

## BRECKLAND DISTRICT COUNCIL

**Report of:** Ian Sherwood, Executive Member for People Communications and Governance

**To:** Governance and Audit Committee – 28 July 2021  
Cabinet – 20 September 2021  
Council – 14 October 2021

**Author:** Anton Bull, Procurement and Contracts Manager

**Subject:** Contract Procedure Rules and the Log of Contracts Delegation to Officers

**Purpose:** To consider proposed amendments to the Contracts Procedure Rules and the associated log of delegations to officers.

### **Recommendation(s):**

- (1) That the proposed amendments to the Log of Delegations to officers relating to contracts, detailed in Appendix A, be approved; and
- (2) That the proposed amendments to the Contracts Procedure Rules, detailed in Appendix B, be approved; and

### **Recommend to FULL COUNCIL:**

- (3) That the Constitution be amended in accordance with Appendix B and so that the Contract Procedure Rules are inserted after the Financial Management Standards.

## **BACKGROUND**

- 1.1 In May 2019 Council approved changes to the Contract Procedure Rules to provide clarity on the delegations from Cabinet to officers.
- 1.2 A recent review of procurement and contract management has identified the need to update the Contract Procedure Rules particularly in relation to changes resulting from the UK's departure from the EU. In addition, the Contract Procedure Rules have been reviewed to identify other areas to update.
- 1.3 As a consequence of the updates to the Contract Procedure Rules, the delegations to officers also need to be updated, primarily because the numbering of some of the Contract Procedure Rules has changed.
- 1.4 Appendix A shows the proposed changes to the delegations to officers, with words to be removed shown as strikethrough and in italics while new words inserted are shown in bold underlined.
- 1.5 Appendix B shows the proposed changes to the Contract Procedure Rules again with words to be removed shown as strikethrough and in italics while new words inserted are shown in bold underlined.
- 1.6 Members should also note that the Cabinet retains decision-making power in respect of contracts and procurement, regardless of the delegations. As such, there will be occasions

where officers choose not to exercise their delegated authority, and instead refer the decision to executive members.

- 1.7 All substantive officer decisions must be published and will therefore be subject to scrutiny. Many will also be subject to potential call-in.

## **2.0 Proposed changes to delegations to officers**

- 2.1 There are no new delegations to officers. Overall, the existing delegations remain but the delegations have been updated to reflect the change in numbering of some of the Contract Procedure Rules as a result of changes made to those rules. The changes to the Contract Procedure Rules are explained in the next section.
- 2.2 The delegation for waivers/exemptions to Contract Procedure Rules (current rule 7.1, proposed changes rule 3.1) is a far-reaching delegation that allows any of the named officers to waive or exempt requirements from Contract Procedure Rules. However, the way the current delegation is written, there are no restrictions or parameters around this delegation and the named officers could waive or exempt requirements (after consulting with the Monitoring Officer or S151 Officer) from Contract Procedure Rules without any reason. It seems unlikely that this was the intention. Current rule 7.2, proposed changes rule 3.2, adds another option to waive or exempt requirements from Contract Procedure Rules but this requires certain conditions to be met. It therefore makes more sense that Cabinet retains the right to waive or vary the Contract Procedure Rules under current rule 7.1, proposed changes rule 3.1 whilst delegating to officers the authority to waive or vary the Contract Procedure Rules under current rule 7.2, proposed changes rule 3.2. This would allow functional working of waivers and exemptions through delegations to officers whilst rare exceptional reasons for waivers and exemptions would still require Cabinet authorisation.
- 2.3 Standing lists have been removed from the Contract Procedure Rules (current rule 12) and, as a consequence, it is proposed that the delegation for standing lists has been removed as well. Standing lists have, in effect, been replaced by framework agreements and these are also covered in the Contract Procedure Rules so this removes duplication.
- 2.4 Tenders and quotations are received electronically and Contract Procedure Rules have been updated accordingly, current rule 18.2, proposed changes rule 14.2. The proposed changes to Contract Procedure Rules remove the detailed requirements for the receipt of hard copy tenders and quotations and instead replace these with a catchall statement allowing the Contracts and procurement Team after consulting with the Monitoring Officer to make arrangements for receiving hard copy tenders or quotations in the unlikely event that this is ever required. This removes the need for the delegation regarding hard copy tenders.

## **3.0 Proposed changes to Contract Procedure Rules**

- 3.1 The basic requirements of the Contract Procedure Rules remain the same but a number of changes are proposed to update the Contract Procedure Rules to reflect changes as a result of the UK's departure from the EU, to incorporate internal audit recommendations and generally to update the Contract Procedure Rules to reflect current practice. The table below details the proposed changes along with the rationale for the change. The full proposed changes are shown in Appendix B.
- 3.2 The Contract Procedure Rules currently start at page 108 of the Constitution and are sandwiched between the Financial Procedure Rules and the Financial Management Standards. The Financial Management Standards actually comprise an appendix to the

Financial Procedure Rules, and so the Contract Rules should be inserted after the Financial Management Standards, and the numbering should begin at 1. The table below therefore also shows the amended numbering.

Current rule number	Proposed Rule number	Details of and rationale for the change
5.7.1	1.1.1	Updated to reflect the Public Contracts Regulations 2016 and link to corporate objectives
5.7.4	1.1.4	Added to highlight conflicts of interest early in the rules
5.7.5	1.1.5	Updated to reflect current legal requirements
5.7.6	N/A	Removed as this is implicit in proposed rule 1.1.1 and has been superseded by the Social Value Act.
5.7.8	N/A	Removed as there is no Procurement Guide for Officers. Advice and guidance is given by the Contracts and Procurement Team but is constantly evolving and a written guide would quickly become out of date and add little value.
N/A	1.2	Added to ensure the Contract Procedure Rules are in line with current practice and the requirements of the Public Contracts Regulations 2015 to conduct tenders electronically.
6.1.1 (d)	2.1.1 (d)	Updated to remove EU references. Reg 57 reference removed as there is no reason to single out this particular regulation.
6.1.2 (a)	2.1.2 (a)	Broadened to cover all records under these Contract Procedure Rules
6.1.2 (c)	2.1.2 (c)	Amended to tidy up the wording and reflect the current team name
6.1.3	2.1.3	Updated to reflect current legal requirements
6.1.4	2.1.4	Updated to reflect current legal requirements
6.2.1 (b)	2.2.1 (b)	Updated to reflect current transparency requirements to publish contracts over £5,000 and reflect the current team name
6.2.1 (c)	2.2.1 (c)	Updated to reflect current legal requirements
6.2.1 (h)	2.2.1 (h)	Updated to highlight use of electronic tendering
6.2.1 (i)	N/A	Removed to reflect current practice
6.2.1 (j)	2.2.1 (i)	Updated to reflect current level for contracts to £5,000
6.2.1 (l)	2.2.1 (k)	Updated to reflect the current team name
6.2.1 (m)	2.2.1 (l)	Updated to be consistent with the words used in the rest of the rules.
6.2.2 (b)	2.2.2 (b)	Updated to reflect the current team name
7.1	3.1	Updated to reflect current legal requirements
7.2	3.2	Updated to reflect the current team name
7.2.3	N/A	Removed as this is already covered in 7.2.1 (3.2.1)
7.2.4	N/A	Removed as not necessary as the original contract would cover this so would not need an exemption.
7.2.5	3.2.3	Added legislation references to ensure extensions do not allow contracts to go over thresholds that would require a different procedure.
7.2.6	N/A	Removed as this is already covered in 7.2.1 (3.2.1)
7.2.7	3.2.4	Amended to add a qualification that there must be a significant risk to the council caused by the urgency
7.2.10	3.2.7	Updated to reflect current legal requirements
7.2.11	3.2.8	Updated to reflect current legal requirements

7.3	3.3	Updated to reflect the current team name
7.3.1	3.3.1	Removed purchasing consortiums as these have become common practice that do not need Monitoring Officer consultations.
7.4	3.4	Updated to reflect the current team name
7.5	3.5	Updated to reflect the current team name
7.6	N/A	Removed as other updates remove the need to refer to e-procurement separately
7.8	N/A	Removed as unlikely to grant exemptions for more than one year and any exemption of this nature would have a review considered as part of the exemption.
7.9	3.7	Updated to reflect the current team name and tidy up the reference to rule 9.
7.10	3.8	Updated to reflect the current team name
9.1	5.1	Updated to reflect current legal requirements
9.1A	5.1A	Updated to include extensions to contracts and to allow a conditional notification to be given to the successful tenderer. As the current wording stands, there is a possibility that a tenderer could find out that they have been successful or unsuccessful via a Call-in notice which would put the council at risk of breaching the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016. Removed requirements for reports to the Contracts and Procurement Team as this does not happen in practice but the Contracts and Procurement Team work with service managers and officers to maintain an up to date contracts register. Rule 9.2 (5.2) has also been updated to reflect this.
9.2	5.2	Updated to include notifying the Contracts and Procurement Team and increasing the records kept in line with current practice. Also restricted requirements to contracts between £25,000 and £75,000. New paragraph to allow less records to be kept for contracts up to £25,000 that are proportionate to the value of the contract.
9.3	5.3	Updated to include requirement to keep all records as required by 9.2 (5.2) and any other records as advised by the Contracts and Procurement Team.
9.4	5.4	Updated to remove requirement to scan or microfilm unsuccessful tender details and instead require that these are kept for 12 months.
9.5	5.5	Removed reference to 9.1A (5.1A) as changes to 9.1A (5.1A) mean this reference is no longer required.
10	6.1	Updated as the original text was not clear about what it was trying to achieve but seemed to be focussed on skills and resources for procurement so has been updated to reflect that.
11	7	Updated to reflect the current team name and to reflect current legal requirements
12.1	N/A	Removed references to Standing Lists as no longer used and have been replaced by Framework Agreements.

