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CONTRACT PROCEDURE RULES

1. INTRODUCTION

- 1.1. These Contract Procedure Rules (Rules) set out the rules that apply to all Officers, Members and agents acting for and on behalf of Huntingdonshire District Council (Council), involved in procurement and contract management for and on behalf of the Council and are established in compliance with S135 of the Local Government Act (1972) and S1-29 of Local Government Act (1999). These Rules must be read in conjunction with relevant laws, regulations and internal policies/procedures including the Financial regulations, Scheme of delegation, English law and any procurement guidance documents issued by the Council.
- 1.2. Throughout these Rules, reference to Manager shall mean all Directors, Heads of Services or Budget Managers as appropriate. A Manager shall be responsible for procuring all goods, services and works that require the quotation or tender procedures as set out in these Rules to be followed.
- 1.3. Officers involved in procurement and contract management activities and making procurement/contract management decisions must be fully aware of and comply with these Rules as they form part of the Council's Constitution.
- 1.4. The Council's Monitoring Officer, in consultation with the Council's Procurement Manager, is responsible for updates and amendments to these rules. Such a review would normally happen at least every two years.
- 1.5. Responsibility for monitoring and enforcement of these rules is as follows:
 - a) Procurements over £50,000 – The Council's Procurement Manager
 - b) Procurements under £50,000 – The Council's Heads of Service
- 1.6. All procurements and contracts must realise value for money through the optimum combination of whole life costs and quality of outcome delivered by the contract.
- 1.7. These Rules seek to protect the Council's reputation by minimising the risk of allegations of corruption, dishonesty and failure to meet legal obligations. As these Rules are required by law, failure to comply with them could lead to disciplinary action. If in doubt and/or if advice on compliance with legislative requirements is required, this may be obtained from the Council's legal advisers and/or the Procurement Manager.
- 1.8. Should a conflict be found between these Rules, the law and the Council's Procurement and Contracts Guidance, the order of precedence shall be the law, the Rules and then the guidance.
- 1.9. These Rules apply to contracts or agreements with external organisations where the Council pays for:
 - Goods and/or services
 - Works of any kind
 - Hire, rental or lease of equipment, material and/or plant.

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- 1.10. To apply these Rules, it is necessary to estimate the total value of the contract. Further details on establishing total contract value are available in the Procurement Guide. In summary, the estimate must include all proposed expenditure under the contract over its maximum term, including any extension periods. All thresholds/values referred to in these Rules are inclusive of VAT unless otherwise stated. Where the estimated value cannot be determined, the procurement must be managed as though it was over the relevant UK Procurement Threshold. Proposed expenditure should not be disaggregated to avoid thresholds in these Rules. In practice, this means Officers must not split a single contract requirement up into separate contracts with the intention of avoiding the thresholds and related tendering, invoice administration or internal approval requirements.
- 1.11. No Officer shall procure any goods, services or works valued at £5,000 or above unless they have:
- a) either engaged with the appropriate budget manager or
 - b) attended Introduction to Procurement training and have detailed knowledge and understanding of these Rules and how they should be applied in respect of the total value of the procurement being considered.
- 1.12. The Procurement Team will create, maintain and deliver procurement training for Officers periodically throughout the year.

2. GOVERNING LEGISLATION

- 1.13. The Council's procurements are regulated by the Procurement Act (2023) and the Procurement Regulations (2024).
- 1.14. There is other legislation, such as the Social Value Act 2012, the Subsidy Control Act 2022 and the Local Government Transparency Code 2015, which also impacts on procurement and wider commercial activity, and it is important that officers are aware of the wider legislative framework. Officers must consider the application of the Subsidy Control Act 2022 at the outset of any procurement, contract, grant or financial assistance arrangement. Where a proposal may confer a subsidy, a documented subsidy control assessment must be completed and, where necessary, legal advice obtained before approval, award or implementation.
- 1.15. Where a procurement was started under the Public Contract Regulations (2015), governance for that procurement or contract continues to be those Regulations rather than the Procurement Act (2023). In the case of procurements/contracts started under the Public Contract Regulations (2015) they are governed by those Regulations until either:
- The end of the contract in question.

