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Essex Procurement Partnership

The Procurement Procedure Rules

April 2026

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Issue Control		
Version	**Date**	**Description**
1	August 2025	First draft in line with council and EPP versions
2	December 2025	LH TDC review
3	February 2026	Response to comments with additional drafting
4	March 2026	Clean version with flow chart
5	April 2026	Updated waiver/exemption detail following comments from Karen Hayes (TDC)
6	April 2026	LH TDC review for Cabinet Report
7	April 2026	Amendments approved through EPP ready for Reports and Governance

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Introduction and Purpose of this Document

Following adoption of the Procurement Strategy, these Procurement Procedure Rules have been created for the members of the Essex Procurement Partnership (‘EPP’). This is a collaboration of a number of Councils who have one collective approach to undertaking procurements on their behalf.

The Councils remain the Contracting Authority in all cases and the decision makers with regards to procurement activity and contract management.

The Procurement Procedure Rules apply to each member of the Partnership, following approval and adoption by the Councils, with the exception of Essex County Council whose Procurement Policy closely mirrors these Procurement Procedure Rules.

These Rules apply to the procurement activity and do not contain all the Council’s Policies and Procedures, which are set out elsewhere in the Constitution. Anyone referring to this document should ensure that they understand the totality of the corporate governance framework when commencing procurement and committing the Council. Procurement can only take place where budgetary provision is available to fund the goods, works or services required.

The Rules apply to the procurement of ALL goods, works or services. The approved electronic ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

This document sets out the dos and don’ts when spending the Council’s money on third party goods, services and works.

Part 1 of this document details the rules applicable to all Council Officers and Members when conducting procurement activity, Part 2 is specifically for the EPP.

The Procurement Procedure Rules ***(The Rules)*** form part of the Council’s Constitution so apply to **all** Council Officers who should familiarise themselves with the content of this document prior to commencing any procurement-based activity.

The EPP has a suite of process documents known as the **“Procedures”** which supports delivery of these Procurement Procedure Rules, the Council’s Procurement Strategy and Social Value Policy.

These Rules reflect the National Procurement Policy Statement (NPPS) which sets out the UK Government’s strategic priorities for public procurement and explains how contracting authorities must support their delivery. The NPPS is a statutory requirement under section 13 of the Procurement Act 2023, the latest version came into effect on 24 February 2025.

These Rules mirror the NPPS in focus on the following key strategic priorities:

- Delivering Value for Money
- Driving Economic Growth (includes strengthening supply chains by giving SMEs and VCSEs a fair chance)

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- Enhancing Social Value (includes working in partnership across organisational boundaries)
- Supporting Net Zero and Environmental Goals
- Improving Supplier Access and Market Diversity
- Commercial Capability and Innovation (includes standards are in place for to procure and mange contracts effectively and to collaborate with other authorities to deliver best value)

Contracting Authorities (the Council) must consider the NPPS in all procurement decisions and document how NPPS objectives influence their choices, and align processes with growth, social value, and capability goals.

One of the main objectives of the Rules is to ensure that the Council's tenders are carried out in accordance with legislation which, for the purpose of this document is defined as including the:

- Public Contract Regulations 2015
- the Procurement Act 2023 supported by the Procurement Regulations 2024
- Public Services (Social Value) Act 2012; and
- the Health Care Services (Provider Selection Regime) Regulations 2023.

In particular, applying the principles of value for money, public benefit, transparency, integrity, fair treatment, consideration of SME, equal treatment and non - discrimination.

These principles apply to both procurements above the UK public procurement thresholds and those below. The legislation and NPPS requirements will be kept under review and these Rules may be amended under the Monitoring Officer's delegated authority as set out in Article 15 of the Council's Constitution, following consultation with the Section 151 Officer and relevant Portfolio Holder(s) responsible for the corporate procurement function and governance responsibilities.

The Rules are designed to provide a framework of best practice for all procurement activities which support the Council in achieving value for money and delivering the Council's corporate objectives. This document will clarify who should conduct the activity and the appropriate methodology to be used.

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PART 1 - Who is this document for?

A. The Role of elected Members

The role of elected Members is based on their four-fold responsibility for policy shaping, decision-making, governance and scrutiny. Their responsibilities are to be administered in a manner consistent with the Constitution of the Council. The primary responsibilities in relation to procurement are to:

(i) Set the strategic direction of the Council's Procurement Strategy.

(ii) Align procurement activity with the Council's Budget and Corporate Vision/Plan, priorities and objectives.

(iii) Members are decision makers for the activity being authorised.

(iv) Make decisions on awarding contracts in accordance with these Rules following the procurement process and evaluation conducted by Officers.

(v) Monitor and review the corporate performance of the procurement function via the Cabinet Member/Portfolio Holder for Procurement.

(vi) Individual Portfolio Holder responsibility for Service Areas.

(vii) Scrutinise contract management and co-operate with any scrutiny relating to procurement which relates to a particular portfolio of a Cabinet Member.

(viii) Audit Committee – Overseeing the effective development and monitoring of key Council policies and internal control arrangements which includes the procurement strategy and wider associated governance arrangements. This extends to considering such arrangements and supporting any necessary actions to ensure compliance with its own and other published standards and controls.

B. The Role of Officers

(i) **All** Council Officers should familiarise themselves with the content of this document prior to commencing any procurement-based activity.

(ii) Before undertaking any procurement, Departments should satisfy themselves that:

- The works, goods or services are required and a need can be demonstrated
- There are no reasonable alternatives e.g. sharing or utilising spare capacity/inventories elsewhere within the Council
- They are aware of the current statutory contract value thresholds in accordance with the legislation (as amended) as shown on the Council's Intranet.

