

Part 4(g) – Contracts Procedure Rules

1. Introduction

The Council is accountable to the public for the way it spends public funds. Professional procurement activities contribute to the efficient, effective and economic delivery of services to the public, maximising the benefits available from the budgets and supports the Council's strategic objectives. The Council's reputation is of the upmost importance and should be safeguarded from any suggestion of dishonesty, corruption or failure to meet legal obligations.

These Contracts Procure Rules (CPR's) ensure these accountabilities and objectives are addressed.

2. Procurement Thresholds & Exemptions

Procurement covers the total process of purchasing for all bought in services, supplies and works; from the initial assessment of the business need, to acquisition or extension, and contract management.

Total contract value means the estimated/aggregate spend or recurring value payable over the entire contract period including any extensions of contract.

Section 7.1 provides further details on how to calculate contract value.

2.1 Thresholds

The table below sets out the different financial thresholds.

	Total Contract Value (excl. VAT)	Lead Officer	Procurement Process	Procurement System
Low Value	£1 to £1,000	Council Officer	Obtain 1 written or verbal quote from a supplier who accepts Procurement Card and complete transaction	Process Procurement Card transactions in accordance with procedures
Minor	£1,001 to £4,999	Council Officer	Obtain a minimum of 1 written supplier quote that demonstrates best value	Create a purchase request in Purchase to Pay (P2P), enter a spend justification and attach preferred supplier quote
Medium	£5,000 to £24,999	Council Officer	Obtain 3 written supplier quotes and evaluate to determine best value	Create a purchase request in Purchase to Pay (P2P), enter a spend justification and attach preferred supplier quote
Major	Threshold (a) £25,000 to £74,999 Threshold (b) £75,000 to 172,513	Procurement Advisor	Threshold (a) and (b) Contact procurement and seek support to develop specification or tender document, advertise, evaluate and award contract Threshold (b) required to issue a tender	Council's website, Contracts Finder / e-Procurement to advertise and award contract. Create a purchase request in P2P, enter a spend justification and reference contract in P2P
OJEU Contract	£172,514 and over unless: (a) social care, health education £625K and over (b) works £4,322M and over	Procurement Advisor	Contact procurement and follow EU Procurement Rules for Service, Supplies and Works Contracts	Council's website, Contracts Finder / e-Procurement and OJEU to advertise and award contract. Create a purchase request in P2P, enter a spend justification and reference contract in P2P

Further detailed information on the Procurement Processes detailed in this table is contained within section 7.2.

2.2 Exemptions to CPR's

The following types of procurement are exemptions and not covered by these CPR's:

- Grants which the Council may receive or make; except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered. The awarding of grants by the Council or on behalf of the Council must be carried out under the principles of openness, fairness, non-discrimination and value for money. Officers cannot choose to treat procurement as a grant in order to avoid conducting a competitive process. The Council's Financial Procedure Rules provide more guidance on awarding and the receiving of grants.
- The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This rule does not extend to any service, supplies or works contracts that may be required to make the land, existing buildings or immovable property ready for acquisition, disposal or leasing.
- Direct employment of permanent or fixed-term employees. For the avoidance of doubt, these CPR's do apply to consultancy and employment agency contracts.
- Contracts for the execution of either mandatory works or provision of goods or services which must be provided by Statutory Provider other than the Council. This includes but is not limited to public utility companies and other legal authorities.
- Contracts which have been procured on the Council's behalf through collaboration with other local authorities or other public bodies (advice on frameworks please see section 8.3). In such instances a competitive process must be followed that complies with the rules / regulations of the lead organisation even though these may not comply wholly with these rules. The use of any third party rules and regulations must be approved by the Group Manager of Procurement prior to the commencement of any collaborative procurement. This includes but is not limited to national or regional contracting authorities where the process followed is in line with the Public Contracts Regulations 2006 or 2015 or any other subsequent amendment.
- Instructing barristers or external solicitors and those costs do not exceed £74,999
- Specialist professional services, where the Council's costs are being discharged by a third party and those costs do not exceed £74,999.
- Spot care placements (i.e. individual placements that fall outside of any block contracting arrangements) are excluded from the requirement but have to be approved through separate approval processes.
- The lending or borrowing of money by the Council.
- Arrangements with Ofsted for the inspection of a school.
- If any law says we must contract differently from these CPR's.
- For the avoidance of doubt exemptions do not include emergencies; this is covered in Section 8.11.

Officers must ensure that any procurement in these areas is consistent with the Council's duty to obtain value for money, as well as procurement strategy and other relevant policies of the Council.

Exceptions and Emergencies are detailed in Sections 8.9, 8.10 and 8.11

2.3 Procurement Review Board

The Procurement Review Board (PRB) is a board set up to take a strategic role in scrutinising and monitoring the Council's expenditure in the context of procurement activity (see section 5.6). The

Corporate Procurement Team is responsible for reporting to the PRB on compliance and on progress against the Annual Procurement Plan.

3. Purpose of Contracts Procedure Rules

The purpose of these CPR's is to set out the principles of procurement, roles and responsibilities, rules and processes involved in purchasing services, supplies and works contracts across the Council. They should be read in conjunction with the Council's Financial Procedure Rules, **Part 4(f)**, as well as the Council's Procurement Strategy and Procedures.

In addition, these CPR's reflect the EU Procurement Regulations, The Public Contract Regulations 2015 and UK legislation. Any misuse or failure to comply with any of these CPR's may result in disciplinary action and legal proceedings.

Any non-compliance shall be reported to the Group Manager of Procurement, who will decide in conjunction with the appropriate Corporate Director/ Head of Services what further action needs to be taken.

These CPR's are supported by detailed guidance included within the Council's Procurement Toolkit. The Toolkit explains in more detail procurement and contract management processes, but does not override these CPR's. All procurement activity needs to adhere to the Scheme of Delegation and Financial Limits as set out in the Financial Procedure Rules.