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- For a framework/Dynamic Purchasing System, the end of the last call-off contract

3. OBJECTIVES

1.16. The Procurement Act (2023) sets out a series of objectives which procurements must have regard to, they are:

- Delivering value for money - Achieving the optimum balance of cost, quality and outcomes across the contract lifecycle.
- Maximising public benefit - Maximising positive economic, social, environmental and community outcomes from public expenditure and contracts.
- Sharing information for the purposes of allowing suppliers and others to understand the Council's policies and decisions - Providing transparent procurement information to help suppliers and stakeholders understand decisions, opportunities and policies.
- Acting, and being seen to act, with integrity - Conducting procurement fairly, ethically and transparently, maintaining trust and confidence in decision-making.

1.17. Procurements must also have regard to the National Procurement Policy Statement which sets out national priorities for procurement that are:

- Driving economic growth - Using procurement to support investment, innovation, productivity and sustainable economic growth opportunities.
- Delivering social and economic value - Securing wider social, economic and environmental benefits alongside the purchase of goods, services and works.
- Building commercial capability to deliver value for money and stronger outcomes - Developing procurement expertise, commercial skills and contract management capability to achieve better outcomes and value.

1.18. The Officer in the service area must complete a Procurement Plan with support from the Procurement Team. Completing this Procurement Plan documents the service area's consideration of the Procurement Act 2023 and National Procurement Policy Statement priorities.

4. PROCUREMENT BOARD

1.19. The Council operates an officer Procurement Board which provides governance, oversight and assurance in relation to procurement and contract management activity.

1.20. Procurements with an estimated total contract value of £50,000 or above must be presented to the Procurement Board prior to publication of the procurement.

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1.21. The Procurement Board shall:

- review and endorse the proposed procurement approach and route to market;
- consider governance, commercial, financial, legal and procurement risks associated with the proposed procurement;
- review evidence of budget availability, funding arrangements and procurement planning;
- promote compliance with these Rules, the Procurement Act 2023, the Procurement Regulations 2024 and other relevant legislative requirements;
- support the delivery of value for money, public benefit and the Council's strategic objectives;
- review procurement pipeline activity and contracts likely to be impacted by Local Government Reorganisation;
- review approved waivers, direct awards, contract extensions and other matters referred to it in accordance with its Terms of Reference; and
- monitor contract management compliance and performance reporting where required by legislation.

1.22. The Procurement Board's role is advisory, assurance and governance focused. The Board does not hold delegated authority to approve procurements, contract awards, contract signatures or waivers. Formal approval remains within the Delegated Authorities Matrix.

1.23. Waivers, direct awards and contract extensions may additionally be referred to the Procurement Board in accordance with its Terms of Reference.

5. EXEMPTIONS

1.24. Procurements or contracts for the areas listed below are exempt from the application of these Rules but may fall under other sections of the Constitution.

- The acquisition of land or buildings
- The acquisition, development, production or co-production of material intended for broadcast and a contract for the broadcast to the public of material
- A contract to facilitate the provision of an electronic communications service or network
- A contract for the provision of arbitration, mediation or conciliation services
- A contract for any of the following exempt legal services:
 - Legal representation by a lawyer in judicial proceedings or other dispute resolution proceedings

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- Giving of advice by a lawyer in connection with any such proceedings
 - Document certification or authorisation services provided by a notary in circumstances where the certification or authorisation is required under an enactment or other law to be performed by a notary
 - Legal services provided by a person required to provide them under an enactment or an order of court or tribunal
- A contract for the lending of money or for carrying out of investment services by an investment firm or a qualifying credit institution
- A contract of employment
- A contract for the provision of research and development services where the services are intended to be for the benefit of the public and the contract does not also provide for the provision of goods or works
- Expenditure incurred directly as a result of an insurer led arrangement
- When procuring as part of a joint procurement, partner councils should agree in advance who will act as the Lead Authority. Where another Contracting Authority is acting as the procurement lead, officers must satisfy themselves that the procurement complies with all applicable laws. The Lead Authority's rules will apply
- Membership/Subscriptions (other than software licensing) where the Council arranges to receive goods or services regularly by paying in advance and competition is absent for technical reasons
- Purchases made at public auction

6. MARKET ENGAGEMENT

- 1.25. Market engagement is permitted for the purposes of:
- Developing the Council's requirements and approach to the procurement.
 - Designing a procedure, conditions of participation or award criteria.
 - Preparing the tender notice and associated tender documents.
 - Identifying suppliers that may be able to supply the requirement (understanding the market).
 - Identifying likely contractual terms.
 - Building capacity amongst suppliers in relation to the contract.
- 1.26. Market engagement must not have the effect that suppliers participating are put at an unfair advantage or that competition is otherwise distorted. If an officer deems that a supplier has been put at an unfair advantage, they must contact the Procurement Team or 3C Legal Services/the Council's legal advisors before progressing further with the procurement.

