

Appendix C – Changes to the Contract Procedure Rules

Summary of Key Changes

- Application of the rules – there are certain contracts that the procurement legislation does not apply to, as it is not always practicable to procure those contracts in a standard way. The Council's current rules include some circumstances where the rules do not apply, however, the proposed rules broaden this list to reflect what the Council does in practice and to make it easier for Officers to understand (rule 2).
- Procurement responsibilities – whilst in practice procurement is overseen at many different levels within the organisation, the current rules do not currently specify whose responsibility it is to make sure that the rules are complied with. Whilst it is every officer's responsibility to comply with the rules, the new rules place greater responsibility on the Strategic Directors to ensure that the officers within their directorate are aware of the rules and are following them accordingly (rule 3).
- Thresholds for contracts – the Council's current rules have seven different levels of approval for entering into contract, five different financial levels for how a contract is procured and separate rules for who can sign contracts. The feedback from officers is that this is hard to follow, as they are required to look in different places. The new rules have four different 'bands' of contracts and the rules are clear for each band who can approve it, how to procure it and who can sign it (rule 5).
- Granting exemptions – currently the rules allow Cabinet to give a waiver from the rules, statutory officers to give an exemption or Heads of Service to waive the requirements for quotes if the value is below £50k. It is not always clear to officers which of these routes they should follow as they all technically overlap i.e. a head of service could waive the requirement for 3 quotes, the officer could get an exemption from statutory officers or could go to Cabinet for a waiver. The new rules separate it out to provide that exemptions for contracts below £50k are the responsibility of Heads of Service and above, exemptions for contracts above £50k and not a key decision can be agreed by statutory officers and for contracts which are a key decision, exemptions are to be agreed by Cabinet (rule 9.2).
- Grounds for exemptions – the current rules have two fairly broad grounds for exemption, which can be interpreted in a number of different ways. The new rules seek to set out 7 more specific grounds for exemption (rule 9.5) that are clear when they are engaged or not. This is to give officers and members more certainty in considering exemptions.

The remaining changes reflect the legislative changes e.g. value inclusive of VAT, the requirement to split up procurements to appeal to SMEs, requirements for notices to be published in certain circumstances, etc.

In addition to the above, it was considered that the key decision threshold was potentially confusing officers, as there was not a single value above which contracts should go to Cabinet. Members may recall that at a previous meeting, it was proposed to reintroduce the key decision wording into the constitution and that wording provides that a financial decision above £100,000 is a key decision, unless it is a contract where alternative circumstances apply. It is now proposed that this wording is removed so that

it will always be a key decision if it is £100,000 or above. This revised wording is attached at Appendix B.

Furthermore, there is a consequential change to the Financial Procedure Rules required to reflect the changes to the thresholds in the Contract Procedure Rules. The Council operates different levels of financial authorisation through its 'Unit 4' finance system, which are not currently reflected in the rules. Now that the Contract Procedure Rules are cross-referring to those authorisations it was deemed prudent to update the Financial Procedure Rules with those levels for Officers to refer to. This revised wording is attached at Appendix C.

SECTION G – CONTRACT PROCEDURE RULES

These Contract Procedure Rules are made under section 135 of the Local Government Act 1972.

Contents

1 Introduction and application of Contract Procedure Rules	2
2 Scope	2
3 Roles and responsibilities	3
4 Consultation and approvals prior to advertising a procurement	5
5 Approvals and procurement procedures	6
7 Advertising	9
8 Evaluating bids	9
9 CPR Suspension and Exemptions	10
10 Framework Agreements, Dynamic Markets & Open Frameworks	11
11 Contracts	11
12 Contract extensions and modifications	12
13 Contract Management	13
DEFINITIONS	

1 Introduction and application of Contract Procedure Rules

These Contract Procedure Rules (**CPR**) set out the framework for the procurement of works, services and goods. They are an essential set of rules and compliance with them will ensure that officers seek and obtain value for money, and that public money is properly spent and accounted for.

1.1 Council officers and members must comply with these CPR in all instances when buying works, services and goods 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 CPR to the Strategic Director for Resources.

