

PROCUREMENT STANDING ORDERS – GLOSSARY OF TERMS

Aggregation Rules

Spend per annum x the term of the contract including any extension periods inclusive of VAT at the applicable rates

RFQ

Request for Quotation - the method of approaching the market for a quotation on specified works, services or supplies

Call-Off Contracts

Call-Off where a suitable framework agreement or Dynamic Purchasing System (DPS) has been identified by undertaking a compliant direct award or mini-competition process.

Central Purchasing Body (CPB)

A contracting authority which:

- Acquires goods or services intended for one or more contracting authorities;
- Awards public contracts intended for one or more contracting authorities; or
- Concludes framework agreements for goods, works, or services intended for one or more contracting authorities.

Contract

An agreement between the Council and any other party made by executing a Formal Agreement or issue of a Letter of Acceptance or Official Order for the procurement of all goods, works, services or supplies, by the Council, or carrying out works for the Council

Contract Extension Period

A pre-determined extension period additional to the initial contract term agreed as part of the contract award, up to a maximum of four years for a framework

Dynamic Purchasing System (DPS)

A completely electronic system for commonly used purchases the characteristics of which, as generally available on the market, meet the requirements of the Contracting Authority and is open throughout its duration to any contractor which satisfies the selection criteria.

Electronic Procurement System (EPS)

The process of tendering for works, services or supplies via electronic media and agreed with the Operational Director – Finance

Executive Board

For the purposes of these Procurement Standing Orders means the Executive Board of the Council or Full Council

Find a Tender (FTS)

FTS is the UK e-notification service where notices for procurements that are above the UK procurement thresholds are required to be published

Framework Agreements

A framework agreement is an agreement between one or more contracting authorities and one or more suppliers, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and where appropriate, the quantity envisaged (call-offs). Call-offs are undertaken by a direct award or mini-competition as governed by the framework agreement.

Invitation to Tender (ITT)

The invitation issued by the Council to potential suppliers who may submit a tender for specific works, services or supplies

Liquidated Damages

When the parties to a contract agree to the payment of a certain sum as a fixed and agreed upon satisfaction for not doing certain things particularly mentioned in the agreement, the sum is called liquidated damages

Mandatory Information Questions

Used in the Open Tender Procedure to ensure that minimum standards and Gateway Questions, relevant and proportionate to the goods, works and services are met by those suppliers submitting a bid to the Council

Matrix

A system under which tenders are evaluated and scored against particular criteria with agreed weightings

MEAT

Most Economically Advantageous Tender

Partnering

A method of procurement involving a relationship between two parties in which they work openly and jointly to achieve common objectives, with defined performance targets. Partnering may be entered into as a one off project or a collection of projects.

Partnership

A Partnership is an agreement between two or more independent bodies to work collectively to achieve an objective

Performance Bonds

A legal document under which a reputable finance institution agrees to provide the Council with financial compensation in the event of a supplier breaching its contractual obligations or going into receivership or liquidation

Procurement

Procurement, in the terms of the Public Contracts Regulations, is defined as the acquisition by means of a public contract of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public

purpose.

Procurement Risk Assessment

Used to identify any risks relevant and proportionate to the works, services or supplies to be tendered / sourced by the Council before an opportunity is published electronically

Social Value

The Public Services (Social Value) Act 2012 requires public authorities to have regard to economic, social and environmental well-being in connection with public services contracts

Sub-contractor

A supplier that provides work or services to a main contractor as part of the contract

Tender

A document prepared by a potential supplier setting out its bid for the work in response to an Invitation to Tender (ITT)

PROCUREMENT STANDING ORDERS

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PART 1: STANDING ORDERS WHICH APPLY TO ALL CONTRACTS

1.1 BASIC PRINCIPLES

1.1.1 Applicability of Procurement Standing Orders

These Standing Orders apply to all procurement contracts and are made under section 135 Local Government Act 1972.

For the purposes of these Standing Orders a contract is an agreement for:

- The carrying out of works for the Council;
- The purchase, leasing, or hiring of goods or materials by the Council;
- The supply of consultancy, agency workers and other services to the Council.

1.1.2 Purpose of Procurement Standing Orders

Procurement decisions and processes are important because they involve the use of public money. The purpose of Procurement Standing Orders is to provide a robust structure within which procurement decisions are made and implemented and to ensure that the Council:

- Undertakes legally compliant procurement;
- Ensues fairness in allocating public contracts;
- Achieves best value from its procurement activity;
- Demonstrates high standards of integrity;
- Safeguards its reputation from any implication of dishonesty or corruption;
- Undertakes procurement activity strategically to help deliver corporate priorities.

1.2 LEGAL COMPLIANCE

1.2.1 Applicability

All tendering procedures and contracts shall comply with all legal requirements and no officer or Committee or Board of the Council may seek to avoid them.

1.2.2 Public Contract Regulations 2015 (PCR 2015)

The PCR 2015 set out procedures which must be followed before awarding a contract to suppliers of works, supplies or services, when its value exceeds set thresholds. All contracts must comply fully with the requirements of PCR 2015.

1.2.3 Principles

The award process and structure of all contracts shall comply with the Principles of Transparency, Non-Distortion of Competition, Non-Discrimination, Equal Treatment, Proportionality and Mutual Recognition.

