

1.0 Introduction

- 1.1 The Contract Procedure Rules (CPRs) are made under the provisions of section 135 of the Local Government Act 1972 and govern the making of contracts for and on behalf of the Council.
- 1.2 The CPRs form part of the Council's Constitution and will be reviewed annually.
- 1.3 These CPRs apply to all contracts entered into by the Council and to all Officers involved in the procurement of supplies, services or the execution of works and provide a basis for true, open and fair competition.
- 1.4 All contracts must be in writing. Officers should not agree to offers from Providers verbally as this can create a binding verbal contract.
- 1.5 These CPRs also apply to all third parties who undertake procurement on behalf of the Council.
- 1.6 These CPRs refer to the Public Contract Regulations 2015 and 2019 (PCRs) thresholds for Services and Supplies as published in Procurement Policy Notes.
- 1.7 Any procurement where the Council is the lead or contracting body will be subject to these CPRs. They may not be waived except in the specific instances referred to in these CPRs. Procuring Officers must ensure that any advisors, agents, consultants and contractual partners acting on their behalf comply with these CPRs. Where other public bodies are acting as the lead or contracting body then their own Contract Procedure Rules, Contract Standing Orders or similar rules will apply.
- 1.8 These CPRs should be read in conjunction with the Councils Finance Procedure Rules (FPRs) and other advice, guidance and policies issued by the Head of Procurement.
- 1.9 The CPRs do not supersede the provisions of UK legislation governing procurement especially the PCRs and subsequent updates and the duty to obtain best value under the Local Government Act and associated Regulations.
- 1.10 Where there is any conflict between legislation and these CPRs, the legislation will always override these CPRs.
- 1.11 A breach of these CPRs will be viewed as a disciplinary matter and will be reported immediately to the Head of Audit, who will investigate and recommend appropriate action.

2.0 General

- 2.1 Every Officer, including temporary, agency and interim staff, or Councillor involved in any decision in respect of any Provider or contract in which they, any immediate member of their family, or close associate has a Pecuniary Interest shall immediately notify the Director of Governance who shall make a record in the register kept for the purpose under s.117 Local Government Act 1972.
- 2.2 In the event of any doubt or uncertainty as to whether a Pecuniary Interest will occur advice should be sought from the Head of Procurement who will consult with the Head of Audit, Director of Finance and Director of Governance.

2.3 Adequate records, including electronic copies of contracts, shall be kept of each procurement process. These records will be kept for the time periods listed below:

- Ordinary contracts - contract expiry + 6 years
- Sealed contracts – contract expiry + 12 years
- Property maintenance contracts - contract expiry + 15 years.
- For building construction, it's the life of property plus 15 years or transfer to new owner.
- The standard retention rule for unsuccessful tenders is process complete (date of last paper) + 1 year.

3.0 Procurement Processes

3.1 The table that follows sets out how a procurement process must be undertaken based on the total value of the contract;

Anticipated Value of a contract (Excluding VAT)	Procurement Route	Advertising	Evaluation	Approval	Authority to Sign Contract
Below £250 (higher by exception with agreement from Head of Procurement)	Procurement Cards should be used.	Not required.	Lowest price.	Budget Manager in advance of purchase.	Not required
Up to £9,999	Request for Quotation (RFQ) Obtain at least one written Quotation. Managed by Service team. Advice available from Procurement.	If openly advertised, then contact Procurement to advertise on Council's e-tendering site. and Twitter @BuyWolves	Lowest price.	If a new Provider, then complete a Supplier Creation Form (on intranet) and submit to the Hub. then Attach quote to requisition in Agresso. then Approval in accordance with Agresso workflow i.e.; 1) Budget Manager as the Scheme of Delegation 2) Procurement 3) Technical (if necessary)	Not required. Purchase Order via Agresso.

Contract Procedure Rules

Anticipated Value of a contract (Excluding VAT)	Procurement Route	Advertising	Evaluation	Approval	Authority to Sign Contract
<p>£10,000 to £75,000</p>	<p>Request for Quotation (RFQ)</p> <p>Obtain at least four written quotations, at least 2 from local providers where possible (exemption will need to be provided if 2 local providers not utilised).</p> <p>Managed by Service team.</p> <p>Advice available from Procurement.</p>	<p>If openly advertised, then contact Procurement to advertise on Council's e-tendering site.</p> <p>and</p> <p>Twitter @BuyWolves</p> <p>If contract value is above £25,000 and openly advertised (Reg 110(4)(a)) then contact Procurement to advertise on Contracts Finder website</p>	<p>Lowest price</p> <p>or</p> <p>by exception most economically advantageous based on criteria published with the request for quotation.</p>	<p>If lowest price used, then attach all quotes to the requisition in Agresso.</p> <p>or</p> <p>If the most economically advantageous criteria are used then an "Authorisation to Award" form is completed.</p> <p>then</p> <p>If a new Provider complete a Supplier Creation Form (on intranet) and submit to the Hub.</p> <p>then</p> <p>Attach "Authorisation to Award" and quotes to requisition in Agresso.</p> <p>Approval in accordance with Agresso workflow i.e.;</p> <ol style="list-style-type: none"> 1) Budget Manager as the Scheme of Delegation 2) Procurement 3) Technical (if applicable) 	<p>Purchase Order via Agresso</p> <p>and</p> <p>If the Council's Standard Contract is used, then an Officer in accordance with the Scheme of Delegation</p> <p>or</p> <p>If a bespoke contract, then Legal Services Authorised Signatory</p>