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- Where relevant, they have considered the requirements of the Public Services (Social Value) Act 2012 and have recorded/evidenced the outcomes against the associated requirements:-

    - *how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area*
    - *how, in conducting the process of procurement, it might act with a view to securing that improvement.*

(iii) If you intend to engage an approved third party, such as a consultant, company, or contracting agent to procure goods, services or works on behalf of the Council, you must engage with the Council's in-house procurement support or EPP first and ensure that the third party is aware of and complies with the Rules and requirement to declare any potential Conflicts of Interest.

(iv) Resources and capacity are required to undertake procurement activity in a timely manner therefore, Service Areas need to engage early with procurement teams to ensure the activity is captured on the Council's procurement project pipeline so that the necessary resources and support can be planned appropriately.

(v) The Rules do not apply to:

(a) Contracts of employment.
(b) The acquisition, lease or disposal of buildings or land save where those buildings or land form part of a development agreement.
(c) Non trade mandatory payments to third parties, including insurance claims, pension payments and payments to public bodies.
(d) A declared emergency as determined by the Minister of the Crown.
(e) Awarding of grants – note grant expenditure may be subject to a tender process and subsidy control requirements.

Council Officers should seek advice from the Council's relevant directorate responsible for the corporate procurement function/service if they are unsure whether these Rules apply or not. For Tendring District Council, this is Law & Governance.

(vi) Any failure to comply with these Rules will be treated as a serious matter, which may lead to disciplinary action in the case of an Officer or a complaint to be investigated by the Monitoring Officer in the case of a Councillor.

(vii) Where an Officer becomes aware of a failure to comply with the Rules that cannot be remedied after seeking advice from the relevant Procurement Specialist or if an act of non-compliance gives rise to, or is likely to give rise to illegality, then the matter must be notified to the Council's Monitoring Officer at the earliest opportunity.

(viii) Any questions relating to the application of Rules, or where further procurement guidance and support is needed, should be directed to the EPP in the first instance with support sought from Legal Services where required.

(ix) The Chief Finance Officer is responsible for ensuring the proper administration of the Council's financial affairs and integral to decisions on procurement activity using Council funds, value for money considerations, the exemption process and supporting the audit function.

(x) The Senior Responsible Officer for procurement is required to ensure adherence to these Rules by the Service Areas and procurement team, working with senior colleagues across the Councils. Essex Procurement Partnership support the Councils to ensure these Rules are known and embedded.

(xi) Senior Officers within each Council, with responsibility for Directorates, Departments or Service Areas are responsible for ensuring those officers within their Service Areas know the Rules, are competent in applying them to their service requirements and are complied with.

(xii) A Service Area Officer should be appointed to each procurement activity with ultimate responsibility for compliance with the Council's Rules and Procedures, delivery and risk management.

(xiii) All Officers must comply with the latest legislation which applies to public procurement activity.

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(C) The Role of the Contracting Service Areas

(i) In addition to the general responsibilities for all Officers, referred to above, the primary responsibilities for any Officer within a Service Area wishing to externally procure services and/or works, are to:

(a) Follow the Rules contained within this document.
(b) Ensure the budget is available and compliance with the Council's Financial Procedure Rules.
(c) Ensure skills and resources are available within the Service Area to specify the service's requirements, support relevant documentation, evaluations, assessments and contract management etc.
(d) Ensure that the appropriate governance/decision making is in place to proceed to tender and advice has been sought on the type of contract being used.
(e) Write a specification for the services to be commissioned – ensuring that the specification does not favour any one supplier to ensure fair competition and to cover the entire procurement & contractual requirement in order to negate foreseen contract variation.
(f) Complete the necessary decision making to award contracts giving reasons following an evaluation process.
(g) Ensure that contracts are managed in accordance with the guidance relevant to value (see section entitled Contract Management) and that due diligence checks are undertaken in relation to insurance requirements and up to date policies throughout the life of the contract.

(ii) In line with Table 1, it is the Service Areas Responsibility to undertake RFQ's up to £50,000 for the life of the contract. The Officer within the Service Area should ensure that any awarded Request for Quotations are notified to the EPP to be logged onto the Council's Contracts Register and the relevant notices are published for any contract over £30,000 (excluding VAT) for the whole life of that contract.

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D. The Role of the Essex Procurement Partnership

(i) Essex Procurement Partnership (EPP) is a collaboration of Local Authorities in Essex which has been formed with the aim to enable effective and professional procurement, maximizing the value for every pound spent by local authorities across Essex to the benefit of local residents. EPP is made up of officers from across the member Councils who, as one team, work as part of each council as their procurement resource within that council's own governance arrangements.

(ii) EPP is responsible for supporting the Council's Contracting Service Area with the procurement sourcing activity with a value of £50,000 (excluding VAT) or more over the life of the contract on behalf of the Council (see section entitled Contract Management).

(iii) EPP:

(a) Works alongside Service Areas to develop and implement strategies for major projects and key areas of the Council's third party spend, including business cases and option appraisals.

(b) Provide support, advice and guidance to the Service Area to be able to initiate a tender exercise.

(c) Provide support, advice and guidance to the relevant decision maker to commence re-procurement of, or exit from, a contract.

(d) Undertakes market engagement and analysis of available markets,

(e) Supports Councils to develop suitability of frameworks.

(f) Manage the development of supplier markets in both the private and third sector.

(iv) The responsibilities of EPP include:

(a) Consulting the Service Areas and subject matter experts to develop for Member approval, implement and manage delivery of the Council's Procurement Strategy.