1.2.4 Procurement Contract Regulations 2015 (PCR 2015) Value Thresholds

The thresholds relate to the total expenditure to be incurred during the full term of the contract including any optional extension period and not to individual contracts or years of the contract for works, services or supplies. Determination of contract value shall be in accordance with Procurement Standing Order 1.3.1.

Officers must consult with the Divisional Manager – Audit, Procurement and Operational Finance to check the relevant value thresholds applicable in compliance with the PCR.

1.2.5 Contracts Finder – Contracts and Call-off Opportunities Equal To or Greater Than £25,000

The Divisional Manager – Audit, Procurement and Operational Finance (or nominated officer) shall publish information for all contracts, framework/DPS Call-offs and awards on the Cabinet Office Contracts Finder system within 24 hours of the time from which it first publishes the details electronically, regardless of what other means it uses to advertise the opportunity.

1.2.6 Equality Act 2010 (Section 149)

As a public authority the Council must comply with its duties under the Equality Act 2010 taking equality and diversity into account when procuring goods, works, or services from external providers.

1.2.7 Public Services (Social Value) Act 2012

The Act places a requirement on the Council, as a commissioner of public services, to consider the economic, environmental and social benefits of its approaches to procurement.

The Act applies specifically to the pre-procurement stage of contracts for services. Officers are therefore required to give consideration to the requirements of the Act as part of the pre-procurement process.

Officers shall do so by taking account of the Council's Social Value Procurement Framework and by consulting the Divisional Manager – Audit, Procurement and Operational Finance.

1.3 OFFICER RESPONSIBILITIES

1.3.1 Calculation of Contract Value

Calculation of the contract value for the purposes of Procurement Standing Orders shall be based on the estimate of the value of the entire contract including Value Added Tax. This includes the aggregate of all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period, including proposed extensions and options.

In the case of joint purchasing arrangements the contract value shall be the total value of all potential parties' payments under the contract.

No officer, Committee or Board of the Council may seek to divide potential contracts in order to avoid the requirements of this Standing Order or PCR 2015.

1.3.2 Adequate Budget Provision

The relevant officer must ensure that there is adequate provision in the appropriate Capital Programme and/or Revenue Budget(s) before seeking to enter into a contract for the supply of works, services or supplies.

1.3.3 Grant Funding

Irrespective of value, Contracts and framework agreements that are subject to grant funding requirements shall be procured in accordance with the Grant Funding Terms & Conditions.

1.3.4 Procurement Risk Assessment (PRA)

The relevant officer shall consult with the Divisional Manager – Audit, Procurement and Operational Finance (or nominated officer) regarding the need to complete a PRA for all procurement activity equal to or exceeding £25,000 in value.

1.3.5 Preliminary Estimate Report – Contracts equal to or exceeding £1,000,000 in Value

Before starting a tendering procedure for a contract equal to or exceeding £1,000,000 in value the Executive Board shall receive from the appropriate officer a written report on the proposed contract, which shall include an estimate of the probable expense of executing the works, services or supplies in line with the Council's identified needs.

The written report shall specify:

- (i) Budget approval, including budget, funding and cost centre code;
- (ii) The whole life cost of the project, including the revenue costs associated with the project;
- (iii) Total contract term, including any extension periods;
- (iv) How the supplier is to be selected (in accordance with Procurement Standing Order 1.5.1);
- (v) Identification of potential project risks and controls;
- (vi) How the project links with departmental and corporate objectives;
- (vii) The business case in support of the proposal, including details of how value for money, transparency, propriety and accountability would be achieved and the position of the contract under the PCR 2015.

1.3.6 Procurement Documentation

The relevant officer shall ensure that all contracts and contractual processes comply with the Council's procurement guidance documents, standard contract documentation and Procurement Strategy.

1.3.7 Council Contracts

The relevant officer shall ascertain whether there is an existing Council contract before seeking to procure any works, services or supplies. Where such a contract exists, the officer may not enter into a separate contract except with the prior written approval of the Divisional Manager – Audit,

Procurement and Operational Finance in accordance with Procurement Standing Order 1.14.5.

1.3.8 Performance Bonds and Parent Company Guarantees

The relevant Operational Director shall in respect of all contracts consider the need for a performance bond and/or a parent company guarantee (if applicable) after assessing the following factors:

- (i) Potential risk in the absence of a bond;
- (ii) Known technical difficulties associated with the project;
- (iii) The period of the contract; and
- (iv) Any costs associated with provision of the bond.

References to a performance bond in these Standing Orders shall be taken to include cash deposits, insurance or such other methods as the Operational Director – Finance may approve and must be recorded by the relevant Operational Director.

1.3.9 Use of Sub-Contractors

The relevant Operational Director shall ensure that the following conditions are met in respect of any sub-contractors used on Council contracts:

- (i) The names and qualifications of any appointed sub-contractors upon which the main contractor places reliance to carry out services shall be notified to and approved by the Council at the commencement of the contract.
- (ii) No change in the sub-contractor(s) appointed by the main contractor to deliver the services shall be made without receiving the prior written approval of the Council.
- (iii) All staff employed by sub-contractors must meet the Council's requirements in terms of experience and qualifications. This requirement equally applies to any staff subsequently replaced.
- (iv) No staff shall be removed or replaced by the main contractor without prior written approval from the Council
- (v) The Council shall have the right, after consultation with the main contractor, to request the removal of any person engaged in providing sub-contracted services under the contract if, in the Council's opinion, their performance or conduct is, or has been, unsatisfactory. In such instances the main contractor shall remove such person and replace them with a suitably qualified person.

