Section 17

17. Contract Procedure Rules

17.1 Introduction

17.1.1 Procurement is the process by which the Council manages the acquisition of all its Goods, Services and Works. Upon identification of need, it includes consideration of options, the actual procurement process and the subsequent management and review of the contracts.

17.1.2 These Contract Procedure Rules ("CPRs") cover the procurement activities of the Council that are not governed by the Procurement Act 2023 ("Act") and the Procurement (Wales) Regulations 2024/782 ("Regulations"). Compliance with the Act and the Regulations is a strict legal requirement upon the Council, and it is not open to the Council to waive compliance of these for procurements.

17.1.3 These CPRs apply to procurements which are to be commenced on or after 24 February 2025. Any contracts awarded under previous legislation will continue to be managed under that legislation until such a time as the contract ceases to exist.

17.1.4 Procurement by the Council is governed by the Act and Regulations. The law requires all council procurement and contracting to be conducted transparently, fairly and in a non-discriminatory manner. In the event of statutory or other legal requirements exceeding the requirements contained within these CPRs, then statute shall take precedence over any provision within these CPRs.

17.1.5 The Act sets out the following objectives for the procurement of contracts: delivering value for money, maximising public benefit, sharing information for the purpose of allowing suppliers and others to understand the authority's procurement policies and decisions, and acting and being seen to act, with integrity, the ("Procurement Objectives").

17.1.6 In addition, the Council shall have regard to particular participation barriers which may face small and medium sized enterprises and consider whether such barriers can be removed or reduced.

17.1.7 In all its procurements the Council must comply with the based principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality and these rules are designed to ensure compliance with the same.

17.2 Definitions and Interpretations

17.2.1 In these Rules the following definitions apply:

- **Authorised Officers** means the holder for the time being of any post named in the Scheme of Delegation as having delegated powers and duties in respect of the procurement concerned.
- **Chief Officer** means any officer in the following categories of officer, Chief Executive, Corporate Director and Head of Department.

- **Contract** means any form of agreement (including, without limitation, official purchase orders) for the supply of Goods, provision of Services or carrying out of Works.
- **Contractor** means any contractor, supplier or provider with whom the Council enters into a Contract for the carrying out of works, provision of services or the supply of goods
- **Corporate Contract Register** means a list of contracts given by the Council.
- **Direct Award Justification Report** means Gwynedd Council's template of a national direct award justification report for internal approval and for records.
- **Frameworks** means an agreement between a contracting authority (the Council) and one or more Suppliers, the purpose of which is to establish the terms (in particular with regard to price and quantity) governing a contract or contracts to be awarded during the period for which the framework applies.
- **Goods** covers all the goods, supplies, substances and materials that the Council purchases, hires or otherwise obtains.
- **Grant and Grants** a sum of money paid or to be paid by the Council to a third party, and in respect of which the Council does not require the grantee to provide the Council with any services, goods or carry out any works for the Council's direct benefit. The Grant may be conditional (i.e. obligation to spend the Grant in a particular manner, to account for that spend and repay the Grant if the Grant conditions are breached).
- **ITT** means an invitation to submit a Tender.
- **Light Touch Contract** means a proposed contract for the provision of certain social or other specific services listed in Schedule 1 of the Regulations.
- **Procurement** means the process by which the Council manages the acquisition of all its goods, services and works. It includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts.
- **Procurement Manager** means the Council's Procurement Manager or any officers under his/her supervision or management who are given delegated powers to carry out any of the obligations, duties or activities required to be performed by him/her under these Rules or to act in his/her absence.
- **Procurement Process** means the procurement process spans the whole life cycle, from identification of needs, options appraisal, supplier selection, award and contract management through to the end of a contract or the end of the useful life of the asset, or disposal of the asset.
- **Rules** means these Contract Procedure Rules.
- **Services** includes all services, which the Council purchases or otherwise obtains including advice, specialist consultancy work, agency, staff, etc.
- **Regulations** means the Procurement (Wales) Regulations 2024 and any amendment or re-enactment thereof.
- **Tenderer/Tenderers.** Individual, individuals, partnerships, companies or other bodies invited to submit quotes/tenders, prices for providing the Council with services, supplying goods or carrying out works.
- **The Act** means the Procurement Act 2023

- **Variation and Variations** means any alterations to a contract, including additions, omissions, substitutions, alterations or changes of any other nature.
- **Works** includes all works of new construction and repairs in respect of physical assets (buildings, roads, etc.) including all those activities constituting works for the purposes of the Regulations.
- **Written** means in writing or in a "written" electronic form.

