



Date: 4 February 2025
My Ref AS/ESPO
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To: Members of the ESPO Finance and Audit Subcommittee

Dear Member,

ESPO FINANCE AND AUDIT SUBCOMMITTEE

A meeting of the Finance and Audit Subcommittee will be held at on Wednesday, 12 February 2025 at 10.30 am in the Sparkenhoe Committee Room, County Hall, Glenfield.

Members are reminded that a buffet lunch will not be provided after the meeting, although liquid refreshments will be available. Members are welcome to use the canteen at County Hall if they wish.

Yours faithfully,

Angie Smith
for Consortium Secretary

AGENDA

<u>Item</u>	<u>Report of</u>	<u>Pages</u>
1. Minutes of the meeting held on 13 November 2024.		(Pages 3 - 6)
2. Declarations of interest in respect of items on the agenda.		
3. To advise of any other items which the Chairman has decided to take as urgent elsewhere on the agenda.		



4. Internal Audit Service - Progress Against the 2024-25 Internal Audit Plan. (Pages 7 - 18)
5. Annual Internal Audit Plan 2025-26 and Plans for Implementing New Internal Audit Standards. (Pages 19 - 40)
6. Contract Procedure Rules Relating to the Procurement Act 2023. (Pages 41 - 102)
7. Date of next meeting.

The next meeting of the Subcommittee is scheduled to take place on 8 October 2025 at 10.30am.

8. Any other items which the Chairman has decided to take as urgent.
9. Exclusion of the Press and Public.

The public are likely to be excluded during consideration of the remaining items in accordance with Section 100(A)(4) of the Local Government Act 1972 (Exempt Information).

10. Financial Performance Update - Nine Months to December 2024. (Pages 103 - 112)
11. Budget 2025/26. (Pages 113 - 132)
12. Risk Review. (Pages 133 - 150)

Minutes of a meeting of the ESPO Finance and Audit Subcommittee held at County Hall, Glenfield, Leicestershire on Wednesday, 13 November 2024.

PRESENT

Mrs. S. Rawlins CC – Lincolnshire County Council (in the Chair)
 Mrs. M. Wright CC – Leicestershire County Council
 Cllr. M. Jamil – Peterborough City Council
 Cllr. P. Butlin - Warwickshire County Council
 Cllr. J. James – Norfolk County Council

Apologies

Cllr. N. Shailer – Cambridgeshire County Council

In Attendance

ESPO

Kristian Smith – Director

Gary Tapp – Acting Commercial Financial Controller

Leicestershire County Council

Simone Hines – Consortium Treasurer

Emma Jones – External Auditor, TC-Group

Anna Poole – Democratic Services

19. Minutes of the previous meeting.

The minutes of the meeting held on 30 October 2024 were taken as read, confirmed and signed.

20. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

No declarations were made.

21. Urgent items.

There were no urgent items for consideration.

22. External Audit of the 2023/24 Financial Statements.

The Subcommittee considered a report of the director and Consortium Treasurer concerning the External Audit of the 2023/24 Financial Statements. A copy of the report, marked 'Agenda Item 4', is filed with these minutes.

The Chairman welcomed Emma Jones from TC Group Limited to the meeting.

Members were informed that the audit was complete, and an unmodified opinion had been given. A Letter of Representation would be sent for signature with the accounts. The concerns identified within the audit were explained and Members were assured that these had now been resolved.

Arising from discussion, the following points were raised:

- i. The £74,000 identified as late adjustments for vehicle cameras was an accurate value.
- ii. Multiple stock takes were undertaken throughout the year by dedicated staff. Key stocktakes were undertaken during the school holiday period, when business was quieter. The extrapolation error identified was not related to missing stock, but to stock located elsewhere as ESPO had previously had a number of stock storage locations. It was expected that the new warehouse extension would remove the risk of this issue reoccurring.

RESOLVED:

That the external audit of the financial statements 2023/24 be approved.

23. 2023/24 Financial Statements and Annual Governance Statement.

The Subcommittee considered a report of the Director and Consortium Treasurer concerning the 2023/24 Financial Statements and Annual Governance Statement. A copy of the report, marked 'Agenda Item 5', is filed with these minutes.

RESOLVED:

That the Management Committee be recommended to approve the 2023/24 financial statements, the Annual Governance Statement 2023/24 and the proposed dividend pool of £6.1m to be paid in December 2024.

24. Date of next meeting.

RESOLVED:

It was noted that the next meeting of the Committee would be held on Wednesday 12 February 2025 at 10.30am.

25. Exclusion of the Press and Public.

RESOLVED:

That under Section 100 (A) (iv) of the Local Government Act 1972 the public be excluded from the meeting for the remaining items of business on the grounds that it would involve the disclosure of exempt information as defined in the Act and that in all circumstances the public interest in maintaining the exception outweighs the public interest in disclosing the information.

26. Financial Performance Update - 5 Months to August 2024.

The Subcommittee considered a report of the Director and Consortium Treasurer which provided an update on the financial performance in 2024/25, covering the five

months to the end of August 2024. A copy of the report, marked 'Agenda Item 9', is filed with these minutes.

The exempt report was not for publication as it contained information relating to the financial or business affairs of a particular person (including the authority holding that information).

RESOLVED:

That the update provided on the financial performance of ESPO in 2024/25, covering the five months to the end of August 2024, be noted.

27. Risk Review.

The Subcommittee considered a report of the Director and Consortium Treasurer which provided an overview of ESPO's risk landscape. A copy of the report, marked 'Agenda Item 10', is filed with these minutes.

The exempt report was not for publication as it contained information relating to the financial or business affairs of a particular person (including the authority holding that information).

In presenting the report, the Director explained that no significant changes had occurred to the top five risks detailed in the Appendix since the last report to the Subcommittee.

RESOLVED:

That the overview of ESPO's risk landscape be noted.

10.00am to 10.46 am
13 November 2024

CHAIRMAN

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ESPO FINANCE AND AUDIT SUBCOMMITTEE – 12 FEBRUARY 2025

INTERNAL AUDIT SERVICE - PROGRESS AGAINST THE 2024-25

INTERNAL AUDIT PLAN

REPORT OF THE CONSORTIUM TREASURER

Purpose of the Report

1. The purpose of this report is to provide the Finance and Audit Subcommittee (the Subcommittee) with a summary of work undertaken by Leicestershire County Council's Internal Audit Service (LCCIAS) during the period 1 April 2024 to 29 January 2025.

Background

2. The Consortium Treasurer (the Treasurer) is responsible for the proper administration of ESPO's financial affairs. In accordance with ESPO's Financial Regulations Rule 15, specific responsibility for arranging a continuous internal audit is delegated to the Treasurer. Under its terms of reference, the Finance and Audit Subcommittee (the Subcommittee) should receive and approve Internal Audit reports (annual plans, progress and annual reports, and the Internal Audit Charter), escalating any high importance recommendations and significant governance concerns to the Management Committee for review. The Subcommittee also monitors the adequacy and effectiveness of the internal audit service provided to ESPO. To achieve this, the Subcommittee is provided with periodic progress reports.
3. The audits undertaken are based on the Annual Internal Audit Plan (the Plan). Variations to the Plan can occur but need to be considered with and agreed by the Treasurer and the Director of ESPO.
4. The 2024-25 Plan was approved by the Subcommittee at its meeting on 14 February 2024. The scope of the audits and progress against them is shown in the Appendix to this report.

Summary of Progress

Audit Opinion:

5. Where audits undertaken are an 'assurance' type i.e., the auditor is able to objectively examine evidence for the purpose of providing an independent assessment, then an 'opinion' can be given i.e., the level of assurance that material risks are being managed. There are four levels of assurance: full; substantial; partial; and little.
6. On occasions, the audit might require a high importance (HI) recommendation, denoting that (based upon a combination of probability and impact) in our opinion a significant weakness either exists or potentially could arise and therefore the systems objectives are seriously compromised. A report that has a HI recommendation would not normally get an opinion above partial assurance. Exceptions would be where the controls are sound but there is a high importance efficiency recommendation.
7. The sum of individual engagement opinions assists the Head of Internal Audit Service (HoIAS) to form an annual opinion on the overall adequacy of ESPO's control environment, comprised of its governance, risk management and internal control framework
8. Consulting/advisory audits do not result in an opinion but are taken into account in the HoIAS annual opinion.

High Importance (HI) Recommendations

9. It is pleasing to note that to date 2024-25 coverage has not resulted in any HI recommendations and/or partial opinion reports and there are no legacy HI recommendations from previous financial years.

2024-25 Progress to date

10. A summary of progress is as follows:

<u>Type</u>	<u>Number</u>	<u>Opinion</u>	<u>Reference</u>
Current year completed to at least draft report stage or on-going consultancy work	8	1 x Prior Year allocation to finalise 23-24 audits	24-25 – A 5 x Advice concluded Covering prior year audits: 23-24 (F, J, N. O & R). 3 x Final Report – Substantial Assurance

			Covering prior year audits: 23-24 (H, L & M).
	11	Final Reports	<p>Annual Governance - Areas for further development</p> <p>Cyber - Advisory Follow Up</p> <p>Warehouse Expansion Project Board – Advisory Complete</p> <p>IT Developments</p> <p>Warehouse Expansion - Risk Mitigation Temporary Revised Ways of Working</p> <p>Warehouse Expansion - Risk Mitigation Temporary Revised Ways of Working</p> <p>Temporary staff - pre-employment & onboarding processes</p> <p>Cashflow</p> <p>Dividend Calculation</p> <p>Counter Fraud - Fuel Cards</p> <p>Counter Fraud - Purchase Cards</p> <p><i>All substantial assurance or advisory</i></p>
	1	Draft Report	IT general controls
Work in progress	9	N/A currently as audits are at various stages	<p>Counter Fraud NFI (*1)</p> <p>Emerging Risks (*1)</p> <p>General Financial Systems</p> <p>Rebates Income (*2)</p>

			Procurement Enterprise Resource Planning Migration Safe Systems of Working - Warehouse Expansion Value for Money Product Benchmarking (*2) Contingency (*1) *1 = Planned to continue until the end of the financial year *2 = Will naturally straddle two financial years
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11. There are valid reasons for audits that are currently classified as work in progress for example:
- Needing to be undertaken in the final quarter due to sample size requirements and/or project completion dates
 - Timetabled around changes to legislative requirements e, g, Procurement Act
 - On-going work throughout the financial year
 - Work straddling two financial years.
12. At this period in the financial year, reasonable assurance can be given that the audits are on track to be delivered subject to the usual caveats i.e.
- Actual time required to complete an audit being longer than budgeted
 - Any work that logically straddles more than one financial year
 - Unforeseen resourcing issues in the remaining two months for either ESPO or Internal Audit.
13. The Appendix summarises progress against the 2024-25 plan. Audit reference numbers (in the sequence of the agreed internal audit plan) and type (governance, risk management and internal control) have been added to track each audit's progress. The bold font indicates changes since the last update to this committee on 30 October 2024.

Recommendation

14. That the Committee notes:
- a. the progress against the 2024-25 Plan
 - b. that there are no high importance recommendations within the Committee's domain

Equal Opportunities Implications

15. There are no discernible equal opportunities implications resulting from the audits listed.

Background Paper

Report to ESPO Finance & Audit Sub Committee 14 February 2024 – Annual Internal Audit Plan 2024-25,

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=1014&MId=7517&Ver=4>

Officers to Contact

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Appendix

Appendix Summary progress against 2024-25 audits as at 29 January 2025

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Summary progress against 2024-25 audits as at 29 January 2025

Audits 'completed' to at least draft issued stage and/or on-going advisory work/Prior year jobs

<u>Ref¹</u>	<u>Type²</u>	<u>Audit title</u>	<u>Assurance objective</u>	<u>Position @ 29 January 2025</u>
24/25 - A	Various	Continuation of work commenced in 2023-24	To complete any outstanding audits that overlap the financial year	<p><u>5 x Advice concluded</u></p> <ul style="list-style-type: none"> • Warehouse Project Board (23/24 – F) • Emerging Risks (23/24 – J) • Rebates Income (23/24 – N) • Procurement (23/24 – O) • Contingency (23/24 – R) <p><u>3 x Final Report – Substantial Assurance</u></p> <ul style="list-style-type: none"> • IT Developments (23/24 – H) • General Financial Systems (23/24 – L) • IT General Controls (23/24 – M)
24/25 - B	Governance	Annual Governance - Areas for further development	Areas of the Annual Governance Statement highlighted for further development have been addressed (covering supplier code of	Final report issued – Substantial Assurance

			conduct/ethical standards, legislative compliance, carbon strategy/targets, cyber security	
24/25 - C	Governance	Cyber Security	Adequate Cyber Security arrangements are in place in accordance with nationally issued good practice guidance and associated self-assessment - focus will be on the 18 actions that remained either outstanding or WiP during our 23/24 coverage	<p>Final Report Issued – Advisory (Follow Up of Recommendations)</p> <p>Of the remaining 18 recommendations in the original report:</p> <ul style="list-style-type: none"> • 7 had been fully implemented • 11 are in the process of being actioned (none of which are deemed high risk) • No recommendations remain outstanding/ yet to be progressed (the last audit highlighted 3 such instances).
24/25 - D	Risk Management	Warehouse Expansion Project Board	Robust Governance and Management of Risk in the delivery in respect of the additional warehouse capacity at Grove Park (Critical friend project board role)	On-going advisory work as part of Project Board now complete post go live
24/25 - F	Risk Management	IT Developments	Work to be conducted in accordance with ESPO IT Key Deliverables 23/24	Final report issued – Substantial Assurance
24/25 - G	Risk Management	Warehouse Expansion - Risk Mitigation Temporary Revised	Assessment of Temporary Health & Safety, Business Continuity & Security Risk Mitigation Procedures in place	Final Report Issued – Substantial Assurance

		Ways of Working		
24/25 - J	Internal control	IT general controls ⁽³⁾	The range of Information Technology General Controls (ITGC) expected by the External Auditor are well designed and consistently applied.	Draft Report Issued.
24/25 - N	Internal control	Temporary staff - pre-employment & onboarding processes	All necessary pre-employment and onboarding requirements have been undertaken	Final Report Issued – Substantial Assurance
24/25 - P	Internal control	Cashflow	Provide assurance that cashflow calculations are timely and accurately inform business decision making.	Final Report Issued – Substantial Assurance
24/25 - Q	Governance	Dividend Calculation	The dividend calculation is robust and accurate and has appropriate oversight and approval	Final Report Issued – Substantial Assurance
24/25 - R	Internal control	Counter Fraud - Fuel Cards	Fuel card spend is for authorised business purposes and aligns to policy	Final Report Issued – Substantial Assurance
24/25 - S	Internal control	Counter Fraud - Purchase Cards	Purchase card spend is appropriate and aligns to corporate policy	Final Report Issued – Substantial Assurance

Audits in progress

<u>Ref</u>	<u>Type²</u>	<u>Audit title</u>	<u>Assurance objective</u>	<u>Position @ 29 January 2025</u>
24/25 - E	Risk Management	Counter Fraud - NFI specific	Ensure relevant data is extracted at 30 September 2024, uploaded in October 2024 and assessment of output reports commenced in Feb 2025 with the overall objective of results being correctly interpreted and investigated on	On going advisory work until the end of the financial year Note: The nature of this work means it will conclude in 2025/26.

			a risk-assessed basis and have due regard for a segregation of duties (report of resultant findings in Q1/2 of 25/26)	
24/25 - H	Risk Management	Emerging risks	ESPO identification and preparedness for any emerging risks e.g. Legislative changes, continued adjustments because of legislative requirements, material changes to the 5-Year business strategy and other 'in year' matters requiring urgent attention	On-going advisory work until end of Quarter 4
24/25 - I	Internal control	General Financial Systems ⁽³⁾	To discuss with the External Auditor and the ESPO Financial Controller/Consortium Treasurer, but typical coverage includes reconciliations; receivables; payables; payroll and stock	Testing currently being undertaken. Due for completion in Quarter 4
24/25 - K	Internal control	Rebates income	Annual audit to evaluate whether rebates received conform to estimates of supplier business generated - focus will be on site visits	Testing Stage Will straddle two financial years
24/25 - L	Governance	Procurement	Policies and procedures in place have due regard for legislative requirements and timeliness and appropriateness of decision making (Key focus being Transforming Public Procurement requirements and associated governance and training)	Draft report currently being reviewed Originally due for completion in Quarter 3 now Quarter 4 due to Procurement Act delay until February 2025.
24/25 -M	Risk Management	Enterprise Resource Planning Migration	Migration of ESPO's Enterprise Resource Planning (ERP) System to externally hosted software as a service offering	Testing Stage Due for completion in Quarter 4.

24/25 - O	Risk Management	Safe Systems of Working - Warehouse Expansion	Revised safe systems of working are in place and staff are adequately trained prior to go live with revised warehouse layout	Remains work in progress - Testing Complete – Awaiting additional information requirements identified to sign off.
24/25 - T	Governance	Value for Money Product Benchmarking	Policies and procedures to ensure ESPO continuously benchmark key product ranges against competitors and make timely adjustments where appropriate/economical to do so	Work commenced – but will continue in 2025/26.
24/25 - U	Internal control	Contingency	Unforeseen events brought to the attention of the Head of Internal Audit Service by either ESPO Leadership Team or the Consortium Officers - examples may include loss of customers/business, MTFs targets not being met, Failure to retain staff, staff sickness, energy related risks, major health & safety/legislative issue, warehouse issues, supply chain issues, adverse reputational issue, climate change, risks associated with ways of working	On-going ad-hoc advisory

Audits not started

None

Deferred/cancelled audits

None

¹unique reference numbers based on the financial year in question (i.e. '25/26-A' relates to the first entry on the approved 2025/26 audit plan)

²the three elements of the control environment (governance, risk management and internal control)

³traditionally audits where the external auditor has utilised the work of internal audit to inform its risk assessment



ESPO FINANCE & AUDIT SUBCOMMITTEE – 12 FEBRUARY 2025

REPORT OF THE CONSORTIUM TREASURER

ANNUAL INTERNAL AUDIT PLAN 2025-26 & PLANS FOR IMPLMENTING NEW INTERNAL AUDIT STANDARDS

Purpose of Report

1. The purpose of this report is to: -
 - a. seek the Finance and Audit Sub-Committee's approval of the ESPO Internal Audit Plan 2025-26
 - b. inform the Subcommittee of the Head of Internal Audit Service's plans for implementing the Global Internal Audit Standards (GIAS) in the UK Public Sector from 1 April 2025.

Background

2. The Finance & Audit Subcommittee (the Subcommittee) has a delegated function to, 'receive and approve Internal Audit annual reports (annual plans, progress and annual reports, and the Internal Audit Charter), escalating high importance recommendations and significant governance concerns to the Management Committee for review'.
3. The Consortium Treasurer (the Treasurer) is responsible for the proper administration of ESPO's financial affairs and has a specific responsibility for arranging a continuous internal audit of those affairs. The Treasurer arranges for Leicestershire County Council's Internal Audit Service (LCCIAS) to provide internal audit for ESPO.
4. The outcome of an independent external quality assessment undertaken in the Spring of 2024 was that LCCIAS conforms to the Public Sector Internal Audit Standards (the PSIAS). The PSIAS will be replaced with new internal audit standards from 1 April 2025 and details of the transition are explained later in this report.
5. The PSIAS require the Head of Internal Audit Service (HoIAS) to form an annual opinion on the overall adequacy and effectiveness of ESPO's control environment (its framework of governance, risk management and control). In order to form an opinion, the scope of internal audit work needs to be wide. The

PSIAS require the HoIAS to prepare a risk based internal audit plan to determine the priorities of the internal audit activity, consistent with the organisation's goals.

6. The HoIAS' opinion helps to inform either the traditional Annual Governance Statement (a requirement under the Accounts and Audit Regulations 2015, which apply to the Member Authorities comprising ESPO), or any alternative report following ESPO's adoption of International Financial Reporting Standards (IFRS).

