

Part 5 - Finance and Contract Rules

Section B - Contract Standing Orders

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1. General Provisions

Regulatory and Legislative context

- 1.1 These Contract Standing Orders (CSOs) are made under Section 135 of the Local Government Act 1972 and any subsequent qualifying or amending legislation.
- 1.2 All Officers of the Council and agents, consultants and organisations (acting on behalf of the Council) who carry out procurement and contract management activities are subject to these Contract Standing Orders (CSOs).
- 1.3 These CSOs cover the procurement of all Contracts (including goods, works and services) and Concession Contracts under the Procurement Legislation as well as the procurement of healthcare services (Appendix 1).
- 1.4 These CSOs must be complied with strictly. They are minimum requirements. When designing the procurement and contract management within the parameters of these CSOs, the procurement process and the specification should be transparent and proportionate to the need(s) which the Contract fulfils, and should appropriately take into account the Objectives of the Procurement Legislation.
- 1.5 Every contract made by or on behalf of the Council must comply with the Council's Constitution and these CSOs, and with relevant legislation and statutory guidance including, in particular:
 - 1.5.1 **The Procurement Act 2023** including any Statutory Instruments issued under the Procurement Act 2023 (for contracts, where the procurement commenced on or after 24th February 2025);
 - 1.5.2 **The Public Contracts Regulations 2015** as amended (for contracts where the procurement commenced prior to 24th February 2025);

1.5.3 **Procurement Policy Notes** issued by the Cabinet Office; and

1.5.4 **The Health Care Services (Provider Selection Regime) Regulations 2023.**

- 1.6 All procurement and contract management activity must be carried out in compliance with the Council's Constitution including the General Scheme of Delegation to Officers, Best Practice Guides and other relevant guidance, as published by the Group Director of Finance, or designated deputy.
- 1.7 The Group Director of Finance or designated deputy may from time to time issue Procurement Instructions on matters concerning procedural advice, codes of practice and best practice guidance, which will explain (but not override) any provision in these CSOs, unless authorisation in writing has been given by the Chief Executive or the Elected Mayor and Cabinet. Failure to follow Procurement Instructions issued in accordance with this Standing Order will be considered a breach and subject to Standing Order 1.9.
- 1.8 Group Directors are responsible for ensuring compliance with these CSOs, using training, instruction and internal control processes and with the Procurement Manual published on the Council's Procurement intranet, within their Directorate and according to the timescales specified in the instructions. Where no timescale is specified, the instruction is to be implemented with immediate effect.
- 1.9 It is the responsibility of all Officers to report any breach of CSOs of which they become aware, to their Director and the Director of Legal, Democratic and Electoral Services. The Director is required to report any breach to the Director of Legal, Democratic and Electoral Services and to the Group Director of Finance or designated deputy. A breach of these CSOs may result in the application of the Council's disciplinary procedures.

Conduct of Members and Officers

- 1.10 All Members and Officers must carry out their duties having regard to the relevant and current Codes of Conduct at the Council and all appropriate legislation, such as the Bribery Act 2010.
- 1.11 All Members and Officers involved in the award of contracts must seek value for money and maximise public benefit. In pursuit of these aims they shall endeavour to treat Suppliers equally and without discrimination, and shall act in a transparent and proportionate manner. Without detracting from those principles, Members and Officers shall take every opportunity to consider how improvements to the economic, social and environmental wellbeing of the Borough (social value) can be generated and enhanced in contracts and procurement processes, including encouraging the participation of local Suppliers within the Hackney Supply Market for Council contracts.

- 1.12 It is an integral part of the Council's Sustainable Procurement & Insourcing Strategy to support local Suppliers wherever possible, and as such contracts and the procurement process should be designed to encourage and facilitate local Suppliers to tender for opportunities.

Conflicts of Interest

- 1.13 For all contracting activities where there may be or appear to be a Conflict of Interest, the following provisions shall apply:
- 1.13.1 all Members, Officers and Agents who have, or may appear to have, a Conflict of Interest in the procurement, award and or management of a contract, shall declare to the Group Director of Finance, or designated deputy, with an advance written declaration of any such interests. Any interest which may affect the award of a Contract under these CSOs must be declared. Such interests may include the ownership of shares in a potential Supplier, previous employment by a potential Supplier or the employment of a family member by a potential Supplier;
 - 1.13.2 any Member, Officer, Agent or other person acting on the Council's behalf in procuring a Contract must declare any potential Conflict of Interest as soon as they become aware of a potential Conflict of Interest to the Group Director of Finance, or designated deputy. Furthermore, they must update the conflict of interest declaration in the event of any changes throughout the procurement and contract management process;
 - 1.13.3 the Group Director of Finance, or designated deputy must record such declarations and in each case decide whether safeguards or mitigating factors need to be put in place or the Member, Officer, Agent or other person should be removed from the procurement or contract management process.
- 1.14 No Member, Officer, Agent or other person acting on behalf of the Council shall improperly use their position to obtain any personal or private benefit from any contract entered into by the Council. This includes the acceptance of gifts or hospitality of any nature and/or value as part of the award, entry into, and management of a contract. This must also be declared in the Gifts and Hospitality Register. Guidance relating to Conflicts of Interest is available within the relevant Members and Officers Code of Conduct policies, which can be found on the Council intranet.

Effective Period and Reviews

- 1.15 These CSOs shall be effective from the date of adoption by Full Council and shall be reviewed periodically as required but, in their entirety, once every three years by the Group Director of Finance and the Director of Legal, Democratic and Electoral Services.

Partnering Agreements and Partnering Arrangements

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- 1.16 No arrangement which is stated as being “Partnering” or “Partnership” should have the legal status as implied under the Partnership Act 1890. The Council’s default position is that there is no intention to create a new partnership entity from any arrangement or to incur joint liability for its debts and obligations, unless expressly authorised by the Cabinet.

Tender and Contract Documents

- 1.17 Where procurements are above the UK Procurement Thresholds, all Associated Tender Documents, including the draft contract, must be available at the time the Tender Notice is advertised on the Find a Tender Service (FTS). All Associated Tender Documents including conditions of contract (or where appropriate, Standard Forms of Contract) specification and other relevant information must include relevant clauses to protect the Council’s interests. These clauses are contained in the Council’s Standard Terms and Conditions, and are further explained in the Procurement Manual.
- 1.18 In respect of all other clauses, Contracting Officers are responsible for considering all aspects of the proposed contract and ensuring that appropriate clauses are incorporated to cover all relevant situations. Standard contract conditions are published on the procurement pages of the Council’s intranet and must be used where relevant. The advice of the Category Lead or the Director of Legal, Democratic and Electoral Services must be sought:
- 1.18.1 in the event of any query concerning the applicability of standard contract conditions; or
 - 1.18.2 regarding the guidance published under Standing Order 1.19 below; or
 - 1.18.3 if amendments to the Council’s standard conditions or drafting of tailored contract clauses is required.
- 1.19 The Director of Legal, Democratic and Electoral Services, after consultation with the Group Director of Finance, or designated deputy, may approve standard procurement documents for use by the Council and issue instructions on the precise form of contract to be used for the procurement and contract management.

Financial Parameters

- 1.20 Where monetary figures are specified in these CSOs:
- 1.20.1 the Group Director of Finance shall review them as appropriate in accordance with changes to the Scheme of Delegation and Financial Regulation;
 - 1.20.2 they shall be without prejudice to the financial thresholds of the relevant Procurement Legislation which shall take precedence.

- 1.21 Where monetary figures refer to contract values against which an estimate of contract expenditure is made, the contract requirements or period shall not be artificially split to distort competition or circumvent the Procurement Legislation. It will also not permit:
- 1.21.1 any other form of disaggregating for similar purposes; or
 - 1.21.2 a department or section of the Council to regard itself as a 'discrete operational unit' within the terms of Procurement Legislation, unless specifically approved by the Council.
- 1.22 These CSOs relate to the estimated value over the term of a Contract and, in estimating the Contract value, the Contracting Officer shall take account of historic cost and an assessment of future trends, or, where the requirement is new, the best estimate of value available at the time.
- 1.23 All monetary values referred to within the CSOs are total contract values, including all proposed extensions, not annual values, and include Value Added Tax unless otherwise stated.
- 1.24 The value of a contract should be estimated in good faith and with due care and attention. Where the estimated value is within 10% of either the thresholds within the CSOs or the UK Procurement Thresholds, advice must be sought from the Category Lead.
- 1.25 If it becomes evident during the procurement process that the likely value of the contract will either exceed the UK Procurement Thresholds or will exceed the original estimate by more than 10%, advice must be sought from the Category Lead.
- 1.26 The Council must consider and document whether the contract could reasonably be supplied under more than one contract, and if it could appropriately be awarded by reference to separate lots.

Budgetary Provision

- 1.27 No Quotation, Below Threshold Tender Notice, Tender or Transparency Notice shall be published unless there is sufficient budgetary provision for the minimum term of the contract period and the Budget holder is satisfied that there is likely to be sufficient ongoing funding to meet the contractual cost throughout the anticipated life of the contract. Any Business Case report must clearly identify a cost estimate and whether the funding is from Capital, Revenue or from another source.

Performance Bond or Parent Company Guarantees

- 1.28 The Council may require a Performance Bond or Parent Company Guarantee included in the contract having considered the Council's exposure to commercial and contractual risks. Where the value of a contract is not expected to exceed one million

pounds (£1,000,000), the Contracting Officer shall seek advice from the Category Lead on whether there is a need to obtain a Performance Bond and/or Parent Company Guarantee.

- 1.29 Where a contract is expected to exceed one million pounds (£1,000,000) or there is considered to be an increased risk of Supplier failure, then the Contracting Officer shall consult with the Group Director of Finance, or designated deputy, as to whether a Performance Bond or Parent Company Guarantee is required.

