

Contract Standing Orders 2024

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PART A – CONTRACTS FOR GOODS, SERVICES and WORKS

1. Introduction

- 1.1 Contract Standing Orders (CSOs) are the rules that must be used when purchasing Works, Services and/or Goods (supplies).
- 1.2 Council officers and members must comply with these CSOs in all instances when buying Works, Services and Goods (supplies) on behalf of the Council and failure to comply may result in disciplinary action being taken against the officer concerned. Officers have a duty to report any breaches of these CSOs to the director responsible for the procurement.
- 1.3 These CSOs form part of the Council's Constitution and provide the framework that governs the Council's procurement of Contracts for Works, Services and Goods. Following these CSOs helps the Council to demonstrate:
 - 1.3.1 good internal governance;
 - 1.3.2 propriety and the proper spending of public money;
 - 1.3.3 value for money and effective use of resources is being achieved;
 - 1.3.4 the delivery of high quality Works, Services, Goods;
 - 1.3.5 compliance with relevant laws;
 - 1.3.6 controls to deter fraud, bribery and corruption.
- 1.4 Every Contract for Works, Services and Goods made by the Council must conform to all relevant legislation. UK public procurement legislation and policy require that Contracts are awarded fairly, in an open and transparent manner and without discrimination on grounds of nationality and that all potential bidders are treated equally. A Bidder or supplier harmed, or who may suffer harm, as a result of the Council failing to comply with the public procurement regulations will have a right to take action against the Council in the High Court. Remedies available include:
 - 1.4.1 The award of damages;
 - 1.4.2 A financial penalty imposed on the Council;
 - 1.4.3 An order to set aside a decision of the Council to award the Contract;
 - 1.4.4 Suspension of the Tender process;
 - 1.4.5 The inability of the Council to enforce the Contract obligations still to be performed against the Contractor.
- 1.5 Detailed information and guidance on the procurement process and Contract management is available from the Procurement Service and should be used in conjunction with these CSOs.
- 1.6 All figures in these CSOs are **exclusive** of VAT unless stated otherwise.
- 1.7 The Council recognises the value and role of small and medium sized enterprises (SMEs), locally based suppliers and the voluntary, community and social enterprise (VCSE) sector, and will strive to ensure that procurement procedures are accessible, fair and proportionate to the size and complexity of the Works, Services and Goods being procured.

2. **Scope**

2.15 These CSOs apply:

- 2.15.1 whenever the Council intends to spend money (or provide other payments in kind) under Contracts for Works, Services or Goods;
- 2.15.2 to expenditure from either capital or revenue sources;
- 2.15.3 to Works and Services concession Contracts;
- 2.15.4 to Goods for re-sale;
- 2.15.5 to both officers and members;
- 2.15.6 where the Council acts as the lead partner in a multi-authority procurement;
- 2.15.7 Where any third party, for example another local authority, is authorised to procure Works, Services and/or Goods on behalf of the Council.

2.16 These CSOs **do not** apply:

- 2.16.1 to Contracts of employment;
- 2.16.2 to acquisitions and disposals of land or buildings unless related to a Contract for Works, Services or Goods;
- 2.16.3 to financial Services in connection with the issue, purchase, sale or transfer of securities or other financial instruments, in particular transactions by the Council to raise money or capital;
- 2.16.4 to service level agreements made between departments within the Council;
- 2.16.5 in the case of civil contingencies;
- 2.16.6 in the case of individual investments which are not deemed as the purchase of Goods or Services for the purposes of these CSOs;
- 2.16.7 where the Council is acting as an agent on behalf of other commissioning authorities, for example the NHS, and is only procuring Contracts on their behalf;
- 2.16.8 where the Council instructs counsel or any external legal advisors to represent or act on its behalf;
- 2.16.9 to out of county social care placements;
- 2.16.10 to resources deployed for unforeseen emergency care packages or accommodation costs aimed at supporting appropriate action to protect individuals from abuse, neglect or homelessness;
- 2.16.11 to social care packages that are, or are considered to be at the time of placement, funded by the ICB as part of continuing health care;
- 2.16.12 primary Care Contracts, including those awarded to pharmacies, GP Surgeries.
- 2.16.13 Contracts to engage artists, shows, attractions, events or other entertainment media to provide entertainment or facilities;
- 2.16.14 Grant Payments: however, you must refer to Part E for further guidance on the definition and use of Grant funding.

2.17 However, in all instances listed in 2.16, all relevant legislation, rules, and guidance must still be complied with together with other relevant parts of the Council's Constitution.

- 2.18 The following entities have their own rules and are not bound by these CSOs except when they participate in joint purchasing with the Council:
- 2.18.1 all schools within the district of North Somerset;
 - 2.18.2 companies in which the Council has an interest **except for** Local Housing Development Vehicles and Local Authority Controlled Companies.
- 2.19 These CSOs do apply to the award of concession Contracts and utility Contracts. If you are seeking to Tender a concession Contract or if the Council, as a “utility”, wishes to procure Works, Services and/or Goods for the purpose of carrying out its “utility activities” of any value you must contact the Procurement Service for advice.
- 2.20 The guidance on the procurement process gives more information on the tendering of Works, Services and Goods by the Council and the procedures to be followed.
- 2.21 Specific guidance on how the CSOs are applied to Contracts relating to Health and Social Care (including Public Health) can be found in Part D.

3. Responsibilities

- 3.1 Overall responsibility for these CSOs rests with the Section 151 Officer. Further information and advice on these CSOs can be obtained from the Procurement Service.
- 3.2 Anyone undertaking purchasing activity on behalf of the Council (but especially in the context of purchasing Works, Services or Goods above prescribed values, (known as FTS (Find a Tender Service) financial thresholds) must comply with all relevant laws and regulations.
- 3.3 The FTS financial thresholds are reviewed every two years in order to comply with the UKs obligations. The most up to date list of thresholds can be found at the following link.

[Guide to Find a Tender Service \(FTS\) and Contracts Finder Thresholds.docx](#)

- 3.4 Directors are responsible for ensuring that:
 - 3.4.1 officers follow these CSOs;
 - 3.4.2 any agent, consultant or Contractual partner acting on behalf of the Council to purchase Works, Services or Goods, or any of them involved in the management of Contracts for the Council, comply with these CSOs;
 - 3.4.3 the central Contracts Register, held by the Procurement Service, is updated on each occasion a Contract is let by the Council which has a total Contract value of £5,000 excluding VAT and above, or is for a duration of three years or longer;
 - 3.4.4 original Contract documents, including the Tender documents of the successful Bidder, are safely kept by the Projects and Property Team in the central deeds store.

4. **Definitions of terms used in these CSOs**

- 4.1 **Award Criteria:** the evaluation criteria and methodology used to weight, select and award a Contract to a successful Bidder.
- 4.2 **Award Letter:** written confirmation of the award of a Contract by the Council to a successful Bidder, using the standard template.
- 4.3 **Bid:** an offer made by each Bidder to provide Works, Services or Goods to the Council for a particular amount of money on specified terms, normally in the form of a Tender or quotation.
- 4.4 **Bidder:** a person, business, company or other organisation who responds to the Council's invitation to bid as part of the Tender / procurement process.
- 4.5 **Buying:** purchasing Works, Services or Goods from an external supplier or Contractor.
- 4.6 **Call-off Contract:** the Contract made under a Framework Agreement to a framework supplier following the holding of a mini-competition or the placing of an order. Although the Framework Agreement sets out the overarching terms and conditions, each individual "call-off" Contract or order constitutes its own separate Contract under the Framework Agreement.
- 4.7 **Code of Conduct:** the Council's codes regulating the conduct of officers and members.
- 4.8 **Combined Commissioning and Procurement Plan:** all of the requirements of a separate Commissioning Plan and Procurement Plan in one combined document, see 4.10 and 4.46 for clarity on content. When a Combined Commissioning and Procurement Plan is required is set out in 11.3.
- 4.9 **Commissioning:** the process used to plan, procure, evaluate, deliver and monitor the provision of Works, Services and Goods to allow the Council to meet its requirements in the most economical, effective and efficient way.
- 4.10 **Commissioning Plan:** a document which sets out, before the procurement process commences, the Works, Services or Goods to be purchased together with the expected outcomes, using the standard template. The standard template is available from the Procurement Service. This could be a specific plan for each requirement or an annual commissioning intentions plan covering all commissioning requirements over a period. When a Commissioning Plan is required is set out in 11.3.
- 4.11 **Concession Contract:** a Contract under which the Council outsources Works or Services to a Contractor / supplier ('the concessionaire') who has the right to commercially exploit the Works or the Services and who accepts a transfer of the operating risk in return for exploiting the Works or the Services.
- 4.12 **Conflict of Interest:** a set of circumstances that creates a risk that an individual's ability to apply judgement or act in one role is, or could be, impaired or influenced by a secondary interest. This may apply to both officers and members.

- 4.13 **Constitution:** a document approved by the Council which:
- 4.13.1 allocates powers and responsibility within the Council and between the Council and others;
 - 4.13.2 delegates authority to act to the executive, committees, executive members and officers; and
 - 4.13.3 regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.
- 4.14 **Contingency Measures:** actions to reduce the impact of, or prevent, identified risks which might affect the successful delivery of a Contract.
- 4.15 **Contract:** an agreement entered into voluntarily by two or more parties that creates a legal obligation on the Contractor to supply Works, Services or Goods to the Council in return for a payment.
- 4.16 **Contractor:** A party that has agreed to supply Works, Services and / or Goods to the Council under a Contract.
- 4.17 **Contract Award Report:** a report prepared by the Contract manager and the Procurement Service which makes a recommendation to the relevant decision-making body (refer to the table at paragraph 11.3) to award the Contract to the successful Bidder.
- 4.18 **Contracts Finder:** Contracts Finder is a government website. All Contracts that the Council advertises over the defined Contracts Finder threshold must be advertised on Contracts Finder. Please refer to the following link for the most up to date thresholds. [Guide to Find a Tender Service \(FTS\) and Contracts Finder Thresholds.docx](#)
- 4.19 **Contract management:** the proactive process to be used by the Council to manage Contract delivery to ensure that the Contractor is fully complying with its Contractual obligations, allows the Council to manage Contractor performance and Contract compliance and minimises risk to the Council of Contractor default.
- 4.20 **Contract Manager:** a named officer who is responsible for ensuring that the Council achieves its objectives, as set out in the Contract. This might not be the officer's job title – they might act in the role of Contract manager for only part of the time.
- 4.21 **Contracts Register:** a list of all the Contracts let by the Council that are over £5,000 in whole-life value or for a period of three years or longer. The register is kept and maintained by the Procurement Service.
- 4.22 **Contract Variation:** an agreement to vary the terms of a Contract. All parties to the Contract must agree to the variation and any variation must be within the original scope of, and made in compliance with, the Contract. Officers must consider whether the Contract is being varied, or whether the variation is so substantial that the original Contract is extinguished and a new one is being entered into.
- 4.23 **Corporate Governance:** the action or manner of governing, managing and overseeing the way that the Council operates.
- 4.24 **Corporate Requirements:** where the requirement for Goods and Services is used by the whole authority rather than individual directorates, for example stationery and agency staff.

