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AUDIT COMMITTEE

Date: Tuesday, 4 February 2025

Time: 6.00pm,

Location: Council Chamber - Daneshill House, Danestrete

Contact: Lisa.Jerome

Committees@stevenage.gov.uk

Members: Councillors: C Veres (Chair), T Plater (Vice-Chair), L Briscoe, P Bibby CC, R Boyle, L Guy, M Humberstone, C Roopchand, A Wells and T Wren

Independent Member: Syed Uddin

AGENDA

PART 1

1. APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

2. MINUTES OF PREVIOUS MEETING

To approve as a correct record the minutes of the meeting held on 27 November 2024.

Pages 3 – 6

3. SHARED INTERNAL AUDIT SERVICE - PROGRESS REPORT

To consider a report on the SIAS Internal Audit Plan 2024/25.

Pages 7 – 18

4. ANNUAL TREASURY MANAGEMENT STRATEGY INCLUDING PRUDENTIAL INDICATORS 2024/25

To consider the Treasury Management Strategy 2025/26, including its Annual Investment Strategy, Prudential Indicators and Minimum Revenue Provision (MRP) policy.

Pages 19 – 56

5. CONTRACT PROCUREMENT RULES

To update Members on the revision to the Council's Contract Standing Orders,

now known as Contract Procedure Rules prior to recommendation to Council.

Pages 57 – 158

6. URGENT PART 1 BUSINESS

To consider any Part 1 business accepted by the Chair as urgent.

7. EXCLUSION OF PUBLIC AND PRESS

To consider the following motions –

1. That under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as described in paragraphs 1 – 7 of Part 1 of Schedule 12A of the Act as amended by Local Government (Access to Information) (Variation) Order 2006.

2. That Members consider the reasons for the following reports being in Part II and determine whether or not maintaining the exemption from disclosure of the information contained therein outweighs the public interest in disclosure.

8. INTERNAL AUDIT PLAN 2024/25 - PROGRESS REPORT

To consider the Internal Audit Plan 2024/25 progress report.

Pages 159 – 164

9. URGENT PART II BUSINESS

To consider any Part II business accepted by the Chair as urgent.

Agenda Published 27 January 2025

STEVENAGE BOROUGH COUNCIL

AUDIT COMMITTEE MINUTES

Date: Wednesday, 27 November 2024

Time: 6.00pm

Place: Council Chamber, Daneshil House, Danestrete

Present: Councillors: Carolina Veres (Chair), Tom Plater (Vice Chair), Lloyd Briscoe, Philip Bibby CC, Robert Boyle, Ceara Roopchand, Anne Wells and Tom Wren

Start / End Time: Start Time: 6.00pm
End Time: 6.17pm

1 APPOINTMENT OF PERSON TO PRESIDE

It was **RESOLVED** that Councillor Jeannette Thomas be appointed to preside over the meeting which was held jointly with the Statement of Accounts Committee.

2 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

At this juncture, the Chair outlined the procedure that would be followed for the joint meeting.

Apologies of absence were received from Councillors Mason Humberstone and Lynda Guy.

3 2021/22 STATEMENT OF ACCOUNTS AND EXTERNAL AUDIT REPORT AND 2022/23 STATEMENT OF ACCOUNTS AND EXTERNAL AUDIT REPORT

The Chair invited the Assistant Director (Finance) to present their report.

The Assistant Director (Finance) presented an update on the financial accounts for 2021/22 and 2022/23, highlighting that due to a backlog in audits across the country, no audits had been undertaken for those years for Stevenage. The Committee heard that the government had introduced backstop arrangements requiring a disclaimer for any accounts up to 2022/23 that had not been audited.

The Assistant Director (Finance) advised the Committee that there were minimal changes since the previous reports presented to Members, with adjustments to asset valuations—one correction of a valuation error amounting to £1.9 million, and a reclassification change for 2022/23. Both adjustments had no impact on the general fund or HRA balances.

The Assistant Director (Finance) noted that for the 2023/24 accounts, they would provide more up-to-date information when presented to Members by February 2025.

The Chair thanked the Assistant Director (Finance) and invited Ernst & Young to present to the Committee.

Ernst & Young presented the completion report for the audit of Stevenage Borough Council for the financial years 2021/22 and 2022/23. They noted that due to the ongoing audit backlog and the backstop arrangements in place, a disclaimer of opinion was anticipated for the 2022/23 audit, as the 2021/22 audit could not be completed within the set timeframe.

Ernst & Young outlined the work plan for the audits, which included confirming independence, setting materiality, issuing inquiry letters to management, and reviewing potential risks such as fraud, non-compliance with regulations, and unusual transactions. The audit process would also include reviewing the consistency of the accounts and performing value for money reporting, which had been previously presented to the committee.

Ernst & Young highlighted the differences in the audit opinion structure for those years, noting that the opinion would state that no opinion would be expressed on the financial statements due to the limitations imposed by the backstop dates and incomplete work.

At 18:10hrs the Statement of Accounts Committee **RESOLVED** to adjourn until the rise of the Audit Committee.

A Member asked for clarification on an error reference in the report related to asset valuation on page 5. Ernst & Young explained that this was not an error but rather a broken automatic cross-reference in the document.

The Committee discussed the expected disclaimer of opinion for both 2021/22 and 2022/23 accounts. Ernst & Young explained that this disclaimer would likely remain in place for the next few years. Full revaluation of assets would occur in the 2024/25 audit to provide auditors with assurance over valuations. Members sought clarification about the audit's extent, and Ernst & Young confirmed that while the value-for-money aspect had been completed, no work had been done on the actual accounts due to the government's backstop dates.

Members asked about the visibility of the disclaimer for the public. The Assistant Director (Finance) confirmed that once the accounts were signed off, the disclaimer would be included in the final published version, clarifying the situation regarding the incomplete audit.

The Audit Committee expressed its support to the recommendations contained in the report.

It was therefore **RESOLVED**:

- That the report be noted.
- That the 2021/2022 and 2022/23 Statement of Accounts for Stevenage BC be received, and the Chief Financial Officer be authorised in consultation with

the Chair of Audit Committee/Statement of Accounts Committee to approve the accounts following the conclusion of the external audit.

- That the 2021/22 and 2022/23 Annual Governance Statements, which form part of the statement of accounts, be approved.
- That the Chief Financial Officer be authorised, after consultation with the Chair of Audit Committee, to sign the letters of representation required as part of the 2021/22 and 2022/23 external audit process.

4 **URGENT PART 1 BUSINESS**

There was no Urgent Part I Business.

5 **EXCLUSION OF PUBLIC AND PRESS**

Not required.

6 **URGENT PART II BUSINESS**

There was no Urgent Part II Business.

CHAIR

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Stevenage Borough Council
Audit Committee

4 February 2025
Shared Internal Audit Service –
Progress Report

Recommendations

Members are recommended to:

- a) Note the Internal Audit Progress Report
- b) Note the Status of Critical, High, and Medium Priority Recommendations

Contents

- 1 Introduction and Background
 - 1.1 Purpose
 - 1.2 Background

- 2 Audit Plan Update
 - 2.1 Delivery of Internal Audit Plan and Key Findings
 - 2.4 Internal Audit Plan Changes
 - 2.5 Critical, High and Medium Priority Recommendations
 - 2.7 Performance Management

Appendices:

- A Progress against the 2024/25 Internal Audit Plan
- B Implementation Status of Critical, High and Medium Priority Recommendations
- C Internal Audit Plan Items (April 2024 to March 2025) - Indicative start dates agreed with management
- D Assurance Definitions / Priority Levels

1 Introduction and Background

Purpose of Report

- 1.1 To provide Members with:
- The progress made by the Shared Internal Audit Service (SIAS) in delivering the Council's 2024/25 Internal Audit Plan to 17 January 2025.
 - The findings for the period 17 August 2024 to 17 January 2025.
 - Details of any changes required to the approved Internal Audit Plan.
 - The implementation status of previously agreed audit recommendations.
 - An update on performance management information to 17 January 2025.

Background

- 1.2 Internal Audit's Annual Plan for 2024/25 was approved by the Audit Committee at its meeting on 26 March 2024. The Audit Committee receive periodic updates against the Internal Audit Plan. This is the second update report for 2024/25.
- 1.3 The work of Internal Audit is required to be reported to a Member Body so that the Council has an opportunity to review and monitor an essential component of corporate governance and gain assurance that its internal audit function is fulfilling its statutory obligations. It is considered good practice that progress reports also include details of changes to the agreed Annual Internal Audit Plan.

2 Audit Plan Update

Delivery of Internal Audit Plan and Key Audit Findings

- 2.1 As of 17 January 2025, 68% of the 2024/25 Internal Audit Plan days have been delivered (the calculation excludes contingency days that have not yet been allocated).
- 2.2 The following final reports have been issued since 17 August 2024, which was the cut-off date for the last Audit Committee progress report:

Audit Title	Date of Issue	Assurance Level	Number of Recommendations
Climate Data and Reporting	Sept 2024	Substantial	Two Low Priority
Commercialisation	Oct 2024	Substantial	One Low Priority
Property Statutory Compliance Checks	Oct 2024	Reasonable	One Medium Priority
Housing Benefits	Nov 2024	Substantial	Two Low Priority
Data Breach Incidents and Response	Nov 2024	Reasonable	Two Medium, Three Low Priority

Decarbonisation Grant Audit	Nov 2024	Unqualified	None
Contract Management	Dec 2024	Substantial	None
Risk Management	Dec 2024	Substantial	None
Business Rates	Dec 2024	Substantial	One Low Priority
Cash and Banking	Dec 2024	Substantial	None

See definitions for the above assurance levels and recommendation priorities at Appendix D.

- 2.3 The table below summarises the position regarding delivery of the 2024/25 approved projects to 17 January 2025. Appendix A provides a status update on each individual project within the 2024/25 Internal Audit Plan.

Status	No. of Audits at this Stage	% of Total Audits
Final Report Issued	14	54%
Draft Report Issued	3	11%
In Fieldwork/Quality Review	5	19%
In Planning/Terms of Reference Issued	2	8%
Allocated	1	4%
Not Yet Allocated	0	0%
Cancelled/Deferred	1	4%
Total	26	100%

Internal Audit Plan Changes

- 2.4 There has not been any Internal Audit Plan changes since the last Progress Report to this Committee.

Critical and High Priority Recommendations

- 2.5 Members will be aware that a Final Audit Report is issued when it has been agreed (“signed off”) by management; this includes an agreement to implement the recommendations that have been made.
- 2.6 The schedule attached at Appendix B details any outstanding Critical, High, and Medium priority audit recommendations. Three new Medium Priority recommendations have been added to the schedule. These recommendations are from audits of Property Statutory Compliance Checks and Data Breach Incidents

and Response. The presentation of Appendix B has been split between part 1 and part 2 of the committee agenda.

Performance Management

- 2.7 The 2024/25 annual performance indicators were approved at the SIAS Board meeting in March 2024.
- 2.8 The actual performance for Stevenage Borough Council against the targets that can be monitored in year is set out in the table overleaf:

Performance Indicator	Performance Target for 31 March 2025	Profiled Performance 17 Jan 2025	Actual Performance 17 Jan 2025	Notes
1. Planned Days – percentage of actual billable days against planned chargeable days completed (excludes unused contingency)	95%	73%	68%	198 days delivered out of the current 293.5 days planned
2. Planned Projects * – percentage of actual completed projects to draft report stage against planned completed projects by 31 March 2025	90%	72%	68%	17 projects to draft or final report from the 25 planned
3. Client Satisfaction – percentage of client satisfaction questionnaires returned at 'satisfactory' level	100%	100%	100%	Based on the results of the 6 completed questionnaire received (from the 13 issued)
4. Number of High and Critical Priority Audit Recommendations agreed as a percentage	95%	95%	100%	1 High Priority recommendation made and agreed

* Based on Audit Plan 'deliverables' at draft and final stage, and items carried forward from 2023/24 that were not at draft report stage by 31 March 2024.

- 2.9 In addition, the performance targets listed below are annual in nature. Members will be updated on the performance against these targets within a separate Annual Report:
- **5. Annual Plan** – prepared in time to present to the March meeting of each Audit Committee. If there is no March meeting, then the Plan should be prepared for the first meeting of the financial year. This indicator was achieved for 2024/25 as the

audit plan for the financial year 2024/25 was presented to the Committee in March 2024.

- **6. Planned Projects** - percentage of actual completed projects to final report stage against planned completed projects.
- **7. Chief Audit Executive's Annual Report** – presented at first 2024/25 meeting of the Audit Committee. This indicator was achieved for 2024/25 as the Client Audit Manager's Annual Report (for 2023/24) was presented to the June 2024 meeting of this committee.

2.10 Whilst Plan delivery is naturally subject to a continued stable establishment and availability of client officers to support audits, we currently report no risks to the delivery of a robust annual assurance opinion.

APPENDIX A - PROGRESS AGAINST THE 2024/25 INTERNAL AUDIT PLAN

2024/25 Internal Audit Plan

AUDITABLE AREA	LEVEL OF ASSURANCE	RECS *				AUDIT PLAN DAYS	LEAD AUDITOR ASSIGNED	BILLABLE DAYS COMPLETED	STATUS/COMMENT
		C	H	M	LA				
Key Financial Systems – 64 days									
Business Rates (shared with EHC)	Substantial	0	0	0	1	64	Yes	39	Final Report Issued
Council Tax (shared with EHC)							Yes		Draft Report Issued
Housing Benefits (shared with EHC)	Substantial	0	0	0	2		Yes		Final Report Issued
Treasury Management							Yes		In Fieldwork
Debtors							Yes		In Fieldwork
Creditors							Yes		Allocated
Payroll (risk & control mapping refresh)							Yes		Draft Report Issued
Housing Rents							Yes		In Fieldwork
Cash & Banking (risk & control mapping refresh)	Substantial	0	0	0	0		Yes		Final Report Issued
Operational Services – 56.5 days									
Property Statutory Compliance Checks	Reasonable	0	0	1	0	14	Yes	8	Final Report Issued
Estates (asset utilisation)						10	Yes	1.5	ToR Issued
Housing Register & Allocations						0.5	Yes	0.5	Cancelled
Vehicle Workshop	Substantial	0	0	1	1	10	Yes	10	Final Report Issued
Follow Up of Limited Assurance Reports from 2023/24						10	Yes	2	In Fieldwork
Facilities Management	Limited	0	1	2	3	12	Yes	12	Final Report Issued
Corporate Services/Themes – 94 days									
Review of Audit Committee	Reasonable	0	0	1	1	10	Yes	10	Final Report Issued
Confidential Reporting Procedures						10	Yes	9.5	Draft Report Issued
Contract Management	Substantial	0	0	0	2	12	Yes	12	Final Report Issued
Climate Data & Reporting	Substantial	0	0	0	2	10	Yes	10	Final Report Issued
Embedded Project Assurance						12	Yes	0	Allocated

APPENDIX A - PROGRESS AGAINST THE 2024/25 INTERNAL AUDIT PLAN

AUDITABLE AREA	LEVEL OF ASSURANCE	RECS *				AUDIT PLAN DAYS	LEAD AUDITOR ASSIGNED	BILLABLE DAYS COMPLETED	STATUS/COMMENT
		C	H	M	LA				
Risk Management (risk & control mapping refresh)	Substantial	0	0	0	0	2	Yes	2	Final Report Issued
Freedom of Information	Reasonable	0	0	2	0	10	Yes	10	Final Report Issued
Commercialisation	Substantial	0	0	0	1	12	Yes	12	Final Report Issued
Corporate Governance (risk & control mapping)						10	Yes	2	In Fieldwork
On Demand Grant Audits	Unqualified	0	0	0	0	6	Yes	3.5	Final Report Issued
IT Audits – 16 days									
Data Breach Incidents (shared with EHC)	Reasonable	0	0	2	4	10	Yes	10	Final Report Issued
IT Hardware Inventory (shared with EHC)						6	Yes	0.5	In Planning
Completion of 2023/24 Projects – 8 days									
Sickness Absence Management	Substantial	0	0	0	0	8	Yes	8	Final Report Issued
Contingency – 6.5 days									
Contingency						6.5	N/A	0	Through Year
Strategic Support – 55 days									
Head of Internal Audit						3	Yes	3	Complete
Audit Committee & Recommendation Follow Up						10	Yes	7.5	Through Year
Client Engagement & Adhoc Advice						10	Yes	8	Through Year
2025/26 Audit Planning						5	Yes	2.5	Allocated
SIAS Service Development & Global Internal Audit Standards Implementation						5	Yes	5	Through Year
Assurance Mapping						10	Yes	0.5	Through Year
Plan & Progress Monitoring						12	Yes	9	Through Year
SBC TOTAL		0	1	9	17	300		198	
* C = Critical Priority, H = High Priority, M = Medium Priority, LA = Low/Advisory Priority									

APPENDIX B: IMPLEMENTATION STATUS OF HIGH AND MEDIUM PRIORITY RECOMMENDATIONS

The following appendix provides Audit Committee Members with a summary of the most recent update provided by management in respect of outstanding high priority recommendations.

No.	Report Title	Recommendation / Original Management Response	Responsible Officer / Original Due Date	Latest management update (or previous commentary where appropriate)	Status of Progress (Jan 2025)
1.	Facilities Management 2024/25.	<p>High Priority Recommendation: <u>To address audit findings that relate to contracts and procurement.</u> a) Develop a clear procurement plan and timeline to deal with the volume of outstanding activity, seeking advice from the Corporate Procurement team. b) The Facilities Manager complete the Council's Procurement training course to ensure he is up to date on the requirements of the Councils procurement rules and processes.</p> <p>Agreed Management Actions(s): a) Procurement timeline now developed, starting in October 2024. b) Training has been completed.</p>	<p>Responsible Officer: Facilities & Compliance Manager.</p> <p>Due Date: 31/08/2024.</p>	<p><u>January 2025.</u> The audit findings have been addressed as recommended.</p>	Implemented.
2.	Property Statutory Compliance Checks 2024/25.	<p>Medium Priority Recommendation: <u>To address audit findings that relate to test completion.</u> Management review which blocks have outstanding compliance checks for the Annual Discharge Test and Monthly Walk Test and closely track the new Contractors Programme of Works to ensure these known gaps in compliance checks are addressed as a priority.</p> <p>Agreed Management Actions(s): Complete all yearly Annual Discharge Tests and ensure all monthly walk tests are being completed with improved certification. This will then be logged on Propeller until The Compliance Workbook is fully operational. The new electrical tender will also ensure the process and documentation are streamlined giving SBC greater control on the process moving forward.</p>	<p>Responsible Officer: Building Services Manager/Head of Building Safety</p> <p>Due Date: 31/03/2025.</p>	<p><u>January 2025.</u> New recommendation. The management response opposite is the latest comment.</p>	Not Yet Due.
3.	Data Breach Incidents and Response 2024/25.	<p>Medium Priority Recommendation: <u>To address audit findings that relate to Policy and Procedures.</u> The Information Security Incident Management Policy and Procedure and Data Protection Policy and Personal Data Breach Plan (Appendix C) are harmonised and / or consideration is given to producing policies and procedures that capture both in a single</p>	<p>Responsible Officer: Assistant Director for Technology</p>	<p><u>January 2025.</u> New recommendation. The management response opposite is the latest comment.</p>	Not Yet Due.

APPENDIX B: IMPLEMENTATION STATUS OF HIGH AND MEDIUM PRIORITY RECOMMENDATIONS

No.	Report Title	Recommendation / Original Management Response	Responsible Officer / Original Due Date	Latest management update (or previous commentary where appropriate)	Status of Progress (Jan 2025)
		<p>document, recognising that both are intrinsically linked.</p> <p>Agreed Management Actions(s): We will harmonize the Information Security Incident Management and Data Protection Policies, explicitly define the DPO's role in both, and ensure their involvement from the initial stage of any potential data breach. This will streamline incident response, ensuring compliance and timely action.</p>	<p>Due Date: 31/03/2025.</p>		
4.	<p>Data Breach Incidents and Response 2024/25.</p>	<p>Medium Priority Recommendation: To address audit findings that relate to Data Breach Reporting. Quarterly Data Breach reports to the Corporate Governance Group (CGG) are resumed at the earliest opportunity. Consideration should be given to routinely circulating consolidated Data Breach reports to the Senior Leadership Team (in addition to the CGG).</p> <p>Agreed Management Actions(s): It has already been agreed that this will be presented to the Senior Leadership Team every quarter.</p>	<p>Responsible Officer: Assistant Director for Technology</p> <p>Due Date: Implemented.</p>	<p><u>January 2025.</u> New recommendation. The management response opposite is the latest comment.</p>	<p>Implemented.</p>

APPENDIX C: INTERNAL AUDIT PLAN 2024/25 – PLANNED AUDIT START DATES

April	May	June	July	August	September
2023/24 Projects Requiring Completion - Final Report	Confidential Reporting Procedures - Draft Report	Facilities Management - Final Report	Estates (asset utilisation) - Terms of Reference	Property Compliance Checks (1) - Final Report	Housing Register & Allocations - Cancelled
	Vehicle Workshop - Final Report	Freedom of Information - Final Report	Data Breach Incidents & Response - Final Report	Climate Data & Reporting - Final Report	Contract Management - Final Report
	Review of Audit Committee - Final Report		Commercialisation - Final Report		
October	November	December	January	February	March
Housing Services Contract Compliance Follow Up - In Fieldwork	Council Tax - Draft Report	Business Rates - Final Report	Creditors - Allocated	Treasury Management - In Fieldwork	
Cash & Banking - Final Report	Debtors - In Fieldwork	Housing Benefits - Final Report	Payroll - Draft Report	Corporate Governance - In Fieldwork	
	Housing Rents - In Fieldwork	Risk Management - Final Report	Follow Up (2) - Allocated		
	Decarbonisation Grant Audit - Final Report	IT Hardware - In Planning			

APPENDIX D - ASSURANCE / RECOMMENDATION PRIORITY LEVELS

Audit Opinions		
Assurance Level	Definition	
Assurance Reviews		
Substantial	A sound system of governance, risk management and control exist, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.	
Reasonable	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.	
Limited	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	
No	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.	
Not Assessed	This opinion is used in relation to consultancy or embedded assurance activities, where the nature of the work is to provide support and advice to management and is not of a sufficient depth to provide an opinion on the adequacy of governance or internal control arrangements. Recommendations will however be made where required to support system or process improvements.	
Grant / Funding Certification Reviews		
Disqualified	No material matters have been identified in relation the eligibility, accounting and expenditure associated with the funding received that would cause SIAS to believe that the related funding conditions have not been met.	
Qualified	Except for the matters identified within the audit report, the eligibility, accounting and expenditure associated with the funding received meets the requirements of the funding conditions.	
Disclaimer Opinion	Based on the limitations indicated within the report, SIAS are unable to provide an opinion in relation to the Council's compliance with the eligibility, accounting and expenditure requirements contained within the funding conditions.	
Adverse Opinion	Based on the significance of the matters included within the report, the Council have not complied with the funding conditions associated with the funding received.	
Recommendation Priority Levels		
Priority Level	Definition	
Corporate	Critical	Audit findings which, in the present state, represent a serious risk to the organisation as a whole, i.e. reputation, financial resources and / or compliance with regulations. Management action to implement the appropriate controls is required immediately.
	High	Audit findings indicate a serious weakness or breakdown in control environment, which, if untreated by management intervention, is highly likely to put achievement of core service objectives at risk. Remedial action is required urgently.
Service	Medium	Audit findings which, if not treated by appropriate management action, are likely to put achievement of some of the core service objectives at risk. Remedial action is required in a timely manner.
	Low	Audit findings indicate opportunities to implement good or best practice, which, if adopted, will enhance the control environment. The appropriate solution should be implemented as soon as is practically possible.



**AUDIT COMMITTEE/ CABINET /
COUNCIL**

Portfolio Area: Resources

Date: 4 February 2025 / 12 February
2025 / 26 February 2025



**ANNUAL TREASURY MANAGEMENT STRATEGY INCLUDING PRUDENTIAL
INDICATORS 2024/25**

NON-KEY DECISION

Author – Rhona Bellis
Contributor – Reenu Keogh
Lead Officer – Brian Moldon
Contact Officer – Brian Moldon

1 PURPOSE

1.1 To recommend to Council the approval of the Treasury Management Strategy 2025/26, including its Annual Investment Strategy, Prudential Indicators and Minimum Revenue Provision (MRP) policy following considerations from Audit and Cabinet committees.

2 RECOMMENDATIONS

2.1 Audit Committee

That post consideration by the Audit Committee to the Cabinet, the 2025/26 Treasury Management Strategy is recommended to Council for approval.

2.2 Cabinet

That post consideration by the Cabinet, in addition to those made by the Audit Committee, the 2025/26 Treasury Management Strategy is recommended to Council for approval.

Part I
Release to Press

2.3 Council

That post consideration by the Audit Committee and the Cabinet, the 2025/26 Treasury Management Strategy be approved by Council.

3 BACKGROUND

- 3.1.1 CIPFA published the updated Treasury Management and Prudential Codes on 20 December 2021 for implementation from 2023/24. This Council therefore, has to have regard to these Codes of Practice when it prepares the Treasury Management Strategy Statement and Annual Investment Strategy, and also related reports during the financial year, which are taken to Full Council for approval.
- 3.1.2 The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low-risk counterparties or instruments commensurate with the Council's low risk appetite, providing adequate liquidity initially before considering investment return.
- 3.1.3 The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer-term cash flow planning, to ensure that the Council can meet its capital spending obligations. This management of longer-term cash may involve arranging long or short-term loans or using longer-term cash flow surpluses. On occasion, when it is prudent and economic, any debt previously drawn may be restructured to meet Council risk or cost objectives.
- 3.1.4 The contribution the treasury management function makes to the authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.
- 3.1.5 CIPFA defines treasury management as:
- “The management of the local authority’s borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”*
- 3.1.6 Whilst any commercial initiatives or loans to third parties will impact on the treasury function, these activities are generally classed as non-treasury activities, (arising usually from capital expenditure), and are separate from the day-to-day treasury management activities.

3.2 Reporting Requirements

3.2.1 Capital Strategy

The Capital Strategy will be brought before members as a separate report. The aim of that strategy is to ensure that all Members of the Council fully understand the overall long-term policy objectives and resulting capital strategy requirements, governance procedures and risk appetite.

3.2.2 Treasury Management reporting

The Council is required to receive and approve (as a minimum) three main treasury reports each year. The annual treasury management strategy including the Prudential Indicators (this report) is forward looking, it is the first and most important of the three and includes:

- a. **Prudential and treasury indicators and treasury strategy** (this report)
 -
 - the capital plans, (including prudential indicators).
 - a minimum revenue provision (MRP) policy, (how residual capital expenditure is charged to revenue over time).
 - the Treasury Management Strategy, (how the investments and borrowings are to be organised), including treasury indicators; and
 - an Annual Investment Strategy, (the parameters on how investments are to be managed).
- b. **A mid-year treasury management report** – This is primarily a progress report and will update members on the capital position, amending prudential indicators as necessary, and whether any policies require revision.
- c. **An annual treasury report** – This is a backward-looking review document and provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the estimates within the strategy.

3.2.3 These reports are required to be adequately scrutinised, and this is undertaken by the Audit Committee and Cabinet.

3.2.4 In addition to the three major reports detailed above from 2023/24 quarterly reporting is also required and form an appendix to the quarterly Capital monitoring reports, where not included in the main reports. However, these additional reports do not have to be reported to Full Council but do require to be adequately scrutinised. This role is undertaken by the Cabinet (The reports should comprise updated Treasury / Prudential Indicators only).

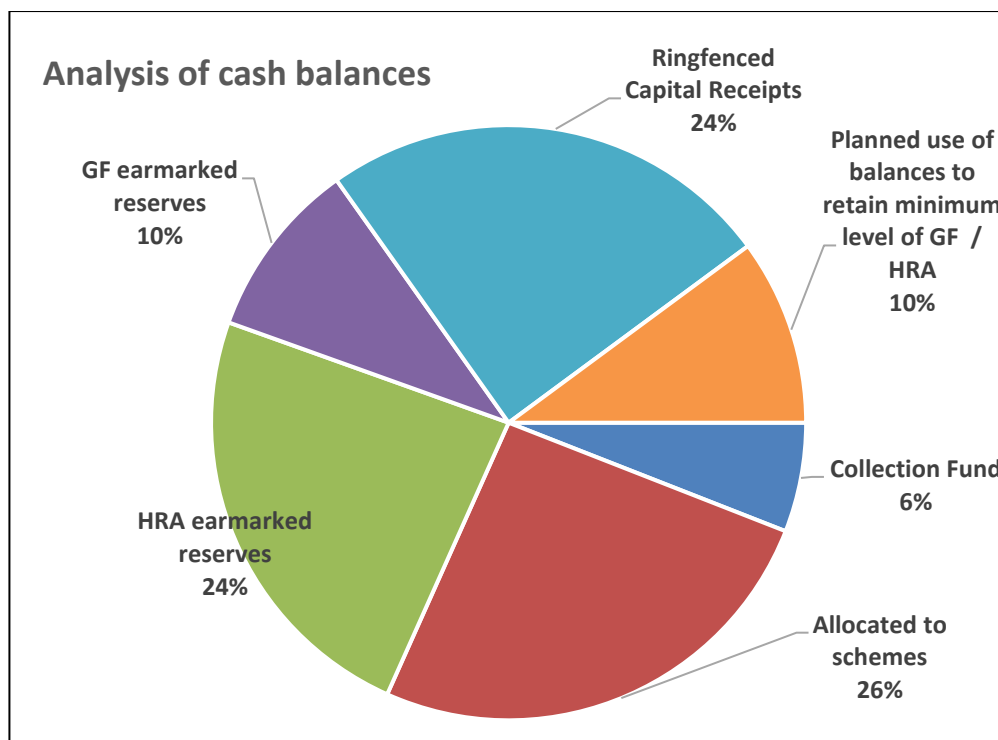
4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

4.1 Performance of Current Treasury Strategy

Part I
Release to Press

- 4.1.1 For the financial year to 31 December 2024 returns on investments have averaged 5.22% and total interest earned was £1.706Million contributing to General Fund and Housing Revenue Account income.
- 4.1.2 Cash balances as of 31 December 2024 were £57.8Million and are forecast to be £37Million as of 31 March 2025. The Council's balances are made up of cash reserves e.g., HRA and General Fund balances, restricted use receipts such as right to buy one for one receipts and balances held for provisions such as business rate appeals, reduced by internal borrowing.
- 4.1.3 In considering the Council's level of cash balances, Members should note that the General Fund MTFS and Capital Strategy have a planned use of resources over a minimum of five years and the HRA Business Plan (HRA BP) a planned use of resources over a 30-year period, which means, while not committed in the current year; they are required in future years.
- 4.1.4 The Council's current investment portfolio is held for Treasury management purposes only and consists of "conventional" cash investments: deposits with banks and building societies, Money Market Funds and loans to other Local Authorities. Currently no investments have been made with any of the other approved instruments within the Specified and Non-specified Investment Criteria (see Appendix D).
- 4.1.5 There have been **no breaches** of treasury **counter party limits**, with the investment activity during the year conforming to the approved strategy. Any breach would be notified to the Chief Finance Officer. The Council has had no liquidity difficulties and no funds have been placed with the Debt Management Office (DMO) during 2024/25 to date, demonstrating that counterparty limits and availability for placing funds approved in the TM Strategy were working effectively. It is possible that surplus funds borrowed during the year may be placed in the DMO temporarily if cash balances, due to the timing of taking out new loans would breach other counterparty limits.
- 4.1.6 The following chart shows the planned use of cash balances forecast to be held at 31 March 2025.

Part I
Release to Press



4.2 Treasury Management Strategy for 2025/26

4.2.1 The strategy for 2025/26 covers two main areas:

Capital issues

- the capital expenditure plans and the associated prudential indicators.
- the minimum revenue provision (MRP) policy.

Treasury management issues

- the current treasury position.
- treasury indicators which limit the treasury risk and activities of the Council.
- prospects for interest rates.
- the borrowing strategy.
- policy on borrowing in advance of need.
- debt rescheduling.
- the investment strategy.
- creditworthiness policy; and
- the policy on use of external service providers.

4.2.2 These elements cover the requirements of the Local Government Act 2003, MHCLG Investment Guidance, MHCLG MRP Guidance, the CIPFA Prudential Code and the CIPFA Treasury Management Code.

4.2.3 The Council's Treasury Management Policy Statement can be found at **Appendix A**.

Part I
Release to Press

4.2.4 The Council's Capital Strategy is reported separately from the Treasury Management Strategy. Non-treasury investments are reported through the former, ensuring the separation of the core treasury function under security, liquidity and yield principles, and the policy and commercialism investments usually driven by expenditure on an asset.

4.2.5 The revised Treasury Management Code requires all investments and investment income to be attributed to one of the following three purposes: -

- **Treasury management**

Arising from the organisation's cash flows or treasury risk management activity, this type of investment represents balances which are only held until the cash is required for use. Treasury investments may also arise from other treasury risk management activity which seeks to prudently manage the risks, costs or income relating to existing or forecast debt or treasury investments.

- **Service delivery**

Investments held primarily and directly for the delivery of public services including housing, regeneration and local infrastructure. Returns on this category of investment which are funded by borrowing are permitted only in cases where the income is "either related to the financial viability of the project in question or otherwise incidental to the primary purpose".

- **Commercial return**

Investments held primarily for financial return with no treasury management or direct service provision purpose. Risks on such investments should be proportionate to an authority's financial capacity – i.e., that 'plausible losses' could be absorbed in budgets or reserves without unmanageable detriment to local services. An authority must not borrow to invest primarily for financial return.