Contract Procedure Rules

Anticipated Value of a contract (Excluding VAT)	Procurement Route	Advertising	Evaluation	Approval	Authority to Sign Contract
<p>£75,001 to PCRS threshold for Services and Supplies</p> <p>Threshold applies to all contracts including Works and Social or Other services (as defined in PCRs)</p>	<p>Invitation to Tender (ITT)</p> <p>Advice must be sought from Procurement before commencing and a “Starting a Procurement” form completed.</p> <p>Tender process using the Council’s e-tendering system.</p> <p>A single stage ITT must be used for all contracts upto the Goods and Services threshold.</p> <p>Managed by Procurement</p>	<p>Council’s e-tendering system</p> <p>Twitter @BuyWolves</p> <p>Contracts Finder Website</p>	<p>Most economically advantageous based on criteria published within the Invitation to Tender.</p>	<p>An “Authorisation to Award” form is completed.</p> <p>then</p> <p>If a new Provider complete a Supplier Creation Form (on intranet) and submit to the Hub.</p> <p>then</p> <p>Request a Contracted Product Code from Procurement.</p> <p>then</p> <p>Approval in accordance with Agresso workflow i.e.;</p> <ol style="list-style-type: none"> 1) Budget Manager (as the Scheme of Delegation) 2) Technical Approver (if applicable) 	<p>Purchase Order via Agresso</p> <p>and</p> <p>Legal Services Authorised Signatory</p>

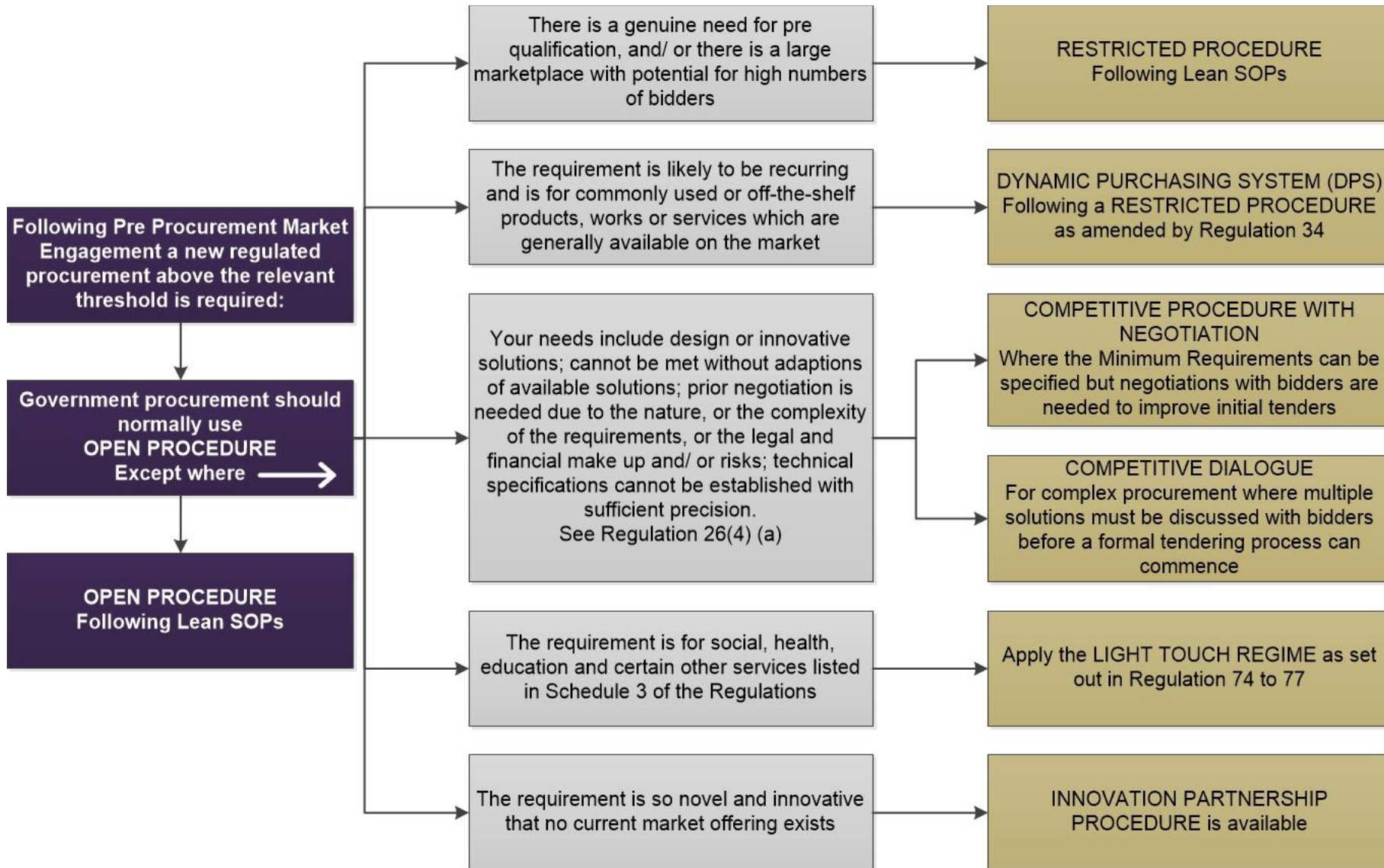
Contract Procedure Rules

Anticipated Value of a contract (Excluding VAT)	Procurement Route	Advertising	Evaluation	Approval	Authority to Sign Contract
<p>Over PCRS threshold for services and supplies.</p>	<p>Advice must be sought from Procurement before commencing and a “Starting a Procurement” form completed.</p> <p>Delegated authority should be sought from Cabinet (Resources) Panel to award the contract when the evaluation is completed.</p> <p>Tender process using the Council’s e-tendering system.</p> <p>An Open procedure single stage ITT to be used</p> <p>or</p> <p>by exception an alternative procedure as stated in the PCRs with a justification approved by the Head of Procurement.</p> <p>Managed by Procurement.</p>	<p>Council’s e-tendering system</p> <p>Twitter @BuyWolves</p> <p>Contracts Finder Website</p> <p>and</p> <p>If over the relevant PCRS threshold</p> <p>then</p> <p>UK e-notification service</p>	<p>Most economically advantageous based on criteria published within the Invitation to Tender.</p>	<p>An Individual Executive Decision report is completed if Delegated Authority from Cabinet (Resources) Panel has been granted in advance for contracts exceeding £1,000,000 for contracts under £1,000,000 then an Authorisation to Award” form is completed and signed by the Director of the relevant service.</p> <p>or</p> <p>A Contract Award form is completed for inclusion in the Procurement Report for Cabinet (Resources) Panel for contracts exceeding £1,000,000</p> <p>then</p> <p>If a new Provider complete a Supplier Creation Form (on intranet) and submit to the Hub.</p> <p>then</p> <p>Request a Contracted Product Code from Procurement.</p> <p>then</p> <p>Approval in accordance with Agresso workflow i.e.;</p> <ol style="list-style-type: none"> 1) Budget Manager (as the Scheme of Delegation) 2) Technical Approver (if applicable) 	<p>Purchase Order via Agresso</p> <p>and</p> <p>Legal Services Authorised Signatory</p>

