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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 manage 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, maximising 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 following award.	

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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?
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 Council legal team]	Yes, as required by legislation

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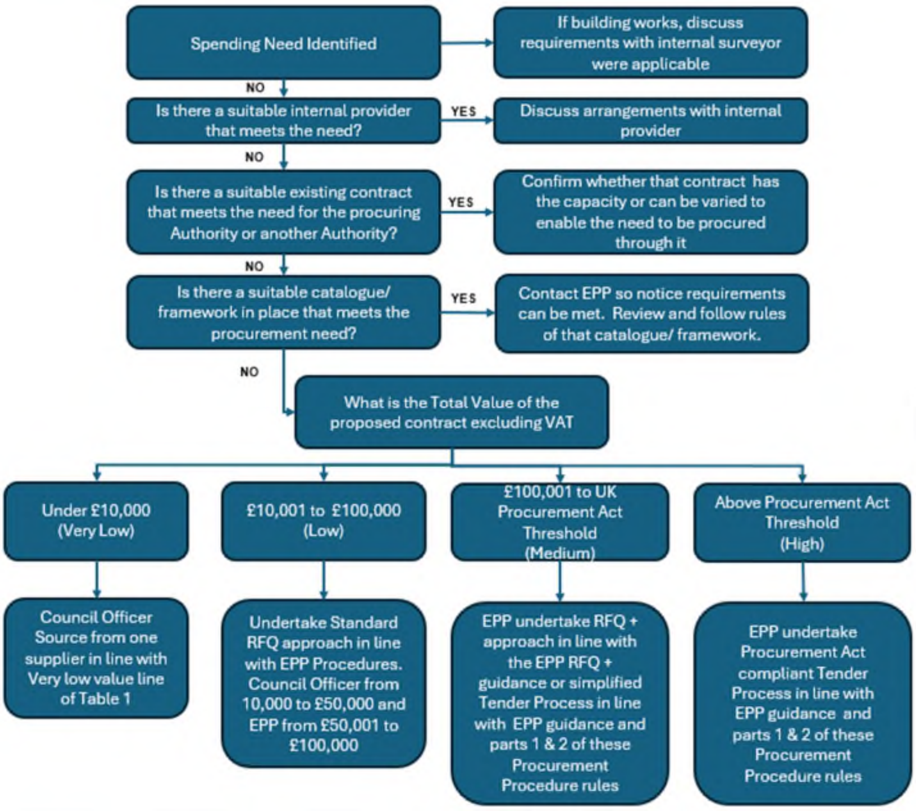
Part 2 - The Rules for all Tenders and Request for Quotations

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,
- maximising 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 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.

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 All 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.

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

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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.

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.

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.
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.

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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.

20. E-Sourcing Tool

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

20.2. 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

21. 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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CABINET

24 APRIL 2026

REPORT OF PORTFOLIO HOLDER FOR ASSETS & COMMUNITY SAFETY

A.1 PROPOSED NEW PROCUREMENT PROCEDURE RULES DEVELOPED THROUGH THE ESSEX PROCUREMENT PARTNERSHIP

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT
In accordance with the Council's adopted Procurement Strategy, this report seeks Cabinet's approval for the Procurement Procedure Rules developed through Essex Procurement Partnership to be recommended onto Full Council for adoption, replacing the Council's current Procurement Procedure Rules, as contained within the Rules of Procedure set out in Part 5 of the Council's Constitution. The report also provides a high-level update of the Local Government Reorganisation for Greater Essex, Procurement and Contracts System Working Group.