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- 1.27. If the procurement is valued over the relevant UK procurement threshold, a preliminary market engagement notice must be published on the government's "Find a Tender" service.
- 1.28. Alongside any pre-market engagement, Officers should seek to understand how the Council could collaborate both internally with other departments and/or externally with neighbouring councils/public sector bodies across Cambridgeshire.

7. PROCURING VIA A FRAMEWORK

- 1.29. A contract of any value can be procured through a framework. If the proposed contract value is over £50,000 the Procurement Team must be consulted before the procurement is started.
- 1.30. A framework is considered a compliant procurement route when:
- It has been entered into by the Council in compliance with these Rules, or
 - Another contracting authority, Public Sector Buying Organisation (PSBO) or central government has tendered the framework in compliance with national procurement law, and the Council is named as a potential user of the arrangement.
- 1.31. Where frameworks offer a further competition process, this should be used in the first instance. Where an Officer wishes to use a Direct Award, and the framework permits this, they must first seek approval from the Procurement Manager before proceeding with this approach. A clear justification must be provided in writing that demonstrates achievement of value for money using the Direct Award.
- 1.32. Approval to procure and award must still be sought in compliance with the Delegated Authorities Matrix at Appendix 1.
- 1.33. The contract must be signed/sealed in accordance with the Delegated Authorities Matrix. If the contract is valued over £10,000 a signed PDF copy must be sent to the Procurement Team.
- 1.34. Where a contract is valued over £30,000 a Contract Details Notice must be published on the government's "Find a Tender" service within thirty (30) days of the contract being entered into.
- 1.35. A Contract Award Notice will also be required if the contract value is above the relevant UK Procurement Threshold.
- 1.36. Officers should consider applying a voluntary standstill period where a framework award is high value, high risk, strategically significant, or where there is a heightened likelihood of challenge.
- 1.37. Where the contract is valued over £5m, a redacted copy of the contract must be published within ninety (90) days.
- 1.38. Where the Council is using an external framework and the total value of the contract is £5,000 (excluding VAT) or over, the Officer must add the

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contract to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015. This must be done before raising a Purchase Order and the Purchase Order must be linked to the Contract Register entry.

- 1.39. The Purchase Order when raised must clearly state the Framework reference number for the avoidance of doubt.

8. PROCURING VIA A DYNAMIC MARKET

- 1.40. Dynamic Markets may only be used for above-threshold procurements, unless otherwise permitted by law.
- 1.41. A Dynamic Market is considered a compliant procurement route when:
- It has been entered into by the Council in compliance with these Rules, or
 - Another contracting authority, PSBO or central government has tendered the Dynamic Market in compliance with national procurement law, and the Council is named as a potential user of the arrangement.
- 1.42. Dynamic Markets may only be used via a further competition and inviting bids from all suppliers. There is no possibility of making a Direct Award from a Dynamic Market.
- 1.43. Approval to procure and award must be sought in compliance with the Delegated Authorities Matrix at Appendix 1.
- 1.44. The contract must be signed/sealed in accordance with the Delegated Authorities Matrix. A signed PDF copy of the contract must be sent to the Procurement Team.
- 1.45. Officers should consider applying a voluntary standstill period where a framework award is high value, high risk, strategically significant, or where there is a heightened likelihood of challenge. A Contract Details Notice must be published within thirty (30) days of the contract being entered into.
- 1.46. Where the contract is valued over £5m, a redacted copy of the contract must be published within ninety (90) days.
- 1.47. Where the Council is using an external Dynamic Market, the Officer must add the contract to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015. This must be done before raising a Purchase Order and the Purchase Order must be linked to the Contract Register entry.

9. PROCUREMENTS VALUED UNDER £10,000

- 1.48. Obtaining value for money is the primary objective of all procurements, however multiple quotations at this value are not essential. It is advised that multiple quotes are requested wherever possible though. If multiple quotes are requested, the Officer must also follow the steps provided at 10.3 below.

