



Contract Procedure Rules

Contents:

	Topic	Page
	Quick Reference Guide	3
1	Compliance	5
2	Best Value	7
3	Partnering/Framework Arrangements	9
4	Selection of Suppliers	10
5	Invitations to Suppliers	12
6	Tendering Procedures	19
7	Procedures for Quotation and Tender Discussion and/or Clarification	20
8	Acceptance of Quotations and Tenders	21
9	Orders and Contracts	23
10	Contracts that have commenced	25
11	Payments	27
12	Performance Security Arrangements	27
13	Insurances	27
14	Consultants	28
15	Records	28
16	Audit Examination	28
17	Exceptions	28
18	Electronic Signatures	29
19	Definitions	30

Quick Reference Guide to the Contract Procedure Rules

Total Contract Value	Process	Advertising	Authority	Signature	Relevant Part
£0.00 - £5,000	Ensure a budget is allocated. Chief Officer need not obtain quotations. Contracts in writing and a Purchase Order must be raised for every contract	None	Chief Officer [ODR]	Chief Officer or officer authorised by him/her in writing	5.1.1 9.5.1
£5,000 - £25,000	3 Written Quotations (unless using a framework)	None	Chief Officer [ODR] x 2 (process & award)	Chief Officer or officer authorised by him/her in writing	5.1.2 5.1.6 9.5.1
£25,000 - £50,000	Instruct the procurement unit to obtain 3 Written Quotations (in conjunction with the Procurement Unit if over £25,000) (unless using a framework) Service Manager – Commercial Development Notified	All Contracts over £25,000 must be published on Contract Finder	Chief Officer [ODR] x 2 (process & award)	Chief Officer or officer authorised by him/her in writing	5.1.3 9.5.1
£50,000 to below EU Thresholds	Instruct the Procurement Unit to obtain at least 3 tenders in writing (unless using a framework) Service Manager – Commercial Development Notified	All Contracts must be published on Contract Finder	Chief Officer [ODR] x 2 (process & award)	Signed and Sealed (refer to Legal Services)	5.1.4 9.4.1
Above EU thresholds	Instruct the Procurement Unit to obtain Competitive Tenders (e.g. Restricted / Open procedure (unless using a framework) Service Manager – Commercial Development Notified	OJEU advert and published on Contract Finder	Chief Officer [ODR] x 2 (process & award)	Signed and Sealed (refer to Legal Services)	5.1.5 9.4.1
Former Part B Services – Social and Other Specific Services (excludes NHS Contracts) below \$750,000	Competitive Tenders must sought (e.g. Restricted / Open procedure (unless using a framework) Service Manager – Commercial Development Notified	OJEU advert and published on Contract Finder	Chief Officer [ODR] x 2 (process & award)	Signed and Sealed (refer to Legal Services)	5.1.7

Former Part B Services – Social and Other Specific Services (excludes NHS Contracts) above \$750,000	Competitive Tenders must sought (e.g. Restricted / Open procedure(unless using a framework) Service Manager – Commercial Development Notified	OJEU advert and published on Contract Finder or PIN (Prior Information Notice)	Chief Officer [ODR] x 2 (process & award)	Signed and Sealed (refer to Legal Services)	5.1.7
<u>Frameworks:</u>					
Frameworks	Ensure VFM (3.11) Process as set out in Framework Agreement Must Instruct Procurement Unit if above thresholds (3.10) Must not be longer than 4 years (3.15)	None – call off agreement to be used	Chief Officer [ODR] x 2 (process & award)	Chief Officer or officer authorised by him/her in writing) if under £50,000 Signed and Sealed if over £50,000 (refer to Legal Services)	3 9.4.1
<u>Exceptions:</u>					
Exceptions - Urgency	Chief Officer to certify that contract is required so urgently as to preclude the invitation of tenders. The appropriate Portfolio Holder shall be kept informed of such decisions and a record of the decision shall be retained by the Chief Officer and a copy sent to the Service Manager – Commercial Development		Chief Officer [ODR] Portfolio Holder to be notified	See above re contract value	17.6.1
Exceptions - Specialist	An exception will be sought from the Portfolio Holder or Cabinet to either deal with a single contractor or to vary the quotation/tender requirements		Portfolio Holder Decision [EDR]	See above re contract value	17.6.2

N.B. Contracts must not be broken down into smaller or separate Contracts to avoid compliance with the rules

1. Compliance

1.1 The purpose of these Contract Procedure Rules is to safeguard the interests of the Council, its employees (“Officers”), or any person acting on behalf of the Council, to set clear rules for the purchase of works, goods and services for the Council and to ensure a system of openness, integrity and accountability, in which the probity and transparency of the Council's procurement process will be beyond reproach or challenge.

1.2 The Local Government Act 1972 requires the Council to have standing orders for how it enters into Contracts. These Contract Procedure Rules are the standing orders required by the 1972 Act. They form part of the Council's Constitution and are, in effect, the instructions of the Council to officers and members for entering into Contracts on behalf of the Council.

1.3 Accordingly, these Contract Procedure Rules must be followed by every Officer and any person acting on behalf of the Council (including consultants) every time there is a requirement of the Council to procure work, goods, materials or services under a contract regardless of value. All necessary legal, financial and professional advice must be taken by such Officers or by such persons to ensure compliance with these Contract Procedure Rules, the Council's Financial Regulations and all relevant UK and EU legislation. Failure to comply with these Contract Procedure Rules may result in disciplinary action and legal proceedings against Officers and other persons concerned.

1.4 Each Chief Officer is responsible for ensuring that his/her directorate complies with these Contract Procedure Rules, the Council's Financial Regulations and all relevant UK and EU legislation. To plan the procurement of and manage Contracts within his/her directorate to ensure that Contracts:

- Secure Best Value;
- Are operated effectively, efficiently and economically;
- Are operated within the terms of the Contracts themselves, so that the Council is not at risk of being in breach of Contract;
- To provide details to the Service Manager – Commercial Development of Contracts entered into by his/her directorate for inclusion into the Council's Contracts Register. Contracts for less than £5,000 need not be recorded in the Register
- To keep adequate records to show compliance with Contract Procedure Rules, Financial Regulations, European Legislation and all relevant UK and EU legislation in his/her directorate.

Another Chief Officer or an Officer within his/her own directorate may be authorised via written delegation to carry out the Chief Officer's duties in respect of a particular Contract or Contracts generally.

1.5 These Contracts Procedure Rules do not apply to:

- 1.5.1 Contracts for the purchase or sale of any interest in land (including leasehold interests).
- 1.5.2 Contracts for the appointment of individual Members of Staff, including Members of Staff sourced through employment agencies under a Corporate Contract (Corporate Contract means a Contract for the supply of works, goods or services to the Council as a whole rather than for an individual service area).

