

## **Procurement and Contract Standing Orders**

Rules to be followed when buying on behalf of  
East Sussex County Council

Version 0.29

**Version History**

- V0.1 - 4.4.13
- V0.2 - 22.5.13
- V0.3 - 12.6.13
- V0.4 - 18.6.13
- V0.5 - 20.6.13
- V0.10 - 10.9.13
- V0.12 - 07.10.13
- V0.14 - 21.10.13
- V0.15 - 22.10.13
- V0.16 - 24.10.13
- V0.17 - 07.11.13
- V0.18 - 11.11.13
- V0.19 - 18.12.13
- V0.20 - 20.01.14
- V0.21 - 02.05.14
- V0.22 - 19.01.2016
- V0.23 - 04.02.2016
- V0.24 - 04.03.2016
- V0.25 - 10.03.2016
- V0.26 - 21.03.2016
- V0.27 - 17.12.2017
- V0.28 - 09.07.2019
- V0.29 - 28.01.2020

## 1. Introduction

The Procurement and Contract Standing Orders (referred to as the 'Orders' from this point on) set out how the Council authorises and manages spending and contracts with other organisations. This ensures that prior to any significant expenditure there is proper consideration of the need first of whether to buy at all and service the need internally, or if external expenditure is required that it is made in a fair, open and transparent way.

Senior Officers (Heads of Service and above) are accountable for all procurement in their respective area of responsibility. Anyone who buys on behalf of the Council, including staff, contractors and consultants, is responsible for following these Orders, all relevant policies (see appendix 1), and the guidance provided by Procurement. Functions delegated to particular officers under these Orders may be carried out by other officers specifically authorised by them for that purpose.

These Orders must be considered along with the Council's Financial Regulations and Schemes of Delegation.

**Note:** In these Orders, 'You' means anyone who needs to buy from an external supplier. 'Regulatory Threshold' means any relevant threshold applicable to procurement by UK law or regulation. Further information about other terms used in these Orders is available as guidance on the Intranet.

### 1.1. Legal status of these Procurement Standing Orders

The Council is required by section 135 of the Local Government Act 1972 to maintain these Orders as part of our Constitution.

The Director of Procurement is the custodian of these Orders and is responsible for keeping them under review. If the law is changed in a way that affects these Orders then the Director of Procurement will recommend an update to the Governance Committee.

### 1.2 Key Principles

These Orders are based on the following key principles:

- a. To ensure that the Council meets its statutory duty to deliver **best value for money** and creates healthy competition and markets for the Goods, Services and Works purchased
- b. To be **transparent** to our residents about how the Council spend their money
- c. To ensure that public money is spent **legally and fairly**
- d. To support **sustainability and social value** objectives, and our public sector **equality** duty, encouraging local small businesses.

### 1.3. Compliance

All Officers, and any external contractors empowered to form contracts on behalf of the Council, must comply with these Orders at all times. If you breach them this may lead to disciplinary action under the Code of Conduct. The Director of Procurement will report any breaches of these Orders to the Statutory Officers Group on a quarterly basis.

Every contract made by the Council or on its behalf must comply with legislation, regulation, these orders and the Council's Financial Regulations.

Where there is a difference between current legislation governing procurement and these Orders, the legislation prevails. Where these Orders appear to conflict with other Council-determined rules the Assistant Chief Executive determines which takes precedence.

### 1.4. Scope

Apart from the exceptions listed below, these Orders cover all spend with external suppliers regardless of how they are funded or which systems are used to place orders with suppliers.

These Orders do not apply to the following items, which are managed by separate policies:

<b>Exclusion</b>	<b>Relevant Policy/Law</b>
Contracts for the acquisition or lease of land and/or real estate	Managed via Property Services
Contracts for permanent or fixed-term employment	HR/Recruitment Policies
Works or orders placed with utility companies (e.g. re-routing pipe-work)	This is carried out as part of larger construction contracts, which remain subject to these orders
Direct payments to customers following care assessment (for example, payments under Self-Directed Support or Individual Budgets)	Section 12 of The Care Act 2014
Non-trade mandatory payments to third parties, such as insurance claims, pension payments, payments to public bodies	These are not subject to competition due to their nature
A declared emergency authorised by the Emergency Planning Officer	The Civil Contingencies Act 2004
Awarding of Grants	Managed according to locally agreed Grant process or Corporate Funding Protocol.

