

County Council – Proposed Changes to the Constitution

- To: Constitution and Ethics Committee
- Meeting Date: 23 April 2024
- From: Democratic Services Manager
- Outcome: To consider proposed revisions to the Council's Constitution and agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).
- Recommendation: The Constitution and Ethics Committee is asked to:
- a) Recommend changes to the Contract Procedure Rules set out in Appendix A; and
 - b) Recommend to Council that it agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

Officer contact:

Name: Michelle Rowe
Post: Democratic Services Manager
Email: michelle.rowe@cambridgeshire.gov.uk

1. Background

- 1.1 The Local Government Act 2000 requires all local authorities to have a constitution that contains the standing orders and the code of conduct, as well as any other information that the authority considers appropriate. Changes to the Council's Constitution are considered by the Constitution and Ethics Committee before being recommended to Full Council for approval.

2. Main Issues

2.1 Contract Procedure Rules

- 2.1.1 The Head of Procurement and Commercial has reviewed Part 4 – Rules of Procedure, 4.5 – Financial and Contract Procedure Rules, Annex 2 – Contract Procedure Rules, and asked for updates in relation to waivers, subscriptions and E-Sign. These changes are annotated in bold and strike through in Appendix A.

2.2 Scheme of Delegation

- 2.2.1 The Scheme of Delegation to Officers (Part 3D of the Council's Constitution) describes the extent and nature of the authority delegated to officers to undertake functions on behalf of the Council.
- 2.2.2 Section 1.2 (f) of the Council Procedure Rules (Part 4.1 of the Council's Constitution) states that the annual meeting will agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

3. Appendices

- 3.1 Appendix A – Contract Procedure Rules

4. Source Documents

- 4.1 [The Council's Constitution](#)

Appendix A

Contract Procedure Rules

1. Introduction

- 1.1 These Contract Procedure Rules (Rules) clearly set out the rules that apply to all officers involved in procurement for and on behalf of the Council. The Rules must be read in conjunction with any other relevant laws, regulations, policies and/or procedures including the Council's Financial Procedure Rules, the Officer Scheme of Delegation, English law, the Procurement Guide and the Provider Selection Regime (PSR) Guide.
- 1.2 Officers involved in procurement activities and making procurement decisions must be fully aware and comply with the Rules as they form part of the Council's Constitution.
- 1.3 All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome.
- 1.4 The Rules seek to protect the Council's reputation by minimising the risk of allegations of corruption, dishonesty and failure to meet legal obligations. As these rules are required by law, failure to comply with them could lead to disciplinary action. If in doubt and/or if advice on compliance with legislative requirements is required, this may be obtained from Pathfinder Legal Services and the Procurement and Commercial Team.
- 1.5 The Procurement Guide and the PSR Guide are invaluable sources of operational guidance to support any procurement activity and the correct application of these rules. The Guides can be found on the intranet's procurement page.
- 1.6 Should a conflict be found between these rules, the law and the Procurement/PSR Guides, the order of precedence shall be the law, the Rules and then the Procurement/PSR Guides.
- 1.7 All procurement activities must be carried out in a fair, open, transparent, proportionate and non-discriminatory manner. The Council reserves the right to consider the application of intervening government guidance when making decisions about the application of these rules.
- 1.8 The Rules apply to contracts or agreements with external organisations where the Council pays for:
 - Goods and/or services
 - Works of any kind
 - Hire, rental or lease of equipment, material and/or plant.
- 1.9 The Rules do not apply in the following circumstances:
 - 1.9.1 The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This does not extend to any goods, services or works contracts

Appendix A

that may be required to make the land and/or existing buildings ready for acquisition, disposal or leasing.

- 1.9.2 Broadcasting time or programme provision that are awarded to audiovisual or radio media service providers.
- 1.9.3 Arbitration or conciliation services.
- 1.9.4 For any of the following legal services:
 - 1.9.4.1 Legal representation of a client by a lawyer in an arbitration or conciliation or judicial proceedings before courts, tribunals or public authorities.
 - 1.9.4.2 Legal advice given in preparation for any of the proceedings referred to in 1.9.4.1 or where there is tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings, provided that the advice is given by a lawyer.
 - 1.9.4.3 document certification and authentication services which must be provided by notaries.
 - 1.9.4.4 legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal or are designated by law to carry out specific tasks under the supervision of such tribunals or courts.
- 1.9.5 For financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments or central bank services.
- 1.9.6 For expenditure incurred directly as a result of an insurer led arrangement.
- 1.9.7 Direct employment of permanent or fixed term employees or of interim or agency staff. For the avoidance of doubt, the Rules do apply to consultancy and employment agency contracts and in those circumstances the responsible officer must have regard to the Council's Policies Relating to the Appointment of External Consultants and Interims.
- 1.9.8 The lending or borrowing of money by the Council.
- 1.9.9 Goods, services or works purchased through the ESPO General Catalogue up to a value of £10,000 per transaction and as long as the responsible officer is satisfied that the Catalogue offers value for money. This does not include other ESPO provisions, such as frameworks, for which these CPRs do still apply.
- 1.9.10 When commissioning goods, services or works through collaborative joint procurements, where one of the other contracting authorities is acting as procurement lead, the responsible officer must satisfy themselves that the procurement complies with all relevant applicable laws.
- 1.9.11 Any award of grants of money but these must be in accordance with the Constitution and the Council's Grants to External Organisations Policy. Prior advice

