

# Contract Standing Orders

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## SECTION A – SCOPE OF THE CONTRACT STANDING ORDERS

### 1. BASIC PRINCIPLES

- 1.1. These Contract Standing Orders (“CSOs”) are made pursuant to [Section 135](#) of the Local Government Act 1972. They apply to all Council staff and external consultants with responsibility for letting Contracts.
- 1.2. Words or phrases that begin with an initial capital letter, initialisms and acronyms are defined in Appendix 1: Glossary.
- 1.3. Clear and consistent lines of management accountability must be demonstrable and enforced. We need to embed a ruthlessly financially efficient mindset which shows we have zero tolerance right across the Council, for non-compliance with CSOs, Financial Regulations, and controls.
- 1.4. Officers with responsibility for buying goods or purchasing services or procuring works, entering into concession arrangements, modifying or extending Contracts or otherwise dealing with Contract arrangements must comply with the minimum requirements established by these CSOs. The aims of these CSOs are to promote good purchasing practice, public accountability and transparency, to support the delivery of the Council’s objectives and priorities, to ensure that the Council obtains Value for Money, compliance with legislation and to prevent corruption. Following the rules is the best defence against allegations that a decision has been made incorrectly or fraudulently. Failure to follow them may result in disciplinary action being taken or even criminal proceedings.
- 1.5. Every Contract entered into by the Council must be in connection with a Council function and shall be procured in accordance with all relevant legislation including the Procurement Act 2023 (“PA 2023”) and any Procurement Act Regulations. The PA 2023 and The Procurement Regulations 2024 do not apply to Regulated Health Procurements. The Provider Selection Regime 2023 (“PSR”) will apply to the procurement of Relevant Health Care Services. These CSOs have been written to reflect the current legislative requirements; however, in the event of any inconsistencies between these CSOs and the requirements of the PA 2023, The Procurement Regulations 2024 and PSR the legislation and statutory instruments will take precedence. The Council should also consider the PA 2023 guidance which can be found at [Procurement Act 2023 - Guidance documents - GOV.UK \(www.gov.uk\)](#).
- 1.6. Procurements, including any for Below Threshold Contracts that commenced under the Public Contracts Regulations 2015 (“PCR”) will continue to be procured under the PCR, and Contracts entered into under that procurement or Contracts already awarded will continue to be managed (which includes in relation to modifications and termination) under the PCR.
- 1.7. The Council must have regard to the importance of, and actively consider throughout the procurement, the following covered procurement objectives under Section 12 of the PA 2023 when carrying out a Covered Procurement:
  - 1.7.1 delivering Value for Money;

- 1.7.2 maximising public benefit;
- 1.7.3 sharing information for the purpose of allowing suppliers and others to understand the Council's procurement policies and decisions. This is a general requirement in addition to the notice requirements under the PA 2023. The Council may however be permitted to withhold information in the circumstances outlined in Section 94(1) of the PA 2023;
- 1.7.4 acting, and being seen to act, with integrity. This is a dual requirement for the Council to firstly ensure that there is an absence of fraud, corruption or misfeasance affecting the procurement and secondly to provide sufficient transparency concerning the procurement to suppliers and the public so it is clear that the Council is complying with this objective.

The Council is also subject to the following direct requirements under Section 12 of the PA 2023:

- 1.7.5 the Council must treat suppliers the same unless a difference between the suppliers justifies different treatment. All reasonable steps must be taken by the Council to ensure any different treatment of a supplier does not put it at an unfair advantage or disadvantage;
  - 1.7.6 The Council must, in accordance with CSO 4.9 to 4.13, have regard to the particular barriers that SMEs may face to participate in a procurement and consider whether such barriers can be removed or reduced.
- 1.8. The Council must also have regard to policy objectives contained with the National Procurement Policy Statement ("NPPS") under Section 13 of the PA 2023 that is current at the time of the procurement. The duty to have regard does not apply (but may be considered where relevant and appropriate) to Contracts awarded under a Framework or Contracts awarded under a Dynamic Market, however the NPPS does apply when awarding a Framework or establishing a Dynamic Market itself. Additionally, the NPPS does not apply to the exercise of procurement functions in relation to exempted Contracts under [Schedule 2 of the PA 2023](#) and those exempted Contracts relevant to the Council are detailed in [Section H](#). Where you consider there is any ambiguity in these CSOs please let the Assistant Director Procurement and Commercial know, who will determine any such query following consultation with the Director of Legal Service/Monitoring Officer. For procurement activities that are subject to the PA 2023, there are strict rules that the Council must comply with and advice on their application must be sought from the Assistant Director Procurement and Commercial and/or the Director of Legal Services/Monitoring Officer.
- 1.9. The PA 2023 also places several obligations upon the Council to act proportionately, having regard to the cost, nature and complexity of the Contract or matters being assessed, as follows:

- 1.9.1 **Section 20(3)** – ensuring the procurement procedure is proportionate;
  - 1.9.2 **Sections 22(1), 36(1) and 46(1)** – ensuring that Conditions of Participation are proportionate;
  - 1.9.3 **Section 23(2)(d)** – ensuring that Award Criteria are proportionate;
  - 1.9.4 **Section 58(3)** – in the context of deciding whether suppliers are excluded or excludable, ensuring that requirements for evidence or information to be provided are proportionate.
- 1.10. Each Strategic Leadership Team (“SLT”) Member must take immediate action in the event of breach of these CSOs by reporting this breach to the Assistant Director Procurement and Commercial. It will be the responsibility of the Assistant Director Procurement and Commercial to determine the nature of the breach. If it is deemed to be serious (e.g. involving a Key Decision, or where a corrupt/criminal act is suspected) the Assistant Director Procurement and Commercial will refer the matter to the Director of Audit, Fraud, Risk and Insurance for investigation with a view to identifying the steps to be taken to avoid a recurrence and to ensure appropriate action is taken.
- 2. WHAT TRANSACTIONS DO THESE CONTRACT STANDING ORDERS APPLY TO?**
- 2.1. These CSOs apply to all contractual arrangements made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials, and/or services. This includes all types of procurements, re-lets, direct awards, modifications, novations, extensions, and any other contractual transactions which the Council enters into.
  - 2.2. However, they only apply where the Council is **providing** goods, works or services to another body to the limited extent set out in [Section I \(CSO 37\)](#). All the other provisions relate to where the Council is the purchaser.
  - 2.3. These CSOs do not apply to contracts relating to:
    - 2.3.1 An employee’s individual terms of employment,
    - 2.3.2 the acquisition, disposal, or transfer of land (to which Financial Regulations will still apply), or
    - 2.3.3 the making of grants.
  - 2.4. Exempted Contracts for the purposes of the PA 2023 are detailed in Schedule 2 of PA 2023. Those most relevant to the Council are set out in [Section H](#) below. The exempted Contracts only need to comply with the provisions of [Section H](#) and the provisions of the PA 2023 that relate to ‘procurement’ (not ‘Covered Procurement’ as defined in the PA 2023) which for example includes the NPPS (which may or may not apply depending on the requirements of the NPPS). Please seek advice from Legal Services regarding the elements of the PA 2023 that will apply to exempted Contracts.

- 2.5. Special procedures, relating to the:
- 2.5.1 joint ventures,
  - 2.5.2 Relevant Health Care Services,
  - 2.5.3 supply of personal and social care services to a single individual,
  - 2.5.4 where the Council is **providing** goods and services to another,
- are more particularly set out in [Section I](#) below.

### **3. ESTIMATING CONTRACT VALUES**

- 3.1. The procedures which apply to Contracts are different, depending on their Estimated Value. Therefore, producing an Estimated Value for a Contract is the very first thing to do if a new contractual arrangement with an external supplier is required. For a High Value Contract, you also need to ascertain whether the Contract spend will be from Capital or Revenue.
- 3.2. The Estimated Value of a Contract is the total estimated spend including VAT throughout the lifetime of the proposed Contract, including any anticipated extensions and taking account of any potential variables such as options to supply additional goods/services/works and including the Estimated Value of any goods, services or works provided to the Council under the Contract other than for payment. It is not the annual value. See [Appendix 3](#) for more details on calculating the Estimated Value of a Contract.
- 3.3. Where the Contract is a Concession Contract (e.g. to run a café open to the public or other facility where service users are charged) special rules apply – see [Appendix 3](#).
- 3.4. For the purposes of these CSOs the procedures are split as follows:
- 3.4.1 Low Value Contracts valued at below £30,000 (including VAT) – see [Section B](#);
  - 3.4.2 Medium Value Contracts valued at and above £30,000 (including VAT) and below Services Threshold - see [Section C](#); and
  - 3.4.3 High Value Contracts valued at and above the Services Threshold – see [Section D](#).
- 3.5. Where you know that there are, or will be, similar or recurrent transactions for the same goods, services or works the Estimated Value of those similar/ recurrent transactions must be aggregated to determine the Estimated Value of the overall transaction.
- 3.6. The Estimated Value of a Contract must not be manipulated by artificially dividing the Contract requirements into smaller Contracts, whether or not this is done with the intention of avoiding competition or a particular decision-making route. However, having smaller Contracts to make these genuinely attractive to suppliers based in the borough or other Small and Medium-sized Enterprises (“SMEs”) may be allowed, as would encouraging Bidders on larger Contracts

to use local supply chain/labour as part of their bid; take advice from the Assistant Director Procurement and Commercial.

### **Mixed procurements**

- 3.7. Sometimes Contracts may be required to comprise of a mixture of services, goods and works. The Council may also need to award Contracts of one type or a mixture of types. The Council must ensure it correctly categorises the category or type of the Contract.
- 3.8. Where the Contract contains a mixture of goods, services and works the Council will need to determine which Relevant Threshold applies and whether those elements should be separated. The Council cannot mix Above Threshold Contracts and Below Threshold Contracts for the purpose of avoiding complying with the PA 2023 and The Procurement Regulations 2024. Where the value of one type of Contract is above the Relevant Threshold the Contract will be treated as an Above Threshold Contract and High Value Contract.
- 3.9. If a Contract to be awarded is a Framework and includes Above Threshold Elements and Below Threshold Elements it can be separated out. The Above Threshold Elements can be awarded outside of the Below Threshold Elements, but where the Council chooses not to separate the elements, the Framework must be treated as an Above Threshold Contract. The test does not apply to Contracts awarded under a Framework.
- 3.10. Where separation of Above Threshold Elements and Below Threshold Elements is possible in principle but the Council decides not to do so and there is a mix of Below Threshold Elements and Above Threshold Elements, the Council must treat the Below Threshold Elements and Above Threshold Elements as Above Threshold Elements.
- 3.11. The Council can consider several factors when determining whether elements of a mixed Contract could be procured separately and those include, but are not limited to practical and financial factors of splitting out the mixed elements.
- 3.12. Where a mixed procurement involves a 'special regime' Contract (being a Concession Contract, or Light Touch Contract) and one or more elements that are not subject to the special regime, the Council cannot take advantage of the special regime rules where it would be reasonable to split the special regime and non-special regime elements of the Contract into separate Contracts. This applies whether it is a Contract for goods, services or works directly or for a Framework under which Contracts for goods, services and works will be awarded.
- 3.13. If a mixed procurement involves a special regime and contains elements for goods, services or works but the Council decides not to separate the elements the mixed Contract must be awarded in accordance with the usual procedures under the PA 2023 and The Procurement Regulations 2024 and not the special regime.
- 3.14. The PSR applies to the procurement of Relevant Health Care Services where the main subject matter is Relevant Health Care Services with other goods or services which could not reasonably be provided by a separate Contract.



- 3.15. The Council must keep internal records regarding the justification for the decision to conduct a mixed procurement.
- 3.16. The Council is required to publish a Pipeline Notice on the Central Digital Platform where it considers it will spend more than £100 million under relevant Contracts in the coming Financial Year. A 'relevant Contract' for the purposes of the Pipeline Notice is a Contract for the supply of goods, services, or works other than exempted Contracts and includes Below Threshold Contracts and Frameworks (although there is no requirement for any details relating to the Below Threshold Contracts to be published on the Pipeline Notice). The Pipeline Notice must be published before the end of the period of 56 days beginning with the first day of the Financial Year (26<sup>th</sup> May). The Council shall keep the Pipeline Notices under review.

#### **4. IDENTIFYING A BUSINESS NEED AND PROCUREMENT PRINCIPLES**

- 4.1. Under the [Local Government \(Contracts\) Act 1997](#), local authorities can enter into Contracts with third parties in connection with any of their functions. However, first the SLT Member must be able to demonstrate there is a business need for the proposed Contract.
- 4.2. Being ruthlessly financially efficient means our three financial obsessions are:
  - 4.2.1 Necessity - what would happen if the spend isn't approved?
  - 4.2.2 Value for Money - how much really needs to be spent and could this be a one-off cost?
  - 4.2.3 Collaboration - who is responsible? Can partners and other organisations share the costs?
- 4.3. Having identified a business need for goods, services, and/or works, the SLT Member must consider whether:
  - 4.3.1 to seek a new contractual arrangement with an external supplier; or
  - 4.3.2 to provide, deliver and manage the service or works or make the goods within the Council (i.e. an in-house delivery model); or
  - 4.3.3 to procure the services through arrangements made by another public sector supplier;
  - 4.3.4 to enter into a shared service agreement; or
  - 4.3.5 if the required goods, services, and/or works are covered within the scope of any contractual arrangements the Council already has in place, provided that such Contract allows for extra goods, services, and/or works to be included or added, and there is no breach of the PCR, PA 2023 or the Procurement Regulations 2024, or PSR (as applicable) (approval for a Contract modification under these CSOs may also be required).
- 4.4. If a decision is made that the goods, services, and/or works can be resourced in-house then in law there is no award of a Contract and so these CSOs no



longer apply (although in order to comply with Financial Regulations, other parts of the Constitution, or good governance practice a formal approval report may still be required). Otherwise, the process followed must follow these CSOs, including that any Reports required must be prepared and submitted in accordance with these CSOs. [Report templates are available on the Intranet.](#)

- 4.5. Unless otherwise agreed by the Assistant Director Procurement and Commercial, all procurement exercises over £10,000 (including VAT) will be undertaken using the Council's eProcurement System. This includes call-offs from Frameworks and Open Frameworks and calls for competition under Dynamic Purchasing Systems (DPS) or Dynamic Markets (as applicable).
- 4.6. All procurement exercises over £10,000 (including VAT) must have a fixed closing date, the same for every Bidder, set up on the eProcurement System. The Assistant Director Procurement and Commercial will make appropriate arrangements for the opening of Tenders via the eProcurement System, which includes the verification of the Contract sum stated in each Bidder's submission against other information submitted.
- 4.7. Where a procurement exercise is for a High Value Contract, a formal Project Team must be set up to ensure that the Council receives Value for Money and to demonstrate transparency.
- 4.8. **Added Value:** there is an obligation on all local authorities to consider social value during the letting of all service Contracts. This is set out in the [Public Services \(Social Value\) Act 2012](#). The Council has enhanced the social value policy by changing to 'Added Value' The Council's Added Value requirements must be complied with at all times and apply to new Contract awards (inclusive of direct awards), modifications, Framework Agreements, Open Frameworks and Contracts proposed to be called off a Framework, Open Frameworks (where permitted by the framework rules) or Dynamic Markets.
- 4.9. **Local and SME/VCSE Provision:** For Regulated Below Threshold Contracts, SLT Members shall consider whether to reserve the procurement to local businesses based within the Greater London area or UK-wide and/or SMEs /Voluntary, Community and Social Enterprises ("VCSEs") ("**Local and SME/VCSE Provision**") as follows:
  - 4.9.1 Reserve the procurement by supplier location - this means running the procurement and specifying that only suppliers located in the Greater London area can bid. Supplier location is determined by where the supplier is based or established and has substantive business operations and not by location of corporate ownership.
  - 4.9.2 Reserve the procurement for SMEs /VCSEs - this means being able to run a competition and specify that only SMEs and VCSEs can bid.
- 4.10. The SLT Member shall consider the merits of Local and/or SME/VCSE Provision on a case-by-case basis and shall carry out a pre-procurement assessment and complete a checklist with an aim to:

- 4.10.1 assess the sector / market and consider the ability of the market to provide the quantity and quality of the services, goods or works required;
- 4.10.2 identify whether there is a market available locally and that it is of sufficient size and/or maturity to ensure that there are at least three companies capable of providing the goods, services, and/or works locally;
- 4.10.3 identify and manage associated risks, including fraud and corruption.

If the SLT Member's assessment concludes that the Contract may be reserved to Local and/or SME/VCSE Provision the relevant procedures shall be followed when advertising.

- 4.11. The SLT Member may choose to award a Contract based on locality or SME/VCSEs or both of these together. The procurement documentation must be clear about any intention to reserve the procurement, for example by including the standardised definitions of SME / VCSE and supplier location outlined in the Council's standard documentation.

## **5. SLT MEMBER'S RESPONSIBILITIES**

- 5.1. These CSOs must be strictly complied with; they are the Council's minimum requirements. A more thorough procedure may be appropriate for a particular Contract.
- 5.2. SLT Members have responsibility for all Contracts put in place within their Departments. This includes seeking advice on the proposals in draft reports before they are sent to officers for statutory comments and implications. Each SLT Member is accountable to the Cabinet for the performance of their duties in relation to procurement strategy, Contract approval and management, including those matters set out in [Appendix 5](#). The following conditions must be observed:
  - 5.2.1 all procurement exercises and awarded Contracts must be recorded on the eProcurement System;
  - 5.2.2 officers need to have training to ensure they know how to use the eProcurement System;
  - 5.2.3 ensuring appropriate arrangements are in place within their department for the storage of original Contracts not sealed as a Deed once completed (signed and dated). All original contracts valued at and above £30,000 (including VAT) must be passed to the procuring Officer who will enter the details onto the Contracts Register. Legal Services must be provided with the original Contract which will be stored offsite and any associated sealing completed if required;
  - 5.2.4 an electronic copy of all completed Contracts valued at and above £10,000 (including VAT) must be saved on the Contracts Register.

- 5.3. The SLT Member can authorise any officer within their Department to act on their behalf. However, such authority will not affect their accountability for actions taken in their name. **As a result, these CSOs are addressed throughout to the SLT Members. However, it is recognised that in practice these CSOs will be implemented by staff (including consultants) within the SLT Member's department.**
- 5.4. Throughout the CSOs there are requirements for formal decisions to be taken. This is undertaken by preparing a report recommending a decision and this demonstrates an audit trail of the decision once taken. [Report templates are available on the Intranet.](#) Various departments input into these reports, and it is for the SLT Member to ensure that those departments are consulted. Implication sections from the consulted department cannot be inserted on their behalf and under no circumstances should amendments to the 'Implication' sections be approved by anyone other than the author of those comments. The Assistant Director Procurement and Commercial must be sent the report once finalised and approved.

## 6. CONFLICTS OF INTEREST

- 6.1. [Part 5 of the Constitution](#) incorporates Codes of Conduct of both Officers and Members, these state what interests are to be declared when the member is elected/ the officer is appointed and the need to keep these updated as circumstances change.
- 6.2. The need to ensure that any procurement process is conducted fairly means that extra responsibilities are put on those running a procurement. The SLT Member must ensure that for all procurements of Medium and High Value Contracts, including direct awards, all officers and consultants involved complete a declaration confirming they (or their spouse/partner) do not have personal interests (actual, potential, or perceived) which could conflict with the interests of the Council in securing a fair procurement. The declarations should be saved on the eProcurement System.
- 6.3. If a member or an officer of the Council or a consultant working on the Council's behalf becomes aware that a Contract in which they have an interest is being re-procured or has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer. Such written notice is required, irrespective of whether the interest is direct or indirect. Consideration will then be given as to the appropriate action.
- 6.4. The Monitoring Officer shall maintain a record of all declarations of interest notified by Members and officers. Please see [CSO 19.2](#) and [19.4](#) for requirements in respect of the conflicts of interest under the PA 2023 and PSR respectively.

## 7. PREVENTION OF CORRUPTION

- 7.1. All Council officers and Members must comply with the relevant [Code of Conduct](#) and the Council's [anti-fraud and corruption strategy](#) and must not invite or accept any gift or reward in respect of the award or performance of any

Contract. It will be for the officer/ Member to prove that anything received was not received corruptly.

- 7.2. High standards of conduct during a procurement are obligatory. While in the normal course of events, gifts and hospitality from suppliers can be accepted provided that they are declared in accordance with the Gifts and Hospitality Policy, while a procurement process is ongoing, such hospitality should be declined. Corrupt behaviour will lead to dismissal and can be fraud or another crime under the statutes referred to in [CSO 7.3](#). Such matters will be investigated, and appropriate action taken, including legal proceedings.
- 7.3. The Assistant Director, Legal Services shall ensure that all Contract conditions contain robust terms that will allow the Council to terminate a Contract where there have been acts relating to fraud, bribery, or corruption as defined under the [Bribery Act 2010](#), and/or Section 117(2) of the [Local Government Act 1972](#); and/or the supplier has committed an act which is an offence under the [Enterprise Act 2002](#). More information about the Bribery Act is available in the Council's Anti-Bribery Policy or speak to the Director of Audit, Fraud, Risk and Insurance.

## SECTION B – LOW VALUE CONTRACTS BELOW £30,000 (INCLUDING VAT)

### 8. LOW VALUE CONTRACTS

8.1. Contracts valued at below £30,000 (including VAT) are to be procured and awarded as set out in this [Section B](#). However, there are exempted Contracts set out in [Section H and special procedures set out in Section I](#).

8.2. Before any Contract is considered the SLT Member must:

8.2.1 be satisfied there is a business need for the Contract (see [CSO 4.1](#)); and

8.2.2 ensure that a Contract estimate is calculated and recorded and be satisfied that the estimated Contract value is below £30,000 (including VAT).

If the Contract value could be £30,000 (including VAT) or greater, the process for Medium Value Contracts must be followed.

### 9. ADVERTISING PROCESS AND COMPETITION REQUIREMENT FOR ALL LOW VALUE CONTRACTS

9.1. The SLT Member is responsible for ensuring Value for Money in all procurement matters. The following competition requirements have been set considering the Contract value and to achieve Value for Money. The SLT Member must meet these requirements for all Low Value Contracts:

Estimated Value	Advertising Requirement	Competition requirement <sup>1</sup>
£1 to £29,999 inclusive of VAT	None	Either: <ul style="list-style-type: none"> <li>Call-off from suitable third party or Hammersmith &amp; Fulham Framework, Open Framework or DPS (rules of the Framework, Open Framework or DPS to be followed).</li> </ul>

<sup>1</sup> If the Contract involves works to housing premises where the Council could make recovery of costs from leaseholders pursuant to s20 of the Landlord and Tenant Act 1985 the rights of the leaseholders must be taken into account when considering the competition for the works. Failure to consult as required by the Service Charges (Consultation Requirements) (England) Regulations 2003 means that the Council's ability to recover costs from leaseholders is limited to £100/£250 depending upon the proposed arrangement for delivering the Works. Take appropriate advice, especially where you are thinking of using a Framework, Open Framework, or DPS,

Estimated Value	Advertising Requirement	Competition requirement <sup>1</sup>
		<ul style="list-style-type: none"> <li>• Written Quotations or Tenders with a minimum of 3 companies invited to Quote or Tender <sup>2</sup> through the eProcurement System with a preference to sourcing from suppliers based in the borough; or</li> <li>• Advertised opportunity inviting Quotations or Tenders – use eProcurement System and Central Digital Platform (latter within 24 hours of appearing in the eProcurement System); or</li> </ul>

## 10. APPROVAL PROCESS FOR LOW VALUE CONTRACTS

- 10.1. SLT Members approve the award of all Low Value Contracts within their area, once [CSO 9](#) has been complied with.
- 10.2. The SLT Member must ensure that a written record is prepared of the procurement process followed, to accompany the request for approval of the award of the Contract, to include:
- 10.2.1 a description of the competition process that was adopted and confirmation that this was in accordance with [CSO 9](#);
  - 10.2.2 a report on the results of the competition and the Quotations or Tenders received;
  - 10.2.3 the registered name of the supplier to be awarded the Contract;
  - 10.2.4 details of the Contract value and relevant budget that will be funding the Contract;
  - 10.2.5 commencement and expiry dates.
- 10.3. Details of all Contracts that have a value of £5,000 (including VAT) or greater must be published by the SLT Member in the Contracts Register on the eProcurement System in accordance with the [Transparency Regulations 2015](#) and the [Local Government Transparency Code 2015](#) published by the Department for Levelling Up, Housing & Communities.
- 10.4. In addition, an electronic copy of the completed (dated) Contract, where valued at £10,000 (including VAT) or more, must be uploaded to the Contracts Register

<sup>2</sup> Please see guidance regarding issuing a Quote or a Tender at [insert link]

held on the e-tendering system along with a copy of the record referred to at [CSO 10.2](#).

