

Contract Procedure Rules (Ratified January 2025)

Directorate **Place, economy and the environment**

Date: **February 2025**

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SECTION 1 - Introduction

- 1.1. The Council of the Isles of Scilly is required by section 135 of the Local Government Act 1972 to make standing orders (Contract Procedure Rules) with respect to the making by the Council or on its behalf of contracts for the supply of goods, services or for the execution of works.
- 1.2. Section 9P of the Local Government Act 2000 also states that the Constitution must contain the Council's standing orders. The Contract Procedure Rules are formal procedures and provide a legal structure explaining how the Council enters into and manages its contractual arrangements.
- 1.3. The Contract Procedure Rules form part of the standing orders of the Council and **compliance is mandatory for all employees**. The Contract Thresholds and procedure notes, referred to below, support and explain how the Contract Procedure Rules are to be complied with. Procurement rules and guidance can be complicated please contact the Procurement Team for guidance through the procurement and contract management process.

SECTION 2 - Purpose and Principles

2. The purpose of the Contract Procedure Rules is to ensure that all Council contracts are demonstrably made:
 - 2.1 in compliance with the law and best practice,
 - 2.2 in support of the Council's corporate aims and policies,
 - 2.3 in compliance with the Council's Financial Regulations
 - 2.4 with formal, robust and clear procedures and legal structure,
 - 2.5 to provide appropriate safeguards for all involved in the process, including declarations of interest,
 - 2.6 to minimise risks in relation to fraudulent and corrupt activity,
 - 2.7 in line with the formal decision-making of the Council as part of the wider Governance Framework, and
 - 2.8 with adequate records and a clear audit trail.

3. In applying the Contract Procedure Rules, the following principles will be met:
 - 3.1 maximising fairness, transparency, integrity and competition,
 - 3.2 improving quality and value for money, and
 - 3.3 achieving best value for public money spent in accordance with the duty on local authorities under Part I of the Local Government Act 1999 to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council.

SECTION 3 – Scope

The Contract Procedure Rules shall apply to all commercial activity between the Council (or any persons acting on behalf of the Council) and third parties resulting in the acquisition of goods, works, services and Concessions arrangements.

4. The Contract Procedure Rules shall **not** apply in the following situations:
- 4.1 Acquisition, purchase and / or disposal of land, existing buildings or immovable property,
 - 4.2 Employment contracts (where the Council employs staff directly as an employer, including secondment arrangements where these do not form part of a contract for services),
 - 4.3 Disposal of goods and supplies determined by the Council to be surplus to requirements,
 - 4.4 Financial dealings by the Section 151 Officer on behalf of the Council on the money markets (or obtaining of finance for the Council).
 - 4.5 The appointment of Counsel by the Council,
 - 4.6 Grant payments from the Council to third parties and from third parties to the Council where other grant conditions apply,
 - 4.7 Loans made by the Council to third parties,
 - 4.8 Planning and highway agreements (such as Section 104, 106, 278 and 38),
 - 4.9 Where it is clear that the Council need not go through a procurement process on the basis of other regulatory or legislative grounds,
 - 4.10 Appointment of external auditors outside of the control of the Council,
 - 4.11 Specific licensing requirements such as a TV License or Public Entertainment License,
 - 4.12 Where the Council delegates its statutory function to another public body, e.g., in the case of devolution or in cases of public-to-public collaboration,
 - 4.13 Subscriptions to national organisations such as the Local Government Association, County Council Network and all professional subscriptions across the Council where not having membership would detrimentally impact on the Council's ability to fulfil its purpose,
 - 4.14 Procurement of certain insurances not available on the open market e.g., marine insurance,
 - 4.15 Where there is re-charge for a service which is provided as part of a partnership agreement with another public sector organisation,
 - 4.16 Payment of statutory undertakers' obligations and charges during works on certain developments and highways under the New Roads and Street Works Act 1991,

