



Contract Procedure Rules

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## 1. Introduction

1.1 These contract procedure rules are the Council's rules (the "Rules") for buying for the Council and are part of the Council's Constitution. The Rules govern the method by which the Council must select suppliers to provide goods, services or works. The Rules do not apply to:

1.1.1 internal purchases or internal service provision (including where the contracting authority awards a contract to an entity which it controls);

1.1.2 contracts which establish or implement co-operation between contracting authorities;

1.1.3 contracts which cover flows of money or pooling of funds between the Council and health bodies (section 75, 76 and 256 agreements under the National Health Service Act 2006 (as amended) );

~~grants which the Council may receive or make except where the grant results in payment to a third party for a contract for goods, services or works where the Council clearly specifies the output or outcomes to be delivered;~~

~~1.1.4 the purchasing of land or ~~to~~ of any interest in land.~~

1.2 The Rules apply to grants which the Council may receive or make where the grant results in payment to a third party for a contract for goods, services or works and where the Council specifies the output or outcomes to be delivered. Grants are only exempt from the Rules if the Council is not specifying the output or outcomes to be delivered.

~~4.21.3~~ If in doubt about whether or how the Rules apply, advice must be sought from the Procurement Services Team acting on behalf of the Service Director: Digital and Business Operations who will be able to advise whether and how the Rules apply in a particular case.

~~4.31.4~~ Every contract for the purchase of goods, services or works entered into by or on behalf of the Council including its Executive and Cabinet Members must comply with:

- these Rules;
- the Council's Constitution;
- all relevant statutory provisions including the Local Government Act 1988 Part II, Local Government Act 1999, Local Government Act 2000, the Public Contracts Regulations 2015 ("the PCR 2015"), the Local Government (Contracts) Act 1997, the Localism Act 2011, the Public Services (Social Value) Act 2012 and the ~~Contracts~~-Concession Contracts Regulations 2016 ("the CCR 2016");
- European Union treaties and European Council Directives;
- the rules on State Aid;
- any direction by the Council, the Executive Cabinet Member or Committee having appropriate delegated authority; and
- Council policies.

~~4.41.5~~ Service Directors are responsible for ensuring that their officers comply with these Rules.

~~4.51.6~~ The Service Director: Digital and Business Operations will investigate any incidences of non-compliance with these Rules with assistance from the Procurement Services Team.

~~4.61.7~~ The Service Director: Digital and Business Operations is responsible for providing advice on these Rules with assistance from the Procurement Services Team.

~~4.71.8~~ The Council has a duty to obtain “Best Value”. This means that the Council must always consider how each procurement (including in respect of concession arrangements) is consistent with the Council’s duty to secure continuous improvement having regard to economy, efficiency and effectiveness.

~~4.81.9~~ The Rules have three main purposes:

- a) To ensure compliance by the Council with public procurement law;
- b) To obtain Best Value in the way the Council spends money, so that the Council may in turn offer better and more cost effective services to the public and other stakeholders; and
- c) To protect officers who follow the Rules.

~~4.9~~ ~~Guidance on how the Rules are applied can be obtained from the Procurement Services Team.~~

1.10 With the exception of Low Value Transactions, officers must not engage with a supplier without first engaging with the Procurement Services Team in accordance with section 8 of these Rules 8.

## **2. Compliance with these Rules**

2.1 Officers who do not follow these Rules and/or fail to enter into a contract on behalf of the Council in accordance with them may be subject to disciplinary proceedings.

## **3. Authority to Purchase**

3.1 The Service Director: Finance & Commercialisation maintains a list of authorisation limits which details the limits within which Service Directors and their authorised officers may buy things for the Council. This document also specifies a maximum financial limit for each transaction for each authorised officer. These limits must not be exceeded.

Service Directors must ensure that procurement is undertaken by authorised officers who can demonstrate knowledge and understanding of these Rules and skills appropriate to the task. These officers should already have authority under the list of authorisation limits and if not must be granted authority by the Service Director: Finance & Commercialisation.

