

Appendix 1 Annex 2

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**OXFORDSHIRE COUNTY COUNCIL
CONTRACT PROCEDURE RULES**

Contract Procedure Rules for the Supply of Goods, Services and Works

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Contract Procedure Rules for the Supply of Goods, Services and Works

CHAPTER ONE: BASIC PRINCIPLES

1. Compliance with these Rules, Council Policies, Relevant Legislation and Legal Requirements

Introduction

1.1 These Rules shall be regarded as standing Orders of the Council for the purposes of section 135 of the Local Government Act 1972 and aim to ensure that when the Council conducts its procurement activities and makes decisions, it:

- (i) furthers its strategic aims and objectives
- (ii) delivers value for money
- (iii) maximises public benefit
- (iv) acts, and is seen to act with integrity,
- (v) shares information with suppliers and others with the purpose of allowing them to understand the Council's procurement policies and decisions
- (vi) treats suppliers the same unless a difference between suppliers justifies different treatment
- (vii) has regard to barriers that may be faced by small and medium-sized enterprises as and when required to do so by the Procurement Legislation.

1.2 These Rules govern all Contracts let by the Council otherwise than specified in these Rules⁴. Further, these Rules apply to arrangements which the Council wishes to enter into in consequence of it having received grant funding from an outside body to procure a service, goods or works, or to receive an income in return for giving another body the right (a concession) to run a service.

1.3 These Rules must be read in conjunction with other parts of the Council's Constitution (for example, if a decision about a contract is also a "key decision" then the requirements set out in the Constitution in relation to key decisions will also have to be met).

1.4 Failure by an Officer to comply with these Rules could lead to disciplinary action being taken against them and in some cases may be referred to

any relevant authorities. Any non-compliance with these Rules should be dealt with in accordance with Rule 18.

What contracts must comply with

- 1.5 All Contracts must comply with all of the following:
- (i) English law (including the Council's statutory duties and powers including the Council's fiduciary duty to safeguard public funds);
 - (ii) these Rules, as supplemented by complementary rules in the Council's Constitution including its Financial Procedure Rules;
 - (iii) any relevant Council policies/regulations; and
 - (iv) any legal requirement stipulated by the Director of Law & Governance and Monitoring Officer.
- 1.6 The procurement and award of Contracts must comply with the principles of non-discrimination, transparency, equal treatment, and proportionality.
- 1.7 Where the estimated value of a Contract dictates that the tender procedure is to be carried out under the Procurement Legislation, additional rules applying to such tender procedures must be complied with. The relevant Procurement Team should be consulted for advice.
- 1.8 In addition to Officers, these Rules must be complied with by all other persons who are authorised to carry out procurement and contracting on behalf of the Council ("Agents"). It must be a term of all Contracts between the Council and its Agents that the Agents comply with these Rules.

Scope

- 1.9 These Rules do not apply to:
- (i) contracts which are not for the provision of goods, services or works.
 - (ii) contracts entered into by schools with delegated budgets (which should instead be awarded in accordance with the Scheme for Financing Schools).
 - (iii) low value purchases that may be made from petty cash or procurement cards in accordance with any operational instructions and the financial limits issued by the Executive Director of Resources and S151 Officer pursuant to the Financial Procedure Rules.
 - (iv) supply of works, goods or services by the Council.

- (v) grant funding agreements save that all grant funding agreements with a value of £500,000 or more must be sealed. The Financial Procedure Rules and the Financial Regulations govern external arrangements including grants and therefore it is important to ascertain at the outset whether a proposed arrangement is a grant or a contract for services and which rules apply. Subsidy Control Law will need to be considered.
- (vi) contracts which are exempt by virtue of Schedule 2 of the Procurement Act 2023 (e.g. contracts of employments, certain legal and financial services, land transactions etc.) These contracts will, however, need to (i) comply with any requirements imposed by the Procurement Act 2023, (ii) comply with the Council's internal governance requirements and (iii) secure value for money. Officers should seek advice from the relevant Procurement Team/Legal Services at any early stage of planning a procurement if uncertain as to whether a contract is exempt.

1.10 The following Contracts are exempt from the requirement to conduct a competitive procurement process (as would otherwise be required under Rule 5.1):

(i) Health Care Services subject to the Health Care Services (Provider Selection Regime) Regulations 2023 ("PSR Regulations") which are, regardless of value, to be procured under direct award processes (A, B or C) or the most suitable provider process. The decision as to which selection process shall be followed must be made in accordance with the PSR Regulations and on advice from the Relevant Procurement Team.