These CPR's will be reviewed by the Group Manager of Procurement at least every 12 months.

4. Principles of Procurement

The Council's approach to professional procurement, underpinned by its values, is driven by a number of principles that include but are not limited to those set out in table below:

Principle	Meaning of the principle
Achieving the best commercial value	Using the Council's purchasing power to negotiate and leverage: <ul style="list-style-type: none"> ▪ The best commercial price from the marketplace ▪ Robust legal terms and conditions ▪ Effective, efficient and economic use of resources
Complying with Regulatory and Legislative requirements	Ensure the Council is: <ul style="list-style-type: none"> ▪ Not exposed to unnecessary risk and likelihood of challenge arising from non-compliant procurement activity ▪ Compliance with current legislation, up to date with guidance notes, tools and templates issued by Cabinet Office ▪ Open, fair and transparent and fully compliant with EU Procurement Regulations.
Meeting Government Acts and statutory duties	Meeting applicable standards and accreditations on: <ul style="list-style-type: none"> ▪ Social Value Act ▪ Acting within the laws of the Bribery Act 2010 ▪ Quality and Environmental ▪ Security Information Management ▪ Freedom of Information, Data Protection and Transparency Acts ▪ Health and Safety.
Monitoring sustainability	Assessing and monitoring the impact on: <ul style="list-style-type: none"> ▪ The environment and any exposure to environmental risks ▪ Society such as support for equality and diversity ▪ Supporting local (SME) supplier markets.
Maintaining ethical standards	Operating openly and transparently by: <ul style="list-style-type: none"> ▪ Adhering and performing within the Council's code of conduct ▪ Acting within the laws of the Equalities Act 2010 ▪ Ensuring our suppliers allow for equal opportunities

	<ul style="list-style-type: none"> ▪ Allowing diversity amongst our approved supplier base ▪ Ensure that Non-Commercial Considerations do not influence any contracting decision ▪ To keep our supplier records relevant and up to date.
--	---

5. Roles and Responsibilities

All Officers must comply with these CPR's, the Council's Constitution and Public Contract Regulations. Officers must ensure that any Agents or Consultants acting on their behalf also comply.

5.1 Corporate Directors and Heads of Service shall:

- (a) Agree their annual departmental procurement plans with the Group Manager of Procurement before the start of each financial year. The plans should accurately detail existing contracts / spend, pending contract renewals and any new contract / spend identified for the coming year.
- (b) Appoint Officers in their departments as designated Procurement Officers who are trained in the administration of purchasing services, supplies and works.
- (c) Appoint Officers in their departments as Contract Managers who are trained in contract management and supplier relationship management.
- (d) Ensure Procurement Officers and Contract Managers are appropriately trained, supervised, appraised and have access to the necessary systems and understand the importance of following these rules.
- (e) Be responsible for approving and delegating approval of contracts / spends in their department, including any variations to contracts where there are financial, legal or commercial implications.
- (f) Collaborate with the Group Manager of Procurement and Audit on an Annual Procurement Plan to ensure compliance within their departments.

5.2 Designated Procurement Officers must:

- (a) Appraise purchases, in a manner commensurate with their complexity and value – taking account of guidance in the Procurement Toolkit.
- (b) Purchase services, supplies and works in accordance with the CPR's, demonstrate best value and ensure no commitment is made without written authorisation.
- (c) Check whether a suitable approved supplier, contract, purchasing or framework agreement already exists before purchasing or letting a contract for services, supplies and works.
- (d) Develop a clear and precise set of purchasing requirements, including (but not limited to) written specification / scope, evaluation criteria, drawings, seasonal trends, historical data, benchmark data, timescales and delivery details.
- (e) Create purchase requisitions in advance of the supply of services, supplies and works except where a Purchase Card transaction or Payment without a Purchase Order request applies. All purchase requisitions should be under the Council's agreed Terms and Conditions.
- (f) Any conflict of interest must be declared immediately to the Group Manager of Procurement to avoid any conflict of interest when purchasing goods, services and works.

5.3 Procurement Advisors shall:

- (a) Provide procurement advice and support to Officers, Corporate Directors and Heads of Service on how to purchase services, supplies and works in accordance with these CPR's. This advice includes administering adverts / frameworks, developing specifications / tenders, conducting evaluation processes, publishing awards and operating procurement systems.

- (b) Notify the Group Manager of Procurement in a timely manner of any anticipated unplanned procurement expenditures in service areas for the forthcoming financial year
- (c) Ensure that procurement requirements are properly defined; procurement activity is competitive, transparent, fair, complies with the relevant legislation and demonstrates best value.
- (d) Support each department to proactively performance manage supplier contracts as part of an agreed contract management plan.

5.4 Group Manager of Procurement shall:

- (a) Deliver contracts in a manner contributing to the following key objectives: ensuring compliance with EU guidelines, legislation and other procurement policy and regulatory frameworks available to the wider public sector and local authorities and contributing to the achievement of value for money / cashable savings.
- (b) Review in accordance with these CPR's exceptions and variations to terms & conditions, in consultation with the Head of Finance and Resources and Head of Legal and Democratic services where there are financial and legal implications respectively.
- (c) Allocate resource to key procurement projects to ensure delivery of the Annual Procurement Plan.
- (d) Ensure Procurement Advisors keep up to date with these CPR's, the Council's Financial Procedure Rules, the Procurement Toolkit, other relevant Guidelines and Procurement Legislation.
- (e) Continually review CPR's, the Council's Procurement Strategy and Sustainable Procurement Policy.