3.2 Officers must ensure that the appropriate budget holder has the funds in place for any proposed contracts and that the necessary budget approval from Finance has been obtained prior to commencement of the procurement process. This must be validated before a decision is made to award a contract.

## **4. Valuation of Contracts**

4.1 An estimated contract value must be established at the start of every procurement process.

4.2 The contract value is the estimated total value over its full duration (not the annual value) and must include the value attributable to any extension options and contractually permissible variations.

- 4.3 Where the duration of the contract is indeterminate, the contract value must be the estimated value of the contract over a period of four years.
- 4.4 The contract value must be referenced within the “request for quote” or “request for contract” form, which must be issued by the procuring officer to the Procurement Services Team prior to the commencement of any procurement for a contract of £54,000 or above in contract value.
- 4.5 If the procurement is related to another Council procurement or is for goods, services or works which are, or may also be, procured by another part of the Council or on a recurring basis, this could affect the contract value for the purpose of these Rules (i.e. the requirements for aggregation may apply). Officers must therefore obtain guidance from the Procurement Services Team before commencing any procurement activity where it is possible that aggregation could apply.
- 4.6 The value of contracts must never be deliberately or artificially underestimated or split to reduce the perceived contract value and/or avoid the application of procedures set out in these Rules. Deliberately or artificially underestimating or disaggregating the contract value as part of any procurement procedure is a clear breach of the Rules and, where they apply, the PCR 2015, and may lead to disciplinary proceedings being instigated.

## 5. Defining the Need

- 5.1 Prior to commencing a procurement, all options for the delivery of the requirement must be considered. The procuring officer must engage with the Procurement Services Team as soon as a requirement is identified.
- 5.2 Under Best Value legislation the procuring officer must consider all the options for the delivery of the required goods, services or works. The options include:-
- 5.2.1 Not buying the goods or services or having the works done at all;
  - 5.2.2 The Council providing the goods, services or works itself using internal resources;
  - 5.2.3 Contracting with third party suppliers to provide the ongoing goods, services or works;
  - 5.2.4 Providing the goods, services or works in partnership with someone else;
  - 5.2.5 Commissioning jointly with another contracting authority; and/or
  - 5.2.6 Shared service delivery with another council or public sector entities.
- 5.3 If it is determined in consultation with the Procurement Services Team that a procurement is the most appropriate way of meeting the requirement, the procuring officer must clearly and carefully identify and specify the goods, services or works required.
- 5.4 The procurement documentation shall then be developed to reflect size, scope and type of specification (i.e. input versus output specification) required and any other specific terms and conditions which are key to the subject-matter.
- 5.5 The duration of the contract that is likely to provide the most economically advantageous outcome for the Council must be determined before a procurement process commences.

5.6 Where the procurement relates to services (or services together with the purchase or hire of goods or the carrying out of works), an assessment of the required services must be undertaken by the procuring officer in conjunction with the Procurement Services Team to ensure compliance with the Public Services (Social Value) Act 2012.

## 6. Use of ~~existing contracts~~/Framework Agreements and eExisting eContracts

6.1 The Service Director: Digital and Business Operations (or the Service Director - Quality and Integration (or his or her delegate) in respect of frameworks for health and care services procured and managed via the Integrated Commissioning Unit) must approve the use of framework agreements (including Crown Commercial Services and other Public Purchasing Organisations) for use within the Council following an assessment of the terms of ~~the each~~ frameworks undertaken by the Procurement Services Team to ensure Best Value and legal compliance.

6.2 ~~Existing contracts or approved F~~framework agreements approved in accordance with Rule 6.1 (including those available from the Crown Commercial Services and other Public Purchasing Organisations) may be used by the Council (as part of the procurement procedures in ~~section 8 of these~~ Rule 8s) where, following an assessment of the terms of the framework by the Procurement Services Team and/or Legal Services as appropriate, such frameworks are considered to offer Best Value for the requirement in question and subject to satisfactory performance on previous/current contracts by the relevant framework contractors.