EXECUTIVE SUMMARY
Tendring District Council (TDC) forms part of the Essex Procurement Partnership (EPP) (Cabinet 21 February 2025 minute no. 128 refers) through its agreement to enter into a Collaboration Agreement for the delivery of joint procurement services for a three-year period together with: • Braintree District Council • Castle Point Borough Council • Epping Forest District Council • Essex County Council The Parties agreed through the Collaboration Agreement to create common procurement documentation including common tender documents, a shared set of procurement rules and procurement strategy. Following Cabinet's recommendation Full Council adopted the Procurement Strategy on 25 March 2025 (minute no. 132). The Parties also agreed, at the time as an interim measure, to adopt the EPP Procurement Rules where they were not in conflict with the Constitution of each Party. The Parties agreed with the objective of moving to formal joint procurement procedure rules to be embedded within their organisations over the period of the Agreement. Reducing duplication is included within the rationale for collaboration both within the Collaboration Agreement and the Procurement Strategy, as: *"Both in terms of procurement activities but also in documentation and adherence to procurement rules, allowing the Parties to focus on additional cost saving activity. This will also provide benefit to the entire supplier community, particularly Small to Medium Enterprises and Voluntary sector organisations, reducing the time to understand bid documents."*

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Through its decision making in 2025, Cabinet and Council were informed that, following adoption of the Procurement Strategy, a review of the Procurement Procedure Rules which had commenced and was in progress, would follow for approval, to meet the partnership's collaborative objectives.

The Portfolio Holder for Assets and Community Safety (being the Executive member responsible for procurement) represents the Council at the Member Advisory Group (MAG) with elected members from each local authority. The MAG was established in September 2023 and provides executive member oversight of the EPP reviewing the performance of EPP in delivering against its objectives and acting as both critical friends and champions of the partnership.

The MAG met in January 2026, when Officers informed Members that the draft Procurement Procedure Rules had been designed to provide a framework of best practice for all procurement activities to deliver against the Procurement Rules and support the Councils in achieving value for money and delivering the Councils' corporate objectives. The draft documentation, at that time, were being refined further for EPP purposes, following a review undertaken by TDC's Corporate Director (Law and Governance) and the Corporate Governance, Performance and Procurement Manager.

In February 2026, the Leader of the Council & Portfolio Holder for Corporate Finance and Governance received a report detailing the impact of the levels for tender exercises on the Council's resources and capacity and being potentially disproportionate to increased costs for purchasing costs and services. Following consideration of the report, the Leader had granted for an interim period, an exemption applying to all procurements with the value of £50,000 - £100,000 to instead follow the Council's Request for Quotation Rules as set out in the Council's Procurement Procedure Rules. This exemption remains in place until the Council formally considers the revised Procurement Procedure Rules, which at the time were being drafted by the Essex Procurement Partnership, in accordance with the Council's adopted Procurement Strategy and Collaboration Agreement. Further information to support the exemption and increase in values is set out in the background section of this report.

High level Introduction to the new draft Procurement Procedure Rules ("the Rules"):

The draft Procurement Procedure Rules, set out at Appendix A, are new and if approved will replace the Council's existing Rules, however through development of the Rules, elements of the existing rules have been included where considered necessary to do so.

The new 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 vision and priorities.

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

Part 1 of the Rules, as set out in Appendix A, details the Roles and Responsibilities applicable to all Members and Officers, Part 2 sets out the Rules for all Tenders and

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Request for Quotations when conducting procurement activity and Part 3 is specifically for the EPP.

The Rules will form part of the Council's Constitution so will apply to all Council Officers who should familiarise themselves with the content prior to commencing any procurement-based activity. Following adoption of the Rules, training will be provided across the Council.

It is important to note that these Rules relate to procurement activity and the Council's other Procedure Rules, such as Financial and decision making/governance requirements remain unaffected and still apply.

The EPP has a suite of process documents known as the **"Procedures"** which supports delivery of the Procurement Procedure Rules and the Council's adopted Procurement Strategy.

In producing new Rules, they had to 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.

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

- Delivering Value for Money
- Driving Economic Growth
- Enhancing Social Value
- Supporting Net Zero and Environmental Goals
- Improving Supplier Access and Market Diversity
- Commercial Capability and Innovation

Authorities 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. This is a new statutory requirement and will be necessary for all procurement activity irrespective of value (below Procurement Act 2023 threshold and above).

One of the main objectives of the Rules is to 'build' on existing procedure rules as part of ensuring that the Council's procurement activities and tenders continue to be carried out in accordance with the legislation, and in particular applying the principles of value for money, best value, public benefit, transparency, integrity, protection from fraud, fair treatment, consideration of SME, equal treatment and non-discrimination. These principles also apply to both procurements that are above the UK public procurement thresholds and those below.

