

Procurement and Contract Procedure Rules

Commented [PM1]: Note: review all Rule numbers once amendments agreed.

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PART 1

RULES APPLICATION & KEY DEFINITIONS

~~These Rules constitute the Council's Standing Orders in relation to contracts under Section 135 of the Local Government Act 1972 and apply to all contracts (excluding those stated in Rule 2.2), including those made in the course of the discharge of functions which are the responsibility of the Executive.~~

~~Please note that any reference within these Rules to the Public Contracts Regulations 2015 and any requirement arising from them remain in force in accordance with the Withdrawal Agreement 2019 until replaced by future legislation. The Health Care Services (Provider Selection Regime) Regulations 2023 comes into effect 1st January 2024 and will replace the Public Contracts Regulations 2015 when arranging health care services and revoke the National Health Service Regulations 2013. Further guidance will be issued by the Procurement and Contract Management Service in due course.~~

1. RULES APPLICATION

1.1 These Rules constitute the Council's Standing Orders in relation to eContracts under Section 135 of the Local Government Act 1972 and apply to all eContracts (excluding those stated in **Rule 2.3.15**), including those made in the course of the discharge of functions which are the responsibility of the Executive.

APPLICATION OF THE PARTS

1.2 These Rules consist of the following Parts:

Part 1 - Rules Application & Key Definitions: Details on how these Rules will apply to all Contract and Grant Agreements. Key definitions are also listed here.

Part 2 – General Objectives, Powers & Principles: This part applies to all Contracts and Grant Agreements.

Part 3 – Contracts for Goods, Services and Works: This part applies to all Contracts for goods, services and works. This part does not apply to health care services Contracts or Grant Agreements.

Part 4 – Health Care Services Contracts: This part only applies to health care services Contracts.

Part 5 – Grant Agreements: This part only applies to Grant Agreements.

MIXED CONTRACTS

1.3 Where a procurement includes two or more types of provision (i.e. Goods, Services and Works) the value shall be based on the provision that characterises the main subject of the Contract in question.

1.4 When a Contract comprises a mixture of in-scope Health Care Services and out-of-scope Services or Goods, relevant authorities may only use the PSR to arrange those services when both of the below requirements are satisfied:

- a) The main subject-matter of the Contract is in-scope Health Care Services
- b) The relevant authority is of the view that the other goods or services could not reasonably be supplied under a separate Contract.

EXEMPT CONTRACTS

1.5 These Rules do not apply to Contracts in which the Council are the supplier (i.e. Trading) or to Contracts that are of the kind listed in Schedule 2 of the PA2023. This includes the following types of Contracts:

- a) Vertical ("Teckal") Arrangements
- b) Horizontal (between Contracting Authorities) Arrangements
- c) Land & building (Refer to the Council's Property Procedure Rules)
- d) Broadcasting
- e) Electronic Communications Services (within the meaning given in section 32 and 151 of the Communications Act 2003)
- f) Alternative dispute resolution which includes arbitration, mediation or conciliation services or any other similar services
- g) Legal Services relating to judicial proceedings, notary where mandated by law or in relation to an order of the court or tribunal
- h) Financial Services related to the lending of money, investment services or provision of services by the Bank of England (Refer to the Council's Financial Procedure Rules)
- i) Employment
- j) Research & Development services

2. INTRODUCTION/DEFINITIONS

DEFINED TERMS

42.1 These terms will have the following meanings in the Procurement and Contract Procedure Rules:-

<u>Best Value Process Form</u>	<u>means the form to be completed to capture the rationale for not seeking bids in accordance with Rule 15.3</u>
<u>Central Digital Platform</u>	<u>Is the online system established by the Minister for the Cabinet Officer and which may be accessed on https://www.gov.uk/find-tender</u>
<u>Centralised Procurement Authorities</u>	<u>means a contracting authority that is in the business of carrying out procurement for or on behalf of, or for the purpose of the supply of goods, services or works to, other contracting authorities.</u>
<u>Competitive Grant Form</u>	<u>means the form to be completed confirming the competitive process being undertaken to award the Grant Agreement where the value of the grant is below the threshold stated in Rule 15.4.</u>
<u>Concession</u>	<u>means a contract for the supply, for pecuniary interest, of works or services to a contracting authority where-</u>

	<p>a) <u>At least part of the consideration for that supply is a right for the supplier to exploit the works or services, and</u></p> <p>b) <u>Under the contract the supplier is exposed to a real operating risk.</u></p>
<u>Constitution</u>	<u>means the Council's Constitution of which these Rules form part</u>
<u>Contract</u>	<u>means any agreement, excluding a Grant, made between the Council and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in Rule 7.14.</u>
<u>Contract Register</u>	<u>means the register of Contracts maintained by the Council as set out in Rule 5.2.</u>
<u>Contracting Authorities</u>	<u>means a public authority which is wholly or mainly funded out of public funds, or subject to public authority oversight and does not operate on a commercial basis.</u>
<u>Council</u>	<u>means The North Yorkshire Council.</u>
<u>CPV</u>	<u>means the common procurement vocabulary which is a single classification system for public procurement to help identify goods, services and works.</u>
<u>Decision Record</u>	<u>means a record of a decision produced in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.</u>
<u>Director</u>	<u>means the Chief Executive Officer; Assistant Chief Executive HR and Business Support, Assistant Chief Executive Legal and Democratic Services, Assistant Chief Executive Local Engagement, Corporate Director of Environment; Corporate Director Health and Adult Services; Director of Public Health; Corporate Director Children and Young People's Service; Corporate Director of Resources; Corporate Director of Community Development as the context requires.</u>
<u>Director's recommendation</u>	<u>means a written record of the decision and justification to apply one of the exceptions set out in Rule 7.14 to be signed and kept by the relevant Director.</u>
<u>E-tendering System</u>	<u>means the online procurement platform used to publish opportunities and receive supplier submissions for consideration.</u>
<u>Elected Member</u>	<u>means an elected member of the Council or co-opted member on a Council committee.</u>
<u>Electronic Signatures</u>	<u>means an advanced electronic signature which is:</u>

- (i) uniquely linked to the signatory; and
- (ii) capable of identifying the signatory; and
- (iii) created using means that the signatory can maintain under his/her sole control; and
- (iv) linked to the data to which it relates in such a manner that any subsequent change of the data is detectable.

Goods

means those goods that have a CPV Code starting with 0 up to and including 44 or 48.

Gateway Report Process

means the Council's ~~value-based~~ ~~value-based~~ gateway commissioning, procurement and contract management process that combines assessment and understanding of various aspects of value with appropriate review and scrutiny at defined points.

There is a distinct Gateway Report Process for contracts and grant agreements.

Grant

means a sum of money awarded by the Council to third parties whereby the third party is not obliged to deliver any goods, services or works to the Council, but the Council may claw back grant funding which has not been spent or is misapplied.

Health Care Services

means those services detailed within Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023.

HoP

means the Head of Procurement and Contract Management.

Key Decision

means a decision made in connection with the discharge of a function which is the responsibility of the Executive set out in Article 13.03(b) of the Constitution.

Leasing Agreement

means a contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Council at the end of the contract period.

Light Touch Contract

means those services covered by the CPV Codes set out Table 2 of Schedule 1 of the Procurement Regulations 2024.

Monitoring Officer

means the Council's appointed statutory officer responsible for the legal governance of a local authority as set out under section 5 of the 1989 Local government and Housing Act.

Officer

means a Council employee or other authorised agent

<u>PA2023</u>	<u>means the Procurement Act 2023 as amended from time to time.</u>
<u>PAB</u>	<u>means the Procurement Assurance Board which is chaired by the HoP.</u>
<u>PCR2015</u>	<u>means the Public Contracts Regulations 2015</u>
<u>Person</u>	<u>means any individual, partnership, company, trust, other local authority, Government department or agency</u>
<u>Procurement and Contract Management Manual</u>	<u>means the manual to accompany these Rules which provides detailed guidance on procurement and contract management techniques and the effect of the Rules.</u>
<u>Procurement and Contract Management Service</u>	<u>means the Council's procurement and contract management service which sits under the HoP.</u>
<u>Procurement Pipeline</u>	<u>means the Procurement Pipeline which outlines future procurement requirements of the Council.</u>
<u>PSR</u>	<u>means The Health Care Services (Provider Selection Regime) Regulations 2023.</u>
<u>PSR Governance Process report</u>	<u>means the Council's value-based value-based governance commissioning, procurement and contract management process that combines assessment and understanding of various aspects of value with appropriate review and scrutiny at defined points.</u>
<u>Quotes Process Form</u>	<u>means the form to be completed to capture the quotes processes undertake in accordance with Rule 6.5.</u>
<u>Responsible Officer</u>	<u>means the Officer from the directorate who is responsible for the procurement and/or management of a Contract.</u>
<u>Rules</u>	<u>means these Procurement and Contract Procedure Rules.</u>
<u>S151 Officer</u>	<u>means the Council's appointed officer under Section 151 of the Local Government Act 1972 and is responsible for making the necessary arrangements for local financial and management controls.</u>
<u>SCM</u>	<u>means the Senior Commercial Managers within the Procurement and Contract Management Service.</u>
<u>Services</u>	<u>means those services that have a CPV Code starting with 50 up to and including 98.</u>
<u>Supplier</u>	<u>means a company or individual that provides goods, services or works.</u>

<u>Technology Contract</u>	<u>means any contract commissioned by the Council's Technology department for technological products or services including IT systems, software and/or hardware.</u>
<u>Teckal</u>	<u>refers to a specific type of legal entity established and controlled used by public authorities and to which those public authorities may direct award a contract for the delivery of goods, services and/or works. to deliver local services and allows contracting authorities to contract with legally distinct entities, such as companies they have set up, to provide services.</u>
<u>Threshold Amounts</u>	<u>means the threshold amount for a contract of a type referenced to in Schedule 1 of the Procurement Act 2023.</u>
<u>Waiver Form</u>	<u>means the prescribed form to be completed when requesting a waiver in accordance with Rule 7.15.</u>
<u>Works</u>	<u>means any of the activities within the CPV Codes listed in the Procurement Regulations 2024 under Schedule 3.</u>
Above Threshold Process	means the procurement process to be followed where the estimated whole life value of a Contract exceeds the relevant WTO GPA Threshold
Above Threshold Tender	means a tender submitted as part of an Above Threshold Process
Best Value Form	means the form to be completed to capture the rationale for not seeking bids in accordance with Rule 8.6
Competitive Grant Form	means the form to be completed confirming the competitive process being undertaken to award the Grant
	Concession means as defined in Regulation 3(4) of the Concession Contracts Regulations 2016
Constitution	means the Council's Constitution of which these Rules form part
Contract	means any agreement, excluding a Grant, made between the Council and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in Rule 2.2
Contracts Finder	means the web-based portal as described in Chapters 7 & 8 of the Public Contracts Regulations 2015
Contract Management	means the Council's practitioner group responsible for

Practitioners Group — improving contract management standards, chaired by the Senior Contract Officer/s

Contract Register — means the register of Contracts maintained by the Council as set out in **Rule 18.6**

Contractor — means a person or entity with whom the Council has a contract

Council — means The North Yorkshire Council

Decision Record — means a record of a decision produced in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Director — means the Chief Executive Officer; Assistant Chief Executive HR and Business Support, Assistant Chief Executive Legal and Democratic Services, Assistant Chief Executive Local Engagement, Corporate Director of Environment; Corporate Director Health and Adult Services; Corporate Director Children and Young People's Service; Corporate Director of Resources; Corporate Director of Community Development as the context requires

Directors Recommendation — means a written record of the decision and justification to apply one of the exceptions set out in **Rule 17.2** to be signed and kept by the relevant Director

Electronic Signatures — means an advanced electronic signature which is:

- (i) — uniquely linked to the signatory; and
- (ii) — capable of identifying the signatory; and
- (iii) — created using means that the signatory can maintain under his/her sole control; and
- (iv) — linked to the data to which it relates in such a manner that any subsequent change of the data is detectable.