1.2 These CPR 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 CPR helps the Council to demonstrate:

- good internal governance;
- propriety and the proper spending of public money;
- value for money and effective use of resources is being achieved;
- additional social value in the delivery of works, services and goods;
- the delivery of high-quality works, services, supplies;
- compliance with relevant laws;
- controls to deter fraud, bribery and corruption;
- support of the local economy and small to medium enterprises (**SMEs**); and
- application of sound procurement practice.

1.3 Every contract for works, services and goods made by the Council must conform to all relevant UK legislation. UK public procurement legislation and policy require that the procurement of contracts should:

- Deliver value for money;
- Maximise public benefit;
- Involve the sharing of information with all potential suppliers fairly;
- Enable the Council to act, and be seen to act, with integrity;
- Ensure that the Council treats suppliers equally and fairly;
- Ensure that the Council takes all reasonable steps to prevent unfair advantages or disadvantages; and
- Reduce barriers to entry for SMEs whenever and wherever possible.

1.4 Contracts must not be artificially split to avoid the application of the key thresholds contained in these CPR. The Council's responsibilities are collective rather than based upon what individual services require.

1.5 All figures in these CPR are **inclusive** of VAT unless stated otherwise.

1.6 Officers dealing with the procurement of standard or repetitive goods and services, or where multiple smaller individual requirements are needed should

consider the use of Framework Agreements and should seek guidance from the Council's Procurement Officer.

2 Scope

2.1 These CPR apply:

- whenever the Council intends to spend money (or provide other payments in kind) under contracts for works, services or supplies;
- to expenditure from either capital or revenue sources;
- to works and services concession contracts;
- to supplies for re-sale;
- to both officers and members;
- where the Council acts as the lead partner in a multi-authority procurement (in addition to the equivalent rules for partner organisations); and
- where any third-party organisation is authorised to procure works, services and/or supplies on behalf of the Council as the Council's agent or representative.

2.2 These CPR do not apply:

- to contracts of employment;
- to service level agreements made between departments within the Council;
- grants the Council is awarding to third-parties;
- to acquisitions and disposals of land or buildings, except in so far as it relates to a contract for works, services or goods;
- 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;
- in the case of individual investments which are not deemed as the purchase of supplies or services for the purposes of these CPR;
- any contract related to the receipt of investment advice or a related ancillary service under the Financial Services & Markets Act 2023;
- where the Council instructs counsel or any external legal advisors to represent or act on its behalf in relation to legal matters;
- contracts awarded to Local Authority Controlled Companies unless the Monitoring Officer determines otherwise;
- in the case of civil contingencies;
- contracts with local authorities for the joint delivery of services or discharge of functions, provided that they demonstrate value for money.

Provided that, in all instances, all relevant legislation, rules, and guidance **must** still be complied with, together with other relevant parts of the Council's Constitution.

3 Roles and responsibilities

3.1 Overall responsibility for these CPR rests with the Strategic Director for Resources. Further information and advice on these CPR can be sought from the Council's Procurement Officer.

3.2 **Any** officer undertaking procurement or purchasing activity on behalf of the Council **must** comply with these CPR and any and all relevant legislation and regulations.

3.3 Strategic Directors are responsible for ensuring that **all** Officers with procurement responsibilities within their directorates fully understand and comply with these CPR.

3.4 Strategic Directors are responsible for **all** purchase orders and contracts tendered and let by their directorates, are accountable to Cabinet for the performance of their duties in relation to contract letting and management, and must ensure that all Officers comply with these CPR.

3.5 The duties of Strategic Directors are as follows:

3.5.1 To seek and obtain value for money and secure continuous improvement in all procurements;

3.5.2 To ensure no contract is entered into by their Directorate without there being adequate and agreed budget provision;

3.5.3 To ensure compliance with all applicable legislation, seeking advice from the Council's Procurement Officer at an early stage in the process as appropriate;

3.5.4 To ensure **all** staff (including any agents or consultants acting on their behalf) dealing with procurement for their directorate are fully aware of and comply with these CPR;

3.5.5 To declare to the Council any pecuniary interest whether direct or indirect they personally have in any contract to be let, and to make that declaration in writing to the Monitoring Officer and the Strategic Director for Resources;

3.5.6 In the event of any breach of these CPR, to take immediate action and report it to the Monitoring Officer and the Strategic Director for Resources, whilst carrying out corrective action and appropriate investigations where necessary;

3.5.7 To ensure every contract has a named officer with responsibility for it;

3.5.8 To keep securely proper records of all purchase orders, signed contracts and copies of all relevant documentation to provide a full audit trail of actions taken.