Any contract relating to the engagement of Counsel or other legal specialists	Legal Services are either exempt from Regulations or are subject to the light touch regime, depending on the nature of the advice or representation sought
Placement of a child with Special Educational Needs where already directed following statutory assessment	Children and Families Act 2014 and ESFA guidance 2019-20 para 86

### 1.5. Roles and Responsibilities

The Director of Procurement is responsible for the complete process from procurement through to ordering and paying suppliers (known as ‘Procure-to-Pay’) across all Services and local systems. Any developments in the design of the process require the approval of the Director of Procurement.

The Procurement Service is responsible for:

- a. Working closely with Commissioners and Directors to agree and deliver an Annual Procurement Forward Plan to be reported to the Corporate Management Team and Cabinet
- b. Providing expert market knowledge to find the right suppliers for the Council
- c. Maintaining the Contract Management Framework for how contracts are managed
- d. Taking a commercial lead on all major contracts and relationships with suppliers alongside the Contract Manager
- e. Ensuring transparency over spend, contracts and contract opportunities
- f. Embedding social value and sustainability across the supply chain
- g. Ensuring efficient and effective purchasing practices are in place for all staff
- h. Providing commercial support as required, alongside Legal Services, where a decision has been made to decommission or in-source a service
- i. Ensuring suppliers are aware of, and follow, the Council’s Supplier Code of Conduct when bidding and carrying out contracts

Anyone who buys from suppliers is responsible for:

- j. Complying with these Orders and all relevant policies (see appendix 1)
- k. Purchasing from existing contracts where they are in place
- l. Ensuring there is adequate budget available for any purchase
- m. Raising and ensuring a purchase order is approved before the requirements are delivered to the Council, regardless of which system is used
- n. Ensuring specifications meet the defined need and requirements and properly take into account equality and diversity as well as social value implications
- o. Ensuring that HR is consulted and the appropriate approval is obtained in respect of the engagement of any temporary workers or consultants outside of any agreed corporate contract
- p. Following the guidance and procedures set out in the Council Contract Management Framework, according to the value, risk and complexity of the contract.

Contracts are to be managed within Services, either by a dedicated contract manager or by a nominated officer who has these responsibilities as part of a broader role.

## **1.6. Annual Procurement Forward Plan**

Chief Officers have delegated authority to carry out procurements with a view to managing the services for which they are responsible. To enable the Council to maintain an accurate oversight of procurement activity across a full range of Council services, the Director of Procurement is responsible for the development of an Annual Procurement Forward Plan (APFP). This is to list the following:

- a. For each Department, all contracts over Regulatory Thresholds which are due for extension, renewal or replacement in the coming financial year, and the notice required for this
- b. The aggregate contract value across the life of the contract
- c. The agreed budget allocated for the year in question
- d. The procurement activity required
- e. The expected start date for procurement
- f. The expected start date of any new contract or extension
- g. Whether there is an option to extend the existing contract or not
- h. Whether the spend is capital, revenue, or a combination

The APFP must be developed and agreed with the Directors of the relevant services, and submitted to the Corporate Management Team for information and monitoring purposes during the business planning cycle each year.

If a need arises during the year for procurement activity on contracts over the Regulatory Thresholds which have not been reported through the APFP, then these must be reported to CMT by the relevant Chief Officer concerned as soon as reasonably practicable.

Planned procurements for the financial year ahead with a value of £1m or more will be set out in the Portfolio Plan. Failure to include a procurement in the Portfolio Plan does not prohibit the procurement, but will be reported, together with an explanation as to why it was not in the Plan, through the Council's quarterly monitoring process.

## **2. Finding and contracting with suppliers**

### **2.1. Purchase Orders**

Once you have found the right supplier in accordance with these Orders, you must not make verbal commitments but must raise a Purchase Order (via SAP or equivalent service-specific system). This must be approved in accordance with the Council's Financial Regulations before it is sent to the supplier, and before any goods or services have been received. Details of financial approval levels are available on the Intranet.