Electronic Auctions

- 1.30 Where contracts are procured using electronic auctions (e-auctions) that require the successful Supplier to be notified immediately at the termination of the electronic process and in receipt of a signed contract within a significantly reduced time period, the Contracting Authority and Hackney Procurement Gateway Process exemption must be obtained in advance.
- 1.31 Where an e-auction is permitted, activities for post-tender assessment shall be carried out prior to closing of the e-auction i.e. the assessment of “quality” must have been concluded on a pass-or-fail basis for every Supplier, prior to closing prices being submitted in an e-auction. All closing prices for remaining Suppliers will, therefore, be equally capable of acceptance, and the contract award will be on the basis of lowest price alone.
- 1.32 A retrospective Contract Award Report must be submitted to the next available Cabinet Procurement and Insourcing Committee or Hackney Procurement Board, depending on the applicable contracting process.

Grant Funded Expenditure

- 1.33 Where the Council is the Accountable Body for expenditure under a grant funded initiatives and the timescale for the Grant expenditure precludes adherence to the Hackney Procurement Gateway Process and these CSOs, the Chief Executive and the Group Director of Finance, or designated deputy, shall solely have the authority to approve necessary contract expenditure, provided that:
- 1.33.1 authorisation is granted in relation to specific contracts and for specified amounts;
 - 1.33.2 the best practicable observance of the Hackney Procurement Gateway Process has been adopted;
 - 1.33.3 the action is permissible in law;
 - 1.33.4 provisions and obligation under the Subsidy Control Act 2022 are observed (see Standing Order 1.34 below); and

- 1.33.5 the matter is reported to the next available meeting of the Hackney Procurement Board, Cabinet Procurement and Insourcing Committee or Cabinet as appropriate.
- 1.34 Any breach of the Subsidy Control Act 2022 provisions can result in the Council being required to make repayment, with interest, the amount that comprises the subsidy. Where it is considered that a payment, or the provision of non-monetary assistance, to a Supplier, may represent a subsidy, advice should be obtained from the Director of Legal, Democratic and Electoral Services before proceeding.
- 1.35 Where a project is to be funded as a Grant from the Council, the Council will not apply the procurement processes, except that, as part of the terms and conditions of the Grant Agreement, the Council is obliged to spend the money on the project, in accordance with appropriate Procurement Legislation..
- 1.36 Where the Council proposes to undertake a procurement process following receipt of a Grant or as part of pooled funding arrangements, these CSOs apply unless it is not required under the express conditions of that Grant, in which case, such conditions shall take precedence.

Application of the Procurement Legislation

- 1.37 In valuing a contract it is necessary to apply the “aggregation” rules. The relevant value for UK Procurement Threshold purposes is the value of each individual contract. However, in certain circumstances it is necessary to aggregate the value of purchases made under similar contracts. The value to be used for threshold purposes is the greater of:
- 1.37.1 the individual contract value;
 - 1.37.2 the total value of similar contracts in the last 12 months; and
 - 1.37.3 the total value of the contract if it is renewed in accordance with the terms of the contract.
- 1.38 Where the estimated value falls within a range, the highest value must always be used for determining the threshold, and all “estimates” must be genuine. Contracts must not be subdivided or split to try and avoid the application of the rules. Note that dividing a procurement into Lots, or dividing a single project among two or more Suppliers does not avoid application of the Procurement Legislation.
- 1.39 In estimating the contact value, the aggregation rules under the Procurement Legislation should be applied. Where the estimated value is within 10% of the UK Procurement Thresholds, advice must be sought from the Category Lead. Deliberate disaggregation of any contract to avoid the application of the Procurement Legislation will be treated as a disciplinary offence.

- 1.40 Procurement of healthcare services within the scope of the Health Care Services (Provider Selection Regime) Regulations 2023 fall outside the scope of the Procurement Act 2023 , and specific guidance relating to these contracts is provided in Appendix 1 of these CSOs.
- 1.41 Within the Procurement Act 2023 there are contracts which are defined as light touch contracts and are exempted from certain parts of the Act. This includes services in areas such as social care, education, cultural and certain other services. Advice from the Category Lead should be sought with regards to the procurement of any such light touch contracts.

Consortia Procurement

- 1.42 Where the Council is acting as the lead Authority in a joint procurement, with one or more other Contracting Authorities, for the procurement of a contract these CSOs will be applicable.
- 1.43 Where the Council is participating in a joint procurement of a contract, but is not acting as the lead Authority, the Group Director of Finance, or designated deputy, and the Director of Legal, Democratic and Electoral Services, or designated deputy, shall satisfy themselves that the procurement and contract management process being followed provides the same level of compliance and assurance to the Council as under these CSOs and that a proper procurement and contract management process has been followed in compliance with the Procurement Legislation (where the value of the contract is above the relevant UK Procurement Threshold).
- 1.44 Where goods, services or works are purchased by another public body on behalf of the Council, or by the Council through a contract properly let by another such organisation in accordance with Standing Order 2, then this shall be deemed as having satisfied the requirement for competition.

Responsibilities

- 1.45 The Chief Executive, Group Directors, Directors and Service Heads and all Managers and Supervisors must ensure that staff within their directorate are aware of and have access to these CSOs and the issued Procurement Instructions at all times.
- 1.46 There must always be a Director responsible for a Contract throughout the Contract term as well as during its formation.
- 1.47 No Officer shall carry out the function of being a Contracting Officer and an Authorising Officer for the award of the same contract. Any suitable officer may be the Contracting Officer providing that the responsibility has been delegated to them within the duties of their job description or in writing by the Director.
- 1.48 Any Officer may discharge the function of a Contracting Officer and a Contract Manager for the same Contract. However the Director must explain the nature and extent of the dual responsibilities and duties this covers.

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Duties

- 1.49 The duties that fall under the responsibility of a Group Director, Director, Contracting Officer, Contract Manager and other Officers with defined responsibilities are set out under these CSOs and the Council's Constitution.

Procurement of Vehicles (Fleet)

- 1.50 No department of the Council other than the Group Director of Finance or designated deputy shall have responsibility for the procurement of Council Vehicles (through purchase, hire or lease).

Procurement of Energy

- 1.51 The procurement of all Council Energy Contracts of any value must be undertaken by the Group Director of Finance, or designated deputy, or other Group Director having responsibility for Carbon and Energy Management, or designated deputy. No other officers have authority to procure Energy contracts.

Notices

- 1.52 Transparency in public procurement and the obligations to share information more widely is embedded across the Procurement Legislation. Contracting Officers, Directors and Group Directors must take necessary steps to comply with the requirements to publish all of the required notices stipulated in the Procurement Legislation, Statutory Instruments and Procurement Policy Notes.

2. Procurement Procedures

- 2.1 These CSOs outline 5 main procurement routes to the market which the Council will follow (depending on the value and risk associated with procuring the contract):

2.1.1 De Minimis - Low Value Requirements

2.1.2 Request for Quotation (RfQ)

2.1.3 Tendering (including using Dynamic Markets and carrying out mini-competition within existing Framework Agreements);

2.1.3.1 Low Risk Contract

2.1.3.2 Medium Risk Contract

2.1.3.3 High Risk Contract

2.1.4 Single Tender Action

2.1.5 Provider Selection Regime (PSR) for Health Services - for in scope healthcare services only, see Appendix 1 to these CSOs.

De Minimis Procurement - Low Value Requirements

- 2.2 De Minimis Procurements or “Contracts on a price” are instances where there is no, or limited, requirement for competition. Contracts with an estimated value of up to £12,000 do not require competition, although a written quotation (which may be via email) must always be sought and all correspondence with Suppliers must be fully recorded and documented in departmental folders.

Contracts valued between £12,000 and £120,000 (inc VAT)

- 2.3 Contracts with a value in excess of £12,000 but less than £120,000 must follow the Request for Quotation process of the Hackney Procurement Gateway Process. Quotations should be obtained from Suppliers using the Request for Quotation (RfQ) process set out in the flowchart and **Table 1** below:

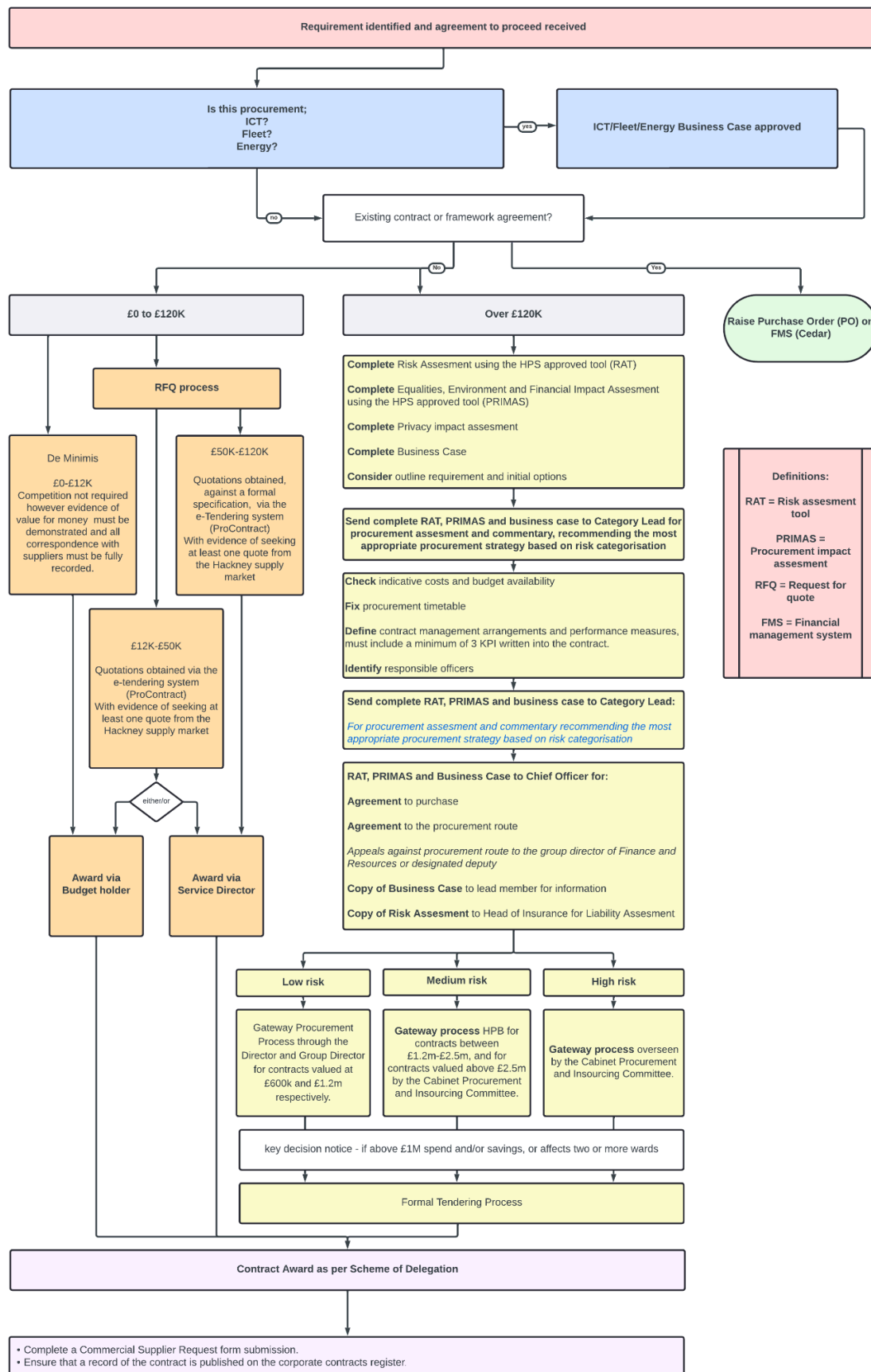


Table 1

Total Value	Minimum number of Quotes sought from Suppliers	Procurement Procedure (minimum requirement) & Advertisement Route	Award Process
£0- £12,000 (inc VAT)	1	<p>Open competition is not required, however evidence of value for money must be demonstrated and all correspondence with Suppliers must be fully recorded and documented.</p> <p>Where practicable, Suppliers from within the Hackney supply market are encouraged and should be invited to submit quotes.</p> <p>Officers need to ensure that value for money is achieved for the Council and an audit trail is maintained to demonstrate this.</p>	Budget holder
£12,001- £50,000 (inc VAT)	2	<p>Quotations obtained via the e-tendering system (Pro-Contract)</p> <p>With evidence of seeking at least one quote from the Hackney supply market (where relevant Suppliers exist in the local market).</p>	Budget holder/Service Director
£50,001 -£120,000 (inc VAT)	3	<p>Quotations should be requested via the e-Tendering system (Pro-Contract)</p> <p>With evidence of seeking at least one quote from the Hackney supply market (where relevant Suppliers exist in the local market).</p>	Service Director

2.4 For contracts between £12,000 and £120,000 in value, the relevant Head of Service/Director or their nominated deputies must keep a record of the following within the Council's e-tendering system:

- 2.4.1 requests to quote and quotations;
- 2.4.2 any waivers to the procurement process and the reasons for them;
- 2.4.3 the justification if the lowest price was not accepted;
- 2.4.4 written communications (including electronic communications) with the successful and unsuccessful contractors;

2.5 Directors are responsible for ensuring that quotations are received, opened and stored in relevant sections of the e-tendering system, for their service area so that they are available for future reference, and Group Directors must be satisfied that their Directors have made satisfactory arrangements to discharge this responsibility.

Contracts with a value greater than £120,000 (inc VAT)

2.6 All proposed procurements with a value in excess of £120,000 must follow the “over £120K” process on the flowchart above - in accordance with Standing Order 2.1.3, except where a Single Tender Action is justified, as set out in Standing Order 2.20 below.

2.7 The Contracting Officer must complete the Procurement Impact Assessment (PRIMAS), the Risk Assessment Tool (RAT), a written Business Case and list a minimum of three key performance indicators to be used in the contract.

2.8 The completed PRIMAS, RAT and Business Case must be forwarded by the Contracting Officer to the Category Lead who will advise on the proposals and confirm the risk rating of the RAT. The Category Lead will also provide comments on the Business Case which will be approved at relevant levels of the organisation, depending on the risk rating.

2.9 The RAT will categorise each procurement activity as:

Low Risk Contract

2.9.1 procurement to follow the Hackney Procurement Gateway Process through the Director and Group Director for contracts valued at up to £600k or up to £1.2m, respectively;

2.9.2 if the value of the Contract is above the delegated authority of the Group Director within the Scheme of Delegation, then the report is approved by (i) the Chair of Hackney Procurement Board, if the value of the contract is less than £2.5m, or (ii) by Cabinet Procurement and Insourcing Committee, if the value of the contract is more than £2.5m;

2.9.3 for the award of a contract, the Contracting Officer must complete the required report template. This report is approved by the Group Director or a Director,

and cannot be further delegated in line with the Financial Scheme of Delegation approval levels.

Medium Risk Contract

2.9.4 Procurement to follow the Hackney Procurement Gateway Process and overseen by (i) the Hackney Procurement Board for contracts valued between £1.2m - £2.5m, and (ii) for contracts valued above £2.5m by the Cabinet Procurement and Insourcing Committee.

High Risk Contract

2.9.5 Procurement to follow the Hackney Procurement Gateway Process and overseen by the Cabinet Procurement and Insourcing Committee.

See **Table 2** below for a summary of the approval required at each review point depending on risk and value.

- 2.10 A procurement activity shall be placed on to the Procurement Pipeline once the proposal has been agreed by the Director and the risk-based procurement route endorsed by the Category Lead. The Procurement Hub must publish a Pipeline Notice on the FTS by 26th May on an annual basis.
- 2.11 The procurement of ICT related goods and services (including procurements which have implications for the Council's information assets) must be agreed and approved by the Director of ICT, or nominated deputy, before acceptance on to the Procurement Pipeline. Early consultation with ICT is advised to avoid any delay to the delivery of projects.
- 2.12 Business Cases that relate to the procurement of vehicles must be approved by the Corporate Fleet Manager before acceptance on to the Procurement Pipeline.
- 2.13 Cabinet Procurement and Insourcing Committee and Corporate Leadership Team will review the progress of all contracting activities on the Procurement Pipeline from time to time.
- 2.14 A Group Director, having considered the Procurement Pipeline may require that authority generally delegated to a Director in their department is instead reserved to them personally in respect of a particular procurement, specified class or group of procurements. This discretion will normally be exercised when an item is placed on the Procurement Pipeline and will be given in writing to the relevant Director.
- 2.15 Under no circumstances is a procurement to be de-classified from High Risk to Medium Risk or Low Risk or removed from the Hackney Procurement Gateway Process review without the express consent of the relevant approving body.
- 2.16 For High Risk procurement, the approval to progress to market or award a contract following the Hackney Procurement Gateway Process reviews at Business Case and Contract Award will be with the Cabinet Procurement and Insourcing Committee.

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The Chair of the Cabinet Procurement and Insourcing Committee has discretion to refer any Gateway Business Case or Contract Award review for decision by the Cabinet if they deem it appropriate. This discretion will normally be exercised when the item is placed on the Procurement Pipeline.

- 2.17 For Medium Risk procurements, the approval of a Gateway Business Case will rest with the Chair of Hackney Procurement Board. The approval to award a contract following Gateway Contract Award will rest with the Chair of Hackney Procurement Board, up to a maximum contract value of £2.5m. Above £2.5m the Contract Award will be referred to the Cabinet Procurement and Insourcing Committee for award. The Chair of Hackney Procurement Board has discretion to refer any Gateway Business Case or Contract Award for decision by Cabinet Procurement and Insourcing Committee, if they deem it appropriate. This discretion will normally be exercised when the item is placed on the Procurement Pipeline.

Business Case Stage

- 2.18 Contracting Officers are required to complete a Business Case report. For Low Risk procurements this will be considered and approved by the Director. For Medium Risk and High Risk procurements the Business Case report will be considered at the next available Hackney Procurement Board and Cabinet Procurement and Insourcing Committee Meetings respectively based on the timescales agreed and documented in the Procurement Pipeline.

Contract Award Stage

- 2.19 Following an appropriate competitive tendering process, or in exceptional cases where direct award is used, with oversight by the relevant Category Lead, a Contract Award report must be produced by the Contracting Officer and submitted to the Director, Group Director, Hackney Procurement Board or Cabinet Procurement and Insourcing Committee (based on the criteria set out in Table 1 of Standing Order 2.8).
- 2.20 Table 2 below, outlines the approvals required at each review point of the Hackney Procurement Gateway Process which applies to all Low, Medium and High-Risk procurements.

Table 2

Risk Category	Contract Value	Business Case Approval	Business Case Report template	Contract Award Approval	Contract Award Report template
LOW	Up to £600k (inc VAT)	Director	Low risk report	Director	HPB low risk report
	£600k - £1.2M (inc VAT)	Director		Group Director	
	£1.2m - £2.5m (inc VAT)	Director		HPB	HPB low risk report
	£2.5m + (inc VAT)	Director		CPIC	CPIC report
MEDIUM	Up to £2.5m (inc VAT)	HPB	HPB report	HPB	HPB report
	£2.5m + (inc VAT)	HPB		CPIC	CPIC report
HIGH	Regardless of the value	CPIC	CPIC report	CPIC	

Single Tender Action (STA)

- 2.21 Single Tender Action (STA) is not consistent with the Procurement Legislation and may only be used in exceptional circumstances and with the express approval of the relevant officer as stated in Standing Orders 2.22 and 2.23. Under no circumstances should an extension be applied to a contract procured under an STA.
- 2.22 Procurement by virtue of an STA may only be permitted if any of the following applies:
- 2.22.1 by reason of regulation or legislation only one Supplier of the goods or service exists; or
 - 2.22.2 only proprietary goods or service is suitable, or is justifiably acceptable to external customers, or the goods or service consists of repairs or works to an existing Proprietary goods or service, where, by reason of intellectual property rights, there is only one Supplier; or
 - 2.22.3 the value of the Contract is below the UK Procurement Thresholds and the Contracting Officer can demonstrate to the Group Director of Finance,

or designated deputy, why a single tender action affords the Council value for money; or

- 2.22.4 in exceptional cases of extreme and unavoidable urgency that a competitive tendering process cannot be undertaken and/or where it is necessary to protect life (human, animal or plant). This does not include poor planning or failure to prepare, resulting in the procurement process being delayed or not meeting timescales.