5.5 Corporate Procurement Team shall:

- (a) Provide procurement advice and support to Officers, Corporate Directors and Heads of Service on how to purchase services, supplies and works in accordance with these CPR's. This advice includes administering adverts / frameworks, developing specifications / tenders, conducting evaluation processes, publishing awards and operating procurement systems.
- (b) Monitor compliance and notify the Group Manager of Procurement in a timely manner of any anticipated exceptions to CPR's or unplanned procurement expenditures in service areas for the forthcoming financial year.
- (c) Resource to key procurement projects to ensure delivery of the Annual Procurement Plan.

5.6 Procurement Review Board (PRB) shall:

- (a) Undertake a strategic role in scrutinising and monitoring the Council's expenditure in the context of procurement activity.
- (b) Receive compliance reports against all procurement activity
- (c) Receive reports of progress against the Annual Procurement Plan
- (d) Review any unplanned procurement activity reported to it that exceeds £74,999 and direct a course of action to address any such unplanned procurements subject to the normal authorities set out in Section 6 below.

6. Approval to Spend

6.1 Requirements before commencing any procurement

Before commencing any procurement activity the following approvals to proceed must be in place:

- (a) Contracts that are under £75,000 require approval pursuant to the Delegation Scheme in **Part 3, Schedule 3** of the Constitution and 6.1(e) and 6.2 below, including budgetary approval.
- (b) Contracts of £75,000 and above require the authority of Cabinet or of a Chief Officer (pursuant to the Delegations Scheme in **Part 3, Schedule 3** of the Constitution and 6.2 below), including budgetary approval, provided that where the contract has been included in the Annual Procurement Plan then this provides the necessary authority for the Contract.
- (c) Contracts within (a) or (b) which are Capital Contracts must be included in the Capital Programme in accordance with the Financial Procedure Rules.
- (d) Contracts where external funding is being obtained within (a) or (b) must comply with External Funding Rules in the Financial Procedure Rules.
- (e) Financial levels of authority for Request for Quotation or Invitation to Tender:

Issue of Request for Quotation or Invitation to Tender (subject to budgetary approval)	
Cabinet / Schools Governing Bodies	Contract with an estimated value of over £1 million which is not included in the Annual Procurement Plan or where the value is in excess of that included in the Annual Procurement Plan
Directors	1. Contract with an estimated value of over £1m already included in the Annual Procurement Plan. 2. Contract up to £1 million
Authorised Officers	Head of Service contract with an estimated value up to £500k Group Manager contract with an estimated value up to £75k Business Unit Manager contract with an estimated value up to £25k Line Manager contract with an estimated value up to £10k
Head Teachers and their Authorised Officers	In accordance with the delegated powers stipulated by the relevant Board of Governors

6.2 Award of Contract

Financial levels of authority for Award of Contract:

Award of Contract (subject to budgetary approval)	
Cabinet / Schools Governing Bodies	Contract over £1 million where the tender is in excess of the budget agreed at invitation stage or included in the Annual Procurement Plan. Note: Contracts over £1m must be executed under seal in accordance with Rule 7.3. (b)
Directors	1. Contract over £1 million where tender is within the budget agreed at invitation stage or included in the Procurement Plan. 2. Contract up to £1 million
Authorised Officers	Head of Service contract with an estimated value up to £500k Group Manager contract with an estimated value up to £75k Business Unit Manager contract with an estimated value up to £25k Line Manager contract with an estimated value up to £10k

APPENDIX 1

Head Teachers and their Authorised Officers	In accordance with the delegated powers stipulated by the relevant Board of Governors
--	---

7. Detailed Procurement Rules

To ensure the purpose and principles set out earlier in CPR's are met, the following detailed rules must be adhered to at all times:

7.1 Calculating Contract Value

Before entering into any contract; the correct contract value must be calculated in advance. Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax (VAT) over the entire contract period including any extensions of the contract. Where the contract term is without fixed length the estimated value of the contract should be calculated by monthly value of spend multiplied by 48 in accordance with regulation 8 of the EU regulations. When calculating the contract value to determine the correct Procurement Threshold, Officers must not underestimate or split the value of a single contract over a number of contracts to artificially avoid certain procurement thresholds.

7.2 Detailed Procurement Process in Relation to Thresholds

Once the contract value has been calculated, all known or new purchasing contracts are made in accordance with the procurement thresholds and process detailed below, except where an exception has been agreed as detailed in Sections 8.9 and 8.10. Officers should seek advice and support from Procurement Advisors to ensure they comply with the CPR's and EU Procurement Rules. The thresholds are summarised in more detail below and apply to known procurements that are contracts due for renewal and new spend agreed within the procurement plan.

Threshold	Procurement Process
£1 to £1,000	An Officer should obtain one written or a verbal quote from a supplier who accepts a Procurement Card and complete the card transaction. In circumstances where the Officer does not have a Procurement Card and/or the supplier does not accept a Procurement Card, the Officer should follow the process described in the £1,001 to £4,999 threshold below.
£1,001 to £4,999	An Officer should obtain a minimum of one written quote and create a purchase request in P2P and enter a spend justification to evidence that best value has been achieved for the Council. The Officer will also need to attach the preferred supplier quote within the purchase request
£5,000 to £24,999	An Officer should obtain three written quotes and create a purchase request in P2P and enter a spend justification to evidence that best value has been achieved for the Council. The Officer will also need to attach the preferred supplier quote within the purchase request
Threshold (a) £25,000 to £74,999	An Officer should contact their nominated Procurement Advisor for advice and support. The Officer will need to develop a specification and evaluation criteria with the Procurement Advisor as it is mandatory within this threshold to formally advertise the procurement contract and publish an award.
Threshold (b) £75,000 to 172,513	The Procurement Advisor will advise if there are any relevant tendering requirements (normally for spends of £75k and over), if there are any suitable Government Frameworks available to use and the most suitable procurement procedure to follow. Once the procurement process is complete and the award is made, the Officer will be required to create a purchase request in P2P.
£172,514 and over unless: (a) social care, health education £625K and	An Officer should contact their nominated Procurement Advisor for advice and support. It is mandatory within this threshold to follow EU Procurement Rules for service, supplies and works Contracts. The Procurement Advisor will advise the Officer on the correct process to follow.