- 10.5. Except for out of hours purchases or minor expenses, no telephone orders are to be placed for goods, services, and/or works, unless otherwise agreed by the Assistant Director Procurement and Commercial. A purchase order number must be provided to the supplier at the time of the order.

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## **SECTION C – MEDIUM VALUE CONTRACTS – £30,000 (INCLUDING VAT) TO SERVICES THRESHOLD OR TO LIGHT TOUCH THRESHOLD FOR LIGHT TOUCH CONTRACTS**

### **11. MEDIUM VALUE CONTRACTS**

- 11.1. Contracts valued between £30,000 (including VAT) and the Services Threshold and Light Touch Contracts between £30,000 (including VAT) and up to the Light Touch Threshold are to be deemed “Medium Value Contracts” and procured and awarded as set out in this [Section C](#). However, there are exempted contracts set out in [Section H and special procedures set out in Section I](#).
- 11.2. Before any Medium Value Contract is considered the SLT Member must:
- 11.2.1 be satisfied there is a business need for the Contract (see [CSO 4.1](#));
  - 11.2.2 ensure that a Contract estimate is calculated and recorded and be satisfied that the estimated Contract value is between £30,000 (including VAT) and up to Services Threshold or up to Light Touch Threshold for Light Touch Contracts. If it could be greater the process for High Value Contracts must be followed;
  - 11.2.3 make an assessment in accordance with [CSO 4.9](#) to [CSO Error! Reference source not found](#). as to whether the Contract may be reserved to **Local and SME/VCSE suppliers**

### **12. PROCUREMENT STRATEGY FOR MEDIUM VALUE CONTRACTS**

- 12.1. The SLT Member decides upon the most appropriate Procurement Strategy. Once the Procurement Strategy is decided upon, a Project Team must be established to take responsibility for managing all aspects of the procurement process. The provisions of [paragraph 6](#) of [Appendix 8](#) shall apply to the Project Team and the procurement process.
- 12.2. The SLT Member will ensure that the Council’s conflict of interest paperwork is completed at the commencement of the procurement process and any changes to actual, potential, and/or perceived conflicts are considered again, prior to evaluation of Tenders/Quotes (see [CSO 19.2](#)).

### **13. ADVERTISING PROCESS AND COMPETITION REQUIREMENT FOR ALL MEDIUM VALUE CONTRACTS**

- 13.1. The SLT Member is responsible for ensuring Value for Money in all procurement matters. The following competition requirements have been set in light of the Contract value and in order to achieve Value for Money:

Type of Medium Value Contract	Competition requirement <sup>3</sup>	Advertising Requirement
Supplies/Services	<ol style="list-style-type: none"> <li>1. Invitation without pre-qualification stage to submit Tenders. Where Local and SME/VCSE Provision is assessed and considered suitable, the procurement shall be reserved to local suppliers and/or SMEs/VCSEs</li> <li>2. Call off from suitable third party or Hammersmith &amp; Fulham Framework, Open Framework, or DPS (rules of the Framework, Open Framework or DPS to be followed)</li> </ol>	<p>For 1: Written Quotations or Tenders with a minimum of 3 companies invited to Quote or Tender<sup>4</sup> through the eProcurement System with a preference to sourcing from suppliers based in the borough.</p> <p>Advertising requirements to be discussed and agreed with the Procurement Team, where the opportunity is advertised, use eProcurement System and Central Digital Platform (latter within 24 hours of appearing in the eProcurement System). The Council must publish a Below-Threshold Tender Notice where it is inviting Tenders to award a Notifiable Below-Threshold Contract (however</p>

<sup>3</sup> If the Contract involves works to housing premises where the Council could make recovery of costs from leaseholders pursuant to s20 of the Landlord and Tenant Act 1985 the rights of the leaseholders must be taken into account when considering the competition for the works. Failure to consult as required by the Service Charges (Consultation Requirements) (England) Regulations 2003 means that the Council's ability to recover costs from leaseholders is limited to £100/£250 depending upon the proposed arrangement for delivering the works. Take appropriate advice, especially where you are thinking of using a Framework, Open Framework, or DPS.

<sup>4</sup> Please see guidance regarding issuing a Quote or a Tender at [\[insert link\]](#)

Type of Medium Value Contract	Competition requirement <sup>3</sup>	Advertising Requirement
		this requirement does not apply where the Council is inviting Quotations or Tenders from a closed group of pre-selected suppliers (i.e. suppliers on a Framework) or from one or more targeted individual suppliers)
		For 2: Follow the rules of the Framework/Open Framework/and use the eProcurement System for all mini-competitions
Works and Maintenance Services for assets e.g. housing repairs and FM (except information technology)	<p>1. Invitation to submit Quotations through the eProcurement System (though Tenders can be invited where considered appropriate).</p> <p>Or</p> <p>2. Call off from suitable third party or Hammersmith &amp; Fulham Framework, Open Framework or DPS (rules of the Framework, Open Framework, DPS to be followed)</p>	<p>For 1: Written Quotations or Tenders with a minimum of three companies invited to Quote or Tender<sup>5</sup> through the eProcurement System with a preference to sourcing from suppliers based in the borough.</p> <p>Advertising requirements to be discussed and agreed with the Procurement Team, where the opportunity is advertised, use eProcurement</p>

<sup>5</sup> Please see guidance regarding issuing a Quote or a Tender at [insert link]

Type of Medium Value Contract	Competition requirement <sup>3</sup>	Advertising Requirement
		<p>System and Central Digital Platform (latter within 24 hours of appearing in the eProcurement System) Where Local and SME/VCSE provision is assessed and considered suitable, the procurement shall be reserved to local suppliers;</p> <p>The Council must publish a Below-Threshold Tender Notice where it is inviting Tenders to award a Notifiable Below-Threshold Contract (however this requirement does not apply where the Council is inviting Quotations or Tenders from a closed group of pre-selected suppliers (i.e. suppliers on a Framework) or from one or more targeted individual suppliers)</p> <p>For 2: Follow the rules of the Framework/Open Framework/and use the eProcurement System for all mini-competitions</p>

Type of Medium Value Contract	Competition requirement <sup>3</sup>	Advertising Requirement
From £30,000 to below the “Light Touch Threshold”	<p>1. Invitation without pre-qualification stage to submit Tenders. Where Local and SME/VCSE Provision is assessed and considered suitable, the procurement shall be reserved to local suppliers and/or SMEs/VCSEs</p> <p>Call off from suitable third party or Hammersmith &amp; Fulham Framework, Open Framework, or DPS (rules of the Framework, Open Framework, or DPS to be followed)</p>	<p>For 1:</p> <p>Written Quotations or Tenders with a minimum of three companies invited to Quote or Tender<sup>6</sup> through the eProcurement System with a preference to sourcing from suppliers based in the borough.</p> <p>Advertising requirements to be discussed and agreed with the procurement team, where the opportunity is advertised, use the eProcurement System and Central Digital Platform (latter within 24 hours of appearing in the eProcurement System). The Council must publish a Below-Threshold Tender Notice where it is inviting Tenders to award a Notifiable Below-Threshold Contract (however this requirement does not apply where the Council is inviting Quotations or Tenders from a closed group of pre-selected suppliers (i.e. suppliers on a Framework) or from</p>

<sup>6</sup> Please see guidance regarding issuing a Quote or a Tender at [insert link]

Type of Medium Value Contract	Competition requirement <sup>3</sup>	Advertising Requirement
		one or more targeted individual suppliers) For 2: Follow the rules of the Framework/Open Framework/and use the eProcurement System for all mini-competitions

- 13.2. There is a specific procurement process for Medium Value Contracts that are Regulated Below Threshold Contracts. The competition must be run without restricting participation in the procurement process by reference to an assessment of supplier's ability to perform the Contract (legal and financial capacity and technical ability) (see Section 85 of the PA 2023). This prohibition does not apply to works Contracts if the estimated value is not less than the Services Threshold and does not apply to Contracts awarded in accordance with a Framework (call-off contracts from a Framework).

#### **14. PROCUREMENT DOCUMENT SUITE**

- 14.1. The SLT Member must prepare a specification and all appropriate procurement documentation (known collectively as the "Procurement Document Suite") using the Council's standard form documentation. Amendments to the Council's standard form documentation must be agreed with the Assistant Director Procurement and Commercial or, in appropriate cases, Assistant Director, Legal Services. The award criteria must relate specifically to the Contract to be procured and shall be based on the most advantageous tender.
- 14.2. See also [Appendix 3](#) of these CSOs concerning the Contract Requirements.
- 14.3. For recurring Medium Value Contracts SLT Members may consider establishing a Council Framework, or Open Framework subject to approval from the Assistant Director Procurement and Commercial and after appropriate approval to reflect the aggregated estimated value of goods, services, and/or works to be placed through the Framework, or Open Framework.
- 14.4. It is not anticipated that there will be interviews with Bidders on a Medium Value Contract. However, if there are, full records of the interview must be kept and the purpose of the interviews and how they will be used in the evaluation process must be set out in the Procurement Document Suite.

#### **15. APPROVAL PROCESS FOR AWARD OF MEDIUM VALUE CONTRACTS**

- 15.1. All Contract awards over £100,000 (including VAT) must be submitted to the Contracts Assurance Board before being submitted for approval to the decision maker. The Contracts Assurance Board may:

- 15.1.1 Recommend that the SLT Member approve the report;
  - 15.1.2 Provide advice and/or make recommendations to the report author and request an updated report for consideration;
  - 15.1.3 Recommend that the SLT Member does not approve the report where the Council's priorities are not achieved.
- 15.2. SLT Members approve the award of all Medium Value Contracts within their area, once [CSO 13](#) has been complied with.
- 15.3. If the value of the Contract to be awarded is more than 10% higher than the initial estimated value of the Contract and over the Service Threshold, the SLT Member must consult the Assistant Director Procurement and Commercial, or their nominated deputy before the decision is taken.
- 15.4. The SLT Member must prepare an award report in the standard form. Report templates are available on the Intranet.
- 15.5. The award report must contain the comments of the Director of Finance, the Director of Audit, Fraud Risk and Insurance and the Director, Legal Services or their nominated deputies.
- 15.6. Provided that the SLT Member approves the award report the Contract shall be awarded by way of a notification via the eProcurement System and:
- 15.6.1 Where the value of the Contract is below £100,000 (including VAT), then unless the Assistant Director, Legal Services considers otherwise, it will be entered as a simple agreement signed by the relevant SLT Member (electronic signatures are permitted);
  - 15.6.2 Where the value of the Contract is £100,000 (including VAT) or more, the Assistant Director, Legal Services will arrange for the Contract to be sealed on behalf of the Council where this is appropriate, and a link to the award report as published on the eProcurement System must be provided with the request for sealing.
- 15.7. For all Medium Value Contracts, the Contract documentation must be concluded (including the formal execution of the Contract by all parties) before its commencement. Only in exceptional circumstances, and then only with the written consent of the Assistant Director, Legal Services, may a Contract commence on the basis of an exchange of correspondence (i.e., a Letter of Intent).
- 15.8. An electronic copy of the completed (dated) Contract must be uploaded to the eProcurement System along with a copy of the award report. A Contract must be kept for at least 6 years after the end date of the Contract.
- 15.9. Documents which relate to the procurement process should be kept for a minimum period of 12 months, provided there is no dispute about the award (these may be stored electronically).
- 15.10. The SLT Member must ensure a record is kept of:



- 15.10.1 preliminary market engagement (if any);
  - 15.10.2 the subject-matter and value of the Contract, Framework Agreement, or Open Framework, or DPS (as applicable);
  - 15.10.3 when a Local and SME/VCSE Provision has been identified a copy of the checklist completed prior to advertisement;
  - 15.10.4 actions taken to identify and manage associated risks, including fraud and corruption;
  - 15.10.5 where applicable, the results of the qualitative selection and reduction of numbers including supplier due diligence checks;
  - 15.10.6 the names of the selected candidates or Bidders and the reasons for their selection;
  - 15.10.7 the names of the rejected candidates or Bidders and the reasons for their rejection;
  - 15.10.8 the name of the successful Bidder and the reasons why its Procurement Response was selected;
  - 15.10.9 where applicable, the reasons why the contracting authority has decided not to award a Contract or Framework or Open Framework;
  - 15.10.10 where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders;
  - 15.10.11 where applicable, conflicts of interests declared and subsequent measures taken (see [CSO 19.2](#));
  - 15.10.12 clarification (and where appropriate post-procurement negotiation) (to include minutes of meetings);
  - 15.10.13 the Contract documents;
  - 15.10.14 simple and proportionate Key Performance Indicators (KPI)s and data reporting mechanisms included in the Contract;
  - 15.10.15 post-Contract evaluation and monitoring; and
  - 15.10.16 written records of communications with supplier(s) and with the successful supplier(s).
- 15.11. Where the Medium Value Contract is a Notifiable Below-Threshold Contract and Regulated Below-Threshold Contract the Council must publish a Contract Details Notice as soon as reasonably practicable after entering into the Notifiable Below-Threshold Contract. This requirement applies to all Notifiable Below-Threshold Contracts and not only those which require the publication of a Below-Threshold Tender Notice.

## **SECTION D – HIGH VALUE CONTRACTS – OVER THE SERVICES THRESHOLD**

### **16. HIGH VALUE CONTRACTS**

- 16.1. Contracts valued at the Services Threshold or Light Touch Threshold and over are to be procured and awarded as set out in this [Section D](#). However, there are exempted Contracts set out in [Section H and special procedures set out in Section I](#).
- 16.2. Before any High Value Contract is considered, the SLT Member must be satisfied there is a business need for the Contract (see [CSO 4](#)). The SLT Member must also ensure that a Contract estimate is calculated and recorded, which will determine the process to be followed to approve the procurement strategy and the Contract award.

### **17. PREPARING FOR HIGH VALUE CONTRACTS – PROJECT TEAM**

- 17.1. For every High Value Contract, the SLT Member shall establish a Project Team comprising:
- 17.1.1 Contract Officer,
  - 17.1.2 client-side officers,
  - 17.1.3 relevant stakeholders, and
  - 17.1.4 relevant professional officers (including (but not limited to) legal, finance, procurement, IT, and HR as appropriate) including external advisers as applicable and warranted.
- 17.2. The Project Team shall take responsibility for all pre-procurement related activity as set out in [Appendix 8](#) including (but not limited to):
- 17.2.1 Recording and reviewing all actual, potential, and perceived conflicts of interest;
  - 17.2.2 carrying out preliminary market engagement and consultation, to decide whether a new Contract arrangement is to be procured, or that the business need is to be met within the Council;
  - 17.2.3 researching available Frameworks, Open Frameworks, DPS, and Dynamic Markets, or considering whether an existing Contract can be varied to add in the new business need (advice to be taken from the Assistant Director, Legal Services in these cases, and the Assistant Director Procurement and Commercial if appropriate);
  - 17.2.4 developing the Procurement Strategy;
  - 17.2.5 identifying whether the Contract will be paid for from Capital or Revenue;
  - 17.2.6 for High Value Contracts for works which are below Works Threshold only, make an assessment in accordance with [CSO 4.9 to Error!](#)

[Reference source not found.](#) as to whether the Contract may be reserved to **Local and SME/VCSE suppliers**; and

17.2.7 maintaining records of all internal and external meetings.

**18. PROCUREMENT STRATEGY APPROVAL PROCESS FOR HIGH VALUE CONTRACTS**

18.1. Prior to starting any procurement exercise for a High Value Contract, the Project Team must prepare a report ([template on the Intranet](#)) for approval of the Procurement Strategy for the procurement. This is submitted as follows:

Capital Contracts	Procurement Strategy Approval
Services Threshold to £1.5m	SLT Member in consultation with the relevant Cabinet Member
£1,500,001 - £5m	The relevant Cabinet Member
In excess of £5m	Cabinet

Revenue Contracts	Procurement Strategy Approval
Services Threshold to £500,000 (including VAT)	SLT Member in <b>consultation</b> with the relevant Cabinet Member
£500,00 to 1.5m (including VAT)	The relevant Cabinet Member
In excess of £5m (including VAT)	Cabinet

18.2. All procurement strategies must be submitted to the Contracts Assurance Board before being submitted for approval to the decision maker in accordance with [CSO 18.1](#). Where the procurement strategy concerns a Contract with an estimated value in excess of £300,000 (including VAT) in value, or the expenditure is otherwise significant, then it is a Key Decision (see Article 12 of the [Constitution](#)) and the report must be submitted to Committee Services for publication on the Council’s website.

**19. ADVERTISING PROCESS FOR HIGH VALUE CONTRACTS**

19.1. The SLT Member is responsible for ensuring Value for Money in all procurement matters. The SLT Member will use the methods for selecting potential Bidders as set out below in the relevant table. All processes (including call- offs from Frameworks, Open Frameworks, Dynamic Markets or a DPS)

must be run through the eProcurement System, unless the Assistant Director Procurement and Commercial agrees otherwise. The process must be set out in the Procurement Strategy.

- 19.2. Before publishing a Tender Notice, Transparency Notice or Dynamic Market Notice the Council must prepare a conflict assessment under Sections 83(1) and (2) of the PA 2023. The conflict assessment must include details of conflicts or potential conflicts identified in accordance with Section 81 of the PA 2023 and any steps the Council has taken for the purposes of mitigating the conflict in accordance with Section 82 of the PA 2023. The conflict assessment must be kept under review and revised as necessary. When publishing a notice, the Council must confirm the assessment has been prepared and revised.
- 19.3. The SLT Member will ensure that the Council’s conflict of interest paperwork is completed at the commencement of the procurement process and any changes to actual or potential conflicts are considered again prior to evaluation of Tenders/Quotes.
- 19.4. Where the Council is procuring Relevant Health Care Services the Council must take appropriate measures to prevent, identify and remedy conflicts of interest in compliance with Regulation 21 of PSR.

**Requirements for “Supply and Service” Contracts (excluding “Light Touch Services”)**

Value	Competition requirement	Advertising requirement
Above Services Threshold	Either: 1. Use of an existing DPS, Framework, Open Framework, Dynamic Market which is compliant with the PA 2023, The Procurement Regulations 2024 or PSR, as applicable; or 2. Competitive Tendering Procedure selected in accordance with the PA 2023 and The Procurement Regulations 2024 as approved through the Procurement Strategy.	For 1, Follow the rules of the Framework/Open Framework/DPS or Dynamic Market and use the eProcurement System for all mini-Competitions or calls for competition  For 2, all of the following: <ul style="list-style-type: none"> <li>• Tender Notice published on Central Digital Platform</li> <li>• Trade Journal (Project Team decides. The advert must first be published on the Central Digital Platform)</li> </ul>

- 19.5. The Council must at least once in every period of 12 months during the Contract and upon termination assess the supplier’s performance against the KPIs and publish information regarding the assessment in the Contract Performance

Notice<sup>7</sup> or in the Contract Termination Notice. The Council must assess the KPIs against the ratings set out in Regulation 39(5) of the Procurement Regulations 2024.

**Requirements for “Light Touch Services” as defined in Schedule 1 of the Procurement Regulations 2024**

Value	Competition requirement	Advertising requirement
From the “Light Touch Threshold” and above	<p>Either:</p> <ol style="list-style-type: none"> <li>1. Use of an existing DPS, Framework, Open Framework, Dynamic Market which is compliant with the PA 2023 and The Procurement Regulations 2024;</li> </ol> <p>OR (if not appropriate)</p> <ol style="list-style-type: none"> <li>2. Competitive Tendering Procedure selected in accordance with the PA 2023 and The Procurement Regulations 2024 as approved through the Procurement Strategy.</li> </ol>	<p>For 1:</p> <p>Follow the rules of the Framework/Open Framework/DPS/Dynamic Market and use the eProcurement System for all mini-competitions</p> <p>For 2, all of the following:</p> <ul style="list-style-type: none"> <li>• Tender Notice published on Central Digital Platform</li> <li>• Opportunity listing on the eProcurement System webpage</li> <li>• Trade Journal (if Project Team decides. The advert must first be published on the Central Digital Platform)</li> </ul>

<sup>7</sup> Section 71 (Assessment of contract performance) PA 2023 will come into effect after 24<sup>th</sup> February 2024, date to be determined on such day as a Minister of the Crown may by regulations appoint (Section 127(2) PA 2023).

**Requirements for Works Contracts (Schedule 3 Works Activities of The Procurement Regulations 2024)**

Value	Competition requirement <sup>8</sup>	Advertising Requirement
From Services Threshold to Works Threshold	<p>Either:</p> <ol style="list-style-type: none"> <li>the use of a suitable Framework/Open Framework/Dynamic Market or DPS;</li> </ol> <p>OR (if not appropriate)</p> <ol style="list-style-type: none"> <li>Either Open Procedure or Competitive Flexible Procedure as set out in the Procurement Strategy and where Local and SME/VCSE Provision is assessed and considered suitable, the procurement shall be reserved to local suppliers;</li> </ol>	<p>For 1:</p> <p>Follow the rules of the Framework/Open Framework/Dynamic Market /DPS and use the eProcurement System for all mini-competitions</p> <p>For 2:</p> <ul style="list-style-type: none"> <li>Opportunity listing on the eProcurement System webpage and Central Digital Platform</li> <li>Trade Journal (if Project Team decides. The advert must first be published on the Central Digital Platform)</li> </ul>
Above Works Threshold	<p>Either:</p> <ol style="list-style-type: none"> <li>Use of an existing Framework, Open Framework, Dynamic Market or DPS which is compliant with the PA 2023 and The Procurement Regulations 2024; or</li> </ol>	<p>For 1:</p> <p>Follow the rules of the Framework/Open Framework/Dynamic Market/DPS and use the eProcurement System for all mini-competitions</p> <p>For 2:</p>

<sup>8</sup> If the Contract involves works to housing premises where the Council could make recovery of costs from leaseholders pursuant to Section 20 of the [Landlord and Tenant Act 1985](#) the rights of the leaseholders must be taken into account when considering the competition for the works. Failure to consult as required by the [Service Charges \(Consultation Requirements\) \(England\) Regulations 2003](#) means that the Council's ability to recover costs from leaseholders is limited to £100/£250 depending upon the proposed arrangement for delivering the works. Take appropriate advice from Legal Services.