3.5.9 To ensure that the Council's Contracts Register is kept up-to-date for all contracts greater than £50,000 in value within their directorate.

3.5.10 To ensure the Council's 'Procurement Pipeline' is kept up to date

with all procurements greater than £100,000 in value to be carried out in the next 18 months.

3.5.11 To comply with the Council's arrangements for the obtaining and opening of quotations and tenders as set out in these CPR;

3.5.12 To ensure that the Council's seal is affixed to any contract where this is required in accordance with these CPR and to ensure that all other contracts are signed by a person authorised under these CPR;

3.5.13 To ensure that records are kept in a manner that ensures reviews of contracts are undertaken in good time and that appropriate action is taken to re-procure those contracts where necessary.

4 Consultation and approvals prior to advertising a procurement

4.1 Procurements of Band C and D contracts can only be published following approval of a procurement plan report by the relevant decision maker.

4.2 Officers must comply with the Council's Constitution in relation to all Executive Decisions and Key Decisions, where required. Planning of a procurement must take into account these procedures and Officers should consult with Democratic Services, as appropriate.

4.3 The procurement plan report will set out how the procurement will be managed to deliver the best outcomes for the Council. The level of detail in the report should be proportionate to the whole life value of the contract and the level of risk but should, where relevant, include:

- High level summary of contract purpose and outcomes, including the approach to reflecting these in the specification;
- Governance process, including the engagement of key stakeholders (including service users), approval of key documents during the procurement process and any delegations requested for contract award;
- Market analysis, including any work that needs to be done by the Council to market itself to potential bidders as an important customer;
- Review of potential performance issues of existing contractors and how they will be mitigated / managed through the procurement process;
- Key risks, including sustainability risks, and how they will be managed during the procurement process;
- The proposed lot structure to be adopted and how it will support achieving the Council's objectives, or otherwise the justification for not dividing into lots;
- 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;
- Legal issues, including terms and conditions for the contract, contract length and extensions etc.;
- Commercial issues such as pricing strategy, management of change and performance management/incentives;

- Approach to Social Value, including performance obligations, main areas of potential benefit, VCSE and sustainability opportunities;
- Overall projected timescales and milestones;
- Approach to assessing and agreeing preferred route to market.

It is important that the Council's Procurement Officer is engaged at a sufficiently early stage to provide advice and when necessary to jointly produce the procurement plan report with the contract lead.

4.4 For all procurements, the Council is required to divide the complete requirement into lots to reduce barriers to SMEs or otherwise provide justification for not doing so.

4.5 Officers **must** consult the Council's Procurement Officer for any procurement 10 where the Total Contract Value is estimated to be more than £50,000. The procurement must be entered into the Council's 'Procurement Pipeline' a minimum of 18 months in advance of the procurement commencing.

4.6 Officers **must** consult and seek support from the Council's Procurement Officer for any procurement where the Total Contract Value is estimated to be Above Threshold. The route to market must be approved by the Strategic Director of Resources.

4.7 Subsidy Control rules **must** be considered by the contract lead in situations or circumstances where the proposed arrangement (as either a contract, grant or other award), may provide an advantage through public resources being given on a selective basis to any organisation(s) that could potentially distort competition and / or trade.

4.8 The Council has a legal duty to consider the application of the relevant Subsidy Control rules when making awards. This may require a bespoke assessment of each measure against the relevant legislative provisions. Advice from Legal Services should be sought where the contract lead considers that the subsidy control rules may be engaged.

5 Approvals and procurement procedures

5.1 Pre-procurement approval and the procurement procedure required will depend on the Total Contract Value.

Band A Contracts – Contracts valued at less than £10,000

5.2 For any single contract, not related to or part of any larger procurement, of a value that is less than £10,000 (inclusive of VAT), one written quotation shall be obtained.