4.2.6 The Council's current investment portfolio is held for Treasury management purposes only.

4.2.7 **Environmental, social and governance (ESG)** investment considerations - investment considerations here means understanding the ESG "risks" that the council is exposed to and evaluating how well it manages these risks. It is NOT the same as Socially Responsible Investing.

4.2.8 Managing the ESG risk is already part of the current Treasury Investment Strategy, as the council uses mainstream rating agencies to assess counterparty creditworthiness – they now incorporate ESG risks alongside more traditional financial risk metrics when assessing counterparty ratings.

4.3 Training

4.3.1 The CIPFA Code requires the responsible officer to ensure that members with responsibility for treasury management receive adequate training in treasury management. This especially applies to members responsible for scrutiny.

Part I
Release to Press

4.3.2 The last training arranged for members took place in November 2024, further training will be arranged as required.

4.3.3 The training needs of treasury management officers are periodically reviewed.

4.3.4 A formal record of the training received by officers central to the Treasury function will be maintained by the Head of Technical Accounting. Similarly, a formal record of the treasury management training received by members will also be maintained by the Head of Technical Accounting.

4.4 Treasury Management Consultants

4.4.1 The Council uses MUFG Corporate Markets Treasury Limited (MUFG - formerly Link Asset Services) as its external treasury management advisors.

4.4.2 The Council recognises that responsibility for treasury management decisions always remains with the organisation and will ensure that undue reliance is not placed upon the services of our external service providers. All decisions will be undertaken with regards to all available information, including, but not solely, our treasury advisors.

4.4.3 It also recognises that there is value in employing external providers of treasury management services to acquire access to specialist skills and resources. The Authority will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented and subjected to regular review.

4.5 THE CAPITAL PRUDENTIAL INDICATORS 2025/26-2027/28

The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

4.5.1 **Capital Expenditure and Financing** – this prudential indicator is a summary of the Council's capital expenditure plans, both those agreed previously, and those forming part of the Capital Strategy 2025/26. Members are asked to approve the capital expenditure forecasts: -

Capital Expenditure	2023/24	2024/25	2025/26	2026/27	2027/28
£000	Actual	Estimate	Estimate	Estimate	Estimate
Non-HRA	8,880	26,276	51,821	4,460	0
HRA	37,568	31,662	51,399	57,249	41,030
Total	46,448	57,938	103,220	61,710	41,030

4.5.2 The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a funding borrowing need.

Part I
Release to Press

Financing of Capital Expenditure £000	2023/24 Actual	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
Capital receipts	4,830	14,604	16,648	5,579	5,060
Capital grants and contributions	7,202	11,982	39,464	5,798	5,313
Capital reserves	132	496	569	0	0
Revenue	3,830	4,960	617	3,390	4,439
Major Repairs Reserve	18,429	18,671	13,138	13,532	13,938
Net financing need for the year	34,422	50,713	70,436	28,299	28,750
Capital Expenditure requiring borrowing	12,026	7,225	32,784	33,411	12,280

4.6 The Council's Borrowing Need (the Capital Financing Requirement) -

The second prudential indicator is the Council's Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Council's indebtedness and so its underlying borrowing need. Any capital expenditure above, which has not immediately been paid for through a revenue or capital resource, will increase the CFR.

4.6.1 The CFR does not increase indefinitely, as the minimum revenue provision (MRP) is a statutory annual revenue charge which broadly reduces the indebtedness in line with each asset's life, and so charges the economic consumption of capital assets as they are used.

4.6.2 The CFR includes any other long-term liabilities (e.g., finance leases). Whilst these increase the CFR, and therefore the Council's borrowing requirement, these types of schemes include a borrowing facility by the lease provider and so the Council is not required to separately borrow for these schemes.

4.6.3 The Council is asked to approve the CFR projections below:

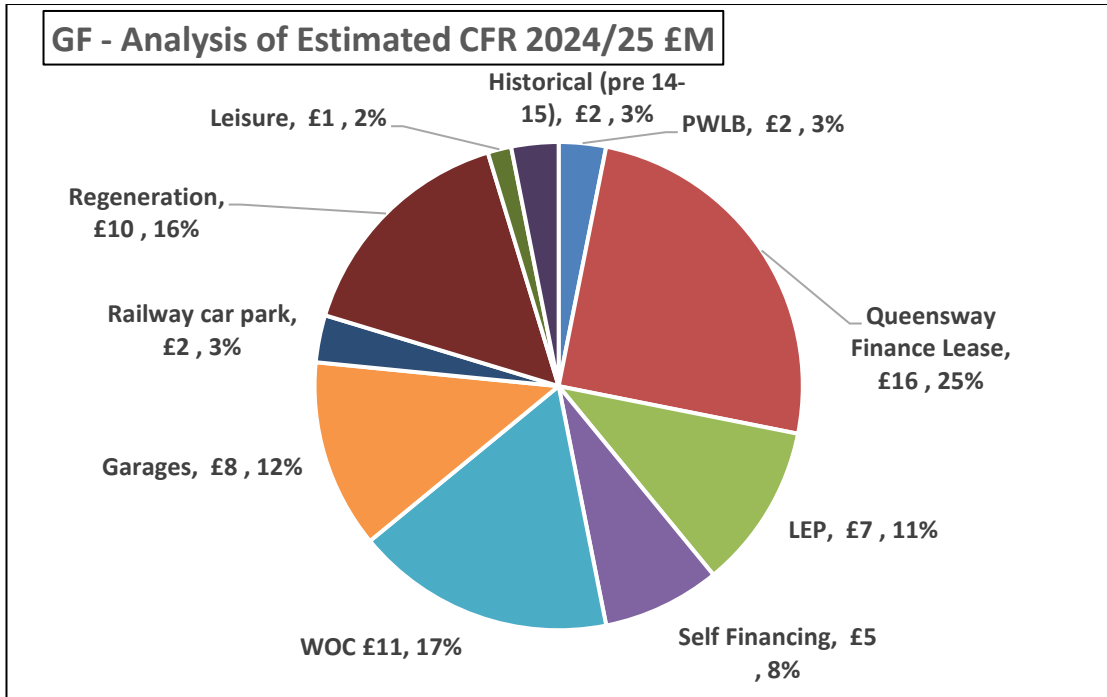
£000	2023/24 Actual	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
Capital Financing Requirement					
General Fund excluding Finance Lease	42,160	47,924	54,626	45,471	33,700
Finance Lease	16,475	16,208	15,935	15,654	15,357
Total General Fund	58,635	64,133	70,561	61,125	49,057
Housing	272,394	272,356	286,179	309,125	312,692
Total CFR	331,029	336,489	356,740	370,250	361,749
Movement in CFR		5,470	20,251	13,511	(8,500)

Movement in CFR represented by					
Net financing need for the year (above)		7,225	32,784	33,411	12,280
Internal and External debt repayments		(1,000)	(11,656)	(18,918)	(19,806)

Part I
Release to Press

£000	2023/24 Actual	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
Less MRP/VRP ¹ and other financing movements		(756)	(877)	(981)	(974)
Movement in CFR		5,470	20,251	13,511	(8,500)

4.6.4 The general fund CFR is made up mainly of internal borrowing as illustrated below for 2024/25.



4.7 Liability Benchmark

4.7.1 A third prudential indicator is the Liability Benchmark (LB). The Council is required to estimate and measure the LB for the forthcoming financial year and the following two financial years.

Financial Year End	2024 £'000	2025 £'000	2026 £'000
(Over)/Under Liability Benchmark	4,798	(1,919)	0

4.7.2 This benchmark compares actual loan debt outstanding and the liability benchmark (loans less investments, plus a liquidity buffer). Years where actual loans are less than the benchmark (negative value) indicate a future borrowing requirement; any years where actual loans outstanding exceed the benchmark (positive value) represent a technically overborrowed position.

4.7.3 The table above shows the current forecast overborrowed position remaining over the short term. This shows that in each year, there are theoretical investment balances that if unallocated, could be used to pay off debt.

¹ Voluntary Revenue Provision

Part I
Release to Press

4.7.4 Investment balances held by the council are already allocated and are not available for repayment of debt or additional capital expenditure. As a result, the Council will need to externally borrow to replace internal borrowing in the medium term.

4.7.5 Cashflow is monitored on an ongoing basis to ensure that the timing of external borrowing to support the Capital Strategy and Treasury function is undertaken in a timely and prudent manner.

4.8 Core Funds and Expected Investment Balances

4.8.1 The application of resources (capital receipts, reserves etc.) to either finance capital expenditure or other budget decisions to support the revenue budget will have an ongoing impact on investments unless resources are supplemented each year from new sources (asset sales etc.). Detailed below are estimates of the year-end balances for each resource and anticipated day-to-day cash flow balances.

Year End Resources £000	2023/24 Actual	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
Fund balances / reserves	90,484	59,681	52,693	47,961	48,070
Provisions	4,361	3,361	2,361	2,361	2,361
Total core funds	94,845	63,042	55,054	50,322	50,431
Working capital*	2,854	33,105	25,000	10,324	3,155
(Under)/over borrowing	(72,497)	(64,228)	(50,054)	(30,646)	(20,617)
Expected investments	25,202	31,919	30,000	30,000	32,969

*Working capital balances shown are estimated year-end; these may be higher mid-year

4.9 Minimum Revenue Provision (MRP) Policy Statement

4.9.1 Under Regulation 27 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, where the Council has financed capital expenditure by borrowing it is required to make a provision each year through a revenue charge (MRP). The 2003 Regulations have been further amended with full effect from April 2025 to expressly provide that in determining a prudent provision local authorities cannot exclude any amount of CFR from its calculation, unless by an exception set out in statute.

4.9.2 The Council is required to calculate a prudent provision of MRP which ensures that the outstanding debt liability is repaid over a period that is reasonably commensurate with that over which the capital expenditure provides benefits.

4.9.3 The MRP policy statement requires full council approval in advance of each financial year. The Council is recommended to approve the MRP Statement at **Appendix B** to this report.

4.10 Borrowing

4.10.1 The capital expenditure plans set out in paragraph 4.5.1 provide details of the service activity of the Council. The treasury management function ensures that the Council's cash is organised in accordance with the relevant professional codes, so that sufficient cash is available to meet this service activity and the Council's Capital Strategy. This will involve both the

Part I
Release to Press

organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions, and the Annual Investment Strategy.

4.10.2 Current Portfolio Position

The overall treasury management portfolio as at 31 March 2024 and as at 31 December 2024 are shown below for both borrowing and investments.

TREASURY PORTFOLIO		
£000	actual	current
	31.3.24	31.12.24
Total treasury investments	25,202	57,815
Treasury external borrowing:		
PWLB	234,987	247,987
Finance Leases and other external borrowing	23,543	21,715
Total external borrowing	258,530	269,702
Net treasury investments / (borrowing)	(233,328)	(211,887)

4.10.3 The Council's forward projections for borrowing are summarised below. The table shows the actual external debt, against the underlying capital borrowing need, highlighting any over or under borrowing.

£000	2023/24	2024/25	2025/26	2026/27	2027/28
	Actual	Estimate	Estimate	Estimate	Estimate
External Debt					
Debt at 1 April	251,693	258,532	272,261	306,686	339,604
Expected change in Debt	7,500	13,996	23,530	33,199	1,824
Expected change in Other long-term liabilities (OLTL)	(259)	(266)	(273)	(281)	(296)
Actual gross external debt at 31 March	258,532	272,261	306,686	339,604	341,132
The Capital Financing Requirement	(331,029)	(336,489)	(356,740)	(370,250)	(361,749)
(Under) / over borrowing external debt	(72,497)	(64,228)	(50,054)	(30,646)	(20,617)

4.10.4 Within the range of prudential indicators there are several key indicators to ensure that the Council operates its activities within well-defined limits. One of these is that the Council needs to ensure that its gross debt does not, except in the short-term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2025/26 and the following two financial years. This allows some flexibility for limited early borrowing for future years but ensures that borrowing is not undertaken for revenue or speculative purposes.

Part I
Release to Press

4.10.5 Based on the capital programme 2025/26 (February 2025 Update) resourcing projections, the Council has the following borrowing requirements in 2025/26:

- General Fund £3.8Million in relation to the Garages Improvement Plan (£1.7Million) and other commercial property works (£2.1Million).
- HRA £31.4Million of which £17Million is to replace internal borrowing and £14.4Million for new capital expenditure.

4.10.6 The current PWLB borrowing rate is unusually high and costs of external borrowing as taken into account when the Council allocates funding to capital projects. The Borrowing strategy is considered later in the report.

4.10.7 The S151 officer reports that the Council complied with this prudential indicator in the current year and does not envisage difficulties for the future. This view takes account of current commitments, existing plans and the proposals in this budget report.

4.11 Treasury Indicators: Limits to Borrowing Activity

4.11.1 **The Operational Boundary.** This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR but may be lower or higher depending on the levels of actual debt and the ability to fund under-borrowing by other cash resources.

Operational Boundary £000	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
General Fund	49,133	55,561	46,125	34,057
General Fund additional borrowing facility available to the Housing (WOC) Wholly Owned Company	15,000	15,000	15,000	15,000
Total - General Fund	64,133	70,561	61,125	49,057
HRA	272,356	286,179	309,125	312,692
Total	336,489	356,740	370,250	361,749
Previous Operational Boundary	355,749	373,964	399,360	375,132

4.11.2 **The Authorised Limit for external debt.** This is a key prudential indicator and represents a control on the maximum level of borrowing. This represents a legal limit beyond which external debt is prohibited, and this limit needs to be set or revised by the Full Council. It reflects the level of external debt which, while not desired, could be afforded in the short-term, but is not sustainable in the longer-term.

- This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all local authority plans, or those of a specific authority, although this power has not yet been exercised.
- The Council is asked to approve the following Authorised Limit:

Part I
Release to Press

Authorised Limit £000	2024/25 Estimate	2025/26 Estimate	2026/27 Estimate	2027/28 Estimate
General Fund Finance lease	16,208	15,935	15,654	15,357
General Fund Borrowing for capital expenditure including WOC	54,924	61,626	52,471	40,700
Total Borrowing - General Fund	71,132	77,561	68,125	56,057
Borrowing - HRA	283,356	297,179	320,125	323,692
Total	354,488	374,740	388,250	379,749
Previous Authorised Limit	373,549	391,764	416,360	392,132

4.12 Prospects for Interest Rates

4.12.1 The Council retains MUFG as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. MUFG provided the following forecasts on 20 January 2025. These PWLB rates exclude the Certainty Rate (the standard rate minus 20 bps) which has been accessible to most authorities since 1 November 2012. Please note, the lower Housing Revenue Account (HRA) PWLB rate started on 15 June 2023 (standard rate minus 60 bps).

Interest Rate Forecasts								
Bank Rate	Mar-25	Jun-25	Sep-25	Dec-25	Mar-26	Jun-26	Sep-26	Dec-26
MUFG CM	4.50%	4.25%	4.00%	4.00%	3.75%	3.75%	3.75%	3.50%
Cap Econ	4.50%	4.25%	4.00%	3.75%	3.50%	3.50%	3.50%	3.50%
5Y PWLB RATE								
MUFG CM	4.90%	4.80%	4.60%	4.50%	4.50%	4.40%	4.30%	4.20%
Cap Econ	5.10%	4.90%	4.80%	4.60%	4.60%	4.50%	4.50%	4.40%
10Y PWLB RATE								
MUFG CM	5.10%	5.00%	4.80%	4.80%	4.70%	4.50%	4.50%	4.40%
Cap Econ	5.30%	5.10%	5.00%	4.80%	4.80%	4.70%	4.60%	4.60%
25Y PWLB RATE								
MUFG CM	5.50%	5.40%	5.30%	5.20%	5.10%	5.00%	4.90%	4.80%
Cap Econ	5.70%	5.50%	5.30%	5.00%	4.90%	4.90%	4.80%	4.70%
50Y PWLB RATE								
MUFG CM	5.30%	5.20%	5.10%	5.00%	4.90%	4.80%	4.70%	4.60%
Cap Econ	5.30%	5.20%	5.20%	5.10%	5.00%	4.90%	4.80%	4.80%

4.12.2 The Bank of England (BOE) base rate stands at 4.75% currently and is expected to remain at this level for the first quarter of 2025, reducing gradually thereafter when both the CPI inflation and wage/employment data are supportive of such a move.

4.12.3 The CPI measure of inflation (a key bank of England KPI driving decisions on interest rates) is now 2.5%. The BOE expects inflation to rise to around 2.75% over the next year as household energy prices provide less of a drag on inflation than they have done in recent months. Inflation is expected to fall back to the 2% target after that.

4.12.4 Regarding the PWLB forecast, these have been materially lifted since the last update, to not only reflect our increased concerns around the future path of

Part I
Release to Press

inflation, but also the increased level of Government borrowing over the term of the current Parliament.

4.12.5 The short to medium part of the curve is forecast to remain elevated over the course of the next year, and the degree to which rates moderate will be tied to the arguments for further Bank Rate loosening or otherwise. The longer part of the curve will also be impacted by inflation factors, but there is also the additional concern that with other major developed economies such as the US and France looking to run large budget deficits there could be a glut of government debt issuance that investors will only agree to digest if the interest rates paid provide sufficient reward for that scenario.

4.12.6 Invariably the direction of US Treasury yields in reaction to a new presidential term, and change in core policies will, in all probability, impact UK gilt yields. So, there are domestic and international factors that could impact PWLB rates whilst, as a general comment, geo-political risks abound in Europe, the Middle East and Asia.

4.13 Current Borrowing Position

4.13.1 The estimated Council's capital financing requirement (CFR) for 2024/25 is £336Million. The CFR denotes the Council's underlying need to borrow for capital purposes. If the CFR is positive the Council may borrow from the PWLB or the market (external borrowing), or from internal balances on a temporary basis (internal borrowing). The balance of external and internal borrowing is generally driven by market conditions. The Council had £272Million in external debt at 31 December 2024, of which PWLB debt and its purpose is detailed in the table below.

Purpose of Loan	PWLB Loan £'000
General Fund Regeneration Assets	1,756
HRA	
Decent Homes	38,320
Self-Financing	207,911
Total HRA Loans	246,231
Total PWLB Debt at 31st December 2024	247,987

4.13.2 The Council is forecast to utilise (short term) £59Million of cash flow funds in lieu of borrowing. This is a prudent and cost-effective approach in the current economic climate but will require ongoing monitoring if any upside risk to gilt yields prevails.

4.13.3 External borrowing for the HRA of £13Million has been taken in 2024/25. The capital programme is being kept under regular review because of inflationary pressures, shortages of materials and labour. Our borrowing strategy will, therefore, also be regularly reviewed and then revised, if necessary, to achieve optimum value and risk exposure in the long-term.

Part I
Release to Press

4.13.4 The General Fund has PWLB external borrowing of £1.8Million and other external borrowing of £7.6Million (Local Enterprise Partnership - LEP) and finance lease of £16.5Million (Aviva). Discussions are continuing with the LEP regarding making these re-investible loans for further regeneration of the town, rather than needing to be repaid on the dates originally agreed. As indicated in the table, the current position is that the remaining balance is repayable - £6.57Million in 2030 and £1Million in 2025. The loans are at zero interest.

Table 5: LEP Loans					
Loan Received	Site Assembly	Land Assembly	SG1	Repaid	Total
2015/16	762,488			(208,795)	553,693
2018/19	416,306				416,306
2019/20		4,108,709			4,108,709
2020/21		1,491,291	500,000		1,991,291
2022/23			500,000		500,000
Total	1,178,794	5,600,000	1,000,000	(208,795)	7,569,999

4.13.5 The Aviva finance lease entered in 2018/19 for 37 years was immediately sublet to Queensway Properties (Stevenage) LLP for 37 years.

4.13.6 The HRA has external borrowing from PWLB of £246Million

- £7.763Million from pre-2012,
- £4.010Million taken out in 2019/20,
- £10.0 Million taken out in 2020/21,
- £9.047Million taken out in 2021/22,
- £7.5Million taken out in 2023/24 and
- £13Million taken out in 2024/25.

The remainder of £194.911 Million relates to HRA self-financing payment made to central government in 2012.

4.13.7 The target average borrowing rate in the latest HRA MTFS is 4.88% in 2024/25 and 4.4% in 2025/26.

4.13.8 The HRA BP includes a heightened reserves provision going forward to mitigate the risk associated with having a higher borrowed BP.

4.13.9 Finance leases entered between the HRA and Marshgate Ltd during 2021/22 and 2022/23, the Council's Wholly Owned Housing Company, relating to 10 residential dwellings, leased for 25 years amounted to £1.3Million.

4.14 Borrowing Strategy

Part I
Release to Press

- 4.14.1 The Council is currently maintaining a non-fully funded position. This means that the capital borrowing need, (the Capital Financing Requirement), has not been fully funded with loan debt as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as medium and longer dated borrowing rates are expected to fall from their current levels once prevailing inflation concerns are addressed by tighter near-term monetary policy.
- 4.14.2 Against this background and the risks within the economic forecast, caution will be adopted with the 2025/26 treasury operations. The Assistant Director of Finance will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances.
- 4.14.3 Borrowing may be taken to facilitate investment in regeneration and/or economic improvements for the town. This may include investment in special purpose vehicles owned by the Council to facilitate regeneration aspirations. Any such investments will be presented to Members.

4.15 Policy on Borrowing in advance of Need

- 4.15.1 It is the Council's intention not to borrow more than or in advance of its needs purely to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates and will be considered carefully to ensure that value for money can be demonstrated and that the Council can ensure the security of such funds.
- 4.15.2 In determining whether borrowing will be undertaken in advance of need the Council will.
- ensure that there is a clear link between the capital programme and maturity profile of the existing debt portfolio which supports the need to take funding in advance of need
 - ensure the ongoing revenue liabilities created, and the implications for the future and budgets have been considered
 - evaluate the economic and market factors that might influence the manner and timing of any decision to borrow
 - consider the merits and demerits of alternative forms of funding
 - consider the alternative interest rate bases available, the most appropriate periods to fund and repayment profiles to use.

4.16 Rescheduling

- 4.16.1 Rescheduling of current borrowing in the debt portfolio may be considered whilst premature redemption rates remain elevated but only if there is surplus cash available to facilitate any repayment, or rebalancing of the portfolio to provide more certainty is considered appropriate.

4.17 New Financial Institutions as a Source of Borrowing and / or Types of Borrowing

Part I
Release to Press

- 4.17.1 Currently the PWLB Certainty Rate is set at gilts + 80 basis points. However, consideration may still need to be given to sourcing funding from the following sources for the following reasons:
- 4.17.2 Local authorities (primarily shorter dated maturities out to 3 years or so – generally still cheaper than the Certainty Rate).
- 4.17.3 Financial institutions (primarily insurance companies and pension funds but also some banks, out of forward dates where the objective is to avoid a “cost of carry” or to achieve refinancing certainty over the next few years).
- 4.17.4 Our advisors will keep us informed as to the relative merits of each of these alternative funding sources.
- 4.17.5 The latest list of approved borrowing sources is in Appendix F. These options allow flexibility if funds are required for the short or medium term in order to minimise costs where possible.

4.18 ANNUAL INVESTMENT STRATEGY

- 4.18.1 Ministry of Housing, Communities and Local Government (MHCLG) and CIPFA have extended the meaning of ‘investments’ to include both financial and non-financial investments. This report deals solely with treasury (financial) investments, (as managed by the treasury management team). Non-financial investments, essentially the purchase of income yielding assets and service investments, are covered in the Capital Strategy, (a separate report).
- 4.18.2 In managing the TM function other areas kept under review include:
- Training opportunities available to Members and officers (the most recent training for Members took place on 26 November 2024)
 - That those charged with governance are also personally responsible for ensuring they have the necessary skills and training
 - A full mid-year review of the TMS will be reported in 2025/26.
- 4.18.3 The 2025/26 Strategy uses the credit worthiness service provided by MUFG the Council’s treasury advisors. This service uses a sophisticated modelling approach which utilises credit ratings from the three main credit rating agencies and is compliant with CIPFA code of practice.
- 4.18.4 While MUFG may advise the Council, the responsibility for treasury management decisions always remains with the Council and officers do not place undue reliance on the external service advice.
- 4.18.5 The TM limits for 2025/26 (Appendix D) have been reviewed. No changes are considered necessary since that agreed as part of the Mid-Year Review of 2024/25.
- 4.18.6 The latest list of “Approved Countries for Investment” is detailed in Appendix E. This lists the countries that the Council may invest with providing they meet the minimum credit rating of AA- . The Council retains the discretion not to invest in countries that meet the minimum rating but where there are concerns over human rights issues.

4.19 Non-Treasury Investments

Part I
Release to Press

4.19.1 The CIPFA Prudential and Treasury Codes recommend that authorities' capital strategies should include a policy and risk management framework for all investments. The Codes identify three types of local authority investment:

- Treasury management investments, which are taken to manage cashflows and as part of the Council's debt and financing activity
- Commercial investments (including investment properties), which are taken mainly to earn a positive net financial return (previously purchased commercial investments only as Council's are no longer permitted to access PWLB rates if they invest in commercial investments primarily for gain.
- Service investments, which are taken mainly to support service outcomes

4.19.2 Details of the Annual Investment Strategy can be found in Appendix A.

4.20 Investment returns expectations

4.20.1 The current BOE base rate of 4.75% is expected to reduce to 4.5% by March 2025. The suggested budgeted investment earnings rates for returns on investments placed for periods up to about three months during each financial year are as follows: -

Average earnings in each year	
2025/26	4.1%
2026/27	3.7%
2027/28	3.5%
2028/29	3.5%
Years 6+	3.5%

4.20.2 As there are so many variables at this time, caution must be exercised in respect of all interest rate forecasts.

4.20.3 Against this view the forecast of interest earned on Treasury investments in 2025/26 is £1.7Million based on average balances of £44Million.

4.20.4 For its cash flow generated balances, the Council will seek to utilise its business reserve instant access and notice accounts, Money Market Funds and short-dated deposits, to benefit from the compounding of interest.

4.21 Changes of investment strategy

4.21.1 There are no proposed changes to the Strategy for 2025/26.

4.22 OTHER ISSUES

Part I
Release to Press

- 4.22.1 **UK Sovereign rating and investment criteria:** The UK sovereign rating is currently on the lowest acceptable level suggested for approved countries as set out in Appendix E. The Council's investment criteria only use countries with a rating of AA- or above. The UK rating will be exempt from the sovereign rating investment criteria so in this event if it were to result in the UK being downgraded below AA- it would not impact on the Council's ability to invest with UK institutions. Other investment criteria will be considered in this event to ensure security of funds for the Council.
- 4.22.2 **Queensway Properties (Stevenage) LLP:** In December 2018, the Council entered into a 37-year agreement with Aviva to facilitate the regeneration of Queensway in the town centre. A separate legal entity, Queensway Properties (Stevenage) LLP, was incorporated to manage the rental streams and costs associated with the scheme.

5 IMPLICATIONS

5.1 Financial Implications

- 5.1.1 This report is of a financial nature and reviews the treasury management function for 2024/25 to date. Any consequential financial impacts identified in the Capital strategy and Revenue budget monitoring reports have been incorporated into this report.
- 5.1.2 During the financial year Officers operated within the treasury and prudential indicators set out in the Council's Treasury Management Strategy Statement and in compliance with the Council's Treasury management practices.

5.2 Legal Implications

- 5.2.1 Approval of the Prudential Code Indicators and the Treasury Management Strategy are intended to ensure that the Council complies with relevant legislation and best practice.
- 5.2.2 There have been no changes to PWLB borrowing arrangements or changes to the Prudential and Treasury Management codes since the last Treasury report.

5.3 Risk Implications

- 5.3.1 The current policy of minimising external borrowing only remains financially viable while cash balances are high and the differentials between investment income and borrowing rates remain. As these conditions change the Council may need to take borrowing at higher rates which would increase revenue costs.
- 5.3.2 The Council's Treasury Management Strategy is based on limits for counterparties to reduce risk of investing with only a small number of institutions.

Part I
Release to Press

5.3.3 The thresholds and time limits set for investments in the Strategy are based on the relative ratings of investment vehicles and counter parties. These are designed to consider the relative risk of investments and to preclude certain grades of investments and counterparties to prevent loss of income to the Council.

5.3.4 There is a risk to the HRA BP's ability to fund the approved 30-year spending plans if interest rates rise above planned rates - this will be included in future revisions to the BP.

5.4 Equalities and Diversity Implications

5.4.1 This report is technical in nature and there are no implications associated with equalities and diversity within this report. In addition to remaining within agreed counterparty rules, the council retains the discretion not to invest in countries that meet the minimum rating but where there are concerns over human rights issues. Counterparty rules will also be overlaid by any other ethical considerations from time to time as appropriate.

5.4.2 The Treasury Management Policy does not have the potential to discriminate against people on grounds of age; disability; gender; ethnicity; sexual orientation; religion/belief; or by way of financial exclusion. As such a detailed Equality Impact Assessment has not been undertaken.

5.5 Climate Change Implications

5.5.1 The council's investment portfolio is invested in sterling investments and not directly in companies. These investments are short term and mainly used for working capital purposes. The council uses mainstream rating agencies to assess counterparty creditworthiness – they now incorporate ESG risks alongside more traditional financial risk metrics when assessing counterparty ratings. In this way the TM team aligns with the Councils ambition to attempt to be carbon neutral by 2030.

BACKGROUND PAPERS

- BD1 Treasury Management Strategy including Prudential Code Indicators 2024/25 (Council February 2024)

APPENDICES

- Appendix A Treasury Management Strategy (TMS)
- Appendix B Minimum Revenue Provision Policy
- Appendix C Prudential Indicators
- Appendix D Specified and Non-Specified Investment Criteria
- Appendix E Approved Countries for investment
- Appendix F Approved Sources of Long and Short-term Borrowing

Appendix A Treasury Management Strategy 2025/26

1. Treasury Management Policy Statement

- 1.1. The Council defines its treasury management activities as: “*The management of the Council’s investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks*”.
- 1.2. The Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation.
- 1.3. The Council acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving value for money in treasury management, and to employing suitable comprehensive performance measurement techniques, within the context of effective risk management.
- 1.4. This Strategy has been prepared in accordance with the CIPFA Treasury Management Code 2021. The Code requires the Council to approve the Treasury Management Strategy annually and to produce a mid-year and annual report. In addition, Members in both Executive and Scrutiny functions receive monitoring reports and regular reviews. The aim of these reporting arrangements is to ensure that those with ultimate responsibility for the treasury management function appreciate fully the implications of treasury management policies and activities, and that those implementing policies and executing transactions have properly fulfilled their responsibilities regarding delegation and reporting.
- 1.5. The Act requires the Council to set out its Treasury Management Strategy for borrowing and to prepare an Annual Investment Strategy to set out the Council’s policies for managing its investments and for giving priority to the security and liquidity of those investments.

2. Annual Investment Strategy

2.1. Investment Policy – Management of Risk

- 2.1.1. The Ministry of Housing, Communities and Local Government (MHCLG) and CIPFA have extended the meaning of ‘investments’ to include both financial and non-financial investments. This report deals solely with treasury (financial) investments, (as managed by the treasury management team). Non-financial investments, essentially the purchase of income yielding assets and service investments, are covered in the Capital Strategy, (a separate report).

The Council’s investment policy has regard to the following:

- MHCLG’s Guidance on Local Government Investments (“the Guidance”)
- CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2021 (“the Code”)
- CIPFA Treasury Management Guidance Notes 2021

The Council’s investment priorities will be security first, portfolio liquidity second and then yield, (return). The Council will aim to achieve the optimum return (yield) on its investments commensurate with proper levels of security and liquidity and regarding the Council’s risk appetite.

In the current economic climate, it is considered appropriate to maintain a degree of liquidity to cover cash flow needs but to also consider “laddering” investments for periods up to 12 months with high credit rated financial institutions, whilst investment rates remain elevated, as well as wider range fund options.

2.1.2. The guidance from the MHCLG and CIPFA place a high priority on the management of risk. This Council has adopted a prudent approach to managing risk and defines its risk appetite by the following means: -

- a. Minimum acceptable **credit criteria** are applied in order to generate a list of highly creditworthy counterparties. This also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the short term and long-term ratings.
- b. **Other information:** ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration the Council will engage with its advisors to maintain a monitor on market pricing such as “**credit default swaps**” and overlay that information on top of the credit ratings.
- c. **Other information sources** used will include the financial press, share price and other such information pertaining to the banking sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.
- d. This Council has defined the list of **types of investment instruments** that the treasury management team are authorised to use. There are two lists in Appendix D under the categories of ‘specified’ and ‘non-specified’ investments.
 - **Specified investments** are those with a high level of credit quality and subject to a maturity limit of one year.
 - **Non-specified investments** are those with less high credit quality, may be for periods in excess of one year, and/or are more complex instruments which require greater consideration by members and officers before being authorised for use.

The Council has determined that it will limit the maximum total exposure to non-specified investments as detailed in Appendix D.

- e. **Lending limits and Transaction Limits**, (amounts and maturity), for each counterparty will be set through applying the matrix table in Appendix D and will consider investments longer than 365 days
- f. This Council has engaged **external consultants**, MUFG Corporate Markets Treasury Limited (MUFG – formerly Link Asset Services), to provide expert advice on how to optimise an appropriate balance of security, liquidity and yield, given the risk appetite of this Council in the context of the expected level of cash balances and need for liquidity throughout the year.
- g. All investments will be denominated in **sterling**.

