alternatively, seek a minimum of 3 quotes.</p>	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 /Dynamic Market Terms	Procurement & Head of Service	Head of Service or delegated manager

<b>£214,904 – £663,540</b>	In consultation with Procurement, determine the best and most proportionate route to market for below threshold.  This may include use of available Frameworks, DPS' or where they offer best value. Alternatively, seek a minimum of 3 quotes.	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 or Terms.	Within +5% of budget: Exec Director Approval (or delegated) & Head of Procurement (or delegated). If not within budget: Exec Director and S151 Officer	Under 500k, Head of Procurement and Head of Service. Over £500k: to be executed by authorised signatory in legal services under seal as determined by Legal Services.
<b>£663,540 - £1m</b>	This may be through a new procurement process in accordance with the PA 23, or via existing compliant Frameworks, DPS's or Dynamic Market	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework/DPS/Dynamic Market Terms.	Within +5% of budget: Exec Director Approval (or delegated) & Head of Procurement (or delegated). If not within budget: Exec Director and S151 Officer	Over £500k: to be executed by authorised signatory in legal services under seal as determined by Legal Services.
<b>Over £1m</b>	This may be through a new procurement process in accordance with the PA 23, or via existing compliant Frameworks, DPS's or Dynamic Market	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework/DPS or Dynamic Market Terms.	If within +5% of budget: Exec Director Approval (or delegated). If not within budget and under £5M: Exec Director, Portfolio Holder and S151 Officer.  If not within budget and over £5M: Full Cabinet.	To be executed by authorised signatory in legal services under seal as determined 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 paragraph 1.8) Inc VAT	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 - £214,903</b>	One of the following PSR procedures: <ul style="list-style-type: none"><li>• Direct Award A</li><li>• Direct Award B</li></ul>	Procurement, unless otherwise agreed by Procurement	Council's Standard Terms & Conditions or bespoke Contract terms agreed by Legal Services	Procurement & Head of Service	Head of Service or delegated manager
	One of the following PSR procedures: <ul style="list-style-type: none"><li>• Direct Award C</li><li>• Most Suitable Provider</li><li>• Competitive Process</li></ul>	Procurement	Council's Standard Terms & Conditions or bespoke Contract terms agreed by Legal Services	Procurement & Head of Service	Head of Service or delegated manager
<b>£214,904 - £1M</b>	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 & Conditions or bespoke Contract terms agreed by Legal Services	Within +5% of budget: Exec Director Approval (or delegated) & Head of Procurement (or delegated). If not within budget: Exec Director and S151 Officer	Over £500k: to be executed by authorised signatory in legal services under seal as determined by Legal Services.
<b>Over £1m</b>	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 & Conditions or bespoke Contract terms agreed by Legal Services	If within +5% of budget: Exec Director Approval (or delegated). If not within budget and under £5M: Exec Director, Portfolio Holder and S151 Officer.  If not within budget and over £5M: Full Cabinet.	To be executed by authorised signatory in legal services under seal as determined 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 paragraph 1.8) Inc VAT	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 – £214,903</b>	Seek a minimum of 3 quotes.	Procurement unless agreed otherwise by Head of Procurement (or delegate)	Bespoke Contract terms agreed by Legal Services.	Procurement & Head of Service	Head of Service.
<b>£214,904 – £1m</b>	Seek a minimum of 3 quotes.	Procurement	Bespoke Contract terms agreed by Legal Services.	If within +5% of budget: Exec Director Approval (or delegated) & Head of Procurement (or delegated). If not within budget: Exec Director and S151 Officer	Under 500k, Head of Procurement and Head of Service. Over £500k: to be executed by authorised signatory in legal services under seal as determined by Legal Services.
<b>Over £1m</b>	<b>If below £5,372,608:</b>  Seek a minimum of 3 quotes.  <b>If over £5,372,608:</b> Procure in compliance with the relevant Procurement Legislation.	Procurement	Bespoke Contract terms agreed by Legal Services.	If within +5% of budget: Exec Director Approval (or delegated). If not within budget and under £5M: Exec Director, Portfolio Holder and S151 Officer.  If not within budget and over £5M: Full Cabinet.	To be executed by authorised signatory in legal services under seal as determined 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 the Below Relevant Threshold requirements in Appendix 1.

### **1.12. Direct award**

Contracts below and above the Regulatory Threshold may be awarded directly as long as at least one direct award justification in the prevailing Procurement Legislation can be applied (See Appendix 1).

You must contact Procurement prior to undertaking a direct award to ensure the criteria is met.