- 3.2 A single stage Open procedure should be used for all procurements unless there are exceptional circumstances as set out in the decision tree below (from Crown Commercial Service Procurement Policy Note 12/15). Further information can be found at:

<https://www.gov.uk/government/publications/procurement-policy-note-1215-availability-of-procurement-procedures-decision-tree>

or any procedure other than Open then approval must be obtained from the relevant Procurement Business Partner in consultation with the Head of Procurement prior to commencement of the procurement.



3.3 Starting a Procurement

- 3.3.1 Where the Council has an existing contract that is suitable to source the services, supplies or works required this should be used. An exemption will be required for off contract spend in all cases identifying the technical or economic reasoning for not using the contract.
- 3.3.2 Where an existing contract that has been collaboratively procured or Framework Agreement established by another Public Body exists this should be considered prior to undertaking a new procurement. The technical or economic reasoning for not using the contract should be recorded.
- 3.3.3 In such cases it is the duty of the Procuring Officer to ensure that the agreement has been procured in a legally compliant manner and that the Council is legally able to access the agreement. The Procuring Officer should also ensure instructions in any access agreement, guidance notes or instructions are followed to ensure the procurement is compliant. Failure to do this will make any contract awarded from the framework and possibly the whole framework invalid.
- 3.3.4 If the value of a contract is forecast to be £75,000 or greater than the relevant Procurement Business Partner must be contacted at the earliest stage possible. A 'Starting a Procurement' form must be completed prior to the commencement of a procurement process.
- 3.3.5 In the event where a contract has no specific end date, such as ongoing support or maintenance contracts, then for the purposes of these rules the value should be considered over four years.
- 3.3.6 If the value of any contract (including for works or social services etc.) is forecast to be greater than £1,000,000, then delegated authority to award the contract should be sought from the Cabinet (Resources) Panel. Any contract with Council staff transferring under Transfer of Undertakings (Protection of Employment) Regulations 2006 regardless of value should obtain delegated authority via Cabinet (Resources) Panel. A standard template is available from Procurement.
- 3.3.7 Where the contract is complex or high value the Cabinet (Resources) Panel may, by exception, request that a further report is provided setting out the results of the evaluation prior to the contract being awarded.
- 3.3.8 Where delegated authority has not been requested then authority to award the contract greater than £1,000,000 must be requested from the Cabinet (Resources) Panel. A standard template is available from Procurement.
- 3.3.9 A Conflict of Interest declaration must be signed by all parties, including Officers (including temporary, agency and interim staff), involved in the procurement process and submitted to the relevant Procurement Business Partner prior to a procurement commencing.
- 3.3.10 In the event of a conflict of interest the Head of Procurement shall determine the action to be taken, subject to 2.2 in the CPRs
- 3.3.11 Where a forecasted estimated contract value varies above 10% of the maximum delegation of a Director prior to award, following a tender process i.e. £1,100,000,

then a new contract award subject to 3.4.8 of CPRs will need to be completed. Below 10% but above £1,000,000 the relevant Director in consultation with the Director of Finance will approve the award of contract.

3.4 Publishing Contract Notices

3.4.1 All procurement documentation must be completed and published with the Contract Notice. This as a minimum should include the invitation to tender, specification, contract terms, evaluation criteria and background documentation. If applicable anonymised staffing and pensions liabilities information must also be issued.

3.5 Standard Selection Questionnaires (SSQ)

3.5.1 The Standard Selection Questionnaire (SSQ) is the questionnaire issued by Crown Commercial Service to be used as selection criteria within a procurement process.

3.5.2 SSQs must not be used for any procurement with a value less than the PCRS Services and Supplies threshold.

3.5.3 For procurements above the PCRS threshold for Services and Supplies then SSQs must be used as part of the selection process even if utilising the Light Touch Regime (LTR).

3.5.4 SSQs must follow the mandated questionnaire issued by the Crown Commercial Service and the Councils e-tendering system must be used.

3.6 Contents of a Request for a Quotation (RFQ) or an Invitation to Tender (ITT)

3.6.1 A Request for a Quotation (RFQ) is used for procurements with a value less than £75,001. The evaluation criteria is the lowest price or by exception most economically advantageous tender based on criteria published with the RFQ.

3.6.2 An Invitation to Tender is used for procurements with a value greater than £75,000 or by exception for complex and high-risk procurements of any value. The evaluation criteria is the most economically advantageous tender based on criteria published with the ITT.

3.6.3 The following information must be included within an RFQ or an ITT:

3.6.4 Specification.

A specification must;

3.6.4.1.1 clearly set out the requirements taking into account quality and standards required to be met and timescales for delivery. Any minimum requirements must be clearly stated.

3.6.4.1.2 consider the various matters prescribed by the Public Services (Social Value) Act 2012 and in particular how the contract might improve social, economic and environmental well-being.

3.6.4.1.3 consider the accessibility to Small and Medium size Enterprises (SME) and if necessary the contract should be divided into lots to make it more accessible.

