

Section 6 - Contract Procedure Rules

Whole contract period total Value	Competition	Advertising and Process	Authority to procure	Authority to award a contract/ appoint contractor (signing/ sealing)
Low value Below £5,000	Best value must be demonstrated	None required and the procurement process can be undertaken outside of the council's e-tendering portal	Director's delegated authority under Scheme of Delegation	Operational decisions -Only assistant director or above are authorised to award and sign a contract. Key Decisions: Only assistant director or above are authorised to award and sign a contract, subject to approval or specific delegation by cabinet/cabinet member. All amounts exclude VAT. The following must be sealed by the council: contracts
Medium Value £5,001 to £75,000	Minimum 3 competitive quotes sought from appropriately qualified and competent suppliers. Where 3 suppliers cannot be identified, the opportunity must be openly advertised or make the purchase via a compliantly let framework agreement.	None required if obtaining 3 quotes directly. The procurement process should normally be undertaken utilising the council's e-tender portal, or another method which has been determined as more appropriate with the written consent of the Commercial Services Team. Where advertising the opportunity to all suppliers, the opportunity should be advertised and undertaken, utilising the council's e-tendering portal The opportunity should also be advertised using : <ul style="list-style-type: none"> • trade journals and other publications if appropriate (recommended); • Central Government's Contracts Finder when over £25,000 (mandatory). • make the purchase via a compliantly let Framework Agreement. <i>*Note: framework agreements must have more than one supplier.</i>	No decision report is required for procurement under £50,000. Officers must be able to evidence compliance with Contract Procedure Rules and Finance Procedure Rules	
High Value £75,001 to: • £189,330 (goods and services)	Open tendering procedures must be followed.	The opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using :	Procurement that is above the key	

Whole contract period total Value	Competition	Advertising and Process	Authority to procure	Authority to award a contract/ appoint contractor (signing/ sealing)
<ul style="list-style-type: none"> £4,733,252 (works) £663,540 (light touch regime for health/ social services) 		<ul style="list-style-type: none"> trade journals and other publications if appropriate (recommended); and, Central Government's Contracts Finder (mandatory); or, make the purchase via a compliantly let Framework Agreement. <p><i>*Note: framework agreements must have more than one supplier.</i></p>	<p>decision value (£500,000) must be subject to approval by cabinet/cabinet member.</p>	<p>above the key decision value (£500,000); all building and works-related contracts; and, other high risk contracts (as advised by Legal Services) where a longer limitation period of 12 years is required.</p>
<p>EU Tenders. Over:</p> <ul style="list-style-type: none"> £189,330 (goods and services) £4,733,252 (works) <p>£663,540 (light touch regime for health/ social services)</p>	<p>Use EU compliant procedures</p>	<p>The opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using :</p> <ul style="list-style-type: none"> OJEU advert (mandatory); and, Central Government's Contracts Finder (mandatory); or, make the purchase via a compliantly let Framework Agreement. <p><i>*Note: framework agreements must have more than one supplier.</i></p>		
<p><u>Framework Agreements</u></p>	<p><u>New framework</u> Use one of the above procedures relative to the framework value.</p>	<p>The opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using:</p> <ul style="list-style-type: none"> OJEU advert (where above EU threshold); and, Central Government's Contracts Finder (mandatory); or, make the purchase via a compliantly let Framework Agreement. You must follow the procedure set out in the framework agreement for direct awards and mini competitions 		<p>New frameworks must be sealed by the council</p>

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- 4.6.1 The Local Government Act 1972 requires the council to have standing orders for how it enters into contracts. These Contract Procedure Rules (CPRs) are the standing orders required by the 1972 Act. They form part of the council's Constitution and are, in effect, the instructions of the council to officers and elected members for entering into contracts on behalf of the council. The purpose of these CPRs is to set clear rules for the purchase of works, goods, services, consultancy, grants and concessions for the council and are intended to promote good purchasing practice, public accountability and to deter bribery and corruption, in which the probity and transparency of the council's procurement process will be beyond reproach or challenge. In acting on behalf of the council, officers must also have regard to any guidance and procedures issued to support compliance with CPRs.
- 4.6.2 The council is also subject to EU law with regard to public procurement, which requires all contract procedures, of whatever value, to be open, fair and transparent. These CPRs and associated guidance provide a basis for true and fair competition in contracts, by providing clear and auditable procedures, which, if followed, will give confidence that the council has a procurement regime that is fully accountable and compliant with EU law.
- 4.6.3 The council is under a legal duty to promote Best Value and to consider the Public Services (Social Value) Act 2013 and the Public Sector Equality Duty and every officer engaged in the letting of contracts shall have regard to these duties. Where compliance with these duties contradicts the requirements of any statutory legislation or specific best practice guidance, the views of legal and commercial services teams must be obtained.
- 4.6.4 The CPRs apply to all contracts for the supply of works, goods, services, consultancy, grants and concessions to the council, regardless of value.
- 4.6.5 The CPRs do not apply to:
- (a) Contracts for the actual purchase or sale of any interest in land (including leasehold interests) for which the financial regulations applies. Note that this does not apply to any external professional services linked to the purchase or sale.
 - (b) Contracts of employment for the appointment of individual members of staff, including members of staff sourced through employment agencies under a corporate contract.
 - (c) Grant agreements, where the council is giving an unconditional grant.
 - (d) Sponsorship agreements regulated by the sponsorship rules.
 - (e) Supply of Works, Goods and Services **by** the council. However, the solicitor to the council must be consulted where the council is contemplating this route.
 - (f) Contracts procured in collaboration with other local authorities where the council is not the lead authority (subject to the necessary approvals having been obtained from the appropriate decision maker at the council). The CPRs of the lead authority shall apply. Assurance should be sought that the lead authority is in compliance with its own contract procedure rules.
 - (g) Litigation advice and services

