

## Part 2 – Contract Procedure Rules

### 1. Introduction and Definitions – Purpose of the Contract Procedure Rules

- 1.1 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Procedure Rules is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council:
  - a.) Furthers its corporate objectives.
  - b.) Uses its resources efficiently.
  - c.) Purchases quality goods, services and works, consistent with the priorities of the Council and which provide value for money.
  - d.) Safeguards its reputation from any implication of dishonesty or corruption.
- 1.2 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings.
- 1.3 These Contract Procedure Rules are made in accordance with the requirements of section 135 of the Local Government Act 1972. They have been updated to reflect the Procurement Act 2023 and the regulations made under it and references to that Act will apply in these Rules to all procurements commenced on or after the date the Act comes into force. The Public Contracts Regulations 2015, the Utilities Contracts 2016 and the Concession Contracts Regulations 2016 (as appropriate) will continue to apply to all procurements (and contracts awarded) where the procurement commenced before the Procurement Act 2023 came into force.
- 1.4 These Contract Procedure Rules do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines can be found in the Council's Procurement Guide.
- 1.5 In these Contract Procedure Rules the following words and phrases have the following meaning:
  - a.) PA 2023 – means the Procurement Act 2023
  - b.) PCR 2015 – means Public Contracts Regulations 2015.
  - c.) PSR 2023 – means the Health Care Services (Provider Selection Regime) Regulations 2023.
  - d.) Finance Procedure Rules – means the Finance Procedure Rules set out in the Council's Constitution as updated from time to time.
  - e.) Central Digital Platform – means the advertising platform for notices below and above the relevant PA 2023 thresholds and for notices for PSR 2023 services.
  - f.) LT services (Light Touch services) – means services as defined under Schedule 1 of the Procurement Regulations 2024, being services to which the Light Touch rules applies.
  - g.) PSR 2023 services – means services as defined under Schedule 1 of the PSR 2023 being services to which the Provider Selection Regime applies.

- h.) Procurement Guide – means the Council's Procurement Guide as updated by the Head of Procurement Services from time to time.
- i.) Responsible Officer – means an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council.
- j.) Scheme of Delegation – means the Scheme of Delegation set out in the Council's Constitution as updated from time to time.
- k.) E-tendering System – means the web-based system which enables the electronic despatch and receipt of Tender documents.

## **2. General Principles – Application and Compliance with Contract Procedure Rules**

- 2.1 These Contract Procedure Rules apply to the purchase by or on behalf of the Council of works, supplies (goods) and services.
- 2.2 These Contract Procedure Rules apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in Rule 2.3.
- 2.3 Certain contracts are exempted from the application of the PA 2023. These include:
  - Land and buildings- Contracts for the acquisition of land or buildings, or an interest or right over them.
  - Financial services- Loan contracts in any currency, investment or ancillary services from investment firms or qualifying credit institutions, or services by the Bank of England.
  - Alternative dispute resolutions - Contracts for arbitration, mediation, conciliation or similar services.
  - Legal services - Contracts for legal representation in or advice in connection with judicial or other dispute resolution proceedings, notary services or legal services provided by someone legally required to provide them.
  - Employment - Contracts of employment or worker's contract, or a public office appointment.
  - Emergency services - Contracts for a specified list of not-for-profit emergency services, such as fire extinguishing, search and rescue or ambulance services for medical emergencies.
  - National security - Contracts which the contracting authority considers exempt for national security reasons.
  - Vertical contracts between a contracting authority and a person solely or jointly controlled by it, or by another contracting authority that controls the awarding contracting authority.
  - Horizontal public to public contracts - between contracting authorities, in certain circumstances.

- Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies and which do not amount to contracts for services.
- The awarding of grants. However, the principles of openness, fairness, non-discrimination and obtaining value for money must be applied.

