



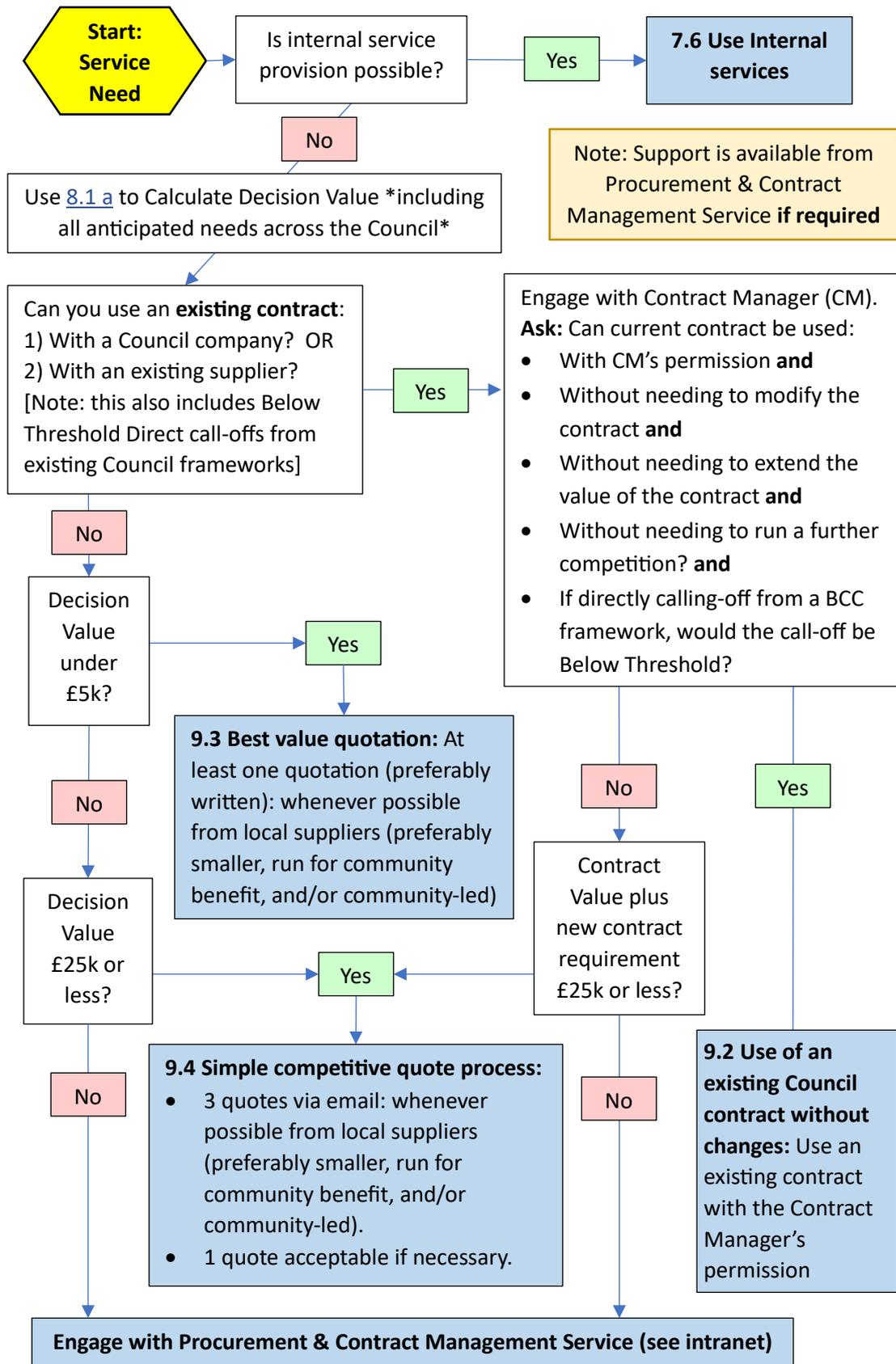
BRISTOL CITY COUNCIL

**PROCUREMENT & CONTRACT MANAGEMENT
RULES**

February 2025

1. Quick Start flowchart

Simplified procurement engagement flowchart, with signposting to further details:



2. Text version of Simplified Procurement Engagement Flowchart

The flowchart guides users through the procurement process with signposts to additional details. It starts with identifying a service need and checking if internal service provision is possible:

1. Internal Service Check:

- If **Yes**, use internal services (refer to section 7.6).
- If **No**, proceed to calculate the decision value using section 8.1, considering all anticipated needs across the council.