- 1.5.3 Grant agreements, either where the Council is giving or receiving a grant.
- 1.5.4 Supply of works, goods and services by the Council.
- 1.5.5 If a Contract is being procured in collaboration with other local authorities, the Contract Procedure Rules of the lead authority shall apply. Assurance should be sought that the lead authority is in compliance with its own Contract Procedure Rules.
- 1.5.6 These Contract Procedure Rules do not apply to:
- i. The obtaining of specialist legal services as an adjunct to the general provision of such services to the Council the obtaining of which shall be made by the Director of Legal and Governance but who shall still ensure the price obtained is not in excess of the market price and represents value for money and that the spirit of the rules are complied with as far as possible subject to the specialism of service or that a Framework Agreement is used;

and
 - ii. The obtaining of financial services in connection with the issue of sale, purchase or transfer of securities or other financial instruments and central bank services the obtaining of which shall be made by the Corporate Finance Manager.
- 1.6 Every Council employee ("Officer") must ensure that they are aware of and observe the provisions of the Council's Code of Conduct for Employees. If an Officer has an interest, financial or otherwise, in a Contract or proposed Contract, he/she must declare it in writing to the Chief Officer as soon as he/she becomes aware of the interest. An elected Member must register any contractual interests in accordance with the Member's Code of Conduct. An elected Member or Officer who has an interest in a Contract must not take part in the procurement or management of that Contract.
- 1.7 Chief Officers shall ensure that the Council complies with the statutory obligation to secure Best Value and that the Council complies with other legislation for the time being in force. The Chief Officer responsible for each Contract must record an estimated value for the Contract before any offers are sought. The value of a Contract is the total amount that the Council expects to pay or receive for the Contract, including any Contract extension period. This may be a lump sum e.g. £250,000 or a periodic payment e.g. £50,000 per year for a 5 year Contract = £250,000.
- 1.8 If a Chief Officer wishes to nominate a particular sub-Contractor to a main Contractor, the procedures in these Contract Procedure Rules must be followed to select the sub-Contractor as well as the main Contractor.
- 1.9 Before beginning the commissioning process for the supply of any services Chief Officers must consider whether the Public Services (Social Value) Act 2012 applies to the services. This only applies to contracts where the value is greater than the EU threshold. Where it does apply Chief Officers must make the following considerations at the pre-procurement stage:
- 1.9.1 How what is proposed to be procured might improve the economic, social and environmental well-being of the "relevant area";

- 1.9.2 How in conducting a procurement process the Council might act with a view to securing that improvement; and
 - 1.9.3 Whether to undertake a consultation on these matters.
- 1.10 If there is a Corporate Contract for the supply of any works, goods or services, the Chief Officer must buy through that Contract, rather than awarding a separate Contract for his/her own directorate. The Service Manager – Commercial Development’s advice should be sought on these matters.

2. Best Value

- 2.1 Best Value requires the Council to make proper arrangements for securing continuous improvement in the economy, efficiency and effectiveness in the use of its resources and is the optimum combination of whole life costs and benefits to meet customer requirements.
- 2.2 Best Value requires the Council to identify those quotations and tenders which will secure the best balance of price against quality over the whole life of the Contract.
- 2.3 The best and most widely accepted way of securing the necessary transparency in the evaluation of all the price and quality factors contained in quotations and tenders received is to adopt a robust points system which provides a pre-disclosed maximum number of points for price and for each factor in quality.
- 2.4 Chief Officers shall seek advice from the Procurement Unit about the Quotation/Tender Evaluation Models to ensure compliance with the requirements of these Contract Procedure Rules especially where any Contract has a procurement requirement falling within the EU procurement regime or whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force.
- 2.5 Chief Officers shall adopt the Quotation/Tender Evaluation Models recommended by the Procurement Unit to ensure compliance with the requirements of these Contract Procedure Rules where any Contract does not have a procurement requirement falling within the EU procurement regime or, if it does, whose value, or (if made up of a series of related Contracts) whose aggregate value is not likely to exceed the relevant EU threshold figure for the time being in force.

2.6 Make or Buy

- 2.6.1 The National Procurement Strategy for Local Government States: ‘Procurement is the process of acquiring goods, services and works.It involves options appraisal and the critical ‘make or buy’ decision which may result in the provision of services in-house in appropriate circumstances’. Therefore a joined up, strategic ‘Make or Buy’ decision for all goods and services should be made by the Council.
- 2.6.2 Where the Council has chosen to develop and sustain internal expertise in an area then it is likely that using the internal provision will secure Best Value. As a minimum dialogue should be had between the purchasing section and the internal provider before any decision is made to procure externally.

- 2.6.3 For the majority of services provided in-house, a significant level of their overall costs are fixed or will only change if there is a considerable change in levels of delivery (cost such as supervision/management, investment in ICT, buildings or machinery and their contribution to overheads). Therefore an internal provider is likely to be able to provide a service at a cheaper overall cost to the Council than an external provider.
- 2.6.4 Arrangements for internal provision should be periodically reviewed to ensure that they do not become out-of-date and continue to be the most suitable arrangements, taking into account, for example, that:
- requirements change over time and may no longer be reflected in the agreed service (e.g. in terms of quality, quantity or range of options offered);
 - innovations or alternatives may have been developed since the original agreement;
 - new entrants to a market could potentially be cheaper than the in-house alternative.

The regularity of these reviews will depend upon the degree of change in the market, the degree of change in the requirements and the flexibility of the existing agreement.

- 2.6.5 An externally provided solution may provide better Value for Money for the Council because:
- the extra cost required to provide the service internally is less than the price available externally (including any potential TUPE costs if currently provided externally, and/or break costs in the terms of PFI contracts);
 - there is insufficient capacity (including any necessary specialism) to provide the service in-house;
 - the quality that can be offered internally does not meet the needs of the internal customer.
- 2.6.6 The following should not be used for contracting out (or not using internal services) include:
- unsolved management problems (including issues of 'long-standing resentment or mistrust of one group of staff by another');
 - ability to transfer risk (as this will be built into prices);
 - a legacy of capital starvation (as prudential borrowing can rectify this). (Standing Guide to the Commissioning of Local Authority Work and Services, CIPFA's 2013/4)
- 2.6.7 The expectation is that in most cases, the service managers from the customer and provider sections will discuss and agree if any of the criteria in 3.5 are met and thus if it is appropriate to externally procure. If the parties cannot agree it should be referred to the Service Manager – Commercial Development.
- 2.6.8 Chief Officer(s) are responsible for updating and reviewing procedures and processes for resolving any disputes within the 'Make or Buy' process between departments.

2.6.9 Chief Officers are responsible for checking whether in-house provision is an alternative before commencing purchasing or tendering activities.

2.6.10 The Service Manager – Commercial Development is responsible for periodically reviewing internal arrangements to ensure that they continue to provide the most suitable solution to meet their requirements.

3 Partnering/Framework Agreements

3.1 Chief Officers shall adopt an integrated approach to procurement by actively considering whether the use of partnering or framework agreements is an appropriate form of service delivery for any of their services.

3.2 The overriding ethos of partnering is to provide a formal legally binding relationship that allows each party to a project to form a partnering team to work together to deliver the project in line with the principles of Best Value.

3.3 The early integration of the partnering team and the procurement process can achieve substantial improvements in the procurement of projects.

3.4 Partnering requires the partners to deal fairly with each other and work together in a spirit of mutual trust, respect, good faith, co-operation and dedication to agreed common goals and an understanding of each other's expectations and values.

3.5 Partnering is designed to facilitate collaborative working which can be achieved through either project partnering or strategic alliancing, which is the grouping of a number of projects in order to obtain the benefits of long-term relationships.

3.6 Chief Officers shall ensure that the collaborative culture is fully embedded in all procedures, where partnering has been adopted.

3.7 There are various contract options available to provide a contractual arrangement to suit a partnering environment. Advice should be sought from the Service Manager – Commercial Development.

3.8 Framework agreements established in pursuance of the EU Regulations and any re-enactment(s) of them by other contracting authorities are recommended where it is possible for the Council to access such frameworks and where such use will ensure compliance with the requirements of these Contract Procedure Rules.