2.4 Save where specifically mentioned elsewhere in these Contract Procedure Rules or where other Council policies apply, the principles in these Contract Procedure Rules do not apply to the contracts mentioned in 2.3 above. Contact Procurement Services for advice.

### **3. General Principles Applying to All Contracts**

3.1 All purchases however small shall be made or evidenced in writing.

3.2 Standard contract clauses shall be used in all contracts of a value of £30,000 (including VAT) or more. The standard contract clauses are issued by Legal Services and can be found on the intranet.

3.3 As a minimum, all contracts of a value of £30,000 (including VAT) or more shall include clauses which set out:

- a.) The works, supplies (goods), services, material, matters or things to be carried out or supplied.
- b.) The time within which the contract is to be performed.
- c.) Quality requirements and/or standards which must be met.
- d.) Requirements on the contractor to hold and maintain appropriate insurance.
- e.) What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part).
- f.) Requirements on the contractor to comply with all relevant equalities and health and safety legislation.
- g.) That the Council shall be entitled to terminate the contract and recover its losses in the event that the contractor, its employees or anyone acting on its behalf does anything improper to seek to influence the Council to give the contract to any person, or as to the circumstances in which a contract may be given, or any contract or commits an offence under the Bribery Act 2010 or section 117(2) Local Government Act 1972, or commits any fraud in connection with any Council contract. All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate).

3.4 All contracts of a value of £30,000 (including VAT) or more or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file.

### **4. Regulatory Context**

4.1 All purchasing shall be conducted in accordance with legislative and procedural requirements, which are:

a.) All relevant legislation, including

the PCR 2015 provisions to the extent applicable;

the PA 2023 and PR 2024 provisions to the extent applicable;

the PSR 2023 provisions to the extent applicable;

- b.) The Council's Constitution including these Contract Procedure Rules, the Council's Finance Procedure Rules and Scheme of Delegation;
- c.) The Council's Procurement Guide and other policies and procedures of the Council as appropriate.

4.2 In the event of conflict between the above, all relevant legislation will take precedence over the Council's Constitution, the Council's Procurement Guide and guidelines, policies and procedures.

## **5. Responsibilities of Directors, Assistant Directors and Responsible Officers**

5.1 Each Director shall:

- a.) be responsible for the purchasing undertaken by their Directorate.
- b.) be accountable to the Cabinet for the performance of their duties in relation to purchasing.
- c.) comply with the Council's decision-making processes including, where appropriate, implementing and operating a Scheme of Delegation.
- d.) appoint in writing an Assistant Director who shall be an authorised signatory in respect of commissioning related to that Service, subject to Rule 8 below, and who will be responsible for ensuring the correct carrying out of purchasing duties (Rule 5.3 below) of Responsible Officers within that Service.
- e.) take immediate action in the event of breach of these Contract Procedure Rules, by reporting this breach to the S151 Officer who will review the breach and if it is serious will report this to the Standards and Audit Committee.

5.2 A Responsible Officer is an Officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council.

5.3 A Responsible Officer's duties in respect of purchasing are to ensure:

- a.) compliance with all Regulatory Provisions and integrity of the tender process.
- b.) compliance with the relevant statutory provisions and the Council's requirements relating to declarations of interest (including gifts and hospitality) affecting any purchasing process.
- c.) that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used.
- d.) that the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costings and cost savings.
- e.) compliance with the Council's decision-making processes.
- f.) that all contracts of a value of £30,000 (including VAT) or more are included on the Council's Contract Register which is maintained by Procurement Services.