And, in all cases, if there is no suitable existing contract or framework. (See Section 5 below).

- 2.23 In all of the above cases, where the value of the proposed procurement is below £120,000 the Contracting Officer must submit a written case to the Director, including comments from the Category Lead and, subject to acceptance of the case, retain a copy of the written agreement with the contract documents. The Director must always have regard to Standing Orders 1.10 to 1.12 and 2.21 when considering the request and shall retain a written record of their consideration.
- 2.24 In all of the above cases, where the value of the proposed procurement is £120,000 or more, the Director and the Contracting Officer must submit a written case to the Group Director of Finance, or designated deputy for approval, and, subject to acceptance of the case, retain a copy of the written agreement with the contract documents. The Group Director of Finance must always have regard to Standing Orders 1.10 to 1.12 and 2.21 when considering each request and shall retain a written record of their consideration. These shall be regularly reported to Cabinet by the Group Director of Finance the Overall Financial Position Report.

3. Procedural Requirements

Advertising your requirements

- 3.1 For contracts above £12,000 and below £120,000, Directors or their nominated officers must take all reasonable steps to obtain value for money in selecting Suppliers from which quotations are sought. This must be done in accordance with Standing Orders 1.10 to 1.12, (although advertising is not mandatory for these contracts). If the Council identifies a requirement to advertise any contracts with a value above £30,000 then the requirement must be advertised with a Below Threshold Tender Notice on the FTS.
- 3.2 Where the estimated value of the contract exceeds £120,000, but is below the UK Procurement Thresholds, subject to Standing Order 5 on the use of Framework Agreements, Dynamic Markets (and Dynamic Purchasing Systems), the following methods must be used to identify potential Suppliers:
- 3.2.1 For Goods or Services contracts, if the value is between £120,000 and the UK Procurement Thresholds, subject to Standing Order 3.7 below, an invitation to tender shall be sent to suitable Suppliers as set out in the Table 3 below:

Table 3

Procurement Value	Number of Tenders
£120,000 - £149,999	Minimum of Three (3) Suppliers invited to tender
£150,000 - £200,000	Minimum of Four (4) Suppliers invited to tender

3.2.2 For works or concession contracts, if the value is between £120,000 and the relevant UK Procurement Thresholds, subject to Standing Order 3.7 below – an invitation to tender shall be sent to suitable Suppliers as set out in the Table 4 below:

Table 4

Procurement Value	Number of Tenders
£120,000 - £500,000	Minimum of Three (3) Suppliers invited to tender
£500,000 - £1m	Minimum of Four (4) Suppliers invited to tender
£1m - FTS Works Threshold	Minimum of Five (5) Suppliers invited to tender

- 3.3 With reference to Tables 3 and 4 under Standing Order 3.2, Contracting Officers must seek to invite at least one tender from the Hackney Supply Market, where a relevant local Supplier exists. It will be acceptable to proceed with the award of contract subject to Standing Order 3.8 below, even if only one tender is received.
- 3.4 With reference to Tables 3 and 4 under Standing Order 3.2, if the Council decides to advertise for any contracts with a value below the UK Procurement Thresholds, then this opportunity must be advertised using a Below Threshold Tender Notice on the FTS.
- 3.5 Where the value of the contract meets or exceeds the UK Procurement Thresholds, Officers must apply the competitive process in accordance with the Procurement Legislation in consultation with the Procurement Category Lead. Current UK Procurement Thresholds are published on the Procurement intranet page.
- 3.6 Relevant notices must be published at every stage of the procurement and commercial lifecycle for all contracts - see relevant sections of the Procurement Guide and the Procurement Intranet Page.
- 3.7 The Debarment List maintained by the Cabinet Office must be consulted at every stage of the procurement process to ensure that excluded Suppliers who are on the Debarment List are removed from the procurement process and Suppliers that are excludable are assessed accordingly and if necessary excluded from the procurement.

Assessment of Suppliers

- 3.8 Officers shall apply criteria in addition to price when evaluating potential Suppliers. All contracts awarded under the Procurement Legislation, shall be awarded using the Most Advantageous Tender approach.
- 3.9 Where the contract is risk assessed as either Medium or High Risk, the Supplier's legal and financial capacity or technical ability to perform the Contract shall be assessed in all instances prior to making an award of contract. Officers must consult the FTS. and include appropriate project specific questions in the Tender Notice or Associated Tender Documents. A Supplier should ordinarily be required to satisfy certain financial metrics (for example turnover) or ratios. These metrics or ratios must be published as part of the Conditions of Participation in the Associated Tender Documents. Officers should follow any additional guidance issued in the Procurement Manual regarding financial assessment of Suppliers.
- 3.10 Where a contract in any category is valued below the UK Procurement Thresholds for goods or services, a single stage process shall be used, without any shortlisting phase or scored shortlisting criteria. Suitability criteria on a pass/fail basis may be used at the award stage, provided these are proportionate.
- 3.11 Procurements above the UK Procurement Thresholds should use appropriate Conditions of Participation, on the basis of Central Government Guidance in accordance with the relevant Procurement Legislation, and as prescribed by the Category Lead.
- 3.12 Where a tender is received, which is suspected to be based on an abnormally low price in proportion to the tender requirements, the Council Officer leading the procurement, in consultation with the Category Lead, shall require the Supplier to explain the price or costs proposed in the tender. If after consulting the Supplier, the Officer is not satisfied with the statement of evidence or explanation provided, the Officer in liaison with the Category Lead, should reject the tender.
- 3.13 Officers must observe the duty to treat a Supplier as an excluded Supplier (i.e. must exclude them) where they have acted improperly in relation to a procurement and this gives them an unfair advantage in respect of the contract award which cannot be mitigated or removed by other means. Suppliers must be allowed a reasonable opportunity to make representations and provide evidence before a decision is made to exclude them. Decisions on exclusion of Suppliers must be made in consultation with the Category Lead.

Tendering Time Limits, Late Tenders and Quotations

- 3.14 The tendering time limits for the receipt of tenders shall be fixed in accordance with the Procurement Legislation.

- 3.15 Late Tenders must not be accepted unless the late receipt is caused by the Council or other matters reasonably outside of the control of the Supplier, and no unfair advantage is given to the Supplier which submits the late Tender. Any decision to accept a late Tender will be made by the Group Director of Finance or designated deputy. However, deadlines may be extended at any time prior to the published deadline of tenders provided this complies with the principle of equal and non-discrimination between Suppliers.

Tender Opening

- 3.16 All tenders shall be submitted electronically on the Council's e-tendering portal and will be kept secured until the closing date when they will be opened by an Officer in the Procurement Hub who is designated to undertake this task. In exceptional cases, where a tender process cannot be undertaken via the e-tendering platform, tenders submitted shall be returned to the Procurement Hub who shall be responsible for the safekeeping of the tenders until the published opening date. Such tenders shall be opened by two Officers, at least one of whom shall be from the Procurement Hub.
- 3.17 In respect of tenders received manually as described in 3.16, the Group Director of Finance, or designated deputy shall ensure that sufficient persons are nominated as Officers who will open tenders, to enable at least two persons to open and record all Tenders received in connection with each contract, who have had, or will have, no material involvement in the procurement.

Post Tender Appraisal to Award

- 3.18 Providing clarification of an invitation to tender to Suppliers or seeking clarification of a tender is permitted subject to this Standing Order 3.18. Officers may clarify mistakes or errors in the tender submitted, or apparent inconsistencies in the tender documentation. Clarifications must be carried out using the e-Tendering system. Where there are post-tender clarifications, all Suppliers involved should be notified via the e-Tendering system and all information documented by the Officers conducting the clarification within the e-Tendering system.
- 3.19 Discussion with Suppliers, after submission of a tender and before the award of a contract, with a view to obtaining modifications to scope, price or specification is not permitted and must always be subject to the Tender Notice, Tender and associated documents, and comply with the Procurement Legislation.
- 3.20 Where post-tender clarification results in a significant material change to the specification or scope of the procurement beyond what is allowed under the Procurement Legislation and the tendering instructions for the procurement, then the contract must not be awarded but re-tendered. The Council will publish a relevant notice on the FTS.

Contract Award

- 3.21 Contracts will only be awarded in accordance with these CSO and the Schemes of Delegation.
- 3.22 In respect of all Contracts subject to the full Procurement Legislation, Officers must first issue an Assessment Summary to all Suppliers who submitted an assessed tender and the Most Advantageous Tender. They must also observe a mandatory standstill period of eight (8) working days, following the publication of a Contract Award Notice on the FTS.
- 3.23 All contracts awarded by the Cabinet Procurement and Insourcing Committee may be subject to the Council's Call-in procedure, and where called-in, may not be awarded until authorisation has been given by the appropriate Committee.

4. Contract Management

- 4.1 Contract management is an integral part of the commercial lifecycle and all departments of the Council that enter into contracts with Suppliers must put in place appropriate contract management structures and processes for managing the contracts they are responsible for.
- 4.2 Directors are responsible for all the contracts in their service areas and must ensure that they have oversight of how the contracts are managed, ensuring that they comply with the requirements of these CSOs and Procurement Legislation.
- 4.3 The Procurement Hub will provide support to the directorates in the management of all Council contracts. Such support will include: putting in place the framework for how Council contracts are managed, and being responsible for the administration of the corporate Contract Management System.
- 4.4 Use of the Council's Contract Management System is mandatory for all Council departments. Individual departments are responsible for ensuring that relevant performance monitoring data and information are regularly added to the system.