Value	Competition requirement <sup>8</sup>	Advertising Requirement
	2. Competitive Tendering Procedure selected in accordance with the PA 2023 and The Procurement Regulations 2024 as approved through the Procurement Strategy.	<ul style="list-style-type: none"> <li>• Tender Notice published in Central Digital Platform</li> <li>• Opportunity listing on the eProcurement System webpage</li> <li>• Trade Journal (if Project Team decides. The advert must first be published on the Central Digital Platform).</li> </ul>

### Establishing a Project Team

- 19.6. Once approval for Procurement Strategy is granted in accordance with [CSO 18](#), a Project Team shall be established to take responsibility for managing all aspects of the procurement process. This may be the same membership as the Project Team or may be different.
- 19.6 The provisions of [paragraph 6](#) of [Appendix 8](#) apply to the Project Team.

### 20. TENDER PROCESS

- 20.1. [Appendix 8](#) or [Appendix 9](#) (as applicable) shall apply to the Tender process.
- 20.2. Unless the Assistant Director, Legal Services agrees otherwise the Project Team shall use the Council's standard documentation for the Tender and Contract documentation.
- 20.3. Unless the Assistant Director Procurement and Commercial agrees otherwise:
- 20.3.1 the minimum time limits for submission of response to Conditions of Participation (as applicable) and Tenders are as set out in [Appendix 7](#);
- 20.3.2 all Tenders and Responses to mini-competition must be received through the eProcurement System; and
- 20.3.3 the Contract terms shall comply with the provisions of [Appendix 3, paragraph 2](#).

### Refinement of Award Criteria and Modifying the Procurement

- 20.4. The Council may refine any Award Criteria as part of a Competitive Flexible Procedure in accordance with Section 24 PA 2023 or modify the Procurement



in accordance with Section 31 PA 2023. Specific timescales apply and you must seek Legal and Procurement advice.

- 20.5. For a refinement of Award Criteria the Tender documents need to provide for the Award Criteria to be refined and the refinement must occur before the Council has invited suppliers to submit Tenders to be assessed. The Tender notice and associated documents must be updated and re-published following the refinement.
- 20.6. For a modification of the Procurement the modification must take place before the deadlines specified in Section 31(1) have passed. Following a modification the Council must consider revising the applicable Tender deadlines and other time limits for submission in accordance with Section 54 of the PA 2023.
- 20.7. Please note that where the procurement relates to a Light Touch Contract, to be awarded following a Competitive Flexible Procedure there are less restrictions on modifying the procurement under Section 31 of PA 2023 after a request to participate or receipt of initial tenders than for other covered procurements. There is no requirement for modifications to not be substantial.
- 20.8. Where a modification is made to the Procurement under Section 31(2) of PA 2023, the Council must notify each Participating Supplier.

## **21. KEY PERFORMANCE INDICATORS**

- 21.1. Where a Contract with an estimated value of more than £5 million (including VAT) is entered into the Council must set at least three KPIs. Please take Legal and Procurement advice regarding the setting of KPIs. This requirement does not apply where the Council considers the supplier's performance under the Contract would not be able to be assessed by reference to KPIs. The Council must publish the KPIs on the Central Digital Platform using the Contract Details Notice. The Council must publish information regarding the KPIs at the time the Contract Performance Notice is published. The requirement to set at least three KPIs does not apply to a Framework (it does apply to a Call-Off Contract), Concession Contract or Light Touch Contract.
- 21.2 The Council must at least once in every period of 12 months during the Contract and upon termination assess the supplier's performance against the KPIs and publish information regarding the assessment in the Contract Performance Notice<sup>9</sup> or in the Contract Termination Notice. The Council must assess the KPIs against the ratings set out in Regulation 39(5) of the Procurement Regulations 2024.

<sup>9</sup> Section 71 (Assessment of contract performance) PA 2023 will come into effect after 24<sup>th</sup> February 2024, date to be determined on such day as a Minister of the Crown may by regulations appoint (Section 127(2) PA 2023)

## 22. APPROVAL PROCESS FOR CONTRACT AWARD OF HIGH VALUE CONTRACTS

- 22.1. The Project Team shall prepare an award report for all High Value Contracts and submit the report for decision as follows:

Capital Contracts	Contract Award Approval
Services Threshold up to £1.5m	SLT Member in consultation with the relevant Cabinet Member
£1.5m and above	The relevant Cabinet Member
Revenue Contracts	Contract Award Approval
Services Threshold up to £0.5m	SLT Member in consultation with the relevant Cabinet Member
£0.5m and above	The relevant Cabinet Member

- 22.2. If the value of the Contract to be awarded is more than 10% higher than the initial estimated value of the Contract and over £10,000,000 (including VAT), approval must be sought from Cabinet.
- 22.3. The Project Team shall prepare an award report in the standard form. [Report templates are available on the Intranet.](#)
- 22.4. The award report must contain the comments of the Director of Finance, the Assistant Director Procurement and Commercial, the Director of Audit, Fraud, Risk and Insurance and the Assistant Director, Legal Services.
- 22.5. All Contract awards over £100,000 (including VAT) must be submitted to the Contracts Assurance Board before being submitted for approval to the decision maker as set out in [CSO 22.1.](#)
- 22.6. Once the award decision has been made the relevant department should ensure that the supplier is set up on the Council's finance system. If the Contract is awarded to a new supplier, the department should request a new supplier set-up which will be approved by the Procurement Team on receipt of the final award report. All departments should raise purchase orders and approve invoices to pay suppliers through self-service on the Council's finance system. Officers should not undertake this for anyone outside of their own department. This way the approval goes to the responsible budget holder and the right teams can complete the good receipting when service or goods are received. No orders should be made without providing a valid purchase order, without this there is no approval to spend and the supplier will not be paid.

- 22.7. Where the report concerns the award of a Contract in excess of £300,000 (including VAT) in value or the expenditure is otherwise significant, then it is a Key Decision (see Article 12 of the [Constitution](#)) and must be submitted to Committee Services for publication on the Council's website. The award decision cannot be implemented without the expiry of the call-in period for that decision as shown on the website AND (if a Regulated Procurement) expiry of the Standstill Period (see [Appendix 8 and Appendix 9](#)).
- 22.8. Provided that the report has been approved in accordance with this [CSO 22](#) and any Standstill Period has expired, the Project Team shall ensure that the Contract Award Notice is published and that the Contract is entered into and arrange for the Assistant Director, Legal Services to seal the Contract on behalf of the Council. A Contract Award Notice must also be published where a Call-Off Contract is awarded under a Framework or Open Framework.
- 22.9. For all High Value Contracts, the Contract documentation must be concluded (including the formal execution of the Contract by all parties) before its commencement. Only in exceptional circumstances, and then only with the written consent of the Assistant Director, Legal Services, may a Contract commence based on an exchange of correspondence or letter of intent.
- 22.10. An electronic copy of the completed (dated) Contract must be uploaded to the Contracts Register along with a copy of the award report.

### **23. TERMINATION OF PROCUREMENT**

- 23.1. If the Council decides not to award a Contract after publishing a Tender Notice or Transparency Notice, the Council must publish a Procurement Termination Notice as soon as reasonably possible after making the decision.

### **24. DIRECT AWARDS**

- 24.1. The Council may direct award Above Threshold Contracts where the circumstances detailed in Sections 41 (special cases), 42 (to protect life, etc) and 43 (switching to direct award) of the PA 2023 apply. The Council must publish a Transparency Notice before awarding a Contract under Sections 41 to 43 of the PA 2023.
- 24.2. The requirement to publish a Transparency Notice does not apply in relation to the award of a Contract under Section 41 by virtue of paragraph 15 of Schedule 5 (where the Contract is for the supply of user choice services).

## SECTION E- WAIVER

### 25. GROUNDS FOR WAIVER

- 25.1. In the event that any requirement of these CSOs cannot be complied with, and this is for one of the reasons set out in [CSO 25.3](#) below, the SLT Member may apply for a waiver of the relevant CSO.
- 25.2. It should be noted that a waiver cannot be sought in relation to any legal requirements contained in the PA 2023, The Procurement Regulations 2024, PCR, PSR, as applicable, or other legislation. Any breaches are logged and reported to internal audit.
- 25.3. A waiver can only be granted where one of the following grounds applies:
- 25.3.1 Where the works, services, or supplies can only be supplied by a particular economic operator for any of the following reasons:
- 25.3.1.1 the procurement relates to unique work or intellectual property rights of the supplier; or
- 25.3.1.2 competition is absent for technical reasons; or
- 25.3.1.3 where there is no reasonable alternative or substitute in the market;
- provided that the reasons for the absence of competition is not due to an artificial narrowing of the Council's requirements;
- 25.3.2 the Contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
- 25.3.3 the circumstances of the proposed Contract are covered by legislative exemptions; or
- 25.3.4 the procurement will be run as Collaborative Procurement or other partnership arrangement with another public body, and the procurement procedures of that other public body will apply (see further [CSO 34](#));
- 25.3.5 The Council has no influence over supplier selection because:
- 25.3.5.1 The procurement activity is grant funded and the supplier is named as a condition of that funding; or
- 25.3.5.2 Where the Council is matching grant funding and the original grant has been given conditional on the use of a named supplier;
- 25.3.6 there are other circumstances which are genuinely exceptional.

## 26. AUTHORISING A WAIVER

- 26.1. The SLT Member shall prepare a waiver report in the standard form as set out below and submit the report to the appropriate decision maker as follows:

Contract Value	Form of request	Comments required from	Decision Maker
Waiver in relation to Low and Medium Value Contract	<a href="#">Waiver Request Form</a>	No comments required	Assistant Director, Procurement and Commercial on recommendation of the Contract Assurance Board
Waiver in relation to High Value Contracts	<a href="#">Waiver Request Form</a>	Assistant Director, Legal Services	For service contracts, S151 Officer on recommendation of the Contract Assurance Board For works Contracts below Works Threshold, Assistant Director, Procurement and Commercial and above that, S151 Officer on recommendation of the Contract Assurance Board

- 26.2. The [Waiver Request Form](#) shall **ONLY** seek a waiver of the relevant CSO and shall not include any other recommendations. A subsequent Procurement Strategy approval or award report will follow the provisions of CSOs as applicable.
- 26.3. Retrospective waivers cannot be granted but will be noted. This noting, along with the award report will enable you to set up the supplier on the financial system.
- 26.4. The Assistant Director Procurement and Commercial shall submit all waiver requests to the Contracts Assurance Board to make a recommendation to the decision maker.
- 26.5. A record of the decision and reasons will be kept by the Procurement Team. A report on all waivers shall be submitted to SLT Members quarterly and reviewed annually by the Audit Committee.

## SECTION F - POST AWARD/IN-CONTRACT DECISIONS

### 27. MODIFICATIONS (VARIATIONS) AND NOVATIONS

27.1. Approval must be sought for all variations, modifications and any novations to Contracts in accordance with this [CSO 27](#). **Note: extensions are dealt with in [CSO 28](#).**

27.2. The only exception to this is:

27.2.1 if the change is in relation to a construction Contract where provisional sums have been allowed for in the Contract sum and the change relates to instructing the expenditure required against those provisional sums, in which case the provisions of the Contract should be followed; or

27.2.2 the Contract allows for repeated orders for works, goods or services over its term, in which case the placing of an order is not a modification of the Contract where it is within the scope of that Contract and its order processes and any advertised estimated Contract value for the whole Contract is not exceeded (though new budgetary approval may still be required).

### 27.3. Modifications (except extensions) of Below Threshold Contracts and Light Touch Contracts

27.3.1 For all Low and Medium Value Contracts, and High Value Works Contracts below the Works Threshold where the proposed change in value is not modifying the current value by +/-10% or more, the SLT Member must be able to demonstrate the type of modification was provided for in the original Contract<sup>10</sup> and:

27.3.1.1 that the cumulative value of the modification plus any other previous modifications do not increase the total Contract value so that it exceeds the Relevant Thresholds; or

27.3.1.2 for construction or highways works only, that the works are covered by a contingency sum which was authorised as part of the award of the Contract, provided that the Contract was awarded in accordance with these Contract Standing Orders.

27.3.2 For all Low and Medium Value Contracts or High Value Works Contracts below the Works Threshold, where the proposed change in value is modifying the current value by +/-10% or more, approval shall be sought from the relevant SLT Member in consultation with the relevant Cabinet Member in accordance with [CSO 27.3.4](#) below

<sup>10</sup> Regulation 72 of the PCR or Section 74 and Schedule 8 of the PA 2023 (as applicable) may be used as a guide in determining whether or not to modify these Contracts. See Appendix 6.

- 27.3.3 The SLT Member shall prepare a record demonstrating that:
- 27.3.3.1 [CSO 27.3.1](#) has been complied with; and
  - 27.3.3.2 where [CSO 27.3.1.2](#) is relied upon, confirmation of the previous approval for the Contract; and
  - 27.3.3.3 details of the relevant budget for the modification.
- 27.3.4 The SLT Member (in consultation with the Cabinet Member where [CSO 27.3.2](#) applies) may then approve the modification subject to compliance with Financial Regulations.

#### **27.4. Modifications of Above Threshold Contracts (Regulated Procurements)**

- 27.4.1 Modification of an Above Threshold Contract, or one that has or will become an Above Threshold Contract when modifications and extensions are taken into account, are only permitted in accordance with [Regulation 72](#) of the PCR (if procured prior to the implementation of the PA 2023) or PA 2023 (if procured on and from 24<sup>th</sup> February 2025) under Section 74 of the PA 2023. See [Appendix 6](#) for details of the exemptions granted. A new procurement procedure in accordance with these CSOs is required where the proposed modifications are not permitted.
- 27.4.2 Modifications to all Above Threshold Contracts must first be referred to the Assistant Director, Legal Services and the Assistant Director Procurement and Commercial to ascertain whether the modification is permissible under the PCR, the PA 2023 or PSR as applicable.
- 27.4.3 Where the assessment under [CSO 27.4.1](#) determines that the proposed modification is permitted under regulation 72 of the PCR or Section 74 and Schedule 8 of the PA 2023, the SLT Member must prepare a report ([report template on the Intranet](#)) explaining:
- 27.4.3.1 how the modification is permitted under regulation 72 of the PCR or Section 74 and Schedule 8 of the PA 2023; and
  - 27.4.3.2 details of the relevant budget for the modification.
- 27.4.4 The SLT Member submits the report for decision by the relevant decision maker as follows:

<b>Type of Above Threshold (Regulated) Contract</b>	<b>Total Contract Value (including VAT) (aggregated with the previous modifications and extensions)</b>	<b>Decision Maker</b>
<b>Capital</b>	Services Threshold to £1.5m	relevant SLT Member



<b>Capital</b>	£1.5m and above where the value of the proposed modifications is less than +/-10% of the current Contract value	relevant SLT Member in consultation with the relevant Cabinet Member
<b>Capital</b>	£1.5m and above where the value of the proposed modification represents +/-10% or more of the current Contract value	Relevant Cabinet Member
<b>Revenue</b>	Services Threshold to below £0.5m	relevant SLT Member

<b>Type of Above Threshold (Regulated) Contract</b>	<b>Total Contract Value (including VAT) (aggregated with the previous modifications and extensions)</b>	<b>Decision Maker</b>
<b>Revenue</b>	Above £0.5m where the value of the proposed modification represents +/-10% or more of the current Contract value	relevant Cabinet Member
<b>Revenue</b>	Above £0.5m where the value of the proposed modification is less than +/- 10% of the current Contract value	relevant SLT Member in consultation with the relevant Cabinet Member

## 27.5. Modifications to Framework Agreement, Call-Off Contracts and Dynamic Markets under the PA 2023

27.5.1 If a Framework Agreement, Call-Off Contract or Dynamic Market is an Above Threshold Contract or a Convertible Contract, [CSO 27](#) will apply.

27.5.2 However, there are additional considerations as follows:

27.5.2.1 If the Council wishes to modify a Framework Agreement to extend it beyond the maximum term in Section 47(1) of

the PA 2023, it must satisfy both Section 74(1) and Section 47(2).

27.5.2.2 If the Council wishes to modify a Call-Off Contract using Schedule 8 paragraphs 5-7, the relevant Tender Notice or Transparency Notice will be the notices for the Framework.

27.5.2.3 If the Council wishes to modify a Call-Off Contract using Schedule 8 paragraph 1, the relevant information must be included in the Tender Notice or Transparency Notice for the Framework.

## **27.6. Voluntary Standstill Periods (PA 2023)**

27.6.1 When undertaking modifications under PA 2023, the Council may choose to implement a Voluntary Standstill Period under Section 76 PA 2023 before making the modification. This is recommended as best practice, apart from in instances where the nature (e.g. urgency) of the modification justifies not implementing a Voluntary Standstill Period.

27.6.2 The start of any Voluntary Standstill Period relating to modifications will be triggered by the publication of a Contract Change Notice which specifies that the Voluntary Standstill Period will apply as well as its length, the date that the Contract will be modified and the date that the modification will have effect.

27.6.3 A Voluntary Standstill Period may not be for a period of less than 8 working days beginning with the day on which the Contract Change Notice is published. During any Voluntary Standstill Period, the Council may not make any modification to the Contract.

27.6.4 The Voluntary Standstill Period will allow interested parties to consider the proposed modification before it is made. If a modification is challenged during the Voluntary Standstill Period, the Council will be prohibited from enacting the modification until the claim is resolved or the court lifts the prohibition.

## **27.7. Modifications to Contracts for Relevant Health Care Services**

Modifications of a Relevant Health Care Service Contract are only permitted in accordance with [Regulation 13](#) of the PSR. See [Appendix 6](#) for details of the exemptions granted. A new procurement procedure in accordance with these CSOs is required for proposed modifications which are not permitted.

## **27.8. Novations**

27.8.1 Where a Contract is to be transferred from one supplier to another, this is a 'novation'. It is more common where there is a business reorganisation or amalgamation within a wider group of companies. It is often the supplier who approaches the Council asking for approval to a novation, and at this point legal advice should be taken

immediately. Officers should not authorise invoices received from a new supplier in relation to the same service until the novation has been formally approved and implemented (normally a deed of novation is required).

- 27.8.2 A novation of an Above Threshold Contract, or one that has become an Above Threshold Contract when previous modifications and extensions are taken into account, is permissible if it falls within regulation [72\(1\)\(d\)](#) of the PCR or paragraph 9 of Schedule 8 of the PA 2023, as applicable.
- 27.8.3 Where a new supplier is proposed to replace the one to which the Contract was initially awarded, the SLT Member should follow [CSO 27.3](#) or [27.4](#) as applicable to the value of the Contract..
- 27.8.4 All novations will require legal advice, regardless of value, the cost of which must be recovered from the party requesting the novation. An undertaking to pay the legal fees is required at the beginning of the discussions.

## **28. CONTRACT EXTENSIONS**

- 28.1. All Contracts (irrespective of value) where the award of Contract decision referred to provision for a Contract extension AND the Contract terms made explicit provision for an extension shall be approved by the relevant SLT Member. All Contract extensions that do not meet the criteria will be treated as Contract modifications ([CSO 27](#)).
- 28.2. All contract extensions with a value over £100,000 (including VAT) must be considered at the Contracts Assurance Board before being submitted for approval to the relevant SLT Member.
- 28.3. An extension to an Above Threshold Contract, or one that has become an Above Threshold Contract when previous modifications and extensions are taken into account, is only permissible under this [CSO 28](#) if:
  - 28.3.1 the Contract includes a clear and unambiguous extension provision to extend the Contract term on the same terms and conditions and the price for the extension is either included in the Contract or the price is calculable with reference to review provisions within the Contract ([reg 72\(1\)\(a\)](#) of the PCR or paragraph 1 of Schedule 8 of the PA 2023, as applicable), OR
  - 28.3.2 one of the other regulation 72 PCR or Section 74 and Schedule 8 PA 2023 exemptions applies (see further [Appendix 6](#)).

In any event, legal advice must be sought as set out for modifications of Above Threshold Contracts in [CSO 27.4](#). In all cases evidence of supplier performance, Value for Money and benchmarking must accompany a request for an extension.

## 29. CONTRACT TERMINATION

- 29.1. Where the SLT Member considers that there is a need to prematurely terminate a Contract (or part of a Contract), the advice of the Assistant Director, Legal Services must be obtained and the Assistant Director Procurement and Commercial alerted.
- 29.2. A report is to be prepared incorporating the legal advice, and the decision to terminate is taken by:

Contract Value (including previous modifications and extensions)	Authorised Person
Up to £1,500,000 (including VAT)	SLT member in consultation with relevant Cabinet Member, the s151 Officer and Assistant Director, Legal Services
£1,500,000 up to £5,000,000 (including VAT)	The Cabinet Member(s)
Over £5,000,000 (including VAT)	Cabinet

- 29.3 Under Section 80 of the PA 2023 where a Contract is terminated, whether by discharge, expiry, termination by a party, rescission or set aside by court order, the Council must publish a Contract Termination Notice before the end of the period of 30 days beginning with the day on which the Contract was terminated<sup>29.4</sup>. The requirement to publish a Contract Termination Notice does not apply to 'user choice services' contracts that have been directly awarded in accordance with Schedule 5, paragraph 15 of PA 2023 (Section 80(4)(b) PA 2023).

## 30. CONTRACT MANAGEMENT

- 30.1. For all High Value Contracts or contracts which are considered high risk (which includes where breach would lead to reputational or high financial damage to the Council ), a Contract Manager must be identified during the Tender period and their details **must** be added to the Contracts Register under the entry for the relevant Contract. Where the Contract is considered high risk the need for a specific Contract Manager will be considered at the Contracts Assurance Board.
- 30.2. The Contract Manager must:
- 30.2.1 undertake appropriate risk assessments that have considered service continuity, health and safety, fraud and information management risks;
  - 30.2.2 maintain a risk register during the Contract period;
  - 30.2.3 ensure appropriate contingency measures are in place for identified risks;

- 30.2.4 escalate high risks to their Head of Service or Director and the relevant departmental management team;
- 30.2.5 formally review monthly and regularly monitor and report to the Procurement Team on:
  - 30.2.5.1 a supplier's performance;
  - 30.2.5.2 the regularity of meetings held with the supplier;
  - 30.2.5.3 risk management and any issues that have arisen (for example, reported fraud, information loss or breach of security, service continuity (credit worthiness), significant health and safety incidents) and how these are being addressed;
  - 30.2.5.4 compliance with specification and Contract costs and identifying as early as possible any potential over-spends;
  - 30.2.5.5 any Best Value requirements;
  - 30.2.5.6 user satisfaction; and
  - 30.2.5.7 the data quality and supplier information ensuring that it is fit for purpose.
- 30.2.6 Budget holders must check that services, goods and works have been delivered to the required standard before goods are 'received' and invoices approved. Officers checking and approving invoices must ensure invoices are in line with agreed Contracts and should challenge suppliers where necessary before any payments are made and ensure that any penalties or rebates are claimed.

