

PART 4G

CONTRACT PROCEDURE RULES

DRAFT

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For capitalised words see [Appendix 1 Definitions](#) at the end of these Rules.

1. The Contract Procedure Rules

- 1.1. These Contract Procedure Rules (“Rules”) are a legal requirement under Section 135 of the Local Government Act 1972 and are part of the Council’s constitution. They set out the basic principles that must be followed by everyone proposing to enter into any Contract on behalf of the Council.
- 1.2. If there is any doubt or lack of clarity as to the meaning or application of these Rules, Officers must seek advice from the relevant Specialist Procurement Team and/or Legal Services.
- 1.3. Officers seeking to procure goods, services or works on behalf of the Council will need to familiarise themselves with and comply with these Rules and any other policies/guidance and legislation.
- 1.4. Failure to comply with these Rules may result in action being taken by the Council against the persons/organisations concerned; including, where appropriate, disciplinary action or referral to the police.

2. Applicable Law

- 2.1. Main applicable codes and regulations (‘the Regulations’), include:
 - 2.1.1. The Public Contracts Regulations 2015 (PCR2015)
 - 2.1.2. The Concessions Contract Regulations 2016 (CCR2016)
 - 2.1.3. The Utilities Regulations 2016 (UR2016)
 - 2.1.4. The Procurement Act 2023 (PA2023)
 - 2.1.5. The Procurement Regulations 2024 (PR2024)
 - 2.1.6. The Health Care Services (Provider Selection Regime) Regulations 2023 (PSR2023)
 - 2.1.7. Local Government Transparency Code 2015 (LGTC) as subsequently updated, including guidance issued by the Cabinet Office and where applicable implemented by the publishing of Procurement Policy Notes (PPNs).
- 2.2. Generally, where a procurement process commenced under PCR2015 (CCR2016 or UR2016) and prior to 24th February 2025, then those regulations will continue to apply to the resultant contract until its expiry. Any contracts procured from 24

February 2025 onwards, must comply with PA2023 with the exception of Contracts where the PSR applies (see Rule 2.4 below).

- 2.3. Where Transitional Regulations apply, these must be complied with.
- 2.4. The Provider Selection Regime (PSR) only applies to Contracts:
 - 2.4.1. Relevant health care services as detailed in Schedule 1 of the PSR2023.
 - 2.4.2. For mixed procurements the main subject matter of the procurement, the health care service element must be more than 50% of the lifetime value of the Contract. In the event of an equal split then the PA rules will apply.
- 2.5. Officers should seek advice from Specialist Procurement Team and/or Legal Services as to the applicable regulations and contract procedure rule that govern a particular contract.
- 2.6. Where there is any ambiguity or conflict between these Rules and the Law, the Law shall take precedence.

3. Procurement Principles and Objectives

- 3.1. Following the Rules ensures that the Council:
 - 3.1.1. Achieves value for money, meets the Best Value Duty and delivers savings from the market.
 - 3.1.2. Achieves accountability, fairness, and transparency and ensures an adequate audit trail is maintained.
 - 3.1.3. Ensures compliance with all legal requirements, following proper, fair, and proportionate procedures for and throughout all procurement processes.
 - 3.1.4. Ensures that all procurement processes reflect appropriate quality requirements, and all Submissions are judged by objective criteria which are clearly set out in the procurement documentation.
 - 3.1.5. Reduces the risk of fraud, bribery, and corruption.
- 3.2. When conducting PA2023 Covered Procurement, the Council must:
 - 3.2.1. Have regard to the importance of:
 - Delivering value for money.
 - Maximising public benefit.

- Sharing information for the purpose of allowing Suppliers and others to understand the Council's procurement policies and decisions.
 - Acting, and being seen to act, with integrity.
- 3.2.2. Treat Suppliers the same unless a difference between the Suppliers justifies different treatment.
- 3.2.3. Have regard to the fact that small and medium-sized enterprises may face particular barriers to participation and consider whether such barriers can be removed or reduced.
- 3.2.4. Have regard to National Procurement Policy Statement.
- 3.3. When procuring Relevant Health Care Services under the PSR, the Council must act:
 - 3.3.1. with a view to:
 - securing the needs of the people who use the services,
 - improving the quality of the services, and
 - improving efficiency in the provision of the services.
 - 3.3.2. transparently, fairly, and proportionately.

4. Governance of Rules

- 4.1. The City Barrister may, from time to time, amend to these Rules:
 - 4.1.1. To correct an error or clarify an ambiguity.
 - 4.1.2. To reflect changes in the management structure, working practices and responsibilities, e.g., as set out elsewhere in the Constitution; and to reflect changes in the Law to ensure consistency.
 - 4.1.3. To reflect changes in the Law, including cabinet issued guidance, the National Procurement Policy Statement and Procurement Policy Notices or equivalent.
 - 4.1.4. To reflect the gradual roll-out of guidance and legislation relating to the Procurement Act 2023 and development of the Central Digital Platform.
- 4.2. The Chief Operating Officer, Chief Finance Officer, and the City Barrister, may from time to time amend the thresholds in Table 1 in Rule 11.

- 4.3. The Head of Procurement and/or Head of Law may from time to time publish guidance to support these Rules and/or to amplify and fine tune the steps to be taken as part of procurement and contract management processes.
- 4.4. To ensure effective operation of these Rules, the Head of Procurement, Head of Law, and City Barrister may delegate their responsibilities under these Rules to appropriately skilled Officers.
- 4.5. The Governance and Audit Committee will receive reports in relation to procurement activity in line with the Terms of Reference set out in Part 3 in the Constitution.

5. Scope

- 5.1. These Rules must be followed at all times and apply:
 - 5.1.1. to all members, Officers, and staff, (including agency staff and interims) and consultants of the Council.
 - 5.1.2. to all departments trading organisations and organisations for which the Council is the accountable body.
 - 5.1.3. where the Council is acting as agent for or working collaboratively with another body unless it is agreed between the parties otherwise and provided the Law is complied with at all times.
 - 5.1.4. to all Suppliers acting on behalf of the Council and empowered to form contracts on behalf of the Council and by any person who is not an Officer of the Council engaged to manage a Contract on behalf of the Council.
 - 5.1.5. to the award of a Contract where a Sub-Supplier/Supplier is to be nominated by the Council to a main Supplier.
- 5.2. These Rules apply to the following Contracts, including, but not restricted to:
 - 5.2.1. the supply of Goods and Services (including consultancy); and/or
 - 5.2.2. the carrying out of Works; and/or
 - 5.2.3. a relevant Capital Asset Disposal; and/or
 - 5.2.4. a Concession Contract.
 - 5.2.5. any matters as may arise in the process of managing contracts including those which change, vary, modify, or terminate.
- 5.3. These Rules do not apply to:

- 5.3.1. contracts solely for the acquisition or disposal of any interest in land.
- 5.3.2. contracts of employment.
- 5.3.3. loan agreements.
- 5.3.4. the awarding of grants so long as they fall outside of the definition of procurement within the Regulations.
- 5.4. The following contracts are considered Exempted Contracts under PA2023 Schedule 2 Part 1:
 - 5.4.1. Arrangements with other public bodies, including counterparty exempted arrangements covered by Schedule 2, Part 1 of the PA23 (which includes contracting arrangements with Teckal bodies);
 - 5.4.2. Functional arrangements with other public bodies, including delegations of functions to another local council under the Local Government Act 1972 and Local Government Act 2000.
- 5.5. These Rules do not apply to Exempted Contract as defined in PA2023 Schedule 2 Part 1 subject to the approval of the Head of Procurement and the Head of Law (other than for Small Contracts, where standing approval is given).
- 5.6. Subject-matter Exempted Contracts under PA2023 Schedule 2 Part 2 include:
 - 5.6.1. Land and buildings (unless subject to Rule 5.2).
 - 5.6.2. Exempt legal services.
 - 5.6.3. Specified financial services.
 - 5.6.4. Public services obligations contracts.
- 5.7. Where the Council considers a contract a Subject-matter Exempted Contract, it must keep record of its decision, including justification.
- 5.8. In deciding whether a contract is an Exempted Contract, Officers should seek advice from Specialist Procurement Team and/or Legal Services.
- 5.9. The maintained schools must comply with the relevant Regulations and the additional guidance in *ANNEX C - Leicester City Council Scheme for Financing Schools* published from time to time. These Rules do not apply to the maintained schools.