Signing and Sealing of Contracts

- 4.5 All contracts, whatever the value, will be in writing, and not orally entered into.
- 4.6 Contracts shall be awarded using the Council's Standard Conditions as approved by the Group Director of Finance, designated deputy, or the Director of Legal, Democratic and Electoral Services.
- 4.7 Subject to Standing Order 4.8 below, contracts valued at less than £500,000 may be entered into "under hand" by Council Officers in accordance with the financial thresholds set out in the Schemes of Delegation.
- 4.8 For Low and Medium Risk contracts valued at £500,000 or more, and all High Risk contracts, including where there is no price or other tangible consideration or as may be recognised in Law, the Director of Legal, Democratic and Electoral Services or nominated deputy will affix the Council's seal (either physically or electronically) in

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order to execute such contracts as deeds, unless authority is given by the said Officer that a contract can be entered into “under hand” by the Chief Officer without affixing the seal.

- 4.9 Legal Services must be notified in good time as no commencement of any contracts shall be allowed prior to the relevant contracts being executed. In cases of unavoidable urgency, the Director of Legal, Democratic and Electoral Services may issue guidance generally or for specific procurements on committing to contractual arrangements through an initial exchange of correspondence, as provided in the CSOs (above) to written contracts being formalised and entered into as quickly as possible.

Retention of Contracts Documents and Information

- 4.10 All Contract documentation shall be retained and maintained, in the corporate Contract Management System, by the relevant Director or by individuals nominated as the Contract Manager for the respective contracts. The documentation shall include: details of the decision-making process for all contracts, including documented evidence of the justification for the award of contract, the evaluation criteria used, the results of applying these criteria, and the Contract Documents. Group Directors must satisfy themselves that suitable arrangements are in place in their Directorates.
- 4.11 Contract Documents shall be retained for a period of 12 years if the Contract was awarded under seal and for six years if it was executed “under hand”.
- 4.12 The Corporate Contracts Register (see Standing Orders 4.15 to 4.17 below) shall be kept up to date in accordance with the requirements of these CSOs.
- 4.13 The Contracting Officer shall make an electronic copy of every signed or sealed contract in Portable Document Format (PDF) and shall upload this to the corporate Contract Management System within 10 working days of signing or sealing.
- 4.14 The Legal and Governance Services Division shall make an electronic copy of all sealed contracts in PDF. It shall be retained on the Legal Services document management system.

Corporate Contracts Register

- 4.15 In accordance with the Local Government Transparency Code 2015, once a contract over £5,000 in value has been awarded, the Procurement Hub (eprocurement@Hackney.gov.uk) must be notified of the relevant information (in the format prescribed) by the Contracting Officer so that the Corporate Contract Register can be updated with the details of the contract.
- 4.16 The Contracting Officer will be required to maintain the following records on the Council's e-Tendering and Contract Managements systems:
- 4.16.1 details of any Supplier selection process and the results;
 - 4.16.2 how Suppliers were selected for a tendering list;

- 4.16.3 the Business case for a single tender action;
- 4.16.4 copies of tenders;
- 4.16.5 notes of the evaluation process, award procedure and any post-tender negotiations; and
- 4.16.6 copies of final orders or Contracts.

- 4.17 Where applicable, the Contract Manager will maintain records to show:
- 4.17.1 maintenance of bonds and appropriate insurances;
 - 4.17.2 any modifications;
 - 4.17.3 disputes and their outcomes;
 - 4.17.4 stage payments;
 - 4.17.5 acceptance of deliveries;
 - 4.17.6 copies of guarantee, warranties etc, and other appropriate records; and
 - 4.17.7 Supplier performance.

Modifications Including Contract Extensions, Assignment and Novations

- 4.18 Directors are responsible for ensuring that sound financial controls and contract management processes are applied to all contracts to ensure that the number of modifications to contracts are minimised. Agreement and management of any necessary modifications must be with due regard to Standing Orders 1.10 to 1.12
- 4.19 For the avoidance of doubt, the total value of a contract for the purpose of any modification is always the cost of the original contract plus the cumulative cost of all previous modifications, provided the modification does not exceed the relevant UK Procurement Thresholds.

Contracts awarded under the New Procurement Legislation

- 4.20 For all contracts procured on or after the 24th February 2025, the following provisions relating to contract modifications, will apply.
- 4.21 For the purposes of paragraphs 4.25 to 4.26, all modifications must be considered in consultation with the Procurement Category Lead.
- 4.22 As approved at Contract Award stage, modification provisions allowed for in the Tender Notice and associated tender documents must be included in the contract documents and should then be exercised, where required, in line with the provisions detailed under this section of the CSOs. Where modifications are not provided for in the Tender Notice and associated tender documents, the matter should be referred to the Group Director of Finance or designated deputy.
- 4.23 Where the proposed modification is not provided for within the contract, the Director or Group Director shall obtain written authorisation from the Director of Legal, Democratic and Electoral Services to proceed with the modification in accordance with Section 74 and Schedule 8 of the Procurement Legislation.
- 4.24 If the proposed modification (in 4.23) is authorised by the Director of Legal, Democratic and Electoral Services, the Director or Group Director may proceed. The

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Contract Officer or Contract Manager must complete a Record of Contract Modification Form to be included as an addendum to the contract on the Contract Management system. Where a modification is not authorised, any recommendations on how to proceed must be followed, including the requirement to commence a new competitive tendering procedure.

- 4.25 Contract Managers or Contracting Officers may authorise the following modifications, provided they are satisfied that the modification provides value for money to the Council and there is an approved budget available, and within their authorisation level under the Constitution :

4.25.1 Modification which does not increase or decrease the term of the contract by more than 10% of the maximum term provided for on award; or materially changes the scope of the contract; or materially change the economic balance of the contract in favour of the Supplier; or

4.25.2 Modification which does not increase or decrease the estimated value of a goods or services contract by more than 10%, or a works contract by more than 15%; and does not materially change the scope of the contract (provided that the aggregated value of the changes made is less than the UK Procurement Threshold applicable to that type of contract); or

4.25.3 The modification is unambiguously provided for in the contract as awarded, the Tender or Transparency Notices for the award of that contract; and the modification does not alter the overall nature of the contract; or

4.25.4 Modification which could, alternatively, be achieved by directly awarding a contract under the Procurement Legislation (Direct award in special cases), and such direct award could be made by reference to either extreme and unavoidable urgency (under Schedule 5, paragraph 13) or regulations made under section 42 (Direct award to protect life, etc); or

4.25.5 Modification which if the circumstances giving rise to the modification could not reasonably have been foreseen by the Council before the award of the contract; and it does not change the overall nature of the contract; and does not increase the estimated value of the contract by more than 50%; or

4.25.6 Modification where a 'known risk' (as defined in Schedule 8, paragraph 6) has materialised which was not caused by any act or omission of the Council or Supplier, and as a result the contract cannot be delivered to the Council's satisfaction; and it is in the public interest in the circumstances to amend the contract rather than award a new contract; and it does not increase the estimated value of the contract by more than 50%; and it was set out in the tender notice or

Transparency Notices for award of the contract that the contract may require amendment due to the identified risk; and it goes no further than necessary to address the known risk; or

4.25.7 Modification in the case of goods, service or works that are additional to (which would include a repetition of) goods, services or works already provided for in the contract; and using a different Supplier would result in the supply of goods, services or works that are different from, or incompatible with, those already provided for in the contract; and the Council considers that the difference or incompatibility would result in disproportionate technical differences in operation or maintenance or other significant inconvenience; and substantial duplication of costs for the authority; and the modification would not increase the estimated value of the contract by more than 50%; or

4.25.8 The novation or assignment of a public contract to another Supplier (which would include another contracting authority) if it is required following a corporate restructuring or similar circumstance. The new Supplier must not be an excluded Supplier.

- 4.26 Where modification is carried out under Schedule 8 of the PA23 ground and it is outside the financial limits of the Contract Manager as stated in paragraphs 4.25, the Director may authorise the modification or additional costs, if it is within the approved budget and their authorisation limit under the Scheme of Delegation.
- 4.27 Where neither paragraphs 4.25 nor 4.26 apply, the Group Director may authorise the modification or additional costs, if it is within their budget and authorisation limit under the Scheme of Delegation.
- 4.28 All modifications shall be priced and confirmed in writing at the earliest opportunity. All modifications shall be appended to the contract documents and recorded on the Council's Contract Management system.
- 4.29 The Council may agree to the novation or assignment of a contract under Schedule 8 permitted grounds. In this event, express authorisation must be obtained from the Director of Legal, Democratic and Electoral Services to novate or assign the contract.

Contracts awarded before the Introduction of the Procurement Legislation

- 4.30 For the purposes of paragraphs 4.31 to 4.37, all modifications must be considered in consultation with the Procurement Category Lead.
- 4.31 Where the proposed variation is not provided for within the contract, and the total cost of the contract exceeds the relevant Threshold, the Director or Group Director shall obtain written authorisation from the Director of Legal, Democratic and Electoral Services to proceed with the variation in accordance with Regulation 72 of the Public Contracts Regulations 2015.