Planning methodology

7. The Director of ESPO and the Leadership Team identify and manage risk and where it is required, design, implement and operate robust internal control systems. Targeted internal audits have identified continuing improvements to governance and risk management at ESPO, so to ensure that current and emerging risks are adequately covered the audit plan is aligned with the Corporate Risk Register, the Business Strategy and Governance Reporting.
8. To further develop the scope of audit coverage, the HoIAS researches and evaluates where other/additional risk might occur to ESPO using methods including:
 - a. Consulting on emerging risks, planned changes and potential issues with the Director and the Leadership Team and the Consortium Treasurer and Secretary.
 - b. Evaluation of governance arrangements e.g. plans, committee reports, accounts, risk register and governance statements
 - c. Identification and evaluation of the robustness of other forms of assurance received including reviewing the External Auditor's Report
 - d. Where available, comparisons against similar purchasing consortia audit plans.
 - e. 'Horizon scanning' new and emerging risks from professional and industry sources
 - f. The risks to critical 'business as usual' systems when focus shifts elsewhere
9. Part of the plan requires annual audits on key elements of the financial and IT systems.
10. Any other significant projects for example material changes to ESPO's business risks or significant ICT developments would be targeted for audit. GDPR compliance continues to be covered as part of Leicestershire County Council's audit coverage, but any findings of relevance will be reported to ESPO members. A contingency is retained for consulting (advisory), unforeseen risks, special projects and investigations. An allocation is reserved for the HoIAS' role in governance requirements (attendance at committees, forming the annual

opinion and reports etc) and progressing any high importance recommendations.

11. The Consortium Treasurer and Secretary are consulted.

The Internal Audit plan 2025-26

12. The plan for 2025-26 is attached at **Appendix 1**. It contains a wide scope of audits that should allow the HoIAS to form an opinion on the overall adequacy and effectiveness of ESPO's control environment.
13. The first column indicates which component of the control environment the audit primarily matches (there is quite often overlap).
14. The 2025-26 plan aims to give the optimum audit coverage within the resources available. Though it is compiled and presented as a plan of work, it must be stressed that it is only a statement of intent, and there is a need for flexibility to review and adjust it as necessary in response to changes in ESPO's business, risks, operations, programs, systems, and controls. The HoIAS will discuss and agree any material changes with the Director of ESPO and Consortium Treasurer and Secretary and these would be reported to the relevant Committee dependent on timing.
15. Detailed Terms of Engagement covering each audit's scope, timing and any areas for exclusion are agreed with the relevant risk owners (Assistant Director) in advance of each audit.

Progressing the Audit Plan

16. Responsibility for the evaluation and management of risk and the design and consistent operation of internal controls rests with ESPO management. LCCIAS' role and responsibility is to carry out independent and objective audits and give an opinion on the extent to which risk is being managed and (where appropriate) make recommendations to improve controls.
17. On completion of each audit, findings will be discussed with the appropriate risk owner before issuing a report to the Director and the Treasurer. The opinions reached, along with summary findings are reported each quarter to the Director and the Treasurer and will be reported more formally to the Sub-Committee at its scheduled meetings, with any urgent matters in the interim periods being brought to the attention of the Management Committee.
18. If any audit produces a 'high importance' recommendation, then details would be shared with the Sub-Committee and escalated to the Management Committee for review dependent on timing. Specific re-testing is undertaken later in the year to prove that control has improved and is embedded.

Plans for implementing the Global Internal Audit Standards in the UK Public Sector from 1 April 2025

19. At its meeting on 30 October 2024, the Sub-Committee was advised that new GIAS were being introduced from January 2025. The UK public sector Internal Audit Standards Advisory Board had determined the new GIAS were applicable to the internal audit of UK public sector bodies (subject to a small number of additional requirements and interpretations) and would replace the current Public Sector Internal Audit Standards (PSIAS) but from a later date, 1 April 2025. The Subcommittee received two documents which at the time were being consulted on:
- a. **The Application Note: Global Internal Audit Standards in the UK Public Sector.** This provides interpretations of GIAS requirements in the specific circumstances which are expected to apply across the UK public sector, and some additional requirements which are essential for the practice of internal audit in the UK public sector but are not set out in the GIAS. They include specific mention of requirements for annual opinions and governance statements, and a presumption that Heads of Internal Audit will be both professionally qualified and have appropriate public sector skills and knowledge.
 - b. **Code of Practice for the Governance of Internal Audit in UK Local Government.** This was proposed by the Chartered Institute of Public Finance and Accountancy (CIPFA) to meet a GIAS 'essential condition' relating to Governing the Internal Audit Function. The Code would apply to all principal authorities in UK local government. By ensuring effective arrangements for internal audit, authorities would support the best use of their resources and robust governance. CIPFA proposed that the Code applied to the governance of internal audit and is the responsibility of those charged with governance within a local government body. The Code sets out the conditions for internal audit, consistent with existing CIPFA guidance and governance within the sector. For heads of internal audit, the Code would meet the same objectives as the 'essential conditions' set out in the GIAS, but in a way that is appropriate for UK local government.
20. The HoIAS responded to both consultations supporting their content and proposals. In November CIPFA issued a Better Governance Forum Audit Committee Update, an extract of which is attached at **Appendix 2**. The update briefly introduces the forthcoming changes to the GIAS (pages 4 and 5) and the proposed Code of Practice (bottom of page 5 and top of page 6). The document considers the impact on audit committee members and suggested questions that members might wish to ask are included.
21. The Application Note: Global Internal Audit Standards in the UK Public Sector was approved in December to be in force from 1 April 2025. Auditors working in the UK public sector must follow the requirements of the GIAS subject to the

interpretations and additional requirements set out in the Application Note. When expressing conformance with standards, auditors must be clear that they are conforming to the GIAS subject to the Application Note and must refer to this as conformance with GIAS in the UK Public Sector.

22. Whilst 1 April is the effective date for the new standards, internal audit teams will not be expected to demonstrate full conformance on this date. They must work in accordance with the new standards from 1 April and by doing so will build up their conformance. At the time of compiling this report, guidance on implementation was continuing to be provided. CIPFA has published a suggested 'Timeframe for the implementation of the GIAS and the Application Note'. Whilst this guidance will help the HoIAS and members of the audit management team understand the changes to internal audit standards and the transition the team will be making at various points during the next year, it is useful to share with the Subcommittee and so it is included as **Appendix 3**. In addition to formal guidance and webinars, the HoIAS continues to attend engagement webinars and share templates and information with his Head of Internal Audit colleagues.
23. There are a number of new standards to review and implement and the HoIAS is completing a 'gap analysis' reviewing current processes against the 15 GIAS Principles, identifying any obvious gaps and creating a plan of actions. Additionally, training and development plans and communications plans will be required, and methodologies will need to be reviewed.
24. The HoIAS is also compiling/revising some key governance documents that will support the internal audit function for ESPO i.e. a new requirement for an internal audit strategy and a new requirement to add a mandate for internal audit to a revised internal audit charter. These will require approval from the Director of ESPO and the Consortium Treasurer and Secretary and the Subcommittee by 1 April 2025. The Subcommittee is therefore asked to delegate this approval to the relevant officers following consultation with the Subcommittee Chair.
25. The proposal for a Code of Practice for the Governance of Internal Audit in UK Local Government (the Code) was approved in January, but at the time of compiling this report a revised, final version had not been issued. The Code will be referenced in the revised charter, and there will be a requirement for an annual review of the Code with conformance reported in the Annual Governance Statement (or equivalent governance statement). The Code will also require adoption by the Director of ESPO and the Leadership Team, the Consortium Treasurer and Secretary, and the Subcommittee.

Resource Implications

26. The budget for the provision of the internal audit service is contained within ESPO's Medium Term Financial Strategy under charges by the Servicing Authority. The 2025-26 plan has been agreed on an indicative 150 days. This level of coverage should enable the HoIAS to provide overall reasonable

assurance to the Consortium Treasurer the risks that ESPO is facing are being managed.

27. The impact of implementing new internal audit standards as they apply to ESPO will mostly occur in the current financial year and will be reflected in a larger amount of time spent on corporate governance requirements.

Conclusions

28. The detail of the 2025-26 internal audit plan is attached in Appendix 1 to this report. The plan has been discussed and agreed with the Consortium Treasurer, Consortium Secretary, and the Director of ESPO.
29. Work to implement new internal audit standards is ongoing.

Recommendation

30. The Subcommittee is requested to:
- a. Approve the ESPO Internal Audit Plan 2025-26
 - b. Note the Head of Internal Audit Service's plans for implementing the Global Internal Audit Standards in the UK Public Sector from 1 April 2025.
 - c. Delegate approval of the internal audit strategy and internal audit charter to the Director of ESPO and the Consortium Treasurer and Secretary, following consultation with the Chairman of the Subcommittee.

Equal Opportunities Implications

There are no known direct implications resulting from the internal audit plan strategy, although 'human resource' elements will be audited.

Background Papers

The Public Sector Internal Audit Standards (2017)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/641252/PSAIS_1_April_2017.pdf

Reports to ESPO Finance & Audit Subcommittee

- 30 October 2024 – Internal Audit Progress Against the 2024-25 Plan and Internal Audit Updates

- Outcome of the Independent External Quality Assessment of LCCIAS
 - Consultations on proposed changes to the Public Sector Internal Audit Standards (PSIAS) and proposals to introduce a Code of Practice for the Governance of Internal Audit in UK Local Government
- 12 February 2024 – Annual Internal Audit Plan 2024-25, External Quality Assessment and Internal Audit Charter

Officers to Contact

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Appendices

Appendix 1	ESPO Internal Audit Plan 2025-26
Appendix 2	Extract from Audit Committee Update (November 2024)
Appendix 3	'Timeframe for the implementation of the GIAS and the Application Note'

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ESPO Internal Audit Plan 2025-26				
Reference	Control env't component	Entity	The indicative audit objective is to ensure that...	Risk Req
ESPO 25/26 - A	Various	Continuation of work commenced in 2024-25	Any outstanding audits that overlap the financial year are promptly completed	Various
ESPO 25/26 - B	Governance	Annual Governance - Areas for further development	Areas of the 2023/24 Annual Governance Statement highlighted for further development have been addressed.	8 & also indirectly all other risks
ESPO 25/26 - C	Governance	Cyber Security	Adequate Cyber Security arrangements are in place in accordance with nationally issued good practice guidance and associated self-assessment - focus will be on the 11 actions that remained WIP from our 24/25 coverage	1, 8, 20, 79 & 82
ESPO 25/26 - D	Internal control	Stock	Controls and procedures in place mitigate the risk of any discrepancies (including frequency of stock take) are operating correctly	8 & 20 & Indirectly 57, 59, 67 & 76
ESPO 25/26 - E	Risk management	Counter Fraud - NFI specific	Results (output reports) are correctly interpreted and investigated on a risk-assessed basis and have due regard for a segregation of duties. <i>Note: This is Part 2 of the audit. Part one was in the previous financial year and involved ensuring the requisite data was extracted at 30 September, subsequently uploaded in October and resultant output reports were distributed in Jan/Feb.</i>	20 & 82 & indirectly 8
ESPO 25/26 - F	Risk management	Fraud Risk Assessment	There is a full assessment of fraud risks to the organisation in line with the principles set out within the CIPFA Code of Practice - Managing the Risk of Fraud and Corruption.	20 & 82 & indirectly 8
ESPO 25/26 - G	Internal control	Counter Fraud Audit	Potential fraud vulnerabilities in a specific area are correctly identified and adequately mitigated against (<i>Note: Auditable area will be informed by the results of the Fraud Risk Assessment</i>)	20 & 82 & indirectly 8
ESPO 25/26 - H	Risk Management	Emerging risks	ESPO identification and preparedness for any emerging risks e.g. Legislative changes, material changes to the 5-Year business strategy and other 'in year' matters requiring urgent attention	Various
ESPO 25/26 - I	Internal control	General Financial Systems (*)	To discuss with the External Auditor and the ESPO Financial Controller/Consortium Treasurer, but typical coverage includes reconciliations; receivables; payables; payroll and stock	1, 5, 6, 8 & 20
ESPO 25/26 - J	Internal control	IT general controls (*)	The range of Information Technology General Controls (ITGC) expected by the External Auditor are well designed and consistently applied.	1, 5, 8, 20, 30, 34, 47, 48, 71, 79, 82, 84 & 94
ESPO 25/26 - K	Internal control	Rebates income - Supplier Visits	Annual audit coverage to evaluate whether rebates received conform to estimates of supplier business generated - focus will be on concluding site visit related work commenced in 24/25	45, 46 & also indirectly 6, 25, 58 & 89
ESPO 25/26 - L	Governance	Procurement	Regulations and the associated policies and procedures have been correctly applied in accordance with the tender date (focus to be on notice requirement & the assessment summary)	80 & 95, and indirectly 8, 32, 35, 37 & 52
ESPO 25/26 - M	Risk management	Framework Agreements	Up to date Framework agreements are in place for all suppliers.	45, 46 & also indirectly 6, 25, 58, 88 & 89
ESPO 25/26 - N	Internal Control	Energy - Customer Billing	Fully managed gas service is correctly invoiced to customers	22, 36, 38, 64, 96
ESPO 25/26 - O	Risk management	Business Continuity	That the risk of business inoperability is minimised and appropriate risk mitigating actions are taken (<i>incorporating simulation exercises completed</i>)	1, 8, 34,
ESPO 25/26 - P	Governance	Heath & Safety Reporting	Incidents and Near Misses are promptly and accurately recorded and communicated to enable prompt and appropriate mitigating actions to be put in place	8, 33, 34, 70, 85
ESPO 25/26 - Q	Risk management	Loss of/Reduction in Business	Specific Mitigating Controls within the Risk Register are accurate, operating as intended and reduce the risk accordingly	2, Indirectly 6, 49, 51, 60, 67, 76, 83, 86, 98 & 99
ESPO 25/26 - R	Governance	Value for Money Product Benchmarking	Policies and procedures to ensure ESPO continuously benchmark key product ranges against competitors and make timely adjustments where appropriate/economical to do so	2, 8, 10, 25, 41, 57, 66 & 91
ESPO 25/26 - S	Various	Contingency	Unforeseen events brought to the attention of the Head of Internal Audit Service by either ESPO Leadership Team or the Consortium Officers - examples may include: Risk of business failure by debtors, legalistive issues, staff retention and absence, failure of banking and/or investment partner, health & safety issue, stores/trading & brand issue, product Safety Issue, supply chain issue etc	Various
ESPO 25/26 - T	N/A	Client management	Planning & research; progress meetings; servicing Committees; HoIAS requirements; confirming implementation of HI recommendations; External Audit liaison; advice	N/A
Total Days				150
(*) Annual audits undertaken that may assist the External Auditor				

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Audit Committee Update

Helping audit committees to be effective

Issue 40
November 2024

Oversight and support of internal audit – the role of the audit committee

Introduction

Dear audit committee member,

Welcome to the latest issue of Audit Committee Update from the [CIPFA Better Governance Forum](#). This resource aims to support audit committee members in their role by helping to keep them up to date.

In this issue, we consider the forthcoming changes to the internal audit standards and consider how that will impact on audit committee members. CIPFA will be issuing more updates and resources over the next few months. Ask your head of internal audit for the latest position.

There is also a summary of resources and links to help audit committee members in their work.

I hope you will find this issue interesting, and helpful in your work on the committee.

Best wishes,

Diana Melville

CIPFA Better Governance Forum

Sharing this document

Please circulate this briefing widely to your organisation's audit committee members and colleagues. It can also be placed on an intranet.

Audit Committee Update is covered by CIPFA's copyright and so should not be published on the internet without CIPFA's permission. This includes the public agendas of audit committees.

This issue is open to all, but other issues of Audit Committee Update are restricted to the organisations that subscribe to the Better Governance Forum.

Receive our briefings directly

A link to this briefing will be included in the CIPFA Better Governance Forum subscribers' newsletter. It can then be shared with that organisation's audit committee members.

If you have an organisational email address (for example, jsmith@mycouncil.gov.uk), then you will also be able to register on our website and download any of our guides and briefings directly. To register, please visit cipfa.org/register.

Internal audit standards

Changes impacting on your internal audit service

This article will help audit committee members understand the changes to internal audit standards and the transition your team will be making.

What's changing and when?

From 1 April 2025 internal audit teams in the public sector will be working to new internal audit standards. These will be a combination of the [Global Internal Audit Standards](#) (GIAS) and the [Application Note, Global Internal Audit Standards in the UK Public Sector](#). The consultation on the Application Note closed at the end of October, and it is anticipated that the final version will be published before the end of the year.

How significant a change is this?

It is a significant change that will mean your internal audit team must update their charter and audit manual to reflect the new standards. They will also need to provide training to team members. They will need to review their working practices to make sure they comply with the standards or have an action plan to achieve that conformance.

While much of the day-to-day practice of undertaking audit engagements will not change, the team will need to make sure those engagements fulfil the new standards. Reports, plans and charters will need to be updated to reflect the standards.

Do the standards expect more from the team?

An internal audit team that fully conforms with the current standards (the Public Sector Internal Audit Standards or PSIAS) should have most of the practices it needs. There are some additional requirements, and the Application Note should help with those. **But time will still be needed to make the transition and build familiarity.** The introduction of new standards is an opportunity to look ahead to see what both the team and the organisation need.

Examples of changes:

- One of the new requirements is a 'mandate' for internal audit (Standard 6.1). However in local government, internal audit's primary mandate comes from statutory regulations issued by the national governments. **Most internal audit charters already refer to this mandate in their charters.** With some changes, an up-to-date mandate and charter can be agreed.
- **GIAS Standard 9.2 requires an internal audit strategy.** This is new, but the service should be able to build on the existing requirement in PSIAS (2010 Planning) for a strategic statement of how the service will be delivered and developed.
- The standards on ethics and professionalism have been expanded **including new sections on professional courage and professional scepticism.** This will require training for the team.
- **Internal audit plans (Standard 9.4) should support the achievement of the organisation's objectives.** Many teams already demonstrate that link.

Each head of internal audit should be able to update the audit committee on the specific work they need to undertake.

How can the audit committee know if the internal audit service conforms with the new standards?

The standards come in on 1 April 2025 and the first evidence of their use is likely to be the update of the charter, including the mandate, the audit strategy and plan. Each of these will be brought to the audit committee for agreement.

As the 2025/26 year progresses the service will gradually be able to evidence their conformance with standards:

- Engagements will be completed and reported to the client in accordance with the standards.
- Updates to the audit committee will include not only issues arising from engagements, but other matters required by the standards, such as significant changes to audit plans.
- Progress updates on the transition.
- At the end of 2025/26, when the head of internal audit completes their annual conclusion and report, they should be able to assess whether they are fully conforming with the standards and identify any improvement areas.

It is important to realise that no internal audit team will be fully in conformance with the standards on 1 April 2025/26. Until audits are completed and the outcomes reported, the evidence of practical conformance will not be there. Your head of internal audit should be able to update you on progress.

Will the service need to go through a new external quality assessment?

The standards continue to require an external quality assessment (EQA) at least once every five years. You don't need to amend your cycle, so if the service had an EQA two years ago, then the next will be due in three years' time.

If the EQA is due in 2025, then this will present some practical problems. Until engagements are completed and reports made to the audit committee etc, the evidence of conformance will not be there, even though methodologies may be in place. The assessment will be more relevant at the end of the year.

If you buy in internal audit services or use an audit partnership rather than have an in-house team, then a different approach to the EQA will be needed. The standards require the EQA to consider all aspects of internal audit, including its governance. An internal audit provider's EQA will need to be specific to each client, or each client will need to commission their own EQA. As the standards are implemented EQA providers will amend their approach.

Does the audit committee need to change?

Possibly.

To achieve conformance with the standards the organisation will need to demonstrate that all aspects of the standards are met, including the governance of internal audit. This covers the oversight and support for internal audit from the audit committee and senior management.