- 4.17 Where there is an agreed and recognised single supplier arrangement (including for example software licences) that has been approved by the Procurement Team. Assurance processes will still apply, and;
- 4.18 Where the Council is purchasing individual statutory care placements for either adults or children via a compliant procurement process.
5. Compliance with the Contract Procedure Rules and associated legislation, including but not limited to, [The Public Contracts Regulations \(2015\) \(where applicable\)](#), [The Procurement Act 2023](#), [The Procurement Regulations 2024](#), and [The Health Care Services \(Provider Selection Regime\) Regulations 2023](#) is mandatory. Significant and serious failure to comply may result in formal disciplinary action.
6. The legislation referenced above are not extracted or transposed into these Contract Procedure Rules. Where procurement legislation needs to be complied with, the procurement team will support this.
7. In cases where the Contract Procedure Rules do not apply, other restrictions may apply through legislation including but not limited the Financial Regulations. Adherence to such is a requirement of these Contract Procedure Rules. The Responsible Officer shall seek advice on those other restrictions and the relevant governance and assurance processes to ensure the Council remains legally compliant.

SECTION 4 - Accountability and Responsibility

8. These Contract Procedure Rules apply to all officers of the Council. Officers must ensure that any agents, consultants and contractual partners acting as procurement agents on behalf of the Council also comply with these Contract Procedure Rules. Directors must ensure their staff comply with these Contract Procedure Rules.
9. An officer must not seek or accept technical advice on the preparation of a request for quotation or an invitation to tender from any party which may have a commercial interest in the procurement if this may prejudice the equal treatment of all potential suppliers or distort competition.
10. Directors must ensure that appropriate officers (Authorised Officers) have been given delegated authority under the Council's Scheme of Delegation, authorising them to make decisions relating to functions which fall within the scope of the Contract Procedure Rules.
11. Authorised Officers may award contracts and place orders and requisitions that comply with these Contract Procedure Rules provided that:
- 11.1 the financial values and commitments are within approved budgetary estimates and within their delegated responsibility,

- 11.2 they are within the Council's legal powers, and
 11.3 where the contract involves the transfer of Council staff, or former Council staff who have previously been the subject of an outsourcing of service, the Authorised Officer is acting in accordance the direction made by the Secretary of State under section 102 of the Local Government Act 2003 (pension provision) or any replacement.
12. Directors must ensure that Authorised Officers have the necessary skills, competencies, and knowledge to undertake procurement and/or contract management related duties of the scope, risk and complexity assigned to them. This should include attendance on mandatory and appropriate relevant training courses, both internal and external, on areas such as procurement, finance, risk, business continuity and GDPR.

