

PART B

SECTION 20

CONTRACT PROCUREMENT RULES

PART B: SECTION 20 CONTRACT PROCUREMENT RULES

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PART 1

1. Introduction

- 1.1. Procurement is the process for identifying and agreeing terms for the purchase of goods, services or works from an external source. It covers the whole process from identifying the need, conducting market engagement, tendering, awarding a contract, and managing a contract through to termination.

- 1.2. The Contract Procurement Rules provide a structure for the procurement of Goods, Services and Works and all Officers have a responsibility to read and familiarise themselves with these rules.
- 1.3. Adherence to these Rules is essential for achieving value for money, ensuring probity, proper management of public funds and compliance with legislation. Each part is mandatory for compliance by all Officers who are involved in any procurement activity. All values are exclusive of VAT unless expressly stated.
- 1.4. Non-adherence to these Rules may result in disciplinary action as outlined in the [Council's Managing Misconduct Policy](#). Officers are required to report any breaches immediately to the Service Director: Legal and Community who is also the Council's Monitoring Officer (monitoring.officer@north-herts.gov.uk) who will take necessary action.
- 1.5. The Contracts and Procurement Group is charged with the review and guidance on all procurement and contractual activities within the Council, and in conjunction with the Procurement Team will review these rules annually. Consultation on this review will take place with the Monitoring Officer. The Service Director: Resources can make minor changes to the rules. More significant changes will be approved by Full Council.

2. Scope

- 2.1. These Rules are applicable to all procurement actions undertaken by the Council for Goods, Services and Works, with specific exemptions noted in Rules 2.4 and 2.5.
- 2.2. When conducting procurements, the Council is committed to:
 - **Delivering Value for Money:** Ensuring that each procurement decision maximises the value received from public funds.
 - **Maximizing Public Benefit:** Aiming to achieve the greatest possible benefit for the community through our procurement activities.
 - **Transparency in Communication:** Providing clear and accessible information to suppliers about our procurement policies and decisions to foster understanding and fair competition.
 - **Integrity:** Maintaining the highest standards of integrity in all procurement actions and ensuring that our processes are transparent, promoting trust and accountability.
- 2.3. Contracts must only be initiated after securing all required approvals and ensuring compliance with these Rules. This includes the acceptance of tenders, quotations and purchase orders. Purchase orders contain standard terms and conditions which suppliers must formally accept unless superseded by a formal signed contract.
- 2.4. **Exemptions from these Procurement Rules:**
 - **Vertical Arrangements** refer to contracts where the Council, alone or with another controlling authority, contracts with an entity it controls (such as a Local Authority Trading Company). Control means:
 - **Parent Company Role:** The Council must be the main controlling body of the contracted entity.

- **Decisive Influence:** The Council must have a key role in decision-making processes, evident by representation on the board or equivalent.
- **Primary Activities:** The controlled entity must conduct over 80% of its operations for the Council or its controlling body. Additional details on how to measure this will be covered by upcoming secondary legislation.

If any private shareholders are involved in the controlled entity, the arrangement does not meet the control criteria.

- **Horizontal Arrangements:** agreements between the Council and other public authorities to collaborate on services that serve the public interest, aiming to achieve common objectives related to their public functions. At least 80% of the activities under these arrangements must directly relate to the public functions of the involved authorities.
 - **Land and Buildings:** Contracts related to buying or securing rights over land or buildings. See section 38 for more information.
 - **Financial Services:** Contracts involving financial transactions, like loans or investment services.
 - **Dispute Resolution Services:** Contracts for arbitration, mediation, and similar services aimed at resolving disputes.
 - **Legal Services:** Engagements for legal advice or representation in judicial or dispute resolution settings only.
 - **Employment Contracts:** Direct hiring contracts for Council employees or appointments to public office. Contracts via recruitment agencies and the appointment of consultants do come under these Procurement rules.
- 2.5. Exceptions from these Contract Procurement Rules may be required. Specific rules for Direct Awards (Single Tender) and Waivers are provided in sections 20 and 21 respectively.
- 2.6. These options are intended to allow necessary flexibility, ensuring all decisions remain transparent and comply with the Council's procedures. These exceptions are permitted only under well-defined circumstances.

3. Ethical Standards and Compliance

- 3.1. Conflicts of interest in public procurement refer to situations where the personal, professional, or financial interests of individuals involved in the procurement process could unduly influence their decisions, potentially leading to decisions that do not serve the best interest of the Council.

All Officers must ensure that they have complied with the Council's Conflicts of Interest policy before they undertake a procurement. This includes updating any disclosures in relation to the policy and taking appropriate action (if required).

Conflicts of Interest Policy

Personal Interests

- 3.2. Contracting Restrictions: No contract may be awarded to an Officer of the Council, or to any entity where they, or their family members hold significant control (e.g., a partnership or directorship), without proper disclosure and authorization via a conflict-of-interest form approved in accordance with the Conflicts of Interest policy.
- 3.3. Directorship Approval: Officers may not accept directorships without compliance with the Employee Conflicts of Interest Policy.
- 3.4. Community Right of Challenge: If two Officers express interest in providing a service under the Community Right of Challenge Act 2012, they are prohibited from participating in the tendering process for that service and must not take part in any Tender Evaluation.

Prevention of Corruption

- 3.5. Compliance with Anti-Bribery Laws: All contracts must include provisions obligating suppliers to comply with the Bribery Act 2010 and the Council's Anti-Bribery Policy.
- 3.6. Prohibition on Preferential Treatment: Officers are prohibited from receiving goods or services on preferential terms from a contractor if such terms are related to their professional dealings with the contractor.

Corruption Policy

Hospitality

- 3.7. Managing Offers of Hospitality: Officers must exercise discretion regarding hospitality offers from contractors to avoid conflicts of interest. All interactions must remain professional, aligning with the Council Employee Gifts and Hospitality Policy.

Gifts and Hospitality Policy

Whistleblowing

- 3.8. Policy on Reporting Misconduct: The Council's Whistleblowing Policy covers reports of unethical behaviour by Members, employees, or contractors. It applies to all personnel, including those working on Council premises or involved in Council contracts.

Whistleblowing Policy

PART 2: PRE-PROCUREMENT PLANNING

4. Nature of the Procurement

- 4.1. Officers must first identify the need and determine the nature of the procurement.
- 4.2. The nature of the procurement can be one or a combination of the following:
 - **Goods/Supplies:** Goods/Supplies are defined as any type of articles, products, or supplies that are purchased or leased. This typically includes commodities and tangible products that can be moved, stored, or delivered.

- **Services:** The provision of any type of service other than those which fall within the definition of a works contract or a social and other specific services contract. These may include professional tasks, advice, consultancy, maintenance, or other types of work done by individuals or firms that do not result in the delivery of goods.
- **Works:** is when a contract's primary purpose is to perform specific tasks that are either directly part of a project or are essential for completing it. These tasks could include construction work, installation of equipment, or professional services. Even if these tasks don't finish the entire project by themselves, they're crucial steps toward completing it.

5. Procurement Pipeline

- 5.1. The Council will provide the market with information about current and future public contract opportunities by publishing a forward-looking procurement pipeline covering a minimum period of 12 months.
- 5.2. The Council recognises the particular benefit to small and medium-sized enterprises (SMEs) and voluntary, community and social enterprises of the Pipeline as it provides them with time to plan for future work, ensuring a competitive and diverse market.
- 5.3. All relevant Officers must complete the Procurement Pipeline detailing anticipated needs, estimated costs, and timelines. Entries onto the Procurement Pipeline should align with the Council's Contract Register, approved budgets, and the strategic goals of the Council for the next 12 months.

6. Establishing the Contract Value

- 6.1. Prior to commencement of any procurement activity, Officers must estimate the maximum potential expenditure for any contract and consider all relevant information available at the time of the estimate.
- 6.2. Contract Value is the maximum amount that the Council could reasonably expect to pay under the contract.