- g.) that proper records of all contract award procedure, waivers/exemptions and extensions are maintained, with separate files for each purchase of a value of £30,000 (including VAT) or more
- h.) that value for money is achieved.
- i.) that advice is sought from the Section 151 Officer as to whether adequate and appropriate security (such as a bond or guarantee), is to be taken to protect the Council in the event of non-performance, and in the case of tenders, such security to be required as part of the tender process.
- j.) that appropriate advice is sought and followed from Legal Services, Finance and Procurement Services.
- k.) that the Council's Document Retention Policy is complied with.
- l.) that for tenders a financial evaluation is or has been made of the financial standing of tenderers as advised by the Section 151 Officer.
- m.) that all reports seeking Cabinet approval to award a contract shall include a statement from the Responsible Officer that in their opinion, the tender process has been fair and transparent and in compliance with the relevant applicable regulatory provisions, UK legislation and these Contract Procedure Rules, or alternatively shall include a statement from the Responsible Officer which clearly sets out any anomalies that have occurred. In respect of contracts for which Cabinet approval is not required (for example, contracts under £500,000) the Responsible Officer will ensure that a similar statement is included on the relevant file.

5.4 In considering how best to procure works, supplies and services Directors, Assistant Directors and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods including the use of Purchasing Schemes and eprocurement / purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.

5.5 It is a disciplinary offence to fail to comply with these Contract Procedure Rules and the Council's Procurement Guide. All employees have a duty to report breaches of Contract Procedure Rules to their Director.

5.6 Any Officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services must immediately report that suspicion to the relevant Director.

## **6. Scheme of Delegation**

6.1 Council purchasing may only be undertaken by Officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Scheme of Delegation.

6.2 Officers with delegated authority may only delegate to other Officers if expressly allowed to do so in the Scheme of Delegation. If allowed, then the delegation should only be to Officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the Officer delegating the task and notified to the relevant Director.

6.3 Officers shall, where appropriate, be informed by their Director of the extent of any delegated authority and the financial thresholds set out in the Finance Procedure Rules and Contract Procedure Rules and Scheme of Delegation will apply.

## 7. Financial Thresholds and Procedures

7.1 Rule 7.4 sets out the general Rules applying to the choice of purchasing procedure for contracts at the stated threshold values.

7.2 There is a general presumption in favour of competition. Wherever possible, contract opportunities should be advertised by way of a public notice.

7.3 The public notice referred to at Rule 7.2 may take the form of a notice or advertisement in an electronic format, on an easily accessible website to ensure that contract opportunities are accessible to all potential bidders. Regardless of what other means of publication, notices or adverts for PSR services, PA 2023 supplies, services and works for both below and above threshold must first be advertised on the central digital platform, any decision to deviate from this must be justified and recorded in detail.

7.4 Financial thresholds and procedures are;

7.4.1. There are no financial thresholds for PSR 2023 services. The PSR 2023 applies to all PSR services regardless of their anticipated value. Procurement processes to be conducted in accordance with the PSR 2023 with advice from the Procurement Services, Legal Services and Finance.

7.4.2. Table one below sets out the financial thresholds and procedures in respect of the Council's rules and the PA 2023's requirements for supplies, services and works.

**Table 1;** financial thresholds and procedures for PA 2023 for supplies, services and works. All amounts are inclusive of VAT.

| <b>Services and Supplies</b> | <b>Works</b>           | <b>Procedure to be used</b>  |
|------------------------------|------------------------|--|
| Below £30,000                |                        | At least one written quote in advance  |
| £30,000 to £74,999           | £30,000 to £499,999    | At least three written quotes in advance where not advertised.<br><br>Where advertised, below-threshold tender notice to be published on the Central Digital Platform<br><br>Contract details notice must be published on the central digital platform within 30 days of entering into the contract in accordance with the principle of transparency and enhanced notification under PA 2023. Obtain advice from Procurement Services and Legal Services |
| £75,000 to £214,904          | £500,000 to £5,372,609 | Competitively advertised tender on the central digital platform and contract notices published in accordance with the principle of transparency and enhanced notification under PA 2023  |

|               |                 |   |
|---------------|-----------------|---|
|               |                 | Obtain advice from Procurement Services and Legal Services  |
| Over £214,904 | Over £5,372,609 | Procurement Act 2023 apply – full competitive process in accordance with the requirements of PA 2023. Obtain advice from Procurement Services, Legal Services and Finance |
|               |                 |   |

7.4.3. Table two below sets out the financial thresholds and procedures for PA 2023 concession contracts and LT services.