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- 4.32 If the proposed variation is authorised by the Director of Legal, Democratic and Electoral Services, the Director or Group Director may proceed. The Contract Officer or Contract Manager must then complete a Record of Contract Variation Form or a report (as advised by legal services). This must then be included as an addendum to the contract on the e-Tendering system. Where a variation is not authorised any recommendations on how to proceed must be followed including the requirement to retender.
- 4.33 Contract Managers or Contracting Officers may authorise the following, provided they are satisfied that the variation is in the best interests of the Council and there is an approved budget available:
- (a) The contract has provision for a negotiated variation; or
 - (b) Minor operational changes to the Specification or delivery of the Contract that have minimal, or no effect, on the overall costs of the Contract, subject to them not exceeding 20% of the original total contract value or £25,000 whichever is the lower value.
- 4.34 Where the contract does not permit the proposed variation, or it is outside the financial limits stated in paragraphs 4.33 above, the Director may authorise the variation or additional costs, if the total cost of the variation is within the approved budget and their authorisation limit under the Scheme of Delegation. Where neither paragraphs 4.31 nor 4.32 apply, the Group Director may authorise the variation or additional costs, if the total cost of the variation is within their budget and authorisation limit under the Scheme of Delegation.
- 4.35 For the purposes of paragraphs 4.32 to 4.33, all variations must be considered in consultation with the Group Director, Finance and Corporate Resources or their designated deputy.
- 4.36 If none of paragraphs 4.31 to 4.34 applies, the Group Director may authorise a variation, subject to consultation with the Group Director, Finance and Corporate Resources, submitting a written report setting out the justification for the variation. If the total cost of the contract, inclusive of the proposed variation is under £2.5m, approval must be sought from the Hackney Procurement Board. If the total cost of the contract is above £2.5m approval must be sought from the Cabinet Procurement and Insourcing Committee.
- 4.37 In circumstances permitted in Regulation 72 of the Public Contract Regulations 2015 or Regulation 43 of the Concession Contracts Regulations 2016, or where the value of a contract is below the relevant Threshold in accordance with the Public Contracts Regulations 2015, the Council may agree to the novation or assignment of a contract. Where the value of the contract is above the relevant threshold, the Director or Group Director shall obtain written authorisation from the Director of Legal, Democratic and Electoral Services to novate or assign the contract.

5. Frameworks and Dynamic Markets

- 5.1 Frameworks and Open Frameworks shall be set up in accordance with the contract procedures appropriate to the risk assessment, as set out in these Standing Orders. Directors must ensure that, where it is intended that a Framework shall be established within their service, the Group Director of Finance, or designated deputy, is notified at the earliest opportunity and it is recorded on the Procurement Pipeline accordingly as a Framework.
- 5.2 Officers must ensure that a competitive selection process undertaken under a Framework is placed using procedures set out in the relevant Frameworks user guide, particularly where the Framework was originally established by another Contracting Authority.
- 5.3 The maximum duration of a Framework, including any provision for extension shall be four years, except where the nature of the goods, service or work means a longer term is required, in which case the reason for the longer duration must be stated in the Tender Notice. The maximum duration of an Open Framework, including any provision for extension, shall be eight (8) years, provided that it is re-opened for new entrants to join at least once during the first three (3) years of its establishment, and at least once more within each five (5) year period after the first re-opening. However in the circumstances where only one Supplier is appointed to the framework, the maximum duration of the framework shall be four (4) years, even in the case of an Open Framework.
- 5.4 Where a Framework or Open Framework has been established by the Council for the supply of goods, services or works, Officers shall only procure those goods, services or works through this route, regardless of value, unless the written consent of the Group Director of Finance, or their designated deputy is obtained. Such procurements shall be carried out in accordance with these CSOs having regard to the Directorate's Procurement Plan and to the need to achieve value for money.
- 5.5 A register of approved Framework and Open Frameworks shall be maintained by the Group Director of Finance, or their designated deputy. The register will be updated regularly and kept on the procurement intranet page.
- 5.6 Officers may also use a Framework or an Open Framework set up by other Central or Local Government organisations and/or Centralised Procurement Authority ("External Framework") as instructed or agreed by the Group Director of Finance, or designated deputy.
- 5.7 Where it is planned that an External Framework will be used for recurring procurements, the first use of such Frameworks is regarded as a procurement by these Standing Orders and the Hackney Procurement Gateway Process applies in full, except as set out in Standing Order 5.8 below. Confirmation of access to the Framework should be sought from the Framework Provider.
- 5.8 Where it is proposed to use an External Framework for a project and prices and terms are certain at the point the Business Case is formulated, and there is only one Supplier (or exceptionally where it is permissible under the framework to use a single Supplier) within a relevant category, or where selection from Suppliers within a

relevant category is solely based on the lowest price (i.e. approved quality for all Suppliers within a category is equal and prices have already been obtained), a single stage combined Business Case and Contract Award report may be presented where alternatively two separate reports would be required.

- 5.9 E-Marketplace/G-Cloud (Digital Marketplace) is a set of specialist ICT Frameworks that are awarded by Crown Commercial Services (CCS). These external Frameworks must be used in accordance with Standing Orders 2.10 and 5.2–5.7.

Dynamic Markets

- 5.10 Dynamic Markets may be set up and used by Council Officers in accordance with the provisions of the Procurement Legislation.
- 5.11 When considering establishing a Dynamic Market, advice should be sought from the Procurement Category Lead and Legal services.
- 5.12 Where it has been determined that a Dynamic Market is to be established, the establishment will not need to follow the Hackney Procurement Gateway Process. Once the Dynamic Market has been set up, any procurement calling off from the Dynamic Market must follow the Hackney Procurement Gateway Process. The Business Case shall give consideration to the requirement being procured and the rationale for using the Dynamic Market as the route to the market.
- 5.13 The establishment of the Dynamic Market should be advertised as required by the Procurement Legislation, and the procedure for admitting Suppliers should also ensure that any excluded or excludable Suppliers can be identified and excluded as required by the legislation.
- 5.14 When first establishing a Dynamic Market, Officers need to set conditions for membership of the Dynamic Market, which should be a proportionate means of ensuring that any Supplier admitted to the Dynamic Market has the necessary legal and financial standing, and at least the required minimum technical ability and capacity to perform such contracts.
- 5.15 Once the Dynamic Market has been established, Officers must ensure it has procedures in place to continue to accept new applications from Suppliers, and to consider these in a reasonable period, on the same basis as when the Dynamic Market was originally established. The Council must also periodically monitor Suppliers admitted to the Dynamic Market to ensure that they have not become excluded Suppliers which would require them to be removed from participation.
- 5.16 A Tender Notice must be published by Officers, in accordance with the competitive tendering procedures stated in Section 3 of these Standing Orders, with the additional Condition of Participation that only Suppliers who have successfully applied to the relevant Dynamic Market may respond to the tender opportunity, unless there are exceptional circumstances.

- 5.17 The award of any subsequent contracts from the Dynamic Market that has been established must follow the Hackney Procurement Gateway Process.

6. Exemptions

- 6.1 Exemptions from these Standing Orders shall only be applied in exceptional circumstances relating to those areas specified in the Schedule 5 of the Procurement Act 2023 and in situations where the Council is required to discharge specific statutory obligations.
- 6.2 Exemptions from the provisions of the Standing Orders can be specifically applied in the following stated scenarios:
- 6.2.1 for the provision of personal social care services to adults or children through spot purchasing or brokerage arrangement, to allow the Council to discharge certain statutory obligations;
 - 6.2.2 for the provision of individual fostering placements for children through spot purchasing or brokerage arrangement, to allow the Council to discharge certain statutory obligations;
 - 6.2.3 for the provision of individual education placements for children and young people through spot purchasing or brokerage arrangement, to allow the Council to discharge certain statutory obligations;
 - 6.2.4 in all cases where exemptions to these CSOs are required, officers must seek advice from the relevant Procurement Category Lead.
- 6.3 In a situation of genuine emergency where the Group Director and/or Service Director has robust evidence that the proposed exemption must be exceptionally applied, the Chief Executive and/or the Monitoring Officer alone has delegated authority to award an emergency exemption. Genuine emergencies shall be considered as situations that are unforeseen or beyond the Council's reasonable control
- 6.4 An emergency may include situations where for example delivery of a significant service to the public is threatened in the short-term due to Supplier failure, or where the Council is required to do something immediately by the Courts or where there is significant risk to personal safety or the protection of property. Applications for emergency exemption will be considered on their individual merits.
- 6.5 Where an emergency exemption is granted, the Group Director shall ensure that the request for exemption, the justification for it and the decision is reported to the Group Director of Finance and Corporate Resources who will maintain a corporate exemption register.

7. Definitions

Definitions	Descriptions
Agent	A person or organisation authorised to represent the Council's interests and act on its behalf.
Assessment Summary	In relation to an assessed tender, information provided to the Supplier about the Council's assessment of their tender in accordance with the assessment methodology (i.e. assessment against the award criteria by reference to scores, including, where an award criterion includes sub-criteria, an explanation of how the tender was assessed by reference to each sub-criterion. In respect of unsuccessful tenders, the assessment of the most advantageous tender submitted in respect of the contract, which provides information to enable a relevant Supplier to understand why its tender was not successful.
Associated Tender Documents	A document setting out information as specified under Section 95 Procurement Act 2023 that supplements the information set out in the Tender Notice, with particular reference to the details of the goods, services or works required by the Council.
Award Criteria	Criteria set in accordance with Section 23 Procurement Act 2023 against which tenders are assessed for the purpose of awarding a public contract under Section 19 (award following competitive tendering procedure).
Below Threshold Tender Notice	A notice setting out that the Council intends to award a contract whose value is below the UK Procurement Thresholds.
Business Case	A formal report for approval by the Hackney Procurement Gateway Process, as the case may be, (conforming to a template approved by the Group Director of Finance or their delegate) setting out a preferred service delivery option based on an appraisal of available options, with a recommendation to either insource, outsource, or a mix of both, and seeking authority to insource or conduct a procurement for the purchase of goods, services or works. If the scope of a project changes the business case may require review and further approval by the relevant board or committee in line with these CSO's.