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- 1.49. Quotations must be requested electronically via email and all quotes received must be in direct reply to this email request.
- 1.50. Approval to procure and award must be sought in compliance with the Delegated Authorities Matrix at Appendix 1.
- 1.51. The contract must be signed/sealed in accordance with the Delegated Authorities Matrix.
- 1.52. Where the total value of the contract is £5,000 (excluding VAT) or over the Officer must add the contract to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015. If raising a Purchase Order this must be done beforehand and the Purchase Order must be linked to the Contract Register entry.
- 1.53. The terms of the Purchase Order should be sufficient for a contract of this value, unless the Officer believes the complexity of the requirement commands more bespoke terms. If so, these bespoke terms should be obtained from 3C Legal Services/the Council's legal advisors. The Purchase Order must clearly state what the Council requires from the supplier.
- 1.54. Where the purchase is being made via a Council Procurement Card, the Officer must ensure that payment is only made following contract signature.

10. PROCUREMENTS VALUED BETWEEN £10,000 AND £49,999

- 1.55. The Officer must seek a minimum of three (3) comparable written quotations, wherever possible at least two (2) of the quotations must be from local suppliers. Officers should evidence their findings on their Procurement Plan.
- 1.56. Quotations must be requested with a clear deadline for receipt electronically via email or the Council's e-tendering system. These quotations must be received via the same medium.
- 1.57. The written quotations must include the following information as a minimum:
- Details of the goods, services or works to be supplied;
 - Where and when delivery is to take place;
 - The total value of the contract; and
 - Acceptance of the Council's terms and conditions that apply including payment terms.
- 1.58. Approval to procure and award must be sought in compliance with the Delegated Authorities Matrix at Appendix 1.
- 1.59. The contract must be signed/sealed in accordance with the Delegated Authorities Matrix. A signed PDF copy must be sent to the Procurement Team.
- 1.60. The Officer must raise a Purchase Order. The terms of this Purchase Order should be sufficient for a contract of this size/nature, unless the Officer

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believes the complexity of the requirement commands more bespoke terms. If so, these bespoke terms should be obtained from 3C Legal Services/the Council's legal advisors. The Purchase Order must include the information provided by the supplier as detailed in section 10.3 above.

- 1.61. The Officer must add the contract to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015. This must be done before raising a Purchase Order and the Purchase Order must be linked to the Contract Register entry.
- 1.62. Where the total contract is valued over £30,000 a Contract Details Notice must be published on the government's "Find a Tender" service within thirty (30) days of the contract being entered into.

11. PROCUREMENTS VALUED BETWEEN £50,000 AND THE RELEVANT UK PROCUREMENT THRESHOLD

- 1.63. The Officer must consult with the Procurement Team before commencing the procurement or conducting any form of market engagement. A Procurement Initiation Form is available on the intranet. A Procurement Lead officer from the Procurement team will be assigned to support the procurement.
- 1.64. Approval for the procurement and the award of a contract must be sought in compliance with the Delegated Authorities Matrix at Appendix 1. Alongside this, a Procurement Plan must be developed by the Officer in consultation with the Procurement Lead, which a Corporate Director must approve before the procurement can be published.
- 1.65. If no suitable Framework or Dynamic Market is identified an open tender process must be followed. It is not possible to restrict the submission of tenders by reference to an assessment of suppliers' suitability to perform the contract. The Councils standard contract terms for goods or services must be used unless the Officer feels these are not sufficient. Where this is the case bespoke terms should be obtained from 3C Legal Services/the Council's legal advisors. All works related contracts will need to be bespoke in standard contract forms such as JCT (Joint Contracts Tribunal), NEC (New Engineering Contract) or similar.
- 1.66. The Council must have regard to the fact that small and medium sized enterprises may face particular barriers in competing for a contract and consider whether such barriers can be removed or reduced whilst remaining compliant with legislation.
- 1.67. The Officer must consider the inclusion of social value criteria in the evaluation methodology in discussion with the Procurement Lead.
- 1.68. All relevant procurement documentation, including details of the evaluation criteria, will be developed by the Officer in consultation with the Procurement Lead.

