

## CONTRACT PROCEDURE RULES

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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). These Rules (together with the Council's relevant policies and procedures) set out how the Council will have regard to the importance of the following Procurement Act 2023 objectives:

- delivering value for money;
- maximising public benefit;
- sharing information for the purpose of allowing suppliers and others to understand the authority's procurement policies and decisions;
- acting, and being seen to act, with integrity; and
- having regard to the fact that small and medium-sized enterprises may face particular barriers to participation and consider whether such barriers can be removed or reduced.

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 immoveable 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 3 of Schedule 2 of the Procurement Act 2023 .
- 1.6 Contracts between Local Authorities as defined by Clause 1 of the Local Authorities (Goods and Services) Act 1970.
- 1.7 Section 75 NHS Act 2006 arrangements (although details must be recorded on the Council's Contract Register).

**1.8 Quick Reference Guide: Contract Procedure Rules**

- 1.8.1 A decision to procure is required before procurement commences AND a decision to award must be obtained before a contract is awarded.
- 1.8.2 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.

1.8.3 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
<b>Under £10,000</b>	<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. A Purchase Order (PO) must 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 Services 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. 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</p>
<b>Between £10,000 and £74,999 where the process is closed process (The Council knows the suppliers that are due to engage with)</b>	<p><b>Notices Required:</b> All Contracts over £20,000 must have a formal award notice issued by Welland Procurement (on Find a Tender Service).</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 (this is not necessary when using a framework) (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) must 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 the relevant Business Manager/Director as per delegations (Rule <a href="#">7.12</a>) unless sealing applies (Rule <a href="#">13.11</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 relevant Business Manager/Director (Rule <a href="#">7.12</a>) unless sealing applies (Rule <a href="#">13.11</a>).</p>
<p><b>Between £10,000 and £74,999 where the process is an open process (The Council does not know the suppliers that are due to engage with)</b></p>	<p><b>Welland Procurement</b> must be instructed.</p> <p><b>Notices Required:</b> Find a Tender Service 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> 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) must 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 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 the relevant Business Manager/Director as per delegations (Rule <a href="#">7.12</a>) unless sealing applies (Rule <a href="#">13.11</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 relevant Business Manager/Director (Rule <a href="#">7.12</a>) unless sealing applies (Rule <a href="#">13.11</a>).</p>
Between £75,000 and relevant Public Procurement Threshold	<p><b>Welland Procurement</b> must be instructed.</p> <p><b>Notices Required:</b> Find a Tender Service 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, or use of an approved framework.</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> The relevant Business Manager/Director must instruct the legal business unit to seal the contract (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> Find a Tender Service Advertising and Award notices (Rule <a href="#">10</a>).</p> <p><b>Method:</b> A method defined by Public Procurement Legislation . Tenders at this level are run via Welland Procurement's e-tendering system, or use of an approved framework</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> The relevant Director must instruct the legal business unit to seal the contract (Rule <a href="#">15.11</a>).</p>
<p><b>Market engagement</b></p>	<p><b>Welland Procurement</b> must be instructed prior to any market engagement.</p> <p><b>Notices Required:</b> Market engagement process (UK2) must be completed for any market engagement</p> <p><b>Method:</b> Discussion with Welland Procurement regarding approaching the market and the mandatory notices. Find a Tender Service</p>	<p><b>Governance Process:</b> All engagement with the market (irrespective of value) needs to be completed through the Find a Tender service.</p>

## 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. Wilful or negligent breach of these Rules will be deemed to amount to gross misconduct and treated as a disciplinary matter
- 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, or requiring an open process, 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. This will provide you with your permission to procure.
- 2.9.2 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.
- 2.9.2.1 For contracts with a total value under £75,000, Welland must be engaged with at least four weeks in advance and then the final agreed procurement documentation (agreed with Welland) 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.
- 2.9.2.2 For contracts with a total value above £75,000, Welland must be engaged with as part of the pre-procurement process and a timeline will be developed alongside Welland. 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.

2.9.2.3 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.