2. Existing Contract Check:

- Can an existing contract be used with a Council company or an existing supplier? This includes Below Threshold Direct call-offs from existing Council frameworks.
 - If **Yes**, engage with the Contract Manager (CM) and check:
 - If it can be used without modifying or extending the contract, without running further competition, and if directly calling-off from a BCC framework would be below threshold. If so, with the contract manager's permission you can use **9.2 Use of an existing Council contract without changes**.
 - If **No**, proceed to the decision value assessment.

3. Decision Value Check:

- If you are wanting to place a new contract and the decision value is **under £5,000**, use **9.3 Best Value Quotation**, which requires at least one written quote, preferably from local suppliers with community benefit.
- If you are wanting to place a new contract and the decision value is **£5,000 to £25,000** use **9.4 Simple Competitive Quote Process**, requiring at least 3 quotes (preferably from local suppliers), but one quote is acceptable if necessary.
- Otherwise if you need to modify an existing contract or place a new contract with a decision value of over £25,000 you will need to engage with the Procurement & Contract Management Service

4. Engagement and Support:

- Engage with the Procurement & Contract Management Service for support throughout the process, as noted in the flowchart.

This flowchart emphasizes compliance with procurement regulations while promoting best value and community benefits.

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3. Document overview

- 3.1 **Purpose:** This document sets out the Procurement and Contract Management Rules (the Rules) that should be followed when Bristol City Council (the Council) procures and manages contracts with 3rd parties.
- 3.2 **Status of document:** These Rules form part of the Council's Constitution and includes the Council's "standing orders with respect to the making of contracts" as defined in section 135 of the Local Government Act 1972.
- 3.3 **Procedural Notes:** The Rules are complemented with the following supporting Procedural Notes available to officers on the intranet, which must be adhered to unless otherwise approved by the Council's Head of Procurement and Contract Management Service:
- a. Contracts with Public Bodies & Council Companies
 - b. Conflicts of Interest
 - c. Agreeing a Procurement Approach
 - d. Procurement Notices & Obligations
 - e. Bonds, Guarantees and Insurances
 - f. Tender and Direct Award Process
 - g. Contract Execution
 - h. Contract Management Handbook

- 3.4 **Amendments:** These Rules and Procedural Notes will be periodically reviewed and amended in consultation with Legal Services and the Section 151 Officer where appropriate, to reflect changes in law, corrections etc.

4. When these Rules apply

- 4.1 **Council contracts:** These Rules apply to all contracts between the Council and 3rd party suppliers, subject to the clarifications and exemptions below.

Clarifications

- 4.2 **Related organisations:** These Rules do not apply to contracts entered into by:
- a. Local Authority maintained schools;
 - b. other legal entities the Council may have an interest in such as wholly-owned companies or joint ventures.

These organisations are expected to have their own procurement and contract management rules to ensure compliance with relevant laws.

- 4.3 **Joint procurements:** When the Council undertakes joint procurement and/or contract management activity with other public bodies (“contracting authorities”):
- a. These Rules apply when the Council is the lead contracting authority;
 - b. Where another contracting authority takes the lead, these Rules should be applied as far as reasonably practicable, with any deviations agreed in line with the *Procedural Note: Agreeing a Procurement Approach*.

- 4.4 **Contracts with related organisations:** For the avoidance of doubt, these Rules still apply when the Council enters into a contract with a supplier who is:
- a. A company wholly- or partly-controlled by the Council; or
 - b. Another public body.

- 4.5 **Funding:** These Rules apply regardless of the original source of the money used by the Council to fund the contract (although grant funds accepted by the Council may come with additional stipulations regarding procurement procedures).

- 4.6 **Payment method:** These Rules apply regardless of the method used to pay the 3rd party supplier (e.g. Purchase Orders, purchasing cards, direct payments, etc).