The estimation of Contract Value must consider:

- VAT and be in Pounds Sterling.
- the value of any goods, services or works provided by the Council under the contract other than for payment e.g. furnished assets.
- amounts that would be payable if an option in the contract to supply additional goods, services or works were exercised.
- amounts that would be payable if an option in the contract to extend or renew the term of the contract were exercised.
- amounts representing premiums, fees, commissions or interest that could be payable under the contract.
- amounts representing prizes or payments that could be payable to participants in the procurement.
- account for any inflationary uplifts. If this is considered, please ask Finance for advice.

- 6.3. If an estimate of the contract value cannot be estimated, for example because the contract term is unknown or indefinite. Officers will presume it is 'above threshold' and the 'above threshold' tendering procedures will apply.
- 6.4. For Framework Agreements, the total value is the sum of all potential contracts under the framework. For open frameworks, this includes all subsequent frameworks that could be awarded.
- 6.5. All contract value estimations must be recorded and are subject to public inspection to ensure transparency and compliance with governance standards.
- 6.6. In all cases, a procedure applicable to a higher value contract may be used if it is considered to be in the Council's best interests to do so.

Regulated Thresholds

- 6.7. The UK Government sets Thresholds for the purposes of applying the Procurement Regulations. There are different Thresholds for Goods and Services and Works.

The current Thresholds for various procurement categories are set as follows:

- Goods and Services: £214,904
- Works: £5,372,609

- 6.8. **A Below Threshold Procurement (below threshold)** is where the estimated contract value is below the financial thresholds in Rule 6.6 for the relevant procurement category.
- 6.9. **Above Threshold Procurements (above threshold)** is where the estimated contract value is above or equal to the financial thresholds in this Rule 6.6 for the relevant procurement category.

7. Mixed Contracts

- 7.1. A mixed contract refers to a contract which has combinations of goods and/or services and/or works. If any part of a mixed contract exceeds its respective threshold, the entire contract must be treated as exceeding the threshold (*separability assessment*).
- 7.2. If estimating multiple contracts that could be combined, the aggregate value must be treated as if under a single contract unless justified otherwise.
- 7.3. If the treatment of a contract is unclear, Legal advice should be sought on the appropriate route to be followed.

8. Specification of Requirements

- 8.1. Specifications are critical components of procurement documents, defining the Council's detailed requirements for goods, services, or works. These specifications ensure that all procurements align with the Council's strategic objectives and operational needs, as set out in approved policies, service plans and budgets.

- 8.2. Specifications must provide a comprehensive description of what the Council requires. This includes outlining all aspects of the supply or service, ensuring that tender or quotation prices fully reflect the Council's needs.
- 8.3. Specifications must be drafted with clarity and precision, focusing on outcomes and performance criteria rather than prescriptive methods. This approach encourages innovation and allows for broader supplier participation. Whole life/ end-to-end considerations must be incorporated into specifications, considering all aspects associated with the lifecycle of a product or service, including disposal and environmental impact, ensuring that these factors do not stifle competition or innovation.
- 8.4. Specifications must incorporate flexibility by specifying functional requirements and allowing for equivalent standards as alternatives, thus avoiding unnecessary restrictions on competition.
- 8.5. Where practical to do so, specifications should reflect the Council's commitment to sustainability and economic responsibility. This includes considerations for environmental impacts, sourcing, and production methods that align with the Council's broader environmental policies.
- 8.6. Specifications must be regularly reviewed and updated to incorporate technological advancements and feedback from previous procurement cycles. This continuous improvement helps to ensure that specifications remain relevant and competitive.
- 8.7. Use of contract renewals as opportunities to refine specifications for better value and performance is mandatory. Officers will ensure that all changes undergo the appropriate approval process as required by Council policies and the Constitution.
- 8.8. Robust contract management must be developed to monitor compliance with specifications throughout the duration of the contract. This ensures that suppliers meet all stated requirements and performance standards.
- 8.9. Feedback from internal stakeholders and suppliers must be sought to enhance the clarity and effectiveness of future specifications. This feedback loop is essential for adapting to changes and improving the procurement process.

9. Preliminary Market Engagement

- 9.1. Preliminary Market Engagement (PME) is a strategic process undertaken before commencement of any procurement process. This engagement facilitates a deeper understanding of market capabilities and assists in refining procurement strategies. The permitted purposes are:
 - developing the authority's requirements and approach to the procurement.
 - designing a procedure, conditions of participation or award criteria.
 - preparing the tender notice and associated tender documents.
 - identifying suppliers that may be able to supply the goods, services or works required.
 - identifying likely contractual terms; and
 - building capacity among suppliers in relation to the contract being awarded.
- 9.2. PME may include meetings, workshops, or issue surveys to interact with potential suppliers and stakeholders. The scope of engagement can include discussing

potential challenges, innovations, and solutions relevant to the procurement objectives.

The scope and formality of the PME must be proportionate to the scale and complexity of the procurement. Engagements may range from informal discussions to formal consultations, depending on the procurement's requirements.

- 9.3. Where the contract value for goods and services exceeds £25,000 or £100,000 for works, Officers must, use the Council's E-Sourcing software when conducting formal PME, which will record all engagement undertaken with Suppliers.
- 9.4. Below £25,000 goods and services or £100,000 for works, Officers must maintain comprehensive records of any PME activities if undertaken. These records must detail the engagement process, participants involved, and insights gained, ensuring transparency and accountability in the procurement process.
- 9.5. Where the contract values are considered above threshold, formal PME using the Council's E-Sourcing is a recommended consideration. If Officers choose not to undertake PME for above threshold procurements because it is not deemed to be appropriate, they must record a formal justification for the decision.
- 9.6. Officers must implement measures to ensure that all suppliers participating in PME are not given undue advantage over others who did not participate and ensure that the PME does not compromise the fairness of the procurement process or distort competition.

If a supplier's participation in PME results in an unfair advantage that cannot be rectified, such supplier must be treated as an excluded supplier. An excluded supplier cannot be awarded a Council contract.

- 9.7. All PME must be documented and provided with the Procurement Documents in the tender process.
- 9.8. If PME is planned or has already been conducted for an above threshold procurement, Officers are required to publish a 'Preliminary Market Engagement Notice'.

This notice serves to inform potential suppliers and the public of the engagement activities related to the procurement process.

10. Award and Evaluation Criteria

- 10.1. Award criteria ensures that tenders offer the best value for money. These criteria must be clearly established at the outset of the procurement process to guide the evaluation of bids effectively and must:
 - be directly related to the subject matter of the contract, ensuring relevance and proportionality.
 - combine quality and cost-effectiveness to prioritize economic aspects.
 - be transparently communicated to all bidders through quotation/ tender documentation.

- 10.2. For above threshold requirements, Award Criteria may be continuously refined throughout the procurement process to remain aligned with evolving market conditions and organisational needs. This includes:
- regularly reviewing the criteria to ensure they are still appropriate for the market conditions and the procurement goals.
 - adjusting the criteria when necessary to respond to feedback from potential suppliers or changes in the strategic goals of the organisation.
 - documenting any changes to the criteria and communicating them transparently to all stakeholders to maintain fairness in the tender process.

For an open procedure (see Rule 22.1), changes must be made before the deadline for submitting tenders.

For a competitive flexible procedure (see Rule 22.2), changes must be made before the deadline to submit Conditions of Participation (see Rule 16), or, if no such request is required, before the deadline for submitting a first or only tender. Further changes may be permitted in a multistage process with agreement from the Procurement Officer.

- 10.3. Evaluation Criteria assess how well each quotation/tender meets the award criteria. These must:
- include methodologies for scoring and ranking bids, ensuring a fair and thorough review process.
 - reflect both qualitative and quantitative aspects of the tenders, addressing the complexity and specific needs of the contract.
 - adhere to principles of non-discrimination and equality, providing an equal footing for all bidders.

- 10.4. The Most Advantageous Tender (MAT) requires a comprehensive evaluation that:
- satisfies the Council's requirements, and
 - best satisfies the award criteria.