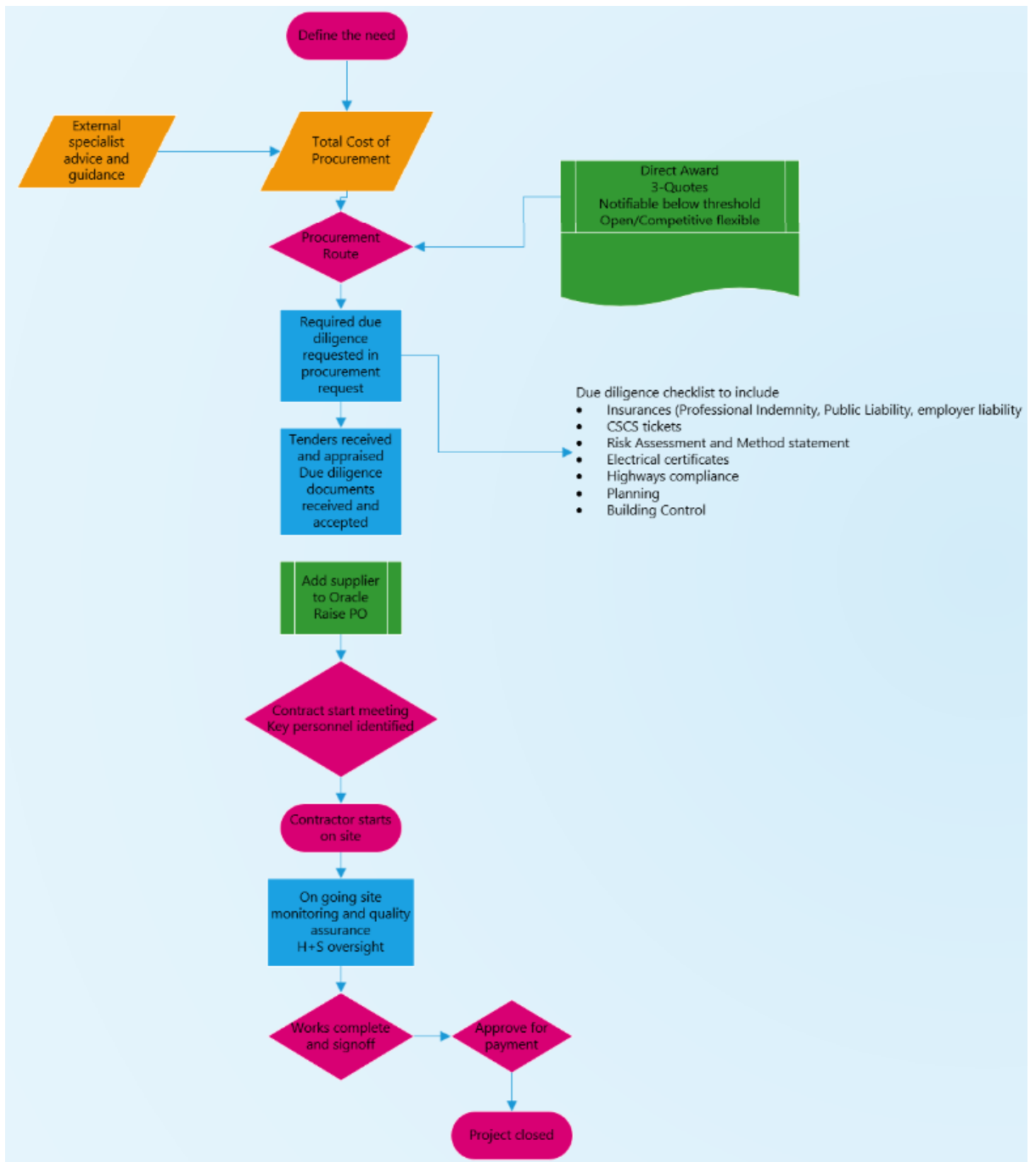
SECTION 5 - Contract Values

13. When estimating the Total Contract Value, the contract value means: The total cost in pounds sterling of the contract over the entire contract period including any extension inclusive of VAT.
14. Where there are multiple procurement requirements under the same project or programme business case, the total project or programme value should be used for the purpose of determining the governance approach under the Contract Procedure Rules. Where requirements are then procured separately under the project or programme, each of these procurements should comply with applicable procurement regulations.
15. When calculating the estimated value of the contract, including Frameworks, to determine whether the CPRs and Regulations apply, this should be calculated using Schedule 3 of the Procurement Act 2023. [Procurement Policy Note 10/21](#) also confirms that the contract value estimation should be inclusive of VAT (contract value plus 20%). For the purposes of advertising the contract and business case development, the estimated contract value will continue to be provided exclusive of VAT.
16. When calculating the estimated value of the contract this also should include consideration of the approach to inflation for the duration of the contract.
17. Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of Contract Procedure Rules or the law.
18. Where the initial contract value estimate is within 10% of the relevant procurement threshold, Commercial Services shall be contacted and a

further, more detailed calculation shall be conducted in accordance with the applicable regulations.