1.3.10 Sub-Contractors: Contract Value exceeding the Public Contract Regulations (PCR 2015) Value Threshold

The use of subcontractors for any contracts awarded by the Council must comply with Public Contract Regulations (PCR) 2015 and any Cabinet Office statutory guidance in relation to the Standard Selection Questionnaire (SQ) for the supplier selection stage of a new procurement process.

Only those sub-contractors upon which the potential supplier will place reliance to meet the selection criteria of a new procurement process must complete Part 1 and 2 of the SQ. This requirement shall be made clear in

the procurement documentation.

1.3.11 Works Contracts – Delay and Liquidated Damages

The relevant officer shall take appropriate action in respect of any claim for liquidated damages in the case of works contracts where completion of the contract is delayed.

1.3.12 Breach of Procurement Standing Orders

Any breach or non-compliance with Procurement Standing Orders must on discovery be reported to the Divisional Manager – Audit, Procurement and Operational Finance who shall undertake any necessary investigations and report the findings to the relevant Strategic Director, Operational Director – Finance, Operational Director and Monitoring Officer (Legal and Democratic Services) and Chief Executive, as appropriate.

1.3.13 Prevention of Bribery and Corruption

All officers involved in procurement activity must comply with the Employee Code of Conduct and the Council's Anti-Fraud, Bribery and Corruption Policy. Officers must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the officer to prove that anything received was not received corruptly.

1.4 COLLABORATIVE ARRANGEMENTS

1.4.1 Framework agreements

- (i) Where a call-off is proposed under an existing framework agreement that has been established by a Central Purchasing Body (CPB), consortium, collaboration, purchasing organisation or other public body, the Council may consider using that framework agreement if:
 - It has been established by an entity, and via a process, which permits the Council to access the framework agreement lawfully;
 - It is considered to be in the best interest of the Council to access the framework agreement.
- (ii) Before undertaking a Call-off under any framework agreement, thorough due diligence should be undertaken and the relevant Operational Director shall seek advice from the Divisional Manager – Audit, Procurement and Operational Finance (or nominated officer) to confirm that the framework can be used and whether or not it is appropriate to do so.
- (iii) Call-offs must be awarded based on the criteria identified in the framework agreement, which may make provision for a direct award or mini-competition.
- (iv) Subject to the due diligence confirming the suitability of the framework agreement, it can be used as a route to market without following the tendering procedures contained in Procurement Standing Orders 1.5.
- (v) Call-off under a framework agreement does not remove the requirement to comply with the following Procurement Standing Orders:

- Procurement Standing Order 1.3.5 in respect of preliminary estimate reports, where the contract value is forecast to be equal to or exceeding £1,000,000 over its duration.
 - Procurement Standing Order 1.9 regarding the acceptance of tenders.
- (vi) The relevant Operational Director shall ensure that 'call-offs' with a value equal to or exceeding £25,000 are published on Contract Finder in compliance with Procurement Standing Order 1.2.5.
- (vii) The relevant Operational Director shall ensure that Call-offs are published on the Council's Contract Register in compliance with 1.12.1.

1.4.2 Joint or Partnering Arrangements

- (i) Joint or partnering arrangements between the Council and any other body or bodies shall be subject to the prior approval of the Operational Director and Monitoring Officer (Legal and Democratic Services).
- (ii) Where the Council is working in a joint or partnering arrangement with another body or bodies and, under that arrangement, is the commissioning body, Halton Borough Council's Standing Orders shall apply to contracts entered into under that arrangement.
- (iii) Where the Council is working in a joint or partnering arrangement with another body or bodies and, under that arrangement another body is the commissioning body, the Standing Orders of that other body shall apply to contracts entered into under the arrangement subject to the prior approval of the Operational Director and Monitoring Officer (Legal and Democratic Services). Where the body has no such Standing Orders, the procedures applied by the other body shall comply with the principles and safeguards contained in Halton Borough Council's Standing Orders.

1.5 TENDERING PROCEDURES

1.5.1 Tendering Procedure Options

The relevant Operational Director shall select the tendering procedure in consultation with the Divisional Manager – Audit, Procurement and Operational Finance or nominated officer. The tendering procedure options are set out at Procurement Standing Orders 1.5.2 to 1.5.7.

1.5.2 Open Procedure

Single stage process under which tenders are invited. All of those who submit their tender by the date specified in the notice must be considered.

1.5.3 Restricted Procedure

Under which a selection is made of those who respond to an advertisement and only they are invited to submit a tender for the contract.

1.5.4 Competitive Procedure with Negotiation

Under which a selection is made of those who respond to an advertisement

and only they are invited to submit an initial tender for the contract. The contracting authority may then open negotiations with the tenderers to seek improved offers.

1.5.5 Competitive Dialogue Procedure

Under which a selection is made of those who respond to an advertisement and the contracting authority enters into dialogue with potential bidders to develop one or more suitable solutions for its requirements and on which chosen bidders will be invited to tender.

1.5.6 Innovation Partnership Procedure

Under which a selection is made of those who respond to an advertisement and the contracting authority uses a negotiated approach to invite suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing “product” on the market. The contracting authority is allowed to award partnerships to more than one supplier.