- 10.5. MAT may be on the basis of lowest price, where price is the sole criterion, or across a range of criteria including price, quality and Social Value.

- 10.6. Where price is the sole award criterion, the acceptance of a tender or quotation that is not the lowest priced tender or quotation shall only be accepted if:

- the Cabinet has considered a written report from the appropriate Service Director.
- or
- in cases of urgency, the Managing Director may use Urgency powers as set out in the Constitution. The appropriate Service Director shall report tenders or quotations accepted in this way to the next meeting of the Cabinet.

- 10.7. Price must always be included as an award criterion.

11. Consideration of Lots

- 11.1. Before initiating any quotation or tender process, Officers must always consider dividing the scope of goods, services, or works into multiple contracts (Lots).

- 11.2. If it is deemed reasonable and advantageous to split the procurement into lots, Officers must structure the procurement to facilitate lot-based contracting. If dividing into lots is not suitable, clear reasons must be documented to support this decision and ensure transparency.

12. Consideration of Small and Medium Sized Enterprises (SMEs)

- 12.1. Officers must consider the potential barriers faced by SMEs when competing for contracts. Before issuing quotations or tenders, Officers will proactively identify and, if possible, mitigate these barriers.
- 12.2. This may involve:
- adjusting procurement practices to be more accessible to SMEs.
 - dividing the procurement into multiple Lots
 - simplifying the tendering process.
 - Use the appropriate procurement documents for the level of procurement.
 - ensuring that financial status requirements are proportionate to the contract's scope and value.

13. Reserving Contracts to Supported Employment Providers

- 13.1. When using the Competitive Flexible Procedure (above threshold contracts only), Officers will determine whether a contract can be reserved for supported employment providers. This might include contracts where the social value of supporting disadvantaged groups aligns with the Council's objectives.
- 13.2. Officers must clearly specify in the tender documentation that the contract is reserved for supported employment providers.
- 13.3. A Supplier qualifies as a supported employment provider if it mainly aims to provide employment or employment-related support to individuals who are disabled or disadvantaged and where at least 30% of its workforce are disabled or disadvantaged individuals.
- 13.4. Officers must award the contract to the qualifying supported employment provider that submits the most advantageous tender according to the criteria set out in the tender documentation.
- 13.5. Officers must consult with Legal before deciding on this route.

14. Mandatory Use of Procurement Document Templates

- 14.1. All procurement activities, including quotations and tenders, must use the officially approved templates provided by Procurement or Legal.
- 14.2. The templates referred to above and throughout these Rules are accessible via the Procurement pages of the Council's SharePoint and must be used to ensure consistency and compliance with current regulations and policies.
- 14.3. Procurement templates for the selection, invitation, receipt, evaluation, award, and management of contracts are regularly reviewed and updated. This ensures alignment with evolving regulations and organisational policies.

14.4. Compliance with Procurement Checklists for any Contract Value is essential to ensure that all necessary documentation is completed.

15. Go Local Policy

15.1. The 'Go Local' policy requires that, wherever possible, local suppliers should be invited to participate in all procurements, to support local businesses and economic growth.

15.2. Officers must document the process of supplier selection under the Go Local policy, noting why local suppliers were either selected or unavailable based on the procurement requirements.

16. Supplier information System and Conditions of Participation

16.1. For above threshold requirements only, Officers will first verify the following information on the UK Government's Supplier information System (central digital platform):

- basic supplier information (e.g. name, address, contract details etc.)
- exclusion grounds
- some economic and financial standing
- information, such as audited accounts
- details of connected persons and beneficial ownership

16.2. Conditions of participation (COP) is information relating to a supplier's legal and financial capacity and technical ability, to perform the contract. This consideration is mandatory for all procurements £25,000+ if Goods and Services, and £100,000+ for Works.

Officers responsible for procurement must assess if further project-specific inquiries are necessary, focusing on economic, financial, professional, or technical aspects.

16.3. For Works contracts, including those mixed with Goods and/or Services that meet the regulated threshold for Goods and Services, it is the policy of the Council to require contractors to have the Common Assessment Standard (CAS) accreditation.

17. Transparency Requirements

17.1. Table 1 sets out the notice requirements for **below threshold** Goods and Services or Works (£25,000 – Regulated Thresholds) procurements that must be published on the Central Digital Platform.

Table 1- Below Threshold Notice Requirements

Requirement	Procurement Activity	Notice Publication	Frequency
Optional	Preliminary market engagement	Preliminary market engagement	Publish where pre-market engagement is planned or has taken place (or

Mandatory	Request for Quotation/ Invitation to tender over £25k	Tender notice	Once at the start of the procurement process
Mandatory	Following award of a contract over £25k	Contract details notice	Once the contract is entered into
Mandatory	Following award of a contract over £50k	Decision notice	Once the contract is entered into and sent to Legal
Mandatory	When a contract modification would take the value of the contract above the relevant threshold, known as “convertible contracts”	Contract change notice	Once when the below-threshold contract becomes a convertible contract and again if further permitted modifications are made

17.2. Tables 2 and 3 set out the notice requirements for **above threshold** Goods and Services or Works procurements that must be published on the Central Digital Platform.

Table 2- Above-Threshold Notice Requirements

Requirement	Notice / Information	Publication Trigger
Optional	Planned procurement notice	Publish a planned procurement notice at least 40 days but not more than 12 months before the day the Tender Notice is published to advise the market of an upcoming procurement- can also reduce tender timescales in certain prescribed circumstances
Mandatory (if conducted)	Preliminary market engagement notice	Publish where pre-market engagement is planned or has taken place (or explain why not, in tender notice)
Mandatory	Tender Notice	Publish a Tender Notice once at the start of the Procurement process inviting tenders or requests to participate when starting a competitive tendering procedure
Mandatory if applicable	Procurement termination notice	Publish if, following a tender or transparency notice, the procurement ends without a contract award – as soon as reasonably practicable after making the decision
Mandatory	Dynamic market notice	Publish to advertise, establish, modify or terminate a dynamic market
Mandatory	Transparency notice	Publish prior to award when undertaking a direct award
Mandatory	Contract award notice	Publish before entering into a public contract to communicate the outcome of the procurement and provide assessment Summary to contractors that submit a tender (commences eight working days standstill period prior to awarding a contract open or competitive flexible procedure)
Mandatory	Contract details notice	Publish details after entering into public contract, specifically within 30 days beginning with the day on which the contract is entered into (unless light

		touch) including the redacted contract, for public contracts £5m+ and KPI information)
Mandatory if applicable	Copy of awarded contract (and KPIs)	Publish for contracts over £5m total value within 90 days beginning on the day in which the contract is entered into (or 180 days light touch regime). KPIs (3 minimum) must be set (done at least once in every period of 12 months) and the contract (redacted as required) published
Mandatory	Contract performance notice	Publish to report: 1. annual KPI scores for public contracts valued £5m+ 2. poor supplier performance / breach of contract (within 30 days of event)
Mandatory	Contract change notice	Publish before making a contract modification setting out intention to modify (unless exemption applies e.g. Light Touch Contract. A copy of modified contract for public contracts over £5m)
Mandatory	Contract termination notice	Publish when a public contract expires, is terminated by a party or rescinded or set aside by a court order. 30 days beginning with the day contract is terminated

Table 3- Council wide Transparency Requirements

Requirement	Notice / Information	Publication Trigger
Mandatory (if applicable)	Pipeline notice	<i>Where organisational procurement spend is £100m+, publish 12-month forward of all £2m+ procurements</i>
Mandatory	Contract payments notice	<i>Publish details where one or more contract payment of £30k+ is made under a public contract (quarterly)</i>
Mandatory	Payments compliance notice	Publish details of Council's performance against 30- day payment terms (twice annually)

18. Key Performance Indicators

- 18.1. A "key performance indicator" is a factor or measure against which a supplier's performance of a contract can be assessed during the life cycle of the contract.
- 18.2. Where appropriate to the Procurement, Officers will incorporate KPIs and ensure these indicators are comprehensive, measurable, and aligned with the critical aspects of the contract's scope and objectives. Officers should seek guidance from Legal, as KPI's will need to be incorporated into the contract.