E-Sourcing system — means the Council's chosen E-sourcing system

Framework Agreement — means an agreement with one or more contracting authorities and one or more economic operator which establishes an arrangement for:

- (i) — multiple orders to be placed with one Contractor (a single supplier framework), or
- (ii) — a framework of multiple Contractors to engage in further competitions or direct award (a multiple supplier framework)

Gateway Process — means the Council's value based gateway commissioning and procurement process that combines assessment and understanding of various aspects of value with appropriate

review and scrutiny at defined points in the commissioning and procurement cycle

Grant means a sum of money awarded by the Council to third parties

Health Care Services means those services detailed within Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023

HoP means the Head of Procurement and Contract Management

Internal Audit means the Council's appointed internal auditors (currently Veritau)

ITB means an Invitation to Bid

ITQ means an invitation to Quote

ITT means an Invitation to Tender

Procurement Pipeline means the Procurement Pipeline which outlines future procurement requirements of the Council

Key Decision means a decision made in connection with the discharge of a function which is the responsibility of the Executive set out in Article 13.03(b) of the Constitution

LDSO means a Legal and Democratic Services Officer

Leasing Agreement means a contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Council at the end of the contract period

LDSO means a Legal and Democratic Services Officer

Member means an elected member of the Council or co-opted member on a Council committee

Monitoring Officer means the Council's appointed Monitoring Officer

Officer means a Council employee or other authorised agent

~~as amended from time to time~~ **PAB** means the Procurement Assurance Board, chaired by the HoP

Participant means a person or entity participating in a procurement process, who has expressed an interest in tendering for a Contract or who has tendered for a Contract

PCR means the Public Contracts Regulations 2015

Person means any individual, partnership, company, trust, other local authority, Government department or agency

PSBO means Public Sector Buying Organisation

PCR means the Public Contracts Regulations 2015

Person means any individual, partnership, company, trust, other local authority, Government department or agency

Procurement and Contract Management Service means the procurement and contract management team at the Council

Procurement Manual means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules

Procurement and Contract Management Strategy means the Council's approved Procurement and Contract Management Strategy

Procurement Manual means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules

Procurement Pipeline means the Procurement Pipeline which outlines future procurement requirements of the Council

Property Contract means a contract which creates an estate or interest in land or buildings

PSR means The Health Care Services (Provider Selection Regime) Regulations 2023

PSR Governance Process means the Council's value based governance commissioning and procurement process that combines assessment and understanding of various aspects of value with appropriate review and scrutiny at defined points in the commissioning and procurement cycle

Responsible Officer means the Officer from the directorate who is responsible for the procurement and/or management of a Contract

Rules means these Procurement and Contract Procedure Rules

S151 Officer means the Council's appointed Section 151 Officer

SCM means Senior Category Manager

S151 Officer means the Council's appointed Section 151 Officer

Services or Supplies means as defined in Regulation 2 of the PCRs

Social and Other Specific Services means those services defined as such in Schedule 3 of the PCRs

SQ means the Selection Questionnaire

~~**Technology Contract** means any contract for technological products or services including IT systems, software and/or hardware~~

~~**Waiver Request Form** means the prescribed form to be completed when requesting a waiver in accordance with **Rule 17.5**~~

~~**WTO GPA Threshold** means the current threshold above which the PCR's apply, currently £214,904 inclusive of VAT for services and supplies £663,540.00 inclusive of VAT for social and other specific services and £5,327,609 for works inclusive of VAT~~

~~**Waiver Request Form** means the prescribed form to be completed when requesting a waiver in accordance with **Rule 17.5**~~

~~**Works** means as defined in Regulation 2 of the PCRs~~

REFERENCES

2.2 References in these Rules to:-

(a) any legislation include a reference to any amendment or re-enactment of such legislation;

(b) Directors, the S151 Officer and the Monitoring Officer shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following:-

- (i) Director - Director's Recommendations (**Rule 7.14**)
- (ii) S151 Officer - Rules Establishment & Review (**Rule 5.1**)
- (iii) Monitoring Officer - Rules Establishment & Review (**Rule 5.1**)

where delegation is not permitted, except in exceptional circumstances. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the S151 Officer and the Monitoring Officer.

PART 2

GENERAL OBJECTIVES, POWERS & PRINCIPLES

3. PROCUREMENT AND CONTRACT PROCEDURE RULES OBJECTIVES

43.21 These Rules form part of the overall control framework within which the Council operates. -They aim to facilitate sound, innovative service delivery by setting out best practice for the administration of all procurement and contract management matters throughout the Council, ensuring a high quality of procurement and contract management information, robust procurement and contract management and enabling good decision making. -They should not be viewed as a barrier to executive action and are constantly kept under review to ensure that they remain relevant to the day to day activities of the Council and contribute to the delivery of value for money.

1.3 References in these Rules to:-

~~(a) any legislation (e.g. Act, Statutory Instrument, WTO requirement) include a reference to any amendment or re-enactment of such legislation;~~

~~(b) the value of any Contract or Grant are to the total estimated value payable (including VAT where applicable) over the full period of the Contract or Grant including any options or extensions to the Contract or Grant.~~

~~(c) Directors, the S151 Officer and the Monitoring Officer shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-~~

~~(i) Director ————— **Rules 9.6, 16.1 (e) and (j)**~~

~~(ii) S151 Officer ————— **Rules 2.1**~~

~~(iii) Monitoring Officer — **Rules 2.1**~~

~~where delegation is not permitted, except in exceptional circumstances. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the S151 Officer and the Monitoring Officer.~~

~~2.~~ **4. POWERS AND KEY DECISIONS / DECISION RECORDS**

LEGAL POWER TO ENTER INTO CONTRACTS / GRANT AGREEMENTS

4.1 In consultation with the Monitoring Officer, Directors shall ensure that the Council has the legal power to enter into any Contract or Grant and that in respect of all Contracts and Grants, regardless of whether they involve the procurement or provision by the Council.

4.2 The written form of agreement for contracts must clearly specify the obligations of the Council and the Supplier and shall include:-

(a) the work to be done or the goods or services to be provided

(b) the standards which will apply to what is provided

(c) the price or other consideration payable

(d) the time in which the Contract is to be carried out

(e) the remedies which will apply to any breach of Contract.

4.3 Wherever appropriate, contracts shall be made on the basis of terms and conditions agreed by the Monitoring Officer. Such terms and conditions may be incorporated into standard order conditions. The Council may accept different terms and conditions proposed by a Supplier provided that the advice of the Monitoring Officer (or by a Legal and Democratic Services' Officer authorised by the Monitoring Officer) as to their effect has been sought and considered.

4.4 Every Contract and Grant agreement shall be evidenced in writing and must be signed or sealed (as appropriate) by both parties. Signature or sealing by the Council shall be in accordance with the requirements set out in the **Table 1** below based on the type of Contract / Grant agreement:

Table 1: Signature / sealing requirements

Total Value	Signature / Sealing Requirements
Contracts for Goods or Services (excluding Health Care Services)	
<u>Below PA2023 Threshold Amount</u>	One Signature required by the relevant Director or by an Officer authorised by the Director to sign on their behalf.
<u>Above and including the PA2023 Threshold Amount</u>	Two Signatures required. One by the relevant Director or by an Officer authorised by the Director to sign on their behalf. The other by the Monitoring Officer or by an Officer authorised by the Monitoring Officer to sign on their behalf. OR Sealed by the Monitoring Officer or by a Legal and Democratic Services' Officer authorised by the Monitoring Officer to seal on their behalf
Contracts for Works	
<u>Below £1,000,000 (Including VAT)</u>	One Signature required by the relevant Director or by an Officer authorised by the Director to sign on their behalf.
<u>Above and including £1,000,000 (Including VAT)</u>	Must be sealed by the Monitoring Officer or by a Legal and Democratic Services' Officer authorised by the Monitoring Officer to seal on their behalf.
Contracts for Health Care Services	
<u>Below £663,540 (Including VAT)</u>	One Signature required by the relevant Director or by an Officer authorised by the Director to sign on their behalf.
<u>Above and including £663,540 (Including VAT)</u>	Two Signatures required. One by the relevant Director or by an Officer authorised by the Director to sign on their behalf. The other by the Monitoring Officer or by an Officer authorised by the Monitoring Officer to sign on their behalf. OR Sealed by the Monitoring Officer or by a Legal and Democratic Services' Officer authorised by the Monitoring Officer to seal on their behalf.
Grant Agreements	
<u>Below £100,000</u>	One Signature required by the relevant Director or by an Officer authorised by the Director to sign on their behalf.
<u>Above and including £100,000</u>	Must be sealed by the Monitoring Officer or by a Legal and Democratic Services' Officer authorised by the Monitoring Officer to seal on their behalf.

4.5 The Monitoring Officer also authorises such Contracts or Grants to be signed by authorised officers where:-

(a) appropriate authority exists for the Council to enter into the Contract, and

(b) the Contract is either:-

(i) in a nationally recognised form, or

(ii) a standard form prepared or approved by the Monitoring Officer, or

(iii) is otherwise in a form approved by the Monitoring Officer; and

(c) any variations to approved forms of Contract must themselves be approved by the Monitoring Officer, whether they are affected by amending the Contract itself or by correspondence.

4.6 Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with UK law. Electronic Signatures may only be affixed using the Council's chosen electronic signature system or an approved alternative, as agreed by the HoP, SCM or Legal and Democratic Services' Officer.

4.7 The use of Electronic Signatures is not permitted in circumstances where:

(a) the Contract is to be sealed (except where **Rule 4.8** applies);

(b) a physical handwritten signature needs to be filed;

(c) there is a proviso in the Contract which prevents the use of an Electronic Signature;

(d) the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;

(e) the Contract needs to be notarised.

4.8 Where agreed by the Monitoring Officer, electronic Deeds may be executed by the Monitoring Officer or by a Legal and Democratic Services' Officer authorised by the Monitoring Officer using the Council's chosen electronic deeds execution system.

4.9 Directors shall ensure that no Contract or Grant agreement is entered into which is ultra vires.

CERTIFICATION OF CONTRACTS

4.10 The Local Government (Contracts) Act (LGCA) 1997 clarified the power of local authorities to enter into certain contracts, including Private Finance Initiative Contracts. Where Contracts need to be certified under the 1997 Act, only the following Officers are authorised to do so, following consultation with the relevant Executive Elected Member: the Director Children and Young People's Service, the Director of Environment, the Director Health and Adult Services, the Director of Community Development, the Director of Public Health, the Monitoring Officer and the S151 Officer.

KEY DECISIONS / DECISION RECORDS

4.11 Directors shall ensure that a written record of the decision to procure a Contract or Grant or Contract is made in accordance with the Gateway Report Process where applicable. Where such a decision comprises a Key Decision under the Constitution,

Directors shall ensure that it is entered on to the Forward Plan or is on the Procurement Pipeline and treated as a Key Decision in all respects.

4.12 The Responsible Officer must follow the Council's Access to Information Rules which includes the need to complete the Key Decision criteria set out in Article 13.03(b)(i) of the Constitution when determining whether the procurement comprises a Key Decision and publish a decision record where appropriate.

5. GENERAL PRINCIPLES

RULES ESTABLISHMENT & REVIEW

25.1 These Rules are made by the Council on the advice of the S151 Officer (in consultation with the Monitoring Officer) under Article 14.02 of the Constitution and define the correct procedures to be followed when the Council enters into any contractual or grant arrangement and should be read in conjunction with the Finance Procedure Rules under Article 14.01 of the Constitution.

-5.2 The S151 Officer (in consultation with the Monitoring Officer) shall review the application and effect of these Rules and make an annual report or as required but no less than once per year to the Audit Committee recommending such amendments to the Rules as are considered appropriate.

COMPLIANCE WITH LEGISLATION AND STANDARDS

5.3 Every Contract and Grant shall comply with all relevant applicable legislation and government guidance.

5.4 Where relevant, every Contract shall specify that materials used, goods provided, services supplied or works undertaken (as the case may be) shall comply with applicable standards.

2.2 These Rules apply to all Grants and Contracts for Works, Supplies, Services or Social and Other Specific Services, and Health Care Services (unless otherwise specified) but do not apply to:-

(a) contracts of employment;

(b) property contracts (which are covered by the Property Procedure Rules); and

(c) financial instruments (including, but without limitation, shares, bonds, bills of exchange, future or options contracts, loan contracts) (which are covered by the Financial Procedure Rules).

2.3 The S151 Officer (in consultation with the Monitoring Officer) shall review the application and effect of these Rules and make an annual report or as required but no less than once per year to the Audit Committee recommending such amendments to the Rules as are considered appropriate.