2.10 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 for 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.
- 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 or works 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 and Welland Procurement. 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 Find a Tender Service 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 Procurement Act 2023. All references to "value" within these Rules refer to Total Value and those values must be estimated and calculated in accordance with the rules governing estimating the value of a contract under [Schedule 3](#) of the Procurement Act 2023.

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 based on the total estimated cost over the full contract period.
- 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 specified activities and deliverables of the consultant for their entire appointment. Any change in scope of the assignment would require additional procurement.
- 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 Procurement Act 2023 and accompanying 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 Legislation. 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 (e.g. annual renewals of contracts).
- 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.



- 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 (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 The Contract or Purchase Order must be approved/signed by the relevant Budget Holder 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 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.
- 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.

The Procurement Act 2023 introduces statutory rules specifying conditions of participation and the new mandatory and discretionary grounds for excluding suppliers (including at section 29, on the grounds of national security) and the introduction of the Government’s debarment list including the actions that the Council must take if it decides to exclude a supplier from a procurement in reliance on one of the exclusion grounds.

- 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 the eTendering system)
- The Council must respond to all clarifications as soon as possible (via email or the eTendering system)
- 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 the eTendering system.

- 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.

Award of the Contract

- 7.11 The contract or terms and conditions must be signed by the Business Manager for the relevant Business Unit or an available Director,. This will act as the approval to award the contract.

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.

- 7.12 The resultant contract must be added to the Council's Contract Register 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.
- 7.13 An award notice is required on Find a Tender Service 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.
- 7.14 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 relevant national public procurement threshold**

- 8.1 Officers will need to ensure they have the budget available prior to embarking upon a procurement process (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 must be notified in respect of all contracts with a [total value](#) between £75,000 and the relevant national Public Procurement Threshold. Welland will be able to advise on the most appropriate route to market.
- 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 Find a Tender Service, 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 templated procurement documents (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 pricing & quality 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 (the eTendering system)
- The Council must respond to all clarifications as soon as possible (the eTendering system)
- 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 the eTendering system.

- 8.9 Tenders will be received via the electronic tendering system. 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 eTendering system 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.
- 8.14 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 As the contract will require sealing, please see Section [13.11](#) below, the relevant Business Manager/Director must give the approval to award the contract to the Legal Business Unit
- 8.16 The resultant contract must be added to the Council's Contract Register 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 for 6 years:
- (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 Find a Tender Service; 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 above the relevant national public procurement threshold**
- 9.1 Officers will need to ensure they have the budget available prior to embarking upon a procurement process (as per [2.9](#) of this document).
- 9.2 Welland Procurement must be instructed for all procurements with a [total value](#) above the national procurement threshold. Welland will be able to advise on the most appropriate route to market.
- 9.3 Officers will need to ensure they have the budget available prior to embarking upon a procurement process (as per [2.9](#) of this document).
- 9.4 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).
- 9.5 The procurement must be advertised on Find a Tender Service, Welland Procurement is responsible for managing this advertising.
- 9.6 The procurement will be managed using an electronic tendering system; the Officer must therefore contact Welland Procurement to access that system.
- 9.7 Council Officers must conduct the Tender process using Welland Procurement's templated procurement documents (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](#).

- 9.8 Tenders will be received via the electronic tendering system. An Officer or a representative of Welland Procurement will be responsible for opening the tenders.
- 9.9 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.
- 9.10 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.
- 9.11 All tenders in this category must be evaluated online through the eTendering system.
- 9.12 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.
- 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 As the contract will require sealing, please see Section [13.11](#) below, the relevant Director must give the approval to award the contract to the Legal Business Unit
- 9.15 The details of the resultant contract must be added to the Council’s Contract Register 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 Find a Tender Service; 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 Purchasing from a Framework Agreement or Dynamic Purchasing System (DPS)**

- 10.1 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.
- 10.2 Welland Procurement must be notified in respect of all contracts with a [total value](#) above £75,000 irrespective of whether the officer is expecting to procure via a framework or DPS. Welland will be able to advise on the most appropriate route to market.
- 10.3 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.

- 10.4 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.
- 10.5 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.

- 10.6 Contract award must be approved as per [2.9](#) of this document.

- 10.7 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.
- 10.8 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.

