

NORTH LINCOLNSHIRE COUNCIL

COUNCIL

PROPOSED CHANGES TO CONTRACT PROCEDURE RULES

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To introduce a number of proposed changes to the council's procedural framework for procurement (known as Contract Procedure Rules - CPRs) for approval by Council.
- 1.2 The key points in this report are:
- The mandatory procedures detailing how procurement should be conducted are set out in Contract Procedure Rules (CPRs). CPRs form part of the council's constitution.
 - CPRs were last substantively updated and approved by Full Council in May 2010.
 - A number of additions and amendments to the rules are required to ensure that they meet expectations of elected members and reflect service needs for modern, responsive and flexible processes that meet professional standards and legislative requirements.
 - The changes set out in this report will enable the council to continue its support for small and medium sized businesses (SMEs), social enterprises and third sector organisations in accessing council contracts.

2. BACKGROUND INFORMATION

- 2.1 The mandatory procedures governing how the procurement of supplies, services and works should be carried out by officers and elected members are set out in Contract Procedure Rules (CPRs). CPRs form an integral part of the council's constitution.
- 2.2 CPRs were last substantively updated and approved by Full Council on 12 May 2010 (minute 1875 (6) refers).
- 2.3 Since then a number of significant developments have occurred at national and local levels which CPRs now need to reflect:
- The increasing profile and role of procurement in leveraging competition and economies of scale which help to deliver sustainable savings that support the

council's budget processes in light of government funding reductions together with the importance of improving value for money for local people

- Changes to legislation occurring over the last 18 months:
 - Localism Act 2011 empowers communities with a right to challenge how council services are delivered. This could require the council to undertake procurements for services it currently delivers direct.
 - Bribery Act 2010 has created new criminal offences relevant to how the council procures goods, services and works
 - Changes to public procurement regulations including revised EU thresholds from 1 January 2012
 - The Public Services (Social Value) Act requires public organisations to consider opportunities for enhancing social, economic and environmental well-being through procurement.
- The increasingly recognised role of e-systems in securing value for money through procurement, including electronic tendering, social media and electronic auctions.
- On-going developments at national, regional and local levels to increase access to contract opportunities by Small & Medium Sized enterprises (SMEs) and Voluntary & Community Organisations (VCOs) by stream-lining processes and removing barriers to participation.

3. OPTIONS FOR CONSIDERATION

3.1 In response to the developments outlined above, a number of changes to the CPRs are now proposed (see attachment). The principal issues requiring consideration are summarised below:

A) CPR Content

- i) It is proposed that the content of the document should continue to be restricted to mandatory procedural requirements only. Guidance and best practice advice should continue to be provided in the Corporate Procurement Manual.
- ii) Provision has been added that CPRs must be followed for “development deals” (appointment of regeneration partners) where the EU procurement rules are deemed to apply. [CPR 1.1]
- iii) A rule and flowchart regarding the use of EU approved Dynamic Purchasing Systems (DPS') (open pre-qualified lists managed electronically end to end) have been added as an incentive to drive further costs savings through a speedier and more competitive procurement process as well as promoting open access to contracts for SMEs and VCOs. [CPR 9.5 - 9.6]

- iv) A rule has been added relating specifically to the need to capture savings achieved through procurement to help support the council's budget processes. [CPR 21]
- v) Officer designations have been changed to align with the new senior management structure.
- vi) Amendments have been made to accommodate new rules regarding the application of CPRs to Academies [CPR 1.1]
- vii) For services procurements in excess of the EU threshold, service managers are now required to undertake an Integrated Impact Assessment. This new requirement has been introduced to meet the requirement of the Social Value Act [CPR 4.5]
- viii) A rule has been added to publish all contracts let over £10,000 monthly on the council's website and to report annually on contracts let in the previous 12 months in line with the transparency code of practice guidelines. [CPR 17]
- ix) A rule has been added [CPR 22] to include procedures accommodating the Community Right to Challenge. The CPRs advise officers that formal procedures must be followed when a right to challenge is received.

B) Procedural Thresholds: Up to £10,000 [CPR 4.2]

- i) A rule has been added that consideration should be given to the merits of using SMEs, social enterprises and other VCOs based in North or North East Lincolnshire when selecting which organisations to invite to quote.
- ii) Use of SCMS (eTendering system) is now recommended for procurements under £10,000 to promote transparency etc but its use is not mandatory.

C) Procedural Thresholds: £10,000 - £50,000 [CPR 4.3]

- i) B) i) as above has been added.
- ii) A rule has been added that where a framework agreement is being accessed, purchases greater than £10,000 should be subject to further competition between all suppliers who are a party to the agreement in accordance with the requirements stated by the framework owner, where advantageous and permitted. Wherever possible and advantageous, the bundling of similar requirements should be undertaken to maximise economies of scale.
- iii) A rule has been added to preclude the use of prequalification questionnaires for tenders valued less than £100,000. Essential financial/technical information being sought from the preferred respondent prior to the acceptance of their quote/tender, only. This rule follows central government guidance to facilitate competition for smaller organisations. [CPR4.4]

D) Procedural Thresholds: £50,000 – EU Threshold (Services/Supplies) [CPR 4.4]

- i) The EU threshold for supplies and services increased to £173,934 on 1 January 2012.
- ii) B) i) as above has been added.
- iii) A rule has been added making it mandatory that requirements for supplies totalling over £100,000 (for a period of up to four years for the purposes of estimation) must be purchased via an electronic auction (unless otherwise exempted by PANNEL).
- iv) A rule has been added that the project manager, in consultation with the project team, must agree a percentage split in the award criteria based on the scope and importance of quality, delivery, risk and price on a project by project basis. However, where the contract is being accessed via a framework, the award criteria set out in the agreement must be followed.
- v) Electronic procurement systems have now diminished the need to advertise tender opportunities through the local newspaper. Social media, accessed in line with the council's media policy will be encouraged in the future alongside use of the council's eTendering portal [CPR 4.3-4.6, CPR 8]

E) Procedural Thresholds: Works Contracts below EU Threshold [CPR 4.5]

- i) B) i) as above has been added.
- ii) D) v) as above has been added
- iii) F) iv) below has been added

F) Procedural Thresholds: Above EU [CPR 4.6]

- i) A rule has been added that the use of the Accelerated Restricted Procedure must be justified in the published OJEU contract notice; is only for use in prescribed circumstances; and, as such, approval must be sought from the Director of Policy & Resources
- ii) A rule has been added that approval to implement a dynamic purchasing system must be obtained from the Director of Policy & Resources before proceeding.
- iii) Further clarification has been added stating that the separation between selection criteria used to pre-qualify applicants and award criteria used to evaluate the strength of the bid proposal must be distinct.
- iv) A rule has been added to adopt the standardised and simplified central government prequalification questionnaire, to follow best practice guidance and to facilitate competition for potential smaller suppliers to the council. [CPR 4.6]

v) B) i) as above has been added.

vi) D) v) as above has been added

G) Disposals [CPR 18]

i) A new disposals process has been included to promote more effective procedures and electronic auction technology

4. ANALYSIS OF OPTIONS

4.1 Comments are invited on the proposed changes.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 The proposed changes will continue to help the council obtain greater value for money from the £110m it spends every year on supplies, services and works.

5.2 A council-wide communication message will be issued detailing the changes. The corporate procurement training programme will be updated and specific briefing presentations will be given to staff with procurement responsibilities.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 Refreshing CPRs will help to ensure that the council's procurement practices and policies remain up to date and continue to comply with legal requirements and acknowledged best practice. Furthermore, a modern and effective procurement framework supports the attainment of wider council objectives as detailed in the main body of the report.

7. OUTCOMES OF CONSULTATION

7.1 Feedback has been sought from the council's Strategic Commissioning & Procurement Group, Legal Services and NELC. Comments have been incorporated in the updated CPRs. Advice has been sought from Infrastructure Services on the new disposal process and comments have been incorporated. An Integrated Impact Assessment has been completed.

8. RECOMMENDATIONS

8.1 That the proposed changes to CPRs are approved.

DIRECTOR FINANCE

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Date: 25 April 2012

Background Papers used in the preparation of this report:
Full Council Report: May 2010 Current CPRs



Contract Procedure Rules

May 2012

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Contract Procedure Rules

INTRODUCTION [This Introduction does not form part of Contract Procedure Rules]

Contract Procedure Rules (CPRs) are the framework of mandatory procurement procedures that must be followed when the council spends money on the supplies, services and works it needs to deliver services to local people. They are an integral part of the council's Constitution.

Government procurement policy states:

'Whether the driver is strategic policy delivery or support for ongoing operations, authorities must adhere to government procurement policy, which is to buy the goods and services that it needs to deliver world-class public services, through a fair and open procurement process, guarding against corruption and seeking to secure value for public funds with due regard to propriety and regularity.'

ALL council employees, or any authorised person undertaking a procurement or disposal exercise on behalf of the council, must use the CPRs in conjunction with the [Corporate Procurement Manual](#), which provides a source of practical advice and guidance, and the NLC Finance Manual, or the [NELC Financial Procedure Rules](#).

All documents are available for downloading via both councils' intranet sites:

As a public authority, the council has a duty to ensure equality, transparency and fairness of treatment of suppliers it seeks to trade with. If the council fails in this duty, a potential supplier may have justifiable cause for complaint. The council may be required to pay compensation if such a complaint were upheld; in addition, a contract or framework agreement may be rendered ineffective, either in whole or in part, and civil financial penalties may be imposed on the council. Officers and elected members may also be exposed to personal liability if they do not comply with these CPRs.

The CPRs have five main purposes:

- to protect council staff and members from undue criticism or allegation of wrong doing
- to comply with the law governing spending of public money and the policy on transparency regarding council expenditure
- to provide a legal and auditable framework for the councils' procurement activities
- to help councils obtain value for money so that, in turn, value for money services may be provided to the public
- to support the delivery of the [joint Corporate Procurement Strategy](#) across the council

Contract Procedure Rules

1 **COMPLIANCE**

- 1.1 The procurement of every contract (including contracts awarded via a dynamic purchasing system) or framework agreement entered into by or on behalf of the council or its Maintained Schools, regardless of value or origin of the funding, shall comply with all EU Directives and UK legislation, and with the council's Financial Regulations, Finance Standing Orders, CPRs and the [Corporate Procurement Manual](#). It is the responsibility of directorate and service heads to ensure compliance with these requirements. Academies are responsible for their own governance and scheme of finance and as such are not caught by the council's constitution, nor therefore its Contract Procedure Rules, unless the council is formally procuring on behalf of an academy.

The Localism Act 2011 provides under the 'community right to challenge', the council to consider an expression of interest (EOI) submitted by a 'relevant body' in relation to providing or assisting in providing a service provided by or on behalf of the council. When the council has decided to run a procurement exercise following acceptance of an EOI, the CPRs must be followed in awarding the contract. [See CPR 22](#)

The CPRs apply to all the supplies, services and works (including service concessions and works concessions contracts) procured on the council's behalf as detailed below:

CPRs APPLY:	CPRs DO NOT APPLY:
<ul style="list-style-type: none"> • Where we procure from external organisations (public, private or voluntary) • Where we nominate a sub-contractor or supplier • Where we procure on another body's behalf • Where payment is made to the council • Where a service or works concession contract is proposed • Development deals (regeneration partners) where the EU procurement rules are deemed to apply • LEA Maintained Schools • Where a third party is procuring on the council's behalf and where the council is paying the invoices³ 	<ul style="list-style-type: none"> • Where requirements are sourced and delivered internally • BSF Exclusivity Agreement¹ • Disposal of land and property² • Academies (unless the council is procuring on behalf of an academy)

Note 1 : Refer to Legal Services for advice

Note 2 : Where the disposal of land and/or property potentially establishes a works concession contract, the advice of PANNEL must be sought.