The new Rules include a section on Spend Thresholds providing a classification of the sourcing activity (procurement route) based on contract value. This determines the correct process and establishes who leads the procurement process. The spend threshold is the first factor to be considered but Officers will need to consider too 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.

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The Rules provide different values to the existing rules and have increased the Request for Quote process from £49,999 to £100,000 thereby reflecting inflation, resources and capacity. However, good governance and value for money is still provided through a number of controls.

It is recommended that, upon adoption by the Council and training being given to Contracting Services across the Council, the Council's Internal Audit team and the Audit Committee review the Rules and operational requirements to ensure the Council's corporate governance requirements are being maintained. Any suggested revisions will be reported to Cabinet by the end of 2026/27, ready for the next financial year.

Through Local Government Reorganisation, the Procurement and Contracts workstream across Greater Essex has been active and updates have been provided within the Report, with recommendations on next steps.

RECOMMENDATION(S)
It is recommended that Cabinet: **(a) approves in principle, the draft Procurement Procedure Rules, as set out in Appendix A, as developed by Essex Procurement Partnership, of which Tendring District Council is an active Member Authority, for recommendation onto Full Council for adoption;** **(b) subject to (a) delegates authority to the Corporate Director (Law & Governance), being responsible for the Council's corporate procurement function and Monitoring Officer, to make minor amendments and produce a final draft of the Procurement Procedure Rules in consultation with the Portfolio Holder for Assets and Community Safety, for Full Council to consider;** **(c) recommends to Council that the final draft Procurement Procedures Rules be adopted, replacing the Council's current Procurement Procedure Rules, contained with the Rules of Procedure set out in Part 5 of the Council's Constitution;** **(d) endorses the review to be undertaken by Internal Audit and the Audit Committee to ensure the Council's corporate governance requirements continue to be maintained through the new Rules and lessons learnt have been captured;** **(e) notes the update of the activity within the Essex Procurement Partnership and the Local Government Reorganisation for Greater Essex, Procurement and Contracts System Working Group; and** **(f) notes Officers will present the outcome of the detailed analysis of the Council's Contracts Register in due course in readiness for the transition phases of LGR.**

REASON(S) FOR THE RECOMMENDATION(S)
Tendring District Council (TDC) forms part of the Essex Procurement Partnership (EPP) (Cabinet 21 February 2025 minute no. 128 refers) through its agreement to enter into a Collaboration Agreement for the delivery of joint procurement services for a three-year period together with: • Braintree District Council • Castle Point Borough Council

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- Epping Forest District Council
- Essex County Council

The Parties agreed through the Collaboration Agreement to create common procurement documentation including common tender documents, a shared set of procurement rules and procurement strategy. Following Cabinet's recommendation Full Council adopted the Procurement Strategy on 25 March 2025 (minute no. 132).

The Parties also agreed, at the time as an interim measure, to adopt the EPP Procurement Rules where they were not in conflict with the Constitution of each Party. The Parties agreed with the objective of moving to formal joint procurement procedure rules to be embedded within their organisations over the period of the Agreement.

Reducing duplication is included within the rationale for collaboration both within the Collaboration Agreement and Procurement Strategy, as:

- **Reduced Duplication** – Working together to have one common approach to procuring and social value will both create efficiencies for the procurement team and reduce administrative burden to those bidding for procurements. Small to Medium Enterprises and Voluntary Sector Organisations who tend to have limited resources to bid, should be particularly advantaged by this approach.

In addition, recommending the Procurement Procedure Rules onto Full Council to be included within the Council's Constitution ensures the Council has up to date, appropriate and proportionate controls, systems and standards to manage procurement risk and to comply with legal requirements.

Procurement is also a key workstream for the preparation of LGR, with more information provided elsewhere within the report.

ALTERNATIVE OPTIONS CONSIDERED

(1) Not agreeing the EPP Procurement Procedure Rules for adoption by the Council, with the Council either continuing with its current Rules or creating a revised version.