APPENDIX 1

over (b) works £4,322M and over	Once the procurement process is complete and the award is made, the Officer will be required to create a purchase request in P2P
---------------------------------------	--

7.3 Contract Documentation, Contract Award and Signing and The Contracts Register and Storage of Contracts

(a) Documentation

The Council has a standard set of terms and conditions which are included as part of the purchase order requirements sent to suppliers. These terms and conditions are used as part of the procurement process for Minor and Medium sized contracts that do not have complex requirements, and are not to be varied.

Where more complex procurement requirements need tailored or specific terms and conditions (i.e. NEC Framework, performance related incentives, payment terms) usually within tender requirements for Major or OJEU contracts, written approval must be sought from the Group Manager of Procurement and / or Head of Legal and Democratic Services to vary the Council's terms and conditions. In all cases, irrespective of value, purchase orders and contracts shall clearly specify as a minimum:

- Details of what is to be supplied (i.e. the works, materials, services, deliverables or description of works).
- Payment terms (i.e. the price to be paid and when) this can be a schedule of multiple payments and / or milestone payments.
- The dates, or times, within which the contract is to be performed; and the provisions for the Council to terminate the contract.

(b) Contract Award and Signing

The necessary Authority for the awarding of a contract is set out in the table below:

Award of Contract (subject to budgetary approval)	
Cabinet / Schools Governing Bodies	Contract over £1 million where the tender is in excess of the budget agreed at invitation stage or included in the Annual Procurement Plan. Note: Contracts over £1m must be executed under seal in accordance with Rule 7.3. (b)
Directors	1. Contract over £1 million where tender is within the budget agreed at invitation stage or included in the Annual Procurement Plan. 2. Contract up to £1 million
Authorised Officers	Head of Service contract with a value up to £500k Group Manager contract with a value up to £75k Business Unit Manager contract with a value up to £25k Line Manager contract with a value up to £10k
Head Teachers and their Authorised Officers	In accordance with the delegated powers stipulated by the relevant Board of Governors

All contracts that exceed £1m, must be executed under the Common Seal of the Council.

Contracts which have a value below £1m, but for which a longer limitation period is considered necessary to protect the Council's interests (e.g. design contracts, construction contracts) shall be executed under seal.

All other Contracts can be signed by a Director, Authorised Officer or Head Teacher subject to the Approved Limits in the table above.

(c) The Contracts Register and Storage of Contracts

The Corporate Procurement Team is responsible for keeping:

- A register of all Council contracts

- An electronic copy of all contracts; and
- The original of all contracts, save where the contract has been executed under seal where the original shall be sent to the Head of Legal and Democratic Services to be stored in the Deeds Safe

7.4 Signing of Non-disclosure agreements and Letters of Intent (LOI)

Non-disclosure agreements can only be signed by approved signatories detailed within 7.3 (b). In addition, it's the Council's policy not to enter into discussions with suppliers based on Letters of Intent (LOI).

7.5 Code of Conduct

All Officers must always comply with the Council's Employee Code of Conduct which means that where their role involves procuring, managing or using the Council's contracts they must comply with the CPR's and Financial Procedure Rules on the award of orders and contracts. In addition, any potential or actual conflicts of interest (financial or non-financial) or relationships that may impact on their involvement in procuring, managing or using the Council's contracts must be declared to the appropriate Council manager. Officers must also not offer, promise, give or receive any gift, loan, fee, reward, regard or advantage from or to contractors or potential contractors in respect of the award or performance of any contract.

Breaches of the Council's Employee Code of Conduct (inside or outside of work) will be investigated and may result in disciplinary action. Serious breaches of the code may be considered gross misconduct and result in dismissal without notice.

7.6 Record Keeping Process for Contracts of £75,000 and above

Procurement Advisors shall record and retain:

- Contracting decision and reasons (including route to market).
- Any exemption together with the reasons for it.
- The Award Criteria.
- Tender and Quotation documents sent and received from bidders.
- Pre-tender market research.
- Clarification and post-tender negotiation (incl. minutes).
- Copies of the contract documents (original contracts see 7.3 (c)).
- Post-contract evaluation and monitoring.
- Communications with bidders and with the successful contractor throughout the period of the contract.

Full guidance is contained within the Procurement Toolkit Record keeping and Retention and Disposal Guidance.

7.7 Record Retention Process for Contracts of £75,000 and above

The Central Procurement Team shall retain:

- Successful contract files for twelve (12) years after the end of the contract for all sealed contracts.
- Successful contract files for six (6) years after the end of the contract for all other contracts.
- Unsuccessful contract files for two (2) years Documents which relate to unsuccessful Candidates may be electronically scanned after twelve months from award of contract, provided there is no dispute about the award.

- An electronic copy and the original of the contract (unless executed under seal when the original will be held by Head of Legal and Democratic Services – see 7.3 (c))

Full guidance is contained within the Procurement Toolkit Record keeping and Retention and Disposal Guidance.

8 Procurement Method

All Major and OJEU Contracts within the Council should adhere to the following processes detailed within Section 8.1, unless they have been granted an exception under Section 8.9 and 8.10 or an emergency under Section 8.11. Further detailed guidance for each process can be found within the Council's Procurement Toolkit.