3.9 Chief Officers shall ensure that the details of every partnering contract and framework agreement option is referred to Legal Services for a consideration of the suitability of the arrangement concerned and the Council's legal liability before such arrangement is concluded.

3.10 The Service Manager – Commercial Development must be consulted before joining or buying from a new Framework Agreement where the expenditure will be more than the EU Threshold except for Works Contracts. It must be confirmed by the lead authority and owner of the framework that it is open and available to the Council.

- 3.11 A Chief Officer may, subject to complying with EU requirements, authorise participation in a Framework Agreement, where it can be shown that the framework:
- Offers value for money; and/or
 - Offers savings in the costs of procurement.
- 3.12 To select a Supplier for a specific Contract under a multi-Supplier framework agreement or to conduct a mini competition, the Chief Officer, in consultation with the Procurement Unit, must follow the procedure set out in that Framework Agreement. Where the contract value is £25,000 or above, it must be done in consultation with the Procurement Unit.
- 3.13 Advice must be sought on whether a standstill period applies to the award process. Successful and unsuccessful Suppliers who participated in a mini-competition must be notified of the decision to award the specific Contract.
- 3.14 All Framework Agreements, and specific Contracts over the EU Threshold, must be executed as deeds, by affixing the Council's Common Seal.
- 3.15 A Framework Agreement must not be longer than 4 years unless specifically agreed with Legal Services and the Procurement Unit.

4 Selection of Suppliers

4.1 Chief Officers shall ensure compliance with the Council's Corporate Procurement Contracts currently in force to procure work, goods, materials or services. These are arrangements established by the Service Manager – Commercial Development.

4.1.1 Chief Officers shall ensure that quotations and tenders be invited by the use of one of the following approaches:

EU Public Procurement

4.1.1.1 the EU public procurement regime is mandatory for any Contract which has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related Contracts), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force;

Approved Lists;

4.1.1.2 Chief Officers should not use approved lists of contractors without first obtaining advice from the Service Manager – Commercial.

4.1.1.3 joint procurement arrangements / frameworks / purchasing consortia arrangements established by other contracting authorities;

4.1.1.4 Office of Government Commerce (OGC) Buying Solutions framework contracts or other such like contracts;

4.1.1.5 suitable suppliers derived from a competitive selection process conducted in consultation with the Procurement Unit and where necessary, and with the Service Manager – Commercial Development.

- 4.1.2 Chief Officers should adopt a collaborative approach to procurement, where appropriate, through the use of partnering as described in paragraph 3 of these Contract Procedure Rules. A partner is obtained through a competitive selection process which can be demonstrated by using any of the arrangements set-out in paragraph 4.3.1 of these Contract Procedure Rules.

4.2 **EU Public Procurement including Framework Agreements**

- 4.2.1 Chief Officers shall ensure that all procurement complies with the requirements of the EU Regulations and any re-enactment(s).
- 4.2.2 Chief Officers in conjunction with the Procurement Unit, shall ensure that the appropriate advertisements are placed in the Official Journal of the European Union (OJEU) and other relevant publications. The Service Manager – Commercial Development shall ensure a register of such advertisements is maintained.
- 4.2.3 Suppliers expressing an interest in being invited to tender in response to an OJEU Contract notice or an advertisement must complete a PQQ, in a form approved by the Procurement Unit. PQQs must be evaluated separately from, and before, any tenders are evaluated. Any PQQ that is received after the latest date specified for return must not be considered.

Advisory note: The criteria on which PQQs are evaluated must be designed to establish the capability of the Supplier to undertake the Contract which will be different from the criteria on which tenders are evaluated.

- 4.2.4 A sufficient number of Suppliers must be invited to tender to ensure genuine competition. The minimum number is five. If there are fewer than five expressions of interest in being invited to tender or fewer than five satisfactory PQQs, then the minimum number of Suppliers to be invited to tender may be reduced, with the approval of a Chief Officer(s);
- 4.2.5 As soon as possible after the PQQ shortlisting, the Procurement Unit must write to any Suppliers who were not selected, with reasons as to why they were not successful. If a Supplier who was not selected asks for further information on why he was unsuccessful, the Chief Officer must make the appropriate arrangements with the Procurement Unit for feedback to be provided.

4.3 Joint Procurement Arrangements / Frameworks/ Purchasing Consortia

- 4.3.1 To fulfil their requirements, Chief Officers may use a number of arrangements established outside the Council by other parties, provided that those parties are “contracting authorities” as defined by the Public Contracts Regulations and any re-enactment(s) of them, these arrangements being:
- 4.3.1.1 joint procurement arrangements with other local authorities;
- 4.3.1.2 framework arrangements established by contracting authorities such as the East Midlands Property Alliance (EMPA);
- 4.3.1.3 purchasing consortia established by contracting authorities such as the Eastern Shires Purchasing Organisation (ESPO).

- 4.3.2 Any requirement of the Council involving the procurement of work, goods, materials or services via joint procurement arrangements with other local authorities, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, shall be deemed to comply with the corresponding requirements of these Contract Procedure Rules.
- 4.3.3 Advice should be sought before using framework arrangements established by contracting authorities.
- 4.3.4 Chief Officers shall ensure that the proposed terms and conditions that are to apply are adequate and appropriate and where necessary shall refer them to the Legal Services for a consideration of the suitability of the arrangement concerned and of the Council's legal liability before proceeding with or entering into any arrangement referred to in paragraph 4.4.1 of these Contract Procedure Rules.
- 4.3.5 Chief Officers shall ensure that the terms and conditions entered into are complied with.

4.4 Vetting of Suppliers

- 4.4.1 Chief Officers shall ensure that suppliers are vetted for financial stability, technical competence, managerial capability, previous performance for the ability to comply with any national legislation and Council policies and procedures before each Contract is let or before being included into the relevant approved list(s), whichever is the earlier. Where applicable, Chief Officers shall ensure that suppliers meet adequate and appropriate standards of health and safety.

5 **Invitations to Suppliers**

- 5.1 Procurement of Contracts for work, goods, materials and services (including Contracts involving construction and engineering related work):
 - 5.1.1 Where the estimated value of a Contract over the whole life of the Contract is under **£5,000**, the Chief Officer need not obtain quotations. All contracts must be in writing and a purchase order must be raised for every contract
 - 5.1.2 Where the estimated value of a Contract over the whole life of the Contract is between **£5,000 and £25,000**, Chief Officers shall obtain at least **3 written quotations**, except where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules. Chief Officers, however, may elect to seek tenders in lieu of quotations.
 - 5.1.3 Where the estimated value of a Contract over the whole life of the Contract is between **£25,000 and £50,000**, Chief Officers will use the **Procurement Unit** to obtain **3 written quotations**, except where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules.