**Table 2;** financial thresholds and procedures for PA 2023 concession. contracts and LT services. All amounts are inclusive of VAT.

| <b>LT Services</b> | <b>Concession and Utilities contracts</b> | <b>Procedure to be used</b>   |
|--------------------|---|---|
| Below £663,540     | Below £5,372,609                          | The requirements of the PA 2023 do not apply. There is a presumption in favour of advertising and a competitive tender process. Obtain advice from Procurement Services, Legal Services and Finance |
| £663,540 and above | £5,372,609 and above                      | PA 2023 applies to these contracts. The rules for the procurement process is different for each of these three categories. Obtain advice from Procurement Services, Legal Services and Finance      |
|                    |   |   |

7.4.4. In table one and two above the relevant PA 2023 thresholds are set out. The estimated contract value is the total value over the whole term of the contract including any extensions.

7.4.5 For aggregation purposes, where it is not possible to assess the maximum value of the contract (for example, because there is no specific contract length), the contract value should be treated as being at least that of the relevant threshold in the PA 2023 for the purpose of this calculation. It is therefore advisable to make the best valuation based on the available information. When calculating the estimated value of the contract under the PA 2023, the contract value estimation should include VAT.

7.5 Responsible Officers should act cautiously and seek advice when considering the procedure to be used and application of the PSR 2023 and PA 2023 to supplies, services and works contracts.

7.6 Where contracts are of a type and value which means that they are subject to the PSR 2023 or the PA 2023 as appropriate, there are specific procurement procedures available for utilisation. Care must be taken to ensure that the correct and most appropriate procedure is used and assistance on the choice and use of procedures must be sought in the first instance from Procurement Services and if required from Legal Services.

## **8. Financial Thresholds and Processes for Approval and Execution of Contracts**

- 8.1 Subject to the Finance Procedure Rules and provisions within the Council's Constitution regarding key decisions, Officers must obtain approval to proceed to tender, approval to award a contract, and approval in respect of any waivers or extension, in writing from:
- a.) Cabinet or a Cabinet Member having the delegated power (referred to below as the Delegated Cabinet Member) to do so, for contracts at or above a value of £500,000.
  - b.) A Director acting in conjunction with the Cabinet Member who holds the relevant portfolio, up to a contract value of £500,000, the power to be exercised personally by the Director and Cabinet Member and not his/her delegate where the value exceeds £350,000.
  - c.) A Director up to a contract value of £500,000 the power to be exercised personally by the Director and not his/her delegate where the value exceeds £350,000.
  - d.) An Assistant Director up to a value of £350,000 the power to be exercised personally by the Assistant Director and not his/her delegate.
  - e.) Director or Assistant Director where:
    - i) the Delegated Cabinet Member has been consulted by means of a written report; and
    - ii) the written report sets down the nature of the contract, the tenders received and a recommendation as to the course of action proposed; and
    - iii) the Delegated Cabinet Member has signified in writing their approval to the course of action proposed.
- 8.2 All applications for approvals to proceed to tender must:
- a.) Be fully documented.
  - b.) Append a commissioning report (a "Stage 1" - approval to proceed to tender form) in an approved format to be submitted in advance to either the Cabinet, Cabinet Member or to the relevant Director or Assistant Director in accordance with Rule 8.1 above and which shall set out the following:
    - i. an appropriate and proportionate business case setting out the commissioning need and costings.
    - ii. a draft specification detailing the quality required that is proportionate to the priorities of the Council.
    - iii. appropriate project management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004) and proposed project management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed procurement.



iv. appropriate contract management arrangements including user and stakeholder involvement and communication plans, risk assessments, an approved form of risk register, contingency plans (including requirements under the Civil Contingencies Act 2004), arrangements for post-contract evaluation, and proposed contract management record keeping procedures (including compliance with the Council's Document Retention Policy) during the term of the proposed contract.