3.6.4.1.4 consider the Shared Values and Principles included in Wolverhampton VCSE Compact Funding, Commissioning &

Procurement Code of Practice where the contract may be suitable for VCSE organisations to deliver.

3.6.4.1.5 consider the Council's policies including information governance, business continuity, equality and diversity, and safeguarding.

3.6.5 Price

3.6.5.1 How price will be evaluated should be clearly set out.

3.6.5.2 Whole life cycle costing, including cost of operation, maintenance and end of life, should be used for evaluation purposes.

3.6.6 Evaluation Criteria

3.6.6.1 All evaluation criteria and sub criteria, any financial models and a clear scoring matrix must be included, and full details disclosed to potential bidders.

3.6.6.2 These criteria cannot be deviated from once it has been published.

3.6.7 Conditions of Contract

3.6.7.1 The Council's standard forms of contract must be used for all supplies and services and the RFQ or ITT must refer to the relevant standard conditions identified on the Council's website.

3.6.7.2 For works contracts standard industry forms must be used, for example, JCT, NEC or ICE etc.

3.6.7.3 A risk analysis of the scope and specification of the contract should be undertaken and additional requirements such as Disclosure and Barring checks, business continuity and information governance requirements should be identified and included as additional contract conditions if required.

3.6.7.4 Where there is a need to deviate from the Council's standard forms of contract or amendments are required to works standard industry forms, due to the risk imposed by the nature of the procurement or where the standard contract is deemed to be unsuitable, contract terms must be drafted by Legal Services prior to the RFQ or ITT being advertised.

3.6.7.5 Contracts on supplier's conditions will only be entered into on by exception and must be approved in advance by the Head of Procurement and Legal Services.

3.6.7.6 An RFQ or an ITT must include a clause empowering the Council to immediately reject a tender or terminate a contract if the tenderer offers any form of inducement to influence the decision to award the Contract. This right to terminate will apply regardless of whether the inducement was accepted by the Officer or Councillor concerned.

3.6.7.7 All contracts are subject to Regulation 73 of the PCRs.

3.6.8 Durations

- 3.6.8.1 An RFQ should be advertised for a period of time appropriate to the complexity of the procurement and to ensure there are sufficient quotes received to demonstrate that a proper competition has taken place.
- 3.6.8.2 An ITT should be advertised for a period of time appropriate to the complexity of the procurement, as minimum this should be 2 weeks.
- 3.6.8.3 Where the contract value is above the PCRS Thresholds then the appropriate minimum time periods in accordance with the PCRs must be followed.
- 3.6.8.4 Tenderers should be given enough time to fully understand a requirement and bid accordingly, minimum timescales do not always allow for suitable bids.

3.6.9 If a reduced timescale is required due to genuine urgent need then this must be recorded and approved by the relevant Procurement Business Partner in consultation with the Head of Procurement, prior to the procurement commencing.

3.7 Contract value and duration

- 3.7.1 Prior to a procurement being undertaken an estimate of the total contract value over its full duration, including any extension options must be established. A record of how this forecast was calculated should be retained.
- 3.7.2 The value of the contract must not be split to avoid the application of the CPRs and PCRs, although lotting is acceptable to provide opportunities to SMEs
- 3.7.3 Framework Agreements must not exceed a four-year duration unless a demonstrable economic case can be established, recorded and approved by the relevant Procurement Business Partner prior to the procurement commencing.
- 3.7.4 Contract lengths must be considered in line with risk, investment and cost of change. These should be recorded and approved by the relevant Procurement Business Partner prior to the procurement commencing.

3.8 Transfer of Undertakings Protection of Employment (TUPE) and Pensions

- 3.8.1 Where a service is already being provided and is being retendered or tendered for the first time, the TUPE regulations need to be considered and if necessary, staffing details incorporated within the ITT. Where appropriate information will need to be requested from current contractors.
- 3.8.2 Advice from Legal Services and the relevant HR Business Partner must be sought at the earliest point that the Procuring Officer becomes aware that a staff transfer may form part of the procurement.
- 3.8.3 Where a transfer of staff will occur Pensions liabilities and arrangements need to be considered and specialist advice sought from Strategic Finance.

3.9 Appointment of Temporary, Agency and Interim Staff

- 3.9.1 Advice must be sought from the relevant HR Business Partner prior to commencing the appointment of any temporary, agency and interim staff.
- 3.9.2 The appointment of temporary, agency and interim staff must be in accordance with these CPRs with the addition of an HR business case being approved.
- 3.9.3 The appointment of temporary, agency and interim staff with an equivalent day rate of £500 or more must be approved by the Head of HR and the Cabinet Member for Governance prior to commencing the appointment.
- 3.9.4 The appointment of temporary, agency and interim staff with an equivalent day rate of £499 or less must be approved by the relevant HR Business Partner prior to commencing the appointment.
- 3.9.5 A copy of the completed Structure Management Request and relevant approval must be uploaded as an attachment to the Agresso requisition.
- 3.9.6 A report will be provided quarterly to the Cabinet (Resources) Panel setting out the appointments of temporary, agency or interim staff within the period since the previous report.
- 3.9.7 In the event that temporary, agency or interim staff are proposed to transfer employment to become permanent employees then it is likely that transfer, finders or similar fees will be charged by the agency. Approval must be obtained in advance from the relevant HR Business Partner prior to any transfer of employment and payment of relevant fees.

4.0 During a Tender

- 4.1 Pre-procurement engagement
 - 4.1.1 Where discussions are held with stakeholders and/or potential bidders prior to the issue of an advert or Contract Notice then these must be recorded.
 - 4.1.2 Advice should be sought from the relevant Procurement Business Partner prior to any discussions to ensure that any conflicts of interest are recorded, and mitigation measures put in place.
- 4.2 Communications with tenderers during procurement
 - 4.2.1 All communications with tenderers after the RFQ, SSQ or ITT has been issued must be conducted via the secure messaging service which forms part of the e-tendering system and only by a Procurement Officer if an ITT is being completed.
 - 4.2.2 Verbal communication should only be carried out by a Procurement Officer if an ITT is being completed.