MANUALS & STRATEGY

25.45 The S151 Officer has produced a Procurement and Contract Management Manual which sets out important issues to be considered in the procurement context. These

Rules should be read in conjunction with the Procurement and Contract Management Manual.

~~25.56~~ The S151 Officer has also produced a Finance Manual which gives advice on financial procedures.

~~5.7~~ All Officers shall adhere to the Council's approved Procurement and Contract Management Strategy.

RECORD KEEPING

~~25.78~~ Directors and the HoP shall ensure that all documentation relating to Contracts, Grants and procurement processes is retained in accordance with the Council's Records Retention and Destruction Schedule.

~~2.6~~ Where a contract for the acquisition or hire of goods or services involves any form of Leasing Agreement to finance the transaction then the S151 Officer shall undertake the negotiation of terms and authorise the arrangement in accordance with **Rule 20.10** of the Financial Procedure Rules.

~~EXTERNAL CONTRACT SUPERVISION OR MANAGEMENT~~
~~2.7~~ Directors and the HoP shall ensure that all documentation relating to Contracts, Grants and procurement processes is retained in accordance with the Council's Records Retention and Destruction Schedule.

~~25.89~~ Where the Council has awarded a contract to any person to supervise or otherwise manage a contract on its behalf such a person shall be required to comply with these Rules as if they were an Officer of the Council.

~~2.9~~ Wherever appropriate procurement shall be undertaken using the standard documents contained in the Procurement Manual applying to SQ's, ITT's or ITBs. Wherever alternative documents are to be used they must be approved by the HoP and where appropriate the Monitoring Officer.

PROCURING IN PARTNERSHIP WITH OTHERS

~~2.10~~ All Officers shall adhere to the approved Procurement and Contract Management Strategy of the Council.

~~25.44~~10 Where the Council is procuring in partnership with another contracting authority who are the lead procurer, subject to agreement from the HoP, the Council will follow the lead procurers Procurement and Contract Procedure Rules or equivalent.

~~2.12~~ PA~~Where the total Grant or Contract value is within the values in the first column of Tables 1-5, below, the award and transparency procedure in the second and third column must be followed.~~

~~9.13 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.~~

LEASING AGREEMENTS

~~5.11 Where a contract for the acquisition or hire of goods or services involves any form of Leasing Agreement to finance the transaction then the S151 Officer shall undertake the negotiation of terms and authorise the arrangement in accordance with Rule 20.10 of the Financial Procedure Rules.~~

BONDS AND LIQUIDATED DAMAGES

~~5.12 Where appropriate the Council shall consider whether to include provision for the payment of liquidated damages by a Supplier for breach of Contract.~~

~~5.13 Where considered appropriate by the Council, the Supplier will be required to provide a parent company guarantee/performance bond to secure the performance of the Contract. Such performance bonds should provide for a sum of not less than 10% of the total value of the contract or such other sum as the S151 Officer considers appropriate.~~

~~5.14 Agreements made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980 shall always include provision for a bond in respect of such sum as the Director of Environment shall consider appropriate except where: -~~

- ~~(a) the identity of the developer renders the need for a bond unnecessary, or~~
- ~~(b) adequate alternative security is provided, or~~
- ~~(c) the Director of Environment (in consultation with the S151 Officer) agrees that it is inappropriate for a bond to be required.~~

~~PROCUREMENT AND CONTRACT MANAGEMENT 2.13 Where a procurement includes two or more types of provision (i.e. Goods, Services and Works) the value shall be based on the provision that characterises the main subject of the Contract in question.~~

TRAINING

~~2.14 When a contract comprises a mixture of in-scope Health Care Services and out-of-scope Services or Goods, relevant authorities may only use the PSR to arrange those services when both of the below requirements are satisfied:~~

- ~~(a) The main subject matter of the contract is in-scope Health Care Services~~
- ~~(b) The relevant authority is of the view that the other goods or services could not reasonably be supplied under a separate contract.~~

~~2.15 For the purposes of the Transparency Procedures set out in Tables 1-5 below, the Responsible Officer must also consider the Key Decision criteria set out in Article 13.03(b)(i) of the Constitution when determining whether the procurement comprises a Key Decision. 5.15 Where appropriate any Officer involved in~~

procurement activities shall have received a level of formal training commensurate with the nature of the procurement activity being undertaken.

5.16 For Bid and Tenders processes, all evaluation panel members must have completed the evaluation training prior to completing any evaluation process within the last 2 years.

5.17 ~~Where appropriate~~ The Responsible Officer involved in contract management shall have completed as a minimum the Council's Contract Management Training within the last 3 years.

DECLARATION OF INTERESTS

5.18 If it comes to the knowledge of an Elected Member, Responsible Officer or other Officer that a Contract or Grant Agreement in which they have an interest (determined in accordance with the Members' and/or Officers' Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer.

5.19 A Conflict of Interest declaration must be completed by all officers involved in any bid or tender process. A Confidentiality Agreement or Declaration form must also be completed by any officers involved in the procurement process including any who are not directly employed by the Council.

5.20 In relation to Health Care Services Contracts, conflicts of interest must be managed in line with Regulation 21 of the PSR.

TRANSPARENCY & COMPLIANCE REQUIREMENTS

5.21 Officers must comply with the award procedures and transparency requirements as defined in the relevant legislation (e.g. PCR2025, PA2023, PSR) and in line with these Rules.

5.22 Every Officer shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.

5.23 The S151 Officer shall be responsible for monitoring adherence to these Rules.

5.24 The HoP shall nominate a representative to act as a key contact point in relation to procurement and contract management matters for spend categories; such representatives shall be termed SCMs.

5.25 Each Director, in conjunction with the HoP, shall take all such steps as are reasonably necessary to ensure that Officers within their Directorate are aware of and comply with these Rules, the Procurement and Contract Management Manual and the Finance Manual referred to in **Rule 5.6**.

5.26 The S151 Officer shall be responsible for providing an annual report on procurement and contract management matters which will be presented to a meeting of the Audit Committee.

5.27 The Council maintains a Contract Register the purpose of which is to record key details of all Contracts with an aggregate value of £5,000 (exclusive of VAT) or more and all Health Care Services contracts irrespective of value.

5.28 All Responsible Officers will notify the Procurement and Contract Management Service of any Contract awarded above £5,000 (excluding VAT) or any contract for Health Care Services irrespective of value. The Responsible Officer will use the format prescribed by the Procurement and Contract Management Service.

5.29 All Responsible Officers will notify the Procurement and Contract Management Service of any contracts with an estimated value above the relevant upper limit (see **Rule 6.3, Table 2**) that will need to be procured over the next 18 months so that it can be added to the Council's Procurement Pipeline. This requirement will also apply to any grant agreement that will need to be established over the next 18 months which have a value above the relevant threshold (See **Rule 16.1**).

5.30 The HoP shall ensure that:-

(a) all relevant Contracts (including those Contracts to which **Rule 4.10** applies) are entered onto the Contract Register; and

(b) the Contract Register is maintained in line with the Council's Records Retention and Destruction Schedule.

Table 1: Goods and Services (excluding Social & Other Specific Services)

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
<p>£0 up to and including £5,000 (exclusive of VAT)</p>	<p>A single quotation shall be invited in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p>	<p>Contract award is approved by the Responsible Officer.</p> <p>Contract details do not need be published on the Contract Register or to Contracts Finder.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
<p>For goods and services (excluding Technology Contracts) £5,001 (excluding VAT) up to and including £100,000 (inclusive of VAT)</p> <p>OR</p> <p>For Technology Contracts £5,001 (excluding VAT) up to and including £150,000 (inclusive of VAT)</p>	<p>Quotes should be invited or the Best Value Form process followed in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p>	<p>Contract award is approved by the Responsible Officer.</p> <p>Contract details must be published on the Contract Register.</p> <p>Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT).</p> <p>The Responsible Officer will notify the Procurement and Contract Management Service of any Contract awarded to enable the contract to be published on the Contract Register and Contracts Finder (where applicable).</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
<p>For goods and services (excluding Technology Contracts) £100,001 (inclusive of VAT) up to WTO-GPA Threshold (currently</p>	<p>Bids must be invited in accordance with Rule 9.</p> <p>The opportunity must be advertised on the e-tendering</p>	<p>Contract award is approved by the Responsible Officer.</p> <p>The Responsible Officer must complete the Decision Record process</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign</p>

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
<p>£214,904 inclusive of VAT)</p> <p>OR</p> <p>For Technology Contracts £150,001 (inclusive of VAT) up to WTO-GPA Threshold (currently £214,904 inclusive of VAT)</p>	<p>system, Contracts Finder. It does not need to be advertised on Find a Tender Service.</p>	<p>and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p>	<p>on the Directors behalf).</p>
<p>Above WTO-GPA Threshold (currently £214,904 inclusive of VAT)</p>	<p>Follow the appropriate procedure as set out in Rules 11 and 12.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder and Find a Tender Service.</p>	<p>Approval must be sought through the Gateway Process</p> <p>The Responsible Officer must complete the Decision Record Process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p>	<p>Two signatures:</p> <p>The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>AND</p> <p>The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate)</p> <p>Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p>

Table 2: Works and Concessions

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
<p>£0 up to and including £5,000 (exclusive of VAT)</p>	<p>A single quotation shall be invited in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p>	<p>Contract award is approved by the Responsible Officer.</p> <p>Contract details do not need to be published on the Contract Register or to Contracts Finder.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
<p>For Works Contracts £5,001 (excluding VAT) up to and including £250,000 (inclusive of VAT)</p> <p>For Concession Contracts: £5,001 (excluding VAT) up to and including £50,000 (inclusive of VAT)</p>	<p>Quotes should be invited or the Best Value Form process followed in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p>	<p>Contract award is approved by the Responsible Officer.</p> <p>Contract details must be published on the Contract Register.</p> <p>Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT).</p> <p>The Responsible Officer will notify the Procurement and Contract Management Service of any Contract awarded to enable the contract to be published on the Contract Register and Contracts Finder (where applicable).</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
<p>For Works Contracts £250,001 (inclusive of VAT) up to WTO GPA Threshold (currently £5,327,609 inclusive of VAT for Works)</p> <p>For Concession Contracts: £50,001 (inclusive of VAT) up to WTO GPA Threshold (currently £5,327,609 inclusive of VAT for Works)</p>	<p>Bids must be invited in accordance with Rule 9.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder. It does not need to be advertised on Find a Tender Service.</p> <p>Contract details must be published on the Contract Register and to Contracts Finder.</p>	<p>Contract award is approved by the Responsible Officer. For Contracts with a value of £1,000,000 or greater approval must be sought through the Gateway Process.</p> <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and to Contracts Finder.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>Contracts with a value in excess of £1,000,000 (inclusive of VAT) must be sealed by the Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p>
<p>Above WTO GPA Threshold (currently £5,372,609 inclusive of VAT for Works)</p>	<p>Follow the appropriate Procedure as set out in Rules 11 and 12.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder and Find a Tender Service.</p>	<p>Approval must be sought through the Gateway Process.</p> <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p>	<p>Contracts must be sealed by the Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p>

Table 3: Social & Other Specific Services (Excluding Health Care Services)

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
<p>£0 up to and including £5,000 (exclusive of VAT)</p>	<p>A single quotation shall be invited in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p>	<p>Contract award is approved by the Responsible Officer.</p> <p>Contract details do not need be published on the Contract Register or the Contracts Finder.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
<p>£5,001 up to and including £170,000 (inclusive of VAT)</p>	<p>Quotes should be invited or the Best Value Form process followed in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p>	<p>Contract award is approved by the Responsible Officer.</p> <p>Contract details must be published on the Contract Register.</p> <p>Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT).</p> <p>The Responsible Officer will notify the Procurement and Contract Management Service of any Contract awarded to enable the contract to be published on the Contract Register and Contracts Finder (where applicable).</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
<p>£170,001 (inclusive of VAT) up to WTO GPA Threshold (currently £663,540 inclusive of VAT)</p>	<p>Bids must be invited in</p>	<p>Contract award is approved by the Responsible Officer.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by</p>

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
	<p>accordance with Rule 9.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder. It does not need to be advertised on Find a Tender Service.</p>	<p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p>	<p>the Director to sign on the Directors behalf).</p>
<p>Above UK Procurement Threshold (currently £663,540 inclusive of VAT)</p>	<p>Follow the appropriate procedure as set out in Rules 11 and 12.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder and Find a Tender Service.</p>	<p>Approval must be sought through the Gateway Process.</p> <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p>	<p>Two signatures</p> <p>The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>AND</p> <p>The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate)</p> <p>Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p>