(ii) Contracts which are to be directly awarded pursuant to either section 41 (and one or more of the justifications in Schedule 5), section 42 or section 34 of the Procurement Act 2023 (including, but not limited to, genuine urgency, user choice, single supplier, insolvency etc).

The rest of the Rules must be complied with.

2. Where to get advice

- 2.1 Officers requiring advice on procurement practice and the Procurement Legislation should contact the Relevant Procurement Team who will consult with Legal Services where necessary.
- 2.2 Officers requiring Contracts, terms and conditions or legal advice should contact Legal Services.
- 2.3 Officers requiring support or advice relating to finance issues relating to these Rules should contact the relevant Finance Business Partnering Team.

CHAPTER TWO: STEPS PRIOR TO PROCUREMENT

3. Pre-Tender Authorisations, Requirements and Market Engagement

- 3.1 Authorised Officers must ensure, before entering into any process which will or may result in the incurring of any expenditure for the supply of goods, services or works be it capital or revenue, that:
- (i) Where it is a key decision, the requirements of Part 1.3, paragraph 3(b) (Decision Making), Part 4.2, paragraph 2.3 (Cabinet Procedure Rules) and Part 8.1, paragraph 13 (Access to Information Procedure Rules) of the Constitution will be complied with;
 - (ii) the provisions of the Financial Procedure Rules at Part 8.2 of the Constitution and Financial Regulations have been complied with (including ensuring that there is adequate budgetary provision) and written authorisation has been obtained in accordance with Appendix 2, Table 1 of this Part (unless authorisation has been obtained under the Financial Procedure Rules, Part 8.2 of the Constitution);
 - (iii) they have considered whether any consultation requirements apply, including whether the Public Services (Social Value) Act 2012 applies to any services, and have complied with any such requirements.
- 3.2 The Relevant Procurement Team and Legal Services must be notified before officers enter into any procurement process which will or may result in the incurring of any expenditure for the supply of goods, services or works, where:
- (i) the estimated value of the proposed Contract is £30,000 incl VAT (£25,000 excl VAT) or more; or
 - (ii) the proposed Contract is for the benefit of two or more services or parties; or
 - (iii) the Contract is considered complex, sensitive or high-risk for any other reason (e.g. an outsourcing involving a TUPE transfer of Council staff), or will involve the use of a third party Framework Agreement, dynamic purchasing system or dynamic market.
- 3.3 Prior to the commencement of any procurement exercise:
- 3.3.1 The Head of Pension Fund and the Director of HR & Cultural Change must be notified by the Authorised Officer where the procurement:

- (a) will or may result in any transfers of staff under the Transfer of Undertakings (Protection of Employment) Regulations (“TUPE”) where any of the staff are or were previously Council employees; or
 - (b) will or may result in any transfers of staff under TUPE who are members of the Local Government Pension Scheme.
- 3.3.2 The Director of Property and Assets as Corporate Landlord must be notified where the procurement will or may result (a) in a contract that confers exclusive possession of the Council’s premises or (b) in the acquisition by the Council of a property interest.
- 3.3.3 The Head of IT must be notified where any procurement involves the purchase of IT products or services that are not listed in the ICT Service Catalogue in order to address any potential data security implications for the Council.
- 3.3.4 The Information Governance Manager must be notified where any procurement or contract involves the transfer of personal or sensitive data to ensure compliance with data protection legislation.
- 3.3.5 As part of the options appraisal and business case (if appropriate) for the relevant procurement the Authorised Officer must undertake an appropriate risk assessment before entering into any process which will or may result in the incurring of any expenditure for the supply of goods, services or works to determine whether there are, or may be, financial, reputational, legal or other risks posed by the proposed contract, and how they are to be treated or managed.
- 3.3.6 All contracts must include risk assessed levels of insurance requirements, to be determined pre-procurement, supported by the relevant Procurement Team, and in accordance with any Guidance approved by the Executive Director of Resources and S151 Officer.
- 3.4 Where there is a corporate contract (i.e. a contract for the benefit of the Council as a whole) for the supply of goods, services or works, no other contract may be used for the supply of those goods, services or works unless this has been authorised in advance in writing by the Relevant Procurement Team.