4.3 Quotation and Tender opening and late submissions

- 4.3.1 All tenders in response to SSQs or ITTs will be submitted electronically through the Councils e-tendering system and cannot be opened until after the SSQ or ITT closing date.
- 4.3.2 For RFQs which have not used the Council's e-tendering system responses should be returned by email to the Procuring Officer.

- 4.3.3 All late quotations and tenders must be referred to the relevant Procurement Business Partner. They will only be accepted in exceptional circumstances if:
- 4.3.3.1 the other tenders have not been opened and;
 - 4.3.3.2 there has been a failure of the e-tendering system or if the failure to comply is the fault of the Council.
- 4.3.4 The final decision on whether a tender will be accepted is at the discretion of the Head of Procurement.
- 4.3.5 The date for receipt of tenders may only be extended in exceptional circumstances. This must be approved by the relevant Procurement Business Partner and the reasons documented.

5.0 Evaluation

- 5.1 Evaluation of SSQ responses, quotations and tenders must be in accordance with the criteria and scoring published with the RFQ, SSQ or ITT. In the event no criteria have been published then the evaluation will be on lowest price for below PCR threshold requirements, above PCRs threshold opportunities will be re-tendered.
- 5.2 No information about SSQ responses, quotations and tenders should be shared with competing organisations other than statutory information required in the standstill period debrief letter.
- 5.3 Questions from bidders must be submitted electronically, for RFQs by e-mail or through the e-tendering system where this has been used. Responses to questions must be shared with all bidders unless there is an overriding commercial or confidential reason. Advice should be sought from the relevant Procurement Business Partner if there is any uncertainty.
- 5.4 Clarifications of SSQ responses, quotations and tenders maybe requested from bidders and must be made in writing using the e-tendering system. Advice should be sought from the relevant Procurement Business Partner in advance.
- 5.5 Negotiations with tenderers are only permitted in limited instances with approval of the relevant Procurement Business Partner and in consultation with the Head of Procurement.
- 5.6 Once an SSQ, RFQ or ITT has been evaluated and the successful organisation selected only minor refinements that do not substantially change the tenderer's proposal, or the commercial position can be made. Advice should be sought from the relevant Procurement Business Partner and Legal Services in advance.
- 5.7 Evaluators must come to a consensus on scores awarded, scores must not be averaged.
- 5.8 Justification and reasons for the scores awarded must be recorded in writing and retained in accordance with Council's Records Management Policy and PCRs. This information is to be used for providing feedback to bidders.

6.0 Awarding a Contract

6.1 Approval to enter into a contract

6.1.1 Approval to award the contract must be granted prior to the award being carried out in accordance with the table in section 3.

6.2 Mandatory standstill period

6.2.1 For all contracts with a value above the PCRS threshold a mandatory 'standstill period' must be observed between notification of the contract award and conclusion of the contract in accordance with the PCRs.

6.2.2 No public announcements should be made prior to contract signature except for relevant requirements in PCRs.

6.3 Letters of Intent to enter a contract

6.3.1 Officers must not issue letters of intent, memorandums of understanding or similar communications without the prior approval of Legal Services.

6.4 Contract Conditions

6.4.1 Every contract shall be in writing and properly executed.

- Deeds and Land Registry can only be accepted with a common seal and should follow the requirements in 6.4.3 and should utilise non electronic means
- All contracts signed under hand identified in 6.4.3 can utilise an electronic signature

6.4.2 Contracts will be signed in accordance with the table in section 3. Contracts should only be signed after the correct approval to award has been granted.

6.4.3 Contracts must be signed or executed under seal by the Legal Services Authorised Officer where required by statute or required by an external funding body or an assessment of the risk necessitates it.

- Contracts relating to works contract should be signed under seal.
- Contracts for goods and services where the risk exceeds the 6-year limitation period should be signed under seal.
- Contracts for goods and services which are not impacted by the 6-year limitation for risk should be signed under hand.

6.4.4 A scanned copy of the signed contract must be sent to the relevant Procurement Business Partner for inclusion in the Contracts Register.

6.4.5 A signed paper hardcopy should be sent to Legal Services.

6.5 Contract Award Notice

6.5.1 Contract Award Notices must be placed in PCRS and Contracts Finder in accordance with the PCRs. The publication of notices will be undertaken by the relevant Procurement Business Partner.

6.6 Feedback to Bidders

6.6.1 Unsuccessful bidders should be informed of the outcome of a procurement process as soon as possible.

6.6.2 Where there are two or more stages in a procurement process, unsuccessful bidders should be provided with feedback on their submission at the point they are excluded from the process.

6.6.3 For RFQs where the only evaluation criterion is the lowest price the unsuccessful bidders should be advised of the total price of the winning bidder, unless this could disadvantage the winning bidder commercially. For example, if bidding for a fixed amount of one product.

6.6.4 For SSQs the unsuccessful bidders should be advised of the reasons they did not meet the standard to be shortlisted.

6.6.5 For ITTs where the evaluation criteria comprises quality, price and if applicable social value then unsuccessful bidders should be advised of their score against each criteria and weighted marks, the relative strengths and weaknesses of its proposal and total score and price of the winning bidder.

6.6.6 Information on the successful bidder's proposal including the method of undertaking the work or a breakdown of the price should not be provided to unsuccessful bidders. If there is any doubt advice should be sought from the relevant Procurement Business Partner.

7.0 Exclusion of Providers from contracts

7.1 If any of the following apply to a Provider, any person who has powers of representation, decision or control of the Provider, or an associated Provider, (e.g. within the same group, with same directors or owners etc.), then the Provider will be excluded from being awarded any Council contract or order:

- Have failed to comply with any other agreements with the Council, e.g. failure to meet grant conditions, defaulted on a contract or other legal agreements.
- Are subject to any of the Mandatory and Discretionary exclusions in Regulation 57 of the PCRs.
- Are subject to any of the Selection Criteria exclusions in Regulation 58 of the PCRs.