(b) Developing and maintaining the framework within which procurement activity is conducted, including provision of:

- The Procurement Procedure Rules and Procedures.
- Guidance and templates to support procurement processes.
- Electronic tools to enable an efficient and transparent process.
- Supports the Council governance process for the award of contracts and decision making.
- Measures and reporting processes.
- A procurement learning and development plan.
- Create and maintain processes and documentation for self-

service activity.
- o Ensure guidance and training for the wider organisation is available to support service users and self-service delivery.
- o Identification and production of future policies
- o National benchmarking – analysis once published, identification of training requirements and further actions to develop the EPP offering (link to policy production above)
- o Social value reporting

(c) Implementing sustainable approaches which support delivery of the Council's corporate objectives.
(d) Providing market intelligence to identify opportunities for collaboration and to leverage supply market opportunities.
(e) Providing professional procurement expertise, support and advice to Officers and Members to deliver value for money and compliance with legislation, National Procurement Policy Statement and these Rules.
(f) Leading sourcing processes as applicable detailed in Table 1.
(g) Supporting the Council to maintain its Corporate Contract Register for all sourcing activity over £50k.
(h) Providing professional advice to non-procurement Officers within the Councils.
(i) Leading the development of markets.

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Spend Thresholds

When there is no alternative available and there is a requirement to spend money, **the total contract value (exclusive of VAT below threshold value) and extension options, where applicable, is used to determine the process to be followed (see below guidance on total contract value).** Tender activity should commence only where, following assessment, any applicable existing arrangements or frameworks have expired, elapsed or are deemed to be unsuitable for the requirement.

Prior to selecting the sourcing activity, Officers must ensure that they have the required governance and approvals in place, the Table below determines the route not the prior approval process.

All sourcing activity is assigned a classification in accordance with Table 1. This determines the correct process and establishes who leads the procurement process. The spend threshold is the first factor considered but Officers will need to consider the complexity of the requirement. If the requirement involves significant resources to implement, deliver, or manage for example, then spend alone may not be the determining factor and advice should be sought from the EPP.

Where any requirement involves any of the specialised terms and conditions listed below, the value-based assignment of procurement approach in Table 1 **does not apply** and the Procurement Specialist with the Head of Service will allocate a risk tier to the contract. Officers must not undertake any activity on procurement for any of the following, without advice from EPP to ensure the correct considerations are given to how to procure. Specialised terms and conditions include:

- Transfer of Staff (TUPE)
- Information Governance (Data Processing).
- Contracts where a supplier will be receiving payment from users of a service or works rather than, or as well as, the Council.
- Technology-related tenders.

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Table 1 – CLASSIFICATION OF SOURCING ACTIVITY: SPEND THRESHOLDS (CONTRACT VALUE)

Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
Very low value	**£0 to £10,000 (excluding VAT)**	Pcard (if used); or Raising of Purchase Order through the Councils recognised ordering system; or Mandatory Corporate Contracts	At least one written quote with Value for Money evidenced (an alternative price is preferable)	No	Any authorised officer, within Service Area with budget holder approval	No	As a minimum a written statement (included within PO) of what the contract is for & required to do to ensure it is clear what is being purchased and write down requirements in case of dispute	Budget Holder or someone authorised on their behalf in accordance with Financial Procedure Rules	If there is a written contract it should be signed in accordance with Article 14 [by or on behalf of the budget holder]	No

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Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
Low Value	**£10,001 to £49,999 (excluding VAT)**	Request for Quotation (RFQ)	Minimum of three written quotes (preferably invite five people to ensure that three are received). Prioritise local SMEs where possible	No - RFQ Template is available on EPP Sharepoint site	For 10,001 to £49,999 - Any authorised officer within Service Area with budget holder approval	No	Standard Council T&Cs must be used	Head of Service or delegated manager – In line with the financial delegations or Scheme of Delegations	Written contract it should be signed in accordance with Article 14 following published recorded decision [by or on behalf of the budget holder PO sent out with T&Cs following award.	Yes (send RFQ form to EPP EPP will enter into the system and publish notice

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Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
Low to Medium Value	**£50,000 to £100,000**	Request for Quotation (RFQ)	Minimum of three written quotes (preferably invite five people to ensure that three are received). Prioritise local SMEs where possible	No - RFQ Template is available on EPP Sharepoint site	For £50,000 to £100,000 the Service Area is required to consult the relevant Portfolio Holder before referring to EPP.	No	Standard Council T&Cs must be used	Head of Service or delegated manager – In line with the financial delegations or Scheme of Delegations	Written contract it should be signed in accordance with Article 14 following published recorded decision [by or on behalf of the budget holder PO sent out with T&Cs	

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Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
									following award.	
Medium Value	**£100,001 (excluding VAT) to relevant Procurement Act 2023 Threshold (inclusive of VAT)**	Simplified Tender Process or Enhanced Request for Quotation or RFQ +	Tender or Quotation Giving regard to SME requirements	Yes	EPP	Enhanced Quotation – No Simplified Tender Process - Yes	Council's Standard Terms and Conditions for Medium Value Contracts ~~Medium risk T&Cs~~	Goods and Services - Budget Holder/ Or Authorised Officer within delegations (general scheme or specific)	In accordance with Article 14 following published recorded decision [in line with the financial scheme of delegation]	Yes, as required by legislation
High Value	**Over Procurement Act 2023 Threshold (inclusive of VAT)**	Legislation compliant process	Tender Giving regard to SME requirements	Yes	EPP	Yes, as required by legislation	High Risk T&Cs	Formal governance will determine approver	In accordance with Article 14 following published recorded decision [Sealed as deed via the	Yes, as required by legislation

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Value Classification	Total value including any extensions	Procurement Method	How should I approach the market?	Should I use Electronic Sourcing Tool?	Who is authorised to carry out this procurement?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award	Who signs the contract on behalf of the Council?	Contract Award Notice needed?
									Council legal team]	

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Contract Management

Notices

Contract Management is undertaken within each Council by Officers within the service area. It is the service areas responsibility to undertake contract management and assess performance of suppliers against Key Performance Indicators where they are contained within the contract

It is the responsibility of the officers within the Service Area to advise EPP where;

- any contract changes have been made
- the contract has terminated, including where the contract has ended at the conclusion of its term
- a dynamic market is opened to enable bidders to apply
- The contract is over £5m, with the responsibility to share performance annually on at least three Key Performance Indicators.

this is to enable EPP to publish the required notices as required under the Procurement Regulations 2024.