12.2	8.1	Updated to reflect current legal requirements for Framework Agreements. Updated award notification (same as 9.1A/5.1A above)
13.1.1 to 13.1.3	9.1.1 to 9.1.3	Updated to reflect current legal requirements. Removed separate reference to consultants as covered by services so no need to separate out.
13.1.5	9.1.5	Removed as already covered by 13.1.2 (9.1.2)
13.1.7	9.1.7	Updated to reflect current legal requirements
13.1.8	9.1.8	Removed as consultants as covered by services
13.2.2	9.2.2	Added new procedure to deal with items where the cost of disposal is likely to outweigh the value of the asset for disposal.
14	10	Updated to reflect current legal requirements and the current team name
15	11	Updated to reflect current legal requirements and the current team name
16.1	12.1	Removed specific rule references as not clear why these rules have any more importance than any of the other rules.
16.3.2	12.3.2	Updated to clarify that it is the tender submitted by the candidate.
16.3.5	12.3.5	Updated to include percentage weighting for evaluation criteria
16.5	12.5	Updated to clarify that all candidates must receive clarification questions and answers.
17	13	Updated to reflect current legal requirements
18.1	14.1	Removed specific reference to the Public Contracts Regulations 2015 as this is already covered by the words "adequate period" and the Contracts and Procurement Team will advise on above threshold contracts.
18.1.2a	14.1.2a	Added a line to allow for an explanation of any Health and Safety breaches as remedial action can often indicate a safer working environment.
18.2	14.2	Updated to make electronic tenders the norm and to confirm they will be opened by the Contracts and Procurement Team.
18.3	14.3	Simplified the hard copy tender arrangements to remove detailed instructions and replaced with arrangements to be made in the unlikely event that this is ever needed.
19	15	Updated to add legislation references as this a key area of risk for procurement challenges. Updated to reflect the current team name
20.1.1	16.1.1	Updated to reflect the current team name
20.2	16.2	Updated to include contract extensions and to remove reference to standstill periods which will be dealt with by the Contracts and Procurement Team.
20.2.4	16.2.4	Removed as this is a repeat of 5.1A
21	N/A	Removed as not used
22.1.2	17.1.2	Added electronic invoices to ensure this becomes the default position
22.1.3	17.1.3	Removed specific reference to consultants as this is covered by services. Combined reference to works, supplies of goods, materials or services as the threshold is the same.

22.3	17.3	Updated to reflect current legal requirements
23	N/A	Removed as would be considered as a non- commercial consideration and the Local Government Act 1988 Section 19 specifically prohibits this unless it is to facilitate compliance with the Public Services (Social Value) Act 2012. This will need to be considered on a case by case basis rather than having a blanket requirement.
27.2	N/A	Removed as no guidance exists. The Contracts and Procurement Team will provide support for contract managers.
28.1	22.1	Updated to refer to the Contract Manager and included social value and other obligations in the list of items to be monitored.
N/A	24.3	New section added to monitor contract spend that may increase during the life of the contract which if that value had been known at the start, a different procedure would have been adopted.
30	24	Updated to reflect the current team name
31.2	25.2	Removed requirement for a limit on the excess for professional indemnity insurance as this will vary by supplier. The actual excess would need to be considered as part of any risk or financial evaluation as this would vary by supplier.
31.3	25.3	Updated to include consultants in services
32	26	Updated to remove annual review and leave as updated when necessary
N/A	Index	Index added for ease of use

#### **4.0 OPTIONS**

4.1 Cabinet can approve or decline to approve any of the proposed amendments to the delegations detailed in Appendix A and any of the proposed amendments to the Contract Procedure Rules set out in Appendix B.

#### **5.0 REASONS FOR RECOMMENDATION(S)**

5.1 The proposed amendments to in Appendix B will comply with audit requirements.

#### **6.0 EXPECTED BENEFITS**

6.1 The proposed delegations to officers relate directly to the current Contract Procedure Rules. The proposed amendments to the Contracts Procedure Rules will secure compliance with the audit requirements.

#### **7.0 IMPLICATIONS**

7.1 In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

## **Constitution & Legal**

- 7.2 As the award of contracts is an executive function, delegation of part of that function is reserved to the Leader and the Cabinet.
- 7.3 The Contract Procedure Rules relate to the contracts function and Cabinet therefore has an opportunity to consider proposed amendments to the Rules, but as the Contract Procedure Rules form part of the Constitution full Council approval is required.

## **Contracts**

- 7.4 The delegations will correlate and comply with the proposed amendments to the Contract Procedure Rules. The proposed amendments to the Contract Procedure Rules will allow compliance with the audit requirements.

## **Risk Management**

- 7.5 Full compliance with the Contract Procedure Rules and the relevant Officer delegations should lower any risk of challenge to any contracting procedure.

## **8.0 WARDS/COMMUNITIES AFFECTED**

- 8.1 None

## **9.0 ACRONYMS**

- 9.1 CPM means the Contracts and Procurement Manager
- 9.2 CX means Chief Executive
- 9.3 ED means Executive Director
- 9.4 AD means Assistant Director
- 9.5 SM means Service Manager
- 9.6 SLO means the Senior Legal Officer

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Background papers:- Constitution which can be found online

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### **Lead Contact Officer**

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**Key Decision:** No

**Exempt Decision:** No

**This report refers to a Mandatory Service**

**Appendices attached to this report:**

APPENDIX A – Proposed amended delegations to officers in relation to contracts

APPENDIX B – Proposed amended Contract Procedure Rules

## APPENDIX A – Proposed amended delegations to officers in relation to contracts

Abbreviation	Meaning
CX	Chief Executive
ED	Executive Director
AD	Assistant Director
SM	Service Manager
SLO	Senior Legal Officer
CPM	Procurement and Contracts Manager

Officer(s)	Subject	Delegation From	Power
<del>CX, COs and DCOs</del> <b>CX, EDs and ADs</b> following consultation with the MO or S151 Officer	Contracts - contracting activities of any partnership for which the Council is the accountable body	<b>Cabinet</b>	(Note to Contract Procedure Rule <del>5-7</del> <b>1</b> ) Authority to agree that Contract Procedure Rules do not apply to contracting activities of any partnership for which the Council is the accountable body
<del>CX, Cos, DCOs</del> <b>CX, EDs, ADs</b> and SMs subject to consultation with the appropriate portfolio holder (consultation is not required for (i) routine contracts (eg routine ongoing or annual maintenance contracts, routine purchasing of goods and equipment; routine servicing of vehicles etc); (ii) contracts for 1-off schemes where the scheme has been formally approved and where sufficient money has been allocated within the budget for the contract; and (iii) indirect services such as legal services or consultants for schemes which have been formally approved and where sufficient money has been allocated within the budget for the contract as such contracts are not closely connected to the discharge of the function.)	Contracts – letting (awarding) of contracts through framework agreement	<b>Cabinet</b>	(Contract Procedure Rules <del>62.1.4 and 12-2</del> <b>8</b> ) Authority to let (award) a contract through any framework agreement to which the Council has access where considered expedient by a CO or a DCO subject to the scheme falling within the approved budget which includes the approved 5 year capital programme. (A decision notice must be published for each award of contract unless administrative or minor or not closely connected to discharge of function.) (The signing of contracts is dealt with separately below.)
<del>CX, COs and DCOs</del> <b>CX, EDs and ADs</b> following	Contracts - variation or waiver (exemption)	<b>Cabinet</b>	(Contract Procedure Rule <del>7.1</del> <b>3.2</b> ) Authority to vary or