### **2.2. Using Purchase Cards**

The Council makes use of general Purchase Cards, which are effectively like credit cards and are used to make small purchases in a wide range of situations.

You must use purchase cards only as set out in the 'Purchase Card Rules and Guidance', unless otherwise agreed in writing by Procurement, or in emergency circumstances (see also section 4.2).

### **2.3. Temporary Staff, Consultants and Professional Services**

Procurement works closely with HR to manage the Council's temporary workforce needs. This applies to any appointment that is outside the Council's direct employment. No temporary worker, agency or consultant may be procured or engaged outside of existing contract or framework arrangements without prior approval from HR.

A consultant is a person (not an employee), agency or firm engaged for a limited period of time on a project or requirement specific basis to carry out a specific task or tasks which meet a desired set of outputs or outcomes. A consultant provides subject matter expertise, support and/or experience to the Council either because it does not possess the skills or resources in-house or requires an independent evaluation/assessment to be made.

This definition excludes:

- a. Agency staff, interim or role specific duties which should be sourced through the Council's Corporate Contract;
- b. Routine services e.g. maintenance, cleaning and security;
- c. Professional services e.g. Architects, structural engineers, forensic archaeologists, specialist social care support, training etc.

Refer to the guidance available on the Intranet for Agency workers and consultants.

Temporary & agency staff, and other consultants or contractors, must abide by the terms of their contract with the Council and follow the Council's Code of Conduct and Conflict of Interest Policy.

### **2.4. Contract Value Calculation**

Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire contract period including any extensions of the contract. Where the contract period is not fixed the estimated value of the contract must be calculated by multiplying the monthly spend value by 48.

Where an existing contract is being extended, the aggregate value includes the amount spent to date plus the expected forward value.

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of these Orders or legislation.

In the case of Framework Agreements or Dynamic Purchasing Systems the contract value must be calculated to include the total estimated value, net of VAT, of all the contracts envisaged to be awarded for the total term of the Framework Agreement or the Dynamic Purchasing System.

### **2.5. Grants**

The making of grants is not subject to these Orders. You must follow the rules and guidance for grant-making available on the Intranet (see appendix 1) and take into account the legal requirements concerning State Aid.

### **2.6. Bribery, Corruption, Canvassing and Collusion**

#### **Bribery and Corruption**

You must comply with the Code of Conduct and the Council's anti-fraud strategy. You must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for you, the Officer, to prove that anything received was not received corruptly. Gifts and Hospitality must be recorded in the online register.

### **Canvassing and Collusion**

All Invitations to Tender must include a requirement for tenderers to complete fully and sign a form of tender including certificates relating to canvassing and non-collusion. Every contract must contain a clause entitling the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor or his representative has practiced collusion in tendering for the contract or any other contract with the Council.

See the Counter-fraud Strategy (appendix 1).

## **2.7. Procurement and Contracting - Overview and summary table**

Any Procurement, including extensions and variations to Contracts, set out in the Annual Procurement Forward Plan and reviewed by CMT is deemed as authorised irrespective of the Contract value, and must be advertised, awarded and signed/sealed in line with table 2.7.a columns F-J.

Any procurement not authorised as above must be authorised in accordance with table 2.7.a column E below.

Procurement must maintain a proper audit trail of all approvals and decisions, and track the delivery of savings and benefits in line with the Value Strategy agreed between Finance and Procurement.