v. confirmation from Legal Services, Procurement Services and Finance that they have been consulted and agree with the commissioning report in so far as it relates to those respective fields.

vi. confirmation that the requirements of Rule 5 above has been or will be met.

c.) In cases where an officer preparing a Cabinet Report seeking approval to proceed to tender also makes a recommendation that Cabinet delegates the authority to make the subsequent decision to award a contract either to a Council committee or to senior officers, the rationale for this recommendation should be made clear to Cabinet to allow them to make an informed decision to so delegate.

8.3 When a decision is made to award a contract then the Responsible Officer must, in addition to complying with their general obligations under these Contract Procedure Rules ensure, in particular, that:

a.) the appropriate approvals, including approval to proceed to tender and approval to award the contract, have been obtained to authorise that decision; and

b.) where appropriate, a standstill period complying with the PSR 2023 or the PA 2023, as the case may be, is incorporated into the final award process.

8.4 Any contracts valued at £150,000 or above shall be executed as a deed. All other contracts may be signed by Officers with appropriate delegated authority.

8.5 Electronic signatures may be used in accordance with the Electronic Identification and Trust Services for Electronic Transactions (Amendment etc.) (EU Exit) Regulations 2019 provided the sufficiency of security arrangements has been approved by the appropriate Director or their delegate. The Council's Common Seal may be affixed by such electronic means as the Council's Monitoring Officer may from time to time authorise and the affixing of an electronic seal shall have the same legal effect as physically affixing the Common Seal of the Council.

8.6 In the case of major projects and complex procurements the relevant Director and Assistant Director should follow advice from Procurement Services, Legal Services and Finance as to whether:

a.) a project specific scheme of delegation should be sought and approved by Cabinet for example, delegating powers of approval to a Delegated Cabinet Member at the beginning of the commissioning process in order to ensure timely approvals at key stages of the procurement process.

b.) proportionate gateway review process should be utilised.

## **9. Calculating the Contract Value**

- 9.1 The starting point for calculating the contract value for the purposes of these Contract Procedure Rules is that the contract value shall be the genuine pre-estimate of the value of the entire contract including Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options). See also Rule 7.4.5.
- 9.2 There shall be no artificial splitting of a contract to avoid the application of the Regulatory provisions.
- 9.3 Contracts which, individually, are below the relevant PA 2023 threshold but which constitute repeat purchases and/or purchases of a similar type in a specified period may require aggregation to determine whether they are collectively above that threshold. Responsible Officers should therefore seek advice on the application of the PA 2023 where they envisage that they may require repeat purchases and/or purchases of a similar type.

## **10. Principles Underlying Tendering Processes and Tender Evaluation**

- 10.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure that the following is secured:
- a.) Sufficient time is given to plan and run the process.
  - b.) Equal opportunity and equal treatment.
  - c.) Openness and transparency.
  - d.) Probity.
  - e.) Outcomes which deliver sustainability, efficiency and value for money

## **11. Submission and opening of tenders and quotes**

- 11.1 An Invitation to Tender or Quote issued by the Council for service supplies or works contracts shall be submitted in accordance with the requirements of the Invitation to Tender or Quote.
- 11.2 All invitation to Tenders or Quote shall be issued and received utilising the Council's e-tendering system. Tenders or quotes will be retained unopened until after the date and time specified for receipt of tender or quote in the invitation to tender or quote. In exceptional circumstances (in agreement with the Head of Procurement service tenders may be (received electronically, to which Rule 11.3 shall apply).
- 11.3 Where the Council has indicated in the Invitation to Tender or Quote that a tender can or must be submitted electronically, then those tenders or quotes shall be:
- a.) addressed to the email address as notified in the Invitation to Tender or Quote
  - b.) in the format specified in the Invitation to Tender or Quote.
  - c.) stored in a secure mailbox controlled by Procurement Services, which requires a code or other appropriate security measure, to open it.
  - d.) retained unopened until after the closing date and time specified for receipt of tender.