### **30.3. Post-Contract Monitoring, Evaluation and Review**

All Above Threshold Contracts, or Contracts which are high risk, are subject to a post award:

- 30.3.1 audit or review at least once during the Contract term; and
- 30.3.2 a review evaluating the extent to which the purchasing need and the Contract objectives are met by the Contract. This should be undertaken normally when the Contract is completed. Where the Contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

## **SECTION G – FRAMEWORKS, OPEN FRAMEWORKS, DYNAMIC MARKETS AND DYNAMIC PURCHASING SYSTEMS (DPS)**

### **31. FRAMEWORKS AND DPS**

#### **Calling Off from Frameworks, Open Frameworks, Dynamic Markets and DPS:**

- 31.1. The availability of a Framework, Open Framework, Dynamic Market or DPS should be considered as early as possible in the procurement planning process, once the business need has been established.
- 31.2. Suppliers can be excluded from a Competitive Flexible Procedure where the suppliers are not members of a Dynamic Market or of the appropriate part of a Dynamic Market. The Council may not restrict the submission of Tenders by reference to a supplier's suitability to perform the Contract for Below Threshold Contracts (see Section 85 PA 2023). Therefore, the relevant Officer should seek advice from Legal Services where the Council intends to undertake a call for competition under a Dynamic Market for a Below Threshold Contract.
- 31.3. The Council cannot direct award a Contract under a Dynamic Market. If a direct award is made to a supplier on a Dynamic Market it is not awarded by reference to the Dynamic Market.
- 31.4. A Call-Off Contract from a Framework, Open Framework or call for competition under a Dynamic Market or DPS is still a Contract governed by these CSOs and should follow the process set out in these CSOs for identifying the business need, approval of Procurement Strategy and award of Contracts, unless a waiver has been granted. However, the competition process must be as set out in the relevant Framework, Open Framework, Dynamic Market or DPS.
- 31.5. Legal advice must be obtained in relation to any Above Threshold Contract which is proposed to be called off from a third-party Framework, Open Framework, Dynamic Market or DPS, to ensure that the Framework / Open Framework/ Dynamic Market / DPS was set up in a way that is compliant with the PCR, PA 2023, The Procurement Regulations 2024 and PSR, as applicable and that its proposed use is within the scope of the Framework, Open Framework, Dynamic Market or DPS.
- 31.6. Any DPS established under the PCR must come to an end as set out when established, or by 23<sup>rd</sup> February 2029 whichever is earlier. Contracts awarded under the DPS will continue until they come to an end and will be managed in accordance with the PCR even if the DPS has ended. A DPS can only be extended in the first twelve months after the PA 2023 comes into force and cannot be extended beyond 23<sup>rd</sup> February 2029.<sup>11</sup>
- 31.7. There will be a period where the Council can award contracts under a DPS or Framework procured under the PCR or under Frameworks, Open Frameworks

<sup>11</sup> Guidance Transitional and Saving Arrangements chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://assets.publishing.service.gov.uk/media/6698e1e49b9c0597daff46/Guidance\_-\_Transitional\_and\_Saving\_Arrangements\_FINAL\_v3\_.pdf

and Dynamic Markets established under the PA 2023. The Council should ensure that the rationale for the decision to procure using a particular tool is documented before the procurement is commenced.

### **Setting up a Council Framework Agreement, Open Framework or Dynamic Market**

- 31.8. The SLT Member may decide to establish a Framework, Open Framework, or Dynamic Market that the Council will call off from (and from which other public bodies may be entitled to call off - i.e. the Council would be the lead authority for the Framework/Open Framework). Where this is proposed the SLT Member shall follow the CSOs in the same way as usual, while recognising that the Council Framework or Open Framework may be with a single supplier or multi-supplier.
- 31.9. In order to assess the value of the Framework or Dynamic Market for the purpose of ascertaining which procedure to follow under these CSOs, the value of the Framework or Dynamic Market shall take into account the total estimated value of all anticipated Contracts to be awarded under the Framework, Open Framework or Dynamic Market inclusive of VAT, including by any third parties eligible to use the Council Framework Agreement/Open Framework/Dynamic Market.
- 31.10. A Call-Off Contract from a Council Framework, Open Framework or Dynamic Market is also governed by the CSOs. The SLT Member should consider what Call-Off Contracts are likely and as applicable seek authorisation for the awarding of the first Call-Off Contract. At the same time that the award decision is taken, the SLT Member shall appoint suppliers to the Framework or Open Framework.
- 31.11. The competitive selection process and stipulations regarding information to be included in a Framework relating to the future award of Contracts under a Framework without competition (Section 45(3)-(5) of PA 2023) do not apply to a Framework that is a Light Touch Contract.
- 31.12. If other contracting authorities may purchase through the Framework or Open Framework, include in the award report to appoint to the Framework /Open Framework/Dynamic Market/ an additional approval for the Council to enter into any ancillary documentation such as Access Agreements if applicable.
- 31.13. Before establishing a Dynamic Market, modifying a Dynamic Market or ceasing to operate a Dynamic Market the Council must publish a Dynamic Market Notice setting out the situation and any other information specified in Regulations 25 and 39 of The Procurement Regulations 2024.

## **SECTION H – EXEMPTED CONTRACTS**

### **32. UTILITY PROCUREMENT**

- 32.1. Due to the volatility of the energy market, prices of water, diesel, electricity, gas, oil and petroleum fluctuate on a daily basis and the sums quoted by Centralised Procurement Authorities / Central Purchasing Bodies in this sector require immediate acceptance. In order to achieve the best value for the Council all decisions relating to energy procurement including the Procurement Strategy, award and/or the variation of Contracts may be approved jointly by the Director of Finance and the Assistant Director for Assets. All decisions relating to the award of or variation of energy related Contracts will be reported to the Cabinet Member for Finance and Commercial Services for information purposes only.

### **33. APPOINTMENT OF EXTERNAL SOLICITORS, COUNSEL, EXPERTS WITHIN LEGAL PROCEEDINGS AND ARBITRATORS /ADJUDICATORS**

- 33.1. The Assistant Director, Legal Services commissions all external solicitors, counsel, experts within legal proceedings (actual or contemplated) and arbitrators /adjudicators.
- 33.2. Types of legal services that are exempt from the PA 2023 under paragraph 14 of Schedule 2 are those relating to judicial or other dispute resolution proceedings, notary services, services which must be carried out by a particular person under an order of a court, tribunal or enactment (e.g. legal services provided by appointed guardians). All other legal services not exempted under paragraph 14 are subject to the Light Touch Services requirements.
- 33.3. The engagement of barristers, experts and adjudicators/arbitrators in construction disputes shall be subject to completion of a formal letter, contract of appointment or brief. The barrister, expert or arbitrator /adjudicator or chambers must either be named in the relevant Contract for this purpose and the appointment shall be approved by the Assistant Director, Legal Services. The Assistant Director, Legal Services will determine the method of selection, likely to be appointed from a list maintained by a third party.
- 33.4. The engagement of external solicitors shall be made via the London Boroughs Legal Alliance Solicitors Framework, following a mini-competition exercise. In appropriate cases the Assistant Director, Legal Services may dispense with the requirement for a mini-competition exercise. Appointment shall be made by formal letter or appointment Contract, once approved by the Assistant Director, Legal Services. In exceptional cases the Assistant Director, Legal Services may authorise the use of external solicitors not on the London Boroughs Legal Alliance Solicitors Framework.

### **34. PARTNERSHIP WORKING AND COLLABORATIVE PROCUREMENT**

- 34.1. Partnership working with other local authorities or public bodies can achieve better results in a procurement process than the Council working alone. This goes wider than using a Framework, Open Framework, Dynamic Market or DPS set up by another public body, but also covers the forming a joint company/ shared service (see [CSO 34.4](#) below) or conducting a Collaborative Procurement.



- 34.2. There are various models for running a Collaborative Procurement, so legal and procurement advice should be sought at the earliest opportunity. Examples include:
- 34.2.1 a common 'Conditions of Participation' stage and specification but then the procurement diverging;
  - 34.2.2 jointly establishing a Framework, Open Framework or Dynamic Market for the participants to use;
  - 34.2.3 another local authority conducting a procurement on behalf of a wider group and appointing a supplier, so that the Council will only have a contractual relationship with the lead authority and not the supplier;
  - 34.2.4 a full partnership where all the participating local authorities are jointly contracting with the chosen supplier.
- 34.3. In nearly every case, the Collaborative Procurement will need to proceed with one of the participants as a lead contracting authority. In recognition of this, use of another public authority's contract procedures is a specific ground for waiving the Council's own CSOs (see [Section E CSO 25.3.4](#)).
- 34.4. The PA 2023 at Schedule 2 recognise two other models under which public authorities can work together where the relevant Contract between the public authorities will be considered to be exempt from the PA 2023. One is the vertical arrangement with formation of a joint "in-house" company, and the other is the horizontal arrangements, which is a co-operation model in the public interest. Legal advice must be taken at the earliest opportunity if either of these are being considered. Where one of these exemptions applies, a waiver of the competition requirements of these CSOs may be available under the "legislative exemption" ground (see [Section E CSO 25.3.3](#)).

## SECTION I - SPECIAL PROCEDURES

### 35. JOINT VENTURES

- 35.1. When appointing a joint venture partner, the advice of the Assistant Director, Legal Services must be sought.
- 35.2. These CSOs must be followed for the selection of the joint venture partner and any contracts which are subsequently awarded to the joint venture. Financial Regulations must also be complied with. There is also a requirement in [part 3 of the Constitution](#) for participation in a company to be approved by Full Council.

### 36. SOCIAL CARE, LIGHT TOUCH, SPOT/BLOCK PURCHASING OF DOMICILIARY CARE AND RESIDENTIAL AND NURSING CARE

- 36.1. The Council has certain statutory duties to provide, or arrange to provide, practical help or care services to individuals within the community or in a residential setting. Such arrangements may be made through existing Frameworks or Open Frameworks that the Council can call-off from (sometimes called umbrella agreements), through a block Contract (where the Council has contracted to purchase a block of hours of care/bed spaces without naming the individuals) or spot purchased for a particular individual or group of individuals. The Council must procure the services as Light Touch Contracts where the value exceeds the Light Touch Threshold. The Council should only consider spot purchasing for Below Threshold Contracts where the placement request cannot be met through the Council's other contracts, Frameworks, Open Frameworks or DPS's.
- 36.2. Block Contracts and any Hammersmith & Fulham Frameworks need to be procured in accordance with these CSOs. However, provided that the relevant value is below the Relevant Threshold, neither spot purchasing nor the placement of an individual into a setting in accordance with a block Contract or Framework or Open Framework are covered by these CSOs and a waiver is not required. However, the placement must be recorded in writing, incorporating a care plan for the individual.
- 36.3. The Council will maintain information on home care suppliers and suppliers of supported living, residential and nursing care placements that can be used for the spot purchase of care services. Such suppliers, whether or not covered by a block contract, Framework or Open Framework, must have met the minimum national standards laid down by the Care Quality Commission and any additional standards put in place by the Council.

### 37. COUNCIL SUPPLYING GOODS OR SERVICES TO OTHER BODIES

- 37.1. These CSOs do not apply to the putting in place of arrangements, whereby the Council provides goods or services to other public bodies except to the limited extent set out in this [CSO 37](#). Where this is proposed, legal advice must be taken at the earliest opportunity, particularly around the contract terms proposed by the purchaser and the risks (such as unlimited liability) that the Council is expected to take on under these terms. Financial Regulations must also be complied with.

- 37.2. Prepayment should be sought wherever possible, otherwise invoices must be raised promptly following provision of the goods or service and in accordance with established payment terms. Early and prompt action must be taken to collect debts and recover any arrears in accordance with Council's Income Management policy.
- 37.3. Approval for the Council entering into the arrangement shall be taken by the SLT Member.

### **38. RELEVANT HEALTH CARE SERVICES CONTRACTS**

- 38.1. When procuring Relevant Health Care Services in accordance with the PSR the SLT Member must be satisfied there is a business need for the Contract (see [CSO 4.1](#)). The SLT Member must also ensure that a Contract estimate is calculated and recorded, which will determine the process to be followed to approve the Procurement Strategy and the Contract award.
- 38.2. The PSR provides for three direct award processes (Direct Award Process A, Direct Award Process B and Direct Award Process C), a Competitive Process and Most Suitable Provider Process as further detailed at [Appendix 9](#).

## SECTION J - ELECTRONIC COMMUNICATIONS

### 39. ELECTRONIC COMMUNICATIONS REQUIREMENTS

- 39.1. When carrying out a Covered Procurement, the Council is required by Section 96 of PA 2023 to, so far as practicable, communicate electronically with Bidders and suppliers and to take steps to ensure that Bidders and suppliers also communicate electronically.
- 39.2. The Council should therefore ensure that it utilises:
- 39.2.1 emails;
  - 39.2.2 e-procurement systems (e.g. the eProcurement System);
  - 39.2.3 virtual conferencing; and
  - 39.2.4 share or publish key information electronically
- 39.3. Where electronic communication is not practicable or possible in any instance, the Council should still record any non-electronic communications and subsequently share any relevant information electronically with Bidders and suppliers.
- 39.4. As required by Section 96(2) PA 2023, the Council must ensure that all Electronic Communication Systems remain:
- 39.4.1 free of charge and readily accessible to Bidders and suppliers;
  - 39.4.2 generally available, or interoperable with other generally available systems; and
  - 39.4.3 accessible to people with disabilities.
- [CSO 39.4.1](#) does not apply after the award of the Contract.
- 39.5. This [CSO 39](#) does not apply if the Council is satisfied that electronic communication, or compliance with [CSO 39.4](#), poses a particular security risk in the specific procurement. However, the Council should still use a system which aligns with as many of the Section 96 PA 2023 requirements as possible, whilst making any necessary alterations to account for security risks.
- 39.6. These requirements, apart from the explicit exemptions outlined in this [CSO 39](#), apply from the start of a procurement and until the awarded Contract ends.

## Appendix 1: Glossary

Defined Term	Definition/Description
Above Threshold Contract	A Contract, Framework, Open Framework, or DPS with a value above the Relevant Threshold set under the PCR, PA 2023 and The Procurement Regulations 2024(see <a href="#">Appendix 2</a> ) and represent Public Contracts as defined in the PA 2023.
Above Threshold Elements	Elements of a proposed Contract which would amount to an Above Threshold Contract if entered into by the Council.
Access Agreement	An agreement providing access to one party to call off a Framework, Open Framework, Dynamic Market or DPS owned or operated by another party.
Anti-Bribery Policy	The Council's Anti-Bribery Policy which can be found at <a href="https://democracy.lbhf.gov.uk/documents/s122282/Appendix%202%20-%20Anti-Bribery%20Policy.pdf">https://democracy.lbhf.gov.uk/documents/s122282/Appendix%202%20-%20Anti-Bribery%20Policy.pdf</a> _____
Assessment Summaries	Summary issued before the Contract Award Notice. Issued to each supplier that submitted an assessed Tender providing information about its assessment of the Tender, and if different, the winning Tender.
Assistant Director for Assets	Referred to at <a href="#">CSO 31.1</a> . The Assistant Director for Assets having overall responsibility for Assets.
Assistant Director, Legal Services	The Assistant Director, Legal Services of the Council having overall responsibility for the provision of legal advice in relation to all the Council's functions or such others authorised by him/her.
Assistant Director, Procurement and Commercial	The Assistant Director, Procurement and Commercial having overall responsibility for these functions for the Council.
Audit Committee	A committee of the Council which operates in line with the Council's constitution.
Award Criteria	The evaluation criteria applied during a Tender process in order to determine the most advantageous tender, using a combination of price and quality.
Below Threshold Contract	A Contract, Framework, Open Framework, or DPS with a value below the Relevant Threshold set under the PCR, PA 2023 and The Procurement Regulations 2024 (see <a href="#">Appendix 2</a> ).

Defined Term	Definition/Description
Below Threshold Elements	Elements of a proposed Contract which would amount to a Below Threshold Contract if entered into by the Council.
Below Threshold Tender Notice	As described in <a href="#">Appendix 11</a> .
Best Value Duty	The duty on local authorities to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness, as set out in the Local Government Act 1999.
Bidder	A partnership, firm or organisation who submits a Tender to the Council.
Business Case	A document used to obtain management commitment and approval for investment in business change, which alters the way that suppliers are selected and goods and services are purchased, or how the Council delivers a service. It provides a framework for planning and management of this change and ongoing identification of risks. The viability of the resulting project will be judged on the contents of the Business Case.
Cabinet	The executive committee of the Council, made up of all the Cabinet Members.
Cabinet Member	A member of the Cabinet as appointed by the Leader.
Cabinet Member for Finance and Commercial Services	A member of the Cabinet in the Finance and Commercial Services department.
Call-Off Contract	A Contract which is called off from a Framework or Open Framework.
Capital Contract	A Contract involving expenditure incurred in acquiring, constructing or enhancing of property, plant or equipment, but excludes day to day servicing, repairs and maintenance.
Care Quality Commission	An executive non-departmental public body, sponsored by the Department of Health and Social Care and which regulates all health and social care services in England.
Central Digital Platform	The online system established for the purpose of publishing notices, documents or information.

Defined Term	Definition/Description
Centralised Procurement Authority	As defined in the PA 2023, being another contracting authority that is in the business of carrying out procurement for or on behalf of, or for the purpose of the supply of goods, services or works to, other contracting authorities.
Centralised Purchasing Body	As defined in the PCR, being another contracting authority which: (i) acquires goods or services intended for one or more contracting authorities; (ii) awards public contracts intended for one or more contracting authorities; or (iii) concludes Frameworks for work, goods or services intended for one or more contracting authorities.
Code of Conduct	The code regulating conduct of members and officers of the Council forming part of the Constitution.
Collaborative Procurement	A procurement exercise run jointly with other public bodies and in which the Council participates.
Competitive Flexible Procedure	A procedure which the Council considers appropriate for the purpose of awarding the Contract (Section 20(2)(b) of the PA 2023).
Competitive Process	A competitive procurement process for Relevant Health Care Services in accordance with Regulations 6 and 11 of PSR.
Competitive Tendering Procedure	Means either the Open Procedure or Competitive Flexible Procedure, as relevant.
Concession Contract	A binding agreement made between two or more parties for supply of services or works where at least part of the consideration for the supply is a right for the supplier to exploit the works or services and the supplier is exposed to a real operating risk (being a risk that the supplier will not be able to recover its costs where the factors are reasonably foreseeable at the time of award and arise from matters outside the control of the Council and the supplier).
Conditions of Participation	The conditions that the supplier must satisfy in order to be awarded the Contract following a Competitive Tendering Procedure. The conditions must be a proportionate means of assessing the supplier's: (i) legal and financial capacity; or (ii) technical ability  to perform the Contract;

Defined Term	Definition/Description
	The Council may utilise the Procurement Specific Questionnaire (PSQ) template issued by Central Government and can be found here <a href="https://www.procurementpathway.civilservice.gov.uk/documents/template/pa-2023-procurement-specific-questionnaire/business-need">https://www.procurementpathway.civilservice.gov.uk/documents/template/pa-2023-procurement-specific-questionnaire/business-need</a>
Constitution	The Council's Constitution, which sets out how the Council operates, decisions are made and its procedures. ( <a href="#">Constitution</a> ).
Contract	A binding agreement made between two or more parties for the supply of goods or services or the delivery of works, which is intended to be enforceable at law, and to which these CSOs apply pursuant to <a href="#">CSO 2</a> .
Contract Award Notice	As described in <a href="#">Appendix 11</a> .
Contract Change Notice	As described <a href="#">Appendix 11</a> .
Contract Details Notice	As described in <a href="#">Appendix 11</a> .
Contract Manager	The Council officer who manages a Contract awarded by the Council.
Contract Officer	An officer of the Council designated by the SLT Member to deal with procurement of a specific Contract.
Contract Performance Notice	As described in <a href="#">Appendix 11</a> .
Contract Standing Orders (CS or CSOs)	This set of rules forming part of the Council's Constitution.
Contract Termination Notice	As described in <a href="#">Appendix 11</a> .
Contracts Assurance Board	The main internal board for assuring draft decision reports ahead of these being provided to decision makers. It is not a decision-making body.
Contracts Register	A register of the Contracts in place across the Council with a value of £5,000 (including VAT) or above. Additionally, to include an electronic copy of the Contract if valued at £10,000



Defined Term	Definition/Description
	(including VAT) or more, forming part of the eProcurement System.
Convertible Contract	A Contract that, as a result of modification under PA 2023, will become a Public Contract.
Council	London Borough of Hammersmith and Fulham.
Council Policy	Referred to in <a href="#">Appendix 5</a> .
Covered Procurement	The award, entry into and management of a Public Contract.
Deed	The legal term for a particular form of Contract with particular requirements as to its execution (i.e. signature). The execution of a Contract as a Deed extends the limitation period from 6 years to 12 years. All contracts with a value of £100,000 (including VAT) or more must be executed as Deeds and sealed by the Council.
Direct Award Process A	A direct award process for Relevant Health Care Services in accordance with regulations 6 and 7 of PSR.
Direct Award Process B	A direct award process for Relevant Health Care Services in accordance with regulations 6 and 8 of PSR.
Direct Award Process C	A direct award process for Relevant Health Care Services in accordance with regulations 6 and 9 of PSR.
Director of Audit, Fraud, Risk and Insurance	The Director of Audit, Fraud, Risk and Insurance.
Director of Finance and Corporate Resources	The Director of Finance and Corporate Resources whose responsibilities are set out in the Constitution.
Dynamic Market	Defined in the PA 2023 as an arrangement for the purpose of a contracting authority awarding Public Contracts by reference to suppliers' participation in the arrangements.
Dynamic Market Notice	As described in <a href="#">Appendix 11</a> .
Dynamic Purchasing System (DPS)	Defined in the PCRs as a type of approved list. Prices have not been provided but those on the DPS have fulfilled minimum standards. It can be used for High Value Call-Off Contracts. A dynamic purchasing system must remain open to new

Defined Term	Definition/Description
	applicants to join at any time and “mini-competition” exercises have to be carried out to place specific contracts.
Electronic Communication System	Any electronic system used for the purpose of communication with suppliers (e.g. the eProcurement System).
Estimated Value	The value of the Contract as estimated by the SLT Member in line with <a href="#">Appendix 3</a> . When considering Contract modifications, the ‘Estimated Value’ will be the Estimated Value immediately before the modification is made.
Evaluation Panel	The panel established to evaluate a tender.
eProcurement System	The electronic procurement system approved for use by the Section 151 Officer for the management of all procurement activity across the Council.
Extension	An amendment to a Contract allowing for an extended term compared to the original term.
Financial Regulations	The financial regulations approved by the Council and issued by the Section 151 Officer forming part of the Council’s Constitution.
Financial Year	The annual period commencing on 1 April and ending on 31 March.
Framework	A contractual arrangement (let in accordance with Sections 45 to 48 of the PA 2023 unless the value of all purchases through the Framework is estimated to be Below Threshold / or regulation 16 of PSR) that can be up to 4 years in duration (save where the Framework is an Open Framework or Light Touch Contract) and provides a mechanism for the Council to place individual Call-Off Contracts for goods, works or services.
Framework Agreement	An agreement which formalises the Framework.
Gifts and Hospitality Policy	The Council’s policy on gifts and hospitality which can be located at <a href="https://democracy.lbhf.gov.uk/documents/s122282/Appendix%20-%20Anti-Bribery%20Policy.pdf">https://democracy.lbhf.gov.uk/documents/s122282/Appendix%20-%20Anti-Bribery%20Policy.pdf</a>
Head of Service	The officer responsible for the service area.