6. Contracts Database and Electronic Tendering System

- 6.1. Procuring Officers must record all Medium, Large and Threshold Contracts in the Council's Contracts Database. Small Contracts should also be included where possible.
- 6.2. With the exception of Small Contracts, the Electronic Tendering System must be used for each procurement process, including but not limited to, for the publication and receipt of documents to/from Bidders unless otherwise agreed in advance with the Head of Procurement.
- 6.3. Electronic auctions may be used, so long as, where applicable, the Regulations are complied with.
- 6.4. Submissions received via the Electronic Tendering System after the Closing Date will not be accepted unless in exceptional circumstances and subject to the approval of the Head of Procurement.
- 6.5. The Head of Procurement may authorise the acceptance of Submissions received via the Electronic Tendering System after the Closing Date where both of the following apply:
 - 6.5.1. There is clear evidence of technical issues with the Electronic Tendering System or other exceptional circumstances preventing the Bidder sending their Submission ahead of the Closing Date (e.g. verified by the provider of the Electronic Tendering System); and
 - 6.5.2. The Bidder gains no unfair advantage through acceptance of their Submission.

7. Social Value

- 7.1. Under Public Services (Social Value) Act 2012 the Council is required to consider social value when awarding contracts for services.
- 7.2. Officers must comply with the requirements of Public Services (Social Value) Act 2012 when awarding Medium, Large and Threshold Contracts; except where the Providers Selection Regime applies, in which case Officers must consider social value for all contracts regardless of size.
- 7.3. This includes consideration how the economic, social, and environmental wellbeing of Leicester may be improved.
- 7.4. When procuring relevant Contracts, Officers must comply with the Council's Social Value Charter and associated guidance (as amended from time to time).

8. Other General Provisions

- 8.1. Applications for funding on behalf of the Council from any source should be made in a way that complies with these Rules and Regulations.
- 8.2. All ICT Contracts, regardless of value, must be procured by the DDaT Procurement Team unless the Head of DDaT Delivery agrees otherwise. Where a procurement is not for an ICT Contract but contains an element of ICT the DDaT Procurement Team must be consulted in relation to the procurement.
- 8.3. Any procurement relating to the appointment of external legal advisors must have the prior approval of the Head of Law.
- 8.4. Officers must, in the first instance, check with the relevant Specialist Procurement Team whether their procurement needs can be met by any of Council's existing contracts or frameworks.
- 8.5. In case of joint/collaborative procurements, Rule 5.1 applies. In practice, if the Council is leading the procurement activity, these Rules will be complied with. Where the Council is part of a collaboration in which the procurement is led by another Contracting Authority, then the lead authority's contract procedure rules may be applied, except for the authorisation to award the resultant contract which must be obtained in accordance with these Rules.
- 8.6. Officers must consult a Specialist Procurement Team manager before commencing any multi-partner procurements and where required, a collaboration/partnering agreement must be entered into with all other participants.

9. Conflicts of Interest

- 9.1. The Council must take all reasonable steps to prevent, identify, manage, and keep under review any conflicts or potential conflicts of interest relating to all of its procurement activities.
- 9.2. The Council's Employee Code of Conduct (or where applicable Members' Code of Conduct) must be followed at all times. This includes Register of Interest and Gifts, Hospitality and Sponsorship provisions.
- 9.3. Where involved in in any part of commissioning, procurement or contract management activity, external consultants and other advisors must complete appropriate declarations of interest prior to their involvement. This applies to all Contracts, regardless of value.
- 9.4. Where conflicts of interest exist, whether actual or potential, the Officer involved in any part of commissioning, procurement or management activity, must declare it and decision must be made whether the risk can be sufficiently mitigated before the Officer is permitted to continue their involvement.

- 9.5. Should an Officer become aware of a conflict part way through any such activity, it must be reported immediately, and following the necessary assessment, their involvement might be discontinued or other necessary mitigation actions put in place.
- 9.6. For Threshold Contracts, a formal Conflicts of Interest Assessment must be prepared and kept under review throughout the lifecycle of the Contract, beginning from planning stage, through procurement and management of the Contract, though to its end.
- 9.7. In addition to actual and potential conflicts of interest, the Conflicts of Interest Assessment must include any perceived conflicts of interest the Council is aware of.
- 9.8. As part of the Conflicts of Interest Assessment, declarations of interest must also be sought from:
 - 9.8.1. Any person acting for or on behalf of the Council in relation to the procurement, this includes external consultants and other advisors that are not direct employees of the Council.
 - 9.8.2. Any person who influences a decision made by the Council in relation to a procurement.
- 9.9. Where the Direct Award process is followed, declarations of interest must be submitted as part of the Direct Award approval process and Conflicts of Interest Assessment carried out for all Medium, Large and Threshold Contracts before the Contract is awarded.

10. Valuation of Contracts

- 10.1. The essential obligation on the Commissioning Officer is to apply the methodology in this section when estimating the value of a contract, in order to determine whether the Contract is above or below the relevant threshold and consequently determine the rules that must be followed.
- 10.2. It is unlawful to exercise any discretion in valuing a Contract with a view to circumvent the requirements of the Rules. This includes artificially subdividing the requirement.
- 10.3. The estimated contract value must be the maximum amount the Council could be expected to pay for any goods, services or works to be provided through the Contract, taking account of any potential factors that might affect the total amount payable during the projected life of the whole contract.
- 10.4. Before starting any procurement process, the Commissioning Officer must calculate its estimated value to include the maximum possible Value Added Tax (VAT) payable in relation to the Contract and include all other taxes and duties.

10.5. Valuation of the Contract must also include the following:

- 10.5.1. for fixed-term Contracts, the total estimated maximum value of the Goods, Services or Works to be supplied over the period of the Contract including any extensions.
 - 10.5.2. amounts that would be payable if an option in the Contract to supply additional goods, services or works were exercised.
 - 10.5.3. amounts that would be payable if an option in the Contract to extend or renew the term of the Contract were exercised.
 - 10.5.4. other premiums, fees, commissions, inflationary uplifts, pain/gain shares or interest that might be payable under the Contract.
 - 10.5.5. for trials and pilots, the value of the full Contract which may be awarded following the trial/pilot.
 - 10.5.6. for Framework Agreements and Dynamic Markets, the total expected value of all Call- Off Contracts over the maximum duration of the Framework Agreement/ Dynamic Markets by all organisations who may use the Framework Agreement/ Dynamic Markets.
 - 10.5.7. for periodic/recurring purchases, whether it is from the same or different Suppliers, must be aggregated over a minimum of a 12- month period.
- 10.6. Where the value of the Contract cannot be calculated, then the Contract must be treated as a regulated Threshold Contract and the appropriate procedure followed.
- 10.7. Estimated Value of a Concession Contract must be calculated as the maximum amount the Supplier could expect to receive under or in connection with the Contract including, where applicable, amounts already received in accordance with paragraph 3 of Schedule 3 of the PA2023.

11. Categorisation of Contracts Based on Value

- 11.1. The following table sets out the thresholds for categorisation of Contracts into value bands based on the Estimated Value which must be calculated to include VAT payable in relation to the Contract.
- 11.2. All categories except Threshold Contract are established by these Rules.
- 11.3. Threshold Contract values are dictated by relevant regulations, as amended from time to time.

Table 1: Contract Value Bands (values include VAT)

	Goods & Services	Light touch	Works & Concessions
Small Contract	£0 - £29,999.99		
Medium Contract	£30,000 - £100,000		£30,000 - £200,000.00
Large Contract	£100,000.01 – £214,903	£100,000.01 – £663,539	£200,000.01 – £5,372,608
Threshold Contract	£214,904 and over	£663,540 and over	£5,372,609 and over

12. Procurement Pipeline and Plan

- 12.1. The Head of Procurement will maintain a Procurement Plan and Pipeline.
- 12.2. A Procurement Pipeline will be published annually in accordance with section 93 of PA2023. The publication will be made on Central Digital Platform no later than 26th of May.
- 12.3. The Procurement Pipeline must include Contracts with the Estimated Value of £2m and above to be procured in the forthcoming 18 months. Where known, Contracts with the Estimated Value of £2m and above to be procured outside of this reporting period may also be included.
- 12.4. The Procurement Plan will be made available on the Council's Open Data Platform (or equivalent) to Members, the public and potential Bidders. The Procurement Plan should include known Contracts with Estimated Value of £5,000 and above to be procured in the forthcoming 18 months and beyond.
- 12.5. Where a Contract has been included in the published Procurement Pipeline, it will be at the Council's discretion whether to also include it on its published Procurement Plan.
- 12.6. For Relevant Health Care Contracts awarded under PSR2023, the Council must publish information regarding the Contracts formed during the year, monitor compliance with PSR2023 and publish an annual report of the results of that monitoring including information as to how any non-compliance will be addressed.

13. Notices

13.1. Notices must be made in accordance with the thresholds as required by the relevant Act or Regulations, and any other applicable law.

13.2. Notifiable Thresholds shown in the below table indicate thresholds from which the requirements to place relevant notices takes effect.