Exemptions

- 4.7 **Exemptions:** The following Council contracts and contractual/non-contractual payments are exempt from these Rules and alternative processes should be followed instead:

Table 1: Exemptions

Ref	Exemption	Process to follow instead
E1	Internal service provision , including where one service area is delivering a service for another and recharging	Financial regulations
E2	Non-contractual payments , or payments made on behalf of another organisation where the Council is not a party to the contract	Financial regulations
E3	Grants given by the Council to another organisation (providing the criteria in the Council's Grant Registration process are met to confirm a grant is appropriate)	Grant registration process
E4	Property and land contracts , including both land disposals and contracts defined under Schedule 2 Paragraph 8 PA23	Managed by Corporate Landlord service G&R Directorate Scheme of Delegations
E5	Employment contracts as defined under Schedule 2 Paragraphs 18-19. Note that contracts where a supplier places personnel with the Council are not exempt from these Rules	HR policies and processes
E6	Legal or arbitration services as defined under Schedule 2 Paragraphs 13-14 PA23	Legal Services
E7	Treasury transactions as defined under Schedule 2 Paragraph 15 PA23	Finance Regulations and Treasury Management Strategy
E8	Other types of contract specifically exempted under Schedule 2 Part 2 only (not including any other Parts)	Financial Regulations
E9	Disposal: Contracts in which the Council sells goods, services or works to a 3 rd party (e.g. disposal of supplies surplus to the Council needs)	Financial Regulations

5. Roles and Responsibilities

- 5.1 **Who the Rules apply to:** compliance with these Rules is mandatory for:
- a. All Councillors;
 - b. Council officers;
 - c. Any persons or organisations that are responsible for the conduct of procurement or contract management activity on behalf of the Council.
- 5.2 **General responsibilities:** The persons to whom the Rules apply (see above) have the following responsibilities:
- a. **Authority:** Must act in accordance with these Rules and not exceed the limits of their authority;
 - b. **Knowledge:** Must maintain ongoing knowledge and awareness of these Rules to ensure compliance;
 - c. **Conflicts of Interest:** Must comply with the *Procedural Note: Conflicts of Interest*, as well as any relevant Employee or Councillor Code of Conduct;
 - d. **Bribes, gifts and inducements:** The acceptance of, or giving of a gift to obtain financial or other advantage, is a criminal offence. Any instances or suspicions of a bribe, gift or inducement having been offered must be reported in accordance with the relevant Employee or Councillor Code of Conduct, or can be reported to the Chief Internal Auditor or the Director: Legal Services.
- 5.3 **Ownership of shared contracts:** When multiple service areas of the Council have a shared need for a contract and ownership is not clear, the Director responsible for the greatest level of expected spend through the contract should allocate officers to lead the associated procurement and contract management activity.
- 5.4 **Role of Directors:** Directors have a number of specific responsibilities set out in these Rules and associated documents. This includes:
- a. Having ultimate responsibility for compliance in their Division and taking action to resolve any non-compliance;
 - b. Ensuring Committees are engaged as appropriate, including any Officer Decision Notices and Key Decisions.
 - c. Ensuring that every contract has an officer(s) assigned with sufficient capacity and capability to take responsibility for leading on the procurement and contract management activity.

- 5.5 **Role of Councillors:** Councillors have a number of specific responsibilities and restrictions within the rules, some of which are highlighted below:
- a. **Strategy and Resources Committee:** makes strategic decisions over the budgetary and policy framework within which procurement plans are developed and implemented;
 - b. **Key Decisions:** Decisions to approve procurement processes leading to the award of contracts that constitute Key Decisions can only be made by the relevant Committee, or other body or individual delegated this authority, as prescribed in the Council's Constitution. Where a Key Decision is made, the relevant Committee will generally authorise the procurement process to be followed and delegate the Contract award to the relevant Executive Director or Director;
 - c. **Restrictions:** Councillors are not permitted to form part of the process once a procurement exercise is active and must ensure that their actions do not compromise or impact on the due process that has been set out. Decisions regarding the procurement, award and management of contracts that are not Key Decisions are expected to be taken by the officer or body delegated this authority, as prescribed in the Council's Officer Schemes of Delegation.

- 5.6 **Role of the Procurement & Contract Management Service (P&CMS):** P&CMS's role is to provide support and expertise to help people comply with their obligations under these Rules. As part of this support, P&CMS operates a Procurement Oversight Group. Full terms of reference for the Group are available to Officers on the Council's intranet, but key objectives include:

- a. **Planning:** Overseeing the maintenance of a commercial procurement pipeline to ensure procurement activity is planned and managed in a proactive way (see also 7.1 and 7.2 below)
- b. **Compliance:** Overseeing compliance with these Rules: in particular the Council's legal obligations (6.1 below), Principles (6.2 below) and *Procedural Notes on: Agreeing a Procurement Approach* and *Procurement Notices & Obligations*;
- c. **Strategic alignment:** Ensuring alignment with the Council's strategies and policies (see also 6.3 below).