Due Diligence throughout Contract

It is the responsibility of the officers within the Service Area to check up to update insurance cover, policies and consents required through the specification.

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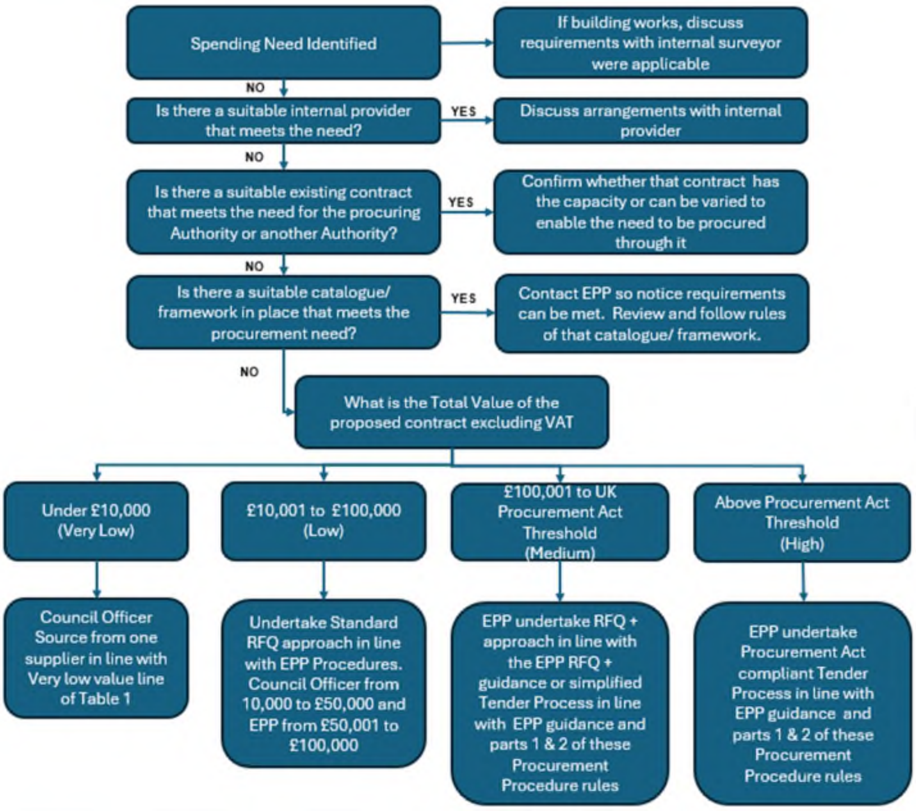
Part 2 - The Rules for all Tenders and Request for Quotations

Procurement Process Flow Chart



1. General

1.1. All Officers must comply with the Council's Code of Conduct when undertaking a procurement process.

1.2. Directors and Managers must ensure that all their staff involved in the selection of suppliers, award and management of contracts comply with the Council's:

(a) Procurement Strategy,

(b) these Rules,

(c) Social Value Policy

(d) the EPP Procurement Procedures, and

(e) decision making requirements,

in addition to the Council's Budget and Policy requirements and legislation and receive the appropriate procurement training to enable them to do so including, training on Modern Day Slavery and the Prevent Duty.

1.3. All Officers shall ensure that all procurement activity is undertaken in accordance with these Rules, Council's policies and procedures and the Council's Financial Regulations.

1.4. All Officers conducting tenders must ensure that all activity is undertaken with the aim of:

- Achieving the best value for money reasonably possible,
- maximizing public benefit,
- acting in a transparent way and with integrity,
- treating suppliers fairly
- giving appropriate consideration as to how to make opportunities attractive to small and medium sized enterprises and how to remove barriers to SME's in bidding for these opportunities
- Considering how social value can be maximised through the contract

1.5. The approved electronic ordering system will be used for all procurement, except where otherwise detailed within these Procurement Procedure Rules.

1.6. The electronic sourcing tool must be used to conduct all competitive tender processes over £100,000.

1.7. Where a contract has a value of over £10,000

(a) Officers must record and keep a record of prices obtained and of the decision taken.

(b) Officers must send Request for Quotation (RFQ) award notification forms to EPP via the form on the EPP Sharepoint site which can be accessed via the Procurement pages on the Council's intranet site. This process to be followed so that EPP have sight of the end information in order to be able to publish under the requirements of the Act.

1.8. Contracts must be in writing; oral contracts are not allowed, and all contracts must clearly specify what the contractor is required to do.

1.9. No contract may provide for money to be paid to a third party on terms which require money to be held by the third party and then paid out on the Council's instructions unless there is a clear justification for this action agreed by the Section 151 officer, a clear purpose for the spending and a transparent process for releasing funds. Use of subcontractors is permitted as set out in the terms and conditions but must be in accordance with the quotation or tender documentation.