1.5.7 Dynamic Purchasing System (DPS)

The DPS may be used for commonly used purchases the characteristics of which, as generally available on the market, meet their requirements. DPS shall be operated as a completely electronic process and shall be open throughout specific validity periods of the contract term as set by the contracting authority to any supplier that satisfies the selection criteria.

Contracting authorities shall follow the rules of the restricted procedure, subject to suppliers satisfying the selection criteria and the number of suppliers accepted onto the DPS shall not be limited.

Call-off under a DPS does not remove the requirement to comply with the following Procurement Standing Orders:

- Procurement Standing Order 1.3.5 in respect of preliminary estimate reports, where the contract value is forecast to equal or exceed £1,000,000 over its duration;
- Procurement Standing Order 1.9 regarding the acceptance of tenders.

1.5.8 Voluntary Ex-Ante Transparency notice (VEAT)

A VEAT notice is a means of advertising the intention to let a contract without opening it up to formal competition. A contracting authority may decide that a contract does not require prior publication through a contract notice in the Cabinet Office, Find a Tender Service (FTS).

If a contracting authority decides to take this route, it must provide sufficient information as to the justification for direct award and must also observe the minimum standstill period.

1.6 TENDERING PROCESS

1.6.1 Electronic Procurement System (EPS)

All Invitations to Tender (ITT) and Request for Quotations (RFQ) equal to or exceeding £25,000 will be issued and received electronically

using the Council's approved EPS. Tenders submitted by any other means shall not be considered.

1.6.2 Invitations to Tender

All Invitations to Tender shall include the following:

- (i) A requirement for tenderers to complete fully and sign or otherwise authorise the Form of Tender, which relates to canvassing and non-collusion before submission.
- (ii) A specification of the works, services or supplies that are required providing sufficient detail to enable the submission of competitive offers, together with the terms and conditions of the contract that will apply.
- (iii) A description of the evaluation and award procedure and details of the award criteria in objective terms and in descending order of importance.
- (iv) A statement that the Council reserves the right:
 - (a) Not to accept the lowest, or any, tender
 - (b) To accept the whole or defined lots of the tender without accepting the remainder

1.6.3 Closing Date for Receipt of Tenders

Submissions received after the specified closing date and time will not be considered.

1.7 METHOD OF OPENING TENDERS

1.7.1 Release of Tenders

All electronic tender submissions will be held securely within the Council's EPS. The tenders will only be released once the online seal has been removed as a result of the published closing date and time lapsing.

1.7.2 EPS - User Roles

The Divisional Manager – Audit, Procurement and Operational Finance will control access and user roles in regard to the Council's EPS.

1.7.3 Tender release process

Tenders shall be opened at one time by an officer nominated by the Divisional Manager – Audit, Procurement and Operational Finance.

1.8 EVALUATION, MODERATION & CLARIFICATION OF TENDERS

1.8.1 Evaluation Criteria

- (i) Tenders shall be evaluated and awarded on the basis of the value for money they offer to the Council in line with the Most Economically Advantageous Tender (MEAT) principles, best price-quality ratio, lowest price/cost or quality, as determined and documented in advance of tenders being invited.
- (ii) Consideration is to be given to the Public Services Social Value Act

2012 where relevant and proportionate to do so.

- (iii) Tenders shall be evaluated and awarded in accordance with criteria determined and documented in a matrix and must not be changed at any time during the process.

1.8.2 Evaluation Panel

- (i) Evaluation panels should be identified prior to the issue of the Invitation to Tender documents, to ensure that they are engaged with the process and understand the evaluation criteria.
- (ii) For all contracts above the PCR 2015 Value Threshold evaluation panels shall consist of a minimum of two Council officers, which should include representation from the client department and/or key stakeholders.

1.8.3 Evaluation Matrix

- (i) The evaluation matrix will consist of criteria defined, i.e. price and/or quality marks and scores to reflect what is relevant and proportionate to the award of a contract.
- (ii) Criteria shall have a number of marks allocated to signify to tenderers the relative importance of each criterion.
- (iii) All bids must be scored consistently against a scoring model, details of which must be included in the Invitation to Tender.
- (iv) All scores and notes made by the evaluation panel must be recorded in writing, with dated signatures from all of the evaluators, and used for reference in the event that further moderation is required.

1.8.4 Moderation

- (i) The evaluation panel will discuss their individual scores with a view to reaching agreement on a moderated score and justifying comments, in consultation the Divisional Manager – Audit, Procurement and Operational Finance or nominated officer. All scores and notes must be recorded in writing with dated signatures from all of the evaluators..
- (ii) In the event that the evaluation scores are inconsistent, to determine the award of a contract, the relevant Operational Director and the Divisional Manager – Audit, Procurement and Operational Finance shall agree and maintain a moderation matrix.
- (iii) All notes may be the subject of information requests or legal challenge against the award of a contract. The Divisional Manager – Audit, Procurement and Operational Finance or nominated officer shall therefore maintain accurate notes throughout the moderation process.