- 4.25 **Declaration of Interest:** the requirement on members and officers to declare their financial or other interests or assets that could create a conflict of interest in the performance of their duties.
- 4.26 **Direct Award:** the ability to award a Contract directly to a chosen supplier, when the value is below £25,000 excluding VAT, or following the approval of an exception as outlined at 6.3.
- 4.27 **Disaggregated:** in the context of procurement, to disaggregate is to break down the requirement into smaller chunks to avoid the required governance which is not permitted.
- 4.28 **Disclosable Interest:** a financial interest or asset that could create a conflict in the performance of the duties of a member or officer.
- 4.29 **Dynamic Purchasing System (DPS):** an electronic system similar to an electronic Framework Agreement. A DPS provides a list of Contractors from which the Council can conduct an e-competition for Tenders. Contractors can apply to join the DPS at any time. If considering a DPS of any value advice must be sought from the Procurement Service.
- 4.30 **Exceptions:** limited circumstances in which compliance with these CSOs is waived in accordance with paragraph 6 below.
- 4.31 **FTS:** Find a Tender Service - Find a Tender Service replaced the EU's Tenders Electronic Daily (TED) and OJEU for Contracts in the UK that exceed the thresholds, it is also a term used when referring to value thresholds.
- 4.32 **Framework Agreement:** an agreement made between one or more public bodies and more than one Contractor. A Framework Agreement is a multi-Contractor agreement. A Framework Agreement sets out the terms for making specific purchases ('calls-offs') under the framework. The terms will include the nature of the Works, Services or Goods to be supplied, the unit price, the standards for service delivery and the terms on which future purchases will be made. Purchases can be made:
- 4.32.1 by order without re-opening competition. For example, offering an order to the Contractor with the lowest price; or
 - 4.32.2 following a mini competition.

The Framework Agreement will set out which purchase route is to be used and the procedure to be followed for making specific purchases. A Framework Agreement does not commit the buying organisation(s) (otherwise known as commissioner(s)) to make any purchases and framework suppliers can choose whether or not to accept the order or take part in a mini-competition, unless the Framework Agreement otherwise provides.

- 4.33 **Framework Contract:** similar to a Framework Agreement but made between one or more public bodies and one Contractor only. A Framework Contract is a single Contractor agreement. The Framework Contract sets out the terms for making purchases of Works, Services or Goods. A Framework Contract does not commit the buying organisation(s) to place any order under it. If a buying organisation wishes to buy Works, Services, or Goods under the Framework Contract it will place an order do so in accordance with the terms of the Framework Contract. The Framework Contract Contractor will be Contractually bound to deliver the Works / Services / Goods ordered.
- 4.34 **Goods (supplies):** the term used where the principal reason for the procurement is to purchase, lease, rent or hire-purchase, with or without an option to buy, actual products.
- 4.35 **Grant:** An amount of money awarded to an organisation by the Council for which there is no expectation of receiving a specific benefit in return. The Grant can be awarded for a service or part of a service, but the recipient is under no obligation to provide specific Services. Further guidance on the use of Grants can be found in Part E.
- 4.36 **Lead Partner:** one of the parties to a joint commissioning arrangement who, on behalf of the other parties within the joint commissioning group, agrees to take the lead in the procurement process and (where applicable) responsibility for managing a Contract on behalf of the other parties within the group.
- 4.37 **Light Touch Regime:** the light touch regime applies to those Services identified within Schedule 3 of the PCR 2015, (and any other subsequent legislation) and includes health, social and related Services, as well as other Services.
- 4.38 **Local Authority Controlled Company (LACC):** an organisation controlled by the Council that can be awarded Contracts directly by the Council without the Council having to follow the public procurement regime, provided the following 3 conditions are met;
- 4.38.1 the Council exercises over the LACC a control which is similar to that which it exercises over its own departments;
 - 4.38.2 more than 80% of the activities of the LACC are carried out in the performance of tasks entrusted to it by the Council or by other organisations similarly controlled by the Council, and
 - 4.38.3 there is no direct private capital participation in the LACC with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, which do not exert a decisive influence on the LACC.
- If you are considering the creation of a LACC, you must seek the advice of the S151 officer and the Monitoring Officer.
- 4.39 **Mini or Further Competition:** a mini or further competition is a process carried out to place a call-off Contract under a Framework Agreement where the best value supplier has not been specified. It allows you to further refine your requirement whilst retaining the benefits offered under the framework.

- 4.40 **Most Economically Advantageous Tender (MEAT):** the process of assessing a Tender based on quality and price over the life of the Contract. Factors such as the period for completion, maintenance costs, technical merit, and value for money should be taken into consideration.
- 4.41 **Outsourcing:** the process of Contracting out an existing service, which is being provided by the Council, to another party.
- 4.42 **PCR 2015:** the Public Contracts Regulations 2015, the primary legislation governing procurement and Contracting for the public sector in the UK. To be replaced in late 2024.
- 4.43 **Period:** a timeframe as defined by the officer.
- 4.44 **Portal:** a web-based system which the Council currently uses to advertise and run requests for quotes (RFQs) and Tenders.
- 4.45 **Procurement:** the process of obtaining Works, Services and Goods (supplies).
- 4.46 **Procurement Plan:** a plan which sets out the approach to a procurement process. When a Procurement Plan is required is set out in 11.3.
- 4.47 **Provider Selection Regime (PSR) 2024:** The PSR is a set of rules for procuring health care Services in England by organisations termed relevant authorities. Relevant authorities are:
- 4.47.1 NHS England;
 - 4.47.2 Integrated care boards (ICBs);
 - 4.47.3 NHS trusts and NHS foundation trusts;
 - 4.47.4 Local authorities and combined authorities.
- 4.48 **Reverse Auction:** a procedure using the Portal where invited bidders bid against each other, reducing their Tender price in decrements (reducing increments) of a determined value until bidding stops.
- 4.49 **RFQ (Request for Quote):** a request to multiple suppliers (minimum of 3), using North Somerset Council Standard Templates, inviting them to submit a written quotation against a defined set of requirements.
- 4.50 **Seal:** The Council's seal is kept by, and is under the control of, the Assistant Director (Governance & Monitoring Officer).
- 4.51 **Services:** the principal reason for the procurement is considered to be neither Goods/supplies or Works.
- 4.52 **Service Outcome:** a measure of the Contract objectives in terms of service delivery.
- 4.53 **Social Value:** The Public Services (Social Value) Act 2012 imposes a duty on the Council to consider at the pre-procurement stage of any service Contract how the Services proposed to be procured may improve the economic, social and environmental well-being of North Somerset and how the Council may secure that improvement as part of the procurement process.

- 4.54 **Selection Questionnaire (SQ):** the government questionnaire which must be used for pre-qualifying bidders in a procurement process. When conducting a procurement that equals or exceeds the FTS thresholds, this questionnaire must be used.
- 4.55 **Sub-contractor:** an individual, business or other organisation who is hired by the main Contractor to deliver part of the Contract, and who is paid by the main Contractor.
- 4.56 **Supplier:** any person, business, company, public entity or other organisation which offers on the market the delivery of Works, Services and / or Goods to the market.
- 4.57 **Suspension:** the suspension or waiver of compliance with CSOs.
- 4.58 **Tender:** the written document submitted by a Bidder as part of its Tender process in which the Bidder offers to provide Goods, Services and/or Works for the bid price to the Council.
- 4.59 **TOMS:** Themes, Outcomes and Measures – a framework for delivering excellence in measuring and reporting Social Value.
- 4.60 **VCSE:** Voluntary Community and Social Enterprise, the voluntary or non-profit sector of the economy.
- 4.61 **Value for Money:** the optimum combination of whole life costs and quality (or fitness for purpose) of the Goods, Works or Services to meet the Council's requirement.
- 4.62 **Whole Life Contract Value:** the cost of the Contract over its full duration, exclusive of VAT, including the value of any extension periods.
- 4.63 **Works:** the principal reason for the procurement is to carry out one of the following;
- 4.63.1 the execution, or the design and execution, of Works related to one of the activities listed in Schedule 2 of the Public Contracts Regulations 2015. In principle, construction, civil engineering and property maintenance. For a complete list, contact the Procurement Service;
 - 4.63.2 the execution of, or the design and execution of, a work;
 - 4.63.3 the realisation, by whatever means, of a work corresponding to the requirements specified by the Council exercising a decisive influence on the type or design of the work.

5. Delegation

- 5.1 A director may delegate the duties assigned to him/her within these CSOs. For example, a director may delegate to another named officer or officers the authority to approve commissioning or approval of reports for the use of exceptions.
- 5.2 All such delegations shall be formally recorded via a formal Decision, logged with the S151 officer and a record kept within each Directorate.
- 5.3 Delegations may be revoked at any time by the delegating director at which point the delegated duty will revert back.
- 5.4 No delegation shall abrogate or remove the responsibility associated with the duty given to the director. The duty will remain with the director.
- 5.5 Delegated officers cannot approve their own Decisions.

6. Suspension of and Exceptions to Contract Standing Orders

6.1 **Suspension** - Only full council has the power to suspend or waive any requirements within these CSOs.

6.2 **Exceptions** - Contracts are only allowable below the relevant FTS Thresholds. If one of the exceptions listed in CSO 6.3 apply then the relevant decision maker in conjunction with the Head of Procurement may approve exceptions to these CSOs (to the extent that they are lawfully able to do so) in genuinely urgent situations and/or where there is a sound legal, financial or value for money reason. The officer must:

6.2.1 Complete, for the relevant decision maker's approval, a prescribed form (**Exception Form**) detailing the exception(s) intended to be used and the reasons for the request. The relevant decision maker is listed in the 'Contract Award approval' column in the table at paragraph 11.3. The reasons available are listed in paragraph 6.3 below.

6.2.2 Ensure that the Supplier completes the Selection Questionnaire (SQ) in full (or appropriate document proportionate to the value) to ensure due diligence has taken place prior to Contract award.

6.2.3 Notify the Procurement Service of the exception (if Granted) by completing the Contract Register Form (available on the intranet).