CONSTITUTION – PART 4 – RULES OF PROCEDURE

---

**2.7.a Summary table**

A	B	C	D	E	F	G	H	I	J
Aggregate value including extensions	Purchase Card permitted?	Procurement Method?	How should you approach the market?	Who leads procurement?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award?	Who signs the contract on the Council's behalf?	Contract Award Notice needed?
<b>£0 to £24,999</b>	Yes if within rules & guidance and card limits	One written quote	Email / Call Supplier. Use a local supplier if they offer value for money	Service Officer	No	Standard Terms (see Council's website)	Budget Holder	Not Required – (Approval of Purchase Order)	No
<b>£25,000 to £189,329</b>	Only in formal emergency cases (see section 4.2)	Minimum of two quotes, but seek at least three. If using a framework, follow the rules for its use.	Contact Sourcing Solutions, who will lead sourcing activity	Sourcing Solutions	Yes, must be published via Contracts Finder	Standard Contract in line with agreed level of risk and complexity	Assistant Director for the Service or delegated manager	Under £100k Assistant Director or delegated manager Over £100k: Authorised Signatories via Legal Services	Yes – on Contracts Finder
<b>£189,330 to £999,999</b>	No	Goods and Services – Tender Works – Competitive quotation	Issue Tender via Procurement	Procurement	Yes, as required by Public Contracts Regulations	Contract in line with agreed level of risk and complexity	The relevant Chief Officer or Lead Cabinet Member	Under £500k: Authorised Signatories in Legal Services Over £500k: Sealed as a deed via Legal Services	Yes – as required by Public Contracts regulations

CONSTITUTION – PART 4 – RULES OF PROCEDURE

<p><b>£1m and over</b></p>	<p>No</p>	<p>Works - up to £4,733,252 - Competitive quotations Works and Concession Contracts over £4,733,252: Full Tender or other compliant route Goods and Services: Full Tender or other compliant route Health, educational, cultural and social care related services above £663,540: Light Touch Regime Tender</p>	<p>Issue Tender via Procurement</p>	<p>Procurement</p>	<p>Yes, as required by Public Contracts Regulations</p>	<p>Contract in line with agreed level of risk and complexity</p>	<p>The relevant Chief Officer or Lead Cabinet Member</p>	<p>Sealed as a deed via Legal Services</p>	<p>Yes – as required by Public Contracts regulations</p>
----------------------------	-----------	---	-------------------------------------	--------------------	---	--	--	--	--

### **3. Procurement methods**

#### **3.1. Tenders over Regulatory Thresholds**

Procurement is responsible for selecting the most appropriate route to market.

#### **3.2. Use of Selection Questionnaires (SQs)**

Procurement will apply minimum standards of experience, reputation and economic standing to suppliers to test their suitability to bid for a Council contract.

Procurement must use the Council's standard Selection Questionnaire and adhere to statutory guidance for all procurements of contracts above the relevant Regulatory Threshold.

Procurement must not use a two-stage process for contracts with a value less than regulatory threshold for goods and services, regardless of whether the contract is for goods, services or works (including Light Touch services).

All the methods and criteria used for assessing the suitability of suppliers must be transparent, objective and non-discriminatory.

#### **3.3. Contracts reserved for social enterprises and the employee-owned sector**

The Council may reserve participation in procurement processes for limited types of services contracts to certain qualifying organisations from the employee ownership and voluntary sectors. The maximum duration of contracts awarded under this power is three years.

Procurement must obtain approval from Legal Services before commencing a procurement in reliance on this Order.

#### **3.4. Evaluation**

Tenders over Regulatory Thresholds are evaluated based on the identification of the 'Most Economically Advantageous Tender (MEAT)'. This takes price into account, alongside quality and social value considerations, but does not require the tender to be awarded to the lowest priced bidder. The weighting given to the considerations will be determined by the Head of Procurement in consultation with the Chief Officer. Where written quotations are invited for contracts below regulatory thresholds MEAT should also be used, but where no clear quality criteria are specified then the Head of Procurement can determine that an assessment can be made based on price. The relevant Chief Officer can accept the most economically advantageous tender, or the lowest cost tender, where such a contract award criterion is being used.

For all tenders over Regulatory Thresholds, a full record of all key decisions and process in relation to the procurement procedure must be kept in the Procurement Report, including such details as required by Regulation 84 of the Public Contracts Regulations 2015.

#### **3.5. Collaboration with other public bodies**

The Council may enter into collaborative agreements for the procurement of goods and services with other public bodies or Central Purchasing Bodies where this offers best value for money for residents. Where this is proposed, you must seek advice from Procurement in the first instance.

### **3.6. Approved or ‘Select’ Lists**

The Council does not operate general ‘approved’ or ‘select’ lists of suppliers, instead a formal arrangement must be in place via either a framework agreement, a dynamic purchasing system or other mechanism compliant with regulations.

