

Proposed Amendments to the Contract Procedure Rules

The table below details the amendments, additions, and deletions to the Contract Procedure Rules Part 4G of the Constitution.

Rule	Amendment
Rule 5- General Requirements	<p>Amendments in relation to the updates to the Councils Strategic plan: Amend all references to the Councils Strategic Plan from 2018- 2022 to 2022-2026.</p> <p>Addition in relation to the Provider Selection Regime: (c)(d) Where the services are required to be procured under The Health Care Services (Provider Selection Regime) Regulations 2023, Social Value will need to be considered regardless of the estimated contract value.</p> <p>Amendment in relation to the Provider Selection regime, amendment highlighted in blue: e)(d) Procedures set out in the relevant EU Retained law, Acts of Parliament and UK legislation (including for the avoidance of doubt the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016, the Health Care Services (Provider Selection Regime) Regulations 2023 and where applicable the Public Contracts Regulations 2006) must be complied with at all times.</p>
Rule 6 – Exceptions	<p>A re write of this Rule has been completed. The rule has also been written within a table to be clear for each exception type what the rule requires. Addition of increased control, including approvals for all exceptions over £100,000 to require approval from the Assistant Director of Finance. Full details below in Annex 1.</p>
Rule 8 – Annual Reporting	<p>Addition in relation to the Provider Selection Regime: 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.</p>

<p>Rule 11- Procurement Exercise</p>	<p>Addition in relation to the Provider Selection Regime: (b)(c) In the case of a contract or framework agreement for healthcare services (as defined by Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023), the Procuring Officer must seek the advice of a Commercial Specialist on a suitable Process to follow under these Regulations. If Direct Award Process A, B, C or The Most Suitable Provider Process are considered the most appropriate route to market, approval must be sought from the Head of Procurement & Supply Chain Management.</p> <p>Amendments to the thresholds: Goods and services – from £177,897 to £179,087 before VAT Works – from £4,447,447 to £4,477,175 before VAT</p>
<p>Rule 13- Evaluation and Award</p>	<p>Addition in relation to the Provider Selection Regime: (b) When procuring Healthcare services, the five Key Criteria as stated in the Health Care Services (Provider Selection Regime) Regulations 2023 must all be evaluated. These are:</p> <ul style="list-style-type: none"> • Quality and innovation • Value • Integration, collaboration, and service sustainability • Improving access, reducing health inequalities, and facilitating choice • Social value
<p>Rule 24 – Notification of Contract Award.</p>	<p>Addition in relation to the Provider Selection Regime: (g) In the case of the Provider Selection Regime the relevant notification to awards must be adhered to dependent on the route to market deemed most appropriate.</p>
<p>Rule 25 – Form of Contract</p>	<p>Addition: (d) Every contract must be signed (by electronic means or otherwise) by the appropriate Officer as defined in the scheme of delegation table below. (e) The Director of Law and Governance has designated the following officers to sign contracts, in accordance with Article 14.04(a):</p>

	Contract Value (including possible extensions)	Designated Officer authorised to sign the contract
	From £0	Up to £24,999
	From £25,000	Up to £175,000
	From £175,001	Up to £499,999
	From £500,000 and above	Director (Grade 18 and above)
Rule 28 – Framework Agreements	<p>Amendment to delete where highlighted in red and add where in blue:</p> <p>(d) Additional suppliers may only be added to a Framework Agreement or Dynamic Purchasing System throughout its duration in circumstances where:</p> <p>(i) the Estimated Value is below the UK Threshold; or</p> <p>(ii) the services tendered are Light-Touch Services to which the full regime of the Public Contracts Regulations 2015 is not considered to apply; or</p> <p>(iii) the services tendered are Healthcare services to which the Health Care Services (Provider Selection Regime) Regulations 2023 apply:</p> <p>(iii)(iv) and in either whichever case ((i) (ii) or (iii) above) provided that the Invitation to Tender states:</p> <p>(aa) that new suppliers may be added to the Framework Agreement; and</p> <p>(bb) how many suppliers can apply to be added to the Framework Agreement; and</p> <p>(cc) that the same evaluation criteria and award methodology are applied when deciding whether to award a place on the Framework Agreement to new suppliers as was applied at the time of the original award.</p>	
Rule 30 - Contract Modifications and Extensions	A re write of this Rule has been completed to convert the rule into a table to be clear for each modification or extension type what the rule requires.	