- 10.9 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.

- 10.10 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.
- 10.11 Where the contract has a [total value](#) of £20,000 or above an award notice is required on Find a Tender Service. The Officer must formally advise Welland Procurement of the award details, so that they can publish the award notice.
- 10.12 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.

10.13 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.

10.14 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 Setting up a Framework Agreement/DPS**

11.1 Where an officer feels a framework or DPS could be advantageous to the Council, they should contact Welland Procurement in order to progress this further.

## **12 Public Services (Social Value) Act 2012 and Health Care Services**

12.1 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.

12.2 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 the above benefits for their area or stakeholders.

12.3 The Council must consider, in the form of a Social Value appraisal whilst recognising the principal 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.

12.4 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](#).

12.5 The Health Care Services (Provider Selection Regime) Regulations 2023 require that when procuring relevant Health Care Services, the it is expected that the Council complies with those Regulations in that the Council must act with a view to securing the needs of the people who use the services; improving the quality of the services; and improving efficiency in the provision of the services transparently, fairly and proportionately.

12.6 When acting with a view to the matters in paragraph 14.5, the lead officer may, in consultation with Welland Procurement, consider the value of providing services in an integrated way, including with other health care services, health-related services or social care services.

### **13 Other Matters to Consider**

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

#### **13.1 Conflict of Interest**

13.1.1 Clause [2.13](#) and [2.19](#) define when a conflict of interest must be declared.

13.1.2 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](#).

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

13.1.4 Before publishing a tender or transparency notice, a conflicts assessment will need to be prepared. This will need to be kept under review and revised as necessary. When publishing certain notices, it will need to be confirmed that a conflicts assessment has been prepared and revised accordingly.

#### **13.2 Abnormally Low Bids**

13.2.1 Under s 19(3)(c) of the Procurement Act 2023 , the Council may 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. However, the Council may disregard any tender that it considers to be abnormally low for the performance of the contract.

13.2.2 Advice should be sought from Welland Procurement during this investigation process to ensure that the requirements of the Procurement Act 2023 are adequately complied with.

#### **13.3 Errors in Tenders**

13.3.1 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.

#### **13.4 Receiving Late Submissions**

13.4.1 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.

13.4.2 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).

### **13.5 Receiving Irregular Tenders**

13.5.1 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).

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

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

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

### **13.6 UK GDPR Requirements**

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

13.6.2 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.

13.6.3 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.

13.6.4 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.

- 13.6.5 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.
- 13.6.6 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.
- 13.6.7 Any queries relating to this should be directed to the Council's Data Protection Officer.

**13.7 Freedom of Information**

- 13.7.1 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.
- 13.7.2 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.
- 13.7.3 Any queries relating to this should be directed to the Council's Data Protection Officer.

**13.8 Modern Slavery**

- 13.8.1 The Council is committed to ensuring that modern slavery does not exist within its supply chains.
- 13.8.2 All procurements with a [total value](#) of £75,000 or more are required to include the Standard Selection Question regarding Modern Slavery Act compliance.
- 13.8.3 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.
- 13.8.4 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 [13.10](#)).
- 13.8.5 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.

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



13.9.1 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.

13.9.2 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.

#### **13.10 Due Diligence**

13.10.1 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 should 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 must 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.

13.10.2 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

13.10.3 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.

### **13.11 Sealing a Contract**

13.11.1 A contract must be sealed where:

- 13.11.1.1 The [total value](#) is over £75,000;
- 13.11.1.2 The Council wishes to enforce the contract for more than six years after its expiry; or
- 13.11.1.3 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
- 13.11.1.4 There is any doubt about the authority of the person signing for the other contracting party; or
- 13.11.1.5 A Bond is established on behalf of the Supplier(s) or their guarantors; or
- 13.11.1.6 Required by the Parties to the agreement; or
- 13.11.1.7 Where the Monitoring Officer deems it appropriate.

13.11.2 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.

13.11.3 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.

### **13.12 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.

13.12.1 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.

13.12.2 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.

13.12.3 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.

- 13.12.4 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.

