

Part 4(g) – Contracts Procedure Rules

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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 utmost 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 Role	Procurement Process	Procurement System
Low Value	£1 to £1,000	Council Officer	Obtain 1 written or verbal quotation	If appropriate, process Procurement Card transactions in accordance with procedures Otherwise, process as for Minor below
Minor	£1,001 to £4,999	Council Officer	Obtain a minimum of 1 written supplier quote that demonstrates best value	Create a requisition 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 requisition 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 requisition in P2P, enter a spend justification and reference contract in P2P

£164,175

OJEU Contract	<p>£172,514 and over unless:</p> <p>(a) social care, health education £625K and over</p> <p>(b) works £4,322M and over</p>	Procurement Advisor	Contact procurement and follow EU Procurement Rules for Service, Supplies and Works Contracts	<p>Council's website, Contracts Finder / e-Procurement and OJEU to advertise and award contract.</p> <p>Create a requisition in P2P, enter a spend justification and reference contract in P2P</p>
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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.
Principle	Meaning of the principle
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 ▪ 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.

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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.

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

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7.3 **Contract Documentation, ^{Contract} Award and Signing and ^{the} ~~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
 - 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
- (which for most purposes will be the electronic copy)*

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) or by the Group Manager Procurement. In addition, it is 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.

, including any contract variation,

Full guidance is contained within Appendix 4 of the Procurement Toolkit.

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 Appendix 4 of the Procurement Toolkit.

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	<p>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.</p>
	<p>2. Establish route to market – Identify existing contractual arrangements in form of:</p> <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. <p>In the absence of the aforementioned, a competitive tender procedure should be selected as defined in the Public Contracts Regulations 2015.</p>
	<p>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's proposal.</p>
	<p>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 exceeds £74,999. Options Appraisal shall be approved by the relevant Corporate Director and / or Head of Service and the Group Manager for Procurement.</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>

£164,175 (~~£~~ or £589,143 for social care, education or health and £4,104,393 for works)

Step	Process
	<p>6. Manage tender process – All tenders will be managed through the Council's 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 form 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.
Pre-Procurement Activities	<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 £172,519, the Contract Award Notice must be available electronically in the European Journal prior to placing a notice on Contract Finder.</p>

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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

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
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
OU/BU	£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]

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£4,104,394

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 normally 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

Term	Meaning of Term
Major Contract Threshold (b)	Total Contract Value (excluding VAT) £74,999 to £172,514 <i>£164,175</i>
MEAT – most economically advantageous tender	Most Economically Advantageous Tender – evaluated on the basis of quality and price – normally encompassing whole life costs
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 <i>£164,176</i>
OJEU Contract	All Contracts Value (excluding VAT) of £172,514 and over except: (a) Social Care, Health and Education where value is £825k and over (b) Works where value is £4.322M and over <i>£4,104,394</i> <i>£589,146</i>
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.