Table 4: Health Care Services (Excluding Social & Other Specific Services)

Direct Award Process A

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£0 — £50,000 (including VAT)	<p>Follow the appropriate procedure as set out in Rule 15.</p> <p>The Gateway Process must be completed.</p> <p>Awarded contract details must be</p>	<p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
£50,001 — £500,000 (including VAT)	<p>published on the Contract Register, Find a Tender Service and to Contracts Finder.</p>	<p>The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
Over £500,000 (including VAT)		<p>The Responsible Officer must complete the Key Decision process.</p>	<p>Two signatures</p> <p>The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>AND</p> <p>The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate)</p> <p>Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p>

Direct Award Process B

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£0 — £50,000 (including VAT)	<p>Follow the appropriate procedure as set out in Rule 15.</p> <p>The Gateway Process must be completed.</p> <p>Expressions of Interest must be sought on the E-Sourcing system.</p>	<p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
£50,001 — £500,000 (including VAT)	<p>Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder.</p>	<p>The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
Over £500,000 (including VAT)		<p>The Responsible Officer must complete the Key Decision process.</p>	<p>Two signatures</p> <p>The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>AND</p> <p>The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate)</p> <p>Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p>

Direct Award Process C

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£0 — £50,000 (including VAT)	<p>Follow the appropriate procedure as set out in Rule 15.</p> <p>The Gateway Process must be completed.</p> <p>An intention to award notice must be published on Find a Tender Service and to Contracts Finder.</p>	<p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
£50,001 — £500,000 (including VAT)	<p>Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder.</p>	<p>The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
Over £500,000 (including VAT)		<p>The Responsible Officer must complete the Key Decision process.</p>	<p>Two signatures</p> <p>The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>AND</p> <p>The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate)</p> <p>Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p>

Most Suitable Provider Process

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£0 — £50,000 (including VAT)	<p>Follow the appropriate procedure as set out in Rule 15.</p> <p>The Gateway Process must be completed.</p> <p>A Notice of Intention to follow the Most Suitable Provider Process must be published via Find a Tender Service.</p>	<p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
£50,001 — £500,000 (including VAT)	<p>An Intention to Award Notice must be published to Contracts Finder and Find a Tender Service.</p>	<p>The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
Over £500,000 (including VAT)	<p>Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder.</p>	<p>The Responsible Officer must complete the Key Decision process.</p>	<p>Two signatures</p> <p>The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>AND</p> <p>The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate)</p> <p>Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p>

Competitive Process

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£0 — £50,000 (including VAT)	Follow the appropriate procedure as set out in Rule 15 . The Gateway Process must be completed.	Where applicable, the Responsible Officer must complete the Key Decision process.	One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).
£50,001 — £500,000 (including VAT)	The opportunity must be advertised on the E-Sourcing system; Find a Tender Service and Contracts Finder. Awarded contract details must be published on the Contract Register; Find a Tender Service and to Contracts Finder.	The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above. Where applicable, the Responsible Officer must complete the Key Decision process.	One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).
Over £500,000 (including VAT)		The Responsible Officer must complete the Key Decision process.	Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf). Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6 .

Table 5: Grants awarded by the Council

Total Grant Value	Award Procedure	Transparency Procedure	Signature/Sealing
<p>£0 up to and including £100,000</p>	<p>The Best Value Form or a Competitive Grant Form must be completed in accordance with Rule 23.</p>	<p>The Responsible Officer must complete the Decision Record process and/or the Key Decision Process where applicable.</p> <p>Contract details must be published on the Contract Register for contracts above £5,000 (excl. VAT).</p> <p>Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT).</p> <p>The Responsible Officer will notify the Procurement and Contract Management Service of any Contract awarded to enable the contract to be published on the Contract Register and Contracts Finder (where applicable).</p>	<p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p>
<p>£100,000+</p>	<p>A competitive application process must be completed in accordance with Rule 23.</p> <p>Where the value is below the thresholds set out in Rule 19.2 a Competitive Grant Form must be completed.</p> <p>Where the value exceeds the thresholds set out in Rule 19.2 the Gateway Process must be completed.</p>	<p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p>	<p>Sealing</p> <p>Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6 (unless signing is agreed by the Monitoring Officer).</p>

PART 3

CONTRACTS FOR GOODS, SERVICES AND WORKS

Part 3 applies to all contracts for goods, services and works. This Part does not apply to Contracts for Health Care Services or to Grant Agreements.

~~3. COMPLIANCE WITH LEGISLATION AND STANDARDS~~

~~3.1 Every Contract and Grant shall comply with all relevant applicable legislation and government guidance.~~

~~3.2 Where relevant, every Contract shall specify that materials used, goods provided, services supplied or works undertaken (as the case may be) shall comply with applicable standards.~~

~~4. POWERS AND KEY DECISIONS~~

~~4.1 In consultation with the Monitoring Officer Directors shall ensure that the Council has the legal power to enter into any Contract or Grant and that in respect of all Contracts and Grants, regardless of whether they involve the procurement or provision by the Council of Works, Supplies, Services or Social and Other Specific Services, and Health Care Services, Directors shall ensure that no Contract or Grant shall be entered into which is ultra vires.~~

~~4.2 Directors shall ensure that a written record of the decision to procure a Grant or Contract is made in accordance with the Gateway process where **Rule 19** applies. Where such a decision comprises a Key Decision under the Constitution, Directors shall ensure that it is entered on to the Forward Plan and treated as a Key Decision in all respects.~~

~~5. FORM OF CONTRACT~~

~~5.1 Every Contract and Grant shall be evidenced in writing and must be signed or sealed (as appropriate) by both parties. Signature or sealing by the Council shall be in accordance with the requirements set out in **Rule 2** and **Rule 6**.~~

~~5.2 Wherever appropriate, and for all Contracts exceeding £50,000 including VAT in value, such written agreements shall be made on the basis of terms and conditions agreed by the Monitoring Officer. Such terms and conditions may be incorporated into standard order conditions. The Council may accept different terms and conditions proposed by a Contractor provided that the advice of the Monitoring Officer as to their effect has been sought and considered.~~

~~5.3 The written form of agreement must clearly specify the obligations of the Council and the Contractor and shall include:-~~

~~(a) the work to be done or the Supplies, Services or Social and Other Specific Services, or Health and Care Services to be provided~~

~~(b) the standards which will apply to what is provided~~

~~(c) the price or other consideration payable~~

~~(d) the time in which the Contract is to be carried out~~

~~(e) the remedies which will apply to any breach of Contract.~~

~~6. SIGNATURE/SEALING OF CONTRACTS~~

~~6.1 — Every written Contract or Grant must be either signed or sealed in accordance with this Rule. The Monitoring Officer (or an Officer authorised by the Monitoring Officer) will determine whether a Contract must be signed or sealed.~~

~~6.2 — The Monitoring Officer and such of his staff as he may designate are authorised to sign any such contract or Grant.~~

~~6.3 — The Monitoring Officer also authorises such Contracts or Grants to be signed as outlined in **Rule 2.12, Tables 1-5 and Rule 1.3(c)** provided that:-~~

~~(a) — appropriate authority exists for the Council to enter into the Contract, and~~

~~(b) — the Contract is either:-~~

~~(i) — in a nationally recognised form, or~~

~~(ii) — a standard form prepared or approved by the Monitoring Officer, or~~

~~(iii) — is otherwise in a form approved by the Monitoring Officer; and~~

~~(c) — any variations to approved forms of Contract must themselves be approved by the Monitoring Officer, whether they are affected by amending the Contract itself or by correspondence.~~

~~6.4 — Only the Monitoring Officer (or a Legal and Democratic Services' Officer (LDSO) authorised by the Monitoring Officer) may seal a Contract on behalf of the Council, in each case being satisfied that there is appropriate authority to do so. Where agreed by the Monitoring Officer, electronic Deeds may be executed by the Monitoring Officer or a LDSO using the Council's chosen electronic deeds execution system.~~

~~6.5 — Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with UK law.~~

~~6.6 — Electronic Signatures may only be affixed using the Council's chosen electronic signature system or an approved alternative, as agreed by the HoP.~~

~~6.7 — The use of Electronic Signatures is not permitted in circumstances where:~~

~~(a) — the Contract is to be sealed (except where 6.4 applies);~~

~~(b) — a physical handwritten signature needs to be filed;~~

~~(c) — there is a proviso in the Contract which prevents the use of an Electronic Signature;~~

~~(d) — the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;~~

~~(e) — the Contract needs to be notarised.~~

~~7. — BONDS AND LIQUIDATED DAMAGES~~

~~7.1 — Where appropriate the Council shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of Contract.~~

~~7.2 Where considered appropriate by the Council, the Contractor will be required to provide a parent company guarantee/performance bond to secure the performance of the Contract. Such performance bonds should provide for a sum of not less than 10% of the total value of the contract or such other sum as the S151 Officer considers appropriate.~~

~~7.3 Agreements made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980 shall always include provision for a bond in respect of such sum as the Director of Environment shall consider appropriate except where:-~~

- ~~(a) the identity of the developer renders the need for a bond unnecessary, or~~
- ~~(b) adequate alternative security is provided, or~~
- ~~(c) the Director of Environment (in consultation with the S151 Officer) agrees that it is inappropriate for a bond to be required.~~

86. QUOTATIONS & BEST VALUE PROCESSES

~~8.1 Rule 8 does not apply to Contracts for Health Care Services or Grants.~~

SINGLE QUOTATION PROCESS

~~86.21 Where the estimated value of a Contract is less than or equal to £5,000 excluding VAT or less (taking into account the whole life cost of the Contract, including extensions and/or variations) a single quote must can be obtained.~~

~~8.3 There is no requirement to use an E-Sourcing system or publish the opportunity on Contracts Finder for contracts below £5,000 (excluding VAT).~~

~~86.42 A single quote cannot be accepted where the value exceeds £5,000 excluding VAT. If the value of the quote exceeds £5,000 excluding VAT three quotes must be obtained or the best value form process completed in accordance with **Rules 86.5-3 to 68.911**.~~

MINIMUM THREE QUOTES PROCESS/ BEST VALUE FORM PROCESS

~~86.53 Where the estimated value of a Contract is above £5,000 excluding VAT, and less than or equal to the relevant upper ~~threshold~~ limit set out in ~~the Table Table 2~~ below, ~~including VAT~~ (taking into account the whole life cost of the Contract including extensions and/or variations) a minimum of three quotes should be sought.~~

Table 2: Upper Limits based on Spend Area

Spend Area	Upper Threshold Limit (including VAT)
Goods/Services contracts (excluding Technology Contracts)	£5,001 up to and including £100,000

Technology Contracts	£5,001 up to and including £150,000
<u>Concessions Contracts</u>	<u>£250,000</u>
Works contracts	£5,001 up to and including £250,000
Light Touch Contracts (typically social care)	£5,001 up to and including £170,000

86.64 ~~Where possible quotes should be sought from at least one local supplier based within North Yorkshire. A minimum of one quote should must~~ be from a Small and Medium Enterprise (SME), Voluntary, Community or Social Enterprise (VCSE) or local supplier based within North Yorkshire, unless this is not possible due to the nature of the market.