17.2.2 All values referred to in these Rules are inclusive of V. A. T.

17.2.3 Any dispute regarding interpretation of these Rules shall be referred to the Monitoring Officer for resolution.

17.2.4 These Rules shall be read in conjunction with the Council's Constitution as a whole and in particular the Council's Financial Procedure Rules, which must be complied with.

17.2.5 The Procurement Manager shall undertake a formal review of these Rules at least every two years and advise the Monitoring Officer of any changes needed.

17.2.6 Amendments to Statutory Thresholds will be incorporated in these Rules as a matter of cause.

17.3 Compliance With These Rules

17.3.1 These Rules must be followed when dealing with any Council Procurement except for those Procurements and other matters referred to in Rule 17.4.

17.3.2 Every Procurement undertaken by the Council or any other party on its behalf must comply with

(a) all relevant statutory provisions;

(b) where applicable the Regulations;

(c) the Council's Constitution;

(d) the Council's strategic objective and policies including the Corporate Procurement Strategy.

(e) the Council's Sustainable Procurement Policy; and

(f) the guidance on the Procurement Unit Intranet Site.

17.3.3 The Procurement Manager may from time to time issue procurement guidance. Chief Officers must ensure that employees in their Service are aware of such guidance and should ensure compliance.

17.3.4 Any failure by an officer to comply with any provision of these Rules may result in disciplinary action.

17.4 Exempt Contracts

17.4.1 Exemptions are where the CPRs are suspended entirely. The following contracts are exempt from the requirements of these CPRs:

i. Internal purchases or service provision;
ii. Vertical arrangements, i.e. a public contract awarded by a Council to a legal person controlled by the Council and which carries out at least 80% of its activities for the Council;
iii. horizontal arrangements, where two or more contracting authorities genuinely cooperate with each other to meet public service obligations that each is entrusted to perform;
iv. utilities contracts between a utility and a relevant joint venture to which that utility is party, where the joint venture was formed for the purpose of carrying out that utility activity for at least three years and the parties to the joint venture are committed, by way of written agreement to continue to be parties to the joint venture for a period of three years following the date of that agreement;
v. Contracts relating solely to the acquisition, by whatever means, of land, buildings or any other complete work (i.e., a functioning structure that results from the carrying out of works), or of an interest in or right over any of them (with the exception of development agreements);
vi. Contracts for the acquisition, development, production or co-production of material intended for broadcast (by any means) by a contracting authority to the general public;
vii. Contracts to facilitate the provision to the general public of an electronic communications service (within the meaning of s.32 of the Communications Act 2003);
viii. contracts for the provision to a contracting authority of arbitration, mediation or conciliation or other similar services;
ix. contracts for the provision of Exempt Legal Services;
x. financial services – contracts for the lending of money in any currency to a contracting authority;
xi. contracts of employment or worker's contracts;
xii. contracts for the provision of research and development services;
xiii. international agreements and organisations;
xiv. any contracts that a contracting authority determines should not, in the interests of national security, be subject to this Act;
xv. award of Grants (Grants are not regulated by public procurement law as they are not public contracts. However, they are regulated by the rules on state aid and by general public law controls relating to fiduciary duty and proper spending of public money as well as specific conditions which may include procurement requirements);
xvi. individual orders placed under contracts which provide for orders to be placed against agree schedules of rates, or under a measured term contract or under a Framework, provided that such contracts or Framework have been let by the Council in accordance with these Rules;
xvii. individual orders placed under Crown Commercial Service and or Welsh Government let Framework or other public sector Framework where the Council is permitted to place orders under such agreements;
xviii. contracts for services entered into in pursuance of powers under the National Health Services and Community Care Act 1990 and the Children Act 1989 for the benefit of an individual;
xix. instructions and briefings issued by or on behalf of the Monitoring Officer to Counsel. The Monitoring Offices will make arrangements to ensure that a record is kept of all such instructions or briefs together with a record of Counsel's fee;

xx. Goods, Services and Works procured by another public body on behalf of or for the joint benefit of the Council and other parties (i.e. a collaborative procurement agreement such as contracts awarded via the National Procurement Service etc.) and provided that in such case, the other public body's procurement/contract rules, all UK procurement law requirements, and the Procurement Objectives have been complied with. The advice of the Procurement Manager must be sought before placing reliance on any such arrangement;

xxi. Individual "De-minimus" contracts within the Council's public transport support budget up to an aggregated maximum of 40% of that budget.

17.4.2 Where the Council procures health care services as described and provided for in Schedule 1 of the Health Services (Provider Selection Regime) (Wales) Regulations 2024 (**"PSR"**), such procurements shall be carried out in accordance with the PSR and not the Act or Regulations.