6.3 Exceptions for below FTS threshold procurements: valid reasons

The following are considered acceptable reasons for seeking an exception:

6.3.1 quantifiable and significant cost and efficiency savings can be achieved through seeking an alternative route;

6.3.2 reasons of extreme urgency mean that normal time limits cannot be met, including as a result of unforeseen emergency or disruption to Council Services. This may include for example, storm damage to public buildings. Not having sufficient time to Tender may not in itself constitute urgency.

6.3.3 the Council would otherwise be exposed to immediate and significant financial, legal or reputational risk that has been identified in the relevant risk register;

6.3.4 only one supplier is objectively able to provide the Works, Services or Goods in question including, but not limited to, where the provision is specialist, where the supplier has exclusive intellectual property rights, artistic or other rights, has a monopoly or where the Goods bought are for re-sale. In such circumstance only that one supplier may be asked to quote / Tender, however the quote / Tender must be evaluated for capability and suitability.

6.3.5 Where the opportunity will be advertised using an RFQ and there is more than one supplier but fewer than three suppliers capable of supplying the Works, Services or Goods to be procured, only those suppliers shall be asked to quote. The number of suppliers in the marketplace may be limited because the opportunity to be procured is of a specialist nature or a supplier has exclusive intellectual property, artistic or other rights in the subject matter or has a monopoly, or the market is weak.

- 6.3.6 Where the opportunity has been advertised using an RFQ or Tender and you invited at least three suppliers but less bids than the minimum required have been received, you are not required to obtain an exception to these CSOs.
- 6.3.7 Additional or new Works, Services or Goods are required which, through unforeseen circumstances, were not included in an existing Council Contract and are necessary for the completion of the Contract and/or cannot be carried out separately. Forgetting to include the additional or new Services in the original Tender/RFQ will not in itself apply to this exception. Any officer wishing to rely on this exception must first have considered whether including additional or new Works, Services or Goods would be a Contract variation and permitted under UK public procurement legislation.
- 6.3.8 Goods are required as a partial replacement for, or addition to, existing Goods or installations and obtaining them from another source would result in incompatibility or disproportional technical difficulties in operation or maintenance.
- 6.3.9 The Council has the benefit of a Local Authority Controlled Company (LACC) under Regulation 12 of the Public Contracts Regulations 2015.
- 6.4 An exception must *not* be Granted where this would mean the Council would be in breach of any laws.
- 6.5 No exception can be relied on until the relevant decision maker, in conjunction with the Head of Procurement, has authorised the exception.
- 6.6 Where an exception is Granted, the exception report will replace the requirement for a Contract Award report.
- 6.7 All Contracts, including the award of a Contract to which an exception has been applied, must demonstrate compliance with:
 - 6.7.1 All applicable legislation and guidance (including equality of treatment, transparency; non-discrimination; proportionality and mutual recognition);
 - 6.7.2 Due diligence must be evidenced in terms of ensuring the supplier meets the council's minimum requirements;
 - 6.7.3 The principles of procurement best practice and value for money;
 - 6.7.4 The requirement to identify and secure appropriate funding;
 - 6.7.5 Appropriate and robust risk management and Contract management arrangements.
- 6.8 **Exceptions - Contracts Equal to or Above the FTS Thresholds**
 - 6.8.1 The application of the FTS procurement rules cannot be exempted. If you require clarification you should consult with the Procurement Service.
 - 6.8.2 The Provider Selection Regime (PSR) allows for the compliant direct award of Contracts under specific circumstances. Please contact the Procurement Service if you believe your requirement falls under the PSR (this will apply to Services that include healthcare only).

7. Approvals –Whole Life Contract Value below £159,999

- 7.1 Officers are required to complete the online Pre-Procurement Engagement Form (available on the intranet) for all Contracts with a whole life Contract value over £5,000 excluding VAT.
- 7.2 Under £25,000 excluding VAT – Quotations are not required and a direct award to a single supplier is permissible. Preference should be given to local and VCSE organisations where they exist and offer value for money and can deliver the Works, Services and/or Goods to be supplied.
- 7.3 Between £25,001 and £159,999 excluding VAT – a minimum of 3 written quotations are required. Use of the Council's e-tendering Portal is optional. When selecting suppliers to quote, preference should be given to local organisations where they exist and offer value for money and can deliver the Goods, Services and/or Works to be supplied.
- 7.4 Officers are required to complete the Contracts Register – New Entry Form (available on the intranet) for all Contracts with a whole life Contract value over £5,000 excluding VAT. This must be completed within 10 working days of the Contract award.
- 7.5 Subject to the completion of 7.4, the Procurement Service is required to:
 - 7.5.1 Enter any Contracts over £5,000 excluding VAT onto the Council's Contracts Register; and
 - 7.5.2 Publish a Contracts Finder Award Notice for any Contracts over £25,000 excluding VAT.
- 7.6 Officers are required to complete the Contracts Register – Amendment Form (available on the intranet) for all variations and extensions to Contracts. See section 30 and 31.

8. Approvals – whole life Contract value between £160,000 and £499,999

- 8.1 Officers are required to complete the online Pre-Procurement Engagement Form (available on the intranet) for all Contracts.
- 8.2 All Council procurements with an estimated whole life Contract value between £160,000 and £499,999 excluding VAT will have two stages of approval:
- A. Combined Commissioning & Procurement Plan;
 - B. Contract Award Report.
- 8.3 Combined Commissioning and Procurement Plan - for procurements where the whole life value is estimated between £160,000 and £499,999 excluding VAT, and where it has not been previously included on the annual Commissioning Intentions Plan, a Combined Commissioning and Procurement Plan can be used. The format of such is a mixture of the criteria laid out in 9.2 and 9.7. There may be an opportunity to use a Combined Commissioning and Procurement Plan where the whole life value is over £500,000 excluding VAT, this will be at the discretion of the Procurement Service. This will not be applicable where the procurement was previously approved in the annual Commissioning Intentions Plan.

It is important that the Procurement Service is engaged at a sufficiently early stage to jointly produce the Combined Commissioning and Procurement Plan with the commissioner.

- 8.4 Contract Award Report – a Contract award report must be approved before the Contract is awarded, which sets out a record of the procurement process, including but not limited to:
- 8.4.1 The subject matter and the whole life value of the Contract proposed to be made;
 - 8.4.2 The procurement process followed;
 - 8.4.3 (where applicable) The results of market analysis undertaken;
 - 8.4.4 Details of the evaluation criteria, the weightings and the results of the evaluation process;
 - 8.4.5 The name of the successful Bidder, unless, when the Contract Award Report is deemed to be a Key Decision (see 8.6) an anonymised version may be submitted for publication along with the relevant Tender details in a separate, confidential appendix.
 - 8.4.6 The reasons why its Tender was selected including overall scores of successful and unsuccessful bidders (anonymised);
 - 8.4.7 The reasons for the rejection of the other bids received;
 - 8.4.8 (where applicable) conflicts of interests detected and subsequent measures taken;
 - 8.4.9 any risks associated with the award of the Contract and measures taken to minimise that risk;
 - 8.4.10 Contract management requirements with specific reference to any outstanding risks to be monitored.
- 8.5 The Contract Award Report will normally be prepared by the Contract manager jointly with the Procurement Service and is used to advise the relevant decision making body.

- 8.6 Where the procurement is led by another Local Authority / public body, please see section 10.
- 8.7 If the whole life value of the Contract to be awarded is more than 10% of the original value previously approved at the Commissioning Plan stage, the subsequent Contract Award report will require approval at the relevant threshold which may result in a requirement for a Key Decision to be published.
- 8.8 Direct award – in the event of a direct award (exception), neither a Commissioning Plan nor Procurement Plan is required. You must evidence within the Exception/Contract Award Report the valid reasoning behind the decision to award a Contract without competition, referring to one of the exceptions as outlined at 6.3. Due diligence must be completed on the supplier.
- 8.9 For the approval stages outlined above, templates are available from the Procurement Service.

9. Approvals – whole life Contract value over £500,000

- 9.1 Officers are required to complete the online Pre-Procurement Engagement Form (available on the intranet) for all Contracts.
- 9.2 All Council procurements with an estimated whole life Contract value over £500,000 excluding VAT will have three stages of approval:
 - A. Commissioning Plan;
 - B. Procurement Plan;
 - C. Contract Award Report.
- 9.3 Commissioning Plan – must be prepared by the Contract manager and approved by the relevant decision maker before a procurement process can commence. The Commissioning Plan must set out:
 - 9.3.1 Contract Title;
 - 9.3.2 Outline scope of the procurement – what is the Council buying?;
 - 9.3.3 Available budget and estimated whole life Contract value, including any extension period;
 - 9.3.4 Contract length, including any Contract extension period;
 - 9.3.5 The end date of any existing Contract (if applicable);
- 9.4 A Commissioning Plan must be completed (either as part of the annual Commissioning Intentions Plan or separately for each individual project) if the Council is intending to become party to a Contract, the procurement of which is being led by another local authority/public body, as per section 10.
- 9.5 Annual Commissioning Intentions Plan - The Commissioning Plan can be in the form of an annual Commissioning Intentions Plan, prepared by the relevant commissioning team and approved by the relevant decision maker. The annual Commissioning Plan must set out:
 - 9.5.1 Title – Commissioning Priorities for the “period”;
 - 9.5.2 Links to Corporate Plan/Strategic Plan for the directorate/team and other relevant report information;
 - 9.5.3 An appendix containing a detailed list of relevant projects expected throughout the year including budget(s) available, and whether a procurement will be undertaken;
 - 9.5.4 Clear information on whether the budget available is made up from the Council revenue/capital budget or is external funding either applied for or expected to be agreed within the “period”;
 - 9.5.5 A commitment to review the Appendix as referred to at 9.5.3, and report on progress at the end of the “period”;
 - 9.5.6 Projects not completed at the review point will be carried over to the new “period” if applicable or removed from the list.
- 9.6 The annual Commissioning Intentions Plan will not remove the requirement for a project specific Commissioning Plan for projects/procurements not originally covered in the annual plan, either by omission or because of a new, previously unknown requirement.