86.75 ~~It is the Officer's responsibility to keep a record of quotes sought for audit purposes and to demonstrate best value has been achieved. It is the Responsible Officer's to complete the Council's quotes process form which captures the outcome of the process as a centralised record.~~

6.6 ~~If three quotes are not sought, Under exceptional circumstances, the Contract may be directly awarded using the Best best Value value process Form as long as sufficient justification is given for not undertaking a competitive quotes process. It is the Officer's responsibility to complete the Best-Best Value-Value Process FForm which captures the rationale for not seeking a minimum of three quotes and captures the outcome of the process as a centralised record.-~~

68.87 ~~A minimum three three quotes or process/best value form/process cannot be accepted where the value exceeds the relevant upper limit for this process. If the value of the quote exceeds the relevant upper limit for this process the bids process must be followed in accordance with Rule 79.~~

86.98 ~~All contracts entered into via this process will be published on the Council's contract register.~~

6.9 ~~Where the estimated value of a Contract is between above £30,000 and £50,000 inclusive of VAT (taking into account the whole life cost of the Contract, including extensions and/or variations):-~~

(a) ~~(a) a below-threshold tender notice must be published on the Central Digital Platform there is no requirement to advertise the opportunity, however if the Council chooses to advertise the opportunity openly, then it must also be advertised on Contracts Finder; and~~

(b) ~~after entering into once the contract is awarded, a contract details notice must be published on the Central Digital Platform on Contracts Finder.~~

~~EXCEPTIONS TO THE QUOTATION / BEST VALUE PROCESS 8.10 — It is the Officer's responsibility to keep a record of quotes sought for audit purposes and to demonstrate best value has been achieved.~~

~~6.10 The quotation or best value processes does not need to be followed in the following circumstances:~~

- ~~(a) purchases via a public contract which has been established either by the Council or by another public sector body or consortia (including, but not limited to Centralised Procurement Authorities) and where such arrangements are lawfully accessible to the Council; or~~
- ~~(b) the contract is to be awarded to a Teckal company which is legally controlled by the Council; or~~
- ~~(c) the instruction of Counsel by the Monitoring Officer; or~~
- ~~(d) where funding is received by the Council, either in its own right or as an accountable body, and the terms of such grant or other external funding state that it must be applied in accordance with those terms when entering into a contract.~~

~~6.11 The Responsible Officer will be responsible for informing the Procurement and Contract Management Service of any exemptions used in **Rule 6.10**. The requirement to publish a record on contracts register and a contract details notice on the Central Digital Platform will still apply to exemptions.~~

~~8.11 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.~~

97. BID PROCESS

~~9.1 Rule 9 does not apply to Contracts for Health Care Services or Grants.~~

~~97.21 If the estimated value of a Contract exceeds the upper limit values as stated in **Rule 6.3 Table 1**, £50,000 inclusive of VAT~~

- ~~(c) £100,000 inclusive of VAT for Goods and Services Contracts (excluding Social & Other Specific Services and Technology Contracts);~~
- ~~(d) £150,000 inclusive of VAT for Technology Contracts;~~
- ~~(e) £250,000 inclusive of VAT for Works Contracts;~~
- ~~(f) £50,000 inclusive of VAT for Concession Contract; or~~
- ~~(g) £170,000 inclusive of VAT for Social & Other Specific Services (excluding Health Care Services)~~

~~but is less than the **relevant appropriate WTO/GPA Threshold Amounts**, bids must be invited from all potential **Suppliers/Contractors** in accordance with **Rule 2.12, Tables 1-3**.~~

~~7.2 A bid cannot be accepted where the value meets or exceeds the relevant Threshold Amount. If the value of the bid meets or exceeds the relevant Threshold Amounts the tender process must be followed in accordance with **Rule 8**.~~

PUBLICATION

~~97.33~~ A below-threshold tender notice providing details of the contract must be published on the Central Digital Platform before advertising the opportunity, advertising the opportunity shall be published through the E Sourcing System and on Contracts Finder and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. As a minimum all bids must be advertised on the Council's e-tendering system.

The notice shall specify brief details of the Contract, how the ITB documents may be obtained and the closing date for receipts of bids by the Council.

~~97.44~~ All potential Contractors invited to submit bids suppliers shall be provided in all instances with identical information (including the evaluation criteria details) and instructions.

VARIANT BIDS

~~7.5~~ Where considered appropriate, the Directors HoP or an SCM may permit potential Contractors suppliers who have been invited to submit bids under Rule 9.2 to also submit variant bids (i.e. bids which do not comply with some or all of the requirements of the primary bid). -The same opportunity to submit variant bids must be given to all potential Contractors suppliers.

RECEIPT OF BIDS

~~97.56~~ A written bid may only be considered if before the deadline date and time:-

- (a) it has been received electronically through the ~~E-e-Sourcing~~ tendering Systems system, or
- (b) (where permitted in exceptional circumstances) it has been received in a sealed envelope marked "Bid" and indicating the subject matter of the bid; and
- ~~(c)~~ it has been opened after the expiry of the deadline for submissions and at the same time as other bids for the same subject matter in the presence of at least two Officers authorised to open bids.

POST BID NEGOTIATIONS

~~107.37~~ Post bid negotiations with selected Participants suppliers shall only be carried out where: -

- ~~(a)~~ post bid tender negotiations are permitted by law; and
- ~~(b)~~ the Director in consultation with the HoP considers that added value may be obtained; and
- ~~(c)~~ post bid negotiations are conducted by a team of suitably experienced Officers approved by the Director and who have been trained in post bid negotiations; and

(d) a comprehensive, written record of the post bid negotiations is kept by the Director; and

(e) a clear record of the added value to be obtained as a result of the post bid negotiations is incorporated into the Contract with the successful Participant/supplier.

107.48 Rules 7.7, 10.2 and 10.3 shall not operate to prevent clarification of all or part of any bid to the extent permitted by law and where such clarifications are sought the provisions of Rules 7.7, 10.3(c) and 10.3(d) shall apply.

~~CONTRACT AWARD 9.6 — Before bids are requested the evaluation criteria must be recorded in writing in the SQ and/ITB documents. The evaluation criteria must be identified and the weighting between price and quality established and stated in the request for bids sent to participants.~~

~~9.7 — If a bid other than the lowest or the most economically advantageous bid is to be accepted, the written approval of the Director (in consultation with the S151 Officer or if the relevant Director is the S151 Officer, in consultation with the Chief Executive) shall be sought and obtained before the bid is accepted.~~

~~9.8 — A bid cannot be accepted where the value exceeds the relevant WTO GPA Threshold. If the value of the bid exceeds the relevant WTO GPA Threshold a Director must seek tenders in accordance with Rules 11 and 12.~~

~~9.9 — Before a Contract is awarded after a bid exercise such steps shall be taken by the SCM Responsible Officer, as are reasonably necessary (having regard to the subject matter, value, duration of the Contract and other relevant factors) to complete a risk assessment of the potential Contractor's/Supplier's financial stability.~~

7.10 All contracts entered into via this process will be published on the Council's Contracts Register and a contract details notice must be published on the Central Digital Platform.

~~9.10 — Bids may be altered only in accordance with Rule 10.~~

~~9.11 — Where a Contract is terminated within the first 6 months of the Contract commencement date, the Council may award the Contract to the second placed supplier, provided that this demonstrates Best Value and with agreement from the HoP in consultation with the appropriate SCM.~~

EXCEPTIONS TO THE BID PROCESS

7.12 The bid process does not need to be followed in the following circumstances:

(a) purchases via a public contract which has been established either by the Council or by another public sector body or consortia (including, but not limited to Centralised Procurement Authorities) and where such arrangements are lawfully accessible to the Council; or

(b) the contract is to be awarded to a Teckal company which is legally controlled by the Council; or

(c) the instruction of Counsel by the Monitoring Officer; or

(d) where funding is received by the Council, either in its own right or as an accountable body, and the terms of such grant or other external funding state that it must be applied in accordance with those terms when entering into a contract; or

(e) purchases at public auctions (including internet auction sites, e.g. Ebay) where the Director is satisfied that value for money will be achieved; or

(f) the purchase of Goods, Services, Works which are of such a specialised nature as to be obtainable from only one Supplier; or

(g) repairs to or the supply of parts for existing proprietary machinery or plant where to obtain such goods from an alternative supplier would invalidate the warranty or contractual provisions with the existing supplier; or

(h) Light Touch Contracts where:-

~~(i) the service is currently supplied by a Supplier to the satisfaction of the relevant Director, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the bid process, or~~

(ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Supplier and where the Director Health and Adult Services and the Director Children and Young People's Service considers it inappropriate for bids to be invited, or

~~(iii) where the relevant Director is satisfied that the urgency of the need for the service prevents the invitation of bids in which case consideration shall be given to the duration of that service; or~~

~~(i) the service is currently supplied by a supplier to the satisfaction of the relevant Director, is considered to be offering value for money and where the foreseeable disruption to services cannot justify the bid process.~~

(i) in relation to Pilot schemes for a proof of contract/trialling a product or area of innovation.

(j) Contracts where the Director with the agreement of the HoP agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Director, whenever this Rule applies.

7.13 The Responsible Officer will be responsible for informing the Procurement and Contract Management Service of any exemptions **(b) to (d)** set out in **Rule 7.12**.

7.14 Where exceptions **(e) to (k)** set out in **Rule 7.12** above are applied a Director's Recommendation, in consultation with the relevant SCMs, shall be signed, dated and

kept. The Procurement and Contract Management Service shall maintain a register of all recommendations made under this Rule.

7.15 For exceptions that fall outside the circumstances listed in **Rule 7.12**, a request for a waiver can be made to the S151 Officer and the Monitoring Officer using the Waiver Request Form prescribed by the S151 Officer which shall specify the reasons for the request. Any requests for waivers shall be made in consultation with the relevant SCM's, and be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all waivers made under this Rule.

7.16 ~~9.12~~ The evaluation of bids shall be carried out by a panel of suitably qualified Officers who are considered appropriate having regard for the subject matter and value of the Contract.

The requirement to publish a record on contracts register and a contract details notice on the Central Digital Platform will still apply to all exemptions.

ADDITIONAL GOVERNANCE REQUIREMENTS – WORKS & CONCESSIONS ONLY

7.17 If the estimated value of a Contract is £1million (including VAT) or above and is a works or concessions contract, the Gateway process (see **Rule 9**) must also be followed where the bid process or exemption **a**) set out in **Rule 7.12** are used.

9.13 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.

10. POST BID NEGOTIATION AND CLARIFICATION

10.1 Rule 10 does not apply to Contracts for Health Care Services or Grants.

10.2 Post bid negotiations may not be undertaken where the value of the Contract exceeds the relevant WTO-GPA Threshold. If the value of the bid exceeds the relevant WTO-GPA Threshold, the Director must invite tenders in accordance with **Rules 11 and 12**.

10.3 Post bid negotiations with selected Participants shall only be carried out where:-

- (a) post tender negotiations are permitted by law; and
- (b) the Director in consultation with the HoP considers that added value may be obtained; and
- (c) post bid negotiations are conducted by a team of suitably experienced Officers approved by the Director and who have been trained in post bid negotiations; and
- (d) a comprehensive, written record of the post bid negotiations is kept by the Director; and
- (e) a clear record of the added value to be obtained as a result of the post bid negotiations is incorporated into the Contract with the successful Participant.

10.4 ~~Rules 10.2 and 10.3 shall not operate to prevent clarification of all or part of any bid to the extent permitted by law and where such clarifications are sought the provisions of Rules 10.3(c) and 10.3(d) shall apply.~~

118. ABOVE THRESHOLD TENDER PROCESS

COMPETITIVE TENDERING PROCEDURES

~~11.1 Rule 11 does not apply to Contracts for Health Care Services or Grants.~~

~~118.21~~ Where the estimated value of the Contract meets or exceeds the relevant WTO GPA Threshold Amounts (see [Rule 8.2](#)), Above Threshold Tenders ~~shall~~ must be invited and awarded in accordance with the competitive tendering procedures of the PCR PA2023 which are: [and as prescribed in Rule 11 and 12](#).

- a) A single-stage tendering procedure without a restriction on who can submit tenders (an "Open procedure"), or
- b) Such other competitive tendering procedure as the Council considers appropriate for the purpose of awarding a contract (a "competitive flexible procedure").

~~8.2~~ The Threshold Amounts are as follows sing for the various types of contract inclusive of VAT:

- a) Light Touch Contract - £663,540
- b) Concession Contract - £5,336,937
- c) Works Contract - £5,336,937
- d) Contract for the supply of goods, services or works Contract - £213,477

PUBLICATION

General Requirements

~~118.33~~ Prior to publication of a ~~Before an Above Threshold Tender~~, a preliminary market engagement notice should be published on the Central Digital Platform followed by a mandatory tender notice to initiate the supplier invitation to the opportunity. Associated tender documents must also be published alongside the tender notice on the Council's e-tendering system or an appropriate alternative system as agreed with the HoP which must include the details of the evaluation process.

~~is requested the evaluation criteria to be applied to the Above Threshold Tender must be recorded in writing in the SQ and/or ITT document. The evaluation criteria must be identified and the weighting between price and quality established and stated in the SQ and/or ITT sent to Participants.~~

~~11.4~~ Irrespective of the procurement process being undertaken a notice must be published on the Find a Tender Service system and Contracts Finder, where possible this should be through the E-Sourcing system or an appropriate alternative system as agreed with the HoP.