Note 3 : Unless other arrangements are agreed by PANNEL

- 1.2 The Public Contract Regulations distinguish between Part A and Part B Services. Some of the services provided through the council will fall within Part B of the regulations. However, although the regime provided for Part B services under the regulations is less exacting than for Part A, as a matter of good practice the regime pertaining to Part A will be followed unless agreed otherwise by the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).

Contract Procedure Rules

- 1.3 All procurement of services shall comply with the [North and North East Lincolnshire COMPACT Code of Good Practice for Funding and Procurement](#).
- 1.4 No member of the council or officer acting alone without proper authority shall enter, either orally or in writing, into any contract in the council's name.
- 1.5 Where a partner organisation acts on behalf of the council and needs to purchase or assign goods or services, any such assignment must be undertaken in line with the Contract Procedure Rules unless otherwise exempted in writing by the council either through contract or by the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).

2 PROCEDURAL THRESHOLDS

Where the value of any quotation or tender received, and recommended for acceptance, exceeds the upper threshold of the original procedure by more than 5% (unless the EU thresholds are exceeded), then the procurement must be aborted and re-started in compliance with the CPRs which apply to the new procedural threshold. Any exception must have the approval of the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).

- 2.2 The EU thresholds that apply will be those advised by the Cabinet Office as detailed below. The current thresholds set out below are valid from 01 January 2012 until 31 December 2013:

	Supplies	Services	Works
Public Sector Contracting Authorities (excluding Schedule 1 authorities)	£173,934	£173,934	£4,348,350

- 2.3 In determining which threshold applies, the whole-life costing (excluding VAT) of the proposed contract or framework agreement must be considered. Purchases must not be disaggregated to avoid the requirements of the CPRs. Any option to extend a contract must also take into account whether the EU thresholds would be exceeded with the extension value included, even if the option to extend is not eventually exercised, and must be approved by the relevant officer depending on the value involved. Where the duration of the contract is unknown or uncertain, its total cost over a **four year** period should be estimated and the relevant procedure then followed to award the contract or conclude the framework agreement.
- 2.4 All monetary thresholds referred to in this document exclude VAT but include all other applicable taxes and charges.

3 TECHNICAL STANDARDS & SPECIFICATIONS

- 3.1 Where an appropriate International, European or British Standard Specification or British Standard Code of Practice is in force at the date of the procurement, every specification and contract shall state that all goods and materials used or supplied and all the workmanship shall be at least of the standard required by such Standard or Code of Practice or its equivalent.

4 PROCEDURE

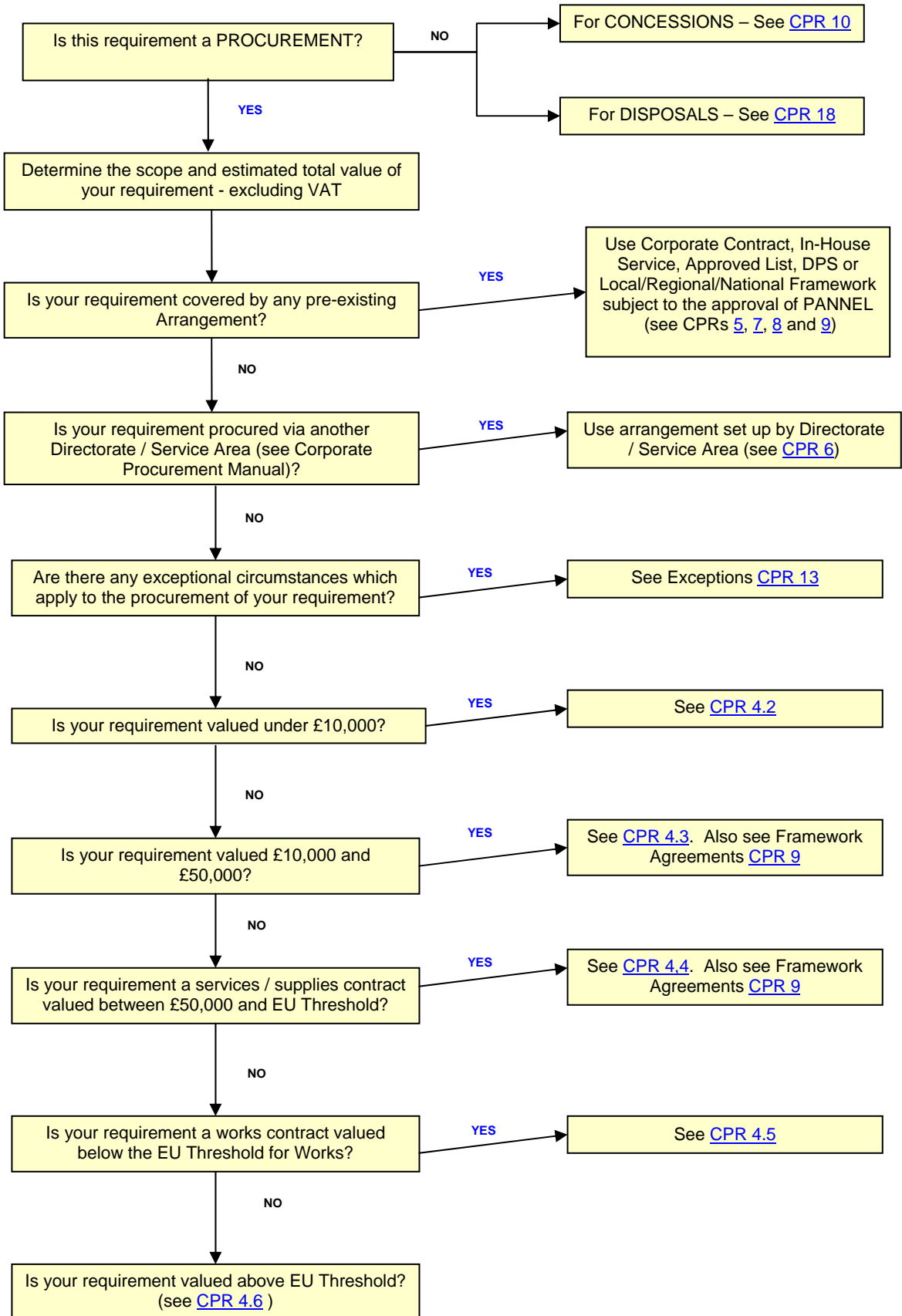
- 4.1 **[NELC only:** project managers should ensure they have completed the two-phase Commissioning and Procurement approval process, where applicable, before commencing a procurement exercise in line with these rules.]

Contract Procedure Rules

- 4.2 The options for satisfying the defined requirement must be fully assessed by conducting an “options appraisal”. This formal, evidence-based analysis will apply equally to supplies, services or works. Where an option to proceed with a competitive procurement exercise has been chosen, having obtained approval budget from the budget holder and, where applicable, relevant Head of Service (NELC) or Director (NLC) for the business case and budget, the following flow chart will determine the appropriate procedure to be used:

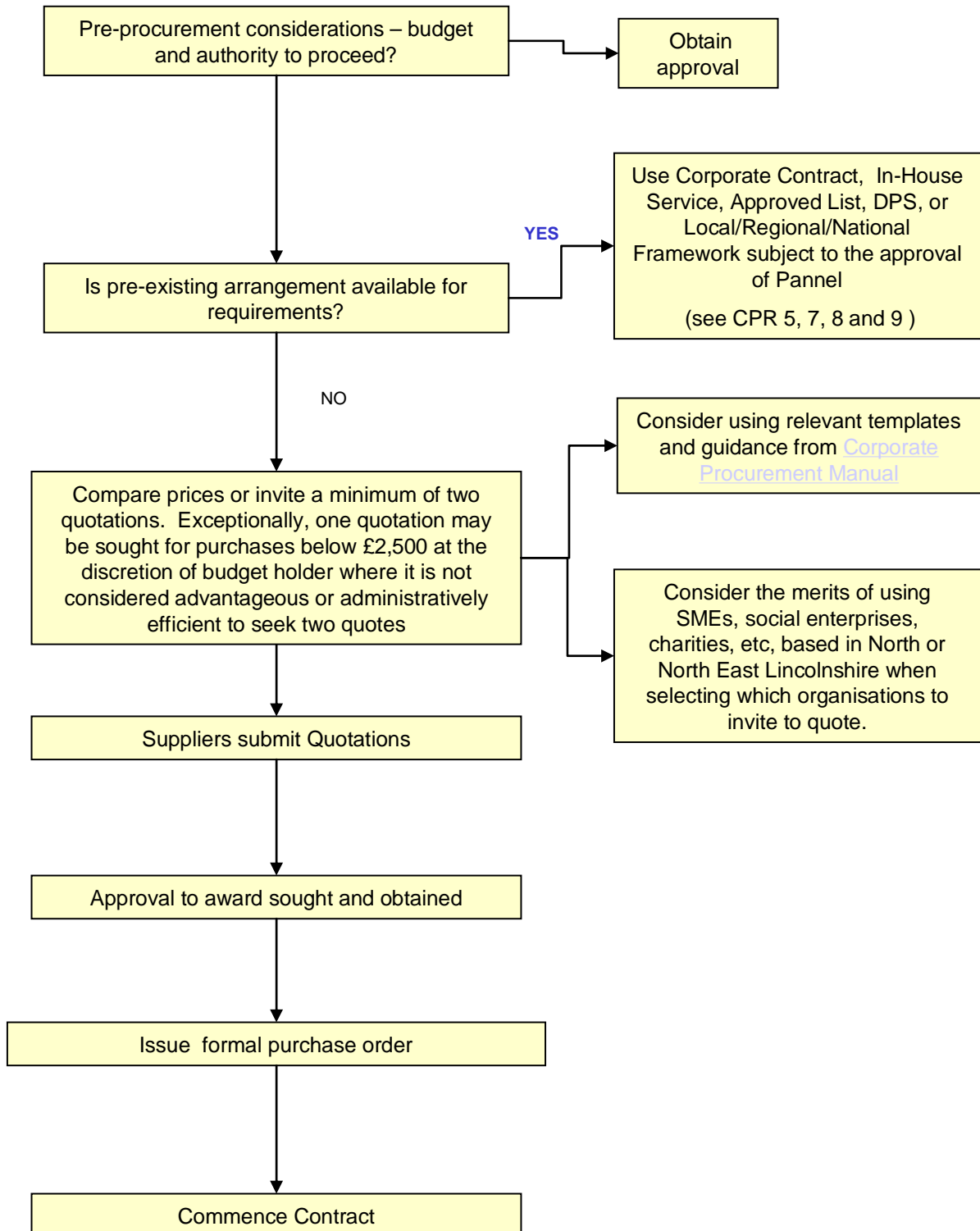
NB Where the level of risk is high for a low value contract, a higher value procedure may be adopted.