- 5.7 **Consequences of non-compliance:**

- a. Instances of non-compliance with these Rules should be addressed swiftly, in line with advice from the Head of Procurement & Contract Management Service, s151 or Monitoring Officer;
- b. When appropriate, individuals breaching the rules may be subject to disciplinary action in accordance with the relevant code of conduct, policy or contract;

- c. Further details regarding Breaches of the Rules and their consequences can be found in the *Procedural Note: Agreeing a Procurement Approach*.

5.8 **Whistleblowing:** Anyone wishing to report concerns regarding compliance with these Rules can do so anonymously in accordance with the Council's Whistleblowing process available to officers on the Council's intranet.

6. Law, Principles and Policies

6.1 **Law:** When procuring and managing contracts, the Council must comply with all relevant law. This may include, but is not limited to:

- a. The Procurement Act 2023 (PA23);
- b. Procurement Regulations 2024 (PR24)
- c. The Health Care Services (Provider Selection Regime) Regulations 2023 (PSR)
- d. Public Contracts Regulations 2015 (PCR);
- e. Concession Contracts Regulations 2016 (CCR);
- f. Equality Act 2010.

6.2 **Principles:** The Council aims to apply the following principles when procuring and managing contracts, which complement the Council's legal obligations:

- a. **Best Value:** secure good value for public money whilst maximizing the overall benefits to Bristol (including wider social, economic, environmental and equalities impacts);
- b. **Good financial governance:** help ensure that contracts are delivered within budget and that spend is monitored and controlled;
- c. **Effective decision-making:** Ensure that the appropriate officers and/or Councillors can make timely, informed and auditable decisions, in accordance with the Council's Constitution;
- d. **Transparency:** Share information for the purpose of allowing suppliers and others to understand the Council's procurement policies and decisions;
- e. **Integrity:** Act with integrity, and be seen to do so, including avoiding conflicts of interest, preventing corruption and maintaining audit trails;
- f. **Fairness:** Take reasonable steps to avoid putting a supplier at an unfair advantage or disadvantage.

- 6.3 **Policies:** Officers should have regard to all relevant Council policies and strategies when procuring and managing contracts, including:
- a. [Constitution](#);
 - b. [Financial Regulations](#);
 - c. [Corporate Strategy](#);
 - d. [Employee](#) and [Member](#) Codes of Conduct;
 - e. [Procurement & Contract Management Strategy](#), including the commitment to increasing opportunities for local suppliers, particularly focussing on micro, small and medium-sized enterprises (MSMEs), supplier diversity and the voluntary sector;
 - f. [Social Value policy](#);
 - g. [Healthy and Sustainable Procurement Policy](#);
 - h. [Modern Slavery Transparency statement](#).

7. Planning and Consultation

- 7.1 **Corporate and Service planning:** When planning future service delivery, service managers must consider potential procurement and contract management implications. This includes identifying instances of similar, recurring or complementary needs across different service areas (and across other public bodies where appropriate).
- 7.2 **Planning timescales:** Procuring new contracts and transitioning to delivery can take significant time, so officers must engage with service planning, the Procurement & Contract Management Service and the Key Decision process (if applicable) as soon as a need is identified.
- 7.3 **Emergencies:** These Rules enable the Council to respond to instances of genuine emergency or a major disaster involving immediate risk to persons, property or serious disruption to Council services or significant financial loss. Guidance is included in the *Procedural Note: Agreeing a Procurement Approach*.
- 7.4 **Consulting colleagues:** Before exploring the possibility of procuring a new requirement:
- a. Officers should assess whether there is a service area within the Council with responsibility for (and expertise in) that specific type of service, and consult with them first if so;
 - b. Procurement related to Financial, Legal or ICT services must not commence without prior approval from the officer(s) with delegated responsibility within the Division(s) accountable for these functions;

- c. Procurement of contracts involving any form of asset leasing arrangement must not commence without prior engagement with the Finance Division and approval of the S151 Officer (as per Financial Regulations and guidance on the intranet).
- 7.5 **Dedicated Schools Grant:** If the Council is entering into a contract to be funded from the Council's dedicated schools grant, this should be in line with budget allocations that the Schools Forum have been given an opportunity to comment on.
- 7.6 **Internal Council Services:** Existing internal Council services must be used whenever feasible rather than buying services from an external supplier.