~~118.45~~ All suppliers ~~Participants~~ invited to submit Above Threshold Tenders shall be provided in all instances with identical information (including the evaluation criteria details) and instructions.~~instructions and information.~~

VARIANT TENDERS

~~448.65~~ Where considered appropriate, the HoP may, in consultation with the SCM, permit ~~Participants-suppliers~~ to submit variant ~~Above Threshold~~-Tenders (i.e. tenders which do not comply with some or all of the requirements of the primary tender). -The same opportunity to submit variant ~~Above Threshold~~-Tenders shall be given to all ~~Participants-suppliers~~. -Variant ~~Above Threshold~~-Tenders shall only be considered if the ~~Participant-supplier~~ also submits a compliant primary tender.

RECEIPT AND OPENING OF TENDERS

8.6 A Tender may only be considered if before the deadline date and time: -

(a) it has been received electronically through the E-Sourcing System or (where permitted in exceptional circumstances, and subject to agreement by the HoP or a SCM) it has been received electronically through an appropriate alternative method; or

(b) (where permitted) it has been received in hard copy in a sealed envelope marked "Tender" and indicating the subject matter of the Tender, and the identity of the supplier cannot be ascertained from the tender envelope.

8.7 If a Tender is received after the specified closing date and time it may not be considered unless the HoP is satisfied that the Tender was submitted electronically or posted or otherwise dispatched in sufficient time to be delivered before the specified time but that delivery was prevented by an event beyond the control of the Supplier.

8.8 The S151 Officer (or a person designated by them) shall be responsible for the receipt and safe custody of Tenders until they are opened.

8.9 All tender submissions, whether electronic or hard copy, must be opened at the same time in an auditable way by an independent Officer from the Procurement and Contract Management Service.

8.10 Where circumstances permit, any Tenders that are returned in a hard copy format shall have a written record of the Tenders received which will be maintained by the HoP. Such a record shall include the date and time of Tender opening, the identity of the Officer(s) present, the identities of suppliers and the tendered sums (where readily ascertainable).

EVALUATION

~~448.711~~ The evaluation of the Above Threshold Tenders shall be carried out by Officers who are considered appropriate having regard for the subject matter and value of the Contract.

~~448.812~~ All ~~procurements undertaken in accordance with Rule 11~~Tender processes shall have a minimum of 3 appropriate Officers (excluding the Procurement and Contract Management Service representative) to undertake the evaluation process. The evaluation process shall include:

- Individual evaluation assessment and scoring
- Consensus marking exercise, chaired by a member of the Procurement and Contract Management Service

- Independent review by SCM, where required
- Moderation by evaluation panel, where required

CONTRACT AWARD

8.13 The Council may award a contract to a supplier that submits the most advantageous tender in a competitive tendering procedure.

8.14 Before entering into a contract resulting from a competitive tendering procedure, an assessment summary must be sent to each supplier that submitted an assessed tender in line with Section 50 of the PA2023. A contract award notice must then be published on the Central Digital Platform which sets out the intention to award and instigates the mandatory 8 working day standstill period (where applicable).

8.15 All contracts entered into will be published on the Council's contract register and a contract details notice must be published on the Central Digital Platform. If the contract is £5,000,000 or above, a redacted copy of the contract must also be published with at least 3 key performance indicators.

~~11.9 All evaluation panel members must have completed the evaluation training prior to completing any evaluation process.~~

~~14.16~~ 14.16 Where a Contract is terminated within the first 6 months of the Contract commencement date, the Council may award the contract to the second placed supplier with agreement from the HoP in consultation with the Monitoring Officer provided that this demonstrated Best Value and the original award criteria have not changed.

~~11.11 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.~~

~~12. OPTIONS FOR ABOVE THRESHOLD PROCESS~~

~~12.1 Rule 12 does not apply to Contracts for Health Care Services or Grants~~

EXCEPTIONS TO THE TENDER PROCESS

~~12.2 The Gateway Process shall identify which Above Threshold Tender Procedures shall be used to invite tenders for Contracts with a value in excess of the relevant WTO GPA Threshold.~~

~~(i) the Open Procedure (as prescribed by PCR Regulation 27)~~

~~(ii) the Restricted Procedure (as prescribed by PCR Regulation 28)~~

~~(iii) the Competitive Procedure with Negotiation (as prescribed by PCR Regulation 29)~~

~~(iv) the Competitive Dialogue Procedure (as prescribed by PCR Regulation 30)~~

~~(v) the Innovation Partnership Procurement (as prescribed by PCR Regulation 31)~~

~~(vi) use of the Negotiated Procedure without prior publication (as prescribed by PCR Regulation 32)~~

~~(vii) Social and Other Specific Services (Light Touch Regime) (as prescribed by PCR Regulations 74-76)~~

~~and such identified process shall be used for the invitation of Above Threshold Tenders in accordance with the requirements of the PCR's.~~

8.17 The Tender process does not need to be followed in the following circumstances:

- a) purchases via a public contract or dynamic market which has been established either by the Council or by other public sector body or consortia (including, but not limited to Centralised Procurement Authorities) and where such arrangements are lawfully accessible to the Council; or
- b) where Section 41 (Direct Award in special cases), Section 42 (Direct award to project life, etc) or Section 43 (Switching to direct award) of the PA2023 applies.

GOVERNANCE REQUIREMENTS

8.18 The Gateway Process (See **Rule 9**) must be followed where the tender process or exemptions to the Tender Process are set out in **Rule 8.17** are used.

~~12.3 The Gateway Process shall also identify which of the following techniques and instruments which can be used for Electronic and Aggregated Procurements:~~

- ~~(i) Framework Agreement (as prescribed by PCR Regulation 33)~~
- ~~(ii) Dynamic Purchasing System (as prescribed by PCR Regulation 34)~~
- ~~(iii) Electronic auctions (as prescribed by PCR Regulation 35)~~
- ~~(iv) Electronic catalogues (as prescribed by PCR Regulation 36).~~

9. GATEWAY REPORT PROCESS (CONTRACTS)

9.1 If the estimated value of the Contract is above the following thresholds the Gateway report process must be completed and signed off by the relevant Officers, as detailed in **Table 3** below:

- (a) Works and Concession Contracts - £1,000,000 inclusive of VAT
- (b) Social and Other Specific Services Contracts - £663,540 inclusive of VAT
- (c) Goods and Services Contracts - £213,477 inclusive of VAT.

Table 3: Gateway Report Process - Authorisation to Approve

Gateway Report Process	Approval process
Gate 1 – Commissioning and Procurement Options Appraisal	PAB or HoP or delegated SCM AND

	<p><u>The relevant Director or delegated Assistant Director</u></p> <p>AND</p> <p><u>Finance - S151 Officer or delegated Assistant Director</u></p> <p>AND</p> <p><u>The Monitoring Officer or delegated officer</u></p>
Gate 2 – Authorisation of Documents	<p><u>An Officer from the Procurement and Contract Management Service</u></p> <p>AND</p> <p><u>SCM or delegated Officer</u></p>
Gate 3 – Contract Award	<p><u>PAB or HoP or delegated SCM</u></p> <p>AND</p> <p><u>The relevant Director or delegated Assistant Director</u></p> <p>AND</p> <p><u>Finance - S151 Officer or delegated Assistant Director</u></p>
Gate 4(a) – Contract Extension / Variation / Novation	<p><u>PAB or HoP or delegated SCM</u></p> <p>AND</p> <p><u>The relevant Director or delegated Assistant Director</u></p> <p>AND</p> <p><u>Finance - S151 Officer or delegated Assistant Director</u></p> <p>AND, where appropriate</p> <p><u>Monitoring Officer or delegated officer – only in cases where the extension is not part of the original Contract.</u></p>
Gate 4(b) – Contract Termination (during the contract period)	<p><u>PAB or HoP or delegated senior officer</u></p> <p>AND</p> <p><u>The relevant Director or delegated Assistant Director</u></p> <p>AND</p> <p><u>Finance - S151 Officer or delegated Assistant Director</u></p> <p>AND</p> <p><u>Monitoring Officer or delegated officer</u></p>

10. 13. receipt and opening of ABOVE THRESHOLD tenders

CONTRACT MANAGEMENT

10.1 The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the Supplier. Such relevant records and details shall be made available to Internal Audit whenever required and shall be recorded in any relevant Gateway Process report (Gate 4).

CONTRACT MODIFICATIONS – BELOW THRESHOLD CONTRACT

10.2 Contracts with a value below the relevant Threshold Amount may be varied or extended or novated in accordance with the terms of that Contract. Any proposed variations outside the scope of the contract must be approved by the SCM and if such variations take the value over the relevant Threshold Amount they must be approved by the Monitoring Officer. ~~which have the effect of materially changing the Contract must be approved by the Monitoring Officer, whether or not they are affected by amending the Contract itself or by correspondence.~~

10.3 Where a below threshold contract awarded under the PA2023 is modified and the modified value exceeds the relevant threshold amount it will be considered a “convertible contract”, and will be subject to the PA2023. Convertible contracts may be varied or extended in accordance with the terms of that Contract and/or as outlined in Section 74 of the PA2023. Approval must be sought in accordance with **Rule 9.1**. If a “convertible contract” is £5,000,000 or above, a redacted copy of the contract must be published.

CONTRACT MODIFICATIONS – ABOVE THRESHOLD CONTRACT

10.4 Above threshold contracts awarded under the PCR2015 may be varied or extended in accordance with the terms of that Contract and/or as outlined in Regulation 72 of PCR2015. Approval must be sought in accordance with **Rule 9.1**.

10.5 Above threshold contracts awarded under the PA2023 may be varied or extended in accordance with the terms of that Contract and/or as outlined in Section 74 of the PA2023. Approval must be sought in accordance with **Rule 9.1**. If the contract is £5,000,000 or above, a redacted copy of the variation contract must also be published.

CONTRACT TERMINATION

10.6 If an Officer requires a Contract which exceeds the financial values stated in **Rule 9.1** then this must be done in accordance with the terms of the Contract ~~and in accordance with the PCR2015 or PA2023, where applicable.~~ Approval must be sought in accordance with **Rule 9.1**.

10.7 Where an above Threshold contract awarded under the PA2023 has expired, the Responsible Officer must notify the Procurement and Contract Management Service in order to ensure a contract termination notice is published in accordance with the PA2023.

~~13.1 — Rule 13 does not apply to Contracts for Health Care Services or Grants.~~

~~13.2 — A written Above Threshold Tender may only be considered if:—~~

~~(a) — it has been received electronically through the E-Sourcing System, or (where permitted in exceptional circumstances, and subject to agreement by the HoP) it has been received electronically through an appropriate alternative method, such as a secure email inbox; or~~

~~(b) — (where permitted under Regulation 84(h)) it has been received in hard copy in a sealed envelope marked “Above Threshold Tender” and indicating the subject matter of the Above Threshold Tender, and the identity of the Participant cannot be ascertained from the tender envelope; and~~

~~(c) — (subject to **Rule 13.5**) it has been received by the Above Threshold Tender closing date and time.~~

~~13.3 — The S151 Officer (or a person designated by them) shall be responsible for the reception and safe custody of Above Threshold Tenders until they are opened.~~

~~13.4 — Electronically submitted Above Threshold Tenders, whether electronic or hard copy must be opened at the same time, in an auditable way, by an independent Officer from the Procurement and Contract Management Service.~~

~~13.5 — Where permitted under Regulation 84(h) of the PCRs and Above Threshold Tenders are returned in hard copy format a written record shall be maintained by the HoP, of the Above Threshold Tenders received. Such a record shall include the date and time of Above Threshold Tender opening, the identity of the Officer(s) present, the identities of Participants and the tendered sums (where readily ascertainable).~~

~~13.6 — Above Threshold Tenders submitted in hard copy must be opened at the same time and in the presence of the S151 Officer (or a person designated by them) or, where the Procurement and Contract Management Services is undertaking the procurement, the Monitoring Officer (or an Officer designated).~~

~~13.7 — If an Above Threshold Tender is received after the specified closing date and time it may not be considered unless the HoP is satisfied that the Above Threshold Tender was submitted electronically or posted or otherwise dispatched in sufficient time to be delivered before the specified time but that delivery was prevented by an event beyond the control of the Participant.~~

14. — ABOVE THRESHOLD TENDER EVALUATION AND ACCEPTANCE

~~14.1 — Rule 14 does not apply to Contracts for Health Care Services or Grants.~~

~~14.2 — The relevant officers shall evaluate Above Threshold Tenders using the evaluation criteria published in accordance with **Rule 11.3**.~~

~~14.3 — Before a Contract is awarded the HoP shall, in consultation with the SCMs, determine whether it is proportionate and appropriate to complete a risk assessment to ascertain the financial stability of the successful Participant. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This shall be recorded in accordance with the Gateway Process (Gate 3) where appropriate.~~

~~14.4— On completion of the evaluation of the Above Threshold Tenders received and once all internal approvals have been obtained through the Gateway Process (Gate 3), the HoP (or an Officer authorised by the HoP) shall write to all Participants informing them of the outcome of the Above Threshold Tender evaluation and providing feedback on the content of their submission, in accordance with Regulation 55 of the PCR's.~~

~~14.5— The HoP (or an Officer authorised by the HoP) shall wait a minimum of ten days (15 days if not sent electronically) from the date of issue of the letters notifying the Participants of the result of the evaluation before completing the Contract with the successful Participant, except where not required for example for call-offs under an existing Framework.~~

~~14.6— The HoP (or an Officer authorised by the HoP) shall send for publication a Contract Award Notice stating the outcome of the procurement procedure no more than 30 days after the award of the Contract.~~

PART 4

HEALTH CARE SERVICES CONTRACTS

Part 4 applies to all contracts for Health Care Services only. This Part does not apply to Contracts for goods, works or other services or to Grant Agreements.

