

**PART E**

**FINANCIAL GOVERNANCE**

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**1. GENERAL**

**1.1 Notice to All Employees**

- (i) These Financial Regulations provide the framework of controls and standards necessary to achieve the proper administration of the Council's financial affairs. Financial Regulations are designed to safeguard the interests of the Council, its Members and its employees. They apply to all elected councillors (Members), employees, and temporary and agency staff and to all transactions of the Council.
- (ii) All Members and officers have a responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- (iii) The Council expects the highest standards of financial probity from its officers and Members. The Section 151 Officer may report any breach of Financial Regulations to Cabinet or if sufficiently serious, direct to Full Council. Any failure to comply with these Regulations may result in action being taken in accordance with the Council's disciplinary procedures or in the case of Members referred to the Audit and Governance Committee. If you have any doubt on their meaning or interpretation, it is advised that you contact the Section 151 Officer.
- (iv) It is the responsibility of officers to ensure that they have the necessary knowledge of the Council's Financial Regulations to enable their duties to be undertaken to meet the requirements of these regulations.
- (v) These Financial Regulations supersede all previous versions.
- (vi) If after reading these regulations you require further guidance or clarification, or if you are not sure how best to comply with the regulations then please contact your Line Manager, Financial Services or the Head of Internal Audit.

**2. INTRODUCTION**

**2.1 Complementary Factors**

2.1.1 These Financial Regulations form part of the Constitution and are complementary to:

- (i) Any current or future legislation, and shall not be considered to over-ride any such legislation affecting the functions of the Council;
- (ii) The Council's Standing Orders;
- (iii) The Council's Contract Procedure Rules;
- (iv) Any EU Public Procurement Directives;
- (v) The Codes of Conduct for Members and Officers;

- (vi) The Information Technology Regulations (for all matters relating to Information Technology).
- (vii) The Council's Anti-Fraud Strategy.
- (viii) The Council's Guidance for Dealing with Irregularities.
- (ix) The Council's Whistleblowing Policy.
- (x) Appropriate Guidance Notes issued by the Section 151 Officer

2.1.2. The above documents shall be considered to have the force of financial regulations for all their related matters. This shall also include any related subsidiary regulations.

## **2.2 Financial Implications of Proposals and Reports to Members**

2.2.1 No item having financial consequences shall be placed on a Council, Cabinet or Committee agenda without obtaining the financial implications and reference number from the Section 151 Officer. Any report containing new proposals shall include an independent financial assessment by the Section 151 Officer. This extends to all reports tabled at the Council's Senior Leadership Team (SLT)

2.2.2 In general, reports requiring comments of the Section 151 Officer shall be presented to the Financial Services Business Unit a minimum of 3 working days prior to the agenda meeting for the relevant Council, Cabinet or Committee meeting.

2.2.3 Where there are significant financial implications it is a requirement that the Financial Services Business Unit will be involved in the development of the proposals.

## **2.3 Availability**

2.3.1 A copy of these Financial Regulations shall be made available to Members, Officers and members of the public at all reasonable times.

## **2.4 Compliance**

2.4.1 SLT and Business Managers shall be responsible for ensuring that these Financial Regulations are complied with and are available to all employees within their areas of responsibility.

## **3. DEFINITIONS**

### **3.1 Terms**

- (i) The term Council shall be deemed to include reference to Cabinet, Portfolio Holders or Officers acting in accordance with delegated authority on behalf of the Council.
- (ii) Where legislation and regulations are referred to in these Financial Regulations, they are deemed to refer to the latest statutory and regulatory requirements.

- (iii) The term Chief Executive relates to the Head of Paid Service for the Council.
- (iv) The term Section 151 Officer relates to the Director – Resources/Deputy Chief Executive (the Responsible Financial Officer). This is a statutory officer appointed by Full Council to have responsibility for the financial affairs of the Council as required by Section 151 of the Local Government Act 1972.
- (v) The term Deputy Section 151 Officer relates to the officer nominated by the Section 151 Officer to undertake the Section 151 responsibilities in the absence of the Section 151 Officer.
- (vi) The term Director relates to Directors who form the Strategic Leadership Team (SLT).
- (vii) The term Monitoring Officer relates to the officer appointed by the Council as required by the Local Government Housing Act 1989.
- (viii) The term Duly Authorised Officer relates to an officer with delegated authority from the relevant Business Manager.
- (ix) The term Head of Internal Audit relates to the officer appointed by the contractor in consultation with the Section 151 Officer.

#### **4. LEGAL RESPONSIBILITIES**

##### **4.1 Local Government Act 1972 Section 115 - Legal Responsibilities of Officers**

- 4.1.1 Officers employed by the Council have a legal responsibility under Section 115 of the Local Government Act, which states that:

“Every Officer employed by a Local Authority, whether under this Act or any other enactment, shall at all times during the continuance of his office, or within three months after ceasing to hold it, and in such manner as the Local Authority directs, make out and deliver to the Authority, or in accordance with their directions, a true account in writing of all money and property committed to his charge, and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connection with his office, showing the amount due from or to each”.

- 4.1.2 Every such officer shall pay all money due from him/her to an officer designated by the Section 151 Officer or in accordance with their directions.

##### **4.2 Local Government Act 1972 Section 117(1) & (2) - Disclosure by Officers of Pecuniary Interest in Contracts.**

- 4.2.1 Staff involved in contract and purchasing procedures shall be aware of the provisions of section 117(1) of the Local Government Act 1972 concerning the disclosure by officers of pecuniary interests in contracts. This provides that “if it comes to the knowledge of an officer employed whether under this Act or any other enactment by a Local Authority that a contract in which he/she has a pecuniary interest, whether direct or indirect, (not being a contract to which he/she is a party), has been or is proposed to be entered into by the Authority, he/she shall, as soon as practicable, give notice in writing to the Authority of the fact that he/she is interested therein”. An indirect pecuniary interest for these purposes is as follows:

- (a) If the officer or any nominee of the officer is a member of a company or other body with which the contract was or is proposed to be made.
- (b) If the officer is a partner or is in the employment of a person with whom the contract is, or is proposed to be made.
- (c) In the case of married persons or partners, the interests of one partner, if known to the other, is deemed to be the interest of the other spouse.

Appropriate officers will be required to complete a declaration form covering any related third party transactions on an annual basis.

The clause above shall also refer to contracts relating to either of the Council's wholly owned companies Active4Today Ltd and Arkwood Developments Ltd.

4.2.2 Section 117(2) states that “an officer of a Local Authority shall not under colour of his office or employment, accept any fee or reward whatsoever, other than his proper remuneration”.

4.2.3 Any Officer who has any direct or indirect pecuniary interest in any contract, or is offered any fee or reward, whether or not it is accepted, shall notify the Chief Executive, who shall enter such details into a central register maintained for such purposes. Any person who fails to comply with Section 117(1) and (2) may render themselves liable to a fine.

4.2.4 Section 117(4) states that “References to a local authority shall include references to a joint committee appointed under part VI of the Act or any other enactment”.

**4.3 Local Government Act 1972 Section 151 - Officer Responsible for Financial Administration.**

4.3.1 Under Section 151 “every Local Authority shall make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers (who in accordance with the Local Government and Housing Act 1989 (Section 6 paragraph 3) must be a member of one or more of the Accountancy Bodies specified in the Act), has responsibility for the administration of those affairs”.

4.3.2 The Council has appointed the Director – Resources/Deputy Chief Executive as the Section 151 Officer (the Responsible Finance Officer). Under the Accounts and Audit Regulations 2006, the Section 151 Officer is responsible for determining the accounting systems and the form of accounts and supporting records. This officer shall also ensure that all such determinations are observed, and that the accounts and supporting records are kept up to date.

**4.4 Local Government Finance Act 1988 Section 114 - Reporting under Part VIII: Responsibility of the Section 151 Officer.**

4.4.1 A requirement is placed upon the Section 151 Officer by Section 114(1) of the Local Government Act 1988 to make a report to the Council in certain circumstances where there is the possibility of an illegal payment, or of spending exceeding resources available.

- 4.4.2 Making a report falls under two Sections. Section 114(2) states that the Section 151 Officer is required to decide that an act or omission is or could be unlawful.
- 4.4.3 Under Section 114(2) the duty to send the report starts a “21 day clock” whereby the Council is required to hold a meeting within this time and until this is done, must refrain from the course of action reported.
- 4.4.4 Section 114(3) requires the Section 151 Officer to issue a report in cases of an unbalanced budget - real or potential. This report is also subject to the procedure described in 4.4.3 above.
- 4.4.5 In the absence of the Section 151 Officer the duties referred to at 4.4.1 to 4.4.4 shall be performed by the officer acting as the Deputy Section 151 Officer.

## **5. RESPONSIBILITIES/REGULATORY ROLES**

### **5.1 Council**

- 5.1.1 Council is responsible for setting the Council’s annual General Fund Budget and Council Tax.
- 5.1.2 Council is responsible for the setting of the Council’s Housing Revenue Account (HRA) budget and the annual rent .
- 5.1.3 Council is responsible for approving the Council’s Medium Term Financial Plan and the 30 year HRA Business Plan.

### **5.2 Cabinet**

- 5.2.1 Cabinet are responsible for monitoring the in-year forecast outturn against the budget as part of the performance framework.
- 5.2.2 To recommend to Council the annual General Fund and HRA budgets for consideration and approval.
- 5.2.3 To recommend to Council the Medium Term Financial Plan for consideration and approval.
- 5.2.4 To recommend to Council the HRA 30 year Business Plan for consideration and approval.

### **5.3 Audit & Governance Committee**

- 5.3.1 The Audit and Governance Committee are responsible for the approval of the Annual Statement of Accounts and the recommendation on to Council for noting.



**5.4 Section 151 Officer**

- (i) Under Section 151 “every Local Authority shall make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers (who in accordance with the Local Government and Housing Act 1989 (Section 6 paragraph 3) must be a member of one or more of the Accountancy Bodies specified in the Act), has responsibility for the administration of those affairs”.
- (ii) Under the Accounts and Audit Regulations 2006 (as amended), the Section 151 Officer is responsible (under the control and general direction of Cabinet and in accordance with the Accounts and Audit Regulations 2006 (as amended)) for the accounts and finances of the Council, including determining the accounting systems and the form of accounts and supporting records. This officer shall also ensure that all such determinations are observed, and that the accounts and supporting records are kept up to date.
- (iii) The Section 151 Officer shall have regard to any statutory guidance issued by the appropriate Secretary of State and professional guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).
- (iv) The Section 151 Officer shall advise the Council on all financial matters.
- (v) The Section 151 Officer shall present annually to the Council detailed estimates of the Council's income and expenditure for the following financial year and shall provide a risk assessment of the Council's proposed budget.
- (vi) The Section 151 Officer shall also present to the Audit and Governance Committee, after the close of each financial year, a Statement of Accounts in accordance with the latest Accounts and Audit Regulations. The Accounts of the Council shall be submitted to the Council's External Auditor.
- (vii) Under the Accounts and Audit Regulations 2006 (as amended), the Council is responsible for maintaining an adequate and effective system of Internal Audit covering financial and all other operations of the Council and also require any Officer or Member of the Council to make available such documents as appear necessary for the purpose of the audit together with such information and explanation considered necessary for that purpose. This function is discharged through the Section 151 Officer together with The Senior Leadership Team.
- (viii) The Section 151 Officer shall periodically present to Cabinet and the Audit and Governance Committee, budgetary control statements showing performance against the approved estimates of revenue expenditure and income. The appropriate Business Manager will report on any major variances from planned budget performance.
- (ix) Notwithstanding the information available on the on-line Financial Information System, the Section 151 Officer shall supply to Business Managers, by arrangement, such cost and other financial statements as may reasonably be required in the interests of financial control and general management. The production of additional financial and statistical information shall also be maintained, as considered necessary by the Section 151 Officer, to provide efficient overall management control.

- (x) The Section 151 Officer, in consultation with SLT, shall review the Financial Regulations periodically and shall have regard to their relevance and practical application in changing circumstances. A motion to add to, vary or revoke these Financial Regulations shall, unless the addition, variation or revocation has previously been considered by Cabinet, stand adjourned to the next meeting of the Council when the motion shall proceed whether or not it has been considered.

### **Internal Audit**

- 5.5.1 The Council will comply with the current Accounts and Audit Regulations, the Public Sector Internal Audit Standards and the CIPFA Code of Practice for Internal Audit in Local Government and shall maintain an adequate and effective system of Internal Audit of the accounts and other operations of the Council.
- 5.5.2 The Head of Internal Audit shall be responsible for the operation of the internal audit function, agreed with the Section 151 Officer covering financial and all other operations of the Council and value for money studies as required, considering the efficient, effective and economic use of resources. The Head of Internal Audit shall periodically report to SLT and the Section 151 Officer and will provide reports to the Audit and Governance Committee on progress made concerning on-going investigations and reviews and audits completed.
- 5.5.3 The Section 151 Officer or his authorised representative shall have authority for the purpose of the Internal Audit function to:
  - (i) Enter any Council premises or land at all reasonable times.
  - (ii) Have access to all records, documents, files (including information held electronically) and correspondence relating to any financial and other business of the Council which the Section 151 Officer considers necessary to fulfil his duties under S151 of the Local Government Finance Act 1972. No record shall be removed by audit staff without notification to the appropriate Business Manager, or relevant senior officer. This authority also shall apply to all records, documents and files maintained by any subsidiary of the Council, and the Mansfield & District Crematorium.
  - (iii) Require and receive such explanations as are necessary concerning any matter under examination, and
  - (iv) Require any employee of the Council to produce cash, stores or any other Council property under his control.
- 5.5.4 Each Director or Business Manager is responsible for ensuring that action is implemented in response to Internal Audit's agreed recommendations in accordance with the agreed timescale. Where an Internal Audit recommendation is not accepted a written explanation and acceptance of the consequent risk must be provided by the Business Manager and reported to the Section 151 Officer. Such an explanation may be reported to the Audit and Governance Committee.

5.5.5 The Section 151 Officer, or his nominated officer shall:

- (i) Approve any new systems for the maintenance of financial records, or records of assets or any changes to such systems.
- (ii) Be notified by Business Managers of any plans for transferring staff duties in order to allow for the examination of the implications as regards internal control (e.g. authorisation, separation of duties etc.)

## **5.6 Business Managers**

5.6.1 In addition to the general responsibilities described elsewhere in this document, Business Managers will be responsible for certifying on an annual basis the necessary requirements to enable the Section 151 Officer to complete the Council's Annual Governance Statement and Letter of Representation to the Council's External Auditor.

## **6. FINANCIAL MANAGEMENT**

### **6.1 Financial Consultation**

There will be consultation between Business Managers and the Section 151 Officer, or his/her delegated officers from the Financial Services Business Unit, on any matters concerning the following:

- (i) Preparation and submission of estimates of Council expenditure and income.
- (ii) Preparation of estimates for any external body or partnership e.g. County Council, Government Departments etc., the purpose being the adequacy and accuracy of the estimates.
- (iii) It will be the responsibility of the relevant Business Manager to ensure that any report presented to Cabinet or any other constituted party of the Council or to the Council which has financial implications shall include the Section 151 Officer's observations (See Section 2.2).
- (iv) Proposals for and methods of financing specific expenditure not included in the approved estimates, together with means of approval for such expenditure where this is not otherwise stipulated.
- (v) Proposals to reduce or cancel income included in approved estimates.
- (vi) Applications, bids or submissions by the Council for grant aid or any external funding or spending power from outside bodies. Consultation must take place before submitting any such proposal to an outside body.
- (vii) Proposals to enter into any joint working arrangement with another local authority or other partner.

No financial matter under headings 6.1 (i) to (vii) above shall be concluded **without consultation with the Section 151 Officer.**

## **6.2 Financial Planning and Control**

A major project, as defined by the Council's Senior Leadership Team (SLT), cannot proceed until a project plan is submitted to SLT and approval is received, followed by approval from Members where appropriate.

### **6.2.1 Process for Developing the Budget**

The process for developing the budget is set out as part of the Budget Strategy reported to Cabinet in June/July of each year.

### **6.2.2 Budgetary Control**

6.2.2.1 Business Managers are responsible for monitoring and regulating the financial performance of their appropriate service throughout the financial year using the Council's online financial management system and performance information provided by the Section 151 Officer. Where budgets are delegated to Budget Holders they are charged with the same responsibility.

6.2.2.2 The Section 151 Officer will provide performance monitoring information on a monthly basis.

6.2.2.3 Cabinet will receive a consolidated report detailing the whole Council performance during the same cycle. This will also be presented to the Audit and Governance Committee.

6.2.2.4 Where it appears that the amount included under any head of the approved budget is likely to be exceeded or the budgeted amount of income under any head is unlikely to be reached then budget officers are required to find savings elsewhere in their budget. Variations over £100,000, where savings cannot be identified, to the Business Manager must consult with the Section 151 Officer and ultimately take a report to Cabinet.

6.2.2.5 The Section 151 Officer shall be entitled to receive from each Business Manager such information as he requires in relation to the annual amount of income achieved and expenditure incurred for inclusion in the Council's annual Statement of Accounts.

6.2.2.6 The Section 151 Officer shall report to the Audit and Governance Committee and Cabinet on the accounts of each financial year as soon as is practicable, and in accordance with the Accounts and Audit Regulations applicable at the time.

### **6.2.3 Capital Estimates**

(i) New schemes must be accompanied by the appropriate Appraisal forms, and will by an agreed date, be scored together to form a list to be approved by SLT before proceeding to the committed Capital Programme.

- (ii) Cabinet Portfolio Holders may via the Director of the service recommend capital schemes to Cabinet for inclusion within the Council's Capital Programme. Any schemes that are recommended, must go through the process detailed at 6.2.3 (i) prior to being included within the committed capital programme.
- (iii) In November each year SLT will review a list of proposed schemes for inclusion in the Cabinet report for the February meeting together with capital financing proposals.
- (iv) Cabinet shall consider any recommendations arising from consultation with Members and will submit recommendations to the Council for the approved Capital Programme for the following five years, or such other period as the Section 151 Officer advises.
- (v) The Council shall in March of each year, by simple majority, determine the Council's Capital Programme, having considered the proposals recommended by Cabinet.
- (vi) Following approval of the Council's Capital Programme the appropriate Business Managers are authorised to incur expenditure in respect of all schemes included in the committed Capital Programme unless otherwise directed by Cabinet or the Section 151 Officer.
- (vii) The Section 151 Officer is authorised to arrange the financing of the Capital Programme so as to maximise the resources available to the Council, having regard to the provisions of the Local Government and Housing Act 1989 or subsequent relevant legislation.
- (viii) The Section 151 Officer is authorised to make any necessary adjustments to the Capital Programme that arise at year-end due to slippage and report these retrospectively to Cabinet.
- (ix) Any favourable variances identified within the approved committed Capital Programme must be reported to Cabinet. Any internal funding that has not been required will therefore be available for funding other capital schemes.
- (x) No third party funding or grant aid may be accepted where matched funding is required until the source of the matched funding has been identified and approved by the Cabinet
- (xi) Any scheme involving matched funding that is not received must be reported to Cabinet for consideration of whether additional funding should be allocated in order to continue with the scheme.
- (xi) The Section 151 Officer will report periodically to Cabinet on any variations to the Capital Programme for approval.
- (xii) The Section 151 Officer is required to take all necessary steps to implement the committed Capital Programme and is authorised, in the event of slippage, to bring forward schemes from the following year provided that this does not increase the total commitment and that such changes are reported to Cabinet retrospectively.

#### **6.2.4 Capital Programme Monitoring**

- 6.2.4.1 The monitoring of the overall Capital Programme, with regard to the monitoring of funding, progress, variations, amendments etc. is the responsibility of the Section 151 Officer who can delegate to an appropriate working group.

6.2.4.2 Regular reports will be made to Cabinet on the overall progress of the Capital Programme.

6.2.4.3 It is the individual Business Manager's responsibility to exercise control over any capital schemes within their remit and to report any possible significant variations which may arise to the Section 151 Officer.

### **6.3 Amendment to Budget**

6.3.1 The object should be to avoid the transfer of estimates and this is best achieved by sound and detailed estimating together with the accurate coding of expenditure during the year in accordance with the provisions made.

6.3.2 Where it is desired to transfer funds between budget cost headings, the following procedure shall be adopted and the Financial Services Business Unit is informed in every case, to effect the necessary amendments in the Council's Financial Management System:

- a) **Where the transfer of budget is managed within a cost centre**, this can be approved by the Business Manager.
- b) **Where the transfer of budget is within more than one cost centre within a Business Unit**, this can be approved by the Business Manager up to an annual cumulative limit of £25,000. Between £25,000 and £50,000 this should be approved by the Director responsible for the Business Unit in consultation with the S151 Officer.

Cumulative transfers from a cost centre in excess of £50,000 up to £100,000 should be approved by the relevant Portfolio Holder(s) of the service in consultation with the relevant Director and the s151 Officer.

Any transfers above £100,000 should be approved by the Portfolio Holder for Finance in consultation with the relevant service Portfolio Holder(s) and the s151 Officer (having also been approved by the relevant director).

- c) **Where the transfer of budget is between Business Units within a Directorate**, this can be approved by the relevant Director up to a cumulative limit of £50,000 in consultation with the S151 Officer.

Cumulative transfers within a Directorate, between Business Units in excess of £50,000 up to £100,000 must be approved by the Portfolio Holder for Finance in consultation with S151 Officer (having been previously approved by the relevant Director).

Any cumulative transfers in excess of £100,000 must be approved by Cabinet.

- d) **Where the transfer of budget is between Directorates**, up to £50,000 this can be approved by the relevant Directors, in consultation with the S151 Officer.

Between £50,000 and £100,000 this must be approved by the Portfolio Holder for Finance in consultation with the S151 Officer and the relevant Directors.

Any individual request above £100,000 must be approved by Cabinet (having been previously approved by the relevant Directors and the S151 Officer).