- h. The Council only invests in counterparties with a high credit quality in the UK or other countries meeting minimum AA- sovereign rating. The Council understands that changes have taken place to the ratings agencies and that their new methodologies mean that sovereign ratings are now of lesser importance in the assessment process. However, the Council continues to specify a minimum sovereign rating as the underlying domestic and where appropriate, international, economic and wider political and social background will still have an influence on the ratings of a financial institution (see Appendix E).
- i. As a result of the change in accounting standards for 2023/24 under IFRS 9, this Council will consider the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund. (In November 2018, the MHCLG, concluded a consultation for a temporary override to allow English local authorities time to adjust their portfolio of all pooled investments by announcing a statutory override to delay implementation of IFRS 9 for five years ending 31.3.23. More recently, a further extension to the over-ride to 31.3.25 has been agreed by Government.
- j. However, this Council will also pursue value for money in treasury management and will monitor the yield from investment income against appropriate benchmarks for investment performance. Regular monitoring of investment performance will be carried out during the year.

2.2. Creditworthiness policy

- 2.2.1. The primary principle governing the Council's investment criteria is the security of its investments, although the yield or return on the investment is also a key consideration. Based on this this main principle, the Council will ensure that:
 - It maintains a policy covering the categories of financial instruments it will invest in, maximum investment duration, criteria for choosing counterparties with adequate security, and monitoring their security.
 - It has sufficient liquidity in its investments. For this purpose, it will set out procedures for determining the maximum periods for which funds may prudently be committed. These procedures also apply to the Council's Prudential indicators of the maximum principal sums invested more than 364 days.
- 2.2.2. The Assistant Director (Finance) will maintain a counterparty list in compliance with the criteria in the Strategy for Specified and Non-Specified Investment and will revise the criteria and submit them to Council for approval as necessary.
- 2.2.3. In determining the credit quality, the Council uses the Fitch credit ratings, together with Moody and Standard & Poor's equivalent where rated. Not all counterparties are rated by all three agencies and the Council will use available ratings.
- 2.2.4. The Council also applies the creditworthiness service provided by MUFG Asset Services. This service employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies - Fitch, Moody's and Standard & Poor's. The credit ratings of counterparties are supplemented with the following overlays:
 - Credit watches and credit outlooks from credit rating agencies.

- Credit Default Swap (CDS) spreads. A CDS is a contract used to insure the holder of a bond against default by the issuer. A CDS can act as an indicator of default risk and provide an early warning of likely changes in credit ratings.
- Sovereign ratings to select counterparties from only the most creditworthy countries.

MUFG Asset Services modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads for which the product is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the Council to determine the suggested duration for investments.

2.2.5. Credit ratings will be monitored whenever an investment is to be made, using the most recent information. The Council is alerted to changes to ratings of all three agencies through its use of the MUFG creditworthiness service.

- If a downgrade results in the counterparty / investment scheme no longer meeting the Council's minimum criteria, its further use as a new investment will be withdrawn immediately.
- In addition to the use of credit ratings the Council will be advised of information in movements in credit default swap spreads against the iTraxx benchmark and other market data daily via its Passport website, provided exclusively to it by MUFG Asset Services. Extreme market movements may result in downgrade of an institution or removal from the Council's lending list.

2.2.6. Sole reliance will not be placed on the use of this external service. In addition, the Council will also use market data including information on government support for banks and the credit ratings of that government support.

2.2.7. The Council receives updates from MUFG on future changes to Money Market Funds (MMF) that might affect the liquidity or risk of the fund. The Council is likely to change its approach to the use of MMF should liquidity or risk be adversely affected.

2.2.8. There are alternatives to the PWLB for borrowing, for both the General Fund and the HRA, including the UK Municipal Bonds Agency. The UKMBA provides funding through three lending programmes. Current UKMBA trading levels in the market, inclusive of all fees, are lower than the PWLB Certainty rate at like maturities.

- Proportionally guaranteed, pooled loans of £1 million or more for maturities greater than one year.
- Standalone loans to a single local Council for £250 million or more for maturities greater than one year. These loans are outside of the proportional guarantee and are guaranteed solely by the borrower, who must obtain an external credit rating from one or more of the major credit rating agencies.
- Short term, pooled loans, outside of the proportional guarantee for maturities of less than one year.

To date the borrowing rates available were lower than those offered for comparable loans available from the Public Works Loans Board (PWLB) at the time of issuance. The Council may make use of this alternative source of borrowing as and when appropriate.

2.3. Investment Strategy

2.3.1. **In-house funds.** Investments will be made with reference to the core balance and cash flow requirements, anticipated capital financing requirements and the outlook for short-term interest rates (i.e., rates for investments up to 12 months). Greater returns are usually obtainable by investing for longer periods. While most cash balances are required to manage the ups and downs of cash flow, where cash sums can be identified that could be invested for longer periods, the value to be obtained from longer term investments will be carefully assessed.

- If it is thought that Bank of England base rate (Bank Rate) is likely to rise significantly within the time horizon being considered, then consideration will be given to keeping most investments as being short term or variable.
- Conversely, if it is thought that Bank Rate is likely to fall within that time period, consideration will be given to locking in higher rates currently obtainable, for longer periods.

3. Country limits

3.1. The Council has determined that it will only use approved counterparties from UK or selected countries with a minimum sovereign credit rating of AA- from Fitch Ratings (or equivalent from other agencies if Fitch does not provide). This is part of the criteria used to produce the Council's Counterparty List.

4. Borrowing Strategy and Policy on Borrowing in Advance of Need

4.1. The Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with loan debt as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure. The current strategy is prudent as medium and longer dated borrowing rates are expected to fall from their current levels as current high inflation rates are expected to continue to reduce throughout 2025/26.

4.2. Against this background and the risks within the economic forecast, caution will be adopted with the 2025/26 treasury operations. The Assistant Director of Finance will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances. When prudent to do so "internal borrowing" will be replaced with external borrowing in order to reduce interest rate risk.

4.3. Borrowing may be taken to facilitate investment in regeneration and/or economic improvements for the town. This may include investment in special purpose vehicles owned by the Council to facilitate regeneration aspirations. Any such investments will be presented to Members.

4.4. The Council will not borrow more than or in advance of its needs purely to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be considered carefully to ensure value for money can be demonstrated and that the Council can ensure the security of such funds.

4.5. In determining whether borrowing will be undertaken in advance of need the Council will:

- ensure that there is a clear MUFG between the capital programme and maturity profile of the existing debt portfolio which supports the need to take funding in advance of need

- ensure the ongoing revenue liabilities created, and the implications for the future plans and budgets have been considered
 - evaluate the economic and market factors that might influence the manner and timing of any decision to borrow
 - consider the merits and demerits of alternative forms of funding
 - consider the alternative interest rate bases available, the most appropriate periods to fund and repayment profiles to use.
- 4.6. Borrowing may be taken to facilitate investment in regeneration and/or economic improvements for the town. This may include investment in special purpose vehicles owned by the Council to facilitate regeneration aspirations. Any such investments will be presented to Members.

5. End of year investment report

5.1. At the end of the financial year, the Council will report on its investment activity as part of its Annual Treasury Outturn Report.

6. Policy on the use of external service providers

6.1. In October 2023, the Council reappointed MUFG Asset Services (formerly Link) as its treasury management advisors on a three-year contract. The new contract commenced on 1 November 2023.

6.2. The Council recognises that responsibility for treasury management decisions always remains with the organisation and will ensure that undue reliance is not placed upon our external service providers.

6.3. It also recognises that there is value in employing external providers of treasury management services to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented and subjected to regular review.

7. Scheme of Delegation and Role of Section 151 officer

7.1. The Council has the role of:

- receiving and reviewing reports on treasury management policies, practices and activities
- approval of annual strategy.
- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices
- budget consideration and approval
- approval of the division of responsibilities
- receiving and reviewing regular monitoring reports and acting on recommendations
- approving the selection of external service providers and agreeing terms of appointment

7.2. **The Audit Committee** has the role of reviewing the policy and procedures and making recommendations to Council.

7.3. The Section 151 Officer has the role of:

- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance
- submitting regular treasury management policy reports
- submitting budgets and budget variations

- receiving and reviewing management information reports
- reviewing the performance of the treasury management function
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function
- ensuring the adequacy of internal audit, and liaising with external audit
- recommending the appointment of external service providers.
- preparation of a capital strategy to include capital expenditure, capital financing, non-financial investments and treasury management, with a long-term timeframe ensuring that the capital strategy is prudent, sustainable, affordable and prudent in the long term and provides value for money
- ensuring that due diligence has been carried out on all treasury and non-financial investments and is in accordance with the risk appetite of the Council
- ensure that the Council has appropriate legal powers to undertake expenditure on non-financial assets and their financing
- ensuring the proportionality of all investments so that the Council does not undertake a level of investing which exposes the Council to an excessive level of risk compared to its financial resources
- ensuring that an adequate governance process is in place for the approval, monitoring and ongoing risk management of all non-financial investments and long-term liabilities
- provision to Members of a schedule of all non-treasury investments including material investments in subsidiaries, joint ventures, loans and financial guarantees
- ensuring that members are adequately informed and understand the risk exposures taken on by a Council
- ensuring that the Council has adequate expertise, either in house or externally provided, to carry out the above
- creation of Treasury Management Practices which specifically deal with how non treasury investments will be carried out and managed, to include the following (covered in Annual Capital Strategy Report).

In addition, high value and/or urgent payments can be made by CHAPS by the Treasury Team, however as these can have a material impact on cash flows on the day, authorisation for this type of payment must be obtained from the S151 or deputy S151 Officer.

7.4. Reporting arrangement to the Council and the Audit Committee is as below:

Area of Responsibility	Council Committee	Frequency
Treasury Management Policy Statement (revised)	Council	Initial adoption in 2010

Area of Responsibility	Council Committee	Frequency
Treasury Management Strategy / Annual Investment Strategy / Prudential Indicators and Minimum Revenue Provision (MRP) policy	Council	Annually before the start of the year
Treasury Management Strategy / Annual Investment Strategy / Prudential Indicators and MRP policy – mid-year report	Council	Annually before the end of the year
Treasury Management Strategy / Annual Investment Strategy / Prudential Indicators and MRP policy – updates or revisions at other times	Council	As required.
Annual Treasury Outturn Report	Council	Annually by 30 th November
Scrutiny of Treasury Management Strategy	Audit Committee	Annually before the start of the year
Scrutiny of Treasury Management performance (mid year)	Audit Committee	Annually by 31 st December

Appendix B (February 2025 Update)

Minimum Revenue Provision Policy

Minimum Revenue Provision Policy Statement 2025/26

From 2013/14, the council has not had a fully funded capital programme, and although there has not been a need to borrow in full externally, due to the use of investment balances, it is necessary to make adequate provision for the repayment of debt in the form of Minimum Revenue Provision.

The **preferred method for existing underlying borrowing is Option 3 – the Asset Life Method** (out of 4 allowable options – the council can use a mixture of options), whereby the MRP will be spread over the useful life of the asset which range. Useful life is dependent on the type of asset and was reviewed in 2019/20. Following that review asset lives now ranges from 7 years (ICT equipment) to 50 years (Investment properties, regeneration sites and car parks for example).

In applying the new asset lives historic MRP had been overpaid and in accordance with current MHCLG MRP Guidance can be reclaimed in future years. The council has a policy to ring fence costs and income associated with regeneration assets and as such has shown these MRP changes separately, see table below. The overpayment of £1,057,660.39 results in no MRP needing to be charged to the accounts for the regeneration assets until 2025/26, when a partial charge will be required, utilising the remainder of the overpayment balance.

voluntary MRP made		Use of overpayment	
	Regeneration		Regeneration
2012/13	£46,929.65	2020/21	£193,703.12
2013/14	£140,788.95	2021/22	£193,703.12
2014/15	£163,165.30	2022/23	£193,703.12
2015/16	£141,355.30	2023/24	£193,703.12
2016/17	£141,355.30	2024/25	£193,703.12
2017/18	£141,355.30	2025/26	£89,144.79
2018/19	£141,355.30		
2019/20	£141,355.30		
cumulative total	£1,057,660.39	cumulative total	£1,057,660.39

Capital expenditure financed by borrowing in 2024/25 will not be subject to an MRP charge until 2025/26, or in the financial year following the one which the asset first becomes available for use.

The Council will apply the asset life method for any expenditure capitalised under a Capitalisation Direction.

Leases - the adoption of International Financial Reporting Standard 16 has introduced a single lessee accounting model and requires a lessee to recognise assets and liabilities for all leases with a term of more than 12 months unless the underlying asset is low value.

Regarding MRP in respect of assets acquired either under leases where a right-of-use asset is on the balance sheet or where on-balance sheet PFI contracts are in place, the prudent charge to revenue is measured as being equal to the element of the rent/charge that goes to write down the balance sheet liability.

Investment property - MRP is chargeable in respect of investment properties where acquisition results in an increase to the CFR.

Capital Loans - where the Council has issued capital loans that are categorised as non-commercial, the provision of MRP will not apply on the following basis:

- (a) the loan is treated as capital expenditure in accordance with regulation 25(1)(b),
- (b) the loan is not a commercial loan, and
- (c) the local council has not recognised, in accordance with proper practices(c), any expected or actual credit loss in respect of that loan.

A commercial loan is defined in regulation 27(5) as a loan from the council to another entity for a purpose which, if the council were to undertake itself, would be primarily for financial return; or, where the loan is itself capital expenditure undertaken primarily for financial return.

The Council has determined that MRP is not required for borrowing or credit arrangements used to finance capital expenditure on housing assets and accounted for within the Housing Revenue Account (HRA) as it has determined, through its duty to charge depreciation and hold a Major Repairs Reserve, that prudent provision has been made.

The council will make MRP provisions with respect to any debt used to finance a commercial capital loan.

Capital Receipts - for capital expenditure on loans to third parties where the principal element of the loan has been repaid in annual instalments, the capital receipts arising from the principal loan repayments will be used to reduce the CFR instead of MRP.

Where no principal repayment is made in a given year, MRP will be charged using the Asset Life Method.

Share Capital - where an Council incurs expenditure that is capitalised on or after April 2008, which is financed by borrowing for the acquisition of share capital, Regulation 25(1)(d) Acquisition of share capital sets out the maximum period for an council to provide MRP of 20 years.

THE CAPITAL PRUDENTIAL AND TREASURY INDICATORS 2025/26 – 2027/28

The Authority's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

(a) Capital Expenditure

Capital expenditure is where the Council spends money on assets, such as property or vehicles that will be used for more than one year. This includes spending on assets owned by other bodies, loans and grants to other bodies enabling them to buy assets.

Capital Expenditure	2025/26 Final Capital Strategy £000	2026/27 Estimate £000	2027/28 Estimate £000
General Fund	26,276	51,821	4,460
HRA	31,662	51,399	57,249
Total Capital Expenditure	57,938	103,220	61,710

(b) Affordability Prudential Indicator

The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Authority's overall finances. The Authority is asked to approve the following indicators: -

Ratio of financing costs to net revenue stream

Ratio of financing costs to net revenue stream %	2024/25 Estimate %	2025/26 Final Capital Strategy %
General Fund	-5%	-2%
HRA	12%	15%

General Fund: Net revenue stream is the RSG, NNDR grant and Council Tax raised for the year.

HRA: The net revenue stream is the total HRA income shown in the Council's accounts from received rents, service charges and other incomes. The ratio of financing costs to net revenue stream reflects the high level of debt as a result of self financing.

The estimates of financing costs include current commitments and the proposals in this budget report.

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**Specified and Non-specified Investment Criteria
(including Treasury Limits and Procedures)**

Table 1

Specified Investments are sterling denominated with maturities up to maximum of one year and must meet the following minimum high credit quality criteria:

Investment Counterparty	Investment Instrument	Minimum High Credit Quality Criteria	Investment Duration
Banks or Building Societies	Overnight Deposit	Fitch: Short Term F1 and Long Term A and Moody, Standard & Poor, equivalent where rated, the lowest rating used where different OR Part-nationalised or Nationalised UK banking institutions (subject to regular reviews of government share percentage).	Maximum duration as per Treasury Advisor's (MUFG's) colour coded Credit List, and less than one year
	Notice Account		
	Short Term Deposit		
Debt Management Office or UK Local Authority	Any deposit	No limit.	
Money Market Funds	Instant Access or with Notice	AAA rated	Instant Access or notice period up to one year

Table 2

Non-Specified Investment are sterling denominated with a maturity longer than one year but no longer than five years, and must meet the following criteria:

Investment Counterparty	Investment Instrument	Minimum High Credit Quality Criteria	Investment Duration
Banks or Building Societies	Any deposits with maturity up to a maximum of five years	Fitch: Short Term F1+ and Long Term AA- and Moody, Standard & Poor, equivalent where rated, the lowest rating used where different	Maximum duration suggested by Treasury Advisor's (MUFG's) colour coded Credit List, and not in excess of five years
Debt Management Office or UK Local Authority		No Limit.	

Table 3

Treasury Limits

Investment Instrument	Cash balances less than £30Million	Cash balances higher than £30Million
	Limits	Limits
Variable Rate Investments (Excluding Enhanced Cash Funds)	Maximum holding £30M	Maximum holding 100%
Counterparty limits (to encompass all forms of investment)	Maximum £5M	Maximum £10M
Instant Access Or Overnight Deposit	Maximum holding 100%	
Fixed Rate less than 12 month maturity	Maximum holding 100%	
Fixed Rate more than 12 months to maturity (includes all types of Fixed Rate Investments i.e. Certificates of Deposits)	Maximum £5M	Maximum £10M
Money Market Funds - Traditional Instant Assess (Counterparty Limit per Fund)	Maximum £5M per MMF	Maximum £10M per MMF
	No limit on total cash held	
Enhanced Cash Funds	Maximum £3M	
Certificates of Deposits	Maximum £5M	
Property Funds	Maximum of £3M - No durational limit. Use would be subject to consultation and approval	

Procedures of Applying the Criteria and Limits

Before the Treasury Team makes an investment, the Team will follow the follow procedure to ensure full compliance with the Specified and Non-Specified Criteria and Treasury Limits:

1 Check that the Counterparty is on the Counterparty List (also known as Current Counterparty Report for Stevenage) produced by MUFG Asset Services (LAS), specifically meeting the Council's Specified and Non-specified Minimum High Credit Quality Criteria in the above Table 1 & 2. If it is not on the list, the Treasury Team will not invest with them.

2 If the Counterparty is on the list, then the Treasury Team refers to the Credit List produced by LAS in colour coding, to determine the maximum investment duration suggested for the deposit, as per the column of Suggested Duration (CDS Adjusted with manual override).

3 Refer to the Treasury Limits in the above Table 3 to ensure the amount invested complies with the Treasury Limits.

Approved Countries for Investments

This list is based on those countries which have sovereign ratings of AA- or higher, (shown - the lowest rating from Fitch, Moody's and S&P) and also, (except - at the time of writing - for Hong Kong and Luxembourg), have banks operating in sterling markets which have credit ratings of green or above in the Link creditworthiness service.

Based on lowest available rating (as at 25.11.24)

AAA

- Australia
- Denmark
- Germany
- Netherlands
- Norway
- Singapore
- Sweden
- Switzerland

AA+

- Canada
- Finland
- U.S.A.

AA

- Abu Dhabi (UAE)
- Qatar

AA-

- Belgium
- France
- **U.K.**

The UK is exempt from the sovereign rating criteria as recommended by MUFG. The UK sovereign rating is currently AA-.

The above list includes the possible countries the Council may invest with. Not all of these countries are used or will be used in treasury management investments

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Approved Sources of Long and Short-term Borrowing 2025/26

On Balance Sheet	Fixed	Variable
PWLB	●	●
UK Municipal Bond Agency	●	●
Local Authorities	●	●
Banks	●	●
Pension Funds	●	●
Insurance Companies	●	●
UK National Wealth Fund	●	●
Market (long-term)	●	●
Market (temporary)	●	●
Market (LOBOs)	●	●
Stock Issues	●	●
Local Temporary	●	●
Local Bonds	●	
Local Authority Bills	●	●
Overdraft		●
Negotiable Bonds	●	●
Internal (capital receipts & revenue balances)	●	●
Commercial Paper	●	
Medium Term Notes	●	
Finance Leases	●	●

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Meeting: **AUDIT COMMITTEE**

Agenda Item:

Portfolio Area: Resources and Transformation

Date: **4 February 2025**

REVISION TO CONTRACT PROCEDURE RULES 2025

Author – Kirsten Brown

Lead Officer – Brian Moldon

Contact Officer – Kirsten Brown

1. PURPOSE

1.1. To update Members on the revision to the Council's Contract Standing Orders, now known as Contract Procedure Rules.

2. RECOMMENDATIONS

2.1. That revised Contract Procedure Rules be recommended to Council for approval.

3. BACKGROUND

3.1. Contract Standing Orders form an essential part of the control framework within which the Council operates.

3.2. Contract Standing Orders (CSO's) are a collection of rules, which must be adhered to when officers purchase goods, works or services or dispose of Council plant and equipment. They have been designed to ensure that the Council is compliant with UK legislation, follows best practice and achieves value for money in all its procurement activities.

3.3. A review of the Council's Contract Standing Orders was last undertaken in January 2020 and this report updates Members on the proposed updates to the CSO's. Changes have been made to reflect organisational changes, legislative changes and to clarify policies.

4. REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

4.1. The Contract Procedure Rules have been updated as at February 2025 and the changes are detailed in Appendix B attached to this report, the main changes relate to:

- Changing the name to Contract Procedure Rules as this title is more in common with current best practice.
- Increasing the threshold for all bands

- To update the rules to reflect the Procurement Act 2023 which becomes law on 24 February 2025
- To change the internal direction regarding the use of a direct award under a Framework agreement.
- To increase the direction given to officers in regard to pre procurement market engagement and contract management to reflect their increased importance.

5. IMPLICATIONS

5.1. Financial Implications

It is anticipated that the revised Contract Procedure Rules (CPR) will improve the Council's financial standing through the following of best practice, the achievement of value for money and the mitigation of risk.

5.2. Legal Implications

The updated CPR's include any legal implications within the regulations.

5.3. Policy Implications

Contract Procedure Rules are in themselves a policy change.

6. BACKGROUND DOCUMENTS

Contract Standing Orders version 9 dated January 2020

7. APPENDICES

Appendix A – Revised Contract Procedure Rules

Appendix B – Table of Changes with proposed changes for 2025



CONTRACT PROCEDURE RULES

Date: November 2024
Version 10

CONTENTS:

SECTION	TITLE	PAGE
SECTION 1	INTRODUCTION AND GENERAL REQUIREMENTS	D133
SECTION 2	CONTRACT PROCEDURE RULES – PROCUREMENT OBJECTIVES	D135
SECTION 3	EXEMPTIONS TO CONTRACT PROCEDURE RULES	D136
SECTION 4	CONTRACTS BELOW £100,000 (BAND 1 AND 2)	
	4.1 Overview	D138
	4.2 Supplier Selection	D138
	4.3 The Invitation to Quote	D140
	4.4 Contract Evaluation and Award	D140
SECTION 5	CONTRACTS BETWEEN £100,001 AND THE PUBLIC CONTRACTS THRESHOLD (BAND 3)	
	5.1 Overview	D142
	5.2 Supplier Selection: Public Notice & Purchasing Consortium	D142
	5.3 Not Used	D143
	5.4 The Invitation to Tender	D143
	5.5 Submission, Receipt and Opening of Tenders	D145
	5.6 Not Used	D145
	5.7 Tender Evaluation	D145
	5.8 Contract Award and Contract Management	D147
SECTION 6	CONTRACTS ABOVE THE PUBLIC CONTRACTS THRESHOLD (BAND 4)	
	6.1 Overview	D150
	6.2 Procurement Act 2023	D151
	6.3 Supplier Selection	D152
	6.4 Short Listing	D152
	6.5 The Invitation to Tender	D153
	6.6 Submission, Receipt and Opening of Tenders	D155
	6.7 Tender Evaluation	D155
	6.8 Contract Award and Contract Management	D157
SECTION 7	SPECIAL CONTRACTS	
	7.1 Engagement of Consultants	D159
	7.2 Disposal Contracts	D160
	7.3 Contract Extensions	D161
	7.4 Contract Hire and Lease/Rental Agreements	D162
	7.5 Nominated Sub-contractors and Suppliers	D162
	7.6 Term Contracts and Framework Agreements	D163

	7.7 Partnerships & Shared Services	D163
	7.8 Income Generating Contracts	D164
SECTION 8	OTHER CONSIDERATIONS	
	8.1 Contractual Disputes	D165
	8.2 Termination of Contracts	D165
	8.3 Bankruptcies and Liquidations	D165
	8.4 Contract Variations	D165
	8.5 Green Environment and Sustainable Sources	D166
	8.6 Diversity	D166
	8.7 Equality	D166
	8.8 Innovative and Abnormal Contract Action	D166
	8.9 Declaration of Interest	D166
	8.10 Freedom of Information Act (2000)	D167
	8.11 Security of Performance and Performance Liability	D167
	8.12 TUPE and the Best Value Code of Practice on Workforce Matters	D167
	8.13 Health and Safety	D167
	8.14 Safeguarding Children	D168
	8.15 Accessibility	D168
	8.16 GDPR	D168
	8.17 Social Value	D168
	8.18 Modern Slavery	D169
	8.19 Fraud Prevention	D169
Appendix A	Table of Definitions / Terms	D170
Appendix B	Procurement Act 2023 Notice requirements	

SECTION 1 INTRODUCTION AND GENERAL REQUIREMENTS

- 1.1 These Contract Procedure Rules CPR's These Contract Procedure Rules (CPR's) are a framework of rules, which must be adhered to when purchasing goods, services, works or income generating contracts or disposing of Council property. These Contract Procedure Rules¹ have been established to ensure that the Council is compliant with UK legislation, follows best practice and achieves best value for money in its procurement activities. These Contract Procedure Rules do not apply to employment contracts, contracts for the sale or purchase of land or buildings or any other contracts which are exempt under the Procurement Act 2023 or subsequent/associated UK legislation².
- 1.2 These Contract Procedure Rules promote good purchasing practice, public accountability, data transparency and help protect officers from any complaints. Following the rules is the best defence against any possible allegation that a purchase or disposal has been made incorrectly or inappropriately.
- 1.3 Officers responsible for purchasing goods, services, works or income generating contracts are bound by and have a duty to read and be familiar with these Contract Procedure Rules. these Contract Procedure Rules lay down **minimum** requirements. A more thorough procedure may be appropriate for a particular contract.
- 1.4 Officers must ensure that any necessary pre-purchasing steps have been taken. This may include³:
- conducting a value for money review
 - drafting a business case,
 - conducting pre procurement market engagement
 - considering any workforce implications including TUPE
 - health and safety and business continuity requirements
 - complying with *Key Decision requirements*
 - Equality Impact Assessment
 - GDPR (Data Protection)
 - Safeguarding considerations
 - Section 20 considerations if housing
 - Collaboration opportunities
 - considering Social Value
- 1.5 Unless an exemption provided for in Section 3 has been approved, it is a disciplinary matter to fail to comply with these Contract Procedure Rules. Responsibility for compliance rests with everyone who carries out procurement of goods, services or works (including contracts for consultancy) for or on behalf of the Council. The ultimate responsibility for identifying the need to start a procurement, creating the procurement, managing it through its contract term and requirement to re-procure rests with the Assistant Director (or Strategic Director in the case of direct reports) for the relevant area.
- 1.6 These Contract Procedure Rules should be read in conjunction with the Council's Financial Regulations as appropriate. Officers should also consider the Co-operative Procurement Strategy when considering embarking on a procurement⁴. These Contract Procedure Rules will be reviewed and updated on a periodic basis (the latest version will be held on the intranet).

¹ Referred to from now on throughout this document as These Contract Procedure Rules or CPR's

² Contact the Recruitment Officer regards employee contracts (for the avoidance of doubt, contracts with agencies or companies who supply temporary staff are subject to CPR's) and the Estates Manager regards contracts for sale of land.

³ Checklists to help ensure correct steps are addressed are available on the intranet under Procurement

⁴ Co-operative Procurement Strategy is held on the intranet under Procurement

- 1.7 Officers must also ensure that any agents or consultants acting on their behalf in purchasing or disposal matters also comply with the Council's Contract Procedure Rules, Financial Regulations and with all UK legal requirements.
- 1.8 **Contracts** mean any arrangement, for pecuniary interest, for the supply of goods (including hire, rental or lease arrangements), services or works to the Council. "Pecuniary interest" includes arrangements where the Council pays for goods, services or works and/or where the Supplier has the right to exploit works or services and to generate its income from doing so (i.e. a Concession Contract). Contracts do not include and, these Contract Procedure Rules do not apply to, purely compensatory or supportive arrangements such as grants, although officers must ensure any such arrangements comply with the Subsidy Control Act 2022 and associated regulations. Advice should be sought from Legal Services about any potential subsidy control implications.
- 1.9 The Procurement Act 2023 and Procurement Regulations 2024 set out what is legally required for UK public contracts procurement. This includes some rules for procurements below the Public Contracts Threshold; these have been incorporated into the CPR's.
- 1.10 All contracts must be subject to competition, as follows:

Band 1	Up to £15,000 (£25,000 if Works)	One quote (confirmed in writing if greater than £1,000)
Band 2	£15,001 – £100,000 (£250,000 if Works)	Three quotes to a purchaser specification via the Council's e-tendering system
Band 3	£100,001 (£250,001 if Works) – Public Contracts Threshold	Invitation to Tender via the Council's e-tendering system
Band 4	Above Public Contracts Threshold	<i>Procurement Act 2023 Procedures</i> via the Council's e-tendering system

- 1.11 An officer must neither enter into separate contracts nor select a method of calculating the *Estimated Contract Value* in order to circumvent the application of These Contract Procedure Rules or The Procurement Act 2023. If it is not possible to estimate the value of a contract (for example because the duration is unknown), the contract must be treated as having an estimated value above the Public Contracts Threshold.
- 1.12 Where the value of a contract exceeds £175,000, it should generally (where practicable) be made in the form of a deed and signed under seal by the Council. Should an officer wish to depart from this requirement, authorisation must be given by the Borough Solicitor and Legal Services must first be consulted for advice on the legal implications of doing so. Notwithstanding the forgoing, a contract of any value may be entered into as a deed if requested by the applicable Head of Service or Legal Services – for example where an extended limitation period of 12 years is required (the normal limitation period is 6 years).



Clare Fletcher -Strategic Director

For Further Advice on these Contract Procedure Rules:

The authorised version of These Contract Procedure Rules and various supporting written guidance are held on the Council's intranet site, under "Procurement".

If you have any queries about These Contract Procedure Rules or the various supporting written guidance please contact one of the following as appropriate:

- Corporate Procurement Manager procurement@stevenage.gov.uk
- Finance – Assistant Director

If you are unclear about the procurement rules please seek relevant advice before taking any purchasing or disposal action.

SECTION 2 CONTRACT PROCEDURE RULES – PROCUREMENT OBJECTIVES

All Procurement exercised should take into consideration the following but these are essential for band 4 procurements which are contracts at or above the threshold for The Procurement act 2023 and are known as covered procurements.

2.1 In carrying out a covered procurement, a contracting authority must have regard to the importance of—

- (a) delivering value for money;
- (b) maximising public benefit;
- (c) sharing information for the purpose of allowing suppliers and others to understand the authority’s procurement policies and decisions;
- (d) acting, and being seen to act, with integrity.

2.2 In carrying out a covered procurement, a contracting authority must treat suppliers the same unless a difference between the suppliers justifies different treatment.

2.3 If a contracting authority considers that different treatment is justified in a particular case, the authority must take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage.

2.4 In carrying out a covered procurement, a contracting authority must—

- (a) have regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and
- (b) consider whether such barriers can be removed or reduced.

SECTION 3 EXEMPTIONS TO THESE CONTRACT PROCEDURE RULES

- 3.1 An exemption under this Section allows an officer to partly depart from the normal contract action required in following these Contract Procedure Rules.

These Contract Procedure Rules shall not prevent expenditure being incurred where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent. Where in the opinion of a Senior Leadership Team (SLT) member, in consultation if possible with the Chief Executive and the Assistant Director (Finance & Estates), (where over £250k the key decision urgency process also applies) the urgency of the situation will not permit delay, nothing in Financial Regulations or these Contract Procedure Rules shall prevent the Council from incurring the expenditure as an exemption. Where the contract value is over £100,001, action under this exemption shall be reported to the next meeting of the Cabinet.

- 3.2 Subject to adhering to The Procurement Act 2023 and any subsequent /associated UK legislation, the following exemptions from the requirement to obtain the requisite number of quotations or tenders must be the subject of prior and written approval by either the Corporate Procurement Manager, Assistant Director (Finance & Estates), or the Borough Solicitor:

- a) For the purchase of goods, works or services which are of a specialist nature or are Officer. A record obtainable from only one or a limited number of Suppliers and there are no other satisfactory alternative options.⁵
- b) Where exceptional circumstances clearly show it is in the best interests of the Council to negotiate a new contract with an existing Supplier.⁶
- c) Unforeseen works or circumstances where delay will adversely impact on the service delivery for the council or access to external funds.⁷
- d) Tenders or quotes for similar goods, works or services have been obtained in the last 24 months.
- e) The goods are classed as used or second hand - where the Borough Solicitor, the Assistant Director (Finance & Estates) or the Corporate Procurement Manager is satisfied that the market for such goods or materials is such that it would be unreasonable to tender or where the time required to complete the tender process is likely to lead to the loss of opportunity to purchase a used or second hand item and where the relevant officer has ensured that a Value for Money approach has been applied.
- f) Other exceptional circumstances that don't fit with any of the above authorised by both the Corporate Procurement Manager and the Borough Solicitor

- 3.3 Once a request to waive These Contract Procedure Rules has been received, a Waiver Action Form will be completed by the Officer requesting the waiver and reviewed by the Approving of the decision approving or rejecting a waiver request and the reasons for it must be kept and an entry made in the waiver request register which will be maintained by the Corporate Procurement Manager

- 3.4 Officers applying the exemption rules in 3.3 must, **as a minimum**, draft a specification and

⁵ The officer must provide evidence to prove that there are no other satisfactory alternatives, such as a recent public notice where no suitable candidates responded.