4.6.6 Authority to conduct procurement activity

The authority for an officer to undertake;

- (a) a procurement;
- (b) award a contract;
- (c) extend or vary a contract;
- (d) terminate a contract during a contract period (early contract termination).

is provided by either of the following;

- (a) scheme of delegation either as an operational or non-key executive decision,
- (b) any key executive decision for example through a Cabinet or Cabinet member decision.

Operational or non-key executive decisions

4.6.7 Where the scheme of delegation provides the authority and in accordance with financial procedure rules:

- (a) officers as agreed by the director may authorise commencement of a procurement activity or commencement of a contract variation activity for total aggregate contract value up to £25,000
- (b) managers who report to heads of service may authorise commencement of a procurement activity or commencement of a contract variation activity for total aggregate contract value up to £100,000
- (c) heads of service (as defined by head of service pay grades) may authorise commencement of a procurement activity or commencement of a contract variation activity for total aggregate contract value up to £250,000.
- (d) assistant directors, directors or the chief executive (as defined by the requisite pay grade) may authorise commencement of a procurement activity, or commencement of a contract variation activity for total aggregate contract value up to £500,000
- (e) Commencement of a procurement activity, or contract variation for a contract in excess of £500,000 must be authorised by directors or the chief executive (as defined by the requisite pay grade).

4.6.8 Where an award or variation of contract is above £50k, there is a requirement to publish the decision. Additionally, a decision must be sought for:

- (a) Procurement of contracts jointly with one or more other contracting authorities
- (b) Contract variations of medium, high and above EU threshold value contracts
- (c) Extension of contracts where not incorporated as part of the original contract agreement.
- (d) Price increases in contracts where the proposed price increase is either:
 - Above that provided for in the contract; or
 - Above inflation (consumer price index (CPI))

Key Executive Decisions

4.6.9 Where the authority to commence a procurement activity, contract variation or award a contract is from a key decision taken (for example a capital investments programme decision), the scope of the authority must be set out as a

recommendation in the decision and procurement options considered must be documented as element of the report.

Specifications and Options appraisal

- 4.6.10 At the start of any commissioning activity that will require a procurement, the commissioning officer must develop and present service specifications and/or existing service designs for approval with the requisite business case or service plans that identifies at a minimum:
- (a) Why the service is being commissioned; what is the need?
 - (b) What is the best form of community or service-user engagement or consultation? Consideration should be given to how service users can actively participate in the designing, delivery and quality-monitoring of their service.
 - (c) Which social value outcomes will be achieved from the commissioning exercise, and how can it contribute towards meeting the council's overall priorities.
 - (d) Alternative options that have been considered.
 - (e) Financial implications
 - (f) Risks associated
- 4.6.11 Decisions must clearly document the procurement options considered and recommendations to be taken forward.

Procurement Thresholds

4.6.12 **Low value contracts/purchases (under £5,000)** – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the CPRs have been followed and can be evidenced.

4.6.13 **Medium value contracts/purchases (between £5001 and £75,000)**
No contract with an estimated total cost over £5,000 shall be let, or any purchase of that value made, unless at least three written quotations have been sought from appropriately qualified and competent suppliers.

Formal tender documents must be used outlining the terms of the procurement.

The council's e-tendering portal should normally be used to obtain three quotations; other mechanisms may be used having secured written approval from the commercial services where the value of the contract is very low and/or the contract is of a specialist nature.