7.2 In the event that any of the above apply then the Provider should be requested to submit an explanation which details actions taken to rectify the situation. It is the Head of Procurement's decision, in consultation with the Director of Governance, to assess the Provider's explanation and whether to exclude the Provider.

8.0 Exemptions

- 8.1 The CPRs ensure that the Council complies with its legal requirements and is fair and transparent with respect to how public money is spent. Only in exceptional circumstances will approval be granted to do something different. Where this is needed an Exemption will be approved by the Head of Procurement and Director of Finance.
- 8.2 If the value of the Exemption is greater than the PCRS threshold for Services and Supplies, then approval must be sought from the Cabinet (Resources) Panel and relevant PCR procurement procedure identified
- 8.3 An Exemption is an approval that the CPRs cannot be followed for a reason that is out of the Council's control.
- 8.4 All Exemptions from these rules must be recorded using the Exemption Form and approved before entering into a contract with a supplier.
- 8.5 Circumstances where time is lost through inadequate forward planning or any unnecessary delays will not constitute a reason to issue an Exemption and Officers should make adequate preparation in advance of commencing the procurement exercise. Exemptions cannot be retrospective in nature.
- 8.6 An Exemption will only be approved if it is for one of the identified reasons on the exemption form.
- 8.6.1 An exemption, in the form of an extension of up to 12 months, can be granted where there has been delay in the preparations for the procurement process as a result of the Covid-19 pandemic subject to the compliance with the Public Contract Regulations 2015.
- 8.7 If an Exemption is not approved, then a change to what is being proposed will need to be undertaken to comply with the CPRs. If it is impossible to do this then a non-compliance will be recorded by Procurement, notified to the Audit team and an action plan to correct what is wrong will need to be put in place.
- 8.8 Where there are repeated requests for Exemptions or where non-compliances are occurring in a service team then the relevant Budget Manager and Procurement Business Partner will produce a plan to assess the situation and propose remedial action to be taken. This plan will be provided to the relevant Head of Service and Head of Procurement and will be discussed with the relevant Director of the service
- 8.9 These occurrences will also be reported to the Audit team for investigation.
- 8.10 A list of Exemptions that have been approved will be reported to Cabinet (Resources) Panel at the next available meeting.
- 8.11 Automatic exemptions will be applied to the following areas subject to compliance with the PCRS as determined by the Head of Procurement and Director of Governance and in consideration of finance procedure rules and value for money:

- Public contracts between entities within the public sector subject to meeting the tests within Regulation 12 of the PCR's
- The acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property
- Broadcasting time or programme provision via media service providers
- Arbitration or conciliation services
- Judicial proceedings before the courts
- Legal advice in preparation of any judicial proceedings
- Document certification and authentication services which must be provided by notaries
- Legal services provided by trustees or appointed guardians
- Financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments
- Loans, whether or not in connection with the issue, sale, purchase or transfer of securities or another financial instrument
- Employment contracts
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9.0 Contract Management, Variations and Extensions

- 9.1 Prior to the award of a contract an Officer who will be responsible for managing the contract must be identified, known as the Contract Manager.
- 9.2 Reporting and monitoring processes appropriate to the size and nature of the contract must be put in place to ensure that all obligations are fulfilled by the contracted parties.
- 9.3 Contracts may only be varied to implement minor changes either increasing or decreasing the service and for services of a similar nature, these will be subject to Regulation 72 of the PCR's
- 9.4 Contracts should only be extended if options for extensions were included in the original contract.
- 9.5 Contract variations and extensions must follow the same authorisation process as though they were new procurements i.e. less than £1,000,000 requires Director approval, over £1,000,000 requires approval from Cabinet (Resources) Panel. The same threshold applies to all contracts including works and where the "light touch" regime.
- 9.6 If the value of the original contract plus the sum of any extension or variation exceeds the thresholds within these CPRs with the result that a different procurement process should have been used, then an Exemption will need to be requested or potentially a new tender process will need to be conducted dependent on PCR's

9.7 For all contracts with a value of over £75,000, contract managers must consider maintaining a risk register during the contract period and undertake appropriate risk assessments for identified risks to ensure contingency measures are in place.

9.8 During the life of the contract, the contract manager must monitor in respect of:

- performance
- compliance with specification and contract
- cost
- user satisfaction and risk management.

10.0 Social Care Contracts

10.1 It is recognised that either because of service user choice or the nature of the market for specialist placements that for some types of social care contracts that competitive procurement processes cannot be undertaken.

10.2 Only contracts for the following have specific exclusions from these CPRs all other elements are covered by the LTR in ;

10.3 Residential Care

10.3.1 Residential Care placements are exempt from the full requirements of the CPRs. Sections 1,2,7,8 and 9 apply.

10.3.2 The Council will contract with Residential Care Providers using a standard contract. The contract will set out a breakdown of the price. Any deviations from this standard contract must be approved in advance by the relevant Director who will consult with the relevant Head of Service.

10.3.3 If a weekly fee for a placement is higher than in the table below then approval must be gained from the relevant Director who will consult with the relevant Head of Service prior to agreeing the placement with the Provider;

Primary Care Need	Fee per week
Looked after Children	£3,000
Physical disability, learning disability or mental health (children and adults)	£2,000
Older people	Current Council standard rate for the relevant category

10.3.4 For out of area placements for older people the fee per week must be either the current Council standard rate or the standard rate for the relevant local authority area. Out of area placements with a fee per week above this then approval must be gained from the relevant Director who will consult with the relevant Head of Service prior to agreeing the placement with the Provider.