To assist local government bodies achieve conformance, CIPFA will be introducing a [new Code of Practice on the Governance of Internal Audit in Local Government \(the Code\)](#). This is currently out for consultation until 28 November. The Code draws on existing CIPFA guidance for audit committees and support for the head of internal audit in public sector organisations and aligns these with the expectations that are set out in the GIAS. Further

details on how the Code aligns are in [Comparison of Code to existing guidance](#). CIPFA welcomes comments from audit committee members on the consultation.

If your audit committee is currently working to CIPFA's recommended practice for audit committees in local government, then the provisions of the Code should be achievable. The terms of reference of the committee should be updated to make this clear.

If you have new members on the committee, or you are not sure about your responsibilities towards internal audit, then training or briefings will help. [When you prepare your annual report for the committee, or conduct an effectiveness review or self-assessment, the committee should reflect on how well it fulfils the Code and whether actions are needed to support internal audit more.](#)

After the Code is finalised, CIPFA will provide a separate briefing for audit committee members.

Some suggested questions for audit committee members

The following questions will help you understand how the changes to internal audit standards affects your internal audit service:

1. What steps are being taken to prepare the internal audit service for the implementation of new standards?
2. Does the service have the support it needs from the organisation to make the transition?
3. Does the head of internal audit have any concerns about achieving conformance?
If so, how are these being addressed?
4. What can the audit committee do to support internal audit with the transition?
5. When will the committee next review its own effectiveness, including its role regarding internal audit?

Further reading

CIPFA's guidance to audit committees is supported by the Ministry of Housing, Communities and Local Government (MHCLG), the Home Office and the Welsh Government.

[Position statement: audit committees in local authorities and police 2022](#)

Free download

[Audit committees: practical guidance for local authorities and police \(2022 edition\)](#)

The guidance includes a handbook for audit committee members. It is a digital edition and can be shared multiple times within the organisation. Ask your head of internal audit or head of finance to arrange this for you.

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Timeframes for the implementation of the Global Internal Audit Standards (GIAS) and the Application Note, GIAS in the UK Public Sector

Changes impacting on your internal audit service

This briefing will help heads of internal audit and members of the audit management team understand the changes to internal audit standards and the transition your team will be making at various points during the next year.

What's changing and when?

From 1 April 2025 internal audit teams in the public sector will be working to new internal audit standards. These will be a combination of the Global Internal Audit Standards (GIAS) and the [Application Note, Global Internal Audit Standards in the UK Public Sector](#). The consultation on the Application Note closed at the end of October, and the final version is [now available](#). For local government bodies the Code of Practice on the Governance of Internal Audit should be used to guide interpretation of the essential conditions in Domain III. The consultation closed at the end of November and the final version will be published in January.

The 1 April is the effective date for the new standards. Internal audit teams will not be expected to demonstrate full conformance on this date. They must work in accordance with the new standards from this date and by doing so they will build up their conformance.

How significant a change is this?

It is a significant change that will mean internal audit teams must update their charter and audit manual to reflect the new standards. They will also need to provide training to team members. They will need to review their working practices to make sure they comply with the standards or have an action plan to achieve that compliance.

While much of the day-to-day practice of undertaking audit engagements will not change, the team will need to make sure those engagements fulfil the new standards. Reports, plans and charters will need to be updated to reflect the standards.

Do the standards expect more from the team?

An internal audit team that fully conforms with the current standards (the Public Sector Internal Audit Standards or PSIAS) should have most of the practices it needs. There are some additional requirements, and the Application Note should help with those. But time will still be needed to make the transition and build familiarity.

Timetable for the implementation of the new standards:

The timetable, detailed below, is for audit teams. Depending on the extent to which your audit committee and senior management can meet the Code, there might need to be actions for them too. CIPFA will provide more support on this aspect of transition when the final version of the Code of Practice is published in January.

When planning the transition to the new standards, the following table flags key steps to take. Some changes need to be put in place ready for 1 April, others will be implemented during the year

or at the year end. Its focus is on new requirements or key changes rather than covering every audit task.

Some steps will be one-off tasks, such as updating methodologies / audit manuals. Others will be iterative or responsive to changing circumstances, for example audit planning or considerations of resourcing.

At this point, reference to the Code of Practice for the Governance of Internal Audit in UK Local Government (The Code) are to the draft code.

Key tasks to be carried out as soon as possible:

Key Tasks	More detail on requirement
Communicate the new standards and the changes to your audit committee, senior management, and audit teams	<p>The audit committee and the senior management team (SMT) need to have:</p> <ul style="list-style-type: none"> • A general understanding of the new audit standards and what is required. • Internal audit's transition plans and any concerns. • A more detailed focus on Domain III essential conditions or the CIPFA Code of Practice.
Training (Application Note & GIAS)	<p>Produce a training log for IA team.</p> <ul style="list-style-type: none"> • Hold briefings with the team. • Assign all internal auditors the task of familiarisation of Domains I, II and V. <p>See also * below for more details on training.</p>
Audit Mandate and Charter (Principle 6 & CIPFA Code 1.2)	<p>Discuss the audit mandate and charter with SMT - to include what SMT expectations are which should be considered for inclusion in the charter.</p> <p>Gain formal approval for the new Mandate and Charter from the audit committee before or soon after 1 April.</p>

Get ready for the implementation date of 01 April 2025:

Key Tasks	More detail on requirement
Audit methodologies and working practices (Principle 9)	<p>The chief audit executive's (CAE) documentation of the methodologies (policies, processes, and procedures) to guide and direct internal auditors within the internal audit function)</p>

Update staff performance assessment (Principles 1,4,9 &11)	In-line with training requirements to evidence staff displayed the competencies required by the standards
Update Post Audit Client Questionnaire (Principles 1,4,9 & 11.2)	In line with training requirements to evidence staff displayed the competencies required by the standards. Share new format with teams carrying out the audit.
(New) Internal Audit Strategy approval from Audit Committee (Principle 9)	GIAS Standard 9.2 requires an internal audit strategy. This is new, but the service should be able to build on the existing requirement in PSIAS (2010 Planning) for a strategic statement of how the service will be delivered and developed.
Audit Planning process (Principle 9 Plan Strategically)	Discuss priorities with senior management and agree your audit plan prior to taking it to your audit committee. Build on your existing planning processes to include any new requirements in Principle 9.
Resources (Principle 8 and Code)	Discuss internal audit resource requirements with the Audit Committee/ senior management
Audit Plan (Principle 9)	CAE must create an Internal Audit Plan that supports the achievement of the organisation's objectives which must be approved by the audit committee during Q1 meeting. Many teams already demonstrate that link.

First Quarter of 2025/26:

Key Tasks	More detail on requirement
Audit Charter/ Audit Mandate (New) and get Audit Committee approval (Principle 6 and Code)	The CAE has a responsibility to prepare a charter that conforms with GIAS (UK public sector). When reviewing the charter, the audit committee should be satisfied that it covers the governance arrangements for internal audit. It must include the mandate derived from the regulations, plus any additional agreed mandate, and include internal audit's reporting line to the audit committee.
Independence (Principle 7 and Code)	Discuss any impairments of independence at the start of the year and update the audit committee should that change throughout the year
Coordination and reliance - assurance providers (Principle 9 and Application Note)	Identification of other assurance providers where internal audit will be relying on their work to provide assurance. (If cannot do this must discuss with Audit Committee and SMT)

Agree performance objectives for internal audit (follows on from strategy and plan) (Principle 8)	Discuss with Audit Committee the quality assurance and improvement program as well as the internal audit function's performance objectives at least annually.
Update the engagement report template (Principles 11 & 15)	To include details such as the root cause analysis as well as new requirements from 2025 - <ul style="list-style-type: none"> • Final communication must include person responsible for addressing findings and the dates actions should be completed • All actions completed during the reporting process must be updated to show completed.

Work that needs to take place throughout 2025/26

Key Tasks	More detail on requirement
Quality Assessment (Application note, Principle 12, and Code 3.3)	CAE to produce an assessment of conformance against GIAS (UK Public Sector) There should be some monitoring during the year from the Audit Committee. At the end of the year, a formal review of the annual report/ annual conclusion.
Training	See * Training that needs to be delivered throughout the year below.
CAE to review all final communications before it is issued (this can be delegated as detailed in 11.3)	Internal auditors must ensure the final communication is reviewed and approved by the chief audit executive (or suitable delegated management) before it is issued.
Supervision of engagements and quality monitoring (Principle 12)	Staff to carry out audit work and report on findings. Audit Management to ensure that the engagements are carried out in line with the GIAS. This is likely to be a similar process to what already happens.
Report on progress of audit plan to the audit committee periodically. Also detailing whether there are adequate resources to deliver the plan (Code, Application Note, Principle 8)	Communicate progress of audit plan and changes to the audit committee as well as whether there are adequate resources to deliver the plan in line with Principle 8 of the GIAS.

Independence (Principle 7 and Code)	Discuss impairments of independence at the start of the year and update the audit committee should that change during the year
Audit committee support (Principle 6)	If you do not already do so, schedule periodic private meetings with the audit committee.

Work that needs to take place at year end/ April 2026

Key Tasks	More detail on requirement
Quality Assessment Quality Improvement Program (Application Note, Code & Principles 8 &12)	Application note: The chief audit executive must also report annually on the results of quality assessment carried out under GIAS 12.1 (Internal Quality Assessment), including progress against action plans to address instances of non-conformance. Discuss results from Quality improvement program with Audit Committee
Annual Conclusion (Code, Application note and Principle 11)	Annual Conclusion on governance, risk management and control Application note: The requirement for an overall conclusion must also inform planning carried out under GIAS 9.4 (Internal Audit Plan). The requirement for an annual conclusion does not imply that planning needs to follow an annual cycle, but where planning is carried out in other timeframes it must still be clear to senior management and the board that this supports an annual conclusion.
Report on final progress of audit plan to AC at year end (Code, Standard 8)	Communicate progress of audit plan and changes with AC as well as whether there are adequate resources to deliver the plan. This will feed into the audit strategy and planning for 2026/27 onwards.

(*) Training that needs to be delivered throughout the year:

Although a lot of the methodologies within the GIAS remain the same, training is a common theme throughout. The accompanying guidance does not detail the frequency but does detail how it can be evidenced within training plans, therefore we would interpret that it is an annual exercise and would suggest that as the new standards are being implemented the training is provided as early in the year as possible. Training can involve reading periodicals, training materials and the relevant audit standards. As well as attending training/ CPD events. It could also be from updates/ presentations held within team meetings. However you decide to conduct your team's training, ensure it can be evidenced on the training log.

Below is a list of all the areas that the GIAS suggests as specific training for Internal Auditors.

- 1.1 Honesty and Professional Courage
- 1.3 Legal and Ethical Behaviour
- 2.1 Individual Objectivity
- 2.2 Safeguarding Objectivity
- 3.1 Competency
- 3.2 CPD
- 4.2 Due Professional Care
- 4.3 Professional Scepticism
- 5.1 Maintain confidentiality
- 9.1 Understanding Governance, Risk management and Control processes
- 9.3 Methodologies
- 11.2 Effective Communications

Queries

If you have any questions about the application of the GIAS or the Application Note, GIAS in the Public Sector or the CIPFA Code, please contact:

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[CIPFA Better Governance Forum](#)

We will be updating the website with further resources and sharing information about learning events. To keep in touch, make sure to opt-in to our newsletters. Access My Preferences by logging into My CIPFA [MyCIPFA Login | CIPFA](#)

ESPO FINANCE AND AUDIT SUBCOMMITTEE – 12 FEBRUARY 2025

CONTRACT PROCEDURE RULES RELATING TO THE PROCUREMENT ACT 2023

REPORT OF THE DIRECTOR

Purpose of the Report

1. The purpose of this report is to seek approval from the Finance and Audit Sub-Committee for the submission of the Contract Procedure Rules (CPRs) relating to the Procurement Act 2023 (the Act).

Background

2. The Act is set to come into effect on 24 February 2025. Leicestershire County Council and ESPO have developed a new single set of CPRs which will govern procurements commencing from this date onwards.

Body of the Report

3. Public procurement in the UK has to date been governed by the Public Contracts Regulations 2015 (2015 Regulations). However, the 2015 Regulations will be replaced by the Act, which takes effect on 24 February 2025 and introduces new procurement rules. Procurements initiated on or after this date will be regulated by the Act, while those commenced before this date will continue under the 2015 Regulations until all contracts awarded under them have expired, including any modifications.
4. Amendments to the CPRs governing procurements under the 2015 Regulations were approved by the Management Committee on 13 November 2024. These CPRs will remain in force until all contracts under the 2015 Regulations have expired, including any modifications to such contracts.
5. Procurement and legal teams from Leicestershire County Council and ESPO, with external legal support, have collaborated to draft a single set of CPRs applicable to both organisations. These new CPRs will govern procurements commencing on or after 24 February 2025, in compliance with the Act.
6. A copy of these draft CPRs, effective from 24 February 2025, is attached as Appendix A to this report.
7. The proposed rules have been reviewed and supported by ESPO's Director, Assistant Director of Procurement and Commercial, Head of Procurement and Compliance and ESPO's Commercial Solicitor.

8. Leicestershire County Council presented these rules to the County Council's Corporate Governance Committee on 24 January 2025. That Committee has recommended that the full County Council approves the rules at its meeting on 19 February.
9. The approval of the CPRs, as set out in the Constitution, is the responsibility of the Management Committee. However, the Management Committee will not meet until 19 March 2025, which is after the Act takes effect. As such, the Management Committee, at its meeting on 13 November 2024, agreed to delegate the authority to the Finance and Audit Sub-Committee. The Sub-Committee is to review and approve the new CPRs at its next meeting on 12 February 2025 to ensure compliance with new the Act.
10. As a result, two sets of CPRs will apply simultaneously: (1) for procurements initiated before 24 February 2025 and (2) for those starting on or after this date under the Act.
11. If the Finance and Audit Sub-Committee approves the draft CPRs at its meeting on 12 February 2025, they will be published on ESPO's intranet and internet sites. They will also be communicated to all relevant managers and staff via newsletters within ESPO, and other appropriate communication channels.

Resources Implications

12. There are no resource implications arising from this report.

Recommendation

13. It is recommended that the Finance and Audit Sub-Committee approves CPRs, detailed at Appendix A, which govern procurements under the Act.

Equality and Human Rights Implications

14. The Rules ensure that all suppliers and potential suppliers receive equal treatment when bidding for contracts.

Background Papers

15. Management Committee Report – 13 November 2024.

Appendices

16. Appendix A - the draft CPRs to be effective from 24 February 2024.

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Part 4G

Contract Procedure Rules – The Procurement Act

Appended to these Rules are the Contract Procedure Rules for the Public Contract Regulations 2015 which apply to any procurement dated before the 24 February 2025.

Dated 16th January 2025 v1

Part 4G Contract Procedure Rules

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GLOSSARY

In these Contract Procedure Rules, the following terms shall have the meanings set out below.

Term	Meaning
Appropriate Chief Officer	<p>means the Chief Officer responsible for the function to which the Contract relates except that, where another Chief Officer is responsible for the letting of the Contract, it shall mean that Chief Officer in consultation with the Chief Officer on whose behalf the Contract is to be let. Refer to the following for the list of Chief Officers: https://www.leicestershire.gov.uk/about-the-council/how-the-council-works/leader-and-cabinet/chief-officers-of-the-council</p> <p>In the case of ESPO the Chief Officer is Director of ESPO.</p>
Associated Person	<p>means a person that the supplier is relying on to satisfy the conditions of participation, but not a person who is to act as guarantor (see section 22(8) and 22(9) of the Act).</p>
Below Threshold Contract (Regulated)	<p>means a Contract for the supply, for pecuniary interest, of goods, services or works to the Council; a Framework; or a Concession Contract, that has an Estimated Value of less than the applicable Procurement Threshold for the type of contract.</p> <p>A notifiable below-threshold contract is a regulated below threshold contract if its awarded value is £30,000 inc VAT (£25,000 excl VAT) or more.</p> <p>A “regulated below-threshold contract” (s.84 Procurement Act) does not apply to:</p> <ul style="list-style-type: none"> a) An Exempted contract. b) A Concession Contract; or c) A Utilities Contract
Below Threshold Contract Details Notice (Regulated)	<p>means the notice that must be published as soon as reasonably practicable after entering a Regulated Below Threshold Contract.</p> <p>This is in accordance with Section 87 of the Procurement Act.</p>
Below Threshold Tender Notice	<p>means the notice that must be published if advertising for the purpose of inviting Tenders for Regulated Below Threshold</p>

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(Regulated)	<p>Contracts.</p> <p>This in accordance with Section 87 of the Procurement Act.</p>
Best Value	<p>means the duty which Part 1 of the Local Government Act 1999 places on local authorities to secure continuous improvement in the way functions are exercised, considering a combination of economy, efficiency, and effectiveness.</p>
Cabinet	<p>means the Council's Executive with functions set out in Article 7 and Part 4D of the Constitution.</p>
Call Off Contract	<p>means Contracts that are awarded under a Framework.</p>
Central Digital Platform	<p>means the system whereby notices, documents and other information required to be published under the Procurement Act is to be made available</p>
Chief Finance Officer	<p>means the officer appointed pursuant to Section 151 of the Local Government Act 1972. The functions of the Chief Finance Officer are set out in Article 12 of Part 2 of the Council's Constitution.</p> <p>The Director of Corporate Resources.</p>
Commercial Specialist	<p>means an Officer authorised by the Director of Corporate Resources to manage the procurement of a category or categories of goods, services and/or works. If there is no Commercial Specialist for the goods, services and/or works being procured, the Senior Commercial Specialists or Head of Procurement and Supply Chain Management will adopt this role.</p> <p>In the case of ESPO this means Procurement Officers.</p>
Commissioning Support Unit ("CSU")	<p>means a unit responsible for supporting departments providing the Council with the development of commissioning strategies, service re-design, professional support in relation to the Council's procurement and supplier and contract management functions.</p> <p>In the case of ESPO this is the Commercial and Procurement Division.</p>
Competitive Flexible Procedure	<p>means any other competitive tendering procedure, not including the Open Procedure, that the Council considers</p>

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	<p>appropriate for the purpose of awarding a public Contract.</p> <p>The competitive flexible procedure allows the Council the freedom to design its own procedure as set out in Section 20 of the Procurement Act.</p>
Competitive Tendering Procedure	means either the Open Procedure or the Competitive Flexible Procedure as defined in the Procurement Act.
Concession Contract	means a contract for the supply, for pecuniary interest, of works or services to the Council, where (i) at least part of the consideration for that supply is a right for the supplier to exploit the works or services; and (ii) under the contract the supplier is exposed to real operating risk as defined in Section 8 of the Procurement Act
Conditions of Participation	means the conditions of participation that the Council may set in relation to the award of a Public Contract in accordance with Section 19 of the Procurement Act as described in Rule 15.
Constitution	means the document which the Council is required to keep pursuant to Section 9P of the Local Government Act 2000 which contains a copy of the Council's standing orders, its code of conduct, details of how the Council operates; how it reaches decisions as well as the procedures that officers are required to follow. The Constitution is a statutory document
Contract	means any contract between two or more parties for the execution of works or the supply of goods and/or services and "contracts" shall be interpreted accordingly.
Contract Award Notice	means a notice that must be published in accordance with Section 50 of the Procurement Act.
Contract Change Notice	means a notice that must be published before a Contract is modified in accordance with Section 75 of the Procurement Act.
Contract Details Notices	means a notice published confirming that a Contract has been entered into in accordance with Section 53 of the Procurement Act.
Contract Extension	means an extension to the duration of the Contract as described in Rule 45.
Contract Extension Form	means a form that must be completed, approved, and retained in accordance with Rule 45 before an extension can be completed.