Defined Term	Definition/Description
High Value Contract	A Contract where the Estimated Value (or subsequent to a procurement exercise, the actual value) is at or above the Services Threshold.
Income Management Policy	Council's Financial Regulations.
Invitation to Tender	Invitation to Tender documents in the form required by these CSOs or published on the Council's intranet.
Key Decision	<p>An executive decision which is likely to:</p> <ul style="list-style-type: none"> <li>(i) result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council's budget for the service or function to which the decision relates; and/or</li> <li>(ii) be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority. (However, where practicable, the Council will also treat as "key" any decisions which have a significant effect on one ward).</li> </ul>
Key Performance Indicator (KPI)	<p>A factor or measure against which a supplier's performance of a Contract can be assessed during the life-cycle of the Contract.</p> <p>Please see Section 52 PA 2023 for further detail.</p>
Light Touch Contract	A Contract entered into for the supply of Light Touch Services.
Light Touch Services	The services of a kind specified in Schedule 1 of The Procurement Regulations 2024.
Light Touch Threshold	The threshold for Light Touch Services set under the PA 2023 as set out in <a href="#">Appendix 2</a> .
Living Wage Foundation	See <a href="#">Appendix 3</a> Para 2.4.2. Do not believe this needs to be defined.
Local and SME/VCSE Provision	As defined in <a href="#">CSO 4.9</a> .
Low Value Contract	A Contract where the Estimated Value (or subsequent to a procurement exercise, the actual value) is less than £30,000 (including VAT).

Defined Term	Definition/Description
Medium Value Contract	A Contract where the Estimated Value (including VAT) (or subsequent to a procurement exercise, the actual value) is from £30,000 (including VAT) to below (but not including) the Services Threshold.
Monitoring Officer	The Monitoring Officer of the Council reports on matters they believe to be illegal or amount to maladministration, to be responsible for matters relating to the conduct of councillors and officers and to be responsible for the operation of the Council's Constitution. They are often, but not always, the head of legal services in a local authority.
Most Suitable Provider Process	A competitive procurement process for Relevant Health Care Services in accordance with regulations 6 and 10 of PSR.
National Procurement Policy Statement (NPPS)	See <a href="#">CSO 1.7</a> . The National Procurement Policy Statement which requires contracting authorities to have regard to national strategic priorities for public procurement.
Nominated Supplier and Nominated Sub-contractor	Those persons or organisations specified by the Council in a Contract for the discharge of any part of that Contract.
Non-commercial Considerations	Matters designated as such under Section 17 of the Local Government Act 1988, i.e.: <ul style="list-style-type: none"> <li>(i) Whether the terms on which suppliers' contract with their Sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.</li> <li>(ii) Any involvement of the business activities or interests of suppliers with irrelevant fields of government policy.</li> <li>(iii) The conduct of suppliers or workers in industrial disputes between them or any involvement of the business activities of suppliers in industrial disputes between other persons.</li> <li>(iv) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, suppliers.</li> <li>(v) Any political, industrial or sectarian affiliations or interests of suppliers or their directors, partners or employees.</li> <li>(vi) Financial support or lack of financial support by suppliers for any institution to or from which the authority gives or withholds support.</li> </ul>

Defined Term	Definition/Description
	<p>(vii) Use or non-use by suppliers of technical or professional services provided by the authority under the Building Act 1984.</p> <p>Note: the duty not to have regard to Non-commercial Considerations is modified to the extent that the Council considers this necessary or expedient in order to comply with its duties under the Public Services (Social Value) Act and the PSED.</p>
Notifiable Below Threshold Contract	A Contract that is a Regulated Below Threshold Contract with an estimated value of not less than £30,000 (including VAT).
Open Framework	A scheme of Frameworks that provide for the award of successive Frameworks on the same terms (let in accordance with Section 49 of the PA 2023) with the final Framework expiring at the end of 8 years from the day on which the first Framework was awarded and provides a mechanism for the Council to place individual Call-Off Contracts for goods, works or services.
Open Procedure	A single-stage tendering procedure without restriction of who can submit Tenders (Section 20(2)(a) of the PA 2023).
Parent Company Guarantee	A guarantee which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a Contract with the Council, under the terms of the guarantee, the Council can require the parent company to do so instead or pay money in lieu.
Participating Suppliers	A supplier who has submitted a request to participate in, or Tender, as part of, the Competitive Tendering Procedure and has not been excluded (Section 31(7) PA 2023).
Payment Compliance Notice	As described in <a href="#">Appendix 11</a> .
PCR	The Public Contracts Regulations 2015 SI 2015/102 (largely commencing 26 February 2015) (which implements the EU Directive 2014/24/EU into UK law) as amended or replaced including amendments introduced by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020.
Personnel Procedure	These are located on the intranet for use in staffing matters.
Pipeline Notice	As described in <a href="#">Appendix 11</a> .

Defined Term	Definition/Description
Planned Procurement Notice	As described in <a href="#">Appendix 11</a> .
Preliminary Market Engagement Notice	As described in <a href="#">Appendix 11</a> .
Procurement Act 2023 (“PA 2023”)	The Procurement Act 2023 which received Royal Assent on 26 <sup>th</sup> October 2023.
Procurement Strategy	The strategy for a procurement as decided upon by the SLT Member and which must be approved for High Value Contracts in line with <a href="#">CSO 18</a> .
Procurement Team	The department within the Council which undertakes and manages procurements. <a href="mailto:procurement@lbhf.gov.uk">procurement@lbhf.gov.uk</a>
Procurement Termination Notice	As described in <a href="#">Appendix 11</a> .
Project Team	The team that manages the procurement process.
Public Contract	Any Contract for the supply, for pecuniary interest, of goods, services or works to the Council, or any Framework or Concession Contract which:  (i) has an Estimated Value of not less than the Relevant Threshold for the type of Contract, and  (ii) is not an exempted Contract  and is synonymous with the definition for Above Threshold Contracts.
Public Sector Equality Duty (PSED)	The Public Sector Equality Duty or PSED covers the following characteristics (known as “Protected Characteristics”):  (i) Age (ii) Disability (iii) Gender reassignment (iv) Pregnancy and maternity (v) Race (vi) Religion or belief (vii) Sex (gender) (viii) Sexual orientation

Defined Term	Definition/Description
	<p>(ix) Marriage and civil partnership (only in respect of the requirement to have due regard to the need to eliminate discrimination)</p> <p>The Council is subject to the Public Sector Equality Duty and must, in the exercise of its functions, have due regard to the need to:</p> <p>(i) eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;</p> <p>(ii) advance equality of opportunity between people who share a protected characteristic and those who do not; and</p> <p>(iii) foster good relations between people who share a protected characteristic and those who do not.</p> <p>The Equality Act 2010 states that meeting the needs of a disabled person involves taking steps to take account of a disabled people's disabilities. It describes fostering good relations as tackling prejudice and promoting understanding. It states that compliance with the duty may involve treating some people more favourably than others (within the limits of what is permitted under the Equality Act 2010).</p>
Quotation	A quotation of a price for the provision of services, works or supplies without assessment of any quality aspects.
Quote	An invitation-only procurement route whereby the Council seeks Quotations.
Register of Gifts and Hospitality	See <a href="#">Appendix 5</a> . The Register which should be completed in line with the Council's Gifts and Hospitality Policy.
Regulated Below Threshold Contracts	A Contract which is not an exempted Contract, Concession Contract or utilities contract which is the below the relevant Services, Works, Light Touch Threshold.
Regulated Health Procurement	The procurement of goods or services by a relevant authority that is subject to provision made under Section 12ZB of the National Health Service Act 2006.
Regulated Procurement	A procurement exercise for a Contract, Framework, Open Framework, Light Touch Contract, Dynamic Market or DPS that has an estimated value that exceeds the Relevant threshold and is subject to the full extent of PA 2023.
Relevant Health Care Services	Health care services which fall within one or more of the CPV codes specified in Schedule 1 of the PSR.



Defined Term	Definition/Description
Relevant Health Care Services Contracts	Contracts for Relevant Health Care Services.
Relevant Threshold	The relevant threshold above which the Contract is to be procured as required under the PA 2023, as set out in <a href="#">Appendix 2</a> .
Revenue Contract	A Contract involving expenditure incurred in the day to day operations of the Council.
S151 Officer	The officer responsible for making the necessary arrangements for local financial and management controls, under Section 151 of the Local Government Act 1972.
Services Threshold	The threshold for proposed contracts for services (except Light Touch Services) and supplies set under the PA 2023 and the Procurement Regulations 2024, as set out in <a href="#">Appendix 2</a> .
Small and Medium sized Enterprises (SMEs)	A company that meets 2 of the following criteria: (i) <a href="#">A turnover</a> of no more than £44 million. (ii) No more than 250 employees (iii) Gross assets (balance sheet total) of no more than £38 million.
Social Value	The economic, social and environmental well-being of the area or areas of the one or more relevant authorities on whose behalf a public services Contract is, or Contracts based on a Framework Agreement are, intended to be made.
Strategic Leadership Team (SLT) Member	Officers who are a member of the Strategic Leadership Team.
Sub-contractor	A sub-contractor of a supplier.
Standstill Period	For Above Threshold Contracts the period of 8 working days set out in the PA 2023 or for Relevant Health Care Service Contracts the period as specified in PSR for the particular process, after notification of an award decision to Bidders, during which the Contract must not be entered.
Tender	A Bidder's proposal submitted in response to an Invitation to Tender from the Council to be assessed on the basis of a combination of price and quality.
Tender Notice	As described in <a href="#">Appendix 11</a> .



Defined Term	Definition/Description
The Procurement Regulations 2024	The Procurement Regulations 2024/692.
The Provider Selection Regime ("PSR")	The Health Care Services (Provider Selection Regime) Regulations 2023/1348.
Trade Journal	An alternative means to alert businesses, particularly small businesses of Tender opportunities.
Transparency Notice	As described in <a href="#">Appendix 11</a> .
Value for Money	Value for money is not the lowest possible price; it requires assessment of goods or services that fully meet the Council's needs, combined with the level of quality required, delivery at the time you need it, and at an appropriate price.
VAT	E.g. Value Added Tax in accordance with the provisions of the Value Added Tax Act 1994.
Voluntary, Community and Social Enterprise (VCSEs)	<p>An incorporated voluntary, community or social enterprise organisation which serves communities solely within England and which is either:</p> <ul style="list-style-type: none"> <li>(i) a charity, Community Interest Company or Community Benefit Society, registered with the relevant registry body; or</li> <li>(ii) an unregulated organisation that meets the relevant criteria.</li> </ul>
Voluntary Standstill Period	A Standstill Period which the Council voluntarily enters into under Section 51 or Section 76 of the PA 2023 and which must not be less than a period of 8 working days beginning with the day on which the Contract Award Notice or Contract Change Notice is published, as appropriate.
Waiver Request Form	The form which should be submitted to the relevant decision maker in <a href="#">line</a> with <a href="#">CSO 26</a> . <a href="https://officesharedservice.sharepoint.com/sites/Governance/SitePages/Reports.aspx">https://officesharedservice.sharepoint.com/sites/Governance/SitePages/Reports.aspx</a>
Works	Are described in Schedule 3 of the Procurement Regulations 2024.
Works Threshold	The threshold for Works set under the PA 2023, as set out in <a href="#">Appendix 2</a> .

## Appendix 2: Relevant Thresholds

The PA 2023 and The Procurement Regulations 2024 apply to Contracts when the estimated value equals or exceeds the Relevant Threshold.

The Relevant Thresholds for the purposes of the PA 2023 and The Procurement Regulations 2024 as of 24<sup>th</sup> February 2025 are as detailed below. Please ensure you check the current thresholds detailed at <https://www.gov.uk/government/publications/ppn-1123-new-thresholds/procurement-policy-note-1123-new-thresholds-html>.<sup>12</sup>

Threshold	Threshold Value
Services Threshold	£214,904
Works Threshold	£5,372,609
Contracts for the provision of Light Touch Threshold including:  Health, social and related services  Administrative social, educational, healthcare and cultural services  Compulsory social security services  Benefit services  Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services  Religious services  Hotel and restaurant services  Legal services, to the extent not excluded by paragraph 14 of Schedule 2 of the PA 2023  Other administrative services and government services  Provision of services to the community	£663,540

<sup>12</sup> The above thresholds came into force on 1 January 2024. The thresholds are generally revised every 2 years.

Threshold	Threshold Value
Prison related services, public security and rescue services to the extent not excluded by paragraph 20 of Schedule 2 of PA 2023  Investigation and security services  International services  Postal services  International services; and  Miscellaneous services	
Concession Contract Threshold	£5,372,609

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### **Appendix 3: Contract Value and Contracts Requirements**

#### **1. TOTAL VALUE OF A CONTRACT**

- 1.1 The total value of the Contract is the whole of the value or estimated value (in money or equivalent value) inclusive of VAT. It should include all money to be paid whether in instalments or whether it is paid or received by the Council (though see below for Concession Contracts) and taking account of any potential variables such as options to supply additional goods/services/works and including the value of any goods, services or works provided by the Council under the Contract other than for payment. The total value of the Contract is calculated from the start date of the Contract to its conclusion, including any possible extension provisions.
- 1.2 The total value shall be calculated as follows:
  - 1.2.1 Where the Contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period.
  - 1.2.2 Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions over the term of the Contract. This may be by assessing how many orders are likely to be placed during a 12-month period and multiplying it by the number of years of the term. If the Contract is for a rolling term a minimum term of 4 years must be assumed for the purposes of the calculations under this paragraph 1.2.2.
  - 1.2.3 For pilots which may be rolled out in the event of a successful pilot, the value shall be the total value of the pilot and the roll out.
  - 1.2.4 For Nominated Suppliers and Sub-contractors, the total value shall be the value of that part of the main Contract to be fulfilled by the Nominated Supplier or Sub-contractor.
  - 1.2.5 Where an in-house service supplier is tendering, by taking into account redundancy and similar/associated costs if they are not successful.
- 1.3 For Framework Agreements, the estimated Contract value is the value of all Contracts that could be awarded under the Framework Agreement. Open Frameworks must be valued by including the value of all the frameworks that could be awarded under the Open Framework and therefore the value of all such Contracts that could be awarded under each of the framework agreements under the Open Framework.
- 1.4 For Concession Contracts, the estimated Contract value must be based on the maximum amount the supplier would expect to receive under or in connection with the Concession Contract inclusive of VAT. This means that the value is the total estimated turnover (income) generated by the supplier throughout the lifetime of the proposed Concession Contract

including any potential extensions (inclusive of VAT). It is incorrect to use only the value of any payment made by the Council to the supplier to estimate the value of a Concession Contract.

- 1.5 For Relevant Health Care Services Contracts, the estimated Contract value should be treated as exclusive of VAT. This is because healthcare and medical services are generally exempt from VAT and the Provider Selection Regime does not provide any clarity on whether the values contained within the Provider Selection Regime are inclusive or exclusive of VAT. References to values 'including VAT' throughout the CSOs should be ignored for Relevant Health Care Services Contracts.
- 1.6 Where the Council is unable to estimate the value of the Contracts, the Contracts are deemed to be above the relevant threshold.

## 2. **CONTRACT REQUIREMENTS**

- 2.1 All Contracts shall be in writing and in a format approved by the Assistant Director, Legal Services. They must not include Non-commercial Considerations. Irrespective of value, they must clearly specify:
  - 2.1.1 the works, goods, materials or services to be carried out, furnished or provided (description and quality);
  - 2.1.2 the price or rates to be paid, together with a statement of any discounts or other deductions (amount and timing) which apply;
  - 2.1.3 the time, or times, within which the Contract is to be performed; and
  - 2.1.4 all other contractual terms, which will be based upon:
    - 2.1.4.1 the Council's standard terms & conditions; or
    - 2.1.4.2 standard terms and conditions issued by a relevant professional body (e.g. JCT or NEC in relation to construction related works); or
    - 2.1.4.3 bespoke terms & conditions drafted by the Assistant Director, Legal Services.
- 2.2 In addition, every Contract of purchase over £30,000 (including VAT) must also as a minimum state clearly:
  - 2.2.1 that the supplier may not assign or sub-contract without prior written consent of a SLT Member (and where it is a "sub-contract", written consent of a Contract Manager;
  - 2.2.2 any insurance requirements;
  - 2.2.3 health and safety requirements;
  - 2.2.4 ombudsman requirements;

- 2.2.5 Freedom of Information Act 2000 obligations;
  - 2.2.6 Civil Contingencies Act 2004 requirements;
  - 2.2.7 business continuity, if relevant;
  - 2.2.8 data protection requirements, if relevant;
  - 2.2.9 that charter standards are to be met, if relevant;
  - 2.2.10 equalities and other diversity related requirements;
  - 2.2.11 (where agents are used to let Contracts) that agents must comply with the Council's CSOs relating to Contracts;
  - 2.2.12 provisions which comply with [CSO 7.3](#); and
  - 2.2.13 a right of access to relevant documentation and records of the supplier for monitoring and audit purposes, if relevant.
- 2.3 Where it is proposed to use a supplier's own terms, the advice, and for High Value Contracts the agreement, of the Assistant Director, Legal Services must be sought in relation to any terms and conditions which differ from the Council's standard terms.
- 2.4 Payment Terms:
- 2.4.1 In accordance with Section 68 of the PA 2023<sup>13</sup>, the Council must pay valid and undisputed invoices to suppliers within 30 days. The Council must also require in its Contracts that all suppliers pass on to their Sub-contractors no less favourable payment terms than they receive from the Council. The Council must publish a Payment Compliance Notice<sup>14</sup> on the Central Digital Platform before the end of 30 days beginning with the last date of a reporting period if during that period:
    - 2.4.1.1 the Council has made a payment under a High Value Contract;
    - 2.4.1.2 a sum owed by the Council under a High Value Contract became payable.
  - 2.4.2 The Council is Living Wage Foundation accredited. The accreditation requires that all suppliers/Sub-contractors

<sup>13</sup> Section 68 (Implied payment terms in public contracts) PA 2023 will come into effect after 24<sup>th</sup> February 2024, date to be determined on such day as a Minister of the Crown may by regulations appoint (Section 127(2) PA 2023)

<sup>14</sup> Section 70 (Information about payments under public contracts) PA 2023 will come into effect after 24<sup>th</sup> February 2024, date to be determined on such day as a Minister of the Crown may by regulations appoint (Section 127(2) PA 2023)

working on Council contracts are paid in line with or above the [London Living Wage Foundation rates](#).

- 2.4.3 Suppliers will be required to demonstrate how they will allow the Council to monitor the timescales within which they pay their Sub-contractors.

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#### Appendix 4: Summary of Approvals

The following is a summary of the approval processes for pre-procurement strategy and Contract awards.

Type of contract	Value	Procurement Strategy	Award Approval
All Low Value and Medium Value Contracts (i.e. Services Threshold)	Up to Services Threshold	Not required	SLT Member
Revenue Contracts	From Services Threshold up to £0.5m	SLT Member in consultation with Cabinet Member	SLT Member in consultation with Cabinet Member
Revenue Contracts	£0.5m to £5m	Cabinet Member	Cabinet Member
Revenue Contracts	Over £5m	Cabinet	Cabinet Member
Capital Contracts	From Services Threshold to £1.5m	SLT Member in consultation with Cabinet Member	SLT Member in consultation with Cabinet Member
Capital Contracts	£1.5m - £5m	Cabinet Member	Cabinet Member
Capital Contracts	Over £5m	Cabinet	Cabinet Member

Note: an approval of an award of Contract shall also by implication include approval for the Council to enter into the following associated documents:

1. Access Agreements where (a) the Council is the Framework or Open Framework owner and uses Access Agreements to enable other public bodies to join, or (b) which the Council needs to enter into in order to use a third-party Framework or Open Framework;
2. Performance bonds and parent company guarantees; and
3. Collateral warranties with Sub-contractors of the appointed supplier.



**Table 2: Approval levels for waivers, modifications, extensions, and terminations**

The following is a summary of the approval processes for Waivers, Contract Modifications, extensions and Terminations.

Type of contract	Value	Modifications	Extensions	Terminations	Waiver
All Low Value and Medium Value Contracts	Up to Services Threshold	SLT Member	SLT Member	SLT Member	Assistant Director, Procurement and Commercial on recommendation of the Contracts Assurance Board
Revenue Contracts	Services Threshold £0.5m to	SLT Member	SLT Member in consultation with the Cabinet Member	SLT Member in consultation with relevant Cabinet Member, the s151 Officer and Assistant Director, Legal Services	For contracts over the services threshold 151 Officer on recommendation of the Contracts Assurance Board.
Revenue Contracts	£0.5m to £1.5m	SLT Member in consultation with the Cabinet Member <i>(the total value of the contract is not modified by +/- 10% or more)</i> Cabinet Member <i>(the total value of the contract is modified by +/- 10% or more)</i>	Cabinet Member	SLT Member in consultation with relevant Cabinet Member, the s151 Officer and Assistant Director, Legal Services	For contracts over the services threshold s151 Officer on recommendation of the Contracts

Type of contract	Value	Modifications	Extensions	Terminations	Waiver
					Assurance Board.
Revenue Contracts	£1.5m to £5m	SLT Member in consultation with the Cabinet Member <i>(the total value of the contract is not modified by +/- 10% or more)</i> Cabinet Member <i>(the total value of the contract is modified by +/- 10% or more)</i>	Cabinet Member	Cabinet Member(s)	For contracts over the services threshold s151 Officer on recommendation of the Contracts Assurance Board.

Updated [TBC]

Type of contract	Value	Modifications	Extensions	Terminations	Waiver
Revenue Contracts	Over £5m	SLT Member in consultation with the Cabinet Member ( <i>the total value of the contract is not modified by +/- 10% or more</i> ) Cabinet Member ( <i>the total value of the contract is modified by +/- 10% or more</i> )	Cabinet Member	Cabinet	For contracts over services threshold and or all other high value contracts S151 Officer on recommendation of the Contracts Assurance Board
Capital Contracts	Services Threshold to £1.5m	SLT Member	SLT Member in consultation with the Cabinet Member	SLT Member in consultation with relevant Cabinet Member, the s151 Officer and Assistant Director, Legal Services	S151 Officer on recommendation of the Contracts Assurance Board
Capital Contracts	£1.5m -£5m	SLT Member in consultation with the Cabinet Member (the total value of the contract is not modified by +/- 10% or more) Cabinet Member (the total value of the contract is modified by +/- 10% or more)	Cabinet Member	Cabinet Member(s)	S151 Officer on recommendation of the Contracts Assurance Board
Capital Contracts	Over £5m	SLT Member in consultation with the Cabinet	The Cabinet Member	Cabinet	S151 Officer on recommendatio

Type of contract	Value	Modifications	Extensions	Terminations	Waiver
		Member (the total value of the contract is not modified by +/- 10% or more) Cabinet Member (the total value of the contract is modified by +/- 10% or more)			n of the Contracts Assurance Board

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## Appendix 5: SLT Members responsibilities

The SLT Member's responsibilities referred to in [CSO 5](#) are as follows:

- to ensure compliance with legislation and Council Policy;
- to ensure Value for Money in all procurement and contract matters;
- to ensure compliance with these CSOs and the Financial Regulations;
- to maintain a departmental register of decisions taken for contract-related activities;
- to ensure that all relevant staff are familiar with the provisions of these CSOs, Financial Regulations and the Council's eProcurement System and that they receive adequate training on their operation;
- to ensure compliance with any guidelines issued in respect of these CSOs;
- to take immediate action in the event of a breach of these CSOs within his or her area;
- to keep proper records of all Contracts, Tenders, etc. including electronic data files (where electronic tendering systems are used), minutes of Evaluation Panels and other meetings;
- to keep appropriate departmental records of all Contracts awarded (using the Council's eProcurement System<sup>1</sup>) where these have a total value of £5,000 (including VAT) and over (in-keeping with the statutory requirements on transparency);
- the safekeeping of all original Contracts which have been completed by signature and where the value is below £100,000 (including VAT). For Contracts which exceed this figure an electronic copy of the sealed contractual paperwork is uploaded on the Council's Contracts Register or passed to the Procurement Team for upload in the Contracts Register (and thereafter safekeeping);
- comply with these CSOs, Financial Regulations, Codes of Conduct and with all UK and European Union binding legal requirements and must also:
  - keep the records required by Section 98 PA 2023, regulation 24 of PSR and [CSOs 15.8-15.11](#);
  - ensure that Tender procedures are conducted in accordance with procedures set out in the Invitation to Tender;
  - ensure that agents, consultants, and contractual partners acting on their behalf also comply; and
  - take all necessary legal, financial and professional advice.