Contract Procedure Rules



Contract Procedure Rules

4.2 Supplies/Services/Works Contracts below £10,000



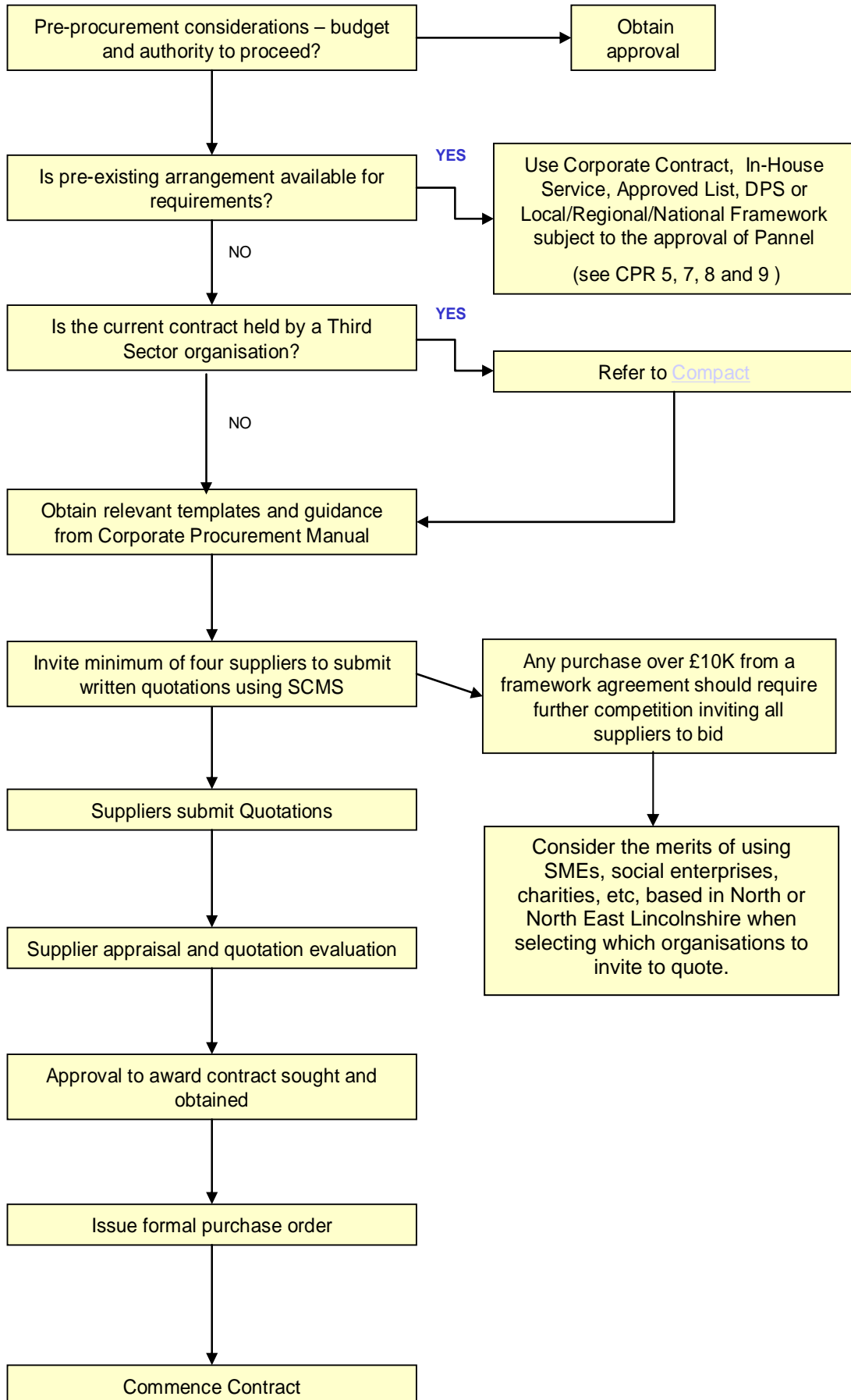
Contract Procedure Rules

Supplies/Services/Works Contracts below £10,000

NELC	NLC
Authorisation to Proceed with Procurement	
Verify availability of budget and obtain budget holder approval.	
Competitive Process	
Consider, in consultation with PANNEL , whether the requirement needs to be procured in accordance with the council's Sustainable Procurement Policy .	
Compare prices or seek a minimum of two comparable quotations. Consider the merits of using SMEs, social enterprises, charities, etc, based in North or North East Lincolnshire when selecting which organisations to invite to quote.	
Exceptionally, for purchases below £2,500 , where it is not considered advantageous or administratively efficient, one quotation may be sought at the discretion of the budget holder, otherwise seek approval from PANNEL .	
Written formats may include fax, e-mail, catalogue and website pages or copies, advertisements or marketing material, price lists, letters, etc.	
Use of SCMS is optional at this level but is recommended for transparency, audit trail, etc.	
Advertisement	
No obligation to advertise.	
Optional – Directory and SCMS	Optional – SCMS
Any advertisement shall: specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution; state the last date and time when expressions of interest or tenders will be accepted; and comply in all respects with the requirements of the relevant UK legislation.	
Receiving & Opening of Quotations	
Within Directorate or Service Area, addressed to the procuring officer or nominee at the address specified by that person for its return.	
Retain copies of quotations for audit trail.	
Evaluation	
Evaluate on the basis of :	
The lowest compliant quotation where payment is made by the council; or	
The highest compliant quotation where payment is made to the council, eg, a concession contract.	
Compliant means the bid should be fully capable of meeting all fitness for purpose requirements in terms of specification, price, quality, delivery, etc.	
Authorisation to Award	
Obtain budget holder approval.	
Execution	
A formal purchase order shall be issued to and its acceptance acknowledged by the supplier specifying the supplies, services or works and setting out prices and terms of payment (which should be the council's terms and conditions of purchase.)	
Records & Documentation	
The Service Area or Directorate shall retain records of the procurement exercise in accordance with the council's approved record management or document retention policy.	

Contract Procedure Rules

4.3 Supplies/Services/Works Contracts £10,000 to £50,000



Contract Procedure Rules

Supplies/Services/Works Contracts £10,000 to £50,000

NELC	NLC
Authorisation to Proceed with Procurement	
Verify availability of budget and obtain budget holder approval.	
Competitive Process	
Consider, in consultation with PANNEL , whether the requirement needs to be procured in accordance with the council's Sustainable Procurement Policy .	
Seek a minimum of four written quotations using the basic quotation template where considered helpful. Consider giving priority to SMEs, social enterprises, charities, etc, based in North or North East Lincolnshire when selecting which organisations to invite to quote (only where a closed process is being used.) The council's approved Terms & Conditions must be used and the process must be fully managed using SCMS .	
Where a framework agreement is being used, any purchase greater than £10,000 should be subject to further competition between all suppliers who are a party to the agreement in accordance with the requirements stated by the framework owner (unless alternative provisions have been agreed). Wherever possible and considered advantageous, bundling of largely similar requirements should be undertaken to maximise economies of scale.	
Advertisement	
<p>Mandatory – Open advertisement on SCMS with indicative contract values published. A closed process with pre-determined tenderers may be used with the prior approval of PANNEL if response levels to any advert are likely to be burdensome to manage.</p> <p>Optional – - advertising of open opportunities via social media e.g. Twitter subject to PANNEL advice</p> <p>Any advertisement shall: specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution; state the last date and time when expressions of interest or tenders will be accepted; and comply in all respects with the requirements of the relevant UK legislation.</p> <p style="text-align: center;">↓</p> <p>Notify VANEL and VANL if considered to be a third sector organisation (TSO) opportunity.</p>	
Receiving & Opening of Quotations	
Within the Service Area or Directorate using the SCMS system by an independent person, ie, a person not associated with the purchase or project.	
Evaluation	
Evaluate on the basis of : The lowest compliant quotation where payment is made by the council; or The highest compliant quotation where payment is made to the council, eg, a concession contract.	
Compliance means the bid should be fully capable of meeting all fitness for purpose requirements in terms of specification, price, quality, delivery, etc.	
Optionally evaluate using The Most Economically Advantageous Tender (MEAT) , and ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers. The final evaluation score given to each tenderer must be the Moderated Score.	
Negotiation	
No negotiation with the existing or potential contractors shall be carried out without the approval and guidance of PANNEL .	
Authorisation to Award	
Obtain budget holder approval. If only one response is received, the written approval of the Director Policy & Resources (NLC) or Group Manager (NELC) must be obtained prior to accepting the quotation. Upload evaluation results and approval authorisation onto SCMS for internal audit purposes.	

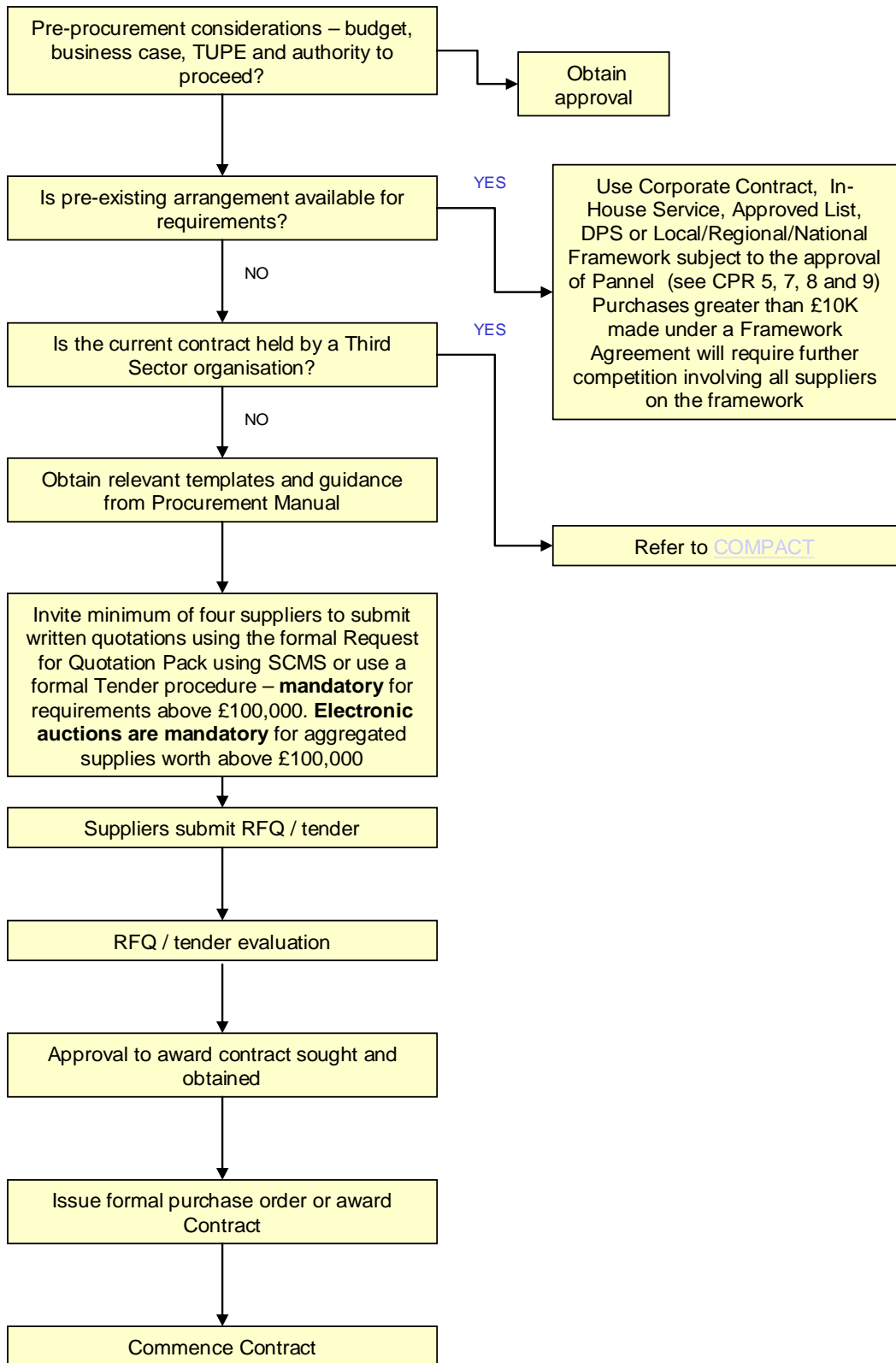
Contract Procedure Rules

Supplies/Services/Works Contracts £10,000 to £50,000 continued

Execution
A formal purchase order shall be issued to and its acceptance acknowledged by the supplier specifying the supplies, services or works and setting out prices and terms of payment (which should be the council's terms and conditions of purchase).
Records & Documentation
The Service Area or Directorate shall retain records of the procurement exercise, including the original signed copy of the contract where applicable, in accordance with the council's approved record management or document retention policy.