SECTION 6 - General Sourcing Strategy

19. At the outset of any project / programme equal to or greater than £30k total contract value, a commercial assessment shall be undertaken to consider the strategic business case. This shall be proportional to the value and associated risks.
20. It shall consider the category strategy, feasibility options and the sourcing strategy.
21. The make, do or buy decision shall include consideration of existing capabilities and resource available across the Council.
22. If the appropriate decision is to buy rather than provide internally or make, then the sourcing strategy as detailed in the rules shall be considered and followed as set out in the flow chart and threshold tables below.

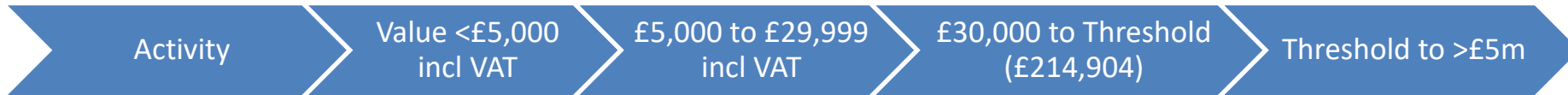


23.

SECTION 7 - Thresholds and Governance

24. The procurement approach will be determined based on the total contract value as detailed within the tables below. Where the contract is a mixture of Capital and Revenue expenditure, the highest value element will determine the approach. Where there are material changes to the requirement or cost of a project post business case approval, there should be consideration of re-visiting the business case and governance process for further review.
25. The following tables detail the rules, procedures, authorisation and assurance that must be followed for all procurements and contract modifications / variations:

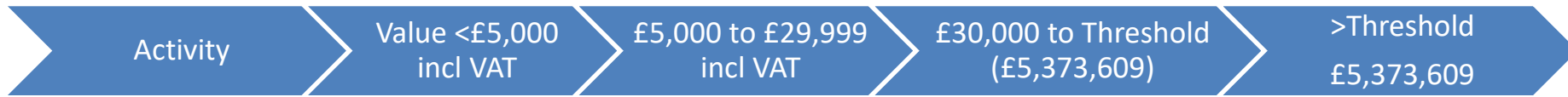
Quotation and tendering thresholds (goods and services)



| <i>Service led procurement or Procurement team led</i> | Service led | Service led with Procurement support | Procurement team | Procurement team |
|--|--|---|--|---|
| <i>Contract tender report</i> | No | No | Yes | Yes |
| <i>Actual or potential Conflict of interest and its mitigation</i> | Yes COI declaration to be completed | Yes COI declaration to be completed | Yes Formal Conflicts assessment to be completed | Yes Formal Conflicts assessment to be completed |
| <i>Quotation /Tender minimum requirements</i> | Minimum of 1 formal written quotation | Evidence of seeking a minimum of 3 quotes. Senior officer sign-off for direct award if no quotes received. Or Legitimate purchasing route (Framework) | Formal tender process in line with Procurement Act 2023 | Formal tender process in line with Procurement Act 2023 |
| <i>Local supply chain / SME requirement</i> | Aim to reserve for local suppliers | Aim to reserve for local suppliers, remove barriers to SME's | Seek to remove barriers to SMEs. Consider lotting | Seek to remove barriers to SMEs. Consider lotting |
| <i>Social Value approach</i> | No requirement, consider local suppliers first | No requirement, consider local suppliers first | Social value to be considered (10%) | Social value to be considered (15%) |
| <i>Terms and conditions</i> | Short form terms and conditions | Short form terms and conditions | Terms and conditions to be drafted by legal | Terms and conditions to be drafted by legal |
| <i>Formal advertisement of opportunity</i> | Optional | CloS website | Below threshold tender notice on Central Digital Platform prior to advertising elsewhere, unless pre-selecting suppliers | Formal Notices in line with PA 2023 |

| | | | | |
|---|----------|--|---|-------------------------------------|
| <i>Formal publication of award</i> | Optional | Optional | <ol style="list-style-type: none"> 1. Publish below threshold award notice 2. Publish contract details notice on the CDP as soon as reasonably possible | Formal notices in line with PA 2023 |
| <i>Contract published on Contracts Register</i> | | Yes, for contracts >£5k | Yes | Yes |
| <i>Award of Tenders and Contracts</i> | | Heads of Service within the Scheme of Delegation | <p>Up to £100,000 Strategic director</p> <p>Up to £250,000 Strategic director and s151 officer</p> <p>In excess of £250,000 Full council as recommended by s151 officer</p> | |