Appendix A

should be sought from the Pathfinder Legal Services in relation to the governance process for the award of grants and the legal documentation that must be used. Unless the terms of the grant stipulate otherwise, value for money and the Rules should be followed in the award of grants.

1.9.12 Membership/Subscriptions (not applicable to software licensing) : where the Council makes an arrangement to receive goods or services regularly by paying in advance and competition is absent for technical reasons.

- 1.10 The Monitoring Officer in consultation with the Head of Procurement and Commercial shall have the power to make incidental amendments from time to time to the Rules, for example when updates are required from changes to legislation, changes to job titles and roles.
- 1.11 Members have a key role to play in providing oversight to the Rules set out below, making key decisions on major projects, considering risks and ensuring that the Council takes best advantage of the public procurement rules. Full details on the role that Members play in procurement activity can be found in the LGA's A Councillor's Guide to Procurement, 2019 edition (local.gov.uk).

2. Exceptions to the Rules

- 2.1 The Rules apply to every procurement carried out by, or on behalf of, the Council except for those listed below in section 2.7.
- 2.2 Exceptions will only be valid if the Council's online waiver system is used, and appropriate approval has been sought and gained prior to the contract start date. Retrospective exceptions (waivers) are only permitted where:
- It has been necessary to act urgently because of an unforeseen emergency which involves immediate risk of injury or damage or to prevent serious disruption to services.
 - It is necessary for the responsible officer in either adults or children's social care to act immediately to secure care for a vulnerable person.
- 2.3 Exception requests (waivers) cannot be sought for requirements equal to or above the Council's key decision threshold, nor can they be granted if the contract value is over the relevant UK procurement threshold. Should a waiver valued over the relevant UK procurement threshold be considered, legal advice must be sought as to the applicability of Regulation 32 of the Public Contract Regulations (2015) which in certain circumstances will include urgent requirements. Committee approval will be required for these above threshold exceptions.
- 2.4 In instances where a repeat exception is requested, the value of the requested exception must be added to the value of any previous exceptions and the appropriate rule/regulation applied.
- 2.5 Where the total value of the ensuing contract exceeds £5,000, it must be added to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.

Appendix A

2.6 An award notice is required to be published for all contracts valued over £25,000.

2.7 Valid exceptions are:

~~2.7.1 Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the life and/or safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, flood or pandemic.~~

~~2.7.2 Value for Money: where proprietary or patented goods or services; or the requirement is of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; or the compatibility with existing goods or services is required and/or where those existing goods or services can only be sourced from the same supplier.~~

~~2.7.4 Urgent Situations not of the Council's Own Making: the urgency must have been reasonably unforeseeable (e.g. an existing supplier going out of business) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exception. Where this exception is used, a compliant procurement process must be implemented as soon as possible.~~

~~2.7.5 Specialist advice or opinion requested by the Council's legal adviser.~~

2.7.1 Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the life and/or safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, flood or pandemic.

2.7.2 Value for money: for proprietary or patented goods or services; or where the requirement is of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; or compatibility with existing goods or services is required and/or where those existing goods or services can only be sourced from the same supplier.

2.7.3 Urgent situations not of the Council's own making: the urgency must have been reasonably unforeseeable (e.g. an existing supplier going out of business) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exception. Where this exception is used, a compliant process must be implemented as soon as possible.

2.7.4 Process delays: where an existing contract is being re-procured and there are delays to that procurement process which means that the new contract cannot start as the existing contract ends, an exception may be requested to extend the current contract to cover the gap between the two contracts. The delays must have been reasonably unforeseeable (e.g. extensions required to standstill), and the exception may be for no longer than six (6) months).

2.7.5 Grant allocations: where the Council has been allocated a grant and there has been no time to procure a supplier during the grant application process or

Appendix A

because the grant conditions require spend of the grant in too short a time period. Evidence of the grant application process and the grant conditions will be required in the exception application. If spend of the grant is not required within a 12-month period, this exception may not be used.

- 2.8 In the case of a breach to these Rules, the Responsible Officer must make an immediate report to the Monitoring Officer and S151 officer detailing the breach and any management action taken to address the issues arising from the breach. Internal Audit will maintain a record of all such breaches which will be reported to the Constitution and Ethics Committee by the Monitoring Officer annually.