	<p>Addition of increased control, including approvals for all modifications over £100,000 to require approval from the Assistant Director of Finance. Full details below in Annex 2.</p>
<p>Schedule 1 - Interpretation</p>	<p>Amendment in relation to the Provider Selection regime, amendment highlighted in blue: 25. “Framework Agreement” is a general term for agreements with suppliers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. The Framework Agreement may, itself, be a contract to which the EU Retained procurement directives, Public Contracts Regulations 2015 or the Health Care Services (Provider Selection Regime) Regulations 2023 apply.</p> <p>Addition in relation to the Provider Selection Regime: 37. “Provider Selection Regime” means a set of rules for procuring health care services in England by organisations termed relevant authorities The Provider Selection Regime (PSR) came into force on 1 January 2024.</p>

Rule 6 Contract Exceptions as they appear in the 2023 Contract Procedure Rules are written below. The table further down details the proposed rule for the 2024 version of the Contract Procedure Rules.

Rule 6 Current Wording: Exceptions

Exceptions

(a) Subject to the requirements of UK law, EU Retained law, Acts of Parliament and the Public Contracts Regulations 2015, and the Concession Contracts Regulations 2016, the following contracts may be placed by direct negotiation with one or more suppliers, contracts:-

- (i) for supplies, materials, services or works which are available only as proprietary and/or patented articles, services or works from one contractor or supplier and for which the appropriate Chief Officer, on the advice of the Commercial Specialist, decides that there is no reasonably satisfactory alternative available in the UK and for repairs to, or the supply of, parts of existing proprietary or patented articles or works, including machinery or plant; a note of that decision and the reasons for it must be retained on the appropriate file and where the contract is equal to or exceeds £177,897 a copy of the note and reasons must be provided to the Director of Corporate Resources and the Director of Law and Governance.
- (ii) for works of art, museum specimens or historical documents;
- (iii) which constitute a variation or extension of an existing contract, as permitted by the contract and/or the Council's Standard Financial Instructions subject to the provisions of Rule 30 (Contract Modifications and Extensions) and Rule 31 (Novation of Existing Contracts);
- (iv) for the following social care services provided that the Estimated Value of such services does not exceed the UK Threshold for Light-Touch service contracts:
 - aa. residential placements sought for an individual with a registered care provider of their choice;
 - bb. supported living services sought for an individual with an appropriate care and support provider of their choice under the National Health Service and Community Care Act 1990 and Care Act 2014;
 - cc. social care packages managed by or on behalf of individual clients under the personalisation agenda;

dd. where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider in the opinion of the appropriate Chief Officer.

ee. residential placements sought for an individual under the Shared Lives scheme (or any equivalent scheme).

In each case the appropriate Chief Officer must ensure that the provider meets the relevant national minimum standards legislative or otherwise, (for example those standards set by the Health and Social Care Act 2008, OFSTED and HMI) and that a record of the reasons for the choice of provider is maintained on the individual's case notes as well as submitting to the relevant Commercial Specialist justification and evidence for exception placements. A record of the annual cumulative expenditure with each provider will be maintained by each directorate and made available for audit.

- (v) for those unforeseen emergencies, where immediate action is required in order to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004 with the authority of the appropriate Chief Officer in consultation with the relevant Commercial Specialist.
 - (vi) Where appropriate with involvement of Supplier Relationship Manager or Commercial Specialist where the value exceeds £25,000 approval.
- (b) Other exceptions to these Rules may only be made within the relevant law and with the authority:-
- (i) of the appropriate Chief Officer in consultation with the relevant Commercial Specialist where the Estimated Value of the proposed contract is under £177,897. The appropriate Chief Officer shall maintain a record specifying the reason for all such departures; or
 - (ii) of the Executive where it is satisfied that an exception is justified on its merits. In an urgent case the Chief Executive after consultation with the Council Leader or Deputy Leader (save where this is not practicable) may direct that an exception be made subject to this being reported to the next meeting of the Executive.
- (c) In all cases under Rule 6 a full record of the reasons for the exception shall be maintained.