### **3.7. Framework agreements and Dynamic Purchasing Systems (DPS)**

All requirements to use existing frameworks or DPS, or to set up new ones, must be referred to Procurement, who will make appropriate arrangements in consultation with Legal Services as required.

Where the Council accesses an existing Framework Agreement or DPS, the Framework Agreement or DPS terms and conditions of contract must be used, amended as appropriate, as permitted by the Framework Agreement or DPS and the Regulations.

Before entering into these, due diligence checks must be carried out to demonstrate that the Council can lawfully access them and that they are fit for purpose and provide value for money.

### **3.8. Concession Contracts**

Concession Contracts are contracts under which the council outsources works or services to a contractor or provider, who then has the right to commercially exploit those works or services in order to recoup its investment and make a return. The key feature is that the contractor/provider bears the operating risk of the arrangement and so has no guarantee of recouping its investment or operating costs. Concession Contracts must meet certain requirements and advice must be sought from Procurement in the first instance if a concession contract is required.

### **3.9. Sustainability and Social Value**

The Public Services (Social Value) Act 2012 places an obligation on the Council to consider the economic, social and environmental well-being of our area when we award contracts over Regulatory Thresholds.

Our procurement approach covers these areas:

- Economic Sustainability – we aim to purchase goods, works and services which enhance the local economy. We recognise the importance of Small & Medium Enterprises (SME) and Voluntary & Community organisations and Social Enterprises (VCSE) to the local community and ensure every effort is made to make our contract opportunities and tender processes accessible to them
- Social Sustainability - we aim to purchase goods, works and services which promote community well-being, and that supply chain partners operate fair and ethical working practices including compliance with the Modern Slavery Act 2015
- Environmental Sustainability – we aim to purchase goods, works and services which minimise our carbon footprint, encourage a positive impact on the local environment, and

have the best value costs and benefits taking into account their whole life cycle from origination to disposal

- Equalities & Diversity - we only purchase goods, works and services from suppliers who meet our standards of equality of employment and service delivery, and we ensure that the tender process is free from discrimination or perceived discrimination in accordance with the Council's Equality Scheme
- Compact – where we are purchasing from the voluntary and community sector you must comply with the Compact Code of Practice on Funding and Procurement

Procurement must carry out an assessment of relevant Social Value and record the results in the Procurement Report. Contract Managers should include social value delivery checks in line with the Contract Management Framework.

All suppliers to the Council are required to comply with all relevant environmental legislation and regulation, and any such superseding legislation. The Council may also introduce from time to time particular local and national policies which support environmental and sustainable procurement and Officers should include these in relevant procurement documentation and procedures.

### **3.10. Voluntary Ex-Ante Transparency Notice (VEAT)**

Should a VEAT Notice be assessed by the Head of Procurement (ESCC) and Legal Services as being required to manage potential risk to the Council, this will be approved by the Director of Procurement and Monitoring Officer, and a log of all published VEAT notices maintained by Procurement.

### **3.11. Developing Local suppliers**

The Council is committed to encouraging businesses in the county to compete for contract opportunities in order to support the development of the local economy. It provides information and support via dedicated websites and through supplier events. We actively encourage the use of locally-based suppliers where they can offer best value for money. Local is defined as within the county boundaries of East Sussex. If no supplier exists within these boundaries this can be extended to include Orbis partner county boundaries.

You must use our purchasing power to work with local businesses wherever possible where this provides equal or better Value for Money for the Council than alternatives. However it must also be noted that the Public Contracts Regulations require that any procurement activity should not discriminate, favour or show bias.

You should carefully review the required specifications of any contract to ensure that small and medium sized enterprises are not being disadvantaged in their ability to tender for goods, works or services with the Council.

For contracts over Regulatory Threshold you must also consider whether the contract should be divided into Lots in order that small and medium sized enterprises can bid for local work. The decision not to divide into Lots should be clearly documented in the Procurement Report.

### 3.12. Commercial Confidentiality and Intellectual Property

If you are discussing developments with suppliers you should take care to ensure that you do not inadvertently share key commercial or confidential information such as budgets, existing pricing from other suppliers, or suggestions for improvements unless you have a Non-Disclosure Agreement in place.