3. Exceptions for Care Placements

- 3.1 Adult social care placements and placements made for children in care or children and young people with an Education, Health and Care Plan (EHCP) are not subject to the Rules but are subject to the requirements set out below. Please note that where the placement's main subject matter is health care, compliance with the PSR is required, refer to Section 4.
- 3.2 Tier 1 Block Contracts: when a supplier is procured with guaranteed service levels and pre-agreed prices, the Council may refer users to over the contract period. The Rules apply to the procurement of block contracts and responsible officers must endeavour to maximise the use of block contracts.
- 3.3 Tier 2 Dynamic Purchasing System (DPS)/Framework Agreements: procured lists of providers with fixed or average rates to which the Council may refer users over the contract period. The Rules apply to the procurement of all DPSs and framework agreements which must be utilised only when the block contracts are unable to meet the required needs.
- 3.4 Tier 3 Spot purchased placements: non procured providers which can only be used when the required needs cannot be met by either a Tier 1 or Tier 2 provider. The relevant budget holder, or commissioning head of service, may award spot contracts if the following criteria are satisfied:
- The requirement is such that only one provider in a reasonable proximity can meet the individual's needs;
 - The requirement is both complex and unique to the individual;
 - There is no accessible Tier 1 or Tier 2 contract available for the individual; and
 - The requirement has been approved in writing by the head of service.

All spot purchased contracts must be recorded on the Council's Contract Register ensuring that data protection requirements are met and confidentiality is maintained.

Appendix A

4. The Provider Selection Regime

4.1 The Provider Selection Regime (PSR) applies to the procurement of health care services as defined in Section 275 (1) of the National Health Service Act (2006). For a more detailed definition, please refer to the PSR Guidance document. For the avoidance of doubt, mixed procurements:

- where health care services are the main subject matter of the contract and the Council is of the view that the other goods and services could not reasonably be supplied under a separate contract; and
 - The estimate lifetime value of the health care services is higher than the value of the other components of the contract.
- are in scope of the PSR.

4.2 When procuring health care services, sections 8 to 13 of the Contract Procedure Rules do not apply. For the avoidance of doubt, there is no threshold for the PSR, it applies to contracts of all values.

4.3 The PSR provides for five decision making processes which are summarised below, Responsible Officers should refer to the PSR Guide when making a decision about which process to follow.

4.4 Direct award process A must be used when all the following apply:

- There is an existing provider of the health care services to which the proposed contracting arrangements relate; and
- The responsible officer is satisfied that the health care services to which the proposed contracting arrangements relate are capable of being provided only by the existing provider (or group of providers) due to the nature of the health care services.

This process must not be used to conclude a framework agreement.

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

- The proposed contracting arrangements relate to health care services in respect of which a patient is offered a choice of provider; and
- The number of providers is not restricted by the Council; and
- The Council will offer contracts to all providers to whom an award can be made because they meet all the requirements in relation to the provision of the health care services to the patients; and
- The Council has arrangements in place to enable providers to express an interest in providing the health care services.

This process must not be used to conclude a framework agreement.

4.6 Direct award process C may be used when all the following apply:

- The Council is not required to use direct award processes A or B; and
- The term of the existing contract is due to expire and the Council proposes a new contract to replace that existing contract at the end of its term; and
- The proposed contracting arrangements are not changing considerably; and the Council is of the view that the existing provider (or group of providers) is

Appendix A

satisfying the existing contract and will likely satisfy the proposed contract to a sufficient standard.

This process must not be used to conclude a framework agreement.

4.7 The most suitable provider process may be used when all the following apply:

- The Council is not required to use direct award processes A or B; and
- The Council cannot or does not wish to use direct award process C; and
- The Council is of the view, taking into account likely providers and all relevant information available at the time, that it is likely to be able to identify the most suitable provider without running a competitive process.

The most suitable provider process must not be used to conclude a framework agreement.

4.8 The competitive process must be used when all the following apply:

- The Council is not required to follow direct award processes A or B; and
- The Council cannot or does not wish to follow direct award process C and cannot or does not wish to follow the most suitable provider process.

This process must be used if the Council wishes to conclude a framework agreement.

4.9 When direct award process C, the most suitable provider process or the competitive process are used, the following key criteria must all be used to evaluate the options:

- Quality and innovation
- Value
- Integration, collaboration and service sustainability
- Improving access, reducing health inequalities and facilitating patient choice
- Social value

4.10 When following direct award process C, the most suitable provider process or the competitive process, a standstill period of eight (8) working days must be observed. If a representation is received during the standstill period, the Council will undertake an internal review in compliance with the PSR to determine the merits of the representation.

4.11 Responsible officers must keep clear records detailing their decision making processes and rationale. This must be done for all processes. Decision Record Templates are available in the PSR Guide and must be used in all cases.