5.1.4 Where the estimated value of a Contract over the whole life of the Contract is **between £50,000 and the EU threshold**, Chief Officers will use the Procurement Unit to obtain **at least 3 tenders in writing**, except where framework agreements or other arrangements are legally accessible pursuant to paragraph 4 of these Contract Procedure Rules

5.1.5 Where the estimated value of a Contract over the whole life of the Contract exceeds the EU Threshold, Chief Officers will use the Procurement Unit to obtain **a minimum of 5 tenders in writing**. If there are fewer than five expressions of interest in being invited to tender or fewer than five satisfactory PQQs, then the minimum number of Suppliers to be invited to tender may be reduced, with the approval of a Chief Officer(s);

5.1.5.1 Where the estimated value of a Contract over the whole life of the Contract exceeds the EU Threshold the Chief Officer and the Procurement Unit will consider the following principles before inviting tenders:

- Analysis and evaluation of all practical options for Contract packages and methods of procurement, with the object of selecting the option that most effectively ensures best value and provides full, fair and open competition;
- Taking into account the goals and objectives in the Sustainable Community Strategy and the priorities of the Corporate Plan;
- Consultation with stakeholders within and outside the Council about service standards and specifications;
- Market investigation;
- Analysis of performance under any current Contract and consideration of prospective performance in the light of consultations and investigations;
- Stimulation of diversity and innovation, enhancement of choice for service users and attraction of new Suppliers;
- Promotion of sustainability;
- Where appropriate, a commitment from the Supplier not to use zero hour contracts; to recruit local apprentices and local labour and to pay the Living Wage. This will be assessed on a case by case basis and the decision to seek confirmation of the payment of the living wage in respect of a contract will be agreed by the relevant Portfolio Holder in conjunction with the Service Director;
- Declarations in relation to professional and business conduct, including Blacklisting;
- Partnerships between the public, private and voluntary sectors should be sought, which demonstrate a shared commitment to objectives that benefit users of the Council's services;
- Value for money should be applied, with the objective of achieving a Contract that best serves the needs of service users.

5.1.5.2 At the same time as submitting the procurement request to engage the Procurement Unit in developing a procurement plan, the Chief Officer must give full instructions to Legal Services to draft or approve terms and conditions of Contract where non-standard terms are being used.

5.1.6 The decision to invite quotations or tenders for a Contract and the decision to award the Contract must be separate decisions.

Former Part B Services (excludes NHS Contracts)

5.1.7 Competitive tenders must be sought for Social and other Specific Services which are;

- Health, social and related services
- Administrative social, educational, healthcare and cultural services
- Compulsory social security services
- Benefit services
- Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services
- Religious services
- Hotel and restaurant services
- Legal services to the extent not already excluded
- Other administrative services and Government services
- Provision of services to the community Prison related services
- Investigation and security services
- Internal services
- Postal services

5.1.8 Full details of the relevant services are contained in Schedule 3 of The EU Regulations.

5.2 Formal Quotations and Tenders need not be sought:

5.2.1 if the estimated value of a Contract over the whole life of the Contract is less than £5,000. (Chief Officers have delegated authority to enter into Contracts below the Quotation level provided that a budget has been allocated for that expenditure. Contracts below the Quotation level must be signed for and on behalf of the Council by the Chief Officer responsible for the Contract or an Officer authorised by him/her and a Purchase Order raised through the Council's finance system.

5.2.2 In the event of an emergency (Dispensations from Contracts' Procedure Rules). Chief Officers, however, shall ensure that the most suitable arrangement is secured for the Council and the details are recorded in writing.

5.3 Chief Officers shall ensure that the Council's e-tendering system shall be used wherever possible when inviting and receiving quotations and tenders electronically.

- 5.4 Chief Officers must not try to avoid compliance with these Contract Procedure Rules or the EU Regulations by splitting a procurement for the same or similar works, goods or services into smaller, separate contracts.
- 5.5 Chief Officers shall ensure that each individual Contract be packaged to secure Best Value for the Council.
- 5.6 Chief Officers shall ensure that suppliers invited to provide quotations or to submit tenders are contacted and (regardless of the process being used) a record maintained of the requests made and their agreement to provide quotations or submit tenders.
- 5.7 Chief Officers shall ensure that where there is a multiple stage process for inviting quotations or tenders then any criteria to be used for short-listing suppliers throughout such process is robust and transparent and shall make use of the assistance available from the Procurement Unit.
- 5.8 Chief Officers shall ensure that a realistic period be stipulated in the invitations to suppliers to provide quotations or to submit tenders, with a minimum period of ten working days allowed for a response. This period may be reduced provided the special circumstances are recorded.
- 5.9 Chief Officers shall ensure that invitations to suppliers to provide quotations or to submit tenders for work, goods, materials or services, incorporate:
- 5.9.1 the requirements set-out in these Contract Procedure Rules appropriate to the circumstances of the invitation;
 - 5.9.2 a specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers. The specification should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the Chief Officer to see whether the Council's requirements are being met by the Supplier. All necessary professional and technical advice and assistance must be obtained in preparing the specification, to ensure a comprehensive document that expresses the Council's requirements and protects its interests. Consultants who assist in the preparation of a specification must not be invited to tender for the Contract. The people who prepare the specification should, as a rule, be part of the panel that evaluates tenders;
 - 5.9.3 the nature and quantity of the work, goods, materials or services that is required;
 - 5.9.4 the time, or times, within which the work or services are to be performed or the goods and materials are to be delivered;
 - 5.9.5 a notification that assignment or sub-contracting is not permitted without prior written consent from the Council, unless the circumstances of the particular invitation require a different approach;
 - 5.9.6 a notification that quotations are provided and tenders are submitted to the Council on the basis that they are compiled and delivered at the supplier's expense and that, in no circumstances, will the Council contribute to such expenses whatever the outcome of the procurement process;

- 5.9.7 a notification that the Council is not bound to accept the lowest or any quotation or tender for a specific Contract;
- 5.9.8 a Certificate of Bona Fides;
- 5.9.9 a Form of Tender. The form of tender must also state that the tender will remain open for acceptance by the Council for a period of ninety days after the last date for receipt of tenders, or such other period as appropriate;
- 5.9.10 adequate and appropriate provisions regarding insurances, health and safety, equality and diversity, data protection and freedom of information;
- 5.9.11 adequate and appropriate price adjustment provisions (unless the circumstances of the particular invitation require a different approach), anti-collusion provisions; anti-corruption provisions and anti-fraud provisions;
- 5.9.12 robust and transparent award criteria to be used in evaluating quotations or tenders received to ensure compliance with the requirements of these Contract Procedure Rules; and/or
- 5.9.13 The terms and conditions of Contract
- 5.9.13.1 For Contracts over the EU Threshold, full instructions must be given at the earliest opportunity and in any event not later than submitting the procurement request to the Procurement Unit and to Legal Services to draft the terms and conditions of Contract or to approve non standard terms and conditions of Contract e.g. JCT
- 5.9.13.2 All Contracts, whatever their value, must include:
- A clear and comprehensive description of the works, goods or services to be supplied (the specification);
 - The price to be paid by the Council and mechanism;
 - Key performance indicators;
 - The time or times within which the Contract is to be performed;
 - A provision allowing the Council to use information gained from the Contract for preventing and detecting fraud;
 - A provision requiring the Supplier to comply with requests under the Freedom of Information Act 2000 for information relating to the Contract; and
 - A right for the Council to terminate the Contract immediately in the event of corrupt activity and for the Council to recover its losses arising from the termination and other termination provisions where appropriate.