consultation with the MO or S151 Officer	of Contract Procedure Rules		waive any Contract Procedure Rules subject to complying with all relevant requirements of Rule 7, and subject to the scheme falling within the approved budget which includes the approved 5 year capital programme.
<del>CX, COs, DCOs and SMs</del>	<del>Contracts – Standing (Approved) Lists</del>	<del>Cabinet</del>	<del>(Contract Procedure Rules 12.1.2 and 12.1.3) Authority to determine that a Standing (Approved) List shall be kept of persons suitable for undertaking contracts for the execution of specified categories of work or for the supply of specified categories of goods, materials or services within such values or amounts as may be specified, in accordance with Contract Procedure Rule 8, and to use such Lists, subject to full compliance with Rule 8. (The awarding and signing of contracts are dealt with separately below)</del>
<del>CX, Cos, DCOs</del> <b>CX, EDs, ADs</b> and SMs	Contracts - assets for disposal	<b>Cabinet</b>	(Contract Procedure Rule <del>13.2</del> <b>9.2</b> ) Authority to dispose of obsolete stocks, stores or assets, other than land, subject to complying with Contract Procedure Rule 9.2.
<del>CX, Cos, DCOs</del> <b>CX, EDs, ADs</b> , SMs and any other officer with the written approval of the <del>CX/EDs/ADs/CO/DCO/SM</del> (any sub-delegations lasting more than 6 months must be reported to the SLO)	Contracts - pre tender market testing and consultation	<b>Cabinet</b>	(Contract Procedure Rule <del>14</del> <b>10</b> .1) Authority to consult potential suppliers prior to issue of the Invitation to Tender or Request for Quotation subject to the scheme falling within the approved budget which includes the approved 5 year capital programme
<del>CX, COs, DCOs,</del> <b>EDs, ADs</b> , SMs and any other officer with the written approval of the <del>CX/EDs/ADs/CO/DCO/SM</del> (any sub-delegations lasting more than 6 months must be reported to the SLO)	Contracts – all values – seeking, receiving and evaluating quotations/tenders for contracts for works, goods materials and services, and hiring of consultants	<b>Cabinet</b>	(Contract Procedure Rules <del>12.1.7(a), 12.2</del> <b>8.1</b> (where a competition is required), <del>139.1.3 and 139.1.4, 1511.0, 1612.0, 1814.0, 14.3, 2016.1, 21.2</del> ). Authority to request and receive tenders and quotations, and to evaluate

			tenders and quotations subject to compliance with the Contract Procedure Rules (as amended by any authorised variation or waiver) and subject to the scheme falling within the approved budget which includes the approved 5 year capital programme. (The awarding and the signing of contracts are dealt with separately below.)
CX, <del>COs, DCOs</del> , <u>EDs</u> , <u>ADs</u> and SMs following consultation with the relevant portfolio holder (consultation is not required for (i) routine contracts (eg routine ongoing or annual maintenance contracts, routine purchasing of goods and equipment; routine servicing of vehicles etc); (ii) contracts for 1-off schemes where the scheme has been formally approved and where sufficient money has been allocated within the budget for the contract; and (iii) indirect services such as legal services or consultants for schemes which have been formally approved and where sufficient money has been allocated within the budget for the contract as such contracts are not closely connected to the discharge of the function.)	Contracts - awarding of contracts <u>and extensions to contracts</u>	<b>Cabinet</b>	(Contract Procedure Rules <del>12.2 5.1A</del> , <del>20.2 16.2</del> ) Authority to award contracts subject to compliance with the Contract Procedure Rules (as amended by any authorised variation) and subject to the scheme falling within the approved budget which includes the approved 5 year capital programme. (Decision notices must be published for each award of contract unless administrative or minor or not closely connected with discharge of function.) (The signing of contracts is dealt with separately below.)
The CPM plus the CX, <del>COs, DCOs</del> , <u>EDs</u> , <u>ADs</u> and SMs	Contracts – signing of contracts which are not under seal	<b>Cabinet</b>	(Contract Procedure Rule <del>2217.2</del> ) Authority to sign contracts which are not under seal and which come within the jurisdiction of the officer concerned. (Contracts under seal must be signed only by officers who have specific authority to do so.)

<i>CX, COs, DCOs, SMs and any other officer with the written approval of the CX/CO/DCO/SM (any sub-delegations lasting more than 6 months must be reported to the SLO)</i>	<i>Contracts – refusal of hard copy tenders</i>	<b>Cabinet</b>	<i>(Contract Procedure Rule 18.3) Authority to refuse to accept hard copy tenders which do not comply with the Contract Procedure Rules.</i>
Officers of the Contracts team	Contracts - Authorised Officer of relevant team	<b>Cabinet</b>	(Contract Procedure Rules <b>14.2</b> <del>18.2.2 and 18.3</del> ) Officers appointed as "Authorised Officer of relevant team"
CX, COs, DCOs, <b>EDs</b> , <b>ADs</b> , SMs and any other officer with the written approval of the CX/ <b>EDs/ADs</b> /CO/DCO/SM (any sub-delegations lasting more than 6 months must be reported to the SLO)	Clarification of an invitation to tender	<b>Cabinet</b>	(Contract Procedure Rule <del>15.1</del> ) Authority to provide clarification of an Invitation to tender
CX, COs, DCOs, <b>EDs</b> , <b>ADs</b> , SMs and CPM	Post tender negotiations	<b>Cabinet</b>	(Contract Procedure Rules <del>15.2 to 15.6</del> ) (at least 2 officers are required – see rule <del>15.6</del> ) Authority to undertake post tender negotiations
CX, COs, DCOs, <b>EDs</b> , <b>ADs</b> and SMs In consultation with the relevant portfolio holder (consultation is not required for termination of low value or minor contracts)	Authority to terminate contracts	<b>Cabinet</b>	(Contract Procedure Rule <del>33–27</del> ) Authority to terminate contracts subject to consultation with the MO and S151 Officer

## APPENDIX B – Proposed amended Contract Procedure Rules

### CONTRACT PROCEDURE RULES

#### BASIC PRINCIPLES

1.1 All procurement procedures must:

- 1.1.1 realise value for money by ~~achieving the optimum combination of whole life costs, and quality of outcome~~ **awarding contracts that are the most economically advantageous contribution to delivering the Council's objectives**,
- 1.1.2 be consistent with the highest standards of integrity,
- 1.1.3 operate in a transparent manner,
- 1.1.4 ensure fairness in allocating public contracts **including managing conflicts of interest**,
- 1.1.5 comply with all legal requirements including ~~European Union (EU) treaty principles~~ **but not limited to the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 or successor legislation**,
- 1.1.6 ~~ensure that non-commercial considerations do not influence any contracting decision~~,
- 1.1.7 support all relevant Council priorities and policies, including the Medium Term Financial Plan, and
- 1.1.8 ~~comply with the Procurement Guidance for Officers.~~

NB: These Rules shall be applied to the contracting activities of any partnership for which the Council is the accountable body unless the Council expressly agrees otherwise (see the Log of Delegations to Officers for details of Officers who may action this rule).

- 1.2 **“written” or “in writing” means any expression consisting of words or figures which can be read, reproduced and subsequently communicated, including information transmitted and stored by electronic means.**

#### 2. OFFICER RESPONSIBILITIES

##### 2.1 Officers

2.1.1 Officers will comply with:

- (a) these Contract Procedure Rules (CPRs),
- (b) the Council's Constitution,
- (c) the Log of Delegations to Officer; and
- (d) all ~~UK and EU~~ legal requirements ~~(including ensuring that any Contractors are mandatorily excluded from participation in a procurement procedure where Regulation 57 of the Public Contracts regulations 2015 applies).~~

Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

2.1.2 Officers will:

- (a) keep ~~the~~ **any necessary** records required ~~by Rule 5 of~~ these Contract Procedure Rules,
- (b) take all necessary procurement, legal, financial and professional advice, taking into account the requirements of these Contract Procedure Rules,
- (c) prior to letting a contract on behalf of the Council, check whether:
  - (i) **the Contracts Register lists an appropriate contract in place for the Council** ~~already has an appropriate contract in place in the Contracts Register~~, or:
  - (ii) an appropriate national, regional or other collaborative contract is already in place.

Where the Council already has an appropriate contract in place, then this must be used unless it can be established that the contract does not fully meet the Council's specific requirements in this particular

case, and this is agreed following consultation with the Contracts **and Procurement** Team.

Where an appropriate national, regional or collaborative contract is available, consideration should be given to using this, provided the contract offers value for money.

- (d) ensure that when any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then any Transfer of Undertaking (Protection of Employment) issues are considered and legal and HR advice from within the Council is obtained prior to proceeding with the procurement exercise.

2.1.3 Failure to comply with any of the provisions of these Contract Procedure Rules, the Council's Constitution or ~~UK or EU~~ **any** legal requirements may be brought to the attention of the Monitoring Officer, Head of Internal Audit, or relevant Officer as appropriate. Depending on the nature of the non-compliance this may result in disciplinary action being taken.

2.1.4 A contract may, ~~where considered expedient by a Chief Officer/Deputy Chief Officer,~~ be let through any framework agreement to which the Council has access. Where the contract to be let is subject to the ~~EU Procurement Rules~~ **Public Contracts Regulations 2015 or the Concession Contracts 2016**, use of such framework agreement shall be subject to compliance with ~~EU Procurement Rules~~ **those regulations** (see the Log of Delegations to Officers for details of Officers who may action this rule).