8.1 Process for Major and OJEU contracts

Step	Process
Pre-Procurement Activities	<ol style="list-style-type: none"> 1. Market research – Undertake research to identify potential suppliers, estimated contract value and appropriate industry standards or regulations. This may include early supplier engagement through soft market testing, however any activities carried out at this stage should not distort future procurement competition nor prejudice any potential Supplier. 2. Establish route to market – Identify existing contractual arrangements in form of: <ul style="list-style-type: none"> ▪ Framework Agreements that have been set up with a list of pre-assessed Suppliers. ▪ Pre-Approved supplier list ▪ Other approved sources of supply. In the absence of the aforementioned, a competitive tender procedure should be selected as defined in the Public Contracts Regulations 2015. 3. Defining the requirement – A written document in the form of a specification detailing what services / supplies / works are required, outcomes, technical requirements including designs/drawings and commercial requirements. This also requires defining the evaluation and award criteria required to assess Supplier proposal. 4. Prepare options appraisal – A descriptive note highlighting the outcome of the Market Research, the preferred route to market and estimated project cost against approved project budget. This document is required for all procurements with estimated contract value that exceed £74,999. Options Appraisal shall be approved by the relevant Corporate Director and / or Head of Service and the Group Manager for Procurement.

<p>Procurement Activities</p>	<p>5. Advertise – if employing a competitive tender procedure, contract opportunities with an estimated contract value that exceeds £24,999 must be made available electronically in the public domain by placing adverts on Contracts Finder. Where the contract value exceeds £172,513, contract opportunities must be advertised electronically in the European Journal prior to placing adverts on Contract Finder.</p> <p>6. Manage tender process – All tenders will be managed through the Councils E-Procurement System unless a manual tendering process is approved by the Group Manager of Procurement. The minimum activities required at this stage are:</p> <ul style="list-style-type: none"> ▪ Invitation to tender - Instructions to potential Suppliers on how to respond to an invitation to tender by submitting a proposal for a contract opportunity. This document will include specification, timescales for the tender process and the Terms and Conditions that will govern the eventual contract. ▪ Tender receipt and opening - Procurement Advisors will open received Supplier proposals in accordance with the tender submission deadline. The opening of Tenders must be completed by Officers who will not be involved in the evaluation process and award of the contract. ▪ Evaluation and moderation - Officers that forms part of the evaluation panel must evaluate and score all technical proposals submitted by Suppliers individually. The commercial evaluation can only be carried out by a Procurement Advisor. A moderation meeting coordinated by a Procurement Advisor will be required to record all final consensus scores. <p>7. Contract award – Awarding contracts with value that exceeds £24,999 must be made available electronically in the public domain by placing the Contract Award Notice on Contracts Finder. Where the contract value exceeds £172,513, the Contract Award Notice must be available electronically in the European Journal prior to placing a notice on Contract Finder.</p>
-------------------------------	---

All purchases made under the CPR's require a method to instruct and transact with the supplier which is completed by using the Council's Purchase to Pay system (P2P) or Procurement Card Programme (P-Card).

P2P enables Officers to enter their purchasing requirements, manage authorisation, make payments to suppliers and provides a mechanism to report on the Council's expenditure.

8.2 Using the Council's Approved Suppliers

All suppliers are entered and maintained within the Council's approved supplier database which is managed jointly between the Corporate Procurement Team and Finance. Prior to entering the suppliers onto the database, they must pass assessment criteria to hold approved supplier status on the Council's database.

8.3 Using Purchasing and Approved Framework Agreements

The Council's Corporate Procurement Team will advertise, tender and award contracts with agreed terms for the Council to use with pre-approved suppliers. These agreements help the Council control its costs and operate with third parties using a robust set of terms and conditions. In addition, the Corporate Procurement Team also has access to Framework Agreements that have been established by other Public Sector Bodies and are accessible to the Council, subject to the terms of the Framework Agreement.

Officers should seek advice from their nominated Procurement Advisor to ascertain if approved suppliers and framework agreements exist for their requirements before entering into a contract.

8.4 Create Purchase Requisitions and issuing of Council Purchase Orders

With the exception of a Payment Without Purchase Order (PWPO) request and Procurement Card transactions, all purchasing requirements must be accompanied by an official purchase order which includes the Council's agreed terms and conditions.

An Officer is required to create a purchase requisition in advance of the supply of services, supplies or works which will issue a purchase order to a supplier once approved under the scheme of delegation. Under no circumstances should purchase requisitions be raised retrospectively to cover any invoiced services, supplies or works.

8.5 Confirm Services, Supplies or Works have been received

An Officer is responsible for accepting the services, supplies or works received from the supplier; and ensuring it meets the standards set in the purchase order or contract.

8.6 Payment without Purchase Order (PWPO)

In certain circumstances, there are payments to suppliers or third parties, where it would not be practical to raise a purchase requisition in advance of supplying services, supplies or works. For these exceptions, a Payment without Purchase Order form should be completed.

8.7 Procurement Card Programme (P-Card)

P-Card's are used to procure one off, low cost services and supplies, saving Officers both time spent on ordering and speeding up the delivery of your goods and services. The P Card eliminates the need to set up suppliers, enter purchase requests and handle invoices multiple times across the organisation. P-Cards must not be used to circumvent CPR's in anyway.

8.8 Segregation of duties in P2P:

The principal roles included in the procurement process are set out in the table below, along with their responsibilities. Whilst activities may be delegated, the person in each role remains accountable for compliance with this policy.