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	In the case of ESPO this is the Procurement Control Record.
Contract Manager	means an Officer responsible for the administration and management of the Contract.
Contract Modification	means a modification to a Contract or Public Contract in accordance with Rule 48.
Contract Modification Form	means the form that must be completed, approved, and retained in accordance with Rule 48 before a modification can be done. In the case of ESPO this is the Procurement Control Record.
Contract Termination Notice	means a notice that must be published to notify that a contract has been cancelled, terminated or expired in accordance with Section 80 of the Procurement Act
Contracts Register	means a register of (current) Contracts, on the Councils electronic tendering system.
Covered Procurement	means the award, entry into and management of a Contract which is entered into by the Council with a value above the relevant Procurement Threshold and that is not an Exempted Contract under the Procurement Act
Convertible Contract	means a Contract that, because of the value of a modification, will take the value of the Contract over the relevant Procurement Threshold, such that the contract will become a public contract.
Corporate Contract	means any Contract, Framework or other arrangement approved for use in sourcing a particular requirement approved for use as a Contract for use across the whole Council by CSU.
Corporate Governance Committee	means the Committee with the delegated function (as set out in Part Section 3 B of the Council's Constitution) of the promotion and maintenance of high standards in relation to the operation of the Council's Local Code of Governance.
Council	means Leicestershire County Council including ESPO.
Direct Award	means when a public contract is awarded without a competitive tendering procedure and the public contract is placed directly with the supplier of the Councils choosing.

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Direct Employee	a person who works as an employee of the Council and is paid a salary by it, rather than being employed through an agency or other third party.
Director of Corporate Resources	means the Council's Chief Finance Officer who is responsible for the Council's Corporate Resources function, as amended sometimes.
Director of Law and Governance	means the Council's Officer who is responsible for the Council's Legal and Governance function, as amended sometimes.
Dynamic Markets	means a list of qualified suppliers who have met the conditions of membership of the dynamic market and who are eligible to participate in future procurements.
Electronic Tendering System	means an electronic tendering system approved in accordance with Rule 54.
ESPO	means Eastern Shires Purchasing Organisation.
Estimated Value	means the value as estimated under Rule 10.
E-Tender	means a Tender that has been submitted using an Electronic Tendering System.
Exception	means an exception where in limited circumstances the departure from the rules may be considered as detailed in Rule 57.
Exception Form	means the form to be submitted where an Exception is requested in accordance with Rule 57.
Excluded Supplier	means if any exclusion ground applies to either the supplier or an associated person (see the references to 'associated person' in section 57 of the Procurement Act) and if the circumstances giving rise to the ground are continuing or likely to occur again.
Executive	See definition of Cabinet above.
Exemption/ Exemption Contract	means the requirement may be exempt from the regulations set out in the Procurement Act as detailed in Rule 4.

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Exemption Form	means the form to be submitted where an Exemption is requested in accordance with Rule 4.
Financial Procedure Rules	means the Councils Financial Procedure Rules as set out in Part 4F of the Constitution.
Framework	means a contract between the Council 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 as defined in Chapter 4 of the Procurement Act.
Invitation to Tender (ITT)	means the document(s) containing information about the Competitive Tendering Procedure (along with other appropriate information) as issued to the Tenderers to invite the submission of Tenders.
Irregular Tender	<p>means a tender which the Council may be entitled to reject (including for reasons set out in Section 19 of the Procurement Act) or the Council's own rules or policies. Grounds for exclusion may include inter alia: -</p> <p>(a) If a tenderer does not comply with the requirements of the procurement documents; or</p> <p>(b) If a tender is received late; or</p> <p>(c) If there is evidence of collusion or corruption.</p>
Key Decision	<p>means a decision as defined in Rule 8 of the Executive Procedure Rules (Part 4D) of this Constitution. Without limitation, key decisions include such matters as reports in connection with the annual revenue budget or capital programme; reports about actions having significant effects on local communities or reports dealing with significant reductions in services.</p> <p>In the case of ESPO only if a decision does not fall within Appendix 4 to Schedule 1: Functions of, and Delegations to the Director of ESPO. The decision can be escalated to the Director of ESPO, the Chief Officers Group or Management Committee.</p>
Light Touch Contract	<p>means a contract for certain social, health, education and other public services and are subject to more flexible procurement rules. Light Touch Contracts are services provided directly to individuals or groups of people.</p> <p>Light Touch Contract is defined in Section 9 of the Act. Schedule 1 to the Act specifies which services fall under a Light Touch Contract.</p>

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National Procurement Policy Statement	means the statutory statement set by the Cabinet Office of the Government to communicate the wider policy objectives to which it expects public procurement to contribute as may be amended.
Novation	means the method by which the parties to an existing contract 'transfer' the rights and obligations of that contract to a third party.
Officer	means an employee of the Council.
Open Framework	means a scheme of Frameworks that provides for the award of successive Frameworks on substantially the same terms as defined in Section 49 of the Procurement Act.
Open Procedure	means a single stage Competitive Tendering Procedure as provided for under Section 20 of the Procurement Act.
Person	means legal persons (<i>which, without limitation, includes corporate bodies corporations sole</i>) and natural persons (<i>which, without limitation, includes individuals, sole proprietors, partnerships, and unincorporated associations</i>).
Pipeline Notice	means a notice that lists the Councils planned public procurements which must be published in accordance with Section 93 of the Procurement Act.
Planned Procurement Notice	means a notice that may be published to inform the market that the Council intends to publish a Tender Notice in accordance with Section 15 of the Procurement Act.
Post Tender Negotiations	means discussions that may occur after the submission of a tender proposal and before the awarding of a contract as detailed in Rule 30.
Preliminary Market Engagement Notice	means a notice published to inform the market that a pre-market engagement exercise will be undertaken in accordance with Section 17 of the Procurement Act.
Procurement Act (the Act)	means the Procurement Act 2023 which comes into force on the 24 February 2025.
Procurement Initiation Document (PID)	means a form which is completed and submitted by departments/ service areas with the purpose of seeking approval to start a procurement process.

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	In the case of ESPO this is the Procurement Control Record.
Procurement Termination Notice	means a notice to be published after publication of a Tender Notice or Transparency Notice where the Council has decided not to award or continue with the contract and to terminate the procurement.
Procurement Threshold	means the respective procurement thresholds that apply from 1 January annually for Services, Goods, Works, Light-Touch, Concession and Utilities Contracts referred to in the Schedule 1 to the Procurement Act as may be amended from time to time, usually annually.
Procuring Officer	means any Officer, acting under the delegated powers of the Appropriate Chief Officer, who is responsible for the procurement of works, goods, and/or services.
Provider Selection Regime	means the Health Care Services (Provider Selection Regime) Regulations 2023 set for procuring Health Care Services as may be amended from time to time.
Public Contract	means a: <ul style="list-style-type: none"> a) Contract for the supply, for pecuniary interest, of goods services or works to the Council. b) Framework. c) Concession Contract. <p>which has an Estimated Value of no less than the applicable Procurement Threshold and is not an Exempted Contract</p>
Quotation	means an offer to sell works, goods and/or services at a stated price under specified conditions. A Quotation may or may not be written. <p>Request for Quotation is used for below threshold procurements and not above threshold tenders.</p>
Regulations	means the Procurement Regulations 2024 as may be amended from time to time. References to "Regulation" followed by a number in these Rules should be interpreted accordingly.
Relevant Procurement Thresholds	means the applicable financial thresholds which are referred to in Section 3 and set out Schedule 1 of the Procurement Act and which amounts may from time to time be increased or revised

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Request for Quotation (RFQ)	means a document or documents containing the specification, and proposed terms and conditions issued to potential suppliers to solicit written Quotations for below threshold procurements.
Rules	means these Contract Procedure Rules, as may be amended from time to time.
Sensitive Commercial Information	means (a) constitutes a trade secret, or (b) would be likely to prejudice the commercial interests of any person if it were published or otherwise disclosed.
Social Value	means how what is proposed to be procured might improve the economic, social, and environmental well-being of the people and areas of the non-metropolitan parts of Leicestershire. This definition shall be construed in keeping with the requirements of Section 1 of the Public Services (Social Value) Act 2012.
Standard Terms and Conditions	means standard contractual terms used by the Council, including those attached to procurement orders or orders generated by 'line of business' systems, those included in Request for Quotation templates, and standard industry terms.
Standing List	means a list of approved contractors or suppliers qualified for invitation to tender for works or services the rules for which are further described in Rule 47.
Standstill	means a period of 8 working days between the Council announcing its intention to enter into a contract (by publishing the contract award notice) and actually entering into that contract; the Council cannot enter into the contract during the standstill period as detailed in Section 51 of the Procurement Act
Strategic Plan	means the strategy document that explains how the Council will improve the quality of life for the people of Leicestershire and make Leicestershire the best possible place to live and work for everyone.
Supplier	means a person or organisation that provides something needed such as a product or service to the Council, this includes contractors and consultants. Suppliers may at times be referred to suppliers contracted to LCC and 'potential suppliers' - i.e. bidders and the wider supply

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	market.
Supplier Code of Conduct	means the Council's Supplier Code of Conduct which sets out principles to help suppliers understand the standards and behaviors expected when working with the Council. A copy of which can be found at – https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2018/11/27/supplier-code-of-conduct.pdf
Supplier Relationship Manager	means an officer of the Council whose role is to support the management of complex relationships with external suppliers and vendors. In the case of ESPO this is the relevant Procuring Officer.
Technical Guidance	means the Technical Guidance intended to help with interpretation and understanding of the Procurement Act, published by the Government Commercial Function. Further details can be found at – https://www.gov.uk/government/collections/procurement-act-2023-guidance-documents
Tender	means a formal offer from a Tenderer as a response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specification and method statements and information about the Tenderer. A written Quotation is also a Tender. The term "Tender" also includes an E-Tender except where the context implies otherwise.
Tender Notice	means a notice published in accordance with Section 21 of the Procurement Act to advertise and commence a Competitive Tendering Procedure, this includes both Open and Competitive Flexible procedures.
Tenderer(s)	means the Person or Persons invited to participate in a procurement process.
Transitional Regulations	means the rules that determine how procurements awarded under the previous legislation continue to be managed alongside the introduction of the Procurement Act. The Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024)
Transparency Notice	means a notice published to alert the market that the Council intends to make an award without competition in accordance with Section 44 of the Procurement Act before directly

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	awarding a Contract under Section 41 or Section 43
Utilities Contracts	means a Contract for the supply of goods, services, or works wholly or mainly for the purpose of utility activity.

Part 4 G - Contract Procedure Rules**INTRODUCTION****RULE 1. Compliance**

- 1.1 These Rules apply where the Council proposes to procure goods, services, or works. Failure to follow these Rules may result in disciplinary action.
- 1.2 Where a procurement under these rules relates to a Key Decision, such a procurement must be taken to the Executive for approval.
- 1.3 All 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, legislation (including but not limited to the Procurement Act) and the National Procurement Policy Statement (NPPS).
- 1.4 Each Officer is responsible for ensuring they are familiar with and act in accordance with these Rules.
- 1.5 If there is any doubt as to the application of these Rules, advice should be sought as appropriate.

RULE 2. Delegation

- 2.1 Appropriate Chief Officers may delegate responsibilities under these Rules in accordance with Rule 6 of Section D (General scheme of delegation to Heads of Departments) of Part 3 (Responsibility for Functions) of the Constitution.

RULE 3. Application

- 3.1 These Rules apply to situations where the Council awards, enters and manages a Contract or Public Contract for the provision of works, goods, or services on or after 24 February 2025.
- 3.2 Throughout these Rules, references are made to the Procurement Act (the Act) which will apply to Covered Procurements that commence after the entry into force of the Procurement Act on 24 February 2025. Procurements commenced under previous legislation (the Public Contracts Regulations 2015, Concession Contracts Regulations 2016, and Utilities Contracts Regulations 2016) must continue to be procured and managed under the applicable legislation or as required under the Transitional Regulations. The procurements that were procured prior to the implementation of the Procurement Act will continue to be managed under the PCR Contract Procedure Rules appended to these Rules. Contract Procedure Rules that will apply to such procurements are appended to these Rules.

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- 3.3 Officers should seek advice from the Commissioning Support Unit (as appropriate) as to the applicable procurement regime and applicable contract procedure rules that governs a particular public contract.

RULE 4. Exempted Contracts

- 4.1 When entering an Exempt Contract, the Council is not subject to the rules governing Covered Procurements and as such the Council is broadly free to conduct a procurement as it considers most appropriate. However, even in the case of Exempt Contracts, the Council is legally required to comply with National Public Policy Statements and the Council expects Officers to deal with Exempt Contracts on that basis.
- 4.2 Exempted Contracts (as defined in Part 2 of Schedule 2 to the Procurement Act) include (but are not limited to) the following arrangements:
- a) Contracts solely for the acquisition or disposal of any interest in land.
 - b) Contracts for the lending or borrowing of money.
 - c) Contracts of employment (making an individual a Direct Employee of the Council).
 - d) Contracts for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of the Financial Services and Market Act 2000 (Markets in Financial Instruments) Regulation 2017 – UK Statutory Instruments 2017 No. 701.
 - e) A contract for the provision of exempt legal services to the Council. Not all legal services are exempt, those that are related to judicial or other dispute resolution proceedings, notary services and legal services that must be carried out by a particular person under an order of court or tribunal enactment are excluded;
 - f) Horizontal and vertical agreements between contracting authorities. Horizontal – cooperative agreements between different public authorities to achieve common goals (referred to as Hamburg contracts). Vertical – contracts between the Council and an entity it controls, essentially allowing for in house procurement (referred to as Teckel contracts).
 - g) Contracts for the acquisition, development, production or co-production of material intended for broadcast or contracts for the broadcast to the general public of material supplied by the supplier; this includes contracts for creating, acquiring, producing television programs, radio shows, film or other content intended for broadcasting.
 - h) Contracts for facilitating the provision of electronic communications to the general public or Contracts to provide, maintain or use a public electronic communication network.
 - i) Contracts for the provision of arbitration, mediation or conciliation services.
 - j) Contracts for the provision by an organization not run for profit in respect of emergency services.
 - k) Contracts for public passenger transport concession services that are to be awarded in accordance with the public service obligations regulations as defined in section 136(11) of the Railways Act 1993.
 - l) Contracts for research and development services that (i) are intended to be for or result in a benefit to the public; and (ii) the Contract does not provide for the provision of goods or works.
 - m) Contracts awarded under procedures set out in international agreements.
 - n) Contracts that the Council considers, in the interest of national security, should not be subject to this Act or a part of this Act.
 - o) Contracts for carrying out, facilitating or supporting intelligence services.
 - p) Certain types of Defense and Security Contracts, Utilities Contracts (for the purchase of water, fuel for energy production, energy and resale of lease goods or services by utility companies except by central purchasing authorities) and Concession Contracts.
 - q) Contracts for the supply of goods, services or works to the Common Council of the City of London other than for the purposes of its functions as a local authority, police authority or port health authority.

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- 4.3 The Sale of Council assets is not part of these Rules. Officers should refer to the Financial Procedural Rules. The sale of an asset, which is part of a contract, should be transacted separately i.e. LCC invoice for the sale value agreed.
- 4.4 All contracts that are deemed as Exempt Contracts under a), e), f) and l) need to be approved by the completion of an Exemption Form by an Appropriate Chief Officer in consultation with a Commercial Specialist.

PROCUREMENT PRINCIPLES**RULE 5. General Requirements**

- 5.1 Every Contract, Public Contract or official order for works, goods or services made by the Council shall be for the purpose of implementing the Council's policies and must be made in accordance with the Council's duty of Best Value and in line with the Finance Procedure Rules and the Council's Strategic Plan.

Social Value

- 5.2 Where the Council proposes to enter into any Contract with an Estimated Value equal to or greater than £50,000, it shall before commencing the procurement, consider the Social Value (if any) of the proposed procurement. Social Value will be addressed and managed by contract management of the relevant contract. The Council will seek to ensure that Social Value is enshrined in such a Contract in at least one of the following two ways: -
- a) As award criteria linked to the Council's Social Value Policy Statement and the Council's Strategic Plan.
 - b) As Outcomes built into the specification or Contract.
- 5.3 Where Social Value has not been considered within either the award criteria or specification, the reason shall be recorded and forwarded for approval to the relevant Commercial Specialist.

Provider Selection Regime

- 5.4 Where the Provider Selection Regime applies, Social Value will need to be considered regardless of the Estimated Value of the Contract.

Use of Corporate Contracts

- 5.5 The Procuring Officer must ensure that whenever Corporate Contracts have been approved and deemed suitable by a Commercial Specialist that goods, services are ordered via that Corporate Contract by raising a purchase order.
- 5.6 The Procuring Officer may not procure outside of the Corporate Contract unless it is agreed by the Commercial Specialist that better value for money can be clearly demonstrated outside of these approved Corporate Contracts.
- 5.7 Where the Estimated Value of a Contract (or Public Contract) to be awarded under a Corporate Contract exceeds £30,000 inc. VAT or £25,000 excl. VAT, the Procuring Officer must approve the award with a Commercial Specialist before completing the award. The Procuring Officer must consider what risks the contract presents ahead of any procurement process, considerations

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must include those relating to Health and Safety, Business Continuity, compliance with the Modern Slavery Act 2015 and Information Security.

Applicable Laws

- 5.8 Procedures set out in the relevant Acts of Parliament and UK legislation (including for the avoidance of doubt (but not limited to) the Procurement Act and the Provider Selection Regime must be complied with.

Budgets

- 5.9 The Procuring Officer must ensure that sufficient budget provision has been agreed with the budget holder prior to any procurement process being undertaken.

Procurement Act

- 5.10 The Council must not carry out a Covered Procurement except in accordance with the Procurement Act. As such, a public contract may not be entered into unless it is awarded in accordance with the Procurement Act.

- 5.11 In conducting a Covered Procurement, the Council must have regard to the importance of:
- a) Delivering value for money.
 - b) Maximising public benefit.
 - c) Sharing information for the purpose of allowing suppliers and others to understand the Council's procurement policies and decisions.
 - d) Acting, and being seen to act, with integrity.
- 5.12 In carrying out Covered Procurements as per section 12 of the Act, the following must apply:
- a) The Council must treat suppliers the same unless a difference between the suppliers justifies different treatment.
 - b) If the Council considers that different treatment is justified in a particular case, it must take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage.

Supplier Code of Conduct

- 5.13 The Council's Supplier Code of Conduct must apply to all procurement process and be incorporated in all supplier Contracts.

RULE 6. *Financial Thresholds and Delegation*

- 6.1 Financial limits and thresholds within these Rules may be varied by the Corporate Governance Committee.
- 6.2 Arrangements for the delegation of functions to Officers within these Rules may be varied by the Chief Executive.
- 6.3 Financial thresholds and delegations are set out in the Finance Procedure Rules and the [Procure to Pay Policy](#).

PRELIMINARY PROCUREMENT STEPS – PLANNING STAGE

RULE 7. Pipeline Notices

- 7.1 Pipeline Notices must be published within 56 days of 1st April (by the 26th of May) in accordance Section 93 of the Procurement Act.
- 7.2 An individual notice on the Central Digital platform, setting out specified information about any proposed public contract with a value of more than £2m must be made.
- 7.3 The pipeline notice should include individual details relating to each relevant upcoming procurement likely to occur within the 18-month period it covers.

RULE 8. Planned Procurement Notices

- 8.1 The Council may consider whether to publish a Planned Procurement Notice to provide suppliers with advance notice of an upcoming Competitive Tendering Procedure.
- 8.2 A Planned Procurement Notice is intended to give as much advance information to the market as possible to allow interested suppliers to appropriately plan for future opportunities.

RULE 9. Preliminary Market Engagement

- 9.1 Before commencing a Competitive Tendering Procedure, the Council may engage with suppliers and other persons for the purposes of:
 - 9.1.1 developing the Council's requirements and approach to the procurement.
 - 9.1.2 designing a procedure, conditions of participation or award criteria.
 - 9.1.3 preparing the tender notice and associated tender documents.
 - 9.1.4 identifying suppliers that may be able to supply the goods, services or works required.
 - 9.1.5 identifying likely contractual terms.
 - 9.1.6 building capacity among suppliers in relation to the contract being awarded.

Such engagement will be considered "Preliminary Market Engagement." When conducting Preliminary Market Engagement the Commissioning Support Unit must be consulted.