## 2.2 Chief Officer/Deputy Chief Officers

2.2.1 Chief Officer/Deputy Chief Officers will:

- (a) ensure their Service Grouping complies fully and are familiar with the requirements of these Contract Procedure Rules;
- (b) ensure contracts **with a value over £5,000** are recorded ~~in~~ **on** the Contracts Register as held and maintained by Contracts **and Procurement** Team;
- (c) ensure compliance with English Law, **and** U.K. ~~and EU~~ legislation and Council policy ~~(including ensuring that any Contractors are mandatorily excluded from participation in a procurement procedure where Regulation 57 of the Public Contracts regulations 2015 applies).~~
- (d) ensure value for money and optimise risk allocation in all procurement matters;
- (e) ensure compliance with any guidelines issued in respect of these Contract Procedure Rules
- (f) take immediate action in the event of a breach of the Contract Procedure Rules or any Code of Practice within their directorate or service area;
- (g) ensure that all existing and new contracts anticipated during the forthcoming financial year are clearly itemized in the Budget supporting documentation;
- (h) make appropriate arrangements for the opening of tenders and their secure retention **using secure electronic means**;
- ~~(i) submit to the Contracts Team tender forms as required by these Contract Procedure Rules;~~
- (j) ensure original contract documents **with a total value over £5,000** are forwarded to ~~Shared Executive Manager (Governance)~~ **the Senior Legal Officer** for safekeeping;
- (k) ensure effective contract management, contract reviews and monitoring during the lifetime of all contracts in their areas;
- (l) seek and act upon advice from the Contracts **and Procurement** Team and Performance team where necessary to ensure compliance with these responsibilities; and
- (m) keep records of ~~waivers/~~ **variations and exemptions** of any provision of these Contract Procedure Rules.

2.2.2 Chief Officer/Deputy Chief Officers must keep a register of

- (a) contracts entered into by or on behalf of the Council, and

- (b) exemptions recorded under Rule 3 and satisfy themselves that the use of exemptions has been monitored by the Contracts **and Procurement** Team.

### 3. VARIATIONS AND EXEMPTIONS

- 3.1 Except where the Public Contracts Regulations 2015 **and the Concession Contracts Regulations 2016** apply, the Cabinet has the power to waive any requirements within these Contract Procedure Rules for specific projects. An exemption under this Rule 3 allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Rule 9.
- 3.2 Additionally, these Contract Procedure Rules may be waived or varied where the circumstances are certified by the Contracts **and Procurement** Team as meeting any of the following criteria:
- 3.2.1 for works, supplies or services which are either patented or of such special character that it is not possible to obtain competitive prices;
- 3.2.2 for supplies purchased or sold in a public market or auction;
- 3.2.3 ~~for the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills;~~
- 3.2.4 ~~with an organisation which has won a contract for an earlier phase of work via a competitive process and where the work forms part of a serial programme and has previously been identified as such;~~
- 3.2.5 with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement **that does not breach legal requirements such as the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016**, ~~without exposing the Council to unacceptable risk;~~
- 3.2.6 ~~for works, supplies or services which are only available from one organisation;~~
- 3.2.7 involving such urgency that it is not possible to comply with the Contract Procedure Rules **and there is a significant risk to the council of not acting with urgency**;
- 3.2.8 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement;
- 3.2.9 in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;
- 3.2.10 where relevant ~~UK or EU~~ legislation not otherwise referred to in these Contract Procedure Rules prevents the usual procurement process from being followed;
- 3.2.11 **goods, works or services contracts may be awarded directly to a legal person where that legal person meets the criteria as set out in Regulation 12 of the Public Contracts Regulations 2015 or Regulation 17 of the Concession Contracts Regulations 2016 (formerly known as "Teckal" companies)**~~goods works or services contracts may be awarded directly to companies which can be legally defined as a "Teckal" company. The control the local authority exercises over the company must be similar to that which it exercises over its own departments; at least 80% of the function of the company's activities must be with the controlling local authority or authorities.~~
- 3.3 In addition to approval by the Contracts **and Procurement** Team:
- 3.3.1 the Monitoring Officer must be consulted where purchases are to be made using standing arrangements with another local authority, government department, health authority, primary care trust, **or** statutory undertaker ~~or public service purchasing consortium~~.
- 3.3.2 The Monitoring Officer must be consulted where the contract is an extension to an existing contract and a change of supplier would cause:
- Disproportionate technical difficulties
  - Diseconomies
  - Significant disruption to the delivery of Council services.

- 3.4 Every variation/exemption form will be recorded on a master register to be maintained by the Contracts **and Procurement** Team.
- 3.5 Where a variation/exemption is being applied for by the Contracts **and Procurement** Team, it must also be scrutinised by the Monitoring or S151 Officer, to ensure the robustness of the procedure.
- 3.6 ~~The use of e-procurement does not negate the requirement to comply with all elements of these Contract Procedure Rules. The circumstances under which an exemption to the use of e-procurement can be requested are detailed in Rule 11.~~
- 3.7 Where a variation/exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, Chief Officer/Deputy Chief Officer may approve the exemption but must prepare a report for the next meeting of the Cabinet to support the action taken.
- 3.8 ~~Any exemption granted for more than one year must be reviewed annually and either reconfirmed or amended.~~
- 3.9 Where grant conditions require expenditure to be incurred within a financial year, and notification of grant is received so late as to prevent compliance with **CPR Rule 9**, an exemption may be approved by the Contracts **and Procurement** Team on receipt of a report from the Chief Officer/Deputy Chief Officer
- 3.10 The Contracts **and Procurement** Team must monitor the use of all exemptions.

#### 4. **RELEVANT CONTRACTS**

- 4.1 All Relevant Contracts must comply with these Contract Procedure Rules. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works, supplies, goods, materials or services. These include arrangements for:
  - 4.1.1 the supply or disposal of goods or materials,
  - 4.1.2 the hire, rental or lease of goods or equipment,
  - 4.1.3 execution of works,
  - 4.1.4 the delivery of services, including (but not limited to) those related to:
    - (a) the recruitment of staff
    - (b) land and property transactions
    - (c) financial and consultancy services
    - (d) the supply of staff by employment agents, consultants or any other companies
- 4.2 Relevant Contracts do not include:
  - 4.2.1 contracts of employment which make an individual a direct employee of the authority,
  - 4.2.2 agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply), or:
  - 4.2.3 the payment of grants to third parties.

**NB: While grants are not covered by these Contract Procedure Rules, there are rules on the awarding of grants which do need to be observed. The Council cannot simply choose to treat procurement as a grant in order to avoid conducting a competitive process.**

#### 5. **RECORDS**

- 5.1 The Public Contracts Regulations 2015 **and the Concession Contracts Regulations 2016** require contracting authorities to maintain the following comprehensive records of procurement activities:
  - 5.1.1 contract details including value
  - 5.1.2 selection decision
  - 5.1.3 justification for use of the selected procedure
  - 5.1.4 names of bidding organisations, both successful and unsuccessful
  - 5.1.5 reasons for selection
  - 5.1.6 reasons for abandoning a procedure
- 95.1A Most contracts **and extensions to contracts** will be awarded by Officers making a decision under delegated authority (see the Log of Delegations to Officers). All such Officer decisions must be published unless the decision is administrative, minor or not

closely connected to the discharge of an executive function. Some decisions will be subject to Call-in. Where Call-in applies, the winning contractor must ~~not~~ be advised of ~~the outcome of the process~~ **that the award of contract is subject to Call-in and will not be confirmed** until the Call-in period has expired.

~~The outcome of any competitive procurement process must be recorded in a Report and submitted to the Contracts Team. The Contracts Team will maintain a register of all such Reports. Information from these Reports will also be used for the tracking of procurement savings, sustainability benefits, and other data.~~

5.2 **The Contracts and Procurement Team should be made aware of any procurement requirements at the earliest opportunity to assist with this process. Where advertising is required by these rules, competitive procurement processes must be advertised on the Council's e-Tendering portal.** Where the total value is **greater than £25,000.00 but** less than £75,000.00 for works, ~~and £75,000.00 for~~ supplies of goods materials or services, the following ~~documents~~ **records** must be kept:

5.2.1 ~~invitations to quote~~**tender;**

5.2.2 **all communication with suppliers;**

5.2.3 **all tenders/quotes returned;**

5.2.4 **a completed evaluation sheet with scores and comments justifying the score awarded;**

5.2.5 **feedback letters to the unsuccessful bidders;**

5.2.6 **all communications with the successful contractor;**

5.2.7 **the contract;**

5.2.8 a written record of:

(a) any exemptions and reasons for it; and

(b) the reasons if the lowest price is not accepted

5.2.9 written records of communications with the successful contractor.