In addition, no member or officer may accept any form of hospitality from any candidate during a procurement competition (or similar exercise). Hospitality from suppliers who have or may have in the future Contracts with the Council may only be accepted in accordance with the "Guidance on Gifts and Hospitality" which forms part of the

Council’s Constitution (for members) and “Policy and Procedure for: Acceptance of Gifts and Hospitality by Employees: Guidance on the receipt of gifts, benefits and hospitality” that is part of the Council’s Personnel Procedures (for officers). For both members and officers the appropriate Register of Gifts and Hospitality should be completed in accordance with this guidance.

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## Appendix 6: Modifications

### Part 1 Regulation 72 of the PCR

Regulation 72 will continue to apply to Contracts procured before the PA 2023 comes into force.

Some modifications to Contracts are permissible if they can be said to be covered by one or more of the following safe harbours:

Regulation of the PCR	Scenario	Criteria
Reg 72(1)(a)	Where the initial documents set out that it is possible for the Council to modify the terms of the Contract or Framework Agreement.	This ability to modify must be written in clear, precise and unequivocal review clauses in the initial documents provided that the clauses state the scope and nature of possible modifications or options and do not provide for modifications which would alter the overall nature of the Contract/Framework Agreement.
Reg 72(1)(b)	Where additional works, services and/or suppliers have become necessary for the supplier to perform its obligations under the Contract/Framework Agreements.	<p>To rely on this, it must be shown that it is not possible to change supplier because:</p> <p>A) economic and technical reasoning applies such as interchangeability, or interoperability with existing equipment, services or installations procured under the initial procurement <b>and</b></p> <p>B) this would cause 'significant inconvenience' or 'substantial duplication of costs' for the Council.</p> <p>In addition, the value of the additional works, services and/or suppliers required cannot exceed 50% of the value of the original Contract.</p> <p>Finally, a notice must be published in accordance with regulation 51 of the PCR.</p>
Reg 72(1)(c)	Where unforeseeable circumstance has arisen	<p>This can only be relied upon where:</p> <ul style="list-style-type: none"> <li>• the need for the change has been brought about by circumstances which a diligent contracting authority could not have foreseen; <b>and</b></li> <li>• the modification does not change the overall nature of the Contract; <b>and</b></li> </ul>

Regulation of the PCR	Scenario	Criteria
		<ul style="list-style-type: none"> <li>any increase in price caused by this modification cannot exceed 50% of the value of the original Contract.</li> </ul> <p>Finally, a notice must be published in accordance with regulation 51 of the PCR.</p>
Reg 72(1)(d)	Where a new supplier replaces the original as a result of corporate restructuring, a takeover, merger, acquisition, or insolvency	<p>Provided that:</p> <ul style="list-style-type: none"> <li>the Contract includes an unequivocal review clause permitting the transfer; <b>and</b></li> <li>the transfer is as a consequence of universal or partial succession into the position of the initial supplier following corporate restructuring, including takeover, merger, acquisition or insolvency of another economic operator that fulfils the criteria for qualitative selection initially established; <b>and</b></li> <li>this does not result in other substantial modifications to the Contract and is not aimed at circumventing the PCR.</li> </ul>
Reg 72(1)(e)	Where the modification is not substantial	<p>A substantial modification is one which:</p> <ul style="list-style-type: none"> <li>A) Renders the Contract/Framework materially different in character; <b>or</b></li> <li>B) Would have attracted additional bids or an alternative bid pool during the procurement process or would have meant the Council could have accepted another bid; <b>or</b></li> <li>C) Makes the agreement more favourable to the supplier in a way that was not provided for in the original documentation; <b>or</b></li> <li>D) Where the scope of the Contract/Framework is extended considerably; <b>or</b></li> </ul>



Regulation of the PCR	Scenario	Criteria
		E) Where a new supplier replaces the original for reasons not set out in regulation 72(1)(d) above.
Reg 72(1)(f)	Low value modification	<p>Where:</p> <ul style="list-style-type: none"> <li>• the value of the modification will not exceed certain thresholds; <b>and</b></li> <li>• the modification does not exceed 10% of the original Contract value for services and supplies and 15% of the original Contract value for Works Contracts.</li> </ul> <p>Provided always that the nature of the Contract is not changed.</p> <p>When considering the value any modifications made should be considered so that the cumulative value must comply with the above.</p>

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Part 2 Section 74 and Schedule 8 of the PA 2023

Section 74 and Schedule 8 of the PA 2023 will apply to Contracts procured in accordance with the PA 2023 after it comes into force.

Under Section 74(2) the Council may also modify a Contract if it is a Light Touch Contract.

Modifications to Above Threshold and Convertible Contracts are permissible if they can be said to be covered by one or more of the following safe harbours:

Section/Schedule of the PA 2023	Scenario	Criteria
Schedule 8 paragraph 1 (provided for in the Contract)	Where the initial documents set out that it is possible for the Council to modify the terms of the Contract.	<p>This ability to modify must be unambiguously provided for in the Contract as awarded and the Tender Notice or Transparency Notice for the award of that Contract and the Modification would not alter the overall nature of the Contract.</p> <p>The Council should ensure that the provision for Modification is as clear as possible in the original Contract.</p>
Schedule 8 paragraph 8(1) (additional goods, services or works)	Where additional works, services and/or suppliers have become necessary for the supplier to perform its obligations under the Contract/Framework Agreements.	<p>A Modification will be permitted where:</p> <ul style="list-style-type: none"> <li>• the Modification provides for the supply of goods, services or Works in addition to the goods, services or Works already provided under the Contract.</li> <li>• using a different supplier would result in the supply of goods, services or Works that are different from, or incompatible with, those already provided for in the Contract.</li> <li>• the Council considers that the difference or incompatibility would result in <b>disproportionate</b></li> </ul>

Section/Schedule of the PA 2023	Scenario	Criteria
		<p><b>technical difficulties</b> in operation or maintenance or other <b>significant inconvenience</b> and the <b>substantial duplication</b> of costs.</p> <ul style="list-style-type: none"> <li>the Modification would not increase the Estimated Value of the Contract by more than 50%.</li> </ul>
Schedule 8 paragraph 4 (unforeseeable circumstances)	Where an unforeseeable circumstance has arisen	<p>This can only be relied upon where:</p> <ul style="list-style-type: none"> <li>where the circumstances giving rise to the Modification could not reasonably have been foreseen by the Council before the Contract award.; and</li> <li>the Modification does not change the overall nature of the Contract; and</li> <li>the Modification would not increase the Estimated Value of the Contract by more than 50%.</li> </ul>
<p>Schedule 8 paragraph 9 (transfer on corporate restructuring)</p> <p>NOTE: The Government Guidance on Contract Modifications states that there is no intention for this ground to be narrower than in previous legislation.</p>	<p>Where a new supplier replaces the original as a result of corporate restructuring, a takeover, merger, acquisition, or insolvency</p>	<p>A novation or assignment of a Public Contract to a supplier is a permitted Modification provided that:</p> <ul style="list-style-type: none"> <li>the supplier is not an 'excluded supplier' under Section 57 of PA 2023 and the Modification is required following a corporate restructuring or similar circumstance.</li> <li>The Council may not modify a Contract to change a supplier except where this ground applies.</li> </ul>

Section/Schedule of the PA 2023	Scenario	Criteria
<p>Section 74 (1)(b) (non-substantial)</p> <p>NOTE: if this ground is not available, the Council may consider whether an extension to the term might be made under the below-threshold modification or any of the Schedule 8 modifications.</p>	<p>Where the modification is not substantial</p>	<p>A substantial modification is one which:</p> <ul style="list-style-type: none"> <li>• increases or decreases the term of the Contract by more than 10% of the maximum term (including any extensions to the term provided for in the <b>original</b> Contract) provided for on award, <b>or</b></li> <li>• Materially changes the scope of the Contract (e.g. to the type of goods, services or Works to be supplied), <b>or</b></li> <li>• Materially changes the economic balance of the Contract in favour of the supplier.</li> </ul> <p>The maximum change to the duration of the Contract must be based on the <b>original</b> maximum duration provided for in the Contract. The maximum change must not be calculated based on the maximum duration provided for in the Contract immediately prior to the modification. The Council must therefore ignore any previous Modifications.</p>
<p>Section 74(1)(c) (below-threshold)</p>	<p>Below-threshold modification</p>	<p>Where the Modification does not:</p> <ul style="list-style-type: none"> <li>• increase or decrease the Estimated Value of a goods or services Contract by more than 10% of the original Contract value, or a Works Contract by more than 15% of the original Contract value; and</li> <li>• cause the aggregated value of below-threshold modifications to be above the Relevant</li> </ul>

Section/Schedule of the PA 2023	Scenario	Criteria
		<p>Threshold for the Contract; and</p> <ul style="list-style-type: none"> <li>• materially change the scope of the Contract; and</li> <li>• cannot be made on any Schedule 8 grounds or is not a substantial modification.</li> </ul> <p>When considering the value, any previous modifications made should be considered so that the cumulative value must comply with the above.</p>
<p>Schedule paragraph 2 (urgency and the protection of life, etc.)</p>	<p>8 To allow the Council to respond quickly to emergencies when it is faster to modify the existing Contract rather than enter a new Contract.</p>	<p>Where: the Modification could otherwise be achieved by a direct award under Section 41 of PA 2023.</p> <ul style="list-style-type: none"> <li>• such an award could be made by reference to: <ul style="list-style-type: none"> <li>(i) paragraph 13 of Schedule 5 (extreme and unavoidable urgency)</li> <li>(ii) regulations under Section 42 (direct award to protect life, etc.)</li> </ul> </li> </ul>
<p>Schedule paragraph 5-7 (Materialisation of a known risk)</p> <p>NOTE: The Government Guidance on Contract Modifications indicates that the Council must be specific and 'highly selective' when identifying known risks.</p>	<p>8 Allows the Council to manage envisaged risks during the life of the Contract.</p>	<p>Where:</p> <ul style="list-style-type: none"> <li>• A <b>known risk</b> has materialised otherwise than as a result of any act or omission of the Council or supplier and because of this the Contract cannot be performed to the satisfaction of the Council.</li> <li>• The Modification goes no further than necessary to remedy that fact, and</li> <li>• Awarding a further Contract would not be in the <b>public interest</b> in the circumstances.</li> </ul>

Section/Schedule of the PA 2023	Scenario	Criteria
		<p>The Modification cannot increase the Estimated Value of the Contract by more than 50% ignoring, for the purpose of estimating the value of the Contract, the fact that the risk has materialised.</p> <p>A “<b>known risk</b>”, means a risk that the Council considered could jeopardise the satisfactory performance of the Contract but because of its nature, could not be addressed in the Contract as awarded and was identified in the Tender or Transparency Notice for award of the Contract, including by reference to it meeting the above description and the possibility of Modification under paragraph 5.</p> <p>When considering whether awarding a further Contract would be in the <b>public interest</b>, the Council must consider whether a new Contract (as opposed to a Modification) would provide Value for Money and may consider technical and operational matters.</p>

Modifications may be permissible under multiple grounds, except for below-threshold modifications under Section 74(1)(c). Modifications that can be made under other grounds will not fulfill the criteria for below-threshold modifications. The most appropriate ground for the Modification should be selected by the Council.

Note also Section 74(7) which states that Modifications will not be permitted where the Modification could reasonably have been made together with another Modification to the Contract and that combined Modification would then not have been permitted (e.g. the combined Modification would have been above the threshold for below-threshold Modifications).

Under Section 75 of PA 2023, the Council must publish a Contract Change Notice before modifying a Contract (or Convertible Contract) save as follows:

- where the Modification increases or decreases the Estimated Value of the Contract by 10% or less for goods and services and 15% or less for Works;

- the Modification increases or decreases the term of the Contract by 10% or less of the maximum term detailed at award; or
- where the modification is made to Light Touch Contracts

(the above exceptions however do not apply where a Modification is made under Schedule 8 paragraph 9).

The Contract Change Notice must contain the information set out in Regulation 40 of the Procurement Regulations 2024.

Under Section 77 of PA 2023, if the publication of a Contract Change Notice is required and the modification is to a Contract that has or will resultingly have an Estimated Value of more than £5 million, the Council must (within 90 days of the modification) publish a copy (attached to the Contract Change Notice) of the modification or a copy of the Contract as modified.

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### Part 3 The Provider Selection Regime

Some modifications to Relevant Health Care Services Contracts are permissible where:

<b>Regulation of PSR</b>	<b>Scenario</b>	<b>Criteria</b>
Reg 13(1)(a)	Clearly and unambiguously provided for in the Contract or Framework Agreement documents	
Reg 13(1)(b)	Change in the identity of the supplier	The change in supplier is due to corporate changes including takeover, merger, acquisition or insolvency and the Council is satisfied the supplier meets the basic selection criteria
Reg 13(1)(c)	Factors beyond the control of the Council and the supplier	<p>The factors include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Changes in patient or service user volume, or</li> <li>• Changes in prices in accordance with a formula provided for in the Contract documents,</li> </ul> <p>and the modification does not render the Contract or Framework Agreement materially different in character</p>
Reg 13(1)(d)	Decision of the Council where criteria in reg 13(2) applies	<p>The modification does not render the Contract or Framework Agreement materially different in character;</p> <p>The cumulative changes in the lifetime value of the Contract or Framework Agreement since it was entered into or concluded is</p> <ul style="list-style-type: none"> <li>• Below £500,000, or</li> <li>• Less than 25% of the lifetime value of</li> </ul>



Regulation of PSR	Scenario	Criteria
		the original Contract or Framework Agreement when it was entered into or concluded.
Reg 13(3)	A modification to a Contract Awarded under a Direct Award Process A or Direct Award Process B where the Contract is not rendered materially different in character	

In accordance with regulation 13(4) of PSR, the Council must publish a modification notice (see Regulation 13(5) of PSR) where:

- A modification is made in accordance with regulation 13(1) or (3);
- The modification is attributable to the Council's decision, and
- The cumulative changes in the lifetime value of the Contract or Framework Agreement since it was entered into or concluded is £500,000 or more.

## Appendix 7: Minimum Periods for Procurement Participation Periods

The following minimum periods for participation apply to procurement for Above Threshold Contracts and begin with the day following the day on which the Council invites the submission of requests to participate in a Competitive Flexible Procedure and ending with the day by which those requests must be submitted.

Circumstances	Minimum period
Light Touch Contract	No minimum period
Negotiated tendering procedure (including utilities contract)	No minimum period
Tender submitted only by pre-selected supplier (including utilities contract)	10 days
Qualifying Planned Procurement Notice has been issued (see <a href="#">paragraph 1 of Appendix 8</a> )	10 days
Council considers there is a state of urgency that means any minimum period is impractical	10 days
Contract to be awarded by reference to suppliers' membership of a Dynamic Market	10 days
Tender may be submitted electronically and the Tender Notice and associated Tender documents are all provided at the same time	25 days
Tenders may be submitted electronically, but the Tender Notice and associated Tender documents are not all provided at the same time	30 days

## **Appendix 8: Procurement process step by step for High Value procurements**

### **1. PLANNED PROCUREMENT NOTICES**

- 1.1. The Council may publish a Planned Procurement Notice which in order to qualify as a Planned Procurement Notice must be at least 40 days but no more than 12 months before the date on which the Tender Notice is published.

### **2. PRELIMINARY MARKET ENGAGEMENT (SECTIONS 16 AND 17 OF THE PA 2023)**

- 2.1. The Project Team may arrange a preliminary market engagement exercise:
  - 2.1.1 to consult potential suppliers and others prior to the issue of the Invitation to Tender for the purpose of the development of requirements, the approach, designing the Tender documents, identifying suppliers and likely contractual terms and building capacity provided this does not have the effect of providing unfair advantage or distorting competition and the Council should have regard to the procurement objectives set out in Section 12 of PA 2023; and
  - 2.1.2 where an existing Contract exists, obtain from the current supplier information on service delivery aspects.
- 2.2. Where there is potentially an unfair advantage or the distortion of competition then advice from the Assistant Director Procurement and Commercial and the Assistant Director, Legal Services must be sought.
- 2.3. If market engagement is to be carried out a Preliminary Market Engagement Notice must be published before a Tender Notice is published or provide reasons for not doing so in the Tender Notice.
- 2.4. A Preliminary Market Engagement Notice can be published by the Council where it has already conducted the preliminary market engagement and provides details of the process that has been undertaken. Please seek advice from Legal Services before undertaking preliminary market engagement without first issuing a Preliminary Market Engagement Notice.

### **3. PROCUREMENT STRATEGY**

- 3.1. For High Value Contracts, the Project Team shall prepare the [Procurement Strategy](#) for approval by the relevant SLT Member. Prior to the preparation of the Procurement Strategy a meeting will be arranged to discuss the procurement process. Where the proposed Contract relates to a new service or initiative or the purchase or construction of a new asset, the [Procurement Strategy](#) must also include a Business Case.

- 3.2. The [Procurement Strategy](#) must cover:
- 3.2.1 **Procurement method:** consider what procurement method is most likely to achieve the purchasing objectives, including:
    - 3.2.1.1 internal provision (“make decision”); or
    - 3.2.1.2 external sourcing (“buy decision”); and/or
    - 3.2.1.3 collaboration (including a joint working arrangement between the Council and other local authorities) with other purchasers, partnering and long-term relationships; and/or
    - 3.2.1.4 the use of a DPS, Dynamic Market, Open Framework or Framework already let by the Council, or a DPS, Dynamic Market, Open Framework or Framework let by another Centralised Procurement Authority / Central Purchasing Body and which has been awarded on the basis that it can be used by others (in particular the Council).
  - 3.3. Where paragraph 3.2.1.4 applies, as part of its report seeking approval the SLT Member shall provide evidence that:
    - 3.3.1 the Council is within the class of persons eligible to call off from the DPS, Dynamic Market, Open Framework or Framework;
    - 3.3.2 the goods, Works or services required to be procured are within the scope of the DPS, Dynamic Market, Open Framework or Framework;
    - 3.3.3 the call off procedures required under the rules of the DPS, Dynamic Market, Open Framework or Framework have been established and will be followed, and that a fair and transparent process will be used;
    - 3.3.4 the Assistant Director, Legal Services has reviewed the proposed call off terms and conditions (to the extent that they are specified by the DPS, Dynamic Market, Open Framework or Framework) to ensure that they do not compromise the Council’s interests.
  - 3.4. In general, the SLT Member shall ensure that the report seeking approval for the [Procurement Strategy](#) includes:
    - 3.4.1 **Contract Period:** this should include any potential extensions and/or break periods. If the Contract is a Framework Agreement then the Contract Period shall not exceed 4 years. If the Contract is an Open Framework Agreement it shall not exceed a maximum of 8 years.
    - 3.4.2 **Contract Value:** the estimated Contract value. Ensuring that there is an estimating process which sets out the initial Contract estimate, revised estimates and Tender estimate. Such estimates must reflect current or expected market values and must not be over or under inflated as a means of avoiding the requirements of either or all of the PA 2023, The Procurement Regulations 2024 or these CSOs.

- 3.4.3 **Expenditure:** appraise the need for the expenditure and its priority and identify the relevant budget and confirm that:
- 3.4.3.1 there is approval for the expenditure in accordance with Financial Regulations; and
  - 3.4.3.2 for non-procurement related issues, the appropriate approvals, for example, those found in Financial Regulations have been complied with.
- 3.4.4 **Consultation:** consultation undertaken with service users (as may be appropriate) about the proposed procurement method, contract standards and also performance and user satisfaction monitoring.
- 3.4.5 **Options:** consider the needs of the business and sourcing possibilities. This includes options for extension.
- 3.4.6 **Procurement Process:** take into account any procurement guidance issued by the Assistant Director Procurement and Commercial, and/or the Chief Executive (or any other officer they nominate). Depending on whether the Contract value is:
- 3.4.6.1 Below the Relevant Threshold for supplies/services in which case the procurement shall be an Open Procedure;
  - 3.4.6.2 above the Relevant Threshold for supplies/services or all High Value Contracts for Works in which case decide on the most appropriate process:
    - Open Procedure; or
    - Competitive Flexible Procedure; or
    - Light Touch Contract (applicable only to social and other specified services); or
    - Direct Award (special cases and to protect life, etc.)
- 3.4.7 **Advertising Process:** in accordance with [CSO 19](#) agree the appropriate advertising process.
- 3.4.8 **Local and SME/VCSE provision:** For below Light Touch Threshold Contracts and Works Contracts, in accordance with [CSO 4.9](#) to [CSO Error! Reference source not found.](#) assess the contract may be reserved to Local and SME/VCSE suppliers.
- 3.4.9 **Contract packaging** - consideration of whether the Contract can be divided into separate lots (see [paragraph 5](#) of this [Appendix 8](#) below).
- 3.4.10 **Establishing a Framework or Open Framework:** where the [Procurement Strategy](#) relates to the establishment of a Framework or Open Framework for other public sector bodies to purchase through, the Strategy must show how it will ensure compliance with the Local Authorities (Goods and Services) Act 1970 and/or the Local Government Act 2003 as appropriate and must be approved by the Assistant Director Procurement and Commercial.

3.4.11 **Preliminary Market Engagement:** consider the outcome of any preliminary market consultations aimed at ensuring the draft specification and the terms & conditions are achievable at realistic costs to the Council.

3.4.12 **Procurement Document Suite:** The Project Team shall in the Procurement Strategy report provide details of the following:

3.4.12.1 Volume 1: Invitation to Tender

Describes the form and content of Tenders, the timetable, the Council's requirements for the services/Works, the tendering process, and the terms on which the Council will contract in due course with the successful Bidder.

3.4.12.2 Volume 2: Specification/Authority's Requirements

This document details the specification/the Council's Requirements for the provision of the services/Works. This document may be subject to minor technical amendments.

3.4.12.3 Volume 3: Draft Contract

Included as part of the Tender documents is the draft Contract. The Council will not accept changes to the form of Contract and intends to enter into the Contract with the successful Bidder on the terms set out subject only to specific amendments. Subject to the Council determining that mark-ups would be accepted as part of a Competitive Flexible Procedure, generally mark-ups of the Contract are not invited and if a Bidder submits any mark-ups or indicates that they do not accept any or all of the terms of the Contract, the Council may reject that Tender.