⁶ For example, where the Council have received consultancy services for a complex project and wish to employ the same consultant for additional consultancy services relating to that project, because the use of an alternative consultant would result in the loss of an important skillset or knowledge, which is not easily transferable.

⁷ Must have been unforeseeable, not caused by a lack of prompt action by the Council

use the Council's preferred contractual documents, where appropriate (as outlined in Section 5). Unless otherwise stated, Financial Regulations (including key decision processes) will still apply and will need to be adhered to.

- 3.5 Officers must ensure the contract is recorded on the contracts register if an agreed exemption to CPR's results in a change to existing contract details or constitutes the award of a new contract with a value over £5000⁸.
- 3.6 Compliance with UK legislation is considered to satisfy the Council's These Contract Procedure Rules and Financial Regulations. **No exemption shall be granted if the giving of that exemption would cause a breach of The Procurement Act 2023 or subsequent / associated UK legislation.**

⁸ See guidance on the intranet on how this is achieved.

SECTION 4 SPECIFIC REQUIREMENTS FOR CONTRACTS BELOW £100,000 (BAND 1 AND 2)

4.1 Overview

Band	Estimated Contract Value	Minimum No. of Quotes	Contract Signature
1	Up to £15,000 (£25,000 if Works ⁹)	At least one oral quote (written if over £1,000)	Officers authorised to sign purchase orders within this value banding.
2	£15,001 to £100,000 (£250,000 if Works)	At least three written quotations to a purchaser specification.	Officers authorised to sign or seal contracts within this value banding ¹⁰

Where the preliminary estimated contract value is within 10% of a higher category value, the appropriate provisions for the higher category of contract should be applied (unless the preliminary estimate is based on a firm quote). If the existing contract you are using has a total contract value within the Band 2 threshold and you anticipate the new final contract total may be within the Band 1 threshold, you must still continue to follow the Band 2 process unless the new contract is fundamentally different.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods. Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.¹¹

Band 1

Contracts with a value between £5000 and £15,000 (£25,000 if works) should be considered as to whether conducting a procurement exercise would be more expensive in officer time than the value of any savings, if that is the case a band 1 waiver form must be submitted to your Tier 4 manager or AD if you are Tier 4 for approval before proceeding. This is more likely to apply to services and works, where quality has to be assessed or site visits to quote arranged and unlikely to apply to goods.

4.2 Supplier Selection

- 4.2.1 Suppliers invited to quote within these bands can be sourced from any means, including the Internet, suppliers registered on www.supplyhertfordshire.uk or based on previous satisfactory experience with the Council. There is no requirement to issue public notices for contracts within these bands, although this may be appropriate in some instances. However, when inviting quotations in Band 2, Officers must invite a Stevenage based supplier if one such exists on www.supplyhertfordshire and is appropriate for the requirement. If no Stevenage

⁹ Works are defined as activities having a Works CPV code see intranet for further guidance on what constitutes a works contract.

¹⁰ As per the authorised contract signatory list held by Exchequer Services.

¹¹ Guidance document "Estimating the total value of your procurement correctly" is available on the intranet under Procurement.

based look to Hertfordshire based as this supports the Councils community wealth building agenda. Officers should also document the reasons for selecting the suppliers (such evidence may be required should the decision be challenged at a later date).

If you are sourcing contracts of a similar nature on a regular basis i.e. low value bespoke building alterations it is a requirement to ensure that you invite at least one supplier not invited last time so that more suppliers are given the opportunity to quote for the Council's business.¹²

Framework Agreements

4.2.2 Framework agreements let by other contracting authorities, where the council has been named as being able to use the framework agreement, can be used. Examples of contracting authorities that let framework agreements of this nature are: Crown Commercial Services (CCS), Eastern Shires Purchasing Organisation (ESPO), Procurement for Housing (PfH), Homes England, and Yorkshire Purchasing Organisation (YPO).

4.2.3 The officer may utilise any of the above purchasing consortiums framework agreements (or any other framework agreements approved by either the Corporate Procurement Manager or Borough Solicitor). Any procedures provided by the purchasing consortium must be followed; generally mini competition is likely to achieve the best value as it allows Contractors to submit tailored bids to our requirement.

Direct Award is not available on all frameworks, where it is an option then generally it is only permitted if one of the below applies;

- The framework is sole supplier; or
- Where there is a ranked call off provision; or

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

4.2.4 When conducting a mini competition the officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst all the capable suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework..

4.2.5 Officers should use existing contracts where these are provided for and suitable, details of which can be found on the shared drive under Corporate> Central Contracts Database. Officers must liaise with the contract manager of the contract before proceeding to ensure they are compliant. All procurement of ICT Hardware and Software must be in consultation with the IT team.

Officers should consider if the requirement could be satisfied by another department through insourcing or through another contract tendered within the council or another public body and contact the relevant team to enquire before going out externally.

4.2.6 In exceptional circumstances and for contract values under £1,000 only, an officer may be permitted to contract with a supplier or group of suppliers without first obtaining an oral quote. In this instance, the officer must first submit the request in writing to either the Corporate Procurement Manager, Assistant Director (Finance & Estates), or the Borough Solicitor and obtain his or her prior written approval before awarding the contract(s).¹³

¹² Guidance on supplier selection at quote level is available on the intranet under Procurement

¹³ An example of where this may be acceptable would be contracting with a supplier to top up of the Depot's bulk fuel storage facility. The charge per litre will have been pre-agreed before awarding a contract, but the number of litres to be supplied will not be not known until the goods have been supplied.

4.3 The Invitation to Quote (Band 2 only)¹⁴

- 4.3.1 Officers must provide adequate instructions to respondents, outlining what is required (specification), in what format and by when. The Invitation to Quote¹⁵ should also define the award criteria, whether lowest cost or most advantageous quote (See 5.4.1). Officers are reminded that further instructions may be necessary depending on the nature of the contract. For example, specific insurances and equality requirements may be appropriate where the purpose of the contract is to supply services directly to the public.
- 4.3.2 The officer responsible for the purchase may consult potential Suppliers prior to the issue of the Invitation to Quote in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters provided this does not prejudice any potential Supplier.
- 4.3.3 Quotations must be submitted through the In-Tend e-tendering system. If there is a reason why Intend cannot be used, this needs to be agreed with the Corporate Procurement Manager in advance of the procurement¹⁶. A return date must be specified and adhered to. When using In-Tend the receiving officer can open the returns as soon as the system makes them available.
- 4.3.4 Suppliers must be given a minimum of 5 working days to respond to an invitation to quote, but they may require longer timescales if the contract is considered complex in any way.

4.4 Contract Evaluation and Award (Band 2 only)

- 4.4.1 To ensure adequate competition, there must be at least two satisfactory responses from the number of quotations requested (and this is expected when conducting a mini competition from a framework as well) i.e. responses which meet a minimum quality standard under which the Council could award the contract. If the Council receives only one satisfactory response, the officer must not open the responses before seeking advice from Corporate Procurement who will determine if the officer should obtain an additional quote, re-run as an advertised process or obtain an exemption under CSO 3.3.
- 4.4.2 All quotes must be evaluated based on the defined award criteria in the Invitation to Quote. Post tender negotiation may be used for certain contracts, in accordance with CPR's 5.7.6 and 5.7.7.
- 4.4.3 If the quoted contract value for the preferred supplier falls into the higher band 3 when processes for the lower Band 2 were followed, the officer must provide either the Assistant Director (Finance & Estates), the Borough Solicitor or the Corporate Procurement Manager with a written explanation and supporting evidence as to the basis for estimating the contract value at the lower band. The Borough Solicitor, Assistant Director (Finance & Estates) or Corporate Procurement Manager will decide whether the contract should be re-tendered following the procedures within the higher band.
- 4.4.4 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Assistant Director (Finance & Estates), or the Borough Solicitor. Staged payments are acceptable but must be proportionate to the cost of the goods, works or services received.

¹⁴ A checklist is available on the intranet under staff into/finance/corporate procurement to help you through the steps of a quote process.

¹⁵ SBC invitation to quote templates are available on the intranet under Procurement

¹⁶ An example of an exemption could be where we are not in a market position to impose the use of Intend.

- 4.4.5 Successful and unsuccessful Suppliers should be informed of the decision within 14 days of the closing date and feedback provided if requested.
- 4.4.6 Contracts or agreements over £5,000 must be signed by an authorised signatory. If there is no written contract, the authorised signatory must confirm in writing (either via letter or email) that the quote has been accepted, stating the cost and any other terms (such as payment terms and delivery date) to which the Council is agreeing to. In the absence of a written contract, a Purchase Order containing the above mentioned information and signed by an authorised signatory is sufficient.
- 4.4.7 For contracts over £5,000 officers must ensure the details are entered onto the Central Contracts Database¹⁷.
- 4.4.8 All documentation must be kept in accordance with the Document Retention Schedule which can be found on the intranet.

¹⁷ See guidance on the intranet about how this is achieved

SECTION 5 CONTRACTS BETWEEN £100,001 AND PUBLIC CONTRACTS THRESHOLD¹⁸

5.1 Overview

Band	Estimated Contract Value	Minimum No. of Respondents	Contract Signature
3	£100,001 (£250,001 if works) to Public Contract Threshold (see CSO 6.1 for values)	N/A unless Works over £177,500 excluding VAT ¹⁹	Officers authorised to sign contracts within this value banding ²⁰ , unless under seal (see CSO 5.8.7)

Where the preliminary Estimated Contract Value is within 10% of a higher category value, the appropriate provisions for the higher category of contract should be applied (unless the preliminary estimate is based on good evidence). If the existing contract you are using has a total contract value within the Band 3 threshold and you anticipate the new final contract total may be within the Band 2 threshold, you must still follow the Band 3 process unless the new contract is fundamentally different.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods. Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.²¹ Collaboration with other Hertfordshire authorities is encouraged and can be promoted via the Hertfordshire Procurement Group by talking to Corporate Procurement.

5.2 Supplier Selection: Public Notice & Purchasing Consortium

5.2.1 Within this contract value banding, either a public notice or a suitable framework agreement that the council is entitled to use can be used.

Public Notice

5.2.2 If the chosen method is a public notice, officers must follow the: Open procedure – all Suppliers expressing an interest are sent an Invitation to Tender (ITT) and all responses are evaluated. An exception can be made for Works contracts with a value between the Public Contract Threshold for services and the Public Contract Threshold for Works which allows for conditions of participation to be assessed before issuing the ITT to a limited number of participants.

The Public notice will be placed via the Corporate Procurement team on the Council's E procurement portal, In-Tend- and on the Find a Tender Service website in order to maximise competition. The notice will state how to register on the In-Tend system, the scope of the requirement and the deadline for submission.

¹⁸ Checklists are available on the intranet under Procurement to assist you with the process

¹⁹ If the number of respondents is being restricted invite at least three to tender where sufficient qualify

²⁰ As per the Authorised Signatory list held by Exchequer Services.

²¹ Guidance document "Estimating the total value of your procurement correctly" is available on the intranet under Procurement.

Framework Agreements

5.2.3 Framework agreements let by other contracting authorities, where the council has been named as being able to use the framework agreement ,can be used. Examples of contracting authorities that let framework agreements of this nature are: Crown Commercial Services (CCS), Eastern Shires Purchasing Organisation (ESPO), Procurement for Housing (PfH), Homes England (HE), Yorkshire Purchasing Organisation (YPO).

5.2.4 The officer may utilise any of the above purchasing consortiums framework agreements (or any other framework agreements approved by either the Corporate Procurement Manager or Borough Solicitor). Any procedures provided by the purchasing consortium must be followed, generally mini competition is likely to achieve the best value as it allows Suppliers to submit tailored bids to our requirement.

Direct Award is not available on all frameworks, where it is an option then generally it is only permitted if one of the below applies;

- The framework is sole supplier; or
- Where there is a ranked call off provision;

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

5.2.5 When conducting a mini competition the officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst all the capable suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework.

In the same way it is a requirement to obtain two compliant bids when utilising a quotation exercise, the same applies when utilising a mini competition via a framework. Therefore it is vital to conduct some pre market engagement to be sure that the framework is suitable. Some frameworks have the option of an expression of interest to alert potential bidders of the forthcoming competition. Should you be looking to award more than one contract as a result of the mini competition then proportionally more compliant bids must be received.

5.3 Pre Market Engagement

5.4.4 Pre-procurement engagement with the market (including talking to potential suppliers) is encouraged provided that it does not prevent an effective competition taking place when the requirement is put out to the market. In fact, engaging with the market before starting the formal procurement process is best practice and helps to maximise value for money from the resulting procurement.²²

5.4.5

Officers must conduct an appropriate level of pre market engagement prior to launching the invitation to tender:

As a minimum they must get feedback from some potential bidders to ascertain:

There is interest in the opportunity at this time

Our estimate of the value is in the right ball park

Suggestions on how the service, product or works may be delivered differently.

Advice on conducting pre market engagement is available from Corporate Procurement

5.4 The Invitation to Tender

²² Further information on pre procurement market engagement is available on the intranet under Procurement

5.4.1 The **Instructions to Tenderers**²³ must, as a minimum, include the following:

- a) List the information which must be provided by the supplier in their response, including any forms, tables or pricing schedules to be completed.
- b) State the method of response required. All tenders shall be issued through the Council's E-tendering System – In-Tend (see CSO 5.5).
- c) Outline a timetable for the remainder of the procurement exercise, detailing the closing date for receipt of responses, the evaluation period and when a response on contract award is expected.
- d) State the method which will be via In-Tend and the deadline for obtaining additional information or clarification (usually 7-14 days before the closing date for receipt of responses) and that additional information requested will be distributed to all suppliers (this should be distributed to all suppliers at the same time through Intend no later than one week before the closing date for receipt of responses²⁴).
- e) Outline how the responses will be evaluated, listing the appropriate award criteria and their relative weightings, which shall be based on the "most advantageous tender". The award criteria may include price, service, quality of goods, running costs, previous experience, delivery date, cost effectiveness, relevant environmental considerations, employment considerations, aesthetic and functional characteristics, safety, after-sales services, technical assistance, contract terms and conditions and any other relevant matters. Lowest price must not be used as the sole award criteria unless approved by Corporate Procurement.
- f) The measurement system may include the following 4 elements:
 - Any pass/ Fail considerations
 - A point scoring system for individual quality/value for money considerations.
 - Weightings applied to quality/value for money issues in accordance with their importance to the completion of the contract.
 - A "Quality Threshold" which sets the minimum standard expected. Tenders which fall below this shall be excluded from consideration.
- g) State that late responses will not be considered unless it is proven that a third party is at fault and that the Council is not bound to accept any Tender.
- h) State the price validity period (usually up to a maximum of six months).
- i) Provide a statement to the effect that under the Freedom of Information Act (2000), the Council may be obliged to provide information regarding the procurement exercise or a subsequent contract award and that respondents will be advised of any requests for information and be given an opportunity to comment before disclosure of such information (information whose disclosure would be likely to prejudice anyone's commercial interests is exempt from disclosure provided the public interest in withholding the information outweighs the public interest in disclosing it)
- j) The level of economic and financial standing required

²³ An template Invitation to Tender can be requested from Corporate Procurement.

²⁴ A Clarification/Query template spreadsheet is available from Corporate Procurement

- k) The level of insurance required
- l) Any Pass/Fail elements or minimum thresholds to be met

5.4.2 An adequate **specification** must be included. The specification must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive offers.

5.4.3 For contracts within this value banding, the following **Standard Forms**²⁵ should form part of the Invitation To Tender and should be included in the final contract documentation:

- a) Form of Tender
- b) Certificate that the Tender is Bona Fide
- c) Parent Company Guarantee (if applicable).
- d) Performance Bond Certificate (if applicable).
- e) Insurance requirements

5.4.6 Where appropriate to the type of contract being let, the officer should use standard industry contracts ie JCT²⁶ or the **Council's own standard contracts**. Where the Council does not supply a suitable standard contract for the type of contract being let, the officer should liaise with Legal Services to identify contract terms relevant to that specific contract. The officer must seek advice from Legal Services if he/she is unclear as to what terms and conditions should be included in the contract. Supplier standard terms and conditions should only be accepted following consultation and approval by Legal Services. In any event, it should be stated in the Invitation to Tender which contract terms will apply to the contract. SBC's standard clauses and contracts are available from corporate procurement.²⁷

5.4.7 Suppliers invited to tender must be given an adequate period in which to prepare and submit a proper tender, consistent with the urgency of the contract requirement. Normally at least **four weeks** should be allowed for submission of Tenders but this can be less if the Contracting Officer has ascertained, during pre procurement market engagement, that a lesser time period is practical and realistic. All tender documents for a contract shall be despatched to the Suppliers invited to tender on the same day via in-Tend.

5.4.8 A tender period can be extended if there are justifiable reasons and it is practical to do so. The reasons for any extension of time should be recorded and communicated in writing to all respondents ideally at least one week prior to the closing date.

5.4.9 Suppliers must demonstrate that they carry a range and level of insurance cover acceptable to the type of contract being let. As a starting point it would be prudent to assume the following minimum levels of indemnity, Public Liability £5m, Employers Liability £10m (although the legal minimum is £5m), Professional Indemnity £2m, Products Liability between £1m and £5m. These must be reviewed for adequacy in light of the various risk factors affecting the contract. Only in very low risk scenarios would levels of indemnity lower than these be acceptable .If in doubt, contact the Council's Insurance Officer.²⁹

²⁵ Standard Forms can be obtained from corporate procurement

²⁶ Standard amendments to JCT Minor Works or Measured Term contracts are available from Corporate Procurement

²⁷ It is prudent that Officers obtain the standard clauses and contracts as and when the procurement need arises, as they are subject to change.

²⁹ An insurance checklist can be found on the intranet under staff info/finance/insurance

5.4.10 The advice of Legal Services must be sought as necessary, particularly for contracts which are complex.

5.5 Submission, Receipt and Opening of Tenders

5.5.1 Tenders shall be submitted through the Council's E-tendering System – In-Tend. Instructions on how to register on the e-tendering system must be provided in the public notice. The system sends full guidance documents on how to use the system to respondents when they register and has on line guidance at every stage. Within the Invitation to Tender documents respondents must be provided with a contact point in case they experience any problems in using the E-Tendering system. Respondents must also be advised that failure to advise the Council of the problem **before** the deadline for return of tenders will mean they have lost their opportunity to tender. Where a notification of a problem is received in time, consideration should be given to extending the deadline for submission and all tenderers should be advised accordingly of any extension of time.

5.6 Not Used

5.7 Tender Evaluation

5.7.1 The following should be checked by the Officer:

- a) The Tenders are actually from the Suppliers invited to tender (where using a framework or works contracts where a suitability stage was used);
- b) That there are no errors or omissions in the completion of the documents;
- c) Where a check of the prices quoted suggest collusion among tenderers or 'ring' pricing, the case should be referred to the Assistant Director (Finance & Estates);
- d) If the supplier invited to tender is on the gov.uk debarment list. If they are consult with Corporate Procurement.

5.7.2 To ensure adequate competition, there must be at least two satisfactory responses to the Invitation to Tender i.e. two responses which meet the minimum quality threshold. If there is only one satisfactory response, the officer must either re-tender the contract, advising respondents accordingly, or obtain an exemption under CSO 3.3.

5.7.3 Where necessary, clarifying some aspect of a Tender response in writing or by way of a meeting is permitted. If a meeting is held then relevant notes should be made of the results of the meeting and matters should be confirmed in writing for contractual purposes.

The officer must use the award criteria and measurement system³⁰ as set out in the Invitation to Tender.

5.7.4 The Procurement process should take no longer than 10 months from issue of advertisement to award of contract. Should the procurement process take longer than 10 months, authorisation must be sought from the Borough Solicitor, Assistant Director (Finance & Estates) or Corporate Procurement Manager to proceed with the contract award.

Within (and below) this contract value banding only, *Post-Tender Negotiations* may only be used where the officer justifies the need for post tender negotiation in writing to either the Corporate Procurement Manager, the Assistant Director (Finance & Estates), or the Borough Solicitor and that the request is authorised by either the Corporate Procurement Manager, the Assistant Director (Finance & Estates), or the Borough Solicitor in writing. Post-

³⁰ A sample criteria and measurement template can be found on the intranet under Procurement.

Tender Negotiations will only be authorised when lawful.

- 5.7.5 Negotiations must be conducted by a team of at least two suitable officers with the involvement of Legal Services, as required. Changes should be confirmed in writing for contractual purposes. Where Post Tender Negotiation results in a significant change to the specification (or contract terms) the contract must not be awarded but re-tendered.
- 5.7.6 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Assistant Director (Finance & Estates) or the Borough Solicitor. Staged payments are acceptable but must be proportionate to the cost of the goods, works or services received and must be submitted for checking to Treasury and Capital in Accountancy, see CSO 5.8.10.
- 5.7.7 If the tendered contract value for the preferred Supplier falls into the higher band 4 (above the Public Contract Threshold) when processes for the lower Band 3 were followed, the officer must provide either the Corporate Procurement Manager, the Assistant Director (Finance & Estates), or the Borough Solicitor with a written explanation and supporting evidence as to the basis for estimating the contract value at that lower band. The Corporate Procurement Manager, the Assistant Director (Finance & Estates), will decide whether the contract should be re-tendered following the procedures within the higher band.

Checks on Financial Status

- 5.7.8 For contracts within this value banding, the officer must ensure the supplier has the level of economic and financial standing that they self certified that they have. To do so obtain two years annual accounts for the preferred Supplier before contract award (unless this is not possible, for example where a company has recently been established). Annual accounts are to be provided to Corporate Procurement, who will check that the supplier self certified correctly. Please allow at least 1 week for this process to be completed.
- 5.7.9 If the financial check reveals an unsatisfactory appraisal, yet the officer still wishes to use the Supplier, he/she must submit a written request to the Assistant Director (Finance & Estates) or nominated deputy for his/her approval. Approval will not be given in circumstances where the Supplier has failed any minimum pass/fail requirements set out in the Invitation to Tender or associated procurement documents. Any conditional approval given by the Assistant Director (Finance & Estates) or nominated deputy must be strictly complied with.
- 5.7.10 At the discretion of Corporate Procurement, financial checks may not be necessary for specific Suppliers. For example, where the contracting body is a local authority.
- 5.7.11 All contracts in this value banding with a term of over 24 months or that are considered high risk will need to be registered with Corporate Procurement for monitoring updates on financial status.

5.8 Contract Award and Contract Management

- 5.8.1 Consult Financial Regulations to ascertain the correct process to gain approval to award³¹
- 5.8.2 All Suppliers who have expressed an interest in a proposed contract should be notified in writing through the Council's E-tendering system whether they have or have not been successful in winning the contract. Tenderers should be notified of their score against each award criteria, the score the winning tenderer obtained and the name of the winning tenderer.

³¹ An Approval flowchart is available to assist on the intranet under Procurement

If requested additional feedback should be provided.

- 5.8.3 All contracts in this value band will be in the form of a written contract (see 5.4.6 above) and signed by an authorised signatory of both the Council and the Supplier, unless the contract is required to be sealed under CSO 5.8.7. The written contract must set out (as a minimum):
- a) Description of the work, services or goods (which may comprise the specification);
 - b) The contract price (exclusive of VAT) and payment terms;
 - c) Any performance dates or milestones;
 - d) The contract period including details of any permitted extension options;
 - e) The applicable terms and conditions including provisions for the Council to terminate the contract; and
 - f) Any other applicable contract documents (e.g. tender, correspondence, specification, drawings, KPI's, project brief/proposal and signed/completed Standard Forms (see 5.4.3)). A copy of these documents should form part of the contract.
- 5.8.4 Letters of Intent shall only be used in exceptional circumstances and with the approval of the Borough Solicitor who should be satisfied that they are adequately worded.
- 5.8.5 If acceptance of a tender is for any reason delayed beyond the appropriate tender price validity period, the Supplier must be asked to confirm his tender in writing before the acceptance is issued. This letter of confirmation must be included as part of the contract. If the recommended tenderer submits a revised price, Legal Services must be consulted for advice on how to proceed.
- 5.8.6 A contract must be sealed³² in the following cases:
- a) For all formal construction/works contracts over the current Public Contract services threshold (see 6.1)
 - b) Where an extended limitation period of 12 years is required (the normal limitation period is 6 years after the end of the contract).
- 5.8.7 **For contracts within this value banding**, officers must ensure the details are entered onto the Central Contracts Database **An electronic copy of the contract pack must be provided to Corporate Procurement for the Central Contracts Database followed by a scan of the relevant contract pages holding signatures/seals at point of execution.**³³
- 5.8.8 The officer may wish to use a contract management checklist to ensure all required steps have been followed. An example checklist can be found on the intranet under "Procurement", although Business Units may use their own forms to reflect their special requirements.
- 5.8.9 All documentation and records of communications pertaining to the tender must be kept in accordance with Document Retention Schedule which can be found on the intranet.
- 5.8.10 The officer must monitor and manage the performance of the Supplier throughout the contract to ensure that requirements are delivered satisfactorily. In performing this task the officer must monitor:
- a) Key performance indicators as set out in the contract where applicable

³³ Information on process for recording contracts is on the intranet

³³ Information on process for recording contracts is on the intranet

- b) Work performance
- c) Compliance with specification and contract terms and conditions
- d) Cost
- e) Any Value for Money requirements
- f) User satisfaction
- g) Risk management
- h) Variations to the original contract ensuring these are recorded

Further guidance is available on the intranet under "Procurement".

SECTION 6 CONTRACTS AT OR ABOVE THE PUBLIC CONTRACTS THRESHOLD (BAND 4)

6.1 Overview

The value is set by central government and values for 2025 are £214,000 inclusive of VAT for services or supplies and £ 5,372,609 inclusive of VAT for works or concessions. See intranet for current value.

A check list can be found on the intranet to guide procuring officers through the tender exercise (under the “Procurement” section). Further advice should be sought by contacting Corporate Procurement.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods.

Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.³⁴

Collaboration with other Hertfordshire authorities is encouraged and can be promoted via the Hertfordshire Procurement Group by talking to Corporate Procurement.

6.2 Procurement Act 2023

6.2.1 The detailed complex advertising, tendering and reporting processes imposed by the Procurement Act 2023 and Procurement Regulations 2024 are not fully covered in These Contract Procedure Rules. Separate advice and instructions may be issued from time to time by the Corporate Procurement Manager and Legal Services relating to The Procurement Act 2023 and Procurement Regulations 2024. Such advice and instructions These Contract Procedure Rules can be found on the intranet under “Procurement” and should be followed by officers . In the event of any conflict between These Contract Procedure Rules and the Procurement Act 2023/Procurement Regulations 2024, the Procurement Act 2023/Procurement Regulations 2024, will prevail.

6.2.2 Works contracts generally fall under the scope of construction projects, such as new build, or major renovations involving the bringing together of different services and supplies. The Procurement Act 2023 is very specific as to what falls into their definition of ‘Works’ so do not assume ‘Works’ without consulting with Corporate Procurement or Legal Services. If in doubt apply the Services or Supplies thresholds.

6.2.3 ‘Open and Competitive Flexible Procedure are the procurement procedures applied via the Procurement Act 2023³⁷, whereby:

- a) in the case of **open procedures**, any interested Supplier may submit a tender;

³⁴ Guidance document “Estimating the total value of your procurement correctly” is available on the intranet under Procurement.

- b) In the case of **the Competitive Flexible Procedure**, Suppliers must follow the process that has been designed. If a request to participate is part of the process then only suppliers invited by the Council after shortlisting may progress to the next stage of the procedure;

6.2.4 It is a requirement of the Procurement Act 2023 to conduct some Pre Market Engagement or to state in the tender notice why you didn't publish a preliminary market engagement notice. Therefore it is strongly advised that some formal Pre Market engagement is undertaken and a preliminary market engagement notice published.

6.2.5 The advice of the Corporate Procurement Manager and/or Legal Services must be sought where following the Procurement Act 2023, especially if intending to use the Competitive Flexible Procedure.

6.2.6 The officer must provide the information needed to enable the procurement team to place notices required by the Procurement Act 2023. Some notices are optional but the procurement teams advice must be taken

6.5.2 Supplier Selection

6.5.3 Under the Procurement Act 2023, the officer must liaise with Corporate Procurement to place a Tender Notice to the Find a Tender service. Public notices may also be placed in trade journals and approved Suppliers can be advised of the tender exercise, so long as this is done after the Tender Notice has been published..

6.3.2 Framework agreements, Dynamic purchasing systems (DPS) and Dynamic Markets managed by other contracting authorities can be used when the contract value is above the Public Contract Threshold, so long as the contracting authorities have awarded the framework agreement (or DPS/Dynamic Market) in accordance with PCR2015 or the Procurement Act 2023, and on behalf of the Council. Where it is proposed to use any of the above for a procurement above the Public Contract Threshold, approval must first be sought from either the Corporate Procurement Manager, the Assistant Director (Finance & Estates), or the Borough Solicitor and Legal Services must be consulted as to whether the proposed route is legally compliant and any terms and conditions to be used are appropriate. Framework agreements, DPS' and Dynamic Markets must not be used to award concession contracts.

6.3.3 Any procedures provided by the purchasing consortium must be followed and the procedure must be undertaken in compliance with the PCR 2015 or the Procurement Act 2023 (as applicable). Generally mini competition is likely to achieve the best value as it allows Suppliers to submit tailored bids to our requirement.

6.3.4 Direct Award is not available on all frameworks, and never on at DPS or Dynamic Market, where it is an option then generally it is only permitted if the officer can establish that best value considerations have been taken into account and one of the following apply;

- The framework is sole supplier; or
- Where there is a ranked call off provision.

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

The officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst the suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework.

It is expected that when conducting a mini competition at least one more bid than the number of contracts to be let is received, therefore a level of pre market engagement needs to be undertaken to ascertain if this is an appropriate route to market.

6.5.4 Short Listing

- 6.4.1 Short Listing will be applicable if the Council is using the Competitive Flexible procedure, as outlined in the Procurement Act 2023.
- 6.4.2 For contracts within this value banding (unless utilising an approved framework) a financial check must be undertaken as part of the evaluation process. See CSO 6.7.10.
- 6.4.3 All Suppliers who have expressed an interest in a proposed contract should be notified in writing whether they have or have not been successful in making the next stage promptly after the decision has been made.. Feedback should be provided in the letter.
- 6.4.4 The Supplier's status on the Central Digital Platform and on the debarment list together with any conditions of participation relating to legal and financial capacity to perform the contract and/or technical ability to perform the contract should be considered at the Short listing stage as the Council is generally precluded from taking these factors into account as 'award criteria' within the tender stage.³⁸ When using the open procedure these factors should be considered as part of the tendering process (although separately to evaluation of tenders).

6.5.5 The Invitation to Tender

- 6.5.1 The Instructions to Tenderers³⁹ must, as a minimum, include the following:
 - a) Set out how the procurement will be conducted. If not using the open process explaining how the competitive flexible procedure will be conducted;
 - b) List the information which must be provided by the Supplier in their response, including any forms, tables or pricing schedules to be completed and that they need to ensure the information held on the Central Digital platform is up to date;
 - c) State the method of response required. All tenders must be issued through the Council's E-tendering System – In-Tend (see CSO 5.5);
 - d) Outline a timetable for the remainder of the procurement exercise, detailing the closing date for receipt of responses, the evaluation period and when a response on contract award is expected;
 - e) State the method and deadline for obtaining additional information or clarification (usually 14-21 days before the closing date for receipt of responses) and that additional information requested will be supplied to all respondents (this should be supplied to all suppliers at the same time no later than 7 days before the closing date for receipt of responses⁴⁰);
 - Set out in detail how the responses will be evaluated, listing the appropriate award criteria and their relative weightings, which shall be based on the "most advantageous tender". "Lowest price" must not be used as the sole award criteria unless approved by Corporate Procurement ;
 - f) "" – ""
 - g) State that late responses will not be considered and that the Council is not bound to accept any Tender;

³⁸ If you are unsure about the 'conditions of participation' please contact the Corporate Procurement Team

³⁹ An outline Invitation To Tender can be obtained from Corporate Procurement.

⁴⁰ A Clarification/Query template spreadsheet is available from corporate procurement

h) State the price validity period (usually up to a maximum of six months);

Provide a statement to the effect that under the Freedom of Information Act (2000) and the requirements for transparency, the Council may be obliged to provide information regarding the procurement exercise or a subsequent contract award and that respondents will be advised of any requests for information and given an opportunity to comment before disclosure of such information (information whose disclosure would be likely to prejudice anyone's commercial interests is exempt from disclosure provided the public interest in withholding the information outweighs the public interest in disclosing it)

6.5.6 An adequate **specification** must be included. The specification must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive offers.

6.5.7 For contracts with an estimated value of over £5m it is mandatory to set at least 3 KPIs unless the Council considers that the supplier's performance under the contract could not appropriately be assessed by reference to KPIs.