Contract Procedure Rules

4.4 Supplies/Services/Works Contracts £50,000 to EU Threshold



Contract Procedure Rules

Supplies/Services/Works Contracts £50,000 to EU Threshold

NELC	NLC
Authorisation to Proceed with Procurement	
<p>Verify availability of budget. Approval must be obtained from the budget holder and the relevant Head of Service (NELC) or Director (NLC).</p> <p>Where:</p> <ul style="list-style-type: none"> • there are possible council workforce and related TUPE implications (advice from Legal Services and HR must be sought); and/or • there are potentially significant economic development / sustainability implications; and/or • there are budget or policy implications (Full council approval may be necessary); <p>Then the Head of Service (NELC) or Director (NLC) will consult with the relevant Portfolio holder (NELC) or Cabinet Member (NLC).</p>	
Competitive Process	
<p>Consider, in consultation with PANNEL, whether the requirement needs to be procured in accordance with:</p> <ul style="list-style-type: none"> • the SME Concordat • COMPACT • Council Skills Pledge • Sustainable Procurement Policy <p>Seek a minimum of four written competitive quotations, using an openly advertised, formal RFQ (Request for Quotation) comprising:</p> <ul style="list-style-type: none"> • Clear instructions for the submission and pricing of quotations • A clear written specification of the request • A Quotation Reply Form • A Pricing Schedule • A Respondent's Questionnaire (note instruction below) • The approved council Terms & Conditions. Where alternative Terms & Conditions are used, or amendments are made, seek guidance and approval from Legal Services. <p>Alternatively, an open formal tender procedure may be used; a closed process may only be used with the prior approval of PANNEL with tenders being invited from a minimum of four potential contractors. Note that a formal tender procedure using SCMS is mandatory for contract values above £100,000.</p> <p>Where a framework agreement is being used, any purchase greater than £10,000 should be subject to further competition between all suppliers who are a party to the agreement in accordance with the requirements stated by the framework owner (unless alternative provisions have been agreed). Wherever possible and advantageous, bundling of largely similar requirements should be undertaken to maximise economies of scale.</p> <p>It is also mandatory that requirements for supplies that total over £100,000 must be purchased via an electronic auction (unless otherwise exempted by PANNEL).</p> <p>In order to reduce the burdens placed on SMEs/VCOs, a Pre-Qualification Questionnaire should not be used at sub-EU level. Essential financial/technical information should be sought from the preferred respondent prior to the acceptance of their quote/tender. However invitees must be informed at the invitation to quote/tender stage of the specific information we will seek if they are selected as preferred respondent. In the event that the preferred respondent fails the essential checks, the 2nd ranked respondent should be considered and be subject to the same checks.</p>	

Contract Procedure Rules

Supplies/Services/Works Contracts £50,000 to EU Threshold continued

Competitive Process
<p>Evaluate tenders on the basis of the Most Economically Advantageous Tender (MEAT) taking into account both quality and cost in the proportions appropriate to the particular contract. Ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers, with the tender documents.</p> <p>The ITT or RFQ must state that no tenders or quotes will be considered unless received by the date and time stipulated in the documentation. No tender or quote delivered in contravention of this rule shall be accepted without the written approval of the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).</p> <p>The project manager in consultation with the project team must agree a percentage split in the award criteria based on the scope and importance of quality, risk and cost on a project by project basis. However, where the contract is being accessed via a framework, the award criteria set out in the agreement must be followed.</p> <p>Where the cost element is less than 60%, referral should be made to PANNEL who will seek prior approval from the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).</p> <p>The process must be fully managed using SCMS.</p>
<p>Requests to use electronic auctions should be referred to PANNEL</p>

NELC	NLC
Advertisement	
<p>Mandatory – SCMS with indicative contract values published</p> <p>Optional – - advertising of open opportunities via social media e.g. Twitter subject to PANNEL advice</p> <p>Any advertisement shall: specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution; state the last date and time when expressions of interest or tenders will be acceptable; and comply in all respects with the requirements of the relevant UK legislation.</p> <p>Notify VANEL and VANL if considered to be a TSO opportunity.</p>	
Receiving & Opening of Quotations / Tenders	
<p>Managed using SCMS, kept confidential and for procurements over under £100,000 opened by an independent tender opening officer within the directorate. For procurements over £100,000, tenders should be opened by a representative of Legal & Democratic Services. Any arrangements shall be commensurate with the value of the contract in question.</p>	
Evaluation	
<p>Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) requirements previously disclosed, and the tenderer's ability to comply with any requisite standards or policies. Refer to CPR 14 for guidance on how to manage errors in tender submissions. The final evaluation score given to each tenderer must be the moderated score.</p>	
Post Tender Negotiation	
<p>No negotiation with the existing or potential contractors shall be carried out.</p>	
Authorisation to Award	
<p>Must be obtained from the relevant Head of Service (NELC) or Director (NLC) where consistent in all respects with council's Policy and Budget Framework.</p> <p>At least two tender responses must be received. If only one response is received, the written approval of the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC) must be obtained prior to accepting the quotation.</p> <p>Upload evaluation results and approval authorisation onto SCMS for internal audit purposes.</p>	

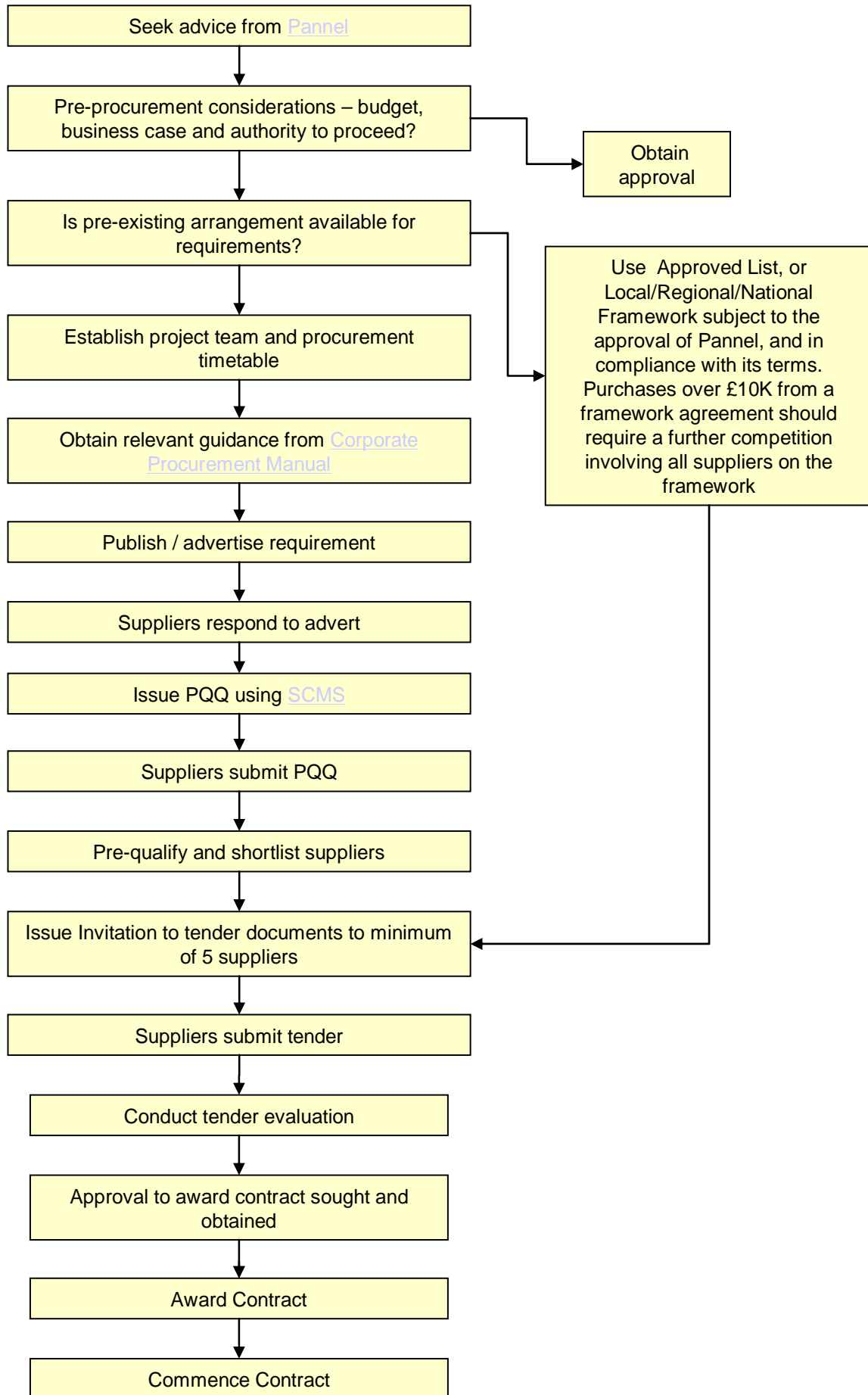
Contract Procedure Rules

Supplies/Services/Works Contracts £50,000 to EU Threshold continued

Execution
<p>The acceptance of the successful tenderer should be obtained in writing (subject to contract) prior to sending the notification to the unsuccessful tenderer.</p>
<p>All tenderers should be advised of the outcome of the tender exercise by means of writing. All unsuccessful tenderers should be given the opportunity to receive a debrief.</p> <p>Every contract as a minimum shall be in writing and specify:</p> <ul style="list-style-type: none">• the supplies or services to be provided and/or the work(s) to be executed;• the price to be paid or the manner in which the price is to be determined together with details of the amount of any discounts or other deductions;• the time within which the contract is to be performed;• an exit strategy for when the contract terminates; and• other conditions and terms as are required to protect the council's interest as may be agreed between the parties. <p>A formal purchase order or contract shall be issued specifying the supplies, services or works and setting out prices and terms of payment.</p> <p>All contracts under £100,000 shall be signed by the relevant Strategic Director (NELC) or Director (NLC) using the standard terms and conditions unless delegations have been agreed.</p> <p>All contracts over £100,000 or where there has been deviation from the approved standard Terms & Conditions, shall be signed by the Strategic Director Governance and Transformation (NELC) or the Director of Policy & Resources (NLC), attesting the Common Seal of the council as appropriate.</p> <p>Contracts entered into orally, due to extreme urgency, must be confirmed in writing as above.</p>
Records & Documentation
<p>The Service Area or Directorate shall retain records of the procurement exercise, including the original signed copy of the contract if the value is below £100,000, in accordance with the council's approved record management or document retention policy.</p> <p>Where the contract value is over £100,000, the original signed copy shall be retained by Legal Services.</p>