Disbenefits – The Council did agree through adoption of the Procurement Strategy in 2025, it would work towards a common set of Procurement Procedure Rules, which the Council's own officers have been involved with. Resources would have been wasted, and it would be against the principles of the Collaboration Agreement the Council has signed up to.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Tendring District Council adopted its Corporate Plan 2024-28 ('Our Vision') at full Council in November 2023 (Minute No. 76 refers) with Community Leadership and listening to, and delivering for, our residents and businesses to be recognised as cross cutting elements of the

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Plan. The Corporate Plan Themes are:

- Pride in our area and services to residents
- Raising aspirations and creating opportunities
- Championing our local environment
- Working with partners to improve quality of life
- Promoting our heritage offer, attracting visitors and encouraging them to stay longer
- Financial Sustainability and openness

> *“To continue to deliver effective services and get things done we must look after the public purse; that means carefully planning what we do, managing capacity, and prioritising what we focus our time, money and assets on. Tough decisions will not be shied away from, but will be taken transparently, be well-informed, and based upon engagement with our residents. We will give clarity on where the Council spends the money it is provided with.”*

A number of the Council’s priorities and statutory services rely on the procurement function to deliver their objectives. From 24th February 2025, all contracting authorities were mandated to deliver the objectives as defined in the Act, being value for money, maximise public benefit and act with integrity throughout the procurement process.

The National Procurement Policy Statement (NPPS) is provided for at section 13 of the Act (which also came into force on 24 February 2025). Contracting authorities are required to have regard to the policy objectives contained within the NPPS that is current at the time they are carrying out a procurement.

The NPPS contains the following Priorities:

- **Delivering Value for Money:**
  In carrying out a procurement covered by the Act, a contracting authority must have regard to the importance of delivering value for money. Achieving value for money is always the overarching priority in public procurement. This must include consideration of outcomes and quality to avoid waste from low value, poor quality bids. This means optimising the use of public funds by balancing effectiveness, efficiency and economy over the life cycle of a product, service or works to achieve the intended outcomes of the procurement. This includes wider socio-economic and environmental benefits and impacts. The Act will deliver a step change in the transparency of public procurement that will drive value for money, bringing greater visibility of pipelines of future opportunities through to individual contract performance. Contracting authorities will need to ensure they have the right capability to benefit from the new commercial tools and deliver greater value for money.

- **Driving economic growth and strengthening supply chains by giving small and medium-sized enterprises (SMEs) and voluntary, community and social enterprises (VCSEs) a fair chance, creating high quality jobs and championing innovation.**

- **Delivering social and economic value that supports the Government’s missions including by working in partnership across organisational boundaries where**

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appropriate.

- **Ensuring the right commercial capability and standards are in place to procure and manage contracts effectively and to collaborate with other contracting authorities to deliver best value.**

In entering into the Collaboration Agreement for EPP, the Council agreed to create common procurement documentation including common tender documents, a shared set of procurement rules and procurement strategy. Following Cabinet's recommendation, Full Council adopted the Procurement Strategy on 25 March 2025 (minute no. 132).

The Parties also agreed, at the time as an interim measure, to adopt the EPP Procurement Rules where they were not in conflict with the Constitution of each Party. The Parties agreed with the objective of moving to formal joint procurement procedure rules to be embedded within their organisations over the period of the Agreement.

Reducing duplication is included within the rationale for collaboration both within the Collaboration Agreement and Procurement Strategy, as:

"Both in terms of procurement activities but also in documentation and adherence to procurement rules, allowing the Parties to focus on additional cost saving activity. This will also provide benefit to the entire supplier community, particularly Small to Medium Enterprises and Voluntary sector organisations, reducing the time to understand bid documents."

OUTCOME OF CONSULTATION AND ENGAGEMENT

Consultation has taken place in the creation of the Essex Procurement Partnership with representation across the member Councils, at elected Member, senior officer and operational levels. The document provided as Appendix A have been developed with these officers.