1.8.5 Errors in Tenders

- (i) If before the date of entry into a contract it is discovered that an error has been made in the tender it shall be dealt with as follows:

- (a) Engineering Contracts – in accordance with the Guidance Notes produced by the ICE Conditions of Contract Standing Joint Committee.
 - (b) Building Contracts – in accordance with the National Joint Consultative Committee for building, Alternative 2.
 - (c) Other Contracts – the tenderer should be given the opportunity of confirming their offer or amending it to correct genuine and obvious errors.
- (ii) Should a supplier elect to amend their offer and the revised tender submission is no longer the highest ranked score, the offer by the (previously) second highest ranked bidder should be examined on the basis of the same rules.
 - (iii) Where the tenderer elects to withdraw the tender under either (a), (b) or (c) above, the next highest ranked tender shall be considered and the same rules shall be applied in considering that tender.
 - (iv) The above action by the relevant Operational Director in consultation with the Divisional Manager – Audit, Procurement and Operational Finance shall take place before the date of entry into a contract.

1.8.6 Clarification

- (i) Clarification by the client department can only be requested and responded to via the Council's EPS.
- (ii) Evaluation scores can only be amended where specific clarification has been requested relating to the award criteria.
- (iii) All clarification questions and returns must be recorded and any amended scores updated by a nominated officer of the Divisional Manager – Audit, Procurement and Operational Finance in the evaluation matrix.

1.9 ACCEPTANCE OF TENDERS

1.9.1 Arrangements for the acceptance of tenders

The arrangements for the acceptance of tenders are determined by the value of the tender proposed to be accepted as set out in Procurement Standing Orders 1.9.2 to 1.9.6.

1.9.2 Acceptance of tender by Operational Director

The relevant Operational Director or delegated officer may accept a tender in the following circumstances:

- (i) A minimum of five tenders have been invited if a Restricted Procedure has been followed;

or

A direct award (above PCR 2015 Value Threshold) is to be made which is supported by use of a VEAT notice or compliant call-off via a framework agreement, as set out in Procurement Standing Orders 1.4.1.

- (ii) The value of the tender proposed to be accepted does not exceed £5,000,000;
- (iii) The tender proposed to be accepted is the highest ranked bidder.

1.9.3 Referral of tender acceptance decision to Executive Board

The relevant Operational Director may use their discretion not to accept a tender and refer the decision to the Executive Board. In such instances the procedures described at Standing Order 1.9.4 will apply.

1.9.4 Acceptance of tender by Executive Board

The Executive Board may accept a tender in the following circumstances:

- (i) A report has been presented to the Executive Board containing the following information:
 - (a) The names of the various tenderers;
 - (b) The amount of the tender figures;
 - (c) The amount of the corrected tender figure (if any);
 - (d) The final ranking of the tenders received.
- (ii) The reasons for the proposed acceptance are in line with the published award criteria and evaluation score;

or

A direct award (above PCR 2015 Value Threshold) is to be made which is supported by use of a VEAT notice or compliant call-off via a framework agreement, as set out in Procurement Standing Order 1.4.1.

Executive Board shall determine whether or not to accept a tender in all cases where the tender value is in excess of £5,000,000.

1.9.5 Executive Board 'Call In' Period

Where the Executive Board accepts a tender the 'Call In' period must be in accordance with Standing Orders 1.10.1(ii) (b).

1.9.6 Executive Board – Non-acceptance of a tender

Where the Executive Board decides not to accept a tender recommended for acceptance, the reasons for the rejection must be detailed in the relevant minute including:

- (i) Name of the tender and tenderer(s) being rejected;
- (ii) Reasons for the decision in line with the award criteria.

1.10 AWARD OF CONTRACT

1.10.1 Intention and Award

In respect of contracts having a value of at least the threshold in compliance with the PCR 2015:

- (i) The Operational Director shall ensure full compliance with all legal requirements in relation to debrief of tenderers, in consultation with the Divisional Manager – Audit, Procurement and Operational Finance.

- (ii) The Council must notify both successful and unsuccessful tenderers of its intention to award and then of the actual award decision in writing as soon as possible after the decision to award the contract has been agreed, subject to any formal legal challenge or 'call-in' during either:
 - (a) The 10 day standstill period in compliance with the PCR 2015 – ends midnight on the tenth day after the relevant sending date,
or
 - (b) Executive Board Members 'call-in' period - Five days from date of publication of the relevant minute.

1.11 CONTRACTS

1.11.1 Contracts to be in Writing

Every contract shall be in writing and shall be the subject of a formal document prepared or approved by the Operational Director and Monitoring Officer (Legal and Democratic Services) which shall specify:

- (i) The work, services, materials, matters, or things to be furnished, had or done;
- (ii) The price to be paid, with a statement of discount or other deductions;
- (iii) The time or times within which the contract is to be performed, including any extension clauses.

1.11.2 Mandatory Contract Clauses

Every contract shall contain the following requirements:

- (i) **Health and Safety at Work Act 1974**
That the supplier observes and performs any of the Regulations or Codes of Practice made under the authority of the Act and any lawful requirements of the Health and Safety Executive (HSE) in relation to the work to be carried out under the contract.
- (ii) **Insurance**
That the supplier shall be required to verify that it meets the Council's minimum requirements in regard to the type and level of insurance considered appropriate for each contract (e.g. employer liability, public liability, product liability, professional indemnity, etc.).
- (iii) **Forfeiture in case of Bribery or Corruption**
That the Council may terminate the contract and recover any loss suffered if the supplier, its employees or anyone acting on the supplier's behalf:
 - Offers, gives or agrees to give to anyone any inducement or reward in respect of this or any other Council contract (regardless of the supplier's knowledge); or
 - Commits an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or
 - Commits any fraud in connection with this or any other Council contract, whether alone or in conjunction with Council members,

suppliers or employees.

Any clause limiting the supplier's liability shall not apply to this clause.