Role	Responsibility	Comments
Originating Officer	The Originator is the nominated contact who understands the business and / or technical need and can develop the technical specification or statement of work	
Requesting Officer	The Requester enters the purchase requirement in the P2P system, attaching requirements and justifications where appropriate	The Requester and Originator can be the same person
Receiving Officer	The Receiver is responsible for accepting the goods and / or services received from the supplier; checking that it meets the standards set in the original requirement	The Receiver can be the same person as the Originator
Procurement Advisor	The role of the Procurement Advisor is to control the companies spend by negotiating and agreeing purchasing agreements with robust legal and commercial terms	The Procurement Advisor cannot be a Requester and Receiver of goods and / or services or authoriser
Authoriser Officer	The Authoriser is accountable for approving purchases made in accordance with Section 7.3 (b)	The Authoriser must not authorise where they are the Originator or Requester of the goods and/or services

8.9 Exceptions to Contracts Procedure Rules

In certain circumstances, an Officer may require an exception to one or more of the CPR's in order to award a contract. Exceptions are reserved for exceptional circumstances and can only be granted where good reasons can be sufficient evidenced. Lack of planning or convenience will not be acceptable as grounds for requesting an exception to the rules (As stated in UK Contract Regulations 2015). Before any exception is sought the requesting Officer must ensure the budget allocation for the exception is in place should the exception be granted.

8.10 Exception Request Approval Process for each Procurement Threshold

	Total Contract Value (excl. VAT)	Exception Approval Process
Low Minor Value	£1 to £4,999	Officers must request Exception approval by email to the Group Manager of Procurement
Medium Contract	£5,000 to £24,999	Officers must request Exception approval by email to the Group Manager of Procurement
Major	Threshold (a) £25,000 to £74,999	Officers must request Exception approval by email from their Head of Service and the Group Manager of Procurement

APPENDIX 1

Major	Threshold (b) £75,000 to 172,513	Officers must complete a Tender Exception Request Form and submit to both their Head of Service and Group Manager of Procurement for approval
OJEU	£172,514 (£625k Social Care) (£4.322M Works)	Officers must seek cabinet approval. [Note it is not lawful to avoid compliance with the UK Public Contract Regulations 2015 - advice must be obtained from the Group Manager of Procurement]

Any Exception request made against any of the CPR's must be sought in advance of any contractual agreement. Exception requests cannot be made or granted retrospectively.

An Exception relating to the publishing of an advert for any Contract Opportunity over £25,000 (as detailed in EU Procurement Regulations) will only be permitted in relation to the areas of procurement detailed in Exemptions Section 2.2.

It is not lawful for Officers or members to avoid compliance with the UK Public Contract Regulations 2015. Therefore, approval of any Exception Requests equal to or over the relevant EU Threshold is not permitted without advice being obtained from the Group Manager of Procurement and before seeking to apply any such exceptions.

All Exception requests to these Rules will be reported to the Audit Committee on a bi-annual basis.

Note the Procurement Review Board is not involved in approval of exceptions, but will undertake a strategic role in scrutinising and monitoring procurement activity

See **Appendix A** for further details on the exceptions request process

8.11 Emergencies

In the case of unforeseeable emergencies which represent or without action would result in:

- Immediate danger to life or health.
- Serious damage to property.
- Any other circumstance where the consequences of which would be equal to or greater than those above.

Services, supplies and works can be procured by Designated Officers in such emergencies where the Total Contract Value is below £75,000. The emergency circumstances must require the Council to respond immediately to events that are beyond the genuine control of the Council. This includes but is not limited to natural or manmade disasters such as flooding, fires, or civil unrest. Any Emergency procurement must be reported to the Group Manager of Procurement, by the Officer who put in place the emergency procurement as soon as practically possible and within 72 hours.

Any such Contract entered into on this emergency basis by the Council must not be for a term of more than 4 weeks: during which time the Council must approve any further contracts required on an urgent basis via the Tender Exception Request if required.

Please note that the CPR's allow for both "immediate" and "urgent" action to be taken by the Council under separate and differing circumstances and approvals. The immediate action permissible under an emergency situation by designated Officers of the Council is detailed above.

Section 8.11 constitutes the same means for Emergency and Urgent Expenditure (SO46) as detailed in the Financial Procedure Rules.

9 Contract Management

For a contract classified as Major Contract or an OJEU Contract within Section 10, Directors, Heads of Service and Procurement Advisors must ensure during the life of the contract that the Council's approved processes for contract management are adhered to as set out below:-

9.1 Definition and Scope of Contract Management Activities within the Council

APPENDIX 1

Contract management is the active management of the relationship between the Council and a Supplier over the term of the contract for the provision of services, supplies and works to a set of agreed standards. Contract management should also be proportionate to the value, duration, risk and complexity of the contract. Simple purchase contracts (i.e. an item of office furniture) will usually only require inspection on receipt and payment of the invoice whilst for complex or high value contracts it may be necessary to appoint a full-time Contract Manager or team and develop a contract management plan.

The following are the Council's key Contract Management principles:

Principle	Meaning of the Principle
Proportionate	Invest more time and resource to high value, high risk and complex contracts than low value, low risk and low complexity contracts.
Ensure the Council is getting what it pays for	Understand fully the specification, the contract terms and conditions, changes via clarifications and the promises made by the contractor in their tender submission.
Continuous Improvement and Risk reduction	Robust contract management plans ensure that risks are evaluated and mitigated, that performance and customer feedback is sought. Resulting action plans are then agreed, monitored and implemented.
Resolution of poor performance and disputes	Problems are tackled at the earliest opportunity in a collaborative way but utilising the agreed terms and conditions as set out in the contract.
Contractual changes, variations and extensions are documented	All contractual changes are within the law, are documented, signed in line with the contract terms and conditions and are stored securely.
Strong supplier relationships	Relationships are peer-to-peer and therefore deliver a win-win position. This ensures best value, innovation and long-term investment from both parties.
Exit planning	Asset registers are maintained, intellectual property rights considered, accounts are reconciled and loans/performance bonds/guarantees are finalised.
Future planning	Post-contract reports are compiled so as to document the lessons learnt which can be implemented in future tenders.

In particular, the contract management procedures ensure contract compliance, performance management, continuous improvement and value for money is achieved.