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- 1.69. A Below Threshold Tender Notice must be published on the government's "Find a Tender" service.
- 1.70. Tenders must be evaluated according to the advertised evaluation criteria. Clarification questions may be asked of bidders providing the response would not have the effect of materially changing the tender received.
- 1.71. An award report will be prepared by the Procurement Lead and must be approved in accordance with the Delegated Authorities Matrix in Appendix 1 before the award can take place.
- 1.72. All bidders must be notified of the award decision simultaneously via the Council's e-tendering system whether their tender was successful or not, the Procurement Lead will prepare the relevant letters.
- 1.73. The contract must be signed/sealed by both parties before contract delivery starts, this should be done using the Council's e-sign software. The Officer must ensure that the Procurement Team is in receipt of a copy of the fully signed contract.
- 1.74. A Contract Details Notice must be published on the government's "Find a Tender" service within thirty (30) days of the contract being entered into.
- 1.75. The Officer must add the contract to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015. This must be done before raising a Purchase Order and the Purchase Order must be linked to the Contract Register entry.
- 1.76. Relevant documentation from the procurement process, particularly the tenders received and the evaluation process, must be retained by the Officer in compliance with the Council's Retention Policy.

12. PROCUREMENTS VALUED ABOVE THE RELEVANT UK PROCUREMENT THRESHOLD

- 1.77. The Officer must consult with the Procurement Team before commencing the procurement or conducting any form of market engagement.
- 1.78. Approval for the procurement and the award of a contract must be sought in compliance with the Delegated Authorities Matrix at Appendix 1. Alongside this, a Procurement Plan will be developed by the Officer in consultation with the Procurement Lead. This Procurement Plan must consider the application of Lots. A Corporate Director must approve this Plan before the procurement can be published.
- 1.79. If no suitable Framework or Dynamic Market is identified either an open tender or competitive flexible procedure (multi stage) must be followed. The Council's standard contract terms for goods or services must be used unless the Officer feels these are not sufficient. Where this is the case bespoke terms should be obtained from 3C Legal Services/the Council's legal advisors. All works related contracts will need to be bespoke in standard

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contract forms such as JCT (Joint Contracts Tribunal), NEC (New Engineering Contract) or similar.

- 1.80. The Council must have regard to the fact that small and medium sized enterprises may face particular barriers in competing for a contract and consider whether such barriers can be removed or reduced whilst remaining compliant with the legislation.
- 1.81. The Officer must consider the inclusion of social value criteria in the evaluation methodology in discussion with the Procurement Lead.
- 1.82. Where preliminary market engagement is used to inform the procurement process, a Preliminary Market Engagement Notice must be published on the government's "Find a Tender" service.
- 1.83. All relevant procurement documentation, including details of the evaluation criteria, will be developed by the Officer in consultation with the Procurement Lead.
- 1.84. A Tender Notice must be published on the government's "Find a Tender" service via the Council's e-tendering system with associated tender documents.
- 1.85. Tenders must be evaluated according to the advertised evaluation criteria, clarification questions may be asked of bidders providing the response would not have the effect of materially changing the tender received.
- 1.86. An award report will be prepared by the Procurement Lead and must be approved in accordance with the Delegated Authorities Matrix in Appendix 1 before the award can take place.
- 1.87. All bidders must be notified of the award decision simultaneously via the Council's e-tendering system whether their tender was successful or not. The Procurement Lead will prepare the relevant assessment summaries. Once assessment summaries have been sent to bidders, a Contract Award Notice must be published on the government's "Find a Tender" service via the Council's e-tendering system.
- 1.88. The publication of the Contract Award Notice starts the mandatory eight (8) working days standstill period. If, during the standstill period, a challenge or request for feedback is received from an unsuccessful bidder, the standstill period must be paused until the matter is successfully resolved. No contract award can take place in the intervening period. The Officer in receipt of the challenge or request must contact the Procurement Lead and 3C Legal Services/the Council's legal advisors for advice before any response is made.
- 1.89. A Contract Details Notice must be published on the government's "Find a Tender" service via the Council's e-tendering system within thirty (30) days of the contract being entered into. Where the value of the contract is more than £5m, a redacted copy of the contract must be published within ninety (90) days of the contract being entered into. The Notice must contain details

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of the Key Performance Indicators (KPIs) (at least three (3)) that will be used to monitor the contract. These KPIs must be reported on annually by submitting a Contract Performance Notice on the government's "Find a Tender" service.