6.3.3 **Use of Reserves.** Where it is desired to add funds to the revenue account from earmarked reserves, the following procedure shall be adopted and the Financial Services Business Unit informed in every case, to effect the necessary amendments in the Council's Financial Management System:

- a) **Where the transfer of budget is up to £50,000 and the transfer is for the specific purpose and function for which the reserve was established, then** this can be authorised by the S151 Officer in consultation with the relevant Director responsible for the receiving service. If the transfer is not for the specific purpose and function for which the reserve was established then the request for transfer will be referred to the Portfolio Holder for Finance and the s151 Officer, who can either approve the request or refer it to Cabinet.
- b) **Where the transfer of budget is between £50,000 and £100,000 and the transfer is for the specific purpose and function for which the reserve was established, then** this can be authorised by the Portfolio Holder for Finance in consultation with the S151 Officer. If the transfer is not for the specific purpose and function for which the reserve was established the transfer must be authorised by Cabinet.
- c) **Where the transfer of budget exceeds £100,000 and the transfer is for the specific purpose and function for which the reserve was established, then** this can be authorised by the Portfolio Holder for Finance in consultation with the relevant Portfolio Holder(s) and the S151 Officer. If the transfer is not for the specific purpose and function for which the reserve was established then the transfer must be authorised by Cabinet.

6.3.4 No transfer shall be undertaken with the purpose of utilising additional income for expenditure purposes without the express consent of the Section 151 Officer. No transfer shall be undertaken out of savings on payroll codes without the express consent of the Section 151 Officer.

6.3.5 There shall be no carry forward of any under-spending on budgets into the following financial year without the express authorisation of the Portfolio Holder for Finance and the Section 151 Officer. This includes budgets held on job codes. When considering any applications for carry forwards, the Section 151 Officer in consultation with the Portfolio Holder for Finance shall consider the overall budget position of the Council.

**6.4 Treasury Management**

- 6.4.1 The Council has adopted CIPFA's Treasury Management in the Public Services Code of Practice 2018 as updated from time to time.
- 6.4.2 All matters relating to Treasury Management shall be subject to the supervision and control of the Section 151 Officer.
- 6.4.3 External Borrowing, and all other Treasury Management transactions, shall be undertaken in accordance with the CIPFA Treasury Management Code of Practice, Prudential Code and the rules and procedures laid down in the Council's Treasury Management Policy. The Treasury Management Manual shall be considered to be the Council's Financial Regulations for Treasury Management transactions and procedures.

**6.5 Bank Accounts and Cheques**

- 6.5.1 The Section 151 Officer shall arrange for such bank accounts to be kept as may be deemed necessary. The Section 151 Officer shall be responsible for the operation, supervision and control of those accounts. No member of staff shall arrange for a bank account to be opened without the express authorisation of the Section 151 Officer.
- 6.5.2 No direct debits from the Council's bank account must be set up without the prior approval of the Section 151 Officer.
- 6.5.3 Bank overdraft facilities and the amounts and conditions of bank charges shall be negotiated and agreed by the Section 151 Officer.
- 6.5.4 The Officers authorised to sign cheques or transfer money on behalf of the Council, shall be limited to the Section 151 Officer, Deputy Section 151 Officer or such officers as authorised by the Section 151 Officer.
- 6.5.5 Any cheques exceeding £50,000 must bear two authorised signatures, at least one of which must be a manual signature.
- 6.5.6 Where use is made of the on-line banking system for payments to be made out of any of the Council's bank accounts electronically, the requirements for authorisation of payments shall be equivalent to that of 6.5.4 and 6.5.5 above.
- 6.5.7 All unused cheques shall be held as "Controlled Stationery" and shall be held in a secure location.
- 6.5.8 No cheques are to be cancelled except by persons authorised by the Section 151 Officer.
- 6.5.9 Instructions for stopping cheques shall be notified to the Bank in writing and all preliminary telephone instructions in this connection shall be confirmed in writing immediately afterwards by the Section 151 Officer or Duly Authorised Officer.



- 6.5.10 No replacement cheques shall be issued until the Bank confirm that a stop has been placed on the original cheque. Confirmation received from the Bank regarding stopped cheques must be retained for a period approved by the Section 151 Officer.
- 6.5.11 All Giro credit balances shall be transferred by automatic transfer at regular intervals by officers authorised by the Section 151 Officer.
- 6.5.12 Bank accounts shall be reconciled with financial records and cashbooks at least once in each month and any discrepancies identified and appropriate action undertaken.

**6.6 Procurement Cards**

- 6.6.1 The Section 151 Officer shall have the authority to approve requests for applications for procurement cards, including merchant category code blocks, monthly card limits and single transaction limits.
- 6.6.2 The Business Manager (Administrative Services) shall administer all applications for procurement cards. No officer shall apply for procurement cards other than through the Business Manager (Administrative Services).
- 6.6.3 All procurement cards must be held securely. Card details and PIN numbers must not be disclosed other than for the purposes of using the card for payments. Cardholders may be held personally liable for any expenditure that they cannot account for.
- 6.6.4 On a monthly basis, a record of card purchases shall be maintained by individual cardholders and reconciled to the card statement provided by the card issuer. Business Managers shall approve the monthly record of card purchases and provide a copy to the Financial Services Business Unit for processing.
- 6.6.5 Any discrepancies between the card issuer statement and the cardholder's record of purchases must be promptly reported to the Business Manager (Administrative Services).
- 6.6.6 Procurement cards shall only be used for authorised purchases relating to council business. Under no circumstances shall they be used for personal expenditure.
- 6.6.7 In all circumstances, every purchase with VAT will require a VAT receipt in order for the card statement to be accounted for correctly. Any items that do not include a VAT receipt will be charged fully to the revenue code.

**6.7 Controlled Stationery**

- 6.7.1 The term Controlled Financial Stationery refers to stationery which is sequentially pre-numbered to provide a sound audit trail, usually to record and process items of a financial nature, the use of which has to be regulated in order to ensure it is restricted to authorised Officers only.

- 6.7.2 Within the Council this primarily relates to cheques, income collection sheets, income receipts, petty cash books and car park tickets.
- 6.7.3 The Section 151 Officer may designate any item he considers appropriate to be controlled stationery.
- 6.7.4 Such stationery must be retained securely at all times and any issues from stock signed for.

**6.8 Retention of Financial Records**

- 6.8.1 All financial records, whether in written or printed form or stored electronically and all records supporting financial transactions in whatever form shall be retained in accordance with instructions issued by the Section 151 Officer, who shall determine the Council's retention requirements in accordance with relevant legislation and shall be responsible for the Council's Records Retention and Disposal Policy with respect to financial records.

**6.9 Authorised Signatory List**

- 6.9.1 SLT and Business Managers, in consultation with the Section 151 Officer will nominate authorised signatories for their service for the authorisation of orders, invoices, timesheets, overtime claims and contracts. The Section 151 Officer may authorise additional officers to undertake these duties.

**6.10 Taxation**

- 6.10.1 The Section 151 Officer is responsible for ensuring that adequate procedures are in place and adequate advice available for Business Units so as to ensure that the Council is at all times compliant with the specific requirements of the various tax regimes which affect its operations and delivery of services.
- 6.10.2 The Section 151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- 6.10.3 All Business Managers will at all times conduct the financial arrangements of their Business Units, with regard to taxation issues, in accordance with advice or instructions issued by the Section 151 Officer, and shall provide any related information or documents upon request.

**7. EXPENDITURE RELATED REGULATIONS**

**7.1 Employers Records and Payments of Salaries and Wages**

- 7.1.1 Business Managers shall be responsible for promptly notifying the Business Manager Human Resources & Training of all information required to maintain correct records for all employees of the Council in respect of service, including appointments, terminations, promotions (including 'acting up' allowances and honorariums), qualifying examination awards, sickness and absenteeism.

- 7.1.2 Memoranda to the Business Manager Human Resources & Training in respect of 7.1.1 above shall be signed by the Business Manager or Duly Authorised Officer. The Human Resources Business Unit shall immediately forward such details to the Financial Services Business Unit to ensure that the correct payment of wages and salaries and other related items (including deductions) can be made.
- 7.1.3 Business Managers shall be responsible for arranging the submission of wages time sheets, staff salary data, overtime claims and claims for standby payments to arrive in the Financial Services Business Unit in accordance with the prescribed timescale.
- 7.1.4 Payment of wages/salaries shall only be made to:
- (i) Personnel included in the approved establishment for the service areas of the Council, or
  - (ii) Approved temporary or casual personnel who have been properly notified to the Financial Services Business Unit.
  - (iii) Appointments as authorised in sub-paragraph 7.1.6 below.
- 7.1.5 Business managers will be required to provide positive confirmation of current post holders prior to the payment of wages and salaries
- 7.1.6 Appointments other than those included in the approved establishment as amended from time to time shall be made in accordance with Human Resources Policies.
- 7.2 Consultants**
- 7.2.1 Where a consultant is to be engaged, it is the responsibility of the officer arranging the contract to determine whether or not payments are to be made to the consultant directly or to a personal service company (PSC). This is a limited company owned by the consultant and is commonly used to reduce tax and National Insurance liability. If payment is to be through a personal service company, advice must be sought from the S151 Officer and the Business Manager HR and Training before any appointment is made in order for an IR35 assessment to be conducted.
- 7.3 Travelling and Subsistence Claims**
- 7.3.1 All claims by Officers for payment of subsistence allowances, travelling and incidental expenses shall be submitted, duly certified by or on behalf of the Business Manager, on the Council's electronic expense system in accordance with a timetable specified by the Section 151 Officer.
- 7.3.2 The names of Officers authorised to certify claims shall be sent to the Section 151 Officer by each Business Manager. The Section 151 Officer will determine the controls, to be put in place for electronic systems.

- 7.3.3 The certification by or on behalf of the Business Manager shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred, and that the allowances are properly payable by the Council.
- 7.3.4 Un-receipted expenditure will only be considered for reimbursement at the discretion of the Section 151 Officer or his nominated officer where they are satisfied that the authorising officer has established that a receipt was not available.
- 7.3.5 Officers claims shall normally be submitted monthly, and any submitted more than six months after the expenses were incurred shall be paid only with the express approval of the Section 151 Officer. Business Managers shall ensure that all Officers using their own vehicles on Council business:
- (i) Hold a current full driving licence authorising them to drive the vehicle in question.
  - (ii) Have a current insurance policy, which indemnifies the Council against all third party claims (including those of passengers) arising out of the use of the vehicle in question on the Council's business.
  - (iii) Hold a current MOT certificate, where applicable, for the vehicle in question.
  - (iv) Have paid the appropriate road tax, where applicable, for the vehicle.

#### **7.4 Members Expenses**

- 7.4.1 Claims shall be undertaken in accordance with the Members' Expenses scheme approved by the Council on a form approved by the Section 151 Officer on the following basis:
- (i) Claims may be submitted at the end of each month.
  - (ii) Claims for all expenses and travelling in any financial year up to the end of January must be submitted to the Democratic Services Business Unit by the 5th working day of March.
  - (iii) Claims for expenses and travelling during February and March must be submitted to the Democratic Services Business Unit by the end of April.
- 7.4.2 Claims will verified by Democratic Services Business Unit prior to being submitted for approval by the Financial Services Business Unit.
- 7.4.3 Further guidance concerning Members Expenses is given in the Members handbook and the latest scheme of Members Expenses approved by Council.

#### **7.5 Orders for Goods, Works and Services**

- 7.5.1 Each member of SLT and Business Managers shall be responsible for all official orders issued from their remit ensuring that:

- (i) The estimated costs are covered by an approved budget or other prior sanction.
- (ii) There is compliance with Standing Orders and Contract Procedure Rules, and procurement law and regulations concerning tenders and contracts.
- (iii) It can be demonstrated that the purchase represents value for money.
- (iv) Order values are not split to avoid having to comply with procurement rules.

7.5.2 All orders must be made through the Council's Financial Management system and must be in the name of Newark & Sherwood District Council and in a form approved by the Section 151 Officer. Wherever possible electronic orders should be raised in advance of the purchase, and the supplier advised of the relevant purchase order number.

7.5.3 Official orders must clearly show the nature and quantity of the materials, works or services required, and details of the agreed price (or estimated price), discounts and terms in relation to packing and delivery.

7.5.4 Official orders shall indicate that invoices/accounts are to be submitted to the Financial Services Business Unit quoting the relevant purchase order number unless expressly authorised by the Section 151 Officer.

7.5.5 Official orders and variations to orders shall be authorised only by:

- (i) Business Managers.
- (ii) Duly Authorised Officers, nominated by appropriate Business Managers detailed in a schedule supplied to the Section 151 Officer showing the financial limits to an Officer's authority and a specimen signature.

7.5.6 Official orders must be generated for all work, goods, and services to be supplied to the Council except:

- (i) No order shall be issued if the estimated value of the work or services exceeds the value where a tender process is required in accordance with Contract Procedure Rules (This value is £75,001). In this instance a formal tender process must be initiated in consultation with Welland Procurement
- (ii) For periodic payments such as rents or rates, for petty cash purchases or such other exception as the Section 151 Officer may approve.
- (iii) Goods and services ordered by use of a Council Procurement Card.

7.5.7 Council orders shall not be used for personal or private purchases.

7.5.8 Business Managers or Duly Authorised Officers must review electronic purchase orders on a regular basis and cancel those that are no longer required.

## **7.6 Goods Received**

7.6.1 The system of checking goods received, or works done, against official orders shall be in accordance with instructions laid down by the Section 151 Officer and must be adhered to by all officers.

7.6.2 Where an electronic order has been raised, a Goods Receipt Note should be input to the Financial Management system as soon as the goods have been checked.

7.6.3 The same Officer must not both authorise an order and certify that goods have been received or work done.

7.6.4 Where the value of the order is above £15,000 only an authorised officer can allocate a goods receipt note onto the Council's online financial management software.

## **7.7 Invoices**

7.7.1 Where an invoice is not subject to an electronic order raised on the Council's Financial Management system, due to any of the circumstances outlined at 7.5.6, the invoice should be authorised for payment by one of the following:

- (i) SLT
- (ii) Business Managers
- (iii) Duly Authorised Officers, nominated by appropriate Business Managers detailed in a schedule supplied to the Section 151 Officer showing the financial limits to an Officer's authority and a specimen signature. Business Managers shall be responsible for promptly notifying the Financial Services Business Unit of amendments to Duly Authorised Officers.

7.7.2 Before certifying an invoice, the authorising officer shall be satisfied that:

- (i) The work, goods or services to which the invoice relates have been received, carried out, examined and approved.
- (ii) The prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct.
- (iii) The relevant expenditure has been properly incurred, and is within the relevant estimate provision.
- (iv) Appropriate entries have been made in registers, inventories, stores records or stock books, as required, and
- (v) the invoice has not been previously passed for payment and is a proper liability of the Council.

7.7.3 Where any amendment is required to an invoice the supplier must be asked for an amended invoice or, alternatively, a credit note.

7.7.4 Business Units shall promptly forward any invoices received directly to the Financial Services Business Unit after ensuring that the appropriate purchase order has been goods receipted.

7.7.5 Invoices shall only be paid within the computer-based system timetable. Any invoices for which there is no purchase order and/or Goods Receipt Note on the Financial Management system cannot be paid (with the exception of those under circumstances detailed in 6.4.6) and the relevant Business Unit will be notified to correct the omission.

- 7.7.6 Business Managers are responsible for ensuring that all necessary data and authorisations are input to the Financial Management system to guarantee payment of commercial invoices within 30 days of receipt.
- 7.7.7 Copy invoices and orders substituted for the original document shall be clearly marked "copy" and initialled.
- 7.7.8 No payments made by the Section 151 Officer will be other than by use of official stationery or by approved electronic means.
- 7.7.9 The Section 151 Officer will be responsible for the deduction of any tax from payments to contractors under the provision of the Construction Industry Tax Deduction Scheme.
- 7.7.10 Any queries on invoices that cause delay in payment must be raised formally with the supplier. When the invoice is passed to the Financial Services Business Unit for payment the reason for delay must be provided.

**7.8 Petty Cash and Post**

**7.8.1 General**

- (i) Petty cash is only available under special circumstances. Procurement cards should be used in the first instance.
- (ii) Procedures for Petty Cash Imprest Accounts and Post shall be in accordance with instructions laid down by the Section 151 Officer. New or temporary accounts/floats shall not be raised out of income.
- (iii) New or temporary accounts/floats can only be raised by Financial Services

**7.8.2 Petty Cash Imprest Accounts**

- (i) A Petty Cash Imprest Account is defined as a fund of cash from which incidental expenses are paid, which is topped up periodically from central funds. These transactions should be minor, routine transactions, where raising an official order and processing an invoice through the Creditor system would be neither realistic nor cost effective. This differs from a change float which is a sum of money used to provide change at the start of the day, which is deducted from the total at the end of the day when calculating the day's takings. A Petty Cash Imprest Account should be kept and accounted for separately to a change float.
- (ii) Holdings of Petty Cash shall be limited to amounts prescribed by the Section 151 Officer.
- (iii) Signatures of Petty Cash holders confirming the amounts held shall be obtained annually under year-end procedures and periodic management checks shall be made to verify petty cash holdings.
- (iv) Business Managers shall be responsible for ensuring the comprehensive recording of all petty cash disbursements, the custody of supporting documents and vouchers and the safe custody of all unused balances of petty cash.

- (v) Reimbursement of petty cash shall be obtained by the production of the appropriate voucher together with receipts to the Section 151 Officer for inclusion in the invoice payment system.
- (vi) Un-receipted expenditure will only be considered for reimbursement at the discretion of the Section 151 Officer or his nominated officer where they are satisfied that the authorising officer has established that a receipt was not available.
- (vii) Two people shall be involved in the preparation/authorisation of an imprest claim.
- (viii) The Petty Cash system must not be utilised for payments that should be processed through other systems (e.g. Members/Officers expenses) unless expressly authorised by the Section 151 Officer.
- (ix) On leaving the employment of the Council or otherwise ceasing to be entitled to hold a petty cash or other float an Officer shall account to the Section 151 Officer for the amount advanced to him, and a hand over certificate shall be completed.

### **7.8.3 Post**

- (i) All post should be processed through the Business Mail process.
- (ii) The Business Mail process is not to be used for personal items of mail.

### **7.9 Right to Set Off**

7.9.1 The Right to Set Off concerns the situation whereby the Council owes a person money, but where that person also owes money to the Council, and the Council sets off what is owed before paying the balance (if any) to the person.

7.9.2 Business Managers shall be responsible for ensuring that suitable arrangements are in place to consider the setting off of monies owed to the Council where applicable.

7.9.3 Set Offs shall be undertaken where:

- (i) The opportunity arises, subject to any statutory obligation upon the Council.
- (ii) The circumstances of the particular case justify such a course of action.

Each case must be considered on its own merits.

7.9.4 Officers undertaking set offs shall ensure that the course of action proposed has been evaluated by the Legal Business Unit and the VAT Officer within Financial Services prior to it being undertaken.

7.9.5 No grant shall be offered to a third party where that person/entity is in debt to the Council, and such debt has become outstanding and in arrears, without the express consent of the Section 151 Officer.



**7.10 Contracts**

- 7.10.1 All contracts shall be made and administered in accordance with the Contract Procedure Rules.
- 7.10.2 Directors are responsible for notifying the names of Officers authorised to sign contracts and their authorisation limits to the Section 151 Officer. Any changes should be notified to the Financial Services, HR and Legal Business Units.

**8. INCOME RELATED REGULATIONS**

**8.1 Responsibilities**

- 8.1.1 Business Managers shall be responsible for the collection, custody and banking of income received as due to the Council in accordance with the instructions issued by the Section 151 Officer.
- 8.1.2 Every Officer of the Council who pays money into a bank account of the Council, shall enter on a paying in slip, and on the counterfoil or duplicate thereof, particulars of such payment, including, in the case of each cheque paid in:
- (i) The amount of the cheque, and
  - (ii) A reference (such as the number of the receipt given or the name of the debtor) which will connect the cheque with the debt or debts in discharge or partial discharge of which it was received.

Where any cheque paid in was not received in discharge or partial discharge of a debt due to the Council, the Officer shall note the fact on the counterfoil or duplicate of the paying in slip.

- 8.1.3 It is the responsibility of the Business Manager that is receipting income to put in place adequate procedures to ensure that where works/services/goods have been provided cash receipts are reconciled from the Council's financial management system to the source records held by the Business Unit. This should be completed monthly and any discrepancy between actual cash received and the source information should be directed to the Business Manager – Financial Services for investigation.

**8.2 General**

- 8.2.1 The rules for the collection of all income due to the Council shall be under the general control of the Section 151 Officer.
- 8.2.2 The records kept by each budget holder with regard to items of income shall be in such a form as may be agreed by the Section 151 Officer from time to time.
- 8.2.3 All payments received in cash on behalf of the Council shall be acknowledged by the issue of an official receipt. Such receipts shall only be valid if in the form of an official machine printed receipt, except where official manual receipt books are issued for prescribed purposes.

- 8.2.4 All income shall be collected and deposited intact without delay into the Council's bank account, as directed by the Section 151 Officer, on the same day as received wherever possible. Where appropriate, income shall be deposited under night-safe arrangements, including suitably secure safes on the Council's own premises, or held securely by another appropriate method approved by the Section 151 Officer. Where cash is held in secure safes on Council premises the Business Manager responsible for the service depositing the money shall ensure that sufficient insurance arrangements are in place.
- 8.2.5 No personal cheques are to be cashed out of Council funds.
- 8.2.6 All cheques, postal orders, money orders and postal drafts etc, received on behalf of and due to the Council shall be crossed "A/C Newark and Sherwood District Council" immediately on receipt unless they are already clearly marked with equivalent wording.
- 8.2.7 Post-dated cheques will only be accepted at the discretion of the Section 151 Officer.
- 8.2.8 The Section 151 Officer on receipt of details from Business Manager shall ensure that a record is maintained of all items of income due to the Council classified as "periodic income" for which fixed or varying charges apply. For this purpose the term "periodic income" shall mean any fee or charge receivable by the Council on a recurring basis one or more times in any one year.
- 8.2.9 Business Managers shall be responsible for notifying the Section 151 Officer of all items of miscellaneous income due to be paid to the Council.
- 8.2.10 Cash receipts over a value of £1,500 shall be reported to the Council's Anti Money Laundering Reporting Officer (the Section 151 Officer) who shall be responsible for taking the appropriate action. The Section 151 Officer may issue further arrangements in respect of anti-money laundering.
- 8.2.11 Instances where currency is identified as being forged shall be reported to the Section 151 Officer.
- 8.2.12 No online payment system must be set up without the prior approval of the Section 151 Officer.
- 8.2.13 All online payments must be in accordance with instructions issued by the Section 151 Officer.
- 8.3 Cash Receipting**
- 8.3.1 Receipt books are controlled stationery and shall be retained securely.
- 8.3.2 Where Council income other than cheque payments, whether cash or otherwise, is passed from one employee to another, the receiving employee shall sign an appropriate form of receipt, which shall be retained by the Officer who passed the income.