4.12 The Council must monitor its compliance with the PSR and publish a monitoring report annually.

4.13 Modifications to existing contracts must comply with the PSR. Modifications which make an existing contract or framework agreement materially different in character are not permitted under the PSR and would require a new PSR process to be undertaken. Further information on contract modifications is available in the PSR Guide.

4.14 The PSR does not apply where the council is delegating its functions to an NHS body under a section 75 agreement. Where the council is collaborating with an NHS

Appendix A

body under a section 75 agreement and then jointly commissioning services, these services must be arranged using the PSR.

- 4.15 In urgent situations, the Council may make the following decisions without following the steps normally required under PSR:
- Re-award contracts to existing providers
 - Award contracts for new services
 - Award contracts for considerably changed services
 - Make contract modifications.

However, in making these decisions, the following rules apply:

- The length of the contract must be set for only as long as is strictly necessary to address the urgent situation and a full award process must be conducted as soon as possible. If the term of the contract is longer than 12 months, a record must be made justifying the position.
- Records must be kept of the justifications for the urgency decision made.
- An Urgent Award or an Urgent Modification Notice must be published within 30 days.

5. The Role of the Responsible Officer

- 5.1 The responsible officer will be the officer named in the Procurement Plan or by the director responsible for the budget or, in the absence of the above, the officer responsible for the budget that the expenditure is being made against subject to the delegated authority being adequate.
- 5.2 Responsible officers:
- 5.2.1 Are individually responsible for ensuring that they fully understand and comply with all aspects of the Rules, failure to do so may result in disciplinary action.
- 5.2.2 Must check whether a suitable corporate contract or other publicly available contract/framework agreement is available before seeking to procure another contract. Where such a contract does exist, its use should be considered.
- 5.2.3 Must ensure that they have the correct authorisation to procure and award the contract before proceeding.
- 5.2.4 Add any contract valued at or over £5,000 to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015.
- 5.2.5 Must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended and to address any performance issues as soon as possible.
- 5.2.6 Must keep a record of all decisions made in connection with the procurement, records should also include minutes from any meetings held.
- 5.2.7 Must consider whether the procurement constitutes a key decision. If it does then the responsible officer must seek approval from the relevant committee before

Appendix A

commencing the procurement. If the responsible officer is unsure, advice on what constitutes a key decision should be sought from Democratic Services.

- 5.2.8 Must ensure that a PDF copy of the signed contract is forwarded to the Procurement and Commercial Team for all contracts valued over £100,000.

- 5.3 Supporting information about the role of the responsible officer can be found in the Procurement Guide.

6. Chief Officer Responsibilities

- 6.1 Chief officers must ensure that they and their officers comply with these Rules at all times.
- 6.2 Chief officers must ensure that value for money is achieved in all procurements.

7. Prevention of Corruption/Declaration of Interests

- 7.1 Where an officer has a potential conflict of interest in a procurement, the officer must declare this immediately to the relevant director. The officer may be required to withdraw from the procurement process. Any officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and risks being prosecuted under the Bribery Act 2010.
- 7.2 Officers involved in procurement activity must comply with the Council's Code of Conduct and must not offer, promise or give any gift or reward in respect of the award or performance of any contract, unless the contract is financially constructed in such a way to pay the supplier payment by results.
- 7.3 Members involved in procurement activity will at all times act in a manner consistent with their Code of Conduct.

8. Income Generation/Concession Contracts

- 8.1 The responsible officer must seek legal, financial and procurement advice for any contracts which will generate income for the Council, including to determine if the Concession Contract Regulations (2016) apply.

9. Procuring via a Framework Agreement or Dynamic Purchasing System (DPS)

- 9.1 The responsible officer must ensure that there is no corporate contract / framework agreement / DPS available before undertaking an alternative procurement process.
- 9.2 A contract of any value can be procured via a framework agreement or DPS. Compliance with the Rules and relevant national law is achieved through compliance with the framework agreement/DPS terms and conditions. If the proposed call off is valued over £100,000, the Procurement and Commercial must be consulted before the procurement is started.

Appendix A

- 9.3 For the avoidance of doubt, a framework agreement or DPS is considered a compliant procurement route where:
- 9.3.1 It has been entered into by the Council in compliance with the Rules;
- Or
- 9.3.2 Another contracting authority, purchasing consortium or central government has tendered the framework agreement or DPS in compliance with national procurement law and the Council is named as a potential user of the arrangement.
- 9.4 Most framework agreements are available via mini competition or direct award, the responsible officer should always seek to use a competitive process where one is available. Where a direct award is being considered, approval must first be sought from the Procurement and Commercial Team.
- 9.5 The responsible officer shall carry out due diligence checks at contract award and for the duration of the contract. These checks shall include evidence of fulfilment of any selection criteria and that there are no grounds for exclusion.
- 9.6 Approval for award of a contract must be sought in compliance with the Delegated Authorities Matrix at Appendix 2.
- 9.7 The contract must be signed or sealed in accordance with the Delegated Authorities Matrix at Appendix 2. If the contract is valued over £100,000 a signed PDF copy must be sent to the Procurement and Commercial Team.
- 9.8 Where the call-off contract is valued over £25,000 an award notice is required to be published on Contracts Finder.
- 9.9 Where the Council is using an external framework agreement/DPS and the total value of the contract is £5,000 or over, the responsible officer must add the Contract to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015.
10. Procurements up to £5,000 in Total Value
- 10.1 Whilst obtaining value for money remains the primary objective, multiple quotations are not essential.
- 10.2 The responsible officer must first ensure that there is no corporate contract, framework agreement or DPS before procuring goods, services or works.
- 10.3 The responsible officer must raise a purchase order. The terms of the purchase order should suffice for a contract, unless the officer believes the complexity of the purchase requires more bespoke terms from Pathfinder Legal Services. The purchase order must specify clearly what the officer requires from the supplier.