Quotation and tendering thresholds (works)



| <i>Service led procurement or Procurement team led</i> | Service led | Service led with Procurement support | Procurement team | Procurement team |
|--|--|---|--|---|
| <i>Contract tender report</i> | No | No | Yes | Yes |
| <i>Actual or potential Conflict of interest and its mitigation</i> | Yes COI declaration to be completed | Yes COI declaration to be completed | Yes Formal Conflicts assessment to be completed | Yes Formal Conflicts assessment to be completed |
| <i>Quotation /Tender minimum requirements</i> | Minimum of 1 formal written quotation | Evidence of seeking a minimum of 3 quotes. Senior officer sign-off for direct award if no or Legitimate purchasing route (Framework) | Formal tender process in line with Procurement Act 2023 | Formal tender process in line with Procurement Act 2023 |
| <i>Local supply chain / SME requirement</i> | Aim to reserve for local suppliers | Aim to reserve for local suppliers, remove barriers to SME's | Seek to remove barriers to SMEs. Consider lotting | Seek to remove barriers to SMEs. Consider lotting |
| <i>Social Value approach</i> | No requirement, consider local suppliers first | No requirement, consider local suppliers first | Social value to be considered (10%) | Social value to be considered (15%) |
| <i>Terms and conditions</i> | Short form terms and conditions | Short form terms and conditions | Terms and conditions as per JCT /NEC | Terms and conditions as per JCT /NEC |
| <i>Formal advertisement of opportunity</i> | Optional | CloS website | Below threshold tender notice on Central Digital Platform prior to advertising elsewhere, unless pre-selecting suppliers | Formal Notices in line with PA 2023 |
| <i>Formal publication of award</i> | Optional | Optional | 1. Publish below threshold award notice. | Formal notices in line with PA 2023 |

| | | | |
|---|--|--|-----|
| | | 2. Publish contract details notice on the CDP as soon as reasonably possible | |
| <i>Contract published on Contracts Register</i> | Yes, for contracts >£5k | Yes | Yes |
| <i>Award of Tenders and Contracts gateway</i> | Heads of Service within the Scheme of Delegation | Up to £100,000 Strategic director Up to £250,000 Strategic director and s151 officer In excess of £250,000 Full council as recommended by s151 officer | |

SECTION 8 - Terms and Conditions

26. There shall be written terms and conditions in place for all contractual arrangements. Wherever possible and appropriate to do so, contracts shall be based on the Council's terms and conditions, prepared by Legal Services, related to the subject matter of the contract.
27. Where this is not the case, then suitable justification shall be made for audit purposes. Justification may include (but is not limited to) procuring from ("calling off") other parties' framework agreements pursuant to which the terms and conditions of that framework agreement will be applicable. In such cases consideration of the implications of those terms and conditions is required prior to purchasing from the framework agreement and advice from Legal Services shall be obtained.
28. Any proposed deviation from the Council's terms and conditions shall be flagged to raised with the Procurement Team for consideration prior to commencing the procurement process.

SECTION 9 - Contract and Supplier Relationship Management

29. Contracts for goods or services with a total contract value equal to or greater than £30,000 shall be managed in accordance with the [Contract Management Toolkit](#).
30. All contract variations (including those allowed by the contract) shall be authorised at the relevant level, provided that the variation cost can be met within budget. For the avoidance of doubt the total value used for assurance and authorisation will be the total value of the contract including all modifications.