5.3 The approval of any contract that is valued less than £10,000 shall be in accordance with the authorisations in the Financial Procedure Rules.

5.4 Any contract valued at less than £10,000 can be signed by the officer that approved it under rule 5.3.

Band B Contracts – Contracts valued at between £10,000 and £49,999

5.5 For any single contract, not related to or part of any larger procurement, of a value that is between £10,000 and £49,999 (inclusive of VAT), three written quotations shall be obtained using an invitation to quote.

5.6 The approval of any contract that is valued between £10,000 and £49,999 shall be in accordance with the authorisations in the Financial Procedure Rules.

5.7 Any contract valued at between £10,000 and £49,999 can be signed by the officer that approved it under rule 5.3.

5.8 Where Officers are seeking formal responses to an invitation to quote:

5.8.1 the opportunity shall be advertised on the Source Leicestershire website, Contracts Finder (only for contracts worth £30,000 or more) and the Council's website;

5.8.2 Officers shall ensure that the selection process used is fair and equitable and in accordance with these Contract Procedure Rules;

5.8.3 Officers must select the quote which offers value for money for the Council;

5.8.4 The Head of Service shall be responsible for keeping a record for audit purposes of:

- all those contractors that were requested to provide a quotation;
- the reasons why those particular contractors were selected to provide a quotation; and
- the reason for selecting the winning quote.

Band C Contracts – Contracts valued at £50,000 and above but Below Threshold

5.9 For any single contract, not related to or part of any larger procurement, of a value of £50,000 or more but Below Threshold, the officer shall conduct a formal tender using the Council's template and accompanied by terms and conditions prepared by Legal Services.

5.10 Any contract that is valued at £50,000 or above and Below Threshold shall be approved by the relevant Strategic Director, provided that any contract that constitutes a Key Decision under the Constitution must be subject to approval by Cabinet.

5.11 Any contract valued at £50,000 or above and Below Threshold must be signed by the Monitoring Officer and any contract of a value of £250,000 and above must be executed as a deed and sealed (unless the Monitoring Officer determines otherwise).

5.12 Where Officers conduct a formal tender:

5.12.1 The Council's standard templates and methodology should be used;

5.12.2 The evaluation of tenders and any pre-qualification of bidders should be carried out according to the procedures set out in these CPR and associated guidance from the Council's Procurement Officer, and clearly documented and recorded;

5.12.3 Bids which are received after the date and time stipulated in the invitation to tender document should not be considered;

5.12.4 Following the conclusion of a procurement process, prior to the award of contract, a contract award report should be prepared for the relevant Strategic Director;

5.12.5 The level of detail in the contract award report should be proportionate to the whole life value of the contract and the level of risk, but should where relevant include;

- The subject matter and the whole life value of the contract proposed to be made;
- The procurement process that has been followed;
- (Where applicable) The results of market analysis undertaken;
- Details of the evaluation criteria, the weightings, and the results of the evaluation process;
- The name of the successful bidder and the reasons why its tender was selected;
- The reasons for the rejection of the other bids received; 12
- (Where applicable) conflicts of interests detected, and subsequent measures taken;
- any risks associated with the award of the contract and measures taken to minimise that risk; and
- any additional or non-standard action required to support mobilisation.

5.12.6 Where the decision maker wishes to accept a tender other than the highest scoring acceptable tender, full supporting documentation must be kept to evidence why the highest scoring acceptable tender was not considered the most advantageous tender.

Band D Contracts – Above Threshold

5.13 For any contract of a value that is Above Threshold, tenders shall be sought in accordance with the relevant legislation.

5.14 The provisions of these CPR shall continue to apply to such a contract only to the extent that they do not conflict with the provisions of the legislation.

6 Contract documentation and standard contract conditions

6.1 The provisions of any statute or regulation take precedence over anything said in these CPR, and all contracts entered into by the Council must comply with all

those requirements.

6.2 The Council's standard conditions of contract are to be employed for procurements

unless:

(a) leasing arrangements are involved; or

(b) the requirement is particularly complex; and/or

(c) the use of standard conditions is considered inappropriate by Legal Services.