Market Engagement

- 3.5 The Officer responsible for any procurement may consult potential suppliers in general terms about the nature, level and standard of the contract packaging and other relevant matters, provided this does not

prejudice any potential Bidder. The Officer must not adopt any technical advice in the preparation of an Invitation to Tender or Request for Quotations from anyone where this may prejudice the equal treatment of Bidders or distort competition. When considering undertaking any pre-tender market engagement in respect of a procurement above the Procurement Act Threshold, the Relevant Procurement Team must be consulted to ensure requirements of the Procurement Act are satisfied.

- 3.6 Authorised Officers must keep and maintain records in respect of each contract in order to demonstrate compliance with these Rules and the Procurement Legislation where applicable. Authorised Officers must work with the Procurement Hub to ensure that the contract management system is updated to hold the relevant contract information and updates throughout the life of the Contract. A Contract must be retained for 6 years after the end of the Contract where it has been signed and for 12 years after the end of the Contract where it has been sealed.

Small and Medium-Sized Enterprises

- 3.7 Officers must, prior to conducting either a procurement above the Procurement Act Threshold or a regulated below Procurement Act Threshold, (with the exception of below threshold Call-Off Contracts) have regard to the fact that small and medium-sized enterprises may face particular barriers in competing for a contract and consider whether such barriers can be removed or reduced.

4. Establishing the Value of the Contract/Expenditure per Contract

- 4.1 For the purposes of calculating Contract values under these Rules, the Contract value is the estimated aggregate or recurring value payable in pounds sterling excluding VAT over the entire Contract period, including any form of options or extensions of the Contract. For the purpose of determining whether the procurement thresholds set out in Rule 5.6 Table 1 have been met or exceeded (in which case the Procurement Act will apply) the same calculation will apply except the sum shall be inclusive of VAT. Where the Council is not able to estimate the value of the Contract (for example where the Contract duration is indefinite), the Contract is to be treated as being subject to the Procurement Act (where it applies).
- 4.2 Subject to Rule 4.1, in the case of establishing new Framework Agreements or a dynamic market, the Contract value must be calculated to include the total estimated value of all of the Contracts (or, in respect of open Frameworks, the value of all Frameworks) envisaged to be awarded for the total term of the Framework Agreement or the dynamic market and Concession Contracts must be calculated to include the maximum a Supplier could expect to receive under or in connection with the Contract.

- 4.3 Contracts must not be split into smaller contracts in order to avoid any of these Rules. Spend with Suppliers will be monitored regularly by the Procurement Team to ensure Contracts are not disproportionately awarded and exceeding thresholds.

- 4.4 Where the award of a Contract to a particular Supplier creates circumstances where any reasonably foreseeable future additional work could only be awarded to the same Supplier (e.g. because of the Supplier's ownership or exclusive rights in relation to a product or service) the value of the Contract for the purpose of this Rule 4, should include the likely value of such additional work.

CHAPTER THREE: THE PROCUREMENT PROCESS

5. Procurement Process and Thresholds

- 5.1 Please refer to Appendix 2, Table 2 of this Part, for the procurement thresholds and the process to be followed.
- 5.2 Where Requests for Quotation or Invitations to Tender are not required to be sought, Authorised Officers must take practicable steps to secure value for money in accordance with the Guidance approved by the Executive Director of Resources and S151 Officer.
- 5.3 Where Requests for Quotation or Invitations to Tender are required, Authorised Officers must take practical steps to secure value for money through a combination of cost, quality and competition. Competitive quotations or tenders must be sought in consultation with the Relevant Procurement Team following the Guidance approved by the Executive Director of Resources and S151 Officer. A Legal & Procurement instruction form must be completed for all projects with a value of above £25,000 excl VAT and for lower value projects where legal advice is required.
- 5.4 Where the estimated value of a Contract is between £25,000 excl VAT and the current Procurement Act Threshold, the Relevant Procurement Team will, in consultation with the service area, determine the most appropriate method for procuring the supplies, services or works ([which may include direct award](#)). This will consider aspects such as capability and capacity of officers in the relevant service area to manage the procurement themselves, timescales, risk and the relative maturity and state of the supplier market. The rationale for selecting a particular procurement method will be documented, recording details behind the selection.
- 5.5 The Head of Commercial and Procurement Services will maintain a record of all contracts below the Procurement Act Threshold that have been awarded directly to a Supplier (such record to contain the date of the contract, the nature of the contract, the value and duration of the contract, the name of the Supplier and the relevant service area) and will provide a copy of this record to the Director of Law & Governance and Monitoring Officer at least every 6 months, and where otherwise requested to do so by Director of Law & Governance and Monitoring Officer.
- 5.6 Where the total value of:
 - (i) a Contract;
 - (ii) all contracts to meet a single requirement for goods or services; or
 - (iii) all successive contracts of the same type (the Relevant Procurement Team must be consulted for advice on calculating this)

is equal to or exceeds the Procurement Act Threshold set out below, the Authorised Officer shall contact their Relevant Procurement Team to establish whether the relevant Procurement Act Threshold has been met or exceeded. The Procurement Act Thresholds (in bold) are inclusive of VAT and will be revised every even year. To assist calculations, the values in italics are shown exclusive of VAT).