- A provision requiring the Supplier to comply with all applicable law about:
 - the processing of personal data and privacy (including the General Data Protection Regulation (Regulation (EU) 2016/679)(“GDPR”), the Law Enforcement Directive (Directive (EU) 2016/680)(“LED”), any applicable national implementing Laws as amended from time to time and the Data Protection Act 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy)
 - Health and Safety;
 - Equality and Diversity
 - Freedom of Information
 - Money Laundering
 - Anti-Corruption
 - Intellectual Property
 - Whistleblowing
 - Insurance; and
 - Other relevant statutory provisions
- A provision for making changes to the Contract to take account of changes in circumstances;
- If the Supplier's failure in performance would cause the Council financial loss, a provision for payment of liquidated damages;
- An appropriate dispute resolution procedure;
- A prohibition on the Supplier assigning, sub-letting or novating the Contract without the Council's consent;
- A provision requiring the Supplier to co-operate with the Council;
- If appropriate, a warranty by the Supplier that his employees are suitable persons to be employed in that Contract and, notwithstanding the provisions of the Rehabilitation of Offenders Act 1974, have disclosed all charges, cautions and convictions of criminal offences. This may include obtaining disclosures by the Disclosure and Barring Service;
- A provision requiring the Supplier to employ sufficient numbers of appropriately trained, skilled and competent staff and allowing the Council to require the removal of any member of the Supplier's staff from the Contract, if his/her behaviour justifies it;
- Where transfer of staff may be involved, provisions dealing with rights and obligations regarding employee matters, including pensions;

- A requirement for the Supplier to maintain records concerning the Contract and to give the Council access to such records and to the Supplier's premises and personnel for the purpose of internal or external audit;
- Where appropriate, a provision regarding tax deductions under the Construction Industry Contract;

5.9.14 The Chief Officer must:

5.9.14.1 Require the Supplier to maintain appropriate and adequate levels of insurance cover, in consultation with the Council's Corporate Finance Manager, for employer's liability, public liability, products liability, all risks/Contract works and professional indemnity insurance. Unless otherwise agreed by the Corporate Finance Manager, the minimum levels of cover shall be

- £10 million for employer's liability insurance
- £5m for public liability and products liability insurance
- £2 million for professional indemnity insurance. All policies must contain an indemnity of principals clause.

5.9.14.2 Ensure that the Supplier holds the required insurance cover at the start of the Contract, renews the policies as necessary during the Contract period and, following each renewal, provides details verified by his insurer or broker of his insurance for the Council's records.

5.9.15 As a general rule, all Contracts, whatever their value, must provide for payment by the Council after supply of the works, goods or services. Exceptionally, and only with the consent of the Chief Finance Officer, a Contract may provide for payment in advance. Generally, the OJEU Contract notice or other advertisement inviting tenders must not be published until the terms and conditions of Contract have been drafted.

5.9.16 If appropriate, a pricing document for completion by the tenderer; and

5.9.17 any other relevant items that are considered necessary.

5.10 Chief Officers shall ensure that the information set-out in paragraphs 5.11.1 to 5.11.17 inclusive of these Contract Procedure Rules be issued to each supplier invited to provide quotations or to submit tenders at the same time. Any supplemental information must be given on the same basis.

5.11 Chief Officers shall ensure that TUPE issues are considered when any employee either of the Council or of an incumbent provider of work or services may be affected by any transfer arrangement and obtain advice from a Legal Services before proceeding with invitations to suppliers to provide quotations or to submit tenders.

6 Tendering Procedures

This paragraph relates to tendering procedures for Contracts in respect of which the Council's e-tendering system is not used as expressly agreed by the Procurement Unit involving construction and engineering related work or Contracts estimated to have a value over the whole life of the Contract exceeding £50,000 for work, goods, materials and services, provided there is no conflict with the requirements of the Public Contracts Regulations 2015EU Regulations and any re-enactment(s) of them.

- 6.1 Chief Officers shall ensure that all suppliers invited to submit a tender (regardless of the process being used) confirm receipt of the tender documents, using the Council's e-tendering system.
- 6.2 Unless otherwise stipulated in the tender documents, all tenders must be delivered to the Procurement Unit (as appropriate) and in a plain envelope.
- 6.3 Chief Officers shall ensure that the tender documents stipulate that all envelopes containing tenders shall be securely sealed and shall bear the word 'TENDER' followed by the name and/or reference of the Contract to which the tender relates. Also, such envelopes shall not bear any distinguishing mark intended to indicate the identity of the supplier.
- 6.4 Chief Officers shall ensure that all envelopes containing tenders remain in the custody of the designated officer concerned until the time appointed for their opening.
- 6.5 Chief Officers shall ensure that the envelopes containing tenders for the same Contract be opened at the same time by the designated officer concerned who shall do so in the presence of another officer or officers approved by the designated officer concerned for that purpose.
- 6.6 Chief Officers shall ensure that tenders received for whatever reason after the specified time or date or not delivered to the Council in accordance with the tender instructions will not be considered.
- 6.7 Where appropriate, a commitment from the Supplier not to use zero hour contracts; to recruit local apprentices and local labour and to pay the Living Wage is welcomed. This will be assessed on a case by case basis and the decision to seek confirmation of the payment of the living wage in respect of a contract will be agreed by the relevant Portfolio Holder in conjunction with the Chief Officer;
- 6.8 Declarations in relation to professional and business conduct, including Blacklisting must be completed;
- 6.9 Any tender that does not comply with the instructions to tenderers or is conditional in any way will be rejected and will not be evaluated by the Council; and
 - Any Contract will be terminated immediately, and any losses to the Council arising from the termination recovered from the Supplier, if the Supplier, or anyone acting on his behalf (with or without the Supplier's knowledge) : (1) Offers or promises or gives a financial or other advantage to any elected Member of the Council, any Member of Staff or any consultant in connection with the Contract; or (2) Requests, agrees to receive or accepts a financial or other advantage so that some action in relation to the Contract is performed improperly

- 6.10 Appropriate time must be allowed for submission of tenders. The minimum is ten working days from the date of the invitation to tender, however each tender process should be considered in the light of the complexity of the tender.
- 6.11 Amendments to invitation to tender documents, made after the invitations have been sent out, must be clearly headed "ITT Amendment" and sent to all Suppliers who have been invited to tender. One or more amendments must be numbered consecutively. Amendments must be sent out in sufficient time to allow Suppliers to adjust their tenders before close of tenders. If necessary, the tender period must be extended to allow for this.
- 6.12 Tenders must be opened one at a time by the Procurement Unit, in the presence of the Chief Officer or an Officer authorised by him/her.
- 6.13 All tenders must be numbered in the order they are opened and all persons present must initial the forms of tender.
- 6.14 Requests For Quotations and Invitations to Tender should be transmitted by electronic means wherever possible. The paper-based processes set out in these Rules must be followed unless an e-procurement package is being used.

7 Procedures for Quotation and Tender Discussion and/or Clarification

7.1 Pre-Quotation and Pre-Tender Discussion

- 7.1.1 Discussion prior to inviting quotations or tenders with potential suppliers may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the Council, provided there is no conflict with the requirements of the EU Regulations and any re-enactment(s) of them. The objective of such discussion is to ensure that an effective invitation is prepared. All potential suppliers must be treated equally within this process.

7.2 Post-Quotation and Post-Tender Clarification

- 7.2.1 Clarification after receipt of quotations or tenders and before the letting of Contract(s) with those supplier(s) who have submitted such quotations or tenders may be appropriate in special circumstances as part of the competition process and in order to secure Best Value for the Council, provided there is no conflict with the requirements of the EU Regulations and any re-enactment(s) of them. The objective of such discussion is to obtain an improvement in content of these quotations or tenders in circumstances which do not put the other supplier(s) at a disadvantage, distort competition or affect adversely trust in the competition process. All potential suppliers must be treated equally within this process.
- 7.2.2 Where post-quotation or post-tender clarification results in a fundamental change to the specification or the proposed terms and conditions that are to apply, an official order must not be issued or a formal contract must not be made and quotations or tenders must be re-invited.