19. Tendering Options

- 19.1. The choice of tendering method is determined by the estimated contract value, in accordance with the specific requirements outlined in the following Tables.

19.2. **Estimates (below £25,000 Goods and Services and below £100,000 Works):** is the direct acquisition of quotes from suppliers against a specification. Officers must:

Mandatory	Procurement/ Legal Requirement	Minimum Requirement
√	Number of quotes required	2
√	Specification of Requirements	√
√	Comply with relevant procurement checklist	√
	Apply Go Local Policy	Always seek local quotes where available. Keep records of how decision was made locally.
√	Maintain records either in Intend or locally in line with retention periods	<ul style="list-style-type: none"> the number of estimates or offers invited. the method of inviting estimates or offers. the basis of selecting suppliers/contractors
√	Terms and Conditions	Official order must be raised through the Council's electronic ordering system in line with Financial Regulations

19.3. **Quotations: (£25,001 - £49,999 for Goods and Services and £100,000 - £499,999 for Works):** detailed quotes for clearly specified products or services. Officers must:

Task Description	Task
Preliminary Market Engagement (PME)	Publish a PME notice if conducted
Use the Council's E-Procurement System	Obtain a minimum of 3 quotes. All contact with bidders must be via the portal
Risk and Compliance Assessments	<ul style="list-style-type: none"> Procurement Initiation Document Procurement Risk Insurance Questionnaire Data Protection Impact Assessment Carry out Risk Assessment Works > £50,000- Modern Slavery Assessment
Social Value Objective	Go Local Policy
Environmental Considerations	Must consider how these can be incorporated in Award Criteria and performance of Contract.
Mandatory Procurement Documents	<ul style="list-style-type: none"> Request for Quotation- Short Form with Optional Conditions of Participation Specification of Requirements Optional Key Performance Indicators
Publish Tender Notices	Below Threshold Tender Notice
Issue Feedback	Use Council's standard letter templates with no Standstill period
Payment Terms	Enter into contract with 30 days terms
Post-Award Notices	<ul style="list-style-type: none"> Contract Details Notice Details for Contracts Register Works >£50,000 Publish a Decision Notice
Financial Diligence	Set up of Credit Safe with Accountancy if recommended
Documentation Management	Upload Contract and all documents to E-Procurement system
End of Contract	<ul style="list-style-type: none"> (Optional) Publish Termination Notice

19.4. **Quotations: (£50,001 - £99,999 for Goods and Services):** detailed quotes for clearly specified products or services. Officers must:

Task Description	Task
Preliminary Market Engagement (PME)	Publish a PME notice if conducted
Use the Council's E-Procurement System	Open Procedure All contact with bidders must be via the portal.
Risk and Compliance Assessments	<ul style="list-style-type: none"> ▪ Procurement Initiation Document ▪ Procurement Risk Insurance Questionnaire ▪ Data Protection Impact Assessment ▪ Modern Slavery Assessment ▪ Carry out Risk Assessment
Social Value Objective	Go Local Policy
Environmental Considerations	Must consider how these can be incorporated in Award Criteria and performance of Contract.
Mandatory Procurement Documents	<ul style="list-style-type: none"> ▪ Request for Quotation – Long form with standard Conditions of Participation ▪ Specification of Requirements ▪ Key Performance Indicators
Publish Decision Notice	Follow the Decision Notice requirements
Publish Tender Notices	Below Threshold Tender Notice
Issue Feedback	Use Council's standard letter templates with optional Standstill period
Payment Terms	Enter into contract with 30 days terms
Post-Award Notices	<ul style="list-style-type: none"> ▪ Contract Award Notice if incorporating Standstill Period ▪ Contract Details Notice ▪ Details for Contracts Register ▪ Publish a Decision Notice
Financial Diligence	Set up of Credit Safe with Accountancy if recommended
Documentation Management	Upload Contract and all documents to E-Procurement system
End of Contract	<ul style="list-style-type: none"> ▪ (Optional) Publish Termination Notice

- 19.5. **Invitation to Tender (ITT) (£100,000 - Regulated for Goods and Services and £500,000 - Regulated for Works):** Formal invitation process, detailing the scope, specifications, and criteria for the project. Officers must:

Task Description	Task
Preliminary Market Engagement (PME)	Recommended – if used, must publish PME notice
Use the Council's E-Procurement System	Open Procedure All contact with bidders must be via the portal
Risk and Compliance Assessments	<ul style="list-style-type: none"> ▪ Procurement Initiation Document ▪ Procurement Risk Insurance Questionnaire ▪ Data Protection Impact Assessment ▪ Modern Slavery Assessment ▪ Conflicts of Interest Assessment ▪ Carry out Risk Assessment
Social Value Objective	Must use Social Value Portal if appropriate. Must incorporate Social Value Question within tender documents if portal not used.
Environmental Considerations	Must consider how these can be incorporated in Award Criteria and performance of Contract.
Mandatory Procurement Documents	<ul style="list-style-type: none"> ▪ Invitation to Tender (ITT) with standard Conditions of Participation ▪ Specification of Requirements ▪ Key Performance Indicators
Decision Notice	Publish Decision Notice in line with requirements
Publish Tender Notices	Below Threshold Tender Notice
Issue Feedback	Use Council's standard letter templates. Mandatory Standstill period for Goods and Services,
Payment Terms	Enter into contract with 30 days terms
Post-Award Notices	<ul style="list-style-type: none"> ▪ Contract Award Notice if Standstill Period used. ▪ Contract Details Notice ▪ Details for Contracts Register ▪ Publish a Decision Notice
Financial Diligence	Set up of Credit Safe with Accountancy if recommended
Documentation Management	Upload Contract and all documents to E-Procurement system
End of Contract	<ul style="list-style-type: none"> ▪ (Optional) Publish Termination Notice

- 19.6. **Invitation to Tender (ITT) Above Threshold Goods/Services or Works:** Formal invitation process, detailing the scope, specifications, and criteria for the project. Officers must:

Invitation to Tender – Above Threshold	
Task Description	Task
Preliminary Market Engagement (PME)	Recommended – if used, must publish PME notice
Use the Council’s E-Procurement System	Open Procedure (default) or Competitive Flexible Procedure Contact with bidders must be via the portal
Risk and Compliance Assessments	<ul style="list-style-type: none"> ▪ Procurement Initiation Document ▪ Procurement Risk Insurance Questionnaire ▪ Data Protection Impact Assessment ▪ Modern Slavery Assessment ▪ Conflicts of Interest Assessment ▪ Carry out Risk Assessment
Social Value Objective	Must use Social Value Portal where appropriate. Must incorporate Social Value Question within tender documents if portal not used.
Environmental Considerations	Must consider how these can be incorporated in Award Criteria and performance of Contract.
Mandatory Procurement Documents	<ul style="list-style-type: none"> ▪ Invitation to Tender (ITT) ▪ Specification of Requirements ▪ Key Performance Indicators (a minimum of 3)
Decision Notice	Publish Decision Notice in line with Requirements
Publish Tender Notices	Below Threshold Tender Notice
Issue Feedback	Use Council's standard letter templates with mandatory Standstill period
Payment Terms	Enter into contract with 30 days terms
Post-Award Notices	<ul style="list-style-type: none"> ▪ Contract Award Notice if Standstill Period used. ▪ Contract Details Notice ▪ Details for Contracts Register ▪ Publish a Decision Notice ▪ If contract value is >£5m, a copy of the Contract and 3 KPIs must be published
Financial Diligence	Set up of Credit Safe with Accountancy if recommended
Documentation Management	Upload Contract and all documents to E-Procurement system
End of Contract	<ul style="list-style-type: none"> ▪ (Optional) Publish Termination Notice

- 19.7. **Framework Agreement** an agreement with suppliers that sets out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. An Open Framework Agreement is a Framework Agreement that rolls over successively, and new suppliers can join at intervals, and the framework can be renewed under substantially the same terms without substantial modifications.