Category Lead	A senior procurement specialist with responsibility for one of the three main procurement categories of goods, services or works (Corporate Services, Social Care & Public Health and Construction & Environment).
Closed Framework	A framework established between the Council and one or more Suppliers that provides for the future award of contracts for goods, services or works by the Council (and other Contracting Authorities, where permitted) to the Supplier or Suppliers based on agreed terms and conditions. Established for a maximum term of four years except where the Council considers the nature of the goods, services or works to be supplied under contracts awarded in accordance with the framework, means that a longer term is required which it has set out reasons for in the tender or Transparency Notices for the framework.
Concession Contract	A contract for the supply of works or services to a contracting authority, where at least part of the consideration given to the Supplier must be the right to exploit the works or services under the contract; and the Supplier is exposed to a real operating risk.
Conflict of Interest	Where there is a conflict between the interests of a person acting in relation to a procurement and those of the procurement itself. Contracting authorities are required to identify and keep under review actual and potential conflicts of interest and must also mitigate conflicts of interest and address circumstances which the contracting authority considers are likely to cause a reasonable person to wrongly believe there to be an actual or potential conflict of interest.
Contract	A formal agreement between the Council and a Supplier for: the supply of goods, services (including consultants), works, a call-off from a Framework, an arrangement where no payment is made but there is financial value to the Supplier e.g. a concession.
Contract Management	The process that ensures that what has been promised and agreed with a Supplier at the contract award stage is delivered, with all required outcomes and benefits achieved within the agreed contract price.
Contract Manager	Officers authorised to carry out the day to day activities required to let and manage a Contract.
Contract Value	The whole-life cost of the contract for its duration, including the potential value of any extensions, and including the total

	cost of purchase, running costs, training, maintenance, consumables, recycling, decommissioning or disposal of assets and any other associated costs. For concession Contracts, or other Contracts with low, or nil cost to the Council the total pecuniary value must be considered.
Contracting Officer	An Officer or Agent of the Council authorised by the responsible Director, to undertake the design, competition and evaluation process leading to the award and management of a contract.
Debarment List	A published list maintained by Central Government of Suppliers who are excluded (where a mandatory exclusion ground applies) or excludable (where a discretionary exclusion ground applies). Suppliers will be added to the list if a Minister of the Crown makes such a decision following an investigation.
Director	An Officer reporting to a Group Director and defined as Tier 2 Officer within the Council's structure and General Scheme of Delegation.
Dynamic Market	A list of qualified Suppliers i.e. Suppliers who have met the conditions for membership of the dynamic market and who are eligible to participate in future competitive tendering procedures. New Suppliers can apply to join a Dynamic Market at any point during its operating period.
Exclusion	A Supplier is an excluded Supplier if a mandatory exclusion ground applies to the Supplier (or an associated person) and the circumstances relating to the exclusion ground are continuing or likely to reoccur; or where a Supplier (or an associated person) is on the Debarment List based on a mandatory exclusion ground. A Supplier is an excludable Supplier if a discretionary exclusion ground applies to the Supplier (or an associated person) and the circumstances relating to the exclusion ground are continuing or are likely to reoccur; or where a Supplier (or an associated person) is on the Debarment List based on a discretionary exclusion ground.
External Framework	A Framework established by another Contracting Authority or Centralised Procurement Authority, with one or more Suppliers that provides for the future award of contracts for goods, services or works by a Contracting Authority to the Supplier or Suppliers on the Framework based on agreed terms and conditions, and which may be utilised by the Council.

Financial Ratio	Is a pre-set method of determining a Supplier's financial standing, such as turnover, net asset value, and profitability.
Find a Tender Service (FTS)	An online service (integrated with the Central Digital Platform, operated by the UK Government) where Contracting Authorities are required to publish relevant Transparency Notices, documents and information throughout the procurement and contract management lifecycle.
Hackney Procurement Gateway Process	The process by which the procurement is defined through the FTS business case, and the award of the contract is agreed in line with the Council's scheme of delegation.
Group Director	An Officer reporting to the Chief Executive and defined as Tier 1 within the Council's structure and General Scheme of Delegation.
Key Decision	<p>A Key Decision is a decision which is defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 as an executive decision which is likely to:</p> <ul style="list-style-type: none"> (a) Result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or (b) Be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council;
Key Performance Indicators (KPI)	Metrics used to measure the performance and effectiveness of a contract in achieving aims which are linked to Mayoral, directorate and service objectives. KPI should be specific, measurable, achievable, realistic and timebound.
Modification	The term used, under the Procurement Act 2023, for permitted changes to the Tender Notice and its associated Tender documents; or to a contract.
Notices	Formal publication of Transparency Notices on the FTS which the Council is obliged to issue at various stages of the procurement and contract management lifecycle.
Novation	The transfer of rights and obligations from one party to another in an existing contract, with the consent of all parties involved. It allows for the substitution of a new party who assumes all contractual responsibilities and liabilities.

Open Framework	A scheme of frameworks that provides for the award of successive frameworks on substantially the same terms.
Parent Company Guarantee	A guarantee which binds the immediate parent of a subsidiary company or other holding company to deliver its contractual obligations to the Council, under the terms of the guarantee. In the event of a contractor default, the parent or holding company is obliged to remedy the breach.
Performance Bond	These are typically provided by banks or insurance companies. They provide a guarantee of payment up to a stated amount of money should a loss be suffered as a result of the Supplier's breach of a contractual obligation;
Procurement Instructions	Procedural advice, codes of practice or best practice guidance which explain (but do not override) any provision in these Contract Standing Orders.
Procurement Legislation	The relevant (where applicable) UK Legislation, as amended or replaced from time to time.
Procurement Objectives	Council must have regard to the importance of: (a) delivering value for money; (b) maximising public benefit; (c) sharing information; (d) acting, and being seen to act, with integrity; and also have regard to the barriers to SME participation and consider whether such barriers can be removed or reduced throughout the lifecycle of a procurement (i.e. award, entry into, and management of a regulated contract).
Procurement Pipeline	Advanced details of anticipated public contract opportunities with an estimated value of more than £2 million which the Council expects to commence (by publishing a Tender Notice or a Transparency Notice) during the 18 months, following the 1 st April each year.
Single Tender Action (STA)	Contracts awarded where there is to be no commercial competition. Only permitted in certain circumstances.
Social Value	The Public Services (Social Value) Act 2012 requires public sector agencies, when commissioning a public service, to consider how the service they are procuring could bring added economic, environmental and social benefits that go beyond the primary function of the contract at no additional cost to the Council.

Subsidy Control	Financial or other forms of assistance provided by the government to businesses or organisations. It includes the allocation of public resources such as grants, subsidies, tax breaks, or loans to support specific industries, regions, or economic activities;
Supplier	Any person, partnership, company, or other organisation, which provides or contractually offers to provide any Supply to the Council or on behalf of the Council. The term Supplier is synonymous with “Contractor” or “Provider”.
Tender Notice	A mandatory notice (and corresponding documents) published by the Council setting out the details of the requirement and the tendering process to be used.
Transparency Notice	A notice setting out that the Council intends to award a contract directly without running a competitive tendering procedure.
UK Procurement Threshold(s)	The financial thresholds for the public advertisement of goods, works and services contracts as provided for in the Procurement Legislation. The thresholds are inclusive of VAT and are revised at least every two years by the Government.
Urgency	An exceptional situation, not arising from the neglect, omission, or poor planning of the Council, in which the normal timescales or competition requirements for procurement cannot be adhered to.
Value for Money	The optimum combination of whole-life costs, quality and social value to meet the Council’s defined requirements.
Variation	The term used under the Public Contracts Regulations 2015 for permitted changes to a contract.

Appendix 1

Provider Selection Regime for Health Services

General Provisions

Purpose

1. This Appendix is intended as additional guidance for officers in the light of the Provider Selection Regime (“PSR”) for Health services which came into force on 1st January 2024 (as set out in the Health Care Services (Provider Selection Regime) Regulations 2023).
2. Unless otherwise stated in this document, the provisions within the main CSO will continue to apply in all circumstances.

Scope

3. The regulations make clear that there is no overlap between the PSR and the existing procurement regulations. All forms of healthcare services designed to secure improvement in the physical and/or mental health of an individual are in scope. Any other specific provision, such as a mass public health communication campaign, that is not delivered to an individual is out of scope.
4. Mixed services, such as those that include an element of consultancy support, transport or consumable materials, are in scope if the services to be procured could reasonably be combined into a single contract and the majority of the service to be procured is a health care service provided to an individual.
5. There is no financial threshold at which the PSR applies, all the requirements of the regulations must be adhered to regardless of the value of the contract.
6. Additional local guidance on the scope of the PSR is available and if Contract Managers are in any doubt about whether a procurement is within the scope of the PSR they should seek direction from the Procurement Category Lead for Health and Social Care.
7. Further information is also available via the NHS [Provider Selection Regime: statutory guidance](#) and [Provider Selection Regime Toolkit](#)

Regulatory and Legislative context

8. All relevant procurement activity must be completed in line with the PSR regulations as made under the Health and Care Act 2022. This is in addition to the regulatory and legislative context as set out in the CSO.

Selection Procedures Under the Provider Selection Regime

9. The PSR introduces three separate selection processes which govern how a health service contract can be awarded. The three processes are:
 - Competitive
 - Direct Award (A, B, and C)
 - Most Suitable Provider

Competitive

10. This is the same in principle to the approach previously used to procure health services before the implementation of the PSR (health services were previously within the scope of the 'Light Touch' regime of the Public Contracts Regulations 2015). Eligible organisations are asked to bid for contracts and evaluated against the published criteria. This approach can be used for any contract. The competitive approach must be used if a framework agreement is to be established.

Direct Award A

11. This process can be used to award a contract to the preferred supplier without competition where it is intended to extend an existing provision. It cannot be used to award a contract for a newly established service. It only applies where there is an existing provider and there is no realistic alternative to that provider due to the nature of the health care service. This is unlikely to apply to most health services commissioned by the Council. To use this approach commissioners would have to demonstrate that there is no alternative provider available (including confirmation that one has not been established since the contract was last awarded).