6.5.8 For all contracts within this value band, the following **standard forms** must either form part of the participation document or the Invitation To Tender and should be included in the final contract documentation⁴¹:

- a) Form of Tender
- b) Certificate that the Tender is Bona Fide
- c) Parent Company Guarantee (if applicable)
- d) Performance Bond Certificate (if applicable)
- e) Insurance requirements

The officer should seek advice from Legal Services as to what terms and conditions should be included in the contract. Where appropriate to the type of contract being let, the officer should use standard industry contracts ie JCT⁴² or the **Council's own standard contracts**. Where the Council does not supply a suitable standard contract for the type of contract being let, the officer should liaise with Legal Services to identify contract terms relevant to that specific contract. The officer must seek advice from Legal services if he/she is unclear as to what terms and conditions should be included in the contract. In any event, it should be stated in the Invitation to Tender which contract terms will apply to the contract. SBC's standard clauses and contracts are available from corporate procurement.

6.5.5 A tender period can be extended if there are justifiable reasons and it is practical to do so. The reasons for any extension of time should be recorded and communicated in writing to all respondents with as much notice as possible of the change. For Open tenders a notice must be placed notifying the change to the tender period. This will also apply to the Competitive Flexible Procedure if an extension is made to the first stage within the procurement process.

Suppliers must carry a range and level of insurance cover acceptable to the type of contract being let. As a starting point it would be prudent to assume the following minimum levels of indemnity, Public Liability £5m, Employers Liability £10m (although the legal minimum is £5m), Professional Indemnity £2m, Products Liability between £1 and £5m. These must be reviewed for adequacy in light of the various risk factors affecting the contract. Only in very low risk scenarios would levels of indemnity lower than these be acceptable. If in doubt, contact the Council's Insurance Officer.⁴³

⁴¹ Standard forms can be found within the template tender documents available from corporate procurement

⁴² Standard amendments to JCT Minor Works or Measured Term contracts are available from Corporate Procurement

⁴³ An insurance checklist can be found on the intranet under staff info/finance/insurance

6.5.6

The advice of Legal Services must be sought as necessary, particularly for contracts which are complex.

6.5.7

The Procurement Act 2023 lays down specific time periods for submission of Tenders, which must be followed (see guidance in the Intranet under "Procurement"))

6.5.8

If the procurement is a mini competition (tender) under an approved framework agreement that has been let in accordance with PCR2015 or the Procurement Act 2023 and covers the Council, then normally at least four weeks should be allowed for the submission of Tenders. This can be less if the Contracting Officer has ascertained, after consultation with all short listed Suppliers, that a lesser time period is practical and realistic.

6.5.9

It may be necessary during the tender period for the Council to clarify some aspects of its tender documents. This may be done in writing or by way of a meeting i.e. Bidders Day. Parity of tendering must be preserved so it is important that all tenderers are issued with the same information.

6.5.10

Before a tender notice is published, the officer must consider if the requirement could be split into lots. If the requirement could reasonably be split into lots and a decision is made not to do so, reasons for such must be provided in the tender notice.

6.5.11

6.5.12 The Public Services 2012 Social Value Act requires commissioners to consider securing economic, social, or environmental benefits when buying services at or above the Public Contracts Threshold. To comply with the Act, commissioners must think about how what they are going to buy, or how they are going to buy it, could add these benefits, and must also consider whether they should consult on these issues. This consideration needs to be documented and retained in line with the councils retention guidance.

6.6 Submission, Receipt and Opening of Tenders

For contracts within this value banding, CSO 5.5 must be followed.

6.7 Tender Evaluation

6.7.1 The following should be checked by the Officer:

- a) The Tenders are actually from the firms invited to tender (Not applicable in an open tender);
- b) That the Tenderers are not on the debarment list;
- c) Whether or not Tenderers are "excluded" or "excludable" suppliers;
- d) Check that the price of the tenders as set out on the Opening of Tenders is correct;
- e) That there are no errors or omissions in the completion of the documents; and
- f) Where a check of the prices quoted suggest collusion among tenderers or 'ring' pricing, the case should be referred to the Assistant Director (Finance & Estates).

- 6.7.2 Guidance is available from Corporate Procurement on carrying out checks of the debarment list and considering whether a Tenderer is an “excluded” or “excludable” supplier. If a Tenderer is on the debarment list and/or is an “excluded” or “excludable” supplier within the meaning of the Procurement Act 2023, advice must be sought from Corporate Procurement and Legal Services.
- 6.7.3 Where necessary, clarifying some aspect of a Tender response in writing or by way of a meeting is permitted. If a meeting is held then relevant notes should be made of the results of the meeting and as necessary significant matters should be confirmed in writing for contractual purposes. It is possible to upload the notes to the Council’s Intend system if required.
- 6.7.4 The Procurement process should generally take no longer than 10 months from issue of advertisement to award of contract. Should the procurement process take longer than 10 months, authorisation must be sought from the Borough Solicitor, Assistant Director (Finance & Estates) or Corporate Procurement Manager to proceed with the contract award.
- 6.7.5 **Post Tender Negotiation must not be conducted unless authorised by Corporate Procurement in consultation with Legal Services. It is unlikely to be agreed except in particularly complex procurements**
- 6.7.6 The officer must use the award criteria and measurement system as set out in the public notice and Invitation to Tender⁴⁴. The measurement system should usually include the following three elements:
- a) A point scoring system for individual quality/value for money considerations;
 - b) Weightings applied to quality/value for money factors in accordance with their importance to the completion of the contract. Any sub-criteria must also be identified at this stage and the appropriate breakdown weighting disclosed;
 - c) A "Quality Threshold" which sets the minimum standard expected. Tenders which fall below this shall be excluded from consideration.
- 6.7.7 All suppliers must be notified in writing through the Council’s E-tendering system whether they have or have not been successful either in making the next stage or winning the contract. Suppliers must be given an assessment summary so they can understand why they scored as they did and a copy of the winning bidders assessment summary (redacted of commercially confidential information). Template assessment summaries are available from Corporate Procurement.
- 6.7.8 Once the assessment summaries have been sent the council can publish a contract award notice. **The contract with the successful supplier must not be entered into until 8 working days (standstill period) after the date on which the contract award notice was published** allowing unsuccessful suppliers time to dispute any decision made. ⁴⁵ Certain contracts are not subject to a mandatory standstill period but the Council’s default position (absent authorisation from Corporate Procurement) is to apply a standstill period to all contracts valued at or above the Public Contracts Threshold.
- 6.7.9 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate

⁴⁴ A sample criteria and measurement template can be obtained from Corporate Procurement.

⁴⁵ Compliant template letters showing the standstill period are available from Corporate Procurement

Procurement Manager, the Assistant Director (Finance & Estates) or the Borough Solicitor. Staged payments are acceptable but must be proportionate to the cost of goods, works or services received and must be submitted to Treasury and Capital in Accountancy for checking, please see CSO 6.8.13.

Checks on Financial Status

(Note 6.4.2 above)

- 6.7.10 When using the Competitive Flexible Procedure financial appraisals should be conducted at the first stage that may cut down the numbers of tenderers. When using the open procedure, financial appraisals should be carried out as part of the tendering process.
- 6.7.11 At the discretion of Corporate Procurement, financial checks may not be necessary for specific Suppliers. For example, when the contracting body is a local authority.
- 6.7.12 All contracts in this value banding with a term of over 24 months or are considered high risk will need to be registered with Corporate Procurement for monitoring updates on financial status.

6.8 Contract Award and Contract Management

- 6.8.1 Consult Financial Regulations regarding the process to be followed to gain approval to award
- 6.8.2 Officers must obtain and check copies of all documents that were self-certified by the supplier during the tender process before awarding the contract.
- 6.8.3 All contracts over the Public contracts services threshold must be made under the common seal of the Council. Unless in exceptional circumstances approval to sign under hand is sought and obtained, from the Borough Solicitor, prior to competition.⁴⁶ Officers must follow the sealing process as detailed on the intranet.⁴⁷
- 6.8.4 If acceptance of a tender is for any reason delayed beyond the appropriate tender price validity period, the Supplier must be asked to confirm his tender in writing before the acceptance is issued. This letter of confirmation must be included as part of the contract. If the recommended tenderer submits a revised price, Legal Services must be consulted.
- 6.8.5 A written report must be compiled that satisfies section 98 of the Procurement Act 2023 and records of all communications between the Council and suppliers involved in the procurement process must be retained. The report and records must be kept with the signed contractual documents for a minimum of 3 years from the date the contract is entered into or, if the contract is awarded but not entered into, the date it was awarded.⁴⁸
- 6.8.6 Contract details notices must be published by the Corporate Procurement team on Find a Tender the within 30 days of the day on which the contract is entered into (120 days in the case of a light touch contract) via the Council's E-tendering system – In-Tend⁴⁹.
- 6.8.7 For contracts within this value banding, **an electronic award notification form must be completed and passed to Corporate Procurement⁵⁰ An electronic copy of the contract pack must be provided to Corporate Procurement for the Central Contracts Database followed by a scan of the fully signed contract pages holding signatures/seals at point of execution.**
- 6.8.8 On-line Publication is required of a full copy of the contract for contracts valued at over £5mill (redacted for commercially sensitive information). The contract must be published before the end of the period of 90 days (180 days in the case of a light touch contract) beginning with the day on which the contract is entered into, although if possible this should be done at the same time as publishing the contract details notice.
- 6.8.9 For contracts with an estimated value of over £5m it is mandatory to set at least 3 KPIs unless the Council considers that the supplier's performance under the contract could not appropriately be assessed by reference to KPIs. A description of the 3 KPIs which the Council regards as most material to performance of the contract must be set out in the contract details notice. The requirement to set and publish details of KPIs does not apply to concession contracts or light touch contracts, although it is best practice and generally advisable to set KPIs.

⁴⁸ The award notification form contains a page to complete Regulation 98 information advice is available from Corporate procurement.

⁴⁸ The award notification form contains a page to complete Regulation 98 information advice is available from Corporate procurement.

⁴⁸ The award notification form contains a page to complete Regulation 98 information advice is available from Corporate procurement.

⁴⁹ The Corporate Procurement Team will undertake this task.

⁵⁰ The Award notification forms are found on the intranet under Procurement

- 6.8.10 The officer may wish to use a contract management checklist form to ensure all required steps have been followed. An example checklist can be found on the intranet under “Procurement”, although Business Units may use their own forms to reflect their special requirements. All documentation and records of communications pertaining to the tender must be kept in accordance with Document Retention Schedule which can be found on the intranet.
- 6.8.11 The officer should provide his or her line manager, or Senior Leadership Team member as considered necessary, with regular reports on the financial position of a contract for budget or funding monitoring purposes and to enable corrective action to be taken as necessary.
- 6.8.12 All interim valuations and final accounts in respect of staged payment contracts must also be submitted for checking by Treasury and Capital in Accountancy for recording in the Central Contracts Database before they are sent for payment to Exchequer.
- 6.8.13 The officer must monitor the performance of the Supplier to ensure that requirements of the contract are delivered satisfactorily⁵¹. In performing this task the officer must monitor:
- a) Work performance (including KPI's if applicable). If the contract is over £5m then performance must be assessed against KPIs set in accordance with the requirements of the Procurement Act 2023 at least once in every 12 month period and on termination and details of the assessment must be published online. Officers are required to consult with Corporate Procurement on this requirement.
 - b) Compliance with specification and contract terms and conditions.
 - c) Cost
 - d) Any Value for Money requirements
 - e) User satisfaction
 - f) Risk management (to include checking that relevant certificates such as insurance are up to date and financial monitoring is being undertaken)
 - g) Ensure that variations are considered, checking before agreeing that they are lawful and providing information to corporate procurement in a timely manner to enable notices to be published where applicable.
- 6.8.14 Should there be a breach of contract or a failure to perform to the Council's satisfaction, then a contract performance notice may need to be published within 30 days. This applies to contracts awarded under the Procurement Act 2023. Where there are performance issues or where there has been a breach of contract, officers must consult with Corporate Procurement and/or Legal Services on this issue.
- 6.8.15 Mandatory Contract Termination Notices for any contract terminations of Covered Public Contracts including natural expiry within 30 days of termination/expiry must be published. Details must be provided to Corporate Procurement team who will publish the required notice.
- 6.8.16 All documents, communications and minutes pertaining to the tender exercise and contract award must be kept in accordance with the Document Retention Schedule which can be found on the intranet under the section marked Freedom of Information.
- 6.8.17 All staff that manage contracts and have this within their job description must attend the Council's training on Contract Management.

⁵¹ Guidance on contract management is available on the intranet under Procurement

SECTION 7 SPECIAL TYPES OF CONTRACTS

7.1 Engagement of Consultants

7.1.1 It is important that value for money is obtained when employing consultants.⁵² Therefore, for all instances where the Contract Value of a consultancy appointment is over £10,001, the commissioning officer must provide a report to the Assistant Director responsible containing as a minimum the details listed under CSO 7.1.2.

7.1.2 Before consultants are invited to bid/tender the Assistant Director is responsible for:

- a) identifying the project objectives; and
- b) documenting the reasons for the employment of consultants including the benefits of employing consultants against in house staff or agency staff; and
- c) documenting the residual in-house costs to support the consultant and ensuring that sufficient budget is available to meet all identified costs;
- d) Preparing a project brief with action dates to be recorded against each section, including:
 - (i) background; and
 - (ii) objectives; and
 - (iii) timetable; and
 - (iv) total costs; and
 - (v) performance monitoring arrangements; and
 - (vi) documentation standards; and
 - (vii) contact names and numbers for enquiries

7.1.3 All consultants must provide evidence of adequate professional indemnity insurance prior to their appointment. The requirement for insurance and the levels required should be advertised in the specification of works, if in doubt about the levels required consult with the Council's Insurance Manager

7.1.4 Human Resources must be consulted to help determine if the appointment is within IR35 or if a consultant is appointed and employed through an agency or through the council's payroll the consultant may fall under the Agency Workers Regulations 2010.

7.1.5 It should be a condition of contract with any consultant, agent or professional advisor who is to be responsible to the Council for the award or supervision of a contract on its behalf, that in relation to that contract they shall:

- a) comply with these These Contract Procedure Rules as though they were an employee of the Council; and
- b) produce on request all the records maintained by them in relation to the contract award and award of contract; and
- c) on completion of the contract, transmit all records that they have produced or received that relate to the contract to the appropriate Assistant Director

7.1.6 Any letter of appointment or contract must set out the consultants legal obligations to the Council including where the ownership of intellectual property rights will sit. Advice on intellectual property can be sought from Legal Services. Every written contract shall provide that the consultant shall not assign directly or indirectly the whole or any part of the contract without the written approval of the Council.

⁵² A consultant is a professional who provides expert advice in a specific field; they either operate within the organisation or are employed externally by an organisation for a fee.

The Invitation to Quote / Tender

7.1.7 When procuring consultants the total estimated contract value should be used to adopt the procurement band to use.

7.1.8 Where it can be demonstrated that there are insufficient suitably qualified consultants to meet the competition requirement, the officer must record in writing the reason why the services are so specialist and obtain an exemption approval as required by paragraph 3.3 of Section 3 of these Contract Procedure Rules to invite fewer consultants.

7.1.9 For consultancies over £10,001 related to construction, estates or building surveying work, the use of conditions of engagement is permitted where they are considered appropriate by the Assistant Director in consultation with Legal Services⁵⁴. Other consultancies over £10,001 including management and IT should use terms and conditions either supplied or approved by Legal Services .

Tender Evaluation and Contract Award

7.1.10 The tendering, evaluation and award procedure, as outlined in Section 5, shall apply to all consultancies where the total estimated value is over £100,001 and under the Procurement Act 2023 threshold and in cases below that value where there is a strong likelihood of additional work (i.e. serial or extension contracts), which would bring the total value above £100,001.

Contract Monitoring

7.1.11 For contracts over £100,001, the Senior Leadership Team member shall be responsible for ensuring that the Consultants work is properly monitored on an ongoing basis. This includes:

- a) Appointing a named Project Officer or Group
- b) Specifying key tasks and dates for Consultants
- c) Monitoring costs against budgets and total contract value (payment schedules should include the agreed fees and the frequency of invoicing)
- d) Arranging regular progress meetings with Consultants

7.1.12 The project officer shall maintain and keep all records pertaining to the tender, award and ongoing maintenance of the contract.

7.1.13 The project officer shall maintain the following documentation:

- a) project brief/objectives; and
- b) minuted authority, where required; and
- c) the agreement with the consultant and any subsequent variations; and
- d) records that can demonstrate contractors' compliance with contract standards prior to payments being made; and
- e) record of payments made to the consultant and for the project; and
- f) a project evaluation form

7.1.14 The project officer shall report immediately to the Assistant Director any material technical or financial deviation by the consultant from the specified agreement.

⁵⁴ Standard terms and conditions for consultants approved by Legal are those in the services quotation document provided on the intranet under Procurement.

7.2 Disposal Contracts

- 7.2.1 Where items, excluding land and buildings over the cost of £1000 (at the time of purchase) cannot be re-used elsewhere in the Council an asset disposal certificate form found on the staff intranet under Finance must be completed, explaining why the items are surplus or redundant, any health and safety issues, and the proposed method of disposal. The form should be submitted to the relevant Assistant Director for approval to proceed with disposal of the items. All vehicles must be disposed of through sale by public auction or by quotations from a reputable dealer.
- 7.2.2 Where small items of equipment such as keyboards are scrapped under the cost of £1000 (at the time of purchase), they must be recorded on a list held by each relevant Assistant Director and signed off at year end. The list must be passed to Treasury and Capital in Accountancy at year end.
- 7.2.3 The highest bid received for an item if reasonable should be accepted. One of the following methods of disposal should be used:
- a) Invite quotations or tenders from outside organisations⁵⁵
 - b) Sale by Public Auction.
 - c) Trade in for a new item when the circumstances are appropriate.
 - d) Scrap the items in a safe manner.
- 7.2.4 The proposed method of disposal should be approved by a Assistant Director. All disposals must comply as applicable with the Waste Electrical & Electronic Equipment Directive and Health & Safety legislation. All Council and personal data must be removed from any IT or recording equipment prior to their disposal.

Competition Rules

- 7.2.5 Where inviting quotations or tenders from outside organisations the following number of bidders should be invited as follows:

<u>Estimated Value</u>	<u>Minimum number of bidders to be invited (for Plant & Equipment only)</u>
Up to £10,000	At least one bidder by quote
Over £10,001 up to £100,000	At least three bidders by quote
Over £100,001	At least four bidders by invitation to tender

- 7.2.6 Records of the bids received and written approval by an authorised officer to accept the most favourable bidder should be kept. The acceptance will be by letter signed by SLT Member or Assistant Director if the value is under £100,000 or a Senior Leadership Team member if the value is over £100,001.

7.4 Contract Hire and Lease/Rental Agreements

- 7.4.1 Contract hire and lease/rental agreements are procurements and are subject to the provisions contained in These Contract Procedure Rules.
- 7.4.2 Before entering into a contract hire or lease/rental agreement the officer shall ensure that the financial implications have been assessed by Accountancy. Lease/Rental agreements can

⁵⁵ Quotations or tenders can be issued through the Councils Intend e-tendering system if required

only be signed off following approval from the Assistant Director (Finance & Estates) or their nominated deputy.

7.5 Nominated Sub-Contractors and Suppliers

- 7.5.1 If nominations are to be used then the terms of the contract between the Council and the main contractor should make it clear that the main contractor will be expected to enter into contract with the sub-contractors or Suppliers nominated by the Council.
- 7.5.2 *Tenders* for the nominated sub-contractors or Suppliers will be invited, opened and evaluated by the Council in accordance with These Contract Procedure Rules. The officer shall nominate the successful tenderer(s) to the main contractor.
- 7.5.3 The main contractor will ensure that the main contract indemnifies them against the sub-contractors own obligations in relation to the works, supplies or services included in the sub-contract.

7.6 Term Contracts and Framework Agreements

- 7.6.1 An officer may consider it advantageous to the Council, to invite tenders on a Term basis or under a Framework Agreement where payment is based not on defined works, services or supplies, but on a Schedule of Rates, Bill of Quantities or fixed unit cost over a defined period of time.
- 7.3.2 Unless a long term partnership, term contracts should not exceed five years or in the case of framework agreements four years, but will not normally exceed two years unless the contract contains a price fluctuation clause. It is not permitted to extend a contract that is renewed yearly on more than four occasions without re-tendering. Such cases should be reviewed annually and a written record of the decision (with reasons) to either, extend the contract or carry out a new competitive tendering exercise must be kept. Officers must not enter into contracts that auto renew unless authorised by Corporate procurement.
- 7.6.2 The relevant procedures and regulations in Sections 3 to 6 of These Contract Procedure Rules are applicable to all Term Contracts.
- 7.6.3 Any Framework Agreement must be tendered in accordance with These Contract Procedure Rules or under The Procurement Act 2023, as applicable.
- 7.6.4 The estimated value of the Term Contract should be based on the full length of the contract (including any options for contract extensions) or for four years if the contract is renewable yearly or is a framework agreement.
- 7.6.5 Where additional items of work are required but not contained within the Schedule of Rates consult with Corporate Procurement to check these are legally valid variations, If agreed all suppliers on the framework agreement or term contract shall be given the opportunity of pricing such items which will then be added to the main Schedule of Rates to be used in the future.

7.7 Partnerships & Shared Services

- 7.7.1 The term 'Partnership' is used to cover a wide variety of joint ventures and other procurement arrangements. The Senior Leadership Team member or contracting officer shall ensure that the prior approval of The Assistant Director (Finance & Estates) or the Borough Solicitor for the proposed partnership arrangement is obtained. The financial implications must be

assessed by the Assistant Director (Finance & Estates) and all proposed partnership agreements must be cleared with the Borough Solicitor **at the earliest stage**.

7.7.2 All partnership agreements shall include *where relevant*:

- a) The principles of the partnership
- b) Output specification and specified inputs
- c) Partnership board
- d) Open book accounting
- e) Any profit sharing arrangement and payment mechanism
- f) Hierarchy of dispute resolutions mechanisms
- g) Quality and Environment management systems
- h) Asset transfer
- i) Withdrawal arrangements

7.7.3 Partnership agreements which involve a joint venture/contractual arrangement with private sector bodies are subject to the provisions of These Contract Procedure Rules.

7.7.4 A competitive exercise shall be undertaken in accordance with the provisions of These Contract Procedure Rules to select the partner and award the work. In any cases where the proposed partnership would mean that These Contract Procedure Rules of another public sector body would take precedence over those of Stevenage Borough Council, the written approval of either the Assistant Director (Finance & Estates) or Borough Solicitor must first be obtained before any partnership is formalised.

7.7.5 Procurements undertaken through an existing Shared Service will be made using the These Contract Procedure Rules of the contracting lead authority.

7.8 Income Generating/Commercial Contracts or Concession Contracts

7.8.1 All income generating contracts must be subject to competition, as follows:

	Estimated Value of the contract to bidders	Minimum Number of Bidders to be Invited
Band 1	Up to £10,000	At least one bidder by quote
Band 2	£10,001 – £100,000	At least three bidders invited to quote (a minimum of two responses received)
Band 3	Above £100,001	Public advertisement used

7.8.2 Details of income generating/commercial contracts in band 2 or above must be reported to and approved in writing by a Strategic Director.

7.8.3 For contracts with an estimated value above £100,001, CSO 5.5 (regarding the submission, receipt and opening of tenders) must be followed.

7.8.4 Where income generating/commercial contracts also incur a cost to the Council, the cost element may be subject to These Contract Procedure Rules in its own right. In this instance, the advice of the Corporate Procurement Manager, Assistant Director (Finance & Estates) or Shared Legal Service Commercial Law team should be sought.

SECTION 8 OTHER CONSIDERATIONS

8.1 Contractual Disputes

- 8.1.1 The officer should seek the advice and involvement of Legal Services as appropriate in contractual disputes with Suppliers.
- 8.1.2 In the event of a claim from a Supplier for loss or expense incurred (either permitted by the terms of the contract or extra-contractual), seek advice from Legal Services immediately.

8.2 Termination of Contracts

- 8.2.1 Subject to the terms and conditions of the contract, where the Supplier has demonstrably failed to deliver the work, services or goods in accordance with the contract the Council will be at liberty to terminate the contract either wholly or in part and to procure the works, supplies or services of the same or similar description elsewhere, in order to make good such default.
- 8.2.2 Should the Supplier become debarred during the course of the contract consult with Legal Services.
- 8.2.3 Adequate written evidence of poor unacceptable performance must be kept. Such records would include relevant correspondence and records of relevant meetings with the Supplier.
- 8.2.4 For contracts let under the Procurement Act 2023 Contract performance notices may be required and termination notices will be required once the contract is terminated. Involve the Corporate procurement team to ensure appropriate publication.
- 8.2.5 Legal Services must be involved in the termination of any formal contract to ensure that:
 - a) The Council's case for termination is legally sound; and,
 - b) The termination is carried out in accordance with the terms of the contract.

8.3 Bankruptcies, Liquidations and Novations

- 8.3.1 In the event that a Supplier ceases to trade as a result of a bankruptcy, liquidation or otherwise then Legal Services must be involved in any of the following:
 - a) Terminating the contract
 - b) The appointment of new Supplier to complete the work or service;
 - c) Negotiations with liquidator/receiver/administrator
 - d) Assignment of contract and Novation
- 8.3.2 If a Supplier indicates that it wishes to transfer, assign or novate a contract, Legal Services must be consulted prior to any agreement to accept. Equally, if a supplier's business is transferred to another supplier, legal advice must be sought from Legal Services as to whether a novation or assignment is needed and as to any other steps that must be taken before any such assignment or novation is accepted.

8.4 Contract Variations

- 8.4.1 For contracts equal to or above the Public Contracts Thresholds, officers must seek advice from Corporate Procurement and/or Legal Services before any variation is agreed. This

includes any contracts below the Public Contracts Threshold where the proposed variation will or may take the overall estimated value of the contract over the threshold.

- 8.4.2 No variation shall take place that contravene the Public Contracts Regulations 2015 or the Procurement Act 2023 in any circumstances.
- 8.4.3 Depending on the circumstance the council may need to publish a public notice prior to committing to the variation and a voluntary standstill period should be considered for contracts equal to or above the Public Contracts Threshold.
- 8.4.4 Variation shall relate to the work specified in an existing contract only and shall not be given in circumstances where a separate contract should or ought to have been entered into. E.g. the variation must not materially change the contract.
- 8.4.5 All variation must normally be issued to the Supplier prior to the relevant work being carried out but, in exceptional circumstances, should be given as soon as possible thereafter.
- 8.4.6 Unless agreed otherwise with Legal Services, variations shall be documented in the form required by the written contract or (if none) documented in writing and signed by an authorised signatory on behalf of the Council and the Supplier. In the case of sealed documents Legal Services must be consulted. Officers should consult with Legal Services if in doubt about the process for formalising a variation (or if support is required).
- 8.4.7 All contract variations regarding contract value or expiry dates for both under and over threshold contracts must be reported to Corporate Procurement to enable the changes to be updated on the Council's contracts register.

7.3 Contract Extensions

- 7.3.1 Term contracts often have the provision for extensions, e.g.. the contract term is 3 years with the option to extend for a further 2 years. When considering taking up the extension option consider if this will be in the councils best interest to extend. e.g. is the service still required in the existing form? Has the market changed? Could re procuring produce a saving? Do the research in sufficient time so that if the answer is re procure there is sufficient time to re procure well, the default should not be to extend because it's not been thought about it in time for any other option. The decision to extend is signed off by the officer with delegated rights to sign contracts of the value of the extension.
- 7.3.3 Should the contract not have provision to extend but is it considered desirable then all requests must be made in writing to either the Corporate Procurement Manager, the Assistant Director (Finance & Estates) or the Borough Solicitor for their approval. No extension that contravenes the Public Contracts Regulations 2015 or the Procurement Act 2023 will be granted and no extension to an existing contract shall be given unless it can be clearly demonstrated that a change of Supplier would result in one or more of the following:
 - a) Unacceptable technical difficulties
 - b) A significant and unacceptable increase in costs to the Council
 - c) Significant disruption to the delivery of Council services.
- 7.3.4 Should the value of the extension being requested bring the contract value up to and above the Public Contract Threshold or tip a previously under £5m contract to above that value then consult Corporate Procurement on the implications that brings before making the formal request.

7.3.5 It is not permitted to extend a contract that is renewed yearly on more than four occasions without re-tendering. Such cases should be reviewed annually and a written record of the decision (with reasons) to either, extend the contract or carry out a new competitive tendering exercise must be kept. Officers must not enter into contracts that auto renew unless authorised by Corporate procurement.

7.3.6 Legal Services shall be consulted about the process to document the extension.

7.3.7 Where the total contract value (including the original contract value) exceeds £5,001, details of the contract extension must be provided to Corporate Procurement for recording on the Central Contracts Database. If a contract record has already been entered on the central register then this will need to be updated with the contract extension details⁵⁷.

8.5 Green Environment and Sustainable Sources

Goods or services which are known to be harmful to the environment, and where there are other adequate options, will not be used. Wherever practical and cost effective, only materials from sustainable sources will be used.

8.6 Diversity

Officers should take steps in the procurement exercise to encourage a diverse and competitive supply market, including small firms, social enterprises, ethnic minority businesses and voluntary and community sector suppliers.⁵⁸

8.7 Equality

The Council must have due regard to the requirements of the public sector equalities duty under the Equalities Act 2010, which must be taken into account when procuring goods, works, or services from external providers.

8.8 Innovative Procurement/Abnormal Contract Action

New or different ways of purchasing goods, services or works, which give better value for money, are encouraged. However, any proposals for innovative procurement or abnormal contract action (including the use of another organisation's Contract Procedure Rules and E-auctions) must be discussed with the Corporate Procurement team and then be cleared by the Borough Solicitor to ensure the proposal is legally sound.

8.9 Conflicts of Interest

Officers must be mindful of any conflicts of interest or perceived conflicts of interest at all stages of the procurement process and must document for band 4 procurements as a minimum that this has been considered (and mitigated if needed) at pre procurement, tender, evaluation, and contract management stages. Further guidance is available from Corporate Procurement. Confirmation that this has been done will be required before publishing any notices in relation to the procurement at band 4 or above.

In addition Section 117 of the Local Government Act 1972 provides that, if it comes to the

⁵⁷ A variation form to amend central contract database details is available on the intranet under Procurement

⁵⁸ Further guidance on how to encourage a diverse and competitive supply market using pre-procurement is available on the internet under Procurement.

attention of any officer, that the Council has entered or is proposing to enter into a contract in which he or she has “pecuniary” interest, he or she must give notice in writing of that interest to the Authority as soon as is practicable. It is a criminal offence not to comply with this provision.

- a) The register in which the written notice is to be given is held by the Constitutional Services Manager.
- b) “Pecuniary” includes any direct or indirect interest and is defined by reference to Section 95 of the Local Government Act 1972. The Borough Solicitor’s advice should be sought in areas of uncertainty.
- c) The requirement to register applies even if the officer is not involved with the Contract.

8.10 Freedom of Information Act (2000)

The Data protection officer or their appointed nominee should be consulted where requests for information on tenders or contracts are received under the Freedom of Information Act (2000). This also includes requests under the Environmental Information Regulations 2004.

8.11 Security of Performance and Performance Liability

In order to protect the Council from non-performance or poor performance in a contract, the officer should consider whether a performance bond or a liquidated damages clause is required and in what form. These are especially relevant for Works and some Service contracts⁵⁹. Legal Services should be consulted about the type and wording of the bond or liquidated damages clause.

For Works contracts over £500,000 the Council may (dependant on risk analysis) require the Supplier to provide a performance bond for 10% of the total contract value between £500,000 and £2,000,000 and 5% for contracts above £2,000,000.

Supplier contracts should be checked carefully for any limitations of liability and advice should be sought from the Legal Services. The foreseeable damage to the Council which might arise from the failure on the part of the supplier, any limitation on liability, the insurance carried by the supplier (other than public liability cover) and, security for performance, are all interrelated factors and should be considered carefully as a whole.

8.12 TUPE and the Best Value Code of Practice on Workforce Matters

If contracting out a service or re-tendering a term contract, the Transfer of Undertakings (Protection of Employment) Regulations (“TUPE”) 2006 may apply. This is a very complex area where legal guidance and trade union consultation must be sought at an early stage.

8.13 Health and Safety

Officers should take steps during the procurement exercise and throughout the length of the contract to ensure that health and safety is appropriately covered.

Considerations include:

- Clearly identify all aspects of work to be carried out by the contractor
- Consider the health and safety implications

⁵⁹ Standard templates and further explanations/guidance for performance bonds and liquidated damages clauses can be found in the High Value Services Contract available from Corporate Procurement

- Competency to do the job safely?
- How reliant on sub- contractors and sub-sub-contractors?
- Reputation?
- Prosecutions, notices, accident record?
- Ensure contractors know what is expected
- Show **SBC** safety policy procedures, permit systems, contractor guidance and confirm they have been read and understood
- Whether Works contractors should be SSIP (or equivalent) registered

Consider requiring your Contractor to:

- Outline recent health and safety performance
- List, with evidence, qualifications and skills
- Provide safety method statement
- Be a member of trade organisation or professional body
- Provide clear information about the risks of the operation
- Provide safety rules and procedures
- Any employee, contractor or sub contractor working on behalf of **SBC on SBC** premises including tenanted properties must have ID relevant to their employment.

For further guidance, please refer to the Councils Health and Safety Guidance which can be found on the intranet under staff info/hr/health and safety.