13.3. Regulated Threshold denotes contract value from which full provisions of the Procurement Act or Provider Selection Regime apply.

Table 2: Notifiable and Regulated Thresholds

	Contract Categorisation	Notifiable Thresholds	Regulated Threshold
The Procurement Act 2023	Goods and Services	£30,000	£214,904
	Light touch	£30,000	£663,540
	Works	£30,000	£5,372,609
	Concessions and Light touch regime concessions	£5,372,609	£5,372,609
Provider Selection Regime 2023	Relevant Health Related Services	£0.00	£0.00

13.4. Further breakdown of notice requirements applicable under relevant regulations is shown at [Appendix 3](#).

14. Contract Duration

14.1. All Contracts (excluding Framework Agreements but including Call-Off Contracts) may only be for a maximum of five years unless first approved in writing by the Head of Procurement and the Head of Law.

14.2. A Framework can be established with a maximum duration of four years.

14.3. Rule 14.2 does not apply to Light Touch Contracts, Open Frameworks and Contracts where Subsection 47(2) of PA2023 applies.

- 14.4. An Open Framework can be established with a maximum duration of eight years but must be reopened at least once within the first three years, and again at the five-year anniversary of the original award date.

15. Preliminary Market Engagement

- 15.1. Preliminary Market Engagement (PME) takes place in advance of the tender being published (or equivalent depending on procurement procedure) and allows the Council to gain a better understanding of the supply market.
- 15.2. The Council must ensure that the process is fair and does not give any Supplier(s) an unfair advantage or distorts the competition.
- 15.3. PME is not a call for competition and Suppliers participating in the subsequent tender must not be treated differently (whether more or less favourably) as a result of their participation in the PME.
- 15.4. For Threshold Contracts, permissible purposes are:
- 15.4.1. developing the Authority's requirements and approach to the procurement;
 - 15.4.2. designing a procedure, conditions of participation or award criteria;
 - 15.4.3. preparing the tender notice and associated tender documents;
 - 15.4.4. identifying Suppliers that may be able to supply the goods, services or works required;
 - 15.4.5. identifying likely contractual terms; and
 - 15.4.6. building capacity among Suppliers in relation to the contract being awarded.
- 15.5. Carrying out a PME is recommended for Threshold Contracts. This is done via publication of Preliminary Market Engagement (UK2) notice. Where no such engagement is carried out, reasons must be explained in the Tender Notice (UK4). Where informal market engagement has been carried out, it must be disclosed in the notice.
- 15.6. Officers may choose which form of engagement is appropriate for a particular Contract, however, overall compliance with the Regulations must be maintained. PME may involve any, or combination, of the following:
- 15.6.1. Face to face presentations or webinars.
 - 15.6.2. Workshops.

15.6.3. Site visits.

15.6.4. Response questionnaires.

15.7. Records of the information provided during PME should be kept and where appropriate included as part of the Tender documentation.

15.8. The Council must ensure supplier's commercial confidentiality is maintained throughout the process.

15.9. PME may assist the Council in its duty to consider barriers faced by SMEs.

15.10. For Below-Threshold Contracts, PME may also be carried out, but there is no requirement to observe the Rules 15.4 -15.5 above.

16. Terms and Conditions of Contracts

16.1. The following terms and conditions can be used, otherwise Legal Services must provide bespoke Terms and Conditions (T&Cs):

Table 3: Permissible T&Cs for each contract band

	Small	Medium	Large	Threshold
Purchase Order	Yes	Only with prior written approval of Legal Services	No	
Standard Terms and Conditions	Yes	Yes	Only with prior written approval of Legal Services	
Industry Standards	Only with prior written approval of Legal Services			
Supplier's Terms and Conditions	Only with prior written approval of Legal Services			
Framework Agreement Terms and Conditions	Only with prior written approval of Legal Services			

16.2. For Concession Contracts and when setting up LCC Framework Agreements, Terms and Conditions must be provided by Legal Services.

16.3. Where Standard Terms and Conditions are not used the proposed terms of all Contracts must include the clauses as set out in [Appendix 2](#).

17. Procurement Process for Small Contracts

17.1. A Small Contract may be made based upon one quote, where possible from a Local Supplier.

17.2. The Commissioning Officer must consider whether additional quotes are in the Council's best interests. Where practical, obtaining three written quotations is preferable.

17.3. Where a written quote it is not practical, a record of any oral quotation obtained must be made and retained.

18. Procurement Process for Medium, Large and Threshold Contracts

18.1. Procurement of Medium, Large and Threshold Contracts must be conducted by the Specialist Procurement Team.

18.2. In case of Medium Contracts, with prior approval from the Head of Procurement, Rule 18.1 may not be complied with.

18.3. A Procurement Request Form (PRF) is required to start the process and a Delegated Power Certificate (DPC) is required to record the key events of the procurement and award approvals.

18.4. The following table sets out the usual procedures for each Contract Value Band:

Table 4: Permissible procurement process for each contract band

	Medium	Large	Threshold
Targeted Quotation	Yes (With the approval of Specialist Procurement Team manager)	Yes (With the approval of Specialist Procurement Team manager)	No
Advertised Quotation or Tender	Yes	Yes	No
Electronic Auctions	Yes (With approval of	Yes (With approval of	Yes (With approval of

	the Head of Procurement	the Head of Procurement	the Head of Procurement
Reserved Contracts (See Rule 26)	Yes (With the approval of Specialist Procurement Team manager)	Yes (With the approval of Specialist Procurement Team manager)	Yes (With the approval of Specialist Procurement Team manager)
Use of Non-LCC Framework	Yes (With approval of the Specialist Procurement Team Manager)	Yes (With approval of the Specialist Procurement Team Manager)	Yes (With approval of the Head of Procurement and Head of Law)
Open Procedure	Yes	Yes	Yes
Competitive Flexible Procedure	No	No (Except circumstances described at Rule 18.6 below)	Yes (With approval of the Head of Procurement (or Head of DDaT Delivery for ICT Contracts))
Establishment of a LCC Framework	No	Yes (With approval of the Head of Procurement and Head of Law)	Yes (With approval of the Head of Procurement and Head of Law)
Establishment of a Dynamic Market	No	No	Yes (With approval of the Head of Procurement (or Head of DDaT Delivery for ICT Contracts) and Head of Law)

18.5. The process may include questions relating to Supplier's legal and financial capacity and technical ability (Conditions of Participation). However, for Medium

and Large Contracts this must not restrict the submission of tenders and therefore must not be a separate stage in the process.

- 18.6. The restriction under Rule 18.5 does not apply to Large Contracts for Works where the Estimated Value of the Contract is above Threshold Contract Value for Goods and Services (see Table 1 at Rule 11).

19. Specifications

- 19.1. Specifications are a written statement of the Goods, Services or Works required under the Contract and should include performance and functional requirements and where applicable may refer to standards.
- 19.2. Equivalents to UK standards must be considered and accepted by the Council where satisfied that such standard is a true equivalent.
- 19.3. Specifications must not unnecessarily limit competition.
- 19.4. Unless justified by the subject matter of the Contract and approved by the relevant Specialist Procurement Team Manager, the Specification shall not refer to:
- 19.4.1. a specific make or source.
 - 19.4.2. a particular process which characterises the Goods, Services or Works provided by a specific organisation.
 - 19.4.3. trademarks, patents, types or a specific origin or production with the effect of favouring or eliminating certain organisations or certain products.
- 19.5. Officers writing a specification must also consider wider legislative obligations (outside of Rule 2.1), which may include health and safety, environmental and industry-specific regulatory requirements.

20. Targeted Quotation

- 20.1. The Procuring Officer must obtain a minimum of three Quotations via the e-tendering portal, of which at least two shall be from Local Bidders. Where Local Bidders cannot be approached or three Quotations cannot be obtained, written reasons and evidence as to why this is the case is required.
- 20.2. A written record of the award decision must be retained to include considerations of the Quotation received.

21. Open Procedure

- 21.1. The Open Procedure is a single stage procedure where there is no restriction on submission of tenders, and all information needs to be provided at the point of tender and is made available to all Suppliers.