- 9.7 Procurement Plan –The Procurement Plan will set out how the procurement will be managed in order to deliver the best outcomes for the Council. The level of detail in the Procurement Plan should be proportionate to the whole life value of the Contract and the level of risk, but should where relevant include:
- 9.7.1 High level summary of Contract purpose and outcomes, including the approach to reflecting these in the specification;
 - 9.7.2 Governance process, including the engagement of key stakeholders and approval of key documents during the procurement process;
 - 9.7.3 Market analysis, including any work that needs to be done by the Council to market itself to potential bidders as an important customer;
 - 9.7.4 Review of potential performance issues, and how they will be mitigated/managed through the procurement process;
 - 9.7.5 Key risks, including climate emergency and sustainability risks, and how they will be mitigated during the procurement process;
 - 9.7.6 Approach to evaluation, including evaluation criteria and weightings. Evaluation criteria shall include an assessment of the bids against the deliverables to be secured under the Contract;
 - 9.7.7 Legal issues, including terms and conditions for the Contract, Contract length and extensions etc.;
 - 9.7.8 Commercial issues such as pricing strategy, management of change, and performance management/incentives;
 - 9.7.9 Approach to Social Value and method of evaluation in line with the Councils Social Value Policy, including performance obligations, main areas of potential benefit, VCSE and sustainability opportunities;
 - 9.7.10 Approach to Climate Emergency, specifically referencing the risks that have been highlighted using the Climate Emergency Risk Register
 - 9.7.11 Overall projected timescales and milestones;
 - 9.7.12 Approach to assessing and agreeing preferred route to market.
- 9.8 It is important that the Procurement Service is engaged at a sufficiently early stage to jointly produce the Procurement Plan with the commissioner.
- 9.9 Where the procurement is led by another Local Authority / public body, a procurement plan is still required, however please see section 10.

- 9.10 Contract Award Report – a Contract award report must be approved before the Contract is awarded, which sets out a record of the procurement process, including but not limited to:
- 9.10.1 The subject matter and the whole life value of the Contract proposed to be made;
 - 9.10.2 The procurement process followed;
 - 9.10.3 (where applicable) The results of market analysis undertaken;
 - 9.10.4 Details of the evaluation criteria, the weightings and the results of the evaluation process;
 - 9.10.5 The name of the successful Bidder, unless, when the Contract Award Report is deemed to be a Key Decision (See 9.12), an anonymised version may be submitted for publication along with the relevant Tender details in a separate, confidential appendix.
 - 9.10.6 The reasons why its Tender was selected including overall scores of successful and unsuccessful bidders (anonymised);
 - 9.10.7 The reasons for the rejection of the other bids received;
 - 9.10.8 (where applicable) conflicts of interests detected and subsequent measures taken;
 - 9.10.9 any risks associated with the award of the Contract and measures taken to minimise that risk
 - 9.10.10 Contract management requirements with specific reference to any outstanding risks to be monitored
- 9.11 The Contract Award Report will normally be prepared by the Contract manager with the Procurement Service and is used to advise the relevant decision making body.
- 9.12 A Contract Award Report is required to enter into a Contract where the procurement has been led by another local authority/public body, as per section 10.
- 9.13 If the whole life value of the Contract to be awarded is more than 10% of the original value previously approved at the Commissioning Plan stage, the subsequent Contract Award report will require approval at the relevant threshold which may result in a requirement for a Key Decision to be published.
- 9.14 Direct award – in the event of a direct award (via an exception), neither a Commissioning Plan nor Procurement Plan is required. You must evidence within the Exception/Contract Award Report the valid reasoning behind the decision to award a Contract without competition, referring to one of the exceptions as outlined at 6.3. Due diligence must be completed on the supplier.
- 9.15 For the approval stages outlined above, a template is available from the Procurement Service.

10. Approvals – Procurements led by another Local Authority / Public Body

10.15 Where the procurement is led by another Local Authority / public body, the same approval levels and thresholds apply, as per section 11. However, the content within any Decision relating specifically to the procurement, only needs to include the key information, and to reflect that another organisation is responsible for the procurement.

11. Approval level and thresholds

11.1 The value of the Contract is the whole life Contract value. It is not the annual Contract value.

11.2 Contracts must not be disaggregated to avoid FTS thresholds, or any thresholds specified within these CSOs.

11.3 The table below sets out the approvals and thresholds that must be used in conjunction with Sections 7, 8 and 9 of these CSOs.

Estimated Contract Value (Ex VAT)	Permitted Sourcing Options	Mandatory Pre-Procurement Engagement Form	Use Portal	Commissioning Plan approval	Procurement Plan approval	Contract Award approval	Record on Contract Register
<£25,000	Quotations not required; Direct award permissible	Yes £5,000 to £25,000	No	N/A	N/A	Director or delegated Officer	>£5,000
£25,001 to £159,999	Request for Quotation (min. 3* suppliers)	Yes	Optional	N/A	N/A	Director or delegated Officer	Yes
£160,000 to £499,999	FTS Tender (Goods/Services)	Yes	Yes	Combined Commissioning and Procurement Plan, approved by Director advised by Head of Procurement		Director advised by the Head of Procurement or Procurement Manager	Yes
	Request for Quotation (Works)	Yes					
£500,000 to £999,999	FTS Tender (Goods/Services)	Yes	Yes	Executive Member	Director advised by Head of Procurement	Director advised by the Head of Procurement	Yes
	Request for Quotation (Works)	Yes					
£1,000,000 to £9,999,999	FTS Tender	Yes	Yes	Executive	Director advised by Head of Procurement	Director advised by the s.151 Officer and Head of Procurement	Yes
>£10,000,000	FTS Tender	Yes	Yes	Full Council	Director advised by Head of Procurement	Director advised by the s.151 Officer and Head of Procurement	Yes

*Note: In accordance with CSO 6.3.5, if there are fewer suppliers in the market place capable of supplying the Works, Services or Goods to be procured than the number of bidders which should be invited to Tender and the relevant exception has been approved, you are only required to invite those suppliers capable of supplying the Works, Services or Goods.

12. Key Decisions

- 12.1 Key decisions are those taken by the relevant authority (Director, Executive Member, Executive or full Council) according to value, which are likely to:
- 12.1.1 result in the Local Authority incurring expenditure which is or the making of savings which are significant having regard to the Local Authority's budget for the service or function to which the decision relates or [values over £500,000 excluding VAT are considered to be significant];
 - 12.1.2 to be significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the Local Authority.
- 12.2 In terms of the threshold approval process, it is considered that a Procurement Plan is an internal document and not a key decision as it not asking for approval of expenditure and therefore is not published on the Council's website.
- 12.3 Contract Award Reports are not Key Decisions unless the whole life value of the Contract to be awarded is more than 10% of the original value previously approved at the Commissioning Plan stage. The subsequent Contract Award report will require approval at the relevant Commissioning Plan threshold which may result in a requirement for a Key Decision to be published.

13. Signing of Contracts

- 13.1 Contracts below the relevant FTS threshold and for a duration up to three years may be signed by two authorised officers, either the relevant Director or the Assistant Director or such other officer(s) as the Director has formally authorised (using their delegated powers) to sign Contracts.
- 13.2 Contracts equal to or exceeding the relevant FTS threshold or for a duration of more than three years may be sealed by the Council, as determined by the Assistant Director (Governance & Monitoring Officer).

14. Framework Agreements (multi supplier)

- 14.1 Before the use of any Framework Agreement, advice must be obtained from the Procurement Service.
- 14.2 The intention behind a Framework Agreement is to streamline the competitive process by enabling the commissioners, at any time during the term of the framework, to buy Works, Services, or Goods by placing an order (without re-opening competition) or by holding a mini competition process (competed Services), without having to Tender each individual requirement. Multiple orders or call-off Contracts can be made through the framework. Framework Agreements can be useful where the Council needs to make repeated and potentially high value purchases, such as for temporary staff support or care placements.
- 14.3 It may be possible to access an existing Framework Agreement, let by the Council or another public body. As you would be calling off from the framework this negates the need to conduct a full procurement for the new requirement.
- 14.4 The following principles should be followed when deciding whether to buy Works, Services or Goods under an existing Framework Agreement established by another body:
- 14.4.1 There should be evidence that the framework can be accessed by the Council;
 - 14.4.2 For competed Services, the framework must provide for the holding of a mini-competition.
 - 14.4.3 For the making of a purchase without re-opening competition the framework must clearly identify the criteria for selecting, in order of priority, the Contractor to be first, and subsequently, offered the order;
 - 14.4.4 The framework should offer value for money;
 - 14.4.5 The technical aspects and quality standards of the framework shall meet the Council's requirements.
 - 14.4.6 The Framework Agreement must be let by "a Contracting authority". A private sector company will not be a "Contracting authority" under the PCR 2015.
- 14.5 For procurements equal to or above the relevant FTS threshold, the award of a Framework Agreement is regulated by the PCR 2015.
- 14.6 If the Framework Agreement falls within the PCR 2015 then the term of the framework must not exceed four years. There is a provision to establish a framework for a longer period, but this is only applicable in exceptional circumstances and where it can be justified by the subject of the framework. The Procurement Service must be contacted for advice.

- 14.7 Call-off Contracts can extend beyond the life-span of the Framework Agreement. However, call-off Contracts made close to, or at the end of, the term of the framework that have a disproportionate duration may amount to a breach of the PCR 2015. Before such a call-off Contract is made, advice must be obtained from the Procurement Service.
- 14.8 The use of a Framework Agreement must be approved as part of the Procurement Plan or the Combined Commissioning and Procurement Plan, whichever is appropriate.
- 14.9 There are two approaches to the Contract Award approval process for Framework Agreements and the orders/placements made under them. The Procurement Plan or Combined Commissioning and Procurement Plan must be clear on which method is being used. Either:
- 14.9.1 A Contract Award Report for the approval to establish a Framework and for all expenditure under the Framework, which is authorised at the appropriate level, based on estimated expenditure across of the life of the Framework. No further Contract Award approvals for individual orders/placements would be required; or
 - 14.9.2 A Contract Award Report for the approval to establish a Framework. Contract Award approvals for the individual orders/placements would be required as and when they are incurred in line with the Threshold table in 11.3.
 - 14.9.3 Note that in either case, before any order/placement is made, a purchase order (PO) to the value of the order/placement must first be authorised.
- 14.10 A Framework Agreement is closed for the duration of its operation which means that no new providers and/or suppliers can be added to the framework. If you wish to create a Contract which allows for new suppliers to be added, you must set up a Dynamic Purchasing System (DPS). If you wish to set up a DPS you should contact the Procurement Service. If you are creating a framework under the Light Touch regime, a degree of flexibility is available. Contact the Procurement Service for further information.