Table 1

	Threshold (from 1 January 2024) (incl.VAT)
Goods & Services	£214,904 <i>(£179,086.67 excl VAT @ 20%)</i>
Works & Concessions	£5,372,609 <i>(£4,477,174.17 excl VAT @ 20%)</i>
Light Touch Contracts	£663,540 <i>(£552,950 excl of VAT@20%)</i>

	Threshold (from 1 January 2026) (incl.VAT)
Goods & Services	£207,720 <i>(£173,100 excl VAT @ 20%)</i>
Works & Concessions	£5,193,000 <i>(£4,327,500 excl VAT @ 20%)</i>
Light Touch Contracts	£663,540 <i>(£552,950 excl of VAT@20%)</i>

- 5.7 Where it is intended to direct award an above Procurement Act Threshold contract pursuant to either section 41 (and one or more of the justifications in Schedule 5), section 42 or section 34 of the Procurement Act 2023 (including, but not limited to, genuine urgency, user choice, single supplier, insolvency etc), the Relevant Procurement Team must consult Legal Services.

6. Pre-Qualification Requirements/Minimum Standards for Suppliers

- 6.1 Authorised Officers are responsible for ensuring that all Suppliers awarded Contracts for the supply of goods, services or works to the Council have met the Council's minimum standards of suitability, as advised by the Relevant Procurement Team.

- 6.2 Where the procurement is for a below Procurement Act Threshold Contract regulated by the Procurement Act, the Council must not restrict the submission of tenders or quotes by reference to an assessment of the Supplier's suitability to perform the Contract. This does not apply to (a) a works contract with a value of not less than £214,905 or (b) an award of a Contract in accordance with a Framework.

7. Invitations to Tender/Request for Quotations

7.1 All Invitations to Tender or quote must:

- (i) Clearly specify the goods, services or works that are required (subject to appropriate adjustment applicable to the procedure being used);
- (ii) list the criteria on which the tender(s) will be evaluated (see Rule 8) showing the weighting of the various evaluation criteria unless otherwise advised by the Relevant Procurement Team and Legal Services;
- (iii) include a requirement for Bidders to declare that the tender content, price and all other figures or particulars concerning the tender have not been disclosed by the Bidder to any other party;
- (iv) include a requirement for Bidders to complete fully and sign all tender documents including certificates confirming that no canvassing or collusion has taken place; and
- (v) include the written conditions of contract and state that the Contract will be subject to these. The conditions of contract may either be the Council's own conditions, or where a Framework Agreement/Dynamic Market is being used, the conditions specified by the Framework Agreement/Dynamic Market ~~written conditions of contract and state that the Contract will be subject to these.~~

7.2 The list of requirements in Rule 7.1 of this Part, is not exhaustive and any and all additional requirements of the Relevant Procurement Team must also be met.

8. Evaluation Criteria

8.1 In determining the relevant evaluation criteria for any procurement, Authorised Officers, in consultation with their Relevant Procurement Team, must consider all factors relevant to their requirement, including environmental and social considerations, including social value benefit where appropriate, so far as this is lawful.

8.2 The evaluation process must clearly demonstrate that the Council is seeking to award a contract which offers the best value for money. For procurements (including Call-off Contracts under Framework Agreements) under either the Public Contract Regulations 2015 or the

Procurement Act this respectively means the Most Economically Advantageous Tender (MEAT) or the Most Advantageous Tender (MAT) (see Rule 5 of this Part).

9. Terms and Conditions of Contracts

- 9.1 Terms and conditions for all Contracts for goods, services and works with a value of ~~£5025~~,000 (excl VAT) or more (and preferably all other Contracts, particularly consultancy contracts to ensure that all intellectual property rights are transferred to the Council, no data is wrongly removed from the Council's possession and no employee or worker rights are acquired by the consultant) must be in accordance with terms and conditions prepared or approved by the Director of Law & Governance and Monitoring Officer, unless otherwise agreed by the Director of Law & Governance and Monitoring Officer.