This protects the Council's interests and our intellectual property. Procurement are responsible for putting these agreements in place where appropriate with advice from the Monitoring Officer, and can provide commercial advice and support in dealing with suppliers. Where arrangements include the Intellectual property of the Council, appropriate or relevant contract clause/s must be included.

Intellectual property is a generic term that includes inventions and writings. If these are created by the Council as a general rule they belong to the Council not the supplier. Certain activities undertaken by the Council may give rise to items that may be patentable, for example software development. These items are collectively known as Intellectual Property.

## 4. Waivers and Emergencies

### 4.1. Waivers

In the event that the application of these orders prevents or inhibits the delivery or continuity of service, a waiver may be sought. A waiver is required for any proposed procurement or contractual action which is not compliant with these Orders. A waiver cannot be given if it would contravene the Public Contracts Regulations 2015 or any other applicable legislation.

You must obtain approval for a waiver in writing specifically identifying the PSO that is being waived and the reason for which the waiver is sought, including justification and risk. The approval process for waivers is set out in the table below. When a waiver is sought advice from Procurement should be sought at the earliest opportunity. A waiver cannot be granted retrospectively; this is viewed as non-compliance with these Orders.

Procurement must maintain a log of all waivers, and store documentation for waivers on the Contract Management System.

The approval required for a waiver is as follows:

<b>Contract Value (for waivers in relation to existing contracts this refers to the value of the original contract)</b>	<b>Approval</b>
Up to Regulatory Thresholds	Chief Officer in consultation with Head of Procurement (ESCC)
Over Regulatory Thresholds	Chief Officer in consultation with the Head of Procurement (ESCC) and the Assistant Chief Executive

## **4.2. Emergency Purchases**

An emergency purchase is only allowed for purchasing outside the hours 9am to 5pm on working days or at weekends and during public holidays where there is an imminent risk to life or property.

An emergency purchase can also apply in situations outside these hours where there is a need to arrange for emergency care where an adult or child is at risk of physical harm, or to secure Council property or assets e.g. when there has been a break in or equipment failure, such as flood. You can use a Purchase Card, within your allocated limits, to pay. If the supplier does not accept Purchase Cards then you may give a verbal order and raise a formal purchase order the following working day. You must also inform Procurement of any emergency purchases on the following working day.

Issues arising with contracts leading to a requirement for urgent mitigation action are not necessarily considered emergency purchases. This will be dealt with as part of business continuity within the contract management process.

## **5. Liability and Security**

### **5.1. Insurance Liability**

To protect the Council, insurance is required where we use goods, works or services provided by a supplier (including consultancy).

The minimum levels of cover for Public Liability Insurance and Employers' Liability Insurance required, and Professional Indemnity Insurance are set out below.

- a. Public Liability - £10m
- b. Employers Liability - £5m-£10m depending on the contract used
- c. Professional Indemnity - £1m-£5m (undertake a risk assessment and take advice from the Insurance Team)

In some instances where the contract value, risk or scope may be particularly high, additional levels of cover may be required. Equally, where some contracts may be suitable for micro business, lower levels of insurance may be considered. Any variation from the standard levels above must have the agreement of the Insurance team and be noted in the Procurement Report.

### **5.2. Financial Security**

Procurement and Finance must confirm that suppliers are financially robust both prior to contract award and during the life of the contract as appropriate. Details of the requirements or potential guarantees a supplier may need to provide must be set out in the procurement documents.

If either the total aggregate value of the contract exceeds £2m within twelve months, or there is doubt as to the financial credibility of a supplier but the Council has decided to accept the level of risk, then additional forms of security to a level determined between the Assistant Chief Executive and the Chief Finance Officer are required, for example:

- a. a Parent Company, Ultimate Company or Holding Company guarantee where their financial standing proves acceptable;

- b. a Director's Guarantee or Personal Guarantee where finances prove acceptable;
- c. a Performance Bond, retained funds or cash deposit;
- d. any other security (such as escrow arrangements) as determined by the Section 151 Officer and/or the Monitoring Officer.

All documents inviting tenders and contracts issued must contain a statement that the supplier needs to provide security for performance and the level of security needed, financial checks to be applied at tender, plus how financial suitability will be assessed and any checks that will be required during the life of the contract.