For purchases where three appropriately qualified and competent suppliers cannot be identified you must either: advertise the opportunity to all suppliers using the council's e-tendering portal; or, make the purchase via a compliantly let Framework Agreement. Regard should also be given to advertisement of the opportunity within trade journals and other publications as appropriate.

Contracts with an estimated total cost of over £25,000 that are openly advertised must also be advertised on Central Government's Contracts Finder.

- 4.6.14 High value contracts/purchases (between £75,001 and up to relevant EU Limit)**
Open tendering procedures must be followed.
Formal tender documents must be used to outline the terms of the procurement.
All tenders must be advertised on Central Government's Contracts Finder and the council's e-tendering portal.
- 4.6.15 Above the relevant EU threshold limit (currently £189,330 for goods and services, £4,733,252 for works and £663,540 for light touch regime services)**
Contracts with a value in excess of the relevant EU threshold must be let in accordance with the relevant procurement legislation. Formal tender documents must be used and the entire process of advertising, selecting suppliers to tender, through to final award, is highly prescribed under European law for all procurements over the relevant threshold. Advice must be sought from the commercial services team before commencing projects of this nature (including ensuring sufficient time is allowed to carry out a compliant process, which can take up to 18 months to prepare).

Awarding a contract (signature and sealing).

- 4.6.16** Where the scheme of delegation provides the authority:
- (a) assistant directors and directors within the relevant directorate (as defined by the requisite pay grade) have authority to award and sign a contract or authorise an early contract termination of a contract value up to £500,000
 - (b) directors within the relevant directorate (as defined by the requisite pay grade) and the chief executive have authority sign a contract or authorise an early contract termination of a contract value in excess of £500,000, providing authority to award the contract has been obtained by way of a key decision
- 4.6.17** Contracts can be signed by the authorised officer as set out in 4.6.16 However contracts must be executed as deeds and are sealed by the council by affixing the common seal. In the event of a dispute, the council can make a claim under the contract for up to 12 years. The following contracts must be sealed:
- (a) contracts above the key decision value – unless agreed otherwise by legal services;
 - (b) new framework agreements;
 - (c) all building and works-related contracts – unless agreed otherwise by legal services;
 - (d) where there is no consideration (i.e. money or money's worth) by one party (e.g. grant agreements, where the council is paying a voluntary sum to an organisation but the organisation is not giving anything in return); and,
 - (e) other high risk contracts (as advised by legal services) where a longer limitation period of 12 years is required.
- 4.6.18** Before a contract can be sealed by the council, the officer must provide legal services with the relevant decision to award in writing from the appropriate
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decision maker. The sealing of the contract by legal services is simply affixing the common seal and does not indicate that legal advice has been sought or that legal services approve the contract.

- 4.6.16 Officers shall ensure that each contract is entered into in accordance with the finance procedure rules.

Exemptions (Waivers)

- 4.6.19 An exemption to the CPRs is a permission to proceed without complying with one or more of the rules. Officers are responsible for ensuring that exemptions to the rules are approved in advance of any action undertaken in all instances where CPRs cannot be complied with such as, but not limited to: no quotations have been sought or the purchase cannot be made via a compliant framework agreement. If an application to let a contract without genuine competition is granted, the officer responsible for the contract must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value. A lack of time caused by inadequate forward planning is not a cogent reason and will not permit an exemption to the rules.
- 4.6.20 Any exemption requests must evidence options considered in consultation with Commercial Services.
- 4.6.21 Exemption forms shall include options considered and shall be completed by officers. Officers must obtain signatory approval from their assistant director or director in the first instance, the commercial services team and the solicitor to the council or their deputy.
- 4.6.22 Officers must ensure completed exemption forms are returned to commercial services who will record them on the exemptions register.
- 4.6.23 An exemption cannot be granted for contracts over the EU threshold unless agreed with legal services that there are no cross-border competition requirements.

Urgent decisions

- 4.6.24 Tenders need not be invited in accordance with the provisions of the council's CPRs if an urgent decision is required, for example for the protection of life or property or to maintain the functioning of a public service. Wherever possible though, at least 3 credible quotations must be sought and any decision made or contract awarded shall be reported to the relevant director and cabinet member. Such emergency contracts should be let for as short a period as possible to allow their replacement with a contract that is fully compliant with the CPRs at the earliest practical opportunity.

Training for procurement

- 4.6.4 Where appropriate any officer leading a procurement activity shall be appropriately trained or have experience commensurate with the nature of the procurement activity being undertaken.

Contracts register

- 4.6.5 All contracts over £5,000 are to be entered on the council's contract register by the contract holder in order to comply with the transparency information/code. Contracts and commissioning officers are to update and add additional contracts to the register, as they are let, using the register to inform work planning.