### **13.13 Procuring with External Grant Monies**

- 13.13.1 Procuring contracts using external grant monies can bring about additional risks to the Council due to additional regulatory or grant funder 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.
- 13.13.2 Officers shall ensure that they engage, in advance of undertaking a procurement activity, with Welland Procurement, providing full access to any relevant additional guidance.
- 13.13.3 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.

## **14 Exemptions to Contract Procedure Rules**

- 14.1 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.

- 14.2 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.

- 14.3 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.

- 14.4 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. The following are exemptions under these CPRs:

- 14.4.1 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.
- 14.4.2 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.
- 14.4.3 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.
- 14.4.4 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.

- 14.4.5 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 Legislation and best practice.
- 14.4.6 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.
- 14.4.7 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.
- 14.5 All contracts must be added to the Contract Register (on ProContract) to ensure compliance with Transparency Regulations.
- 14.6 An award notice is required on Find a Tender Service 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.
- 14.7 A distinction must be made by the lead officer between contracts exempt from these Rules and contracts as defined as Exempt Contracts under Schedule 2 of the Procurement Act 2023 and advice must be sought from Welland Procurement in regard to this.
- 14.8 The publication of a Transparency Notice is required for all direct awards awarded under section 41 and 43 of the Procurement Act 2023. Officers must consult with and formally advise Welland regarding the direct award details so that Welland can publish a Transparency Notice.

## **15 Contract Management**

### **15.1 Contract Management**

- 15.1.1 The Contracting Officer must ensure that they add the Contract (where the contracting value is greater than £5,000) to the Central Contracts Register. This either being via Welland Procurement, where Welland have been involved in the procurement exercise, or Admin Services where not. A flow diagram describing this is included at appendix 3.

- 15.1.2 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.
- 15.1.3 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.
- 15.1.4 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.
- 15.1.5 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.
- 15.1.6 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.

## 15.2 Variations

- 15.2.1 In any case where a modification/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 modification/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.

Officers need to consult the applicable procurement regime on making contract modifications which will depend on which regime the original contract was awarded pursuant to. For modifications under the Procurement Act 2023, highlight the new requirement to publish contract change notices (and copies of contracts for some procurements). Officers must seek advice from Welland Procurement.

- 15.2.2 A material change is one which:
- 15.2.2.1 Would have allowed the admission of other Bidders or the acceptance or another tender; or
  - 15.2.2.2 Extends the scope of the contract considerably to goods, services or works not initially covered by the Specification; or



- 15.2.2.3 Changes the economic balance in favour of the contractor in a manner not provided for in the procurement documents.
- 15.2.3 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).
- 15.2.4 All variations to contracts shall be in writing, following approval from the relevant Director or Business Manager.
- 15.2.5 All modifications/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.
- 15.2.6 Any novation of a contract is restricted by the Procurement Act 2023 which states that except as provided for in paragraph 9 of Schedule 8 (modification permitted on corporate restructuring), a contracting authority may not modify a public contract so as to change the supplier.

### **15.3 Extensions**

- 15.3.1 A contract should not be extended beyond its initial term unless the contract documents allow it (the potential extension option was advertised) and it complies with the Procurement Act 2023.
- 15.3.2 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.
- 15.3.3 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.

## 16 The Appointment of Consultants to Provide Services

- 16.1 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 Find a Tender Service 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
- 16.2 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.
- 16.3 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.
- 16.4 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.

- 16.5 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 – HR and Training before any appointment is made.

**17 Bonds and Parent Company Guarantees**

- 17.1 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.
- 17.2 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.
- 17.3 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.
- 17.4 The security shall be obtained by the contractor in a format, and from an institution or bank approved by the Section 151 Officer.

**18 Certificates/Interim Payments**

- 18.1 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.
- 18.2 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.
- 18.3 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.
- 18.4 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 Find a Tender Service 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 Find a Tender Service 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 Procurement Act 2023 . 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 established on behalf of multiple public bodies with multiple suppliers to establish terms governing contracts that may be awarded during the life of the framework 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.
Legislation	The Procurement Act 2023, the Procurement Regulations 2024 and all other applicable legislation governing public procurement as enacted from time to time.
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 Procurement Act 2023 and The Procurement Regulations 2024.