Contract Procedure Rules

4.5 Works Contracts (above EU Threshold for Supplies/Services and below EU Threshold for Works)



Contract Procedure Rules

Works Contracts (above EU Threshold for Supplies/Services and below EU Threshold for Works)

NELC	NLC
Authorisation to Proceed with Procurement	
<p>Verify availability of budget. Approval must be obtained from the budget holder and the relevant Head of Service (NELC) or Director (NLC) where the procurement is in line with the capital programme.</p> <p>Where the procurement falls outside of the capital programme, seek approval from the relevant Portfolio Holder (NELC) or Cabinet member (NLC).</p>	
Competitive Process	
<p>Adhere to the corporate governance frameworks for project management and produce a procurement timetable. Project managers should ensure that any procurement is undertaken in line with the council's agreed project management framework, where appropriate.</p> <p>Consider, in consultation with PANNEL, whether the requirement needs to be procured in accordance with:</p> <ul style="list-style-type: none"> • the SME Concordat • Council Skills Pledge • Sustainable Procurement Policy <p>Use a formal Tender procedure, and manage the process fully using SCMS. Following selection, tenders may be invited from a minimum of five potential contractors.</p> <p>Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) taking into account both quality and cost in the proportions appropriate to the particular contract. Ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers. The Invitation to Tender must state that no tender will be considered unless it is received by the date and time stipulated in the Tender documentation. No tender delivered in contravention of this rule shall be accepted without the written approval of the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).</p> <p>The project manager in consultation with the project team must agree a percentage split in the award criteria based on the scope and importance of quality, risk and cost on a project by project basis. However, where the contract is being accessed via a framework, the award criteria set out in the agreement must be followed.</p> <p>Where the cost element is less than 60%, referral should be made to PANNEL who will seek prior approval from the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).</p> <p>All terms and conditions above the threshold must be approved by Legal Services.</p> <p>Requests to use electronic auctions should be referred to PANNEL.</p>	
Advertisement (only applicable if not using Approved List)	
<p>Mandatory – SCMS with indicative contract values published.</p> <p>Optional –</p> <ul style="list-style-type: none"> - advertising of open opportunities via social media e.g. Twitter subject to PANNEL advice - one or more specialist trade or professional newspapers or journals where appropriate. <p>Direct marketing of the existence of the opportunity is permissible in order to include organisations that may not ordinarily see the opportunity and to ensure local / regional / national competition. Notify VANEL and VANL if considered to be a TSO opportunity.</p> <p>Any advertisement shall: specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution; state the last date and time when expressions of interest or tenders will be accepted; and comply in all respects with the requirements of the relevant UK legislation.</p>	

Contract Procedure Rules

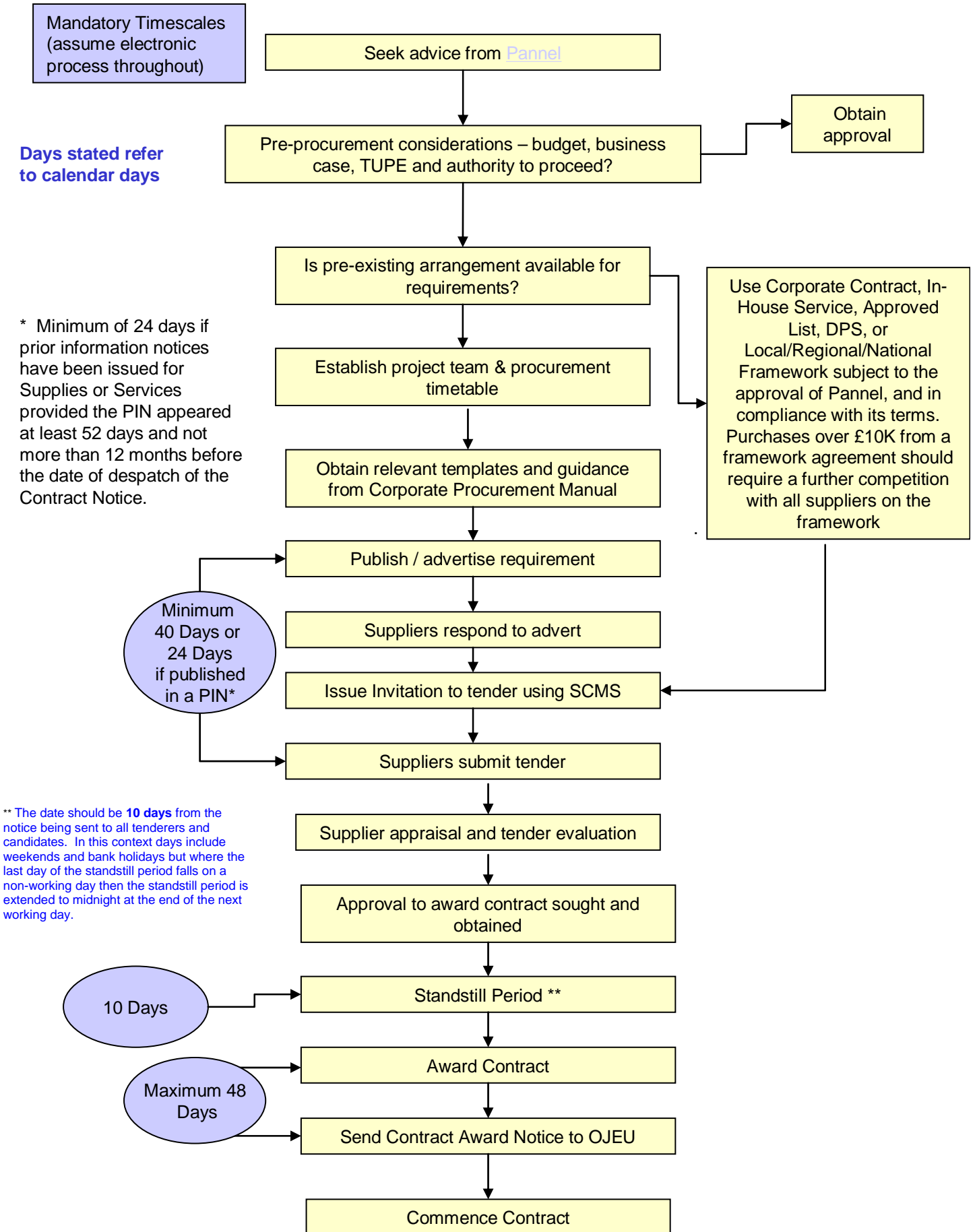
Works Contracts (above EU Threshold for Supplies/Services and below EU Threshold for Works)
continued

Receiving & Opening of Bids
<p>Managed using SCMS, kept confidential and opened by an independent tender opening officer nominated by the Strategic Director Governance and Transformation (NELC) or the Director of Policy & Resources (NLC). The project manager or their nominee, and relevant Cabinet Member (NLC) or Portfolio Holder (NELC) may attend at their discretion.</p>
Evaluating Tenders
<p>Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) requirements previously disclosed, and the tenderer's ability to comply with any requisite standards or policy. Refer to CPR 14 for guidance on how to manage errors in tender submissions. The final evaluation score given to each tenderer must be the moderated score.</p>
Post Tender Negotiation
<p>No negotiation with the existing or potential contractors shall be carried out.</p>
Authorisation to Award
<p>Must be obtained from the relevant Head of Service (NELC) or Director (NLC) where consistent in all respects with council's Policy and Budget Framework.</p> <p>If only one response is received, the written approval of the Director of Policy & Resources (NLC) or Strategic Director Governance and Transformation (NELC) must be obtained prior to accepting the tender. Legal Services must be consulted.</p> <p>Upload evaluation results and approval authorisation onto SCMS for internal audit purposes.</p>
Execution
<p>All tenderers must be advised of the outcome of the tender exercise in writing, and the following information must be included in the notice:</p> <ul style="list-style-type: none"> • the name of the successful tenderer • the award criteria and any sub-weightings used • the reasons for the decision, including the characteristics and relative advantages of the successful tender • the scores of the successful tenderer and the organisation receiving the notice <p>Unsuccessful tenderers may request further debrief.</p> <p>Every contract as a minimum shall be in writing and specify:</p> <ul style="list-style-type: none"> • the supplies or services to be provided and/or the work(s) to be executed • the price to be paid or the manner in which the price is to be determined together with details of the amount of any discounts or other deductions • the time within which the contract is to be performed • liability, indemnity and insurance • an exit strategy for when the contract terminates; and • other conditions and terms required to protect the council's interest as may be agreed between the parties • TUPE provisions where applicable
<p>All contracts shall be signed by the Strategic Director Governance and Transformation (NELC) or the Director of Policy & Resources (NLC), attesting the Common Seal of the council as appropriate.</p> <p>Contracts entered into orally, due to extreme urgency, must be confirmed in writing as above.</p>
Records & Documentation
<p>The Service Area or Directorate shall retain records of the procurement exercise, in accordance with the council's approved record management or document retention policy.</p> <p>The original signed copy of the contract shall be retained by the Strategic Director Governance and Transformation (NELC), or Director of Policy & Resources (NLC).</p>