The EPP member authorities are now taking this proposal through their respective decision-making bodies.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	**No**	**If Yes, indicate which by which criteria it is a Key Decision**	◻ **Significant effect on two or more wards** ◻ **Involves £100,000 expenditure/income** ◻ **Is otherwise significant for the service budget**
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	N/A

The Member Authorities have decided to work collaboratively together to pool resources to

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deliver day-to-day procurement activities and wider specialist procurement advice and support on behalf of each other.

The Collaboration Agreement entered into by the member authorities, documents how the parties will work collaboratively.

The Procurement Procedure Rules set out in Appendix A are currently in draft form, and Tendring District Council is the first member authority to take the document through its decision-making processes. A delegation is recommended authorising the Corporate Director (Law & Governance) to make minor amendments to the document, so long as the principles remain the same, and she has already been working with EPP on the drafting of the current document.

A review of contracts also forms a huge part of the work programme for EPP, and this work will also feed into the LGR workstreams.

PART 5 CONSTITUTION - PROCUREMENT PROCEDURE RULES

The Council's Procurement Procedure Rules are contained within Part 5 of the Constitution and therefore must be recommended onto Full Council for approval via Cabinet. Article 15 of the Constitution provides the Monitoring Officer with the authority to suggest proposed changes via reporting to Cabinet.

PROCUREMENT ACT 2023:

These objectives set out the matters contracting authorities must give proper consideration to in the course of carrying out a procurement:

- value for money;
- maximising public benefit;
- transparency; and
- integrity.

With respect to equal treatment and non-discrimination, the Act provides, at sections 12(2) and (3), that contracting authorities must treat suppliers the same unless a difference between suppliers justifies different treatment (equal treatment).

Ensuring value for money in procurement is key to ensuring the optimum utilisation of limited public resources. Within the Act there is the explicit recognition (at section 12(1)(a)) that value for money is a key objective of public procurement.

Section 12(4) requires contracting authorities to have regard to the difficulties faced by small and medium-sized enterprises (SMEs) who wish to participate in public procurements and consider whether these can be mitigated. The definition of SMEs is found in section 123(1).

The objectives in section 12 provide signifiers as to what contracting authorities must do, and have regard to, in order to carry out fair procurements in a proportionate manner; but a noticeable difference from the previous legislation is that there is no underlying principle of proportionality in the Act. That is not to say that proportionality is not an important principle. Under the Act, where proportionality must be considered, this is expressly set out in the relevant

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sections.

The Procurement Review Unit (PRU) will manage the oversight regime on behalf of the government. The PRU will monitor compliance by contracting authorities, focusing mainly on investigations into contracting authorities who demonstrate 'institutional non-compliance' across its procurements (section 108 of the Act). Their role could be seen as similar to the Local Government and Social Care and Housing Ombudsmen but not to determine on the lawfulness of any particular activity. If an investigation is being conducted, the PRU may by notice require the contracting authority to provide relevant documentation as is reasonably required for the purposes of the investigation. It is an avenue, aggrieved suppliers can utilise, being able to raise queries akin to the current Ombudsman processes.

INFORMATION SHARING DUTY:

The Act creates an environment of 'transparency by default' by imposing procedural transparency obligations at each stage of the procurement so that contracting authorities are clear about exactly what they are required to publish.

The information-sharing objective at section 12(1)(c) complements these procedural transparency obligations by introducing an overarching, general requirement for contracting authorities to have regard to the importance of sharing information for the purpose of allowing suppliers and others to understand the authority's procurement policies and decisions.

This duty does allow the contracting authority some discretion in deciding what to share beyond the specific procedural transparency requirements although the purpose of the objective in its own right must be borne in mind.

Notices and Decisions made in respect of procurement activity will increase in scale and detail.

BEST VALUE DUTY:

The Best Value Duty relates to the statutory requirement for local authorities and other public bodies defined as best value authorities in the Local Government Act 1999 to "*make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness*".