8. Key factors that determine the approaches we can take

- 8.1 **Key factors:** Three key factors determine how we can proceed:
- a. **Decision Value:** The monetary value of a procurement decision;
 - b. **Procurement category:** The type of goods, services or works being procured;
 - c. **Circumstances:** Procurement history and current circumstances.
- 8.2 **Decision Value:** It is critical to accurately estimate the monetary value of a procurement decision because:
- a. The value excluding VAT determines which Officers/Councillors have the authority to make the decision and which internal procurement procedures could be used (*see Procedural Note: Agreeing a Procurement Approach*). Note that monetary values in these Rules are quoted excluding VAT unless otherwise stated;
 - b. The value including VAT may be used by the Procurement & Contract Management Service to determine which elements of public procurement law apply (*see Procedural Note: Agreeing a Procurement Approach*).
- 8.3 **How to calculate Decision Value:** The *Procedural Note: Agreeing a Procurement Approach* should be used to calculate the value of the decision. Rules of thumb are:
- a. **New Contracts:** Decision Values broadly represent the maximum total revenues that winning supplier(s) could expect to receive over the full life of the contract, assuming all possible contract extensions will be taken up. If the Council anticipates having several needs for similar services in the coming years, the Decision Value should cover the total potential value of these services (i.e. must not be split up to avoid thresholds);

- b. **Contract extensions and changes:** Decision Values are generally the maximum potential value of the contract extension being made, or the value of the part of the contract being changed.

8.4 **Procurement Category:** It is also critical to determine the nature of the goods, services or works being procured as this:

- a. Helps identify whether any existing contracts could be used;
- b. May be used by the Procurement & Contract Management Service (P&CMS) to determine which elements of public procurement law and these Rules apply, and therefore which procedures could be used to amend an existing arrangement or procure a new contract.

8.5 **How to determine Procurement Category:** The *Procedural Note: Agreeing a Procurement Approach* should be used to determine which of the following categories of goods, services or works the contract falls into:

- a. Health services covered by the Provider Selection Regime (PSR);
- b. “Light Touch” services;
- c. Works;
- d. Concession contracts;
- e. Supplies & Services.

8.6 **Thresholds:** There are a number of contract values above which the law is more prescriptive about how contracts should be procured, modified and managed. Examples include:

Value	Significance
£5,000 excluding VAT	Value above which the Council must publish basic details of contracts entered into
£30,000 incl VAT (typically equivalent to £25,000 excluding VAT)	Value above which certain aspects of the PA23 apply
*	Supplies and Services threshold
*	Light Touch Threshold
*	Works threshold
*	Concessions threshold
£5 million including VAT	Value above which additional transparency regarding the contract and supplier performance is required for new contracts

*These thresholds are updated by central government, so current values should be checked in [Schedule 1 of PA23](#).

- 8.7 **Circumstances:** Options within public procurement law can depend on factors such as procurement history, service user rights, legal obligations and risks. These are referenced within the *Procedural Note: Agreeing a Procurement Approach* and support is available from the Procurement and Contract Management Service.

9. Choosing the right procurement approach and getting authorisation

- 9.1 **Engagement approach:** Procurement processes can be divided into two categories:
- a. **Self-service:** Where officers can self-serve;
 - b. **P&CMS-guided:** Where guidance from the Council's Procurement and Contract Management Service (P&CMS) is mandatory.

Procurement processes from these two categories are defined below. The *Quick Start* flowchart (page 2) summarises when P&CMS need to be engaged.

Self-service processes

- 9.2 **Use of an existing Council contract without changes.** Engaging with the relevant Contract Manager to use an existing Council contract can save time and achieve Best Value through economies of scale.

This process is self-service if all criteria below are met:

- a. The existing contract covers the requirement without any need for modification;
- b. If using a BCC framework, the call-off would be Below Threshold and would not involve further competition between suppliers;
- c. The usage will not require the contract to go beyond its current value limit or end date;
- d. The Contract Manager's permission has been obtained, approved and can be evidenced;
- e. The Contract Manager must give their permission for, and support colleagues with, use of the contract unless this would have significant negative impacts on achieving the original aims of the contract;
- f. Officers must support measures to track spend against the contract, and ensure that the Contract Manager is fully aware of any ongoing usage;

- g. Clarification: this includes existing contracts with other public bodies and with legal entities the Council has control over.