Appendix A

11. Procurements valued over £5,000 but below £25,000

- 11.1 The responsible officer must not seek to procure any goods, services or works if the requirement can be satisfied using an existing corporate contract, framework agreement or DPS.
- 11.2 The responsible officer must seek a minimum of three comparable written quotations. Wherever possible at least two quotations must be from a local provider.
- 11.3 The written quotations must include the following information as a minimum:
- Details of the goods, services or works to be supplied;
 - Where and when the supply is to take place;
 - The total value of the contract; and
 - The terms and conditions to apply to the procurement including price and payment terms.
- 11.4 Quotations may be submitted by letter, email or via the Council's e procurement system.
- 11.5 The contract award must be approved in accordance with the Delegated Authorities Matrix at Appendix 2.
- 11.6 A purchase order must be raised, the terms of the purchase order should suffice for a contract unless the responsible officer believes the complexity of the purchase requires more bespoke terms from the Pathfinder Legal Services. The purchase order should include the information provided by the winning supplier as detailed in section 10.3 above.
- 11.7 The responsible officer must add the contract to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.

12. Procurements valued between £25,000 and £100,000

- 12.1 The responsible officer must not seek to procure any goods, services or works if the requirement can be satisfied using an existing corporate contract, framework agreement or DPS.
- 12.2 The responsible officer must obtain a minimum of three written quotations and whenever possible, at least two of those quotations must be from a local supplier.
- 12.3 The responsible officer must use the formal Request for Quotation documents available on the procurement pages of the intranet unless otherwise agreed with the Procurement and Commercial Team.
- 12.4 The inclusion of social value criteria in the evaluation methodology should be considered in discussion with the Procurement and Commercial Team if necessary.

Appendix A

- 12.5 An advert and award notice must be placed on Contracts Finder by the responsible officer, usually via the Council's e-procurement system.
- 12.6 The evaluation criteria must be established before the advert is published and those same criteria must be used when evaluating the quotations received.
- 12.7 The responsible officer must raise a purchase order and ensure that the Council's standard terms and conditions (located on the procurement pages of the Intranet) are used unless the responsible officer believes that the complexity of the procurement requires the amendment of those terms by Pathfinder Legal Services.
- 12.8 All bidders must be notified of the award decision simultaneously in writing by the responsible officer either via email or the Council's e-procurement system.
- 12.9 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the award decision, the responsible officer must provide appropriate information within fifteen calendar days of receipt of the written request. The confidentiality of the quotations received, and the identity of other bidders must be preserved at all times and information about one bidder's response must not be disclosed to another bidder. Under no circumstances should the responsible officer provide a verbal debriefing to any bidder.
- 12.10 The responsible officer must add the contract to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.
- 12.11 Relevant documentation from the procurement process, particularly the quotations received, evaluation process and the signed contract must be retained by the service so that it can be made available for audit purposes.
13. Procurements valued over £100,000
 - 13.1 The responsible officer must not seek to procure any goods, services or works if the requirement can be satisfied using an existing corporate contract, framework agreement or DPS.
 - 13.2 The responsible officer must consult with the Procurement and Commercial Team and Pathfinder Legal Services before commencing the procurement.
 - 13.3 A Procurement Plan will be developed by the responsible officer and the Procurement and Commercial Team and will be used to ensure that proper authority is granted for the procurement process and if relevant contract award.
 - 13.4 The inclusion of social value criteria in the evaluation methodology should be considered in discussion with the Procurement and Commercial Team.
 - 13.5 For procurements valued below the relevant UK procurement threshold, an open tender process will be followed. For procurements valued over the relevant UK Procurement Threshold, the Procurement and Commercial Team will provide advice as to the most appropriate process.