- 7.2.3 A tender that is qualified or expressed to be conditional upon the Council's acceptance of alterations to the specification or the terms and conditions of Contract must be treated as non-compliant and rejected. Non-compliant tenders must not be evaluated. This does not prevent the Council inviting variant bids. If variant bids are invited, tenderers must be required to submit a mandatory reference bid based on the specification and terms and conditions included in the invitation to tender, so that all bids may be compared fairly.

8 Acceptance of Quotations and Tenders

- 8.1 Whenever an e-tendering system is not used, Chief Officers shall ensure that a record of the quotations received be prepared, signed, dated and timed, which record shall include the date and time each quotation is received, together with the main terms of each quotation (e.g. value, price, delivery period, or other significant issues unique to each quotation).
- 8.2 Whenever an e-tendering system is not used, Chief Officers shall ensure that a record of the tenders received is prepared, signed, dated and timed and countersigned by another officer or officers present, which record shall include the date and time each tender is received, together with the main terms of each tender (e.g. value, price, delivery period, or other significant issues unique to each tender).
- 8.3 Subject to any legal obligations on the Council, Chief Officers shall ensure that the confidentiality of quotations and tenders received and the identity of the corresponding supplier is preserved at all times and that information about one supplier's offer shall not be given to another supplier.
- 8.4 Where a quotation or tender is received from a consortium, which is acting jointly for the purpose of being awarded a Contract, such quotation or tender shall be evaluated in accordance with the requirements of either paragraph 8.5 or paragraph 8.5.1 of these Contract Procedure Rules.
- 8.4.1 Chief Officers shall ensure that any quotation or tender of a consortium is not treated as ineligible on the grounds that the consortium has not formed a legal entity for the purposes of providing a quotation or submitting a tender.
- 8.4.2 where the quotation or tender received from a consortium is to be accepted, Chief Officers shall ensure that the proposed terms and conditions that are to apply are referred to the Legal Services for consideration of the Council's legal liability before proceeding with or entering into an official order or a formal contract. The Director of Legal and Governance shall decide on whether to require the consortium to form a legal entity before entering into, or as a term of, the official order or formal contract.
- 8.4.3 the vetting of the consortium, and for Contracts involving construction and engineering related work, shall be in accordance with the requirements of paragraph 4.4.1 of these Contract Procedure Rules.

- 8.5 Chief Officers shall ensure that tenders received are evaluated in accordance with the Quotation/Tender Evaluation model recommended by the Procurement Unit where any Contract has a procurement requirement falling within the EU procurement regime and, if so, whose value, or (if made up of a series of related Contracts), whose aggregate value is likely to exceed the relevant EU threshold figure for the time being in force:
- 8.5.1 Chief Officers shall ensure that quotations received and tenders received are adequately and appropriately evaluated where any Contract does not have a procurement requirement falling within the EU procurement regime or, if it does, whose value, or (if made up of a series of related Contracts) whose aggregate value is not likely to exceed the relevant EU threshold figure for the time being in force and shall adopt the Quotation/Tender Evaluation Model recommended by the Procurement Unit .
- 8.6 Chief Officers shall ensure that errors or discrepancies found in quotations or tenders be adequately and appropriately dealt with. Where such error or discrepancy cannot be adequately and appropriately dealt with the matter shall be immediately referred to the Chief Finance Officer for a decision.
- 8.7 Chief Officers shall ensure that the quotation or tender which secures Best Value for the Council be accepted, provided that there is no conflict with the Public Contracts Regulations and any re-enactment(s) of them.
- 8.8 Chief Officers shall ensure that a record is kept of the withdrawal of a quotation or tender by a supplier within a specific Contract together with the circumstances of such withdrawal.
- 8.8.1 Chief Officers shall ensure that this information is reported to all officers responsible for the selection of suppliers who may be invited to provide quotations or submit tenders for the provision of work, goods, materials or services.
- 8.9 Chief Officers shall ensure that where the accepted quotation or tender is changed following the rectification of errors or discrepancies and/or post-quotation/tender clarification, such amendment(s) be initialled by Chief Officers or authorised signing officer(s).
- 8.10 Each Contract shall be let on the authority of a Chief Officer, following a decision having been taken on the acceptance of a quotation or tender by an appropriate decision-maker (i.e. for executive business a Chief Officer (or other specifically delegated officer), Portfolio Holder/Leader or Cabinet) in accordance with the currently prevailing financial limits.
- 8.11 Chief Officers shall ensure compliance with the relevant provisions of these Contract Procedure Rules where the accepted quotation or tender incorporates provisional, prime cost or non-defined items or other such similar items.
- 8.12 A tender that exceeds the budget allocated must not be accepted. If a tender exceeds the budget allocated, the Chief Officer must obtain an additional allocation of funds in accordance with Financial Regulations before the tender may be accepted.

- 8.13 The decision to award the Contract must include the name of the successful tenderer, the length of the Contract and any options for extension and the price or estimated price of the Contract.
- 8.14 Chief Officers shall ensure that suppliers whose quotation or tender for a specific Contract is not accepted be notified and given the names of all suppliers who provided a quotation or submitted a tender, together with the prices, or ranges of prices, so provided or submitted. Such prices, or range of prices, must not be correlated to the names of the suppliers.

9 Orders and Contracts

- 9.1 All Contracts must be evidenced by means of an official order or a formal contract. Such official order must be issued or such formal contract must be made to all suppliers for the provision of Contracts, before the relevant supply, service or work begins, except in exceptional circumstances as provided for in paragraph 9.2 of these Contract Procedure Rules.
- 9.1.1 Chief Officers shall ensure that official orders are raised through the Council's main financial system.
- 9.1.2 Chief Officers shall ensure that official orders are also raised through the Council's main financial system:
- 9.1.2.1 for call-offs, draw-downs or other similar arrangements, where an official order has already been issued or formal contract has already been made, or where a series of official orders have already been issued or formal contracts have already been made with the same external organisation, which relate to the same Contract; and
- 9.1.2.2 for budgetary purposes, where a formal contract has already been made. However, such budgetary orders shall not be issued to suppliers, but shall be retained by the relevant Council department.
- 9.2 In exceptional circumstances, where an official order has been raised electronically, i.e. by telephone, e-mail or fax transmission, Chief Officers shall ensure that an official confirmatory order be issued through the Council's main financial system without undue delay.
- 9.3 Chief Officers shall ensure that an official order or a formal contract for any individual Contract is not artificially divided into two or more separate official orders or formal contracts with the intention of avoiding the application of these Contract Procedure Rules.
- 9.4 Where any Contract has a value of £50,000 or more:
- 9.4.1 the Head of Paid Service must make a formal contract under seal where the value of any Contract is £50,000 or more. All Contracts executed as deeds must have the Council's Common Seal impressed on them. All Framework Agreements, bonds and guarantees, and Contracts of £50,000 or more must be executed as deeds. Legal Services may direct that other Contracts must be executed as deeds.

9.4.2 the Director of Legal and Governance (taking into consideration the risks involved) may deem a formal contract under seal to be inappropriate in any particular case (except for Contracts involving construction and engineering related work), even where the value of the Contract not involving construction and engineering related work is £50,000 or more. In this case, the Chief Officer concerned shall ensure that an official order or a simple contract relating to such Contract is made in such terms that have the prior approval of a Director of Legal and Governance. For the avoidance of doubt, such official order, as well as such simple contract, must be in printed format only and must be signed by hand by at least two signing officers.

9.5 Where any Contract has a value of less than £50,000:

9.5.1 the Chief Officer concerned must issue an official order or make a simple contract where the value of any Contract is less than £50,000. Such official order or such simple contract must be signed by at least one Chief Officer.