10.3.5 Where there is an emergency need and approval cannot practically be requested in advance then this should be notified to the relevant Director and relevant Head of Service as soon as possible and in all cases within 72 hours of the placement commencing.

10.3.6 In the event of the above in 10.3.2 to 10.3.5 occurring then the relevant Procurement Business Partner should be advised as soon as practical.

10.4 Social Care Frameworks

10.4.1 In addition to the requirements of 3.5.3 where a framework relating to Social Care is used, e.g. foster care placements, Form F Assessments and children's residential care, then the following will apply;

- Where placements are made outside of the Framework Agreements approval must be gained from the relevant Director who will consult with the relevant Head of Service prior to agreeing the placement with the Provider.
- Prior to making a placement a breakdown of the price must be obtained from the Provider and value for money demonstrated. Advice should be sought from the relevant Procurement Business Partner where the costs are more than the typical expected costs.

10.5 Educational Placements

10.5.1 Where the Council is required to pay for Education Placements these are generally required to be paid in advance and are not subject to competitive tendering.

10.5.2 Prior to making a placement a breakdown of the price must be obtained from the Provider and value for money demonstrated. Advice should be sought from the relevant Procurement Business Partner where the costs are significantly more than the typical expected costs.

11.0 Finance Leases excluding Land and Property

11.1 Where a contract requires the Council to enter into a finance or lease agreement then advice should be sought from the relevant Finance Business Partner in advance.

11.2 In addition to the approvals required as set out in the table in 3.2, finance and lease agreements must be approved by the Director of Finance prior to signing.

12.0 Loans, advance payments and similar arrangements

12.1 As stated in the Financial Procedure Rules no Officer, including Interim and temporary staff, or Councillor shall, or commit to, enter into any loan, advance payment or similar arrangements without approval of the Director of Finance acting as the Section 151 Officer.

13.0 Disposal of Assets excluding Land and Property

13.1 The disposal of assets excluding land and property must comply with the following;

Value of Assets	Process	Approval
Less than £10,000	Minimum of three written quotes	Relevant Director
More than £10,000	Open competition using the Council's e-tendering system or Third party auction	Director of Finance

13.2 The value of the assets should be calculated on the value per disposal requirement, irrespective of how the items are disposed e.g. a group of similar items with a total value of £20,000 will require approval by the Director of Finance although the disposal maybe of individual items with values each of less than £10,000.

13.3 Advice should be taken from the relevant Procurement Business Partner if it is determined that a third-party auction is a suitable route for disposal.

13.4 The highest value unconditional bid received should be accepted unless, in the view of the relevant Budget Manager and the relevant Procurement Business Partner, a conditional bid offers better value to the Council.

13.5 The chosen process must be approved in advance by the relevant Director, or Director of Finance.

14.0 Concessions and Revenue Earning Contracts

14.1 Prior to the Council awarding a concession or entering into a revenue earning contract, whether in its own right or with a commercial partner, approval of the commercial arrangements and contract terms and conditions must be obtained from the Director of Finance and from Director of Governance.

14.2 Where the concession or revenue has a value greater than the PCRS threshold for Services and Supplies or has a significant risk profile (as assessed by the Director of Finance and Director of Governance) then approval is required from Cabinet (Resources) Panel prior to entering into the agreement.

14.3 Where the Council is a bidder and submitting a proposal or tender in response to a contract opportunity then approval must be obtained from the relevant Director and the Director of Finance.

14.4 Where the contract has a value greater than the PCRS threshold for Services and Supplies or has a significant risk profile (as assessed by the Director of Finance and Director of Governance) then approval is required from Cabinet (Resources) Panel prior to submitting the proposal or tender.

14.5 Advice from Legal Services must be sought prior to commencing any work on compiling a proposal or tender to determine if the Council has the power to enter into the contract.

15.0 Land and Property Transactions

15.1 General Procedure for Land and Property Transactions

15.1.1 Before land or property or an interest in land or property is offered for sale or lease the advice of Corporate Landlord will be sought and the Director of Regeneration/ Director of City Housing and Assets or a nominee ("the Director") shall ensure that due regard is had to the Council's guidance for the disposal of Council land and property. The Director shall ensure a suitably RICS qualified valuer's estimate of the likely price or rent has been obtained. The Council will normally expect that best consideration is obtained in accordance with the relevant legislation.

15.1.2 The advice of Corporate Landlord must be sought for all land and property transactions and/or proposals. The Director shall ensure due regard is given to this advice. The expectation is the advice should normally be followed unless there are specific circumstances that justify any variation in which case this will require the approval of Cabinet or Cabinet (Resources) Panel.

15.2 Property Related Matters

15.2.1 Where a contract or proposal is likely to have any property implications for the Council, such as the leasing, acquisition or use of premises (whether Council owned or otherwise), the advice of Corporate Landlord must be sought and followed.

15.3 Scheme of Delegations for Property Transactions

15.3.1 The following scheme of delegation for all land and property transactions must be followed:

Delegation to the Director: -

- Disposal of land by leases/lettings up to 7 years and annual rent up to £50,000.
- Agreement of rent reviews up to a rent of £100,000 pa.
- The grant or taking of annual Wayleaves.
- The grant or taking of Licences to Occupy, Tenancies at Will, Licences to Assign, Alter and Underlet.
- Tenancy Agreements and associated Deeds related to the letting of residential properties managed by Wolverhampton Homes

15.3.2 Delegated decisions through an Individual Executive Decision Notice to the nominated Cabinet Member for City Assets in consultation with the Director. Details of all transactions must be reported to the Corporate Landlord Board at the next available opportunity.