- 9.2 When carrying out Preliminary Market Engagement the Council must take steps to ensure that:
 - a) suppliers participating in the Preliminary Market Engagement are not put at an unfair advantage; and
 - b) competition in relation to the award of the public contract is not otherwise distorted.
- 9.3 If the Council considers that:
 - a) a supplier's participation in Preliminary Market Engagement has put the supplier at an unfair advantage in relation to the award of a public contract; and
 - b) the advantage cannot be avoided.
 that supplier must be treated as an Excluded Supplier for the purposes of (i) assessing tenders under section 19 of the Procurement Act; or (ii) awarding a contract under Section 41 or 43 of the Procurement Act and excluded from participating in, or progressing as part of, any Competitive Tendering Procedure.

Preliminary Market Engagement Notice

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- 9.4 In carrying out Preliminary Market Engagement the Council must either:
- 9.4.1 publish a Preliminary Market Engagement notice before publishing a Tender Notice; or
 - 9.4.2 provide reasons for not publishing a Preliminary Market Engagement notice in the Tender Notice.

PRELIMINARY PROCUREMENT CONSIDERATIONS/PLANNING STAGE**RULE 10. *Calculating the Estimated Value of Contracts***

- 10.1 Before any procurement process is begun the Procuring Officer must calculate the Estimated Value of a Contract in accordance with Section 4 and Schedule 3 of the Procurement Act. Determining an Estimated Value for a contract enables the Council to determine whether the proposed procurement will be above or below the relevant threshold and in turn determine which procedures should be followed.
- 10.2 The Estimated Value for the Procurement must not be artificially subdivided to circumvent the application of these Rules or the Procurement Act.
- 10.3 The Estimated Value of Contracts must be calculated in accordance with paragraph 1 of Schedule 3 to the Procurement Act.
- 10.4 Rules 10.5–10.7 (below) covers Contracts for goods, services, works and Utilities Contracts.
- 10.5 The Estimated Value shall be calculated as the maximum amount the Council could expect to pay under the Contract, including where applicable, amounts already paid. The Estimated Value shall be inclusive of VAT.
- 10.6 The estimated amount the Council could expect to pay includes (but is not limited to) the following:
- 10.6.1 the value of any goods, services or works provided by the Council under the Contract other than for payment.
 - 10.6.2 amounts that would be payable if all options in the Contract to supply additional goods, services or works were exercised.
 - 10.6.3 amounts that would be payable if all options in the Contract to extend or renew the term of the Contract were exercised.
 - 10.6.4 amounts representing premiums, fees, commissions, inflationary uplifts, gain shares or interest that could be payable under the Contract; and
 - 10.6.5 amounts representing prizes or payments that could be payable to participants in the procurement.
 - 10.6.6 periodic purchases for the same requirement, whether that is from the same or different suppliers, must be aggregated over a minimum of a 12-month period.
- 10.7 In calculating the Estimated Value, the Council must consider all the facts material to the estimate and available to the Council at the time it makes the estimate.

Estimating for Framework Contracts

- 10.8 The Council must estimate the value of a Framework as the sum of the Estimated Values of all the Contracts that are or may be awarded in accordance with the Framework during its entire term.

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- 10.9 For open frameworks the Council must estimate the total value as the combined value of all individual frameworks awarded under the scheme, including future anticipated re openings of the framework.

Estimating for Concession Contracts

- 10.10 The Estimated Value of Concession Contracts is to be calculated in accordance with paragraph 3 of Schedule 3 to the Procurement Act.
- 10.11 The Council must calculate the Estimated Value of a Concession Contract as the maximum amount the supplier could expect to receive under or in connection with the Contract including, where applicable, amounts already received.
- 10.12 The amount a supplier could expect to receive includes (but is not limited to) the following:
- a) amounts representing revenue (whether monetary or non-monetary) receivable pursuant to the exploitation of the works or services to which the contract relates (whether from the Council or otherwise).
 - b) the value of any goods, services or works provided by the council under the contract other than for payment amounts that would be receivable if an option in the contract to supply additional services or works were exercised.
 - c) amounts that would be receivable if an option in the contract to extend or renew the term of the contract were exercised.
 - d) amounts representing premiums, fees, commissions, or interest that could be receivable under the contract.
 - e) amounts received on the sale of assets held by the supplier under the contract.

Estimating for Mixed Procurement Contracts

- 10.13 Where a Contract comprises of a mixture of services, works or goods, consideration will need to be given to Section 5 of the Procurement Act as to the classification of that Contract and advice sought from the CSU as appropriate.

Estimating for Mixed Category Contracts

- 10.14 Where a Contract involves different categories or types of Contracts, i.e., Concession Contracts, Light Touch Contracts etc. the classification of that Contract will need to be considered in accordance with Section 10 of the Procurement Act and advice sought from the CSU as appropriate.

Anti-avoidance of estimating

- 10.15 The Council must calculate the Estimated Value of each of the Contracts in accordance with paragraph 4 of Schedule 3 to the Procurement Act as including the value of all of the Contracts unless it has a good reason for not doing so. This would apply where:
- 10.15.1 the Council calculates the Estimated Value of two or more Contracts; and
 - 10.15.2 the goods, services or works to be supplied under the Contracts could reasonably be supplied under a single Contract.

Inability to calculate the Estimated Value of a Contract

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- 10.16 Where it is not possible to calculate the Estimated Value of a Contract (in accordance with this Rule), e.g., where the duration of a Contract is unknown, that Contract is to be treated as exceeding the Threshold amount for that type of Contract.
- 10.17 Where the Estimated Value (calculated in accordance with this Rule) is £5,000 or more the Procuring Officer must notify in writing, via completion of a PID, the appropriate Commercial Specialist of the Estimated Value before proceeding. A written record of that Estimated Value must then be kept on file by the Procuring Officer.

RULE 11. Procurement Approach

- 11.1 The Estimated Value of a Contract exclusive of VAT (calculated in accordance with Rule 9) will dictate the procurement approach to be followed as set out below:

Estimated Value excl VAT	Procurement Process	Advertising Requirements	Award Requirements	Documentation
£0 - £5,000	Obtain a minimum of one oral/written Quotation	None	None	Record details of the contract on the Contracts Register.
£6,001 – £29,999 (£5,001 - £24,999 excl VAT)	Complete a PID and secure approvals before commencing. Obtain a minimum of 3 written Quotations. If this is not possible, approval must be sought from CSU to continue.	None When inviting quotations officers should consider the benefits of including a local supplier or SME in the request for quotation.	None	Record details of the contract on the Contracts Register including a copy of the PID, Request for Quotation issued by the Procuring Officer and Quotations received.
£25,000 – Relevant Procurement Threshold (excl Vat) Framework Call off or Competition.	Complete a PID and secure approvals before commencing. Invite tenders from particular or pre-selected suppliers, i.e., a Framework.	No notice required. Undertake via the Councils electronic tendering system.	Below Threshold Contract Details Notice.	Record details of the contract on the Contracts Register including a copy of the PID, call off documents issued by the Procuring Officer and Quotations received.

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£25,000 – Relevant Procurement Threshold (excl Vat) Open Market	Complete a PID and secure approvals before commencing. Advertising more widely for the award of a below-threshold contract. Seek written Quotations (to be based on a Request for Quotation document where practical)	Below Threshold Tender Notice required before publishing/advertising elsewhere.	Below Threshold Contract Details Notice	Record details of the contract on the Contracts Register including a copy of the PID, Request for Quotation issued by the Procuring Officer and Quotations received.
Contracts for independent day or residential school placements for children with Special Educational Needs	Complete a PID and secure approvals before commencing.	When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the Contract.	Contract Details Notice	Record details of the contract on the Contracts Register including a copy of the PID, Request for Quotation issued by the Procuring Officer and Quotations received.
Estimated Value inc VAT	Procurement Process	Advertising Requirements	Award Requirements	Documentation
Below the Light Touch Contract threshold £552,950 (excl VAT)	Complete a PID and secure approvals before commencing. Obtain a minimum of 3 Quotations (to be based on the request for Quotation document where practical). If this is not possible, approval must be sought from CSU to continue.	When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the Contract.	Contract Details Notice	Record details of the contract on the Contracts Register including a copy of the PID, Request for Quotation issued by the Procuring Officer and Quotations received.

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<p>Contracts or Frameworks for Healthcare Services falling within the Provider Selection Regime.</p> <p>Direct Award Process A</p>	<p>Complete a PID and secure approvals before commencing.</p> <p>Approval must be sought from the Head of Procurement & Supply Chain Management.</p> <p>Procuring Officer must seek the advice of a Commercial Specialist on a suitable Process to follow under these Regulations.</p>	<p>None</p>	<p>Contract Details Notice? Or is this a Transparency Notice</p>	<p>Record details of the contract on the Contracts Register including a copy of the PID, clear records detailing the decision-making process and rationale for direct award process A, as set out in the Regulations.</p>
<p>Contracts or Frameworks for Healthcare Services falling within the Provider Selection Regime.</p> <p>Direct Award Process B</p>	<p>Complete a PID and secure approvals before commencing.</p> <p>Approval must be sought from the Head of Procurement & Supply Chain Management.</p> <p>Procuring Officer must seek the advice of a Commercial Specialist on a suitable Process to follow under these Regulations.</p>	<p>None</p>	<p>Contract Details Notice</p>	<p>Record details of the contract on the Contracts Register including a copy of the PID, clear records detailing the decision-making process and rationale for direct award process B, as set out in the Regulations.</p>
<p>Contracts or Frameworks for Healthcare Services falling within the Provider Selection Regime.</p>	<p>Complete a PID and secure approvals before commencing.</p> <p>Approval must be sought from the Head of Procurement &</p>	<p>Intention to award notice.</p> <p>Complete Standstill</p>	<p>Contract Details Notice</p>	<p>Record details of the contract on the Contracts Register including a copy of the PID, clear records detailing the decision-making process and rationale for direct</p>

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Direct Award Process C	Supply Chain Management. Procuring Officer must seek the advice of a Commercial Specialist on a suitable Process to follow under these Regulations.			award process C, as set out in the Regulations.
Contracts or Frameworks for Healthcare Services falling within the Provider Selection Regime. Most Suitable Provider Process	Complete a PID and secure approvals before commencing. Approval must be sought from the Head of Procurement & Supply Chain Management. Procuring Officer must seek the advice of a Commercial Specialist on a suitable Process to follow under these Regulations.	Intended approach notice Intention to award notice.	Contract Details Notice	Record details of the contract on the Contracts Register including a copy of the PID, clear records detailing the decision-making process and rationale for most suitable provider process, as set out in the Regulations.
Contracts or Frameworks for Healthcare Services falling within the Provider Selection Regime. Competitive Process	Complete a PID and secure approvals before commencing. Approval must be sought from the Head of Procurement & Supply Chain Management. Procuring Officer must seek the advice of a Commercial Specialist on a suitable Process to	Publication of Tender Notice to advertise Competitive Tendering Intention to award notice.	Contract Details Notice	Record details of the contract on the Contracts Register including a copy of the PID, clear records detailing the decision-making process and rationale for competitive process, as set out in the Regulations.

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Estimated Value excl VAT	Procurement Process	Advertising Requirements	Award Requirements	Documentation
<p>Relevant Procurement Threshold and above for Framework Call off or Award</p> <p>Goods/services: £179,087 (excl VAT)</p> <p>Works: £4,477,175 (excl VAT)</p> <p>Light Touch Contracts: £552,950 (excl VAT)</p> <p><i>Relevant Procurement Thresholds are subject to change, and Officers should consider Procurement Policy Notes or Regulations applicable at the time.</i></p>	<p>follow under these Regulations.</p> <p>Complete a PID and secure approvals before commencing.</p> <p>Invite tenders from particular or pre-selected suppliers, i.e., a Framework.</p>	<p>None</p> <p>Undertake via the Councils electronic tendering system.</p>	<p>Contract Award Notice</p> <p>Assessment Summary</p> <p>Voluntary Standstill</p> <p>Contract Details Notice</p> <p>If contract is over £5m - a copy of the Contract and the KPIs must be published (not required for Light Touch).</p>	<p>Record details of the contract on the Contracts Register including a copy of the PID, all tender documents, responses, evaluation, moderation, award letters and contract.</p>
<p>Relevant Procurement Threshold and above for Open Market Tender</p> <p>Goods/services: £179,087 (excl VAT)</p> <p>Works: £4,477,175 (excl VAT)</p> <p>Light Touch Contracts: £552,950 (excl VAT)</p> <p><i>Relevant Procurement Thresholds are subject to change, and Officers should consider Procurement Policy Notes or Regulations applicable at the time.</i></p>	<p>Complete a PID and secure approvals before commencing.</p> <p>Competitive Tendering Procedure, quotations sought via Invitation to Tender (ITT) in accordance with Procurement Act (refer to Commissioning Support Unit)</p>	<p>Publication of Tender Notice to advertise Competitive Tendering.</p> <p>Undertake via the Councils electronic tendering system.</p>	<p>Contract Award Notice</p> <p>Assessment Summary</p> <p>Standstill</p> <p>Contract Details Notice</p> <p>If contract is over £5m - a copy of the Contract and the KPIs must be published (not required for Light Touch)</p>	<p>Record details of the contract on the Contracts Register including a copy of the PID, all tender documents, responses, evaluation, moderation, award letters and contract.</p>

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			Direct Award Notice only (where Light Touch and user choice)	
Dynamic Markets	Complete a PID and secure approvals before commencing.	None Undertake via the Councils electronic tendering system.	Contract Award Notice Assessment Summary Voluntary Standstill Contract Details Notice If contract is over £5m - a copy of the Contract and the KPIs must be published (not required for Light Touch).	Record details of the contract on the Contracts Register including a copy of the PID, all tender documents, responses, evaluation, moderation, award letters and contract.

Additional Requirements

- 11.2 Details of oral Quotations must be confirmed in writing.
- 11.3 All procurements proposed over £5,000 inc. VAT must be approved before any procurement activity, by the CSU through use of the PID.
- 11.4 All procurements including those below £5,000 incl, must have an approved Purchase Order in place before commencement of work.
- 11.5 The CSU shall advise the Procuring Officer on the appropriate route to market which may include the use of Frameworks or a Corporate Contract prior to the procurement process beginning.
- 11.6 When the Corporate Contract is a Framework, the Procuring Officer must comply with Rule 19 after consulting with a relevant Commercial Specialist on the suitability of the Framework intended for use.

RULE 12. Consideration of Lots

- 12.1 Before commencing a procurement process the Council must consider whether the goods, works or services could reasonably be supplied under more than one Contract to benefit Small to Medium sized Enterprises (SMEs) and reduce risk and if those Contracts could appropriately be awarded by reference to lots.
- 12.2 The Act makes provision in relation to lots at Section 18 (Duty to consider lots), Section 20 (Competitive tendering procedures) and Section 23 (Award criteria).

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- 12.3 The Procuring Officer must provide reasons within the Procurement Initiation Document (PID) for not splitting a procurement into lots for all contracts other than light touch contracts, the reasons must also be provided in the Tender Notice.

REGULATED BELOW THRESHOLD CONTRACTS**RULE 13. *Regulated Below Threshold Contract Requirements***

(over £30,000 inc VAT or over £25,000 excl VAT but below Threshold).

General

- 13.1 A Regulated Below Threshold Contract is a Contract which does not meet the relevant Procurement Threshold as defined by the Procurement Act.
- 13.2 The Council must conduct procurements for Regulated Below Threshold Contracts in accordance with Part 6 of the Procurement Act. The duties to have regard to National Procurement Policy Statements and the duty not to discriminate against a treaty supplier will also apply to Regulated Below Threshold Procurements.

Suitability Assessment

- 13.3 Where the Council invites the submission of quotations in relation to the award of a Regulated Below Threshold Contract, the Council must ensure that the assessment of the suppliers' suitability to perform the Contract doesn't restrict their ability to submit a quotation.
- 13.4 There is an exception to Rule 13.3 (above) detailed at section 85 of the Procurement Act to the rule prohibiting a separate suitability stage in relation to a below-threshold works contract if the contract:
- 13.4.1 has an estimated value of not less than £179,087 excluding VAT. This is the same as the thresholds for goods and services. This exception is because the works threshold is much higher, and it is appropriate that contracting authorities carrying out procurements for higher value below-threshold works contracts that are still above the goods and services thresholds, can include a separate suitability stage before the award stage, if desired.
- 13.4.2 is awarded in accordance with a Framework.
- 13.5 Based on criteria laid down by the Executive, the Chief Finance Officer will be responsible for evaluating the financial status of Tenderers and suppliers. The Chief Finance Officer is responsible for setting the criteria for evaluating the financial status of Tenderers and Suppliers which Officers will use.

Notices

- 13.6 The Council must publish a Regulated Below Threshold Tender Notice on the Central Digital Platform if advertising for the purpose of inviting Tenders for Below Threshold Contracts where the Estimated Value of the Contract is no less than £25,000 excluding VAT.
- 13.7 The requirement set out in Rule 13.6 (above) does not apply where the Council invites Quotes or Tenders from a closed group of pre-selected suppliers, i.e. via a Framework or from one or more targeted suppliers provided it does not advertise the procurement in any other way.
- 13.8 The Below Threshold Tender Notice must be published on the Central Digital Platform before being published elsewhere via the Councils Electronic Tendering System.
- 13.9 Section 87(3) provides that as soon as reasonably practicable after entering into a notifiable below-threshold contract, a Contract Details Notice must be published on the Central Digital Platform via the Councils Electronic Tendering System. This applies to all notifiable below-

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threshold contracts, and not just those which require the publication of a below-threshold tender notice.

PUBLIC CONTRACTS**RULE 14. Competitive Tendering Procedures**

- 14.1 The Council may wish to engage with suppliers prior to commencing any Competitive Tendering Procedure in accordance with Rule 9.
- 14.2 All Public Contracts, including Concession Contracts, Light Touch Contracts and Utilities Contracts the value of which is above a Relevant Procurement Threshold must be procured by a Competitive Tendering Procedure using either:
- a) Open Procedure; or
 - b) Competitive Flexible Procedure.
- as described in more detail in Section 20 of the Procurement Act.
- 14.3 The Council is not required to use the above mentioned Competitive Tendering Procedures for a Public Contract as set out below:
- a) *Direct award* – where justified under Sections 41 or 43 of the Procurement Act; or
 - b) *Call Off Contract* - when awarding a Public Contract under a Framework as set out in Section 45 of the Procurement Act.
 - c) *Provider Selection Regime* – where the applicable procurement must be carried out under the Provider Selection Regime.

RULE 15. Conditions of Participation

- 15.1 The Council may set conditions of participation to perform the Contract under a Competitive Tendering Procedure, in accordance with Section 22 of the Procurement Act which relate to:
- a) legal and financial capacity; or
 - b) technical ability to perform the Public Contract
- 15.2 Based on criteria laid down by the Executive, the Chief Finance Officer will be responsible for evaluating the financial status of Tenderers and suppliers. The Chief Finance Officer is responsible for setting the criteria for evaluating the financial status of Tenderers and Suppliers which Officers will use.
- 15.3 Conditions of participation must be a proportionate means of ensuring the relevant capacity or ability, having regard to the nature, complexity and cost of the Public Contract.
- 15.4 A supplier must meet the conditions of participation in order to be awarded the Public Contract.
- 15.5 Further details on the rules relating to conditions of participation are set out in Section 22 of the Procurement Act.

Part 4G Contract Procedure Rules**RULE 16. Award Criteria**

- 16.1 In the case of a procurement process with an Estimated Value of £25,000 excluding VAT or more the process for identifying the most advantageous Tender, including selection and award criteria, must be agreed in consultation with the appropriate Commercial Specialist and included in the Request for Quotation/Invitation to Tender and a copy retained on file.
- 16.2 The Procuring Officer must notify all Tenderers of the award methodology and evaluation criteria being used in the case of the Contract in question. If weightings are to be applied to the award criteria, then the Procuring Officer must ensure that these are also incorporated into the Request for Quotation/ Invitation to Tender.