The Best Value Statutory Guidance issued in May 2024, makes reference to the procurement function in 4 of the Best Value Themes demonstrating how important it regards the process to achieve value for money, and standards expected as characteristics of a well-functioning authority:

- **Governance -** *Effective procedures are in place and followed to ensure members and all officers comply with the Nolan Principles, relevant codes of conduct and policies, including procurement. This includes adequate protections and support for whistle-blowers and adherence to Contract Procedure Rules.*
- **Use of resources -** *Sustainable corporate functions including procurement and IT which deliver value for money.*
- **Service delivery -** *Procurement processes ensure economic, efficient and effective outcomes of contract procurement and management.*

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• **Partnerships and community engagement -** *The authority drives social and environmental value in their place through mechanisms like procurement and employment.* An indicator of failure is described as having inefficient or uncompetitive procurement arrangements that do not deliver value for money.	
YES	**The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:**
The Monitoring Officer is the author of this report.	
FINANCE AND OTHER RESOURCE IMPLICATIONS	
One of the revisions proposed is to increase the Request for Quote (RFQ) process from £50,000 to £100,000, other partners within EPP will also be suggesting the increase in values. The values for RFQ have not been reviewed for at least 15 years and are therefore considered potentially disproportionate to the increase in costs for purchasing goods and services, and the Council's resources are being impacted, due to increase in procurement activity by undertaking a full tender process. General inflationary uplifts for the last 15 years would approximately equate to £50,000 being the value of £80,000 in present terms. The approach adopted can also be seen as the start of the necessary alignment processes required as part LGR activities, whilst also continuing to balance value for money, assurance and good governance. As part of any governance process, through its operational implementation, it is recognised that adjustments might be required within the above context which can be responded to in a timely manner via delegations within the recommendations above.	
YES	**The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:**
There are no significant comments over and above those set out elsewhere in the report. It is however worth highlighting the original context of the proposed approach by 'building' on the current partnership arrangements to support the Council's on-going best value / value for money arrangements through the implementation of frameworks of best practice, with the procurement policy being a key document for the Council. It is also noted that this underlying approach will be further supported via internal reviews such as those by the Audit Committee that enable the Council to continue to maximise opportunities for strengthening arrangements over the next two years and as part of the wider LGR activities.	
USE OF RESOURCES AND VALUE FOR MONEY	
The following are submitted in respect of the indicated use of resources and value for money indicators:	
A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Covered elsewhere throughout the report.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	

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C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	

MILESTONES AND DELIVERY

Subject to Cabinet's decision - Procurement Procedure Rules recommended to Full Council for adoption as part of the Council's Rules of Procedure within Part 5 of the Council's Constitution – Council meeting on 2 June 2026.

Continuation of raising awareness of the Procurement Act requirements, Collaboration Agreement and Prioritisation Approach, Procurement Strategy and the recommended revised Procurement Procedure Rules with staff and stakeholders from May 2026 onwards.

Review by Internal Audit and Audit Committee later in 2026 in readiness for any revised recommendations to be considered by the end of 26/27.

ASSOCIATED RISKS AND MITIGATION

There is a risk that with a wider Essex Procurement Partnership, Tendring District Council's procurement activity is reduced in prioritisation however, this is mitigated through further development of the Procurement Project Pipeline for Tendring and referenced in the Collaboration Agreement (Schedule 3).

The agreed Prioritisation Approach sets out the order in which sourcing projects of each Authority are undertaken. Projects will be evaluated in line with the Prioritisation Tool embedded within Schedule 3 as follows:

a. Projects graded A-E will be placed on the forward plan.
b. Projects with time limited funding or where the contract will expire will be prioritised in line with the parameters set out in sourcing grading tool.
c. All other projects will be scheduled on the forward plan considering when the contract is required and in order of the grading i.e. Grade A first

Where a project not on the forward plan requires immediate resource, the grading will be assessed against projects currently being undertaken and where there is an opportunity to pause an existing project this will be done to enable the urgent project to be undertaken.

Where a project cannot go ahead due to resource not being available, discussions will be held with the member Authority affected to consider options for example a short exemption to enable a procurement to be undertaken. The Partners Working Group will be updated as part of the monthly reporting cycle.