~~6.3 With the exception of Low-Value Transactions,~~ Officers are responsible for planning and foreseeing future requirements and (with the exception of Low-Value Transactions only), must engage with the Procurement Services Team at the earliest opportunity to ensure that any potentially appropriate framework agreements are identified at the start of the procurement procedure and to allow the requirements to be assessed and, as necessary, the need to progress to be questioned.

~~6.4 Where the Council has in place specific contracts with suppliers to provide goods~~supplies, services or works, these contracts where capable of doing so must be used to source relevant requirements unless directed otherwise by the Service Director: Digital and Business Operations or such other person or department as he or she may direct.

## 7. Use of Nominated Sub-contractors

7.1 Officers must not nominate the use of specific sub-contractors without the prior written consent of the Service Director: Digital and Business Operations. Any nominated sub-contractors must have been selected through use of the appropriate tender or quotation procedure as if the Council were contracting directly with the sub-contractor.

## 8. Tender and Quotation Procedures

8.1 The Rules and the associated procurement procedures vary according to the contract value, with stricter, more rigorous procedures for higher value transactions. This is to ensure that the benefits of a more thorough, complex procurement process are not outweighed by the cost, relative to the value of the goods, services or works in question.

8.2 Notwithstanding the contract value or procurement procedure utilised, all procurements undertaken by the Council must adhere to public procurement principles of equality of treatment, non-discrimination, transparency, mutual recognition and proportionality and such adherence must be demonstrable if challenged.

8.3 In respect of any procedure where more than one quote or tender is being requested, a quote or tender from at least one capable Small and Medium-sized Enterprise (SME) (with regard to guidance provided by the European Commission on the SME Definition) must be sought.

8.38.4 Procurement for concession contracts (contracts where operational risk lies with the provider and payment consists of the right to exploit the services or works or those rights along with some payment) are governed by the CCR 2016 where their value is equal to or above the financial threshold of £4,551,413<sup>1</sup>. Officers **must** obtain advice from the Procurement Services Team at the earliest opportunity if the letting of a concession contract is being considered.

8.48.5 For procurements with an estimated contract value at or above the thresholds prescribed for the PCR 2015 ~~Official Journal of the European Union (OJEU “the PCR Thresholds”)~~ (see ~~section 8.65 of these~~ Rule 8.6 below), the Council is legally obliged to comply with the PCR 2015. These opportunities are published in the Official Journal of the European Union (OJEU).

8.58.6 The table below indicates the relevant procedure to be followed for different levels of contract value:

Estimated Contract Value	Procedure to be followed
<ul style="list-style-type: none"> <li>▪ £181,302** or over for goods and services*</li> <li>▪ £4,551,413** or over for works</li> </ul>	The <del>OJEU</del> <u>PCR</u> Procurement Procedure set out below
<ul style="list-style-type: none"> <li>▪ £100,000 up to £181,301** for goods and services</li> <li>▪ £100,000 up to £4,551,412** for works</li> </ul>	The Procedure for High-Value Transactions set out below
<ul style="list-style-type: none"> <li>▪ £54,000 up to £99,999 for goods, services and works</li> </ul>	The Procedure for Intermediate-Value Transactions set out below
<ul style="list-style-type: none"> <li>▪ Up to £4,999 for goods, services and works</li> </ul>	The Procedure for Low-Value Transactions set out below
<ul style="list-style-type: none"> <li>▪ <u>PCR 2015 Schedule 3 Contracts (health and social care) up to £615,278</u></li> </ul>	<u>Light Touch Regime**</u>
<p>** Please note that these are the <del>OJEU-PCR</del> <u>Thresholds (“OJEU Thresholds”)</u> and are correct as at 1 January 2018 but are amended biennially in January.</p>	

8.68.7 ~~Certain health, social and other services (as listed in Schedule 3 of the PCR 2015) are subject to a “light touch” procurement regime if the value of the contract is £615,278\*\* or above.~~ Regulations 74 - 77 of the PCR 2015 set out the “light touch” regime and permit certain deviations from the ~~OJEU-PCR~~ Procurement

<sup>1</sup> CCR 2016 threshold for works, concessions and services effective from 1 January 2018.