5.3 **For contracts up to £25,000 records should be kept following the principles as above but the actual record kept should be proportionate to the value of the contract.**

5.4 Where the total value exceeds £75,000.00 for works, ~~and £75,000.00 for~~ supplies of goods, materials or services, the Officer must record **the same details as in Rule 5.2 above and any further records as advised by the Contracts and Procurement Team.**

5.4.1 ~~pre-tender market research;~~

5.4.2 ~~the method of obtaining bids~~

5.4.3 ~~any contracting decision and the reason for it~~

5.4.4 ~~any exemption under Rule 3 together with the reasons for it~~

5.4.5 ~~the award criteria~~

5.4.6 ~~tender documents sent to and received from candidates~~

5.4.7 ~~the contract documents~~

5.4.8 ~~clarification and post-tender negotiation (to include minutes of meetings)~~

5.4.9 ~~written records of communications with candidates and with the successful contractor throughout the period of the contract~~

5.5 Written records required by this Rule 5 must be kept for six years (twelve years if the contract is under seal) after the final settlement of the contract. **All documents which relate to unsuccessful candidates (tender responses, feedback letters etc.) must be kept for 12 months from award of contract provided there is no dispute about the award or where there is a dispute, once the dispute is resolved, 12 months from resolution of the dispute.** ~~However, documents which relate to unsuccessful candidates may be microfilmed or electronically scanned or stored by some suitable method after twelve months from award of contract, provided there is no dispute about the award.~~

5.6 ~~Subject to complying with Rule 9.1A,~~ Prospective candidates must be notified simultaneously in writing and as soon as possible of any contracting decision. If a candidate requests in writing the reasons for a contracting decision, the officer must give the reasons in writing within 15 days of the request.

5.7 The Freedom of Information Act 2000 gives a general right of public access to all types of 'recorded' information held by public authorities, sets out exemptions from that general right, and places a number of obligations on public authorities with regard to the disclosures of information. The Council will, as a general rule, allow public access to recorded information where possible and the contractor shall agree to the Council making any disclosures in accordance with the Act.

## 6. RISK ASSESSMENT

6.1 **Officers must consider any risks in the procurement process including the skills and capacity within the Council to manage the procurement process. Where any risk assessment identifies a need for further specialist advice that specialist advice must be procured in accordance with these rules.**

6.2 ~~All procurements via Invitation to Tender, and Requests for Quotation where appropriate, must be supported by a risk assessment. This risk assessment must be carried out at the start of the procurement process.~~

6.3 ~~The risk assessment process will identify where further specialist advice should be sought.~~

6.4 ~~Full details of the process to be followed, including the approved risk log and matrix, are available in the Procurement Guidance for Officers.~~

## 7. ADVERTISING

The ~~Procurement Officer~~ **Contracts and Procurement Team** will ensure that the minimum advertising requirements **in the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016**, ~~in line with EU treaty principles~~ and as outlined in the ~~Procurement Guidance for Officers~~, **Rule 9** are met.

## 8. ~~APPROVED LISTS AND FRAMEWORK AGREEMENTS~~

### 8.1 ~~Approved Lists~~

8.1.1 ~~Approved lists must not be used where they are prohibited under the Public Contracts Regulations 2006.~~

8.1.2 ~~This Rule shall have effect where the Council has determined that a Standing List or Lists shall be kept of persons suitable for undertaking contracts for the execution of specified categories of work or for the supply of specified categories of goods, materials or services within such values or amounts as may be specified (see the Log of Delegations to Officers for details of Officers who may action this rule).~~

8.1.3 ~~Standing Lists should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Standing Lists cannot be used where the EU Procedure applies (see the Log of Delegations to Officers for details of Officers who may action this rule).~~

8.1.4 ~~Standing Lists shall:~~

~~(a) be compiled following the procedure stipulated in this Rule 8~~

~~(b) contain the names and addresses of all persons whose requests to be included have been approved by the Deputy Chief Officer in consultation with the Contracts Team.~~

~~(c) no persons may be entered on a Standing List until there has been an adequate investigation into both their financial and technical ability to perform the contract, unless such matters will be investigated each time tenders are invited from that list.~~

~~(d) no persons shall be precluded from inclusion on a Standing List other than for good reasons.~~

~~(e) indicate whether a person whose name is included is approved for contracts of all or only some of the specified categories, values or amounts.~~

~~(f) be kept by the relevant Deputy Chief Officer who will co-ordinate all enquires in respect of the list.~~

~~(g) Standing Lists must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure widest publicity amongst relevant suppliers and not less than four weeks before the list~~

~~is first compiled. Persons may be entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 8.1.4 are met.~~

8.1.5 ~~Standing Lists and shortlisting criteria must be reviewed at least annually and re-advertised at least every three years. Review means:~~

~~(a) the reassessment of the financial, technical ability and performance of those persons on the list unless such matters will be investigated each time Candidates are invited from that list, and~~

~~(b) the deletion of those persons no longer qualified, with a written record kept justifying the deletion.~~

8.1.6 ~~On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to apply at least four weeks before each review.~~

8.1.7 ~~All Standing Lists must be open to public inspection.~~

~~(a) Where invitation to tender for a contract is limited to persons whose names appear on a Standing List maintained under this Rule 8, an invitation to tender for that contract shall be sent to at least four of those persons. Each person invited to tender must be approved for a contract for the category, value or amount selected. If there are insufficient suitably qualified persons to meet the competition requirement, all suitably qualified persons must be invited (see the Log of Delegations to Officers for details of Officers who may action this rule).~~

8.2 **Framework Agreements** (see the Log of Delegations to Officers for details of Officers who may action this rule):

8.2.1 **Framework Agreement has the same meaning as in the Public Contracts Regulations 2015 - "Framework Agreement means an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.**~~Framework Agreements are agreements between the Council and one or more suppliers for the provision of goods, works or services on agreed terms for a specific period, for estimated quantities against which orders may be placed if and when required during the contract period.~~

8.2.2 ~~The term of a Framework Agreement must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.~~

8.2.3 ~~Where Frameworks are awarded to several organisations, Contracts based on Framework Agreements may be awarded in one of two ways, as follows:~~

~~(a) where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the Framework Agreement without re-opening competition, or~~

~~(b) where the terms laid down in the Framework Agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:~~

~~(i) inviting the organisations within the Framework Agreement, that are capable of executing the subject of the contract, to submit bids, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract,~~

~~(ii) awarding each contract to the bidding organisation who has submitted the ~~best bid~~ **most economically advantageous tender** on the basis of the relevant Award Criteria set out in the Framework Agreement.~~

Where a Framework Agreement is used and the arrangements under that Agreement include mini competition, the Log of Delegations to Officers details which Officers may seek, receive and evaluate quotations/tenders.

12.2.5 Most contracts will then be awarded by Officers making a decision under delegated authority. All such Officer decisions must be published unless the

decision is administrative, minor or not closely connected to the discharge of an executive function. Some decisions will be subject to Call-in. Where Call-in applies the winning contractor must ~~not~~ be advised of ~~that~~ the outcome of the process **award of contract will not be confirmed** until the Call-in period has expired.

## 9. COMPETITION REQUIREMENTS / ASSETS FOR DISPOSAL

### 9.1 Competition Requirements

9.1.1 ~~The Procurement Officer~~ **Chief Officers/Deputy Chief Officers** must establish the total value of the procurement including whole life costs and incorporating any potential extension periods which may be awarded. Where ~~EU Procurement~~ **the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016** rules apply, Chief Officers/Deputy Chief Officers must also ascertain the value of a contract in accordance with those rules.

9.1.2 Contracts must not be artificially under or over-estimated or divided into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules, **the Public Contracts Regulations 2015, or the Concession Contracts Regulations 2016** ~~/EU Regulations and UK legislation~~.

9.1.3 Where the estimated total value for a purchase **or concession** is within the values in the first, **and** second ~~and third columns~~ of the table below, the tendering procedure in the ~~fourth~~ **third** column must be followed (*see the Log of Delegations to Officers for details of Officers who may action this rule*).

<b><u>Works and Concessions</u></b>	<b><u>Supply of Goods, Materials and Services</u></b>	<b><u>Consultants</u></b>	<b><u>Tendering Procedure</u></b>
<del>up to</del> £4,999 <b><u>Below</u></b> <b><u>£5000</u></b>	<del>up to</del> £4,999 <b><u>Below</u></b> <b><u>£5000</u></b>	<del>up to</del> £4,999	<b>One quote - this should be a local provider <del>unless not appropriate wherever possible</del>. A purchase order <u>should must</u> be raised</b>
£5,000 to £24,999	£5,000 to £24,999	<del>£5,000 to</del> £24,999	<b>At least three quotes shall be sought. <del>Local providers must have been given an opportunity to provide a quote.</del> <u>Local providers must be given an opportunity to provide a quote, wherever possible</u>. A purchase order <u>should must</u> be raised</b>
£25,000 to £74,999	£25,000 to £74,999	<del>£25,000 to</del> £74,999	<b>At least five written quotations shall be sought. <del>Local providers must have been</del></b>

			<i>given an opportunity to provide a quote. <b>Local providers must be given an opportunity to provide a quote, wherever possible. A purchase order should <u>must</u> be raised</b></i>
<b>£75,000 up to EU Procurement Threshold</b>	<b>£75,000 up to EU Procurement Threshold</b>	<del>£75,000 up to EU Procurement Threshold</del>	<b>Open tender via E-Tendering Portal including Contracts Finder. A social value clause must be built into the specification and contract. A purchase order should <u>must</u> be raised</b>
<b>Above £4,104,394 (EU threshold*)-£4,733,252 (Public Contracts Regulations 2015/Concessions Contracts Regulations 2016 threshold*)</b>	<b>Above £164,176 (EU threshold) Above £189,330 (Public Contracts Regulations 2015 threshold*)</b>	<del>Above £164,176 (EU threshold)</del>	<b>EU UK Public Procurement Procedure – via E-Tendering Portal &amp; <del>OJEU</del> Find a Tender notice. Local social value clause must be built into the specification of the contract. A purchase order should <u>must</u> be raised</b>

\* Latest published EU Cabinet Office Procurement thresholds ~~February 2015~~ **January 2021**. These amounts will ~~need to~~ be updated as and when EU Cabinet Office thresholds change.