- 1.90. The contract must be signed/sealed by both parties before contract delivery starts, this may be done using the Council's e-sign software. The Officer must ensure that the Procurement Team is in receipt of a copy of the fully signed contract.
- 1.91. The Officer must add the contract to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015. This must be done before raising a Purchase Order and the Purchase Order must be linked to the Contract Register entry.
- 1.92. Relevant documentation from the procurement process, particularly the tenders received and the evaluation process, must be retained by the Officer in compliance with the Council's Retention Policy.

13. EVALUATION OF TENDERS

- 1.93. The award criteria may be based on price alone or on that which represents the Most Advantageous Tender received. In relation to Contracts above the UK Procurement Threshold, any award must be weighted accordingly and based on the Most Advantageous Tender.
- 1.94. Tenders received within one hour after the fixed closing date and time or tenders which are not submitted in accordance with these Rules and any criteria set out in the procurement documentation will be disqualified unless otherwise agreed in writing by the Monitoring Officer.
- 1.95. If there is an obvious ambiguity or error in the tender and that ambiguity or error appears to have a simple explanation, bidders may be invited to correct their tender. Advice should be sought from the Procurement Manager before further action is taken.
- 1.96. Evaluation must be conducted in accordance with the published criteria and where the contract is valued above £50,000 it must involve individual evaluation followed by moderation to reach an agreed final tender score.

14. SOCIAL VALUE

- 1.97. The Public Services (Social Value) Act 2012 requires the Council to consider at the pre-procurement stage:
 - How the proposed procurement might improve the economic, social, and environmental well-being of Huntingdonshire;
 - How the Council may act with a view to securing that improvement in conducting the process of the procurement; and
 - Whether it should undertake any community consultation on the above.

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- 1.98. When undertaking a procurement of any value, Officers are required to review the Council's Social Value Policy and in doing so, ensure that the relevant process is followed that aligns to the total contract value.

15. ELECTRONIC SIGNATURES AND SEALS

- 1.99. The Council may execute, seal, or sign any agreement by electronic means.
- 1.100. For contracts that require a seal, the Monitoring Officer may adopt such means of sealing as from time to time they consider appropriate. This may include allowing electronic sealing in accordance with section 7A (1) of the Electronic Communications Act 2000 (or other subsequent legislation). Affixing of an electronic seal approved in this way shall be of the same legal effect as affixing the common seal of the Council by hand. The seal shall be attested by the authorised officer of the Council.

16. CONTRACT AWARD

- 1.101. Every contract entered into by the Council shall contain provisions appropriate to the nature, value and risk of the arrangement and, as a minimum, shall address:
- a) The goods, services or works to be provided;
 - b) The contract term and any extension provisions;
 - c) Pricing and payment arrangements
 - d) Performance standards and, where appropriate, key performance indicators;
 - e) Contract management, monitoring and escalation arrangements;
 - f) Procedures for variations and modifications; and
 - g) Termination rights and exit arrangements.
- 1.102. Any contract award must be approved in accordance with the Delegated Authorities Matrix available in Appendix 1.
- 1.103. Contracts must be signed/sealed in accordance with the Delegated Authorities Matrix. The use of e-sign and electronic sealing are acceptable. Officers must ensure that a copy of the signed contract is sent to the Procurement Team.
- 1.104. All contracts valued over £5,000 (excluding VAT) must be added to the Council's Contract Register by the Officer and all related Purchase Orders must be linked to that contract.
- 1.105. The Officer named in the Contract Register will act as the Contract Manager and will be responsible for ensuring the obligations of these Rules and any relevant legislation are fulfilled. Further guidance is available in the Procurement Guide and the Contract Management Guidance.

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- 1.106. A Contract Owner must also be recorded in the Contract Register entry who will be responsible for ensuring individuals details are kept up to date. These should be checked periodically but at least every six months.

17.CONTRACT PERFORMANCE AND MONITORING

- 1.107. Any contract award must be approved in accordance with the Delegated Authorities Matrix available in Appendix 1.