Contract Procedure Rules

4.6 Supplies/Services/Works Contracts above EU Thresholds

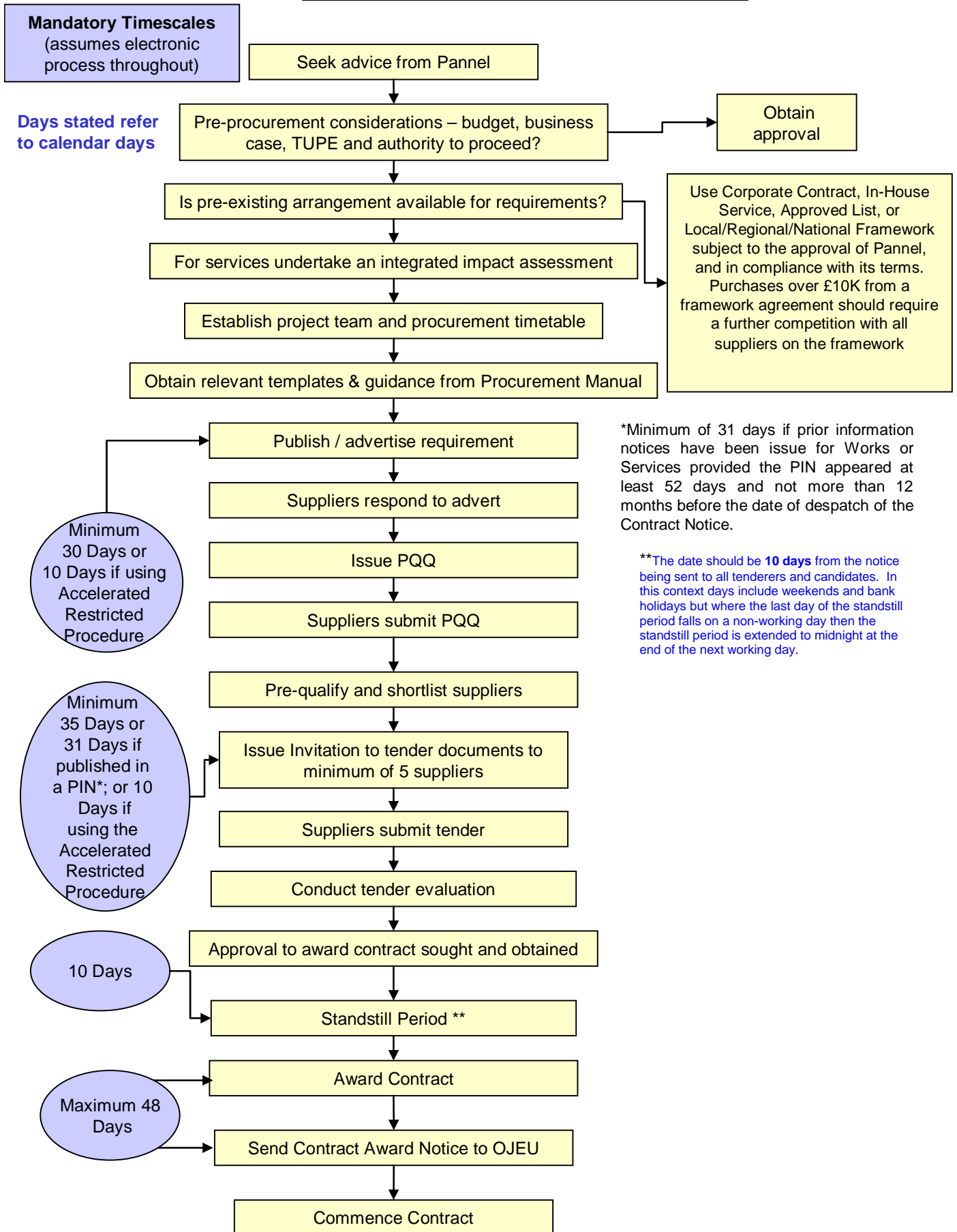
Open Procedure



Contract Procedure Rules

Supplies/Services/Works Contracts above EU Thresholds

Restricted/Accelerated Restricted Procedure



Contract Procedure Rules

Supplies/Services/Works Contracts above EU Thresholds

NELC	NLC
Authorisation to Proceed with Procurement	
Verify availability of budget.	
Seek advice from PANNEL and determine the EU procedure to be used (Open, Restricted, Accelerated Restricted, Negotiated or Competitive Dialogue) to award a contract, set up a framework agreement or establish a dynamic purchasing system (DPS) .	
Use of the Accelerated Restricted Procedure, Negotiated Procedure or Competitive Dialogue Procedure <u>must</u> be approved by the Director of Policy & Resources (NLC) or Strategic Director Governance and Transformation (NELC).	
Use of the Accelerated Restricted Procedure must be justified in the OJEU contract notice and is only for use in prescribed circumstances, and as such, procurement advice must be sought whenever this procedure is being considered.	
Approval to implement a DPS must be gained from the Director of Policy & Resources or Strategic Director Governance and Transformation (NELC) before proceeding.	
The council's standard approach is to use Open Procedure. Approval to use the Restricted Procedure must be obtained from PANNEL.	
Where a Pre-Qualification Questionnaire is required, the council's standard PQQ template must be used.	
Obtain approval from the budget holder and relevant Director (NLC) or Strategic Director (NELC).	
Where:	
<ul style="list-style-type: none"> • the project exceeds £1M; and/or • there are possible council workforce and related TUPE implications; and/or • there are potentially significant economic development / sustainability implications; and/or • there are budget or policy implications or impact upon Key Decisions (in this instance Cabinet or full council approval may be necessary. Guidance should be sought from Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC)). 	
Then the Director (NLC) or Strategic Director (NELC) will consult with the relevant Cabinet Member (NLC) or Portfolio Holder (NELC).	
Competitive Process	
Adhere to the corporate governance frameworks for project management and produce a procurement timetable. Project managers should ensure that any procurement is undertaken in line with the council's agreed project management framework, where appropriate.	
Consider, in consultation with PANNEL , whether the requirement needs to be procured in accordance with:	
<ul style="list-style-type: none"> • the SME Concordat • COMPACT • Council Skills Pledge • Sustainable Procurement Policy • Public Services (Social Value) Act 2012 	
For all services procurements over EU threshold, an Integrated Impact Assessment must be completed to comply with the Public Services (Social Value) Act 2012 prior to commencement to inform the specification and evaluation criteria.	

Contract Procedure Rules

Supplies/Services/Works Contracts above EU Thresholds continued

Competitive Process continued
<p>Use a formal Tender procedure, and manage the process fully using SCMS. Where a restricted procedure is used, tenders may be invited from a minimum of five potential contractors.</p> <p>The distinction between selection criteria used to assess bidding organisations and award criteria used to evaluate the strength of the bid proposal must be entirely separate and remain so throughout the process.</p> <p>Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) taking into account both quality and cost in the proportions appropriate to the particular contract. Ensure MEAT criteria, sub-criteria, weighting, and scoring guidance are disclosed to tenderers. The Invitation to Tender must state that no tenders will be considered unless it is received by the date and time stipulated in the Tender documentation. No tender delivered in contravention of this rule shall be accepted without the written approval of the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).</p> <p>The project manager in consultation with the project team must agree a percentage split in the award criteria based on the scope and importance of quality, risk and cost on a project by project basis. However, where the contract is being accessed via a framework, the award criteria set out in the agreement must be followed.</p> <p>Where the cost element is less than 60%, referral should be made to PANNEL who will seek prior approval from the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).</p> <p>Project specific, alternative Terms & Conditions are likely to be necessary and guidance, and approval must be sought from Legal Services.</p> <p>Requests to use electronic auctions should be referred to PANNEL</p>
Advertisement
<p>Mandatory Official Journal of the European Union (OJEU) approved and issued via PANNEL. After publication of the OJEU notice followed by release on SCMS advising indicative contract values, then:</p> <p>Optional –</p> <ul style="list-style-type: none">▪ Advertising of open opportunities via social media e.g. Twitter subject to PANNEL advice▪ One or more specialist trade or professional newspapers or journals where appropriate.▪ Direct marketing is permissible, after publication of the OJEU notice, to include organisations that may not see the opportunity to ensure local / regional / national competition.▪ Notify VANEL and VANL if considered to be a TSO opportunity. <p>Any advertisement shall: specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution; state the last date and time when expressions of interest or tenders will be acceptable; and comply in all respects with the requirements of the relevant EU Directive or UK legislation.</p> <p>Only information published in the OJEU notice can be included in any subsequent advertisements placed.</p>
Receiving & Opening of Tenders
<p>Managed using SCMS, kept confidential and opened by an independent tender opening officer nominated by the Strategic Director Governance and Transformation (NELC) or the Director of Policy & Resources (NLC). The project manager or their nominee, and relevant Cabinet Member (NLC) or Portfolio Holder (NELC) may attend at their discretion.</p>

Contract Procedure Rules

Supplies/Services/Works Contracts above EU Thresholds continued

Evaluating Bids
Evaluate on the basis of the Most Economically Advantageous Tender (MEAT) requirements previously disclosed, and the tenderer's ability to comply with any requisite standards or policies. Refer to CPR 14 for guidance on how to manage errors in tender submissions. The final evaluation score given to each tenderer must be the moderated score.
Post Tender Negotiation
No negotiation with the existing or potential contractors shall be carried out.
Authorisation to Award
Must be obtained from the relevant Strategic Director (NELC) or Director (NLC) where consistent in all respects with council's Policy and Budget Framework. However, authorisation to award should always be secured in line with the direction given at time of authorisation to proceed with procurement for Key Decisions.
If only one response is received, the written approval of the Director of Policy & Resources (NLC) or Strategic Director Governance and Transformation (NELC) must be obtained prior to accepting the tender.
An information report setting out the findings of the procurement exercise, together with the outcome, should be provided to the relevant Portfolio Holder (NELC) or Cabinet Member (NLC).
Upload evaluation results and approval authorisation onto SCMS for internal audit purposes.
Standstill Period
All tenderers, and any candidates, including those who have already received notification of their rejection (for example, at PQQ stage), must be advised of the preferred tenderer status in writing, using SCMS . The following information must be included in the notice or pre-standstill award letter: <ul style="list-style-type: none">• the name of the successful tenderer• the award criteria and any sub-weightings used• the reasons for the decision, including the characteristics and relative advantages of the successful tender• the reasons why the recipient did not meet the technical specification, if applicable• the scores of the successful tenderer and the organisation receiving the notice• the length of the standstill period, and anticipated end time and date.
All standstill letters must be approved by PANNEL, and signed by Legal Services. Unsuccessful tenderers may request a general clarity-improving debrief.
Following this notification, a mandatory minimum 10 calendar day standstill period must be observed prior to final award. The period commences on the day following <i>electronic</i> issue of the pre-standstill award letters and must end on a working day. If a legal challenge is received do not award the contract and seek legal advice.
Execution
The acceptance of the successful tenderer should be obtained in writing (subject to contract).
Every contract as a minimum shall be in writing and specify: <ul style="list-style-type: none">• the supplies or services to be provided and/or the work(s) to be executed;• the price to be paid or the manner in which the price is to be determined together with details of the amount of any discounts or other deductions;• the time within which the contract is to be performed;• an exit strategy for when the contract terminates; and• other conditions and terms as are required to protect the council's interest as may be agreed between the parties.
The contract must be signed by the Strategic Director Governance and Transformation (NELC) or the Director of Policy & Resources (NLC), attesting the Common Seal of the council as appropriate.

Contract Procedure Rules

Supplies/Services/Works Contracts above EU Thresholds continued

OJEU Award Notice
Contract award must be announced by means of a Contract Award Notice in OJEU transmitted no later than 48 calendar days after the date of the post-standstill award letter. This is the responsibility of PANNEL .
Records & Documentation
The Service Area or Directorate shall retain records of the procurement exercise, in accordance with the council's approved record management or document retention policy. The original signed copy of the contract shall be retained by the Strategic Director Governance and Transformation (NELC) or the Director of Policy & Resources (NLC).

5 CORPORATE CONTRACTS

5.1 Where a [Corporate Contract](#) exists for supplies, services or works, it must be used. Only in the following circumstances will a request for exception be considered:

- Availability - The requirement cannot be obtained through a corporate contract; or
- Timescale - The requirement cannot be obtained in the required timescale through a corporate contract; or
- Specification - The requirement cannot be obtained with the required specification through a corporate contract.