6.3 If a supplier requires the use of their terms and conditions in order to contract, the advice of Legal Services **must** be sought.

6.4 In all procurements where the Total Contract Value is expected to be above £50,000, the advice of Legal Services **must** be sought on the preparation of the terms and conditions for the contract.

6.5 Terms and conditions **must** be published and made available to bidders as part of the tender pack, therefore they **must** be completed before the publication of a procurement.

6.6 Bidders may seek to clarify or amend terms as part of the clarification period of a tender. Should the Council amend terms during a procurement they **must** be amended for all bidders equally and released in reasonable time. Legal advice should be sought in advance of agreeing to vary any legal terms in the contract.

6.7 The Council may **not** negotiate or otherwise amend the contract terms and conditions with the successful bidder following award of contract.

7 Advertising

7.1 The Council uses the e-Sourcing Portal to advertise and run formal requests for quote, mini competitions, call offs and tenders, as well as to operate the Council's Contract Register. The Portal allows opportunities to either be openly advertised, where any appropriately registered supplier may express interest (advertised), or for quotes / tenders to be sent to specifically nominated suppliers only (by invitation).

7.2 All opportunities with a total estimated whole life contract value Above Threshold **must** be openly advertised. Below this figure opportunities may be advertised at the discretion of the Officer, based upon market knowledge and the need to generate market interest. In such circumstances, any contracts advertised become a Covered Procurement despite being Below Threshold.

7.3 Whatever the value, where the Council advertises contracts using the Portal the opportunity **must** also be advertised on the government's Contracts Finder website if

the opportunity will exceed £25,000 in value and release the relevant Notices as per section 6.

7.4 All suppliers invited to tender must be issued with the same information at the same time and subject to the same conditions.

7.5 Where advertising is preferred, but not required by these CPR, if the Officer chooses not to advertise, they **must** record the reasons for their decision in the procurement plan report.

8 Evaluating bids

8.1 Care should be taken to evaluate bids using the most advantageous tender rather than simply the unit price. The lowest priced tender may not offer the best value for money over the life of the contract, taking into account price, quality, social value and environmental considerations.

8.2 Procurement evaluation criteria and how the Council will apply them must be published to bidders as part of the procurement documents.

8.3 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 on this basis, Officers **must** take advice from the Council's Procurement Officer.

8.4 Where it has been identified that a bidder may have made a genuine error in their bid, the Council may afford that bidder an opportunity to correct their error. Such communications will be relayed by the Council's Procurement Officer.

8.5 The results of the tender evaluation process must be recorded in writing, including scores and rationales of individual evaluators, as well as final scores and rationales following moderation.

8.6 The Council is not obliged to accept any tender, however, if the Officer chooses not to award to any bidder, then they must publish a procurement termination notice.

9 CPR Suspension and Exemptions

9.1 Only Cabinet has the authority to fully suspend these CPR.

9.2 If there are special circumstances to waive or suspend any section or sections of CPR, the following exemptions may be granted, depending on contract value:

- for all contracts less than £50,000, a Head of Service or above may approve an exemption;
- for all contracts £50,000 and above that do not meet the Key Decision threshold, Statutory Officers may approve an exemption upon receipt of an exemption form; and

- for contracts that do meet the Key Decision threshold, Cabinet may approve an exemption.

9.3 In all cases where the exemption is for a contract valued at £50,000 or above, an exemption form must be completed, which must include advice from Legal Services and Finance.

9.4 Exemptions granted by Statutory Officers will be subsequently reported to Cabinet.

9.5 Acceptable reasons for an exemption under these rules are limited to the following and subject to any legislative requirements:

- Quantifiable and significant cost and efficiency savings can be achieved through seeking an alternative route, which outweigh the legal risk of the exemption;
- Extreme urgency exists for unforeseen reasons which are not attributable to the Council and the various time limits cannot be met. Inadequate forward planning would not constitute special circumstances;
- The Council would otherwise be exposed to immediate and significant financial, legal, or reputational risk that has been identified in the relevant risk register and is considered to outweigh the risk of the exemption;
- Only one supplier is objectively able to provide the works, services or supplies in question including, but not limited to:
 - where the provision is specialist,
 - where the supplier has exclusive intellectual property rights, artistic or other rights,
 - where the supplier has a monopoly; or
 - where the supplies bought are for re-sale;
- Additional or new works, services or supplies 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.
- Supplies are required as a partial replacement for, or addition to, existing supplies or installations and obtaining them from another source would result in incompatibility or disproportional technical difficulties in operation or 15 maintenance of existing equipment.
- Where an exemption is to allow the continuation of Council services or operations whilst a compliant procurement process is completed.