17.5 Council-Wide Frameworks and Dynamic Markets

17.5.1 Where available, use must be made of the Council's existing corporate purchasing and Framework let or a Dynamic Market in accordance with these Rules, unless in exceptional circumstances the Procurement Manager has agreed otherwise. The Corporate Procurement Unit maintains a register of such agreements and can provide advice on their use.

17.6 Estimating the Contract Value

17.6.1 The general rule for estimating the value of a contract includes a calculation taking into account:

- The value of any goods, services or works providing by the contracting authority under the contract other than for payment;
- Amounts payable if an option to extend or renew the term of the contract was exercised;
- Amounts representing premiums, fees, commissions or interest that could be payable; and
- amounts representing prizes or payments that could be payable to participants in a procurement; and
- inclusive of VAT.

17.6.2 No works or requirements for goods or services may be artificially split to avoid compliance with UK procurement law or these Rules.

17.6.3 In determining the value of the total consideration, which the Council expects to pay, the Council shall, where relevant, take account of:

(a) any form of option

(b) the term/period of the proposed Contract

(c) any rights to renew the Contract/extend the Contract period

(d) any price, payment, premium, fees, commission, interest or other form of remuneration payable under the proposed Contract or in respect of the proposed procurement.

17.6.4 In determining the value of any Contract for the hire of Goods, if the term of the Contract is indefinite or uncertain at the time the Contract is entered into, then the value shall be taken as equating to the value of the monthly consideration multiplied by 48.

17.6.5 In determining the value of any Contract for the provision of Services or carrying out of Works, if the term of the Contract is indefinite or uncertain at the time the Contract is entered into then the value shall be taken as equating to the value of the monthly consideration multiplied by 48.

17.6.6 Where the Council has requirements over a period of time for Goods and Services where the contracts have similar characteristics and the Goods and Services are of the same type, and enters into a series of contracts or a contract which is renewable, then the estimated value shall be calculated by the total spend on such matters over the last 12 months or projected estimated spend for next 12 months, whichever is the greater. In estimating this value the advice of the Procurement Manager must be sought.

17.6.7 For Frameworks , or similar, without a known annual expenditure but with duration exceeding one year, the number of years duration will be multiplied by the likely annual expenditure and must be determined in consultation with the Procurement Manager. The maximum period now permitted under the UK Procurement Rules for Frameworks is 4 years, unless there are clear justifications for this, which must be set out in the Tender Notice or Transparency Notice relating to the Framework.

17.6.8 Open Frameworks must be valued by including the value of all Frameworks that could be awarded under the Open Framework and therefore, the value of all contracts that could be awarded under each of the Frameworks in the scheme.

17.6.9 Concession contracts are to be valued differently. Concession contracts should be valued by way of estimating the maximum amount the supplier could expect to receive, taking account of a similar non-exhaustive list of variables in the general rule, with certain modifications more pertinent to concession contracts, such as amounts received on the sale of assets held by the supplier under the concession contract.

17.6.10 If a contract value cannot be estimated, then the contract is deemed to be valued as above threshold.

17.7 Contracts Under £100,000 (Quotations)

17.7.1 Where possible, goods, services and works must be obtained via existing corporate Framework Arrangements, standing lists or consortia arrangements.

17.7.2 Where there are no existing approved arrangements, the following number of quotations must be sought and evidenced in accordance with Rules 17.7.3 or 17.7.4.

(a) Up to £10,000 require only one quotation;

(b) Between £10,000 and £100,000 require three quotations.

17.7.3 For Procurements up to £10,000 the quotation obtained must be in writing in order that best value and the integrity of the process can be demonstrated. This information must be retained by the Service.

17.7.4 For Procurements of £10,000 to £100,000 records will be kept detailing which Contractors were selected to quote, to whom the Contract was awarded and the reasons for so doing (lowest price or offer which represents best value to the Council and why), so that best value and the integrity of the process can be demonstrated. The confidentiality of quotes will be maintained until the contract has been awarded. This information must be retained by the Service. It is important to appreciate that Contractors must be informed of how their quotations will be evaluated and this information should be set out when Contractors are asked to quote.

17.7.5 Where similar goods, services and works are regularly required, and arrangements described in Rule 17.5 are not available, consideration must be given to awarding a framework arrangement and the advice of the Procurement Manager must be obtained.

17.7.6 Where goods, services or works are regularly procured from a single particular supplier under this Rule and the aggregated value of those contract exceed £100,000 in any financial year, the matter must be reported by the Head of Department to the Procurement Manager who will undertake a review of the arrangements with regard to ensuring compliance with these Rules and the Councils Policies and Strategies.