- 8.3.3 Adequate details of receipts and specific records of cheques shall be kept which refer to the original debt.
- 8.3.4 Postal income shall be held securely, opened wherever possible in a secure environment, by a minimum of two officers, recorded on appropriate documentation, and promptly investigated in the event of discrepancies.
- 8.3.5 Change must not be given in the event of a cheque being received for a greater value than the debt outstanding.
- 8.3.6 Coin operated machines shall be emptied on a regular basis, with the income counted in a secure environment by a minimum of two officers, with a note of machine readings being taken (where applicable), with discrepancies being promptly investigated.
- 8.3.7 Change floats shall be issued and approved by the Section 151 Officer, be kept secure when not in use, checked prior to use, and deducted from the total at the end of the day when calculating the days takings. Unofficial floats must not be maintained.
- 8.3.8 Cashing up duties shall be undertaken by a minimum of two officers, in a secure environment away from public view, with the details being recorded on an appropriate daily return, with discrepancies being promptly investigated.
- 8.3.9 Further details concerning cash handling procedures are outlined in the Cash Handling Guidance notes which can be found in the Safety section on the Council's intranet.
- 8.4 Debtor Accounts - Recovery, Amendment and Write-Off**
- 8.4.1 The Council shall submit invoices for rechargeable work within one month of the work being completed and appropriate documentation being received.
- 8.4.2 All arrangements for recovery of outstanding debts to the Council shall be made in accordance with instructions from the Section 151 Officer (this may include the debtor details being submitted to the Council's Legal Business Unit or an outside collection agency suitably appointed by the Council).
- 8.4.3 Cancellation of Sundry Debtor accounts, whether in part or full, shall be authorised in writing by the relevant Business Manager or Duly Authorised Officer, on the basis of appropriate documentation prepared by the originator of the debt, which justifies the said cancellation.
- 8.4.4 The Section 151 Officer shall be authorised to write off debts owed to the Council in accordance with delegated authority contained in the Council's Constitution. Items in excess of the amount specified in delegated authority may only be written off by the Cabinet.

**8.5 Gifts and Hospitality**

8.5.1 The procedures to be adopted concerning gifts and hospitality being offered to an employee of the Council, shall be in accordance with guidance notes within the Employees Code of Conduct, Member Code of Conduct, or issued by the Councils Monitoring Officer or Section 151 Officer.

**9. PROTECTION OF ASSETS**

**9.1 Security**

9.1.1 The Section 151 Officer shall maintain an up-to-date asset register. The Section 151 Officer should be notified in any case where security is thought to be defective or where it is considered that special arrangements may be needed.

9.1.2 Officers arranging legal contracts shall ensure that the legal documents are lodged with the Legal Business Unit.

9.1.3 The Council's Legal Business Unit shall be responsible for the safe custody of all legal agreements, leases etc, showing due dates for termination and for the review of "break clauses" as applicable and shall keep a register of all such legal agreements.

9.1.4 The Contract Officer is responsible for ensuring appropriate action is taken to meet the requirements of the relevant operative dates.

9.1.5 Each Business Manager shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash etc, under his control. He shall consult the Section 151 Officer (and, where necessary, the Business Manager Community Safety) in any case where it is considered that special security arrangements may be needed.

9.1.6 Maximum limits for cash holdings shall be agreed with the Section 151 Officer in accordance with insurance limits, and shall not be exceeded without his express permission.

9.1.7 Keys to safes, similar receptacles, cash offices, stock rooms and office keys must be held securely. The loss of any such keys must be reported to the Section 151 Officer immediately.

9.1.8 Each Business Manager shall be responsible for maintaining a secure record of key holders together with details of keys held in other locations. All keys held personally by individual officers must be signed out and signed back in again when they are no longer required to be held.

9.1.9 Any losses of either ID badges or building access cards must be reported immediately to the Business Manager Public Protection & Admin Services.

9.1.10 Any breaches in security shall be reported immediately to the Business Manager Public Protection.

**9.2 Inventories**

9.2.1 Business Managers shall ensure that an inventory is maintained of all items, as approved, in a form approved by the Section 151 Officer.

9.2.2 The inventory shall give an adequate description of all movable plant and machinery, vehicles, and valuable, desirable and portable equipment belonging to Newark and Sherwood District Council. The inventory will be a permanent record and under no circumstances shall an item be deleted. Entries relating to items disposed of or transferred shall be annotated to that effect. The inventory should detail such identification marks as to enable the item to be easily identified i.e. model number, serial number, unique identification number etc.

9.2.3 All new inventory items purchased must be entered onto the inventory immediately and where relevant, the Risk and Insurance Officer should be notified.

9.2.4 Business Managers shall be responsible for maintaining an annual check of all items on the inventory. As part of the Annual Governance Statement process, Business Managers are asked in April each year to certify the accuracy and completeness of inventories. As such, there must be an inventory check undertaken of all items in time to complete this certification. This is a minimum requirement; in some instances a more frequent review may be appropriate.

9.2.5 All surpluses or deficiencies shall be properly documented and recorded as an amendment to the inventory and reported to the appropriate Director and Risk and Insurance Officer, subject to 9.2.6 below.

9.2.6 Surpluses or deficiencies in excess of £50 for any one item and £500 in total must be reported to the Section 151 Officer who may, at his discretion, order an investigation.

9.2.7 In connection with surplus inventory items with a value over £50:

- (i) Prior to disposal, the surplus item must be offered for internal use elsewhere in the Council. In this case both inventories should record the transfer.
- (ii) All disposals must be authorised by the appropriate Business Manager.
- (iii) The method of disposal shall be approved by the Section 151 Officer.
- (iv) All disposals must be properly documented.
- (v) The Risk and Insurance Officer shall be informed of all relevant disposals.

9.2.8 Any inventory item identified as being obsolete must only be disposed of on the authority of the appropriate Business Manager, after consultation with the Section 151 Officer.

9.2.9 No inventory item shall be subject to personal use by an employee without authorisation by the appropriate Business Manager. Any item removed for home working should be shown as such on the inventory or through an appropriate booking out mechanism.

9.2.10 Employees are responsible for inventory items allocated to them. Employees are also responsible for keeping a record if they loan inventory items to other officers.

### **9.3 Stores**

9.3.1 Each Business Manager shall be responsible for the custody, control, ordering, issuing and recording of stocks and stores in their Business Unit. The system in operation shall be subject to the express approval of the Section 151 Officer.

9.3.2 Business Managers shall arrange for a continuous and independent stocktaking of stores.

9.3.3 Stocktaking procedures shall be sufficiently regular and robust so as to ensure that stock is accurately recorded. This must include a stocktake at 31<sup>st</sup> March each year.

9.3.4 Following the stocktaking of stores, the following procedures shall apply:

- (i) Investigations shall be made into discrepancies to isolate and correct accounting errors. The results of any investigations including any reports must be sent to the Section 151 Officer at an early stage.
- (ii) Discrepancies still outstanding shall be presented to the appropriate responsible Director for comment and explanation.
- (iii) The Section 151 Officer shall have authority after receipt and consideration of the comments and explanations to make the necessary adjustments to the stores ledger, and may require an investigation and/or report to the Audit and Accounts Committee.

9.3.5 The Section 151 Officer shall be entitled to receive from each Business Manager such information as he requires in relation to stores for the accounting, costing and financial records, including a certificate of the value of stores held at the 31<sup>st</sup> March each year for submission at audit.

9.3.6 Prior to disposal, the Business Manager shall ensure that the Council has ownership of the asset. Surplus or obsolete materials, stores or equipment with an estimated value over £500 shall be disposed of by competitive tender or public auction, unless appropriate written approval is obtained from the Section 151 Officer who decides otherwise in a particular case. The proceeds of the sale of any asset should be paid directly to the Council without any deductions.

9.3.7 No stores item shall be subject to personal use by an employee.

**9.4 Insurance**

- 9.4.1 The Section 151 Officer shall be responsible for effecting adequate insurance cover, through an insurance company (or companies) or such other means approved by Cabinet for all assets, commitments and contingent liabilities in the performance and discharge of statutory or other authorised duties by the Council, its Members and Officers.
- 9.4.2 No officer shall arrange insurance other than through the Council's Risk and Insurance Officer.
- 9.4.3 Insurance requirements shall be actioned in accordance with the Council's Insurance Guide, which can be found in the Public Protection section of the intranet.
- 9.4.4 The Section 151 Officer shall carry out periodic reviews to ensure the maintenance of adequate insurance cover as above, and shall maintain a record of "risks" covered, the amount of cover and premiums due.
- 9.4.5 Business Managers shall be responsible for promptly notifying the Section 151 Officer of the extent and nature of new risks or of any variations concerning insurance cover required in respect of their own service area.
- 9.4.6 Business Managers shall be responsible for promptly notifying the Section 151 Officer of full details of all accidents or occurrences likely to lead to a proper claim on the Council.
- 9.4.7 Where any claim is received from a third party by any officer, this must be immediately forwarded to the Council's Risk and Insurance Officer.
- 9.4.8 The Section 151 Officer shall maintain a record of all insurance claims made against the Council.
- 9.4.9 No correspondence should be entered into in respect of any claim or other insurance matter except by the Council's Risk and Insurance Officer, without the express approval of the Section 151 Officer.
- 9.4.10 At no time should any officer or Member or any other person acting on behalf of the Council make an admission of liability on behalf of the Council without the express authority of the Section 151 Officer.
- 9.4.11 Any expenditure in relation to dealing with the settling or resisting of claims must be authorised by the Section 151 Officer or any other duly authorised officer prior to any expenditure being committed.

**9.5 Asset Management**

- 9.5.1 All matters relating to Asset Management shall be administered in accordance with the Council's Asset Management Plan.

9.5.2 The Section 151 Officer shall ensure that an Asset Register is maintained by the Council in accordance with the latest advice issued by the Chartered Institute of Public Finance and Accountancy.

9.5.3 It is the responsibility of the appropriate Director to ensure that Asset Management expertise is available to the Council.

9.5.4 The Asset Register shall include all assets of the Council valued in excess of £15,000.

## **9.6 Management of Information**

9.6.1 Business Managers shall be responsible for maintaining the proper security and privacy of all information under their control including computerised files and for ensuring the Council acts in accordance with the Data Protection/Freedom of Information legislation.

9.6.2 Intellectual property (i.e. the generic term that includes inventions, creative writings, software and drawings) arising from the course of employment will belong to the Council.

## **9.7 Motor Vehicles**

9.7.1 Council vehicles must not be used for private purposes, or hired or lent out, without the express approval of the appropriate Director who shall check with the Council's Risk and Insurance Officer that such use is covered by the Council's insurance policy. Records of any such use should be kept to ensure the driver of any such vehicle shall be known at all times. If there is any doubt that adequate insurance cover is in place, no such use of the vehicle shall be permitted.

9.7.2 Business Managers shall ensure that all Officers using Council owned vehicles hold a current full driving licence authorising them to drive the vehicle in question.

9.7.3 All Officers using Council owned vehicles are responsible for the security of the vehicle, whilst it is in their care.

9.7.4 Where a Council vehicle is to be taken home overnight to facilitate call-out, stand-by or other appropriate duties, Financial Services must be informed to ensure that taxation issues are managed appropriately.

## **9.8 Reporting of Irregularities**

9.8.1 The reporting of irregularities shall be in accordance with the Council's Guidance for Dealing with Irregularities which is available in the Financial Services section of the Intranet.



**9.9 Whistleblowing Policy**

9.9.1 Each Business Manager shall be responsible for ensuring that their staff are aware of, understand and comply with the Council's Whistleblowing Policy which is available on the Council's Intranet.

**9.10 I.C.T. Systems**

9.10.1 All proposals for the acquisition, development, maintenance and use of computing facilities and systems shall conform with the Council's I.C.T. policies and strategies and the Employee Code of Conduct.

**10. EXTERNAL ARRANGEMENTS**

**10.1 Partnerships, Shared Services and Collaboration Arrangements**

10.1.1 No partnership or shared service arrangement shall be set up without taking into consideration the factors covered in 10.1 of these regulations.

10.1.2 Business Managers shall ensure that the appropriate approval is obtained prior to any negotiations being concluded in relation to work with external bodies.

10.1.3 The Section 151 Officer must be consulted on the financial implications of new partnerships or shared services arrangements and must approve that:

- (i) A scheme appraisal for financial viability in both current and future years has been undertaken.
- (ii) Costs and income are provided for in the Council's budget.
- (iii) Arrangements are in place for accurate accounting for cost and income.
- (iv) Sufficient controls are in place for the successful operation of the partnership/shared service, including arrangements for sufficient access to financial and other records.
- (v) Carry forward arrangements have been determined.
- (vi) A formal risk appraisal has taken place and a management strategy devised.
- (vii) An auditing, security and control regime has been established.
- (viii) Appropriate arrangements are in place for the recovery of VAT.

10.1.4 Financial performance of partnerships and shared services must be monitored and reported back to the Council as agreed.

10.1.5 These Financial Regulations also apply to all partnerships and shared services unless similar arrangements have been approved by the Section 151 Officer.

10.1.6 Where collaboration is agreed with an external partner, the relevant Business Manager is responsible for ensuring that all income due is invoiced and recorded promptly within the Financial Management system and that invoices for expenditure incurred in relation to the collaboration are received and recorded promptly.

10.1.7 Where an Officer is working for a Collaboration partner, the Financial Regulations of the partner body will apply.

## **10.2 External Funding**

10.2.1 No applications for external funding shall be made without prior consultation with the Section 151 Officer. Directors or Business Managers shall be responsible for providing the Section 151 Officer with the following information:

- (i) How the bid is compatible with the Council's aims and priorities.
- (ii) Whether the bid is for capital or revenue funding.
- (iii) Whether matched funding contributions are required from the Council and how these will be identified.
- (iv) Whether matched funding contributions are required from other organisations and how these amounts will be secured.
- (v) An exit strategy setting out how budgets will be adjusted after the external funding expires.
- (vi) Where the bid is for revenue funding, whether it is to support existing levels of activity or enhanced/new activities.
- (vii) Where the bid is for capital funding, whether an asset will be created and how this fits in with the Council's Asset Management Plan, how the ongoing maintenance of the asset will be funded and whether the asset can/will be disposed of at a later date.
- (viii) Details of ownership and insurance of the asset.

10.2.2 Business Managers shall be responsible for ensuring that:

- (i) The key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- (ii) Any funding received is used for the intended purpose and is notified to the Section 151 Officer.

10.2.3 The Section 151 Officer shall be responsible for:

- (i) Approving all external funding bids prior to application.
- (ii) Approving all interim and final claims for external funding once the bid has been accepted and is live.
- (iii) Ensuring that any funding received is properly recorded in the Council's accounts.

## **10.3 Work for Third Parties**

10.3.1 No Officer should set up their own trading company to provide services to the Council without the prior approval of the Section 151 Officer and the Monitoring Officer.

10.3.2 Where works are to be provided to a third party, any contractual arrangement above £15,000 must be approved by the Section 151 Officer prior to being signed. This is regardless of whether the piece of work is a one off or on-going.

10.3.3 Business Managers shall be responsible for ensuring that:

- (i) A register is maintained of all contracts entered into with third parties.
- (ii) Any risks are minimised and such work is intra vires.
- (iii) Appropriate insurance arrangements are made.
- (iv) The Council is not put at risk from any bad debts.
- (v) No contract is subsidised by the Council.
- (vi) Wherever possible, payment is received in advance of the delivery of the service.
- (vii) The Business Unit has the appropriate expertise to undertake the Contract.
- (viii) All contracts are properly documented.
- (ix) Appropriate information is provided to the Section 151 Officer for final accounts purposes.

## **11. DIRECTOR/OFFICER DELEGATIONS**

11.1 Director/Officer delegations will be in accordance with the latest Scheme of Delegation as approved by Council.

## **12. CONTRACT AND WINDFALL SAVINGS**

12.1 Unless specific agreement with the Section 151 Officer is obtained, contract savings and windfall savings (i.e. unanticipated income or unanticipated savings on expenditure including any figure relating to previous years) will revert to Balances.

## **13. FAILURE TO COMPLY WITH FINANCIAL PROCEDURE RULES**

13.1 Failure to comply with the Financial Procedure Rules:

- Is a breach of the Code of Conduct for Officers that is covered by the Council's Disciplinary and Dismissal Policy.

13.2 Councillors must report any apparent breach of the Financial Procedure Rules to the Chief Executive. Officers must report apparent breaches to an appropriate Chief Officer or the S151 Officer. The Chief Officer (where this isn't the S151 Officer) should report breaches of these Rules to the S151 Officer and the Monitoring Officer.

## CONTRACT PROCEDURE RULES

Reviewed and Updated May 2022

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## **1 Introduction**

The purpose of these Contract Procedure Rules is to set out the principles, roles and processes involved in procurement at the Council. All procurements must comply with these Rules, the Council's Financial Procedure Rules, English law, and European law in force in England.

All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome.

These Rules seek to protect the Council's reputation by minimising the risk of allegations of corruption, dishonesty, and failure to meet legal obligations; as such they must be followed in all commercial activity undertaken on behalf of the Council and within a partnership arrangement, regardless of the source of funding.

These Rules should be read in conjunction with the Council's Financial Regulations and Purchasing Card Procedure (as appropriate).

If there is any change to the law which affects these Rules, then that change must be observed until these Rules can be revised. If these Rules conflict in any way with the law, then the law takes precedence.

These Rules are supported by detailed, practical guidance available in the Procurement Toolkit, which can be accessed via the [procurement portal](#). The Procurement Toolkit covers:

- The Procurement Cycle
- Assessing Needs
- When does TUPE apply?
- Assessing Risks
- Valuing Your Requirement
- Understanding Social Value
- Sustainable Procurement
- Procurement timetable
- Specification
- Evaluation Methodology and Criteria
- Terms and Conditions
- Due Diligence
- The Procurement Process
- Procuring via a Framework Agreement
- Contract Management and Review
- Variation
- Extensions

If, after reading these Rules, you require further guidance or clarification, or you are not sure how best to comply with them, then please contact your Line Manager, the Business Manager – Financial Services or Welland Procurement.

Any values stated within these Rules are exclusive of VAT, staff costs and fees.

Grant money received shall be deployed in line with these Rules unless the grant conditions state otherwise.

These Rules do not apply in the following circumstances:

- 1.1 The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This does not extend to any service, supplies, or works contracts that may be required to make the land, existing buildings, or immovable property ready for acquisition, disposal, or leasing.
- 1.2 Direct employment of permanent or fixed term employees, for the avoidance of doubt these Rules do apply to consultancy and employment agency contracts.
- 1.3 Instructing barristers or solicitors (as long as those costs do not exceed the relevant Public Procurement Threshold).
- 1.4 The lending or borrowing of money by the Council.
- 1.5 Contracts between Local Authorities as defined by Clause 12 of the Public Contracts Regulations 2015.
- 1.6 Contracts between Local Authorities as defined by Clause 17 of the Concession Contracts Regulations 2015.
- 1.7 Contracts between Local Authorities as defined by Clause 1 of the Local Authorities (Goods and Services) Act 1970.
- 1.8 Section 75 NHS Act 2006 arrangements (although details must be recorded on the Council's Contract Register).
- 1.9 Quick Reference Guide: Contract Procedure Rules**
  - 1.9.1 A decision to procure is required before procurement commences AND a decision to award must be obtained before a contract is awarded.
  - 1.9.2 Procurements with a [total value](#) of £5,000 or more are subject to Transparency Regulations and will need to be entered on to the Council's Contracts Register (on ProContract).
  - 1.9.3 The table over is a quick reference guide only and is supported by the details Contract Procedure Rules in this document

<u>Total Contract Value</u>	Procurement Guidance	Governance Guidance
<p><b>Under £10,000</b></p>	<p><b>Notices Required:</b> None</p> <p><b>Method:</b> At least <b>one written quotation</b> required (Rule <a href="#">6.3</a>).</p> <p><b>Note:</b> Budget Holders are responsible for all awards over £5,000 being entered on the Contracts Register.</p>	<p><b>Governance Process:</b> Decision does not require a formal officer decision notice. The Purchase Order (PO) should be raised before award, and this will be deemed sufficient authority to award the contract with a copy of all documentation kept on the file for audit purposes.</p> <p><b>Finance Process:</b> Must be within budget. A Purchase Order (PO) should be raised before award and authorised by Budget Holder in accordance with the Budget and Policy Framework.</p> <p><b>Legal Process:</b> PO Ts &amp; Cs are on the intranet. Please ensure these are fit for purpose for the contract before award. If bespoke terms are required, please instruct legal before procuring. PO to be approved / signed by the relevant Budget Holder (Rule <a href="#">6.6</a>) prior to award of the Contract once all due diligence has taken place unless sealing applies (Rule <a href="#">15.11</a>). All documentation to be kept on file for audit purposes. All awards over £5,000 must be entered on the Contracts Register.</p> <p><b>Signing:</b> Can be signed by Business Manager under delegation – check your Local Scheme of Delegation.</p>
<p><b>Between £10,000 and £74,999</b></p>	<p><b>Notices Required:</b> None however if advertised or tendered, then contact Welland Procurement for guidance. All Contracts over £20,000 must have a formal award notice issued by Welland Procurement (on Contracts Finder).</p> <p><b>Method:</b> At least <b>3 quotations</b> should be sought using RFQ template. At least <b>2 quotations</b> should be from locally based suppliers (Rule <a href="#">7.3</a>).</p>	<p><b>Governance Process:</b> All contracts below £20,000 do not require a formal decision record unless it is deemed high risk, politically or financially sensitive or other circumstances dictate a formal record is required e.g., recording a delegation to award from a Committee / Cabinet. The Purchase Order (PO) should be raised before award, and this will be deemed sufficient authority to award the contract with a copy of all documentation kept on the file for audit purposes.</p> <p>All Contracts between £20,000 and £74,999 will require a decision record authorising the award of the contract <b>BEFORE</b> the Contract is awarded. This decision can be made by the relevant Officer. If the matter is high risk, politically or financially sensitive it should be</p>