Additional documentation, where required, should be stored on the electronic tendering system.

### **5.3. Document Retention periods**

The retention of tenders and contractual documentation is prescribed in the Limitation Act 1980 and the Public Contract Regulations. In summary:

- a. All received Tenders & SQs must be retained for a minimum of eighteen months following the issue of the Contract Award Notice;
- b. All signed contracts under £499,999 (including all tender documentation) must be retained for a minimum of six years following contract expiry;
- c. All sealed contracts over £500,000 (including all tender documentation) must be retained for a minimum of twelve years following contract expiry.

Procurement must maintain an online record confirming the location of the contract/tender and scheduled date of destruction.

## **6. Managing Contracts**

All purchases must be delivered under a form of contract approved by Legal Services and Procurement. (Contracts can take various forms from Frameworks, Spot purchases, call off agreement and purchase orders). The Council manages the process of awarding contracts via its e-tendering and contract management systems, to ensure that contracts are properly filed and documented.

Where contract funding is received by the Council from a third party (for example, an incoming grant), the contract terms must include a provision for dealing with liabilities under the contract should that funding cease to be available.

### **6.1. Contract Segmentation and Management**

Heads of Service are responsible for the performance of contracts in their area in line with the contract segmentation model, and all Contract Management activities are to be delivered either by a dedicated contract manager or by someone with that responsibility as part of a wider role.

Procurement is responsible for assessing the level of risk, value and complexity of managing a contract once it has been established (known as 'segmentation') using a consistent model approach with six levels (1 being the higher value, higher risk, most complex and 6 the lowest). Procurement will provide support, training and guidance in line with the segmentation model.

All identified Level 1 and 2 contracts must have a written business continuity plan, to be held on the contract management system.

## **6.2. Contract Award Notices**

A full Contract Award Notice must be published no later than 30 days after the award of a contract for all contracts over the Regulatory Threshold values, excluding call-offs from framework agreements. For all contracts called-off from a DPS, the Notice must be published within 30 days of the call-off or be grouped together and published on a quarterly basis within 30 days of the end of each quarter.

For contracts above threshold and where commercial sensitivity or personal information is associated with the publication of this information, please contact Procurement for advice.

For all other contracts under Regulatory Thresholds a simplified Contract Award Notice must be published on the Contracts Finder website for all contracts awarded over a value of £25,000 (including all call-off contracts from Framework Agreements) as soon as is reasonably practicable after the conclusion of the contract.

All staff undertaking procurement competitions from Framework Agreements are responsible for the providing the required appropriate information to enable publication of the Contract Award Notice.

## **6.3. Contracts Register**

All contracts over £5,000, including any variations or amendments, must be registered and maintained in the Electronic Contract Management System (eCMS) managed by Procurement. The council is required by law to publish transparency data about our contracts on a quarterly basis. Data regarding contracts may additionally be maintained in other systems for local use.

All original signed contracts over Regulatory Threshold must have a completed summary contract certificate and be stored in a secure fireproof location.

All contracts over Regulatory Thresholds must have a designated Contract Manager throughout the life of the contract as defined in the Council contract management framework segmentation model.

## **6.4. Contract Modifications and Extensions**

### **Extensions**

Contracts that have been originally advertised with extension options can be extended subject to acceptance in accordance with Table 2.7.a. and under Regulation 72 of the Public Contracts Regulations 2015.

Extensions or renewals of an existing Contract which are not included in the original public notice or the contract itself can, in certain circumstances, be made without triggering a requirement for a new Procurement exercise. For contracts with an original estimated value below the Regulatory Threshold the extension can be approved by the Chief Officer in consultation with the Head of Procurement.

For those contracts with an original estimated value over the Regulatory Threshold any extension which is not defined by the original public notice or the contract itself may be approved by the Chief Officer where permitted by law and where best value to the Council has been demonstrated. The Chief Officer must consult with the relevant Lead Cabinet Member, the Head of Procurement and the Assistant Chief Executive.

## **Other Modifications**

For contracts with an original estimated value over the Regulatory Threshold the agreement of the Head of Procurement (ESCC) and the Assistant Chief Executive is required before any modifications (save for extensions which are dealt with in the proceeding paragraph) are made.