15. Framework Contracts (single supplier)

- 15.1 Before the use of any Framework Contract, advice must be obtained from the Procurement Service.
- 15.2 A Framework Contract differs from a Framework Agreement in that it is made with a single supplier, meaning that orders may be placed with that single supplier without competition. When an order is made under a Framework Contract the supplier will be Contractually bound to accept that order.
- 15.3 A single supplier arrangement is likely to be used where the Council wishes to make a high number of purchases over a specified period, the aggregate value of those purchases being of high value, for example the purchase of stationery.
- 15.4 Framework Contracts can be created so that one, or many purchases can be made under it.
- 15.5 The following principles should be followed when deciding whether to use an existing Framework Contract established by another body:
 - 15.5.1 There should be evidence that the framework can be accessed by the Council;
 - 15.5.2 The framework should offer value for money;
 - 15.5.3 The technical aspects and quality standards of the framework should meet the Council's requirements.
 - 15.5.4 The Framework Agreement must be let by "a Contracting authority". A private sector company will not be a "Contracting authority" under the PCR 2015.
- 15.6 For procurements equal to or above the FTS threshold, the award of a Framework Contract is regulated by the PCR 2015.
- 15.7 If the Framework Contract falls within the PCR 2015 then the term of the framework must not exceed four years. There is a provision to establish a framework for a longer period, but this is only applicable in exceptional circumstances and where it can be justified by the subject of the framework. The Procurement Service must be contacted for advice.
- 15.8 Call-off Contracts can extend beyond the life-span of the Framework Agreement. However, call-off Contracts made close to, or at the end of, the term of the framework that have a disproportionate duration may amount to a breach of the PCR 2015. Before such a call-off Contract is made, advice must be obtained from the Procurement Service.
- 15.9 The use of the Framework Contract must be approved as part of the Procurement Plan or the Combined Commissioning and Procurement Plan, whichever is appropriate.

- 15.10 There are two approaches to the Contract Award approval process for Framework Contracts and the orders/placements made under them. The Procurement Plan or Combined Commissioning and Procurement Plan must be clear on which method is being used. Either:
- 15.10.1 A Contract Award Report for the approval to establish a Framework and for all expenditure under the Framework, which is authorised at the appropriate level, based on estimated expenditure across of the life of the Framework. No further Contract Award approvals for individual orders/placements would be required; or
 - 15.10.2 A Contract Award Report for the approval to establish a Framework. Contract Award approvals for the individual orders/placements would be required as and when they are incurred in line with the Threshold table in 11.3.
 - 15.10.3 Note that in either case, before any order/placement is made, a purchase order (PO) to the value of the order/placement must first be authorised.

16. Light Touch regime (and any subsequent legislation inc Provider Selection Regime)

16.15 The light touch regime applies to those Services identified within Schedule 3 of the PCR 2015, and include health, social and related Services, as well as other Services.

16.16 The light touch regime applies where the Services are considered to be of lower interest to cross border competition. The Services listed in Schedule 3 are subject to the PCR 2015, but a “light touch” regime applies, and a higher FTS threshold applies.

16.17 Whether or not a service is within Schedule 3 must be decided, on a case-by-case basis as it will be dependent upon the full scope of what is being procured. For example, you may be procuring a multi lot Contract for facilities management Services which include an element of security Services. Although security Services are within Schedule 3 the remainder of the facilities management Services are not. In this instance, although your Contract would have a light touch element, the majority of the Contract would not be light touch and so the entire procurement would be subject to the full PCR 2015.

16.18 Services listed in Schedule 3 of the PCR 2015 are subject to the “light touch regime” and not subject to the full procurement regime of the PCR 2015. Schedule 3 Services include health, social and related Services, and the provision of Services to the community. You must seek advice from the Procurement Service if you consider your service will be subject to the light touch regime before you commence the procurement.

16.19 The Provider Selection Regime (PSR) came into effect on 1 January 2024 and applies to the procurement of Healthcare Services in England by relevant authorities. Relevant authorities are:

16.19.1 NHS England

16.19.2 Integrated care boards (ICBs)

16.19.3 NHS trusts and NHS foundation trusts

16.19.4 Local authorities and combined authorities

The PSR does not apply to the procurement of Goods or non-health care Services (unless as part of a mixed procurement), irrespective of whether these are procured by relevant authorities.

16.20 For further information on Health and Social Care related Services considered “Light Touch” or “PSR” and the differing procurement rules to be followed, please see Part D Health and Social Care Contracts, section 36, or contact the Procurement Service.

17. Outsourcing and community right to challenge

- 17.1 Where it makes economic sense and it is a functional solution, the Council may outsource Services or transfer them to the local community to provide directly.
- 17.2 The 'community right to challenge' is part of the 2011 Localism Act and gives voluntary and community groups, charities, parish and town councils and council employees the right to express an interest in taking over the running of a Council service. The Council must consider and respond to this challenge. Where the challenge is accepted, the Council must then run a procurement exercise in which the organisation making the challenge can bid to run the service (but not necessarily win). Expressions of interest to deliver Services under the 'community right to challenge' shall be dealt with through the Council's adopted 'Process Guide to dealing with expressions of interest under the Community Right to Challenge.'

18. Public Works or Services concessions under The Concession Contracts Regulations 2016.

- 18.1 The Concession Contracts Regulations 2016 apply to above threshold public Works concessions and public service concessions. There are no concession Contracts for supplies.
- 18.2 Key factors of concession Contracts are:
- 18.2.1 the award of the contract shall involve the transfer to the concessionaire of an operating risk in exploiting the works or services encompassing demand or supply risk or both; and
 - 18.2.2 the part of the risk transferred to the concessionaire shall involve real exposure to the vagaries of the market, such that any potential estimated loss incurred by the concessionaire shall not be merely nominal or negligible.
- 18.3 If you consider that your opportunity may be a public Works or a public Services concession Contract you must contact the Procurement Service for advice before beginning any stage of the procurement.

19. Social Value

- 19.1 The overall approach to delivering Social Value through the Council's suppliers is to agree proportionate and relevant Social Value outcomes with bidders during the procurement that are aligned to the Corporate Plan ambitions. There are two different but complementary routes in which this can be achieved. Firstly, Social Value can be built into the Contract as a performance obligation within the requirements/specification. Secondly, bidders can be asked to be innovative about how they might deliver additional Social Value under the Contract, and their responses are assessed as part of the overall evaluation process. These two routes are not necessarily independent i.e., both may be used within the same procurement process.
- 19.2 Procurement documents, in particular the evaluation model, should allow bidders to describe how they will deliver Social Value in addition to the core requirements of the Contract. Procurement documents should also be clear on how responses will be assessed and evaluated.
- 19.3 In addition to the two routes outlined in 18.1, how you should approach achieving Social Value will differ depending on the value of your procurement;
- 19.3.1 For procurements below £159,999 excluding VAT - you should consider Social Value as forming part of your evaluation criteria where appropriate and proportionate to do so, but inclusion is not mandatory. A weighting of up to 10% may be applied. The evaluation will be quantitative only.
- 19.3.2 For short term Contracts (less than 6 months) and one-off projects/purchases in excess of £160,000 – Social Value must be included as part of your evaluation criteria. A weighting of up to 10% must be applied. The evaluation will be quantitative only.
- 19.3.3 For long term Contracts (more than 6 months), with a value equal to or greater than £160,000 excluding VAT, a quantitative and qualitative evaluation must be undertaken. Please contact the Procurement Service for advice.
- 19.4 The approach to achieving Social Value through the Council's procurements should be agreed as part of the development of either the Combined Commissioning and Procurement Plan or the Procurement Plan.

20. Types of Procedures

- 20.1 Where the opportunity to be advertised has an estimated whole life Contract value above £160,000, the type of procedure to be followed must be determined as part of the development of the Procurement Plan, in consultation with the Procurement Service, prior to advertising. The types of procedure are as follows:
- 20.1.1 **Open Procedure** – where suppliers submit a Tender in response to an advertisement. This is done via an Invitation to Tender (ITT) document, through a single stage process.
 - 20.1.2 **Restricted Procedure** – includes a Pre-Qualification stage via the standard selection questionnaire, which is sent to all suppliers who express an interest in response to an advertisement. A selection of these suppliers is then invited to submit a Tender via an ITT.
 - 20.1.3 **Competitive Dialogue** – a procedure to be used where the procurement is of a very complex nature (technically, legally or financially), and the Council is unable to properly define one or more of these elements within the specification. For the Council to formulate its requirements, it will hold dialogue sessions with bidders during the Tender process.
 - 20.1.4 **Competitive with Negotiation** – this is a three-stage procedure that allows for negotiation after initial Tenders have been submitted.
- 20.2 Where the estimated whole life Contract value is under £160,000 you are not required to conduct a Tender process, and may conduct a quotation process instead, but that doesn't mean you shouldn't use a Tender process if you consider it to be appropriate. Where you do conduct a Tender process, the Open Procedure must be used.
- 20.3 For further information and guidance on the procurement process for Contracts below £159,999 excluding VAT, please see PART F.

21. Advertising Online

- 21.1 The Council uses a web-based system to advertise and run both request for quotes (RFQs) and Tenders. The Portal allows opportunities to either be openly advertised, where any appropriately registered supplier may express interest, or for quotes/Tenders to be sent to specifically chosen suppliers only. All opportunities with a total estimated whole life Contract value of £160,000 and above must be openly advertised in line with the table at 11.3, unless the use of an appropriate Framework is agreed. (For procurements in respect of Health and Social Care Services Contracts please see Part D). Below this figure opportunities may be advertised openly at the discretion of the Commissioner. Whatever the value, where the Council advertises Contracts openly using the Portal the opportunity must also be advertised on the government's Contracts Finder website if the opportunity will exceed £25,000 excluding VAT in value.
- 21.2 Should you elect, at your own discretion, to conduct a formal Tender process for opportunities with an estimated whole life Contract value of under £160,000, you must advertise the opportunity as part of the Tender process.
- 21.3 The process of advertising procurement opportunities via the Portal does not negate the requirement to advertise relevant opportunities in other media, such as Find a Tender service (FTS), Contract's Finder, the Council's website, local newspapers, or any other method, should this be required.
- 21.4 The Council can also publish Prior Information Notices (PINs) as part of a soft market testing exercise to understand the quantity, appetite, and capability of suppliers to deliver potential future Contracts. Under certain circumstances, publishing a PIN can reduce the minimum tender timescales for the procurement.
- 21.5 All suppliers invited to Tender must be issued with the same information at the same time and subject to the same conditions.

22. Receipt of Tenders

22.1 Procurements with an estimated total Contract value below £159,999 excluding VAT, may be undertaken via email or operated through the Portal, depending on the knowledge and experience of the commissioner in the use of the Portal.

22.1.1 Any submissions received after the date and time stipulated in the procurement documents should not be considered;

22.1.2 On checking a submission, any errors or discrepancies affecting the content of a bid should be the subject of clarification with the Bidder.

