



Meeting of the City Council

16 December 2015

Report title	Changes to the Constitution	
Referring body	Special Advisory Group, 7 December 2015	
Councillor to present report	Councillor Andrew Johnson	
Wards affected	All	
Cabinet Member with lead responsibility	Councillor Andrew Johnson Resources	
Accountable director	Kevin O'Keefe, Governance	
Originating service	Democratic Support	
Accountable employee(s)	Dereck Francis Tel Email	Democratic Support Officer 01902 555835 dereck.francis@wolverhampton.gov.uk
Report to be/has been considered by	Special Advisory Group Full Council	7 December 2015 16 December 2015

Recommendation(s) for action or decision:

The Council is recommended to:

1. Approve the Contract Procedure Rules attached at Appendix 1 for inclusion in the Council's Constitution.
2. Approve the renaming of the Audit Committee to the Audit and Risk Committee.

1.0 Purpose

- 1.1 To consider recommendations from the Special Advisory Group on changes to the Contract Procedure Rules and on renaming the Audit Committee to Audit and Risk Committee.

2.0 Background

- 2.1 On 7 December the Special Advisory Group considered the following two reports:

- Contract Procedure Rules
- Audit and Risk Committee

- 2.2 Copies of the reports have been deposited in the Councillors' Rooms and can also be accessed online on the Council's website. [Click here to access the reports.](#)

Councillors are asked to refer to the reports when considering the recommendations of the Special Advisory Group.

- 2.3 The Special Advisory Group made a number of drafting amendments to the Contract Procedure rules. The amended version is attached at Appendix 1.

- 2.4 The Advisory Group recommended to Full Council that it:

1. Approve the Contract Procedure Rules as amended, for inclusion in the Council's Constitution.
2. Approve the renaming of the Audit Committee to the Audit and Risk Committee.

3.0 Financial, legal, equalities, environmental, human resources and corporate landlord implications

- 3.1 The implications are discussed in the body of the Special Advisory Group reports.

4.0 Schedule of background papers

Special Advisory Group reports – 7 December 2015:

- Contract Procedure Rules
- Audit and Risk Committee

Appendix 1 - Proposed Contract Procedure Rules - December 2015

1 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 OJEU threshold for Services and Supplies which is £172,514 upto 31 December 2015. From 1 January 2016 until 31 December 2018 this will be £164,176.
- 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 or Contract Standing Orders will apply.
- 1.8 These CPRs should be read in conjunction with the Councils Financial Procedures and other advice, guidance and policies issued by the Head of Procurement.
- 1.9 The CPRs do not supersede the provisions of EU Directives and UK legislation governing procurement especially the Public Contract Regulations 2015 and subsequent updates and the duty to obtain best value under the Local Government Act 1999 (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 General

- 2.1 Every Officer or Councillor involved in any decision in respect of any Provider or contract in which they or any immediate member of their family has a Pecuniary Interest shall immediately notify the Head of Procurement who shall make a record in the register kept for the purpose under s.117 Local Government Act 1972.
- 2.2 Adequate records, including electronic copies of contracts, shall be kept of each procurement process for a minimum period in accordance with the Council's Records Management Policy and Public Contracts Regulations.

Appendix 1 - Proposed Contract Procedure Rules - December 2015

- 2.3 The procurement of certain items, eg legal representation, services in connection with the sale of securities and financial instruments, are not subject to the requirements of Public Contracts Regulations. These procurement processes will follow the ethos of these rules and an Exemption will be required to document the reasons for any deviances from the CPRs.

3 Procurement Processes

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

Appendix 1 - Proposed Contract Procedure Rules - December 2015

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
Upto £10,000	Request for Quotation (RFQ) Obtain at least one written Quotation. Managed by Service team. Advice available from Procurement.	If more than one quote is sought then contact Procurement to advertise on; Council's e-tendering system 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 ie; 1) Budget Manager as the Scheme of Delegation 2) Procurement 3) Technical (if necessary)	Not required. Purchase Order via Agresso.