		<p>made by the Director and/or relevant Portfolio Holder – please liaise with your Director for guidance.</p> <p><b>Finance process:</b> Must be within budget. A Purchase Order must be raised prior to award and signed off by the Budget Holder. Purchase Order can be authorised by a Director in accordance with the Budget and Policy Framework.</p> <p><b>Legal Process:</b> Standard T's and C's to be used. Purchase Order / Decision notice and printed copies of the Contract (No. of copies = No. of parties to the Contract) to be provided to legal signed by SLT as per delegations (Rule <a href="#">7.12</a>) unless sealing applies (Rule <a href="#">15.11</a>). The award must be entered on the Contracts Register. All awards over £20,000 must have a Contract Finder Award Notice – consult Welland Procurement.</p> <p><b>Signing:</b> Contract signed by SLT (Rule <a href="#">7.12</a>) unless sealing applies (Rule <a href="#">15.11</a>).</p>
<p><b>Between £75,000 and Goods and Services Public Procurement Threshold</b></p>	<p><b>Welland Procurement</b> must be instructed.</p> <p><b>Notices Required:</b> Contracts Finder Advertising and Award notices. (Rule <a href="#">8</a>).</p> <p><b>Method:</b> A single stage (open) tender is required. Tenders at this level are run via Welland Procurement's e-tendering system.</p>	<p><b>Governance Process:</b> Unless prior budgetary provision has been approved all contracts with a total value of £150,000 (revenue) and £300,000 (capital) must not be awarded without it having followed the Key Decision process. Key Decisions can be made by the relevant Portfolio Holder or Cabinet. If matter is high risk, politically or financially sensitive it should be made by Cabinet – please liaise with the relevant Director. All contracts must be on the Forward Plan for at least 28 days before the decision to award can be taken (at a Cabinet meeting or by decision notice). Once the decision notice is signed, there is a call-in period of 3 days which will have to pass before the Contract can be awarded.</p> <p><b>Finance process:</b> Must be within budget. Once awarded a Purchase Order must be raised. Purchase Orders can be authorised by a Director in accordance with the Budget and Policy Framework.</p> <p><b>Legal Process:</b> Decision Notice required. Forward Plan timelines to be considered. Contract must be sealed (Rule <a href="#">15.11</a>).</p>



		<p><b>Signing:</b> Key Decisions must be put on the Forward Plan and Call in must have expired before signing. The Contract must be sealed (Rule <a href="#">15.11</a>).</p>
<p><b>Works Contracts between the Goods and Services Public Procurement Threshold and the Works Public Procurement Threshold</b></p>	<p><b>Welland Procurement</b> must be instructed.</p> <p><b>Notices Required:</b> Contracts Finder Advertising and Award notices. (Rule <a href="#">9</a>) Welland Procurement must be instructed.</p> <p><b>Method:</b> A single stage (open) tender or two stage (restricted) tender can be used. Tenders at this level are run via Welland Procurement’s e-tendering system.</p>	<p><b>Governance Process:</b> Unless prior budgetary provision has been approved all contracts with a total value of £150,000 (revenue) and £300,000 (capital) must <b>NOT</b> be awarded without it having followed the Key Decision process. The decision should normally be made by Cabinet. All contracts must be on the Forward Plan for at least 28 days before the decision to award can be taken (at a Cabinet meeting or by decision notice). Once the decision notice is signed, there is a call-in period of 3 days which will have to pass before the Contract can be awarded. Please liaise with Democratic Services for support.</p> <p><b>Finance process:</b> Must be within budget. Once awarded a Purchase Order must be raised. Purchase Orders can be authorised by a Director in accordance with the Budget and Policy Framework.</p> <p><b>Legal Process:</b> Decision Notice required. Forward Plan timelines to be considered. Contract must be sealed (Rule <a href="#">15.11</a>).</p> <p><b>Signing:</b> Key Decisions must be put on the Forward Plan and Call in must have expired before signing. The Contract must be sealed (Rule <a href="#">15.11</a>).</p>
<p><b>Over relevant Public Procurement Threshold</b></p>	<p><b>Welland Procurement</b> must be instructed.</p> <p><b>Notices Required:</b> Contracts Finder and Find a Tender Service Advertising and Award notices (Rule <a href="#">10</a>).</p> <p><b>Method:</b> A method defined by Public Procurement Regulations. Tenders at this level are run via Welland Procurement’s e-tendering system.</p>	<p><b>Governance Process:</b> Unless prior budgetary provision has been approved all contracts with a total value of £150,000 (revenue) and £300,000 (capital) must not be awarded without it having followed the Key Decision process. The decision should normally be made by Cabinet. All contracts must be on the Forward Plan for at least 28 days before the decision to award can be taken (at a Cabinet meeting or by decision notice). Once the decision notice is signed, there is a call-in period of 3 days which will have to pass before the Contract can be awarded. Please liaise with Democratic Services for support.</p>

		<p><b>Finance process:</b> Must be within budget. Once awarded a Purchase Order must be raised. Purchase Orders can be authorised by a Director in accordance with the Budget and Policy Framework.</p> <p><b>Legal Process:</b> Decision Notice required. Forward Plan timelines to be considered. Contract must be sealed (Rule <a href="#">15.11</a>).</p> <p><b>Signing:</b> Key Decisions must be put on the Forward Plan and Call in must have expired before signing. The Contract should be sealed (Rule <a href="#">15.11</a>).</p>
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## 2 Roles and Responsibilities

### Officers

- 2.1 The Officer responsible for the procurement must comply with these Contract Procedure Rules and the Financial Regulations. The Officer is also responsible for ensuring that any Agents acting on behalf of the Council do so in compliance with these Rules and must seek written confirmation of their agreement.
- 2.2 As part of the service planning process Officers are expected to highlight all required procurement support through the annual Procurement Service Plan in advance of the next financial year.
- 2.3 Officers are responsible for the contracting activity, and must ensure:
  - (a) Continued compliance with the Council’s requirements;
  - (b) Value for money;
  - (c) Compliance with these Rules as well as any legal and statutory requirements;
  - (d) Compliance with any relevant Council policy; and
  - (e) Contracts are signed/sealed before the commencement of any Works, Services or Goods delivered (unless prior written approval is given by the Chief Executive, the Section 151 Officer, and the relevant Director – these Officers must consider the risks and any mitigation of risk before giving approval).
- 2.4 The Officer is responsible for ensuring the Welland Procurement Unit are aware of the timescales for upcoming procurement work, especially for contracts in excess of £75,000, in sufficient time.
- 2.5 The Officer must have regard to the guidance contained in the Procurement Toolkit which can be accessed via the [procurement portal](#).
- 2.6 Before beginning a commercial activity the Officer responsible for it must carry out an appraisal and consider:

- The requirements from any relevant Best Value or other review;
- The need for the expenditure and its priority e.g., has a business case been developed which sets out the service objectives, the criteria for evaluation and the options for delivery;
- Defining the objectives of the purchase;
- The risks associated with the purchase over its life and how to manage them;
- What procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, and collaboration with other purchasers;
- If a contract has already been let by the Council for the benefit of Council staff, and whether it would be suitable to make of this;
- If a suitable framework exists, and whether it would be suitable to call off of it;
- Consulting users as appropriate about the proposed procurement method, contract standards, and performance and user satisfaction monitoring; and
- Selecting the most appropriate procurement method.

The Procuring Officer's approach to the appraisal tasks should be proportionate to the complexity, risks, and value of the procurement.

- 2.7 The Officer must keep the records detailed in these Rules.
- 2.8 The requirements for the various procurement procedures (based on [total value](#)) are detailed below. Where a procedure is required that would be above the Public Procurement threshold (in terms of [total value](#)), the Officer **must** contact Welland Procurement before embarking on the procurement.
- 2.9 Officers must take all necessary legal, financial, and other professional advice (e.g., HR, Comms etc.) and ensure the necessary decisions are in place before embarking upon any procurement process. Please speak to the Business Manager – Elections and Democratic Services for any queries relating to approvals.
- 2.9.1 Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. Budget approval ensures you have provision to fund any commitment within your own budget, and where sufficient budget isn't available the additional required funding has been sought and approved via members or delegated decision via the Section 151 Officer to access funding from reserves. Further information on this (and the process) can be found within the Financial Procedure Regulations; if in doubt, please speak to the Budget Holder or the Business Manager – Financial Services.
- 2.9.2 Officers will need approval to procure. This approval needs to be sought regardless of the procurement route i.e., Tender, Quotation, Framework Award or Exemption.

- 2.9.2.1 For contracts with a [total value](#) below £75,000, this must be approved by the Business Manager for the relevant area.
- 2.9.2.2 For contracts with a [total value](#) of £75,000 or more, this must be approved by the relevant Director.
- 2.9.3 Officers must ensure that, where they are anticipating engaging with Welland procurement, procurement documentation is provided to Welland in a timely fashion to ensure correct scrutiny together with information to the Legal Business Unit.
- 2.9.3.1 For contracts with a total value under £75,000, these must be received at least three working days prior to the publication date. Contractual information should be passed to the Legal Business Unit as soon as is feasibly possible, but as a minimum two weeks prior to the publication date.
- 2.9.3.2 For contracts with a total value above £75,000, Welland must be engaged with as part of the pre-procurement process. Contractual information should be passed to the Legal Business Unit as soon as is feasibly possible, but as a minimum two weeks prior to the publication date to ensure that the Ts&Cs are completed prior to publication.
- 2.9.3.3 For contracts above the current goods and services Public Procurement Threshold, Welland must be part of the project team and be involved in the review of the specification. Contractual information should be passed to the Legal Business Unit as soon as is feasibly possible, but as a minimum two weeks prior to the publication date to ensure that the Ts&Cs are completed prior to publication.
- 2.9.4 Officers will need approval to award. This approval needs to be sought regardless of the procurement route i.e., Tender, Quotation, Framework Award or Exemption.
- 2.9.4.1 For contracts with a [total value](#) below £75,000, this must be approved by the Business Manager for the relevant area.
- 2.9.4.2 For contracts with a [total value](#) of £75,000 or more, this must be approved by the relevant Director.
- 2.10 The provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) apply to a relevant business transfer where the transferor (incumbent supplier) has a dedicated team of employee(s) that carry out the service activity that is to be transferred. In practice this will often apply where a Council service is:
- ‘out-sourced’
  - brought back ‘in-house’ / in-sourced
  - where a contract that former Council employees are undertaking comes up for renewal and is awarded again to the same supplier or to a new supplier
  - transferred from one external organisation to another

- TUPE is also likely to apply where a supplier who has been awarded a contract subsequently awards or sub-contracts all or part of it to another supplier, whilst retaining the contract with the main client

TUPE can apply irrespective of whether there has been a formal procurement exercise or not. Officers must ask the current Supplier whether or not any employee of the Council or of the Supplier may be affected by any transfer arrangement (TUPE). Where this is relevant, the Officer must ensure that the Transfer of Undertaking (Protection of Employment) issues are considered and obtain relevant advice before undertaking the procurement process. This will include liaising with Nottinghamshire County Council where any employee of the Council or of the Supplier is a member of the Local Government Pension Scheme (LGPS). Guidance on whether TUPE applies must be referred to Human Resources or Legal services in the first instance, before proceeding, so that the scope of any legal obligations may be identified. If TUPE does apply this must be factored into the procurement strategy / plan and timescales.

Suppliers must seek their own legal guidance on the application of TUPE; the Council must not offer any such advice. The Council's only involvement with TUPE is to facilitate through the provision of TUPE information; it must not get involved in other TUPE related matters.

'TUPE Information' templates are available on the Welland [procurement portal](#). This information will need to be completed by the current supplier which Officers will issue to the market as part of the procurement documentation on which potential suppliers are invited to bid. This information must be gathered prior to going out to market, and Officers would need to review the information to ensure it has been anonymised (TUPE information is confidential – please discuss with Welland Procurement whether TUPE information should be published with the tender pack, or to individual bidders, subject to the return of TUPE Confidentiality Agreement), and whether or not there are any LGPS (Local Government Pension Scheme) members. Officers can refer to the Procurement Toolkit available on the [Welland Procurement portal](#) for guidance on considerations for LGPS members.

- 2.11 Officers must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended. This must be in line with the Contract Management which is available on the Intranet here.
- 2.12 It is the Officer's responsibility to carry out [due diligence](#) on successful suppliers, both at Contract Award, and for the duration of the Contract. Where contracts are over the current goods and service Public Procurement threshold a credit check must be completed on the potential supplier. This must be facilitated through the Financial Services Business Unit or Welland Procurement. Where the score is below 50, the Section 151 Officer must be consulted prior to the award of the contract.

- 2.13 Where an Officer has a potential conflict of interest within a procurement process, the Officer must declare this immediately to the relevant Director and Monitoring Officer. The Officer may be required to withdraw from the procurement process. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions.

A 'Conflict of Interest Declaration – Confidentiality Agreement' form can be obtained from the [procurement portal](#).

- 2.14 Officers must ensure details of bidders and their submissions are kept confidential (subject to [Freedom of Information](#) considerations).
- 2.15 Officers shall complete the Council's electronic Contract Register (to record all approved exemptions and contracts with an estimated [total value](#) of £5,000 and above including any changes over the contract life e.g., extensions).
- 2.16 Officers shall notify Welland Procurement of any contracts awarded with an estimated [total value](#) of £20,000 and above (including any changes over the contract life e.g., extensions), so that a Contracts Finder Award Notice can be published.

#### **Senior Leadership Team**

- 2.17 The Senior Leadership Team must ensure that staff are aware of their responsibilities under these Rules, receive adequate training and guidance and that they and their Officers comply with these Rules at all times.
- 2.18 The Senior Leadership Team should facilitate Value for Money being achieved in all procurements.
- 2.19 The Senior Leadership Team must ensure that they have in place a scheme of delegation that records in writing what action Officers are authorised to take under these Rules.
- 2.20 In the interests of forward planning, the Senior Leadership Team should facilitate the process of preparing, maintaining, and reviewing a rolling schedule in respect of procurement activities with a [total value](#) over £75,000.
- 2.21 The Senior Leadership Team is responsible for ensuring a process is in place so that the Council's Contracts Register is updated as required following procurement activity.
- 2.22 Where an Officer within the Senior Leadership Team has a potential conflict of interest within a procurement process, the Officer must declare this immediately to the relevant Director and Monitoring Officer. The Officer may be required to withdraw from the procurement process. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions.

A 'Conflict of Interest Declaration – Confidentiality Agreement' form can be obtained from the [procurement portal](#).

- 2.23 Ensure that all completed contracts are passed to the Legal Business Unit for safe keeping.

### **3 Non-Compliance with these Rules**

- 3.1 Where an Officer becomes aware of any non-compliance with these Rules (which cannot be remedied), they must declare this to the relevant Director and Monitoring Officer.

### **4 Total Value**

- 4.1 Total Value is the maximum potential contract value. This is an estimation of the annual value, multiplied by the maximum contract length (including any extensions). This calculation is to be used for contracts that fall under the Public Procurement Regulations 2015. All references to "value" within these Rules refer to Total Value.

Where a proposed work or provision of services may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots. Where the aggregate value of the lots is equal to or greater than the relevant [Public Procurement Threshold](#). Please speak to Welland Procurement for further guidance on aggregation.

- 4.1.1 For works contracts, the calculation of the estimated value shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the contractor by the Council if they are necessary for executing the works.
- 4.1.2 For services contracts which do not indicate a total price, the basis for calculating the estimated contract value shall be the following:
- (a) in the case of fixed-term contracts where that term is less than or equal to 48 months, the total value for their full term;
  - (b) in the case of contracts without a fixed term or with a term greater than 48 months, the monthly value multiplied by 48.
- 4.1.3 For the appointment of consultants, the Estimated Total Contract Value shall be calculated using the requisite rate for the consultant, multiplied by the total duration of the assignment required to complete all the activities and deliverables of the consultant for their entire appointment.
- 4.2 For Concessions contracts (where the supplier makes money from the right given by the Council to provide), contract values are based on what it is worth to the supplier or the cost the Council would incur to provide the contract. The Total Value for these contracts shall be the total turnover of the concessionaire generated over the duration of the contract, as estimated by the Council, considering:

- (a) the value of any form of option and any extension of the duration of the concession contract;
- (b) revenue from the payment of fees and fines by the users of the works or services other than those collected on behalf of the Council;
- (c) payments or any other financial advantages, in any form, from the Council to the concessionaire, including compensation for compliance with a public service obligation and public investment subsidies;
- (d) the value of grants or any other financial advantages, in any form, from third parties for the performance of the concession contract;
- (e) revenue from sales of any assets which are part of the concession contract;
- (f) the value of all the supplies and services that are made available to the concessionaire by the Council, provided that they are necessary for executing the works or providing the services;
- (g) any prizes or payment.

4.3 Contracts shall not be subdivided with the effect of preventing it from falling within the scope of these Rules, thresholds, or any relevant Public Procurement Regulations.

4.4 Re-occurring Contracts shall not be put in place with the effect of preventing it from falling within the scope of these Rules, thresholds, or any relevant Public Procurement Regulations. Spend must be aggregated where it is appropriate to do so, whether that is within Council departments, or across multiple departments for the same scope of work; to ensure value for money is achieved and reduce the duplication of work. Examples of where aggregate spend would be appropriate includes (but is not limited to):

- One department spot purchasing similar pieces of work on a regular basis throughout the financial year;
- Multiple Council departments purchasing the same services under different contracts; and
- Individual contracts being kept under a certain threshold to avoid procurement obligations within these Rules.

Where a proposed work or provision of services may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots. Where the aggregate value of the lots is equal to or greater than the relevant [Public Procurement Threshold](#), Welland Procurement must be consulted.

4.5 It is the responsibility of each individual Officer to review the contracts register prior to entering into any contract, to understand if the Council is already in a contractual relationship in relation to the proposed goods/services/work. If the Council is, then the Officer would need to investigate whether the contract covers their own requirement, or if there is scope for variation in the current contract. Please speak to Welland Procurement and Legal to ensure contractual and procurement compliance.



- 4.6 Where the Council may be contributing only part of the total value of a contract, it is nevertheless the Estimated Total Contract Value that should be applied in determining the correct procedures to be applied under these Rules. Examples of where this would be appropriate includes (but is not limited to):
- Collaborations between departments within the Council;
  - Collaboration between the Council and at least one other Contracting Authority; and
  - Where the Council is only part funding a project, in partnership with another funding source.

- 4.7 In the event that the estimated Total Contract Value is below the [Public Procurement Threshold](#), and following a quotation process the proposed winning bidder's Total Bid Value exceeds the relevant [Public Procurement Threshold](#), the Officer must not award the contract without consulting with Welland Procurement and Legal as to the risks associated with awarding the contract.

## **5 Contract Term**

- 5.1 The term of a Contract must not exceed five years in total (including any potential extension options), without the written approval of the relevant service Director. This must be gained prior to the procurement process commencing.
- 5.2 Framework agreements must not exceed four years. Call-off contracts based on framework agreements may be longer than four years and may extend beyond the expiry date of the framework.

## **6 Procurements Valued Under £10,000**

- 6.1 Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Procedure Rules). Please see [2.9.1](#) for further information. Officers also need to speak to their Business Manager about any further approvals required outside of these Rules, as well as whether or not approval to procure is required.
- 6.2 Council Officers may decide it is appropriate to [reserve contracts for services](#) at this value to the local area (county) or SME's/voluntary sector. Please refer to the appropriate guidance in this document (and consult Welland Procurement) before any reservations are made.
- 6.3 Where the contract has a [total value](#) below £10,000, Officers are required to seek at least one written quotation (email is acceptable). Value for money remains a primary objective and so Officers may decide to seek more than one quotation to ensure that objective is achieved.

- 6.4 Quotations can be submitted via email, preferably in PDF format to prevent tampering or accusations thereof; the onus will be on the bidder to make this decision. Quotations are not to be “opened” prior to the deadline for return, if one is given (not applicable if only one quote is being sought).
- 6.5 The quotation(s) must be received before any order is processed and must include the following information:
- (a) A description of the goods, services or works to be supplied;
  - (b) When and where they will be supplied;
  - (c) The total value of the requirement; and
  - (d) Payment terms.
- 6.6 Approval to award at this value will be in writing from the budget holder. The Contract or Purchase Order must be approved/signed by the relevant Budget Manager in accordance with budget authorisation limits (as outlined in the Financial Procedure Rules) via the Council’s Corporate Financial System (electronic Purchase Order).

If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.

- 6.7 Where the value of the contract is £5,000 and above, the resultant contract must be added to the Contract Register (on ProContract) to ensure compliance with Transparency Regulations.
- 6.8 It is the Officer’s responsibility to carry out [due diligence](#) on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **7 Procurements Valued Between £10,000 and £74,999**

- 7.1 Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Procedure Rules). Please see [2.9.1](#) for further information. Officers also need to speak to their manager about any further approvals required outside of these Rules. Approval to procure must be obtained as per [2.9](#) of this document.
- 7.2 Council Officers may decide it is appropriate to [reserve contracts for services](#) at this value to the local area (county) or SME’s/voluntary sector. Please refer to the appropriate guidance in this document (and consult Welland Procurement) before any reservations are made.
- 7.3 Where the contract has a [total value](#) between £10,000 and £74,999 at least three comparable quotations must be sought in writing (email is acceptable), with at least two quotations being sought from locally based suppliers. Where local quotations cannot be sought the Officer must keep a written record of the reason. Those quotations can be invited from identified suppliers as advertising is not mandatory. If the Council chooses to advertise a quotation opportunity for any reason, the officer should contact Welland Procurement for assistance with this.

- 7.4 Where Welland are instructed to support the procurement, the Officer must complete a Procurement Initiation Document (PID), available on the [procurement portal](#), prior to the commencement of the procurement process (at pre-procurement stage).
- 7.5 It is recommended that the Request for Quotation Template document is used which can be obtained from the [procurement portal](#). In any case the criteria for selecting the most advantageous quotation must be established before the quotations are invited and be made clear in the procurement documentation. The quotations must contain (as a minimum):
- (a) A specification (covering the goods, services or works to be supplied, the “where” and “when” they are to be supplied, and any relevant performance and contract management details)
  - (b) Instructions to bidders:
    - a. Evaluation criteria
    - b. How to respond
    - c. How clarification messages are to be asked (who sent to, any deadlines for messages)
    - d. Information bidders need to include within response
    - e. Deadline for responses (day and time); and
    - f. The short form terms and conditions to be applied (please contact the Legal Business Unit for details).