1.10. When buying services that involve the contractor in some form of processing personal information on behalf of the council, Officers must seek guidance from the Council's Information Governance Officer

1.11. Budget holders must ensure that they are properly trained to undertake tender activities and that anyone else undertaking such activities on their behalf are trained.

1.12. Officers must ensure that all procurement activity is based upon business needs which must be carefully specified in any procurement documents. Officers should be mindful that inaccurate specifications may lead to a contractor not being required to meet the Council's needs or a misunderstanding or confusion amongst potential bidders, or a tender which is not priced to reflect the council's actual requirements.

1.13. In addition to the general principles in paragraph 1.4 Officers must ensure that:

   1.13.1. Requirements are specified based on the desired outcome rather than how the outcome is to be met, thereby encouraging flexibility and innovation wherever possible.
   1.13.2. appropriate records are kept so that the reasons for decisions can be evidenced.
   1.13.3. Ensure that Conflicts of Interest are declared using the Declaration of Interest forms and no one may take part in a procurement if they have an identified conflict of interests unless they have the prior written permission of the monitoring officer and comply with any conditions attached to that permission.

1.14. All procurement activities undertaken by the Council must be properly authorised in accordance with Council's Constitution.

1.15. Suppliers invited to respond to an invitation to submit a bid must be given an adequate period in which to prepare and submit a compliant tender, consistent with the complexity and urgency of the Council's requirement.

1.16. Officers must ensure that all notices required by law are published in line with procurement legislation.

2. Total Contract Value

2.1. The total contract value must be used to determine the appropriate spend threshold and sourcing activity process, as classified in accordance with Table 1. Spend cannot be disaggregated to artificially lower the contract value. The total contract value must be calculated as the total of:

2.1.1. The total anticipated spend under the contract over the entire contract period, assuming that any contractual extension is exercised which the Council pays **AND**

2.1.2. The total value of all similar contracts which could reasonably have been tendered together with the proposed requirement. Contracts must not be split or shortened to artificially reduce the value of individual contracts **AND**

2.1.3. The estimated value of all contracts where a single requirement for work of the same or a similar kind involves more than one contract.

2.2. Where the value of the quotes or tenders received exceeds the threshold in Table 1 above for the process used the contract may not be awarded unless (a) it is lawful and (b) in consultation with the Council's Section 151 Officer and Monitoring Officer.

2.3. The contract documentation must be appropriate to the type of contract being procured, its value, the Council's standard terms and conditions or those agreed with Legal Services and signed or executed for completion in accordance with Article 14 of the Council's Constitution.

3. Framework or Dynamic Purchasing System (DPS)

3.1. Where

(a) The Council has established a framework agreement, dynamic purchasing system (DPS) or dynamic market, or

(b) there is another such arrangement which is available for the Council to use and

(i) Officers have satisfied themselves that the Framework created by other organisations are appropriate and lawful (taking advice where necessary);

(ii) which and meets the business requirements in terms of the suppliers on the framework and the prices quoted; and

(iii) it has been procured in a way which complies with the relevant procurement legislation; and

(iv) the Service Area has taken into account the terms and conditions of the Framework Agreement, The Council's compliance requirements including the Call-Off Agreement.

(v) due diligence of the Framework or DPS will not routinely be conducted by the Council's Finance Department, and only upon exception where concerns are raised.

this should normally be considered as the preferred route to market for all spend over £100,000 (excluding VAT). Nothing in this rule requires the Council to use a framework of doubtful legality.

3.2. Where an Officer wishes to use a framework agreement, DPS or Dynamic Market which has been set up by another organisation they must check that the Council is permitted to use the framework. Advice about the use of framework agreement, DPS or Dynamic Market should be sought from EPP.

3.3. EPP and the relevant Service Area will discuss the benefits of framework call off vs open tender. Following advice, the final decision on which route to take will be recorded as the procurement approach for that procurement, alongside advice given.

4. Direct Award

4.1. Direct awards can only be made where:

4.1.1. The value falls below £10,000 (excluding VAT), or

4.1.2. A Framework Agreement allows for this procedure and the Council's relevant Officer, agrees that there is justification to not compete, or

4.1.3. The goods or services are procured from an in-house team, or

4.1.4. For the engagement of Counsel by the Corporate Director – Law and Governance, or

4.1.5. Where a partnership arrangement has been entered into with a contractor or a supplier as a result of competitive tendering, and the proposed procurement is within or related to the documented scope of that partnership arrangement. In such cases the Corporate Director/Head of Department must be able to demonstrate that the proposed procurement through such a partnership arrangement is advantageous to the Council (e.g.

continuity of service or product supply or extension of existing arrangements).

4.1.6. It is lawful to award the contract in this way, legal advice has been sought and a waiver has been granted with the necessary decision being recorded.

4.1.7. The Council is under an a non-discriminatory obligation when making direct awards above or below Procurement Act 2023 threshold and compliance must be demonstrated.

4.2. Where a direct award is permissible, a transparency notice must be published before a contract is directly awarded if the contract is valued above the procurement legislation threshold.

~~4.3.~~ Direct award exemptions are available for extreme circumstances or in a matter of urgency as determined by the appropriate Corporate Director following consultation with the responsible Portfolio Holder or Leader of the Council, Section 151 Officer and Monitoring Officer, with the necessary decision being recorded.

5. Concession Contracts

5.1 A concession contract is an agreement in which a public authority grants a private operator the right to deliver and manage a service or asset, allowing the operator to earn revenue—often from users—in return for investing in, operating, and maintaining that service or asset.