Corporate Directors and Heads of Service shall ensure:

- They identify where contracts within their departments require contract management activities and assign Contract Managers to them for the duration of their contract life.
- Develop job descriptions, set annual performance objectives and identify training requirements for their Contract Managers.
- Their contract managers are aware and follow the procedures set out in the CPR's and the Procurement Toolkit.
- Agree with the Group Manager of Procurement and Head of Audit a proactive plan to review performance.

Each Contract Manager will:

- Manage the contract and ensure day to day activities are carried out in accordance with its terms and conditions.
- Monitor the supplier's performance (in accordance with performance indicators and service level agreements).
- Make the contractor aware what Council policies they are expected to comply with.
- Undertake appropriate risk assessments and maintain up to date risk registers throughout the duration of the contract period (This should be aligned to the Corporate Risk Policy).

- Agree any minor changes to the contract (excluding terms, conditions or pricing) via a change request procedure and notify their Procurement Advisor.
- Identify, escalate and manage any non-conformance with suppliers.
- Keep a record of all valuations, payments, claims, monitoring, changes and certificates under the contract.
- Set up regular review performance review with suppliers to review performance and compliance against the contract.

Procurement Advisors will, in collaboration with the Contract Manager(s):

- Attend regular review performance review with suppliers to review performance and compliance against the contract.
- Assist in managing any contractual issues raised by either the contract manager or supplier.
- Assist in manage contractually, any non-conformance identified by the contract manager or supplier.
- Manage any contract variations and/or extensions.

9.2 Variations to Contract

Where a contract allows for variations through its clauses or in instances where a contract has no formal variation process; the Council and the Supplier can mutually agree variations in writing. Officers should consult with their nominated Procurement Advisor to make the necessary variations to the contract – subject to 9.3 and compliance with the Financial Procedure Rules

9.3 Approval of Variations by Chief Officers

Total Contract Value (excl. VAT)	Variation Approval Process
Up to £100,000	Chief Officers in consultation with the Group Manager of Procurement
Over £100,000	Chief Officers in consultation with the Group Manager of Procurement and the relevant Executive Councillor (such consultation being recorded in writing using the S.O. 46 procedure)

9.4 The Contract Manager for the Council must ensure the following for each contract which is varied:

- Any variation is only agreed after budget approval has been granted.
- Any variation agreed is demonstrably in the best interests of the Council.
- Any variation does not bring about a material change to the scope of the Contract.
- Both the individual cost of a variation and its cumulative cost when added to the total cost of all other variations (on the same contract) must be less than 50% of the original contract value.
- Both the individual cost of a variation and its cumulative cost when added to the total cost of all other variations (on the same contract) must not exceed the relevant EU threshold for the original contract.

9.5 Extensions to Contracts

Where the contract clauses allow for an extension to contract, the Council and the Supplier can mutually agree such extensions. Officers must consult with their nominated Procurement Advisor to make the necessary Extensions to a contract where the contract extension:

- has received budgetary approval.
- does not vary the scope of the original contract.
- is of commercial benefit to the Council.

For contracts that do not have any clauses to extend the contract, Officers should request an Exception as part of the Exceptions to the CPR's.

Under no circumstances must the contract extension period be longer in duration than the original contract period.

9.6 Approval of Extensions to Contracts

Approval of Contract Extensions (where Contract clauses allow for an extension)	
Directors	1. Contract with a value over £500k
Authorised Officers	Head of Service contract with a value up to £500k Group Manager contract with a value up to £75k Business Unit Manager contract with a value up to £25k Line Manager contract with a value up to £10k
Head Teachers and their Authorised Officers	In accordance with the delegated powers stipulated by the relevant Board of Governors

10 Glossary of Terms

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

Term	Meaning of Term
Annual Procurement Plan	The Annual Procurement Plan which sets out the approach to procurement of contracts that exceed £74,999.
Approved Suppliers	Suppliers who are on the Council's approved supplier database which is managed jointly between the Corporate Procurement Team and Finance. Prior to entering the suppliers onto the database, they must pass assessment criteria.
Authorising Officer	P2P role the Authoriser is accountable for approving purchases made in accordance with the Council's scheme of delegation.
Capital	Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles.
Capital Programme	The programme of Capital expenditure agreed by Cabinet.
Chief Officer	The Chief Executive and Town Clerk, a Director, Head of Service, relevant School Governing Body or Head Teacher.
CIPS	Chartered Institute of Purchasing and Supply.
Corporate Risk Policy	Corporate Approach to Risk Management – the Risk Management tool kit is available on the Intranet http://seattle/Pages/Compliance.aspx .

APPENDIX 1

Contracts Finder	Online government database detailing procurement opportunities in the Public Sector.
------------------	--