Bidders should note that the successful Bidder shall be contractually bound to deliver the services/Works in accordance with the terms set out in the Contract.

The successful Bidder will be required to execute a formal Contract which embodies the terms of all the Tender documents.

The successful Bidder will be required to execute the Contract promptly and shall not commence the provision of the services/Works nor be entitled to any remuneration whatsoever until it has done so unless otherwise expressly agreed at its discretion by the Council.

The successful Bidder shall be liable for any loss or damage incurred by the Council if the services/Works cannot commence on the commencement date as a result of the successful Bidder's failure to execute the Contract properly.

#### 3.4.12.4 Volume 4: Response Document

The document contains the forms which need to be completed and returned as part of the Tender submission.

#### 3.4.12.5 Volume 5: Pricing Schedule

The pricing schedule must be used to detail the pricing for the specified services/Works and confirm the Contract Value. Instructions are set out within the schedule.

Bidders shall be deemed to have obtained for themselves all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect the Bidder's Tender submission.

The Pricing Schedule must be uploaded within the 'Commercial Envelope' section on the Council's eProcurement System).

#### 3.4.12.6 Volume 6: Added Value Matrix

The Added Value Matrix must be completed by Bidders as part of the Added Value Quantitative response.

The measures are based on the National TOMS (Themes, Outcomes and Measures) Social Value system.

3.4.13 **Data Protection:** The Project Team should consider what personal data will be collected or processed as part of the Contract. A Data Protection/ Privacy Impact Assessment to be obtained from Digital Services should be carried out and reference should be made to the guidance provided by the Information team within the Council.

## 4. AWARD CRITERIA

- 4.1. In accordance with the PA 2023 and PSR, as applicable, all award criteria and sub-criteria relating to the award must be clearly published and refer only to relevant considerations.
- 4.2. The award of all High Value Contracts must be on the basis of the most advantageous Tender. The recommended quality:price ratio is 60:40. The quality:price ratio will be discussed and agreed at the meeting prior to the publication of the Tender. Deviations from 60:40 quality:price ratio can be proposed but justification for the change should be included in the award approval report submitted.
- 4.3. The award criteria must be published as part of the Procurement Document Suite.
- 4.4. Evaluation/assessment must only be made using the published criteria and sub-criteria. Criteria may include:
  - Price
  - Quality of service

- Quality of goods
- Whole-life running costs
- Whole life cycle costs
- Technical merit
- Cost effectiveness
- Quality
- Delivery date
- Long-term relationships
- Safety
- After-sales services
- Technical assistance
- Partnering arrangements
- Social value
- Relevant environmental considerations
- Aesthetic and functional characteristics (including security and control features)
- Any other relevant matter

4.5. Added value must form part of evaluation of the award criteria for any High Value Contract. A minimum of 10% of the overall score shall be attributed to added value in accordance with the Council's [Added Value Policy](#).

4.6. Award criteria and sub-criteria must be designed to secure an outcome giving best Value for Money for the Council. The award criteria and selection criteria must not include:

4.6.1 Non-commercial Considerations; or

4.6.2 matters which discriminate against suppliers from or signatories to the Government Procurement Agreement.

4.7. The award criteria must be set out in the [Procurement Strategy](#).

## **5. CONTRACT PACKAGING – CONSIDERATION OF DIVIDING INTO LOTS**

5.1. In accordance with [Section 18](#) of the PA 2023, the Council may decide to divide the procurement competition into separate lots. However, where the decision of the Council is not to subdivide into lots that decision must be recorded in:

5.1.1 accordance with the [Section 98](#) of PA 2023 if the Contract is Above Threshold; and/or

5.1.2 the Procurement Strategy.

5.2. However, the consideration must not be to enter into separate Contracts, nor select a method of calculating the total value, in order to avoid the requirements of the PA 2023 or to minimise the application of these CSOs (otherwise known as disaggregation).



## **6. PROJECT TEAM**

- 6.1. The Project Team may be similar in its composition to that of the Project Team. It will ensure that the procurement exercise is managed in accordance with existing legislative requirements and the Procurement Strategy that has been approved by the Council. Its roles include finalising all final documentation required to undertake a procurement exercise, with appropriate legal and procurement advice and establishing an Evaluation Panel to conduct evaluations at qualification and/or award stages.
- 6.2. The Project Team will be chaired by the SLT Member or his/her delegated deputy (or where there are several departments involved, in the department with the highest spend), with a senior sponsor, and include relevant stakeholders (e.g. Contract Officer). It will consult and engage relevant professional officers including but not limited to legal, finance, procurement, IT and HR. It will also commission additional expertise where this is warranted. It will be responsible for:
  - 6.2.1 ensuring a Contract is put in place in accordance with legal requirements;
  - 6.2.2 meeting required deadlines and service requirements;,,
  - 6.2.3 obtaining Value for Money; and
  - 6.2.4 meeting the agreed objectives set out in the Procurement Strategy.
- 6.3. In most instances the Project Team will identify and appoint a Contract Officer who will be responsible for the day to day running of the procurement exercise. The Contract Officer will be a member of the Project Team.
- 6.4. Before beginning the tendering process, the Contract Officer responsible for it must, in a manner commensurate with the complexity and value of the project:
  - 6.4.1 act on the agreed recommendations set out in the agreed Procurement Strategy;
  - 6.4.2 take into account any procurement guidance issued;
  - 6.4.3 assess the risks associated with the procurement and how to manage them; and
  - 6.4.4 have due regard to the Council's Added Value responsibilities under the Public Services (Social Value) Act 2012 and Public Sector Equality Duty arising from the Equality Act 2010 and other relevant legislation.
- 6.5. The Project Team shall appoint the appropriate professional officers (and in most instances this will include the Contract Officer) to evaluate expressions of interest or Tenders received. These professional officers will individually score the submissions received and award marks (where appropriate) against the pre-published criteria set out in the Procurement Strategy. All evaluators are required to record their individual scores in the Council's eProcurement System. The Project Team will then consider these individual scores and shall arrive at

and agree a consensus score for all criteria during the moderation meeting. The moderation meeting is chaired by the Assistant Director Procurement and Commercial or a delegated (procurement) officer. The Project Team shall not adopt, as a methodology, an average scoring arrangement.

- 6.6. The Project Team will keep accurate records of all meetings, retain appropriate documentation and maintain proper records for transparency and audit purposes as set out in [Section 98](#) of the PA 2023 and Regulation 24 of PSR (where applicable) and [paragraph 16](#) below.
- 6.7. The Project Team will undertake post-project reviews where required. It will implement any corporate or collaboration requirements including supporting arrangements around any agreed approval processes and participating in any audits.
- 6.8. The Project Team and appropriate SLT Member shall be responsible for ensuring that all persons or bodies invited to Tender for the supply of goods, services or works to the Council have been suitably assessed and meet the PA 2023 and PSR, as applicable.

## **7. PROCUREMENT DOCUMENT SUITE**

- 7.1. At the point of advertising the opportunity through the Open Procedure or when inviting Tenders after the Conditions of Participation stage, the Procurement Document Suite must be complete and available on the Council's e-tendering portal for access by all economic operators who express interest in the project. This Invitation to Tender comprises at least the following:
  - 7.1.1 the specification;
  - 7.1.2 the Invitation to Tender containing instructions on the process;
  - 7.1.3 the draft Contract;
  - 7.1.4 the form of Tender;
  - 7.1.5 response requirements; and
  - 7.1.6 the award criteria.
- 7.2. The Project Team shall be responsible for preparing the Procurement Document Suite.

## **8. INVITATION TO TENDER/QUOTE**

- 8.1. High Value Contracts are awarded on the basis of the most advantageous Tender, and Bidders must be informed of the evaluation model and award criteria in the Invitation to Tender documents. The subsequent evaluations must be carried out in accordance with them.
- 8.2. The Invitation to Tender shall state that no Tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender.

- 8.3. All Invitations to Tender instructions shall be on the Council's standard form documentation.
- 8.4. All Bidders invited to Tender or Quote must: (a) be issued with the same information; (b) at the same time; and (c) subject to the same conditions. Any supplementary information must be given on the same basis.

## **9. PRE-QUALIFICATION STAGE**

- 9.1. Where a pre-qualification stage applies, Conditions of Participation shall be developed, together with appropriate service-specific questions. This must be published through the eProcurement System together with a methodology for evaluating the responses to the Conditions of Participation and a draft specification. However, if the High Value Contract is also above the threshold, then the award criteria for the Tender stage(s) must also be published, together with the draft Contract and method statement questions that are used to evaluate against the award criteria. See also [paragraph 10](#) (Shortlisting) below for conduct of this shortlisting stage.

## **10. SHORTLISTING**

- 10.1. The Council may shortlist economic operators when using the Competitive Flexible Procedure.
- 10.2. The Project Team is responsible for shortlisting of economic operators.
- 10.3. The form of Conditions of Participation is included on the Council's eProcurement System and should not be amended. Only additional questions can be included. Conditions of Participation are backward looking and should not include any questions about the provision of the project to the Council, but instead should ask about current capacity and standing. Information sought at Condition of Participation stage cannot be re-sought (or re-used) at tendering stage.
- 10.4. The Project Team will agree the methodology for selecting economic operators to invite to Tender and this shall be set out in the Conditions of Participation guidance documentation.
- 10.5. The Project Team shall arrive at a consensus decision on which economic operators shall be invited to Tender.
- 10.6. Where an economic operator is a subsidiary of a parent company, and:
  - 10.6.1 there is some concern about the financial stability of the economic operator; and/or
  - 10.6.2 the award of the Contract is based on an evaluation of the parent company,

then the Project Team must consult the Director of Finance about obtaining a Parent Company Guarantee.

10.7. There is no requirement to obtain a bond from a Bidders unless the Project Team considers it an appropriate way to mitigate risks identified during the procurement process.

## **11. SUBMISSION, RECEIPT AND OPENING OF TENDERS**

11.1. Unless otherwise agreed by the Assistant Director Procurement and Commercial, all Quotations and Tenders must be received through the Council's eProcurement System.

11.2. The Assistant Director Procurement and Commercial will be responsible for the verification of all Tenders and Quotations that have been submitted electronically through the eProcurement System.

11.3. Any Quotation or Tender received after the date and time for its return cannot and must not be accepted. Late Bidders will be advised that their Tender has been rejected because it was received after the date and time scheduled for its return.

11.4. The Project Team must not disclose the names of Bidders to any Council staff not involved in the procurement process.

## **12. EVALUATION AND AWARD OF CONTRACTS**

12.1. The Project Team will take responsibility for the establishment of the Evaluation Panel to evaluate all Tenders received and the arrival of the final consensus scores.

12.2. In accordance with statutory requirements contained in the PA 2023 the confidentiality of Quotations, Tenders and the identity of Bidders must be preserved at all times, and information about one Bidder's response must not be given to another Bidder. Where questions are received prior to the return of Tenders, then the Contract Officer shall anonymise both the question(s) and response(s) and forward to all Bidders for information, unless the questions are Bidder-specific.

12.3. In accordance with [paragraphs 4.2 and 4.4](#) of this [Appendix 8](#) above, where a Contract is to be awarded on the basis of the most advantageous Tender received, the evaluations must be carried out in accordance with the pre-published evaluation model and award criteria.

12.4. Under Section 30 of the PA 2023, where a supplier has acted improperly (failing to provide information, providing information that is incomplete, inaccurate or misleading, accessing confidential information or unduly influencing the Council's decision-making) in consequence of which the supplier is put an unfair advantage in relation to the award, and it cannot be avoided other than by excluding the supplier, the Council must treat the supplier as excluded for the purpose of assessing tenders and exclude the supplier from participation in, or progressing as part of, any Competitive Tendering Procedure. However, before a determination is made the Council must give the supplier reasonable opportunity to make representations and provide relevant evidence.

- 12.5. The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the Bidder, who should be requested to explain the discrepancy. Such a discrepancy may, in certain circumstances, be acceptable under Section 30 of the PA 2023, otherwise the Bidder must be required to confirm or withdraw their Tender. Alternatively, if the rates in the Tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended Tender price may be requested to accord with the rates given by the Bidder.
- 12.6. The Council has a statutory duty under Section 19(4) of the PA 2023 before disregarding any Tender that appears to be an abnormally low price to notify the supplier and provide the supplier with the opportunity to demonstrate it can perform the Contract for the price offered.
- 12.7. Where the Tender recommended for acceptance is more than 10% below the estimate, the awarding report required in accordance with these CSOs shall explain the reasons for the difference and confirm that the supplier has provided written confirmation that they are able to fulfil the Contract for their tendered sum.
- 12.8. SLT Members shall ensure that submitted Tender prices or rates are compared with any pre-Tender estimates and that any discrepancies are examined and resolved satisfactorily. Details of correspondence needs to be kept on the project file, and this information needs to be recorded in decision award reports (to SLT Members, Cabinet Member Decisions or Cabinet Reports).
- 12.9. Before the Contract is awarded the Council must publish a Contract Award Notice. The Council must issue to each supplier that submitted an assessed Tender information about its assessment of the Tender, and if different, the winning Tender.
- 12.10. As soon as possible after the Contract has been awarded the Council must send a Contract Details Notice on the Central Digital Platform. In accordance with Section 53(1) of the PA 2023 this must be done before the end of:
  - 12.10.1 120 days beginning with day on which Contract is entered into for Light Touch Contracts;
  - 12.10.2 30 days beginning with the day on which the Contract is entered into for all other Contracts other than Light Touch Contracts.
- 12.11. Where the estimated value of the Contract the Council has entered into is more than £5 million (inclusive of VAT) the Council, in accordance with Section 53(3) of the PA 2023, must publish a copy of the Contract on the Central Digital Platform before the end of:
  - 12.11.1 180 days beginning with day on which Contract is entered into for Light Touch Contracts;
  - 12.11.2 90 days beginning with the day on which the Contract is entered into for all other Contracts other than Light Touch Contracts.

12.12. The requirement to publish a copy of the Contract does not apply to a Contract awarded under Section 41 of PA 2023 by reference to paragraph 15 of Schedule 5 (direct award: user choice contracts).

### **13. POST-TENDER**

13.1. Post-Tender clarification must only be conducted in accordance with the guidance issued by the Assistant Director Procurement and Commercial and/or the Assistant Director, Legal Services, both of whom must be consulted wherever it is proposed to enter into such post-Tender clarifications.

13.2. Negotiation is not permitted post-Tender (unless detailed as part of a Competitive Flexible Procedure).

13.3. Where tenders are received above the approved budget, the SLT Member may consider adjusting the specification and **all the Bidders** must be asked to re-submit based on an amended specification in order, to bring the cost within budget. However, where it is identified that there needs to be a fundamental change to the specification (or Contract terms), the Contract must not be awarded but retendered in accordance with the PA 2023.

### **14. AWARD OF CONTRACT**

14.1. This shall be communicated through the eProcurement System using a formal letter of award. For Above Threshold Contracts, it must first be preceded by the Standstill Period referred to in [paragraph 15.1.1](#) below.

### **15. STANDSTILL AND RECORDS**

#### **15.1. Standstill Period**

15.1.1 The requirements of Section 51 of the PA 2023 shall be complied with for all Above Threshold Contracts save for Light Touch Contracts, unavoidable emergency and protecting life etc direct awards, Frameworks and Dynamic Markets, however the Council can also enter a Voluntary Standstill Period for Light Touch Contracts. See further Section 51 (3-5) of PA 2023.

#### **15.2. Records of procurement process**

15.2.1 Section 98 of the PA 2023 provides a statutory framework for the retention of contract documentation to explain decisions taken during all procurement processes above the thresholds. This must be complied with for procurement for Above Threshold Contracts.

### **16. RECORD RETENTION**

16.1. Contract must be kept for 12 years (if the Contract is a deed) after the final settlement of the Contract.

16.2. Documents which relate to the procurement process should be kept for a minimum period of 3 years beginning with the day on which the Contract is entered into (these may be stored electronically).

## 17. ASSESSMENT SUMMARY – REGULATED PROCUREMENTS

- 17.1. Where a tendering exercise is regulated by the provisions of the PA 2023, Bidders must be simultaneously notified (in writing) and as soon as possible after any decision has been made in connection with their exclusion from the process or the outcome of the award decision is known (save where the exclusion of the supplier results from a threat to national security). [Prior to issuing any Assessment Summaries the SLT Member will meet with Legal Services and the Procurement team.](#)
- 17.2. For Tenders that are subject to the PA 2023, there are strict rules that the Council must comply with and advice on their application must be sought from the Assistant Director Procurement and Commercial and/or the Assistant Director, Legal Services.
- 17.3. The process shall be communicated in writing only and at no time will any officer of the Council be engaged in a verbal debrief with the unsuccessful Bidders.

## Appendix 9: Procurement Process Step by Step for Relevant Health Care Services

### 1. INTRODUCTION

- 1.1. Where the Council awards a Relevant Health Care Services Contract it must do so in accordance with the PSR. There is no minimum threshold at which the PSR apply to the procurement of Relevant Health Care Services. However, the Council is expected to take a proportionate approach<sup>15</sup> and has therefore decided that [Appendix 9](#) will apply to the award of Relevant Health Care Service Contracts that are also High Value Contracts and where the Council considers that process should be followed regardless of the value of the Relevant Health Care Services Contract. Officers should consult with Legal Services and the Procurement Team.
- 1.2. The Council must ensure when applying the PSRs it makes decisions in the best interests of people who use the service. The Council must act with a view to:
  - 1.2.1 Securing the needs of the people who use the service,
  - 1.2.2 Improving the quality of the services, and
  - 1.2.3 Improving efficiency in the provision of the services.

The Council must also act transparently, fairly and proportionately.

### 2. PROCUREMENT STRATEGY

- 2.1. For Relevant Health Care Service Contracts the Project Team shall prepare the [Procurement Strategy](#) for approval by the relevant SLT Member. Prior to the preparation of the Procurement Strategy a meeting will be arranged to discuss the procurement process. Where the proposed Contract relates to a new service or initiative, the [Procurement Strategy](#) must also include a Business Case.
- 2.2. The [Procurement Strategy](#) must cover:
  - 2.2.1 **Procurement method:** consider what procurement method is most likely to achieve the purchasing objectives, including:
    - 2.2.1.1 internal provision (“make decision”); or
    - 2.2.1.2 external sourcing (“buy decision”); and/or
    - 2.2.1.3 collaboration (including a joint working arrangement between the Council and other local authorities) with other purchasers, partnering and long-term relationships; and/or

<sup>15</sup> The Provider Selection Regime Statutory Guidance - <https://www.england.nhs.uk/long-read/the-provider-selection-regime-statutory-guidance/>



- 2.2.1.4 a Framework already let by the Council, or Framework let by another Centralised Procurement Authority / Central Purchasing Body and which has been awarded on the basis that it can be used by others in particular the Council.
- 2.3. Where [paragraph 2.2.1.4](#) applies, as part of its report seeking approval the SLT Member shall provide evidence that:
- 2.3.1 the Council is within the class of persons eligible to call off from the Framework;
  - 2.3.2 the services required to be procured are within the scope of the Framework;
  - 2.3.3 the call off procedures required under the rules of the Framework have been established and will be followed, and that a fair and transparent process will be used;
  - 2.3.4 the Assistant Director, Legal Services has reviewed the proposed call off terms and conditions (to the extent that they are specified by the Framework) to ensure that they do not compromise the Council's interests.
- 2.4. In general, the SLT Member shall ensure that the report seeking approval for the [Procurement Strategy](#) includes:
- 2.4.1 **Contract Period:** this should include any potential extensions and/or break periods. If the Contract is a Framework then the Contract Period shall not exceed 4 years.
  - 2.4.2 **Contract Value:** the estimated Contract value. Ensuring that there is an estimating process which sets out the initial Contract estimate, revised estimates and Tender estimate. Such estimates must reflect current or expected market values and must not be over or under inflated.
  - 2.4.3 **Expenditure:** appraise the need for the expenditure and its priority and identify the relevant budget and confirm that:
    - 2.4.3.1 there is approval for the expenditure in accordance with Financial Regulations; and
    - 2.4.3.2 for non-procurement related issues, the appropriate approvals, for example, those found in Financial Regulations have been complied with.
  - 2.4.4 **Consultation:** consultation undertaken with service users (as may be appropriate) about the proposed procurement method, Contract standards and also performance and user satisfaction monitoring.
  - 2.4.5 **Options:** consider the needs of the business and sourcing possibilities. This includes options for extension.

- 2.4.6 **Procurement Process:** take into account any procurement guidance issued by the Assistant Director Procurement and Commercial, and/or the Chief Executive (or any other officer they nominate).
- 2.4.6.1 **Advertising Process:** The relevant advertising process as detailed in [paragraph 5](#) of this [Appendix 9](#).
- 2.4.6.2 **Local and SME/VCSE provision:** Assess whether the Contract may be reserved to Local and SME/VCSE suppliers.
- 2.4.6.3 **Contract packaging** - consideration of whether lotting is a suitable approach.
- 2.4.6.4 **Establishing a Framework Agreement:** where the [Procurement Strategy](#) relates to the establishment of a framework for other public sector bodies to purchase through, the Procurement Strategy must show how it will ensure compliance with the Local Authorities (Goods and Services) Act 1970 and/or the Local Government Act 2003 as appropriate and must be approved by the Assistant Director Procurement and Commercial.
- 2.4.6.5 **Preliminary Market Engagement:** consider the outcome of any preliminary market consultations aimed at ensuring the draft specification and the terms & conditions are achievable at realistic costs to the Council.
- 2.4.6.6 **Procurement Document Suite:** The Project Team shall in the Procurement Strategy report:
- 2.4.6.6.1. detail the main provisions contained in the draft specification and ascertain the relevant standards (may be referenced to a corresponding British standard) which apply to the subject matter of the Contract. The Project Team must conclude those standards that are necessary properly to describe the required quality;
  - 2.4.6.6.2. detail how the procurement shall ensure stimulation of the market and to ensure sufficient tenders are received, if the Council follows the Most Suitable Provider Process or the Competitive Process;
  - 2.4.6.6.3. define the objectives of the purchase and, where appropriate, ensure that they meet the requirements of the Council;
  - 2.4.6.6.4. identify any significant variations to the Council's standard terms and conditions;

- 2.4.6.6.5. identify the basis selection criteria and key criteria to be used and the reasoning for the recommendation ensuring the optimum combination of whole life cost and quality;
  - 2.4.6.6.6. securing wider social, economic and environmental benefits for the community for all Contracts, including specifically for service contracts how the proposed Tender documents meet the statutory requirements contained in the Public Services (Social Value) Act 2012 and the Council's policy on Added Value;
  - 2.4.6.6.7. consider, where it is appropriate, the Council's responsibilities under the Civil Contingency Act in terms of potential emergencies and the continuity of high priority services; and
  - 2.4.6.6.8. detail other legislation relating to the Contract.
- 2.4.6.7 **Data Protection:** The Project Team should consider what personal data will be collected or processed as part of the Contract. A Data Protection/ Privacy Impact Assessment should be carried out and reference should be made to the guidance provided by the Information team within the Council.
- 2.4.6.8 **Assessment of potential suppliers:**
- 2.4.6.8.1. Where the Council is procuring Relevant Health Care Services it shall undertake the assessment of potential suppliers taking account of the key criteria as detailed in Regulation 5 of the PSR and applying the basic selection criteria as detailed in regulation 19 and Schedule 16 of PSR. Where the Council follows Direct Award Process A or Direct Award Process B or a Contract is concluded under a Framework Agreement the Council does not need to apply the basic selection criteria.
  - 2.4.6.8.2. The basic selection criteria must be set out in the [Procurement Strategy](#).