- 9.2 Any Contract of less than £5025,000 (excl VAT) which is of indefinite duration must be in accordance with any terms and conditions prepared or approved by the Director of Law & Governance and Monitoring Officer so as to ensure that the termination provisions are satisfactory. Other Contracts under £5025,000 (excl VAT) should also be on terms and conditions prepared or approved by Legal Services where there are specific legal issues arising such as ownership of intellectual property rights or the processing of personal data.
- 9.3 All written Contracts (whatever their value) shall require that:
- (i) any payment due from the Council is made no later than 30 days from the date on which the relevant invoice is received provided that the invoice is not considered to be invalid or is disputed. Where an invoice is considered invalid or is disputed, the Supplier must be notified without undue delay;
 - (ii) any invoices submitted by the Supplier are considered and verified by the Council in a timely fashion and undue delay in doing so is not to be regarded as sufficient justification for failing to treat an invoice as valid or undisputed;
 - (iii) any subcontract imposes obligations similar to those which (i) and (ii) require and an obligation that the subcontractor is required to impose such obligations in any further subcontract.
- 9.4 All Contracts with a value of £5025,000 (excl VAT) or more must include a clause empowering the Council to terminate the contract for bribery or corruption and to recover from the Supplier the amount of any loss resulting from such termination in a form approved by the Director of Law & Governance and Monitoring Officer.
- 9.5 All Contracts with a value of £500,000 (excl VAT) or more and any other Contract requiring the additional limitation period of 12 years rather than 6 years for court proceedings in the event of default must be drafted as a deed and sealed by the Council. This is particularly relevant to construction contracts in the case of latent defects.
- 9.6 Any Contract that will result in a public facing website/mobile app where the Council or a Supplier on its behalf is presenting information relating to the Council or services the Council offers, must comply with the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018.
- 9.6.7 Rules 9.3 to 9.5 shall not apply to below Procurement Act Threshold agreements with statutory undertakers for diversion of apparatus under either Sections 84-85 of The New Road and Street Works Act 1991 or other legislation.

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10. Third-Party Framework Agreements, Dynamic Purchasing

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Systems and Dynamic Markets

- 10.1 A Contract may be awarded by calling-off a third-party Framework providing the following criteria are met:

- i) Legal Services have reviewed the framework documentation, confirmed that the Framework is lawfully accessible to the Council and any access agreements are entered into;
- ii) The Framework Agreement is considered suitable taking into account the complexity and scale of the requirement, the relevant market and value for money (following consultation with the Relevant Procurement Team);
- iii) The call-off can be undertaken in compliance with the terms and conditions of the Framework Agreement (such terms and conditions must meet the Council's requirements as set out in these Rules and have been approved by Legal Services); and
- iv) For above Procurement Act Threshold Contracts, the outcome was not determined prior to identifying the Framework.

10.2 Contracts based on either a third-party Dynamic Purchasing System or Dynamic Market may be awarded if they comply with the relevant Procurement Legislation. Legal and Procurement advice must be sought at an early stage to ensure legal compliance and the relevant access arrangements are put in place.

11. Receipt of Tenders (including under Framework Agreements) and Opening of Tenders

All tenders/quotations must be submitted online via the Tendering Portal except where authorised by the Relevant Procurement Team.

12. Evaluation of Tenders or Quotations

- 12.1 Authorised Officers must ensure that all tenders (including those in mini-competitions under Framework Agreements) are evaluated in accordance with the evaluation criteria specified in the Invitation to Tender or in the Requests for Quotations and that the evaluation process is managed by the Relevant Procurement Team.
- 12.2 The arithmetic in compliant tenders, including those in mini-competitions under Framework Agreements, must be checked.
- 12.3 Authorised Officers must compare submitted tender prices with any project appraisal or pre-tender estimates. Where tender prices are above the estimated value of a contract, Authorised Officers must be satisfied that the tender/quotation represents value for money and ensure that sufficient budget is available prior to proceeding to award.
- 12.4 Where the submitted tender price of any Bidder in response to a PA Tender is an Abnormally Low Tender, the requirements set out in Section 19 (4) & (5) of the Procurement Act must be followed. Where the submitted tender price of any Bidder in response to a non- PA Tender is an Abnormally Low Tender, advice must be sought from the Relevant Procurement Team.