(iv) **Modern Slavery Act 2015**

That the supplier undertakes, warrants and represents that:

- (a) Neither the supplier nor any of its officers, employees, agents or sub-contractors has:
- committed an offence under the Modern Slavery Act 2015 (a "MSA offence"); or
 - been notified that it is subject to an investigation relating to an alleged MSA offence or prosecution under the Modern Slavery Act 2015; or
 - is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA offence or prosecution under the Modern Slavery Act 2015;
- (b) It shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy.

1.11.3 Technical Specifications

Where an appropriate legal requirement or mandate to use either a recognised Standard or Code of Practice exists, every contract shall state the characteristics required of, all goods and materials used or supplied and all workmanship shall be in accordance with that Standard or Code of Practice or equivalent.

1.11.4 Signed Contracts

Contracts with a value not exceeding £1M shall be signed in accordance with Finance Standing Order 3.4.1. Contracts with a value exceeding £1M shall be signed in accordance with the requirements of Article 14.04 of the Council's Constitution.

1.11.5 Common Seal of the Council

The Common Seal will be affixed to those documents which in the opinion of the Operational Director - Legal and Democratic Services should be sealed in accordance with the requirements of Article 14.05 of the Council's Constitution.

1.12 RECORDS

1.12.1 Contract Register

All tender opportunities published on the Council's approved Electronic Procurement System (EPS) will have the contract award details automatically promoted to the online contract register.

Contracts awarded and / or accessed outside of the Council's approved EPS must be manually updated on the EPS by an officer nominated by the Divisional Manager – Audit, Procurement and Operational Finance.

1.12.2 Regulation 84 Report – Values exceeding the Public Contract

Regulations (PCR 2015) Value Threshold

In compliance with the PCR 2015 the Contracting Authority is required to produce a written report in relation to each contract and framework agreement awarded and every dynamic purchasing system established for values above PCR 2015 value threshold.

The report template is to be completed by an officer nominated by the Divisional Manager – Audit, Procurement and Operational Finance.

1.13 CONTRACT PAYMENTS

1.13.1 Contract payments/settlement

Contract payments/settlements shall be made in accordance with procedures referred to in the Standing Orders relating to Finance. The Council's standard payment terms are 30 days from receipt of invoice.

1.13.2 Instalment Payments

Where contracts provide for payment to be made by instalments the appropriate Operational Director shall maintain suitable records to show the state of account on each contract.

1.13.3 Authorisation of Payments

Payment to suppliers shall be authorised by an authorised certifying officer, in accordance with Finance Standing Order 3.4.1.

1.13.4 Authorisation of Variations

Variations to a contract shall be in writing and shall be authorised in writing by the appropriate Operational Director or on their behalf by an authorised certifying officer.

1.13.5 Works Contracts – Final Certificate control

In the case of works contracts a final certificate shall not be issued until the relevant Operational Director has, to the extent that it is felt necessary, examined all matters relating to the final account.

1.13.6 Payments before Completion of Formal Contract

For contracts with a value in excess of the PCR 2015, no payment shall be made by the Council to the supplier until the formal agreement has been duly signed by all parties unless specifically authorised by the Operational Director - Finance.

1.14 WAIVER OF PROCUREMENT STANDING ORDERS

1.14.1 Compliance with PCR 2015

All waiver requests and approvals shall comply with the PCR 2015 value thresholds and no officer, Committee or Board of the Council may seek to avoid them.

1.14.2 Emergency Procedures

Where urgent action becomes necessary as a result of some unforeseen emergency, the Chief Executive (or in the absence of the Chief Executive,

the nominated deputy) may take such action and these Standing Orders shall be waived to the extent necessary to give effect to such action.

Every use of this Standing Order shall be reported in writing to the next available meeting of the Executive Board.

1.14.3 Non-Emergency Procedures - (not exceeding a value threshold of £100,000)

The requirements of Procurement Standing Orders may be waived by the Divisional Manager - Audit, Procurement and Operational Finance to the extent necessary. Every waiver request shall be submitted through the 'I Want Procurement' portal.

1.14.4 Non-Emergency Procedures - (exceeding a value threshold of £100,000)

These Standing Orders may only be waived by the Executive Board, in exceptional circumstances including, but not limited to, the following:

- (i) Where compliance with Standing Orders is not possible; or
- (ii) Where compliance with Standing Orders is not practicable for reasons of urgency which could not reasonably have been anticipated; or
- (iii) Where compliance with Standing Orders would result in a clear financial or commercial detriment to the Council; or
- (iv) Where compliance with Standing Orders would result in the Council having to forego a clear financial or commercial benefit; or
- (v) Where compliance with Standing Orders is not practicable because the Council's requirements can only be delivered by a particular supplier; or
- (vi) Where compliance with Standing Orders would be inconsistent with joint and partnership working or special external funding arrangements.