8.14 Safeguarding Children⁶⁰

All services commissioned by the Council must operate within the requirements of the Council's Safeguarding Children Policy and meet the relevant legislative standards. Where appropriate, procuring officers will need to ensure that contractors demonstrate that they meet these requirements. As an indicator, contractors/agencies must have in place the following:

- Senior Management Commitment to Safeguarding
- Clear, Accessible Statement of Responsibility (including Safeguarding Policy, Complaints, Equal Opportunities and Incident Monitoring Procedures)
- Clear mechanisms for identification and investigation/action regarding safeguarding concerns
- Clear Line of Accountability for Reporting Safeguarding Concerns
- Child and Family conscious service planning and delivery
- Staff Training programme for Safeguarding
- Safer Recruitment Policy
- Information Sharing procedure

8.15 Accessibility

Consider whether what you are buying needs to meet new Accessibility requirements - it could be websites / apps or even pdf/reports/pictures – anything that is published by SBC to the public or to staff⁶¹

8.16 GDPR

The Council must have due regard to the requirements of the General Data Protection

⁶⁰ Additional information regarding Safeguarding is available on the Stevenage Borough Council website.

⁶¹ Speak to IT service desk for assistance or <https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps>

Regulations 2018. Conduct a Data Protection Impact assessment to perform an assessment of privacy risks of performing data processing activities involving personal data handling.⁶²

8.17 Social Value

The Council must have due regard to the Public Services 2012 Social Value Act. As such the Council requires 10% of the evaluation of band 3 procurements and above for services and works to be dedicated to additional social value. See guidance from Corporate Procurement as to how this is implemented..⁶³

8.18 Modern Slavery

The council must consider the risk of modern slavery existing within its supply chain. Procuring officers need to research the level of risk that exists in the relevant market. If the risk is medium or high they should consult with Corporate Procurement suitable measures to take above and beyond the questions asked as standard in the SBC quotation and tender templates available via the intranet or Corporate Procurement.⁶⁴

8.19 Fraud Prevention

The council must comply with the Bribery Act 2010 and consider the risk of fraud within its supply chain. Procuring officers need to think about whether their actions could be perceived as fraudulent or favoring a particular supplier and also be alert to possible fraudulent behavior from bidders during the procurement and evaluation process. Within contract management processes consideration needs to be given to preventing fraudulent behavior by contractors or Council officers. Any suspicion of fraudulent behaviour should be reported to the Shared Anti-Fraud Service or use the Councils Whistleblowing policy⁶⁵.

⁶² See intranet staff info/data protection.

⁶³ See information on the intranet under Procurement

⁶⁴ See intranet procurement.

⁶⁵ See intranet for more information

Appendix A - Table of Definitions / Terms

Authorised Contract Signatory	The named officer who has been sanctioned via SLT to sign contract with suppliers to a specified contract value. The list of authorised signatories and respective values are maintained by Exchequer Services.
Bond	A bond is a legally enforceable financial guarantee given by a third party (the guarantor) to the Council to guarantee the obligations of a <i>Supplier</i> under a contract. The guarantor agrees to pay the Council a sum of money if the <i>Supplier</i> does not do what has been promised under a contract with the Council (e.g. a bond is often 10% of the total contract value). The purpose of a bond is to help the Council meet the extra expenses to remedy the contract default and/or complete the contract.
CCS	Crown Commercial Services - a local authority approved purchasing consortium, which is an executive agency of the Cabinet Office.
Contracts Finder	Government mandated advertising portal for all contract notices and awards under PCR 2015 advertised by Local and National Government and it's agencies.
Concession Contract	Means a contract for the supply, for pecuniary interest, of Works or services to the Council where at least part of the remuneration for that supply is the right for the Supplier to exploit the works or services and under the contract the Supplier is exposed to a real operating risk (i.e. a risk they will not be able to recover their costs of providing the Works or services).
CPV	Common Procurement vocabulary - a list of codes in a hierarchy which defines the requirements. Referred to in the Procurement Act 2023 and used in public notices
CPR	These Contract Procedure Rules
ESPO	Eastern Shires Purchasing Organisation - a local authority approved purchasing consortium.
Estimated Contract Value	Means the estimated total value of a contract, calculated in accordance with paragraph INSERT of these Contract Procedure Rules
Financial Regulations	The Council's financial regulations set out rules/procedures for financial management and the conduct required of Council staff in dealing with financial matters. They are issued by the <i>Assistant Director (Finance & Estates)</i> and form part of the <i>Constitution</i> .
Framework Agreements	Framework Agreements are agreements entered into between a contracting authority and one or more <i>Suppliers</i> , setting out the terms and conditions (e.g. pricing mechanisms, quantity and scope of services/supplies/works and duration) under which future purchases (or call offs) can be made throughout the term of the agreement.
Homes England	Homes England is the non-departmental public body that funds new

Insurance cover and indemnity / liability limits

affordable housing in England. It was founded on 1 January 2018 to replace the Homes and Communities Agency.

Normally, contracts should require suppliers to indemnify (protect) the Council from public liability and employers liability to an appropriate limit, but products liability and professional liability may be required when relevant to a particular contract. The appropriate limit of indemnity should be judged individually depending on the nature of the contract, risk assessment, size of contracting firm etc. A brief explanation of each type of liability follows:

Public Liability provides indemnity for damages the insured is legally obliged to pay to a third party who has suffered damage or injury as a result of the insured's action. It does not extend to damage or injury suffered by employees of the insured. It does not include pure financial loss suffered as a result of advice given. The contract may include a co-indemnity or cross-indemnity clause, which effectively extends the supplier's cover to include SBC.

Employers' Liability provides indemnity for damages the insured is legally obliged to pay to an employee who has suffered damage or injury as a result of the insured's action. The contract should include a wide definition of "employee" so as to include apprentices, work-experience people, and volunteers if appropriate.

Products Liability, often included as part of general Public Liability Section of a policy, provides indemnity for damages the insured is legally obliged to pay to a third party who has suffered damage or injury as a result of the product for which the insured is responsible.

Professional Liability (or Indemnity) covers loss or damage (except bodily injury or damage to property) arising from the negligence or accidental error/omission of any official or employee while the Council is acting in a statutory capacity.

In-Tend	The Councils E tendering system software, also known as Supply Hertfordshire
ITT	Invitation to Tender.
Key Decision	Decisions that are defined as Key Decisions in the <i>Constitution</i> . If the purchase is a Key Decision, the Officer must ensure that all appropriate steps have been taken. If the Contract value exceeds £250,000 or the contract will be significant in terms of its effects on communities living or working in the area, then the purchase is likely to be a key decision (See Decision Making - Article 11 in the Constitution for further information).
Nominated Suppliers and Sub-contractors	These are sub-contracts specified in the main contract where the Council nominates specific <i>Suppliers</i> or sub-contractors to the main contractor. The main contractor is expected to establish sub-contracts with the <i>Suppliers</i> nominated by the Council.
Novation	The agreed transfer to another <i>Supplier</i> of the full obligations and rights under the contract.

Parent Company Guarantee	The parent company (or holding company) guarantees the proper performance of a contract by one of its subsidiaries (the contractor). The conditions of the parent company guarantee will usually give the parent company the opportunity to remedy any default within a period of notice before the guarantee is called. The liability can take several forms including a financial guarantee of completion of the project itself or the employment of another <i>Supplier</i> to complete the project.
Post Tender Negotiation	Post tender negotiation means negotiations with any tenderer after submission of a <i>Tender</i> and before the award of the contract with a view to obtaining an adjustment in price, delivery or content.
PFH	Procurement for Housing – a local authority approved purchasing consortium, more specifically for Housing
Public Contracts Regulations 2015 or PCR 2015	Public Contract Regulations 2015 are the legally required processes for UK public procurement which were transposed from EU Procurement Directives 2014 along with some UK specific rules (PCR 2015 is often referred to as EU Regulations) These are superseded by the Procurement Act 2023 from 24 th February 2025.
Public Contracts Threshold	Means the threshold amount for a particular contract to be classified as a "public contract" and subject to the substantive requirements of the Procurement Act 2023, as set out in Schedule 1 of the Procurement Act 2023 and as updated from time to time.
Procurement Act 2023	Legislation in force from 24 th February 2025 succeeding PCR2015
Quotation	"Quotation" means an offer to supply or purchase goods, or materials, execute works or provide services including consultancy, at a stated price based on terms and conditions agreed with the <i>Supplier</i> . For the purpose of These Contract Procedure Rules, the Council uses the term 'Quote' rather than 'Tender' for the more simplistic procurement process to be followed for estimated contract values below £100,000.
SBC	Stevenage Borough Council
Short Listing	Where <i>Suppliers</i> are selected: <ul style="list-style-type: none"> • to quote or bid or • to proceed next stage of the process.
Supplier	Any person, organisation or economic operator who supplies the Council with Goods, Works or Services. For the purpose of These Contract Procedure Rules, the term supplier includes contractors, consultants and service providers.
Senior Leadership Team member	The Assistant Directors, Strategic Directors and Chief Executive.
Tender	"Tender" means a formal offer to supply or purchase goods, or materials, execute works or provide services including consultancy, at a stated price based on set terms and conditions. For the purpose of

These Contract Procedure Rules, the Council uses the term 'Tender' as opposed to 'Quote' for the more complex procurement procedure required for estimated contract values over £100,001.

TUPE	Transfer of Undertakings (Protection of Employment) Regulations
Works	are (for the purpose of the PCR 2015) given the meaning set out in the PCR 15 and (for the purpose of the Procurement Act 2023) activities having a "works" CPV code in Schedule 3 of the Procurement Regulations 2024
YPO	Yorkshire Purchasing Organisation - a local authority approved purchasing consortium

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CONTRACT PROCEDURE RULES

Date: November 2024
Version 10

CONTENTS:

SECTION	TITLE	PAGE
SECTION 1	INTRODUCTION AND GENERAL REQUIREMENTS	D133
SECTION 2	CONTRACT PROCEDURE RULES – PROCUREMENT OBJECTIVES	D136
SECTION 3	EXEMPTIONS TO CONTRACT PROCEDURE RULES	D137
SECTION 4	CONTRACTS BELOW £100,000 (BAND 1 AND 2)	
	4.1 Overview	D139
	4.2 Supplier Selection	D139
	4.3 The Invitation to Quote	D141
	4.4 Contract Evaluation and Award	D141
SECTION 5	CONTRACTS BETWEEN £100,001 AND THE PUBLIC CONTRACTS THRESHOLD (BAND 3)	
	5.1 Overview	D143
	5.2 Supplier Selection: Public Notice & Purchasing Consortium	D143
	5.3 Pre Market Engagement	D144
	5.4 The Invitation to Tender	D145
	5.5 Submission, Receipt and Opening of Tenders	D147
	5.6 Not Used	D147
	Tender Evaluation	D147
	5.8 Contract Award and Contract Management	D148
SECTION 6	CONTRACTS ABOVE THE PUBLIC CONTRACTS THRESHOLD (BAND 4)	
	6.1 Overview	D151
	6.2 Procurement Act 2023	D151
	6.3 Supplier Selection	D152
	6.4 Short Listing	D153
	6.5 The Invitation to Tender	D153
	6.6 Submission, Receipt and Opening of Tenders	D155
	6.7 Tender Evaluation	D155
	6.8 Contract Award and Contract Management	D157
SECTION 7	SPECIAL CONTRACTS	
	7.1 Engagement of Consultants	D160
	7.2 Disposal Contracts	D162
	7.3 Not Used	D162
	7.4 Contract Hire and Lease/Rental Agreements	D162
	7.5 Nominated Sub-contractors and Suppliers	D162
	7.6 Term Contracts and Framework Agreements	D163

	7.7 Partnerships & Shared Services	D163
	7.8 Income Generating / Commercial or Concession Contracts	D164
SECTION 8	OTHER CONSIDERATIONS	
	8.1 Contractual Disputes	D166
	8.2 Termination of Contracts	D166
	8.3 Bankruptcies and Liquidations	D166
	8.4 Contract Variations	D166
	8.5 Contract Extensions	D167
	8.6 Green Environment and Sustainable Sources	D168
	8.7 Diversity	D168
	8.8 Equality	D168
	8.9 Innovative and Abnormal Contract Action	D168
	8.10 Declaration of Interest	D168
	8.11 Freedom of Information Act (2000)	D169
	8.12 Security of Performance and Performance Liability	D169
	8.13 TUPE and the Best Value Code of Practice on Workforce Matters	D169
	8.14 Health and Safety	D169
	8.15 Safeguarding Children	D170
	8.16 Accessibility	D170
	8.17 GDPR	D171
	8.18 Social Value	D171
	8.19 Modern Slavery	D171
	8.20 Fraud Prevention	D171
Appendix A	Table of Definitions / Terms	D172
Appendix B	Procurement Act 2023 Notice requirements	D176

SECTION 1 INTRODUCTION AND GENERAL REQUIREMENTS

- 1.1 These Contract Procedure Rules (CPR's) are a framework of rules, which must be adhered to when purchasing goods, services, works or income generating contracts or disposing of Council property. These Contract Procedure Rules¹ have been established to ensure that the Council is compliant with UK legislation, follows best practice and achieves best value for money in its procurement activities. These Contract Procedure Rules do not apply to employment contracts, contracts for the sale or purchase of land or buildings or any other contracts which are exempt under the Procurement Act 2023 or subsequent/associated UK legislation².
- 1.2 These Contract Procedure Rules promote good purchasing practice, public accountability, data transparency and help protect officers from any complaints. Following the rules is the best defence against any possible allegation that a purchase or disposal has been made incorrectly or inappropriately.
- 1.3 Officers responsible for purchasing goods, services, works or income generating contracts are bound by and have a duty to read and be familiar with these Contract Procedure Rules. these Contract Procedure Rules lay down **minimum** requirements. A more thorough procedure may be appropriate for a particular contract.
- 1.4 Officers must ensure that any necessary pre-purchasing steps have been taken. This may include³:
- conducting a value for money review
 - drafting a business case,
 - conducting pre procurement market engagement
 - considering any workforce implications including TUPE
 - health and safety and business continuity requirements
 - complying with *Key Decision requirements*
 - Equality Impact Assessment
 - GDPR (Data Protection)
 - Safeguarding considerations
 - Section 20 considerations if housing
 - Collaboration opportunities
 - considering Social Value
- 1.5 Unless an exemption provided for in Section 3 has been approved, it is a disciplinary matter to fail to comply with these Contract Procedure Rules. Responsibility for compliance rests with everyone who carries out procurement of goods, services or works (including contracts for consultancy) for or on behalf of the Council. The ultimate responsibility for identifying the need to start a procurement, creating the procurement, managing it through its contract term and requirement to re-procure rests with the Assistant Director (or Strategic Director in the case of direct reports) for the relevant area.
- 1.6 These Contract Procedure Rules should be read in conjunction with the Council's Financial Regulations as appropriate. Officers should also consider the Co-operative Procurement Strategy when considering embarking on a procurement⁴. These Contract Procedure Rules will be reviewed and updated on a periodic basis (the latest version will be held on the

¹ Referred to from now on throughout this document as These Contract Procedure Rules or CPR's

² Contact the Recruitment Officer regards employee contracts (for the avoidance of doubt, contracts with agencies or companies who supply temporary staff are subject to CPR's) and the Estates Manager regards contracts for sale of land.

³ Checklists to help ensure correct steps are addressed are available on the intranet under Procurement

⁴ Co-operative Procurement Strategy is held on the intranet under Procurement

intranet).

- 1.7 Officers must also ensure that any agents or consultants acting on their behalf in purchasing or disposal matters also comply with the Council's Contract Procedure Rules, Financial Regulations and with all UK legal requirements.
- 1.8 **Contracts** mean any arrangement, for pecuniary interest, for the supply of goods (including hire, rental or lease arrangements), services or works to the Council. "Pecuniary interest" includes arrangements where the Council pays for goods, services or works and/or where the Supplier has the right to exploit works or services and to generate its income from doing so (i.e. a Concession Contract). Contracts do not include and, these Contract Procedure Rules do not apply to, purely compensatory or supportive arrangements such as grants, although officers must ensure any such arrangements comply with the Subsidy Control Act 2022 and associated regulations. Advice should be sought from Legal Services about any potential subsidy control implications.
- 1.9 The Procurement Act 2023 and Procurement Regulations 2024 set out what is legally required for UK public contracts procurement. This includes some rules for procurements below the Public Contracts Threshold; these have been incorporated into the CPR's.

1.10 All contracts must be subject to competition, as follows:

Band 1	Up to £15,000 (£25,000 if Works)	One quote (confirmed in writing if greater than £1,000)
Band 2	£15,001 – £100,000 (£250,000 if Works)	Three quotes to a purchaser specification via the Council's e-tendering system
Band 3	£100,001 (£250,001 if Works) – Public Contracts Threshold	Invitation to Tender via the Council's e-tendering system
Band 4	Above Public Contracts Threshold	<i>Procurement Act 2023 Procedures</i> via the Council's e-tendering system

- 1.11 An officer must neither enter into separate contracts nor select a method of calculating the *Estimated Contract Value* in order to circumvent the application of These Contract Procedure Rules or The Procurement Act 2023. If it is not possible to estimate the value of a contract (for example because the duration is unknown), the contract must be treated as having an estimated value above the Public Contracts Threshold.
- 1.12 Where the value of a contract exceeds £175,000, it should generally (where practicable) be made in the form of a deed and signed under seal by the Council. Should an officer wish to depart from this requirement, authorisation must be given by the Borough Solicitor and Legal Services must first be consulted for advice on the legal implications of doing so. Notwithstanding the forgoing, a contract of any value may be entered into as a deed if requested by the applicable Head of Service or Legal Services – for example where an extended limitation period of 12 years is required (the normal limitation period is 6 years).



Clare Fletcher -Strategic Director

For Further Advice on these Contract Procedure Rules:

The authorised version of These Contract Procedure Rules and various supporting written guidance are held on the Council's intranet site, under "Procurement".

If you have any queries about These Contract Procedure Rules or the various supporting written guidance please contact one of the following as appropriate:

- Corporate Procurement Manager procurement@stevenage.gov.uk
- Finance – Assistant Director

If you are unclear about the procurement rules please seek relevant advice before taking any purchasing or disposal action.

SECTION 2 CONTRACT PROCEDURE RULES – PROCUREMENT OBJECTIVES

All Procurement exercised should take into consideration the following, but these are essential for band 4 procurements which are contracts at or above the threshold for The Procurement act 2023 and are known as covered procurements.

- 2.1 In carrying out a covered procurement, a contracting authority must have regard to the importance of—
 - (a) delivering value for money;
 - (b) maximising public benefit;
 - (c) sharing information for the purpose of allowing suppliers and others to understand the authority’s procurement policies and decisions;
 - (d) acting, and being seen to act, with integrity.
- 2.2 In carrying out a covered procurement, a contracting authority must treat suppliers the same unless a difference between the suppliers justifies different treatment.
- 2.3 If a contracting authority considers that different treatment is justified in a particular case, the authority must take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage.
- 2.4 In carrying out a covered procurement, a contracting authority must—
 - (a) have regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and
 - (b) consider whether such barriers can be removed or reduced.

SECTION 3 EXEMPTIONS TO THESE CONTRACT PROCEDURE RULES

- 3.1 An exemption under this Section allows an officer to partly depart from the normal contract action required in following these Contract Procedure Rules.

These Contract Procedure Rules shall not prevent expenditure being incurred where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent. Where in the opinion of a Senior Leadership Team (SLT) member, in consultation if possible with the Chief Executive and the Assistant Director (Finance), (where over £250k the key decision urgency process also applies) the urgency of the situation will not permit delay, nothing in Financial Regulations or these Contract Procedure Rules shall prevent the Council from incurring the expenditure as an exemption. Where the contract value is over £100,001, action under this exemption shall be reported to the next meeting of the Cabinet.

- 3.2 Subject to adhering to The Procurement Act 2023 and any subsequent /associated UK legislation, the following exemptions from the requirement to obtain the requisite number of quotations or tenders must be the subject of prior and written approval by either the Corporate Procurement Manager, Strategic Director (S151), Assistant Director (Finance), or the Borough Solicitor:

- a) For the purchase of goods, works or services which are of a specialist nature or are Officer. A record obtainable from only one or a limited number of Suppliers and there are no other satisfactory alternative options.⁵
- b) Where exceptional circumstances clearly show it is in the best interests of the Council to negotiate a new contract with an existing Supplier.⁶
- c) Unforeseen works or circumstances where delay will adversely impact on the service delivery for the council or access to external funds.⁷
- d) Tenders or quotes for similar goods, works or services have been obtained in the last 24 months.
- e) The goods are classed as used or second hand - where the Borough Solicitor, the Assistant Director (Finance) or the Corporate Procurement Manager is satisfied that the market for such goods or materials is such that it would be unreasonable to tender or where the time required to complete the tender process is likely to lead to the loss of opportunity to purchase a used or second hand item and where the relevant officer has ensured that a Value for Money approach has been applied.
- f) Other exceptional circumstances that don't fit with any of the above authorised by both the Corporate Procurement Manager and the Borough Solicitor

- 3.3 Once a request to waive these Contract Procedure Rules has been received, a Waiver Action Form will be completed by the Officer requesting the waiver and reviewed by the Approving of the decision approving or rejecting a waiver request and the reasons for it must be kept and an entry made in the waiver request register which will be maintained by the Corporate Procurement Manager

- 3.4 Officers applying the exemption rules in 3.3 must, **as a minimum**, draft a specification and use the Council's preferred contractual documents, where appropriate (as outlined in Section 5). Unless otherwise stated, Financial Regulations (including key decision processes) will still

⁵ The officer must provide evidence to prove that there are no other satisfactory alternatives, such as a recent public notice where no suitable candidates responded.

⁶ For example, where the Council have received consultancy services for a complex project and wish to employ the same consultant for additional consultancy services relating to that project, because the use of an alternative consultant would result in the loss of an important skillset or knowledge, which is not easily transferable.

⁷ Must have been unforeseeable, not caused by a lack of prompt action by the Council

apply and will need to be adhered to.

- 3.5 Officers must ensure the contract is recorded on the contracts register if an agreed exemption to CPR's results in a change to existing contract details or constitutes the award of a new contract with a value over £5000⁸.
- 3.6 Compliance with UK legislation is considered to satisfy the Council's These Contract Procedure Rules and Financial Regulations. **No exemption shall be granted if the giving of that exemption would cause a breach of The Procurement Act 2023 or subsequent / associated UK legislation.**

⁸ See guidance on the intranet on how this is achieved.

SECTION 4 SPECIFIC REQUIREMENTS FOR CONTRACTS BELOW £100,000 (BAND 1 AND 2)

4.1 Overview

Band	Estimated Contract Value	Minimum No. of Quotes	Contract Signature
1	Up to £15,000 (£25,000 if Works ⁹)	At least one oral quote (written if over £1,000)	Officers authorised to sign purchase orders within this value banding.
2	£15,001 to £100,000 (£250,000 if Works)	At least three written quotations to a purchaser specification.	Officers authorised to sign or seal contracts within this value banding ¹⁰

Where the preliminary estimated contract value is within 10% of a higher category value, the appropriate provisions for the higher category of contract should be applied (unless the preliminary estimate is based on a firm quote). If the existing contract you are using has a total contract value within the Band 2 threshold and you anticipate the new final contract total may be within the Band 1 threshold, you must still continue to follow the Band 2 process unless the new contract is fundamentally different.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods. Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.¹¹

Band 1

Contracts with a value between £5,000 and £15,000 (£25,000 if works) should be considered as to whether conducting a procurement exercise would be more expensive in officer time than the value of any savings, if that is the case a band 1 waiver form must be submitted to your Tier 4 manager or AD if you are Tier 4 for approval before proceeding. This is more likely to apply to services and works, where quality has to be assessed or site visits to quote arranged and unlikely to apply to goods.

4.2. Supplier Selection

4.2.1. Suppliers invited to quote within these bands can be sourced from any means, including the Internet, suppliers registered on www.supplyhertfordshire.uk or based on previous satisfactory experience with the Council. There is no requirement to issue public notices for contracts within these bands, although this may be appropriate in some instances. However, when inviting quotations in Band 2, Officers must invite a Stevenage based supplier if one such exists on www.supplyhertfordshire and is appropriate for the requirement. If no Stevenage based look to Hertfordshire based as this supports the Councils community

⁹ Works are defined as activities having a Works CPV code see intranet for further guidance on what constitutes a works contract.

¹⁰ As per the authorised contract signatory list held by Exchequer Services.

¹¹ Guidance document "Estimating the total value of your procurement correctly" is available on the intranet under Procurement.

wealth building agenda. Officers should also document the reasons for selecting the suppliers (such evidence may be required should the decision be challenged at a later date).

If you are sourcing contracts of a similar nature on a regular basis i.e. low value bespoke building alterations it is a requirement to ensure that you invite at least one supplier not invited last time so that more suppliers are given the opportunity to quote for the Council's business.¹²

Framework Agreements

4.2.2. Framework agreements let by other contracting authorities, where the council has been named as being able to use the framework agreement, can be used. Examples of contracting authorities that let framework agreements of this nature are: Crown Commercial Services (CCS), Eastern Shires Purchasing Organisation (ESPO), Procurement for Housing (PfH), Homes England, and Yorkshire Purchasing Organisation (YPO).

4.2.3. The officer may utilise any of the above purchasing consortiums framework agreements (or any other framework agreements approved by either the Corporate Procurement Manager or Borough Solicitor). Any procedures provided by the purchasing consortium must be followed; generally mini competition is likely to achieve the best value as it allows Contractors to submit tailored bids to our requirement.

Direct Award is not available on all frameworks, where it is an option then generally it is only permitted if one of the below applies;

- The framework is sole supplier; or
- Where there is a ranked call off provision; or

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

4.2.4. When conducting a mini competition the officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst all the capable suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework..

4.2.5. Officers should use existing contracts where these are provided for and suitable, details of which can be found on the shared drive under Corporate> Central Contracts Database. Officers must liaise with the contract manager of the contract before proceeding to ensure they are compliant. All procurement of ICT Hardware and Software must be in consultation with the IT team.

Officers should consider if the requirement could be satisfied by another department through insourcing or through another contract tendered within the council or another public body and contact the relevant team to enquire before going out externally.

4.2.6. In exceptional circumstances and for contract values under £1,000 only, an officer may be permitted to contract with a supplier or group of suppliers without first obtaining an oral quote. In this instance, the officer must first submit the request in writing to either the Corporate Procurement Manager, Assistant Director (Finance), or the Borough Solicitor and obtain his or her prior written approval before awarding the contract(s).¹³

¹² Guidance on supplier selection at quote level is available on the intranet under Procurement

¹³ An example of where this may be acceptable would be contracting with a supplier to top up of the Depot's bulk fuel storage facility. The charge per litre will have been pre-agreed before awarding a contract, but the number of litres to be supplied will not be not known until the goods have been supplied.

4.3. The Invitation to Quote (Band 2 only)¹⁴

- 4.3.1. Officers must provide adequate instructions to respondents, outlining what is required (specification), in what format and by when. The Invitation to Quote¹⁵ should also define the award criteria, whether lowest cost or most advantageous quote (See 5.4.1). Officers are reminded that further instructions may be necessary depending on the nature of the contract. For example, specific insurances and equality requirements may be appropriate where the purpose of the contract is to supply services directly to the public.
- 4.3.2. The officer responsible for the purchase may consult potential Suppliers prior to the issue of the Invitation to Quote in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters provided this does not prejudice any potential Supplier.
- 4.3.3. Quotations must be submitted through the In-Tend e-tendering system. If there is a reason why Intend cannot be used, this needs to be agreed with the Corporate Procurement Manager in advance of the procurement¹⁶. A return date must be specified and adhered to. When using In-Tend the receiving officer can open the returns as soon as the system makes them available.
- 4.3.4. Suppliers must be given a minimum of 5 working days to respond to an invitation to quote, but they may require longer timescales if the contract is considered complex in any way.

4.4. Contract Evaluation and Award (Band 2 only)

- 4.4.1. To ensure adequate competition, there must be at least two satisfactory responses from the number of quotations requested (and this is expected when conducting a mini competition from a framework as well) i.e. responses which meet a minimum quality standard under which the Council could award the contract. If the Council receives only one satisfactory response, the officer must not open the responses before seeking advice from Corporate Procurement who will determine if the officer should obtain an additional quote, re-run as an advertised process or obtain an exemption under CSO 3.3.
- 4.4.2. All quotes must be evaluated based on the defined award criteria in the Invitation to Quote. Post tender negotiation may be used for certain contracts, in accordance with CPR's 5.7.4 and 5.7.5.
- 4.4.3. If the quoted contract value for the preferred supplier falls into the higher band 3 when processes for the lower Band 2 were followed, the officer must provide either the Assistant Director (Finance), the Borough Solicitor or the Corporate Procurement Manager with a written explanation and supporting evidence as to the basis for estimating the contract value at the lower band. The Borough Solicitor, Assistant Director (Finance) or Corporate Procurement Manager will decide whether the contract should be re-tendered following the procedures within the higher band.
- 4.4.4. Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Assistant Director (Finance), or the Borough Solicitor. Staged payments are acceptable but must be proportionate to the cost of the goods, works or services received.

¹⁴ A checklist is available on the intranet under staff into/finance/corporate procurement to help you through the steps of a quote process.

¹⁵ SBC invitation to quote templates are available on the intranet under Procurement

¹⁶ An example of an exemption could be where we are not in a market position to impose the use of Intend.

- 4.4.5. Successful and unsuccessful Suppliers should be informed of the decision within 14 days of the closing date and feedback provided if requested.
- 4.4.6. Contracts or agreements over £5,000 must be signed by an authorised signatory. If there is no written contract, the authorised signatory must confirm in writing (either via letter or email) that the quote has been accepted, stating the cost and any other terms (such as payment terms and delivery date) to which the Council is agreeing to. In the absence of a written contract, a Purchase Order containing the above mentioned information and signed by an authorised signatory is sufficient.
- 4.4.7. For contracts over £5,000 officers must ensure the details are entered onto the Central Contracts Database¹⁷.
- 4.4.8. All documentation must be kept in accordance with the Document Retention Schedule which can be found on the intranet.

¹⁷ See guidance on the intranet about how this is achieved

SECTION 5 CONTRACTS BETWEEN £100,001 AND PUBLIC CONTRACTS THRESHOLD¹⁸

5.1 Overview

Band	Estimated Contract Value	Minimum No. of Respondents	Contract Signature
3	£100,001 (£250,001 if works) to Public Contract Threshold (see CSO 6.1 for values)	N/A unless Works over £177,500 excluding VAT ¹⁹	Officers authorised to sign contracts within this value banding ²⁰ , unless under seal (see CSO 5.8.7)

Where the preliminary Estimated Contract Value is within 10% of a higher category value, the appropriate provisions for the higher category of contract should be applied (unless the preliminary estimate is based on good evidence). If the existing contract you are using has a total contract value within the Band 3 threshold and you anticipate the new final contract total may be within the Band 2 threshold, you must still follow the Band 3 process unless the new contract is fundamentally different.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods. Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.²¹ Collaboration with other Hertfordshire authorities is encouraged and can be promoted via the Hertfordshire Procurement Group by talking to Corporate Procurement.

5.2 Supplier Selection: Public Notice & Purchasing Consortium

- 5.2.1. Within this contract value banding, either a public notice or a suitable framework agreement that the council is entitled to use can be used.

Public Notice

- 5.2.2. If the chosen method is a public notice, officers must follow the: Open procedure – all Suppliers expressing an interest are sent an Invitation to Tender (ITT) and all responses are evaluated. An exception can be made for Works contracts with a value between the Public Contract Threshold for services and the Public Contract Threshold for Works which allows for conditions of participation to be assessed before issuing the ITT to a limited number of participants.

The Public notice will be placed via the Corporate Procurement team on the Council's E procurement portal, In-Tend- and on the Find a Tender Service website in order to maximise competition. The notice will state how to register on the In-Tend system, the

¹⁸ Checklists are available on the intranet under Procurement to assist you with the process

¹⁹ If the number of respondents is being restricted invite at least three to tender where sufficient qualify

²⁰ As per the Authorised Signatory list held by Exchequer Services.

²¹ Guidance document "Estimating the total value of your procurement correctly" is available on the intranet under Procurement.

scope of the requirement and the deadline for submission.

Framework Agreements

- 5.2.3. Framework agreements let by other contracting authorities, where the council has been named as being able to use the framework agreement, can be used. Examples of contracting authorities that let framework agreements of this nature are: Crown Commercial Services (CCS), Eastern Shires Purchasing Organisation (ESPO), Procurement for Housing (PfH), Homes England (HE), Yorkshire Purchasing Organisation (YPO).
- 5.2.4. The officer may utilise any of the above purchasing consortiums framework agreements (or any other framework agreements approved by either the Corporate Procurement Manager or Borough Solicitor). Any procedures provided by the purchasing consortium must be followed, generally mini competition is likely to achieve the best value as it allows Suppliers to submit tailored bids to our requirement.

Direct Award is not available on all frameworks, where it is an option then generally it is only permitted if one of the below applies;

- The framework is sole supplier; or
- Where there is a ranked call off provision;

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

- 5.2.5. When conducting a mini competition the officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst all the capable suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework.

In the same way it is a requirement to obtain two compliant bids when utilising a quotation exercise, the same applies when utilising a mini competition via a framework. Therefore it is vital to conduct some pre market engagement to be sure that the framework is suitable. Some frameworks have the option of an expression of interest to alert potential bidders of the forthcoming competition. Should you be looking to award more than one contract as a result of the mini competition then proportionally more compliant bids must be received.