### **1.13. Evaluation**

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

### **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, for example via a Memorandum of Understanding rather than a contract. Where this is proposed, you must seek advice from Procurement and/or Legal Services in the first instance.

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

All proposals to use existing Frameworks, DPS', or Dynamic Markets or to set up a new Framework, or establish a Dynamic Market, 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, Dynamic Purchasing System, or Dynamic Market this must be signed by the Head of Procurement (or delegate).

### **1.17. Concession Contracts**

Concession Contracts must meet certain requirements, and advice must be sought from Procurement.

## 1.18. Procurement Notices

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

## 2. Approvals

### 2.1. Procurement Board

If the value of proposed spend meets any of the following criteria, you must obtain approval from the Procurement Board (or any such body that replaces it) before any procurement activity can commence.

- Management Consultancy at any level
- Fleet spend at any level
- All in scope contracts over £30,000 (including VAT)

Full details of the requirements of the Procurement Board can be found on the intranet or using the link in Appendix 1.

### 2.2. Procurement Forward Plan

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 a Procurement Forward Plan (PFP). This PFP will be in two parts, as follows:

#### **PART A: Approval to Procure & Delegate Award Decisions**

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

The PFP: Part A is developed and agreed during the business planning cycle with the Directors of the relevant services, in consultation with Finance and then submitted to Cabinet for approval. Once approved, the procurement activities listed in the PFP: Part A may proceed without the requirement for further Cabinet approval.

Where the award outcome is above the +5% of the budget agreed with Finance at the start of each procurement, this must be reported as required in the Summary Tables in paragraph 1.10 for approval and the contract award must be put on hold pending approval.

If the need arises during the year for procurement activity on contracts over the Goods/Services Regulatory Threshold which have not been pre-approved through the PFP: Part A, then an Approval to Procure must be sought by the Head of Service concerned before any procurement activity may begin. For capital projects, approval can be given by the capital programme panel as below. For revenue projects, approval can be given as below:

Value under £1m	Head of Procurement (SCC), Executive Director in consultation with Portfolio Holder, and S151 Officer*
Value over £1m	As above including Cabinet*

\*Where the procurement includes IT & Digital the Approval to Procure requires additional approval from the Chief Digital Information Officer.

**PART B: Procurement Pipeline**

Part B will include proposed projects for the financial year which follows on from the Procurement Forward Plan PART A: Approval to procure and delegate award decisions. For the avoidance of doubt, appearance on Part B alone does not constitute an approval to procure.

To align with prevailing legislation publication requirements, the Council is required to publish a Procurement Pipeline, which consists of a proposed list of procurement activity up to 24 months in advance. This Pipeline will be published on the Central Digital Platform (and/or any related platform as required by legislation).

**2.3. Contract Modifications and Extensions**

Note: For all Modifications and Extensions, you must contact Procurement.

Contracts that have been originally advertised with extension and/or modification options can be extended/modified in accordance with the contract terms and conditions and the prevailing Procurement Legislation provided the extension period(s) is clearly set out in the Contracts and the extension is on the same terms and conditions (no change in specification/scope or price). These Contract extensions and modifications must be approved by the Head of Procurement (or delegated), Head of Service and Finance.

Extensions or modifications of an existing Contract which are not included in the original public notice or the contract itself may, in accordance with prevailing Procurement Legislation, be made without triggering a requirement for a new Procurement exercise.

For contracts with a value above the Regulatory Threshold, extensions and modifications which were not included in the original public notice or contract, or where there is a change in specification/scope or price, but are allowed under the prevailing Procurement Legislations, must also be reviewed by Legal Services.

Where this Order does not permit a contract extension or modification, see paragraph 3.1 (Waivers).

**2.4. 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 Director of Procurement (or delegated), Head of Service, Finance, and Legal Services.

## **2.5. 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 and Digital.

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

No temporary worker or consultant may be procured or engaged outside of the existing Connect2Surrey framework without prior approval from HR, Finance and The Resourcing Team.

A consultant is a person (not an employee), engaged for a limited period of time on a project or requirement specific basis to carry out a specific task or tasks which meet a desired set of outputs or outcomes. A consultant provides subject matter expertise, support and/or experience to the Council either because it does not possess the skills or resources in-house or requires an independent evaluation/assessment to be made.

This definition excludes:

1. Agency staff, interim or role specific duties which should be sourced through the Council's Joint Venture, Local Authority Trading Company, Connect2Surrey.
2. Routine services e.g. maintenance, cleaning and security.
3. Professional services e.g. Architects, structural engineers, forensic archaeologists, specialist social care support, training, etc.