In some instances, Officers may need to consider [TUPE](#) implications.

- 7.6 Where fewer than three potential suppliers can be identified, the Officer must keep a written record of the reason and all potential suppliers should be invited to quote. It is accepted that the Officer may receive fewer than three quotations even where three or more suppliers have been invited to quote.
- 7.7 As part of the procurement process (quotation), potential bidders can seek clarification on either the information published or the process itself.

The nature of any clarification or response from the Council must not materially change the scope/substance of the requirement. If it does, Officers may need to abandon the process and restart, using revised documentation. Please discuss this with Welland Procurement.

- All requests for clarification and questions relating to the quote (and its associated documents) must be submitted as per the instruction document (via email or ProContract)
- The Council must respond to all clarifications as soon as possible (via email or ProContract)
- A copy of all requests for clarifications and the responses must be anonymised and published to all potential bidders (who have either been invited to quote, or have expressed an interest in the quote) where the clarification and response are not considered confidential

- If a potential bidder wishes the Council to treat a clarification as confidential and therefore not publish the response to all, it must state this when submitting the clarification. If in the opinion of the Council, the clarification is not confidential, the Council will publish it in an anonymised format
- Officers must state a deadline for receipt of clarifications
- Officers must keep a record of communications between potential bidders and the Council

Unless it is part of a clarification and the above is observed, Officers must not:

- Contact suppliers/potential bidders
- Send information to suppliers/potential bidders

If a supplier/potential bidder contacts an Officer, they should advise them that messages must be submitted as per the instruction document; via email or ProContract.

- 7.8 Quotations can be submitted via email, preferably in PDF format to prevent tampering or accusations thereof; the onus will be on the bidder to make this decision. Quotations are not to be “opened” prior to the deadline for return, if one is given.
- 7.9 The Officer must keep copies of the Council’s procurement documentation as well as copies of all quotations received and any communication between the Council and the successful bidder.
- 7.10 Evaluation of the quotations received must be carried out using the evaluation criteria identified in the procurement documentation. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The ‘Conflict of Interest Declaration – Confidentiality Agreement’ on the [procurement portal](#) gives further guidance on evaluation principles and best practice; it is advisable to ask all evaluators to complete, sign and return this document to the Council lead. Welland Procurement can act as the independent moderator but cannot undertake any scoring. Clarification questions may be asked where responses would not result in a material change of the bid received.
- 7.11 Contract award must be approved as per [2.9](#) of this document.

All bidders must be notified of the Award decision simultaneously in writing (via the Council’s electronic tendering system or email, depending on the method of obtaining quotations) by the Officer (or the Welland Procurement Unit), whether or not their bid was successful.

Officers must use the standard Award Letter templates that are available on the [procurement portal](#). This includes prompts to ensure satisfactory due diligence is gathered before any contract is entered into.

- 7.12 The contract or terms and conditions must be signed by a member of the Senior Leadership Team, or a person authorised by them in accordance with the delegation scheme.

If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to the Legal Business Unit for advice and guidance on the use of electronic signatures.

- 7.13 The resultant contract must be added to the Council's Contract Register (on ProContract) to ensure compliance with Transparency Regulations. Officers must then provide the Legal Business Unit with any paper copies of the Contract for the subsequent storage and safe keeping.
- 7.14 An award notice is required on Contracts Finder for all Contracts with a [total value](#) of £20,000 or above. Welland Procurement is responsible for such award notices. If an Officer has managed the procurement process without assistance from Welland Procurement, they must formally advise them of the award details, so that they can publish the award notice.
- 7.15 It is the Officer's responsibility to carry out [due diligence](#) on successful suppliers, both at Contract Award, and for the duration of the Contract. This must follow the process as set out at paragraph [2.12](#).

## **8 Procurements Valued between £75,000 and the Current Goods and Services Public Procurement Threshold**

- 8.1 Officers will need to ensure they have approval to procure (as well the relevant budget approved and available) prior to embarking upon a procurement process (as per [2.9](#) of this document). Officers also need to speak to their manager about any further approvals required outside of these Rules. Approval to procure must be obtained as per [2.9](#) of this document.
- 8.2 Council Officers may decide it is appropriate to [reserve contracts for services](#) at this value to the local area (county) or SME's/voluntary sector. Please refer to the appropriate guidance in this document (and consult Welland Procurement) before any reservations are made.
- 8.3 Welland Procurement should be notified in respect of all contracts with a [total value](#) between £75,000 and the current goods and services Public Procurement Threshold because a single stage/open tender process must be completed. This means that all interested suppliers are eligible to submit a Tender.
- 8.4 Where Welland are instructed to support the procurement, the Officer must complete a Procurement Initiation Document (PID), available on the [procurement portal](#), prior to the commencement of the procurement process (at pre-procurement stage).

- 8.5 The procurement must be advertised on Contracts Finder, Welland Procurement is responsible for managing this advertising.
- 8.6 The procurement will be managed using an electronic tendering system; the Officer must therefore contact Welland Procurement to access that system.
- 8.7 Council Officers must conduct the Tender process using Welland Procurement's tender portal (unless agreed otherwise by the Head of Welland Procurement). Open Tender Document One must be used to ensure that the required Standard Suitability Questions are used. The Officer must ensure that all relevant procurement documents are finalised before the procurement is advertised, these will include at least the Specification, Long Form Terms and Conditions of Contract (please speak to the Legal Business Unit to source this), [TUPE information](#) (where applicable) and evaluation criteria.

The specification must cover the scope of the requirement i.e., the goods, services or works to be supplied, the "where" and "when" they are to be supplied as well as any relevant performance and contract management details. A template is available on the [procurement portal](#).

- 8.8 As part of the procurement process (tender), potential bidders can seek clarification on either the information published or the process itself.

The nature of any clarification or response from the Council must not materially change the scope/substance of the requirement. If it does, Officers may need to abandon the process and restart, using revised documentation. Please discuss this with Welland Procurement.

- All requests for clarification and questions relating to the tender (and its associated documents) must be submitted as per the instruction document (via ProContract)
- The Council must respond to all clarifications as soon as possible (via ProContract)
- A copy of all requests for clarifications and the responses must be anonymised and published to all potential bidders (who have expressed an interest in the tender) where the clarification and response are not considered confidential
- If a potential bidder wishes the Council to treat a clarification as confidential and therefore not publish the response to all, it must state this when submitting the clarification. If in the opinion of the Council, the clarification is not confidential, the Council will publish it in an anonymised format
- Officers must state a deadline for receipt of clarifications
- Officers must keep a record of communications between potential bidders and the Council

Unless it is part of a clarification and the above is observed, Officers must not:

- Contact suppliers/potential bidders
- Send information to suppliers/potential bidders

If a supplier/potential bidder contacts an Officer, they should advise them that messages must be submitted as per the instruction document; via ProContract.

- 8.9 Tenders will be received via the electronic tendering system (ProContract). An Officer or a representative of Welland Procurement will be responsible for opening tenders.
- 8.10 Tenders must be evaluated in accordance with the advertised evaluation criteria, clarification questions may be asked as long as the response would not have the effect of materially changing the tender received. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The 'Conflict of Interest Declaration – Confidentiality Agreement' on the [procurement portal](#) gives further guidance on evaluation principles and best practice; this form must be completed, signed, and returned to the procurement lead. Welland Procurement can act as the independent moderator but cannot undertake any scoring.
- 8.11 All tenders in this category must be evaluated online through the ProContract portal.
- 8.12 The bidder with the highest evaluation score will be awarded the contract. If this is not the case, the advice of Welland Procurement must be sought prior to award. The contracting Officer must perform due diligence on the supplier prior to the signing of the contract in accordance with paragraph [2.12](#) above.
- 8.13 Contract award must be approved as per [2.9](#) of this document.
- 8.14 All bidders must be notified of the Award decision simultaneously in writing (via the Council's electronic tendering system) by the Officer (or the Welland Procurement Unit), whether or not their bid was successful.
- 8.15 The contract will require sealing, please see Section [15.11](#) below.
- 8.16 The resultant contract must be added to the Council's Contract Register (on ProContract) to ensure compliance with Transparency Regulations. Officers must then provide the Legal Business Unit with any signed paper copies of the Contract for the subsequent storage and safe keeping.
- 8.17 The Officer must keep the following records:
- (a) A record of all decisions from pre to post procurement;
  - (b) The method of obtaining tenders;
  - (c) Tender documents produced by the Council;
  - (d) Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract;
  - (e) A written record of the evaluation;
  - (f) A record of the Award approval;

- (g) A signed copy of the Contract which should be retained for the life of the contract and in normal circumstances for 6 years thereafter; and
- (h) Communications to and from bidders during the procurement process.

8.18 Where an Agent has managed the procurement on behalf of the Council, the Officer must ensure that the above documents are returned to the Council upon completion of the process and stored as detailed in clause [8.17](#) above.

8.19 An award notice is required on Contracts Finder; Welland Procurement is responsible for such award notices. If an Officer has managed the procurement process without assistance from Welland Procurement, they must formally advise them of the award details, so that they can publish the award notice.

8.20 It is the Officer's responsibility to carry out [due diligence](#) on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **9 Procurements for Works Contracts Valued between the Goods and Services Public Procurement Threshold and the Works Public Procurement Threshold**

9.1 Officers will need to ensure they have approval to procure (as well the relevant budget approved and available) prior to embarking upon a procurement process (as per [2.9](#) of this document). Officers also need to speak to their Business Manager about any further approvals required outside of these Rules. Approval to procure must be obtained as per [2.9](#) of this document.

9.2 Welland Procurement should be instructed for all Works contracts with a [total value](#) between the Goods and Services Public Procurement Threshold and the Works Public Procurement Threshold. The authorised Officer can choose either a single stage/open tender or two stage/restricted process.

9.3 The procurement must be advertised on Contracts Finder, Welland Procurement is responsible for managing this advertising.

9.4 The procurement will be managed using an electronic tendering system; the Officer must therefore contact Welland Procurement to access that system.

9.5 Council Officers must conduct the Tender process using Welland Procurement's tender portal (unless agreed otherwise by the Head of Welland Procurement). Open Tender Document One must be used to ensure that the required Standard Suitability Questions are used. The Officer must ensure that all relevant procurement documents are finalised before the procurement is advertised, these will include at least the Specification, Long Form Terms and Conditions of Contract (please speak to the Legal Business Unit to source this), [TUPE information](#) (where applicable) and evaluation criteria.



The specification must cover the scope of the requirement i.e., the goods, services or works to be supplied, the “where” and “when” they are to be supplied as well as any relevant performance and contract management details. A template is available on the [procurement portal](#).

- 9.6 Where conducting a two stage/restricted process, Officers should use the PAS91 PQQ for works contracts (including the procurement of goods and services needed in relation to the works).
- 9.7 Tenders will be received via the electronic tendering system. An Officer or a representative of Welland Procurement will be responsible for opening the tenders.
- 9.8 As part of the procurement process (tender), potential bidders can seek clarification on either the information published or the process itself. This must be conducted as per [8.8](#) of this document.
- 9.9 Tenders must be evaluated in accordance with the advertised weighted evaluation criteria, clarification questions may be asked as long as the response would not have the effect of materially changing the tender received. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The ‘Conflict of Interest Declaration – Confidentiality Agreement’ on the [procurement portal](#) gives further guidance on evaluation principles and best practice; this form must be completed, signed, and returned to the procurement lead. Welland Procurement can act as the independent moderator but cannot undertake any scoring.
- 9.10 All tenders in this category must be evaluated online through the ProContract portal.
- 9.11 The bidder with the highest evaluation score will be awarded the contract. If this is not the case, the advice of Welland Procurement must be sought prior to award. The contracting Officer must perform due diligence on the supplier prior to the signing of the contract in accordance with paragraph [2.12](#) above.
- 9.12 Contract award must be approved as per [2.9](#) of this document.
- 9.13 All bidders must be notified of the Award decision simultaneously in writing (via the Council’s electronic tendering system) by the Officer (or the Welland Procurement Unit), whether or not their bid was successful.
- 9.14 The contract will require sealing, please see Section [15.11](#) below.
- 9.15 The details of the resultant contract must be added to the Council’s Contract Register (on ProContract) to ensure compliance with Transparency Regulations. Officers must then provide the Legal Business Unit with any signed paper copies of the Contract for the subsequent storage and safe keeping.

- 9.16 The Officer must keep the following records:
- (a) A record of all decisions from pre to post procurement;
  - (b) The method of obtaining tenders;
  - (c) Tender documents produced by the Council;
  - (d) Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract;
  - (e) A written record of the evaluation;
  - (f) A record of the Award approval;
  - (g) A signed copy of the Contract which should be retained for the life of the contract and in normal circumstances for 6 years thereafter; and
  - (h) Communications to and from bidders during the procurement process.
- 9.17 Where an Agent has managed the procurement on behalf of the Council, the Officer must ensure that the above documents are returned to the Council upon completion of the process and stored as detailed in clause [9.16](#) above.
- 9.18 An award notice is required on Contracts Finder; Welland Procurement is responsible for such award notices. If an Officer has managed the procurement process without assistance from Welland Procurement, they must formally advise them of the award details, so that they can publish the award notice.
- 9.19 It is the Officer's responsibility to carry out [due diligence](#) on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **10 Procurements Valued Over the Relevant Public Procurement Threshold**

- 10.1 Officers will need to ensure they have approval to procure (as well the relevant budget approved and available) prior to embarking upon a procurement process (as per [2.9](#) of this document). Officers also need to speak to their Business Manager about any further approvals required outside of these Rules. Approval to procure must be obtained as per [2.9](#) of this document.
- 10.2 Where the anticipated [total value](#) of the contract exceeds the relevant Public Procurement threshold, the formal advice of Welland Procurement must be sought as early as possible and in any case before any procurement activity takes place.
- 10.3 All goods, services and works with a procurement [total value](#) in excess of the relevant [Public Procurement threshold](#) are enforced by the Public Contracts Regulations 2015, and over threshold public works concessions and public services concessions are enforced by the Concessions Contracts Regulations 2016. These Regulations set out strict processes that must be followed, as well as remedies available to suppliers. The principles that Officers need to comply with are:
- (a) equal treatment;
  - (b) non-discrimination;
  - (c) mutual recognition;
  - (d) proportionality; and

- (e) transparency.

Officers must comply with these Regulations and principles at all times.

- 10.4 Where the Officer is following one of the below procurement processes, the number of bidders invited to tender or to conduct a dialogue can be limited (out of those meeting the selection criteria). This must be indicated in the contract notice and the tender documentation (shortlisting criteria, the minimum number of candidates the Officer intends to invite and, where applicable the maximum number).
- (a) In the restricted procedure, the minimum number of candidates shall be 5.
  - (b) In the competitive procedure with negotiation, the competitive dialogue procedure and the innovation partnership procedure, the minimum number of candidates shall be 3.

Where the number of candidates meeting the selection criteria and the minimum level of ability is below this minimum number, the Officer may continue the procedure by inviting the candidates with the required capabilities but must record the reason for doing so.

- 10.5 The Officer must:
- (a) adhere to the minimum timescales stipulated in the Regulations;
  - (b) ensure the specification clearly describes the intended outcomes or outputs, and that it is complete and fair;
  - (c) assess the quality of tenders as per the Regulations;
  - (d) ensure the evaluation criteria (and any sub criteria) is disclosed in the Tender documentation and advertisements;
  - (e) ensure the Contract terms and conditions allow for modification, should the total value increase or decrease due to amended volumes/values;
  - (f) treat selection and award criteria separately.
- 10.6 The Officer must complete a Procurement Initiation Document (PID), provided by the Welland Procurement Unit prior to the commencement of the procurement process (at pre-procurement stage).
- 10.7 The procurement must be advertised on Contracts Finder and on Find a Tender, Welland Procurement is responsible for managing this advertising.
- 10.8 The procurement will be managed using an electronic tendering system; the Officer must therefore contact Welland Procurement to access that system.
- 10.9 As part of the procurement process (tender), potential bidders can seek clarification on either the information published or the process itself. This must be conducted as per [8.8](#) of this document.
- 10.10 Council Officers must conduct the Tender process using Welland Procurement's tender portal (unless agreed otherwise by the Head of Welland Procurement). Open Tender Document One must be used to ensure that the required Standard Suitability Questions are used. The Officer must ensure that

all relevant procurement documents are finalised before the procurement is advertised, these will include at least the Specification, Long Form Terms and Conditions of Contract (please speak to the Legal Business Unit to source this), [TUPE information](#) (where applicable) and evaluation criteria.

The specification must cover the scope of the requirement i.e., the goods, services or works to be supplied, the “where” and “when” they are to be supplied as well as any relevant performance and contract management details. A template is available on the [procurement portal](#).

- 10.11 Tenders will be received via the electronic tendering system. A representative of Welland Procurement will be responsible for opening tenders.
- 10.12 Tenders must be evaluated in accordance with the advertised evaluation criteria, clarification questions may be asked as long as the response would not have the effect of materially changing the tender received. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The ‘Conflict of Interest Declaration – Confidentiality Agreement’ on the [procurement portal](#) gives further guidance on evaluation principles and best practice; this form must be completed, signed, and returned to the procurement lead. Welland Procurement can act as the independent moderator but cannot undertake any scoring.
- 10.13 The bidder with the highest evaluation score will be awarded the contract, as per the award criteria detailed. The contracting Officer must perform due diligence on the supplier prior to the signing of the contract in accordance with paragraph [2.12](#) above.
- 10.14 Contract award must be approved as per [2.9](#) of this document.
- 10.15 All bidders must be notified of the Award decision simultaneously in writing (via the Council’s electronic tendering system) by the Officer (or the Welland Procurement Unit), whether or not their bid was successful. The letters must include:
- (a) the award criteria;
  - (b) the name of the successful bidder(s);
  - (c) the score of the recipient;
  - (d) the score of the successful bidder(s);
  - (e) details of the reason for the decision, including the characteristics and relative advantages of the successful tender; and
  - (f) confirmation of the date before which the contracting authority will not enter into the contract or framework agreement (i.e., the date after the end of the standstill period).

Officers shall allow a period of not less than 10 calendar days after announcing their Intention to Award to provide unsuccessful Bidders an opportunity to challenge.

If the decision is challenged by an unsuccessful Bidder, then the Officer shall not award the contract and shall immediately seek the advice of Welland Procurement.

10.16 The contract will require sealing, please see Section [15.11](#) below.

10.17 The resultant contract must be added to the Council's Contract Register (on ProContract) to ensure compliance with Transparency Regulations. Officers must then provide the Legal Business Unit with any signed paper copies of the Contract for the subsequent storage and safe keeping.

10.18 The Officer must keep the following records:

- (a) A record of all decisions from pre to post procurement;
- (b) The method of obtaining tenders;
- (c) Tender documents produced by the Council;
- (d) Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract;
- (e) A written record of the evaluation;
- (f) A record of the Award approval;
- (g) A signed copy of the Contract which should be retained for the life of the contract and in normal circumstances for 6 years thereafter; and
- (h) Communications to and from bidders during the procurement process.

10.19 Where an Agent has managed the procurement on behalf of the Council, the Officer must ensure that the above documents are returned to the Council upon completion of the process and stored as detailed in clause [10.18](#) above.

10.20 An award notice is required on Contracts Finder and Find a Tender; Welland Procurement is responsible for such award notices. If an Officer has managed the procurement process without assistance from Welland Procurement, they must formally advise them of the award details, so that they can publish the award notices.

10.21 It is the Officer's responsibility to carry out [due diligence](#) on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **11 Purchasing from a Framework Agreement or Dynamic Purchasing System (DPS)**

11.1 Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Procedure Rules). Please see [2.9.1](#) for further information. Officers also need to speak to their Business Manager about any further approvals required outside of these Rules. Approval to procure must be obtained as per [2.9](#) of this document.

- 11.2 For Contracts with a [total value](#) of £75,000 or more, Officers will need to ensure they have approval to procure prior to embarking upon a procurement process (as per [2.9](#) of this document).
- 11.3 A contract of any value can be procured via a framework agreement or DPS. Compliance with these Rules and relevant national law is achieved through compliance with the framework agreement/DPS terms and conditions. This will involve:
- reviewing relevant Framework/DPS guidance document(s)
  - reviewing the correct process for call off (which may be through further competition or direct award)
  - following the stated call off process, as laid out in the Framework/DPS documentation

Officers must ensure they are fully conversant with the eligibility of the Council to use the framework, as stated within the Framework Agreement. If these Rules are not sufficiently detailed for the Officer to be assured of the eligibility and requisite process, they must engage with Welland Procurement to seek advice on the validity of the Framework Agreement.

As part of the procurement process (call off), potential bidders can seek clarification on either the information published or the process itself. This must be conducted as per [8.8](#) of this document.

- 11.4 For the avoidance of doubt, a framework agreement or DPS is considered a compliant procurement route where:
- (a) It has been entered into by the Council in compliance with these Rules; or
  - (b) Another contracting authority, purchasing consortium or Central Government has tendered the framework agreement or DPS in compliance with national procurement law and the Council is named as a potential user of the arrangement.

This section applies to call offs in the circumstances detailed in both 11.4(a) and 11.4(b) above.

- 11.5 All goods, services and works with a procurement [total value](#) in excess of the relevant [Public Procurement threshold](#) are enforced by the Public Contracts Regulations 2015, and over threshold public works concessions and public services concessions are enforced by the Concessions Contracts Regulations 2016. These Regulations set out strict processes that must be followed, as well as remedies available to suppliers. The principles that Officers need to comply with are:
- (a) equal treatment;
  - (b) non-discrimination;
  - (c) mutual recognition;
  - (d) proportionality; and
  - (e) transparency.

Officers must comply with these Regulations and principles at all times.

- 11.6 The procurement will be managed in line with the appropriate Rule, dependent on the [total value](#) of the contract (unless otherwise detailed by the Framework/DPS Owner).
- Procurements valued under £10,000 see Rule [6.4](#)
  - Procurements valued between £10,000 and £74,999 see Rule [7.3](#), [7.7](#) and [7.8](#)
  - Procurements valued between £75,000 and Current Goods and Services Public Procurement Threshold see Rule [8.6](#), [8.8](#) and [8.9](#)
  - Procurements for Works Contracts Valued between the Goods and Services Public Procurement Threshold and the Works Public Procurement Threshold see Rule [9.4](#), [9.7](#) and [9.8](#)
  - Procurements valued over the Relevant Public Procurement Threshold see Rule [10.8](#), [10.9](#) and [10.11](#)
- 11.7 It is recommended that the Further Competition Template document is used which can be obtained from the [procurement portal](#) or Welland Procurement; if template documentation is provided by the Framework/DPS Owner, Officers can make use of this.