5.3 Pre Market Engagement

- 5.3.1 Pre-procurement engagement with the market (including talking to potential suppliers) is encouraged provided that it does not prevent an effective competition taking place when the requirement is put out to the market. In fact, engaging with the market before starting the formal procurement process is best practice and helps to maximise value for money from the resulting procurement.²²
- 5.3.2 Officers must conduct an appropriate level of pre market engagement prior to launching the invitation to tender:
As a minimum they must get feedback from some potential bidders to ascertain:
There is interest in the opportunity at this time
Our estimate of the value is in the right ball park
Suggestions on how the service, product or works may be delivered differently.

Advice on conducting pre market engagement is available from Corporate Procurement

²² Further information on pre procurement market engagement is available on the intranet under Procurement

5.4 The Invitation to Tender

5.4.1 The **Instructions to Tenderers**²³ must, as a minimum, include the following:

- a) List the information which must be provided by the supplier in their response, including any forms, tables or pricing schedules to be completed.
- b) State the method of response required. All tenders shall be issued through the Council's E-tendering System – In-Tend (see CSO 5.5).
- c) Outline a timetable for the remainder of the procurement exercise, detailing the closing date for receipt of responses, the evaluation period and when a response on contract award is expected.
- d) State the method which will be via In-Tend and the deadline for obtaining additional information or clarification (usually 7-14 days before the closing date for receipt of responses) and that additional information requested will be distributed to all suppliers (this should be distributed to all suppliers at the same time through Intend no later than one week before the closing date for receipt of responses²⁴).
- e) Outline how the responses will be evaluated, listing the appropriate award criteria and their relative weightings, which shall be based on the "most advantageous tender". The award criteria may include price, service, quality of goods, running costs, previous experience, delivery date, cost effectiveness, relevant environmental considerations, employment considerations, aesthetic and functional characteristics, safety, after-sales services, technical assistance, contract terms and conditions and any other relevant matters. Lowest price must not be used as the sole award criteria unless approved by Corporate Procurement.
- f) The measurement system may include the following 4 elements:
 - Any pass/ Fail considerations
 - A point scoring system for individual quality/value for money considerations.
 - Weightings applied to quality/value for money issues in accordance with their importance to the completion of the contract.
 - A "Quality Threshold" which sets the minimum standard expected. Tenders which fall below this shall be excluded from consideration.
- g) State that late responses will not be considered unless it is proven that a third party is at fault and that the Council is not bound to accept any Tender.
- h) State the price validity period (usually up to a maximum of six months).
- i) Provide a statement to the effect that under the Freedom of Information Act (2000), the Council may be obliged to provide information regarding the procurement exercise or a subsequent contract award and that respondents will be advised of any requests for information and be given an opportunity to comment before disclosure of such information (information whose disclosure would be likely to prejudice anyone's commercial interests is exempt from disclosure provided the public interest in withholding the information outweighs the public interest in disclosing it)

²³ An template Invitation to Tender can be requested from Corporate Procurement.

²⁴ A Clarification/Query template spreadsheet is available from Corporate Procurement

- j) The level of economic and financial standing required
- k) The level of insurance required
- l) Any Pass/Fail elements or minimum thresholds to be met

5.4.2 An adequate **specification** must be included. The specification must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive offers.

5.4.3 For contracts within this value banding, the following **Standard Forms**²⁵ should form part of the Invitation To Tender and should be included in the final contract documentation:

- a) Form of Tender
- b) Certificate that the Tender is Bona Fide
- c) Parent Company Guarantee (if applicable).
- d) Performance Bond Certificate (if applicable).
- e) Insurance requirements

5.4.4 Where appropriate to the type of contract being let, the officer should use standard industry contracts ie JCT²⁶ or the **Council's own standard contracts**,. Where the Council does not supply a suitable standard contract for the type of contract being let, the officer should liaise with Legal Services to identify contract terms relevant to that specific contract. The officer must seek advice from Legal Services if he/she is unclear as to what terms and conditions should be included in the contract. Supplier standard terms and conditions should only be accepted following consultation and approval by Legal Services. In any event, it should be stated in the Invitation to Tender which contract terms will apply to the contract. SBC's standard clauses and contracts are available from corporate procurement.²⁷

5.4.5 Suppliers invited to tender must be given an adequate period in which to prepare and submit a proper tender, consistent with the urgency of the contract requirement. Normally at least **four weeks** should be allowed for submission of Tenders but this can be less if the Contracting Officer has ascertained, during pre procurement market engagement, that a lesser time period is practical and realistic. All tender documents for a contract shall be despatched to the Suppliers invited to tender on the same day via in-Tend.

5.4.6 A tender period can be extended if there are justifiable reasons and it is practical to do so. The reasons for any extension of time should be recorded and communicated in writing to all respondents ideally at least one week prior to the closing date.

5.4.7 Suppliers must demonstrate that they carry a range and level of insurance cover acceptable to the type of contract being let. As a starting point it would be prudent to assume the following minimum levels of indemnity, Public Liability £5m, Employers Liability £10m (although the legal minimum is £5m), Professional Indemnity £2m, Products Liability between £1m and £5m. These must be reviewed for adequacy in light of the various risk factors affecting the contract. Only in very low risk scenarios would levels of indemnity lower

²⁵ Standard Forms can be obtained from corporate procurement

²⁶ Standard amendments to JCT Minor Works or Measured Term contracts are available from Corporate Procurement

²⁷ It is prudent that Officers obtain the standard clauses and contracts as and when the procurement need arises, as they are subject to change.

than these be acceptable .If in doubt, contact the Council's Insurance Officer.²⁸

- 5.4.8 The advice of Legal Services must be sought as necessary, particularly for contracts which are complex.

5.5 Submission, Receipt and Opening of Tenders

- 5.5.1. Tenders shall be submitted through the Council's E-tendering System – In-Tend. Instructions on how to register on the e-tendering system must be provided in the public notice. The system sends full guidance documents on how to use the system to respondents when they register and has on line guidance at every stage. Within the Invitation to Tender documents respondents must be provided with a contact point in case they experience any problems in using the E-Tendering system. Respondents must also be advised that failure to advise the Council of the problem **before** the deadline for return of tenders will mean they have lost their opportunity to tender. Where a notification of a problem is received in time, consideration should be given to extending the deadline for submission and all tenderers should be advised accordingly of any extension of time.

5.6 Not Used

5.7 Tender Evaluation

- 5.7.1. The following should be checked by the Officer:

- a. The Tenders are actually from the Suppliers invited to tender (where using a framework or works contracts where a suitability stage was used);
- b. That there are no errors or omissions in the completion of the documents;
- c. Where a check of the prices quoted suggest collusion among tenderers or 'ring' pricing, the case should be referred to the Assistant Director (Finance);
- d. If the supplier invited to tender is on the gov.uk debarment list. If they are consult with Corporate Procurement.

- 5.7.2. To ensure adequate competition, there must be at least two satisfactory responses to the Invitation to Tender i.e. two responses which meet the minimum quality threshold. If there is only one satisfactory response, the officer must either re-tender the contract, advising respondents accordingly, or obtain an exemption under CSO 3.3.

- 5.7.3. Where necessary, clarifying some aspect of a Tender response in writing or by way of a meeting is permitted. If a meeting is held then relevant notes should be made of the results of the meeting and matters should be confirmed in writing for contractual purposes.

The officer must use the award criteria and measurement system²⁹ as set out in the Invitation to Tender.

- 5.7.4. The Procurement process should take no longer than 10 months from issue of advertisement to award of contract. Should the procurement process take longer than 10 months, authorisation must be sought from the Borough Solicitor, Assistant Director (Finance) or Corporate Procurement Manager to proceed with the contract award.

Within (and below) this contract value banding only, *Post-Tender Negotiations* may only be used where the officer justifies the need for post tender negotiation in writing to

²⁸ An insurance checklist can be found on the intranet under staff info/finance/insurance

²⁹ A sample criteria and measurement template can be found on the intranet under Procurement.

either the Corporate Procurement Manager, the Assistant Director (Finance), or the Borough Solicitor and that the request is authorised by either the Corporate Procurement Manager, the Assistant Director (Finance), or the Borough Solicitor in writing. Post-Tender Negotiations will only be authorised when lawful.

- 5.7.5 Negotiations must be conducted by a team of at least two suitable officers with the involvement of Legal Services, as required. Changes should be confirmed in writing for contractual purposes. Where Post Tender Negotiation results in a significant change to the specification (or contract terms) the contract must not be awarded but re-tendered.
- 5.7.6 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Assistant Director (Finance) or the Borough Solicitor. Staged payments are acceptable but must be proportionate to the cost of the goods, works or services received and must be submitted for checking to Treasury and Capital in Accountancy, see CSO 5.8.10.
- 5.7.7 If the tendered contract value for the preferred Supplier falls into the higher band 4 (above the Public Contract Threshold) when processes for the lower Band 3 were followed, the officer must provide either the Corporate Procurement Manager, the Assistant Director (Finance), or the Borough Solicitor with a written explanation and supporting evidence as to the basis for estimating the contract value at that lower band. The Corporate Procurement Manager, the Assistant Director (Finance), will decide whether the contract should be re-tendered following the procedures within the higher band.

Checks on Financial Status

- 5.7.8 For contracts within this value banding, the officer must ensure the supplier has the level of economic and financial standing that they self certified that they have. To do so obtain two years annual accounts for the preferred Supplier before contract award (unless this is not possible, for example where a company has recently been established). Annual accounts are to be provided to Corporate Procurement, who will check that the supplier self certified correctly. Please allow at least 1 week for this process to be completed.
- 5.7.9 If the veals an unsatisfactory appraisal, yet the officer still wishes to use the Supplier, he/she must submit a written request to the Assistant Director (Finance) or nominated deputy for his/her approval. Approval will not be given in circumstances where the Supplier has failed any minimum pass/fail requirements set out in the Invitation to Tender or associated procurement documents. Any conditional approval given by the Assistant Director (Finance) or nominated deputy must be strictly complied with.
- 5.7.10 At the discretion of Corporate Procurement, financial checks may not be necessary for specific Suppliers. For example, where the contracting body is a local authority.
- 5.7.11 All contracts in this value banding with a term of over 24 months or that are considered high risk will need to be registered with Corporate Procurement for monitoring updates on financial status.

5.8 Contract Award and Contract Management

- 5.8.1 Consult Financial Regulations to ascertain the correct process to gain approval to award³⁰
- 5.8.2 All Suppliers who have expressed an interest in a proposed contract should be notified in

³⁰ An Approval flowchart is available to assist on the intranet under Procurement

writing through the Council's E-tendering system whether they have or have not been successful in winning the contract. Tenderers should be notified of their score against each award criteria, the score the winning tenderer obtained and the name of the winning tenderer. If requested additional feedback should be provided.

- 5.8.3 All contracts in this value band will be in the form of a written contract (see 5.4.4 above) and signed by an authorised signatory of both the Council and the Supplier, unless the contract is required to be sealed under CSO 5.8.6. The written contract must set out (as a minimum):
- a) Description of the work, services or goods (which may comprise the specification);
 - b) The contract price (exclusive of VAT) and payment terms;
 - c) Any performance dates or milestones;
 - d) The contract period including details of any permitted extension options;
 - e) The applicable terms and conditions including provisions for the Council to terminate the contract; and
 - f) Any other applicable contract documents (e.g. tender, correspondence, specification, drawings, KPI's, project brief/proposal and signed/completed Standard Forms (see 5.4.3)). A copy of these documents should form part of the contract.
- 5.8.4 Letters of Intent shall only be used in exceptional circumstances and with the approval of the Borough Solicitor who should be satisfied that they are adequately worded.
- 5.8.5 If acceptance of a tender is for any reason delayed beyond the appropriate tender price validity period, the Supplier must be asked to confirm his tender in writing before the acceptance is issued. This letter of confirmation must be included as part of the contract. If the recommended tenderer submits a revised price, Legal Services must be consulted for advice on how to proceed.
- 5.8.6 A contract must be sealed³¹ in the following cases:
- a) For all formal construction/works contracts over the current Public Contract services threshold (see 6.1)
 - b) Where an extended limitation period of 12 years is required (the normal limitation period is 6 years after the end of the contract).
- 5.8.7 **For contracts within this value banding**, officers must ensure the details are entered onto the Central Contracts Database **An electronic copy of the contract pack must be provided to Corporate Procurement for the Central Contracts Database followed by a scan of the relevant contract pages holding signatures/seals at point of execution.**³²
- 5.8.8 The officer may wish to use a contract management checklist to ensure all required steps have been followed. An example checklist can be found on the intranet under "Procurement", although Business Units may use their own forms to reflect their special requirements.
- 5.8.9 All documentation and records of communications pertaining to the tender must be kept in accordance with Document Retention Schedule which can be found on the intranet.
- 5.8.10 The officer must monitor and manage the performance of the Supplier throughout the contract to ensure that requirements are delivered satisfactorily. In performing this task the officer must monitor:

³² Information on process for recording contracts is on the intranet

³² Information on process for recording contracts is on the intranet

- a) Key performance indicators as set out in the contract where applicable
- b) Work performance
- c) Compliance with specification and contract terms and conditions
- d) Cost
- e) Any Value for Money requirements
- f) User satisfaction
- g) Risk management
- h) Variations to the original contract ensuring these are recorded

Further guidance is available on the intranet under "Procurement".

SECTION 6 CONTRACTS AT OR ABOVE THE PUBLIC CONTRACTS THRESHOLD (BAND 4)

6.1 Overview

The value is set by central government and values for 2025 are £214,000 inclusive of VAT for services or supplies and £ 5,372,609 inclusive of VAT for works or concessions. See intranet for current value.

A check list can be found on the intranet to guide procuring officers through the tender exercise (under the “Procurement” section). Further advice should be sought by contacting Corporate Procurement.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods.

Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.³³

Collaboration with other Hertfordshire authorities is encouraged and can be promoted via the Hertfordshire Procurement Group by talking to Corporate Procurement.

6.2 Procurement Act 2023

6.2.1 The detailed complex advertising, tendering and reporting processes imposed by the Procurement Act 2023 and Procurement Regulations 2024 are not fully covered in These Contract Procedure Rules. Separate advice and instructions may be issued from time to time by the Corporate Procurement Manager and Legal Services relating to The Procurement Act 2023 and Procurement Regulations 2024. Such advice and instructions These Contract Procedure Rules can be found on the intranet under “Procurement” and should be followed by officers. In the event of any conflict between These Contract Procedure Rules and the Procurement Act 2023/Procurement Regulations 2024, the Procurement Act 2023/Procurement Regulations 2024, will prevail.

6.2.2 Works contracts generally fall under the scope of construction projects, such as new build, or major renovations involving the bringing together of different services and supplies. The Procurement Act 2023 is very specific as to what falls into their definition of ‘Works’ so do not assume ‘Works’ without consulting with Corporate Procurement or Legal Services. If in doubt apply the Services or Supplies thresholds.

6.2.3 ‘Open and Competitive Flexible Procedure are the procurement procedures applied via the Procurement Act 2023³⁴, whereby:

- a) in the case of **open procedures**, any interested Supplier may submit a tender;

³³ Guidance document “Estimating the total value of your procurement correctly” is available on the intranet under Procurement.

- b) In the case of **the Competitive Flexible Procedure**, Suppliers must follow the process that has been designed. If a request to participate is part of the process then only suppliers invited by the Council after shortlisting may progress to the next stage of the procedure;

6.2.4 It is a requirement of the Procurement Act 2023 to conduct some Pre Market Engagement or to state in the tender notice why you didn't publish a preliminary market engagement notice. Therefore it is strongly advised that some formal Pre Market engagement is undertaken and a preliminary market engagement notice published.

6.2.5 The advice of the Corporate Procurement Manager and/or Legal Services must be sought where following the Procurement Act 2023, especially if intending to use the Competitive Flexible Procedure.

6.2.6 The officer must provide the information needed to enable the procurement team to place notices required by the Procurement Act 2023. Some notices are optional but the procurement teams advice must be taken

6.3 Supplier Selection

6.3.1 Under the Procurement Act 2023, the officer must liaise with Corporate Procurement to place a Tender Notice to the Find a Tender service. Public notices may also be placed in trade journals and approved Suppliers can be advised of the tender exercise, so long as this is done after the Tender Notice has been published..

6.3.2 Framework agreements, Dynamic purchasing systems (DPS) and Dynamic Markets managed by other contracting authorities can be used when the contract value is above the Public Contract Threshold, so long as the contracting authorities have awarded the framework agreement (or DPS/Dynamic Market) in accordance with PCR2015 or the Procurement Act 2023, and on behalf of the Council. Where it is proposed to use any of the above for a procurement above the Public Contract Threshold, approval must first be sought from either the Corporate Procurement Manager, the Assistant Director (Finance), or the Borough Solicitor and Legal Services must be consulted as to whether the proposed route is legally compliant and any terms and conditions to be used are appropriate. Framework agreements, DPS' and Dynamic Markets must not be used to award concession contracts.

6.3.3 Any procedures provided by the purchasing consortium must be followed and the procedure must be undertaken in compliance with the PCR 2015 or the Procurement Act 2023 (as applicable). Generally mini competition is likely to achieve the best value as it allows Suppliers to submit tailored bids to our requirement.

6.3.4 Direct Award is not available on all frameworks, and never on a DPS or Dynamic Market, where it is an option then generally it is only permitted if the officer can establish that best value considerations have been taken into account and one of the following apply;

- The framework is sole supplier; or
- Where there is a ranked call off provision.

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

The officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst the suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework.

It is expected that when conducting a mini competition at least one more bid than the number of contracts to be let is received, therefore a level of pre market engagement needs to be undertaken to ascertain if this is an appropriate route to market.

6.4 Short Listing

- 6.4.1 Short Listing will be applicable if the Council is using the Competitive Flexible procedure, as outlined in the Procurement Act 2023.
- 6.4.2 For contracts within this value banding (unless utilising an approved framework) a financial check must be undertaken as part of the evaluation process. See CSO 6.7.10.
- 6.4.3 All Suppliers who have expressed an interest in a proposed contract should be notified in writing whether they have or have not been successful in making the next stage promptly after the decision has been made. Feedback should be provided in the letter.
- 6.4.4 The Supplier's status on the Central Digital Platform and on the debarment list together with any conditions of participation relating to legal and financial capacity to perform the contract and/or technical ability to perform the contract should be considered at the Short listing stage as the Council is generally precluded from taking these factors into account as 'award criteria' within the tender stage.³⁵ When using the open procedure these factors should be considered as part of the tendering process (although separately to evaluation of tenders).

6.5 The Invitation to Tender

- 6.5.1 The Instructions to Tenderers³⁶ must, as a minimum, include the following:
- a) Set out how the procurement will be conducted. If not using the open process explaining how the competitive flexible procedure will be conducted;
 - b) List the information which must be provided by the Supplier in their response, including any forms, tables or pricing schedules to be completed and that they need to ensure the information held on the Central Digital platform is up to date;
 - c) State the method of response required. All tenders must be issued through the Council's E-tendering System – In-Tend (see CSO 5.5);
 - d) Outline a timetable for the remainder of the procurement exercise, detailing the closing date for receipt of responses, the evaluation period and when a response on contract award is expected;
 - e) State the method and deadline for obtaining additional information or clarification (usually 14-21 days before the closing date for receipt of responses) and that additional information requested will be supplied to all respondents (this should be supplied to all suppliers at the same time no later than 7 days before the closing date for receipt of responses³⁷);

Set out in detail how the responses will be evaluated, listing the appropriate award criteria and their relative weightings, which shall be based on the "most advantageous tender". "Lowest price" must not be used as the sole award criteria unless approved by Corporate Procurement ;
 - f) "" – ""
 - g) State that late responses will not be considered and that the Council is not bound to accept any Tender;

³⁵ If you are unsure about the 'conditions of participation' please contact the Corporate Procurement Team

³⁶ An outline Invitation To Tender can be obtained from Corporate Procurement.

³⁷ A Clarification/Query template spreadsheet is available from corporate procurement

h) State the price validity period (usually up to a maximum of six months);

Provide a statement to the effect that under the Freedom of Information Act (2000) and the requirements for transparency, the Council may be obliged to provide information regarding the procurement exercise or a subsequent contract award and that respondents will be advised of any requests for information and given an opportunity to comment before disclosure of such information (information whose disclosure would be likely to prejudice anyone's commercial interests is exempt from disclosure provided the public interest in withholding the information outweighs the public interest in disclosing it)

6.5.2 An adequate **specification** must be included. The specification must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive offers.

6.5.3 For contracts with an estimated value of over £5m it is mandatory to set at least 3 KPIs unless the Council considers that the supplier's performance under the contract could not appropriately be assessed by reference to KPIs.

6.5.4 For all contracts within this value band, the following **standard forms** must either form part of the participation document or the Invitation To Tender and should be included in the final contract documentation³⁸:

- a) Form of Tender
- b) Certificate that the Tender is Bona Fide
- c) Parent Company Guarantee (if applicable)
- d) Performance Bond Certificate (if applicable)
- e) Insurance requirements

The officer should seek advice from Legal Services as to what terms and conditions should be included in the contract. Where appropriate to the type of contract being let, the officer should use standard industry contracts ie JCT³⁹ or the **Council's own standard contracts**. Where the Council does not supply a suitable standard contract for the type of contract being let, the officer should liaise with Legal Services to identify contract terms relevant to that specific contract. The officer must seek advice from Legal services if he/she is unclear as to what terms and conditions should be included in the contract. In any event, it should be stated in the Invitation to Tender which contract terms will apply to the contract. SBC's standard clauses and contracts are available from corporate procurement.

6.5.5 A tender period can be extended if there are justifiable reasons and it is practical to do so. The reasons for any extension of time should be recorded and communicated in writing to all respondents with as much notice as possible of the change. For Open tenders a notice must be placed notifying the change to the tender period. This will also apply to the Competitive Flexible Procedure if an extension is made to the first stage within the procurement process.

6.5.6 Suppliers must carry a range and level of insurance cover acceptable to the type of contract being let. As a starting point it would be prudent to assume the following minimum levels of indemnity, Public Liability £5m, Employers Liability £10m (although the legal minimum is £5m), Professional Indemnity £2m, Products Liability between £1 and £5m. These must be reviewed for adequacy in light of the various risk factors affecting the contract. Only in very low risk scenarios would levels of indemnity lower than these be acceptable. If in doubt, contact the Council's Insurance Officer.⁴⁰

³⁸ Standard forms can be found within the template tender documents available from corporate procurement

³⁹ Standard amendments to JCT Minor Works or Measured Term contracts are available from Corporate Procurement

⁴⁰ An insurance checklist can be found on the intranet under staff info/finance/insurance

- 6.5.7 The advice of Legal Services must be sought as necessary, particularly for contracts which are complex.
- 6.5.8 The Procurement Act 2023 lays down specific time periods for submission of Tenders, which must be followed (see guidance in the Intranet under "Procurement")
- 6.5.9 If the procurement is a mini competition (tender) under an approved framework agreement that has been let in accordance with PCR2015 or the Procurement Act 2023 and covers the Council, then normally at least four weeks should be allowed for the submission of Tenders. This can be less if the Contracting Officer has ascertained, after consultation with all short listed Suppliers, that a lesser time period is practical and realistic.
- 6.5.10 It may be necessary during the tender period for the Council to clarify some aspects of its tender documents. This may be done in writing or by way of a meeting i.e. Bidders Day. Parity of tendering must be preserved so it is important that all tenderers are issued with the same information.
- 6.5.11 Before a tender notice is published, the officer must consider if the requirement could be split into lots. If the requirement could reasonably be split into lots and a decision is made not to do so, reasons for such must be provided in the tender notice.
- 6.5.12 The Public Services 2012 Social Value Act requires commissioners to consider securing economic, social, or environmental benefits when buying services at or above the Public Contracts Threshold. To comply with the Act, commissioners must think about how what they are going to buy, or how they are going to buy it, could add these benefits, and must also consider whether they should consult on these issues. This consideration needs to be documented and retained in line with the councils retention guidance.

6.6 Submission, Receipt and Opening of Tenders

For contracts within this value banding, CSO 5.5 must be followed.

6.7 Tender Evaluation

- 6.7.1 The following should be checked by the Officer:
- a) The Tenders are actually from the firms invited to tender (Not applicable in an open tender);
 - b) That the Tenderers are not on the debarment list;
 - c) Whether or not Tenderers are "excluded" or "excludable" suppliers;
 - d) Check that the price of the tenders as set out on the Opening of Tenders is correct;
 - e) That there are no errors or omissions in the completion of the documents; and
 - f) Where a check of the prices quoted suggest collusion among tenderers or 'ring' pricing, the case should be referred to the Assistant Director (Finance).
- 6.7.2 Guidance is available from Corporate Procurement on carrying out checks of the debarment list and considering whether a Tenderer is an "excluded" or "excludable" supplier. If a Tenderer is on the debarment list and/or is an "excluded" or "excludable" supplier within the meaning of the Procurement Act 2023, advice must be sought from Corporate Procurement and Legal Services.
- 6.7.3 Where necessary, clarifying some aspect of a Tender response in writing or by way of a

meeting is permitted. If a meeting is held then relevant notes should be made of the results of the meeting and as necessary significant matters should be confirmed in writing for contractual purposes. It is possible to upload the notes to the Council's Intend system if required.

- 6.7.4 The Procurement process should generally take no longer than 10 months from issue of advertisement to award of contract. Should the procurement process take longer than 10 months, authorisation must be sought from the Borough Solicitor, Assistant Director (Finance) or Corporate Procurement Manager to proceed with the contract award.
- 6.7.5 **Post Tender Negotiation must not be conducted unless authorised by Corporate Procurement in consultation with Legal Services. It is unlikely to be agreed except in particularly complex procurements**
- 6.7.6 The officer must use the award criteria and measurement system as set out in the public notice and Invitation to Tender⁴¹. The measurement system should usually include the following three elements:
- a) A point scoring system for individual quality/value for money considerations;
 - b) Weightings applied to quality/value for money factors in accordance with their importance to the completion of the contract. Any sub-criteria must also be identified at this stage and the appropriate breakdown weighting disclosed;
 - c) A "Quality Threshold" which sets the minimum standard expected. Tenders which fall below this shall be excluded from consideration.
- 6.7.7 All suppliers must be notified in writing through the Council's E-tendering system whether they have or have not been successful either in making the next stage or winning the contract. Suppliers must be given an assessment summary so they can understand why they scored as they did and a copy of the winning bidders assessment summary (redacted of commercially confidential information). Template assessment summaries are available from Corporate Procurement.
- 6.7.8 Once the assessment summaries have been sent the council can publish a contract award notice. **The contract with the successful supplier must not be entered into until 8 working days (standstill period) after the date on which the contract award notice was published** allowing unsuccessful suppliers time to dispute any decision made.⁴² Certain contracts are not subject to a mandatory standstill period but the Council's default position (absent authorisation from Corporate Procurement) is to apply a standstill period to all contracts valued at or above the Public Contracts Threshold.
- 6.7.9 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Assistant Director (Finance) or the Borough Solicitor. Staged payments are acceptable but must be proportionate to the cost of goods, works or services received and must be submitted to Treasury and Capital in Accountancy for checking, please see CSO 6.8.13.

Checks on Financial Status

(Note 6.4.2 above)

⁴¹ A sample criteria and measurement template can be obtained from Corporate Procurement.

⁴² Compliant template letters showing the standstill period are available from Corporate Procurement

- 6.7.10 When using the Competitive Flexible Procedure financial appraisals should be conducted at the first stage that may cut down the numbers of tenderers. When using the open procedure, financial appraisals should be carried out as part of the tendering process.
- 6.7.11 At the discretion of Corporate Procurement, financial checks may not be necessary for specific Suppliers. For example, when the contracting body is a local authority.
- 6.7.12 All contracts in this value banding with a term of over 24 months or are considered high risk will need to be registered with Corporate Procurement for monitoring updates on financial status.

6.8 Contract Award and Contract Management

- 6.8.1 Consult Financial Regulations regarding the process to be followed to gain approval to award
- 6.8.2 Officers must obtain and check copies of all documents that were self-certified by the supplier during the tender process before awarding the contract.
- 6.8.3 All contracts over the Public contracts services threshold must be made under the common seal of the Council. Unless in exceptional circumstances approval to sign under hand is sought and obtained, from the Borough Solicitor, prior to competition.⁴³ Officers must follow the sealing process as detailed on the intranet.⁴⁴
- 6.8.4 If acceptance of a tender is for any reason delayed beyond the appropriate tender price validity period, the Supplier must be asked to confirm his tender in writing before the acceptance is issued. This letter of confirmation must be included as part of the contract. If the recommended tenderer submits a revised price, Legal Services must be consulted.
- 6.8.5 A written report must be compiled that satisfies section 98 of the Procurement Act 2023 and records of all communications between the Council and suppliers involved in the procurement process must be retained. The report and records must be kept with the signed contractual documents for a minimum of 3 years from the date the contract is entered into or, if the contract is awarded but not entered into, the date it was awarded.⁴⁵
- 6.8.6 Contract details notices must be published by the Corporate Procurement team on Find a Tender the within 30 days of the day on which the contract is entered into (120 days in the case of a light touch contract) via the Council's E-tendering system – In-Tend⁴⁶.
- 6.8.7 For contracts within this value banding, **an electronic award notification form must be completed and passed to Corporate Procurement⁴⁷ An electronic copy of the contract pack must be provided to Corporate Procurement for the Central Contracts Database followed by a scan of the fully signed contract pages holding signatures/seals at point of execution.**
- 6.8.8 On-line Publication is required of a full copy of the contract for contracts valued at over £5mill (redacted for commercially sensitive information). The contract must be published before the

⁴⁵ The award notification form contains a page to complete Regulation 98 information advice is available from Corporate procurement.

⁴⁵ The award notification form contains a page to complete Regulation 98 information advice is available from Corporate procurement.

⁴⁵ The award notification form contains a page to complete Regulation 98 information advice is available from Corporate procurement.

⁴⁶ The Corporate Procurement Team will undertake this task.

⁴⁷ The Award notification forms are found on the intranet under Procurement

end of the period of 90 days (180 days in the case of a light touch contract) beginning with the day on which the contract is entered into, although if possible this should be done at the same time as publishing the contract details notice.

- 6.8.9 For contracts with an estimated value of over £5m it is mandatory to set at least 3 KPIs unless the Council considers that the supplier's performance under the contract could not appropriately be assessed by reference to KPIs. A description of the 3 KPIs which the Council regards as most material to performance of the contract must be set out in the contract details notice. The requirement to set and publish details of KPIs does not apply to concession contracts or light touch contracts, although it is best practice and generally advisable to set KPIs.
- 6.8.10 The officer may wish to use a contract management checklist form to ensure all required steps have been followed. An example checklist can be found on the intranet under "Procurement", although Business Units may use their own forms to reflect their special requirements. All documentation and records of communications pertaining to the tender must be kept in accordance with Document Retention Schedule which can be found on the intranet.
- 6.8.11 The officer should provide his or her line manager, or Senior Leadership Team member as considered necessary, with regular reports on the financial position of a contract for budget or funding monitoring purposes and to enable corrective action to be taken as necessary.
- 6.8.12 All interim valuations and final accounts in respect of staged payment contracts must also be submitted for checking by Treasury and Capital in Accountancy for recording in the Central Contracts Database before they are sent for payment to Exchequer.
- 6.8.13 The officer must monitor the performance of the Supplier to ensure that requirements of the contract are delivered satisfactorily⁴⁸. In performing this task the officer must monitor:
- a) Work performance (including KPI's if applicable). If the contract is over £5m then performance must be assessed against KPIs set in accordance with the requirements of the Procurement Act 2023 at least once in every 12 month period and on termination and details of the assessment must be published online. Officers are required to consult with Corporate Procurement on this requirement.
 - b) Compliance with specification and contract terms and conditions.
 - c) Cost
 - d) Any Value for Money requirements
 - e) User satisfaction
 - f) Risk management (to include checking that relevant certificates such as insurance are up to date and financial monitoring is being undertaken)
 - g) Ensure that variations are considered, checking before agreeing that they are lawful and providing information to corporate procurement in a timely manner to enable notices to be published where applicable.
- 6.8.14 Should there be a breach of contract or a failure to perform to the Council's satisfaction, then a contract performance notice may need to be published within 30 days. This applies to contracts awarded under the Procurement Act 2023. Where there are performance issues or where there has been a breach of contract, officers must consult with Corporate Procurement

⁴⁸ Guidance on contract management is available on the intranet under Procurement

and/or Legal Services on this issue.

- 6.8.15 Mandatory Contract Termination Notices for any contract terminations of Covered Public Contracts including natural expiry within 30 days of termination/expiry must be published. Details must be provided to Corporate Procurement team who will publish the required notice.
- 6.8.16 All documents, communications and minutes pertaining to the tender exercise and contract award must be kept in accordance with the Document Retention Schedule which can be found on the intranet under the section marked Freedom of Information.
- 6.8.17 All staff that manage contracts and have this within their job description must attend the Council's training on Contract Management.