Appendix 1 - Proposed Contract Procedure Rules - December 2015

Anticipated Value of a contract (Excluding VAT)	Procurement Route	Advertising	Evaluation	Approval	Authority to Sign Contract
£10,000 to £49,999	<p>Request for Quotation (RFQ)</p> <p>Obtain at least three written quotations using the Council's e-tendering system.</p> <p>Managed by Service team.</p> <p>Advice available from Procurement.</p>	<p>Upto April 2016 or the introduction of an electronic RFQ system, quotes may be received by email.</p> <p>After April 2016 the Council's RFQ or e-tendering system.</p> <p>or</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 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 ie;</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>

Appendix 1 - Proposed Contract Procedure Rules - December 2015

Anticipated Value of a contract (Excluding VAT)	Procurement Route	Advertising	Evaluation	Approval	Authority to Sign Contract
<p>£50,000 to OJEU threshold for Services and Supplies (£172,514 upto 31 December 2015.</p> <p>From 1 January 2016 until 31 December 2018 this will be £164,176)</p> <p>Threshold applies to all contracts including Works and Social or Other services (as defined in Public Contracts Regulations)</p>	<p>Invitation to Tender (ITT) 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. then If a new Provider complete a Supplier Creation Form (on intranet) and submit to the Hub. then Request a Contracted Product Code from Procurement. then Approval in accordance with Agresso workflow ie;</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 and If the contract value is less than £100,000 and the Council's Standard Contract is used then an Officer in accordance with Scheme of Delegation. or If the contract value is more than £100,000 or If a bespoke contract then Legal Services Authorised Signatory</p>

Appendix 1 - Proposed Contract Procedure Rules - December 2015

Anticipated Value of a contract (Excluding VAT)	Procurement Route	Advertising	Evaluation	Approval	Authority to Sign Contract
<p>Over OJEU threshold for services and supplies (£172,514 upto 31 December 2015. From 1 January 2016 until 31 December 2018 this will be £164,176)</p>	<p>Advice must be sought from Procurement before commencing and a "Starting a Procurement" form completed.</p> <p>Approval to commence the procurement exercise should be sought from Cabinet (Resources) Panel including Delegated Authority 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 or by exception an alternative procedure as stated in the Public Contracts Regulations with a justification approved by the Head of Procurement.</p> <p>Managed by Procurement.</p>	<p>Council's e-tendering system Twitter @BuyWolves Contracts Finder Website and If over the relevant OJEU threshold then Official Journal of European Union (OJEU)</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. or A Contract Award form is completed for inclusion in the Procurement Report for Cabinet (Resources) Panel. then If a new Provider complete a Supplier Creation Form (on intranet) and submit to the Hub. then Request a Contracted Product Code from Procurement. then Approval in accordance with Agresso workflow ie; 1) Budget Manager (as the Scheme of Delegation) 2) Technical Approver (if applicable)</p>	<p>Purchase Order via Agresso and Legal Services Authorised Signatory</p>

Appendix 1 - Proposed Contract Procedure Rules - December 2015

3.3 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/uploads/system/uploads/attachment_data/file/450170/PPN12-15_Procurement_Routes.docx

3.4 For any procedure other than Open then approval must be obtained from the Head of Procurement prior to commencement of the procurement.



3.5 Approval to Commence a Procurement

- 3.5.1 Where the Council has an existing contract that is suitable to source the services, supplies or works required this should be used. Approval for not using an existing contract must be sought in advance from the Head of Procurement and the technical or economic reasoning for not using the contract should be recorded.
- 3.5.2 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.
- 3.5.3 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.
- 3.5.4 If the value of a contract is forecast to be greater than £50,000 then Procurement must be contacted at the earliest stage possible. A 'Starting a Procurement' form must be completed prior to the commencement of a procurement process.
- 3.5.5 If the value of any contract (including for works or social services etc) is forecast to be greater than the OJEU threshold for Services and Supplies then approval to commence the procurement must be sought from the Cabinet (Resources) Panel. Delegated authority to award the contract when the process is complete should also be requested at the same time. A standard template is available from Procurement.
- 3.5.6 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.
- 3.5.7 A Conflict of Interest declaration must be signed by all parties, including Officers, involved in the procurement process and submitted to the Head of Procurement prior to a procurement commencing.
- 3.5.8 In the event of a conflict of interest the Head of Procurement shall determine the action to be taken.