Officers must therefore engage P&CMS if:

- a. The contract would need to be modified or extended;
- b. Further competition between suppliers on a framework is needed;
- c. Direct award from a framework is possible but the call-off would be above the procurement law threshold

9.3 Best Value quotation (sub-£5k) is defined as follows:

- a. Applies to new contracts where the Decision Value (defined above, which includes all expected spend on similar services) is **less than £5,000 (ex VAT)**;
- b. Requires officers to seek Best Value by obtaining **at least one quotation** (preferably written). Whenever possible the quotation(s) should be from a local supplier, with a particular preference for suppliers who are smaller, run for community benefit, and/or community-led. Organisations led by people from ethnic minorities, women and Disabled people are historically under-represented in the Council's supply chain, so improving this situation enables the Council to meet its equality objectives;
- c. Officers must ensure an authorised Purchase Order or equivalent is in place before making a commitment or commencing service provision.

9.4 Simple competitive quote process (£5k-£25k) can be used as follows:

- a. Applies to new contracts where the Decision Value (defined above, including all similar related spend) is from £5,000 up to and including £25,000 (ex VAT);
- b. Requires officers to seek Best Value by requesting 3 quotes via email from appropriate suppliers. Whenever possible the quotation(s) should be from a local supplier, with a particular preference for suppliers who are smaller, run for community benefit, and/or community-led. Organisations led by people from ethnic minorities, women and Disabled people are historically under-represented in the Council's supply chain, so improving this situation enables the Council to meet its equality objectives. If it is not practical to seek 3 quotes, obtaining 1 quote is acceptable;
- c. Officers must register the contract with P&CMS (in order to meet the Council's transparency obligations) and must ensure an authorised Purchase Order or equivalent is in place before making a commitment or commencing service provision.

P&CMS-guided processes

9.5 **Contract with public sector body or entity controlled by the Council.**

Council contracts with another public body, or with an entity over which the Council has some level of control, fall into two categories:

- a. **Covered:** Contracts that are not exempt from public procurement law, meaning they must be procured or modified in the same way as any other contract;
- b. **Exempt:** Contracts that are exempt from public procurement law, meaning they should be procured and modified in line with the *Procedural Note: Contracts with Public Bodies & Council Companies*.

The first step must therefore be to clarify the legal position, with support from Legal Services where necessary.

9.6 **Preference for Exempt Contracts:** Where appropriate, entering into an exempt contract with an entity controlled by the Council is preferred (9.5b).

9.7 **Formal competitive quote process** is defined as follows:

- a. Applies to new contracts where the Decision Value (defined in 8.2 and 8.3 above, which includes all expected spend on similar services) is under the relevant PA23 threshold (Supplies & Services, Light Touch or Concessions) or under £500,000 excluding VAT (Works). This process does not apply to contracts covered by the PSR;
- b. This is formal quotation process defined by the Council under which a restricted number of suppliers are invited to quote for a contract;
- c. The Procedural Notes: *Agreeing a Procurement Approach, Procurement Notices & Obligations* and *Tender and Direct Award Process* set out the process and steps required to comply with public procurement law.

9.8 **Below-threshold Compliant Direct Award:** is defined as follows:

- a. Applies to Regulated Below Threshold contracts (as defined in [section 84 of PA23](#)), as well as below threshold Concession contracts.
- b. Below-threshold Direct Awards are circumstances defined by the Council when it is either impossible or not practical to open a new contract or contract modification up to supplier competition.
- c. The *Procedural Note: Agreeing a Procurement Approach* sets out the criteria which must be met; the steps required to comply with public procurement law; and how Best Value can be achieved in these circumstances.