5.2 Where a service is seeking a Concession Contract, Officers must seek advice from EPP.

6. Sustainable Procurement

6.1 Sustainable procurement is the practice of acquiring goods, services, and works in a way that delivers value for money while minimising environmental impact, supporting social wellbeing, and promoting long-term economic sustainability.

6.2 Tenders must be designed having regard to the needs of Small and Medium Enterprises (SMEs).

6.3 Template documents and processes must be drafted to be kept as simple as possible to ensure SMEs are not disadvantaged.

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6.4 When using the Request for Quotation process, or directing below-regulation spend, focus must be given to targeting local SMEs.

6.5 When agreeing the award criteria for a contract valued over £100,000, Social Value must be included for all tenders, up to 20% weighting, in line with the Social Value Policy adopted by the EPP Councils except where an exemption has been approved by the Strategic Officer Group Authority Representative.

6.6 An Equalities Impact Assessment (EIA) must also be completed for any requirement classified as Medium or High Value~~.~~

6.7 Business Continuity Planning must be considered for all tenders valued High (over the legislation threshold) or where the service is identified as critical to the Council or as determined through the Council's Risk Management.

7. Collaborative Working/Partnerships

7.1. Where the Council is collaborating with another body which is acting as the procurement lead organisation, other than ECC as the Accountable Body of EPP, the Officer must ensure that the Council does not enter into any arrangements unless satisfied that the Council will achieve value for money and be capable of maintaining proper control that is consistent with the Council's Procurement Procedure Rules and Procedures.

7.2. Officers must seek financial and legal advice before proceeding with collaboration with another body.

8. Local Authority and Other Delivery Vehicles

~~8.1.~~ Any partnership arrangement which involves the creation of or participation in separate legal entities such as joint ventures, trusts or limited companies requires the prior agreement at Cabinet to ensure all of the necessary governance arrangements have been considered, various options taken into account and reasons for the decision are properly set out and recorded.

8.2. No agreement may be entered into if it means that the Council will act as guarantor for a third party or accountable body unless the prior written agreement of the Director of Finance has been obtained following legal and financial advice. Any such agreement must also comply with the Council's Financial Regulations.

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9. TUPE

9.1. If there is any doubt as to whether a procurement exercise might be impacted by TUPE, the Officer must always seek advice from Legal Services and EPP.

10. IR35

10.1. Before purchasing consultancy or the services of interim staff who work through their own intermediary, officers must undertake appropriate checks as to whether off-payroll working rules (IR35) apply. Officers can check if the off payroll working rules apply using the Check employment status for tax service website.

10.2. Consultancy arrangements are contracts for services and the normal values and thresholds apply.

11. Negotiation

11.1. Officers must not conduct post-tender negotiations without the prior agreement of the EPP. Only undertaken where it is lawful to do so relating to the procurement route taken and the contract terms & conditions (if awarded).

11.2. Notwithstanding 11.1, Officers may, as part of the tender, seek and receive clarifications from bidders or submit clarifications to all bidders involved. The clarification process during a tender is a means by which both bidders and Officers are able to seek further information, either in respect to the content of a tender or in relation to a bid that has been received, e.g. something in the specification, pricing model, an element of response is missing or the bidder has forgotten to provide an additional document referenced in their response.

12. Evaluation and Award Process

12.1 Alll procurement exercises must follow a fair, transparent, and non-discriminatory process. Evaluation must be based solely on the Published Evaluation Criteria and applied consistently to all bidders.

12.2 The Evaluation Criteria is developed by the Service Area with support from EPP.

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12.3 For Low Value procurements one evaluator from the Service Area will assess the returned RFQ documentation –

12.4 For Low to Medium Value, if the price is the sole criteria for selection, one evaluator can assess the returned RFQ documentation, should non-financial criteria be included, a second evaluator is required.

12.5 For Medium Value and above procurements, the Service Area will allocate at least three evaluators (the Panel).

12.6 The Service Area will agree suitable Evaluators who must evaluate in line with the Published Evaluation Criteria using objective, proportionate criteria with clear weightings. Evaluators will score independently before consensus.

12.7 In evaluating **Quality** evaluators will assess methodology, experience and social value at a minimum. Scoring will be against the Council's scoring matrix with full justification given by evaluators for each score against this matrix

12.8 In evaluating **Social Value**, EPP with the Service Area will evaluated using the Themes and Outcome Measures in line with the Social Value Policy, with this score included as part of the quality evaluation

12.9 In evaluating **Price,** a transparent price evaluation must be applied via lowest price, total cost of ownership, or scoring formula agreed by the Service Area ahead of the tender or RFQ. EPP will check accuracy and compliance with the pricing criteria set out in the tender.

12.10 In undertaking the Moderation and Consensus of Medium Value procurements and above. All evaluators will review individual scores and the rationale for those scores with those discussions resulting in an agreed consensus score. Full notes and rationale for the final agreed score must be kept for a full audit trail. Average scores cannot be used.

12.11 Using the scores from the moderation and consensus session alongside Price and Social Value, EPP will determine in a robust and transparent way the Most Advantageous Tender. Award will be to the highest combined Price and Quality (including Social Value) score.

12.12 Following the identification of the Most Advantageous Tender, necessary due diligence checks will be undertaken by EPP with support which may include financial vetting (undertaken by the Finance team of the Council), reference checks and the verification of legal or accreditation requirements according to the requirements of the procurement.

12.13 The Service Area, with support from EPP, will produce the Award Decision Report and gain any necessary governance approvals. EPP will, on agreement with the Service Area, notify bidders and issue standstill letters where applicable.

12.14 EPP will finalise the contract (together with Legal Services) after standstill where required, notify bidders and issue standstill letters where applicable.