Public Procurement Threshold	The threshold above which a statutory 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	<p>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.</p> <p>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>.</p>
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	A modification to the scope, term and economic balance in favour of the supplier of a Contract. The limitations of

	s.74 of the Procurement Act 2023 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 Procurement Act 2023 and The Procurement Regulations 2024 . Means means any of the activities coming within a CPV code listed in <a href="#">Schedule 3 The Procurement Regulations 2024</a> .

**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
- Find a Tender Service Award Notice Template
- TUPE Templates
- Evaluator Schedule Templates

Public Procurement Thresholds

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

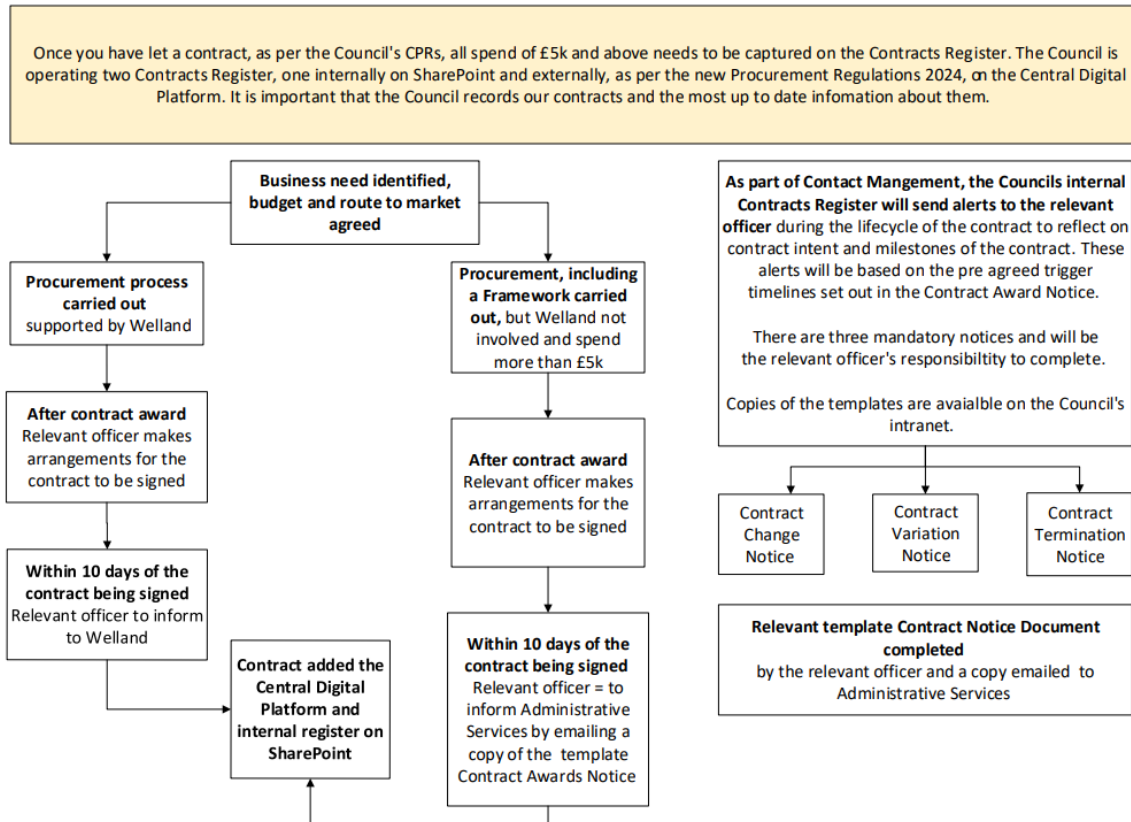
The Cabinet Office have revised the threshold figures, which came into force on 1<sup>st</sup> January 2022. These revised thresholds will not apply to any procurement which has commenced prior to the Regulations coming into force.

**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.**

Welland Procurement

Name	Job Title	Contact Information
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### Appendix 3: Contract Register Updates



### Appendix 4: Responsibilities

