Appendix 2

Procurement and Contract Procedure Rules

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PART 1

RULES APPLICATION AND KEY DEFINITIONS

1. RULES APPLICATION

1.1 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 1.5**), 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. DEFINITIONS

DEFINED TERMS

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

Best Value Process Form	means the form to be completed to capture the rationale for not seeking bids in accordance with **Rule 6.6**.
Central Digital Platform	Is the online system established by the Minister for the Cabinet Officer and which may be accessed on https://www.gov.uk/find-tender
Centralised Procurement Authorities	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.
Competitive Grant Form	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**.
Concession	means a contract for the supply, for pecuniary interest, of works or services to a contracting authority where- a) At least part of the consideration for that supply is a right for the supplier to exploit the works or services, and b) Under the contract the supplier is exposed to a real operating risk.
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 1.5**.

Contract Register	means the register of Contracts maintained by the Council as set out in **Rule 5.27**.
Contracting Authorities	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.
Council	means The North Yorkshire Council.
CPV	means the common procurement vocabulary which is a single classification system for public procurement to help identify goods, services and works.
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; 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.
Director's recommendation	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.
E-tendering System	means the online procurement platform used to publish opportunities and receive supplier submissions for consideration.
Elected Member	means an elected member of the Council or co-opted member on a Council committee.
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.
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 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
PA2023	means the Procurement Act 2023 as amended from time to time.
PAB	means the Procurement Assurance Board which is chaired by the HoP.
PCR2015	means the Public Contracts Regulations 2015
Person	means any individual, partnership, company, trust, other local authority, Government department or agency

Procurement and Contract Management Manual	means the manual to accompany these Rules which provides detailed guidance on procurement and contract management techniques and the effect of the Rules.
Procurement and Contract Management Service	means the Council's procurement and contract management service which sits under the HoP.
Procurement Pipeline	means the Procurement Pipeline which outlines future procurement requirements of the Council.
PSR	means The Health Care Services (Provider Selection Regime) Regulations 2023.
PSR Governance Process report	means the Council's 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.
Quotes Process Form	means the form to be completed to capture the quotes processes undertake in accordance with **Rule 6.5**.
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 officer under Section 151 of the Local Government Act 1972 and is responsible for making the necessary arrangements for local financial and management controls.
SCM	means the Senior Commercial Managers within the Procurement and Contract Management Service.
Services	means those services that have a CPV Code starting with 50 up to and including 98.
Supplier	means a company or individual that provides goods, services or works.
Technology Contract	means any contract commissioned by the Council's Technology department for technological products or services including IT systems, software and/or hardware.
Teckal	refers to a specific type of legal entity established and controlled by public authorities and to which those public authorities may direct award a contract for the

	delivery of goods, services and/or works via the Vertical Exemption.
Threshold Amounts	means the threshold amount for a contract of a type referenced to in Schedule 1 of the Procurement Act 2023.
Waiver Form	means the prescribed form to be completed when requesting a waiver in accordance with **Rule 7.15**.
Works	means any of the activities within the CPV Codes listed in the Procurement Regulations 2024 under Schedule 3.

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 AND PRINCIPLES

3. PROCUREMENT AND CONTRACT PROCEDURE RULES OBJECTIVES

3.1 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.