1511. OPTIONS FOR HEALTH CARE SERVICES PROCESSES

~~151.1 For all health care services contracts, irrespective of contract value, The one of the following processes as detailed in the PSR must be used: governance process will identify which procedure shall be used for all Health Care Service contracts irrespective of value.~~

- a) Direct Award Process A (as prescribed by PSR Regulation 7)
- b) Direct Award Process B (as prescribed by PSR Regulation 8)
- c) Direct Award Process C (as prescribed by PSR Regulation 9)
- d) The Most Suitable Provider Process (as prescribed by PSR Regulation 10)
- e) The Competitive Process (as prescribed by PSR Regulation 11)

~~11.2 Direct Award Process A must be used when all of the following apply:~~

- a) there is an existing provider of the health care services to which the proposed contracting arrangements relate
the relevant authority is satisfied that the health care services to which the proposed contracting arrangements relate can only be provided by the existing provider (or group of providers) due to the nature of the health care services. Such identified processes shall be used for the invitation and/or contract award in accordance with the requirements of the PSR.

11.3 Direct award process B must be used when all of the following apply:

- a) the proposed contracting arrangements relate to health care services where patients are offered a choice of provider
- b) the number of providers is not restricted by the relevant authority
- c) the relevant authority will offer contracts to all providers to whom an award can be made because they meet all requirements in relation to the provision of the health care services to patients
- d) the relevant authority has arrangements in place to enable providers to express an interest in providing the health care services.

11.4 Where Direct Award Process C, the Most Suitable Provider Process or the Competitive Process has been followed a standstill period in line with Regulation 12 of the PSR.

12. PSR GOVERNANCE PROCESS REPORT

12.1 In relation to all Health Care Services contracts awarded under Direct Award A or C the PSR Governance Report Process Report must be completed and signed off by the relevant Officers, as detailed in **Tables 4** below. The relevant SCM, in consultation with the HOP, shall determine the requirement to follow the PSR Governance Process for contracts below £663,540 (inclusive of VAT). The relevant SCM shall consider the market conditions relating to the health care services being procured and ensure assurances have been provided from the relevant budget manager prior to progressing with any procurement process under the PSR.

Table 4: PSR Governance Process Report - Direct award process A or C

<u>PSR Governance Process Report</u>	<u>Approval process</u>
<u>Contract Appraisal and Award</u>	<u>PAB or HoP or delegated SCM</u> <u>AND</u> <u>The relevant Director or delegated Officer</u> <u>AND</u> <u>Monitoring Officer or delegated officer</u>
<u>Contract Extension / Variation / Novation</u>	<u>PAB or HoP or delegated SCM</u> <u>AND</u> <u>The relevant Director or delegated Officer</u> <u>AND, where appropriate</u> <u>Monitoring Officer or delegated officer –</u> <u><i>only in cases where the extension is not part</i></u> <u><i>of the original Contract.</i></u>
<u>Contract Termination (during the contract period)</u>	<u>PAB or HoP or delegated SCM</u> <u>AND</u> <u>The relevant Director or delegated Officer</u> <u>AND</u> <u>Monitoring Officer or delegated officer</u>

12.2 In relation to all Health Care Services contracts award under Direct Award Process B, the Most Suitable Provider Process or Competitive Process the PSR Governance Process Report must be completed and signed off by the relevant Officers, as detailed in **Tables 5** below. The relevant SCM, in consultation with the HOP, shall determine the requirement to follow the PSR Governance Process for contracts below £663,540 (inclusive of VAT). The relevant SCM shall consider the market conditions relating to the health care services being procured and ensure assurances have been provided from the relevant budget manager prior to progressing with any procurement process under the PSR.

Table 5: PSR Governance Process Report - Direct Award Process B, Most Suitable Provider or Competitive Process

PSR Governance Process Report	Approval process
<u>Options Appraisal / Project Initiation</u>	<u>PAB or HoP or delegated SCM</u> AND <u>The relevant Director or delegated Officer</u> AND <u>Monitoring Officer or delegated officer</u>
<u>Authorisation of Documents</u>	<u>An Officer from the Procurement and Contract Management Service</u> AND <u>SCM or delegated Officer</u>
<u>Contract Award</u>	<u>PAB or HoP or delegated SCM</u> AND <u>The relevant Director or delegated Officer</u>
<u>Contract Extension / Variation / Novation</u>	<u>PAB or HoP or delegated SCM</u> AND <u>The relevant Director or delegated Officer</u> AND, where appropriate <u>Monitoring Officer or delegated officer – only in cases where the extension is not part of the original Contract.</u>
<u>Contract / Grant Termination (during the contract period)</u>	<u>PAB or HoP or delegated SCM</u> AND <u>The relevant Director or delegated Officer</u> AND <u>Monitoring Officer or delegated officer</u>

16. **CERTIFICATION OF CONTRACTS**

Commented [PM2]: Suggest move this section up under "Form of Contact"

~~16.1 The Local Government (Contracts) Act (LGCA) 1997 clarified the power of local authorities to enter into certain contracts, including Private Finance Initiative Contracts. Where Contracts need to be certified under the 1997 Act, only the following Officers are authorised to do so, following consultation with the relevant Executive Member: the Director Children and Young People's Service, the Director of Environment, the Director Health and Adult Services, the Director of Community Development, the Director of Public Health, the Monitoring Officer and the S151 Officer.~~

~~17. EXCEPTIONS TO PROCUREMENT AND CONTRACT PROCEDURE RULES~~

~~17.1 Rule 17 does not apply to Contracts for Health Care Services or Grants.~~

~~17.2 A Director does not need to invite bids in accordance with **Rule 9** in the following circumstances:-~~

- ~~(a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBOs) and where such framework agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement; or~~
- ~~(b) the contract is to be awarded to the Council's teckal company which is legally controlled by the Council; or~~
- ~~(c) the instruction of Council by the Monitoring Officer; or~~
- ~~(d) where funding is received by the Council, either in its own right or as an accountable body, and the terms of such grant or other external funding state that it must be applied in accordance with those terms; or~~
- ~~(e) purchases at public auctions (including internet auction sites, e.g. Ebay) where the Director is satisfied that value for money will be achieved; or~~
- ~~(f) the purchase of Supplies, Works, Services or Social and Other Specific Services which are of such a specialised nature as to be obtainable from one Contractor only; or~~
- ~~(g) repairs to or the supply of parts for existing proprietary machinery or plant where to obtain such supplies from an alternative supplier would invalidate the warranty or contractual provisions with the existing supplier; or~~
- ~~(h) Social or Other Specific Services Contracts where:-~~
 - ~~(i) the service is currently supplied by a Contractor to the satisfaction of the relevant Director, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further bids, or~~
 - ~~(ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where the Director Health and Adult Services and the Director Children and Young People's Service considers it inappropriate for bids to be invited, or~~

~~(iii) — where the relevant Director is satisfied that the urgency of the need for the service prevents the invitation of bids in which case consideration shall be given to the duration of that service; or~~

~~(i) — in relation to Pilot schemes for a proof of contract/trialling a product or area of innovation.~~

~~(j) — Contracts where the Director with the agreement of the HoP agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Director, whenever this Rule applies.~~

~~17.3 — Where any of the exceptions set out in **(e) to (j)** above are applied a Directors Recommendation, in consultation with the relevant SCMs, shall be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all recommendations made under this Rule.~~

~~17.4 — A Director does not need to invite Above Threshold Tenders in accordance with **Rule 11 and 12**, in the following circumstances however the gateway process at **Rule 19** shall still apply:~~

~~(a) — purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBO's) and where such Framework Agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement. Where appropriate Officers should apply a minimum 10 day standstill period for all call-off Contracts awarded under an existing Framework Agreement. This is not mandatory but is deemed best practice; or~~

~~(b) — where:~~

~~— (i) — Regulations 12 or 72 of the PCRs apply; or~~

~~— (ii) — any other specific exclusions as set out in the PCRs apply.~~

~~Waivers~~

~~17.5 — Specific exceptions to these Rules are permitted in such other circumstances as the S151 Officer and the Monitoring Officer may agree.~~

~~17.6 — Requests for waivers shall be made using the Waiver Request Form prescribed by the S151 Officer which shall specify the reasons for the request.~~

~~17.7 — Any requests for waivers shall be made in consultation with the relevant SCM's, and be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all waivers made under this Rule.~~

~~18. COMPLIANCE, CONTRACT REGISTER AND PROCUREMENT PIPELINE~~

~~18.1 — Every Officer shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.~~

~~18.2 The S151 Officer shall be responsible for monitoring adherence to these Rules.~~

~~18.3 The HoP shall nominate a representative to act as a key contact point in relation to procurement matters for spend categories; such representatives shall be termed SCMs.~~

~~18.4 Each Director, in conjunction with the HoP, shall take all such steps as are reasonably necessary to ensure that Officers within their Directorate are aware of and comply with these Rules, the Procurement Manual and the Finance Manual referred to in **Rule 2.5**.~~

~~18.5 An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Audit Committee.~~

~~18.6 The Council maintains a Contract Register the purpose of which is to record key details of:~~

~~18.6.1 all Contracts with an aggregate value of £5,000 (exclusive of VAT) or more; and~~

~~18.6.2 all Health Care Services contracts irrespective of value.~~

~~18.7 All Responsible Officers will notify the Procurement and Contract Management Service of any Contract awarded:~~

~~18.7.1 above £5,000; or~~

~~18.7.2 any contract for Health Care Services irrespective of value.~~

~~The Responsible Officer will use the format prescribed by the Procurement and Contract Management Service and report this information quarterly.~~

~~18.8 The HoP shall ensure that:-~~

~~(a) all relevant Contracts (including those Contracts to which **Rule 16** applies) are entered onto the Contract Register; and~~

~~(b) the Contract Register is maintained by entering new Contracts onto it and removing expired Contracts from it in line with the Council's Records Retention and Destruction Schedule.~~

Contracts Finder

~~18.9 When a Procurement leading to a Contract in excess of £30,000 inclusive of VAT is awarded the Procurement and Contract Management Service shall ensure that such information as is prescribed in the PCRs is published on Contracts Finder via the ESourcing system.~~

~~18.10 When a Procurement leading to a Health Care Services Contract of any value is awarded, the Procurement and Contract Management Service shall ensure that such information as is detailed in the PSRs is published on Contracts Finder via the E-Sourcing.~~

19. GATEWAY PROCESS AND PSR GOVERNANCE PROCESS REPORTS INCLUDING NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER

19.1 When a procurement or Grant is being considered which is expected to exceed the financial value thresholds specified in **Rule 19.2** the Gateway Process must be completed and signed off by the relevant Officers, as detailed in **Table 5** below.