CHAPTER FOUR: CONTRACT AWARD

13. Authorisation for the Award of Contracts

- 13.1 Contracts may only be awarded by the Council if there has been full compliance with these Rules and the Financial Procedure Rules.
- 13.2 Tenders may be evaluated and recommended for acceptance as follows:
- 13.3 No tender can be accepted or Contract awarded unless this is on the basis of the evaluation criteria sent out with the Invitation To Tender or Requests for Quotation.
- 13.4 Where a key decision was obtained to authorise the entering into of the procurement process under Rule 3.1 (i), the Contract must not be awarded unless that decision has been complied with (for example, a new decision may be required prior to award if the risk factors have changed).
- 13.5 Where a key decision was not initially considered necessary under Rule 3.1 (i) but due to the price of the winning bid it has become a key decision, the requirements set out in Rule 3.1 (i) must be complied with before the Contract is awarded.

14. Procedure for Award of Contracts

- 14.1 For procurements not covered by Procurement Legislation, following Contract award, successful and unsuccessful Bidders must be notified of the award of the Contract for which they bid. This notification letter will be issued by the Relevant Procurement Team.
- 14.2 Where there has been a procurement covered by Procurement Legislation, the Relevant Procurement Team will need to comply with various transparency requirements prior to award and/or post award. The Authorised Officer must therefore consult the Relevant Procurement Team prior to any award being made. [Where a standstill period is being applied \(whether mandatory or voluntary\), standstill letters/assessment summaries must only be issued following the decision to award. Where a decision to award is a key decision, the decision must not be implemented until the expiration of any applicable call-in period under Rule 19, Part 6.2 of the Constitution - Overview and Scrutiny Rules.](#) Where there is a court challenge prior to completion of the Contract then the Contract must not be completed without the authorisation of the Director of Law & Governance and Monitoring Officer, Executive Director of Resources and S151 Officer, the Relevant Procurement Team and the relevant Director.
- 14.3 All Contracts must be in writing and should be held on the Council's contract management system. Authorised Officers are responsible for providing a copy of the Contract to the Relevant Procurement Team.

- 14.4 Contracts must be signed or sealed in accordance with Appendix 2, Table 1 (for the avoidance of doubt no elected or co-opted Member of the Council may sign any Contract for or on behalf of the Council).

14.5 In relation to Contracts with a total value in excess of £5,000 excl VAT which have not been supported by the Procurement Team, Authorised Officers must inform the Relevant Procurement Team of all Contracts (including Call-off Contracts) awarded promptly (and preferably within 5 working days of the date of the award) so that the:

- (i) details of the Contract can be added to the Council's Contracts Management System; and the Relevant Procurement Team can publish details of the Contract award in accordance with any legal requirements; and
- (ii) all transparency and reporting requirements can be met.

15. Commencement of Contracts

No supply of goods, services or works must commence until all contract documentation is duly completed (see Rule 14 above) except where otherwise approved by the Director of Law & Governance and Monitoring Officer

CHAPTER FIVE: POST-AWARD

16. Contract and Risk Management

Contracts must be managed according to the Procurement Legislation (as applicable) and Guidance approved by the Executive Director of Resources and S151 Officer.

17. Variations of Contracts (including extensions)

17.1 Any variation to a concluded Contract for works, supplies or services (including an extension to the length of any such Contract or a replacement of the original Supplier) ('the Variation') is only permissible if the Variation in principle:

- a) demonstrably represents Value For Money or is otherwise in the Council's best interest to progress;
- b) can be funded from an approved budget;
- c) in the opinion of the Head of Commercial and Procurement Services entails no diminution in any Social Value identified at the commencement of the Contract;
- d) does not conflict with the provisions of the Procurement Legislation (where applicable);

and it is established with advice from the Relevant Procurement Team that a competitive process does not need to be followed. The Relevant Procurement Team must consult with Legal Services where the Variation is regulated by Procurement Legislation. The Relevant Procurement Team will publish any required transparency notices.

17.2 Where, as a consequence of a proposed Variation, a Contract originally below the Procurement Act Threshold will exceed the Procurement Act Threshold, the Variation will become regulated by the Procurement Act and the Relevant Procurement Team must be consulted.

17.3 Any Variation outside these requirements would require the conduct of a new tender process for a new Contract.

17.4 Where an Authorised Officer proposes to terminate a Contract which is covered by the Procurement Act or where a Contract which is covered by the Procurement Act is due to expire, the Authorised Officer must consult with the Relevant Procurement Team in order that transparency requirements can be met.