Calling off involves initiating a procurement from a Framework Agreement approved by the Procurement Officer without using a Conditions of Participation requirement.

- **Direct Award:** Officers should only use this call off method if prices of suppliers on the framework agreement have been set.
- **Mini-competition:** Where multiple suppliers on the framework agreement can meet the requirement, a mini-competition should be conducted. This is the default call-off method for the Council.

Officers must:

Framework Agreements	
Task Description	Task
Preliminary Market Engagement (PME)	Recommended – if used must publish PME notice
Preliminary Approvals	<ul style="list-style-type: none"> ▪ Officers must seek Procurement Officer confirmation that the Framework Agreement can be used. ▪ Legal will review Call-Off Documents and Terms and Conditions and assist Officers in completion of Procurement
Use the Council's E-Procurement System	Where possible, the Council's e-procurement system must be used for mini competitions
Risk and Compliance Assessments	<ul style="list-style-type: none"> ▪ Procurement Initiation Document ▪ Procurement Risk Insurance Questionnaire ▪ Data Protection Impact Assessment ▪ Modern Slavery Assessment ▪ Conflicts of Interest Assessment ▪ Carry out Risk Assessment
Social Value Objective	Must use Social Value Portal where Contract Value is > £100,000 and appropriate for the procurement. Must incorporate Social Value Question within mini competition documents if portal not used.
Mandatory Procurement Documents	<ul style="list-style-type: none"> ▪ Framework Agreement Call-Off Contract (ITT) ▪ Specification of Requirements ▪ Key Performance Indicators
Decision Notice	Publish Decision Notice in line with requirements
Publish Tender Notices	Tender Notice correlating with the Contract Value
Issue Feedback	Use Council's standard letter templates with Standstill period for Mini Competitions
Payment Terms	Enter into contract with 30 days terms
Post-Award Notices	<ul style="list-style-type: none"> ▪ Contract Award Notice Standstill Period ▪ Contract Details Notice ▪ Details for Contracts Register ▪ Publish a Decision Notice if contract value >£50,000 ▪ If contract value is >£5m, a copy of the Contract and 3 KPIs must be published
Financial Diligence	Set up of Credit Safe with Accountancy if recommended
Documentation Management	Upload Contract and all documents to E-Procurement system

19.8. **Dynamic Markets (DMs):** A DM is a flexible arrangement that allows multiple suppliers to join or exit the market based on ongoing eligibility criteria. It is designed to facilitate the continuous and competitive procurement of goods, services, or works by allowing new suppliers to enter the market at any time, thus maintaining a fresh and competitive environment.

Officers will engage with the Procurement Officer to discuss the specific requirements of DMs.

20. Direct Awards (Single Tender)

- 20.1. **Single Tender:** Single Tender procurement is where a contract is awarded directly to a supplier without competitive tendering. This must be justified and documented, and approvals obtained.

For all Single Tenders £25,000+ Officers must publish a Transparency Notice stating the intention to direct award and observe a standstill period.

- 20.2. Officers must have prior written approval of the Service Director responsible, the Service Director: Legal and Community and the Service Director: Resources. Contact Procurement for advice on preparing your Single Tender Option report.
- 20.3. In the event that approval has not been obtained for a Single Tender in accordance with 20.2, and a contract has been awarded, the Service Director: Resources and the Service Director: Legal and Community may grant retrospective approval provided the following conditions are met:
- i. Contract award was compliant with the Procurement Act 2023 for above threshold Single Tenders (see Rule 20.5)
 - ii. Expenditure is within approved budgets or overspend has been reported.
 - iii. Contract award was approved under Section 14 of the Council's Constitution (Responsibility for Functions)
 - iv. The Service Director: Resources and the Service Director: Legal and Community are satisfied that an application for a single tender would have been approved under Rule 20.2.
 - v. The commissioning officer completes an application for retrospective approval to the Service Director: Resources and the Service Director: Legal and Community.

20.4. Below Threshold Single Tenders

A single tender may be obtained when:

- a) Prices are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available.
- b) The works, goods, or services to be supplied consist of repairs to or the supply of parts or upgrading of existing proprietary machinery, equipment, software, hardware or plant and the repairs or the supply cannot be carried out practicably by alternative contractors.
- c) Specialist consultants, suppliers, agents or professional advisors are required and:
 - (i) Evidence that there is no satisfactory alternative.
 - (ii) evidence indicates that there is likely to be no genuine competition.
 - (iii) it is in the Council's best interest to engage a particular consultant, supplier, agent or advisor.

- d) Products are sold at a fixed price and market conditions make genuine competition impossible.

20.5. Above Threshold Single Tenders

A single tender may be obtained when:

- (i) Direct Award to Protect Life: certain contracts can be awarded directly if it's necessary to protect life, health, public order, or safety.
- (ii) Switching to Direct Award: directly award contracts if no suitable tenders or requests are received during a competitive process. Tenders were deemed unsuitable due to failure to meet criteria, evidence of corruption, or significant procedural breaches.
- (iii) Prototypes and Development: Contracts concerning novel goods or services aimed at testing suitability, researching scalability, or other research and development purposes.
- (iv) Single Suppliers: Involves unique artistic works or performances.
- (v) Cases where a supplier holds exclusive rights (intellectual property or other) necessary for the provision of specific goods, services, or works, and no reasonable alternatives are available.
- (vi) Situations where no competition exists for technical reasons, making only one supplier capable of fulfilling the requirement.
- (vii) Additional or Repeat Goods, Services, or Works:
 - a. Concerns extensions or replacements of existing goods, services, or works, where changing suppliers would cause significant compatibility issues or technical difficulties.
 - b. contracts with an existing supplier for similar goods, services, or works previously procured competitively, provided future intentions were clear in earlier procurement documentation.
- (viii) Commodities: Contracts for goods purchased on a commodity market.
- (ix) Advantageous Terms on Insolvency: Direct award to a supplier can secure particularly advantageous terms if the supplier or another is undergoing insolvency proceedings.
- (x) Urgency: Goods, services, or works are urgently needed for reasons of extreme and unavoidable urgency, making a competitive process impractical.
- (xi) User Choice Contracts: Covers services specified for individual needs, where the recipient or their carer prefers a particular service provider, or where only one provider can meet the unique service needs.

20.5.1. Officers must publish a 'Transparency Notice' for any above threshold Single Tender (see Rule 17.2).

21. Waivers

- 21.1. Waivers allow for variations to the Contract Procurement Rules. Always seek legal advice before proceeding with a waiver to ensure compliance and appropriateness.
- 21.2. **Approval Process for Above Threshold Procurements:** For procurements exceeding the defined threshold, waivers must receive approval from the Service Director: Legal and Community and the Service Director: Resources. These directors may escalate the decision to the Cabinet for further approval if necessary.
- 21.3. **Approval Process for Below Threshold Procurements:** For procurements below the threshold:
- Waivers require agreement from a Service Director, in consultation with the Service Director: Resources and the Service Director: Legal and Community. For procurements exceeding £100,000, consultation with the relevant Executive Member is also required, and the decision may be referred to the Cabinet.
 - In urgent scenarios, such as activating the Council's 'Major Incident Plan' or a business recovery plan, the Managing Director or a designated Service Director may approve waivers.
- 21.4. All waivers, except in cases of major incidents, must be preceded by a detailed written justification submitted by the authorised officer. This justification must demonstrate:
- A thorough market analysis confirming that deviation from standard rules is justified.
 - The necessity of the waiver due to unforeseen extreme urgency.
 - Compliance with legislative exemptions.
 - Alignment with the Council's broader interests.
 - Presence of other exceptional circumstances warranting deviation.
- 21.5. A detailed record of each waiver decision, along with the reasons, must be maintained by the Service Director: Resources.

22. Above Threshold Procedures

These procedures apply to above threshold/regulated procurements only. The chosen tendering procedure must be proportionate to the nature, complexity, and cost of the contract.