In any case the criteria for selecting the most advantageous submission must be established before call offs submissions are invited and be made clear in the procurement documentation. The call offs must contain (as a minimum):

- (a) The goods, services or works to be supplied;
- (b) The “where” and “when” they are to be supplied;
- (c) Instructions to bidders:
  - (i) Evaluation criteria
  - (ii) How to respond
  - (iii) How clarification messages are to be asked (who sent to, any deadlines for messages)
  - (iv) Information bidders need to include within response
  - (v) Deadline for responses (day and time); and
  - (vi) The terms and conditions to be applied to the call off (as per Framework/DPS guidance document, please use the terms stated, these must be agreed by Legal Services).

In some instances, Officers may need to consider [TUPE](#) implications.

- 11.8 Submissions must be evaluated in line with the Framework/DPS guidance document and the appropriate Rule, dependent on the [total value](#) of the contract.
- Procurements valued between £10,000 and £74,999 see Rule [7.10](#)
  - Procurements valued between £75,000 and Current Goods and Services Public Procurement Threshold see Rule [8.10](#), [8.11](#) and [8.12](#)
  - Procurements for Works Contracts Valued between the Goods and Services Public Procurement Threshold and the Works Public Procurement Threshold see Rule [9.9](#), [9.10](#) and [9.11](#)
  - Procurements valued over the Relevant Public Procurement Threshold see Rule [10.12](#) and [10.13](#)

- 11.9 Contract award must be approved as per [2.9](#) of this document.
- 11.10 All bidders must be notified of the Award decision simultaneously in writing (via the method used to run the procurement process i.e., email, ProContract or other system used by the Framework/DPS owner) by the Officer (or the Welland Procurement Unit or the Framework/DPS owner), whether or not their bid was successful.
- 11.11 The contract must be signed/sealed in line with the appropriate Rule, dependent on the [total value](#) of the contract.
- Procurements valued under £10,000 see [Rule 6.6](#)
  - Procurements valued between £10,000 and £74,999 see [Rule 7.12](#)
  - Procurements valued between £75,000 and Current Goods and Services Public Procurement Threshold see [Rule 8.15](#)
  - Procurements for Works Contracts Valued between the Goods and Services Public Procurement Threshold and the Works Public Procurement Threshold see [Rule 9.14](#)
  - Procurements valued over the Relevant Public Procurement Threshold see [Rule 10.16](#)

If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to the Legal Business Unit for advice and guidance on the use of electronic signatures.

- 11.12 Where the Council is using an external framework, and the [total value](#) of the contract is £5,000 or above, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.

Where the Council has set up a framework, only the framework is necessary to be recorded on the register. It is not necessary to record the individual call-offs from the framework.

- 11.13 Signed contracts that have a [total value](#) of £10,000 or more must be scanned in. Officers must then provide the Legal Business Unit with any signed paper copies of the Contract for the subsequent storage and safe keeping.
- 11.14 Where the contract has a [total value](#) of £20,000 or above an award notice is required on Contracts Finder. The Officer must formally advise Welland Procurement of the award details, so that they can publish the award notice.
- 11.15 The Officer must keep the following records:
- (a) A record of all decisions from pre to post procurement;
  - (b) The method of obtaining tenders;
  - (c) Tender documents produced by the Council;
  - (d) Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract;
  - (e) A written record of the evaluation;
  - (f) A record of the Award approval;



- (g) A signed copy of the Contract which should be retained for the life of the contract and in normal circumstances for 6 years thereafter; and
- (h) Communications to and from bidders during the procurement process.

11.16 Where an Agent has managed the procurement on behalf of the Council, the Officer must ensure that the above documents are returned to the Council upon completion of the process and stored as detailed in clause [11.15](#) above.

11.17 It is the Officer's responsibility to carry out [due diligence](#) on successful suppliers, both at Contract Award, and for the duration of the Contract.

## **12 Setting up a Framework Agreement**

12.1 Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Procedure Rules). Please see [2.9.1](#) for further information. Officers also need to speak to their Business Manager about any further approvals required outside of these Rules. Approval to procure must be obtained as per [2.9](#) of this document.

12.2 Framework agreements set out the general terms under which specific purchases ("call offs") can be made under the agreement. The purpose of using a framework is to enable contracting authorities to award individual contracts without going through a full procurement process each time. A framework agreement may be established with one supplier ("single supplier frameworks") or with more than one ("multiple supplier frameworks").

12.3 The minimum number of suppliers for a multiple supplier framework is two.

12.4 Framework agreements must not exceed four years. Call-off contracts based on framework agreements may be longer than four years and may extend beyond the expiry date of the framework.

12.5 Framework agreements should be set up to allow for mini competitions to run as the first option for selecting a supplier. Where this is not the case, Welland Procurement Unit should be consulted.

12.6 As part of the procurement process (either the creation of the Framework or any subsequent call off), potential bidders can seek clarification on either the information published or the process itself. This must be conducted as per [8.8](#) of this document.

12.7 As Framework agreements are "closed" for the term, consideration should be given to the impact of this, and ensure that the benefits and length of the Framework are justified.

12.8 Formal advice from Welland Procurement must be sought as early as possible and in any case before any procurement activity takes place. The relevant Rules and Regulations should be followed according to the [total potential value](#) of the Framework (the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the framework agreement). It is the Officer's responsibility to monitor, and track spend against the framework.

12.9 Signed Framework Agreements that have a [total value](#) of £10,000 or more must be scanned in. Officers must then provide the Legal Business Unit with any signed paper copies of the Contract for the subsequent storage and safe keeping.

If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.

12.10 Where the Council has set up a framework, details of the framework itself must be recorded on the Council's Contract Register (on ProContract). The estimated value of the framework must be recorded, and all the suppliers associated with the framework must be listed. Any other relevant detail to the mechanics of the framework must also be recorded so the suppliers can be searched and found in the Register and cross referenced with Council spend.

Where the Council has set up a framework, only the framework is necessary to be recorded on the register. It is not necessary to record the individual call-offs from the framework.

12.11 It is the Officer's responsibility to carry out [due diligence](#) on successful suppliers, both at Contract Award, and for the duration of the Contract.

### **13 Setting up a Dynamic Purchasing System (DPS)**

13.1 Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Procedure Rules). Please see [2.9.1](#) for further information. Officers also need to speak to their manager about any further approvals required outside of these Rules. Approval to procure must be obtained as per [2.9](#) of this document.

13.2 A Dynamic Purchasing System (DPS) is similar to an electronic framework agreement, with two exceptions, new suppliers can join at any time, and it is to be run as a completely electronic process.

13.3 Dynamic Purchasing Systems are used exclusively by public sector organisations. They save time and money by being a quick and easy way to access goods, services and works through a compliant route.

- 13.4 There is no maximum term for a DPS; the period of validity of the DPS should be indicated in the call for competition. As per [Rule 5](#), written approval for a DPS longer than five years must be sought from the relevant service Director. This must be gained prior to the procurement process commencing.
- 13.5 All bidders that meet the selection criteria shall be admitted to the DPS, and the number of bidders accepted on to the DPS shall not be limited.
- 13.6 Formal advice from Welland Procurement must be sought as early as possible and in any case before any procurement activity takes place. The relevant Rules and Regulations should be followed according to the [total potential value](#) of the DPS (the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the total term of the DPS). It is the Officer's responsibility to monitor, and track spend against the DPS.
- 13.7 As part of the procurement process (either the creation of the DPS or any subsequent call off), potential bidders can seek clarification on either the information published or the process itself. This must be conducted as per [8.8](#) of this document.
- 13.8 There is no obligation to notify DPS suppliers of a decision to award a contract under a DPS, to provide a de-brief or to run a standstill period.
- 13.9 There is a requirement to publish a contract award notice on Find a Tender Service for contracts awarded using a DPS. The contract award notice must be dispatched within 30 days of the contract award. Contract award notices can be grouped together and published on a quarterly basis within 30 days of the end of each quarter. The Officer must formally advise Welland Procurement of the award details, so that they can publish the award notice.
- 13.10 Contracting authorities are also required to publish information on Contracts Finder in respect of contracts awarded under a DPS for contracts with a [total value](#) of £20,000 or above. Publication on Contracts Finder is required within a "reasonable time" (no longer than 90 days following contract award).
- 13.11 Signed DPS Agreements that have a [total value](#) of £10,000 or more must be scanned in. Officers must then provide the Legal Business Unit with any signed paper copies of the Contract for the subsequent storage and safe keeping.
- If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.
- 13.12 Where the Council has set up a DPS, details of the DPS itself must be recorded on the Council's Contract Register (on ProContract). The estimated value of the DPS must be recorded and all the suppliers associated with the DPS. Any other relevant detail to the mechanics of the DPS must also be recorded so the suppliers can be searched and found in the register and cross referenced with council spend.

Where the Council has set up a DPS, only the DPS is necessary to be recorded on the register. It is not necessary to record the individual call-offs from the DPS.

- 13.13 It is the Officer's responsibility to carry out [due diligence](#) on successful suppliers, both at Contract Award, and for the duration of the Contract.

#### **14 Public Services (Social Value) Act 2012**

- 14.1 The Public Services (Social Value) Act requires people who commission public services to think about how they can also secure wider social, economic, and environmental benefits.
- 14.2 Before starting a procurement process, the Officer should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.
- 14.3 The Council must consider, in the form of a Social Value appraisal whilst recognising the principle of proportionality;
- (a) how what is proposed to be procured might improve the economic, social, and environmental well-being of the relevant area, and
  - (b) how, in conducting the process of procurement, it might act with a view to securing that improvement.
- 14.4 The Officer must consult Welland Procurement for advice on specifying requirements under Social Value, and how to evaluate tenders against these requirements. Further information and guidance is also available in the Procurement Toolkit, which can be accessed via the [procurement portal](#).

#### **15 Other Matters to Consider**

These Rules are relevant to all Contracts with a [total value](#) above £10,000.

##### **15.1 Conflict of Interest**

- 15.1.1 Clause [2.13](#) and [2.19](#) define when a conflict of interest must be declared.
- 15.1.2 For contracts with a [total value](#) of £75,000 or more, all Officers, Members and other stakeholders involved in procuring for the Council must sign a Declaration of Interest form at the start of the procurement process. This form is available on the [procurement portal](#).

For contract with a [total value](#) of between £10,000 and £75,000, it is advisable that all Officers, Members, and other stakeholders involved in procuring for the Council sign a Declaration of Interest form at the start of the procurement process. This form is available on the [procurement portal](#).

- 15.1.3 This form must be kept on file during the procurement itself and the contract term.

**15.2 Abnormally Low Bids**

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

15.2.2 Advice should be sought from Welland Procurement during this investigation process to ensure that the requirements of the Public Contract Regulations 2015 are adequately complied with.

**15.3 Errors in Tenders**

15.3.1 If it is identified that a bidder has made an error or omission that is “obvious”, the Officer can request the bidder to correct this, as long as:

- (a) the Section 151 Officer or the Chief Executive has given written approval, and agrees that the error or omission was “obvious”;
- (b) it has been determined that the bidder has gained no unfair advantage from correcting the error or omission; and
- (c) any such corrections are recorded, along with the approval decision.

**15.4 Receiving Late Submissions**

15.4.1 Where a Tender/Quote has been received late (beyond the stated response deadline), the Officer must get written approval to either accept or reject the submission from the relevant Section 151 Officer or the Chief Executive **before** opening any of the responses. Late submissions must only be accepted in exceptional circumstances.

15.4.2 The Officer must record:

- (a) the circumstances behind the late response;
- (b) how late the response was received;
- (c) if any advantage could have been gained by the bidder in submitting the late response (i.e., having longer to respond to the opportunity compared with other bidders); and
- (d) the Director’s decision to accept or reject the late response (based on the above points).

**15.5 Receiving Irregular Tenders**

15.5.1 Irregular tenders are those that:

- (a) do not comply with the terms of the tender documents (i.e., fail to supply key information); or
- (b) make reservations (i.e., if the pricing submitted contains conditions, when these are explicitly prohibited within the tender documentation).

15.5.2 If the Officer receives an irregular Tender, they shall immediately report this to the relevant Director.

15.5.3 The Director may accept the irregular tender if it has been determined that the bidder has gained no unfair advantage from the irregularity.

15.5.4 Any acceptance or rejection of irregular tenders shall be recorded in writing.

#### **15.6 UK GDPR Requirements**

15.6.1 The UK General Data Protection Regulations impose greater obligations on the Council to protect an individual's information.

15.6.2 Officers conducting a procurement process should ensure that the UK GDPR screening questions, available from Welland Procurement, are completed as early as possible in the planning stages of that procurement.

15.6.3 Should any of the UK GDPR screening questions be answered positively, further advice must be sought from the Council's Data Protection Officer before any further action is taken.

15.6.4 Officers shall consider the information governance requirements of the contract if they anticipate any Personal Data is to be processed as part of the contract e.g., data protection, security of information, records management.

15.6.5 Where Personal Data may be processed as part of the contract, a Privacy Impact Assessment tool shall be completed. This will help the Council identify the most effective way to comply with their data protection obligations and meet individuals' expectations of privacy.

15.6.6 Where requirements are identified by the Privacy Impact Assessment, the Officer shall ensure that any requirements of contractors are considered and built into the specification and assessed where necessary as part of the evaluation.

15.6.7 Any queries relating to this should be directed to the Council's Data Protection Officer.

#### **15.7 Freedom of Information**

15.7.1 The Council has specific obligations under the FOI Act 2000, regarding disclosure of information. Officers have an obligation to record and maintain accurate records relating to Contracts, as well as complying with FOI requests.

15.7.2 Bidders should be asked to identify any information they supply that is confidential or commercially sensitive, and detail why they consider this the case. This justification should be considered when responding to FOI requests.

15.7.3 Any queries relating to this should be directed to the Council's Data Protection Officer.

**15.8 Modern Slavery**

- 15.8.1 The Council is committed to ensuring that modern slavery does not exist within its supply chains.
- 15.8.2 All procurements with a [total value](#) of £75,000 or more are required to include the Standard Selection Question regarding Modern Slavery Act compliance.
- 15.8.3 Where procurement is considered high risk in terms of modern slavery, for example transport and waste related procurements, additional award questions should be considered with advice from Welland Procurement.
- 15.8.4 Where a supplier is required to comply with the Modern Slavery Act, i.e., their turnover is above £36 million, that compliance should form part of the contract management (as per [15.10](#)).
- 15.8.5 A Modern Slavery Helpline is available on Tel: 08000 121 700 or [online](#). The Helpline provides information and advice about modern slavery, a 24-hour telephone reporting line and an online reporting function through the website.

**15.9 Safeguarding Provisions in Contracts and Grant Arrangements**

- 15.9.1 Any service engaged by the Council should be provided based on agreed terms or a contract. Safeguarding compliance should be included in all arrangements. All services commissioned by the Council must operate within the requirements of the Council's Safeguarding Policy and meet the relevant legislative standards. Where appropriate, procuring officers will need to ensure that contractors demonstrate that they meet these requirements.
- 15.9.2 It is expected that the lead officer on any commissioning project be responsible for ensuring that any contract includes proper provision for the safeguarding of children, young people, and adults with care and support needs; this also includes making reasonable requests for evidence from suppliers that the requirements stated in the Safeguarding Policy (where applicable) are in place or ready to be implemented. Where there is any confusion about the need for the inclusion of safeguarding in a contract arrangement clarification and/or advice should be sought from the Safeguarding Lead.

**15.10 Due Diligence**

- 15.10.1 It is the Officer's responsibility to carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract. This will involve requesting, obtaining, and maintaining records (and asking for appropriate evidence) of relevant due diligence, annual inspections, and any future expiration/renewals. This may include (but not be limited to):
- (a) Insurance certificates (new certificates to be requested upon expiry of the individual insurance policy);
  - (b) Details as required by the selection/suitability criteria asked as part of the procurement process (annually, upon anniversary of Contract start date):

- i. Supplier policies
    - Quality Management
    - Environmental
    - Equality
    - Health and Safety
    - Data protection/GDPR
  - ii. Licences/certificates/registrations
  - iii. Business continuity plans
  - iv. Required training (and updates for staff (Council and supplier))
  - v. Staff certifications/qualifications (Council and staff); and
- (c) A financial appraisal, which may include a financial credit check and / or a review of submitted financial information (as per the standard selection questionnaire). The request must be made to the Financial Services Business Unit to perform the credit check. Where contracts are over the current goods and service Public Procurement threshold a credit check must be completed on the potential supplier. This must be facilitated through the Financial Services Business Unit or Welland Procurement. Where the score is below 50, the Section 151 Officer must be consulted prior to the award of the contract.

15.10.2 Before the contract commences (and regularly throughout the duration of a contract), contract managers should request and inspect key health and safety records to provide assurance that controls are operating effectively. The frequency of requests and types of records to be reviewed should be agreed and outlined as part of the procurement process. Records should include but not be limited to:

- Up to date Health and safety policies
- Risk Assessments
- COSHH assessment
- Induction and training records
- Fire safety logbooks (if applicable)
- PAT certificates
- Health and Safety inspections (as well as any actions arisen, and how they are being followed up on, reviewed and regularly monitored) and whether these are carried out by the Council or the supplier
- Accident reporting

15.10.3 Throughout the duration of the contract, Council Officer's must keep a record (and ask for appropriate evidence) of relevant due diligence as well as any future expiration/renewals.

## 15.11 Sealing a Contract

15.11.1 A contract must be sealed where:

15.11.1.1 The [total value](#) is over £75,000;

15.11.1.2 The Council wishes to enforce the contract for more than six years after its expiry; or



- 15.11.1.3 The price paid or received under the contract is a nominal price and does not reflect the value of the goods, services or works; or
  - 15.11.1.4 There is any doubt about the authority of the person signing for the other contracting party; or
  - 15.11.1.5 A Bond is established on behalf of the Supplier(s) or their guarantors; or
  - 15.11.1.6 Required by the Parties to the agreement; or
  - 15.11.1.7 Where the Monitoring Officer deems it appropriate.
- 15.11.2 Where contracts are completed by each side adding their common seal, the affixing must be attested by or on behalf of the Council in accordance with the Constitution. The Monitoring Officer is responsible for the process of sealing a contract.
- 15.11.3 If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to Legal Services for advice and guidance on the use of electronic signatures.

## **15.12 Reserving below Threshold Procurements (for Services contracts only)**

Officers can consider reserving below threshold services contracts to local and/or SME (Small and Medium Sized Enterprises) status organisations as part of a procurement process.

This will be managed by officers on a case-by-case basis, after assessing the market to ensure there is sufficient competition (based on the reserved criteria). This will help support the local economy and encourage entrepreneurship and small businesses in the area.

Being able to reserve the procurement by supplier location would mean being able to run a competition and specify that only suppliers located in a geographical area can bid (Nottinghamshire). Additionally, reserving the procurement for Small and Medium sized Enterprises (SMEs) would mean that only SMEs can bid, encouraging entrepreneurship, and attracting new and smaller organisations to work with and for the Council.

- 15.12.1 If Council Officers wish to reserve below threshold Services procurements as per the guidance set out in this section, they must:
- (a) Consult with Welland Procurement;
  - (b) Comply with all other Rules within this document;
  - (c) Provide rationale for reserving a contract; and
  - (d) Receive written approval from the relevant Director for this approach.
- 15.12.2 Council Officers may consider the following options for the procurement of below threshold Services contracts (applying either both or just one option):
- (a) Reserve the procurement by supplier location - this means being able to run a competition and specify that only suppliers located in a geographical area can bid. This could be by county to tackle economic inequality and support local recruitment, training, skills, and investment.

Where a county reservation is to be applied, only a single county may be reserved. Supplier location should be described by reference to where the supplier is based or established and has substantive business operations and not by location of corporate ownership.

- (b) Reserve the procurement for Small and Medium sized Enterprises (SMEs) and Voluntary, Community and Social Enterprises (VCSEs) - this means being able to run a competition and specify that only SMEs and VCSEs can bid.

**15.12.3 Definitions:**

- (a) Small and Medium sized Enterprise (SME): Any business with fewer than 250 employees and either an annual turnover below £45m or a total balance sheet less than £40m.
- (b) Voluntary, Community and Social Enterprises (VCSEs): Any organisation (incorporated or not) working with a social purpose. This ranges from small community-based groups / schemes, through to larger registered charities and social enterprises, public service mutuals and cooperatives that operate locally, regionally, and nationally. This term is often interchangeable with the terms 'third sector' or 'civil society' organisations.
- (c) Supplier Location: Where the supplier is based or established in a particular location and has substantive business operations in that location. In this context, this means having a registered office, factory, or other permanent base in that location from which meaningful business operations have been conducted for at least 12 months. For example, if the reservation is for the UK or a county such as Nottinghamshire, this should not preclude foreign suppliers from participating as long as they are based or established and have substantive business operations in the UK in the first example or in Nottinghamshire in the second example.

**15.12.4** When considering either of the above, Council Officers would need to:

- (a) Make reservation decisions on a case-by-case basis, and record justifications for the decision to reserve a contract;
- (b) Make the reservation clear in the procurement documentation in terms of any intention by including the standardised definitions of SME / VCSE and supplier location;
- (c) Eliminate bidders that do not meet the stated criteria, following on from written approval being received from the relevant Director; and
- (d) Ensure value for money can still be met, and an open competitive process is followed.

**15.13 Procuring with External Grant Monies**

**15.13.1** Procuring contracts using external grant monies can bring about additional risks to the Council due to additional regulatory requirements in the way the money is controlled and additional scrutiny that the procurement process may receive. Therefore, Officers must be fully aware of all requirements of the relevant funding body and ensure full compliance.

15.13.2 Officers shall ensure that they engage, in advance of undertaking a procurement activity, with Welland Procurement, providing full access to any relevant additional guidance.

15.13.3 NOTE: Specifically for ERDF funding, the Officers shall appraise the intended procurement activity against the ERDF published 'common mistakes' guidance prior to initiating any procurement activity to ensure none of the common mistakes have been made.