12.15 EPP with the Service Area must maintain a full audit trail including scores, clarifications, decisions and communications.

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13. Contract Variations

13.1. No contract may be varied unless it is lawful to do so. Advice from Legal Services and EPP should be sought before amending or agreeing to amend any contract which value is low to medium, medium, high or very high-value, as there are legal requirements and financial considerations for contract variations.

14. Purchase Orders

14.1. Unless specifically agreed by the Section 151 Officer, all contract spend, unless using one of the other specified options for Very Low Value (see Table 1), must be confirmed via a Purchase Order using the Council's approved official ordering system.

Where a requisition is raised, the details of or copies of the applicable contract (and any Procurement Waiver) must be sent with the requisition

15. Terms and Conditions

15.1. For all tender processes, the terms and conditions of contract must be available as part of the tender documents when the requirement is published.

16. Waivers/exemptions -

16.1. Officers may be exempt from the need to obtain competitive quotations/prices as set out in these Rules by following the Procurement Waiver process.

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16.2. Advice from EPP and the Council's Legal Service must be sought with sufficient time to allow these Rules to be applied to any procurement activity, before a waiver decision is taken by the relevant decision maker. Failing to programme procurement activity in accordance with the Council's arrangements, capacity and resources is not a reason to seek a procurement waiver/exemption.

16.3. A Procurement Waiver/Exemption should be sought and completed in line with the Waiver/ Exemption process in place within the Council.

16.4. Any Procurement Waiver/ Exemption should demonstrate how value for money is being achieved. A Waiver/Exemption will not be granted unless Value for Money is demonstrated.

16.5. The following Table describes the approval levels required for waivers:

TDC Estimated total value of contract (aligning with Spend Thresholds in Table 1)	TDC Approval needed
Very Low Value (£0 to £10,000)	Approval of the relevant Corporate Director in consultation with the Chief Financial Officer (Section 151 Officer). Procuring Service Area must produce and publish an Officer Decision to record this.
Low Value (£10,001 to £50,000)	Approval by Chief Financial Officer (Section 151 Officer) in consultation with the Corporate Finance and Governance Portfolio Holder. Procuring Service Area must produce and publish an Officer Decision to record this.
Low to Medium Value (£50,001 to £100,000)	Approval of the CFO in consultation with Portfolio Holder(s) for Corporate Finance and Governance and Corporate Procurement and Monitoring Officer. Procuring Service Area must produce and publish an Officer Decision to record this.

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Medium Value (below threshold) £100,001 to relevant Procurement Act 2023 threshold	Portfolio Holder(s) for Corporate Finance and Governance and Corporate Procurement following consultation with the Chief Financial Officer (Section 151 Officer) and Monitoring Officer. Procuring Service Area must produce and publish an Executive Decision to record this.
High Value (above threshold) Over relevant Procurement Act 2023 threshold	Approval by Cabinet with detailed report prepared by the Procuring Service Area with necessary advice included, specific focus on exemptions with the legislation being relied upon and why.

16.6. The waiver process and/or any other applicable governance must be successfully completed prior to an order being placed or contract being entered into with a supplier.

16.7. Where a waiver is granted, the procurement may go ahead without complying with the specific rule for which a waiver is granted but no contract may be entered into without the requirements being clearly specified.

16.8. All Waivers are required to be registered and reported to the Council's Audit Committee.

17. Contract Management

17.1. Contracts must manage the contract in accordance with the guidance provided by EPP.

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Part 2 - Rules for the EPP

These rules are for EPP. Certain procurement activities must only be performed by Procurement Officers with the appropriate level of experience and who are authorised to do so.

18. Defining the Need

18.1. Prior to commencing a tender, unless already approved through formal decisions, Procurement Officers will ensure there is an appropriate critical friend challenge to the Council's requirements to ensure that such requirements are actually required and consider whether alternative methods of meeting these needs could be utilised including where appropriate, mandated contracts (listed on the Intranet), recycling or re-use of existing resources.

19. Types of Contract

19.1 Ensure the Service Area or EPP directly engages with the Council's Legal Services (or as authorised by the Council's Monitoring Officer) to ensure that the appropriate type of contract documentation has been discussed and agreed upon for the type of services or works to be procured.

19.2 The necessary Contract Data has been complied by the Service Area in consultation with Legal Services prior to advertising or publication of notices.

19.3 The Council's approved Standard Contract and its terms and conditions must not be varied without prior approval, following justification being provided to Legal Services.

19.4 Framework Agreements, Call-Off contracts and use of any industry specific terms and conditions advice must be sought from the Council's Legal team to avoid the Council being exposed to unnecessary risk.

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19.5 Where a contract contains a mix of supplies, works and/or services the following must be applied:

19.5.1 Where a contract covers both services and supplies, the classification must be determined by the respective values of the two elements.

19.5.2 Where a contract covers works/supplies or works/services, it must be classified according to its predominant purpose.

19.5.3 Where a contract provides for the supply of equipment and an operator it must be regarded as a services contract.

19.5.4 Contracts for software must be considered to be for supplies unless the majority of the value of the contract is the cost of configuring the system or tailoring the software to the purchaser's specification, in which case they are services.

19. E-Sourcing Tool

19.1. Where the E-Sender tool is used, all communication between the Council and bidders must be conducted through the tool.

19.2. In exceptional circumstances where the E-Sender tool is not used or where another procurement authority's E-Sender tool is used, a record of all communications and decisions with detailed rationale must be recorded for audit purposes and to demonstrate proper conduct in accordance with the regulations and Procurement Policy and Procedures.