Procurement Act

- 16.3 A Public Contract may be awarded to a supplier that submits the most advantageous tender in a competitive tendering process which will be considered from the Council's point of view, which:
- a) satisfies its requirements; and
 - b) best satisfies the award criteria.
- 16.4 The Council will need to consider Section 23 of the Procurement Act in relation to setting award criteria for each competitive tendering process.
- 16.5 Award criteria for a Competitive Flexible Procedure may be refined in accordance with Section 24 of the Procurement Act and the Council must modify and republish or re-provide the Tender Notice and any associated documents affected by the refinements in accordance with Section 24(4) of the Procurement Act.

Health Care Services (Provider Selection Regime) Regulations 2023

- 16.6 The Council is required to follow one of the following provider selection processes in awarding contracts for health care services.
- a) *Direct award processes (A, B, and C)* – awarding contracts to providers when there is limited or no reason to seek to change from the existing provider; or to assess providers against one another, because:
 - (i) the existing provider is the only provider that can deliver the health care services direct award process A must be used,
 - (ii) patients have a choice of providers, and the number of providers is not restricted by the Council direct award process B must be used.
 - (iii) the existing provider is satisfying its existing contract, will likely satisfy the new contract to a sufficient standard, and the proposed contracting arrangements are not changing considerably direct award process C may be used.
 - b) *Most suitable provider process* – awarding a contract to providers without running a competitive process, because the Council can identify the most suitable provider.
 - c) *Competitive process* – running a competitive process to award a contract.
- 16.7 When procuring under these regulations, the five key criteria as stated within those regulations must all be evaluated. These are:
- Quality and innovation
 - Value

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- Integration, collaboration, and service sustainability
- Improving access, reducing health inequalities, and facilitating choice; and
- Social value

RULE 17. Open Procedure

- 17.1 Prior to commencing an Open Procedure, the Council may wish to engage with suppliers prior to commencing any Competitive Tendering Procedure in accordance with Rule 9.
- 17.2 The Open Procedure is a single stage procedure.
- 17.3 Under the Open Procedure, Procuring Officers must ensure access to Invitations to Tender is available to all suppliers (other than those who are excluded) who respond to the Tender Notice and who meet the requirements stated in the tender documents. Where the opportunity has been advertised via the electronic tendering system the Invitation to Tenders and all supporting documents must be made available in the system for all interested parties to access subject to confidentiality agreement where applicable.

RULE 18. Competitive Flexible Procedure

- 18.1 Prior to commencing a Competitive Flexible Procedure, the Council may wish to engage with suppliers prior to commencing any Competitive Tendering Procedure in accordance with Rule 9.
- 18.2 The Competitive Flexible Procedure is any other Competitive Tendering Procedure, i.e. multi-staged process that the Council considers appropriate for the purpose of awarding a Public Contract.
- 18.3 The Council is afforded flexibility as to how to design a Competitive Flexible Procedure but details on how the procedure will be carried out must be set out in the Tender Notice and tender documents. However, when using the Competitive Flexible Procedure, the Council must consider the procurement objectives, such as those relating to time limits and transparency.
- 18.4 The Competitive Flexible Procedure may allow the Council to reserve the Public Contract to supported employment providers and public service mutual in certain circumstances. See Sections 32 – 33 Procurement Act.
- 18.5 Before allowing a supplier to participate in a Competitive Flexible Procedure the Council must determine whether the supplier is excluded or excludable in accordance with Section 27 of the Procurement Act. Where an excluded or excludable supplier is identified there must be consultation with CSU before excluding.

RULE 19. Frameworks

- 19.1 Frameworks can be established either under the Open Procedure or the Competitive Flexible Procedure.
- 19.2 Frameworks are governed by Chapter 4 of the Procurement Act.
- 19.3 Frameworks must not be awarded for more than 4 years unless:
- a) It is a utilities Framework;

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- b) It is an Open Framework (see below);
- c) It is a Light Touch Framework;
- d) It is considered that due to the nature of the goods, services or works to be supplied that a longer term is required.

The justifications for awarding for more than 4 years in any of the above scenarios must be detailed and approved within the Procurement Initiation Document, authorisation must also be sought from the Chief Finance Officer

- 19.4 Call Off Contracts may be awarded following a competitive selection process in accordance with Section 45(3) of the Procurement Act
- 19.5 Alternatively, Call Off Contracts may be awarded without competition, with prior approval from Commercial Specialist, (in accordance with Section 45(4)) of the Procurement Act to suppliers:
- a) in circumstances where only one supplier is party to the Framework; or
 - b) where the Framework sets out:
 - (i) the core terms of the public contract; and
 - (ii) an objective mechanism for supplier selection.
- 19.6 Call Off Contracts are to be awarded in accordance with the terms of the Framework and are not subject to the Competitive Tendering Procedures.

Open Frameworks

- 19.7 An Open Framework is a scheme of Frameworks that provides for the award of successive Frameworks on substantially the same terms.
- 19.8 Open Frameworks must provide:
- a) for the re-opening of a Framework at least once during—
 - (i) the period of three years beginning with the day of the award of the first framework in the scheme, and
 - (ii) each period of five years beginning with the day of the award of the second framework in the scheme;
 - b) for the expiry of one framework on the award of the next;
 - c) for the final framework to expire at the end of the period of eight years beginning with the day on which the first framework under the scheme is awarded.
- 19.9 The rules governing Frameworks are set out in Section 45-49 of the Procurement Act.
- 19.10 Each Call Off Contract awarded under a Framework must be included on the Contracts Register within 30 days of award as per Rule 36.

RULE 20. *Dynamic Markets*

- 20.1 The Council may wish to establish arrangements (Dynamic Markets) for the purpose of awarding Public Contracts by reference to suppliers' participation in those arrangements which must remain open for new suppliers to join at any time.
- 20.2 The Open Procedure or direct award route cannot be used to award a Public Contract under a Dynamic Market

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- 20.3 Dynamic Markets are not permitted for below threshold calls offs.
- 20.4 Procuring Officers must only establish Dynamic Markets with the prior written approval of a Senior Commercial Specialist and the Director of Corporate Resources and in accordance with the requirements of the Procurement Act and these Rules where appropriate.
- 20.5 Sections 34 – 40 of the Procurement Act sets out the rules relevant to Dynamic Markets.

RULE 21. Direct Awards

- 21.1 In limited circumstances, the Council may directly award a Public Contract to a supplier without conducting a Competitive Tendering Procedure or compliant Framework call off as more particularly described in Sections 41 – 44 of the Procurement Act and set out in Rule 21.4. This is classed as permitted Direct Awards.
- 21.2 If a Direct Award justification applies, the Council may award a Public Contract directly to a supplier that is not an excluded supplier. The Council may award a Contract to a supplier that is an excluded supplier if the Council considers that there is an overriding public interest in awarding the contract to that supplier.
- 21.3 When making a Direct Award, the Council may carry out a selection process or take other preliminary steps as it considers appropriate for the purpose of awarding a Direct Award Contract.
- 21.4 To be able to award a contract as a Direct Award the following conditions must be met:
- a) **Direct award to protect life** - the Minister of the Crown must consider it necessary in order to protect human, animal or plant life or health, or to protect public order or safety.
 - b) **Switching to direct award** – the Council can switch to awarding directly to a supplier that is not an excluded supplier if we have invited suppliers to submit tenders or request to participate in a competitive tendering procedure, and we have not received any suitable tenders or requests in response (although NB the Council must consider whether the supplier submitted an unsuitable tender or request); and considers that award under section 19 is not possible in the circumstances. A tender or request is not suitable if the Council considers that it would be disregarded in an assessment of tenders under section 19(3)(a) or (c); or it does not satisfy the Councils requirements or the award criteria when assessed by reference to the assessment methodology; or there is evidence of corruption or collusion between the suppliers or between suppliers and contracting authorities; or it materially breaches a procedural requirement in the tender notice (including in relation to the tender). A breach is material if ignoring it would put the tender at an unfair advantage.
 - c) **Production of a prototype, or supply of other novel goods or services** - for the purpose of testing the suitability of the goods or services, researching the viability of producing or supplying the goods or services at scale and developing them for that purpose, or other research, experiment, study or development.
 - d) **Single suppliers** - due to a particular supplier having intellectual property rights or other exclusive rights, only that supplier can supply the goods, services or works required, and there are no reasonable alternatives to those goods, services or works. Due to an absence of competition for technical reasons, only a particular supplier can supply the goods, services or works required, and there are no reasonable alternatives to those goods, services or works.
 - e) **Additional or repeat goods, services or works** - a change in supplier would result in the Council receiving goods, services or works that are different from, or incompatible with, the existing goods, services or works, and the difference or incompatibility would result in disproportionate technical difficulties in operation or maintenance. The existing goods, services or works were supplied under a public contract that was awarded in accordance with a competitive tendering procedure

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within the period of five years ending with the day on which the transparency notice is published, and the tender notice or any tender document in respect of that earlier contract set out—

- (i) the Councils intention to carry out a subsequent procurement of similar goods, services or works in reliance on this direct award justification, and any other information specified in regulations under section 95.
- f) **Commodities** - the public contract concerns goods purchased on a commodity market.
- g) **Advantageous terms on insolvency** - the award of the public contract to a particular supplier will ensure terms particularly advantageous to the Council due to the fact that a supplier, whether or not the one to whom the contract is to be awarded, is undergoing insolvency proceedings.
- h) **Urgency** – Where the goods, services or works to be supplied under the public contract are strictly necessary for reasons of extreme and unavoidable urgency, and as a result the public contract cannot be awarded on the basis of a competitive tendering procedure.

Urgency is unavoidable if it is not attributable to any act or omission of the Council and could not have been foreseen by the Council.

- i) **User choice contracts** - that are of a kind specified in regulations under section 9 (light touch contracts), that are supplied for the benefit of a particular individual. The individual to whom the services are to be supplied 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 the Council considers that it is not in the best interests of the individual to award the contract under section 19.
- 21.5 In the case of procurements with an Estimated Contract Value of at least £5,000 excluding VAT, decisions on whether the statutory criteria for a direct award are met shall be made by a Commercial Specialist.
- 21.6 Prior to directly awarding a Public Contract to a supplier regardless of value the necessary approvals need to be sought by completing a Direct Award request form which will be approved by Appropriate Chief Officer in consultation with Senior Commercial Specialist and for Directs Awards under a) to h) approval must also be sought from the Corporate Procurement Board.
- 21.7 Prior to directly awarding a Public Contract to a supplier a Transparency Notice must be published to inform the market of the proposed direct award and provide transparency on the rationale for the direct award (does not apply to user choice)

RULE 22. *Tender Notices and Tender Documents*

Tender Notice

- 22.1 The Council must publish a Tender Notice as follows:
- 22.1.1 *Open Procedure* – inviting suppliers to submit a tender; or
 - 22.1.2 *Competitive Flexible Procedure*:
 - (i) inviting suppliers to submit a request to participate in the procedure; or
 - (ii) where no such invitation is made, inviting suppliers to submit their first, or only, tender as part of the procedure.
- 22.2 The Tender Notice must comply with the requirements of Section 21 of the Procurement Act.

Tender Documents

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- 22.3 The Council is required to provide any tender documents in accordance with the Tender Notice.
- 22.4 Suppliers are not to be invited to submit Tenders as part of a Competitive Tendering Procedure unless the Tender Notice or the Tender Documents contain:
- a) information sufficient to allow suppliers to prepare a Tender; and
 - b) details of the goods, services or works required.
- 22.5 In setting out its requirements, the Council must be satisfied that they are:
- a) sufficiently clear and specific; and
 - b) do not breach the rules concerning technical specifications (set out in Section 56 of the Procurement Act).

GENERAL**RULE 23. *Electronic Tendering System***

- 23.1 All procurement processes equal to or greater than £25,000 excluding VAT shall be handled via an Electronic Tendering System where possible. Only in exceptional cases may a procurement process be undertaken not using an Electronic Tendering System. Paper Tenders must be submitted to, addressed to and opened by the Chief Executive (or an officer authorised by the Chief Executive to undertake this task). Where the Estimated value is below £25,000 excluding VAT, the quotations may be returned directly to the Procuring Officer.
- 23.2 Where an Electronic Tendering System is not available and paper Tenders are to be received by the Chief Executive, the Procuring Officer must send to the Chief Executive a note of the subject and the closing date and time and (where appropriate) a list of those invited to Tender together with the Estimated Value before the closing date for receipt of Tenders.

RULE 24. *Central Digital Platform*

- 24.1 Under the Procurement Act the Council will be required to publish a variety of notices on the Central Digital Platform. This replaces the requirements under the Public Contracts Regulations 2015 to publish on the Find a Tender Service and Contracts Finder platforms. The Central Digital Platform should be accessible via the Councils Electronic Tendering System.

RULE 25. *Time Limits*

- 25.1 When setting time limits for Competitive Tendering Procedures, the Council must, where relevant, have regard to:
- a) the nature and complexity of the contract being awarded;
 - b) the need for site visits, physical inspections and other practical steps;
 - c) the need for sub-contracting;
 - d) the nature and complexity of any modification of the tender notice or

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- e) any associated tender documents;
- f) the importance of avoiding unnecessary delay.

25.2 For below threshold procurements there is no set time limit, but all of the same considerations listed under 25.1 should be taken into account.

25.3 Section 54 of the Procurement Act sets out the minimum time limits to be set in different circumstances.

RULE 26. *Invitations to Tender*

26.1 Every Invitation to Tender must specify the latest day and hour and the place appointed for the receipt of Tenders and must state the effect of Rule 27.

26.2 Procuring Officers must give all Tenderers the same information about the procurement process and in particular information relating to the Tender process, specification, award criteria, award methodology and applicable terms and conditions of the Contract or Framework.

26.3 Procuring Officers must also give all Tenderers the same information relating to questions, answers and clarifications raised during the procurement process unless considered to be confidential or commercially sensitive.

RULE 27. *Receipt and Opening of Tenders*

27.1 Rules 27.2 – 27.6 apply only to Tenders where the Estimated Value is equal to or greater than the relevant Procurement Threshold and the Tender is not an E-Tender. Rule 27.7 applies to E-Tenders only.

27.2 On receipt of non-electronic Tenders, envelopes containing the Tenders must be date and time stamped by the Chief Executive and shall remain in his custody until they are opened.

27.3 The Chief Executive must keep a record of all non-electronic Tenders received.

27.4 Tenders must be opened at one time in the presence of not less than two Officers one of whom is not involved in the procurement process and who is designated by the Chief Executive. Each Officer must initial each Tender once opened which must also be date stamped.

27.5 Particulars of all Tenders opened must be entered by the Chief Executive upon the record which must be signed by the Officers present at the opening, together with a note of all Irregular Tenders.

27.6 The Chief Executive must forthwith send a copy of the record to the appropriate Procuring Officer (with the Tenders) and must retain a copy himself.

27.7 E-Tenders must be opened in accordance with the requirements of the Electronic Tendering System used.

Part 4G Contract Procedure Rules**RULE 28. *Errors or Discrepancies in Tenders***

- 28.1 Tenderers are not allowed to alter their Tenders after opening save in accordance with this Rule or Rule 31.
- 28.2 Where it is suspected that there has been an error in a Tender and following the closing date for receipt of Tenders but before acceptance of any Tender discussions may take place with Tenderers in order to:
- a) ensure that the Tender is constructed correctly; or
 - b) ensure that the Tenderer has fully understood the specification; or
 - c) seek clarification from Tenderers of cost, quality and performance indicators.
- 28.3 Advice should be sought from the Commissioning Support Unit about whether to seek clarification from Tenderers before any discussions take place with Tenderers in accordance with this Rule. Such clarification will be considered on a case by case basis.
- 28.4 A written note of the discussions must be made to record the suspected error, date, time, detail of the discussion and any agreement reached.

RULE 29. *Specifications*

- 29.1 Specifications must set out a clear and comprehensive description of the requirements for a procurement process with regards to the goods, services or works required.
- 29.2 Public Contracts falling within the scope of the Procurement Act will need to adhere to Section 56 of the Procurement Act which sets out the rules concerning Specifications.
- 29.3 The Specification should not refer to design, a particular licensing model or a description of characteristics in circumstances where they could appropriately refer to performance or technical functions.
- 29.4 References to UK standards should not be made unless:
- a) The standard adopts internationally recognised equivalents; or
 - b) There is no internationally recognised standard.
- 29.5 Unless the Council considers it necessary to make its requirements understood, references should not be made to a particular:
- a) Trademark, trade name, patent, design or type;
 - b) Place of origin;
 - c) Producer or supplier.

RULE 30. *Discussions and Post Tender Negotiations*

- 30.1 Advice should be sought from the CSU before any discussions take place with Tenderers in accordance with post tender negotiations.

Part 4G Contract Procedure Rules**RULE 31. *Supplier Exclusions and Debarment***

- 31.1 There may be a number of different circumstances where suppliers are not permitted to participate in a Covered Procurement, to have their Tender considered or be awarded a Public Contract.
- 31.2 “Excluded” and “excludable” suppliers are defined in Section 57 and 58 of the Procurement Act.
- 31.3 An “excluded supplier” is a supplier (or an associated person) to which a mandatory exclusion ground applies; and
- a) the circumstances giving rise to the application of that exclusion ground are continuing or likely to occur again; or
 - b) the supplier (or associated person) is on the debarment list by virtue of a mandatory exclusion ground.
- 31.4 An “excludable supplier” is a supplier (or associated person) to which a discretionary exclusion ground applies; and
- a) the circumstances giving rise to the application of that exclusion ground are continuing or likely to occur again; or
 - b) the supplier (or associated person) is on the debarment list by virtue of a discretionary exclusion ground.
- 31.5 The mandatory and discretionary exclusion grounds are contained in Schedule 6 and 7 to the Procurement Act.
- 31.6 The way in which the exclusion grounds must be considered and applied in different procurement procedures is set out in Sections 26 and 27 of the Procurement Act. Sections 28 and 29 of the Procurement Act also set out excluding suppliers with references to a connected person, associated person or subcontractors and on a discretionary basis for national security reasons.
- 31.7 Where a supplier is a “excluded” or “excludable” supplier by virtue of an “associated person” being an “excluded” or “excludable” supplier, the Council must, before disregarding a Tender:
- i. Notify the supplier of its intention to disregard; and
 - ii. Give the supplier reasonable opportunity to replace the “associated person”.
- 31.8 “Associated person” is defined in Section 26(4) of the Procurement Act.
- 31.9 Prior to making a decision to exclude a supplier advice should be sought from a Commercial Specialist and if allowing a bid from a supplier under discretionary exclusion approval must be sought from the Director of Law and Governance and the Director of Corporate Resources.
- 31.10 Where the Council excludes a supplier (or associated person) it will need to act in accordance with Sections 58 & 59 of the Procurement Act.

Debarment

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- 31.11 Suppliers may be entered onto a published debarment list as a result of past behavior or circumstances that may mean it is not or may not be able to participate in Covered Procurement or be awarded Public Contracts.
- 31.12 The Council must check the debarment list in each procurement and where a supplier is on the debarment list in relation to a mandatory exclusion ground, the Council must not allow the supplier to bid in a Competitive Flexible Procedure or be awarded a Public Contract in any Competitive Tendering Procedure or by way of a direct award and must disregard any Tender or Quotation submitted by them save for the following exceptions:
- a) where a supplier is on the debarment list on national security grounds for a particular type of contract, as the debarment does not affect their eligibility to bid for other types of contracts; or
 - b) procurements by direct award where there is an overriding public interest in awarding the contract to that supplier. This includes cases where there is an extreme and unavoidable urgency.
- 31.13 We should not continue to work with a supplier who is on the debarment list, so we must check if the supplier is on the debarment list not only before tendering or during contract award but also as part of contract management. Follow guidance for early termination Rule 51.
- 31.14 The debarment provisions are set out in Sections 59 – 66 of the Procurement Act.