Direct Award B

12. This process is intended to facilitate patients' choice. It replaces the Any Qualified Provider (AQP) approach currently used within the NHS and can be used to award contracts for new and existing services without competition provided they meet all of the following criteria:
 - a. patients are offered a choice of providers
 - b. the number of providers is not restricted by the relevant authority (i.e. the Council)
 - c. the relevant authority has arrangements in place to enable providers to express an interest in providing the health care services in question
 - d. the relevant authority offers a contract to all eligible providers

Direct Award C

13. Direct Award Process C cannot be used to award a contract for a new service but it can be used to extend existing provision where all of the following apply:
- a. there is an existing provider and their contract is ending
 - b. the proposed contracting arrangements are not changing considerably
 - c. the existing provider is satisfying the original contract and is likely to satisfy the proposed contract to a sufficient standard (i.e. achieving and likely to continue to achieve relevant KPI)
 - d. the service is not within the scope of Direct Award Process A or B
14. A change is deemed considerable if the proposed changes make the service materially different in character to the existing contract. Material difference is not defined in the guidance and is left for commissioning authorities to interpret.
15. A change is automatically deemed considerable if ALL of the following apply:
- a. the change is attributable to a decision made by the relevant authority
 - b. the lifetime value of the proposed new contract is at least £500k greater than the existing contract
 - c. the lifetime value of the proposed new contract is at least 25% higher than the original lifetime value.
16. Use of this process should be discussed and confirmed with the Category Lead to confirm that its use would be appropriate.

Most Suitable Provider

17. This process can be used to award a contract for a new service to a chosen supplier where the preference is not to go through a competitive process and either the criteria for any of the Direct Award processes are not met or there is a preference not to use them.

Applying the PSR Selection Procedures in line with the CSO Procurement Routes

18. Contract Managers have the flexibility to determine which of the PSR selection processes detailed above is most appropriate in the context of the specific service to be procured. The decision will need to be justified in the relevant reports and all requirements of the PSR regulations and Appendix 1 to the CSO must be adhered to.
19. Contract managers are advised to discuss their commissioning intentions with the Category Lead at an early stage.

Competitive Process

20. Under this process the competitive procurement routes as set out in the CSO (de minimis, Request for Quote, Low Risk Contract, Medium Risk Contract or High Risk Contract) apply unamended.
21. The evaluation process must incorporate the Basic Selection Criteria and Key Criteria as set out in the PSR - see below.

Direct Award or Most Suitable Supplier contracts valued at below £120k

22. If awarding a contract with a total value below £120k under the Direct Award (A, B or C) or Most Suitable Supplier selection process the Single Tender Action procedure as outlined in the CSO should be used with the following amendments:
23. A Single Tender Action is permitted by virtue of the fact that the proposed service is within the scope of the PSR
24. As with any other Single Tender Action, the Contract Officer must submit a written case to the Director including comments from the Category Lead.
25. In addition to the standard requirements for any Single Tender Action, the written case justifying this approach must include the following information:
 - The relevant selection process of the PSR that is being followed (Direct Award, A, B or C or the Most Suitable Provider process) and confirmation that the proposed service is within the scope of the preferred selection process e.g. if using Direct Award Process C, that the proposed contract is an extension of an existing service and the proposed contract is not changing considerably
 - Detail the selection criteria and confirm that all relevant criteria have been achieved, including the Basic Selection Criteria and Key Criteria as required by the PSR

If using Direct Award Process C,

- Summary of the previous performance of the service and confirmation that the preferred supplier is likely to satisfy the proposed contract to a sufficient standard i.e. is currently achieving its KPI and is likely to continue to achieve relevant KPI.

And if using Most Suitable Supplier,

- Details of the pre-market engagement activities that have been completed to identify potential suppliers and consult on the design of the service.

26. Relevant market engagement activity and evaluation work must be completed before the final version of the STA request is submitted and appropriate details included on the form.
27. Once approval for the STA request has been confirmed, an intention to award a contract notice must be issued using the Find a Tender Service (FTS) and the mandatory standstill period observed (see below) before a confirmation of contract award notice can be issued.

Direct Award or Most Suitable Supplier Contacts valued at £100k or more

28. As with any other procurement of £100k or more, the Contract Officer must complete a Procurement Impact Assessment (PRIMAS) and a risk assessment, utilising the Risk Assessment Tool (RAT). The completed RAT and PRIMAS must be forwarded by the Contract Officer to the Category Lead who will advise on the proposals and will confirm the risk rating of the RAT.
29. The risk assessment will categorise each procurement activity as low, medium or high risk which will determine the exact approval process to be followed in line with the established Procurement Gateway Framework as set out in the CSO.
30. If following a Direct Award Process to extend existing arrangements it is permitted, at the discretion of the Procurement Category Lead, to proceed directly to the contract award stage without first submitting a Business Case report. (if a number of contracts are being included in a single report with a combination of award approaches then the contracts to be directly awarded would normally need to be included in the Business Case).
31. All reports must be submitted using the appropriate template and in line with the requirements of the PSR this must demonstrate how the preferred supplier has met the Basic Selection Criteria and Key Selection Criteria for this service.
32. An intention to award a contract notice must be issued using the Find a Tender Service (FTS) and the mandatory standstill period observed (see below) before a confirmation of contract award notice can be issued.

Most Suitable Supplier Contracts value at £100k or more

33. In addition to the requirements above, the following process shall be followed if using the Most Suitable Supplier process to award the contract.
34. There is an expectation that pre-market engagement is completed to identify all suitable providers and develop the specification for the proposed service.

35. Before any FTS notices are issued the Contract Manager should contact all the identified providers it is considering to inform them of their commissioning intentions.
36. A Business Case report must be submitted in line with the Procurement Gateway Framework. This should include the Key Criteria and weightings inline with the requirements of the PSR.
37. Following the agreement of the Business Case, an Intended Approach Notice must be issued via the FTS setting out the intention to follow the Most Suitable Provider process (relevant information to be included is set out in Schedule 5 of the PSR regulations). This must be published a minimum of 14 calendar days before assessing the provider against the Key Criteria and Basic Selection Criteria.
38. If following the issuing of the notice any other organisation contacts the Council wishing to be considered for the contract they should also be assessed against the Basic Selection Criteria and Key Selection Criteria.
39. A Contract Award report must be submitted in line with the Procurement Gateway Framework. An Intention to Award Notice must then be issued via the FTS and the mandatory standstill period observed before the contract is awarded.

Basic Selection Criteria and Key Criteria

40. When using Direct Award C, Most Suitable Provider or the Competitive Process, the Key Criteria and Basic Selection Criteria must be incorporated into the evaluation process.

Key Criteria

41. The following key criteria must be considered as part of the evaluation process:
 - a. Quality and innovation
 - b. Value (£)
 - c. Integration, collaboration, and service sustainability
 - d. Improving access, reducing health inequalities, and facilitating choice
 - e. Social Value
42. The relative weighting can be determined by the Contract Manager and they can be pass/fail criteria if preferred. Additional local criteria can also be included.
43. If following the competitive process then value may be scored in the same way as a standard pricing submission. If following the Most Suitable Supplier or Direct Award Process C, then value should be scored as if it was a quality

related question.

The Basic Selection Criteria

- The provider's ability to pursue a particular activity
- Economic and Financial Standing
- Technical and professional ability

44. The basic selection criteria mirrors the Supplier Questionnaire under the Public Contracts Regulations 2015 which all suppliers must pass in order to be considered eligible to bid for a contract. If a potential provider does not meet all the Basic Selection Criteria it cannot be considered for the award of the contract.

Mandatory Standstill Period

45. When following Direct Award C, Most Suitable Provider or the Competitive process a mandatory 8 working day standstill period must be observed beginning the next working day after the publication of the Intention to award a Contract Notice has been issued.

46. If one or more representations are received these must be considered and responded to in line with the requirements of Regulation 12 and 24 of the PSR. The standstill period should be extended until this process has been completed. The relevant Head of Service/Director is responsible for managing this in consultation with the Category Lead.

47. If the provider remains unsatisfied with the response to its representation and remains of the view that the PSR has not been applied correctly, the provider may submit a representation to the Independent Patient Choice and Procurement Panel convened by NHS England. The standstill period should be extended until the report of the independent panel has been received.

48. The general expectation is that the recommendations of the panel will be followed but the Council is not legally bound by them. Any decision not to accept the recommendations of the panel must be approved by the relevant Group Director subject to consultation with the Group Director of Finance and Resources and the Director of Legal, Democratic and Electoral Services.

Variations Including Contract Extensions, Assignment and Novations

49. Under Regulation 13 of the PSR, a modification of an existing contract is permitted if (a) they are provided for in the original contract, (b) it is solely a change in the identity of the provider due to succession into the position of the provider following corporate changes, (c) if they are in response to external factors beyond the control of the relevant authority and the provider, or (d) The proposed variation does not render the contract materially different in

character and the change in the lifetime value of the contract is under £500k or over £500k but less than 25% of the original contract value.

- 50. Proposed variations are not permitted by the regulations where they render the contract materially different in character or if the total cost of the changes are over £500k and represent more than 25% of the original contract value.
- 51. Where a contract variation is requested, the existing provisions of the Contract Standing Orders must be adhered to with the following exception. Written authorisation from the Director of Legal, Democratic and Electoral Services to proceed with the variation is only required where the total value of the contract exceeds the Light Touch threshold (£663,540 from 1st January 2024). When considering this request the Director of Legal, Democratic and Electoral Services will have due regard to Regulation 13 of the PSR.

Frameworks, Open Frameworks, Dynamic Purchasing Systems and Dynamic Markets

- 52. The competitive process must be followed when setting up a framework.
- 53. The existing provisions of the CSO in relation to framework agreements must be adhered to.
- 54. The creation of Open Frameworks, Dynamic Purchasing Systems (DPS) or Dynamic Markets are not permitted for health services that fall within the scope of the PSR.
- 55. The existing provisions of the CSO must be followed to join an existing framework or DPS/Dynamic Market administered by an organisation other than the Council.