22.1.3 If you are uncertain about the approach to apply to an error, or the period to grant a Bidder to correct it, then seek the advice of the Procurement Service.

22.2 All procurements with an estimated total Contract value above £160,000 must be operated through the Portal in conjunction with the Procurement Service.

22.2.1 Any submissions received after the date and time stipulated in the Tender documents should not be considered;

22.2.2 All submissions received electronically via the Portal must either be unsealed by the Procurement Service or by officers authorised by the Procurement Service;

22.2.3 On checking a submission, any errors or discrepancies affecting the content of a bid should be the subject of clarification with the Bidder.

23. Evaluating Tenders

- 23.1 Care should be taken to evaluate the bid using the most economically advantageous Tender (MEAT) rather than simply the unit price. The lowest priced Tender may not necessarily offer the best value for money over the life of the Contract; therefore, you should take into account price and quality using agreed price and quality weightings.
- 23.2 Should a submitted bid appear to be priced too low to deliver the required quality of service this should be clarified. The Bidder should be challenged as to how they can deliver the expected quality and requirements at that price. Should this show that the proposed service is indeed unsustainable, the Tender may be rejected. Before any bid is rejected you must take advice from the Procurement Service.
- 23.3 Each bid should be evaluated by scoring objectively in accordance with the award criteria by a panel of appropriate officers. The process and evaluation model should be set out in the Procurement Plan. The Contract should be awarded to the Bidder submitting the Tender that achieves the highest score in the evaluation process.
- 23.4 The criteria used to evaluate each bid must:
- 23.4.1 Be based on the predetermined award criteria specified in the RFQ or invitation to Tender document, including the weightings to be used;
 - 23.4.2 Include the total value of the Contract;
 - 23.4.3 Be strictly observed throughout the Tender process;
 - 23.4.4 Be capable of objective assessment;
 - 23.4.5 Avoid discrimination.
- 23.5 Where the opportunity is above £500,000 excluding VAT, or where there is a perceived risk through the term or nature of the Contract regardless of Contract value, an assessment of the bidders' financial standing should be undertaken to the satisfaction of the relevant Director.
- 23.6 The results of the Tender evaluation process must be recorded in writing.
- 23.7 The Council is not obliged to accept any Tender.

24. **Awarding the Contract**

24.1 The following applies to all procurements with an estimated Contract value above £160,000:

24.1.1 All bidders should be notified simultaneously via the Portal and as soon as possible, of the intention to award the Contract to the successful Bidder. The unsuccessful bidders must have at least 10 calendar days in which to challenge the decision before the Contract is formally awarded. This 'standstill period' is commonly referred to as the Alcatel period and is a legal requirement of an FTS compliant procurement process.

24.1.2 Where the winning Bidder has identified itself as being within the scope of IR35 Legislation via the Tender process the Authorised Officer must check the Contractors employment tax status on the HMRC website, [Check employment status for tax - GOV.UK \(www.gov.uk\)](http://www.gov.uk), to determine whether the winning Bidder should be paid via the Council's payroll system or via the raising of an invoice on the Council's finance system. If in any doubt, you should contact your directorate HR Advisor.

24.1.3 If the decision is challenged by an unsuccessful Bidder, then the Contract cannot be awarded and the Assistant Director (Governance & Monitoring Officer) must be contacted to advise on the steps to be taken.

24.1.4 The Procurement Service shall (via the Portal) debrief in writing all those bidders who submitted a bid about the relative advantages of the winning Bidder and should disclose:

1. How the award criteria were applied and the scores and relative advantages of the winning Bidder(s);
2. The name of the winning Bidder(s).

24.1.5 All documents should be kept in accordance with the Corporate Retention and Disposal Schedule.

24.2 The following applies to all procurements with an estimated Contract value below £159,999 excluding VAT:

24.2.1 All bidders should be notified simultaneously (via the Portal if appropriate) and as soon as possible of the intention to award the Contract to the successful Bidder.

24.2.2 Unsuccessful bidders must be provided with a breakdown of their scores, the name of the winning Bidder and the winning Bidder's scores. A 'standstill period' is not a legal requirement, however it is considered good practice to allow some time between notifying unsuccessful bidders and making the Contract award.

24.2.3 A legal challenge cannot be made for Contracts which fall below the FTS threshold.

25. Reverse Auctions

25.1 On the advice of, and with prior authorisation from the Procurement Service, electronic reverse auctions may be used for the submission of prices. The specific procedures to be used must be approved by the Head of Procurement and should normally be facilitated via the Portal.

26. FTS Thresholds

- 26.1 The procurement of Goods, Services and Works that equal or exceed the FTS procurement thresholds are covered by the FTS Consolidated Procurement Directive as enforced by the Public Contract Regulations 2015. The Directive lays down strict processes for advertising, timetabling and Contractor selection.
- 26.2 These rules take precedence over all Council and UK national regulations and carry potentially heavy penalties for non-compliance.
- 26.3 There are separate thresholds regarding Services covered within the “Light Touch” regime, the Concession Contracts Regulation 2016 and the Utilities Contracts Regulations 2016, the Provider Selection Regime 2024. If you are uncertain if your opportunity falls under one of these Regulations, you must seek advice from the Procurement Service to understand current thresholds.
- 26.4 All opportunities that equal or exceed the FTS Threshold must be advertised in the FTS and Contracts Finder.

27. Contracts

27.1 All Contracts shall, as a minimum:

- 27.1.1 be in writing;
- 27.1.2 specify what is to be supplied (that is, the Works, materials, Services, matters or things to be furnished, had or done);
- 27.1.3 specify the payment provisions (that is, the price to be paid and when);
- 27.1.4 specify the time-scale within which the Contract is to be performed; and
- 27.1.5 specify the termination provisions under which the Council shall and may terminate the Contract.

27.2 In addition, every Contract involving a purchase of £50,000 and above must also clearly state as a minimum:

- 27.2.1 the performance standards to be met;
- 27.2.2 the insurance requirements;
- 27.2.3 health and safety requirements;
- 27.2.4 equality and diversity requirements;
- 27.2.5 (where relevant) that the Contractor may not assign the Contract or sub-Contract any part of the Contract without prior written consent from the Council;
- 27.2.6 information governance, Freedom of Information and Data Protection requirements;
- 27.2.7 Contract management requirements;
- 27.2.8 a right, given to the council, of access to documents and records which relate to the subject matter of the Contract for monitoring and audit purposes;
- 27.2.9 an obligation on the Council to pay undisputed invoices within 30 days;
- 27.2.10 an obligation on the principal Contractor to pay any Sub-contractor invoices within 30 days;
- 27.2.11 a clause for the prevention of corruption and bribery; and
- 27.2.12 Contract enforcement mechanisms.

27.3 Formal advice from the Assistant Director (Governance & Monitoring Officer) must be sought on Contract terms and conditions for the following Contracts:

- 27.3.1 where the estimated whole-life value of the opportunity is above £160,000 excluding VAT;
- 27.3.2 those involving leasing arrangements;
- 27.3.3 where it is proposed to use the external supplier's own terms;
- 27.3.4 those that are considered to be high risk in terms of service failure or the Council's reputation; or
- 27.3.5 those that are complex in any other way.

27.4 All Contracts must be formally concluded in writing before the supply, service or construction begins. An award letter is insufficient.

28. Prevention of Bribery or Corruption

28.1 Officers must comply with the Council's Code of Conduct and must not invite or accept gift or reward for the award of, or in respect of, the performance of any Contract. It will be for the officer to prove that anything received was not received corruptly. High standards of behaviour are obligatory. Corrupt behaviour will result in disciplinary action being taken against the officer concerned. Offering, promising or giving of a bribe (active bribery) and the requesting, agreeing to receive or accepting of a bribe (passive bribery) is a criminal offence under the Bribery Act 2010 and council employees should take all necessary steps to protect themselves and the Council against committing acts of bribery.

29. Declaration of interest

29.1 Prior to any procurement commencing, officers that will be involved in the development of the specification, evaluation and/or decision, will be required to complete a Conflict of Interest form, specifically for the procurement activity. This is to ensure that all procurements are undertaken fairly and any disclosable interests are known to the Council. This is in addition to any declarations made as part of the annual Register of Personal and Pecuniary Interests. Any interests declared should be documented and managed appropriately. If in doubt, please contact the Procurement Service for advice.

29.2 If it comes to the knowledge of a member or officer of the Council that an individual has, or may have, a conflict of interest in the Contract to be procured or awarded, (not previously declared) they shall immediately give written notice to the PA for their Directorate who will inform the relevant Director, as well as the Procurement Service.

29.3 Such written notice is required regardless of whether the interest is that of a member or officer themselves or a close relative, partner, direct or indirect. An indirect disclosable interest is distinct from a direct disclosable interest in that it is not a Contract to which the member or employee is directly a party.

29.4 The Directorate PA shall maintain a record of all declarations of interests notified by members and officers.

29.5 The Directorate PA shall ensure that the attention of all members is drawn to the Code of Conduct for Local Authority Members.

30. Extending the term of the Contract

- 30.1 If the original Contract includes an option to extend the initial term and the authority to enter into the Contract was given for the whole life Contract value the relevant Director may authorise the extension period via a Director's Decision subject to evidence of satisfactory performance of the Contract.
- 30.2 Where an extension meets the criteria of 30.1, there is no requirement to book onto the forward plan or publish the decision.
- 30.3 If the original Contract does not include an option to extend the initial term or the authority to enter into the Contract was not given for the extension period;
- 30.3.1 the maximum extension period allowed is 50% of the initial (original) term or a maximum of 12 months, whichever is lesser; AND
 - 30.3.2 Authority to extend the initial term must be obtained before the Contract is extended. The value of the extension period will determine who can authorise the extension based on the values in the table at paragraph 9.4 above.
- 30.4 Following permission to extend a Contract, Contract managers must inform the Procurement Service of the extension (see 7.6) and must provide a signed Decision to allow the Procurement Service to update the Council's Contract Register.
- 30.5 Where the whole life value of the Contract equals or exceeds the relevant FTS threshold the PCR 2015 must be fully complied with. Where this applies you must seek advice from the Procurement Service.