RULE 32. *Modifications to Competitive Tendering Procedures*

- 32.1 Section 31 of the Procurement Act permits making changes to the terms of a Covered Procurement as defined in Section 31(7).
- 32.2 Where a modification to a Competitive Tendering Procedure is made, the Council is required to revise and republish or re-provide the Tender Notice and any associated tender documents affected by the modifications or time limit revisions in accordance with Section 31(5) of the Procurement Act.
- 32.3 Advice must be sought from a [Commercial Specialist] prior to seeking to modify a procurement in accordance with Section 31 of the Procurement Act.

AWARD OF CONTRACT**RULE 33. *Acceptance of Tenders***

- 33.1 A Tender can only be accepted in accordance with the initial award methodology and evaluation criteria as set out in Rule 15.
- 33.2 Any evaluation sheets must be maintained on file in accordance with Rule 51.

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- 33.3 Any offer or bid with an Estimated Value of below £25,000 excluding VAT (where a Request for Quotation or an Invitation to Tender is not used) may only be accepted with the prior written approval of the appropriate Commercial Specialist.
- 33.4 If the Quotation/Tender to be accepted exceeds the budget which was agreed in accordance with Rule 5.9 the Procuring Officer must ensure that sufficient funds are available and approved by the appropriate budget holder, Appropriate Chief Officer or Chief Executive prior to accepting the Quotation/Tender.
- 33.5 If the Quotation/ Tender to be accepted exceeds the threshold of the procurement process used, meaning that a different procurement process should have applied the Procuring Officer must seek approval from the Commercial Specialist and Corporate Procurement Board if the threshold that has been exceeded is the Procurement Threshold, prior to accepting and proceeding.
- 33.6 Where the Procuring Officer/ Council considers a Quotation/ Tender submitted to be abnormally low the Council shall require the Tenderer to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where a Public Contract falling within the scope of the Procurement Act is concerned, the Council shall consider an abnormally low Tender in accordance with Section 19 of the Procurement Act.
- 33.7 Where there is only one Quotation/Tender submitted, the Procuring Officer must be able to satisfy themselves that value for money is being achieved, and all risks have been considered before awarding the contract.
- 33.8 Subject to Rule 1, the Appropriate Chief Officer shall have the authority to accept a Tender but in any particular circumstance may decline to give approval and refer the decision to the Chief Executive to determine.

RULE 34. Contract Award Notice

- 34.1 The Procuring Officer must notify the successful Tenderer of the acceptance of their Quotation or Tender and for all procurement processes with an Estimated Value of £5,000 excluding VAT or more this notification must be in writing.
- 34.2 In the case where the Estimated Value is £25,000 excluding VAT or more the Procuring Officer must notify in writing all Tenderers who submitted a Quotation or Tender of the decision as soon as possible after the decision has been made.
- 34.3 Where a Contract with an Estimated Value of £25,000 excluding VAT or more is awarded, the Council must publish a Contract Award Notice on the Central Digital Platform as required by the Procurement Act.
- 34.4 In the case where the Estimated Value is equal to or greater than the relevant Procurement Threshold the following additional Rules shall apply:

Procurement Act*Contract Award Report*

- 34.5 Prior to notifying suppliers of the outcome of the Contract Award a Contract award Report must be completed and authorised by the Appropriate Chief Officer.
- 34.6 The Contract Award Report must be provided in accordance with the requirements set out in Section 98 of the Procurement Act.

Assessment Summary

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34.7 Before publishing a Contract Award Notice in respect of a contract awarded under a Competitive Tendering Procedure, the Council must provide an Assessment Summary to each supplier that submitted an assessed Tender in accordance with Section 50 of the Procurement Act.

34.8 The Assessment Summary must be provided in accordance with the requirements set out in Regulation 31 of the Procurement Act.

Contract Award Notice

34.9 Prior to entering into a Contract, the Council must publish a Contract Award Notice on the Central Digital Platform as set out in Section 50 of the Procurement Act.

34.10 A Public Contract shall not be entered into before:

- a) The end of the mandatory standstill period; or
- b) If later, the end of another standstill period provided for in the Contract Award Notice.

34.11 The requirement to publish a Contract Award Notice does not apply to Below Threshold Contracts, Dynamic Market establishments or direct award: user choice contracts.

Standstill Period

34.12 The mandatory standstill period is the period of 8 working days beginning with the day on which a Contract Award Notice is published in respect of the Contract.

34.13 A standstill period does not apply in relation to Contracts that fall within Section 51(3) of the Procurement Act which includes (but is not limited to) Contracts, however a voluntary standstill should be used where possible:

- a) awarded under Section 41 by reference to paragraph 13 of Schedule 5 to the Procurement Act (direct award: extreme and unavoidable urgency);
- b) awarded under Section 41 by reference to Section 42 of the Procurement Act (direct award to protect life etc);
- c) awarded in accordance with a Framework;
- d) awarded by reference to a Dynamic Market;
- e) a Light Touch Contract.

34.14 The Procuring Officer must notify the appropriate Commercial Specialist in writing of any Contract (including Framework Call Off Contracts) that has been awarded with an Estimated Value of £5,000 or more.

Provider Selection Regime

34.15 In the case of procurements falling under the Provider Selection Regime the relevant notification to awards must be adhered to dependent on the route to market deemed most appropriate in accordance with the Provider Selection Regime.

RULE 35. Procurement Termination Notice

35.1 Where the Council does not award a Public Contract after the contract award decision has been made before the Public Contract is entered into, a Procurement Termination Notice would need to be published in the Central Digital Platform.

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- 35.2 Section 55 of the Procurement Act sets out when the Procurement Termination Notice must be published and Regulation 37 sets out what information must be included within it.

RULE 36. Contract Details Notice

- 36.1 Following publication of a Contract Award Notice and observation of a standstill period (as applicable) a Contract Details Notice must be published in the Central Digital Platform to inform the market that the Public Contract has been entered into.
- 36.2 A Contract Details Notice must be published within 30 days of the Public Contract being entered into, except in relation to Light Touch Contracts where the timeframe is 120 days under Section 53 of the Procurement Act.
- 36.3 Section 87 of the Procurement Act requires publication of a Contract Details Notice as soon as reasonably practicable after entering into a notifiable Below Threshold Contract.
- 36.4 The obligation to publish a Contracts Details Notice does not apply to direct award: user choice contracts – see Schedule 5 paragraph 15 of the Procurement Act.
- 36.5 Regulations 32-35 set out the information to be included in a Contract Details Notice.
- 36.6 The Council must act in accordance with Section 52 of the Procurement Act in relation to key performance indicators (where applicable), as set out in Rule 38.

MANAGEMENT OF CONTRACTS**RULE 37. Implied Contract Terms and Payments**

- 37.1 Public Contracts falling within the scope of the Procurement Act have various implied terms as set out in Section 67, 68, 78 and 79 of the Procurement Act.

Section	Implied Term
67	<p>The Council must accept and process for payment any electronic invoice issued to the Council for payment under the contract.</p> <p>The Council requires the following to be able to meet this implied term, so Contract Managers need to work with Suppliers to ensure:</p> <ul style="list-style-type: none"> (a) supplier invoice is submitted in the required electronic form, and (b) supplier invoice is not disputed by the Council.
68	<p>Any sum due to be paid under the public contract by the Council must be paid before the end of the period of 30 days beginning with—</p> <ul style="list-style-type: none"> (a) the day on which an invoice is received by the Council in respect of the sum, or (b) if later, the day on which the payment falls due in accordance with the invoice. <p>The term in subsection does not apply if the Council—</p> <ul style="list-style-type: none"> (a) considers the invoice invalid, or (b) disputes the invoice.

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	<p>On receiving an invoice from a payee, the Council must notify the payee without undue delay if—</p> <p>(a) it considers the invoice invalid, or (b) it disputes the invoice.</p>
78	<p>If a termination ground applies, be terminated by the Council in accordance with this section.</p> <p>Each of the following circumstances is a termination ground—</p> <p>(a) the Council considers that the contract was awarded or modified in material breach of this Act or regulations made under it; (b) a supplier has, since the award of the contract, become an excluded supplier or excludable supplier (including by reference to an associated person); (c) a supplier (other than an associated person) to which the supplier is sub-contracting the performance of all or part of the public contract is an excluded or excludable supplier.</p> <p>Before terminating a contract the Council must</p> <p>(a) notify the supplier of its intention to terminate, (b) specify which termination ground applies and why the Council has decided to terminate the contract, (c) give the supplier reasonable opportunity to make representations about—</p> <p>(i) whether a termination ground applies, and (ii) the Council's decision to terminate.</p>
79	<p>If terminating a contract in accordance with this section, based on the discretionary or mandatory exclusion grounds relating to national security. Relevant contracting authorities are defined in section 79(3) as any Council other than:</p> <p>(a). a Minister of the Crown or a government department. (b). the Corporate Officer of the House of Commons; or (c). the Corporate Officer of the House of Lords.</p>

37.2 The Council will also need to publish information about payments under Public Contracts in accordance with Section 69 and 70 of the Procurement Act this is completed by the Finance Department.

RULE 38. *Assessment of Contract Performance*

38.1 Where the Council has set KPI's in accordance with Section 52(1) of the Procurement Act, the Contract Manager must in accordance with Section 71 of the Procurement Act it must at least once in every 12-month period during the life-cycle of the Contract and on termination of the Contract:

- a) assess performance against the KPI's; and
- b) publish information specified in Regulations under Section 95 of the Procurement Act in relation to that assessment, known as a Contract Performance Notice; and
- c) record information relating to particular breaches or failure to perform a Contract (except where the breach results in a Contract being terminated in full).

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- 38.2 Within 30 days from the day on which Section 71(5) of the Procurement Act applies in relation to a particular breach or failure to perform, the Council must publish information in accordance with Section 71(5) of the Procurement Act.

RULE 39. Sub-Contracting

- 39.1 The Council may direct a supplier to enter into a legally binding sub-contracting arrangement with a sub-contractor in accordance with Section 72 of the Procurement Act.
- 39.2 The Council must comply with Section 73 of the Procurement Act which contains implied payment terms that are set out in Section 68 of the Procurement Act. Unless the Council disputes an invoice or considers it to be invalid, they must be paid within 30 days (i) on the day which the invoice is received; or (ii) if later, the day on which the invoices fall due. Any contractual terms which seeks to restrict or override this, will not have effect.

RULE 40. Internal Annual Reporting

- 40.1 The Director of Corporate Resources, in consultation with the Director of Law and Governance, shall at least once in each financial year submit a report to the Corporate Governance Committee in relation to:
- a) the operation of these Rules and proposed revisions to these Rules and/or changes required to accommodate the requirements of UK and EU Retained procurement law as may be necessary from time to time; and
 - b) providing an annual summary of the number of Contracts awarded using the Provider Selection Regime, in the year to which the summary relates where Direct Award Process A, Direct Award Process B, Direct Award Process C, the Most Suitable Provider Process or the Competitive Process was followed.

Contracts Register

- 40.2 All Contracts awarded, regardless of value, must be entered onto the Contracts Register within 30 days of the date of the award.

RULE 41. Prevention of Corruption / Conflict of Interest

- 41.1 The Employee Code of Conduct (Part 5b of the Constitution) applies to any procurement process.

Prevention of Corruption

- 41.2 The Contracts should have a suitable clause included which ensures the Council may terminate and recover losses from our Contract if the Supplier commits an offence under the Bribery Act 2010 or commits fraud.
- 41.3 The suppliers must comply with the Supplier Code of Conduct and any relevant policies.
- 41.4 The Council may exclude a supplier from participation in a procurement procedure where they have established that supplier is an excluded or excludable supplier as defined in Section 57 of the Procurement Act and Rule 31.

Conflicts of Interest

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- 41.5 Officers are referred to the Employee Code of Conduct regarding conflicts of interest.
- 41.6 Additionally, the Council is under a duty to identify and mitigate conflicts of interest arising where a procurement falls within the scope of the Procurement Act as set out in Sections 81 - 83 of the Procurement Act.
- 41.7 The Council must prepare (and keep under review) a conflicts assessment before publishing a Tender Notice, Transparency Notice or Dynamic Market Notice in relation the procurement/establishment and this must be referenced in those notices (as applicable).
- 41.8 If the Council is aware of circumstances that it considers are likely to cause a reasonable person to believe there to be a conflict or potential conflict of interest, a conflicts assessment must also include details of any steps the Council has taken or will take to demonstrate that no such conflict or potential conflicts exists.
- 41.9 The Council must in accordance with Section 83(5) of the Procurement Act:
- a) keep any conflicts assessment under review;
 - b) revise the assessment as necessary; and
 - c) when publishing any relevant notice, confirm that a conflicts assessment has been prepared and revised in accordance with Section 83 of the Procurement Act.
- 41.10 Section 83(5) of the Procurement Act under Rule 42.08 does not apply where:
- a) The Council has given notice of a decision not to award a Contract under Section 55 of the Procurement Act;
 - b) A Contract Termination Notice is published in relation to the procurement; or
 - c) A Dynamic Market Notice is published in relation to the market ceasing to operate.

RULE 42. Counter Terrorism and Security Act 2015

- 42.1 Where appropriate, the Contract shall make appropriate provision for information sharing between the Contractor and the Council in line with the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018, and/or such other measures as are appropriate, such as staff training, to support the Council in meeting its duty under Section 26 of the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism

RULE 43. Form of Contract

- 43.1 A Contract shall be formed:
- a) by completion of a formal contract incorporating the Invitation to Tender or Request for Quotation, the Tender and the outcome of any subsequent negotiations and/or discussions; or
 - b) by placing an order in accordance with Rule 47.
- 43.2 In determining the terms and conditions of Contract, the Procuring Officer must ensure that appropriate Terms and Conditions are incorporated in consultation with the Director of Law and Governance.

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- 43.3 All Contracts with an Estimated Value of £25,000 excluding VAT or more must be in writing and where appropriate the Procuring Officer shall:
- ensure that the Contract includes a definition of the circumstances that will be considered to constitute a default on the terms of the Contract by the supplier. The Contract must provide for notice of default to be given to the supplier and for any resulting losses to be recovered from the supplier if the default is not rectified.
 - decide whether it is necessary to require suppliers to provide a Performance Bond with a third party or a Parent Company Guarantee. The need for this will depend on an assessment of the risk associated with the contract or the supplier.
 - ensure that the contract provides for the supplier to have an insurance policy, which can be inspected during the contract period. The Chief Finance Officer shall be consulted on the insurance requirements.
 - consult the Chief Finance Officer on the appropriate VAT requirements.
- 43.4 The Procuring Officer shall comply with the UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018 requirements and shall include in the Contract appropriate provisions.
- 43.5 The Procuring Officer shall ensure the Contract includes a right to audit clause which requires the Contractor to keep full, true and accurate books of account and to preserve and permit the Council access to such records for at least such periods as the Council is itself subject audit or investigation in respect of the Contract.
- 43.6 The Procuring Officer shall ensure the Supplier Code of Conduct and all other relevant Council policies are included in the Contract.
- 43.7 Every contract must be signed (by electronic means or otherwise) by the Appropriate Chief Officer or an Officer designated with the appropriate financial authority as set out in the Scheme of Delegation, and in cases determined by the Director of Law and Governance or where otherwise required in law, shall be under the Common Seal of the County Council in a form prepared or approved by the Director of Law and Governance.

The scheme of delegation for Contract signing is defined in the table below.

Estimated Value of the Contract (including Extensions)	Designated Officer authorised to sign the Contract
£0 - £24,999	Team Manager (Grade 12-14)
£25,000 - £175,000	Head of Service (Grade 15-17)
£175,001 - £499,999	Assistant Director (Grade 17-19)
£500,000 and above	Director (Grade 18 and above)
Contracts under Seal/ by Deed (regardless of value)	Director of Relevant Department and; Director of Law and Governance

In the case of ESPO:

- 43.8 Framework agreements and any agreements varying them must be signed (by electronic means or otherwise) by the Appropriate Chief Officer or an Officer designated with the appropriate authority as set out in the Scheme of Delegation, and in cases determined by the Director of Law and Governance or where otherwise required in law, shall be under the Common Seal of the County Council in a form prepared or approved by the Director of Law and Governance.

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- 43.9 Every other Contract or order must be signed (by electronic means or otherwise) by the Appropriate Chief Officer or an Officer designated with the appropriate authority as set out in the Director of ESPO's Financial Scheme of Delegation, and in cases determined by the Director of Law and Governance or where otherwise required in law, shall be under the Common Seal of the County Council in a form prepared or approved by the Director of Law and Governance.

RULE 44. Contract Management

- 44.1 The Procuring Officer shall advise the Commissioning Support Unit who shall immediately upon completion of every procurement process;

- a) In respect of contracts having a value of less than £25,000 excluding VAT and where the Electronic Tendering System has not been used, enter the Contract details in the Council's Contracts Register and set up an appropriate Contract purchase Agreement.

Contracts of whatever value handled via the Electronic Tendering System the Procuring Officer shall ensure that the details of the Contract are published in the Council's Contracts Register.

- 44.2 All Contracts shall be managed in accordance with the Procurement Act.

- 44.3 The Procuring Officer or Contract Manager/authorised officer responsible for the management of the Contract shall:

- a) Ensure the Contract management is carried out having regard to the procurement objectives set out in Section 12 of the Procurement Act (i) delivering value for money, (ii) maximizing public benefit (iii) sharing information so that suppliers can understand procurement policies and decisions, (iv) been seen to act with integrity.
- b) Ensure suppliers are treated the same unless a difference in treatment can be justified, and even then, all reasonable steps must be taken to avoid unfair advantage or disadvantage between suppliers.
- c) Obtain prior approval in accordance with Rule 45 and Rule 48 before proceeding to authorise (in writing) any modification/extension to the Contract;
- d) Ensure all contract documentation including details and copies of variations and modifications is uploaded to the Council's Electronic Tendering System;
- e) Ensure that a record is kept of all certificates and instructions issued under the Contract;
- f) Keep documents in support of each payment showing how the payment amount has been valued and maintain a record of all such payments including any professional fees;
- g) Prior to the Contract renewal notice period for a Contract, consult the relevant Commercial Specialist to review opportunities for contract modifications or amendments for favorable contract terms;
- h) When terminating any Contract and in particular for breach follow the requirements set out in Rule 50
- i) Resolve all contractual matters and contractual claims, and issue any final account and final certificate in accordance with the terms of the Contract, taking advice from the Director of Law and Governance.
- j) Ensure Key performance Indicators (KPIs) are reviewed and monitored as set out in Rule 38.
- k) Ensure Performance notices are published against the KPIs as set out in Rule 38.

Part 4G Contract Procedure Rules**RULE 45. Contract Extensions**

- 45.1 A Contract may be extended before the expiry date where the Contract Extension is provided for in accordance with its original terms.
- 45.2 Prior to any contract extension being agreed the Procuring Officer must ensure that sufficient additional budget provision, as required, has been approved by the budget holder.
- 45.3 Where the original Contract terms do not provide expressly for a Contract Extension, there will be limited circumstances under a modification (see Rule 49) whereby the above Threshold Contract can still be extended in line with the Procurement Act.
- 45.4 In all cases, a Contract Extension Form must be completed outlining the full reasons for the request for the Contract Extension.
- 45.5 The approved Contract Extension Form must be retained in the Electronic Tendering System under the relevant project.

The relevant approvals required for Contract Extensions is set out below:

Type of Contract	Contract Extension Details	Approval Required
<p>45 (a)</p> <p>Below Threshold</p>	<p>Extension allowed for within the original tender/ contract</p>	<p>Approval needs authorisation from the Chief Officer in consultation with the Commercial Specialist.</p> <p>Where the value exceeds £30,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained.</p> <p>In the case of ESPO – approval by Contracts Panel.</p>
<p>45 (b)</p> <p>Below Threshold (where the original contract and the extension do not exceed the relevant threshold).</p>	<p>Extension not allowed for in the original contract</p>	<p>Appropriate Chief Officer, in consultation with the Commercial Specialist and Corporate Procurement Board</p> <p>In the case of ESPO – approval by Contracts Panel.</p>
<p>45 (c)</p> <p>Above Threshold and Convertible Contracts (where the extension</p>		<p>Follow modification Rule 48.</p>

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takes the contract above threshold)		
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RULE 46. Orders for work, goods and services

- 46.1 Orders for work, goods and services must only be placed in accordance with Instruction 8 of the Standard Financial Instructions. and No PO No Pay Policy.