- 11.4 No tender or quote received after the closing time and date specified for receipt of tenders or quote shall be accepted or considered by the Council unless the relevant Director in consultation with the Head of Procurement Service is satisfied that there is sufficient evidence of the tender or quote having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply, and the other tenders or quotes have not been opened.
- 11.5 If it is necessary that the period of time for submitting tenders or quotes be extended, this should be communicated to all tenderers in writing in a fair and equal manner.

## **12. Evaluation of Quotes and Tenders and award**

- 12.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenderers.
- 12.2 Tenders subject to PSR 2023 and PA 2023 shall be evaluated as appropriate in accordance with the PSR 2023 and PA 2023 requirements.
- 12.3 Save in exceptional circumstances approved in advance by the relevant Director all contracts shall be awarded on the basis of the quote or tender which represents best value for money based on the identification of the most advantageous tender to the Council in accordance with the contract award criteria and not on the basis of lowest price.
- 12.4 Before entering a contract that is above threshold under PA 2023, an assessment summary must be given to each contractor that submitted an assessed tender. The summary must contain information about the Council's assessment of the tender and the most advantageous tender submitted. An assessment summary given to an unsuccessful supplier must include:
- The award criteria.
  - How the successful contractor scored against each award criterion.
  - How the contractor scored against each award criterion to the extent that the tender was assessed against that criterion.
  - Any other explanation of why the contract is not being awarded to the contractor e.g. disqualification, failure to meet pass/fail criteria.
- 12.5 After giving the assessment summaries (but before entering into an above threshold contract), a contract award notice must be published. This triggers the start of a mandatory 8 working day standstill period. Voluntary standstill period must also be observed for light touch contracts, awards under frameworks or by reference to dynamic markets.
- 12.6 After entering into an above threshold contract (and most contracts with a contract value of at least £30,000, including VAT):
- A contract details notice must be published confirming entrance into the contract.
  - For contracts over £5 million, a copy of the contract must be published.
- 12.7 A procurement termination notice must be published as soon as reasonably practicable if a decision is taken not to award a contract after publishing a tender or transparency notice.

## **13. Waivers**

13.1 The requirement to conduct a competitive purchasing process for contracts may be waived in the following circumstances:

- a.) For contracts not subject to the PA 2023 regulations, the Council's requirements to conduct a competitive process may be waived where;
  - (i) the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury, damage to property or breach of the Council's statutory obligations and duties.
  - (ii) the work, supply or service is required in the case of a civil emergency brought about by events unforeseeable by, and not attributable to the Council, and requiring an immediate response in order to protect the Council or its residents.
  - (iii) it is known (not assumed) that only one supplier can meet the requirement.
  - (iv) the continuity of knowledge or synergy with previous work is an overriding consideration.
  - (v) the Council has received an unsolicited proposal that contains ideas or concepts in respect of which the intellectual property is owned exclusively by the proposed single tenderer, that the Council wishes to use because it meets immediate needs.
- b.) For contracts subject to the PA 2023 regulation, a direct award without a competitive process must meet the conditions and criteria as set out in the PA 2023. The justifications for direct awards are set out in Schedule 5 to the PA 2023.
- c.) For contracts subject to the PSR 2023, a direct award without competition must meet the conditions and criteria as set out in the PSR 2023.