9.5.2 the Director of Legal and Governance (taking into consideration the risks involved) may deem an official order or simple contract inappropriate in any particular case, even where the value of the Contract is less than £50,000. In this case, the Chief Officer concerned shall ensure that a formal contract under seal relating to the Contract is made in such terms that have the prior approval of the Director of Legal and Governance and in accordance with paragraph 9.4 of these Contract Procedure Rules;

9.5.3 Chief Officers may authorise, in writing, other officers to sign official orders or simple contracts or to authorise such orders or contracts electronically in a main financial system on their behalf at a value agreed with the Chief Finance Officer provided Chief Officers are satisfied that their officers have received relevant financial training as approved by the Chief Finance Officer.

9.6 Chief Officers shall ensure that:

9.6.1 no official order be issued or formal contract made for a Contract which will commit the Council to expenditure unless provision exists to finance that expenditure, except in the event of an emergency;

9.6.2 no official order be issued or formal contract made for work, goods, materials or services for the private use of any person;

9.6.3 only official order forms in a format approved by the Chief Finance Officer be used;

9.6.4 each official order or formal contract indicates clearly the nature and quantity of the work, goods, materials or services, the agreed value or price and provisions for payment, any trade or cash discount or allowance, the time, or times, within which such order or contract is to be performed, together with any reference to a quotation, tender or other arrangement;

- 9.6.5 each official order or supplier's form of order used to call-off, draw-down or make other similar arrangements where a formal contract in respect of such requirements is already made (whether such contract be under seal or a simple contract) contains full details of the contract in question, including as a minimum: the date of the contract, the names of the parties to it and a description of the work, goods, materials or services (as the case may be) which form the subject-matter of the contract.
- 9.6.6 where the terms of any official order or a formal contract are changed, such amendment(s) be initialled by Chief Officers or authorised signing officers. In addition, the copy of an official order so changed and held by the issuing Council department, be amended accordingly;
- 9.6.7 a scanned copy of every executed formal contract is sent to the Service Manager – Commercial Development.
- 9.7 The Service Manager – Commercial Development shall ensure that as soon as possible after any formal contract has been made, the Chief Finance Officer is notified and a register be kept of such contracts made.
- 9.8 Chief Officers shall ensure that any contingency allowance incorporated into an official order or formal contract does not exceed 10% of the estimated cost of a Contract unless agreed otherwise with the Chief Finance Officer.

10 Contracts that have commenced

Contract Management

- 10.1 A Contract must not start until the Contract documents have been signed or signed and sealed and dated. Chief Officers must allow time for this in the Contract programme.
- 10.2 Within ten days of the date of the Chief Officer or Contract officer should 1] notify the Service Manager – Commercial Development if the Contract is worth £5,000 or more or 2] the Service Manager – Commercial Development and the Procurement Unit if the Contract is worth £25,000 or more of the following:
- The Contract reference number
 - The title of the agreement
 - The local authority responsible
 - The works, goods or services to be supplied;
 - The procurement procedure adopted;
 - The name of the Supplier,
 - The Contract value; and
 - The commencement and completion dates;
- 10.3 The Procurement Unit shall arrange for publication of a Contract award notice in OJEU, this is subject to a time limit of 48 days, if appropriate, and shall keep a register of the notified information, which shall be available for inspection by appointment by any member of the Council, internal and external auditors and any member of the public.

- 10.4 The Chief Officer shall be the Contract manager for the Contracts for which he/she is responsible up to the EU Threshold, but he/she may authorise another Officer by written delegation to have day-to-day responsibility for managing the Contract. For Contracts over the EU Threshold, the Chief Officer must appoint a dedicated Contract manager with appropriate skills and experience.
- 10.5 The Chief Officer is responsible for:
- Managing the Contract and ensuring that it is carried out in accordance with its terms and conditions;
 - Monitoring the Supplier's performance;
 - Making the Contractor aware that he is expected to comply with the Council's equal opportunities, anti-bribery, whistle-blowing and anti-money laundering policies;
 - Ensuring that the Supplier maintains the insurance policies required by the Contract;
 - Agreeing any minor changes to the Contract (but not changes to prices) before they are carried out;
 - Keeping a record of all valuations, payments, claims, monitoring, changes and certificates under the Contract;
 - Deducting liquidated damages, if appropriate;
 - In consultation with Legal Services consenting to sub-Contracts, assignments to new Suppliers and/or novation to a new Supplier(s); and
 - Managing the transition between the ending of one Contract and the beginning of another
- 10.6 The Chief Officer must consult Legal Services for consideration of the Council's legal position:
- Before any Contract is to be terminated or suspended;
 - In the event of a claim for payment not clearly within the terms and conditions of Contract;
 - Before making any deduction from payments due to a Supplier or withholding payment from a Supplier;
 - Before making any extension to a Contract or variation of the scope of a Contract.

Extensions to Contracts

- 10.7 An extension to a Contract is an additional period at the end of the Contract, during which the works or the services to be carried out are a repetition of the works, supplies or services under the original Contract.
- 10.8 Unless a Contract specifically includes an option to extend its term, that Contract may not be extended. The Contract will cease to exist at the end of its term.
- 10.9 If a Contract specifically includes an option to extend its term and:
- The OJEU notice or other advertisements for the Contract stated that an extension Contract may be awarded; and
 - The estimated value of the Contract in the OJEU notice or other advertisements took account of the potential extended Contract; and
 - The extension represents good value for money for the Council,

- 10.10 Then the Chief Officer may make a decision to award the extension Contract if the value of the extension is below £50,000 per annum. If the value of the extension is over £50,000 per annum the decision to award the extension Contract must be made by the Cabinet. Once the extension has expired, that Contract will cease to exist.

Variations to the Scope of Contracts

- 10.11 Provided that a budget has been allocated for that expenditure and value for money can be demonstrated, the Chief Officer may agree with a Supplier for him to carry out additional works or services that were not included in the original Contract but which through unforeseen circumstances have become necessary and which either cannot for technical or economic reasons be carried out or provided separately from those included in the original Contract without major inconvenience to the Council or could be carried out or provided separately but are strictly necessary to the later stages of the Contract. The additional works or services must not exceed 50% of the value of the original Contract and authorisation must be obtained from the appropriate decision-maker.

11 Payments

- 11.1 Chief Officers shall ensure that payments to suppliers for work, goods, materials or services are certified and made in accordance with:

11.1.1 The appropriate term(s) of the official order or formal contract; and

11.1.2 The Council's Financial Regulations.

12 Performance Security Arrangements

- 12.1 Chief Officers shall ensure that procurement exercises allow for the obtaining of security for the due performance of all Contracts (whether they be Contracts involving goods, materials or services or involving construction and engineering related work) between the Council and any external organisation where the value of such Contract is estimated to be £275,000 or more.

- 12.2 Chief Officers must decide, taking appropriate advice, whether the circumstances justify the Council requiring the supplier to provide appropriate security arrangements. Such security may be by way of performance bonding, parent company/third party guarantees, deposit of money as security or other means considered appropriate by the Chief Officer.

13 Insurances

- 13.1 Chief Officers shall ensure that there is adequate and appropriate insurance cover in force during the continuance of a Contract for both the Council and its suppliers in conjunction with the Council's insurance officers.