Procedure described below. In advance of commencing a procurement process for Schedule 3 services, advice must be sought from the Procurement Services Team who will advise the compliant route to market.

### **OJEU-PCR Procurement Procedure**

**8.78.8** Officers must engage with the Procurement Services Team as soon as a need is identified and the procurement must be conducted in accordance with the procedures specified in the PCR 2015.

**8.88.9** All **OJEU-PCR** Procurement Procedures must be approved and managed by the Service Director: Digital and Business Operations or such other person or department as he or she may direct.

**8.98.10** A request for contract form must be completed and signed by an officer authorised in accordance with the Officer Scheme of Delegation and submitted to the Procurement Services Team unless otherwise directed by the Service Director: Digital and Business Operations.

**8.108.11** Contracts must be tendered using an appropriately compliant procurement route as specified in the PCR 2015. The Procurement Services Team will, through a formal options appraisal conducted in conjunction with the procuring officer, advise on the most appropriate type of procurement procedure based on the particular requirement.

**8.118.12** For each contract, a Contract Notice must be published in the Supplement to the Official Journal of the European Union (OJEU) and in Contracts Finder. Advertisements published additional to this (for instance in the local press or trade journals):

8.11.1 must not appear on Contracts Finder or in any other form of publication before a Contract Notice is published by the EU Publications Office and

8.11.2 must not contain any information additional to that contained in the Contract Notice in OJEU.

**8.128.13** Minimum timescales relating to tender procedures are governed by the PCR 2015 and these must always be followed.

**8.138.14** For all contracts tendered under the **OJEU-PCR** Procurement Procedures, a ten or fifteen calendar day 'standstill period' must be observed between when the decision to award is communicated and contract conclusion. The ten calendar day period applies where electronic communication has been used to communicate the decision. If, however, some other form of communication has been used, a fifteen calendar day 'standstill period' must be observed. In each case the 'standstill period' is calculated as starting on the day following the date on which the contract award decision is sent to tenderers. Once the decision to award a contract is made, each tenderer and candidate must be notified in writing of the outcome of the tender process. This notification must include:

**8.13.18.14.1** details of the contract award criteria;

**8.13.28.14.2** the reasons for the decision, including the characteristics and relative advantages of the successful tender and the score the tenderer and the successful tender obtained against those award criteria;

**8.13.38.14.3** the name of the successful tenderer; and

~~8.13.48.14.4~~ a statement as to the date the standstill period is due to expire.

~~8.148.15~~ Special rules apply where a tenderer or candidate requests a de-brief on the tender process. Even if a tenderer asks for a de-brief outside of the standstill period the Council is still obliged to provide this. In this instance, advice must be sought from the Procurement Services Team at the earliest opportunity and always before feedback is provided to the requesting tenderer or candidate.

~~8.158.16~~ All contracts awarded under the [OJEU PCR](#) Procurement Procedures must be announced by means of a Contract Award Notice in OJEU transmitted no later than 30 calendar days after the date of the contract award.

### Procedure for High-Value Transactions

~~8.168.17~~ Officers must engage with the Procurement Services Team as soon as a need is identified.

~~8.178.18~~ The tender process must be managed by the Service Director: Digital and Business Operations or such other person or department as he or she may direct, working with the relevant client departments / directorates.

~~8.188.19~~ A request for contract form must be completed and signed by an officer authorised in accordance with the Officer Scheme of Delegation and submitted to the Procurement Services Team unless otherwise directed by the Service Director: Digital and Business Operations.

~~8.198.20~~ The contract opportunity must be advertised by the Procurement Services Team at the start of the tender procedure. Information on the contract opportunity must be published on Contracts Finder within 24 hours of being advertised elsewhere. A contract award notice must be published on Contracts Finder in all cases.