Contract Procedure Rules

6 LEAD SERVICES

6.1 Directorates or Services Areas undertaking procurement of the following supplies, services or works must be guided by the lead service indicated:

Requirement	Lead Service (NELC)	Lead Service (NLC)
Cleaning Services	Facilities Management BBLP	Neighbourhood & Environmental Services
Civil Engineering and non-building construction works	Engineering Services / Highways & Planning BBLP	Infrastructure Services
Building works, accommodation and facilities management where a work permit MUST be obtained	Assets Team; Architectural Consultancy BBLP	Infrastructure Services
Energy, Fuel & Water	Architectural Consultancy BBLP	Infrastructure Services
Financial & Leasing Services	Finance	Financial Services
ICT requirements / services	ICT	Infrastructure Services
Legal Services	Governance and Transformation	Corporate & Community Services
Printing Services	Commissioning and Information Systems	Corporate & Community Services
Commissioning of social or personal care services, and placement activity	People & Communities	Children & Young People Service; Adult Services
Training & Development Services	Human Resources; Learning & Development	Corporate & Community Services
Transport Services	People & Communities; Highways & Transport BBLP	Infrastructure Services
Vehicles	Neighbourhood Services	Neighbourhood & Environmental Services
Waste Disposal	Neighbourhood Services	Neighbourhood & Environmental Services

7 IN-HOUSE PROVIDERS

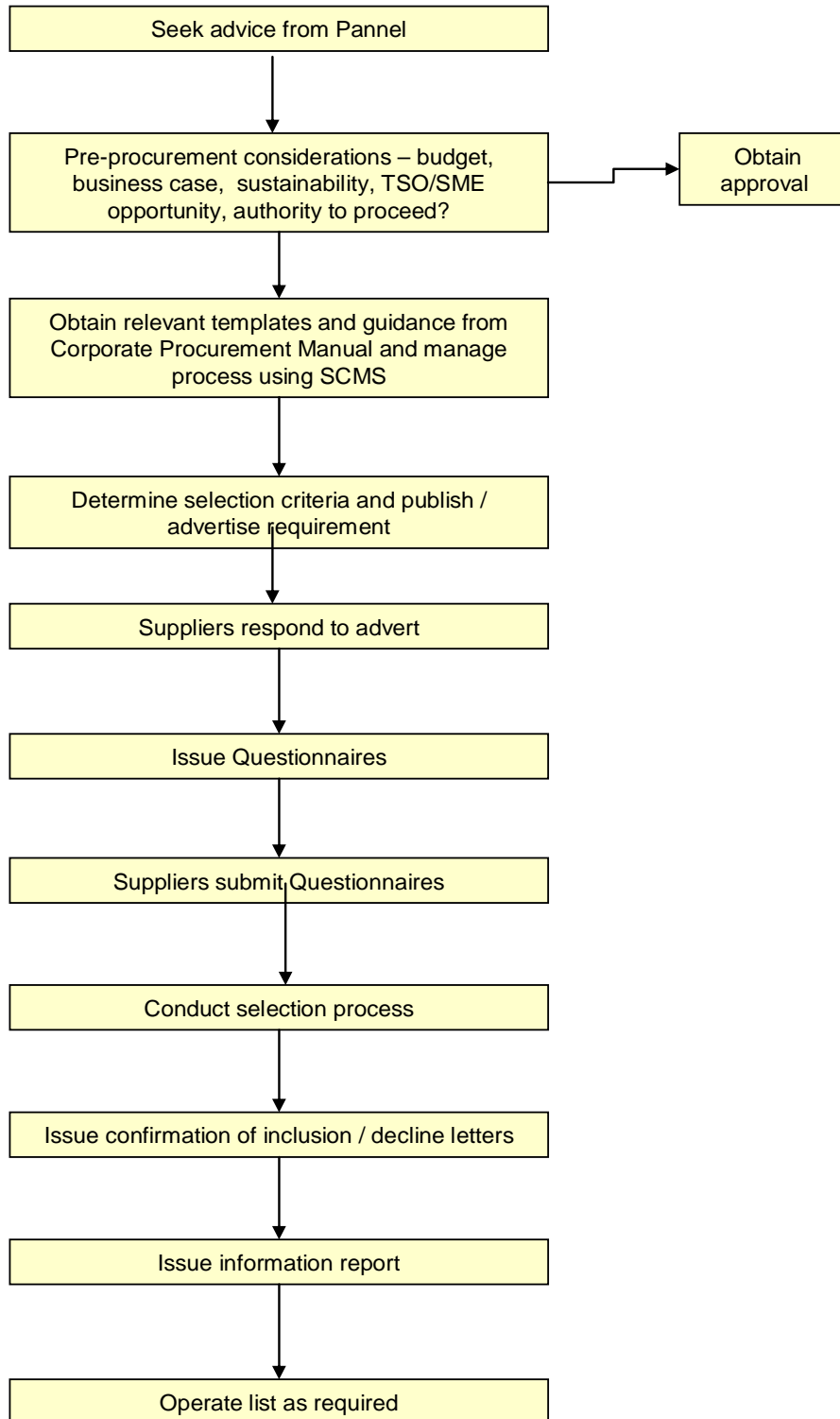
7.1 Where a decision to procure has been made, any in-house provider should be considered as potential providers of the required supplies, services or works, and should be invited to submit bids as part of the competitive process and subject to the same procedures.

7.2 No Service Area or Directorate of the council shall submit a tender or quotation to any other Service Area or Directorate of the council to perform work or supply goods or services that they do not have the capacity to deliver without recourse to external suppliers, except where the proposed external element is of a specialist nature.

Contract Procedure Rules

8 APPROVED CONTRACTOR LISTS

8.1 Where an Approved Contractor List is proposed to be established, the process for this is set out below.



Contract Procedure Rules

Approved Contractor Lists

NELC	NLC
Authorisation to Proceed with Procurement	
Verify availability of budget.	
Seek advice from PANNEL on intention to form or review any Approved Lists. Obtain approval from the budget holder and Director of Policy & Resources (NLC) or Strategic Director Governance and Transformation (NELC).	
Competitive Process	
Establish a Project Team and procurement timetable. Project managers should ensure that any procurement is undertaken in line with the council's agreed project management framework, where appropriate.	
Use a formal open procedure, and manage the process fully using SCMS .	
All contractors applying to go on the Approved List shall be required to make a formal application using the council's standard PQQ template.	
Any such list shall:	
<ul style="list-style-type: none"> • Specify the maximum number of potential contractors to be included; • specify the maximum values of concurrent contracts, amounts or categories of supplies/services/works for which each contractor is acceptable; • specify the guidelines for rotation of contractors; • be reviewed at regular intervals not exceeding 4 years; • be open for use by all Service areas of the council 	
Where alternative Terms & Conditions are used, or amendments are made to the approved standard Terms & Conditions , seek guidance and approval from Legal and Democratic Services.	
Advertisement	
<p>Mandatory Official Journal of the European Union (OJEU) approved and issued via PANNEL. After publication of the OJEU notice followed by release on SCMS advising indicative contract values, then:</p>	
<p>Optional</p> <ul style="list-style-type: none"> ▪ Advertising of open opportunities via social media e.g. Twitter subject to PANNEL advice ▪ One or more specialist trade or professional newspapers or journals where appropriate. ▪ Direct marketing is permissible, after publication of the OJEU notice, to include organisations that may not see the opportunity to ensure local / regional / national competition. ▪ Notify VANEL and VANL if considered to be a TSO opportunity. 	

Contract Procedure Rules

Approved Contractor Lists Continued

Advertisement Continued	
<p>Any advertisement shall: specify the nature and purpose of the contract, invite expressions of interest in or tenders for its execution; state the last date and time when expressions of interest or tenders will be acceptable; and comply in all respects with the requirements of the relevant EU Directive or UK legislation.</p> <p>Only information published in the OJEU notice can be included in any subsequent advertisements placed.</p>	
Receiving & Opening of Submissions	
<p>Managed using SCMS, kept confidential and opened by an independent tender opening officer nominated by the Strategic Director Governance and Transformation (NELC) or the Director of Policy & Resources (NLC). The project manager or their nominee, and relevant Cabinet Member (NLC) or Portfolio Holder (NELC) may attend at their discretion.</p>	
NELC	NLC
Contractor Selection	
<p>Applicants shall be selected on the basis of standard template questionnaire.</p>	
Authorisation to Award	
<p>Must be obtained from the relevant Strategic Director (NELC) or Director (NLC) where consistent in all respects with council's Policy and Budget Framework.</p> <p>An information report setting out the findings of the procurement exercise, together with the outcome, should be provided to the relevant Portfolio Holder (NELC) or Cabinet Member (NLC).</p> <p>Upload selection results and award using SCMS</p>	
Execution	
<p>Confirmation of inclusion letters or decline letters shall be issued using SCMS. All unsuccessful tenderers should be given the opportunity to receive a debrief.</p>	
Operation	
<p>The Approved List procedure cannot be combined with any other procedure when requesting quotes from suppliers on the list; i.e., only suppliers on the Approved List can be asked to provide quotations if an Approved List are being used.</p> <p>In-house providers shall be asked to bid on every occasion where they are capable and have expressed an interest in providing the works or services in question, unless for any reason the in-house provider decline to bid.</p> <p>The maintenance of the Approved List is the responsibility of the relevant managing Directorate or Service Area.</p> <p>Any addition, suspension, or deletion of contractors will be determined under delegated powers by the relevant Strategic Director (NELC) or Director (NLC).</p> <p>The Approved List holder shall issue an annual report to the relevant Portfolio Holder (NELC) or Cabinet Member (NLC) which shall include details of any such amendments.</p>	
Records & Documentation	
<p>The Service Area or Directorate shall retain records of the procurement exercise, in accordance with the council's approved record management or document retention policy. A record shall be kept of the selections made on each occasion that an invitation to quote or tender is used.</p>	