General Principles Across all Medium and High- Value ~~Risk~~ Tenders

20. Pre Market Engagement

22.1 Pre-Market Engagement is the process through which the Council interacts with the market before formally beginning a procurement, enabling Officers to understand current industry capabilities, market conditions, innovation opportunities, and potential delivery models. It supports the development of well-informed specifications and evaluation criteria, helping to ensure that procurement routes are proportionate, competitive, and attractive to suppliers—particularly SMEs and voluntary sector organisations.

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22.2 Before undertaking Pre Market Engagement, Officers with the support of EPP must ensure the requirements to undertake the procedure are fulfilled, for example, a Preliminary Market Engagement Notice is published on the Central Digital Platform.

22.2 In undertaking this Officers should ensure the Pre-Market Engagement is open, transparent, and non-discriminatory, offering equal access to information for all potential bidders and avoiding any activity that could distort competition or provide an unfair advantage.

23. Advertising

23.1. All Medium and High Value classified tenders must be appropriately advertised (including Light Touch Services), in line with the relevant legislation.

23.2. The Central Digital Platform must be used to advertise all tenders with a total contract value in excess of £100,000 (excluding VAT). This is through a Tender Notice. Where the RFQ+ process is used, the requirement does not need to be advertised.

23.3. The Central Digital Platform must also be used to advertise the outcome of any procurement over £30,000 (inclusive of VAT).

23.4. Where required, High Value contracts must be the subject of a call for competition by publishing the relevant Notice using the Central Digital Platform.

24. Selection and Award Criteria

24.1. Officers must define and publish all tender documents at the time of publication including the selection criteria (i.e. the criteria used at the pre-qualification stage – High Value procurements only) and assessment criteria (i.e. the criteria for the tender stage).

24.2. Processes and documents must be appropriate and proportionate to the risks of the tender and designed to secure an outcome that will provide best value for the Council, based on the following principles:

24.2.5. ‘Highest price’ if payment is to be received by the Council; or

24.2.6. 'Most advantageous tender' where payment is to be made by the Council and consideration other than price applies.

25. Invitation to Tender (ITT)

25.1. The ITT must state that the Council is not bound to accept any tender and may decide not to award any contract and, in such circumstances, bidders will be wholly liable for their bid costs.

25.2. All organisations invited to tender must be issued with the same information, at the same time and be subject to the same conditions.

26. Managing Tenders

26.1. All requirements covered by the Procurement Act 2023, Public Contract Regulations 2015 and Procurement Regulations 2024 or Health Care Services (Provide Selection Regime) Regulations 2023 must follow the time periods specified in the Regulations.

26.2. Should only one bidder participate in a Medium Value process then no contract may be awarded without consultation with the Council's Section 151 and Monitoring Officers (for TDC).

26.3. Should fewer than five eligible bidders request to participate in a Competitive Flexible Procedure then no contract may be awarded without the written permission of the Monitoring Officer

27. Contract Award

27.1. For High Value Tenders officers must provide an assessment summary to each supplier at the same time and before the Contract Award Decision Notice is published.

28. General Principles Across **High Value Tenders**

28.1. Officers involved in High Value ~~Risk~~ tenders must familiarise themselves and remain up to date on current interpretation of the legislation to ensure the Council is not exposed to avoidable risk.

28.2. Officers must ensure that they are familiar with the current legislation to ensure that all tenders subject to their requirements are let in a compliant manner.

29. Standstill Period

29.1. Notwithstanding the Contract Award Decision, where required under the legislation, the contract must not be awarded until a mandatory ‘standstill’ period of eight working days beginning with the day the contract award notice is published.

30. Framework Procedures

30.1. Framework requirements will differ depending upon the terms and condition of the Framework Agreement and call-off arrangements as set out in the Framework Agreement must be adhered to.

30.2. Call-offs from a framework will either be via a direct award process (where this meets legislative requirements) or further competition.

30.3. The scoring methodology is pre-described and should be adhered to unless express provision is made in the framework that this can be altered. This will be subject to any necessary approvals and governance.

30.4. Awards under a Framework must be published on the Central Digital Platform.

30.5. Framework terms and conditions will not be altered where a direct award process is being used.

30.6. The necessary governance and notice requirements must still be complied with.

31. Execution of Contract

31.1. Unless otherwise advised by the Monitoring Officer, or their nominated delegate, all contracts (including framework agreements) in excess of £50,000 (for TDC) £1,000,000 must be executed under the Common Seal of the Council.

31.2. Outside of the above criteria all contracts must be signed in accordance with Article 14 of the Constitution (which covers Finance, Contracts &

Legal Matters) (for TDC) the relevant section of the Scheme of Delegation.

31.3. All contracts should be executed by the supplier and by the Council before the contract may commence.

32. Contracts Register

32.1. Procurement Officers must ensure that all contracts, tendered by the EPP and awarded above £50,000 (including VAT) are recorded on the Council's contracts register within one month of the contract commencement date.

32.2. Where a Request for Quotation has been completed by the Service Area EPP must ensure that they log the award on the Council's contracts register once notified by the relevant contract owner.

33. Records

33.1. Contracts and Records must be retained for audit purposes for a period of seven years from conclusion of the contract, or twelve years where the contract is under seal.

33.2. All correspondence is automatically stored on the Council's e-Sourcing platform where that tool is used.

33.3. Records of any challenges and outcomes must be fully documented and retained.

34. Contract Management of Tier 1 and Tier 2 Contracts

34.1. Workflows should be followed unless a formal deviation is submitted for approval to the relevant Council Director in whose service the contract sits.

34.2. Records must be kept ensuring that transparency requirements can be met.

34.3. Modifications and variations must be carried out in accordance with legislation and transparency requirements must be followed.

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