CHAPTER SIX: GENERAL

18. Non-compliance with these Rules

- 18.1 Any officer who becomes aware of any non-compliance or potential non-compliance with these Rules must notify the Relevant Procurement Team, Legal Services and the relevant Finance Business Partner as soon as this is identified, together with a proposed compliant solution wherever possible. Instances of non-compliance may be escalated to the relevant Director for further investigation.
- 18.2 If the non-compliance cannot be remedied by the taking of any appropriate step or measure, the matter must be notified to the Executive Director of Resources and S151 Officer and the Director of Law & Governance and Monitoring Officer by the relevant Director. Where a particular course of action is specified by both the Executive Director of Resources and S151 Officer and the Director of Law & Governance and Monitoring Officer this must be complied with.
- 18.3 If a non-compliance has given rise to, or is likely to give rise to illegality or maladministration, the Executive Director of Resources and S151 Officer and the Director of Law & Governance and Monitoring Officer must be notified.

If these Rules are not complied with, this will not invalidate any Contract entered into by or on behalf of the Council, except where English law provides to the contrary.

19. Schemes of Delegation

- 19.1 Directors must ensure that they have Schemes of Delegation identifying:
- (i) Authorised Officers; and
 - (ii) the extent of Authorised Officers' delegated authority (including expenditure limits which reflect authorisation limits set out in the Financial Scheme of Delegation).
- 19.2 Authorised Officers may not, under any circumstances, act outside the delegated powers of their Director.
- 19.3 Directors must ensure that all Authorised Officers receive the necessary training to be and remain conversant with these Rules.

20. Conflicts of Interest

Officers and Members must comply with their respective Codes of Conduct under Part 9 of the Constitution to avoid any conflict between their own interests and that of the Council. Where required by the Relevant Procurement Team, a conflict assessment must be undertaken at the start of a procurement and shall

be kept under review during the lifetime of the Contract where one is awarded.
Conflict Assessments will be retained by the Relevant Procurement Team.

Appendix 1 Definitions

For the purposes of these Rules:

Abnormally Low Tender means a tender which gives rise to doubts that the price offered is economically sustainable and will properly deliver the contract.

Authorised Officers means those officers of the Council identified as such by Directors in their Schemes of Delegation and approved by the Executive Director of Resources and S151 Officer to undertake procurement and contracting on behalf of the Council (including authorisation of expenditure, preparing and/or negotiating contract documentation, awarding and signing Contracts and/or managing Contracts) and any Agents as defined in Rule 1.8 of this Part, with such authority;

Bidder means a potential Supplier who responds to an Invitation to Tender or Request for Quotations or any person who is invited to submit a tender or quote.

Concession Contract means a contract for supply of works or services, for a pecuniary interest, where at least part of the consideration for that supply is a right for the Supplier to exploit the works or services that are the subject of the Contract and where, under the Contract, the Supplier is exposed to a real operating risk.

Contract means an agreement which:

- (i) may be oral, written, partly oral and partly written or implied from conduct between the Council and another person;
- (ii) gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and
- (iii) commits the Council to paying or doing something;

and, where the context requires, a reference to a contract means a contract to which these Rules apply and a "Call-off Contract" means an order made/call-off contract entered into under a Framework Agreement. Note that service level agreements or SLAs are not generally legally binding and must not be used with third parties (i.e. outside the Council) without the consent of Legal Services.

Director – for the purposes of these Rules the title "Director" includes Executive Directors, and, where a Director has delegated their function to a Deputy Director or Head of Service under the Scheme of Delegation it shall include the Deputy Director/Head of Service to whom it has been delegated.

Framework or Framework Agreement means a Contract with a Supplier or Suppliers that provides for future award of contracts (Call-off Contracts) to the Suppliers or to a Supplier.

Guidance means the procurement guidance available on the Council's Intranet.

Head of Service means an officer who reports directly to a Director and is designated by them to be a Head of Service;

Invitation to Tender means the document headed as such and used by the Council to invite Suppliers to bid for the provision of goods, services or works;

Light Touch Contract means a contract wholly or mainly for the supply of services of a kind specified in section 9 of the Procurement Act.

Monitoring Officer means the officer appointed under Section 5 of the [Local Government and Housing Act 1989](#). The Monitoring Officer is statutorily responsible for reporting to the Council on any proposal, decision or omission by the Council, any committee, sub-committee, joint committee or officer which has given rise to, or is likely to or would give rise to a breach of the law or potential maladministration.

PA Tender means a tender procedure which needs to be carried out under the Procurement Act.

Person means any individual, partnership, local authority or incorporated or unincorporated body.