- 9.1.4 Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements, all suitably qualified candidates must be invited (*see the Log of Delegations to Officers for details of Officers who may action this rule*).
- 9.1.5 ~~An officer must not enter into separate contracts nor select a method of calculating the total value in order to minimize the application of the Contract Procedure Rules.~~
- 9.1.6 Where services are currently purchased internally, i.e. from within the Council, for internal provision, the requirement to obtain other quotations or tenders does not apply. However, the purchaser may choose to seek alternative quotations/tenders for the purpose of market testing.
- 9.1.7 Where the Public Contracts Regulations 2015 **or the Concession Contracts 2016** apply, the procuring Officer shall consult the Contracts **and Procurement** Team to determine the procedure for conducting the procurement exercise.

- 9.1.8 ~~External consultants and other professional advisers shall only be appointed if the process of tendering as prescribed for contracts in Parts B or C above has been followed except:~~
- ~~(a) where the nature of the work is deemed by a Chief Officer/Deputy Chief Officer/Assistant Director to be so specialised as to preclude quotations or tenders being received from more than one source; or~~
  - ~~(b) where the advice or work of a consultant is in the opinion of the Chief Officer/Deputy Chief Officer/Assistant Director required as a matter of urgency; or~~
  - ~~(c) the appointment is made from a list approved by the relevant Cabinet Member and the fee involved does not exceed £10,000~~
- 9.1.9 ~~After the exercise of this power a report shall be made to the relevant Cabinet Member and if they so require a further report shall be made to the Cabinet~~
- 9.2 **Assets for Disposal** (see the Log of Delegations to Officers for details of Officers who may action this rule):
- 9.2.1 Assets for disposal must be dealt with in accordance with the Council's Financial Procedure Rules.
- 9.2.2 Assets for disposal must be sent to Public Sale except where better value for money is likely to be obtained by inviting quotations and tenders. In the latter event, the method for disposal of surplus or obsolete stocks/stores or assets other than land must be determined as follows:

Total Value	Procedure
<u>Where the cost of disposal is likely to outweigh the value of the asset for disposal</u>	<u>By (in order of preference)</u> 1. <u>gifting to a local organisation if they can make use of the asset;</u> 2. <u>disposal for recycling; or</u> 3. <u>disposal by the most environmentally friendly option possible.</u>
Up to £5,000	Two written quotations or public sale
£5,000.01 and above	At least three written quotations or public sale, or an invitation to tender

## 10. PRE-TENDER MARKET TESTING AND CONSULTATION

- 10.1 The Council may consult potential suppliers, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential organisation (see the Log of Delegations to Officers for details of Officers who may action this rule).
- 10.2 When engaging with potential suppliers, **the Council may use any advice in the planning and conduct of the procurement procedure, provided that it does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.** *must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, and where this may prejudice the equal treatment of all potential bidding organisations or distort competition.*
- 10.3 **The council shall take appropriate measures to ensure that competition is not distorted by the participation of a candidate or tenderer who has provided any advice by ensuring all other candidates and tenderers are provided with all of the information the advising candidate or tenderer has received or given and that all candidates or tenderers are given sufficient time to respond to the tender or quote.**

10.4 In undertaking any market testing activities, the Officer responsible ~~should refer to any guidance contained in the Procurement Guidance for Officers~~ **must seek advice from the Contracts and Procurement Team.**

11. **EVALUATION CRITERIA AND STANDARDS** (see the Log of Delegations to Officers for details of Officers who may action this rule):

11.1 **Evaluation Criteria**

11.1.1 In any procurement exercise the successful bid should be the one which:

- (a) offers the lowest price where payment is to be made by the Council, or offers the highest price if payment is to be received, or:
- (b) offers the most economically advantageous balance between quality and price.

In the latter case, the Council will use criteria **such as qualitative, environmental and/or social aspects,** linked to the subject matter of the contract to determine that an offer is the most economically advantageous.

**Such criteria may include:** ~~for example: price, service, quality, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, safety, after-sales service, technical assistance, delivery date, delivery period and period of completion.~~

- (i) **quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions;**
- (ii) **organisation, qualification and experience of staff assigned to performing the contract, where the quality of the staff assigned can have a significant impact on the level of performance of the contract; or**
- (iii) **after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion.**

11.1.2 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include, for example sustainability considerations, support for the local economy, or the use of sub-contractors. The bidding organisations' approaches to continuous improvement and setting targets for service improvement or future savings could also be included. All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.

11.1.3 The procurement documentation should clearly explain the basis of the decision to bidding organisations, making clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

11.1.4 The evaluation criteria must not include:

- (a) Non-commercial considerations
- (b) Matters which discriminate against suppliers ~~from the European Economic Area~~ **or who are** signatories to the *Government Procurement Agreement*.
- ~~(c) Matters which are anti-competitive within the meaning of the Local Government Act 1988.~~

11.2 **Standards**

11.2.1 Relevant British, ~~EU~~ and International standards which apply to the subject matter of the contract and which are necessary to properly describe the required quality must be included with the contract. ~~The Monitoring Officer must be consulted if the officer proposes to use standards other than European standards.~~

11.2.2 ~~Officers should refer to any further guidance outlined in the Procurement Guidance for Officers.~~ **Officers should refer to the Procurement and Contracts team if they have any queries or require further guidance.**

12. **INVITATION TO TENDER / REQUEST FOR QUOTATION** (see the Log of Delegations to Officers for details of Officers who may action this rule)

12.1 Invitations to Tender/Requests for Quotation must be issued in accordance with the requirements of these Contract Procedure Rules, ~~with particular attention to Rule 7, Rule 9 and Rule 17.~~

12.2 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. No tender delivered in contravention of this Rule 12 shall be considered.

12.3 All Invitations to Tender shall include the following:

12.3.1 A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers, together with the terms and conditions of contract that will apply.

12.3.2 A requirement for candidates to declare that the tender content, price or any other figure or particulars concerning the tender **submitted by the candidate has** ~~have~~ not been disclosed by the candidate to any other party (except where such disclosure is made in confidence for a necessary purpose).

12.3.3 A requirement for candidates to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.

12.3.4 Notification that tenders are submitted to the Council on the basis that they are compiled at the candidate's expense.

12.3.5 A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and **the percentage weighting of each criteria in the evaluation** ~~if possible in descending order of importance.~~

12.3.6 The method by which arithmetical errors discovered in the submitted tenders are to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.

12.4 The Invitation to Tender or Requests for Quotation must state that the Council is not bound to accept any tender or quotation.

12.5 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis. **Where a candidate asks a clarification question regarding the tender or quote, the question and the answer will be provided to all candidates.**

13. **SHORTLISTING**

Any shortlisting (i.e. supplier selection or pre-qualification) **must have regard to the economic and financial standing and the technical and professional ability of the candidates to deliver the required goods, services or works.** ~~must have regard to the economic, financial and technical standards relevant to the contract and the Evaluation Criteria. Special rules apply to contracts covered by the Public Contracts Regulations 2006.~~

14. **SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS** (see the Log of Delegations to Officers for details of Officers who may action this rule):

14.1 **Tenders**

14.1.1 Bidding organisations must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirements. ~~Where the Public Contract Regulations 2015 apply, Part 3 of the Regulations lays down specific minimum time periods for tenders.~~

14.1.2 Tender Contents:

Each tender must contain:

- (a) An undertaking signed by the tenderer that to the best of their knowledge and belief they have complied with all the relevant provisions of the Health and Safety at Work Act 1974 and regulations made under it **or where they have not complied, an explanation of the remedial action they have taken to ensure compliance;**

- (b) A statement that the tenderer will comply with all current relevant British Standard Specification or Code of Practice or equivalent ~~European Union or~~ international standards offering guarantees of safety, reliability and fitness for purpose;
- (c) A statement by the tenderer that they will not try to obtain or receive by whatever means any information which gives or is intended to give the tenderer or another party any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for and award of any ~~works/services~~ contract;
- (d) A statement that the Council shall not be liable for expenses incurred in the preparation of tenders; nor shall the Council be bound to accept the lowest or any tenders submitted; ~~nor shall the Council have to give reasons for the rejection of any tender~~ and shall have reserved to them the right to invite fresh tenders should they consider that course desirable.