The robustness of the Council's Procurement Project Pipeline is essential to fed into the Prioritisation Approach and to date the quality and timeliness of the information has put the procurement resources under particular strain. Further discipline is required across the Council's services to understand the importance of the data and the consequences of failing to keep the information up to date.

EQUALITY IMPLICATIONS

The Public Sector Equality Duty applies to the Council when it makes decisions.

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The duty requires us to have regard to the need to: (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful (b) Advance equality of opportunity between people who share a protected characteristic and those who do not. (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that ‘marriage and civil partnership’ is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
SOCIAL VALUE CONSIDERATIONS
One of the key objectives of the partnership between EPP has been to introduce a common approach to social value/climate agenda to sourcing activity for members. At its meeting in November 2024 (Minute No. 82), Cabinet approved a Social Value Policy to demonstrate how the Council will deliver corporate priorities by achieving social value through procurement. Ensuring the additional benefit to the community which we can derive, over and above the direct purchasing of goods, services and outcomes, where these quality criteria are relevant and proportionate to the subject matter of the contract and non-discriminatory.
IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION
As part of the preparation for Local Government Reorganisation, a number of working groups has been established across Greater Essex, of which the Procurement & Contracts System Working Group is one. The terms of reference for the group are wider than the remit of EPP, however all of the partner member authorities are involved with the Working Group and there is a degree of overlap with the work being undertaken within EPP, although it is not duplication but using resources collectively to support the procurement and contracts function. Its Objectives cover: • Ensuring new Unitary Authorities have a good understanding of their third-party commitments, high level opportunities and risk and priority activities to enable decisions to be made quickly and with the right information on how to deliver third party provided services to residents. • Giving visibility of key procurement decisions which will be inherited by the new Unitary Authorities to representatives across existing councils to enable influence over decision making. • Enabling alignment of procurement practices and policies where possible, which will support procurement staff to quickly adapt in the new Unitary Authorities, improving delivery of the procurement service. Alignment also supports businesses working with

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the existing and future Councils, particularly SME's, through standardisation of bidding documentation and approaches.

- Supporting transparent decision making and partnership principles between now and vesting day with regards to contracting activity, continuing to deliver best value and support collaborative decision making.
- Enabling senior leadership across the Essex system to understand the requirements for effective sourcing and management of third party spend ahead of the creation of the Unitary Authorities.
- To identify current and required contract management practice.

Recent activity within the Working Group is being focused at this stage on the following outcomes:

(a) Developed Contracts Registers from each existing Authority that accurately reflect those Council's third party spend.

(b) An analysis report, created by Crown Commercial Services, considering the Contracts Registers data and identifies:

- Breakdown by spend category and sub-category (where appropriate)
- Opportunities to merge / extend / transfer contracts
- Opportunities to aggregate contracts
- Opportunities to collaborate where councils have suppliers in common
- Contracts which present risk, e.g. long-term contracts which extend beyond the "Vesting Day" of any new Unitary Authorities

(c) This report will be used by the LGR Procurement System Working Group to identify procurement opportunities and risks for the Unitary Authorities.

(d) Identification of Strategic suppliers including those undertaking critical activities

(e) Aligned procurement practice with a common contracts register format and LGR clauses with the ambition to agree common procurement documentation with LGR Procurement Workstream Members.

(f) Review of Contract Management Activity – Review current approaches, consider best practice and consider where there may be gaps

EPP currently consists of three of the four predecessor councils that will be abolished and replaced with the new proposed North East Essex Unitary Council. EPP has already developed a positive collaboration with a strong collective culture, working together with shared aims and objectives, developing common documentation, which can only be a huge benefit working