22.1. Open Procedure

This is a single stage tendering process open to any supplier without restrictions. Conditions of Participation are included in the standard procurement documents and are evaluated at the same time as the ITT (see Rule 16).

22.2. Competitive Flexible Procedure

This is an adaptable procedure that the Council can tailor to suit the specific needs of the contract being awarded. However, this process is far more resource intensive than the Open Procedure. You should always consult with Legal and Procurement to assess its suitability for your procurement as this is a resource intensive procedure.

If the design consists of more than two stages (Conditions of Participation stage and Tender Stage), the approval of Cabinet must be obtained in advance.

This procedure:

- allows for the design of a flexible proportionate Procurement.
- allows the Council to limit the number of suppliers who can participate by use of Conditions of Participation (see Rule 15).
- allows the refinement of award criteria as the procedure progresses (see Rule 10.2).
- restricts participation to suppliers who have either remained in the tendering process from the start or have not been previously excluded.

PART 3: Tendering Process

23. Clarifications

- 23.1. Clarifications questions and responses and communication must use the standard template, the Council's e-procurement System and be sent to all suppliers who have expressed an interest.
- 23.2. No clarifications (or any communication) may take place outside of the e-procurement system under any circumstances.

24. Bid Submission, Opening and Acceptance

- 24.1. The deadline for submission of bids will be set out in the procurement documents.
- 24.2. The E-Tendering System must be used as per the Tendering Option requirements (S19) and no bids will be opened until the submission deadline has passed.
- 24.3. Officers will not accept Tenders received after the tender deadline date and time indicated in the procurement documents and the tender notice.

25. RFQ and Tender Evaluations

- 25.1. Officers will ensure that all quotations and tenders are evaluated in accordance with the evaluation criteria specified in the Requests for Quotation or the Invitation to Tender documents.

Where there are minor errors or discrepancies in a Supplier bid, including arithmetic errors, the Officer will give the Supplier the opportunity to rectify these. However, under no circumstances, should this create an undue advantage to the Supplier. Communication should take place using the Council's e-sourcing system.

- 25.2. Where multiple officers are involved in evaluating bids, a procurement Moderation meeting must be held to determine the consensus score for all procurements £100,000+.
- 25.3. All evaluations and reports must be comprehensive, signed by the Officer and uploaded to the Council's e-procurement system before Contract Award.

PART 4 : Awarding the Contract

26. Mandatory Compliance with Council Rules

26.1. Contracts may only be awarded by the Council if there has been full compliance with these Contract Procurement Rules.

27. Rejection of Bids

- 27.1. Officers will first reject bids from Suppliers under the following conditions:
- i. Specific conditions of participation have not been met.
 - ii. Specific exclusion or discretionary exclusion criteria apply to the Supplier unless evidence of self-cleaning exists (for above threshold procurements only).
 - iii. Being a non-UK or non-treaty state suppliers or planning to subcontract the work to non-UK or non-treaty state suppliers.
 - iv. abnormally low-price submission without satisfactory explanation.
 - v. it is unsuitable within the meaning of Section 43 of the Procurement Act 2023 (seek Procurement advice).

28. Award process

- 28.1. Officers must provide an assessment summary to each supplier that submitted a RFQ or tender with a value in excess of £25,000 which was assessed. The summary must provide insights into how the Council assessed:
- The bid of the supplier.
 - The bid that was selected as the most advantageous, if different from the supplier's bid.
- 28.2. The Mandatory Standstill Period applicable only to procurements of £100,000+ requires Officers to allow eight working days beginning on the day that the Contract Award Notice is sent to allow unsuccessful bidders to challenge the Council's award decision.
- 28.3. Officers will publish a Contract Award Notice for contract values of £25,000+ indicating the intent to sign a contract.
- 28.4. In the event that a challenge from an unsuccessful bidder is received, Officers will immediately notify Legal who will advise on the appropriate course of action.
- 28.5. If no challenge is received during the Mandatory Standstill Period, Officers will publish a Contract Details Notice within 30 days of contract signing for above threshold procurements only.
- 28.6. If the estimated Contract Value is £5m or more, Officers will also publish a copy of the Contract within 90 days. Officers should seek Legal advice on what should be published / redacted.

PART 5 : Contract Management

29. Payments

- 29.1. The Council will make all payments within 30 days of receipt of a valid invoice or from the invoice date whichever is later.
- 29.2. A valid invoice must either meet the electronic invoicing standards or include specified details like the supplier's name, a description of the goods or services, the amount due, and a unique identification number.
- 29.3. If an invoice is deemed invalid or disputed, Officers must notify the supplier without undue delay.
- 29.4. The Council will publish a payments compliance notice within 30 days after the end of each reporting period (ending on March 31 or September 30) detailing adherence to the 30-day payment term.
- 29.5. Details of any payments exceeding £30,000 will be published within 30 days of the quarter (ending on March 31, June 30, September 30, or December 31) in which the payment was made on the Council's Open Data webpage.

Payment of invoices to suppliers | North Herts Council (north-herts.gov.uk)

- 29.6. Contracts which involve the use of subcontractors shall contain a contract clause ensuring payment throughout the supply chain of 30 days payment terms.
- 29.7. Service Directors are responsible for ensuring compliance to this section.

30. Supplier Performance and Contract Management

- 30.1. Once a contract has been awarded it must be monitored with regular review meetings to raise concerns and issues from both parties.
- 30.2. Officers will use the Contract Management Module of the Council's Financial Management System to record the Contract and upload the Signed copy.
- 30.3. Officers will keep detailed records of all performance assessments, communications with suppliers, and corrective actions taken for procurement with a contract value of £100,000+.
- 30.4. Officers will assess supplier performance against any established KPIs at least annually and upon contract termination.
- 30.5. If performance issues are identified, Officers will provide the supplier with opportunities to rectify these. If issues persist or result in contract breaches, the Officer will notify Legal.
- 30.6. For Contracts procured after October 2024, valued at £5m or more, Officers will need to set and publish a minimum of 3 KPIs and will need to publish results of the supplier performance on an annual basis. In the event that 30.5 applies, Officers will ensure all required information, concerning breaches or performance failures, is published within a 30-day window.
- 30.7. Not less than once a year and on termination, officers must assess the contract against the KPIs and publish the required assessment.
- 30.8. Contracts identified as Core contracts must be set up with Creditsafe to monitor the financial status of the Company.

Officers must contact Accountancy to set up Credit safe alerts before the contract has been awarded and before the Contract is signed.

31. Record Keeping

- 31.1. Officers are required to maintain records sufficient to explain any material decision made in the awarding or entering into a public contract. This information must be included in the Decision Notice. Material decisions are those decisions requiring public notices or those fundamental to the procurement process.
- 31.2. Officers will keep detailed records of all communications with potential suppliers during the tendering and contract negotiation phases. This includes emails, meeting notes, calls, and any formal correspondence. The Council's e-procurement system will facilitate this.
- 31.3. Records will be kept until the day on which a decision not to award the contract is announced, or if a contract is awarded and entered into, records must be retained for three years from the date the contract is signed. If the contract is awarded but not entered into, records must be kept for three years from the award date.

PART 6 : Legal Matters

32. Contracts

- 32.1. All contracts must be in writing and follow the requirements of these Rules.
- 32.2. Contracts under £10,000 must, as a minimum, be in the form issued and approved by an authorised officer in accordance with the Council's Financial Regulations and Scheme of Delegations.
- 32.3. Contracts in excess of £10,000, or in any other case where the responsible Service Director decides it is necessary or desirable, must be drawn up in a form approved by the Service Director: Legal and Community.
- 32.4. For all works contracts over £50,000, documents must be completed and signed by both parties prior to any works commencing.
- 32.5. For goods and services contracts over £50,000, contracts should be executed before commencement where practical. As soon as you become aware that this is not feasible, notification should be provided to the Service Director: Legal and Community with the reasons why this shall not take place and likely timescale and plan for any delays in execution.
- 32.6. Where the contract value exceeds £100,000 you should consider whether the contract should be sealed as a deed. Sealing as a deed offers a number of technical advantages over contracts under hand (i.e. just signed by an authorised person). The main relevant advantage for the Council is that it is afforded greater protections under the contract for a period of 12 years (against the normal 6 years). This is most relevant for works or significant services contracts where latent defects or incorrect advice may only cause problems years later. Please contact Legal for advice if you are unsure.
- 32.7. A contract of any value may be sealed if requested by the responsible Service Director or the Service Director: Legal and Community. Please contact Legal for advice.