#### 14.2 Electronic Arrangements

- 14.2.1 **Tenders**, Quotations, Further Competition bids and ~~Pre-Qualification~~ **Selection** Questionnaires ~~which are~~ **will be** received electronically **and** will be opened by the Contracts **and Procurement** Team. The system will not allow any quotations to be opened until the allocated return date / time has passed. **(see the Log of Delegations to Officers for details of Officers who may action this rule)**
- 14.2.2 ~~Tenders which are received electronically via the e-tendering system will be opened by a representative from the Authorised officer of relevant team (see the Log of Delegations to Officers for details of Officers who may action this rule).~~

#### 14.3 Hard Copy Arrangements ~~(see the Log of Delegations to Officers for details of Officers who may action this rule):~~

- 14.3.1 **In the limited circumstances where a Quotation, Further Competition bid or Tender cannot be received electronically, the Contracts and Procurement Team will consult with the Monitoring Officer to agree a suitable way to receive the Quotation, Further Competition bid or Tender.** ~~In the event that 'hard copy' tenders are to be accepted these must be submitted, sealed, in the envelope provided with the procurement documents and addressed to the Monitoring Officer without any mark revealing the bidding organisation's identity.~~
- 14.3.2 ~~All hard copy tenders will be held by the Monitoring Officer until the tender opening date/time has been reached. The Monitoring Officer must not disclose the names of candidates to any staff involved in the receipt, custody or opening of tenders. Receipt of each tender must be:~~
  - ~~(a) Date stamped;~~
  - ~~(b) Initialled by the receiving officer or the Monitoring Officer; and~~
  - ~~(c) Logged immediately upon receipt in the tender register.~~
  - ~~(d) All hard copy tenders for the same contract will be opened at the same time by a representative of the Chief Officer/Deputy Chief Officer who invited the tenders and a representative from the Authorised officer of relevant team. A register of tenders received will be kept by the Authorised officer of relevant team and will be initialled on each occasion by the officers who are present at the opening of the tenders.~~
- 14.3.3 ~~In the event that hard copy quotations are to be accepted these must be submitted in a plain envelope marked 'Quotation for....' followed by a description of the goods, works or services being procured.~~
- 14.3.4 ~~Hard copy quotations will be received directly by Service staff. All quotations must be opened together once the official return date / time has been passed in the presence of at least two persons who shall comprise the Chief Officer/Deputy Chief Officer or their authorised representative (on Principal Officer grade or above) and in the presence of at least one other officer.~~

## 15. CLARIFICATION PROCEDURES AND POST TENDER NEGOTIATIONS

- 15.1 ~~Providing clarification of an Invitation to Tender to potential or actual candidates or~~ Seeking clarification of a tender **received** whether in writing or by way of a meeting is permitted. However, any such clarification must not involve changes to the basic features of the bidding organisation's submission **and all tenderers must be treated equally** (see *the Log of Delegations to Officers for details of Officers who may action this rule*).
- 15.2 Post tender negotiation means negotiations with any tenderer after submission of a tender and before the award of the contract with a view to obtaining an adjustment in price, delivery or content. ~~It must not be conducted in an EU Procedure where this might distort competition particularly with regard to price.~~ **Where the value of the Tender is above the threshold in the Public Contracts Regulations 2015 or the Concession Contracts Regulations 2016 advice must be sought from the Contracts and Procurement Team.** Where post tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered (see *the Log of Delegations to Officers for details of Officers who may action this rule*).
- 15.3 If post tender negotiations are necessary after a single stage tender or after the second stage of a two stage tender, then such negotiations shall only be undertaken with the tenderer who has previously been identified as submitting the best tender. Tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Officers appointed by the Chief Officer/Deputy Chief Officer to carry out post tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 15.4 Post tender negotiation must only be conducted in accordance with guidance given by the Monitoring Officer and the Contracts **and Procurement** Team.
- 15.5 The Monitoring Officer and the Contracts **and Procurement** Team must be consulted:
- 15.5.1 Wherever it is proposed to enter into post tender negotiation
- 15.5.2 About whether negotiation is with all tenderers.
- 15.6 Negotiations must be conducted by a team of at least two officers, one of whom must be from a section independent to that leading negotiations (see *the Log of Delegations to Officers for details of Officers who may action this rule*).

## 16. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING OF ORGANISATIONS

- 16.1 **Evaluation** (see *the Log of Delegations to Officers for details of Officers who may action this rule*):
- 16.1.1 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to bidding organisations, and in line with any guidance ~~detailed in the Procurement Guidance for Officers~~ **given by the Contracts and Procurement Team.**
- 16.1.2 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested 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 tenderer.
- 16.1.3 Deputy Chief Officers must ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 16.2 **Award of Contract and Contract Extensions** (see *the Log of Delegations to Officers for details of Officers who may action this rule*):
- 16.2.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible.
- 16.2.2 **Where a contract was advertised with an extension option and that extension option forms part of the contract, the decision to extend the contract may be made after ensuring that taking up the extension option delivers value for money.** ~~Where procurement has been subject to the Public Contract Regulations~~

~~2015, the Alcatel Standstill (a 10 day standstill period before a contract can be awarded to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award) will need to be included in the procurement timetable before the contract can be awarded.~~

16.2.3 Decisions on award of contract **and contract extensions** must be made in accordance with the scheme of delegations in Part 3 of the Constitution.

16.2.4 ~~Most contracts will be awarded by Officers making a decision under delegated authority (see the Log of Delegations to officers). All such Officer decisions must be published unless the decision is administrative, minor or not closely connected to the discharge of an executive function. Some decisions will be subject to Call-in. Where Call-in applies the winning contractor must not be advised of the outcome of the process until the Call-in period has expired.~~

### 16.3 Debriefing

16.3.1 **The debriefing of organisations will be sent by the Contracts and Procurement Team, in line with the relevant Officer's evaluation comments.**  
~~The debriefing of organisations must be carried out in line with any guidance detailed in the Procurement Guidance for Officers.~~

## 17. **NOMINATED SUB CONTRACTS**

17.1 ~~The following provision shall have effect where the Council proposes to enter into a contract for the execution of work with a person ('the main contractor') and also proposes to nominate the main contractor one or more sub-contractors or suppliers for the execution of work or the supply of goods, materials or services within the main contract.~~

17.2 ~~Tenders for the nomination shall be invited in accordance with the relevant provisions of Rule 9 (see the Log of Delegations to Officers for details of Officers who may action this rule):~~

17.2.1 ~~The terms of the invitation shall require an undertaking by the tenderer that if selected they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in relation to the work or goods, materials or services in the sub-contract;~~

17.2.2 ~~The Chief Officer/Deputy Chief Officer concerned or their authorised representative shall nominate to the main contractor a person whose tender is in their opinion most suitable. Provided that where the tender is other than the lowest received, the circumstances shall be reported appropriately.~~

17.3 ~~Tenders received under this Rule 17 must comply with Rules 12 and 14.~~

## 18. **CONTRACT DOCUMENTS**

### 18.1 **Format of Contract Documents**

18.1.1 Every formal written contract for the supply of goods or materials shall provide that should the contractor fail to deliver the goods or materials or any portion thereof within the time or times specified in the contract. The Council, without prejudice to any other remedy for breach of contract, shall determine the contract either wholly or to the extent of such default and to purchase other goods, or materials, as the case may be, of the same or similar description to make good:

- (a) such default; or
- (b) in the event of the contract being wholly determined the goods or materials remaining to be delivered.

The clause shall further secure that the amount by which the cost of so purchasing other goods or materials exceeds the amount which would have been payable to the contractor in respect of the goods or materials, if they had been delivered in accordance with the contract, shall be recoverable from the contractor.