### 3. PROJECT TEAM

- 3.1. The Project Team may be similar in its composition to that of the SRT. It will ensure that the procurement exercise is managed in accordance with existing legislative requirements and the Procurement Strategy that has been approved

by the Council. Its roles include finalising all final documentation required to undertake a procurement exercise, with appropriate legal and procurement advice and establishing an Evaluation Panels to conduct evaluations at qualification and/or award stages.

- 3.2. The Project Team will be chaired by the SLT Member or his/her delegated deputy (or where there are several departments involved, in the department with the highest spend), with a senior sponsor, and include relevant stakeholders (e.g. Contract Officer). It will consult and engage relevant professional officers including but not limited to legal, finance, procurement, IT and HR. It will also commission additional expertise where this is warranted. It will be responsible for:
  - 3.2.1 ensuring a Contract is put in place in accordance with legal requirements;
  - 3.2.2 meeting required deadlines and service requirements;
  - 3.2.3 obtaining Value for Money; and
  - 3.2.4 meeting the agreed objectives set out in the Procurement Strategy.
- 3.3. In most instances the Project Team will identify and appoint a Contract Officer who will be responsible for the day to day running of the procurement exercise. The Contract Officer will be a member of the Project Team.
- 3.4. Before any process under the PSR is commenced, the Contract Officer responsible for it must, in a manner commensurate with the complexity and value of the project:
  - 3.4.1 act on the agreed recommendations set out in the agreed Procurement Strategy;
  - 3.4.2 take into account any procurement guidance issued;
  - 3.4.3 assess the risks associated with the procurement and how to manage them; and
  - 3.4.4 have due regard to the Council's Added Value responsibilities under the Public Services (Social Value) Act 2012 and Public Sector Equality Duty arising from the Equality Act 2010 and other relevant legislation.
- 3.5. The Project Team shall appoint the appropriate professional officers (and in most instances this will include the Contract Officer) to evaluate expressions of interest or Tenders received. These professional officers will individually score the submissions received and award marks (where appropriate) against the pre-published criteria set out in the Procurement Strategy. All evaluators are required to record their individual scores in the Council's eProcurement System. The Project Team will then consider these individual scores and shall arrive at and agree a consensus score for all criteria during the moderation meeting. The moderation meeting is chaired by the Assistant Director Procurement and

Commercial or a delegated (procurement) officer. The Project Team shall not adopt, as a methodology, an average scoring arrangement.

- 3.6. The Project Team will keep accurate records of all meetings, retain appropriate documentation and maintain proper records for transparency and audit purposes as set out in Regulation 24 of PSR (where applicable) and [paragraph 7](#) of this [Appendix 9](#) below.
- 3.7. The Project Team will undertake post-project reviews where required. It will implement any corporate or collaboration requirements including supporting arrangements around any agreed approval processes and participating in any audits.
- 3.8. The Project Team and appropriate SLT Member shall be responsible for ensuring that all persons or bodies invited to Tender for the supply of goods, services or works to the Council have been suitably assessed and meet the PSR.

#### **4. PROCUREMENT DOCUMENT SUITE**

- 4.1. At the point of advertising the opportunity using the Most Suitable Provider Process or Competitive Process, the Procurement Document Suite must be complete and available on the Council's e-tendering portal for access by all economic operators who express interest in the project. This Invitation to Tender comprises at least the following:
  - 4.1.1 the specification;
  - 4.1.2 the Invitation to Tender containing instructions on the process;
  - 4.1.3 the draft Contract;
  - 4.1.4 the form of Tender;
  - 4.1.5 response requirements; and
  - 4.1.6 the basic award criteria and key criteria.
- 4.2. The Project Team shall be responsible for preparing the Procurement Document Suite.

#### **5. INVITATION TO TENDER**

- 5.1. The Council will follow the following processes depending on which process is relevant to the procurement of the Relevant Health Care Service Contract.

### **Direct Award Process A**

Step 1: The Council awards a Contract without a competition.

Step 2: The Council submits a notice of the award for publication on the Central Digital Platform within 30 days of the Contract being awarded. The notice must include the information set out in Schedule 2 of the PSR.

### **Direct Award Process B**

Step 1: The Council awards a Contract without a competition.

Step 2: The Council submits a notice of the award for publication on the Central Digital Platform within 30 days of the Contract being awarded. The notice must include the information set out in Schedule 2 of the PSR.

### **Direct Award Process C**

Step 1: The Council considers, taking into account the key criteria and applying the basic selection criteria whether it is content that the existing supplier is satisfying the existing Contract and is likely to satisfy the proposed Contract sufficiently;

Step 2: A notice of intention to make an award to the existing supplier is submitted for publication;

Step 3: Standstill Period;

Step 4: Where the Council receives written representations, the Council must comply with the provisions in regulation 12(4) PSR and communicate further decisions and any subsequent further decisions made. Where no written representations are made the Council can move directly to Step 5 without taking any action under Step 4;

Step 5: The Council enters into Contract after the end of Standstill Period;

Step 6: The Council submits a notice of award of the Contract for publication.

### **The Most Suitable Provider**

Step 1: The Council submits a notice of its intention to follow the Most Suitable Provider Process for publication;

Step 2: The Council identifies potential suppliers with reference to the key criteria and basic selection criteria. This step cannot be completed before the day which is 14 days after the date on which the notice of intention to follow the process is submitted as detailed in Step 1;

Step 3: The Council assesses the potential suppliers and chooses a supplier, taking account of the key criteria and applying the basic selection criteria;

Step 4: The Council submits a notice of intention to make an award for publication;

Step 5: Standstill Period;

Step 6: Where the Council receives written representations, the Council must comply with the provisions in regulation 12(4) PSR and communicate further decisions and any subsequent further decisions made. Where no written representations are made the Council can move directly to Step 7 without taking any action under Step 6;

Step 7: The Council enters into the Contract after the end of the Standstill Period; and

Step 8: The Council submits a notice of award of the Contract for publication.

### **The Competitive Process**

Step 1: The Council determines the award criteria taking account of the key criteria and applying the basic selection criteria;

Step 2: The Council submits a notice inviting offers for publication;

Step 3: The Council assess the offers;

Step 4: The Council makes a decision;

Step 5: the Council promptly informs the successful and unsuccessful suppliers;

Step 6: The Council submits a notice of its intention to award for publication;

Step 7: Standstill Period;

Step 8: Where the Council receives written representations the Council must comply with the provisions in regulation 12(4) PSR and communicate further decisions and any subsequent further decisions made. Where no written representations are made the Council can move directly to Step 9 without taking any action under Step 8;

Step 9: The Council enters into the Contract or Framework Agreement after the end of the Standstill Period;

Step 10: The Council submits a notice of award of the Contract or Framework Agreement for publication.

## **6. SUBMISSION, RECEIPT AND OPENING OF TENDERS:**

- 6.1. Unless otherwise agreed by the Assistant Director Procurement and Commercial, all Tenders must be received through the Council's eProcurement System.
- 6.2. The Assistant Director Procurement and Commercial will be responsible for the verification of all Tenders and Quotations that have been submitted electronically through the eProcurement System.
- 6.3. Any Tender received after the date and time for its return cannot and must not be accepted. Late Bidders will be advised that their Tender has been rejected because it was received after the date and time scheduled for its return.

- 6.4. The Project Team and evaluators must not disclose the names of Bidders to any Council staff not involved in the procurement process.

## **7. EVALUATION AND AWARD OF CONTRACTS**

- 7.1. The Project Team will take responsibility for the establishment of Evaluation Panels to evaluate of all Tenders received and the arrival of the final consensus scores.

- 7.2. In accordance with statutory requirements the confidentiality of Tenders and the identity of Bidders must be preserved at all times, and information about one Bidder's response must not be given to another Bidder. Where questions are received prior to the return of Tenders, then the Contract Officer shall anonymise both the question(s) and response(s) and forward to all Bidders for information, unless the questions are Bidder-specific.

- 7.3. The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the Bidder, who should be requested explain the discrepancy. Such a discrepancy may, in certain circumstances, be acceptable. Officers should take advice from Legal Services where any discrepancy is identified.

- 7.4. Where the Tender recommended for acceptance is more than 10% below the estimate, the awarding report required in accordance with these CSOs shall explain the reasons for the difference and confirm that the supplier has provided written confirmation that they are able to fulfil the Contract for their tendered sum.

- 7.5. SLT Members shall ensure that submitted Tender prices or rates are compared with any pre-Tender estimates and that any discrepancies are examined and resolved satisfactorily. Details of correspondence needs to be kept on the project file, and this information needs to be recorded in decision award reports (to SLT Members, Cabinet Member Decisions or Cabinet Reports).

### **7.6. Framework Agreements**

- 7.6.1 The PSR permits the Council to select further suppliers to become a party to a Framework Agreement and the Council must follow the Competitive Process to select such suppliers.

- 7.6.2 Where the Council enters into a Contract under a Framework Agreement, the Council must submit a notice of award of Contract.

### **7.7. Information requirements (regulation 24 of PSR) and Annual summary (regulation 25 of PSR)**

- 7.7.1 The Council must keep a record of the following in accordance with regulation 24 of the PSR:

7.7.1.1 the name of any supplier to whom it awards a Contract;

7.7.1.2 The name of any supplier who is a party to a Framework Agreement;



- 7.7.1.3 The address of the registered office or principal place of business of each supplier referred to above;
  - 7.7.1.4 The decision-making process followed, including the identity of individuals making decisions;
  - 7.7.1.5 Where the Council has followed Direct Award Process C or the Most Suitable Provider Process, a description of the way in which the key criteria were taken into account and the basic selection criteria where assessment when making a decisions;
  - 7.7.1.6 Where the Council has followed the Competitive process, a description of the way in which the key criteria were taken into account, the basic selection criteria were assessment and Contract or Framework Agreement award criteria were evaluated when making a decision;
  - 7.7.1.7 The reasons for the decision made;
  - 7.7.1.8 Declared conflicts or potential conflicts of interest;
  - 7.7.1.9 How any conflicts or potential conflicts of interest were managed for each decision;
  - 7.7.1.10 Where procurement is abandoned, the date on which it is abandoned.
- 7.7.2 The Council must publish online on a publicly available website an annual summary of its activity for the provisions of Related Health Care Services as specifically detailed in regulation 25 of PSR.
- 7.7.3 Prior to awarding the Contract, the SLT Member will meet with legal and procurement.

## Appendix 10: Report Templates

Report templates, the procurement strategy template, and the waiver form template are available on the Council's intranet (for internal use only): <https://officesharedservice.sharepoint.com/sites/Governance/SitePages/Reports.aspx#templates>

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## Appendix 11: Notices

All notices under the PA 2023 must be published on the Central Digital Platform:

Name	Detail
<b>Below Threshold Tender Notice</b>	The notice is required where the Council invites Tenders to award a Notifiable Below-Threshold Contract
<b>Contract Performance Notice</b>	These are used to publish KPIs for Public Contracts which have an estimated value of over £5 million (inc. VAT) and recording information relating to particular breaches or failure to perform a Contract save for where it results in the Contract being terminated in full
<b>Payment Compliance Notice</b>	Publishing requirements on payment performance
<b>Procurement Termination Notice</b>	The notice will be used by the Council to inform the market they have decided to not proceed with a Tender where a Tender Notice or Transparency Notice has been published
<b>Contract Termination Notice</b>	The Council will use this notice to inform stakeholders that a Contract has been terminated and allow for scrutiny of this decision
<b>Planned Procurement Notice</b>	Optional – used to alert the market of future opportunities
<b>Preliminary Market Engagement Notice</b>	The Council can use this notice to invite suppliers to participate in advance engagement or notify the market that such engagement has taken place before the publication of a Tender Notice
<b>Pipeline Notice</b>	Used when the Contract is estimated to have a value of more than £2 million to give advance notice of this opportunity. Required where estimated spend on relevant Contracts is over £100 million in the coming financial year
<b>Tender Notice</b>	<ul style="list-style-type: none"> <li>• Used to invite suppliers to submit a Tender in Open Procedures or for requests to participate in Competitive Flexible Procedures</li> </ul>

	<ul style="list-style-type: none"> <li>• The notice must be published alongside the Procurement Document Suite</li> <li>• For Below Threshold Tenders, there is a simplified Tender Notice</li> </ul>
<b>Dynamic Market Notice</b>	<ul style="list-style-type: none"> <li>• Used in relation to the Dynamic Market</li> <li>• Published at various times during the establishment or operation of the Dynamic Market</li> </ul>
<b>Transparency Notice</b>	This notice must be published before awarding a Contract under direct award provisions to inform stakeholders of the decision and allow interested parties to scrutinise the grounds of award
<b>Contract Award Notice</b>	Used to alert the market to the fact that a decision to award a Contract has been made and the outcome of the Tender process (including whether all lots are being awarded). For most cases, the Contract Award Notice will start the Standstill Period
<b>Contract Details Notice</b>	The Council must publish a notice that it has entered into a Contract setting out information which is set out in detail in the Regulations. Different timescales apply for procurements – longer timescales where Light Touch Services
<b>Contract Change Notice</b>	The Council must publish this before modifying a Contract (see Part 2 of <a href="#">Appendix 6</a> )

The relevant notices and communications to be issued by the Council for the purposes of the PSR are as follows:

Notice	Detail
<p>Notice of award under Direct Award Process A or B or award based on Framework Agreement without competition (Schedule 2 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that an award has been made following Direct Award Process A or Direct Award Process B or a statement that the award is an award based on a Framework Agreement and made without competition.</li> <li>• Contract title and reference</li> <li>• Name and address of the registered office or principal place of business of the supplier to whom the Contract has been awarded</li> <li>• A description of the Relevant Health Care Services to which the Contract relates including the most relevant CPV codes</li> <li>• The lifetime value of the Contract, or where is not known, the amounts payable to the supplier under the Contract</li> <li>• Dates between which the Contract provides for the services to be provided</li> <li>• Details of the award decision makers</li> <li>• Any declared conflicts or potential conflicts and information as to how any conflict or potential conflicts were managed</li> </ul>
<p>Intention to award to the existing supplier under Direct Award Process C (Schedule 3 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that the Council is intending to award the Contract to an existing supplier following Direct Award Process C</li> <li>• Contract title and reference</li> <li>• Name and address of the registered office or principal place of business of the supplier to whom the Contract has been awarded</li> <li>• A description of the Relevant Health Care Services to which the Contract relates including the most relevant CPV codes</li> </ul>

	<ul style="list-style-type: none"> <li>• The approximate lifetime value of the Contract</li> <li>• Details of the award decision makers</li> <li>• A statement explaining the award decision-maker's reasons for selecting the chosen supplier, with reference to the key criteria</li> <li>• Any declared conflicts or potential conflicts and information as to how any conflict or potential conflicts were managed</li> </ul>
<p>Notice following award under Direct Award Process C (Schedule 4 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that an award has been made following Direct Award Process C</li> <li>• Contract title and reference</li> <li>• Name and address of the registered office or principal place of business of the supplier to whom the Contract has been awarded</li> <li>• A description of the Relevant Health Care Services to which the Contract relates including the most relevant CPV codes</li> <li>• The lifetime value of the Contract, or where is not known, the amount payable to the supplier under the Contract</li> <li>• Date between which the Contracts provides for the services to be provided</li> <li>• Details of the award decision makers</li> <li>• Any declared conflicts or potential conflicts and information as to how any conflict or potential conflicts were managed</li> </ul>
<p>Notice of intention to follow the Most Suitable Provider Process (Schedule 5 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that the Council is intending to follow the Most Suitable Provider Process to award a Contract</li> <li>• Contract title and reference</li> <li>• A description of the Relevant Health Care Services to which the Contract relates including the most relevant CPV codes</li> </ul>

	<ul style="list-style-type: none"> <li>• Details of the award decision makers</li> </ul>
<p>Notice of intention to award to the chosen supplier under the Most Suitable Provider Process (Schedule 6 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that the Council is intending to award the Contract to a supplier following the Most Suitable Provider Process</li> <li>• Contract title and reference</li> <li>• Name and address of the registered office or principal place of business of the supplier to whom the Contract has been awarded</li> <li>• A description of the Relevant Health Care Services to which the Contract relates including the most relevant CPV code</li> <li>• The approximate lifetime value of the Contract</li> <li>• Details of the award decision makers</li> <li>• A statement explaining the award decision-maker's reasons for selecting the chosen supplier, with reference to the key criteria</li> <li>• Any declared conflicts or potential conflicts and information as to how any conflict or potential conflicts were managed</li> </ul>
<p>Notice following award under the Most Suitable Provider Process (Schedule 7 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that an award has been made following the Most Suitable Provider Process</li> <li>• Contract title and reference</li> <li>• Name and address of the registered office or principal place of business of the supplier to whom the Contract has been awarded</li> <li>• A description of the Relevant Health Care Services to which the Contract relates including the most relevant CPV code</li> <li>• The lifetime value of the Contract</li> <li>• Dates between which the Contract provides for the services to be provided</li> <li>• Details of the award decision makers</li> </ul>

	<ul style="list-style-type: none"> <li>• Any declared conflicts or potential conflicts and information as to how any conflict or potential conflicts were managed</li> </ul>
<p>Notice inviting offers (Schedule 8 PSR)</p>	<ul style="list-style-type: none"> <li>• Contract or Framework Agreement title and reference</li> <li>• A description of the Relevant Health Care Services to which the Contract or Framework Agreement will relate, including the most relevant CPV code</li> <li>• The intended or estimated dates- <ul style="list-style-type: none"> <li>(a) Between which the services must be provided and the duration of the Contract including potential extensions beyond the initial term; or</li> <li>(a) The term of the Framework Agreement</li> </ul> </li> <li>• Approximate lifetime value of the Contract or Framework Agreement</li> <li>• Contract or Framework award criteria</li> <li>• Where the notice relates to a proposed Framework Agreement, the relevant authorities which will be able to use the Framework Agreement</li> <li>• A statement as to how offers must be made, which must be by electronic means</li> <li>• A statement as to how offers will be assessed, including whether the assessment will be in stages</li> </ul>
<p>Communication to unsuccessful suppliers (Schedule 9 PSR)</p>	<ul style="list-style-type: none"> <li>• Contract or Framework Agreement title and reference</li> <li>• Contract or Framework Agreement award criteria</li> <li>• Reasons why the successful supplier was successful</li> </ul>



	<ul style="list-style-type: none"> <li>• Reasons why the unsuccessful supplier was unsuccessful</li> <li>• Dates of the beginning and end of the period in which written representations may be made</li> </ul>
<p>Notice of intention to make an award to the chosen supplier, or conclude a Framework Agreement with the chosen supplier, under the Competitive Process (Schedule 10 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that the Council is intending to award a Contract to a supplier or conclude a Framework Agreement under the Competitive Process</li> <li>• Contract or Framework Agreement title and reference</li> <li>• Name and address of registered office or principal place of business of the supplier to whom a Contract is to be awarded or with whom the Framework Agreement is to be concluded</li> <li>• A description of the Relevant Health Care Services to which the Contract or Framework Agreement relates, including the most relevant CPV code</li> <li>• Where the notice relates to the conclusion of a Framework Agreement, the duration of the agreement and the relevant authorities which will be able to use the Framework Agreement</li> <li>• Approximate lifetime value of the Contract or Framework Agreement</li> <li>• Details of the decision-makers</li> <li>• A statement explaining the decisions-makers' reasons for selecting the chosen supplier, with reference to the key criteria</li> <li>• Any declared conflicts or potential conflicts and information as to how any conflict or potential conflicts were managed</li> <li>• Where appropriate, an indication whether a Framework Agreement was used.</li> </ul>
<p>Notice following a competition under the Competitive Process (Schedule 11 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that the award follows a competition under the Competitive Process</li> </ul>

	<ul style="list-style-type: none"> <li>• Contract or Framework Agreement title and reference</li> <li>• Name and address of registered office or principal place of business of the supplier to whom a Contract is to be awarded or with whom the Framework Agreement is to be concluded</li> <li>• A description of the Relevant Health Care Services to which the Contract or Framework Agreement relates, including the most relevant CPV code</li> <li>• Where the notice relates to the award of a Contract, the lifetime value of the Contract, or where it is not known, the amounts payable to the supplier under the Contract</li> <li>• Where the notice relates to the conclusion of a Framework Agreement, the duration of the Framework Agreement, the relevant authorities which will be able to use the Framework Agreement and the lifetime value of the Framework Agreement</li> <li>• Where the notice relates to the award of a Contract, the dates between which the Contract provides for the services to be provided</li> <li>• Details of the decision-makers</li> <li>• Any declared conflicts or potential conflicts and information as to how any conflict of potential conflicts were managed</li> </ul>
<p>Notice of Contract or Framework Agreement modification (Schedule 12 PSR)</p>	<ul style="list-style-type: none"> <li>• Contract or Framework Agreement title and reference</li> <li>• A description of the Relevant Health Care Services to which the Contract or Framework Agreement relates, including the most relevant CPV code</li> <li>• Effective date of the modification</li> <li>• A brief description of the modification</li> </ul>

	<ul style="list-style-type: none"> <li>• Any change in the lifetime value of the Contract or Framework Agreement</li> <li>• Any change in the term length of the Contract or Framework Agreement</li> <li>• Details of the decision-makers</li> <li>• Any declared conflicts or potential conflicts and information as to how any conflict or potential conflicts were managed</li> </ul>
<p>Notice of urgent award (Schedule 13 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that in the view of the Council the award was urgent</li> <li>• Contract title and reference</li> <li>• Name and address of registered office or principal place of business of the supplier to whom a Contract has been awarded</li> <li>• A description of the Relevant Health Care Services to which the Contract or Framework Agreement relates, including the most relevant CPV code</li> <li>• The lifetime value of the Contract, or where it is not known, the amounts payable to the supplier under the Contract</li> <li>• Dates between which the Contract provides for the services to be provided</li> <li>• The reasons for the dates referred to, if that period is greater than 12 months</li> <li>• Details of the decision-makers</li> <li>• Any declared conflicts or potential conflicts and information as to how any conflict or potential conflicts were managed</li> <li>• The reasons why regulation 14 applied</li> </ul>
<p>Notice of urgent modification (Schedule 14 PSR)</p>	<ul style="list-style-type: none"> <li>• A statement that in the view of the Council the modification was urgent</li> <li>• Contract title and reference</li> <li>• A description of the Relevant Health Care Services to which the</li> </ul>

	<p>Contract relates, including the most relevant CPV code</p> <ul style="list-style-type: none"> <li>• Effective date of the modification</li> <li>• The nature of the modification, including any change in Contract value or length of the Contract</li> <li>• Details of the decision-makers</li> <li>• Any declared conflicts or potential conflicts and information as to how any conflict or potential conflicts were managed</li> <li>• The reasons why regulation 14 applied</li> </ul>
<p>Invitation to suppliers party to the Framework Agreement to submit an offer (Schedule 15 PSR)</p>	<ul style="list-style-type: none"> <li>• A description of the Relevant Health Care Services to which the Contract relates, including the most relevant CPV code</li> <li>• The Contract award criteria</li> <li>• The intended or estimated dates between which the services must be provided and the duration of the Contract including potential extensions beyond the initial term</li> <li>• Approximate lifetime value of the Contract</li> </ul>