Table 6: Gateway Process – Authorisation to Approve

Gateway Process gate	Approval process
Gate 1 – Commissioning and Procurement Options Appraisal (includes Grants)	PAB or HoP or delegated SCM AND The relevant Director or delegated Assistant Director AND Finance – S151 Officer or delegated Assistant Director AND The Monitoring Officer or delegated officer
Gate 2 – Authorisation of Documents	An Officer from the Procurement and Contract Management Service AND SCM or delegated Officer
Gate 3 – Contract/ Grant Award	PAB or HoP or delegated SCM AND The relevant Director or delegated Assistant Director AND Finance – S151 Officer or delegated Assistant Director
Gate 4(a) – Contract / Grant Extension/Variation/Novation	PAB or HoP or delegated SCM AND The relevant Director or delegated Assistant Director AND

	<p>Finance—S151 Officer or delegated Assistant Director</p> <p>AND, where appropriate</p> <p>Monitoring Officer or delegated officer—<i>only in cases where the extension is not part of the original Contract.</i></p>
<p>Gate 4(b)—Contract/ Grant Termination (during the contract period)</p>	<p>PAB or HoP or delegated senior officer</p> <p>AND</p> <p>The relevant Director or delegated Assistant Director</p> <p>AND</p> <p>Finance—S151 Officer or delegated Assistant Director</p> <p>AND</p> <p>Monitoring Officer or delegated officer</p>

19.2 The whole contract financial value thresholds for the purposes of **Rule 19.1** are:

- (a) Works and Concession Contracts—£1,000,000 inclusive of VAT
- (b) Social and Other Specific Services Contracts—£663,540 inclusive of VAT
- (c) Goods and Services Contracts—£214,904 inclusive of VAT.

The above values are used to determine the Gateway Process threshold for Grants.

19.3 In relation to Health Care Services contracts the PSR Governance Process must be completed and signed off by the relevant Officers, as detailed in **Table 7** below.

Table 7: PSR Governance Process – Authorisation to Approve

PSR Governance Process	Approval process
PSR Direct Award Process A, B or C—Contract Appraisal and Award	PAB or HoP or delegated SCM AND The relevant Director or delegated Officer
PSR Most Suitable Provider Process or Competitive Process—Options Appraisal / Project Initiation	PAB or HoP or delegated SCM AND The relevant Director or delegated Officer
PSR review—Authorisation of Documents	An Officer from the Procurement and Contract Management Service AND SCM or delegated Officer
PSR Most Suitable Provider Process or Competitive Process—Contract/ Grant Award	PAB or HoP or delegated SCM AND The relevant Director or delegated Officer

PSR Contract Modification — Contract / Grant Extension/Variation/Novation	PAB or HoP or delegated SCM AND The relevant Director or delegated Officer AND, where appropriate Monitoring Officer or delegated officer — only in cases where the extension is not part of the original Contract.
PSR Contract Termination — Contract / Grant Termination (during the contract period)	PAB or HoP or delegated SCM AND The relevant Director or delegated Officer AND Monitoring Officer or delegated officer

~~19.4 — The whole contract financial value thresholds for the purposes of Rule 19.3 are:~~

~~(a) — Health Care Services Contracts — any value~~

2013. HEALTH CARE SERVICES CONTRACT MANAGEMENT

~~20.1.1~~ The Responsible Officer shall take all such steps ~~as are appropriate~~ to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. — As part of the monitoring and review process the Responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the ~~Contractor~~Supplier. Such relevant records and details shall be made available to Internal Audit whenever required and shall be recorded ~~as part of the PSR Governance Process where required~~in any relevant Gateway Process report (Gate 4).

~~20.2 — Where appropriate the Responsible Officer will attend the Contract Management Practitioners Group.~~

CONTRACT MODIFICATIONS VARIATION/NOVATION

~~20.3 — Contracts with a value below the relevant WTO GPA Threshold may be varied or extended or novated in accordance with the terms of that Contract. Any proposed variations which have the effect of materially changing the Contract must be approved by the Monitoring Officer, whether or not they are affected by amending the Contract itself or by correspondence.~~

~~20.3.24~~ Any health care services contracts may ~~Contracts with a value in excess of the relevant WTO GPA Threshold may be varied or extended~~ in accordance with the terms of that Contract and/or as outlined in Regulation 72-13 of ~~the PCR~~the PSRs. Approval must be sought in accordance with ~~the PSR Governance Process~~Rule 19.1, (Table 5 — Gateway Process — Authorisation to Approve Gate 4a).

~~20.5 — Health Care Services Contract variations must be done in accordance with Regulation 13 of the PSRs. Approval must be sought in accordance with Rule 19.3.~~

CONTRACT TERMINATION

~~20.3.36~~ If an Officer requires a ~~Contract which exceeds the financial values stated in Rule 19.2 or any H~~health Care Services ~~c~~Contract to be terminated then this must be done in accordance with the terms of the Contract and in accordance with the ~~PCRs~~

of PSRs, where applicable. –Approval must be sought in accordance with the PSR Governance Process Rule 19.1 or Rule 19.3 (as applicable).

14. ANNUAL SUMMARY

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~~14.1 An annual summary must be published online detailing all of the Council's contracting activity for the provision of relevant health care services in line with Regulation 25 of the PSR.~~

21. TRAINING FOR PROCUREMENT AND CONTRACT MANAGEMENT

~~21.1 Where appropriate any Officer involved in procurement activities shall have received a level of formal training commensurate with the nature of the procurement activity being undertaken.~~

~~11.9 TAll evaluation panel members must have completed the evaluation training prior to completing any evaluation process.~~

~~21.2 Where appropriate the Responsible Officer involved in contract management shall have received a level of formal training commensurate with the nature of the contract.~~

22. DECLARATION OF INTERESTS

~~22.1 A Conflict of Interest declaration must be completed by all members of the evaluation panel. A Confidentiality Agreement or Declaration form must also be completed by any members of the evaluation panel who are not directly employed by the Council, unless there are alternative appropriate confidentiality provisions within the persons appointment documents (such as a consultancy agreement).~~

~~22.2 If it comes to the knowledge of a Member, Responsible Officer or other Officer that a Contract or Grant in which they have an interest (determined in accordance with the Members' and/or Officers' Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer.~~

~~22.3 In relation to Health Care Services Contracts, conflicts of interest must be managed in line with Regulation 21 of the PSRs.~~

PART 5

GRANT AGREEMENTS

Part 5 applies to all grant agreements and this Part does not apply to Contracts.

2315. GRANT PROCESSES

OVERVIEW

~~2315.1~~ A grant is a sum of funds for a specific purpose. Under a grant agreement, the funder makes a payment to the recipient for a specific purpose. The recipient is not obliged to deliver any goods or services to the funder. –The Council may grant-fund third party organisations for example to help deliver community cohesion or to provide

complementary activities. Responsible Officers should in consultation with Procurement and Contract Management Service and Monitoring Officer understand if the Grant is subject to the [PCRs-PA2023](#) or [the PSR and would therefore need to comply with Part 3 of these Rules instead](#).

BEST VALUE PROCESS (GRANT)

~~2315.2 Grants up to and including a value of £100,000 may be directly awarded where using a Best Value Process (Grant) Form is completed, and subsidy control law must be complied with. It is the Officer's responsibility to complete the Best Value Process (Grant) Form which captures the outcome of the process as a centralised record.~~

~~15.3 Alternatively, the competitive grant process can be used for Grants up to and including a value of £100,000 in which case the Competitive Grant process would be followed instead.~~

COMPETITIVE GRANT PROCESS

~~2315.324 For any Grant over £100,000, a competitive grants process must be completed and subsidy control law complied with. Where appropriate, the opportunity should be advertised on the Council's e-tendering system.~~

~~15.35 -Where a competitive grants process is undertaken, a Competitive Grants Form must be completed to captures the outcome of the process as a centralised record. -Where appropriate, the opportunity should be advertised on the Council's ESourcing system.~~

~~15.46 Where the value of a grant exceeds the relevant threshold for grants (see [Rule 16.1](#)) then the Gateway Report Process for Grants shall be completed instead of the Competitive Grant Form.~~

BEST VALUE PROCESS (GRANT)

~~15.5 Under exceptional circumstances, the Contract may be directly awarded using the Best Value Process for Grants up to and including a value of £100,000 as long as sufficient justification is given for not undertaking a competitive grant process. It is the Officers responsibility to complete the Best Value Process (Grant) Form.~~

SUBSIDY REQUIREMENTS

~~2315.647 For all grant related processes subsidy control law must be complied with and any grant awarded over £100,000 which is a subsidy must be added to the Subsidy Database.~~

GRANT MANAGEMENT

~~15.78 The Responsible Officer shall take all such steps as are appropriate to monitor and review the delivery of the grant agreement, having regard to its value, nature, duration and subject matter. As part of the Grant monitoring and review process the Responsible Officer shall maintain adequate records of delivery and details of review meetings with the grant recipient.~~

~~GRANT PROCESS EXEMPTIONS Where the value of a grant exceeds the relevant WTO-GPA Threshold, any value for Health Care Service Contracts, or £1,000,000 for works, the Gateway Process shall be completed in accordance with [Rule 19](#).~~

~~2315.589~~ Specific exceptions to **Rule 23-15** are permitted in circumstances as the Monitoring Officer and S151 Officer may agree. A request for a Grant Exemption can be made to the S151 Officer and the Monitoring Officer using Grant Exemption Form. The Procurement and Contract Management Service shall maintain a register of all Grants Exemption made under this Rule.

~~23.6~~ The Responsible Officer shall take all such steps as are appropriate to monitor and review the delivery of the grant agreement, having regard to its value, nature, duration and subject matter. As part of the Grant monitoring and review process the Responsible Officer shall maintain adequate records of delivery and details of review meetings with the grant recipient.

~~24.~~ **HIRING AND ENGAGING STAFF**

16. GATEWAY REPORT PROCESS (GRANT)

~~16.1~~ If the estimated value of the Grant Agreement is above the following thresholds the Gateway report process must be completed and signed off by the relevant Officers, as detailed in **Table 6** below:

- (a) Works and Concession Contracts - £1,000,000 inclusive of VAT
- (b) Social and Other Specific Services Contracts - £663,540 inclusive of VAT
- (c) Goods and Services Contracts - £213,477 inclusive of VAT.

Table 6: Gateway Report Process (Grant) - Authorisation to Approve

<u>Gateway Report Process</u>	<u>Approval process</u>
<u>Gate 1 – Commissioning and Procurement Options Appraisal</u>	<u>PAB or HoP or delegated SCM</u> AND <u>The relevant Director or delegated Assistant Director</u> AND <u>Finance - S151 Officer or delegated Assistant Director</u> AND <u>The Monitoring Officer or delegated officer</u>
<u>Gate 2 – Authorisation of Documents</u>	<u>An Officer from the Procurement and Contract Management Service</u> AND <u>SCM or delegated Officer</u>
<u>Gate 3 – Grant Award</u>	<u>PAB or HoP or delegated SCM</u> AND

	<p><u>The relevant Director or delegated Assistant Director</u></p> <p>AND</p> <p><u>Finance - S151 Officer or delegated Assistant Director</u></p>
<u>Gate 4(a) – Grant Extension / Variation / Novation</u>	<p><u>PAB or HoP or delegated SCM</u></p> <p>AND</p> <p><u>The relevant Director or delegated Assistant Director</u></p> <p>AND</p> <p><u>Finance - S151 Officer or delegated Assistant Director</u></p> <p>AND, where appropriate</p> <p><i><u>Monitoring Officer or delegated officer – only in cases where the extension is not part of the original Contract.</u></i></p>
<u>Gate 4(b) – Grant Termination (during the contract period)</u>	<p><u>PAB or HoP or delegated senior officer</u></p> <p>AND</p> <p><u>The relevant Director or delegated Assistant Director</u></p> <p>AND</p> <p><u>Finance - S151 Officer or delegated Assistant Director</u></p> <p>AND</p> <p><u>Monitoring Officer or delegated officer</u></p>

24.1 ~~Where an Officer is hiring or engaging a staff member who is not on the Council payroll there is a legal requirement to determine whether it is the responsibility of the Council to deduct tax and national insurance at source, in accordance with the requirements of the Social Security Contributions (Intermediaries) Regulations 2000, as amended (IR35).~~