STANDING LISTS**RULE 47. Standing Lists**

- 47.1 Standing Lists must not be created or added to without the prior written approval of the Appropriate Chief Officer in consultation with the appropriate Commercial Specialist.
- 47.2 Procuring Officers must not use a Standing List where the Estimated Value of the Contracts to be awarded using the Standing List is estimated to exceed the relevant Procurement Threshold.
- 47.3 The Standing List must contain the names of all Persons who are approved and indicate the categories of contract and the values or amounts in respect of those categories for which those Persons are approved.
- 47.4 At least four weeks before a list is first compiled, the Procuring Officer must publish on a website or portal approved by the Director of Corporate Resources for the purpose of notifying the supply market a notice inviting applications by a specified date for inclusion in it.
- 47.5 Procuring Officers must renew all Standing Lists at intervals not exceeding four years. At least four weeks before each renewal, each Person whose name appears in the list must be notified by the Procuring Officer of the intention to review the list. If they wish to remain on the list they must re-apply for inclusion. Procuring Officers must ensure that notices inviting applications for inclusion in the list are published in the manner provided by Rule 27(d).
- 47.6 In cases where the use of a Standing List has been authorised the Procuring Officer must send Invitations to Tender to not less than four of the Persons from among those approved for a contract of the relevant category and amount or value. Where fewer than four Persons are approved for a contract of the relevant category and amount or value Invitations to Tender shall be sent to no fewer than three Persons. Where there are fewer than three Persons the procedure for Standing Lists must not be used unless the appropriate Commercial Specialist advises otherwise.
- 47.7 Standing Lists must be held within the Councils electronic tendering system and the contracts register.
- 47.8 The Procuring Officer in consultation with the Commercial Specialist shall determine the criteria for selecting Persons from the list.
- 47.9 In such circumstances as the Director of Corporate Resources shall determine, Procuring Officers shall provide such information as shall reasonably be necessary of the extent to which Standing Lists have been utilised.

CONTRACT AMENDMENTS

Part 4G Contract Procedure Rules**RULE 48. Modifying a Contract**

48.1 Modifications to Contracts will need to be assessed on a case-by-case basis and appropriate advice should be sought from the CSU where necessary.

Contracts not falling within the Procurement Act

48.2 Any modification to a Contract, for example to deliver additional goods, services or works, including variations to the terms of payment or a variation to provide for an extension requires prior approval. The approval thresholds and required authorities are detailed in the table below. In the event of a contract Novation refer to Rule 50.

Table: 1- Modifications to Below-Threshold Contracts not governed by the Procurement Act.

Type of Contract	Relevant Procurement Threshold and Modification Criteria	Approval Required
48(a) Goods and Services	Contract Value including the modification is below £179,087 excluding VAT. Value of the modification is under £100,000 and the modification does not take the contract above the relevant threshold, keeping it below threshold. (Not applicable to ESPO)	<ul style="list-style-type: none"> • Appropriate Chief Officer, in consultation with Commercial Specialist • In the case of ESPO- approval by Contracts Panel.
48(b) Goods and Services	Contract Value including the modification is below £179,087 excluding VAT. Value of the modification is £100,000 or over and the modification does not take the contract above the relevant threshold, keeping it below threshold. (Not applicable to ESPO)	<ul style="list-style-type: none"> • Appropriate Chief Officer, in consultation with the Commercial Specialist, and • Corporate Procurement Board
48(c) Goods and Services	Initially a below threshold contract, however the proposed modification, regardless of value will result in the new contract value exceeding the relevant threshold, turning it into a Convertible Contract.	Where the modification of the contract exceeds the threshold, turning it into a Convertible Contract, which is governed by the Procurement Act, the process set out in Table 2 must be followed. Modifications to Contracts governed by the Procurement Act.

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48(d) Light Touch	Contract Value including the modification is below £552,950 excluding VAT.	<ul style="list-style-type: none"> • Appropriate Chief Officer, in consultation with the Commercial Specialist.
48(e) Works and Concessions	<p>Contract Value including the modification is below £4,477,175 excluding VAT.</p> <p>Value of the modification is 10%, or below, of the contract value and the modification does not take the contract above the relevant threshold, keeping it below threshold. (Not applicable to ESPO)</p>	<ul style="list-style-type: none"> • Appropriate Chief Officer, in consultation with the Commercial Specialist. • In the case of ESPO- approval by Contracts Panel.
48(f) Works and Concessions	<p>Contract Value including the modification is below £4,477,175 excluding VAT.</p> <p>Value of the modification is more than 10% of the contract value and the modification does not take the contract above the relevant threshold, keeping it below threshold. (Not applicable to ESPO)</p>	<ul style="list-style-type: none"> • Appropriate Chief Officer, in consultation with the Commercial Specialist, and • Corporate Procurement Board

48.3 Contracts not subject to the Procurement Act may only be extended by formal written variation where the modification to the Contract will achieve Best Value and is reasonable in all the relevant circumstances.

Contracts falling within the Procurement Act

48.4 Any modification to a Public Contract must comply with Section 74 of the Procurement Act.

48.5 There are limited circumstances where the Council may modify a Public Contract or a Convertible Contract, that as a result of the modification exceeds the relevant Procurement Thresholds, under the Procurement Act.

48.6 The table below outlines the approvals required for such modifications to a Public Contract or a Convertible Contract.

Table 2: Extensions and Modifications to Contracts governed by the Procurement Act

Modification Type	Conditions for Modifications	Approval Required
48(g) Schedule 8- Permitted	The modification is permitted if it is provided for in the Contract and is within allocated budget.	<ul style="list-style-type: none"> • Appropriate Chief Officer, in consultation with the Commercial Specialist.

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Modifications-74(1)(a) of the Procurement Act.		<ul style="list-style-type: none"> • In the case of ESPO-approval by Contracts Panel.
<p>48(h)</p> <p>Schedule 8- Permitted Modifications-74(1)(a) of the Procurement Act.</p>	<p>The modification is permitted as set out in Schedule 8 of the Procurement Act. This includes modifications are that are:</p> <ul style="list-style-type: none"> • Urgent due to the protection of life. • Caused by circumstances that could not reasonably have been foreseen and doesn't change the nature of the contract and does not increase the contract value by more than 50%. • The materialisation of a known risk (in the tender) and does not increase the contract value by more than 50%. <p>https://www.legislation.gov.uk/ukpga/2023/54/schedule/8</p>	<ul style="list-style-type: none"> • Appropriate Chief Officer, in consultation with the Commercial Specialist. • In the case of ESPO-approval by Contracts Panel. <p>Where the Commercial Specialist does not support the modification, it is to be escalated to the Assistant Director for Finance.</p> <p>Prior to any modification being agreed which would result in an increase in the Estimated Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>48(i)</p> <p>Non-Substantial Modifications-74(1)(b) and 74(3) of the Procurement Act</p>	<p>The modification is not a substantial modification as defined in Section 74(3) of the Procurement Act, if it does not:</p> <ul style="list-style-type: none"> • increase or decrease the value of the contract by 10% or less for goods and services or 15% or less for works; or • increase or decrease the term of the contract 10% or less of the maximum term 	<ul style="list-style-type: none"> • Appropriate Chief Officer, in consultation with the Commercial Specialist. • In the case of ESPO-approval by Contracts Panel. <p>Where the Commercial Specialist doesn't support the modification, it is to be escalated to the Assistant Director for Finance.</p> <p>Prior to any modification being agreed which would result in an increase in the Estimated Value of the Contract the Procuring Officer must ensure that sufficient additional</p>

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	<p>provided for on award; or</p> <ul style="list-style-type: none"> materially change the scope of the contract; or materially change the economic balance of the contract in favour of the supplier <p>https://www.legislation.gov.uk/ukpga/2023/54/section/74</p>	<p>budget provision has been approved by the budget holder.</p>
<p>48(j)</p> <p>Below-threshold modification- 74(1)(c) and 74(4) of the Procurement Act</p>	<p>The modification is a below threshold modification to an above threshold contract or convertible contract, as defined in Section 74(4) of the Procurement Act, if it meets the following criteria:</p> <ul style="list-style-type: none"> It does not increase or decrease the value of the contract by more than 10% (for goods and services) or 15% (for works). The cumulative value of all below-threshold modifications does not exceed the relevant threshold for the contract type. The scope of the contract does not change materially. <p>https://www.legislation.gov.uk/ukpga/2023/54/section/74</p>	<ul style="list-style-type: none"> Appropriate Chief Officer, in consultation with the Commercial Specialist. In the case of ESPO-approval by Contracts Panel. <p>Where the Commercial Specialist doesn't support the modification, it is to be escalated to the Assistant Director for Finance.</p> <p>Prior to any modification being agreed which would result in an increase in the Estimated Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>

Other modifications

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48.7 Modifications that do not fall within the above categories are not permitted modifications in the Procurement Act, only in very exceptional circumstances will Table 3 be considered.

Table 3: Modification of Contracts not covered in the above categories

Modification Type	Modification criteria	Approval Required
48(k) Other Modifications (not explicitly covered)	Other modifications that are not explicitly covered by the above categories.	<ul style="list-style-type: none"> • Appropriate Chief Officer in consultation with Senior Commercial Specialist* and, • Corporate Procurement Board, and • Director of Corporate Resources, and • Director of Law and Governance <p>Involvement of Supplier Relationship Manager to ensure value for money is attained.</p>

Provider Selection Regime modifications:

Table 4: Modification of contracts under the Provider Selection Regime

Modification Type	Modification criteria	Approval Required
48(l) Provider Selection Regime (49(d))	<p>Modification of a Provider Selection Regime Contract is permitted if it does not:</p> <ul style="list-style-type: none"> • exceed £500,000 (ex VAT) – shall be net cumulative of all modifications to the contract. • is 25% greater or lesser the original contract value. • does not alter the overall nature of the original contract. 	<ul style="list-style-type: none"> • Appropriate Chief Officer, in consultation with the Commercial Specialist. <p>Where the Commercial Specialist doesn't support the modification, it is to be escalated to the Assistant Director for Finance.</p> <p>Prior to any modification being agreed which would result in an increase in the Estimated Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>

Contract Change Notice

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- 48.8 Before modifying a public contract or a convertible contract (see section 74(1)), the Council must publish a contract change notice, this is for all modifications under Rule 48.
- 48.9 Where the contract is over £5m a copy of the modified contract must be published within 90 days of modifying.
- 48.10 A contract change notice is not required for modifications under Rule 48 (section 75(2) if:
- a) the modification increases or decreases the estimated value of the contract by—
 - (i) in the case of a contract for goods or services, 10% or less,
 - (ii) in the case of a contract for works, 15% or less, or
 - b) the modification increases or decreases the term of the contract by 10% or less of the maximum term provided for on award,
 - c) the Contract was awarded under the Light Touch Regime.
 - d) below-threshold contracts (unless they are convertible contracts)

Voluntary standstill period on modifications of Contracts

- 48.11 The Council may not modify a Public Contract or Convertible Contract before the end of any voluntary standstill period provided for in a Contract Change Notice.
- 48.12 A voluntary standstill period may not be less than 8 working days beginning on the day on which the Contract Change Notice is published.

RULE 49. *Novation of Existing Contracts*

- 49.1 The novation of a Contract to a new supplier irrespective of value requires the prior written approval of the Director of Corporate Resources in consultation with the Director of Law and Governance. Consideration will also need to be given to the application of the Procurement Act Section 74
- 49.2 A Contract Change Notice must be published for all Novation's apart from those Contracts awarded under the Light Touch Regime.

RULE 50. *Early Termination of Contracts*

- 50.1 Where a Contract is to be terminated early and there is no provision within the Contract for the termination, Officers shall seek advice from the Commissioning Support Unit and shall seek prior written approval from the Director of Law and Governance.
- 50.2 Where a Contract is to be terminated and there is provision for the termination within the Contract Officers shall seek advice from the Commissioning Support Unit.
- 50.3 The Council must publish a Contract Termination Notice in accordance with Section 80 of the Procurement Act through the Councils Electronic Tendering System on the Central Digital Platform.

MISCELLANEOUS PROVISIONS

Part 4G Contract Procedure Rules**RULE 51. *General Exemptions from Duties to Publish or Disclose Information***

- 51.1 The Council is not required to publish or disclose information under the Procurement Act if it is satisfied that withholding the information from publication or other disclosure is necessary for the purpose of safeguarding national security, or the information is sensitive commercial information and there is an overriding public interest in its being withheld from publication or other disclosure in line with the provisions of Section 94 of the Procurement Act.
- 51.2 If the Council chooses to withhold information under this section, the Council must publish or notify anyone to whom the information would otherwise be provided, CSU must be consulted, and the Director of Law and Governance must authorise any decision to withhold information from publication.

RULE 52. *Electronic Communications*

- 52.1 Procurement processes should usually be undertaken by electronic means provided that: -
- a) the requirements of these Rules are followed with only such modifications as may be necessary to allow for procurement by such means; and
 - b) any electronic tendering system has been approved by the Head of Procurement and Supply Chain Management and Director of Corporate Resources in consultation with the Director of Law and Governance.
- 52.2 Where a Covered Procurement applies, the Council will need to communicate with suppliers electronically and take all steps to ensure that supplier's participation in the procurement communicate electronically also in accordance with Section 96 of the Procurement Act.

RULE 53. *Information Relating to a Procurement and Record Keeping*

- 53.1 The Council must keep records of any communication between it and suppliers that is made for the purposes of, or in connection with a Covered Procurement as required under Section 97 of the Procurement Act. The records and any communication must be stored in the Councils Electronic Tendering System.
- 53.2 Where a procurement falls within the scope of the Procurement Act, the Council will need to keep appropriate records that are sufficient to explain a material decision made in accordance with Section 98 of the Procurement Act. A material decision form must be completed and stored within the Councils Electronic Tendering System, in the case of ESPO the material decision record is referred to as procurement control record.

RULE 54. *Document Retention*

- 54.1 All Contract records must be retained for at least six years and, any under seal for at least twelve years from expiry of the Contract. Contracts may be kept for longer periods should this be appropriate – for example: works contracts with a longer liability.
- 54.2 Where the Contract is externally funded any contingent liabilities and/or grant conditions must be taken account of by the length of the retention period.
- 54.3 Document retention of appropriate timeframes is important in case they are required for any Court proceedings.

Part 4G Contract Procedure Rules**RULE 55. *Supervision of Contracts by Third Parties***

- 55.1 The Procuring Officer shall ensure that it is a condition of any Contract between the Council and any Person (not being an Officer of the Council) who is involved in a procurement process or the management of a Contract on behalf of the Council that in relation to that Contract he must comply with the requirements of these Rules and other reasonable requirements of the Council.
- 55.2 Such Person must:
- a) at any time during the carrying out of the Contract produce to the Appropriate Chief Officer or his representative, Commercial Specialist or Council Auditor on request all records maintained in relation to the Contract; and
 - b) on completion of the Contract transmit all records to the Appropriate Chief Officer, Commercial Specialist.

RULE 56. *Nominated Sub-Contractors and Suppliers*

- 56.1 Where a sub-contractor or supplier is to be nominated by the Council to a main contractor, either by tendering or by other means the provisions of these Rules shall have effect. They must comply with the Procurement Act.
- 56.2 In the scenario where the council has tendered for a Sub Contractor, the terms of an Invitation to Tender under Rule 26 must require an undertaking by the Tenderer that, if selected, they will be willing to enter into a Contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main Contract in relation to the work, goods, services included in the sub-contract.
- 56.3 Subcontractors either nominated by the Council or the main contractor must be checked to ensure they are not on the debarment list before entering into a contract as set out in Rule 31.

EXCEPTIONS**RULE 57. *Exceptions to the Rules***

- 57.1 There are limited circumstances whereby Exceptions to these Rules may be permitted. An Exception includes situations where it is proposed to procure goods, services or works that are not in compliance with other provisions within these Rules.
- 57.2 Approval of all Exception requests is required prior to procuring the relevant goods, services or works and must be made by completion of an Exception Form.
- 57.3 When considering whether to request an Exception, relevant Procuring Officers should have regard to the following matters before putting forward a request/ form for an exception: -
- a) That any deviation from the requirements of procurement law and / or these Rules is justified by the likely impact of a failure to approve an exception.
 - b) That the proposed procurement mechanism is appropriate and will still ensure that the Council obtains good value for money.
 - c) That the approval of the exception does not conflict with organisational objectives.

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- d) That, where appropriate, relevant advice (including legal or expert advice) has been obtained.
- e) That procurement risks have been identified and mitigated.
- f) That plans are in place to bring the Council into a state of compliance at the earliest available opportunity.
- g) The Exception Form is an online form (link) and includes the requirements to provide:
- (i) the background/context to the situation including value.
 - (ii) the full reasons for the request.
 - (iii) the Rule an Exception is sought in respect of.
 - (iv) the justification for needing an Exception.
 - (v) the proposal for ensuring an Exception is not required again in the future.

The approvals required for Exceptions are as follows:

Estimated Value of Contract (excluding VAT)	Approval Required from
57 (a) £5,000 – £99,999	<ul style="list-style-type: none"> • Appropriate Chief Officer in consultation with Commercial Specialist* and • Corporate Procurement Board. <p>Involvement of Supplier Relationship Manager to ensure value for money is attained.</p> <p>In the case of ESPO Corporate Procurement Board is replaced by Contracts Panel.</p>
57 (b) £100,000 – up to relevant threshold for Goods/ Services or £100,000 - up to £499,999 for Works and Light Touch Procurements	<ul style="list-style-type: none"> • Appropriate Chief Officer in consultation with Commercial Specialist*. • Corporate Procurement Board. • Assistant Director for Finance. <p>Involvement of Supplier Relationship Manager to ensure value for money is attained.</p> <p>In the case of ESPO Assistant Director for Finance is replaced by Commercial Financial Controller and Procurement Board is replaced by Contracts Panel.</p>
57 (c) £500,000 for Works and Light Touch- up to relevant Procurement Threshold	<ul style="list-style-type: none"> • Appropriate Chief Officer in consultation with Senior Commercial Specialist* • Corporate Procurement Board. • Director of Corporate Resources. <p>Involvement of Supplier Relationship Manager to ensure value for money is attained.</p> <p>In the case of ESPO Corporate Procurement Board is replaced by Contracts Panel.</p>

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<p>57 (d)</p> <p>Relevant Procurement Threshold and above</p>	<ul style="list-style-type: none"> • Appropriate Chief Officer in consultation with Senior Commercial Specialist* • Corporate Procurement Board. • Director of Corporate Resources. • Director of Law and Governance. <p>Involvement of Supplier Relationship Manager to ensure value for money is attained.</p> <p>A lesson learnt, mitigations and action plan must be completed by the department and submitted with the request for Exception. Further clarification in the form of a panel review by the Director of Corporate Resources and Director of Law and Governance may be necessary.</p> <p>Director of Corporate Resources and Director of Law and Governance may in consultation with the relevant Lead Member and Lead Member Resources determine that the request requires further consideration and or approval by the Cabinet.</p> <p>The requesting department would be responsible for ensuring Cabinet approval is sought where necessary.</p> <p>In the case of ESPO, approval must be sought from ESPO Management Committee where it is satisfied that an Exception is justified on its merits.</p> <p>In an urgent case the Chief Officer in consultation with the Chairman or Deputy Chairman of the ESPO Management Committee (save where this is not practicable) may direct that an Exception be made subject to this being reported to the next meeting of the ESPO Management Committee.</p>
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*Commercial Specialist or Senior Commercial Specialist may at times escalate to Head of Procurement and Supply Chain Management.

[end of Contract Procedure Rules]

By virtue of paragraph(s) 3, 10 of Part 1 of Schedule 12A of the Local Government Act 1972.

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