9.6 The Procurement Officer will maintain a full record of all exemptions granted.

10 Framework Agreements, Dynamic Markets & Open Frameworks

10.1 The intention behind a framework agreement is to streamline the competitive process by enabling Officers, at any time during the term of the framework, to buy works, services, or goods by placing an order (without reopening competition) or by holding a mini tender process (competed services), without having to tender each individual purchase. Multiple orders or call-off contracts can be made through the framework.

10.2 The following principles should be followed when deciding whether to buy works, services or goods under an existing framework agreement established by another body:

- There should be evidence that the framework can be accessed by the Council;
- For competed services, the framework must provide for the holding of a mini competition;
- For direct award, the framework must clearly identify the criteria for selecting, in order of priority, the contractor to be first, and subsequently, offered the order;
- The framework should offer value for money;
- The technical aspects and quality standards of the framework must meet the Council's requirements.

10.3 The use of a framework agreement **must** be approved as part of the procurement plan report.

11 Contracts

11.1 **All** contracts shall, as a **minimum**:

- be in writing;
- specify what is to be supplied (that is, the works, materials, services, matters or things to be furnished, had, or done);
- specify the payment provisions (that is, the price to be paid and when);
- specify the timescale within which the contract is to be performed; and
- specify the termination provisions under which the Council shall and may terminate the contract.

11.2 In addition, every contract Above Threshold **must** also clearly state as a **minimum**:

- the performance standards to be met, associated performance reporting and performance management;
- the insurance requirements;
- health and safety requirements;

- equality and diversity requirements;
- (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;
- information governance, Freedom of Information and Data Protection requirements;
- (Where relevant) supply of anonymised TUPE data by the contractor to the Council and an organisation structure freeze within the contractor at a point designated by the Council prior to the of contract
- contract management requirements;
- 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;
- an obligation on the Council to pay undisputed invoices within 30 days;
- an obligation on the principal contractor to pay any subcontractor invoices within 30 days;
- a clause for the prevention of corruption and bribery;
- contract enforcement mechanisms;
- a requirement to provide electronic invoicing compliant with BS EN 16931-1:2017 and PD CEN/TS 16931-2:2017; and
- rights of termination

11.3 Formal advice from Legal Services **must** be sought on contract terms and conditions for the following contracts:

- where the estimated total contract value of the opportunity is above £50,000;
- those involving leasing arrangements;
- where it is proposed to use the external supplier's own terms;
- those that are considered to be high risk in terms of service failure or the Council's reputation; or
- those that are complex in any other way.

11.4 Contract terms and conditions must be published and made available to bidders as part of the tender pack.

11.5 Bidders may seek to clarify or amend terms as part of the clarification period of a tender. Should the Council amend terms during a procurement they must be amended for all bidders equally and released in reasonable time. Legal advice should be sought in advance of agreeing to vary any legal terms in the contract.

11.6 The Council may not negotiate or otherwise amend the contract terms and conditions with the successful bidder following award of contract.

12 Contract extensions and modifications

12.1 If the original contract includes an option to extend the initial term and the authority to spend and enter into the contract was given for the whole life contract value, the Officer that approved entering into the contract may authorise the extension period.

12.2 If the authority to enter into the contract was not given for the extension period, 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 thresholds at rule 5.

12.3 Requests to modify or vary an Above Threshold contract **must** be made in writing to the Council's Procurement Officer **before** the modification is sent for approval by the relevant Strategic Director. Legal advice must be sought on all modifications or variations to Above Threshold contracts.

12.4 Where a modification or variation will result in a Below Threshold contract becoming Above Threshold due to additional scope or value, it **must** be treated as if Above Threshold for the purposes of this rule 16.