~~8.208.21~~ The tender procedure shall be that identified as the most appropriate by the Procurement Services Team in conjunction with the Service Director: Digital and Business Operations or such other person or department as he or she may direct.

~~8.218.22~~ Special rules apply where a tenderer or candidate requests a de-brief on the tender process. Advice must be sought from the Procurement Services Team at the earliest opportunity and always before any feedback is provided to a requesting tenderer or candidate.

~~8.228.23~~ Where a competition has been undertaken in accordance with this procedure and only a single tender has been received, a contract may be awarded, subject to a value for money review being undertaken and an audit trail being available for inspection.

### Procedure for Intermediate-Value Transactions

~~8.238.24~~ Officers must engage with the Procurement Services Team as soon as a need is identified, except when sourcing temporary staff, in which case Officers must utilise a framework agreement approved in accordance with Rule 6.1 or be able to evidence that Best Value can be achieved (in accordance with the procedures approved by the Service Director – Digital and Business Operations) from the supplier utilised. -seek at least three written quotes for the required role from capable suppliers before appointing a temporary staff role.

~~8.248.25~~ A request for quote form must be completed and signed by an officer authorised in accordance with the Officer Scheme of Delegation and submitted to the Procurement Services Team unless otherwise directed by the Service Director: Digital and Business Operations.

~~8.258.26~~ The Procurement Services Team will invite at least three written quotations from capable suppliers before a supplier can be selected unless the contract value is less than £25,000 and it is determined by the Procurement Services Team that only one supplier and no competitors exist for the requirement. -

~~8.268.27~~ Where appropriate for the requirement in question, a request for quote will be advertised on the Council's e-portal at the start of the procurement procedure.

~~8.278.28~~ Where the contract value for a contract for goods or services is £25,000 or over, a request for quote must be advertised on the Council's e-portal and Contracts Finder within 24 hours of the time when the procurement is advertised in any other way. A contract award notice must be published on Contracts Finder in all cases.

~~8.288.29~~ The contractual agreement with the supplier must specify the goods, services or works to be provided, the price to be paid and include the Council's standard form of terms and conditions of purchase.

~~8.298.30~~ Where a competition has been undertaken in accordance with this procedure and only a single quote has been received, a contract may be awarded, subject to a value for money review being undertaken and an audit trail being available for inspection.

#### **Procedure for Low-Value Transactions**

~~8.308.31~~ Officers must obtain at least one written quotation from a capable supplier before a supplier can be selected.

~~8.318.32~~ Officers must be able to demonstrate and record that the written quotation and resulting contract represents Best Value.

~~8.33~~ The contractual agreement with the supplier must specify the goods, services or works to be provided, the price to be paid and include the Council's standard form of terms and conditions of purchase.

### **9. Receiving and Opening Tenders and Quotations**

9.1 Responses to an invitation to tender or quote **must** be received according to the format of response specified in the invitation to tender or quote and no later than the time specified for submission of tenders or quotes in the invitation to tender or quote.

9.2 Emailed [tenders and](#) quotations received are acceptable but copies must be retained in the relevant file by the Procurement Service Team (for [QJEU-PCR](#) Procurement Procedures and High-Value and Intermediate-Value Transactions) and the procuring officer (for Low-Value Transactions).

9.3 Tenders or quotations received for all procurement procedures (except the Procedure for Low-Value Transactions) **must** be managed by the Procurement Services Team using the Council's on-line tendering system portal for electronic tendering where appropriate. Electronic tender responses **must** be received, time

stamped and opened in accordance with the approved procedures implemented in that system.

- 9.4 A record of opened and rejected tenders and quotations as well as candidates who did not submit a tender or quotation **must** be recorded on a list of tenders or quotations invited.