17.8 Contracts Valued Above £100,000 (Tenders)

17.8.1 For procurements with an estimated value of more than £100,000 at least three written tenders must be invited through open competition.

17.8.2 For the rules as to: Pre-qualification, ITT, Receipt, Custody and Opening of Tenders, Tender Evaluation, Evaluation Team, Risk and Awarding Contracts, see rules 17.12-17.13, 17.18, 17.20-17.24.

17.8.3 The Corporate Procurement Unit shall maintain a Corporate Contract Register which will record to whom contracts are awarded and the procurement route following in each case. The Authorised Officer must provide the Corporate Procurement Manager with all required information to facilitate this.

17.8.4 All tenders must use a tender reference number and advise the Corporate Procurement Unit of this number.

17.9 Contracts to Which the Regulations Apply

17.9.1 In the case of procurements that fall to be dealt with under the Regulations:

(a) tenders will be invited in accordance with the requirements of the said Act and Regulations for the time being in force; and

(b) such Act and Regulations will take precedence over these Rules;

(c) such Act and Regulations include requirements which are over and above the requirements set out in these Rules.

17.9.2 Advice and guidance on whether a particular procurement is subject to the Regulations can be obtained from the Procurement Manager and Monitoring Officer.

17.9.3 The current thresholds, as of the 1st of January 2026 are:

- **Supplies & Services** £207,720
- **Subsidised Services Contracts** £207,720
- **Works** £5,193,000
- **Light Touch Contract for Services** £663,540

The value of a procurement must now be calculated inclusive of VAT as per the Procurement Policy Note 10/21 and 11/23.

The thresholds change every two years and are due to change again on the 1st of January 2028.

17.9.4 A Contract Details Notice will need to be published for Contacts let under the Procurement Act 2023 which is of value of £30,000 and above.

17.10 Consultants

17.10.1 Any consultants used by the Council shall be appointed in accordance with these Rules. Where the Council uses Consultants to act on its behalf in relation to any procurement, then the relevant Head of Service shall ensure that the consultants carry out any procurement in accordance with these contract procedure rules. No consultant shall make a decision on whether to award a contract or to whom a contract should be awarded. The relevant Head of Service shall ensure that the consultant's performance is monitored.

17.11 Nominated and Named Sub-Contractors

17.11.1 If a sub-contractor, supplier or sub-consultant is to be nominated or named to a main contractor, quotations or tenders must be invited in accordance with these Rules and the terms of the invitation shall be compatible with the main contract.

17.12 Pre Qualification (Applies To All)

17.12.1 The Council shall only enter into a Contract with a Contractor if it is satisfied as to the Contractor's competencies. The criteria for selecting Tenderers may include, but need not be limited to:

(a) Technical or professional competence and experience including qualifications;

(b) Health and Safety;

(c) Quality including certification by official quality control institutes or agencies of recognised competence and or attesting conformity to quality assurance standards and or measures or equivalent bodies or standards;

(d) Financial and economic standing including appropriate insurance provisions;

(e) Sustainability, including environmental management measures; and

(f) Evidence as to whether they are unsuitable on grounds, e.g. of bankruptcy, criminal conviction or failure to pay taxes;

(g) Welsh Language Measures;

(h) Data Protection; and

(i) Ethical Employment and Safeguarding.

17.12.2 Any procurements subject to the Regulations shall comply with the appropriate Regulations.

17.12.3 All Pre-Qualification processes shall comply with the Procurement Objectives referred to in 17.1.7. above and any requirements as to Pre-Qualification must be formulated so as to avoid breaching those principles.

17.12.4 All time limits for Pre-Qualification processes shall be such as are reasonable having regard to the subject matter of the contract, the value of the contract and the Procurement Objectives.

17.13 The Invitation to Tender

17.13.1 These requirements apply to all invitations to Tender irrespective of value.

17.13.2 The ITT must include details of the Council's requirements for the particular contract including:

(a) a specification of the Services, Goods or Works being procured and instructions on whether any variants are permissible;

(b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;

(c) the Council's terms and conditions of contract;

(d) the evaluation criteria including attached weightings;

(e) the Form of Tender

(f) pricing mechanism and instructions for completion;

(g) whether the Council is of the view that TUPE will apply;

(h) form and content of method statements to be provided;

(i) rules for submitting of tenders;

(j) tender reference

(k) any further information which will inform or assist Tenderers in preparing tenders.