3.6 Publishing Contract Notices

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

3.7 Pre-Qualification Questionnaires(PQQ)

- 3.7.1 PQQ's must not be used for any procurement (including for works and social services etc.) with a value less than the OJEU Services and Supplies threshold.

- 3.7.2 For procurements above the OJEU threshold for Services and Supplies then PQQ's can be used with the approval of the Head of Procurement.
- 3.7.3 PQQ's must follow the mandated PQQ issued by the Crown Commercial Service and the Councils e-tendering system must be used.
- 3.8 Contents of a Request for a Quotation (RFQ) or an Invitation to Tender (ITT)
- 3.8.1 A Request for a Quotation (RFQ) is used for procurements with a value less than £50,000. The evaluation criteria is the lowest price or by exception most economically advantageous tender based on criteria published with the RFQ.
- 3.8.2 An Invitation to Tender is used for procurements with a value greater than £50,000 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.
- 3.8.3 The following information must be included within a RFQ or an ITT:
- 3.8.4 Specification.
- A specification must;
 - 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.
 - 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.
 - 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.
 - 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.
 - consider the Council's policies including information governance, business continuity, equality and diversity, and safeguarding.
- 3.8.5 Price
- How price will be evaluated should be clearly set out.
 - Where appropriate the whole life cycle cost, including cost of operation, maintenance and end of life, should be considered.
- 3.8.6 Evaluation Criteria
- All evaluation criteria and sub criteria, any financial models and a clear scoring matrix must be included and full details disclosed to potential bidders.
 - These criteria cannot be deviated from once it has been published.
- 3.8.7 Conditions of Contract

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

3.8.8 Durations

- A 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.
- An ITT should be advertised for a period of time appropriate to the complexity of the procurement, as minimum this should be 2 weeks.
- Where the contract value is above the OJEU Thresholds then the appropriate minimum time periods in accordance with the Public Contracts Regulations must be followed.

3.8.9 If a reduced timescale is required due to genuine urgent need then this must be recorded and approved by the Head of Procurement prior to the procurement commencing.

3.9 Contract value and duration

- 3.9.1 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.
- 3.9.2 The value of the contract must not be split to avoid the application of the CPRs and Public Contracts Regulations.
- 3.9.3 Contracts and Framework Agreements must not exceed a four year duration unless a demonstrable economic benefit can be established, recorded and approved by the Head of Procurement prior to the procurement commencing.

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

- 3.10.1 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.
 - 3.10.2 Advice from Legal Services must be sought at the earliest point that the Procuring Officer becomes aware that a staff transfer may form part of the procurement.
 - 3.10.3 Where a transfer of staff will occur Pensions liabilities and arrangements need to be considered and specialist advice sought from Procurement and Strategic Finance.
- 3.11 Appointment of Temporary, Agency and Interim Staff
- 3.11.1 Advice must be sought from the relevant HR Officer prior to commencing the appointment of any temporary, agency and interim staff.
 - 3.11.2 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.
 - 3.11.3 The appointment of temporary, agency and interim staff with an equivalent day rate of £350 or more must be approved by the Head of HR and the Cabinet Member for Governance prior to commencing the appointment and there is no requirement to report to the Cabinet (Resources) Panel.
 - 3.11.4 A copy of the completed and approved business case must be uploaded as an attachment to the Agresso requisition.

4 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 should be recorded.
- 4.1.2 Advice should be sought from Procurement 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, PQQ or ITT has been issued must be conducted via the secure messaging service which forms part of the e-tendering system.
- 4.2.2 Until April 2016 or the introduction of an electronic RFQ system, communication with tenderers in relation to RFQs may be conducted using email.
- 4.2.3 Verbal communication should not be carried out except to provide instruction on using the e-tendering system or in exceptional circumstances in the presence of a Procurement Officer who will make a record of the conversation.