18.CONFLICTS OF INTEREST

- 1.108. Officers must take all reasonable steps to identify and keep under review any conflicts of interest or potential conflicts of interest.
- 1.109. Any person who influences a decision must be included in the conflict of interest review.
- 1.110. Officers must take all reasonable steps to ensure that a conflict of interest does not put a supplier at an unfair advantage or disadvantage. If the officer deems that the advantage or disadvantage cannot be avoided, they should contact the Procurement Manager before progressing further with the procurement. This obligation starts when the need for the procurement is first identified and continues until the termination of the contract.
- 1.111. Where the procurement is valued over £50,000 a conflicts assessment must be prepared in writing by the Officer in conjunction with the Procurement Lead before the procurement is published. This should include details of all conflicts or potential conflicts of interest for both officers and members.
- 1.112. This assessment must include any lobbying of members by bidders during a live procurement and any member involvement in evaluation. If members are approached by bidders, they must contact the Monitoring Officer immediately.
- 1.113. The assessment must also include any steps that the Council has taken or will take to mitigate that conflict of interest. This may include any steps taken to demonstrate that there is no conflict of interest where one might be perceived.
- 1.114. The conflicts assessment must be kept under review and revised as necessary during the procurement and throughout the contract term. The Contract Manager will consult with 3C Legal Services/the Council's legal advisors, if a conflict should arise, to determine if the contract should continue, pause or end.
- 1.115. Any Officer who fails to declare a conflict of interest may be subject to disciplinary proceedings and risks being prosecuted under the Bribery Act 2010.

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- 1.116. Any Member who fails to declare a conflict of interest may be subject to the Member Code of Conduct and the Monitoring Officer's standards process and risks being prosecuted under the Bribery Act 2010.
- 1.117. Officers and Members involved in a procurement will, at all times, act in a way that is consistent with the Employee Code of Conduct and Member Code of Conduct respectively.

19. RETENTION OF DOCUMENTS

- 1.118. All Contracts executed under seal (including the winning Tender/s and any documentation supplementary thereto) shall be held by the relevant Contract Manager for 12 years from the end date of the contract. A copy of the signed contract must also be kept alongside the contract register entry in the contracts database.
- 1.119. All other procurement documentation, including all expressions of interest, selection questionnaires, Invitations to Tender, unsuccessful Tenders, quotations, clarification responses, internal deliberations and recorded decisions shall be kept safe and secure by the relevant Contract Manager for a period of 3 years from the end date of the contract. At the end of this period, such documents shall be destroyed.
- 1.120. Contracts executed under hand shall be held by the relevant Contract Manager and again, a copy of the signed contract to be kept alongside the contract register entry in the contracts database for a period of 6 years from the end date of the contract.
- 1.121. All other procurement documentation as detailed above shall be retained for a period of 3 years.
- 1.122. For Contracts valued above £50,000 and where the Procurement Team are engaged to support the tender, all documents relating to the tender process including unsuccessful tender submissions will be retained by the Procurement Team for the required periods as detailed above.

20. PROCEDURE FOR THE DISPOSAL OF ASSETS

- 1.123. Where the appropriate Manager estimates the aggregate value of an asset or group of assets/goods to be worth less than £1,000, these may be donated to a recognised charity, voluntary or third sector organisation. "Manager" is defined at section 1.2. For the avoidance of doubt, the value shall be assessed based on the combined estimated value of all related assets or goods being disposed of at the same time. Assets or goods must not be separated into individual items, lots or donations for the purpose of circumventing the disposal thresholds contained within this section.

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- 1.124. Where the value is estimated to be between £1,000 and £10,000 then the asset/s or goods may be sold on but in doing so, value for money must be achieved.
- 1.125. Where the value is estimated to exceed £10,000 fair market value must be sought. A valuer with relevant qualifications should be engaged to certify true worth, or appropriate market evidence gathered prior to the sale or disposal where applicable. When conducting the sale or disposal, this should be in one of the following ways using approved agents if appropriate:
- Sale by Tender
 - Sale at a Named Figure
 - Invited Offers
 - Sale by Public Auction
 - Part exchange or disposal as part of a replacement or aggregated transaction
- 1.126. If disposal to Officers is proposed, then the asset/s or goods shall be advertised internally to all Officers. Where a fixed price can't be established; sealed bids must be sought.
- 1.127. Any disposal of assets should be reported to the Councils Finance Team regardless of any receipt of income from their sale.