17.13.3 Every Tenderer submitting a tender will be required to sign a declaration to the effect that:

(a) they have not and will not inform any other person of the amount of their tender;

(b) they have not fixed the amount of any tender in accordance with a price fixing arrangement;

(c) they accept that the Council is entitled to cancel the contract and to recover from them the amount of any loss resulting from such cancellation if it is discovered that there has been any corrupt or fraudulent act or omission by them which in any way induced the Council to enter into the contract;

(d) acknowledging that the Council is not bound to accept the lowest or any tender submitted, that the tender exercise may be aborted at any stage during the tender process and that they tender at their own cost and expense.

17.13.4 All time limits for Tendering Processes shall be such as are reasonable having regard to the subject matter of the contract, the value of the contract and the Procurement Objectives.

17.14. Competitive Tendering Procedure

17.14.1 The Council may choose to award a public contract to a supplier submitting the most advantageous tender ("MAT") in a competitive tendering procedure, which must take one of two forms.

17.14.2 In the case of procurements not governed by the Regulations the Council will publish a notice on the Council's Sell2Wales website. The extent and nature of the publication shall be proportional to the value and subject matter of the Procurement and regard shall be had to the Procurement Objectives.

17.14.3 The advertisement shall contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract. After the expiry of the deadline date for expressions of interest, the Council shall send any party expressing an interest an ITT. The ITT shall specify the return date for tenders.

17.14.4 All Tenderers expressing an interest are invited to tender. In the case of procurements with an estimated value above £100,000 where fewer than three Tenderers have expressed an interest the Authorised Officer must, in consultation with the Procurement Manager, determine whether there is sufficient interest to demonstrate genuine competition before deciding to continue the Procurement.

17.15 Open Procedure

17.15.1 a single stage procedure under which any interested party can submit a tender. The decision to award the contract must be based solely on the single tender, subject to any disregarded tenders. This is a process where all providers interested in the contract and who have responded to an advertisement can submit tenders. All such tenders must be considered without any prior selection process. The conditions of participation and evaluation stages are carried out after the submission of the tenders.

17.16 Competitive Flexible Procedure

17.16.1 this procedure is non-prescriptive and allows the Council flexibility to design their own procurement process, to suit its specific needs and requirements. The Council must have regard to the Procurement Objectives and meet the procedural requirements applicable to the competitive tendering procedure, such as relating to time and

transparency. The Council must decide who to award the contract to based on who the Council considers appropriate for the purpose of awarding the public contract.

17.16.2 The Council must use the competitive flexible procedure where:

- it wishes to limit the number of suppliers before inviting tenders;
- when procuring under a dynamic market; and
- when reserving a public contract to Supported Employment Providers or Public Service Mutuals.

17.17 Direct Award

17.17.1 This provides for the award of a public contract without using a competitive tendering procedure and the public contract is able to be placed with the supplier directly without competition.

17.17.2 There are limited circumstances in which the Council is permitted to award a public contract without first running a competitive tendering procedure. Officers should refer to the circumstances as set out in section 41 and Schedule 5 of the Act. These circumstances also apply to below-threshold Direct Awards.

17.17.3 Before awarding a contract in this way, the council must consider whether the supplier is an Excludable Supplier, if so, the Council will need to determine if it is appropriate for the supplier to be awarded the contract. Also, the Council will need to complete a Direct Award Justification Report.

17.17.4 Paragraph 15 of Schedule 5 (Direct Award: Where a single supplier holds exclusive rights, where no reasonable or compatible alternatives exist, where user-choice contracts apply, or where matters of extreme and unavoidable urgency arise) of the Act allows for Direct Award of a user choice contract provided certain conditions are met. User Choice Contracts are not suitable for a competitive tendering procedure due to the needs or preference of an individual. The council must also be of the view that it is in the best interests of the individual that the contract is not awarded under a competitive tendering procedure. User choice services should be delivered under Light Touch Contracts for the purpose of benefitting a particular individual and where the council is required to take into account the view of the individual or their carer as to who should supply the user choice services.

17.17.5 In relation to Procurement exercises that are not governed by the Regulations, the Council may use a Direct Award in the following circumstances and subject to the conditions in Schedule 5 of the Act. The conditions apply to any contract extension as well.

17.17.5.1 Where the value of the initial contract or the estimated aggregate value of the contract and any extension exceeds £50,000 a decision must be made in consultation with the Council's Procurement Manager.

17.17.5.2 Where the value of the initial contract or the estimated aggregate value of the contract and any extension exceeds £100,000 a decision must be made in consultation with the Procurement Manager as well as the Head of Finance and the Monitoring Officer.

17.17.6 The Head of Finance and The Monitoring Officer may delegate the responsibility to an authorised deputy.

17.18 Receipt, Custody and Opening of Tenders

17.18.1 Invitations to tender must clearly set out the latest tender return date and time.

17.18.2 All tenders must be returned using the official envelope or official returns labels and the exterior of the envelope may not be marked in any way which identifies the tenderer.