## **16 Exemptions**

16.1 The exemptions listed in this Section do not apply to procurements with a [total value](#) above the relevant Public Procurement Threshold. Exemptions are not a substitute for instances where procurement planning has not been exercised and Officers find themselves with insufficient time to undertake a competitive process. Officers must still consider commercial awareness and achieve value for money.

16.2 Officers must obtain a fully approved exemption in advance of awarding a contract and must ensure that the actual spend does not exceed the [total value](#) stated in the approved exemption.

Officers will need to ensure they have the relevant budget approved and available prior to embarking upon a procurement process. This approval will be from the Budget Holder, in accordance with budget authorisation limits (as outlined in the Financial Procedure Rules). Please see [2.9.1](#) for further information. Officers also need to speak to their Business Manager about any further approvals required outside of these Rules.

16.3 Signed contracts that have a [total value](#) of £10,000 or more must be scanned in Officers must then provide the Legal Business Unit with any signed paper copies of the Contract for the subsequent storage and safe keeping.

If a Council Officer or Supplier needs to sign contract documentation electronically, please speak to the Legal Business Unit for advice and guidance on the use of electronic signatures.

16.4 Exemptions must be approved by the Chief Executive, the Section 151 Officer, and the relevant Director. A copy of the form is available from Finance Services.

16.4.1 No genuine competition: proprietary or patented goods or services; requirement of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; compatibility with existing goods or services is required and where those existing goods or services can only be sourced from the same supplier.

- 16.4.2 There is a sound business case and/or an independent review that there is no value for money in running a full procurement process. Supporting evidence will need to demonstrate market testing and enquiries to other suppliers. This must not be used to avoid competition or where decisions to procure have been postponed and there are insufficient timelines to procure.
- 16.4.3 Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from hitherto unforeseen ‘catastrophic’ events or incidents, for example fire, bombing, landslide etc.
- 16.4.4 Urgent Situations not of the Council’s own making: the urgency must have been reasonably unforeseeable (e.g., existing supplier going into liquidation) and genuinely be a case of time is of the essence. Urgency arising from the Council’s own making (e.g., lack of planning) shall not justify an exemption. Where this exemption is used, a compliant procurement must be implemented as soon as possible.
- 16.4.5 Collaborative/Joint Procurement: where another authority/public body is acting as the ‘lead buyer’ and provided that the Officer can demonstrate those arrangements comply with relevant Regulations and best practice.
- 16.4.6 Grants which the Council may receive or make except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered. The awarding of grants by the Council or on behalf of the Council must be carried out under the principles of openness, fairness, non-discrimination, and value for money. Officers cannot choose to treat procurement as a grant in order to avoid conducting a competitive process. **This exemption cannot be used if the grant funding guidance states a procurement process must be conducted (such as ERDF funding); Officers must be fully aware of all requirements of the relevant funding body and ensure full compliance.** Please discuss with Welland Procurement before any exemption on this basis is requested.
- 16.4.7 Contracts for the execution of either mandatory works or provision of goods or services which must be provided by a Statutory Provider other than the Council. This includes but is not limited to public utility companies and other legal authorities.
- 16.5 All contracts must be added to the Contract Register (on ProContract) to ensure compliance with Transparency Regulations.
- 16.6 An award notice is required on Contracts Finder for all Contracts with a [total value](#) of £20,000 or above. Welland Procurement is responsible for such award notices. Officers must formally advise Welland of the award details, so that they can publish the award notice.

**17 Contract Management**

**17.1 Contract Management**

17.1.1 The named Contract Manager should be noted in the Contract Register. All contracts must have a named Contract Manager for the entirety of the contract and that Contract Manager is responsible for the application of these Rules.

17.1.2 For all contracts with a [total value](#) over £75,000, the Contract Manager must identify the risks by maintaining a suitable risk register and ensure that suitable contingency measures are in place.

17.1.3 During the life of the contract, the Contract Manager must monitor the overall performance of the contract closely in order to ensure any issues of underperformance are addressed as soon as possible and any areas of added value are identified as soon as possible.

17.1.4 Officers must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended. This must be in line with the Contract Management Toolkit which is available on the Intranet here.

17.1.5 Where a supplier intends to sub-contract, Officers must assess whether it is appropriate for the supplier to obtain quotations from locally based suppliers as part of this process.

**17.2 Variations**

17.2.1 In any case where a variation (independently or cumulatively) means that the [total value](#) of a contract would exceed the relevant Public Procurement Threshold, or where there is any material change to the contract, the contract must be treated as a new procurement under these Rules.

If any variation (independently or cumulative) means that the [total value](#) of a contract would exceed a threshold set out in these Rules, Officers must seek advice from Welland Procurement.

17.2.2 A material change is one which:

17.2.2.1 Would have allowed the admission of other Bidders or the acceptance or another tender; or

17.2.2.2 Extends the scope of the contract considerably to goods, services or works not initially covered by the Specification; or

17.2.2.3 Changes the economic balance in favour of the contractor in a manner not provided for in the procurement documents.

- 17.2.3 For clarity, a change will be deemed immaterial if the value of the modification is both below the relevant Public Procurement Threshold and below 10% of the original contract value (15% for works contracts).
- 17.2.4 All variations to contracts shall be in writing, following approval from the relevant Director or Business Manager.
- 17.2.5 All variations to a contract (that was originally above the [Public Procurement Threshold](#) and therefore advertised on OJEU or Find a Tender Service) must have a Modification Notice published. Please discuss this with Welland Procurement prior to any variation being entered.

### **17.3 Extensions**

- 17.3.1 A contract should not be extended beyond its initial term unless the contract documents allow it (the potential extension option was advertised).
- 17.3.2 A Framework Agreement shall only be extended if the contract documents and framework allow, and the original term and extension together should not exceed four years except in exceptional circumstances.
- 17.3.3 Where a business need has been identified which means that a contract is required to be extended beyond the term permissible in the original contract documents, advice must be sought from Welland Procurement and the Council's Legal Business Unit in the first instance and authority sought from the Monitoring Officer or the Section 151 Officer if such an extension is proposed.

If any extension (independently or cumulative) means that the [total value](#) of a contract would exceed a threshold set out in these Rules, Officers must seek advice from Welland Procurement.

The Officer must be satisfied that such an extension would achieve value for money and be reasonable in all circumstances. The Officer must record the reasons for these conclusions in writing (i.e., the relevant decision record).

All extensions to a contract (that was originally above the [Public Procurement Threshold](#) and therefore advertised on OJEU or Find a Tender Service) must have a Modification Notice published. Please discuss this with Welland Procurement prior to any extension being entered.

## **18 The Appointment of Consultants to Provide Services**

- 18.1 Consultants, including technical and management consultants, shall be selected, and commissions awarded, in accordance with the procedures detailed within these Contract Procedure Rules (relevant to the estimated [total value](#) of the consultancy contract). This includes, but is not limited to:

- Approvals obtained (as per [2.9](#) of this document)
  - A compliant competitive procurement route being followed, as per the estimated total value of the consultancy contract
  - Tender documentation being used as appropriate
  - The formation of an outcome-based specification, which must cover the scope of the requirement i.e., the services to be supplied, the “where” and “when” they are to be supplied as well as any relevant performance and contract management details. A template is available on the [procurement portal](#)
  - Terms and conditions, evaluation criteria and any relevant deadlines stated as part of the procurement process
  - Evaluation carried out fairly, as per the relevant Rule of this document
  - Carry out [due diligence](#), both at Contract Award, and for the duration of the Contract
  - The resultant contract must be added to the Council’s Contract Register (on ProContract) to ensure compliance with Transparency Regulations. Officers must then provide the Legal Business Unit with any signed paper copies of the Contract for the subsequent storage and safe keeping
  - An award notice is required on Contracts Finder for all Contracts with a [total value](#) of £20,000 or above. If an Officer has managed the procurement process without assistance from Welland Procurement, they must formally advise them of the award details, so that they can publish the award notice
- 18.2 The engagement of a consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided (inclusive of ALL potential phases of work and associated costs) and shall be subject to completion of a formal letter or contract of appointment.
- 18.3 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the relevant Chief Officer after consultation with the Section 151 Officer or in his absence the Deputy Section 151 Officer for the periods specified in the respective agreement and any subsequent liability.
- 18.4 All consultancy appointments should clearly stipulate that the copyright in any report or other work or information created as a result of the contract shall be assigned by the contractor to the Council absolutely with full title guarantee.
- 18.5 It is the responsibility of the person arranging the consultancy contract to determine whether or not payments are to be made to the consultant’s employer, to the consultant directly or to a personal service company (PSC; this is a limited company owned by the consultant and is commonly used to reduce tax and National Insurance liability). If payment is to be to the consultant personally or through a personal service company, advice must be sought from the Section 151 Officer and the **Business Manager – Human Resources OD** before any appointment is made.

**19 Bonds and Parent Company Guarantees**

- 19.1 The Contract Officer should, prior to the tender documentation being published, decide whether a performance bond or a parent company guarantee is applicable for the contract.
- 19.2 The Contract Officer must consult the Section 151 Officer about whether a Bond or Parent Company Guarantee would be necessary where the total value exceeds £75,000. This must be determined prior to any procurement process, so that the requirement can be included in the terms and conditions for the contract.
- 19.3 Where security is considered to be appropriate and required, the Contract Officer, in consultation with the appropriate officers, shall specify in the tender the nature and amount of the security to be given. This as a minimum shall be at least 10% of the total value of the contract.
- 19.4 The security shall be obtained by the contractor in a format, and from an institution or bank approved by the Section 151 Officer.

**20 Certificates/Interim Payments**

- 20.1 No certificate of work performed on a contract shall be raised prior to the signing of the contract, subject to compliance with appropriate contract conditions. Any exceptions to this requirement must be approved by the Monitoring Officer and the Section 151 Officer.
- 20.2 Interim payments to contractors shall only be made by the Section 151 Officer or his nominated Officer on receipt of an approved form of certificate signed by an authorised Officer.
- 20.3 Where a performance bond is required for a contract, no payment is to be made until the bond has been received. Any exceptions to this requirement must be approved by the Monitoring Officer and the Section 151 Officer.
- 20.4 Any contractual retention monies shall be deducted from payments in accordance with contract conditions.



**Appendix 1: Definitions**

Agent(s)	A person or organisation acting on behalf of the Council, or on behalf of another organisation.
Award Criteria	The criteria used by the Council to evaluate a Bidder's submission against the needs identified within the specification to determine the successful tender.
Award Notice	A notice published on Find a Tender and/or Contracts Finder which provides details of the winning bidder and the <a href="#">total value</a> of the contract. Award notices are required to be published on Contracts Finder for all procurements with a <a href="#">total value</a> at £20,000 or above.
Bidder	An individual or organisation who submits a tender or quotation in a competitive procurement process.
Bond	An insurance policy: If the Economic Operator does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the Bond (often 10% of the Total Contract Value). A Bond is intended to protect the Council against a level of cost arising from the Economic Operator's failure.
Candidate	An individual or organisation that has sought an invitation or has been invited to take part in a restricted procedure, a competitive procedure with negotiation, a negotiated procedure without prior publication, a competitive dialogue, or an innovation partnership.
Conflict of Interest	The concept of conflicts of interest shall at least cover any situation where relevant staff members have, directly or indirectly, a financial, economic, or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.
Constitution	The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to make sure these are efficient, transparent, and accountable to local people.
Contract	A legal document that states and explains a formal agreement between two different parties.
Contracting Authority	Has the definition contained within the Public Contract Regulations 2015. It means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity.

Contract Management	Is the process of managing contract creation, execution, and analysis to maximise operational and financial performance at an organisation, all while reducing financial risk.
Contract Register	A register that stores details of the Council’s Contracts, including duration and expiry dates. All Contracts with a <a href="#">total value</a> of £5,000 and above must be entered onto the register.
Contract Term	The length of the contract including the initial term and any extension periods proposed.
Council	Newark & Sherwood District Council.
Dynamic Purchasing System (DPS)	Is similar to an electronic framework agreement, with two exceptions, new suppliers can join at any time, and it is to be run as a completely electronic process.
Economic Operator	A contractor, a supplier, or a service provider. Any person who offers on the market supplies, services, or works and who sought, who seeks, or who would have wished to be the person to whom a public contract is awarded. In this document Economic Operators are not yet active in the procurement process. If they are active in the process, they will be named Bidders in this document.
Electronic Tendering (eTendering)	A secure means to store and transmit all Procurement Documentation via a secure electronic vault (ProContract).
Evaluation	The process of assessing received tenders or quotations against the published criteria to identify the winning bidder, i.e., the bidder with the highest evaluation score. Any subjective evaluation (such as quality) must be carried out independently by a minimum of two evaluators (preferably three), and then moderated by an independent moderator to reach a final agreed score. The evaluators should be fully briefed on the evaluation process. The ‘Conflict of Interest Declaration – Confidentiality Agreement’ on the <a href="#">procurement portal</a> gives further guidance on evaluation principles and best practice. Welland Procurement can act as the independent moderator but cannot undertake any scoring.
Exemption	An act or instance of waiving a right to obey these Rules.
Extension (contract)	An additional period identified within the contract, beyond the initial term which may be used to lengthen the contract term.
Find a Tender	An e-notification service which has replaced OJEU, used to post, and view public sector procurement notices.

Framework Agreement	A framework is an agreement with suppliers to establish terms governing contracts that may be awarded during the life of the agreement. It is a general term for agreements that set out terms and conditions for making specific purchases (call-offs).
Goods	Tangible products that satisfy a need.
Initial Term	The initial period of a contract; this may be subsequently extended.
Locally Based Suppliers	Those suppliers that have a post code for their head office of NG or LN.
OJEU	The Official Journal of the European Union.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
Personal Data	Any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
Procurement	Procurement is the process of finding, agreeing terms and acquiring goods, services or works from an external source, often via a tendering or competitive bidding process.
Procurement Documentation	The full suite of procurement documents required to undertake a compliant procurement process. Includes (but not limited to); SQ, Specification, ITT, Terms and Conditions, TUPE information and Form of Tender.
Procurement Toolkit	A document containing best practice guidance to support Officers in their commercial activity.
Proportionate/ Proportionality	Operating in a way that ensures that all aspects of a tender process and contract management including; timescales, specifications, Suitability Criteria, evaluation process and Award Criteria correspond to the size, complexity, risk, and value of the requirements of the procurement and/or contract.
Public Procurement Procedure	A procurement process where the <a href="#">total value</a> exceeds the relevant Public Procurement Threshold and so governed by the Public Contract Regulations 2015 and the Concessions Contracts Regulations 2016.
Public Procurement Threshold	The threshold above which a Regulated procedure must be carried out. There are thresholds for goods/services, works and concessions. The current thresholds are contained within <a href="#">Appendix 2</a> .

Publicly Available Contract	A contract that has been let by another Contracting Authority and which is available for use by the Council. The Council must have been named specifically or generally within the procurement documentation in order to enable access.
Quotation	A formal statement setting out the estimated cost for a particular job or service.
Services	A valuable action, deed, or effort performed to satisfy a need or to fulfil a demand.
Specification	An exact statement of the needs to be satisfied, or essential characteristics that a customer requires (in a good, material, method, process, service, system, or work) and which a bidder must deliver.  The specification must cover the scope of the requirement i.e., the goods, services or works to be supplied, the “where” and “when” they are to be supplied as well as any relevant performance and contract management details. A template is available on the <a href="#">procurement portal</a> .
Standard Suitability Questions/Questionnaire	The set of standard suitability or selection questions referred to in <a href="#">PPN 08/16</a> which must be used in all advertised procurements.
Selection Questions/Questionnaire	
Successful Supplier/ Supplier/ Contractor/ Provider	An Economic Operator who is contracted to provide services.
Tender	A written invitation sent to potential suppliers of a good or service to inform them about the information required for the buyer to choose between them.
Terms and Conditions	General and special arrangements, provisions, requirements, rules, specifications, and standards that form an integral part of an agreement or contract.
<a href="#">TUPE</a>	Stands for the Transfer of Undertakings (Protection of Employment) Regulations 2006. TUPE regulations ensure the rights of employees are transferred along with the service.
Value for Money	Where quality and cost combine to produce a service which meets technical and customer requirements, at an acceptable level of expenditure in the prevailing budgetary constraints, for an acceptable level of quality.
Variation	An alteration to the scope, term, or any other part of a Contract. The limitations of the Public Contract Regulations 2015 should be borne in mind when varying a contract.
Whole Life Costs	The total cost of ownership over the whole length of the contract and sometimes beyond.

Works	As defined by the Public Contract Regulations 2015. Means public contracts which have as their object any of the following: — (a) the execution, or both the design and execution, of works related to one of the activities listed in <a href="#">Schedule 2</a> ; (b) the execution, or both the design and execution, of a work; (c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work.
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## **Appendix 2: Variable Information**

The following information is subject to change and may be updated as changes occur by the relevant Director.

### Further Documentation and Guidance

Available to Council Officers on the Welland Portal:

- Procurement Toolkit
- Procurement Initiation Document
- Roles and Responsibilities
- Risk Register
- A Guide to Tender Evaluation
- Electronic Tender Opening Procedures
- 2020 Guide to Contract Management
- Conflict of Interest – Confidentiality Agreement
- Awarding a Contract via a Framework Agreement
- Tender Timetable Planner
- Specification Template
- Quotation Documents (One and Four)
- Further Competition Documents (One and Four)
- Award Letter Templates
- Modification Notice Template
- Contracts Finder Award Notice Template
- TUPE Templates
- Evaluator Schedule Templates

### Public Procurement Thresholds

Details of the current Public Procurement thresholds can be found on [Proactis](#).

The Cabinet Office have revised the threshold figures, which came into force on 1<sup>st</sup> January 2022. These revised thresholds will not apply to any procurement which has commenced prior to the Regulations coming into force.

**The proposed new threshold amounts include VAT; therefore you must check whether your commercial activity is above/below this threshold with Welland Procurement prior to any procurement process being conducted.**

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# NEWARK & SHERWOOD DISTRICT COUNCIL

**CONSTITUTION  
MAY 2022**

**Part E – Financial Regulations  
Page E86**

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## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **The Framework for Budget and Policy Framework Decisions**

1. The Council is responsible for the adoption of its Budget and Policy Framework as set out in Part C Section 1 of this Constitution.
2. Once a Budget and the Policy Framework are adopted by Council, it is the responsibility of the Cabinet to implement executive functions within that Budget and Policy Framework.
3. Monitoring and management of the Budget during the financial year will be in accordance with these Procedure Rules.

### **Process for Developing the Budget and Policy Framework**

4. The Council's general fund revenue, capital and housing revenue account budget strategy will be set in June/July each year. This gives sufficient time for the budget to be developed and agreed in time for the Council Tax to be set in March each year. The budget strategy needs to take account of the Council's objectives and the resources available to the Council, as far as these can be estimated at this stage.
5. Subsequent to appropriate consultation with the community and other stakeholders, the Cabinet will draft initial proposals in relation to the budget or any plan or strategy which forms part of the Council's Budget and Policy Framework.
6. When the initial proposals have been drafted by the Cabinet, they will provide a copy to the Chairman of the Policy and Performance Improvement Committee (PPI Committee) unless it has already considered the proposals during their development.
7. At the same time the Cabinet will notify the PPI Committee of the dates and/or proposed timetable within which the Cabinet intend to develop the proposals and submit them to full Council for approval. The timetable will allow as far as possible for both the Cabinet and PPI Committee to consider the proposals at ordinary planned meetings.
8. The PPI Committee will usually have two weeks to make its response unless the Cabinet or relevant Cabinet member has agreed a longer period with the Chairman.
9. The Cabinet will finalise its proposals for consideration by Full Council taking into account the recommendations (if any) of PPI Committee. The report to Full Council will include the recommendations (if any) of PPI Committee, Cabinet's response to those recommendations (if any) and the extent to which they have been accepted by the Cabinet.



10. Full Council will consider the final proposals of the Cabinet and may:-
  - a. adopt them without amendment;
  - b. amend them after a motion to amend is put by the Leader and seconded;
  - c. refer them back to the Cabinet for further consideration; or
  - d. substitute its own proposals in their place.
11. If the Council accepts the Cabinet proposals with or without amendment the decision shall be effective immediately.
12. If the Cabinet proposals are not accepted, the Chief Executive will inform the Leader of the Council's objections and require him/her to reconsider the Cabinet's proposals. The Leader will have five clear working days from receipt of the notification to submit a revised proposal or inform the Council of the Cabinet's disagreement with the objections.
13. The Council's decision will become effective on the expiry of five clear working days after notification of the Council's objections unless the Leader submits revised proposals and/or formally objects in that period.
14. If the Leader wishes to submit revised proposals and or disagree with the objections of the Council, written notice will be given to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notice must state the reasons for the revised proposals and/or the disagreement. Where such notice is received the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall be effective pending that meeting.
15. The Council meeting must take place within ten working days of the receipt of the Leader's written notice unless the Chairman of the Council and Leader agree that the matter can wait until the next programmed meeting of the Council. At that Council meeting the decision of the Council shall be reconsidered in the light of any revised proposals submitted and the reasons for those revisions and / or the Cabinet disagreement and reasons for that disagreement which shall be available in writing to the Council.
16. The Council shall at that meeting make its final decision on the matter on the basis of a simple majority.

17. The process for developing the Budget is shown in table form below.

June	Cabinet and PPI Committee initiate reviews of specific areas of the budget.
June/July	Cabinet considers budget strategy and financial policies, set budget targets, and invite proposals from Portfolio Holders and recommendations from PPI Committee .
December	Portfolio Holders consider their budgets and submit proposals to Cabinet.
January	PPI Committee considers the proposals of Cabinet and responds to Cabinet.
January - February	Cabinet considers the proposals of Portfolio Holders and response of PPI Committee and collates these into a draft budget. Cabinet considers the local government finance settlement, if available. Portfolio Holders may be asked to consider their budget proposals further.
February	Cabinet considers the overall budget for the Council and makes recommendations to Council on the Budget and Council Tax.
March	Budget, Capital Programme and Council Tax set by Council.