SECTION 7 SPECIAL TYPES OF CONTRACTS

7.1 Engagement of Consultants

- 7.1.1 It is important that value for money is obtained when employing consultants.⁴⁹ Therefore, for all instances where the Contract Value of a consultancy appointment is over £10,001, the commissioning officer must provide a report to the Assistant Director responsible containing as a minimum the details listed under CSO 7.1.2.
- 7.1.2 Before consultants are invited to bid/tender the Assistant Director is responsible for:
- a) identifying the project objectives; and
 - b) documenting the reasons for the employment of consultants including the benefits of employing consultants against in-house staff or agency staff; and
 - c) documenting the residual in-house costs to support the consultant and ensuring that sufficient budget is available to meet all identified costs;
 - d) Preparing a project brief with action dates to be recorded against each section, including:
 - (i) background; and
 - (ii) objectives; and
 - (iii) timetable; and
 - (iv) total costs; and
 - (v) performance monitoring arrangements; and
 - (vi) documentation standards; and
 - (vii) contact names and numbers for enquiries
- 7.1.3 All consultants must provide evidence of adequate professional indemnity insurance prior to their appointment. The requirement for insurance and the levels required should be advertised in the specification of works, if in doubt about the levels required consult with the Council's Insurance Manager
- 7.1.4 Human Resources must be consulted to help determine if the appointment is within IR35 or if a consultant is appointed and employed through an agency or through the council's payroll the consultant may fall under the Agency Workers Regulations 2010.
- 7.1.5 It should be a condition of contract with any consultant, agent or professional advisor who is to be responsible to the Council for the award or supervision of a contract on its behalf, that in relation to that contract they shall:
- a) comply with these These Contract Procedure Rules as though they were an employee of the Council; and
 - b) produce on request all the records maintained by them in relation to the contract award and award of contract; and
 - c) on completion of the contract, transmit all records that they have produced or received that relate to the contract to the appropriate Assistant Director
- 7.1.6 Any letter of appointment or contract must set out the consultants legal obligations to the Council including where the ownership of intellectual property rights will sit. Advice on intellectual property can be sought from Legal Services. Every written contract shall provide that the consultant shall not assign directly or indirectly the whole or any part of the contract without the written approval of the Council.

⁴⁹ A consultant is a professional who provides expert advice in a specific field; they either operate within the organisation or are employed externally by an organisation for a fee.

The Invitation to Quote / Tender

- 7.1.7 When procuring consultants the total estimated contract value should be used to adopt the procurement band to use.
- 7.1.8 Where it can be demonstrated that there are insufficient suitably qualified consultants to meet the competition requirement, the officer must record in writing the reason why the services are so specialist and obtain an exemption approval as required by paragraph 3.3 of Section 3 of these Contract Procedure Rules to invite fewer consultants.
- 7.1.9 For consultancies over £10,001 related to construction, estates or building surveying work, the use of conditions of engagement is permitted where they are considered appropriate by the Assistant Director in consultation with Legal Services⁵⁰. Other consultancies over £10,001 including management and IT should use terms and conditions either supplied or approved by Legal Services .

Tender Evaluation and Contract Award

- 7.1.10 The tendering, evaluation and award procedure, as outlined in Section 5, shall apply to all consultancies where the total estimated value is over £100,001 and under the Procurement Act 2023 threshold and in cases below that value where there is a strong likelihood of additional work (i.e. serial or extension contracts), which would bring the total value above £100,001.

Contract Monitoring

- 7.1.11 For contracts over £100,001, the Senior Leadership Team member shall be responsible for ensuring that the Consultants work is properly monitored on an ongoing basis. This includes:
- a) Appointing a named Project Officer or Group
 - b) Specifying key tasks and dates for Consultants
 - c) Monitoring costs against budgets and total contract value (payment schedules should include the agreed fees and the frequency of invoicing)
 - d) Arranging regular progress meetings with Consultants
- 7.1.12 The project officer shall maintain and keep all records pertaining to the tender, award and ongoing maintenance of the contract.
- 7.1.13 The project officer shall maintain the following documentation:
- a) project brief/objectives; and
 - b) minuted authority, where required; and
 - c) the agreement with the consultant and any subsequent variations; and
 - d) records that can demonstrate contractors' compliance with contract standards prior to payments being made; and
 - e) record of payments made to the consultant and for the project; and
 - f) a project evaluation form
- 7.1.14 The project officer shall report immediately to the Assistant Director any material technical or financial deviation by the consultant from the specified agreement.

⁵⁰ Standard terms and conditions for consultants approved by Legal are those in the services quotation document provided on the intranet under Procurement.

7.2 Disposal Contracts

- 7.2.1 Where items, excluding land and buildings over the cost of £1000 (at the time of purchase) cannot be re-used elsewhere in the Council an asset disposal certificate form found on the staff intranet under Finance must be completed, explaining why the items are surplus or redundant, any health and safety issues, and the proposed method of disposal. The form should be submitted to the relevant Assistant Director for approval to proceed with disposal of the items. All vehicles must be disposed of through sale by public auction or by quotations from a reputable dealer.
- 7.2.2 Where small items of equipment such as keyboards are scrapped under the cost of £1000 (at the time of purchase), they must be recorded on a list held by each relevant Assistant Director and signed off at year end. The list must be passed to Treasury and Capital in Accountancy at year end.
- 7.2.3 The highest bid received for an item if reasonable should be accepted. One of the following methods of disposal should be used:
- a) Invite quotations or tenders from outside organisations⁵¹
 - b) Sale by Public Auction.
 - c) Trade in for a new item when the circumstances are appropriate.
 - d) Scrap the items in a safe manner.
- 7.2.4 The proposed method of disposal should be approved by a Assistant Director. All disposals must comply as applicable with the Waste Electrical & Electronic Equipment Directive and Health & Safety legislation. All Council and personal data must be removed from any IT or recording equipment prior to their disposal.

Competition Rules

- 7.2.5 Where inviting quotations or tenders from outside organisations the following number of bidders should be invited as follows:

<u>Estimated Value</u>	<u>Minimum number of bidders to be invited (for Plant & Equipment only)</u>
Up to £15,000	At least one bidder by quote
Over £15,001 up to £100,000	At least three bidders by quote
Over £100,001	At least four bidders by invitation to tender

- 7.2.6 Records of the bids received and written approval by an authorised officer to accept the most favourable bidder should be kept. The acceptance will be by letter signed by SLT Member or Assistant Director if the value is under £100,000 or a Senior Leadership Team member if the value is over £100,001.

7.3 Not Used

7.4 Contract Hire and Lease/Rental Agreements

- 7.4.1 Contract hire and lease/rental agreements are procurements and are subject to the provisions contained in These Contract Procedure Rules.

⁵¹ Quotations or tenders can be issued through the Councils Intend e-tendering system if required

7.4.2 Before entering into a contract hire or lease/rental agreement the officer shall ensure that the financial implications have been assessed by Accountancy. Lease/Rental agreements can only be signed off following approval from the Assistant Director (Finance) or their nominated deputy.

7.5 Nominated Sub-Contractors and Suppliers

7.5.1 If nominations are to be used then the terms of the contract between the Council and the main contractor should make it clear that the main contractor will be expected to enter into contract with the sub-contractors or Suppliers nominated by the Council.

7.5.2 *Tenders* for the nominated sub-contractors or Suppliers will be invited, opened and evaluated by the Council in accordance with These Contract Procedure Rules. The officer shall nominate the successful tenderer(s) to the main contractor.

7.5.3 The main contractor will ensure that the main contract indemnifies them against the sub-contractors own obligations in relation to the works, supplies or services included in the sub-contract.

7.6 Term Contracts and Framework Agreements

7.6.1 An officer may consider it advantageous to the Council, to invite tenders on a Term basis or under a Framework Agreement where payment is based not on defined works, services or supplies, but on a Schedule of Rates, Bill of Quantities or fixed unit cost over a defined period of time.

7.6.2 Unless a long term partnership, term contracts should not exceed five years or in the case of framework agreements four years, but will not normally exceed two years unless the contract contains a price fluctuation clause. It is not permitted to extend a contract that is renewed yearly on more than four occasions without re-tendering. Such cases should be reviewed annually and a written record of the decision (with reasons) to either, extend the contract or carry out a new competitive tendering exercise must be kept. Officers must not enter into contracts that auto renew unless authorised by Corporate procurement.

7.6.3 The relevant procedures and regulations in Sections 3 to 6 of These Contract Procedure Rules are applicable to all Term Contracts.

7.6.4 Any Framework Agreement must be tendered in accordance with These Contract Procedure Rules or under The Procurement Act 2023, as applicable.

7.6.5 The estimated value of the Term Contract should be based on the full length of the contract (including any options for contract extensions) or for four years if the contract is renewable yearly or is a framework agreement.

7.6.6 Where additional items of work are required but not contained within the Schedule of Rates consult with Corporate Procurement to check these are legally valid variations, If agreed all suppliers on the framework agreement or term contract shall be given the opportunity of pricing such items which will then be added to the main Schedule of Rates to be used in the future.

7.7 Partnerships & Shared Services

7.7.1 The term 'Partnership' is used to cover a wide variety of joint ventures and other procurement arrangements. The Senior Leadership Team member or contracting officer shall ensure that

the prior approval of The Assistant Director (Finance) or the Borough Solicitor for the proposed partnership arrangement is obtained. The financial implications must be assessed by the Assistant Director (Finance) and all proposed partnership agreements must be cleared with the Borough Solicitor **at the earliest stage**.

7.7.2 All partnership agreements shall include *where relevant*:

- a) The principles of the partnership
- b) Output specification and specified inputs
- c) Partnership board
- d) Open book accounting
- e) Any profit sharing arrangement and payment mechanism
- f) Hierarchy of dispute resolutions mechanisms
- g) Quality and Environment management systems
- h) Asset transfer
- i) Withdrawal arrangements

7.7.3 Partnership agreements which involve a joint venture/contractual arrangement with private sector bodies are subject to the provisions of These Contract Procedure Rules.

7.7.4 A competitive exercise shall be undertaken in accordance with the provisions of These Contract Procedure Rules to select the partner and award the work. In any cases where the proposed partnership would mean that These Contract Procedure Rules of another public sector body would take precedence over those of Stevenage Borough Council, the written approval of either the Assistant Director (Finance) or Borough Solicitor must first be obtained before any partnership is formalised.

7.7.5 Procurements undertaken through an existing Shared Service will be made using the These Contract Procedure Rules of the contracting lead authority.

7.8 Income Generating/Commercial Contracts or Concession Contracts

7.8.1 All income generating contracts must be subject to competition, as follows:

	Estimated Value of the contract to bidders	Minimum Number of Bidders to be Invited
Band 1	Up to £15,000	At least one bidder by quote
Band 2	£15,001 – £100,000	At least three bidders invited to quote (a minimum of two responses received)
Band 3	Above £100,001	Public advertisement used

7.8.2 Details of income generating/commercial contracts in band 2 or above must be reported to and approved in writing by a Strategic Director.

7.8.3 For contracts with an estimated value above £100,001, CSO 5.5 (regarding the submission, receipt and opening of tenders) must be followed.

7.8.4 Where income generating/commercial contracts also incur a cost to the Council, the cost element may be subject to These Contract Procedure Rules in its own right. In this

instance, the advice of the Corporate Procurement Manager, Assistant Director (Finance) or Shared Legal Service Commercial Law team should be sought.

SECTION 8 OTHER CONSIDERATIONS

8.1 Contractual Disputes

- 8.1.1 The officer should seek the advice and involvement of Legal Services as appropriate in contractual disputes with Suppliers.
- 8.1.2 In the event of a claim from a Supplier for loss or expense incurred (either permitted by the terms of the contract or extra-contractual), seek advice from Legal Services immediately.

8.2 Termination of Contracts

- 8.2.1 Subject to the terms and conditions of the contract, where the Supplier has demonstrably failed to deliver the work, services or goods in accordance with the contract the Council will be at liberty to terminate the contract either wholly or in part and to procure the works, supplies or services of the same or similar description elsewhere, in order to make good such default.
- 8.2.2 Should the Supplier become debarred during the course of the contract consult with Legal Services.
- 8.2.3 Adequate written evidence of poor unacceptable performance must be kept. Such records would include relevant correspondence and records of relevant meetings with the Supplier.
- 8.2.4 For contracts let under the Procurement Act 2023 Contract performance notices may be required and termination notices will be required once the contract is terminated. Involve the Corporate procurement team to ensure appropriate publication.
- 8.2.5 Legal Services must be involved in the termination of any formal contract to ensure that:
 - a) The Council's case for termination is legally sound; and,
 - b) The termination is carried out in accordance with the terms of the contract.

8.3 Bankruptcies, Liquidations and Novations

- 8.3.1 In the event that a Supplier ceases to trade as a result of a bankruptcy, liquidation or otherwise then Legal Services must be involved in any of the following:
 - a) Terminating the contract
 - b) The appointment of new Supplier to complete the work or service;
 - c) Negotiations with liquidator/receiver/administrator
 - d) Assignment of contract and Novation
- 8.3.2 If a Supplier indicates that it wishes to transfer, assign or novate a contract, Legal Services must be consulted prior to any agreement to accept. Equally, if a supplier's business is transferred to another supplier, legal advice must be sought from Legal Services as to whether a novation or assignment is needed and as to any other steps that must be taken before any such assignment or novation is accepted.

8.4 Contract Variations

- 8.4.1 For contracts equal to or above the Public Contracts Thresholds, officers must seek advice from Corporate Procurement and/or Legal Services before any variation is agreed. This includes any contracts below the Public Contracts Threshold where the proposed variation will or may take the overall estimated value of the contract over the threshold.
- 8.4.2 No variation shall take place that contravene the Public Contracts Regulations 2015 or the Procurement Act 2023 in any circumstances.
- 8.4.3 Depending on the circumstance the council may need to publish a public notice prior to committing to the variation and a voluntary standstill period should be considered for contracts equal to or above the Public Contracts Threshold.
- 8.4.4 Variation shall relate to the work specified in an existing contract only and shall not be given in circumstances where a separate contract should or ought to have been entered into. E.g. the variation must not materially change the contract.
- 8.4.5 All variation must normally be issued to the Supplier prior to the relevant work being carried out but, in exceptional circumstances, should be given as soon as possible thereafter.
- 8.4.6 Unless agreed otherwise with Legal Services, variations shall be documented in the form required by the written contract or (if none) documented in writing and signed by an authorised signatory on behalf of the Council and the Supplier. In the case of sealed documents Legal Services must be consulted. Officers should consult with Legal Services if in doubt about the process for formalising a variation (or if support is required).
- 8.4.7 All contract variations regarding contract value or expiry dates for both under and over threshold contracts must be reported to Corporate Procurement to enable the changes to be updated on the Council's contracts register.

8.5 Contract Extensions

- 8.5.1 Term contracts often have the provision for extensions, e.g.. the contract term is 3 years with the option to extend for a further 2 years. When considering taking up the extension option consider if this will be in the councils best interest to extend. e.g. is the service still required in the existing form? Has the market changed? Could re procuring produce a saving? Do the research in sufficient time so that if the answer is re procure there is sufficient time to re procure well, the default should not be to extend because it's not been thought about it in time for any other option. The decision to extend is signed off by the officer with delegated rights to sign contracts of the value of the extension.
- 8.5.2 Should the contract not have provision to extend but is it considered desirable then all requests must be made in writing to either the Corporate Procurement Manager, the Assistant Director (Finance) or the Borough Solicitor for their approval. No extension that contravenes the Public Contracts Regulations 2015 or the Procurement Act 2023 will be granted and no extension to an existing contract shall be given unless it can be clearly demonstrated that a change of Supplier would result in one or more of the following:
 - a) Unacceptable technical difficulties
 - b) A significant and unacceptable increase in costs to the Council
 - c) Significant disruption to the delivery of Council services.
- 8.5.3 Should the value of the extension being requested bring the contract value up to and above

the Public Contract Threshold or tip a previously under £5m contract to above that value then consult Corporate Procurement on the implications that brings before making the formal request.

- 8.5.4 It is not permitted to extend a contract that is renewed yearly on more than four occasions without re-tendering. Such cases should be reviewed annually and a written record of the decision (with reasons) to either, extend the contract or carry out a new competitive tendering exercise must be kept. Officers must not enter into contracts that auto renew unless authorised by Corporate Procurement.
- 8.5.5 Legal Services shall be consulted about the process to document the extension.
- 8.5.6 Where the total contract value (including the original contract value) exceeds £5,001, details of the contract extension must be provided to Corporate Procurement for recording on the Central Contracts Database. If a contract record has already been entered on the central register then this will need to be updated with the contract extension details⁵².

8.6 Green Environment and Sustainable Sources

Goods or services which are known to be harmful to the environment, and where there are other adequate options, will not be used. Wherever practical and cost effective, only materials from sustainable sources will be used.

8.7 Diversity

Officers should take steps in the procurement exercise to encourage a diverse and competitive supply market, including small firms, social enterprises, ethnic minority businesses and voluntary and community sector suppliers.⁵³

8.8 Equality

The Council must have due regard to the requirements of the public sector equalities duty under the Equalities Act 2010, which must be taken into account when procuring goods, works, or services from external providers.

8.9 Innovative Procurement/Abnormal Contract Action

New or different ways of purchasing goods, services or works, which give better value for money, are encouraged. However, any proposals for innovative procurement or abnormal contract action (including the use of another organisation's Contract Procedure Rules and E-auctions) must be discussed with the Corporate Procurement team and then be cleared by the Borough Solicitor to ensure the proposal is legally sound.

8.10 Conflicts of Interest

Officers must be mindful of any conflicts of interest or perceived conflicts of interest at all stages of the procurement process and must document for band 4 procurements as a minimum that this has been considered (and mitigated if needed) at pre procurement, tender, evaluation, and contract management stages. Further guidance is available from Corporate Procurement. Confirmation that this has been done will be required before

⁵² A variation form to amend central contract database details is available on the intranet under Procurement

⁵³ Further guidance on how to encourage a diverse and competitive supply market using pre-procurement is available on the internet under Procurement.

publishing any notices in relation to the procurement at band 4 or above.

In addition Section 117 of the Local Government Act 1972 provides that, if it comes to the attention of any officer, that the Council has entered or is proposing to enter into a contract in which he or she has “pecuniary” interest, he or she must give notice in writing of that interest to the Authority as soon as is practicable. It is a criminal offence not to comply with this provision.

- a) The register in which the written notice is to be given is held by the Constitutional Services Manager.
- b) “Pecuniary” includes any direct or indirect interest and is defined by reference to Section 95 of the Local Government Act 1972. The Borough Solicitor’s advice should be sought in areas of uncertainty.
- c) The requirement to register applies even if the officer is not involved with the Contract.

8.11 Freedom of Information Act (2000)

The Data protection officer or their appointed nominee should be consulted where requests for information on tenders or contracts are received under the Freedom of Information Act (2000). This also includes requests under the Environmental Information Regulations 2004.

8.12 Security of Performance and Performance Liability

In order to protect the Council from non-performance or poor performance in a contract, the officer should consider whether a performance bond or a liquidated damages clause is required and in what form. These are especially relevant for Works and some Service contracts⁵⁴. Legal Services should be consulted about the type and wording of the bond or liquidated damages clause.

For Works contracts over £500,000 the Council may (dependant on risk analysis) require the Supplier to provide a performance bond for 10% of the total contract value between £500,000 and £2,000,000 and 5% for contracts above £2,000,000.

Supplier contracts should be checked carefully for any limitations of liability and advice should be sought from the Legal Services. The foreseeable damage to the Council which might arise from the failure on the part of the supplier, any limitation on liability, the insurance carried by the supplier (other than public liability cover) and, security for performance, are all interrelated factors and should be considered carefully as a whole.

8.13 TUPE and the Best Value Code of Practice on Workforce Matters

If contracting out a service or re-tendering a term contract, the Transfer of Undertakings (Protection of Employment) Regulations (“TUPE”) 2006 may apply. This is a very complex area where legal guidance and trade union consultation must be sought at an early stage.

8.14 Health and Safety

Officers should take steps during the procurement exercise and throughout the length of the contract to ensure that health and safety is appropriately covered.

⁵⁴ Standard templates and further explanations/guidance for performance bonds and liquidated damages clauses can be found in the High Value Services Contract available from Corporate Procurement

Considerations include:

- Clearly identify all aspects of work to be carried out by the contractor
- Consider the health and safety implications
- Competency to do the job safely?
- How reliant on sub- contractors and sub-sub-contractors?
- Reputation?
- Prosecutions, notices, accident record?
- Ensure contractors know what is expected
- Show SBC safety policy procedures, permit systems, contractor guidance and confirm they have been read and understood
- Whether Works contractors should be SSIP (or equivalent) registered

Consider requiring your Contractor to:

- Outline recent health and safety performance
- List, with evidence, qualifications and skills
- Provide safety method statement
- Be a member of trade organisation or professional body
- Provide clear information about the risks of the operation
- Provide safety rules and procedures
- Any employee, contractor or sub contractor working on behalf of SBC on SBC premises including tenanted properties must have ID relevant to their employment.

For further guidance, please refer to the Councils Health and Safety Guidance which can be found on the intranet under staff info/hr/health and safety.

8.15 Safeguarding Children⁵⁵

All services commissioned by the Council must operate within the requirements of the Council's Safeguarding Children Policy and meet the relevant legislative standards. Where appropriate, procuring officers will need to ensure that contractors demonstrate that they meet these requirements. As an indicator, contractors/agencies must have in place the following:

- Senior Management Commitment to Safeguarding
- Clear, Accessible Statement of Responsibility (including Safeguarding Policy, Complaints, Equal Opportunities and Incident Monitoring Procedures)
- Clear mechanisms for identification and investigation/action regarding safeguarding concerns
- Clear Line of Accountability for Reporting Safeguarding Concerns
- Child and Family conscious service planning and delivery
- Staff Training programme for Safeguarding
- Safer Recruitment Policy
- Information Sharing procedure

8.16 Accessibility

Consider whether what you are buying needs to meet new Accessibility requirements - it could be websites / apps or even pdf/reports/pictures – anything that is published by SBC to the public or to staff⁵⁶

⁵⁵ Additional information regarding Safeguarding is available on the Stevenage Borough Council website.

⁵⁶ Speak to IT service desk for assistance or <https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps>

8.17 GDPR

The Council must have due regard to the requirements of the General Data Protection Regulations 2018. Conduct a Data Protection Impact assessment to perform an assessment of privacy risks of performing data processing activities involving personal data handling.⁵⁷

8.18 Social Value

The Council must have due regard to the Public Services 2012 Social Value Act. As such the Council requires 10% of the evaluation of band 3 procurements and above for services and works to be dedicated to additional social value. See guidance from Corporate Procurement as to how this is implemented..⁵⁸

8.19 Modern Slavery

The council must consider the risk of modern slavery existing within its supply chain. Procuring officers need to research the level of risk that exists in the relevant market. If the risk is medium or high they should consult with Corporate Procurement suitable measures to take above and beyond the questions asked as standard in the SBC quotation and tender templates available via the intranet or Corporate Procurement.⁵⁹

8.20 Fraud Prevention

The council must comply with the Bribery Act 2010 and consider the risk of fraud within its supply chain. Procuring officers need to think about whether their actions could be perceived as fraudulent or favoring a particular supplier and also be alert to possible fraudulent behavior from bidders during the procurement and evaluation process. Within contract management processes consideration needs to be given to preventing fraudulent behavior by contractors or Council officers. Any suspicion of fraudulent behaviour should be reported to the Shared Anti-Fraud Service or use the Councils Whistleblowing policy⁶⁰.

⁵⁷ See intranet staff info/data protection.

⁵⁸ See information on the intranet under Procurement

⁵⁹ See intranet procurement.

⁶⁰ See intranet for more information

Appendix A - Table of Definitions / Terms

Authorised Contract Signatory	The named officer who has been sanctioned via SLT to sign contract with suppliers to a specified contract value. The list of authorised signatories and respective values are maintained by Exchequer Services.
Bond	A bond is a legally enforceable financial guarantee given by a third party (the guarantor) to the Council to guarantee the obligations of a <i>Supplier</i> under a contract. The guarantor agrees to pay the Council a sum of money if the <i>Supplier</i> does not do what has been promised under a contract with the Council (e.g. a bond is often 10% of the total contract value). The purpose of a bond is to help the Council meet the extra expenses to remedy the contract default and/or complete the contract.
CCS	Crown Commercial Services - a local authority approved purchasing consortium, which is an executive agency of the Cabinet Office.
Contracts Finder	Government mandated advertising portal for all contract notices and awards under PCR 2015 advertised by Local and National Government and it's agencies.
Concession Contract	Means a contract for the supply, for pecuniary interest, of Works or services to the Council where at least part of the remuneration for that supply is the right for the Supplier to exploit the works or services and under the contract the Supplier is exposed to a real operating risk (i.e. a risk they will not be able to recover their costs of providing the Works or services).
CPV	Common Procurement vocabulary - a list of codes in a hierarchy which defines the requirements. Referred to in the Procurement Act 2023 and used in public notices
CPR	These Contract Procedure Rules
ESPO	Eastern Shires Purchasing Organisation - a local authority approved purchasing consortium.
Estimated Contract Value	Means the estimated total value of a contract, calculated in accordance with paragraph 5.1 of these Contract Procedure Rules
Financial Regulations	The Council's financial regulations set out rules/procedures for financial management and the conduct required of Council staff in dealing with financial matters. They are issued by the <i>Assistant Director (Finance)</i> and form part of the <i>Constitution</i> .
Framework Agreements	Framework Agreements are agreements entered into between a contracting authority and one or more <i>Suppliers</i> , setting out the terms and conditions (e.g. pricing mechanisms, quantity and scope of services/supplies/works and duration) under which future purchases (or call offs) can be made throughout the term of the agreement.

Homes England	Homes England is the non-departmental public body that funds new affordable housing in England. It was founded on 1 January 2018 to replace the Homes and Communities Agency.
Insurance cover and indemnity / liability limits	<p>Normally, contracts should require suppliers to indemnify (protect) the Council from public liability and employers liability to an appropriate limit, but products liability and professional liability may be required when relevant to a particular contract. The appropriate limit of indemnity should be judged individually depending on the nature of the contract, risk assessment, size of contracting firm etc. A brief explanation of each type of liability follows:</p> <p>Public Liability provides indemnity for damages the insured is legally obliged to pay to a third party who has suffered damage or injury as a result of the insured's action. It does not extend to damage or injury suffered by employees of the insured. It does not include pure financial loss suffered as a result of advice given. The contract may include a co-indemnity or cross-indemnity clause, which effectively extends the supplier's cover to include SBC.</p> <p>Employers' Liability provides indemnity for damages the insured is legally obliged to pay to an employee who has suffered damage or injury as a result of the insured's action. The contract should include a wide definition of "employee" so as to include apprentices, work-experience people, and volunteers if appropriate.</p> <p>Products Liability, often included as part of general Public Liability Section of a policy, provides indemnity for damages the insured is legally obliged to pay to a third party who has suffered damage or injury as a result of the product for which the insured is responsible.</p> <p>Professional Liability (or Indemnity) covers loss or damage (except bodily injury or damage to property) arising from the negligence or accidental error/omission of any official or employee while the Council is acting in a statutory capacity.</p>
In-Tend	The Councils E tendering system software, also known as Supply Hertfordshire
ITT	Invitation to Tender.
Key Decision	Decisions that are defined as Key Decisions in the <i>Constitution</i> . If the purchase is a Key Decision, the Officer must ensure that all appropriate steps have been taken. If the Contract value exceeds £250,000 or the contract will be significant in terms of its effects on communities living or working in the area, then the purchase is likely to be a key decision (See Decision Making - Article 11 in the Constitution for further information).
Nominated Suppliers and Sub-contractors	These are sub-contracts specified in the main contract where the Council nominates specific <i>Suppliers</i> or sub-contractors to the main contractor. The main contractor is expected to establish sub-contracts with the <i>Suppliers</i> nominated by the Council.
Novation	The agreed transfer to another <i>Supplier</i> of the full obligations and rights under the contract.

Parent Company Guarantee	The parent company (or holding company) guarantees the proper performance of a contract by one of its subsidiaries (the contractor). The conditions of the parent company guarantee will usually give the parent company the opportunity to remedy any default within a period of notice before the guarantee is called. The liability can take several forms including a financial guarantee of completion of the project itself or the employment of another <i>Supplier</i> to complete the project.
Post Tender Negotiation	Post tender negotiation means negotiations with any tenderer after submission of a <i>Tender</i> and before the award of the contract with a view to obtaining an adjustment in price, delivery or content.
PFH	Procurement for Housing – a local authority approved purchasing consortium, more specifically for Housing
Public Contracts Regulations 2015 or PCR 2015	Public Contract Regulations 2015 are the legally required processes for UK public procurement which were transposed from EU Procurement Directives 2014 along with some UK specific rules (PCR 2015 is often referred to as EU Regulations) These are superseded by the Procurement Act 2023 from 24 th February 2025.
Public Contracts Threshold	Means the threshold amount for a particular contract to be classified as a "public contract" and subject to the substantive requirements of the Procurement Act 2023, as set out in Schedule 1 of the Procurement Act 2023 and as updated from time to time.
Procurement Act 2023	Legislation in force from 24 th February 2025 succeeding PCR2015
Quotation	"Quotation" means an offer to supply or purchase goods, or materials, execute works or provide services including consultancy, at a stated price based on terms and conditions agreed with the <i>Supplier</i> . For the purpose of These Contract Procedure Rules, the Council uses the term 'Quote' rather than 'Tender' for the more simplistic procurement process to be followed for estimated contract values below £100,000.
SBC	Stevenage Borough Council
Short Listing	Where <i>Suppliers</i> are selected: <ul style="list-style-type: none"> • to quote or bid or • to proceed next stage of the process.
Supplier	Any person, organisation or economic operator who supplies the Council with Goods, Works or Services. For the purpose of These Contract Procedure Rules, the term supplier includes contractors, consultants and service providers.
Senior Leadership Team member	The Assistant Directors, Strategic Directors and Chief Executive.
Tender	"Tender" means a formal offer to supply or purchase goods, or materials, execute works or provide services including consultancy, at

a stated price based on set terms and conditions. For the purpose of These Contract Procedure Rules, the Council uses the term 'Tender' as opposed to 'Quote' for the more complex procurement procedure required for estimated contract values over £100,001.

TUPE	Transfer of Undertakings (Protection of Employment) Regulations
Works	are (for the purpose of the PCR 2015) given the meaning set out in the PCR 15 and (for the purpose of the Procurement Act 2023) activities having a "works" CPV code in Schedule 3 of the Procurement Regulations 2024
YPO	Yorkshire Purchasing Organisation - a local authority approved purchasing consortium

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Contract Standing Orders Table of Changes – February 2025

	<u>Description</u>	<u>Existing Contract Standing Orders</u>	<u>New Contract Procedure Rules</u>
1.	<i>Thresholds for competition</i>	<p>Band 1 – up to £10,000</p> <p>Band 2 £10,001 – £75,000</p> <p>Band 3 £75,000 – EU thresholds</p> <p>No option available for Procurement to allow the use a band down</p>	<p>Band 1 – up to £15,000 for services and supplies. Up to £25,000 for works</p> <p>Band 2 £15,001 – £100,000 for supplies and services. Up to £250,000 for works</p> <p>Band 3 £100,001 (£250,000 works) – Procurement Act 2023 thresholds</p> <p>Option to request permission in exceptional circumstances to use a less onerous band or more informal process.</p>
2.	<i>Overview and responsibly</i>		Obtain a Contract reference at the start of the process.
3.	<i>Exemptions</i>	Delete exemption for Goods and materials sold at a fixed price or are wholly controlled by trade organisations or government order as not used	<p>Create new exception for “unforeseen works or circumstances where delay will adversely impact on the service delivery for the council or access to external funds”.</p> <p>Create new exception for “exceptional circumstances not covered by above” (other exemptions) which must be approved by Borough Solicitor and Corporate Procurement Manager</p>
4.	<i>Using Framework agreements</i>		<p>Duty to consider and research if there is an appropriate framework that is likely to provide better value than our own procurement exercise.</p> <p>Prohibit the use of direct award options where the framework has a mini competition option. Waiver can be applied for using waiver reason B or new waiver option above if circumstances warrant.</p>

Contract Standing Orders Table of Changes – February 2025

5.	Social value thresholds	Not currently detailed in CSOs but has been	<p>All Band 3 procurements to have 10% of the evaluation given over to social value. Unless works with duration under 9 months. To be evaluated and contract managed in house.</p> <p>All over Procurement Act 2023 Threshold. To have 10% evaluation given over to social value and the use the Social Value portal for evaluation and contract management and reporting.</p>
6.	Pre market engagement	Currently quite light touch, suggests it would be a good idea	<p>To make it a requirement to do some pre-market engagement.</p> <p>Guidance of what to be on the intranet rather than in CPR's</p>
7.	Using existing council services or existing contracts		If in existence, make proportionate efforts to engage with service or contract manager with a view to use if appropriate.
8.	Contract Management	Wholesale re write	<p>Expectation that contract managers ensure contractors are fulfilling their obligations under the contract Insurance, qualifications, certifications etc and of course perform under the contract.</p> <p>Expectation to have a contract file stored centrally within the department to enable a new contract manager to take over without a formal handover.</p> <p>Need to inform procurement for over threshold contracts of issues that will need a notice published.</p> <p>Need to inform procurement on over threshold contracts when the contract finishes.</p> <p>Need to consider next procurement (if an ongoing need) in sufficient time.</p> <p>Formal KPI monitoring for over £5Million contracts.</p> <p>All staff with contract management in Job descriptions must attend contract</p>

Contract Standing Orders Table of Changes – February 2025

			management training as soon as possible after appointment.
9.	<i>Contract Extensions and Contract Variations</i>		Include requirement to consult with Corporate Procurement before invoking extensions and before agreeing variations where the contract is covered by or where it may become covered by the Procurement Act 2013.

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

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