- 9.9 **PA23/PCR-compliant procedures:** Relate to procurement procedures defined in the Procurement Act 2023, Public Contracts Regulations 2015 (where this still applies to legacy contracts) and the *Procedural Note: Agreeing a Procurement Approach*. Examples include (but are not limited to):
- a. Modifications allowed under PA23/PCR15;
 - b. Direct call-offs and mini-competitions run in line with the terms of PA23/PCR15-compliant framework agreements procured by the Council or other contracting authorities;
 - c. Dynamic Markets (and any legacy Dynamic Purchasing Systems);
 - d. Open procedures used to procure new contracts or framework agreements;
 - e. Competitive Flexible procedures used to procure new contracts or framework agreements;
 - f. Open frameworks;
 - g. Above-threshold Direct Awards (modification or new contract).
- 9.10 **PSR-compliant procedures:** Relate to procurement procedures defined in The Health Care Services (Provider Selection Regime) Regulations 2023 and the *Procedural Note: Agreeing a Procurement Approach*.
- 9.11 **Procurement Authorisation:** The *Procedural Note: Agreeing a Procurement Approach* sets out when and how officers must obtain authorisation to procure. In almost all circumstances this means that authorisation must be obtained before starting a procurement process to enter into, modify or extend a contract.
- 9.12 **Authorisation pathways:** The *Procedural Note: Agreeing a Procurement Approach* must be used to determine which Officer(s)/Councillor(s) need to authorise a decision to procure, including the choice of process. The authorisation pathways defined in the procedural note depend on the values and risks involved, but generally require:
- a. authorisation from an appropriate procurement officer; and
 - b. authorisation from an Officer or Councillor with sufficient budgetary responsibility, including Key Decision where appropriate.
- 9.13 **Considerations:** When determining the most appropriate procurement process, appropriate consideration should be given to:
- a. The Law, Principles and Policies set out above, focussing particularly on achieving Best Value
 - b. Market engagement;
 - c. Sub-dividing the contract into lots;
 - d. Minimising barriers to micro, small and medium suppliers;
 - e. Reserving contracts for particular types of suppliers.

Table 2: Procurement options: Procedures that can be considered depending on Decision Value and Procurement Category, together with an indication of whether the procedure is **self-service** or requires prior authorisation and **P&CMS guidance**.

	Any (supplies, services, Works, Light Touch Regime, Concessions or Health services falling under PSR)		Works			Services or supplies,		Health services falling under PSR
	Sub-£5k (ex VAT)	£5k-£25k (ex VAT)	Over £25k to £500k (ex VAT)	£500k (ex VAT) up to PA23 threshold	Over PA23 threshold	Over £25k (ex VAT) up to PA23 threshold	Over PA23 threshold	Over £25k (ex VAT)
Procurement options that may be compliant <u>if criteria met</u>								
“Use of an existing contract without changes” (see criteria in 9.2)	Self service	Self service	Self service	Self service	Self service	Self service	Self service	Self service
“Best Value quotation” (see criteria in 9.3)	Self service	No	No	No	No	No	No	No
“Simple competitive quote process” (see criteria in 9.4)	Self service	Self service	No	No	No	No	No	No
“Exempt contract with public sector body or entity controlled by the Council” (see criteria in 9.5 b)	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided
“Formal competitive quote process” (see criteria in 9.7)	P&CMS guided	P&CMS guided	P&CMS guided	No	No	P&CMS guided	No	No
“Below-threshold Direct Awards (see criteria in 9.8)	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided	No	P&CMS guided	No	No
“PA23-compliant procedures” (see criteria in 9.9)	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided	P&CMS guided	No
“PSR-compliant procedures” (see criteria in 9.10)	No	No	No	No	No	No	No	P&CMS guided

10. Procurement processes

- 10.1 Officers must ensure that procurement processes (including direct awards) are conducted in accordance with the relevant Procedural Notes and public procurement law. Guidance is available from the Procurement & Contract Management Service, but some key officer responsibilities include:
- a. **Conflicts of Interest:** Any potential conflicts of interest must be managed in line with the *Procedural Note: Conflicts of Interest*;
 - b. **Notices** should be issued in accordance with the *Procedural Note: Procurement Notices & Obligations*;
 - c. **Specifications and KPIs:** Note the importance of developing high quality specifications and Key Performance Indicators (KPIs) when procuring, including having regard for relevant Council policies and considering whether any barriers to the participation of MSMEs can be removed or reduced;
 - d. **Contract Management:** Officers must put plans in place to manage the contract in-line with the *Procedural Note: Contract Management Handbook*;
 - e. **Record keeping and E-tendering system usage:** An audit trail must be kept of procurement processes and decisions. For this reason, the default is that an e-tendering (electronic tendering) system should be used, unless authorised by the Head of Procurement & Contract Management Service or officer with delegated responsibility;
 - f. **Supplier debarment, disputes, late tenders and missing materials** should be dealt with in accordance with the *Procedural Note: Tender and Direct Award Process*;
 - g. **Evaluation and moderation:** Tenders must be evaluated and moderated in a fair, transparent and consistent manner in accordance with the *Procedural Note: Tender and Direct Award Process*;
 - h. **Award notifications/standstill periods.**
- 10.2 **Contract Award:** The *Procedural Note: Tender and Direct Award Process* must be used to determine whose authorisation is required to proceed to contract award.