17.18.3 Tenders with an estimated value below £100,000 (if received by post in the official envelope or using the official tender return label) will be returned to the Head of Service. Tenders will be opened in the presence of two employees designated by the Head of Service of the relevant service area as the case may be. Both employees must be independent to the letting of the Contract. When opened, all tenders will be recorded in a tender register and the tenders and register will be initialled and dated by designated officers present at the time. A copy of such record shall be sent to the Procurement Manager.

17.18.4 Tenders with an estimated value above £100,000 must be addressed to the Monitoring Officer if received by post enclosed in the official envelope or using the official tender return label provided by the Council. The Monitoring Officer will be responsible for the receipt, custody and opening of such tenders. Tenders for the same procurement will be opened consecutively at the same session in the presence of two employees designated for the purpose. One employee will be nominated by the Monitoring Officer and the other employee will be nominated by the relevant Head of Service. Both employees must be independent to the letting of the Contract. When opened, all tenders will be recorded in a tender register and the tenders and register will be initialled and dated by designated employees present at the time. The opened tenders will then be sent to the evaluation officer.

17.18.5 Tenders received after the date and time for receipt of tenders will not be accepted.

17.19 Electronic Tendering

17.19.1 With the agreement of the Procurement Manager, the tender process including invitation and receipt of tenders may be conducted electronically using the Council's eProcurement tools and the provisions of Rules 17.14 to 17.18 may be modified to facilitate this, provided that the electronic system used is approved by the Senior Manager Revenues and Risk.

17.19.2 When requesting multiple quotations or tenders the use of personal or generic email addresses should be avoided to ensure that bids are received in accordance with opening procedures and that receipt of bids are correctly recorded.

17.20 Tender Evaluation

17.20.1 Tenders shall be evaluated in accordance with the evaluation criteria and weightings set out in the ITT. All contracts, except contracts where lowest price was predetermined to be the appropriate criteria, shall be awarded on the basis of the offer which represents the most advantageous tender having regard to the evaluation

criteria and weightings set. The evaluation criteria and weightings must be predetermined and listed in the ITT documentation. In addition, the criteria and weightings shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure. Guidance and assistance on relevant evaluation criteria can be obtained from Corporate Procurement Unit and Legal Unit.

17.20.2 The assessment criteria used shall be given a weighting representing a percentage of the total importance. A consideration to social value shall be included in the assessment criteria or otherwise specified in the requirements of the contract.

17.20.3 If, after the tenders have been opened and examined, an error in computation of the tender is detected, the Tenderer will be given details of the error and the opportunity to confirm the tender submission as corrected, or withdraw their tender.

17.20.4 At all times during any such clarification process the Council shall consider and comply with the Procurement Objectives of non-discrimination, equal treatment, transparency, mutual recognition and proportionality, principles which apply to all the Council's Procurements.

17.21 Evaluation Team

17.21.1 For each Contract with an estimated value above £100,000 the Authorised Officer shall form an evaluation team ('Evaluation Team') with responsibility for evaluating tenders. The Evaluation Team shall consist of at least two officers with relevant expertise to successfully complete the evaluation. Written records of the evaluation must be kept.

17.22 Risk

17.22.1 For Procurements with an estimated above £100,000 the Authorised Officers shall carry out a risk assessment at the outset and thereafter maintain and update the same throughout the Procurement Process. The decision maker must be informed of any risks identified.

17.22.2 For Procurements with an estimated value of £100,000 or above, the Evaluation Team shall consider whether a performance bond and/or a parent company guarantee (if applicable) will be required from the preferred Supplier and where such a requirement arises ensure that it is included as a requirement of the procurement process.

17.22.3 For all Procurements the Authorised Officer shall consider the appropriate type (employee liability, public liability, professional indemnity, etc.) and level of insurance required for each contract and ensure that it is included as a requirement of the procurement process.

17.23 Approved List

17.23.1 Approved Lists can only be used where recurrent contracts of a similar type are likely but where such contracts need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. Approved Lists cannot be used for contracts where the estimated value is above £100,000

17.23.2 No supplier may be entered on an Approved List until there has been an adequate investigation, having regard to Rule 17.12 into both their financial and their technical

ability to perform the contract, unless such matters will be investigated each time bids are invited from that list.

17.23.3 Approved Lists must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure the widest publicity among relevant suppliers. Persons may be entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 17.23.2 are complied with.

17.23.4 Approved lists of suppliers to Services shall be maintained in an open, fair and transparent manner and must be made available to the public on the Council's website. Any request by an economic operator to be included on the list can be accommodated provided that they meet the requirements of Rule 17.23.2.