14 Consultants

- 14.1 Where a supplier is providing consultancy services to the Council (e.g. professional, technical, IT and managerial), Chief Officers shall ensure that the relevant provisions of these Contract Procedure Rules are followed and included in the terms of such supplier's appointment.
- 14.2 Chief Officers shall ensure that the taxation procedures set out within the Financial Regulations are followed in the employment of consultants.
- 14.3 Chief Officers shall ensure compliance with the requirements of the Audit for commissioning and managing consultants
- 14.4 All consultants engaged to act on behalf of the Council must comply with policy and declare that:
- They will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council; and
 - They will notify the relevant Chief Officer if they have any links with (e.g. a family member or close friend works for) an organisation or Supplier who is tendering or quoting for a Contract with the Council or already has a Contract with the Council.

15 Records

- 15.1 Chief Officers shall ensure that the records required by these Contract Procedure Rules are kept and securely retained.
- 15.2 For the purpose of these Contract Procedure Rules, Chief Officers shall ensure that the relevant documentation set-out in the Council's Retention and Disposal Policy is securely kept and retained for at least the periods stated in such schedule.

16 Audit Examination

- 16.1 The authority of the Council's Internal Audit is outlined in the Council's Financial Regulations and will be utilised where appropriate.

17 Exceptions to Financial Regulations

- 17.1 An exception to Contract Procedure Rules is a permission to let a Contract without complying with one or more of the Rules. An exception to Contract Procedure Rules may be granted subject to conditions.
- 17.2 Permission to use an exception to Contract procedure Rules will not be granted without a cogent reason. A lack of time caused by inadequate forward planning is not a cogent reason and will not be a permitted exception to the Rules.
- 17.3 If an exception is granted, the Chief Officer responsible for the Contract must demonstrate that the price obtained is not in excess of the market price and that the Contract represents value for money.

17.4 An exception to Contract Procedure Rules is not required in the following circumstances:

17.4.1 Placing an order under an existing Corporate Contract or single Supplier Framework Agreement;

17.4.2 As part of a partnering Contract that contemplates a series of Contracts with a single Supplier, provided the entire series has been duly authorised as appropriate for its value;

17.4.3 Legislation requires the Council to let a Contract differently from these Contract Procedure Rules;

17.4.4 Placing an order through the Procurement Unit under an arrangement, of which the Council is an affiliate, which has gone through an EU compliant competitive process;

17.5 Exceptions under this Rule shall be notified to the Service Manager – Commercial Development.

17.6 Exceptions may be granted in the following circumstances:

17.6.1 The Contract is for the execution of works or the supply of goods or services certified by the Chief Officer to be required so urgently as to preclude the invitation of tenders. The appropriate Portfolio Holder shall be kept informed of such decisions and a record of the decision shall be retained by the Chief Officer and a copy sent to the Service Manager – Commercial Development.

17.6.2 Where there is no (or insufficient) marketplace to tender for the supply of goods, services or works required because of the specialist nature of the proposed Contract permission to apply an exception will be sought from the Portfolio Holder or Cabinet to either deal with a single contractor or to vary the quotation/tender requirements.

18 Electronic Signatures

18.1 Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with both UK and European law.

18.1.1 Electronic Signatures may only be affixed using the Council's chosen electronic signature system or an approved alternative.

18.1.2 The use of Electronic Signatures is not permitted in circumstances where:

- the Contract is to be sealed;
- a physical, handwritten signature needs to be filed;

- there is a proviso in the Contract which prevents the use of an Electronic Signature;
- the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;
- the Contract needs to be notarised.

19 Definitions

Authority	means a decision by the Cabinet, the Council, the Portfolio Holder and or Chief Officer to spend money and award the Contract;
Award a Contract	means to accept an offer from a Supplier;
Cabinet	means the Leader of the Council and the other members of the Council's Executive, who are all Portfolio Holders;
Chief Finance Officer	means the officer designated under section 151 of the Local Government Act 1972.
Chief Officer	Means the posts designated as Chief Officers in Part 2 Article 10 of the Council's Constitution or a person authorised by him/her in writing
Contract	means the bargain or agreement between the Council and a Supplier for the supply of works, goods or services;
Contract Document	means the document setting out the Council's specific requirements to be delivered through the contract, together with the terms and conditions of the Contract. A Purchase Order is a Contract document. Although at law a verbal agreement may be a Contract, Contracts for Ashfield District Council must always be supported by appropriate written Contract documents;
Contractor	see Supplier;
Contract Finder	means a web based portal provided by or on behalf of the Cabinet Office
Corporate Contract	means a Contract for the supply of works, goods or services to the Council as a whole rather than for an individual service area e.g. stationery. Corporate Contracts are generally procured and managed by the Procurement Unit;
Emergency	means an occurrence involving or likely to 'involve danger to life or health' or 'serious damage to property' or 'destruction of property'.
EU Regulations	means the Public Contracts Regulations 2015 as amended from time to time;
EU Threshold	means the value in pounds sterling above which the EU Regulations apply to a proposed public Contract;

Exception	means a decision by Cabinet, the Council, a Portfolio Holder or a Chief Officer not to comply fully with these Contract Procedure Rules
Framework Agreement	means an agreement between one or more contracting authorities and one or more Suppliers which fixes the terms and conditions under which the Supplier will enter into one or more specific Contracts with an authority during the term of the framework agreement, which should be no more than 4 years;
Goods	see Supplies Contract;
Key Decision	A key Decision is defined in the constitution as one which is likely to:- (a) Result in the Council making savings or incurring expenditure exceeding £50,000 revenue or £1m capital or (b) Have a significant effect, either positive or negative, on communities living or working in an area comprising two or more wards or electoral divisions in the Council's area.
Living Wage	Means an hourly wage rate, set independently and updated annually calculated according to the basic cost of living in the UK;
Members of Staff	means Officers who carry out the day to day work of the Council, either on a permanent or a temporary basis, and includes officers, interim post-holders and agency staff but not consultants or Suppliers;
Monitoring Officer	means the Officer designated under section 5 of the Local Government and Housing Act 1989 to monitor the Council's compliance with the law and rules of administration. The Director of Legal and Governance is the Monitoring Officer;
Officer	means an individual who holds a post on the Council's establishment;
OJEU	means the Official Journal of the European Union;
PIN	means the Prior Information Notice;
PQQ	means a Pre-Qualification Questionnaire, which Suppliers have to complete to provide evidence of their legal, financial and technical capacity (including but not limited to their health and safety and equal opportunities policies) to undertake a Contract for the Council;
Public Procurement Legislation	includes the Public Contracts Regulations 2015, EU Directives relating to public Contracts, UK legislation affecting public sector Contracts and any amendment, re-enactment or replacement of any of them;
Purchase Order	means the Council's official order form for the purchase of works, goods or services;
Quotation	means an offer by a Supplier to undertake a Contract;
Services Contract	means a Contract for the provision of services to the Council;
Supplier	means a Supplier of works, goods or services to the Council;

Supplies Contract	means a Contract for the sale or hire of goods to the Council and includes, where appropriate, installation of goods;
Tender	means an offer by a Supplier to undertake a Contract of £50,000 or more in value;
TUPE Regulations	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any amendment, re-enactment or replacement of them.
Voluntary Transparency Notice	means a notice published in OJEU by the Procurement Unit on the request of the Chief Officer, which contains the name and contact details of the Council; a description of the object of the Contract; a justification of the decision of the Council to award the Contract without advertising it in OJEU; the name and contact details of the Supplier to be awarded the Contract and any other information the Procurement Unit considers it useful to include;
Works Contract	means a Contract for the construction, repair or maintenance of a physical asset e.g. a building or a road.