## 10. Evaluating Tenders and Quotations

With the exception of Low-Value Transactions an appropriate evaluation model that states the basis for how the contract will be awarded must be determined in liaison with the Procurement Services Team prior to the issue of the invitation to tender or quote and must include mandatory and desirable requirements linked to the subject matter of the contract. The evaluation criteria must be detailed in the document used to invite tenders or quotations and must not be changed during the procurement process. Variant bids (i.e. a proposal for a solution that differs from the solution set out by the Council) must be scored against the same evaluation criteria as a tender or quotation which meets the Council's stipulated requirements.

- 10.1 Contract awards must be based on the identification of the Most Economically Advantageous Tender or quotation and the evaluation criteria must reflect this.
- 10.2 An evaluation to determine the most economically advantageous tender or quotation involves scoring tenders or quotations objectively using criteria which must:
- 10.3
- 10.3.1 be relevant to the particular procurement's size and scope;
  - 10.3.2 be pre-determined and listed in the invitation to submit a tender or quotation documentation, as the case may be;
  - 10.3.3 be strictly observed at all times throughout the procurement procedure;
  - 10.3.4 reflect the principles of Best Value;
  - 10.3.5 include price;
  - 10.3.6 consider whole-life costings, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal must be taken into account;
  - 10.3.7 indicate how the Council will score tenders or quotations and be capable of objective assessment;
  - 10.3.8 be weighted according to their respective importance which must be detailed in the document used to invite tenders or quotations;
  - 10.3.9 include, where applicable, the quality of the bidder's proposal to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
  - 10.3.10 avoid discrimination or perceived discrimination on the basis of nationality or other cause contrary to the any of the Council's policies.
- 10.4 Any resulting contract awarded must be awarded to the tenderer who submits the most economically advantageous tender or quotation (i.e. the quotation or tender that achieves the highest score in the objective assessment).
- 10.5 The Council must obtain clarification or explanation from suppliers who submit tenders or quotes which appear abnormally low and may reject a tender or quote if the evidence supplied is not satisfactory to justify the low tender or quote.
- 10.6 The results of the evaluation process must be recorded in writing.

10.7 The evaluators must not disclose information contained within tenders or quotes returned by a supplier to any third party not involved with the procurement process. Disclosing information relating to a bid to a competing supplier is a breach of the PCR 2015 and any failure to comply with this may lead to disciplinary proceedings being instigated.

## 11. Awarding Contracts and Audit Trails

11.1 Service Directors must ensure that the appropriate budget holder has the funds in place to sustain the contract prior to award.

11.2 A contract must only be awarded and signed by an officer authorised to do so in accordance with the Officer's Scheme of Delegation subject to receipt of confirmation from a Service Director (prior to award) that the appropriate budget holder has the funds in place to sustain the contract.

11.3 For all contracts where the contract value exceeds the [OJEU-PCR](#) Thresholds or in the case of a works contract, £200,000, the contract must either:

11.3.1 be made under the Council's seal in accordance with the Constitution; or

11.3.2 signed by at least two duly authorised officers of the Council authorised by the Director of Legal & Governance.

11.4 The decision as to whether to sign or to seal a contract shall rest with the Director of Legal & Governance. For the avoidance of doubt, no contract shall be attested by or signed by any Councillor.

11.5 A full and complete audit trail of all procurement activity resulting in the award of a contract, framework or dynamic purchasing system must be retained as required by regulation 84 of the PCR 2015 and in accordance with the Council's Records Review and Retention Schedule.

11.6 In respect of the [OJEU-PCR](#) Procurement Procedure, High-Value Transaction Procedure and Intermediate-Value Transaction Procedure, the Council must produce a report containing information including contract value, the names of bidders rejected at the selection stage and the reasons for their rejection (for [OJEU-the PCR](#) Procurement Procedure) and conflicts of interest identified and how they were addressed. This report will be produced and retained by the Procurement Services Team.

11.7 An audit trail of the procurement and decision making process in respect of any procurement which is withdrawn prior to contract award shall also be retained by the Procurement Services Team.