17.23.5 The list must be reviewed at least annually and re-advertised at least every three years. On re advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to reapply. Review means:

i. the reassessment of the financial and technical ability and performance of those persons on the list, unless such matters will be investigated each time bids are invited from that list
ii. the deletion, with notice, of those persons no longer qualified, with a written record kept justifying the deletion.

17.24 Awarding Contracts

17.24.1 A Contract may only be awarded by an Authorised Officer. The Authorised Officer must ensure, prior to seeking such a decision that sufficient funds are in place to meet all contract payments and if any funding is being obtained from third parties that any conditions attaching to such funding have been complied with.

17.24.2 Where the Contract to be awarded has an estimated value of £250,000 or above the relevant Cabinet Member must within 5 working days of the date of award of the contract be advised in writing of the award of the contract such notification to specify the subject matter, parties and value of the contract.

17.24.3 The Council shall only award a Contract where it represents best value for money. A Contract shall only be awarded using the pre-determined tender evaluation criteria and weightings. Where a tender is to be evaluated on price only, the Contract must, subject to Rule 17.24.4 below, be awarded to the Tenderer submitting the lowest price.

17.24.4 If, in the opinion of the Authorised Officer, a Tender is considered to be abnormally low the Tender may be disregarded but only if:

a) the Authorised Officer has requested in writing an explanation of the Tender or of those Parts which it considers contribute to the offer being abnormally low;
b) taken account of the evidence provided in response to a request in writing; and

c) subsequently verified the Tender.

17.24.5 Save for exceptional circumstances, no Contractor should be asked to provide any Services, supply any Goods or carry out any Works (including preliminary Works) until the Contract is concluded or the Services, Goods or Works concerned are covered by a letter of intent. Any decision to the contrary must be made by the Head of Service for the service area concerned and such decision shall contain a full risk assessment as to the possible implications to the Council of the Contractor being allowed to start before the contract terms and conditions have been finalised or a letter of intent issued.

17.24.6 Letters of intent shall only be used in exceptional circumstances, as follows:

a) Where a Supplier is required to provide services, supplies or works prior to formal written acceptance by the Council; or
b) Where the Council's form of tender does not include a statement that until such time as a formal contract is executed, the Council's written acceptance of a tender shall bind the parties into a contractual relationship.

17.25 Notification of Award and Assessment Summaries

17.25.1 Once the evaluation has been completed, then save for the successful Tenderer, all those expressing an interest and tendering will receive an assessment summary:

i. The assessment criteria and weightings
ii. The score that the Tenderer obtained against those assessment criteria and weightings (where relevant)
iii. The overall score the winning Tenderer obtained; and
iv. The name of the winning Tenderer.

17.25.2 If any additional information is to be disclosed to Tenderers, this must be agreed in advance with the Procurement Manager, taking into account the requirements of any legislation relating to the disclosure of information.

17.25.3 The list of points where de-briefing may be appropriate includes:

i. conditions of participation: where the candidate is not selected (short listed) to take part in the tender process;
ii. award: where the Tenderer was not awarded the Contract after evaluation of proposals/tender. Such de-briefing should never be conducted before the contract award decision is made and all unsuccessful Tenderers have been formally notified of the same. It should be made clear that the de-briefing process cannot be used to change the choice of a Contractor or to re-open the selection process.
iii. if any potential supplier is asked to withdraw or withdraws during the Procurement. De-briefing will only be conducted at the request of the Contractor.

17.25.4 The Council may voluntarily enter into a standstill period, which should be for no less than 8 working days from the day on which the Contract Award Notice is published.

17.25.5 A standstill period is not mandatory where the council awards a public contract in accordance with a Direct Award under section 41 and section 43 of the Act; contracts awarded under Frameworks or Dynamic Markets; and Light Touch Contracts.

17.25.6 A Contract Details Notice is a mandatory notice which must be published by the Council each time a public contract of the value of £30,000 is entered into. If the contract is a light touch contract, this must be published before the end of the period of 120 days beginning with the day on which the contract is entered into. Otherwise, the notice must be published before the end of the period of 30 days beginning with the day on which the contract is entered into. The Contract Details Notice must set out that the Council has entered into a contract, and include the information contained in Regulation 32 (Contract Details Notices: Open or Competitive Flexible Procedure), Regulation 33 (Contract Details Notices: Frameworks), Regulation 35 (Contract Details Notices: Direct Award) or Regulation 36 (Contract Details Notices: Below-Threshold Contracts) of the Regulations (as applicable depending on the route the Council has taken) as amended from time to time.