Rule 6 Proposed re write into a table for each element of the rule:

What is the Exception?	What approval is required?
<p>6a) Direct purchase for supplies, materials, services or works which are available only as proprietary and/or patented articles, services or works from one contractor or supplier where there is no reasonably satisfactory alternative available in the UK and for repairs (to maintain warranties) to, or the supply of, parts of existing proprietary or patented articles or works, including machinery or plant.</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the contract value/ exception is equal to or exceeds £100,000 the exception must be approved by the Assistant Director for Finance. • Where the contract value/ exception is equal to or exceeds £177,897 a copy of the exception form and reasons must be authorised by the Director of Corporate Resources and the Director of Law and Governance. <p>Where the contract value/ exception is below £25,000 Rule 11 can apply.</p> <p>The approved form must be retained in the appropriate file.</p>
<p>6b) Direct purchase without advertising of works of art, museum specimens or historical documents.</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the contract is equal to or exceeds £177,897 a copy of the exception form/note and reasons must be authorised by the Director of Corporate Resources and the Director of Law and Governance. <p>The approved form must be retained in the appropriate file.</p>

<p>6c) Direct purchase for the following social care services provided that the Estimated Value of such services does not exceed the UK threshold for Light-Touch service contracts:</p> <p>i.) residential placements sought for an individual with a registered care provider of their choice;</p> <p>ii.) supported living services sought for an individual with an appropriate care and support provider of their choice under the National Health Service and Community Care Act 1990 and Care Act 2014;</p> <p>iii.) social care packages managed by or on behalf of individual clients under the personalisation agenda;</p> <p>iv.) where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider in the opinion of the appropriate Chief Officer.</p> <p>v.) residential placements sought for an individual under the Shared Lives scheme (or any equivalent scheme).</p>	<p>Exception note must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Supplier Relationship Manager should be consulted to ensure value for money is attained. <p>The approved note must be retained in the appropriate file.</p> <p>In each case the appropriate Chief Officer must ensure that the provider meets the relevant national minimum standards legislative or otherwise, (for example those standards set by the Care Act 2014, OFSTED and HMI) and Contract Procedure Rules that a record of the reasons for the choice of provider is maintained on the individual's case notes as well as submitting to the relevant Commercial Specialist justification and evidence for exception placements.</p> <p>A record of the annual cumulative expenditure with each provider will be maintained by each directorate and made available for audit.</p>
<p>6d) Direct purchase for those unforeseen emergencies, where immediate action is required to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the contract is equal to or exceeds £177,897 a copy of the exception form and reasons must be authorised by the Director of

	<p>Corporate Resources and the Director of Law and Governance.</p> <p>The approved form must be retained in the appropriate file.</p>
<p>6e) Other exceptions to these Rules</p>	<p>Exception form must be completed outlining the full reasons for the request and the need for an exception.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the contract is equal to or exceeds £100,000 the exception must be authorised by the Assistant Director for Finance and also; • Where the contract is equal to or exceeds £177,897 a copy of the exception form and reasons must be also authorised by the Director of Corporate Resources and the Director of Law and Governance along with the Executive and Leader or Deputy Leader where the Leader is not practical. The requesting department is responsible for ensuring Cabinet approval is sought. <p>The approved form must be retained in the appropriate file.</p>

Rule 30 Contract Modifications and Extensions as they appear in the 2023 Contract Procedure Rules are written below. The table further down details the proposed rule for the 2024 version of the Contract Procedure Rules.

Rule 30 Current Wording: Modifications and Extensions.

Contract Modifications

- (a) Subject to Rule 30(b) below, Contracts may be modified where the value of the modification is;
 - (i) below the current UK Threshold for service/supply/works contracts;
and
 - (ii) is less than 10% of the initial Contract value for service and supply contracts and less than 15% of the initial Contract value for works.
- (b) The appropriate Chief Officer in consultation with the Commercial Specialist shall be authorised to modify the Contract in accordance with Rule 30(a) above provided:
 - (i) the modification does not alter the overall nature of the Contract; and
 - (ii) where there is, or has been more than one modification, the value shall be the net cumulative value of all modifications for the purpose of Rule 30(a) above.
- (c) A modification over 10% requires prior approval from the Director of Law and Governance and the Director of Corporate Resources if above the UK Threshold.
- (d) Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.