11.8 In respect of all contracts awarded exceeding £25,000 in contract value (including those awarded as call-off contracts under framework agreements), the name of the contractor, the date on which the contract was entered into and the value of the contract must be published on Contracts Finder within a reasonable time of the contract award.

## 12. Ordering and Paying for Goods, Services and Works

12.1 No pre-payment for goods, services or works may be allowed above the value of £5,000, without the prior written consent of the Service Director: Finance & Commercialisation and the Director of Legal & Governance.

### 13. Parent Company Guarantees and Performance Bonds

13.1 The requirement for a bond, parent company guarantee or other security must be determined in consultation with the Service Director: Finance and Commercialisation and the Procurement Services Team.

### 14. Conditions of Contract

14.1 Unless expressly agreed by the Director of Legal & Governance, all transactions regardless of value must use a model form of conditions of contract provided and approved by the Service Director: Finance and Commercialisation, ~~and the~~ Director of Legal & Governance.

14.2 The Service Director: Digital and Business Operations, in conjunction with the Director of Legal & Governance, must:

14.2.1 keep a list of all model forms of conditions of contract that gives details of when the conditions were last updated;

14.2.2 review all current model forms of conditions of contract, at least every 2 years, or when applicable legislation is introduced.

### 15. Contracts Register

~~15.1.1~~ The Service Director: Digital and Business Operations must maintain and publish a register ("the Contracts Register") which includes details of contracts, commissioned activity, purchase orders involving any one-off and recurring payments, framework agreements and any other legally enforceable agreement with values of £5,000 and above, to enable the Council to meet its obligations in respect of the Local Government Transparency Code 2015. ~~The register is maintained by the Procurement Services Team and published on the Council's website.~~

### 16. Variations and Extensions

16.1 Any extension and/or variation to an existing contract must demonstrate Best Value and must not be instigated solely to avoid or delay the requirement to conduct a procurement.

16.2 Officers must ensure that the appropriate budget holder has the funds in place for the variation or extension and that the necessary budget approval from Finance has been obtained.

16.3 All extensions and variations must be documented in writing and signed by an authorised signatory on behalf of the Council and counter-signed by the supplier.

~~16.4 The Procurement Services Team must be consulted before any extensions are agreed.~~

16.4 Officers must ensure that any agreed extensions or variations to contracts are communicated to the Procurement Services Team to ensure the Contract Register remains up to date.

16.5 The Procurement Services Team shall record all implemented extensions and variations on the Contracts Register.

16.6 Subject to any statutory restrictions and compliance with these Rules, Service Directors may authorise an extension or variation to an existing contract where an extension or variation is provided for within the terms and conditions of the contract.

#### 16.7 Extensions

16.7.1 Officers must always seek advice from the Procurement Services Team before agreeing any extension to a contract with a supplier if the extension is not already expressly provided for within the terms and conditions of the contract. Any such extensions must be authorised by the Service Director - Quality and Integration (or his or her delegate) in respect of extensions to contracts for health and care services procured and managed via the Integrated Commissioning Unit or the Service Director: Digital and Business Operations (or such other person or department as he or she may direct) in respect of all other Council contracts.

#### 16.8 Variations

16.8.1 All variations to a contract must be made in accordance with the provisions of the PCR 2015. Officers must always seek advice from the Procurement Services Team before agreeing any variations to contracts if the variation is not already expressly provided for within the terms and conditions of the contract. are agreed with a supplier.

16.8.2 In respect of contracts below the PCR Threshold in value and sSubject to any statutory restrictions and compliance with these Rules, Service Directors may authorise a variation to an existing contract where the consequent change in price (determined in accordance with the contract terms) is such that the annual value of the variation is less than £25,000 or 15% of the original annual contract value (whichever is the lesser) provided that the value of the contract post-variation remains below the PCR Threshold.