Appendix A

- 13.6 The responsible officer will work with the Procurement and Commercial Team to develop all relevant procurement documents and these must include full details of the tender evaluation criteria.
- 13.7 An advert must be placed on Contracts Finder and if the procurement is valued over the relevant UK procurement threshold on Find a Tender Service. These adverts must be placed via the Council's e-procurement system.
- 13.8 The procurement process must be managed electronically via the Council's e-procurement system.
- 13.9 Tenders must be evaluated according to the advertised evaluation criteria. Clarification questions may be asked as long as the response would not have the effect of materially changing the tender received.
- 13.10 The bidder with the highest evaluation score will normally be awarded the contract, if this is not the case further advice must be sought from the Procurement and Commercial Team and Pathfinder Legal Services.
- 13.11 Authorisation of award must be granted in accordance with the Delegated Authorities Matrix in Appendix 2 before award can take place.
- 13.12 All bidders must be notified of the award decision simultaneously via the Council's e-procurement system whether or not their bid was successful using the template letters available on the procurement pages of the intranet.
- 13.13 Where the procurement is valued over the relevant UK procurement threshold, the notification of award letters will take a specific format to be compliant with Public Contract Regulations (2015) and will include a mandatory standstill period of not less than ten days. Such letters must be drafted by the Procurement and Commercial Team. If during the standstill period, a challenge or request for feedback is received from an unsuccessful bidder, the standstill period must be paused until the matter is successfully resolved. No contract award can take place in the intervening period. The officer in receipt of this communication must immediately contact the Procurement and Commercial Team and Pathfinder Legal Services for advice before any response is made.
- 13.14 The responsible officer must raise a purchase order and ensure that the contract and description in that purchase order are sufficiently clear.
- 13.15 The responsible officer must add the contract to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.
- 13.16 Relevant documentation from the procurement process, particularly the tenders received and the evaluation process, must be retained by the service so that it can be made available for audit purposes.
- 13.17 The responsible officer must send a signed PDF copy of the contract to the Procurement and Commercial Team as soon as possible.

Appendix A

14. Use of Presentations/Site Visits or Demonstrations

- 14.1 The responsible officer should not use presentations, site visits or demonstrations in the procurement process except in exceptional circumstances where a clear justification has been agreed with the Procurement and Commercial Team
- 14.2 If used, all bidders must be given the opportunity to engage in these presentations, site visits or demonstrations and the procurement documentation must clearly state what weighting these have.

15. Late tenders, Irregular Tenders or Errors in Tenders

- 15.1 Tenders received after the fixed closing date and time or tenders which are not submitted in accordance with the Rules and any criteria set out in the procurement documentation, will be disqualified unless otherwise agreed by the Monitoring Officer.
- 15.2 Irregular tenders must be reported to the relevant chief officer. The chief officer, in agreement with the Monitoring Officer, may accept the irregular tender if they determine that the bidder has gained no unfair advantage from its irregularity. The reasons for such acceptance should be recorded in writing.
- 15.3 The relevant chief officer, with the prior approval of the Monitoring Officer, may permit a bidder to correct an error or omission that, in the opinion of the chief officer, is an obvious one and if they determine that the bidder will gain no unfair advantage from correcting the error. Any such corrections must be recorded.

16. Clarifications and Negotiation

- 16.1 Bidders may seek clarifications throughout the procurement process. Such clarification requests must be recorded in writing and where the response may be of value to all potential bidders, the anonymised response must be circulated to those potential bidders.
- 16.2 Under no circumstances can clarification processes be used as an opportunity to conduct negotiations.
- 16.3 Negotiations are only permitted above the relevant UK procurement threshold and then only in compliance with the Public Contract Regulations (2015). This includes the use of post tender negotiations. If negotiation is being considered, the Procurement and Commercial Team must be contacted as soon as possible.

17. Forming Contracts

- 17.1 All expenditure with external organisations must be confirmed in writing.
- 17.2 Sections 10, 12 and 13 detail the nature of the contract that should be used at each procurement threshold.

Appendix A

- 17.3 All contracts must be approved, signed by an appropriate officer (as detailed in the Delegated Authorities Matrix) or sealed by Pathfinder Legal Services if valued over £500,000 or if deemed necessary for other reasons. **Please note that the use of e sign software is an acceptable method of signature.**
- 17.4 A PDF copy of the signed contract must be forwarded to the Procurement and Commercial Team where the contract value is over £100,000.
- 17.5 All contracts valued over £5,000 must be entered on to the Council's Contract Register by the responsible officer.
- 17.6 Any changes to a contract should also be entered on to the Council's Contract Register by the responsible officer.
18. Bonds, Parent Company Guarantees and Other Sureties
- 18.1 Where a bond or guarantee is required to ensure satisfactory contract performance and/or to protect the Council, the requirement must be notified to bidders in the procurement documentation and must be in place no later than four weeks after contract signature.
- 18.2 The responsible officer should consult with the Chief Finance Officer and Pathfinder Legal Services as to whether such a bond or guarantee is required where:
- The total value of the contract exceeds £500,000; or
 - It is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract; or
 - There is concern about the stability of the supplier no matter what the value.
- 18.3 The Council must never give a bond or other guarantee.
19. Non-Compliance with the Rules
- 19.1 If an officer becomes aware of any non-compliance with the Rules which cannot be remedied, they must notify the Monitoring Officer or Chief Finance Officer at the earliest opportunity. The consequences of such non-compliance may lead to suspension or dismissal from the Council.
20. Contract Management
- 20.1 All contracts valued over £100,000 must have a named contract manager.
- 20.2 During the life of the contract, the contract manager must monitor the overall performance of the contract in line with the specification, agreed service levels and contract terms.
- 20.3 In any case where a variation to an existing contract means that the contract value exceeds the relevant UK procurement threshold, or where there is any material change to the contract, the contract must be treated as a new procurement under these rules. The Procurement and Commercial Team should be contacted for further advice in these circumstances.