4.3 Quotation and Tender opening and late submissions

- 4.3.1 Until April 2016 or the introduction of an electronic RFQ system, all quotations in response to RFQs can be returned to the Procuring Officer by e-mail. Following the introduction of an electronic RFQ system then all quotations must be submitted using that system.
- 4.3.2 All tenders in response to PQQs or ITTs will be submitted electronically through the Councils e-tendering system and cannot be opened until after the PQQ or ITT closing date.
- 4.3.3 All late quotations and tenders must be referred to the Head of Procurement. They will only be accepted in exceptional circumstances if:
- the other tenders have not been opened and;
 - 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 Head of Procurement and the reasons documented.

5 Evaluation

- 5.1 Evaluation of PQQ responses, quotations and tenders must be in accordance with the criteria and scoring published with the RFQ, PQQ or ITT. In the event no criteria have been published then the evaluation will be on lowest price.
- 5.2 No information about PQQ responses, quotations and tenders should be shared with competing organisations.
- 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 Procurement if there is any uncertainty.
- 5.4 Clarifications of PQQ responses, quotations and tenders maybe requested from bidders and must be made in writing using the e-tendering system. Advice should be sought from Procurement in advance.
- 5.5 Negotiations with tenderers are only permitted in limited instances with approval of the Head of Procurement.
- 5.6 Once a PQQ, 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 Procurement 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 Public Contracts Regulations. This information is to be used for providing feedback to bidders.

6 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 OJEU threshold a mandatory 'standstill period' must be observed between notification of the contract award and conclusion of the contract in accordance with the Public Contracts Regulations.

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.

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.

6.4.4 A scanned copy of the signed contract must be sent to the Head of Procurement 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 OJEU and Contracts Finder in accordance with the Public Contracts Regulations. The publication of notices will be undertaken by Procurement.

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 criteria is the lowest price the unsuccessful bidders should be advised of the total price of the winning bidder.

6.6.4 For PQQs the unsuccessful bidders should be advised of their score against each criteria and weighted marks and 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 Head of Procurement.

7 Exemptions

- 7.1 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 Chief Accountant.
- 7.2 If the value of the Exemption is greater than the OJEU threshold for Services and Supplies then approval must be sought from the Cabinet (Resources) Panel.
- 7.3 An Exemption is an approval that the CPRs cannot be followed for a reason that is out of the Council's control.
- 7.4 All Exemptions from these rules must be recorded using the Exemption Form and approved before entering into a contract with a supplier.
- 7.5 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.
- 7.6 An Exemption will only be approved if it is for one of the following reasons;
 - 7.6.1 Where an existing contract that is suitable for the services, supplies or works required is not used. A business case to justify not using the existing contract for either technical or economic reasons must be demonstrated. This should be attached to the Exemption.
 - 7.6.2 Where there is only one supplier within the market. Evidence that this is the case and what investigation has been done to try and find other suppliers must be demonstrated. This should be attached to the Exemption.
 - 7.6.3 Where the procurement activity is grant funded and the supplier is named as a condition of that funding. A copy of the grant agreement or other evidence should be attached to the Exemption.
 - 7.6.4 Where the Council is buying goods on behalf of another organisation. The procurement will need to be undertaken in accordance with that organisations CPRs or equivalent. A copy of the agreement to undertake this activity should be attached to the Exemption.
 - 7.6.5 Where the Council is matching grant funding and the original grant has been given conditionally on the use of a named supplier, group of suppliers or particular framework. A copy of the grant agreement or other evidence should be attached to the Exemption.

- 7.6.6 Where the Council has required an applicant for a grant to provide a detailed breakdown of their costs and in order to do so they have identified a supplier. A copy of the grant agreement or other evidence should be attached to the Exemption.
- 7.6.7 Where services need to be procured as a matter of extreme urgency - e.g. in response to an emergency situation - and there is insufficient time to advertise etc.
- 7.6.8 Where software is being procured that must be compatible with an existing ICT system and the cost of change is uneconomic. A business case justifying this should be attached to the Exemption.
- 7.6.9 Contracts offered by the Chief Legal Officer (or designee) for the appointment of counsel.
- 7.7 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.
- 7.8 A list of Exemptions that have been approved will be reported to Cabinet (Resources) Panel every quarter.