12.5 Requests to modify or vary a Below Threshold contract may be approved and signed in accordance with the thresholds at rule 5.

12.6 Where a modification or variation occurs during the life of the contract that cannot be met from within existing budgetary provision, the Officer follow the requirements of the Financial Procedure Rules.

12.7 If the variation or extension of the contract does not fall within the approved contract value authorised in the relevant Contract Award Report then officers should proceed as in the case of a **new procurement** and follow the procedures within these CPR and accompanying guidance, as determined by the total contract value inclusive of the modification or variation.

12.8 Following completion of a contract modification, the contract lead **must** update the Council's Contract Register and a contract modification notice should be published where required in accordance with legislative requirements.

12.9 Regardless of other factors, if a variation or extension takes the Total Contract Value above £100,000 then this will need to be recorded as a Key Decision, unless advised otherwise by the Monitoring Officer.

13 Contract Management

13.1 Each contract must have a named contract manager (the contract lead).

13.2 For each contract Above Threshold, the contract lead will work jointly with the Council's Procurement Officer or other designated procurement professional during the procurement process.

13.3 As part of the procurement process the contract lead and the Council's Procurement Officer 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; and
- governance and escalation.

13.4 The approach to contract management shall be proportionate, with management activity linked to contract risk and value.

13.5 A contract performance notice will be published annually, where required to by legislation.

13.6 The contract lead must maintain a contract file containing all details, documentation, reports, records and decisions related to a procurement and the contract awarded.

13.7 In the event of an investigation by the Procurement Investigation Agency, officers **must** co-operate fully with investigators and provide any documents or records requested through the means defined by the investigators, as well as attending interviews as required.

DEFINITIONS

In these CPR, the following expressions have the following meanings:

1. Above Threshold: Means the contract value is above the value for which the Procurement Act 2023 and Procurement Regulations 2024 **fully** apply.
2. Below Threshold: Means the contract value is below the value for which the Procurement Act 2023 and Procurement Regulations 2024 **fully** apply.

The Threshold values are updated every 2 years by the UK government; therefore, Officers should consult the Council's Procurement Officer if unsure which Threshold applies to the contract.

3. Covered Procurement: Any Above Threshold procurement where the full Procurement Act 2023 applies, or any Below Threshold procurement where the Council has made the Procurement Act 2023 apply by its actions, e.g., advertising a Below Threshold procurement.
4. E-Sourcing Portal: a web-based system which the Council currently uses to advertise and run requests for quotes and tenders and publish contracts.

5. 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 the District and how the Council may secure that improvement as part of the procurement process.
6. Subsidy Control: as set out in the Subsidy Control Act 2022, this is a set of legal conditions within which local authorities can legally provide subsidies, i.e., any form of financial assistance whether directly or indirectly to an organisation that is engaged in an economic activity. This could include, for example, a cash payment (grant), a loan with below market interest or the free use of equipment or office space. Outside of these conditions the Council may not provide subsidies to organisations without potentially triggering penalties or prejudicing contracts.
7. Total contract value: the cost of the contract over its full duration, inclusive of VAT, including the value of any extension periods. If the precise value isn't known an estimate can be made, but it must be the most accurate estimate possible that can be evidenced based upon data available at the time of the estimate.
8. VCSE: Voluntary Community and Social Enterprise, the voluntary or non-profit sector of the economy.
9. Value for money: the optimum combination of whole life costs and quality (or fitness for purpose) of the supplies, works or services to meet the Council's requirement.

Key Decision Wording

Key Decision

(i) A “key decision” means a decision taken by the Cabinet, a committee of the Cabinet, an area or joint committee in connection with the discharge of a function which is the responsibility of the Cabinet and which is likely:

(a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Authority’s budget for the service or function to which the decision relates; or

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District.

(ii) For the purposes of (a) above:

(a) £100,000 shall be regarded as significant in terms of expenditure ~~except where:~~

~~The expenditure is in relation to a contract for goods and services and:~~

~~1) The term of the contract is for more than 1 year and less than 5 years, and~~

~~2) The aggregated value of the contract does not exceed more than £250,000 over its term, and~~

~~3) The value of the contract does not exceed £100,000 in any one year term~~

and

(b) £100,000 shall be regarded as significant in terms of savings.