SECTION 10 - Exemptions to the Rules

31. Any exemption or single supplier exception to the Rules and Procedure Notes, are only required for arrangements equal to or greater than £30,000, and these will require formal authorisation.
32. All Exemptions are reported through the Section 151 Officer. Exemptions or single supplier exceptions shall be completed in advance of committing

spend. Where this is not the case this shall be treated as a breach of the Contract Procedure Rules.

33. Sign off of Exemptions or single supplier exceptions do not forgo the requirement to ensure a formal contract is put in place with proportionate contract management and award publication.

SECTION 11 - Defined Terms

Assurance: Review, commercial challenge and endorsement.

Breach: Where there has been a failure to comply with an aspect of the Contract Procedure Rules. Breaches relate to significant and serious failures to comply with the Contract Procedure Rules.

Capital: The purchase of long-term physical or fixed operational assets, together with other goods and services that can be capitalised.

Central Digital Platform: Comprises an enhanced version of Find a Tender (FTS), providing the new procurement notices, and a new Supplier Information Service (SIS). The central digital platform will be supported by a single place of registration for both parts of the service and suppliers will be able to access both FTS and SIS using the same account via: Find tender service – search.

Concession Arrangements: Meaning where the provision and the management of services or the execution of works is entrusted to one or more economic operators, the consideration of which consists either solely in the right to exploit the services or works that are the subject of the contract or in that right together with payment.

Council Contract Procedure Rules: This document.

Decision: The authority to make a decision on a project / programme / individual contract.

Discretionary Exclusion: As defined within the Procurement Act 2023.

Endorsement: Refers to the act of formally supporting or approving commercial activity.

Exemptions: Provide formal authorisation for “exemption” from specific elements of the Contract Procedure Rules

Legislative: where a law(s) made official by parliament applies and must be adhered to.

Legitimate Purchasing routes: Compliant purchasing mechanisms, including but not limited to framework agreements, Dynamic Purchasing systems, P cards, catalogues and national frameworks.

Light Touch Regime: A set of more flexible procurement rules for certain types of public contracts as defined within the Procurement Act 2023.

Procedure Notes: Procedure Notes apply in application of the Contract Procedure Rules, as published by the Cabinet Office.

Reserved Contracts: As defined within the Procurement Act 2023.

Responsible Officer: In general, means the Officer within the Council who is the budget holder and who has direct responsibilities from an operational / client perspective for the goods, works and services.

Revenue: Operational expenditure on goods and services.

Senior Responsible Officer: Means Director or Head of Service with overall responsibility for a project or service.

Social Value: The broader effects from a contract or project which make a conscious effort to ensure that effects are positive and can be seen as adding social value by contributing to the long-term wellbeing and resilience of individuals, communities and society in general.

The Regulations: Means the Public Contracts Regulations (2015), The Procurement Act 2023, The Procurement Regulations 2024 and The Health Care Services (Provider Selection Regime) Regulations 2023.

The Rules / Contract Procedure Rules: Shall mean the Contract Procedure Rules themselves.

Total contract value: The total value of the contract over the entirety of duration (including any provision to extend).

Appendix 1: Roles and Responsibilities

General

In carrying out their duties Officers and Members shall ensure that:

- Their actions comply with the Contract Procedure Rules.
- Value for money considerations are considered.
- Suitable records are maintained for audit, accountability and reporting purposes in line with the document retention policy, Regulations and any external funding arrangements.
- Relevant and proportional due diligence and assurance is undertaken and, where required, advice sought in a timely manner.
- They have provided an up-to-date Declaration of Interest form in accordance with the Employee Code of Conduct.
- They have complied with the Scheme of Delegation and the Council's formal decision-making requirements.