13.2 All waivers from these Contract Procedure Rules must be:

- a.) Fully documented.
- b.) Subject to a written report in an approved format (a contract waiver approval form) to be submitted in advance in accordance with Rule 8.1 (Approval) to Cabinet, the Cabinet Member or to the relevant Director or Assistant Director. The report shall include reasons for the waiver which demonstrate that the waiver is genuinely required.
- c.) Subject to written approval in advance in the approved format (a contract waiver approval form) in accordance with Rule 8.1 (Approval) by Cabinet, the Cabinet Member or the relevant Director, Assistant Director, who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstance justifying the waiver is genuinely required.
- d.) Approved by the Chief Executive and Section 151 Officer where immediate responses are required in;
  - (a) civil emergency circumstances to protect the Council or its residents with a full report in accordance with Rule 8.1 (Approval) submitted to Cabinet (at the next available cabinet meeting), the Cabinet Member or to the relevant Director or Assistant Director.

- (b) urgent circumstances involving immediate risk of financial loss, personal injury, damage to property or breach of the Council's statutory obligations and duties with a full report in accordance with Rule 8.1 (Approval) submitted to Cabinet (at the next available cabinet meeting), the Cabinet Member or to the relevant Director or Assistant Director.

13.3 Notice of award of all contracts with a value of £30,000 or above must be published on the Central Digital Platform.

13.4 All decisions on waivers must take into account:

- a.) Probity
- b.) Best value/value for money principles

13.5 A waiver shall not be applied for reasons of poor contract planning.

## **14. Changes to Existing Contracts**

14.1 Changes to existing contracts shall include extensions, modifications and variations of contracts.

14.2 Where extensions to existing contracts are made, the extensions must be determined in accordance with the contract terms, agreement of the parties to the contract, for a specified period and made in accordance with the principles set out in the Council's Procurement Guide, the PSR 2023 and PA 2023 as applicable.

14.3 The PCR 2015, the Utilities Contracts 2016 and the Concession Contracts Regulations 2016 (as appropriate) will continue to apply to all procurements (and contracts awarded) where the procurement commenced before the implementation of the PA 2023. Therefore, the rules on modifications to those contracts are as set out in the earlier legislation and not in the PA 2023. The rules set out in the Contract Procedure Rules in Rule 14.4 and 14.5 will continue to apply to modifications to those contracts.

14.4 Any contract change must be:

- a.) Fully documented.
- b.) Subject to a written report in an approved format (a contract modification approval form) to be submitted in accordance with Rule 8.1 (Approval) to Cabinet, the Cabinet Member or the relevant Director or Assistant Director. The report shall include reasons for the extension which demonstrate that the need for the extension is genuinely exceptional.
- c.) Subject to written approval in advance in the approved format (a contract modification approval form) in accordance with Rule 8.1 (Approval) to Cabinet, the Cabinet Member or by the relevant Director or Assistant Director, who shall record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are genuinely exceptional.

14.5 Any contract change must take into account:

- a.) Probity
- b.) Best value/value for money principles

14.6 For contracts subject to the PA 2023, contract changes must meet the conditions set out in Regulation 74 of PA 2023 in addition to the more general requirements set out above.

14.7 For contracts subject to the PSR 2023 any extension must meet the conditions set out in Regulation 13 of the PSR 2023 in addition to the more general requirements set out above.

## **15. Purchasing Schemes (including Framework Agreements)**

15.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Procurement Guide.

15.2 Responsible Officers must check in advance that:

- a.) The Council is legally entitled to use the Purchasing Scheme
- b.) The purchases to be made do properly fall within the coverage of the Purchasing Scheme
- c.) The establishment and operation of each Purchasing Scheme is in compliance with the PA 2023 or PSR 2023 as applicable (where they apply) and meets the Council's own requirements.

## **16. Review and Changes to these Contract Procedure Rules**

16.1 These Contract Procedure Rules shall be reviewed and updated on a regular basis. The Monitoring Officer may make changes from time to time to ensure that these Contract Procedure Rules are consistent with legislative requirements and best practice guidance issued from central government. Otherwise, amendments to the Contract Procedure Rules shall be agreed and adopted by the Council by resolution following the consideration of a Cabinet Report brought by the Section 151 Officer and the Monitoring Officer in consultation with the Head of Procurement Service.