33 Contractual Terms

- 33.2 The Council has a number of different standard contractual terms and conditions depending on the nature of the goods, services or type of works you require. These may require additional elements depending on the complexity, risk and importance of the contract. You should ask Legal for advice on the appropriate terms and conditions as early as possible.
- 33.3 If your contractor requests or demands that the Council contracts on their standard terms and conditions, you should contact Legal who will advise you in relation to these terms. In many cases a Suppliers' terms can be acceptable but sometimes negotiation is required.
- 33.4 If your procurement is a Call-Off under a framework agreement there is usually no scope for negotiation on the terms and conditions of that contract. The terms were pre-agreed when the framework agreement was signed. Under a Call-Off contract the only terms that are negotiated are: when and where the work will start; how much will be paid; and when the work will be completed.

34 Contract Variations

You should seek advice from Legal before negotiating / agreeing any variation.

This Rule 34 may apply in addition to the Rule 20 Single Tender Option.

- 34.2 There are two variation procedures: where the contract has provision and procedures relating to variations; and where the contract has no provision for variation.
- 34.3 Any contract may be varied by a deed of variation. You should seek advice from Legal before agreeing any variation.
- 34.4 All variations must be in writing and conform to the appropriate Financial Regulations.
- 34.5 The Service Director: Resources and Service Director: Legal and Community must be informed in writing of any variation.
- 34.6 Any variation under this section does not require reassessment of the original procurement process as a result of a change in the overall value of the contract.

Contractual variation

- 34.7 A Service Director may authorise variations to a contract where the variation procedure and the resulting change in price is determined in accordance with the contract terms – this may be through the use of agreed formula or through serving and agreeing change notices.

Non-contractual variation

- 34.8 A Service Director may authorise variations to a contract where:

- 34.8.1.1 delay would incur substantial cost penalties to the Council; or
- 34.8.1.2 the proposed variations are unavoidable and/or essential for the project to proceed or continue; or

34.8.1.3 circumstances arise during the performance of the contract which make it necessary to amend the specification or method of carrying out the works or services or purchase of goods.

in each case provided that:

34.8.1.3.1 the cost to the Council of the variation is less than or equal to 20% of the value of the contract, for contracts up to £250,000 for works and £100,000 for services or goods.

34.8.1.3.2 the cost to the Council of the variation is less than or equal to 10% of the value of the contract, for contracts above £250,000 subject to a maximum value of £50,000k in respect of the variation.

34.8.1.3.3 in the case of urgency or unforeseen circumstances where works, services or goods are to be added to or deleted from the contract which are substantially different in scope. In this instance the Service Director must report this action to the Executive Member as soon as possible.

and, if relevant, that the variation is within the scope of the original contract notice or any applicable limits as set out in the Public Contracts Regulations 2015, or the overall value of the contract remains below the applicable WTO/GPA threshold.

34.9 Subject to the availability of budget funding, an Executive Member in consultation with the relevant Service Director may authorise variations to a contract which:

34.9.1.1 adds more than 20% to the value of the contract for contracts up to £250,000; or

34.9.1.2 adds more than 10% to the estimated value of the contract for contracts above £250,000 subject to a maximum value of £50,000 in respect of the variation: or

34.9.1.2.1 in the case of urgency or unforeseen circumstances where works, services or goods are to be added to or deleted from the contract which are substantially different in scope.

34.9.1.3 results in minor changes to the contract terms or specification.

in each case provided that any additional cost does not take the total costs of the contract over the limits permissible by the Public Contracts Regulations 2015 or, if relevant, that the variation is within the scope of the original contract notice.

34.10 Any other variation must be agreed by Cabinet or under delegated authority from Cabinet.

35 Extensions

You should seek advice from Legal before negotiating / agreeing any extension, including Framework Agreements.

35.2 All extensions must be in writing in a form approved by the Service Director: Legal and Community and conform to the appropriate Financial Regulations.

35.3 If the terms of a contract allow for an extension (or the law otherwise permits), then the relevant Service Director may, following consultation with the Service Director: Resources and the relevant Executive Member authorise an extension of a contract by up to twenty-four months, up to a value of £200,000.

35.4 The appropriate Executive Member may authorise an extension of more than twenty-four months OR in excess of £200,000 with the approval of the Service Director: Resources following consultation with the Finance & IT Executive Member.

- 35.5 In all cases, officers must demonstrate that any extension complies with all applicable laws and statutory guidance; that a detailed and robust cost/benefit analysis has been undertaken and that sufficient budget is available. The relevant Service Director must also consider whether any extension would have a detrimental impact on the Council's strategies and plans. Where applicable, evidence of the decision-making process must be formally recorded in a delegated decision which (in addition to the normal process) is filed on the relevant contract file and a copy sent to the Service Director: Legal and Community.
- 35.6 Any extension under this section does not require reassessment of the original procurement process so long as the value of the extended contract:
- does not exceed any applicable limits as set out in the Public Contracts Regulations 2015 (if applicable); or
 - does not exceed any applicable limits as set out in the Procurement Act 2023; or
 - is within the limits as set out in the original contract notice; or
 - is below the applicable WTO GPA threshold.

36 Consultants

Before the appointment of any Consultants, Officers must first contact Legal, who will provide advice and guidance on the process.

- 36.2 It is important that best value is obtained when employing consultants. Therefore, for all instances where the Contract Value of a consultancy appointment is over £10,000, the commissioning officer must provide a report to the Service Director responsible containing as a minimum the details listed in Rule 37 (Project Details).
- 36.3 This requirement at 36.1 applies to the appointment of management or other advisory consultancy work (to replace, advise or bolster in-house staff resources in "business as usual" activities) The process outlined in 36.1 does not apply to technical or specialist contracts for services (employed for specific projects and included in approved overall project budget) e.g. specialist engineers, architects, surveyors, barristers etc. However, proper procurement procedures must be followed when appointing in all circumstances and parties must enter into a written contract in the form approved by Legal.
- 36.4 All consultants (of any type) must provide evidence of adequate professional indemnity insurance as determined by the HCC Insurance Manager prior to their appointment. The requirement for insurance and the levels required should be advised in the specification of requirements. This insurance must be maintained for a minimum of 6 years after the contract ends.
- 36.5 It should be a condition of contract with any consultant, agent or professional advisor who is to be responsible to the Council for the award or supervision of a contract on its behalf, that in relation to that contract they shall:
- comply with these Procurement Rules as though they were an employee of the Council; and confirm their acknowledgement of this requirement, (this will be particularly relevant if a consultant sub-contracts on behalf of the Council).

- engage in skills transfer activities where required and appropriate.
- produce on request all the records maintained by them in relation to the contract and award of contract; and
- on completion of the contract, submit all records that they have produced or received that relate to the contract to the appropriate Service Director.
- Any contract must set out the consultants' legal obligations to the Council. Further guidance on the use of consultants can be found on the Legal procurement pages of SharePoint.

37 Project Details

37.2 For consultant appointments over £10,000, the Service Director shall be responsible for ensuring that the consultant's work is properly monitored on an ongoing basis. This includes:

- appointing a named project officer or group.
- specifying key tasks and dates for consultants.
- monitoring costs against budgets.
- arranging regular progress meetings with consultants.

37.3 The project officer shall report immediately to the Service Director any material technical or financial deviation by the consultant from the specified agreement.