1.14.5 Waiver - Supplementary

- (i) In any report seeking waiver of Standing Orders the duly authorised officer shall state:
 - (a) The particular Standing Orders to be waived;
 - (b) The period during which the waiver shall be effective and value for this period;
 - (c) Budget Approval – include Budget, Funding and Cost Centre Code;
 - (d) A business case in support of the waiver which must include details of how the following would be achieved despite the waiver:
 - Value for Money;
 - Transparency, propriety and accountability;
 - Position of the contract under the PCR 2015;
 - How the supplier was selected;
 - Identification of potential project risks and controls;

- How the project links with departmental and corporate objectives;
 - Whole life costs of the project including the revenue costs associated with the project.
- (ii) In cases where formal tendering requirements are waived the relevant officer shall seek advice and guidance from the Divisional Manager – Audit, Procurement and Operational Finance before submission to Executive Board. This shall be done by using the ‘I Want Procurement’ portal.
- (iii) The waiver of Standing Orders and the reason(s) for waiver shall be clearly recorded in the minutes of the Executive Board.
- (iv) Where certain Standing Orders are waived the relevant officer shall comply with the remaining Standing Orders.
- (v) In cases where the waiver request is to seek approval to use an alternative supplier to the one contracted by an existing Council contract, this must be in accordance with Procurement Standing Order 1.3.7.

1.15 PRE-DETERMINED CONTRACT EXTENSIONS

1.15.1 Acceptance of pre-determined contract extension by Operational Director

The appropriate Operational Director or delegated officer may take such action to approve a pre-determined extension period provided that all of the following conditions apply:

- (i) The value of the pre-determined contract extension does not exceed £5,000,000;
- (ii) Consideration has been given to the relevant commercial and quality elements associated with the contract;
- (iii) Appropriate consultation regarding the matter has taken place with the Divisional Manager – Audit, Procurement and Operational Finance. This shall be done by using the ‘I Want Procurement’ portal.

1.15.2 Referral of pre-determined contract extension to Executive Board

The relevant Operational Director may use their discretion not to approve a contract extension and refer the decision to the Executive Board.

1.15.3 Acceptance of pre-determined contract extension by Executive Board

The Executive Board may take such action to approve a pre-determined extension period provided that the following conditions apply:

- (i) A report has been presented to the Executive Board considering the commercial and quality elements associated with the contract and the anticipated benefits and/or risks associated with acceptance of the extension option.
- (ii) Appropriate consultation regarding the matter has taken place with the Divisional Manager – Audit, Procurement and Operational Finance.

Executive Board shall determine whether or not to accept a contract extension in all cases where the value exceeds £5,000,000.

1.16 NOVATION OF CONTRACTS

1.16.1 Background

In a contract novation the original contract is extinguished and is replaced by a new one in which a third party takes up rights and obligations which duplicate those of one of the original parties to the contract. Novation is only possible with the consent of the original contracting parties as well as the new party.

A request to novate a contract may typically be received by the Council when a supplier's business is sold or restructured.

1.16.2 Managing requests to novate a contract

Should a supplier approach the Council asking for approval to novate a contract, the relevant Operational Director shall:

- (i) Inform both the Operational Director - Legal & Democratic Services and the Operational Director – Finance of the novation request. This is regardless of the contract value.
- (ii) Confirm with the Operational Director - Legal & Democratic Services and Head of Procurement that the request to novate the contract is compliant with the requirements of Section 72 of the Public Contracts Regulations 2015 (which govern the extent to which public contracts and frameworks can be amended without triggering a new tender process).
- (iii) Obtain a written undertaking from the party requesting the novation to confirm that they agree to pay any reasonable costs that the Council incurs in dealing with the request.
- (iv) Confirm the financial standing and suitability of the new party to deliver the contract. It is imperative that proper due diligence is conducted of the new party and its ability to deliver under the terms of the contract to be novated.
- (v) Consider the need to obtain either a performance bond or a parent company guarantee from the new party, especially if has been recently formed/incorporated. If such a bond or guarantee has been obtained a copy should be provided to the Operational Director - Legal & Democratic Services.

1.16.3 Decision-making

The decision as to whether to novate a contract or not is entirely at the discretion of the Council having regard to the individual circumstances of the request. In practice, all requests to novate a contract shall be considered by both the Operational Director – Legal & Democratic Services and the Operational Director – Finance.

1.16.4 Payments to new party

The relevant Operational Director shall ensure that invoices received from

the new party to the contract are not paid until the contract novation has been approved formally and implemented (normally a deed of novation is required). Under no circumstances should payments be made to the new party to the contract that relate to a period prior to the novation being approved.

PART 2: STANDING ORDERS FOR CONTRACTS EQUAL TO OR EXCEEDING THE PUBLIC CONTRACT REGULATIONS (PCR) 2015 VALUE THRESHOLDS INCLUSIVE OF VAT

2.1 Application

Part 2 of these Standing Orders shall apply to all contracts equal to or exceeding the PCR 2015 Works, Services or Supplies Value Threshold inclusive of VAT.

2.2 Contracts for Services or Suppliers

Officers must comply with the PCR 2015 and Part 1 of Procurement Standing Orders.

2.3 Contracts for Social & Other Specific Services

Officers must comply with the PCR 2015 – Schedule 3 for those services listed to qualify for the Light Touch Regime.

2.4 Contracts equal to or exceeding the PCR 2015 value for Works Threshold

Officers must comply with the PCR 2015 and Part 1 of Procurement Standing Orders.

2.5 Tendering Procedures

Tendering procedures shall comply with the PCR 2015. The relevant Operational Director shall select the tendering procedure in consultation with the Divisional Manager – Audit, Procurement and Operational Finance or nominated officer in accordance with Procurement Standing Order 1.5.1.