Contract Extensions

- (e) Where a Contract Extension has been provided for both in the Initial Procurement Documents and in the Contract in clear and precise terms then the appropriate Chief Officer or any Officer with delegated authority under Rule 2 shall be authorised to extend the Contract in consultation with the Commercial Specialist.

- (f) For the purpose of this Rule 30 “Initial Procurement Documents” shall mean any notice, UK e-notification service notice known as Find a Tender Service (FTS)), Request for Quotation, Invitation to Tender or Specification.
- (g) Where the Initial Procurement Documents and/or the Contract does not provide for an extension the appropriate Chief Officer in consultation with the Commercial Specialist shall consider the extension as a modification to the Contract and shall only be authorised to extend the Contract in accordance with Rules 30(a) and 30(b) above.
- (h) In all other circumstances and where Rule 30(e) and 30(g) above do not apply, the appropriate Chief Officer in consultation with the Commercial Specialist and the Director of Law and Governance must gain the prior approval of the Director of Corporate Resources. This authorisation must be issued before the extension is carried out.
- (i) Prior to any extension being agreed which would result in an increase in the Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.

Rule 30 Proposed re Write into a table for each element of the rule:

What is the Modification?	What approval is required?
<p>30a)</p> <p>Where the contract modification meets all the following:</p> <ul style="list-style-type: none"> i) Modification value is below £177,897 (ex VAT) – this value shall be net cumulative of all modifications to the contract. ii) Modification value is within 10% greater or lesser of the original contract value. iii) Does not alter the overall nature of the original contract. <p>or</p> <p>Where the contract modification meets all the following and was procured under the provider selection regime:</p> <ul style="list-style-type: none"> i) Modification value is below £500,000 (ex VAT) – this value shall be net cumulative of all modifications to the contract. 	<p>Modification form must be completed outlining the full reasons for the request and the need for a modification</p> <p>All approvals need authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist. In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. • Where the modification is equal to or exceeds £100,000 the modification must be approved by the Assistant Director for Finance. <p>Prior to any modification being agreed which would result in an increase in the</p>

<p>ii) Modification is 25% greater or lesser the original contract value.</p> <p>iii) Does not alter the overall nature of the original contract.</p>	<p>Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>30(b) Where the contract modification meets all the following:</p> <p>i) Modification value is below £25,000</p> <p>ii) Modification value is above 10% greater or lesser the original contract value.</p> <p>iii) The overall contract value including this modification does not exceed £177,897 (ex VAT).</p> <p>iv) Does not alter the overall nature of the original contract.</p>	<p>Modification form must be completed outlining the full reasons for the request and the need for a modification</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>30c) All other contract modifications.</p>	<p>Modification form must be completed outlining the full reasons for the request and the need for a modification.</p> <p>Modification approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist and authorisation from the Director of Corporate Resources and the Director of Law and Governance.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. <p>The approved form must be retained in the appropriate file.</p> <p>Prior to any modification being agreed which would result in an increase in the Total Value of the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>

What is the Extension?	What approval is required?
<p>30d) Where a Contract Extension has been provided for both in the Initial Procurement Documents and in the Contract in clear and precise terms.</p> <p>Or</p> <p>Where the Contract Extension</p> <ul style="list-style-type: none"> i) Value is below £177,897 (ex VAT) – this value shall be net cumulative of all extensions to this contract. ii) Value is within 10% up of the original contract value. iii) Does not alter the overall nature of the original contract. 	<p>Extension form must be completed outlining the full reasons for the request to extend the contract.</p> <p>Approval needs authorisation from the Chief Officer in consultation with the Commercial Specialist.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. <p>The approved form must be retained in the appropriate file.</p> <p>Prior to any extension being agreed the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>
<p>30e) All other Contract Extensions</p>	<p>Extension form must be completed outlining the full reasons for the request and the need for an extension to the contract.</p> <p>Approval needs authorisation from the appropriate Chief Officer, on the advice of the Commercial Specialist.</p> <p>Authorisation from the Director of Corporate Resources and the Director of Law and Governance.</p> <p>In addition:</p> <ul style="list-style-type: none"> • Where the value exceeds £25,000, involvement required of the Supplier Relationship Manager to ensure value for money is attained. <p>The approved form must be retained in the appropriate file.</p> <p>Prior to any extension being agreed the Contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p>