31. Contract Variation other than extending the term of the Contract

- 31.1 Instructions to vary a Contract shall be made in writing and before the variation is made approved by the relevant Director and referred to Legal Services for advice where the Contract is subject to the PCR 2015.
- 31.2 Where a Contract (excluding Capital projects with a compensation event/change control mechanism) with a whole-life Contract value above the FTS thresholds is proposed to be increased by a value of 10% or more, an immediate report with the advice of the Procurement Service shall be made to the Section 151 Officer who shall decide what further action is necessary.
- 31.3 Where a variation occurs during the life of the Contract that cannot be met from within existing budgetary provision, an immediate report shall be made to the Section 151 officer who shall decide what further action is necessary.
- 31.4 Where any claim for payment exceeds the original Contract sum by 25% excluding VAT or more, the matter must be referred to the Procurement Service before any settlement is made.
- 31.5 Capital projects with a compensation event/change control mechanism allowed for within the Contract, for example NEC4 Contracts, may manage Contract variations within the project structure/governance, subject to an appropriate delegated authority decision and monitoring at Capital Programme Planning and Delivery Board (CPPDB).
- 31.6 Following permission to vary a Contract, Contract managers must inform the Procurement Service of the variation (see 7.6) and must provide a signed Decision to allow the Procurement Service to update the Council's Contract Register.

32. Contract Management

- 32.1 Directors shall ensure that there is a named Contract manager for each new Contract. For each Contract with an expected value above £160,000 excluding, the Contract manager will work jointly with the Procurement Service during the procurement process.
- 32.2 As part of the procurement process the Contract manager and Procurement Service will agree the Contract management measures that are appropriate for the Contract. This will include, but not be limited to, performance measurement/management, review meetings, risk management, governance and escalation. The approach to Contract management shall be proportionate, with management activity linked to Contract risk and value.
- 32.3 For all procurements with a value in excess of £160,000, following the Contract award, a Contract Management Plan will be developed by the Contract manager with guidance from the lead Procurement Officer.
- 32.4 Contract Managers should consider on-going monitoring of Contractors' financial standing by signing up to Audit's service.

33. The Contract Performance framework

- 33.1 The Council has a performance framework to ensure strong corporate governance of its key Contracts.
- 33.2 Contract managers shall measure Contract performance against the standards and the performance indicators set out in the Contract. Contract managers shall also identify (through a risk assessment) an appropriate set of indicators of the quality of the actual process of Contract management.
- 33.3 For all key Contracts, Contract managers shall meet quarterly with the relevant procurement lead to discuss and complete a quarterly assessment to assure the Council that each Contract is delivering good outcomes and is being well managed. With the exception of capital projects which are monitored at Capital Programme Planning and Delivery Board (CPPDB).
- 33.4 Directors shall ensure that Contracts which are of strategic importance (in terms of the Services offered and/or the Contract value and/or the risk of service failure and/or the reputational risk to the Council) shall be referred to the Council's corporate leadership team (CLT). Significant Contracts which are under-performing shall also be referred to CLT.

PART B – LAND AND BUILDINGS

34. Purchasing and Leasing

- 34.1 Purchasing and leasing of land and buildings shall be made in compliance with the Council's Financial Regulations and Disposal of Land & Property Procedures.
- 34.2 No property related Contract sale, purchase, tenancy, lease or third party rights shall be entered into without the involvement of Assistant Director (Governance and Monitoring Officer), (through the Section 151 Officer).

PART C – DISPOSAL OF ASSETS OTHER THAN LAND OR PROPERTY

35. Disposal of Assets other than Land or Property

- 35.1 Disposal of other assets (other than land and building) shall be made in compliance with the Council's Financial Regulations.
- 35.2 In addition, there shall be clear documentation agreed and signed by the budget holder, their line manager and the Director detailing:
 - 35.2.1 Why the item is no longer required.
 - 35.2.2 A statement as to the physical condition of the item.
 - 35.2.3 An estimated market value for disposal.
- 35.3 The Section 151 Officer must be informed of the proposed disposal of any item listed on the Council's Asset Register. The relevant Service Accountant must be informed of the proposed disposal of items originally obtained through leasing arrangements.
- 35.4 Serviceable surplus Goods shall be first offered for disposal within the Council. If no internal interest is received the item can be disposed of externally. If it is perceived that the Goods are usable in their present state for their original purpose, then the Council may be able to sell the item. Careful consideration should be given to the selling of Goods as the Council must comply with the Consumer Protection Act 1987 and the Consumer Rights Act 2015 Compliance with the Act rests with Directors.
- 35.5 The Council is able to supply office furniture to the general marketplace, providing the furniture is in a usable condition and not likely to cause injury.
- 35.6 Any item identified as being beyond economic repair shall be scrapped. If it is perceived that there is a scrap value, the item shall be sold as scrap. Electrical, gas, or mechanical items identified as no longer 'fit for purpose' shall only be sold as scrap or for refurbishment to an established company in the business of handling scrap or reconditioning items. Any sale document must clearly show that the item is being sold for scrap or refurbishment value only. Such items must not be offered for direct sale to the general market.

PART C Continued

- 35.7 Motor vehicles can be offered for direct sale providing that the vehicle has a valid MOT certificate, is otherwise roadworthy and has no other obvious defects.
- 35.8 The item may either be sold through public auction or by private treaty. If to be sold by private treaty:
- 35.8.1 Where the estimated disposal value is under £500 at least one written offer shall be obtained and retained, and the highest offer shall be accepted.
 - 35.8.2 Where the estimated disposal value is between £500 and £50,000 then at least three written offers must be sought and retained, and the highest offer shall be accepted.
 - 35.8.3 Where the estimated disposal value is over £50,000, advice must be sought from the relevant Finance Business Partner or the Section 151 Officer, who shall recommend an appropriate disposal method for approval by the Director, or relevant delegated authority.
- 35.9 No surplus Goods may be given or sold to any Council officer Member or their immediate family, except when won via public auction.
- 35.10 Further advice on disposal considerations must be initially sought from the Procurement Service.

PART D – HEALTH AND SOCIAL CARE CONTRACTS

36. Regulations and Guidance

- 36.1 The Council recognises that the procurement of health and social care Services involves a range of unique considerations, which are different and/or additional to those that apply to the procurement of other Goods, Services and Works. Health and social care Services are treated differently for the purpose of the EU Public Procurement Directives (Regulation 74 Public Contracts Regulations 2015 and any subsequent legislation) and the Provider Selection Regime (01/01/2024). The Council is also mindful of the duties in respect of the commissioning of social care Services brought into force by the Care Act 2014, the Children Act 1989, the Children Act 2004, the Childcare Act 2006, the Child Poverty Act 2010, the Children and Families Act 2014 and associated regulations and statutory guidance (all as amended). This, along with the intention to integrate Services between Health and Social Care more fully and the introduction of the Provider Selection Regime for Health-related Contracts means that, in order to reflect these principles, the Council has adapted these standing orders setting out the underlying principles and administrative procedures that will be followed in relation to the procurement and award of Contracts for such Services.
- 36.2 The Council recognises that the Care Act 2014 introduces and consolidates a number of duties which will be relevant to its commissioning and procurement functions and decisions. The Council also recognises the unique considerations involved in the procurement of Children’s Services and is mindful of its duties in respect of the Children Act 1989, the Children Act 2004, the Childcare Act 2006, the Children and Families Act 2014 and the UN Convention on the Rights of the Child. Accordingly, in procuring Contracts for the Services, from the formulation of the specification for a Service and throughout the Tender and award process, the Council and its officers will take account of the Council’s duties to:
- 36.2.1 promote the well-being of the individuals who will be in receipt of the Services;
 - 36.2.2 take account of the specific needs of different categories of users including in particular, disadvantaged and vulnerable groups, including children;
 - 36.2.3 provide and arrange Services which will contribute towards the prevention or delay in the development of or reduction in the needs of adults and carers in the area;
 - 36.2.4 promote the integration of care and support with health Services;
 - 36.2.5 promote the involvement and empowerment of users;
 - 36.2.6 provide a variety of different providers of the Services in its geographical area;
 - 36.2.7 facilitate a variety of high-quality Services from which an individual can choose to obtain the Services;
 - 36.2.8 properly shape and maintain the sustainability and innovation of the market for the Services; and
 - 36.2.9 make available to Providers information about demand for the Services, both current and forecast and other relevant data about the market.

PART D Continued

- 36.3 The Council and its officers will take into account longer term commissioning strategies and information about the market for the Services available to the Council through Market Position Statements, Joint Strategic Needs Assessments and other analysis when designing, procuring and awarding Contracts for the Services.
- 36.4 The Council will ensure that the best interests of children affected by procurement and commissioning decisions are treated as a primary consideration, meaning that they are considered first and only not followed if outweighed by the cumulative impact of other considerations.
- 36.5 The Council will safeguard and promote the well-being and welfare of people who are or maybe in receipt of the Services.
- 36.6 The Council will ensure that all Providers have robust safeguarding procedures in place and managed effectively. keep under review the educational, training and social care provision for children and young people who have special educational needs or a disability and consider the extent to which this provision is sufficient to meet the needs of the children and young people concerned;
- 36.7 The Council will ensure that there are sufficient social care Services for disabled children to allow such Services to continue until such time as there is a final decision on their case by adult Services;
- 36.8 The Council will base commissioning on strategic needs assessments and evidence that the Services procured will be effective at meeting needs and desired outcomes. This will include ensuring that data in relation to numbers of children and their particular needs is accurate and kept up-to-date; and
- 36.9 The Council will adopt a whole system approach to designing universal, targeted and specialist Services to improve outcomes for children 'in need', children at risk of entering care, looked after children and children involved in the youth justice system including those in custody.
- 36.10 The Council will encourage collaborative working in the form of consortia of Providers, joint commissioning, multi-agency working and pooled budgets.

37. Tendering Processes

- 37.1 Prior to the Tender of any Contract for any Health and/or Social Care Services, the Council will explore the nature of such Contracts and the funding sources to determine whether the Provider Selection Regime shall apply as opposed to the Public Contracts Regulations 2015 (or subsequent legislation).
- 37.2 Where it has been determined that the Provider Selection Regime shall apply the relevant rules shall be followed in order to award the Contract. This may involve tendering the opportunity to the open market where appropriate to do so and the publication of any such award in line with the requirements of the regulations.