22. Competitive Flexible Procedure

- 22.1. The Competitive Flexible Procedure is a multi-stage procedure which can be designed by the Council for a specific Contract in accordance with the Regulations.
- 22.2. A decision to follow the Competitive Flexible Procedure shall be made only after consultation and approval of Head of Procurement or Head of DDaT Delivery (for ICT Contracts).
- 22.3. Before advertising a Contract using the Competitive Flexible Procedure, the Council should consider a Preliminary Market Engagement, which may inform the design of the procedure and its acceptability by the Suppliers.
- 22.4. Where a Competitive Flexible Procedure is followed, procurement documents must clearly describe the process, including:
- 22.4.1. Applicable suitability criteria (if any).
 - 22.4.2. Evaluation Criteria and if these can be refined (if so, this must be stated in the Tender Notice UK4 also).
 - 22.4.3. Description of successive stages, including any supplementary process, and whether any such stage includes down-selection.
 - 22.4.4. May stipulate a minimum or maximum number of Bidders that will be invited to the next stage following down-selection.
 - 22.4.5. Applicable time limits (which must be greater or equal to the minimum periods in accordance with Section 54 of PA2023).
- 22.5. Negotiations may be undertaken at any stage, including post-tender, provided that they have been allowed for as part of the procedure. However, even where such negotiations have been allowed for in the procurement, they shall not be undertaken without the presence of a Procuring Officer.

23. Frameworks

- 23.1. A Framework is a contract between the Council and one or more Suppliers that provides for the future award of contracts by the Council to the Supplier or Suppliers.

- 23.2. The framework must set out a methodology for awarding a Call-Off Contract.
- 23.3. Direct award of a Call-Off Contract is only permitted where:
- 23.3.1. There is only one Supplier awarded to the Framework/Lot.
 - 23.3.2. There is more than one Supplier awarded to the Framework/Lot, only if direct award is expressly allowed within the Framework's Terms and Conditions, and there is an objective mechanism for a Selection of the Supplier.
 - 23.3.3. The Framework is a Light Touch Framework.
- 23.4. Where a Call-Off Contract is awarded in line with Rule 23.3.2, Officers must retain a written record of a suitable justification.
- 23.5. Where the Council awards a Notifiable Contract based on a Framework, relevant notices for such a Call-Off Contract must be published, including Contracts Notice UK6 and Contracts Details Notice UK7.
- 23.6. A Voluntary Standstill Period may be observed prior to awarding a Call-Off Contract.
- 23.7. An Open Framework is a scheme of Frameworks that provides for the award of successive Frameworks on substantially the same terms.
- 23.8. As a minimum, an Open Framework must be re-opened for competition:
- 23.8.1. at least once within the first three years,
 - 23.8.2. and again at the five-year anniversary of the original award date.

24. Dynamic Market

- 24.1. A Dynamic Market can only be established with the approval of the Head of Procurement (or Head of DDaT Delivery for ICT Contracts) and the Head of Law and in accordance with the Regulations.
- 24.2. Non LCC Dynamic Markets may be accessed observing the same principles as applicable to Non LCC Frameworks detailed at Rule 25.
- 24.3. It is not permitted to award a Call-Off Contract under a Dynamic Market via direct award.
- 24.4. Only Threshold Contracts can be awarded via Dynamic Markets.

25. Non LCC Frameworks

- 25.1. The Council may use Framework set up by third parties where the Framework entitles the Council to do so, subject to the approval of the Head of Procurement and the Head of Law.
- 25.2. The methodology and all requirements set out in the Framework must be followed when awarding a Call-Off Contract under the Framework.

26. Reserved Contracts

- 26.1. A Contract can only be reserved for supported employment providers or public service mutuals, in accordance with the Regulations and requires prior written approval of the relevant Specialist Procurement Team Manager.

27. Light Touch Contracts

- 27.1. Light Touch Contracts are contracts for certain social, health, education and other public services and are subject to more flexible procurement rules. They provide services directly to individuals or groups of people and are defined in Schedule 1 of the PR2024.
- 27.2. Some Light Touch Contracts can be directly awarded based on User Choice. This includes the award of individual adult's and children's social care placements where it is for the supply of user choice services and the following conditions are met:
 - 27.2.1. The individual to whom the services are to be applied, or their carer, has expressed a preference as to who should supply the services, or the nature of the services to be supplied is such that only one Supplier is capable of providing them; and
 - 27.2.2. The Council considers that it is not in the best interest of the individual to award a contract through competition.
- 27.3. Value for money should also considered when following the process at Rule 27.2.
- 27.4. Where a Light Touch Contract is awarded based on User Choice, the Direct Award process described at Rule 43 applies.

28. Relevant Health Care Services Contracts

- 28.1. Procurement and award of Relevant Health Care Services Contracts must be carried out accordance with PSR2023.
- 28.2. The applicable procurement processes are further outlined at [Appendix 4](#). These are:

- 28.2.1. Direct Award A.
- 28.2.2. Direct Award B.
- 28.2.3. Direct Award C.
- 28.2.4. The Most Suitable Provider Process.
- 28.2.5. The Competitive Process.
- 28.3. The Procuring Officer must keep a record of the decision process to determine the procurement procedure.
- 28.4. When following Direct Award Process C, The Most Suitable Provider Process or The Competitive Process, the evaluation criteria (known as key criteria in accordance with Part 1 of PSR2023) must be applied:
 - 28.4.1. Social Value.
 - 28.4.2. Improving access, reducing health inequalities, and facilitating choice.
 - 28.4.3. Value.
 - 28.4.4. Integration, collaboration, and service sustainability.
 - 28.4.5. Quality and innovation.
- 28.5. When assessing a Supplier, all five key criteria must be considered, and none should be discounted. However, the relative importance of the criteria is not pre-determined and there is no prescribed hierarchy or weighting for each criterion.
- 28.6. The Procuring Officer must ensure that the Supplier meets the relevant national minimum standards and the reasons for the choice of the Supplier are recorded, including where applicable reference to key criteria.
- 28.7. The establishment of a LCC Framework or a Dynamic Market for Relevant Health Care Services requires the approval of the Head of Procurement and Head of Law.

29. Advertisements and Tender Documentation

- 29.1. When advertising Notifiable Below-Threshold Contracts and Threshold Contracts, relevant notice must be visible on the Central Digital Platform prior to being published elsewhere, including the e-tendering platform.
- 29.2. Before publishing a tender notice, the Council has a duty to consider whether the Goods, Services or Works required, could reasonably be supplied under more than one contract, and whether such contracts could appropriately be awarded by reference to lots.

- 29.3. If the Council considers that it can, then the Council must arrange for the award of the contract or contracts by reference to lots or provide reasons for not doing so in the tender notice.
- 29.4. The Procuring Officer and Commissioning Officer must ensure that the procurement process, including applicable assessment methodology, is clearly set out in the tender documents issued to Bidders and followed throughout.
- 29.5. All Bidders should be allowed access the same information about the procurement process, which should typically include:
- 29.5.1. Information relating to the tender process including award methodology and criteria.
 - 29.5.2. Specifications.
 - 29.5.3. Terms and Conditions of the Contract.
 - 29.5.4. Any other supplementary information, for example technical drawings.
- 29.6. The Closing Date for the submission of Tenders must be set taking into account:
- 29.6.1. Minimum time limits as set out in the Regulations.
 - 29.6.2. The nature and complexity of the requirement.
 - 29.6.3. The need for site visits, physical inspection and other practical steps.
 - 29.6.4. The need for sub-contracting.
 - 29.6.5. The urgency of the requirement.
 - 29.6.6. Where a modification has been issued in respect of a pending procurement, the nature and complexity of such a modification.

30. Receipt and Opening of Submissions

- 30.1. The tender documents must specify the method of Submission and the Closing Date.
- 30.2. Except for Small Contracts, the Electronic Tendering System must be used for each procurement process, including but not limited to, for the publication and receipt of documents to/from Bidders unless otherwise agreed in advance with the Head of Procurement.
- 30.3. Where, in exceptional circumstances, the submission of tenders outside of the Electronic Tendering System has been approved, tenders must:
- 30.3.1. Be opened one at a time.

- 30.3.2. In the presence of at least two Officers, one of whom is not involved in the procurement.
 - 30.3.3. After the Closing Date.
 - 30.3.4. And a written record of the tenders received must be prepared and signed by the Officers present.
- 30.4. Submissions received after the Closing Date must not be accepted unless Rule 6.4 applies.

31. Clarification of Submissions

- 31.1. Bidders are not permitted to alter their Submissions after they have been received by the Council other than in accordance with the tender instructions provided to Bidders.
- 31.2. Following the Closing Date but before the award of any Contract, the Procuring Officer may seek clarification from a Bidder.
- 31.3. Clarification should be only conducted via the Electronic Tendering System, unless first approved by the Head of Procurement.
- 31.4. Any clarification of Submissions during a procurement process must always ensure that fair and the same treatment of all Bidders is maintained and must not allow for any Bidder to gain an unfair advantage.

32. Abnormally Low Tenders

- 32.1. The Tender may be disregarded where the Council considers the price offered in the Tender abnormally low for the performance of the Contract.
- 32.2. Before rejecting the Tender, the Council must notify the Supplier and provide an opportunity for them to demonstrate they can deliver the contract at the tender price.
- 32.3. If the Supplier demonstrates to the Council's satisfaction that it will be able to perform the Contract for the price offered, the Council should not disregard the Tender as being abnormally low.
- 32.4. If the Supplier doesn't satisfy the Council, the Tender may be disregarded by notifying the Supplier of the decision. All documentation and correspondence with the Supplier that details how the decision was reached must be kept.