Specific

Specific responsibilities are described in the table below:

| Position | Specific Responsibilities |
|---------------------|--|
| Responsible Officer | <ul style="list-style-type: none"> • Quoting, tendering or contract renewals shall be appropriately planned to ensure the Contract Procedure Rules are applied. • Seeking additional advice where the Rules do not apply. • Ensuring there is a genuine and legitimate business requirement for the spend and an approved budget allocation. • Ensuring that the appropriate approvals have been received in respect to committing spend. • Drafting a fit for purpose specification for each procurement. • Supporting the definition of an appropriate sourcing strategy for each contract. • Providing justification for any deviation from the approved sourcing strategy. • Accurately estimating the total contract value at the start of each procurement. • Conducting procurements alongside Commercial Services. • Understanding and fulfilling their role in the Exemptions process. • Engaging with the procurement team as required. |

| | |
|--|--|
| | <ul style="list-style-type: none"> • Being the budget holder, or acting with the authority of the budget holder |
| Senior Responsible Officer–Head of Service | <ul style="list-style-type: none"> • Ensuring their staff comply with the rules • Following supporting guidance in their role as a signatory for Exemptions • Approval of the commercial business case, sourcing strategy and contract management arrangements subject to compliance with the corresponding assurance requirements under the Rules • Ensuring that contract award decisions are made in accordance with the Council’s decision-making requirements, including the Scheme of Delegation. |
| Monitoring Officer | <ul style="list-style-type: none"> • Applying the requirements of the Monitoring Officer role diligently in the overarching governance of the Contract Procedure Rules. |
| Section 151 Officer | <ul style="list-style-type: none"> • Applying the requirements of Section 151 Officer responsibilities diligently in the overarching governance of the Contract Procedure Rules. • Effective monitoring of key parts of the Contract Procedure Rules, for example considering the Exemptions process. • Effective monitoring of key parts of the Contract Procedure Rules including: <ul style="list-style-type: none"> o Exemptions process o Consideration of Discretionary Exclusions o Determination of acceptance or otherwise of late tenders with documented rationale for decision made |
| Procurement Team | <ul style="list-style-type: none"> • Assessing the commercial considerations at the design stage, formulating the Sourcing Strategy with the client for each procurement and putting the contract management arrangements in place in accordance with the contract management framework. • Exploring options for using pre-existing Public Sector compliant contractual arrangements. • Exploring options for collaboration with other contracting authorities where appropriate. • Overall management and co-ordination of all procurement processes for Strategic / Critical Contracts including overall probity around the submission and supporting documents in the process. • Proportional engagement to ensure the compliance of all procurement processes over Regulated Procurement Thresholds and monitoring and intervention as appropriate below Procurement Thresholds. • Maintaining corporate oversight over all revenue contracts following award. • Setting Contract Management standards for the Council and providing associated support and guidance. |

| | |
|---------------------------------|---|
| | <ul style="list-style-type: none"> • Providing professional advice to the managers of Strategic and Critical Contracts. • Collating and validating reports on Contract Management across the Council for Senior Managers and Members. • Provide intensive support where contracts are nearing failure in respect of strategic and critical and provide advice and guidance for all other contracts. • Professionalisation of Contract Management across the Council. |
| Head of Economy and Procurement | <ul style="list-style-type: none"> • Overall ownership of the Contract Procedure Rules and ensuring that the overall framework for commercial considerations is complied with robustly and effectively. |
| Operational Leadership Team | <ul style="list-style-type: none"> • Oversee, and act as a corporate gateway. Where relevant decision-makers for all future capital investment. |
| Elected Members | <ul style="list-style-type: none"> • Elected Member's responsibilities will vary depending on any defined appointment. Any decisions by Members shall be made with due diligence and application to the Rules. • Where Members have specific responsibilities in the procedural aspects, they shall ensure compliance with the Rules. • Ensuring compliance with the Members' Code of Conduct, including in relation to any interests they may have. • Make such decisions that are referred to them for determination within the scope of the Rules. |
| Internal audit | <ul style="list-style-type: none"> • Providing assurance to service management and Members on compliance with these Contract Procedure Rules and investigating any suspected cases of fraud and irregularity. |