8 Contract Management, Variations and Extensions

- 8.1 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.
- 8.2 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.
- 8.3 Contracts may only be varied to implement minor changes either increasing or decreasing the service and for services of a similar nature.
- 8.4 Contracts should only be extended if options for extensions were included in the original contract.
- 8.5 Contract variations and extensions must follow the same authorisation process as though they were new procurements i.e. less than the OJEU threshold for Services and Supplies requires approval in accordance with the Scheme of Delegation, over the OJEU threshold for Services and Supplies requires approval from Cabinet (Resources) Panel. The services and supplies threshold applies to all contracts including works and where the "light touch" regime applies.
- 8.6 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.

9 Social Care Contracts

- 9.1 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.

9.2 Only contracts for the following have specific exclusions from these CPRs;

9.3 Residential Care

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

9.3.2 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 Procurement Category Manager: People and the relevant Commissioning Manager.

9.3.3 If a weekly fee for a placement is higher than in the table below then approval must be gained from the Procurement Category Manager: People and the relevant Commissioning Manager 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

9.3.4 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 Procurement Category Manager: People and the relevant Commissioning Manager prior to agreeing the placement with the Provider.

9.3.5 Where there is an emergency need and approval cannot practically be requested in advance then this should be notified to the Procurement Category Manager: People and the relevant Commissioning Manager soon as possible and in all cases within 72 hours of the placement commencing.

9.4 Social Care Frameworks

9.4.1 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 Procurement Category Manager: People and the relevant Commissioning Manager 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 Procurement Category Manager: People where the costs are more than the typical expected costs.

9.5 Educational Placements

9.5.1 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.

9.5.2 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 Procurement Category Manager: People where the costs are significantly more than the typical expected costs.

10 Finance Leases excluding Land and Property

10.1 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.

10.2 In addition to the approvals required as set out in the table in 3.2, finance and lease agreements must be approved by the Chief Accountant prior to signing.

11 Disposal of Assets excluding Land and Property

11.1 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	Strategic Director or Director
More than £10,000	Open competition using the Council's e-tendering system or Third party auction	Director of Finance

11.2 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.

11.3 Advice should be taken from the Head of Procurement if it is determined that a third party auction is a suitable route for disposal.

- 11.4 The highest value unconditional bid received should be accepted unless, in the view of the relevant Budget Manager and Procurement Category Manager, a conditional bid offers better value to the Council.
- 11.5 The chosen process must be approved in advance by the Strategic Director, Director or Director of Finance as appropriate.

12 Concessions and Revenue Earning Contracts

- 12.1 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 Legal Services.
- 12.2 Where the concession or revenue has a value greater than the OJEU threshold for Services and Supplies or has a significant risk profile (as assessed by the Director of Finance and Legal Services) then approval is required from Cabinet (Resources) Panel prior to entering into the agreement.
- 12.3 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 Strategic Director and the Director of Finance.
- 12.4 Where the contract has a value greater than the OJEU threshold for Services and Supplies or has a significant risk profile (as assessed by the Director of Finance and Legal Services) then approval is required from Cabinet (Resources) Panel prior to submitting the proposal or tender.
- 12.5 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.

13 Land and Property Transactions

- 13.1 General Procedure for Land and Property Transactions
 - 13.1.1 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 Strategic Director Place/The Service Director City 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.
 - 13.1.2 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.

Property Related Matters

13.1.3 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.

13.2 Scheme of Delegations for Property Transactions

13.2.1 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

13.2.2 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 £50,000.
- 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.

13.2.3 Cabinet (Resources) Panel Decisions

- All other property acquisitions and disposals.

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

14 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 Notice	An advert giving details of the contract being procured. The issue of the Contract Notice starts the PQQ, 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.
OJEU	Official Journal of the European Union.
OJEU threshold	The European Union Threshold pertaining to the values of Supplies, Services or Works which is published by the EU Commission and updated bi-annually in January.
OJEU threshold for Services and Supplies	£172,514 upto 31 December 2015. From 1 January 2016 until 31 December 2018 this will be £164,176
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 Category Manager	Manager in the Procurement Team with line management responsible for the Procurement Officers.
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.
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