(iii) For the purposes of (b) above any issue which, in the opinion of the Leader, is likely to have an impact on people shall be regarded as significant in terms of impact on communities. In deciding whether an issue is significant the Leader shall have regard:

to whether the decision may incur a significant social, economic or environmental risk

to the likely extent of the impact of the decision both within and outside the District

to whether the decision is likely to be a matter of political controversy

to the extent to which the decision is likely to result in substantial public interest

a decision taker when making a decision may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 3 of this Constitution.

Current Contract Procedure Rules – Thresholds and Authorisations for Comparison

Threshold Table

Contract Value		Process	Award Procedure based on	Advertise Contract Opportunity	Documentation
From	To				
Minor Purchases					
£0	£999	No prescribed process	Officer's discretion	N/A	Purchase Order
Band A					
£999	£24,999	Quotation	Seeking a minimum of three written quotations	N/A	Purchase Order Budget holder to record details when authorising order
Band B					
£25K	£49,999	Quotation	Seeking a minimum of three written quotations using Invitation to Quote documentation	Contracts Finder for contracts £30k plus only	Purchase Order Budget holder to record details when authorising order
Band C					
£50K	FTS	Formal Tender	Full Tender Process	NWL Web site Contracts Finder	ITT documentation using NWL E- tendering portal
NOTE: the FTS threshold is a figure set out by the Government and the World Trade Organisation's (WTO) Government Procurement Agreement (GPA). These vary from time to time. Please seek advice from the Procurement Team.					
Band D					
FTS	Above	Formal Tender	Full Tender Process	Find a Tender Service (FTS) NWL Web site Contracts Finder	ITT documentation using NWL E- tendering portal

Authority to award contracts

5.7. Officers may only enter into a contract if they have sufficient authority to do so. Legal advice in respect of authority to award contracts can only be given to the extent that such authority is set out in the Constitution. Officers are responsible for knowing the extent of any delegated authority they may have and ensuring they do not exceed that.

5.8. The Constitution contains a scheme of delegation, which sets out what decisions can be made by which body, individual or group of individuals. For the purposes of awarding contracts, the following authorisation table provides an initial indication of where those decisions sit. However, Officers should take advice from Legal Services as to the appropriate source of authority to award where they are unsure.

5.9. Contracts under which the Council will not incur any costs (such as Information Sharing Agreements or grant documents where the Council is receiving the grant) and contracts for the provision of goods or services in return for a revenue payment may be authorised by any Team Manager, Head of Service, Strategic Director or the Chief Executive.

Authorisation Table and Signatories

5.10. It is for individual Officers to ascertain the limits of their authority to award contracts and orders. An Officer may award a contract provided that the value of that contract does not exceed their level of financial authorisation (see paragraph D.5 of the Financial Procedure Rules in Part 3). The below table provides a guide for Officers in salary bands A-I, who should check with their line managers and/or the finance department as to what they are and are not authorised to commit the Council to.

5.11. The authority to award a contract (i.e. decide that the contract should be given to a particular supplier) is separate from authority to sign the contract. Contracts under which the Council will be liable for sums up to £50,000 may be signed by any Officer (or awarded by issuing a purchase order) provided that the contract value does not exceed their financial authorisation. All contracts above £50,000 must be signed by the Head of Legal and Support Services or their appointed nominee

Authorisation Table

Authorisation Table

	Approval
Contracts that are: 1. More than £250,000 in total; 2. more than £100,000 in any one contract year; OR 3. more than 5 years long	Cabinet (Financial Key Decision)
Contracts that are: (a) less than £250,000 in total; (b) Less than £100,000 in any one contract year; AND (c) less than 5 years long	Chief Executive or Strategic Director
Up to £99,999	Chief Executive or Strategic Director
Up to £49,999	Heads of Service
Up to £24,999	Team Managers
Up to £9,999	Officers in salary bands G, H and I, at the request of their Strategic Director or Head of Service
Up to £4,999	Officers in salary bands D, E and F, at the request of their Strategic Director or Head of Service
Up to £2,000	Officers in salary bands A, B & C, at the request of their Strategic Director or Head of Service