PART 3: STANDING ORDERS FOR CONTRACTS BELOW THE PUBLIC CONTRACT REGULATIONS (PCR) 2015 VALUE THRESHOLDS INCLUSIVE OF VAT

3.1 Competition Requirements

For all contract opportunities with a value below the PCR 2015 value threshold, Request for Quotations (RFQ) will be invited as outlined below in compliance with PCR 2015.

3.2 Value equal to or exceeding £25,000

- (i) A Procurement Risk Assessment shall be carried out with an officer nominated by the Divisional Manager – Audit, Procurement and Operational Finance prior to any request for quotations being sought.
- (ii) Electronic award notification will be issued by an officer nominated by the Divisional Manager – Audit, Procurement and Operational Finance via the Council's EPS, when an electronic invitation has been published to open competition via the Council's EPS.
- (iii) Details of the opportunity and award will be published on Contract Finder by an officer nominated by the Divisional Manager – Audit,

Procurement and Operational Finance.

3.3 Value less than £25,000 – exclusive of VAT

For procurement activity less than £25,000 in value, the relevant Operational Director shall ensure that:

- (i) Appropriate documentary evidence is retained to evidence how the award provides best value for the Council..
- (ii) The chosen supplier is selected by reference to objective criteria, such as technical ability and value for money.
- (iii) A written record of the decision-making process is retained for audit purposes.
- (iv) Appropriate and proportionate checks are undertaken to ensure that the selected supplier meets the Council's requirements, e.g. relevant accreditation, financial standing, insurance cover, safeguarding and data protection requirements.

3.4 Aggregation of Low Value Purchases – exclusive of VAT

For goods, works and services with a value less than £25,000, consideration must be given to the aggregated value over a minimum 12 month period.

Officers must determine the actual value of expenditure in line with regular recurring purchases of the same nature. Any aggregated value that is equal to or exceeds £25,000 must comply with Procurement Standing Order 3.2.

Compliant Procurement Routes

The following tables illustrate the compliant procurement routes in regard to:

- Public Contract Regulations (PCR) 2015 – Value Thresholds
- Procurement procedures
- Waivers
- Pre-determined extension of contracts
- Collaborative arrangements

Public Contract Regulations (PCR) 2015 – Value Thresholds 2022/23*

*Note: Value Thresholds are reviewed every two years and apply from January to December

Category of Spend	Value Threshold £ (Inclusive of 20% VAT)	Value Threshold £ (Exclusive of 20% VAT)
Supplies and Services	213,447	
Works	5,336,937	
Light Touch Regime <i>(i.e. Social Care, Education, Security, Postal Services)</i>		663,540

Procurement procedures

Before commencing a procurement process the contract value should be calculated to determine the procedures to be followed. The contract value is the estimated cumulative spend over the whole potential term of the contract (see Procurement Standing Orders 1.3.1 and 3.4.).

Value of expenditure	Procedure	Standing Order	Key Steps
Less than £25,000	Value for money assessment	3.3	N/A
Equal to or exceeds £25,000 (Inclusive of VAT)	Request for quotations (RFQ) via the Council's Electronic Procurement System	3.2	Publish on Contract Finder and Contract Register
Equal to or exceeds the PCR 2015 Value Thresholds (Inclusive of VAT)	Formal Tender in compliance with PCR 2015 via the Council's Electronic Procurement System	2.1	Publish on Find A Tender (FTS), Contract Finder and Contract Register
Equal to or exceeds £1,000,000	Preliminary estimate report to Executive Board	1.3.4	
Up to £5,000,000	Tender acceptance by Operational Director	1.9.2	Publish on Find A Tender (FTS), Contract Finder and Contract Register

Value of expenditure	Procedure	Standing Order	Key Steps
Exceeding £5,000,000	Tender acceptance by Executive Board 'Call-In' period – Five day standstill from publication date of minutes	1.9.4	Publish on Find A Tender (FTS), Contract Finder and Contract Register

Waivers

Circumstances of waiver request	Approval	Standing Order
Emergency	Chief Executive	1.14.2
Non-emergency exceeding £100,000	Executive Board	1.14.4
Non-emergency up to £100,000	Divisional Manager – Audit, Procurement and Operational Finance	1.14.3
Use of alternative supplier where a corporate contract is in existence	Divisional Manager – Audit, Procurement and Operational Finance	1.3.7

Pre-Determined Contract Extensions

Value of expenditure	Procedure	Standing Order
Exceeding £5,000,000	Report to Executive Board seeking approval to take up extension option	1.15.3
Up to £5,000,000	Approval by the appropriate Operational Director in consultation with the Divisional Manager – Audit, Procurement and Operational Finance	1.15.1

Collaborative Arrangements

Type of arrangement	Procedure	Standing Order
Framework	The appropriate Operational Director to obtain evidence of compliance with PCR 2015 and to	1.4.1

	seek verification from the Divisional Manager – Audit, Procurement and Operational Finance	
Joint or partnering arrangements	Requires prior approval of the appropriate Operational Director and the Monitoring Officer (Operational Director - Legal and Democratic Services)	1.4.2

Expenditure – Finance Standing Orders (FSO)

The following table summarises the Council’s delegated authorities to certify accounts, invoices, orders and expenditure vouchers:

Limit (£)	Officer	Standing Order
Over £1,000,000	Chief Executive / Executive Director	FSO 3.4
£1,000,000	Operational Director	
£100,000	Divisional Managers and other specified post holders	
£10,000	Other specified managers	
£1,000	Other nominated officers	