Appendix A

20.4 Legal advice must be sought before assignments or novations are entered into.

20.5 Contracts may be extended where:

- There is budgetary provision; and
- Value for money can be clearly demonstrated; and
- There is provision in the original contract for such an extension.

20.6 Extensions are not permitted where they are not provided for in the original contract or where such an extension would take the contract value over the relevant UK procurement threshold.

21. Other Matters

21.1 Abnormally Low Bids

21.1.1 Under the Public Contract Regulations (2015) the Council is required to request an explanation of the price or costs proposed in a tender where that price or those costs appear to be abnormally low in relation to the requirement.

21.1.2 Advice should be sought from the Procurement and Commercial Team during this process to ensure that the legal requirements are adequately complied with.

21.2 UK GDPR

21.2.1 Officers conducting a procurement should ensure that a Data Protection Impact Assessment is conducted prior to the procurement being conducted.

21.2.2 Further advice may be sought from the Procurement and Commercial Team and/or the Data Protection Team before further action is taken.

21.3 Retention of Records

21.3.1 The responsible officer must have due regard to the Council's Retention Policy in all procurement activity and record keeping.

Appendix A

Appendix 1

Definitions

Assignment	Transfer of contractual benefit by one party to another.
Award notice	A notice published on Contracts Finder or Find A Tender which provides details of the winning bidder and the final value of the contract. Award notices are required for all procurements valued over £25,000.
Bidder	Any person or organisation who asks for or is invited to submit a quotation or tender.
Call Off	A specific requirement which can be met under the terms of a framework agreement/DPS and which is issued under the terms of the framework agreement/DPS.
Chief Officer	The Council officer as defined in the Constitution.
Collaborative joint procurement	Combining procurements together with likeminded contracting authorities for mutual benefit.
Contract	A legally binding agreement between two or more parties for performing some specified act(s) in exchange for a lawful consideration.
Contract Extension	An extension to the duration of a contract beyond the initial term but not including any alteration to the scope of the contract.
Contract Management	The process for managing contract creation, execution and analysis to maximise operational and financial performance of an organisation all while reducing financial risk.
Contract Manager	The officer responsible for the budget and the management of the contract, including the performance management and ensuring compliance with its terms and conditions.
Contract Register	The register that stores details of the Council's contracts such as duration and expiry dates.
Contract Term	The length of the contract including the initial terms and any extension periods proposed.
Contract Value	The total value over the whole life of the contract including potential extension periods.

Appendix A

Contract Variation	An alteration to the scope, term or any other part of a contract. The limitations of the Public Contract Regulations should be borne in mind when varying a contract.
Contracting Authority	Has the definition contained with the Public Contract Regulations 2015.
Corporate Contract	A contract that has already been let by the Council.
Council	Cambridgeshire County Council.
Dynamic Purchasing System (DPS)	A completely electronic system of limited duration which is established to purchase commonly used goods, services or works and which is open throughout its duration for the admission of suppliers who satisfy the selection criteria specified.
E-Procurement System	A system that enables the Council and suppliers to conduct the key activities of the procurement lifecycle over the internet.
Exception	Approval given as appropriate to except a procurement or contract from the Rules.
Evaluation	The process of assessing received tenders or quotations against the published criteria to identify the winning bidder.
Framework Agreement	A formal tendered arrangement which sets out the terms and conditions under which specific purchases (call-offs) can be made from the successful bidders in unpredicted quantities at different times throughout the term of the framework agreement.
Goods	Tangible assets including electricity, hardware, software, plant hire etc.
Initial term	The initial period of the contract which may be subsequently extended.
Invitation to Tender	Means the document(s) containing the specification, proposed terms and conditions, and other appropriate information, as issued to bidders to solicit formal tenders.
Irregular Tender	A tender that does not comply with the instructions set out in the Invitation to Tender document.