- The granting or taking of an Exclusivity Agreement
- Disposal of property by licence/lease of more than 7 years and up to 25 years and at an annual rent up to £100,000.
- Acquisition of property by licence/lease up to 25 years and annual rent up to £100,000, subject to agreed service requirement and provision in the budget.
- Minor disposals by freehold sale or long lease at a premium, easement, dedication, release of covenants or other legal interest up to a value of £250,000.
- Disposal by freehold sale, long lease, easement, dedication, release of covenants or other legal interest for a capital sum at a value not exceeding £2,000,000 where principle of disposal has been previously agreed by Cabinet (Resources) Panel.
- Sales of freehold reversion under Leasehold Reform Act 1967.
- Acquisition or appropriation of property in accordance with agreed policy and subject to provision in budget.
- Surrender of leases for Estate Management needs or where financial difficulty is demonstrated.
- Variations to lease covenants/clauses, settling of rent above £100,000 pa under rent reviews, licence/lease renewals in excess of 7 years and variations to existing agreements where financial difficulty is demonstrated.
- Service of notices required to be served on lessees of the City Council terminating or altering the terms of a residential tenancy.
- Agreement of compensation and other collateral agreements following the Compulsory Purchase of land.
- Shared ownership leases

15.3.3 Cabinet (Resources) Panel Decisions

- All other property acquisitions and disposals.

15.3.4 Details of all transactions must be recorded and filed appropriately.

16.0 Light Touch Regime

- 16.1 The light-touch regime (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, defined by Common

Procurement Vocabulary (CPV) codes. The list of services to which the Light-Touch Regime applies is set out in Schedule 3 of the PCRs and a consolidated list can be seen below:

- Domestic help
- Supply services of nursing personnel
- Agency staff, Manpower, Home help services for households
- Education and training services
- Event services
- Festival organisation services
- Catering services for private households
- Canteen management services
- School-meal services
- Postal services

16.2 Services highlighted above still require the specific CPV codes in Schedule 3 to be listed otherwise they will be classified as a standard goods or services contract and will comply with regulations, accordingly, including the lower threshold. For a mixed contract including LTR and non-LTR services, the classification of the overall contract is determined by whichever constituent part is greater by value.

16.3 Below the LTR threshold, contracts do not normally need to be advertised in the UK e-notification service. The PCRs recognise that only services above the threshold identified in the biannual Procurement Policy Note covered by the LTR would normally be likely to be of cross border interest. Following from this, services below this threshold do not need to be advertised via the UK e-notification service, unless there are concrete indications of cross-border interest.

16.4 Mandatory Requirements

16.4.1 A small number of procedural rules for above these thresholds. The Council has to follow the light-touch set of procurement rules for LTR contracts above the relevant threshold.

The main mandatory requirements are:

- UK e-notification service advertising: The publication of a contract notice (CN) or prior information notice (PIN). Except where the grounds for using the negotiated procedure without a call for competition could have been used, for example where there is only one provider capable of supplying the services required.
- The publication of a contract award notice (CAN) following each individual procurement, or if preferred, group such notices on a quarterly basis.

- Compliance with PCRs principles of transparency and equal treatment.
- Conduct the procurement in conformance with the information provided in the contract notice or pin regarding: any conditions for participation; time limits for contacting/responding to the authority; and the award procedure to be applied.
- Time limits imposed by authorities on suppliers, such as for responding to adverts and tenders, must be reasonable and proportionate. There are no stipulated minimum time periods in the LTR rules, so the Council needs to use its discretion and judgement on a case by case basis.

16.5 Significant Flexibilities

- 16.5.1 The Council has the flexibility to use any process or procedure they choose to run the procurement, as long as it respects the other obligations above. There is no requirement to use the standard EU procurement procedures (open, restricted and so on) that are available for other (non-LTR) contracts. Authorities can use those procedures if helpful, or tailor those procedures according to their own needs, or design their own procedures altogether.
- 16.5.2 The LTR rules are flexible on the types of award criteria that may be used, but make clear that certain considerations can be taken into account, including (this is not an exhaustive list):
- the need to ensure quality, continuity, accessibility, affordability availability and comprehensiveness of the services;
 - the specific needs of different categories of users¹ , including disadvantaged and vulnerable groups;
 - the involvement and empowerment of users; and
 - innovation
- 16.5.3 Reserved contracts for certain services in the light-touch regime. The rules permit for certain LTR contracts to be “reserved” for organisations meeting certain criteria e.g. public service mutuals and social enterprises.

17.0 Grants

- 17.1 An exemption form will need to be completed for grants where one of the following conditions are met:
- Where the procurement activity is grant funded and the supplier is named by the grantor as a condition of that funding.
 - Where the Council is providing a grant to another organisation.

- 17.2 If conditions in 17.1 are not met when applying for grant funding then a compliant procurement process will need to be adhered to as identified in section 3 of these CPRs.

18.0 Glossary of Terms

Concession	Contracts where the consideration consists either solely in the right to exploit the work or service, or in this right to exploit together with payment.
Contract	An agreement between two or more parties relating to supplies, services, utilities or the execution of works for payment or otherwise by an agreement intended to bind those parties.
Contract Manager	A Contract Manager is a budget holder responsible for ownership of specific contracts within the Council. They are responsible for managing risk and managing relationships within those contracts.
Contract Notice	An advert giving details of the contract being procured. The issue of the Contract Notice starts the SSQ, RFQ or ITT process.
Contracts Register	A database of all Council Contracts maintained by Procurement.
e-tendering system	The computer system used by the Council to undertake procurement activities
Framework Agreement	An agreement or other arrangement which establishes the terms under which the Provider will enter into one or more Contracts with the city council or other Public body during the period in which the Framework Agreement applies.
PCRS threshold	The UK Threshold pertaining to the values of Supplies, Services or Works which is published by a Procurement Policy Note and updated biannually in January.
Procuring Officer	The service team Officer who is responsible for the procurement process. This also includes third parties who are procuring on behalf of the Council.
Procurement Officer	The member of the Procurement Team who has been assigned to the procurement exercise.
Provider	An organisation that supplies goods to, provides services to or undertakes works for the Council.
Revenue earning contract	A Contract where either part of the consideration is a share for the Council of any income generated by the Provider or where the Council is acting as a Provider to another party.