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 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. Contracts for Goods or Services (excluding Health Care Services) with a value of £5,000 or less (excluding VAT) do not require signature or sealing provided they are entered into on the Council's standard purchase order terms. In all other cases, every Contract and Grant agreement 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)	
£5,000 or less (excluding VAT)	Signature / sealing is not required. The contract must be on the Council's standard purchase order terms.
Above £5,000 (excluding VAT) and below PA2023 Threshold Amount	One Signature required by the relevant Director or by an Officer authorised by the Director to sign on their behalf.
Above and including the PA2023 Threshold Amount	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 Services' Officer authorised by the Monitoring Officer to seal on their behalf
Contracts for Works	
Below £1,000,000 (Including VAT)	One Signature required by the relevant Director or by an Officer authorised by the Director to sign on their behalf. OR Sealed by the Monitoring Officer or by a Legal Services' Officer authorised by the Monitoring Officer to seal on their behalf.
Above and including £1,000,000 (Including VAT)	Must be sealed by the Monitoring Officer or by a Legal Services' Officer authorised by the Monitoring Officer to seal on their behalf.
Contracts for Health Care Services	
Below £663,540 (Including VAT)	One Signature required by the relevant Director or by an Officer authorised by the Director to sign on their behalf.
Above and including £663,540 (Including VAT)	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 Services' Officer authorised by the Monitoring Officer to seal on their behalf.
Grant Agreements	
Below £100,000	One Signature required by the relevant Director or by an Officer authorised by the Director to sign on their behalf.
Above and including £100,000	Must be sealed by the Monitoring Officer or by a Legal 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 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 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 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

5.1 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.

MANUALS & STRATEGY

5.5 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.

5.6 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

5.8 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.

EXTERNAL CONTRACT SUPERVISION OR MANAGEMENT

5.9 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.

PROCURING IN PARTNERSHIP WITH OTHERS

5.10 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.

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 TRAINING

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 Tender processes, all evaluation panel members must have completed the evaluation training prior to completing any evaluation process within the last 2 years.

5.17 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.

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.

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.

6. QUOTATION AND BEST VALUE PROCESSES

SINGLE QUOTATION PROCESS

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

6.2 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 process completed in accordance with **Rules 6.3 to 6.9**.

MINIMUM THREE QUOTES & BEST VALUE PROCESS

6.3 Where the estimated value of a Contract is above £5,000 excluding VAT, and less than or equal to the relevant upper limit set out in **Table 2** below (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 Limit (including VAT)**
Goods/Services contracts (including Technology Contracts)	£200,000
Concessions Contracts	£250,000
Works contracts	£1,000,000
Light Touch Contracts (typically social care)	£663,540

6.4 A minimum of one quote 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.

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

6.7 A minimum three quotes or best value process cannot be accepted where the value exceeds the relevant upper limit for this process. If the value exceeds the relevant upper limit for this process the bid process must be followed in accordance with **Rule 7**.

6.8 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 above £30,000 inclusive of VAT (taking into account the whole life cost of the Contract, including extensions and/or variations):

(a) a below-threshold tender notice must be published on the Central Digital Platform if the Council chooses to advertise the opportunity openly; and

(b) after entering into a contract, a contract details notice must be published on the Central Digital Platform.

EXCEPTIONS TO THE QUOTATION / BEST VALUE PROCESS

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 via the Vertical Exemption in the PA2023 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.

7. BID PROCESS

7.1 If the estimated value of a Contract exceeds the upper limit values as stated in **Rule 6.3 Table 2** but is less than the relevant Threshold Amounts (**see Rule 8.2**), bids must be invited from all potential Suppliers.

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

7.3 A below-threshold tender notice providing details of the contract must be published on the Central Digital Platform before advertising the opportunity. As a minimum all bids must be advertised on the Council's e-tendering system.

7.4 All 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 HoP or an SCM may permit suppliers who have been invited to submit bids 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 suppliers.

RECEIPT OF BIDS

7.6 A bid may only be considered if before the deadline date and time:

(a) it has been received electronically through the e-tendering 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 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

7.7 Post bid negotiations with selected suppliers shall only be carried out where: -

(a) post bid 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 supplier.

7.8 **Rule 7.7** 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 **Rule 7.7 (c)(d)** shall apply.

CONTRACT AWARD

7.9 Before a Contract is awarded such steps shall be taken by the SCM,, 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 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.

7.11 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 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 OR the Director Children and Young People's Service considers it inappropriate for bids to be invited, 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.

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

(k) Where the award demonstrates added value by supporting the local economy (e.g. awarding to an SME or VCSE).

(l) 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 (l)** 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 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.