Procurement Legislation means either The Public Contracts Regulations 2015, The Concession Contracts Regulations 2016, The Health Care Services (Provider Selection Regime) Regulations 2023 ("PSR Regulations") or the Procurement Act 2023 as appropriate.

Procurement Act means the Procurement Act 2023.

Procurement Act Threshold means the thresholds set out in Rule 5.4, Table 1 of this Part (as may be revised by the government every two years).

Relevant Procurement Team means whichever of the following category based teams advises the Authorised Officer:

- (i) the Economy & Place Team;
- (ii) the Health, Education & Social Care Team; or
- (iii) the Resources Team

Request for Quotations means the document headed as such and used by the Council to invite Suppliers to bid for the provision of goods, services or works.

s151 Officer means the Chief Finance Officer appointed under s151 Local Government Act 1972 and officers to whom the s151 Officer has delegated their functions in accordance with the relevant Scheme of Delegation;

Scheme of Delegation has the meaning given to it under Rule 21.

Subsidy Control Law means the Subsidy Control Act 2022 as may be amended or any successor legislation.

Supplier means any Person who provides or seeks to provide goods, services or works to the Council.

Tendering Portal means the e-tendering system/tool authorised by the Relevant Procurement Team.

Appendix 2

Table 1 - Pre-Procurement Authorisation, Contract Award Authorisation and Execution Requirements

Subject to compliance with Rule 3.1(i) and Rule 13.4, authorisations may be given in accordance with the Tables below:

Goods and Services

Cumulative expenditure per contract (excl VAT)	Pre- Procurement and Contract Award Authorisation	Execution
Up to but not exceeding £200,000	Authorised Officer in accordance with their delegated financial limits	Signed by one Authorised Officer in accordance with their delegated financial limit.
Above £200,000 but not exceeding £500,000	Head of Service and Executive Director of Resources and S151 Officer*	Signed by Head of Service and one other Authorised Officer in accordance with their delegated financial limit
£500,000 and above	Director and Executive Director of Resources and S151 Officer*	Sealed by the Director of Law & Governance and Monitoring Officer on behalf of the Council on the instructions of the Director and one other Authorised Officer in accordance with their delegated financial limit

Works

Cumulative expenditure per contract (excl VAT)	Pre- Procurement and Contract Award Authorisation	Execution
Up to but not exceeding £500,000	Authorised Officer in accordance with their delegated financial limits	Up to £200,000 signed by one Authorised Officer in accordance with their delegated financial limit. From £200,000 up to £500,000 signed by two Authorised Officers in

		accordance with their delegated financial limits
Above £500,000 but not exceeding £2,000,000	Head of Service and Executive Director of Resources and S151 Officer*	Sealed by the Director of Law & Governance and Monitoring Officer on behalf of the Council on the instructions of the Head of Service and one other Authorised Officer in accordance with their delegated financial limit
£2,000,000 and above	Director and Executive Director of Resources and S151 Officer*	Sealed by the Director of Law & Governance and Monitoring Officer on behalf of the Council on the instructions of the Director and one other Authorised Officer in accordance with their delegated financial limit

* Authorisation by the Executive Director of Resources and S151 Officer is only required at Contract Award stage where there have been variations to the scope/cost of the contract after the Pre-Procurement Authorisation was obtained.

Note: Framework Agreements and Call-off Contracts should be authorised in accordance with this Appendix 2. However, Framework Agreements over £500k in aggregate value do not need to be sealed but should be signed by a Director and S.151 Officer. Call-off Contracts over £500k should be sealed in accordance with this Appendix 2.

Table 2 - Procurement thresholds and processes

Estimated cumulative expenditure per contract	Competition
Supplies, Services or Works £25,000 or above up to the Procurement Act Thresholds	<p>The Relevant Procurement Team will review the needs of the service area and will identify an appropriate procurement method for the required supplies, services or works. This will take into account aspects such as capability and capacity of officers in the relevant service area to manage the procurement themselves, timescales, risk and the relative maturity and state of the supplier market. Where a competitive process is undertaken, templates will be utilised to standardise the process and tenders may be advertised on Find A Tender, depending on the requirements.</p> <p>For all procurements, the rationale for selecting a particular procurement method will be documented, recording details behind the selection.</p>
Equal to or exceeding the relevant Procurement Act Threshold	<p>Tenders must be advertised where required by the Procurement Act and conducted using an appropriate competitive procedure under the Procurement Act (as advised by the Relevant Procurement Team). See Rules 5.7 and 1.10 regarding direct awards under the Procurement Act.</p>