Refer to the HR Short Term Resourcing Needs policy for further guidance.

All Temporary and Agency staff, and other consultants or suppliers, 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 change to a contract which is not compliant with these Orders. A waiver cannot be given if it would contravene Procurement Legislation or any other applicable legislation.

You must obtain approval for a waiver in writing specifically identifying the relevant Order that is being waived and the reason for which the waiver is being sought, including justification and risk. There is a dedicated form that must be completed and obtained from Procurement.

A waiver should not be granted retrospectively; this is viewed as non-compliance with these Orders and may lead to disciplinary action in line with the Council's Disciplinary Policy.

Procurement must maintain a complete log of all waivers, and store documentation for waivers on the relevant procurement System.

All waivers must be approved by the Head of Procurement (or delegated), Finance, Head of Service and, if above the Regulatory Threshold, Legal Services. This includes waivers where the total cumulative value of these waivers is above the Regulatory Threshold.

### **3.2. Emergency Purchases**

An emergency purchase is only allowed for purchasing outside the hours 9am to 5pm where there is an imminent risk to life or property. They also apply in situations outside these hours where there is a need to secure Council property or assets e.g. when there has been a break in or equipment failure, 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.

## **4. Contracting with Suppliers**

### **4.1. Purchase Orders**

Once you have identified the right supplier in compliance with these Orders, you must not make verbal commitments but must raise a Purchase Order (via the appropriate system). This must be approved in accordance with the Council's Financial Regulations before it is sent to the supplier, and before any goods or services have been ordered.

### **4.2. Using Purchasing Cards**

You must use purchasing cards only as set out in the 'Purchasing Card Rules and Guidance', 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 and the Council's anti-fraud and corruption strategy and framework. You must not invite or accept any gift or reward in respect of the award or management of any contract. It will be for you, the officer, to prove that anything received was not received corruptly. Gifts and Hospitality must be recorded in the online register.

#### **Canvassing and Collusion**

All Invitations to Tender must include a requirement for bidders to complete fully and sign a form of tender including certificates relating to canvassing and non-collusion. Every contract

must contain a clause entitling the Council to cancel the contract and to recover from the supplier the amount of any loss resulting from such cancellation if the supplier or his 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 with the Procurement lead. 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 Policy 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.

## **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 County when we award contracts.

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. Appropriate weighting, criteria or other mechanisms should be included in the procurement strategy to secure Social Value.
- d. As part of the tendering process an assessment of relevant Social Value must be carried out and procurement records the results in the relevant systems.
- 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.

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 their 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, Officers must ensure that procurement policy requirements are included in any procurement and contract management activity, this includes but is not limited to:

- a. Ensuring the minimum agreed award criteria weighting for environmental sustainability is included 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.

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.
- 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 recommended 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 - £5m-£10m depending on the contract used
- c. Professional Indemnity - £1m-5m (undertake a risk assessment and take advice from the Insurance Team)
- d. Product Liability (as appropriate)

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

During the procurement the Supplier does not need to have the required level of insurance but must confirm that they will be in place for the commencement of 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. Details of the requirements or potential guarantees a supplier may need to provide must be set out in the procurement documents.

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 Services and Finance are required, for example:

- a. Parent Company, Ultimate Company or Holding Company guarantee where their financial standing proves acceptable;
- b. Director's Guarantee or Personal Guarantee where finances prove acceptable;
- c. Performance Bond, retained funds or cash deposit;
- d. Any other security (such as escrow arrangements) as determined by Finance and/or Legal Services.

All documents inviting tenders and contracts issued must contain a statement that the supplier needs to provide security for performance and the level of security needed, financial checks to be applied on tenders, plus how financial suitability will be assessed and any checks that will be required during the life of the contract.



Additional documentation, where required, should be stored on the relevant systems.

#### **6.4. Document Retention periods**

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

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

### **7. Managing Contracts**

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

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 the 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. 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. Notices required during the Life of the Contract**

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

## **7.2. Contracts Register**

All contracts over £30,000 inc. VAT, including any variations or amendments, must be registered and maintained in the appropriate electronic database. 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. Contract Novation**

Where a supplier sells, merges or transfers their business to another organisation, the existing contract(s) the Council has with that supplier should be novated if this is acceptable to the Council. When this situation arises, Legal Services will review the existing contract and the requested novation to determine acceptability. The Service will also ask Finance to review the previous appraisal carried out when the contract was let and apply this to the proposed new organisation to ensure the contract will be financially robust. If a novation is agreed, then the revised contract will be passed to Procurement who will update the contract register and ensure that the master data is updated on the relevant purchase to pay system.