17.26 Completion of Contracts

17.26.1 With the exception of any Contract formed using a purchase order output on a Council electronic purchasing system any Contract with an estimated value above £100,000 must be:

(i) In writing;

(ii) Made under the Council's Seal

17.26.2 Contracts of £100,000 and under in value must be made using:

i. A purchase order generated by Council electronic purchasing system; or
ii. Be an official order form produced by the Council; or
iii. A written Contract.

17.27 Contract Management

17.27.1 Once the Contract has been awarded the Authorised Officer must identify and nominate an individual who will manage the day to day aspects of the Contract for its term and if requisite to plan what will happen once the Contract comes to an end (plan for any new procurement exercise required).

17.27.2 The day to day management of the Contract shall include monitoring in respect of:

(i) performance
(ii) compliance with specification and contract terms
(iii) Cost
(iv) any value for money/best value requirements
(v) user satisfaction, and
(vi) risk management.

17.27.3 Where the total value of the Contract exceeds £250,000 the Authorised Officer must make a written report to the Head of Service evaluating the extent to which the

Contract is meeting the objectives set. This should be done normally when the Contract is completed but for term contracts such report should be prepared annually.

17.28 Social Service Contracts and the Light Touch Regime

Section 9 of the Act and Schedule 1 of the Regulations

17.28.1 There is a specific regulatory framework for procuring social service contracts and these are addressed for both contracts that fall under these Rules and the Regulations. Such contracts are in many ways different from contracts for construction work, office supplies and IT equipment.

17.28.2 The light-touch regime (LTR) is a specific set of rules for certain contracts which include certain social, health, education and other public services, defined by Common Procurement Vocabulary (CPV) codes, and are subject to much more flexible procurement rules.

17.28.3 At and above the threshold level, in the case of procurements where the Regulations apply, the main mandatory requirements are:

a) Tender Advertising: The publication of a Planned Procurement Notice Tender Notice (unless a direct award justification applies);
b) The publication of a contract award notice following each individual procurement;
c) Compliance with the Procurement Objectives of these CPRs;
d) Conduct the procurement in conformity with the information provided in the Tender Notice or Planned Procurement Notice regarding: any conditions for participation; time limits for contacting or responding to the Council; and the award procedure to be applied.
e) Time limits imposed by the Council on suppliers, such as for responding to adverts and tenders, must be reasonable and proportionate. There are no stipulated minimum time periods in the light touch regime rules, so the Council should use its discretion and judgement on a case by case basis.

Below-Threshold

17.28.4 In the case of procurements where these Rules apply, being that the procurement falls below the light touch regime threshold, the main mandatory requirements are:

a) Below threshold procurement procedures should replicate other sections of these Rules to ensure value for money, the required level of quality and performance.
b) Where there are no existing approved arrangements, the following number of quotations should be sought and evidenced:
    i. Up to £10,000 requires only one quotation
    ii. Between £10,000 and £100,000 requires three quotations preferably via S2W.

iii. An openly publicised and available procurement process should be conducted whilst seeking to invite at least three written tenders

c) The flexibility of the light touch regime are utilized whilst also undertaking a procurement activity which is conducted with openness, probity and accountability.

Further considerations to social service contracts and the Light Touch Contract arrangements.

17.28.5 Reserved Contracts – Section 33 of the Act provides for procurements for certain service contracts to be "reserved" to organisations that meet certain criteria. These contracts may run for a maximum period of 3 years. In essence,

17.28.5.1 this means it is possible to run a competition in compliance with the new light-touch contracts regime of UK procurement rules where participation is limited to qualifying organisations such as mutual and social enterprises.

17.28.5.2 The same arrangement for awarding reserved contracts will apply for services below the threshold covered by the light touch regime.

17.28.5.3 Standstill Period – We still send a standstill notice and observe the standstill period for light touch procurement

17.28.5.4 Contracts below the light touch regime threshold do not need observe a standstill period. However, the award of contracts should be undertaken in accordance with section 17.24 and the relevant sections of 17.25 of these Rules.

17.29 Waivers of Contract Procedure Rules

17.29.1 A waiver may be agreed by the relevant Cabinet Member if he or she is satisfied after considering a written report by the Chief Officer, that the waiver is justified because:

(i) the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of Contract Standing Orders is justifiable, or

(ii) the circumstances of the proposed contract are covered by legislative exemptions; or

(iii) it is in the Council's overall interests; or

(iv) there are other circumstances which are genuinely exceptional.

17.29.2 A record of the decision approving a waiver and the reason for it must be kept and an entry made in the appropriate register.

17.29.3 There is no power to provide a waiver in respect of the requirements of the Regulations.