18.1.2 Every Relevant Contract/must be in writing and must state clearly:

- (a) what is to be supplied (description and quality)
- (b) payment provisions (amount and timing **and seeking electronic invoices**)
- (c) when the Council will have the right to terminate the contract

- (d) that the contract is subject to the law as to prevention of corruption  
The Council's standard terms and conditions must be used where possible.
- 18.1.3 In addition, every Relevant Contract for purchases over ~~£25,001.00~~ **£25,000.00** for works, ~~£25,001.00 for~~ supplies of goods, materials or services ~~and £10,000.00 for consultants~~ must also as a minimum state clearly:
- (a) that the contractor may not assign or sub-contract without prior written consent
  - (b) any insurance and liability requirements
  - (c) health and safety requirements
  - (d) ombudsman requirements
  - (e) data protection requirements if relevant
  - (f) that charter standards are to be met if relevant
  - (g) requirements under the Equalities Act 2010
  - (h) obligations under the Care Act 2014 in safeguarding adults and children
  - (i) a right of access to relevant documentation and records of the contractor for monitoring and audit purposes, including obligations under the FOI Act 2000 and 2015 Transparency Code
  - (j) requirements under the Counter-Terrorism and Security Act 2015 and Prevent Strategy where applicable
  - (k) obligations under the Public Interest Disclosure Act 1998 including employee whistleblowing.
  - (l) Statement requirements under the Modern Slavery Act 2015.
- 18.1.4 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Monitoring Officer. An award letter is insufficient.
- 18.1.5 All contracts must include the following paragraph:  
'The Contractor recognises that the Council is under a duty to act in a manner which is compatible with the Convention rights as defined by Section 1(1) of the Human Rights Act 1998 ('Convention Rights'). This duty includes a positive obligation on the Council to ensure that contractors providing services on the Council's behalf act in a way which is compatible with the Convention Rights. The Contractor therefore agrees to provide the Services and comply with its other obligations under this contract in a manner which is compatible with the Convention Rights.'
- 18.1.6 The Officer responsible for securing the signature of the contractor must ensure that the person signing for the contracting party has authority to bind it.
- 18.2 **Contract Signature** (see the Log of Delegations to Officers for details of Officers who may action this rule):
- 18.2.1 A contract entered into by or on behalf of the Council must:
- (a) Where the contract is in the form of a deed (see below), be made under the Council's seal and attested as required by the Constitution, or:
  - (b) Where the contract is in the form of an agreement, either:
    - (i) be signed by at least two officers of the Council authorised as required by the Constitution, or:
    - (ii) be formalised by the sending of an award letter and the subsequent issuing of a purchase order.
- 18.2.2 A contract must be in the form of a deed (see below) and sealed where;
- (a) The Council wishes to enforce the contract for more than six years after it ends; or
  - (b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
  - (c) Where there is any doubt about the authority of the person signing for the contracting party; or
  - (d) Where the total value is expected to exceed £75,000.00.

A contract in the form of a deed must state in the signature pages that the Contractor and the Council are executing the contract as a deed.

### 18.3 Legal Services Review of Tenders and Contracts

18.3.1 To ensure the integrity of the procurement process:

- (a) All proposed Invitations to Tender, where they are not in compliance with the Council's harmonised contract documentation or standard terms and conditions issued by a relevant professional body, will be reviewed by the Deputy Chief Officer.
- (a) Any proposed Invitations to Tender which are subject to the Public Contracts Regulations ~~2006~~ **2015 or the Concession Contracts Regulations 2016**, or which are deemed to be of high risk, must be reviewed by the Deputy Chief Officer.
- (b) Any proposed contract where there is any deviation from the contract terms included in the invitation to tender must be reviewed by the Deputy Chief Officer

### 19. ~~DIRECT EMPLOYMENT OF LABOUR~~

~~Every formal written contract for the execution of work shall incorporate the following conditions:~~

- ~~19.1 The Contractor shall be responsible for ensuring that all persons employed by them, and by any Sub-Contractor in the work, are in the Contractor's or Sub-Contractor's direct employment and it is expressly agreed between the parties hereto that the Contractor and Sub-Contractor shall not use 'lump labour' on or about the work.~~
- ~~19.2 The expression 'lump labour' shall mean the practice of individual workpeople or groups of workpeople contracting as independent labour only sub-contracts and not being in the direct employment of the Contractor or Sub-Contractor.~~
- ~~19.3 The Contractor will use their best endeavours, utilising the appropriate Government employment agencies if necessary, to employ local persons in the execution of the work.~~

### 20. LIQUIDATED DAMAGES, BONDS AND PARENT COMPANY GUARANTEES

- 20.1 Every formal written contract which exceeds £75,000.00 in value or amount and is for the execution of works shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.
- 20.2 The Officer must consult the Deputy Chief Officer when a tenderer is a subsidiary of a parent company and the officer does not think that a parent company guarantor is necessary, and:
  - 20.2.1 The total value exceeds £75,000.00.
  - 20.2.2 Award is based on evaluation of the parent company, or
  - 20.2.3 There is some concern about the stability of the tenderer.
- 20.3 The officer must consult the Deputy Chief Officer about whether a bond is needed:
  - 20.3.1 Where the total value exceeds £75,000.00.
  - 20.3.2 Where it is proposed to make stage payments or other payments in advance of receiving the whole of the subject matter of the contract.

### 21. PREVENTION OF CORRUPTION

- 21.1 Rules and regulations pertaining to the prevention of corruption are outlined in the Council's Financial Procedure Rules and must be adhered to.
- 21.2 The following clauses must be put in every written Council contract:

'The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

  - 21.2.1 Offer, give or agree to give anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
  - 21.2.2 Commit an offence under the Bribery Act 2010 or Section 117(2) of the 1972 Act; or
  - 21.2.3 Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

Any clause limiting the Contractor's liability shall not apply to this cause.'
- 21.3 Any suspected irregularity shall be referred to the Audit Manager who shall notify the Monitoring Officer where necessary. Any examination of contractors' or tenderers' books and records as a result of any such suspected irregularity shall be conducted by the Audit Manager. If, in the investigation of any irregularity, the Monitoring Officer considers that

disciplinary procedures may need to be invoked, the appropriate Chief Officer/Deputy Chief Officer shall also be notified.

## 22. DECLARATION OF INTERESTS

Rules and regulations pertaining to the Declaration of Interests are outlined in the Code of Conduct for Employees within the Constitution and must be adhered to.

## 23. CONTRACT MANAGEMENT / MONITORING

23.1 All contracts must have an appointed Contract Manager for the entirety of the contract. The responsible Deputy Chief Officer must ensure a Contract Manager is designated prior to award.

23.2 ~~Contract management, monitoring, evaluation and review must be conducted in line with any guidance detailed in the Procurement Guidance for Officers.~~

## 24. POST CONTRACT MONITORING AND EVALUATION

24.1 During the life of the contract the **Contract Manager** ~~Officer~~ must monitor in respect of:

24.1.1 performance

24.1.2 compliance with specification and contract

24.1.3 cost

24.1.4 any Best Value requirements

24.1.5 user satisfaction and risk management

24.1.6 **social value or any other contractual obligations to deliver additional value arising from the contract**

24.2 Where the Total Value of the contract exceeds £75,000.00 the Officer must make a written report evaluating the extent to which the purchasing need and contract objectives were met by the contract. This should be done 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.

24.3 **For contracts awarded under £75,000, if, at any point during the delivery of the contract, the cost looks likely to exceed £75,000 the Contract Manager must notify the Contracts and Procurement Team. The Contracts and Procurement Team and the Contract Manager will consider the following options:**

**Where the amount by which the total contract value exceeds £75,000 is not significant, allow the contract to run to its natural conclusion;**

**Where the amount by which the total contract value exceeds £75,000 is significant and the contract allows termination, terminate the existing contract and retender.**

**Where the amount by which the total contract value exceeds £75,000 is significant and the contract does not allow termination, or, continuing with the contract represents value for money, allow the contract to run to its natural conclusion**

## 25. INTERNAL PROVIDERS

Where an in-house Service is bidding in competition for the provision of goods, works or services, care must be taken to ensure a fair process between the in-house provider Service and external bidding organisations.

## 26. EXTERNAL BODY GRANT FUNDING

26.1 Where a procurement process is funded, in whole or part, by grant funding which has been awarded to the Council by an external funding body, the *Procurement Officer* **Contracts and Procurement Team** must ensure that any rules or conditions imposed by the funding body are adhered to, in addition to the requirements of these Contract Procedure Rules.

26.2 Where there is any conflict between these Contract Procedure Rules and the rules or conditions imposed by the funding body, the stricter requirement should be followed.

## 27. APPOINTMENT OF CONSULTANTS

27.1 The engagement of consultant architects, engineers and surveyors or other professional consultants including Counsel shall be subject to completion of a formal letter, contract of appointment or brief.

- 27.2 Consultants shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the relevant Deputy Chief Officer for the periods specified in the respective agreement. ~~The excess for any one claim shall be no more than £1,000.00.~~
- 27.3 Consultants shall be selected and commissions awarded in accordance with the values and procedures recorded in the table in Rule 9.1.3 above **for services**.
- 27.4 Records of consultancy appointments shall be maintained in accordance with Rule 5.

**28. REVIEW AND AMENDMENT OF CPRS**

These Contract Procedure Rules shall be reviewed and updated, as necessary, ~~on an annual basis as part of the annual review of the Constitution.~~

**33. TERMINATION OF CONTRACTS** (see the Log of Delegations to Officers for details of Officers who may action this rule)

The Log of Delegations to Officers details which Officers may terminate a contract. Any termination must be strictly in accordance with the terms of the contract and subject to consultation with the Monitoring Officer and Section 151 Officer and in some cases with the relevant Portfolio Holder.