8. TENDER PROCESS

COMPETITIVE TENDERING PROCEDURES

8.1 Where the estimated value of the Contract meets or exceeds the relevant Threshold Amounts (see **Rule 8.2**), Tenders must be invited and awarded in accordance with the competitive tendering procedures of the PA2023 which are:

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 for the various types of contract inclusive of VAT:

a) Light Touch Contract - £663,540
b) Concession Contract - £5,193,000

c) Works Contract - £5,193,000
d) Contract for the supply of goods or services contract - £207,720

PUBLICATION

8.3 Prior to publication of a 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.

8.4 All suppliers shall be provided with identical information (including the evaluation criteria details) and instructions.

RECEIPT AND OPENING OF TENDERS

8.5 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.

8.6 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.

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

8.8 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.

8.9 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

8.10 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.

8.11 All 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 scoring exercise, chaired by a member of the Procurement and Contract Management Service
- Independent review by the SCM, where required
- Moderation by the evaluation panel, where required
- Approval of scores and consensus feedback by the evaluation panel

CONTRACT AWARD

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

8.13 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).

8.14 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.

8.15 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.

EXCEPTIONS TO THE TENDER PROCESS

8.16 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

8.17 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.

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 - £207,720 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** 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 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 Extension / Modification	PAB or HoP or delegated SCM **AND** The relevant Director or delegated Assistant Director **AND** Finance - S151 Officer or delegated Assistant Director **AND** Monitoring Officer or delegated officer – *only in cases where the extension is not part of the original Contract.*
Gate 4(b) – Contract Termination (during the contract period)	PAB or HoP or delegated senior officer **AND**

	The relevant Director or delegated Assistant Director **AND** Finance - S151 Officer or delegated Assistant Director **AND** Monitoring Officer or delegated officer

10. 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.

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 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** to be terminated then this must be done in accordance with the terms of the Contract. 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.

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.

11. HEALTH CARE SERVICES PROCESSES

11.1 For all health care services contracts, irrespective of contract value, one of the following processes as detailed in the PSR must be used:

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.

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 **Table 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

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

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 **Table 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
Options Appraisal / Project Initiation	PAB or HoP or delegated SCM **AND** The relevant Director or delegated Officer **AND** Monitoring Officer or delegated officer

Authorisation of Documents	An Officer from the Procurement and Contract Management Service **AND** SCM or delegated Officer
Contract Award	PAB or HoP or delegated SCM **AND** The relevant Director or delegated Officer
Contract Extension / Modification	PAB or HoP or delegated SCM **AND** The relevant Director or delegated Officer **AND** Monitoring Officer or delegated officer – *only in cases where the extension is not part of the original Contract.*
Contract Termination (during the contract period)	PAB or HoP or delegated SCM **AND** The relevant Director or delegated Officer **AND** Monitoring Officer or delegated officer

13. HEALTH CARE SERVICES CONTRACT MANAGEMENT

13.1 The Responsible Officer shall take all such steps 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 as part of the PSR Governance Process where required.

CONTRACT MODIFICATIONS

13.2 Any health care services contracts may be varied or extended in accordance with the terms of that Contract and/or as outlined in Regulation 13 of the PSR. Approval must be sought in accordance with the PSR Governance Process.

CONTRACT TERMINATION

13.3 If an Officer requires a health care services contract to be terminated then this must be done in accordance with the terms of the Contract and in accordance with the PSRs, where applicable. Approval must be sought in accordance with the PSR Governance Process.

14. ANNUAL SUMMARY

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.

PART 5

GRANT AGREEMENTS

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

15. GRANT PROCESSES

OVERVIEW

15.1 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 PA2023 or the PSR and would therefore need to comply with Part 3 of these Rules instead.

COMPETITIVE GRANT PROCESS

15.2 A competitive grant process should be completed unless **Rule 15.4** applies.

15.3 Where a competitive grant process is undertaken, a Competitive Grant Form must be completed to capture the outcome of the process as a centralised record.

BEST VALUE PROCESS (GRANT)

15.4 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

15.5 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

15.6 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.

GRANT PROCESS EXEMPTIONS

15.7 Specific exceptions to **Rule 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.