Appendix A

Light Touch Regime	Refers to those social and other specific services covered by Part 2: Chapter 3 – Section 7 and the CPV codes detailed in Schedule 3 of the Public Contract Regulations (2015).
Local	Areas covered by the Business Board of the Cambridgeshire and Peterborough Combined Authority. An organisation which is not local in its address but that can help the local area may be included in this definition.
Members	Democratically elected representatives that represent the interests of the people of Cambridgeshire at a local, regional and national level.
Monitoring Officer	The officer appointed by the Council under Section 5 of the Local Government and Housing Act 1989.
Novation	The substitution of a new contract for one already existing. The new contract may be between the new parties or may involve the introduction of a new party. A novation also takes place when the original parties continue their obligation to one another but a new agreement is substituted for an existing one.
Officer	An employee of the Council.
Open tender	A one stage tender process whereby all bidders are invited to bid in response to an advertisement.
Pathfinder Legal Services	The Council's legal advisors.
Publicly Available Contract	A contract that has been let by another Contracting Authority or a public purchasing consortium and which is available for use by the Council. The Council must have been named specifically or generally within the procurement documentation in order to enable access.
Quotation	An offer to sell goods, services or works at a stated price under specified conditions.
Responsible Officer	The officer responsible for the procurement and the budget under which the contract is being let.
Services Contract	Means public contracts which have as their object the provision of services other than those referred to in the works definition.

Appendix A

Specification	An exact statement of the particular need to be satisfied or essential characteristics that the Council requires and which a bidder must deliver.
Tender	A formal offer from a bidder which is capable of being accepted by the Council and which is submitted in response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specifications and method statements as well as information about the bidder.
UK GDPR	The UK General Data Protection Regulation which consists of the EU General Data Protection Regulation as incorporated into the law of England and Wales, Scotland and Northern Ireland by virtue of Section 3 of the European Union (withdrawal) Act 2018 and amended by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.
UK Procurement Threshold	The contract value at which the Public Contract Regulations (2015) must be applied. See Appendix 3 for further information.
Value for Money	Not necessarily the lowest price, it combines goods, services or works that fully meet the needs with the level of quality required, delivered at the time needed and at an appropriate price.
Waiver	A means of seeking an exception from one or more of these CPRs.

Appendix A

Appendix 2

Delegated Authorities Matrix

Procurement Stage	Budget support	Budget manager (Project Manager for Capital)	Head of Service	Service Director / Asst Director	Exec Director	Joint Commissioning Board (JCB)	Committee	Central Procurement Team
		Tier 4	Tier 3	Tier 2	Tier 1			
Procurement Plan approval ¹	N/A	N/A	N/A	N/A	N/A	Over £100,000	Inc. to approve start	£100,000 - £500,000 Senior Category Manager Over £500,000 Head of Procurement
'Start procurement' approval ²	N/A	Up to £200,000	Up to £500,000	Up to £500,000	Up to £500,000	Over £25,000 for P&C	Over £500,000 key decision	N/A
Contract award approval ³	N/A	Up to £200,000	Up to £500,000	Up to £500,000	Up to £500,000	N/A	Over £500,000 unless delegated	N/A

¹ Procurement Plans that relate to People and Communities must be approved by the JCB, Plans that are for joint procurements by PCC and CCC must be approved by Heads of Procurement at PCC and CCC. All other Plans should be approved by the relevant Chief Officer or their named delegate.

² Procurements that are not valued over £500, 000 but still are related to Key Decisions need to be approved by the appropriate Committee. Start procurement means publish advert, documents may start to be prepared before approval is granted.

³ Approval to award of contracts valued over £100,000 will require an Award Report to be prepared by the Responsible Officer and the Procurement Officer.

Appendix A

Procurement Stage	Budget support	Budget manager (Project Manager for Capital)	Head of Service	Service Director / Asst Director	Exec Director	Joint Commissioning Board (JCB)	Committee	Central Procurement Team
		Tier 4	Tier 3	Tier 2	Tier 1			
Sign or seal contract ⁴	N/A	Up to £200,000	Up to £500,000	Up to £500,000	Up to £500,000	N/A	N/A	N/A
Official order ⁵	Up to £5,000	Up to £200,000	Up to £500,000	Up to £1m	Unlimited	N/A	N/A	N/A
Enhanced order for specific business areas ⁶	Up to £5,000	Up to £1m	Up to £5m	Up to £1m	Unlimited	N/A	N/A	N/A

⁴ Contracts can be signed up to £500,000 unless the Monitoring Officer requires them to be sealed. Contracts over £500,000 should be sealed by Pathfinder Legal Services.

⁵ Approval of orders (in ERP Gold) are subject to prior thresholds being authorised, e.g. over £500,000 a Committee Report must have been approved

⁶ Approval of orders (in ERP Gold) are subject to prior thresholds being authorised, e.g. over £500,000 a Committee Report must have been approved

Appendix A

Appendix 3

UK Procurement Thresholds

These thresholds are effective from 1st January 2024 and are inclusive of VAT.

Works threshold: £5,372,609

Services threshold: £214,904

Light Touch Regime threshold: £663,540

Concessions threshold: £5,372,609