33. Excluding Suppliers

- 33.1. The Head of Procurement and Head of Legal must be consulted before considering the award of a Contract to, or continuing a Contract with, a Supplier who is added to the Debarment List.
- 33.2. Where the Council considers a Supplier an Excluded Supplier, it must disregard their Tender or exclude the Supplier from processing as part of the multi-stage procurement process.
- 33.3. Where the Council considers a Supplier an Excludable Supplier, it may disregard their Tender or exclude the Supplier from processing as part of the multi-stage procurement process.
- 33.4. In deciding whether to exclude an Excludable Supplier, the Council should have regard to procurement objectives including delivering value for money, maximising public benefit, information sharing and acting (and being seen to act) with integrity. The Council must consider on a case by case basis whether circumstances giving rise to the discretionary exclusion ground outweigh the public interest in allowing the Supplier to participate in the procurement.
- 33.5. Where the Council considers a Supplier an Excluded Supplier or an Excludable Supplier, it must inform the Supplier and give them reasonable opportunity to make representations and provide relevant evidence.
- 33.6. Whenever the Council has determined that a Supplier (including by virtue of a connected person, associated person or sub-contractor) is an Excluded Supplier or an Excludable Supplier and has taken certain actions under the exclusions regime, an appropriate notification to the relevant appropriate authority is required (in accordance with Section 59 of PA2023).

34. Negotiation

- 34.1. For Threshold Contracts, negotiation will only be permitted where a procedure allows for it and shall be conducted in line with the procedure adopted for the Tender.
- 34.2. For Below-Threshold Contracts, the Procuring Officer, in consultation with the Commissioning Officer, may negotiate with Bidders to seek to secure improvements in the price or economic advantage.
- 34.3. Such negotiation should take place following the Closing Date, but before award of Contract and be approved in writing by the Head of Procurement.
- 34.4. When conducting negotiations, the following shall apply:
 - 34.4.1. A Bidder must not be told the detail of any other Submission or how their Submission compares to any other Submission.

- 34.4.2. A minimum of two Officers of the Council must be present at negotiations.
- 34.4.3. A written note of the negotiations must be made and retained detailing the time and location of the negotiations, the discussions and any agreement reached.
- 34.4.4. Negotiations shall not result in a material departure from the published Specification and/or Contract Terms & Conditions. The Head of Law, in consultation with the Head of Procurement and appropriate Divisional Director, shall determine whether any proposed change to the Specification and/or Contract Terms & Conditions constitutes a material departure and any resulting actions.

35. Contract Award and Standstill

- 35.1. Authorisation of the Contract award is required prior to the publication of a contract award notice (which triggers the start of a Standstill Period), or, where this is not required, prior to notifying the Bidders of the award decision. Authorisation shall be:

Table 5: Contract Award Approvals

Small Contract	Budget Holder & Commissioning Officer (and DDaT Specialist Procurement Team Manager for ICT Contracts)
Medium Contract	Head of Service & Specialist Procurement Team Manager
Large Contracts	Divisional Director & Specialist Procurement Team Manager
Threshold Contracts	Divisional Director & Specialist Procurement Team Manager

- 35.2. Authorisation to proceed to Contract is generally obtained via completion of a Delegated Powers Certificate (DPC).
- 35.3. A Standstill Period must be observed where so required by the Regulations, including award of:

Table 6: Standstill Period Calculation

Threshold Contracts (PA2023) <i>Including Direct Award made in accordance with Rule 43 unless specific exclusions apply</i>	The Standstill Period begins the day the contract award notice is published, day one counting as the day the notice is published and visible and ends at midnight on the 8th working day.
Relevant Health Care Services Contracts (PSR2023) <i>Except awards under Process A and Process B</i>	The Standstill Period begins the day after the day the notice is published, day one counting as the day after such notice is sent and ends at midnight on the 8th working day

- 35.4. Where not mandatory, a voluntary Standstill Period may still be observed, e.g. in relation to Light Touch Contracts or Call-Off Contracts awarded under Frameworks or Dynamic Markets.
- 35.5. Where a formal challenge is received during the Standstill Period, the approval of Head of Procurement and Head of Law is required before proceeding to issue the Contract for signing. Insurance Services must also be notified of the formal challenge.
- 35.6. Letters of Intent are not permitted unless prior written approval of the Head of Law has been granted.
- 35.7. The Council must not award a Contract to, or conclude a Framework with, a Supplier which does not meet the selection criteria, is considered by the Council an Excluded Supplier or is on the Debarment List.
- 35.8. If a procurement process is aborted after Bidders have submitted their response and before a contract has been awarded, an auditable record of the decision should be retained internally and approved by the Officers listed at Table 6.

36. Record Keeping

- 36.1. In relation to Threshold Contracts, the Officers must retain auditable records sufficient to explain any material decisions made for the purpose of awarding or entering into a Contract, in accordance with PA2023.
- 36.2. In relation to Relevant Health Care Services Contracts, the Officers must keep accurate records of their decision-making process and rationale, as further detailed in PSR2023.

36.3. A similar, proportionate approach should be taken in relation to Below-Threshold Contracts.

36.4. As a minimum, records should include any records required by the Regulations and approvals as set out in these Rules.

36.5. The Council will operate internal processes for the Officers to record certain decisions and obtain required approvals. Any such processes will be in compliance with these Rules but operational detail such as exact format, etc, is outside of the scope of the Rules.

36.6. The Head of Procurement and/or Head of Law may from time to time amend applicable internal processes.

37. Execution of Contracts

37.1. Legal Services will determine where a Contract should be executed as deed.

37.2. Contracts may only be signed and entered into as follows:

Table 7: Contract Signatories

Small Contracts (non-deed)	Divisional Director
Medium Contracts (non-deed)	One Authorised Signatory within Legal Services.
Large Contracts (non-deed)	Two Authorised Signatories within Legal Services.
Threshold Contracts (non-deed)	Two Authorised Signatories within Legal Services.
Any Contract to be entered in to as a deed	Common Seal and one Authorised Signatory within Legal Services.

37.3. No instruction should be given to a Supplier, or a Purchase Order raised, before all parties have signed the Contract.

38. Purchase Orders

38.1. Any Purchase Order raised in relation to a Contract, Framework or Dynamic Purchasing System/Dynamic Market Call-off, should clearly state that it is subject

to the Terms and Conditions of that Contract/Framework/ Dynamic Purchasing System /Dynamic Market, including the Contract reference number.

- 38.2. Suppliers should not be instructed to undertake delivery of Goods/Services or Works until after they have received a Purchase Order for the Goods/Services or Works being requested.

39. Contract Management

- 39.1. The Divisional Director must ensure that for every Contract, a person is designated as the Contract Manager.
- 39.2. As a minimum, a Contract Manager should:
 - 39.2.1. Consider the importance of a Contract, the impact if the Supplier breaches or falls over during the Contract life, and impact on recovery.
 - 39.2.2. Identify and prioritise the frequency of monitoring on high impact Contracts and scaling downwards on low impact Contract.
 - 39.2.3. Have easy access to a copy of the signed/sealed Contract, and understand contract deliverables, required specification for Goods/Services or Works, pricing, applicable KPIs and notice periods.
 - 39.2.4. Arrange kick off meeting prior to the start of the Contract to ensure all parties involved are aware of their contractual obligations
 - 39.2.5. Understand contractual performance mechanisms to apply if the Supplier does not meet their obligations (e.g. liquidated damages or service credits).
 - 39.2.6. Regularly check that the Supplier maintains compliance with the contractual requirements relating to insurance levels and other relevant accreditation and trade specific certificates. Where applicable, copies of relevant certificates should be kept on file and reviewed annually or otherwise in accordance with the relevant expiry dates.
 - 39.2.7. Update business continuity plans to reflect actions and contact details relating to the Contract.
 - 39.2.8. Follow the internal approval process, in advance of contractually required notice periods, for contract extensions and modifications.
 - 39.2.9. Periodically check that the Supplier is not on the Debarment List.
 - 39.2.10. Monitor KPIs and for Contracts over £5m report performance via appropriate notice under PA2023.