**Monitoring and Management of the Budget**

18. As part of developing the budget, it may to be necessary to review aspects of the budget during the year. This will normally be initiated by PPI Committee at the request of Cabinet.
19. Once the budget has been set, and the financial year has commenced, the budget will be monitored and managed during the financial year.
20. Each Portfolio Holder will receive budget monitoring reports on a regular basis covering the services and budgets within the remit of their Portfolio. In addition, the Cabinet and PPI Committee will receive budget monitoring reports on performance against the Council's overall budget.
21. While the purpose of the budget is to deliver the Council's objectives and policies, it may be appropriate during the year to transfer sums from one budget to another. This is termed budget 'virement'. It must be emphasised that this is the transfer of budget from one heading to another and this does not increase (or decrease) the overall budget. Virements are often minor in nature and are delegated to officers through the Council's Financial Regulations.
22. The level of fees and charges is set as part of the budget process. Fees and charges should not normally be varied during the financial year as this can impact on the achievement of the budget and could also affect the budget for future years (the Medium Term Financial Plan).

23. On occasion there may be budget underspends. These underspends cannot be carried-forward to the following year. It will be necessary for these to be considered as part of the budget process for future years and therefore follow the budget development process set out above (Process for Developing the Budget and Policy Framework).
24. In accordance with the Financial Regulations, Audit and Governance Committee will receive consolidated reports at the end of the financial year detailing the whole Council performance, and reports on the accounts in accordance with the Accounts and Audit Regulations.

### **Outside the Budget or Policy Framework**

25. Subject to the provisions of the Financial Procedure Rules, the Cabinet, individual Portfolio Holders, individual Officers, Committees or joint arrangements discharging executive functions may only take decisions which are in line with the approved Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the approved Budget or Policy Framework the decision may only be taken by the Council, subject to Rule 27 below (urgent decisions outside the Budget and Policy Framework).
26. If those bodies or persons detailed at Rule 25 above want to make a decision which is or may be contrary to the Budget or Policy Framework they shall first consult and take advice from the Monitoring Officer and / or the Section 151 Officer as to whether the decision they want to make would be contrary to the Budget and / or Policy Framework. If the advice of either the Monitoring Officer or the Section 151 Officer is that the decision would not be in line with the approved Budget and / or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 17 below (urgent decisions outside the Budget and Policy Framework) shall apply.

### **Urgent Decisions Outside the Budget or Policy Framework**

27. Those bodies or persons detailed at Rule 25 above may take a decision which is contrary to or not wholly in accordance with the Budget Framework or is contrary to the Policy Framework if the decision is a matter of urgency. However, the decision may only be taken:-
  - 27.1 if it is not practical to convene a quorate meeting of the Council; and
  - 27.2 if the Chairman or in their absence the Vice-Chairman of the Council agrees that the decision is a matter of urgency.

28. The reasons why it is not practical to convene a quorate meeting of Council in time and the agreement of the Chairman or in their absence the Vice-Chairman for the decision being taken as a matter of urgency must be noted on the record of the decision.
29. Following the decision, the decision-maker must provide a full report to the next available Full Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

**Call-In of Decisions Outside the Budget or Policy Framework**

30. Where five Councillors are of the opinion that a decision is, or if made would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the decision may be Called-In and determined in accordance with the Call-In Procedure set out at Part D Section 6 of this Constitution.

**ACQUISITIONS AND DISPOSALS POLICY**

November 2021

Date for Review: November 2023

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**1. Introduction**

- 1.1 Acquisitions of land and property are an essential part of enabling the Council to provide a service to the residents of Newark and Sherwood and in delivering the aims and objectives set out in the Community Plan. An adopted Acquisitions and Disposals Policy is necessary, in order to ensure that acquisitions and disposals are performed with due consideration of current legislation, financial controls and best practice whilst ensuring that the aims of the Community Plan are achieved.
- 1.2 The purpose of the policy is to act as a framework to instruct Members, officers, third parties and members of the public on the Council's adopted approach on the acquisition and disposal of property (including land and built assets).
- 1.3 This policy will cover the acquisition and disposal of freehold or leasehold interests (including for the avoidance of doubt lease renewals, surrenders and assignments of leases and including easements and covenants) in property (land and buildings). The policy does not cover the acquisition of goods, services or items required to perform service delivery by the Council as this is already covered by the Contract Procedure rules of the Council.
- 1.4 The policy focuses on the principal processes of acquisitions and disposals, authority routes and roles/responsibilities within the Council.
- 1.5 Any reference to the 'Estate Team' will mean either the Estates Team of the Corporate Property Business Unit or Housing Business Units depending on the type of property or scenario of acquisition or disposal in question. A reference to Service Department shall mean any department/ Business Unit occupying or using the property being considered for acquisition or disposal.
- 1.6 All the steps taken to comply with this policy should be set out in the report to the relevant decision maker so that they have all the information needed to make a decision, including any cross reference to the Financial Regulations.

**2. Disposals**

- 2.1 **The test for declaring a property to be surplus.** One or more of the following key criteria should be considered to be met in order to progress a disposal of Council property:
- (a) The property makes little or no contribution to the Council's service delivery, aims or objectives within the Community Plan and cannot be appropriated for planning purposes under section 122 Local Government Act 1972.
  - (b) The property generates no income/ produces a loss and has limited regeneration potential.
  - (c) An alternative site has been identified which would achieve a more cost efficient way of delivering this service for the Council.

- (d) Its disposal is important for the delivery of organisation aims/ objectives such as those set out in the Community Plan.
  - (e) The property is deemed to be an underperforming asset with either under-utilisation of space at low capacity or that the financial cost to retain property is too significant, the income generation possibilities are too low with a greater return/ cost saving being achievable through disposal of the property.
- 2.1.1 Any property can be identified as surplus by either a Business Manager for a particular service, Business Manager for Corporate Property or Business Manager for Housing. The case for disposal will need to be clearly set out and must include the criteria for disposal, as set out in this Policy.
- 2.2 **The process for identifying surplus or underperforming property** will materialise in a number of the following ways:
- (a) Asset Management Plan Review.
  - (b) Stock Condition Surveys identifying significant works.
  - (c) Local Plan designation or development of other local planning policy.
  - (d) Master planning of the site or a regeneration scheme.
  - (e) Asset valuation for accounting purposes which identifies development/ alternative uses.
  - (f) Third party approach such as developers or neighbours.
  - (g) Statutory transfer i.e. utility or transport infrastructure.
  - (h) Service Department review of property requirement.
- 2.3 **Review of disposal constraints**
- 2.3.1 Once a property has been identified as being potentially surplus the Estates Team will establish whether there are any constraints on the site that would limit or even prevent disposal, such as legal, planning, statutory authorities, government policy, and/or financial constraints, (such as the property having been the subject of funding in the past that necessitates the repayment of grant monies). If such constraints are found that prevent disposal, alternative options may need to be considered and pursued, as part of the options appraisal for disposal.
- 2.4 **Initiation period.**
- 2.4.1 Service Departments occupying a property shall give the Estates Team at least three months written notice of their intention to vacate property. In instances where properties are leased in by the Council, Estates will send a trigger notice to the occupying service and a joint decision will be taken as to whether to renew the lease. On notification of a Service Department vacating a property, the Estates team will carry out a survey of the property to inform any works or holding costs required during the disposal process. A full inventory of compliance documentation and servicing is required from the Service Department at the point of handover. All holding costs and additional compliance/ remedial works to the property will be covered by the departing Service Department's budget. The Service Department must leave the property in a clean and tidy condition to the satisfaction of the Estates team.

2.4.2 Once a property is declared surplus by a Service Department the Estates Team will instigate a process of engagement with other departments for future Council use. As part of the options appraisal for disposal, an approach will also be made to the Housing Revenue Account Development Team and the Council's preferred housing developer Arkwood Developments Limited, for consideration of development options. If appropriate, then Third Sector interest, Ward Members, Public Sector partners, local Parish & Town Councils and tenants of the property will be contacted before seeking formal approval to sell on the open market. This does not apply to investment property where decisions will be made on a financial return basis and often only a short to medium term investment lease will be offered to perspective tenants.

## **2.5 Method of Disposal.**

- 2.5.1 The most appropriate method of disposal should be adopted from the following taking into account the advice on marketing strategy from RICS surveyor :-
- (a) Private Treaty – Where there is limited interest and a narrow valuation band. Where appropriate, sales may be conducted by private treaty where a marketing exercise has already been undertaken.
  - (b) Auction – Where there is wide interest and if this method of sale is considered to be best to attract the highest price. The property is marketed as part of an external auction process. Wherever possible a reserve price will be set.
  - (c) Formal Tender – Where there is wide interest, land ownership is not complex, no uncertainties regarding the grant of planning permission, and a wide valuation band. Under this method, the Council would invite sealed bids which are opened at the same time. The Council and the purchaser then enter into a contract under which the purchaser usually pays a 10% deposit.
  - (d) Informal Tender - Where there is a need to identify a preferred bidder and enable further detailed terms to be determined. This method will be appropriate where there are uncertainties such as planning, and, large or complex redevelopment sites. The Council invites offers, which are opened together, immediately following the closing date for the bids specified in the Tendering process. If a higher unsolicited offer is subsequently received all parties may be asked to resubmit.
  - (e) Occasionally, a limited marketing exercise may be used where the land or property has already been subjected to open market testing or following short-listing after initial expressions of interest exercise or there are known to be a limited number of purchasers.
  - (f) Leasehold disposal. In certain circumstances, it may be appropriate to dispose of property on a leasehold basis. This is particularly relevant where a property may be required to fulfil a service need in the future or if the property is held for investment, community provision or economic growth purposes. Lease terms can be flexible to suit the occupational requirements but should be on a market rental value basis (unless if there is justification for deviation from this on the grounds listed in paragraph 2.10 of this policy). Leases should also be contracted out of security of tenure provisions of the Landlord and Tenant Act 1954, where possible, to avoid creating secure tenancies.



## **2.6 Public Engagement Requirements**

2.6.1 Sections 123(2A) of the Local Government Act 1972 and (where the land was acquired or appropriated for planning purposes) section 233(4) of the Town and Country Planning Act 1990 ("the 1990 Act") require a local authority wishing to dispose of open space to advertise its intentions in a local newspaper for two consecutive weeks and to consider objections. This is to be undertaken before making any final decisions about disposal as the public response to the notices may be material to any such decision. It could also be an important factor in any determination by the Secretary of State of an application for specific consent.

## **2.7 Disposal Valuation.**

2.7.1 Where it is decided to negotiate a disposal to a single party (such as the Housing Revenue Account or to Arkwood Development Limited) , rather than offer on the open market, an independent valuation should be carried out by a suitably trained and knowledgeable member of the Royal Institution of Chartered Surveyors. Negotiations should then take place with the interested party in order to reach an agreed sale price. The final agreed price should be as close to the initial valuation as possible. If there are valid reasons on why the initial valuation figure was not reached then these should be recorded and if necessary the valuation report amended to reflect this. Where there is a significant difference between the final negotiated price and the independent valuation figures then, to protect the Council's interest in the event of subsequent sales, the agreement to sell should include, as appropriate, an asset lock, claw back or uplift clause, restrictive covenants, ransom strip retention, user rights or right of pre-emption.

2.7.2 The preferred route for any disposal is that the property is marketed for a period of time by the Estates team or by a suitably trained and knowledgeable appointed agent in order to ensure that the best possible offers are received for the property.

## **2.8 De minimis Disposals.**

2.8.1 In circumstances where a low value disposal is identified (at less than £15,000) such as garden land within the HRA estate, boundary rectification or infrastructure adoptions these transactions are recommended to be dealt with in house by the Estates Team; to be approved by the Corporate Property/ Housing Business Manager and the s151 Officer. For any land disposals the Estates team can be requested to handle a disposal subject to appropriate time/ resource. A valuation will be carried out using comparable evidence of transactions previously conducted by the Council and industry comparables in order to evidence that market value is being achieved. Infrastructure adoptions such as pump stations will be dealt with by the relevant Estates Team depending on which property is served by the infrastructure in question (i.e. General Fund or Housing Revenue Account).

**2.9 Disposal at Less Than Best Consideration.**

- 2.9.1 The Council has a general power of disposal, contained in Section 123 of the Local Government Act 1972. This provides that Local Authorities are not permitted to dispose of land, or grant leases in excess of 7 years, for a consideration which is less than the best price which is reasonably obtainable, unless they first obtain consent from the Secretary of State or the General Consent referred to below applies. Where a disposal is undertaken at less than best price, then to protect the authority's interest in the event of subsequent sales, it should include, where appropriate an asset lock, claw back or uplift clause, restrictive covenants, ransom strip retention, user rights or right of pre-emption.
- 2.9.2 A valuation by a suitably trained and knowledgeable member of the Royal Institution of Chartered Surveyors should be undertaken in order to quantify the amount of the undervalue (unrestricted less restricted value). In addition, an attempt needs to be made to financially quantify the economic, social and environmental benefits to the authority and community which justify a disposal at less than the valuation/best price amount. The overriding factor to be considered when disposing at below the valuation/best price is to ensure that it is within the Council's power to do so, and the reasons are well documented, transparent and justifiable.

**2.10 Exceptions to the Obligation on Achieving Best Value:**

- 2.10.1 **Short tenancies.** The obligation to obtain best value contained in sections 123 of the Local Government Act 1972 does not apply to disposals of land by way of a "short tenancy" such as by the grant of a term not exceeding seven years or the assignment of a term which has not more than seven years to run.
- 2.10.2 **The disposal meets a specific wellbeing purpose.** The Local Government Act 1972 General Disposal Consent 2003 ("the Consent") removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land where the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the promotion or improvement of:
- (a) economic wellbeing
  - (b) social wellbeing
  - (c) environmental wellbeing.
- 2.10.3 In this circumstance the undervalue (i.e. the difference between the unrestricted value of the interest to be disposed of and the consideration accepted) must be £2,000,000 or less. Where the proposed disposal does not fall within the terms of the Consent an application to the Secretary of State for a specific consent is required.

2.10.4 Following amendment by the Growth and Infrastructure Act 2013 section 233 of the Town and Country Planning Act 1990 now empowers the Secretary of State to give consent in relation to land held for planning purposes see section 233 3 A) Town and Country Planning Act 1990 Specific consents were previously required.

**2.11 Standard Process for Disposal:**

<b>Stage</b>	<b>Process</b>
1. Property tested for disposal.	Tools of assessment used as cited in paragraph 2.3 of this policy to conclude that a property is surplus.
2. Review of property disposal constraints.	A full review of title, lease and other relevant documentation, planning policy, statute, government/ Council policy and financial constraints undertake to ensure there is no constraint on disposal.
3. Report to obtain agreement in principle for disposal.	<p>De-minimis, wayleave/easements/licences at nil value, statutory disposal (e.g. Right to Buy application) and investment leases – report not required.</p> <p>Freehold/ long leasehold disposals where value of site is estimated at £100,000 or less – relevant Director(s) in consultation with S151 Officer.</p> <p>Freehold/ long leasehold disposals with estimated value at greater than £100,000 but less than £300,000 – report to Senior Leadership Team prior to Director or Portfolio Holder decision as applicable.</p> <p>Freehold/ long leasehold disposals with estimated value at greater than £300,000 – report to Senior Leadership Team prior to referral as Key Decision to relevant Portfolio Holder or Cabinet as applicable.</p>
4. Initiation period.	Service department notifies the Estates Team of intention to vacate the property (minimum three months' notice is required).
5. Appropriate disposal method adopted.	Disposal through marketing/ disposal valuation for one party. Consideration given to HRA requirement for site/ disposal directly to Arkwood Development Limited.

6. Authority requested for final disposal terms/ value.	Terms, disposal valuation figure and minimum disposal price approved by relevant authorising party as identified in table in paragraph 5.1.
7. Marketing/ negotiations and disposal	Marketing of the property and negotiations with identified purchaser (or direct negotiations if a special purchaser is identified).
8. Performance review of disposal and records updated.	Reporting of final disposal and records on property Asset Register updated.

**3. Acquisitions**

**3.1 Reasons for Acquisition.** There are a number of circumstances where the acquisition of land or built assets may be necessary. This includes service delivery, investment purposes and strategic development opportunities within the district. There are essential criteria which each type of acquisition must meet to be considered for approval as outlined below:

**3.1.1 Service delivery requirement.** If the Estates Team are requested to acquire any land or property on behalf of a Service Department then the requirement will first be considered across the availability of existing property held in the Councils estate. The test of suitability will be agreed between the Service Department and Estates Department but will focus on size, location and quality of space required.

**3.1.2 Strategic development purposes.** If there is a way of increasing the deliverables of housing units and/or objectives set in the Community Plan then this will be considered as a Strategic Development Acquisition and tested on the basis of final outcomes of the wider site and a full options appraisal being carried out rather than the individual piece of land or property being acquired.

**3.1.3 Investment purposes.** Land or property may be acquired for the purpose of the Council making an investment subject to the following criteria being met:

- (a) The property generates a predicted net return on investment of 6%.
- (b) The land or property proposed to be acquired has had a full inspection and survey of the condition and is in relatively good condition with full repairing and insuring leases in place for any tenanted parts.
- (c) The management of the property is able to be facilitated by either the in-house Estates Team or through the appointment of a managing agent on a temporary basis until recruitment or extra capacity can be secured.
- (d) All ongoing revenue costs are approved and identified within an existing budget.
- (e) If held as an outright investment rather than for redevelopment or place-shaping then a company should be used by the Council in line with the provisions of the Localism Act 2011.

- 3.2 All proposed acquisitions of property with a financial cost will be valued by a suitably trained and qualified professional with knowledge of the local market. This is recommended to be a Chartered Surveyor with knowledge of the specific market in question and who holds a Registered Valuer status from the Royal Institution of Chartered Surveyors.
- 3.3 All property being acquired will have proper due diligence carried out by appropriately qualified professionals prior to purchase depending on the nature of the site. This will consist of legal searches, site inspections and investigations on potential impacts of use and planning feasibility. This work will be led by the acquiring Estates Team and will involve appointment of consultants to undertake the required surveys.
- 3.4 All property being acquired will also have consideration to the carbon footprint the acquisition will have for the Council. Reduction measures should be factored into any options appraisals for the property acquisitions.
- 3.5 Acquisition at a higher than market value (i.e. acquisition at a premium) may be possible where the end deliverable result will mean a higher net return or saving for the Council. For example where a site may have an income producing lease agreed subject to the Council acquiring the land. Conversely where acquiring the land will over time produce a net saving to the Council. Economic, social and environmental savings/ profits will also be considered in any justification for acquisition at a higher than market value price. This would have to be clearly demonstrated within any business case/ authority request.
- 3.6 **De minimus acquisitions** In circumstances where a low value acquisition is identified (at less than £15,000) such as strategic site access or boundary rectification these transactions are recommended to be dealt with in house by the Estates Team; to be approved by the Corporate Property/ Housing Business Manager and the s151 Officer. For any land acquisitions the Estates team can be requested to handle an acquisition subject to appropriate time/ resource. A valuation will be carried out using comparable evidence of transactions previously conducted by the Council and industry comparables in order to evidence that the property is being purchased at the correct value.
- 3.7 The use of statutory powers for acquisition. Compulsory purchase powers are provided to enable acquiring authorities to compulsorily purchase land to carry out a function which Parliament has decided is in the public interest.
- 3.8 Management Responsibility. Where appropriate, Estates and the service representatives will carry out a pre-completion inspection of the property and if necessary seek instructions from the service regarding the interim management of the property acquired pending development or occupation.
- 3.9 Data Collection. In all cases where an acquisition occurs, arrangements will be made to ensure that details are recorded in the asset management records and Terrier records.

3.10 Performance Management. There will be ongoing monitoring of acquisitions between the responsible officers and the parties selling or otherwise concerned with the acquisitions. There will be appropriate reporting to Senior Leadership Team and the relevant Portfolio Holder as appropriate where performance is in question.

**3.11 Process for acquisition of property:**

<b>Stage</b>	<b>Process</b>
1. Identification of requirement for acquisition	Testing of requirement against key criteria in paragraphs 3.1.1-3.1.3 for either a service delivery need, strategic development or investment.
2. Property search	If a property has already been identified this is compared with other available properties within the local market to ensure it is the most suitable.
3. Valuation and due diligence	A valuation will be carried out by a suitably trained member of the Royal Institution of Chartered Surveyors and report produced on the market value/ market rental value. Due diligence on the site including site investigations, surveys, planning use, legal searches and review of all key documents/ legislation to inform the valuation and offer price. A review of options to reduce the carbon use of the property prior to purchase should be considered as part of the due diligence process.
4. Authority requested for final acquisition terms/ value	Report of viability of acquisition to meet required purpose, terms of acquisition and valuation citing known constraints. Terms of proposed acquisition, valuation and cap of offer approved by relevant authorising party as identified in table in paragraph 5.1.
5. Negotiations	Negotiations undertaken by the Estates Team or a suitably trained firm of agents depending on capacity and skills/ market knowledge required.
6. Performance review of disposal and records updated.	Reporting of final disposal and records on property Asset Register updated.

**4. Roles in Acquisitions/Disposals**

<b>Disposal/ Acquisition type</b>	<b>Responsible Estates Team</b>
Wayleave/ easement/ licence required for housing need	Housing Estates Team for housing specific. Corporate Property Estates Team for Corporate Property Specific
Right to Buy application/disposal	Housing Estates Team
Disposal/acquisition of Service Department Property	Corporate Property Team
Disposal/ Acquisition of regeneration or development opportunity	Housing Estates Team for housing specific. Corporate Property Estates Team for Corporate Property Specific
Investment property acquisition/ disposal	Corporate Property Team
Leasehold disposal on a short term tenancy	Housing Estates Team for housing specific. Corporate Property Estates Team for Corporate Property Specific
Disposal of de-minimis land	Corporate Property Team
Disposal of infrastructure property i.e. adoptions of roads by highway authority or drains by Severn Trent	Housing Estates Team for housing specific. Corporate Property Estates Team for Corporate Property Specific
Support provided by Planning, Legal Services and Finance.	

**5. Delegations and Approvals**

<b>Value</b>	<b>Authority</b>
Wayleaves, easements and licences at less than £1 value	Business Manager for Corporate Property on General Fund or Business Manager of Housing for HRA
De minimus level at sub £15,000	Recommendation by Business Manager for Corporate Property/ Housing, approved by S151 officer.
Any disposal/acquisition more than De minimis and less than £100,000 value	Relevant Director
Any disposal/acquisition more than £100,000 and less than £300,000 value	Relevant director(s) or Portfolio Holder as applicable in consultation with SLT.
Anything at £300,000 or more value	Relevant Portfolio Holder or Cabinet in accordance with Key Decision requirements.