37.4 The project officer shall provide a Projects Details report to the appropriate Service Director which:

- identifies the project objectives; and
- documents the reasons for the employment of consultants including the benefits of employing consultants against in-house staff or agency staff; and
- documents the residual in-house costs to support the consultant and ensure that sufficient budget is available to meet all identified costs; and

37.4.1 includes a project brief, detailing:

- background.
- objectives.
- timetable.
- costs.
- monitoring arrangements.
- documentation standards.
- contact names and numbers for enquiries.

37.5 For consultancy appointments over £10,000, at the end of the appointment, an assessment of the consultant's performance should be carried out. This assessment should be documented in the Consultant's Performance Appraisal form and Lessons Learnt Log. Copies of these completed forms should be sent to the relevant stakeholders, with copies to the Procurement Officer.

37.6 The Procurement Officer in conjunction with the Contract Procurement Group (CPG) will review the lessons learned and recommend if any should be entered into the Corporate Lessons Leant Log. Further information can be found:

[Project Management \(sharepoint.com\)](#)

Templates for the Performance Appraisal form and Lessons Learnt Log can be found [here](#):

[Step 4 - Contract Management Guide.docx \(sharepoint.com\)](#)
[Corporate Lessons Learnt Log \(Draft 2023 Format\).xlsx \(sharepoint.com\)](#)

38 Land Transactions

- 38.2 These Rules shall apply to purchases and sales of property, land and to leases for a fixed term of more than seven years.
- 38.3 All valuations and negotiations in respect of transactions shall be carried out by or under the supervision of a properly qualified Member of the Royal Institution of Chartered Surveyors or equivalent. **In no circumstances shall Members of the Council conduct them.** Any disposal of Council assets must be in line with the requirements set out in the Council's Financial Regulations.
- 38.4 These Rules apply to all valuations of land carried out by a qualified and independent Chartered Surveyor appointed to act on behalf of, or to advise, the Council.
- 38.5 At least two officers of the Council or an officer of the Council and a duly appointed Chartered Surveyor or other agent shall be involved in all negotiations relating to land transactions which engage Section 14 of the Council Constitution (Scheme of Delegation) and any other applicable Section with Terms of Reference for a relevant Committee.
- 38.6 It shall be the duty of the Council's Chartered Surveyor whether employed or appointed to report on any transaction authorised by the Council to the relevant Committee or Group at appropriate times. Which Committee or Group depends on the particular transaction and the authorisation for that transaction. Please contact Legal for advice.
- 38.7 All valuations prepared for the purpose of a transaction or balance sheet estimate shall be supported by evidence of the values of comparable properties in the locality where information and relevant comparators are available.
- 38.8 No property or land owned or leased by the Council shall be disposed of to a third party until it has been established that no other directorates of the Council have a need for the property or land, and that the current service area confirms no other requirement for the site.
- 38.9 No property or land owned or leased by the Council, other than land held for investment purposes or previously declared surplus to requirements shall be disposed of until a report has been prepared by the Service Director: Resources and presented to Cabinet containing:
- a) a description of the property or land, its title, physical characteristics and development constraints.
 - b) any information from the Council's records or those of statutory undertakers which would affect the property or land's value or development potential.
 - c) an assessment of the development potential of the property or land.

- d) evidence that the property or land has been offered to all directorates and that the Council has no operational use for the property or land.
- e) recommendations on the following:
 - i. the title to be transferred.
 - ii. the method of disposal.
 - iii. whether negotiations must proceed with a special purchaser.
 - iv. the estimated price the Council may receive (in a Part 2 report)
- f) in arriving at the recommendation, other factors that officers need to take into consideration are:
 - i. issues that need to be resolved before marketing of the property or land can proceed.
 - ii. whether legal and other costs must be recovered from the prospective purchaser and if so an estimate of their amount.
 - iii. whether the appointment of external advisors or agents is required

38.10 All disposals of property or land owned or leased by the Council shall be by one of the following methods: Private Treaty, Public Auction, Formal Tender, Informal Tender, statutory offer back to the former owner, or long lease. Costs of marketing and disposal will be charged to the recipient of the land.

38.11 In the event that it is decided to dispose of property or land by way of a tender then so far as it is practicable the procedures laid down in the Rules shall apply, subject to a waiver under Rule 21 (**Error! Reference source not found.**) where it is not practicable to follow the procedures laid down in the Procurement Rules.

38.12 The authorisation required for a land transaction depends on its value and is set out within the Constitution. The following are able to authorise transactions, subject to the value set out in their terms of reference:-

- Service Director: Resources
- Cabinet
- Full Council.

39 Glossary

- **Award Criteria:** Standards set out in procurement documentation used to evaluate bids to identify the most economically advantageous tender.
- **Conditions of Participation:** Requirements that potential contractors must meet to be eligible to participate in the procurement process.
- **Contract Award Notice:** A notice published to inform the public about the outcome of the procurement process, detailing the contractor intended to be awarded the contract and initiating the Standstill Period.
- **E-Procurement System:** A web-based system used to facilitate the entire tendering process, covering advertising, issuing and receiving tender-related information, evaluation, and contract award.
- **Framework Agreement:** An agreement with one or more businesses that sets out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement.
- **Go Local Policy:** A policy aimed at prioritising local suppliers in procurements to stimulate the local economy, applicable under certain financial thresholds.
- **Goods:** The purchase, lease, rental, or hire purchase (with or without an option to buy) of goods or products, which may also include, as an incidental, the siting or installation of the product.
- **ITT (Invitation to Tender):** A formal document issued to potential suppliers inviting them to submit a bid to supply goods or services.
- **Mixed Contracts:** Contracts that include a combination of goods, services, and/or works, especially where different parts of the contract may have different threshold implications.
- **Preliminary Market Engagement:** Activities undertaken to engage the market before formally initiating the procurement process, aimed at informing and refining the procurement strategy.
- **Procurement:** The process of awarding, entering into, and managing a contract, including all steps taken for the purpose of awarding, entering into, or managing the contract, and the termination of the procurement before the award of the contract, regardless of whether the procurement is covered under the Regulations or not.
- **Procurement Pipeline:** A strategic planning tool that outlines upcoming procurement activities, providing visibility to potential suppliers and helping internal planning.
- **Request for Quotation:** The quote process using the relevant council RFQ templates.
- **Services:** The provision of any type of service other than those which fall within the definition of a works contract or a social and other specific services contract.

- **Social Value:** The additional benefit to the community from a procurement process beyond the scope of the actual purchase, which may include economic, social, and environmental aspects.
- **Standstill Period:** A mandatory waiting period of eight working days following the publication of the contract award notice during which the contract cannot be finalised, allowing unsuccessful bidders the opportunity to challenge the award decision.
- **Tender:** An invitation to bid for a contract or a supplier's response to that invitation.
- **Transparency Requirements:** Obligations to ensure visibility and openness in the procurement process, including the publication of notices and the disclosure of contract award decisions.
- **Waiver:** The procedure governing the exemption from the application of these Procedures.
- **Works:** The execution or design and execution of construction, civil engineering, demolition, building installation, and building completion works.
- **WTO GPA Threshold:** The financial threshold set by the World Trade Organization's Government Procurement Agreement, which, when exceeded, requires adherence to specific procurement procedures.

40 Key Contacts

Area	Contact	Contact No.
Procurement	Procurement Officer Controls Risk and Performance Manager	Ext 4392 Ext 4606
Legal	Service Director: Legal and Community Legal Commercial Team Manager	Ext 4370 Ext 4346
Shared Internal Audit Services	Audit Manager	01438 845508
Committee Services	Democratic Services Manager Committee, Member and Scrutiny Services Manager	Ext 4208 Ext 4305
Finance/Financial Appraisals	Service Director: Resources Accountancy Manager	Ext 4243 Ext 4470
Insurance	HCC Insurance Manager	01438 843565
Risk	Controls, Risk & Performance Manager	Ext 4606
Health & Safety	Health & Safety Officer	Ext 4600
Equalities/Environmental	Policy and Communities Manager	Ext 4212
Freedom of Information / Data Protection	Information & Records Manager	Ext 4563