~~16.8.2.~~

In respect of contracts below the PCR Threshold in value and sSubject to any statutory restrictions and compliance with these Rules, any variation to an existing contract where the consequent change in price (determined in accordance with the contract terms) is greater than £25,000 or 15% of the original annual contract value (whichever is the lesser) must be authorised by:

16.8.2.1 the Service Director - Quality and Integration (or his or her delegate) in respect of variations relating to contracts for health and care services procured and managed via the Integrated Commissioning Unit or;

16.8.2.1 the Service Director: Digital and Business Operations for all other Council contracts;

provided always that the value of the contract post-variation remains below the PCR Threshold.

## 17. Conflicts of Interest and Corruption

- 17.1 Any interest which may affect the award of a contract under these Rules **must** be declared. Such interests may include the ownership of shares in a potential supplier, previous employment by a potential supplier or the employment of a family member by a potential supplier. Any officer of the Council participating in a contract award decision or employee of the Procurement Services Team must provide the Service Director: Digital and Business Operations with an advance written declaration of any such interests.
- 17.2 The Service Director: Digital and Business Operations must either certify that such interests are acceptable or take any necessary action in respect of potential conflicts of interest and the officer should not participate in the award of the contract by the Council.
- 17.3 Officers must be aware of other requirements of the Council's Constitution with regard to conflicts of interest, bribery and corruption.
- 17.4 Each contract which the Council enters into shall include a provision which entitles the Council to terminate the contract and recover losses from the contractor resulting from such termination if the contractor or any one acting on the contractor's behalf has:
- 17.4.1 offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do, or has done or forborne to do, any action in relation to the obtaining or execution of the contract or any other contract with the Council; or
  - 17.4.2 shown or has forborne to show favour or disfavour to any person in relation to the contract or any other contract with the Council; or
  - 17.4.3 committed an offence under the Prevention of Corruption Acts 1889 to 1916 (or any act or acts as may replace the same) or has given any reward the receipt of which is an offence under the Local Government Act 1972 (or any act as may replace the same) or committed an offence under the Bribery Act 2010.

## 18. Gifts and Hospitality

- 18.1 No gifts or hospitality should be accepted from any bidders to any contract being let or about to be let by the Council. Acceptance of gifts or hospitality may be a disciplinary offence. Every officer (whether of the Council or Procurement Services Team managing a procurement, letting (or planning to let) a contract or managing a contract for the Council) must inform the Service Director: Finance and Commercialisation of any offers of gifts or hospitality. Reference should be made to the Council's policy on Gifts and Hospitality in place at such time and other relevant Council policies.

## 19. Exemptions to the Rules

- 19.1 No exemption can be given which breaches public procurement law.

19.2 An exemption to these Rules may only be agreed by:

a) the Service Director - Quality and Integration (or his or her delegate) in respect of exemptions relating to health and care services procured and managed via the Integrated Commissioning Unit or

b) the Service Director: Digital and Business Operations (or his or /her delegate) in respect of exemptions relating to all other Council procurement.

19.3

if, after considering a Request for Exemption, he or /she is satisfied that the exemption is justified because:

~~19.1.1~~19.3.1 the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Rules is justifiable; or

~~19.1.2~~19.3.2 the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or

~~19.1.3~~19.3.3 there are other circumstances which are genuinely exceptional.

~~19.2~~19.4 No exemption requests will be considered unless and until a Request for Exemption Form has been fully completed and submitted to the Procurement Services Team.

~~19.3~~19.5 A record of the decision approving an exemption and the reasons for it **must** be kept by the Procurement Services Team, an entry made in the register of approved exemptions and the Contracts Register updated accordingly.

~~19.4~~19.6 Approved exemptions will be conditional on the relevant Service Director providing and agreeing a plan with the Service Director: Digital and Business Operations or the Service Director - Quality and Integration (as appropriate) to mitigate the need for further exemptions relating to the contract.

~~19.5~~19.7 An exemption shall never be given in relation to either Rule 17 or Rule 18.

~~19.6~~19.8 These Rules may also be varied or departed from when, but only when, the ~~Service Director: Legal & Governance~~Director of Legal & Governance advises that statute or subordinate legislation requires.