APPENDIX 1

Term	Meaning of Term
Contract Management	Contract management is the active management of the relationship between the Council and the Supplier over the term of the contract for the provision of services, supplies and works to a set of agreed standards.
Contract Managers	Manage the contract and ensure day to day activities are carried out in accordance with its terms and conditions. Full duties are detailed in Section 9 of the CPR.
Contracts Procedure Rules (CPR's)	This document setting out the principles of procurement, roles and responsibilities, contract procedure rules and processes involved in purchasing services, supplies and works contracts
Contract Register	A register of Council contracts that exceed £74,999 held by the Corporate Procurement Team and published on the Council's e-Procurement system.
Contract Value	The Estimate total monetary value of a contract over its full duration. (N.B. not the annual value.) Where the duration of a contract is indeterminate, this will be taken to be the estimated value of the contract over a period of four years.
Council	Southend-on-Sea Borough Council.
Corporate Procurement Team (CPT)	Central team responsible to managing corporate procurements, maintaining procurement standards and controls, and providing advice and guidance to directorates and designated procurement advisors.
Designated Procurement Advisors	Officers appointed by Chief Officers in consultation with the Group Manager of Procurement to undertake procurement activities in accordance with the CPR.
Data Protection Act	Data Protection Act controls how personal information is used by organisations, businesses or the government.
e-Procurement	A system for the end to end tendering process, both suppliers and buyers submit and respond to tenders electronically removing the need for paper submissions.
Equalities Act	Protects individual from various forms of discrimination and harassment relating to disability, age, gender, religion / belief and sexuality.
EU Procurement Regulations	EU Procurement Rules that apply to public authorities as defined by the UK Public Contracts Regulations 2015
Freedom of Information Act	Freedom of Information Act 2000 is an act defining the ways in which the public may obtain access to government-held information.
Framework Agreement	An agreement with suppliers which sets out terms and conditions under which specific purchases can be made throughout the term of the agreement and which has been tendered in accordance with EC directives
Lead Role	Is accountable for ensuring they follow the procurement process as stated in the Contract Procedure Rules. Section 2.0 page 3
Low Value	Total Contract Value (excluding VAT) £1 to £1,000
Major Contract Threshold (a)	Total Contract Value (excluding VAT) £25,000 to £74,999
Major Contract	Total Contract Value (excluding VAT) £74,999 to £172,514

APPENDIX 1

Threshold (b)	
MEAT – most economically advantageous tender	Most Economically Advantageous Tender – evaluated on the basis of quality and price – normally encompassing whole life costs
Term	Meaning of Term
Medium Contract	Total Contract Value (excluding VAT) £5,000 to £24,999
Member	An elected member of the Council
Minor Contract	Total Contract Value (excluding VAT) £1,001 to £4,999
OJEU Contract	All Contracts Value (excluding VAT) of £172,514 and over except: (a) Social Care, Health and Education where value is £625k and over (b) Works where value is £4.322M and over
Originating Officer	P2P role the Originator is the nominated contact who understands the business and/or technical need and can develop the technical specification or statement of work
Payment without Purchase Order form	Authorisation form for agreement for procurement without the prior need to raise a purchase order (available on the intranet under procurement pages)
Procurement Card	Corporate Credit Card used for low value procurements
Procurement Thresholds	Controls and process required to undertake a procurement, defined by the value of spend (whole life cost)
Procurement Review Board	Composed of the Group Manager Procurement, Head of Finance & Resources, a representative of Audit and Corporate Directors. Role and function are defined in section 5.6 of these Contracts Procurement Rules
Procurement Toolkit	Procedural guide detailing the application of these rules
Purchase to Pay (P2P)	A system to enter purchasing requirements, manage authorisation, confirm receipt of goods and make payments to suppliers
Receiving Officer	P2P Role receiver is responsible for accepting the goods and/or services received from the supplier; checking that it meets the standards set in the original requirement
Requesting Officer	P2P Role requester enters the purchase requirement in the P2P system, attaching requirements and justifications where appropriate
SME	Small to Medium Enterprise – fewer than 250 employees; and annual turnover not exceeding approximately £40 million
SO46	Standing Order within Part 4 (a) of the constitution detailing process for urgent action
Social Value Act	Act places a requirement on procurers to consider the economic, environmental and social benefits
Soft Market Testing	Analysis of the market prior to formal tender
Suppliers	Contractors supplying goods, services or works to the Council
Sustainable Procurement Policy	The corporate policy emphasises the importance of socially responsible procurement, assessing whole life costs and social, environmental and economic impact.

APPENDIX A

**Exceptions from Tendering Requirements in Contracts Procedure Rules (CPR's)
(sections 8.9 and 8.10)**

The following exceptions from tendering requirements may be applied following the prior approval Tender Exception Request Form.

The Exceptions from having to Tender are:

1. For the purchase of supplies, works or services which is prevented by Legislation.
2. If the supply of goods or materials to be acquired constitutes an extension of an existing supply contract. The extension can only be granted if all three of the following criteria are met:
 - The increase to the quantity of goods and materials was not envisaged at the time the original contract was awarded.
 - The extension is based upon comparable terms and conditions as the original contract.
 - The extension has a value less than 50% total value than the original contract requirement.
 - The extension does not breach the threshold of the EU Regulations.
3. For the execution of works or provision of services where the proposed contract outlined in the Exception Request is required due to unforeseen technical or economic reasons and is directly linked to the continuation and success of an existing contract. The existing contract itself must have been awarded competitively in accordance with CPR's:
 - If the proposed contract is to be undertaken by the Contractor named in the existing contract, terms of the proposed contract must be negotiated on the basis of the rates and prices contained in the existing contract; or
 - If a new Contractor has been sought then the Exception Request must be accompanied with evidence outlining the steps taken to ensure best value for the Council.

This Exception does not cover works and services carried out under annual contracts or values for proposed contracts that are greater than the relevant EU Threshold.

4. Where it is considered the execution of work or the supply of either goods or services is required so urgently so as not to permit the invitation of tenders. Any request for an exemption under this clause must be based upon circumstances brought about by circumstances that could not have been reasonably foreseen. Exceptions cannot be granted under this clause where a lack of foresight has given rise to difficulties.
5. In circumstances where a contract does not contain an option for an extension: but where an extension is required to facilitate full and compliant tender exercise for operational reasons. An extension can only be granted under this clause if:
 - The initial contract itself was awarded as part of a competitive procurement process under the CPR's.
 - The terms under which the extension is agreed must be equal to the existing contract in relation to the Scope, the Pricing and the Terms and Conditions.

The actual length of any extension granted under this clause is at the discretion of the Group Manager of Procurement: but cannot be more than 12 months in duration and cannot be longer than the initial contract itself. Only in circumstances were delays in publicised changes to legislation would make

APPENDIX 1

procurement impractical can multiple extensions be granted in relation to a single contract. In all other cases this exemption may only be used once per contract.