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towards Vesting Day on 1st April 2028.
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050
Our Social Value Themes, Outcomes and Measures (TOMs) adopted in November 2024, have been agreed by our partners to directly to contribute towards achieving each partner's Corporate Priorities. TOMs will be used in the evaluation process, and which ones are used will be dependent on the nature of the procurement. Tenderers will have to demonstrate they will achieve benefits in the TOM to score points. The Measures represent added value that we would like our suppliers to deliver locally to the respective Borough, City or District of the Contracting Authority and as a result of the contract being tendered unless otherwise stated in the tender documents. Within the Policy: Priority 4 (**Theme**) '*A high-quality environment'*, **Outcome** – "*Suppliers contribute to the delivery of net zero targets; reduced greenhouse gases; reduced waste; and strengthened climate resilience'*. For an example "**Measure -** *Saving car miles on the contract through green transport programmes such as cycle to work and car-pooling programmes or public transport'* (EPP23a)
OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	There are no implications from the subject matter of this report, however each project and new procurement opportunity will consider these implications through the individual decision making.
Health Inequalities	
Area or Ward affected	None

PART 3 – SUPPORTING INFORMATION

BACKGROUND
The Collaboration Agreement sets out how EPP will deliver the objectives in detail and the governance structure which oversees its operation. The Member Advisory Group works closely with the Strategic Officer Group, consisting of Director level representation from each EPP Member Authority with responsibility for: • Setting the strategic direction of the collaboration, ensuring the service meets the defined service objectives. • Agreeing the priorities of the collaboration within the resources available and supporting the process for ensuring sufficient resources are provided by each party to enable the objectives to be delivered. • Monitoring the performance of the service delivered by the Lead Party (ECC) to ensure it is working effectively and in line with the work plan agreed by the parties. • Agreeing to the growth of the collaboration with new Local Authorities joining.

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The above groups are supported by the Officer Operational Group and Partner Working Group with a greater operational focus to ensure confidence that sourcing activity is being done effectively and demands from each Member Authority are being effectively met.

These groups ensure that the work and strategic direction of EPP and procurement in the Member Authorities are set by the parties in partnership. It is a collaboration of resources from across these Member Authorities rather than a service being delivered by one Council on behalf of others although as the Lead Party, ECC will have some additional responsibilities as set out in this report.

The objectives of the Procurement Act 2023 transform public sector procurement, driving innovation, delivering better outcomes and embedding transparency at each point of the procurement pathway. Crucially, it will let everyone access procurement data and understand how money has been spent.

In line with the above objectives, the Act sets out the following four stages, note the emphasis on pre procurement activity:

- Plan
- Define
- Procure
- Manage

The new act brings in considerable flexibility, but this requires planning and defining the route to be taken ahead of procurement. EPP have undertaken a significant amount of training on the new Act and have worked with Essex County Council to develop procurement approaches, standard templates etc. for the new Act.

The Government's Commercial Function produced on 29 Janaury 2025, an updated short guide for Senior Leaders on the Act, some extracts are included for reference.

> It will create simpler, more flexible and effective procurement. The Procurement Act will bring a range of benefits, including:

- creating a simpler and more flexible commercial system that better meets our country's needs, while remaining compliant with our international obligations.
- opening up public procurement to new entrants, such as small businesses and social enterprises, so that they can compete for and win more public contracts.
- taking tougher action on underperforming suppliers and excluding suppliers who pose unacceptable risks.
- embedding transparency throughout the commercial lifecycle so that the spending of taxpayers' money can be properly scrutinised.

The purpose of the new Rules is to create flexibility and enhancing the use of SMEs, whilst achieving Value for Money and Best Value duties. The Rules set out roles and responsibilities and should be clear and easy to follow, and training undertaken across the Council.

The new Rules have been developed via Essex Procurement Partnership, giving consideration to the requirements of existing and new legislation, National Procurement Policy Statement and best practice being adopted. Whilst the new rules will replace those

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contained within the Council's Constitution, the existing rules have been used to form the basis of the review and the Council's Corporate Director (Law and Governance) and Corporate Governance, Performance and Procurement Manager, have been heavily involved.
PREVIOUS RELEVANT DECISIONS
Cabinet 21st February 2025 (minute no. 129) Essex Procurement Partnership Update and Procurement Strategy. Full Council 25th March 2025 (minute no. 132) Adoption of the Procurement Strategy.
BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL
None
APPENDICES
APPENDIX A – Draft Procurement Procedure Rules

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