- 39.2.11. Monitor the delivery of any Social Value commitments made during the tendering process and/or agreed in the Contract.
- 39.2.12. Hold regular contract management meetings with the Supplier, and ensure any issues are addressed efficiently.
- 39.2.13. Ensure valid, undisputed invoices are paid promptly (usually within 30 days or less).
- 39.2.14. For Frameworks, the Contract Manager should ensure a record is kept of all Call-off Contracts, ensure contract award notices are made in accordance with the Regulations, and a record of the committed spend to date captured, to ensure the awarded Framework value is not exceeded.
- 39.2.15. Capture lessons learnt and, where required, initiate procurement of a replacement contract in a timely manner in accordance with these Rules (including requirements under Rule 12).
- 39.3. The Contract Manager is responsible for managing the performance of the Contract and the Supplier(s) throughout the Contract period, including ensuring that value for money is obtained and Best Value Duty met.
- 39.4. For Threshold Contracts over £5m, the Contract Manager is to provide the Specialist Procurement Team with the information required to enable compliance with the PA2023, including the publication of the payment compliance notice, contract performance notice and contract termination notice.
- 39.5. For Threshold Contracts over £5m, the Council must include at least three KPIs within the Contract and monitor the Supplier's performance against these. At least once annually, details of the Supplier's performance under these KPIs must be published (with the exception of Light Touch Contracts) in accordance with the following ratings):

Table 8: Key Performance Indicator Ratings

Rating	Description
Good	Performance is meeting or exceeding the KPI
Approaching target	Performance is close to meeting the KPI
Requires Improvement	Performance is below the KPI

Inadequate	Performance is significantly below the KPI
Other	Performance cannot be described as good, approaching target, requires improvement or inadequate

- 39.6. Every six months, the Council must publish a notice setting out details of the Council's compliance with the requirement under PA2023 to pay Suppliers within 30 days of receipt of invoice. This needs to include the average number of days it takes to make payments, the percentage of payments made within 30 days, within 31 to 60 days and 61 days or over.
- 39.7. For all Contracts, the Contract Manager should ensure consideration is given to any conflict of interest arising during the lifecycle of the Contract
- 39.8. For Threshold Contracts, the Contract Manager is to ensure the Conflict of Interest Assessment is maintained during the life of the Contract.
- 39.9. For Threshold Contracts, the Contract Manager inform Specialist Procurement Team of the natural end of the Contract to prompt the required notice to be published. This notification must happen within seven days of a contract ending.

40. Contract Modification

- 40.1. No modification may be authorised which alters the overall nature of the Contract.
- 40.2. Contract modifications are to be justified and recorded in line with the applicable internal approval process and only implemented after the required approvals are received, and in accordance with these Rules.
- 40.3. An extension of a Contract is only available where it is expressly provided for in the Contract. Otherwise, any proposed extension may only be introduced via contract modification.
- 40.4. Should the categorisation of the Contract change (Rule 11) this will mean the approvals for the new category will apply.
- 40.5. Each modification to a Contract must be made in writing and signed by the parties to the Contract unless the Contract allows otherwise. This must be completed after formal approvals and before the modification takes effect.
- 40.6. The Contract Manager may, where they do not significantly affect the overall delivery or cost of the Contract, agree minor modifications on any Contract

provided that the modification is confirmed in writing and signed by the parties, with full details of the modification included.

- 40.7. A contract modification for a price adjustment, must only be considered if the contract expressly allowed for it within the terms and conditions or it is permissible under either the PCR2015 or PA2023 (whichever is applicable).
- 40.8. Any Contracts let below threshold under the PA2023, may be considered to be modified to a Threshold Contract as long as the conditions are met relating to Convertible Contracts under PA2023.
- 40.9. In case of Threshold Contracts, a contract change notice must be placed before modifying the Contract.
- 40.10. The Council should observe a voluntary Standstill Period before modifying a Threshold Contract.
- 40.11. All modifications require prior authorisation via an appropriate internal process as follows:

Table 9: Contract Modifications Approvals

Contract Categorisation	Percentage Change in Contract Value	Approval Required
PCR2015 and PA2023 Contracts		
Small Contract	Any	Head of Service
Medium Contract	Less than 50%	Head of Service, Specialist Procurement Team Manager, Head of Finance (if value of the modification exceeds £50k)
Medium Contract	50% or more	Divisional Director, Specialist Procurement Team Manager, Head of Finance (if value of the modification exceeds £50k)
Large Contracts	Less than 50%	Divisional Director, Specialist Procurement Team Manager (and Head of Finance if value of the modification exceeds £50k)

Large Contracts	50% or more	Divisional Director, Specialist Procurement Team Manager (and Head of Finance if value of the modification exceeds £50k)
Threshold Contracts <i>Including Convertible Contracts</i>	Up to 10% for Goods & Services Or 15% for Works (And/or up to 10% increase or decrease the term if a PA2023 Contract)	Divisional Director, Specialist Procurement Team Manager (and Head of Finance if value of the modification exceeds £50k)
Threshold Contracts <i>Including Convertible Contracts</i>	Above 10% Goods & Services Or 15% Works and no more than 50%	Divisional Director, Head of Specialist Procurement Team and Head of Law (and Head of Finance if value of the modification exceeds £50k)
Threshold Contracts <i>Including Convertible Contracts</i>	More than 50%	Only where specific grounds apply Strategic Director, Head of Procurement (and Head of DDaT Delivery for ICT Contracts) and Head of Law (and Head of Finance if value of the modification exceeds £50k)
PSR2023 Contracts		
Below £500,000 or Less than 25% of lifetime value		Divisional Director, Specialist Procurement Team Manager (and Head of Finance if value of the modification exceeds £50k)

Above £500,000 or More than 25% of lifetime value	Not permitted.
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40.12. Relevant Health Care Services Contracts can only be modified in accordance with PSR2023.

40.13. Where Direct Award Process A or Direct Award Process B was followed for the original award of a Contract, the Contract may be modified during its term without following a new procurement process under these Regulations where the modification does not render the Contract materially different in character.

41. Contract Novation

41.1. A novation is to be justified, with an auditable record retained in line with the appropriate internal process and only implemented after the required approvals are received, and in accordance with these Rules.

41.2. The novation of a Contract from an existing party to a new party requires prior written approval of the Head of Law and must be via a formal agreement. The Head of Procurement must be informed of the novation.

41.3. No Contract can be novated to a Supplier on the Debarment List.

41.4. Where a Threshold Contract is novated, a contract change notice must be placed.

42. Contract Termination

42.1. A Contract may terminate in various circumstances, including:

42.1.1. termination on contract expiry/completion of deliverables.

42.1.2. early termination for breach or poor performance.

42.1.3. Supplier / Sub-Supplier exclusions.

42.2. The Divisional Director shall be authorised to terminate any Contract before the expiry of its agreed term following consultation with the Head of Law. In such cases the Divisional Director must inform the Head of Procurement of the termination.

42.3. In case of a termination of Threshold Contract, a contract termination notice shall be placed and where grounds described at 43.1.2 apply, the relevant details on nature of the breach or failure to perform, will be included in the notice.

42.4. The Contract Manager must notify the Specialist Procurement Team of the expiry/termination of the Threshold Contract in a timely manner to allow for a Contract termination notice publication.

43. Direct Award

43.1. Direct Award is a process whereby the Council awards a Contract directly to the Supplier without a competitive tendering procedure.

43.2. Threshold Contracts may only be awarded via Direct Award where permitted in the Regulations and never as a method of convenience.

43.3. Direct Award is permitted for Exempted Contracts as described at Rule 5.4-5.7.

43.4. A Direct Award requires approval as follows.

Table 10: Direct Award Approvals

Contract Categorisation	Approval
Small Contract	Head of Service
Medium Contract	Divisional Director, Specialist Procurement Team Manager (and Head of Finance if contract value exceeds £50k)
Large Contract	Divisional Director, Specialist Procurement Team Manager, Head of Finance and Head of Law
Threshold Contract	Divisional Director, Specialist Procurement Team Manager, Head of Procurement, Head of Finance and Head of Law

43.5. Any Direct Awards must be first approved in accordance with the Council's internal processes and no Contract must be entered into or order placed before this has been completed.

43.6. Approval can be obtained by completing a justification report, which acts as a DPC.

44. Waivers

44.1. A Waiver is a request for approval to waive these Rules and must only be used in exceptional circumstances.

44.2. This includes a situation whereby it is proposed to procure Goods, Services or Works not in accordance with these Rules.