PART D Continued

- 37.3 Prior to the Tender of any Contract for any Health and Social Care Services, the Council will, where appropriate, engage in transparent dialogue with Providers and explore the submissions and ideas (whether formally or informally) presented by Providers when developing the specification for a Contract for such Services as provided for in the UK Regulations.
- 37.4 Where it has been determined that the Public Contracts Regulations 2015 apply and the value of a Contract for the Services exceeds the Light Touch Regime FTS Threshold, the authorised party as defined within the Threshold table at 11.3 will be responsible for deciding the process to be followed to ensure that the requisite details of the Contract are made known in line with the general Contract Standing Orders (CSOs). The Council will be required to record and accept any risk in not advertising the Contract as specified in the CSOs, see below.
- 37.5 Following consultation, and subject to the terms of the Council's core Contract Standing Orders and any overriding thresholds it has set, a competitive procedure for the Tender of the Contract may not be required, or only a limited competition is required. Such a decision may be appropriate for the reasons including (but not limited to) the following:
- 37.5.1 that it can be demonstrated that the Contract is of no interest to Providers in other EU member states; and/or
 - 37.5.2 the total sum to be paid under the Contract is so low that Providers located in other EU member states would not be interested in bidding for the Contract; and/or
 - 37.5.3 the Service is of such a specialised nature that no cross-border market of suitable Providers exists; and/or
 - 37.5.4 the existing Provider(s) of the Service is(are) the only Provider(s) capable of delivering the Service to meet the needs of the individual(s) concerned; and/or
 - 37.5.5 an innovative, highly specialised, cost effective or unique Service is being offered by a particular Provider(s) and the Council wishes to evaluate the effectiveness of that Service; and/or
 - 37.5.6 the nature of the Service is such that it will not or cannot be adequately specified in advance because of the nature of the social care needs of the service user(s) concerned; and/or
 - 37.5.7 there are special circumstances such as ownership of land or property, geographic locations or particular skills or experience of Providers of the Services which limit the choice of Provider; and/or
 - 37.5.8 the application of a competitive Tender process would adversely affect or result in the loss of a linked service; and/or
 - 37.5.9 it has become urgent to provide the Service because of an emergency, crisis or as a result of unforeseen circumstances which are not attributable to the Council.

PART D Continued

- 37.6 Officers will be required to maintain a list of all Contracts which they decide do not require to be procured through a traditional competitive Tender on the basis of the determinations made under 36.14 above.
- 37.7 All Tender processes will be proportionate to the value of the Contract, the nature of the Services and the Council will endeavour to produce clear and accessible documentation.
- 37.8 The Council will avoid duplicative or excessive paperwork in the Tender process and will consider wherever possible using e-procedures which reduce the demand on administrative resources.
- 37.9 Procurement processes for the Services will involve realistic timescales which allow Providers sufficient time to meet and respond to the necessary requirements.
- 37.10 The Council will, give proper consideration to the financial and economic criteria it imposes on Providers through any procurement exercise for Services to ensure that they are proportionate to the Contract in mind, and that small Providers, and Providers that are new in the market, are not unfairly or unnecessarily excluded from the procurement procedure.
- 37.11 The Council will endeavour to provide appropriate information to Providers before and during the course of any tendering processes to ensure that Providers are able to provide adequate detail in the Tender responses and are able to provide prices which are firm and capable of being delivered. Where possible this will include an adequate and sufficient amount of detail on any staff that might be subject to a TUPE transfer, the associated costs and pensions arrangements.
- 37.12 All of the above does not negate the requirement for approval by the appropriate authority. The (annual) Commissioning Intentions Plan, Procurement Plan if appropriate, and Contract Award Report/Exception Report will still be required.

PART E – GRANTS

38. Differentiation between Contracts and Grants

38.1 This guidance has been produced to assist in clarifying whether an arrangement with a supplier is a Contract or a Grant agreement. Throughout this note, “organisation” includes individuals, trusts, unincorporated associations, and companies, whether private, not for profit or charitable.

38.2 There is no one factor that determines whether an arrangement is a Grant agreement or a Contract. The arrangement must be considered as a whole. In summary:

38.3 An arrangement will be a Contract where:

38.3.1 The council is buying a service, i.e. the council will receive a benefit in exchange for payments made to an organisation. The benefit can be a service provided directly to the council, or sometimes to a third party (e.g. recipients of social care Services)

38.3.2 The organisation is obliged to provide the service in question, it cannot decide to not provide the service and repay any funds received to the council. If the organisation fails to provide the service, the council will be able to make a claim against the organisation for any losses the council suffers as result of this failure.

38.4 An arrangement will be a Grant where:

38.4.1 The council gives Grant monies to an organisation without receiving a benefit in return.

38.4.2 The organisation is not obliged to provide the specific service. The organisation can decide not to provide the Services, and its only obligation will be to repay the Grant monies it has been given. See example below.

38.5 Please note whether an arrangement is labelled a Contract or a Grant agreement is irrelevant. You must consider the substance of the arrangement.

PART E Continued

39. Example of a Grant

39.1 A third sector organisation provides counselling to over 65s with mental health issues. Following an open and transparent Grant award process, the council decides to provide Grant monies to this organisation to assist with the provision of such counselling.

39.2 The arrangement will be a Grant agreement if:

39.2.1 The council simply views the counselling as 'a good thing' that it wishes to support. The Grant monies are given voluntarily, and the council does not receive a benefit in return for the Grant monies given.

39.2.2 Counselling is provided in a way that meets the organisation's objectives, e.g., the organisation decides who can attend, when the counselling sessions are to be held etc;

39.2.3 The organisation may choose whether to provide the counselling, or return the Grant monies given to the council;

39.2.4 Any surplus Grant monies must be returned to the council.

39.3 A Grant agreement will only be suitable if the non-delivery of the counselling service will not have any negative consequences for the council. A Grant agreement would not be suitable for example where the council:

39.3.1 Has a statutory duty to provide such counselling (i.e. the council must ensure the service is provided or it will be in breach of its statutory duties, under a Grant agreement the organisation could decide whether to provide the service); or

39.3.2 Is under an obligation to a third party to provide such counselling; or

39.3.3 Has identified a gap in its provision of care to the elderly with mental health Services and wishes to specify how, when and to whom the service will be provided.

PART E Continued

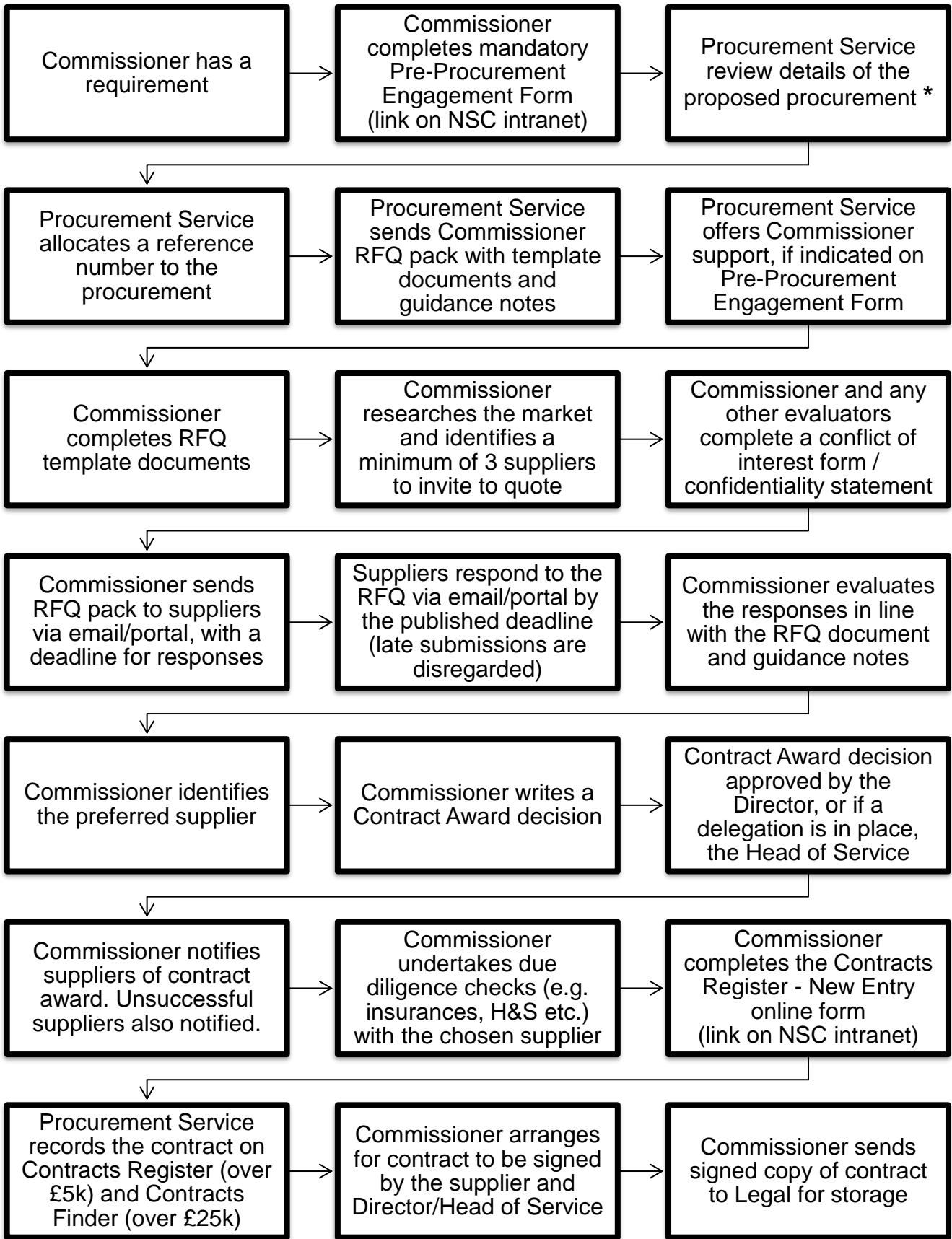
40. Administration of Grants

- 40.1 Grants must be awarded following an open and transparent award process and should not be directed to a specific organisation.
- 40.2 If the Grant being awarded is below £159,999 excluding VAT, you can create your own award process and administer via email.
- 40.3 For Grants over £160,000 excluding VAT, please contact the Procurement Service for advice on the best way to approach this.

What happens under a Grant agreement if the organisation does not provide the service?

- 40.4 If the organisation does not spend the Grant monies on providing the Services, its only obligation will be to repay the Grant monies to the council. Under a Grant agreement, the organisation can decide not to provide the service in question and simply repay the Grant monies to the council.
- 40.5 The organisation will not have any further liabilities to the council. If the council suffers any loss caused by the organisation not providing the Services for which the Grant was given, the council will not have any right to make any claims against the organisation. A Grant agreement will not be suitable where the council requires Services to be provided.

PART F – PROCUREMENT PROCESS FOR CONTRACTS BELOW £159,999



* **Note:** if the value of the estimated procurement is over £160,000 excluding VAT, or the Commissioner intends to use a Framework (any value), the Procurement Service will work with the Commissioner to procure this requirement. A Pre-Procurement Engagement form needs to be completed for all procurements irrespective of value, as per 8.1 of the CSOs.