11. Entering into or modifying a contract

- 11.1 **Authorisation to Contract:** Appropriate authorisation must be obtained and contract formalities concluded before:
- a. The supply, service or works begin; or
 - b. The new contract, contract modification or contract extension is otherwise entered into.

The only exceptions to this are set out in the *Procedural Note: Agreeing a Procurement Approach*.

11.2 **Involvement of Legal Services:** Contracts should be entered into on terms approved by Legal Services. The formal advice of a Legal Officer must be sought ahead of any formal decision to enter into a contract if one or more of the following criteria are met:

- a. Contract value greater than PA23 threshold for Services and Supplies (or £250,000 excluding VAT for Works);
- b. Where it involves financial lease arrangements;
- c. Where it is proposed to use a contractor's own terms;
- d. Where it is particularly complex or high risk.

11.3 **Prerequisites:** Officers must ensure that contracts are entered into in accordance with the relevant Procedural Notes and public procurement law. Guidance is available from the Procurement & Contract Management Service, but some key officer responsibilities include:

- a. **Notices** should be issued in accordance with the *Procedural Note: Procurement Notices & Obligations*;
- b. **Statutory power:** No contract shall be entered into unless there is a statutory power to do so;
- c. **Best Value:** No contract shall be entered into unless it can be demonstrated that it represents Best Value;
- d. **Council's terms and conditions** should be used for all contracts. Where this is not possible or departure is being considered, Legal Services should be consulted and auditable records kept of the reasons the Council's terms were not used;
- e. **Payment policies:** Where payment in advance would be required then formal written approval of the S151 Officer is necessary. In the event of industry standards leading to a common accepted practice of advance payments (e.g. software licences) this would only need to be sought once;
- f. **Asset leases:** no contract that includes any form of asset lease should be entered into without the formal written approval of the S151 Officer, in-line with the Council's Financial Regulations;
- g. **Due diligence** must be completed as appropriate, for example ensuring that financial securities, insurances, etc are in place at the appropriate time, in line with the *Procedural Note: Bonds, Guarantees and Insurances*;
- h. **Publication:** Contracts and KPIs should be published in line with the Council's legal requirements (see *Procedural Note: Procurement Notices & Obligations* for contracts worth over £5m including VAT).

- 11.4 **Contract execution method:** The *Procedural Note: Contract Execution* must be used to determine how a contract can be entered into (“executed”, for example simple signature or as a deed).
- 11.5 **Who can execute the contract:** The Council’s Officer Schemes of Delegation determine who has the authority to execute (e.g. sign) a contract on the Council’s behalf. The Officer responsible for securing signature of the Contract must ensure that the person signing for the other contracting party has authority to bind it. Cases where this is uncertain must be referred to Legal Services.

12. Managing a contract

- 12.1 **Contract Management:** Officers must ensure that contracts are managed in accordance with the Council’s Contract Management handbook and public procurement law. Guidance is available from the Procurement & Contract Management Service, but some key officer responsibilities include:
- a. **Resourcing:** Directors must ensure that each contract has a responsible officer assigned and that the contract is being managed effectively;
 - b. **Conflicts of Interest:** Any potential conflicts of interest must be managed in line with the *Procedural Note: Conflicts of Interest*;
 - c. **Notices and KPIs** should be issued in accordance with the *Procedural Note: Procurement Notices & Obligations*;
 - d. **Records management:** Keep contract records up to date using the corporate systems and maintain auditable records of decisions, particularly including any performance issues;
 - e. **Risk management:** Carry out proportionate checks regarding risk factors such as business continuity, H&S, insurances and wider supply chain risks;
 - f. **Performance management:** Obtain Best Value from the contract by monitoring delivery against KPIs and Social Value commitments as appropriate, and dealing with any performance issues as appropriate;
 - g. **Relationship management:** Maintain positive and professional working relationships with suppliers, including managing disputes;
 - h. **Financial management:** Ensure that contractual spend is monitored, controlled, forecast and reported effectively. Payments shall be made in accordance with the contract and in a timely manner so as to avoid the payment of any interest charges;

- i. **Change management:** ensure that modifications to contracts such as variations to dates, values, etc are authorised in line with Procedural Notes and processed in line with change mechanisms in the contract;
- j. **Contract closure:** Plan re-procurement activity, as well as manage contract closure, transition and termination;
- k. **Lessons learned:** Share lessons learned, including taking an active part in re-procurement activity to support continuous improvement.