- 44.3. Any Direct Award that is not permitted under Rule 43 must be classed as a Waiver.
- 44.4. Any Waivers should be for the shortest possible duration.
- 44.5. Any Waivers must be first approved in accordance with the Council's internal processes and no Contract must be entered into or order placed before this has been completed. Approvals are required as follows:

Table 11: Approvals required for Waivers

Contract Categorisation	Approval
Small Contract	Head of Service (and DDaT Specialist Procurement Team Manager for ICT Contracts)
Medium Contract	Divisional Director, Specialist Procurement Team Manager (and Head of Finance if contract value exceeds £50k)
Large Contract	Divisional Director, Specialist Procurement Team Manager, Head of Finance and Head of Law
Threshold Contract	Strategic Director, Specialist Procurement Team Manager, Head of Procurement or Head of DDaT Delivery (for ICT Contracts), Head of Finance and Head of Law

APPENDIX 1: DEFINITIONS

Terms defined in the Council's Constitution have the same meaning when used in these Rules. Where a job title is used and that job title is no longer appropriate, the Chief Operating Officer will identify the postholder to replace the stated job title.

Other terms are defined by these Rules as follows:

“Associated Person” means a person that the Supplier is relying on in order to satisfy the conditions of participation, but not a person who is to act as guarantor (Section 22 of PA2023).

“Below-Threshold Contract” means a Contract of value lower than applicable Threshold. The award and management of such a Contract is not a ‘covered procurement’ therefore fewer obligations of PA2023 apply to it (Section 5 of PA2023).

“Best Value Duty” means the duty placed on local authorities under section 3(1) of the Local Government Act 1999 to ensure continuous improvement in the way functions are exercised considering a combination of economy, efficiency, and effectiveness.

“Bidder” means a person or organisation who responds to an advertisement or invitation to tender and participates in a procurement procedure to win a Contract.

“Call-Off Contract” means a Contract based on a Framework Agreement, DPS or Dynamic Market.

“Central Digital Platform (CDP)” means the online system referred to in the Procurement Act 2023, also known as Find a Tender System (FTS).

“Capital Asset Disposal” means a relevant disposal of capital assets by the Council which fall within the scope of the Regulations which may include land disposal with a development arrangement/agreement from which the Council receives an income.

“CCR2016” means the Concession Contracts Regulations 2016 (as amended or re-enacted from time to time).

“Closing Date” means any stated closing time and date for the receipt of Submissions or Tenders.

“Common Assessment Standard (CAS)” means the standard selection questionnaire as issued by Build UK, which should be used for works Contracts.

“Commissioning Officer” means a person appointed by a Head of Service or Chief Officer to identify and specify the requirement and provide specialist service/technical input into the procurement of goods, services or works.

“Concession Contract” means a contract for the supply for pecuniary interest, of works or services to a contracting authority where at least part of the consideration for

that supply is a right for the Supplier to exploit the works or services, and under the contract the Supplier is exposed to a real operating risk (Section 8 of PA2023).

“Connected Person” in relation to the Supplier means a person with significant control over the Supplier; a director and any other persons as defined in paragraph 45 of Schedule 6 of the PA2023.

“Contract” means any contract procured or to be procured and/or entered in to by the Council and includes Framework Agreements, Concession Contracts, ICT Contracts and Light Touch Contracts.

“Contract Manager” means a person appointed by a Head of Service or Chief Officer to administer and manage the performance of a Contract throughout its term. The duties of a Contract Manager shall begin when the Contract is awarded and shall cease when it is completed or terminated.

“Contracting Authority” means any entity defined as a contracting authority in Section 2 of PA2023.

“Council” means Leicester City Council.

“CPRs” means Contract Procedure Rules.

“DPC” means a Delegated Powers Certificate.

“Debarment List” means a list described in Section 62 of PA2023.

“Electronic Tendering System” means any IT system approved for use by the Head of Procurement via which a procurement process can be conducted.

“Estimated Value” means the estimated value of a Contract as established in accordance with Rule 10.

“Evaluation Panel” means the Procuring Officer, the Commissioning Officer and any other individuals appointed by them to participate in the evaluation of Submissions/Tenders.

“Excluded Supplier” means a Supplier in respect of whom a mandatory exclusion ground applies (as further defined at Section 57 of PA2023).

“Excludable Supplier” means a Supplier in respect of whom a discretionary exclusion ground applies (as further defined at Section 57 of PA2023).

“Exempted Contract” means a contract within scope of Schedule 2 of Procurement Act 2023.

“Extension” means an extension of a Contract for a further period of time beyond its initial or subsequently agreed term.

“Framework” means an agreement between the Council (or other contracting authority or group of contracting authorities) and one or more Suppliers that provides for the future award of Contracts by the Council or other contracting authorities to the Supplier or Suppliers (Chapter 4 of PA2023 or Regulation 33 of PCR2015 as applicable).

“Head of Law” means the Head of Law for Commercial, Property & Planning.

“Head of Procurement” means the Head of Procurement.

“ICT Contract” means any contract primarily for the provision of equipment, software or hardware that connects or interfaces with the Council’s ICT network, including maintenance and support services to this hardware and software.

“ITT” means an Invitation to Tender document issued by the Council to potential Bidders.

“Law” means any:

(i) applicable statute or proclamation or any delegated or subordinate legislation or regulation, including but not limited to, listed at Rule 2.1.

(ii) applicable judgment of a relevant court of law which is a binding precedent in England and Wales.

(iii) National Standards.

(iv) Statutory Guidance; and in each case in force in England and Wales and including any amendments.

“Legal Services” means a service within the Council led by the City Barrister.

“Letter of Intent” means a letter issued to a Supplier with whom the Council intends to enter into a contract with. The letter is to confirm the Council’s intention pending formal execution of the Contract.

“Light Touch Contract” means a contract wholly or mainly for the supply of certain social, health, education and other public services as listed in Schedule 1 of Procurement Regulations 2024.

“LGA 1988” means Local Government Act 1988.

“Local Bidder” or **“Local Supplier”** means a business having a base from which the goods, services or works will be delivered with a LE postcode.

“Modification” means an amendment to a Contract as originally procured.

“Officer” means an employee of Leicester City Council.

“PA” or “PA2023” means The Procurement Act 2023 as implemented by The Procurement Regulations 2024(as amended or re-enacted from time to time)

“PCR” or “PCR2015” means the Public Contracts Regulations 2015 (as amended or re-enacted from time to time).

“PR” or “PR2024” means The Procurement Regulations 2024 (as amended or re-enacted from time to time).

“PRF” means a Procurement Request Form or equivalent.

“Procuring Officer” means a person appointed by the Head of Procurement and responsible for carrying out duties associated with the procurement of goods, services or works.

“Provider Selection Regime” or “PSR2023” means The Health Care Services (Provider Selection Regime) Regulations 2023 (as amended or re-enacted from time to time).

“PSQ” means Procurement Specific Questionnaire issued by the Cabinet Office.

“Quotation” means a quotation submitted by a Supplier in response to Council’s request (or similar Submission from a Bidder), and any attached documents submitted by a Bidder as part of a procurement procedure.

“Reserved Contract” means a Contract reserved for sheltered workshops, mutuals or social enterprises (or similar), VCSEs, SMEs or local Suppliers.

“Regulations” has a meaning as set out at Rule 2.1.

“Relevant Health Care Services” means services as defined in Schedule1 of PSR2023.

“RfQ” means a Request for Quotation document issued by the Council to potential Bidders.

“Rules” means these Contract Procedure Rules.

“Social Value Charter” means the social value charter as adopted and published by the Council from time to time and associated guidance issued.

“Specialist Procurement Team” means:

- Procurement Services (Finance),
- DDaT Procurement Team (Corporate Resources) and
- Social Care, Education & Public Health Procurement Team (Social Care and Education).

“Specialist Procurement Team Manager” means a manager within a relevant Specialist Procurement Team.

“Specification” means a statement of the goods, services or works requires under the Contract.

“Standard Terms and Conditions” means the standard set of terms and conditions for any Contract type as published and approved by Legal Services.

“Standstill Period” means any standstill period required to be observed in advance of contract award or modification in accordance with the Regulations.

“Subject-matter Exempted Contract” means a contract within scope of Schedule 2 Part 2 of Procurement Act 2023.

“Submission” means a completed ITT, RfQ, PQQ or other similar document submitted by a Bidder as part of a procurement procedure.

“Supplier” means any person or organisation contracted to provide goods, services or works to the Council. This term usually applies after a Contract is formed. It is sometimes used interchangeably with Bidder, which could be seen as a potential Supplier.

“Teckal Company” means a company which falls within the meaning in Schedule 2.1 of the PA2023.

“Tender” means a tender response submitted by a Bidder.

“Terms and Conditions” or **“T&C”** means terms and conditions that apply to a Contract, also known as Terms of Contract.

“Threshold Contract” means a Contract with an estimated value of not less than the threshold amount for the type of contract that is not an Exempted Contract (Section 3 of PA2023).

“Transitional Regulations” means the Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024.

“VCSE(s)” means a Voluntary Community Sector Enterprise being a not-for-profit organisation.

“Working Day” means any day which is not Saturday, Sunday, or a public holiday as defined in Section 123 of PA2023.