Any extension or modification must have an approved budget allocation. All amendments must then be recorded in writing, signed appropriately and retained with the original contract on the Contract Management System.

Procurement guidance is available on the Intranet setting out the circumstances under which contract modifications or extensions are permitted by Regulation 72 in the Public Contract Regulations 2015, or superseding legislation or regulation.

## **6.5. Contract Novation**

Where a contractor sells, merges or transfers their business to another organisation, the existing contract(s) the Council has with that contractor should be novated if this is acceptable to the Council and permitted by law. A Chief Officer may approve the novation of a contract to a new supplier if they are satisfied as to the financial standing and the technical competence of the proposed supplier. The agreement of the Chief Finance Officer and the Assistant Chief Executive is required and if a novation is agreed, then the revised contract will be passed to Procurement Sourcing Solutions who will update the contract register and ensure that the master data is updated on the relevant purchase to pay system.

## **7. Paying our suppliers**

### **7.1 Invoice Payments**

The Council aims to move all invoicing to electronic format to make it easier for our suppliers to trade with us and to track the progress of orders and payments.

Where you are using a supplier registered for electronic invoicing you must follow the rules and guidance issued by Procurement.

Suppliers must issue all invoices via the route provided by Business Operations. No invoice may be received or processed directly by your Service unless it is agreed as a payment exception by the Head of Procurement, who may agree general exceptions where Service-specific systems are in use. Business Operations are responsible for maintaining a register of all agreed payment exceptions.

All invoices received in Business Operations must include a Purchase Order number. Invoices without a Purchase Order number will be returned to the supplier.

Suppliers cannot be paid until you have confirmed that the requirement has been satisfactorily delivered. A Purchase Order must be followed by a Goods Receipt Notice before an invoice can be paid. It is the purchaser's responsibility to ensure all purchases are receipted to the appropriate value and in a timely fashion.

### **7.3 Payment Terms**

The standard payment terms are 30 days from the invoice date, with payments made via BACS (electronic bank transfer). If a Supplier has identified themselves as an SME ("small or medium enterprise"), they can be paid on preferential payment terms of 10 working days.

You must obtain the agreement of the Head of Procurement (ESCC) and the Section 151 Officer (or authorised delegates) for any deviation from the standard payment terms. This must be in writing as a Payment Exception.

Where payments are agreed in advance, appropriate review of a supplier's financial stability and standing and due regard for risk in the event of supplier failure must be undertaken and agreed by the Head of Procurement (ESCC) and the Section 151 Officer.

## 8. Disposing of surplus goods

Disposal of surplus materials, goods or assets (including recycling of materials that have a scrap value), must have adequate defined processes and controls to ensure that the council receives proper reimbursement, where appropriate and cost effective.

In principle, for assets being sold with a value of:

£0 - £14,999	A minimum of 1 bid is required
£15,000 - £99,999	A minimum of three bids must be invited;
£100,000 and over	A minimum of three sealed bids must be invited

You must seek advice from Procurement when making valuations and the book value of the asset will be primarily used to calculate value. In most cases, it is anticipated that the highest bid received will be accepted.

Where recycling of materials can be progressed to sale or scrap, the council may enter into a profit share arrangement with Contractor. Examples are construction, servicing and repair type contracts, where scrap metals or building materials can be re-sold. The contractor will need robust processes to define how they deal with disposal and council authorisation to sell scrap value materials or goods.

Care must be taken to ensure that environmental sustainability as well as security and other associated issues and obligations (including those from the Data Protection Act and WEEE Regs) are considered and complied with when disposing of goods.

## **Appendix 1 – policies and guidance relevant to these Orders**

All Officers must follow the Council's policies, in particular those relevant to these Orders, which are listed below.

Financial Procedure Rules (part 4 of the Constitution)

Scheme of Delegation (see part 3 Table 6 of the Constitution)

Code of Conduct (see part 5 of the Constitution)

Ethical Procurement Statement

Guidance for Agency workers and consultants

Guidance for Grants and External Funding

Procurement in the UK is regulated by:

The Public Contracts Regulations 2015

The Concession Contracts Regulations 2016

The Public Services (Social Value) Act 2012