21.INTERIMS, CONSULTANTS AND CONTRACTORS

- 1.128. The Hiring Manager responsible for appointing any Interim, Consultant or Contractor (ICC) must engage with the Council's HR Recruitment Team in the first instance.
- 1.129. Following engagement with the HR Recruitment Team, the Hiring Manager is responsible for ensuring that any position deemed to be classed as Off-Payroll shall:
- a) ensure that Off Payroll Working (IR35) regulations are applied prior to the supplier contract
 - b) complete the HMRC's Check Employment Status for Tax (CEST) on a contract-by-contract basis, not just as a one-off exercise for a particular supplier
 - c) ensure an agreed statement of works, letter of agreement and Status Determination Statement (SDS) are in place to enable monitoring of the contracted work against our expectations
 - d) send all documents relating to the CEST, statement of works, letter of engagement and SDS to the Council's recruitment team. These are legally binding documents and may be required in the future for audit purposes. This includes verification of Sole Traders/Self Employment.
- 1.130. If the ICC will be responsible to the Council for the management or supervision of a contract on its' behalf, then the Manager shall provide the

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ICC with a copy of these Rules and ensure that it shall be a condition of the engagement that the ICC shall:

- a) comply with these Rules; and
- b) any time during the carrying out of the contract produce to the appropriate Manager, on request, all the records maintained in relation to the contract; and
- c) on completion of the contract transfer all records produced or received that relate to the contract to the appropriate Manager.

22. EXCEPTIONS TO THESE RULES

- 1.131. These Rules apply to every procurement carried out by or on behalf of the Council.
- 1.132. Exceptions will only be valid if the Council's online waiver system is used and appropriate approval has been sought and gained prior to the contract start date. Waivers should be sought as early as possible to ensure there is time to run a procurement process should the waiver be rejected.
- 1.133. Retrospective waivers are only permitted where:
 - a) it has been necessary to act urgently because of an unforeseen emergency which involves immediate risk of injury or damage; or
 - b) to prevent serious disruption to services.
- 1.134. Where a waiver valued over the relevant UK procurement threshold is required, advice must be sought from 3C Legal Services/the Council's appointed legal advisor as to the applicability of sections 41, 42 and 43 (and the associated appendices) of the Procurement Act (2023). The Council cannot be exempt from UK law.
- 1.135. Where a repeat or consecutive waiver is requested, the value of the proposed exception must be aggregated with the value of all preceding waivers relating to the same or substantially similar requirement and the appropriate Rule applied. For example, this may take the total value above the relevant UK procurement threshold (see 20.4 above). The officer seeking the waiver must explain why a compliant procurement process has not yet been completed and what actions are being taken to ensure future compliance.
- 1.136. Where the total value of the ensuing contract exceeds £5,000 (excluding VAT) it must be added to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015.
- 1.137. Where the total value of the ensuing contract exceeds £30,000 a Contract Details notice must be published on the government's "Find a Tender" service.

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APPENDIX 1 – DELEGATED AUTHORITIES MATRIX

	Budget Managers	Heads of Service	Corporate Directors (CLT)	Chief Executive / Section 151 Officer	Cabinet***
Procurement Plan approval*	N/A	N/A	Up to £250k	Up to £500k	Above £500k
Contract Award approval**	Up to £30k	Up to £100k	Up to £250k	Up to £500k	Above £500k
Contract Signing / sealing	Up to £30k	Up to £100k	Up to £250k	Unlimited	N/A
Official Purchase Order	Up to £30k	Up to £100k	Up to £250k	Unlimited	N/A

*** Procurement Plan approval** – The Procurement Plan will detail the work that has been done to get to the point of going out to tender e.g.; assessment of routes to market, budget availability and approval etc. A tender must not be published until approved at the relevant level as defined in the matrix above.

**** Contract Award approval** – This is a detailed explanation of the quotation/tender process highlighting dates of publication and closure, number of bidders, quality/price scores and the recommendation of who should be awarded the contract. No contracts may be entered into until approved in writing at the relevant level.

***** Cabinet approval** – Where Article 13, section 3.1(b) Key Decisions may apply. Consideration should be given for any time required for scrutiny of decisions within the Constitution.

APPENDIX 2 UK PROCUREMENT THRESHOLDS

These thresholds are effective from 1st January 2026 and are inclusive of VAT.

Goods and Services threshold: £207,720

Works threshold: £5,193,000

Concessions threshold: £5,193,000

Light Touch Regime threshold: £663,540