“Works” means the subject of a Public Works Contract as listed under Schedule 3 of Procurement Regulations 2024.

APPENDIX 2: MANDATORY REQUIREMENTS

Clauses required:
Allowing the Council to terminate and recover sums paid where there is evidence of bribery or corruption.
Including a definition of the circumstances that will be considered to constitute a breach of the terms of the Contract by the Supplier. The Contract must provide for notice of breach to be given to the Supplier and for any resulting losses to be recovered from the Supplier if the default is not rectified.
Where there is a breach by the Supplier, allowing the Council to: a) terminate part or all of the Contract; b) appoint an alternative Supplier, and recover the cost of doing so from the Supplier; and c) recover any compensation as a consequence of the breach by the Supplier or the insolvency of the Supplier.
Stating the price payable by the Council (and any mechanism by which the price, any additional price or discounts are to be ascertained) and setting out the mechanisms for payment.
Prohibiting the Supplier from subcontracting, novating, assigning or otherwise transferring the Contract without the prior written consent of the Council.
Where the Supplier sub-contracts all or part of the Contract it remains liable to the Council for any such sub-contracted parts.
Requiring compliance by the Supplier with all relevant legislation and requirements of the Council in relation to the same, including as a minimum: a) The Human Rights Act 1998 (as if the Supplier were a public body); b) Freedom of Information Act 2000/Environmental Information Regulations, Data Protection Act 2018; c) The Equalities Act 2010, The Modern Slavery Act 2015, Bribery Act 2010, Prevention of Terrorism Act 2005, Counter Terrorism & Security Act 2015; and d) The Transfer of Undertakings (Protection of Employment) Regulations 2006. <i>(TUPE is a specialist area and additional consultation with Employment Legal is recommended.)</i>
Liability: setting out indemnities in respect of claims made against the Council made in respect of a Supplier's activities.

Stating the types and levels of insurance required of the Supplier and ensuring the insurance policies can be inspected during the contract period.

(Insurance types and levels will be determined for a specific procurement exercise on a case-by-case by reference to the client department undertaking a risk assessment and taking advice from the appropriate internal teams including Insurance Services.)

Where appropriate, requiring the provision to the Council of adequate Intellectual Property protection together with indemnity protection.

Requiring the provision to the Council of adequate warranties in Contracts for the purchase of Goods.

Where the Contract relates to Services to be delivered to vulnerable groups, requiring compliance with the Council's safeguarding policies, procedures and practice requirements.

APPENDIX 3: NOTICES REQUIRED UNDER REGULATIONS

Procurement Act 2023 Notices

	Compulsory/ Optional	
Procurement Act 2023 Notice	Below Threshold	Above Threshold
Pipeline Notice	N/A	Compulsory for £2m and above.
Planned Procurement Notice	N/A	Optional
Preliminary Market Engagement Notice	Optional	Optional
Procurement Termination Notice	Optional	Compulsory
Tender Notice	N/A	Compulsory
Contract Award Notice	N/A	Compulsory
Contract Details Notice	N/A	Compulsory
Contract Change Notice	Compulsory	Compulsory (except Light Touch)
Contract Performance Notice	N/A	Compulsory (if over £5m, some exceptions including Light Touch)

Contract Termination Notice	Compulsory	Compulsory
Dynamic Market Notice	N/A	Compulsory
Transparency Notice	N/A	Compulsory
Payments Compliance Notice	N/A	Compulsory
Below Threshold Tender Notice	Compulsory (if advertised)	N/A
Below Threshold Award Notice	Optional	N/A
Below Threshold Contract Details Notice	Compulsory (for Notifiable Contracts)	N/A

Procurement Contract Regulations 2015 Notice

	Compulsory	
Procurement Contract Regulations 2015 Notice	Below Threshold	Above Threshold
Prior Information Notice	No longer used	
Contract Notice	No longer used	
Contract Award Notice	Yes (some exceptions)	Yes (some exceptions)

Voluntary ex ante transparency notice (VEAT)	Yes, if required	Yes, if required
Corrigendum	Yes, if required	Yes, if required

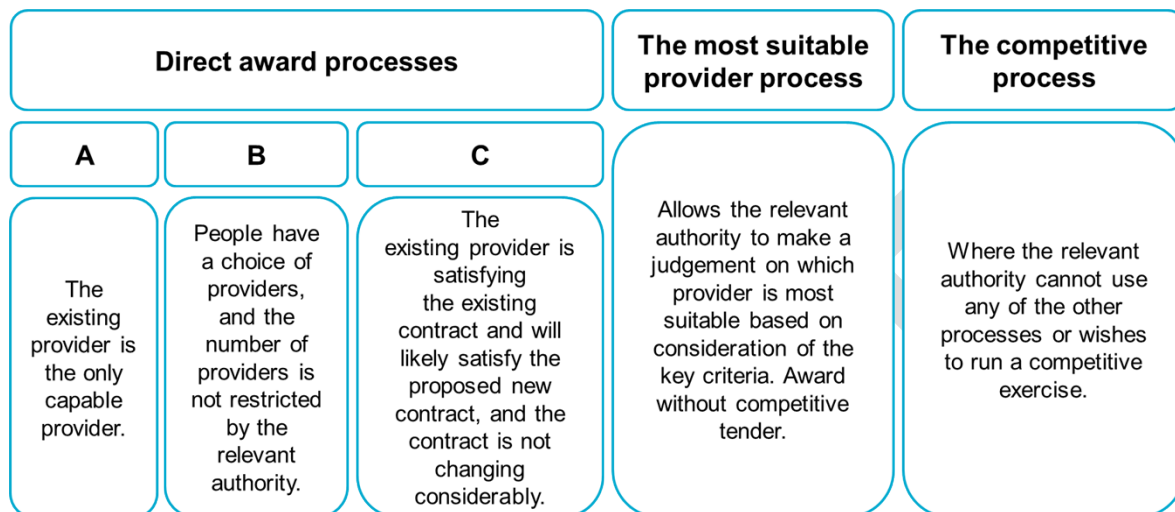
Provider Selection Regime 2023 Notice and communication

	Compulsory				
Provider Selection Regime 2023 Notice and communication	Direct award process A	Direct award process B	Direct award process C	The most suitable provider process	The competitive process
Notice of Award	Yes	Yes	N/A	N/A	N/A
Notice of Intention	N/A	N/A	N/A	Yes	N/A
Notice of Intention to Award	N/A	N/A	Yes	N/A	Yes
Award Notice	N/A	N/A	Yes	Yes	Yes
Communications to unsuccessful provider	N/A	N/A	N/A	N/A	Yes
Notice of Contract or framework agreement modification	Yes	Yes	Yes	Yes	Yes
Notice of urgent award	Yes	Yes	Yes	Yes	Yes
Notice of urgent modification	Yes	Yes	Yes	Yes	Yes

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APPENDIX 4: PSR PROCUREMENT PROCESS

The below illustrates the procurement processes in accordance with Part 2 of PSR2023:



Direct Award Process A or B

44.6. In following Direct Award Process, A, or B, the Council must:

- I. Ensure that the services you wish to procure under the regulations are listed in Schedule 1 of the PSR 2023.
- II. Complete the record sheet for that process.

44.7. Complete the appropriate internal process, including approvals required, to proceed to award.

44.8. Follow the process within the PSR, including publication of the required notice within 30 days of the contract being awarded.

Direct Award Process C

44.9. Where the Council follows Direct Award Process C, the process is that the Council:

- I. Ensure that the services you wish to procure under the regulations are listed in Schedule 1 of the PSR 2023.
- II. Complete the record sheet for that process.
- III. Complete the appropriate internal process, including approvals required, to proceed to award

- IV. Follow the process within the PSR, including observing a Standstill Period, and publication of the required notice within 30 days of the contract being awarded.

The Most Suitable Provider Process (PSR)

44.10. Where the Council follows the Most Suitable Provider Process, the process is that the Council follows the steps set out in Regulation 10 of the PSR,

- I. Ensure that the services you wish to procure under the regulations are listed in Schedule 1 of the PSR 2023.
- II. Complete the record sheet for that process.

44.11. Complete the appropriate internal process, including approvals required, to proceed to award.

44.12. Follow the process within the PSR without conducting a competition, including observing a Standstill Period, and publication of the required notice within 30 days of the contract being awarded.

The Competitive Process (PSR)

44.13. In following the Competitive Process, the Council must:

- I. ensure that the services to be procured are listed in Schedule 1 of the PSR 2023.
- II. obtain internal approval via the PRF or equivalent process.
- III. follow the steps set out in Regulation 11 of the PSR.
- IV. complete the record sheet for that process.
- V. follow the process within the PSR, including observing a Standstill Period, and publication of the required notice within 30 days of the contract being awarded.