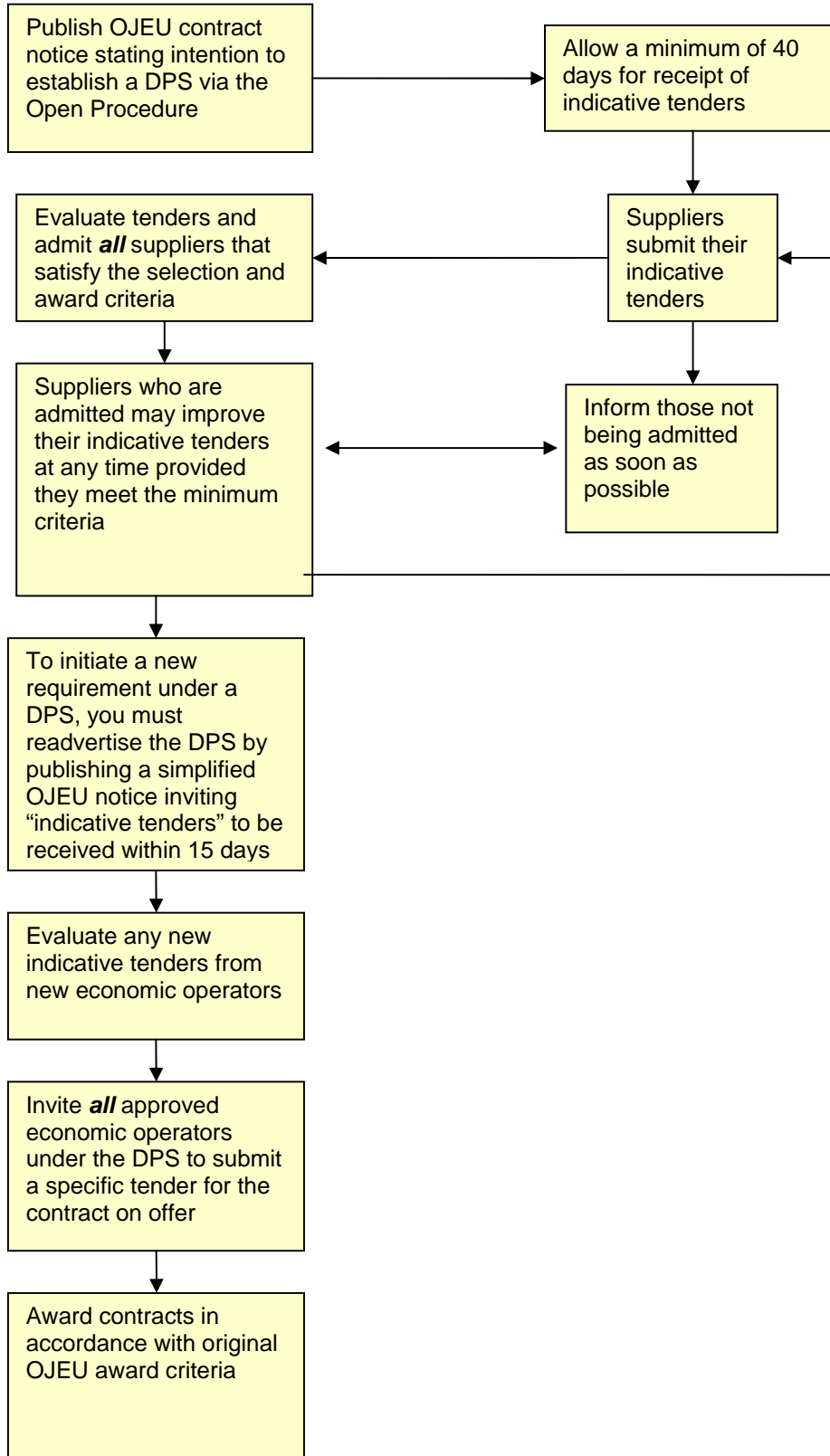
Contract Procedure Rules

9 FRAMEWORK AGREEMENTS & DYNAMIC PURCHASING SYSTEMS

- 9.1 A framework agreement or Dynamic Purchasing System (DPS) must be established or accessed where a Service Area or Directorate has an on-going requirement for supplies, services or works of a similar type which, when aggregated, exceed £50,000 a year, but may be established for lower values where considered beneficial. The framework agreement/DPS is to be established in accordance with the requirements of the CPRs with guidance from [PANNEL](#). Framework agreements/DPS are not contracts in themselves, although they are legally binding. A contract and/or purchase order should be raised separately in order to engage the relevant supplier/s when calling off requirements under a framework agreement/DPS.
- 9.2 Service Areas and Directorates must not disaggregate purchases in order to avoid the CPR requirements. Where advantageous, any purchase of greater than £10,000 should be subject to further competition between **all** suppliers who are a party to the agreement in accordance with the requirements stated by the framework owner (unless alternative provisions have been agreed.) Wherever possible and advantageous, bundling of largely similar requirements should be undertaken to maximise economies of scale.
- 9.3 The use of framework agreements established by Public Buying Organisations or other contracting authorities (as defined by the Public Contracts Regulations 2006) must be authorised by the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).
- 9.4 All framework agreements must comply with the following:
- Maximum length of 4 years
 - Specify which contracting authorities are allowed to access the agreement
 - Estimated value must include all potential call-offs by all contracting authorities
 - Conclude with either one supplier, or a minimum of **three** suppliers
 - Contracts are formed when requirements are called-off under purchase order
 - Award criteria and procedure for call-off should be as per the terms of the framework agreement
- 9.5 In determining the relative advantages and disadvantages of establishing a DPS, Framework or traditional contract model, the benefits of keeping requirements open to competition over the life of the arrangement must be evaluated.
- 9.6 A dynamic purchasing system (DPS) is a completely electronic system which may be established to purchase commonly used goods, works or services. It must be of limited duration not exceeding 4 years. Any DPS is to be established in accordance with the requirements of the CPRs with guidance from [PANNEL](#).
- 9.7 The flowchart below sets out the process for establishing a DPS and awarding contracts under it. (Please note: all time limits quoted refer to calendar days).

Contract Procedure Rules

Dynamic Purchasing Systems



Contract Procedure Rules

10 CONCESSION CONTRACTS

- 10.1 A concession contract is used where the council wishes to engage a third party to provide a service, with or without a fee payable by the council. Consideration for the service is in the form of the party (“the concessionaire”) being given a right to charge for the services being provided. Advice from [PANNEL](#) **must** be sought before engaging in any procurement relating to a concession contract. Concessions apply to services contracts and works contracts.

11 USE OF THE COMPETITIVE DIALOGUE PROCEDURE GOVERNED BY EU DIRECTIVES

- 11.1 Where authorisation is obtained from the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC) for the use of either the Negotiated or Competitive Dialogue Procedures, the provisions of the CPRs will be modified as may be required by the application of the Public Contracts Regulations 2006 in such a way as may be jointly agreed by the Director of Policy & Resources (NLC) or by the Strategic Director Governance and Transformation (NELC), and approved by Cabinet or full Council.

12 TRANSFER OF UNDERTAKING (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 – (TUPE)

- 12.1 Careful consideration needs to be given as to whether TUPE shall apply at commencement of the proposed procurement.
- 12.2 Where a proposed procurement may have implications for council employed staff, the relevant Director (NLC) or Strategic Director (NELC) will seek appropriate Cabinet Member (NLC) or Portfolio Holder (NELC) approval. The advice of the Director of Policy & Resources (NLC), or the advice of the Head of Service Human Resources & Organisational Development and the Strategic Director Governance and Transformation (NELC), shall be obtained prior to the issue of any invitation to quote or to tender.
- 12.3 It should be remembered that TUPE will apply equally to existing contractors whose contracts might be terminated as a result of the re-procurement.

13 EXCEPTIONS

- 13.1 CPRs apply to all the supplies, services, works and concessions we buy, in addition to those assets we dispose of, other than where requirements are sourced and delivered internally, and where requirements are grant funded in which case Finance Procedure Rules apply. The following additional exceptions may be applied to purchases that fall below the EU threshold levels:
- a. Where important urgent repairs are required to maintain and ensure efficient and continuous service delivery due to the breakdown, or other failure, of buildings, plant, appliances, machinery or ICT equipment or software, subject to it not exceeding the EU thresholds when aggregated. Where the urgent repair relates to a repairs & maintenance item, and where the value exceeds £2,500.00, a retrospective request for exception is acceptable.
 - b. Where renewals, repairs and upgrades to buildings, plant, appliances, machinery, vehicles or ITC equipment or software can only be efficiently carried out and most economically supplied with regards to time, cost and speed of delivery by the original contractor or supplier (or their

Contract Procedure Rules

successors or other sole specialists), subject to it not exceeding the EU thresholds when aggregated.

- c. Where urgent alternative arrangements are required to maintain the delivery of critical services due to the failure of an existing service provider or supplier.
 - d. Where an emergency situation exists as defined in the council's Emergency Plan.
 - e. When the council is properly required to adopt other procedures by a Government body or the council is procuring subsidised public transport services.
 - f. Works orders placed with utility companies (e.g. for re-routing cables or pipework).
 - g. Orders placed against corporate contracts or other approved standing arrangements.
 - h. Where the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC) is satisfied that there is only one potential supplier of the required supplies, services or goods.
 - i. Where the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC) is satisfied that the use of a recognised regional or national framework arrangement will provide the most cost effective procurement solution.
 - j. Contracts for the acquisition or disposal of land and/or property.
 - k. Contracts of Employment.
 - l. Where contracts are extended beyond their specified term.
 - m. Where there are other exceptional circumstances, and then only with the approval of the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).
- 13.2 In all instances (with the exception of k., Contracts of Employment) a written request for exception, clearly documenting the reasons, must be notified in advance to and approved by the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC) before the exception can be actioned. For exceptions of £50,000 whole-life value or below, the Assistant Director Strategic Procurement and VfM (NLC) and the Head of Commissioning and Information Systems (NELC) may approve exceptions. A standard form is optionally available for this purpose.

14 TENDER SUBMISSION ERRORS

14.1 The right to seek clarification must be expressly stated in the tender documentation.

14.2 Electronic Submission Errors

Where it is apparent that a genuine mistake has arisen during the electronic uploading process, eg a tenderer has submitted a blank document erroneously, the tenderer should be contacted and confirmation sought that this was not their intention. The tenderer should then be given the opportunity to re-submit. A statement must be issued to other tenderers advising of this decision.

Contract Procedure Rules

14.3 Clerical Errors (other than errors affecting the bid figure/s)

Where it is apparent that there is a clerical error in the bid, or other factor that makes the terms of the bid unclear, clarifications should be dealt with in accordance with the ITT and referred to [PANNEL](#) where not covered.

14.4 Errors affecting the bid figures

Where examination of bids reveals an error or discrepancy which would materially affect the bid figure(s), and hence the relative position of the tenderers should the error be corrected, then advice must be sought from [PANNEL](#), and subsequent approval obtained from the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC) prior to seeking clarification from the tenderer.

14.5 Late Tender

In all circumstances where a late tender is received, advice must be sought from the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC)

15 FINANCIAL APPRAISAL, GUARANTEES AND BONDS

15.1 Financial appraisals shall be carried out by the Director of Policy & Resources (NLC) or the Chief Finance Officer (NELC) for all contracts where the estimated contract value exceeds the threshold of any relevant EU Directive or UK legislation. These should also be carried out where there would be a significant effect on the delivery of council services in the event of contractor default or cessation of supply or service.

15.2 Where considered appropriate following a financial appraisal of a potential contractor against the council's minimum standards of financial standing and stability, the potential contractor may be required to provide a Parent Company Guarantee or a Performance Bond in a form acceptable to the council for the duration of the contract (including any extension period.) Any such Guarantee or Bond shall only be required where it is deemed that there is a specific ascertainable risk.

16 PREVENTION OF CORRUPTION & THE BRIBERY ACT 2010

16.1 Requests for quotations and invitation to tenders must inform prospective tenderers of the council's whistle blowing policy

16.2 All contracts must contain a clause to the effect that the council will be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if:

- the contractor, his employees or agents, shall have offered or given or agreed to give to any persons any gift or consideration of any kind as an inducement or reward in any way relating to the contract or any other contract with the council; or
- in relation to any contract with the council, the contractor, his employees or agents, shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, Section 117 of the Local Government Act 1972 and the Bribery Act 2010.

16.3 The Bribery Act 2010 has created the following new offences that can have particular relevance for the award of public contracts:

- bribing a person to induce or reward them to perform a relevant function improperly;
- requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly;
- failing to prevent bribery

Contract Procedure Rules

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. It is a criminal offence.

NEL's policy can be found at:

<http://www.nelincs.gov.uk/council/councillors-democracy-elections/standards/bribery-act-2010/>

NLC's policy can be found at:

<http://www.northlincs.gov.uk/NorthLincs/CouncilandDemocracy/finances/Fraud/CounterFraudStrategy.htm>

Officers and elected members involved in procurement must be aware of the above policies and in particular the importance of declarations of interest.

17 REPORTING OF TENDERS

17.1 PANNEL will:

- Publish details of all contracts let over £10,000 on a monthly basis to comply with the Transparency code of practice guidelines
- report annually on all contracts let over £10,000 in the previous 12 months
- report quarterly on all consultancy contracts let (NLC only)

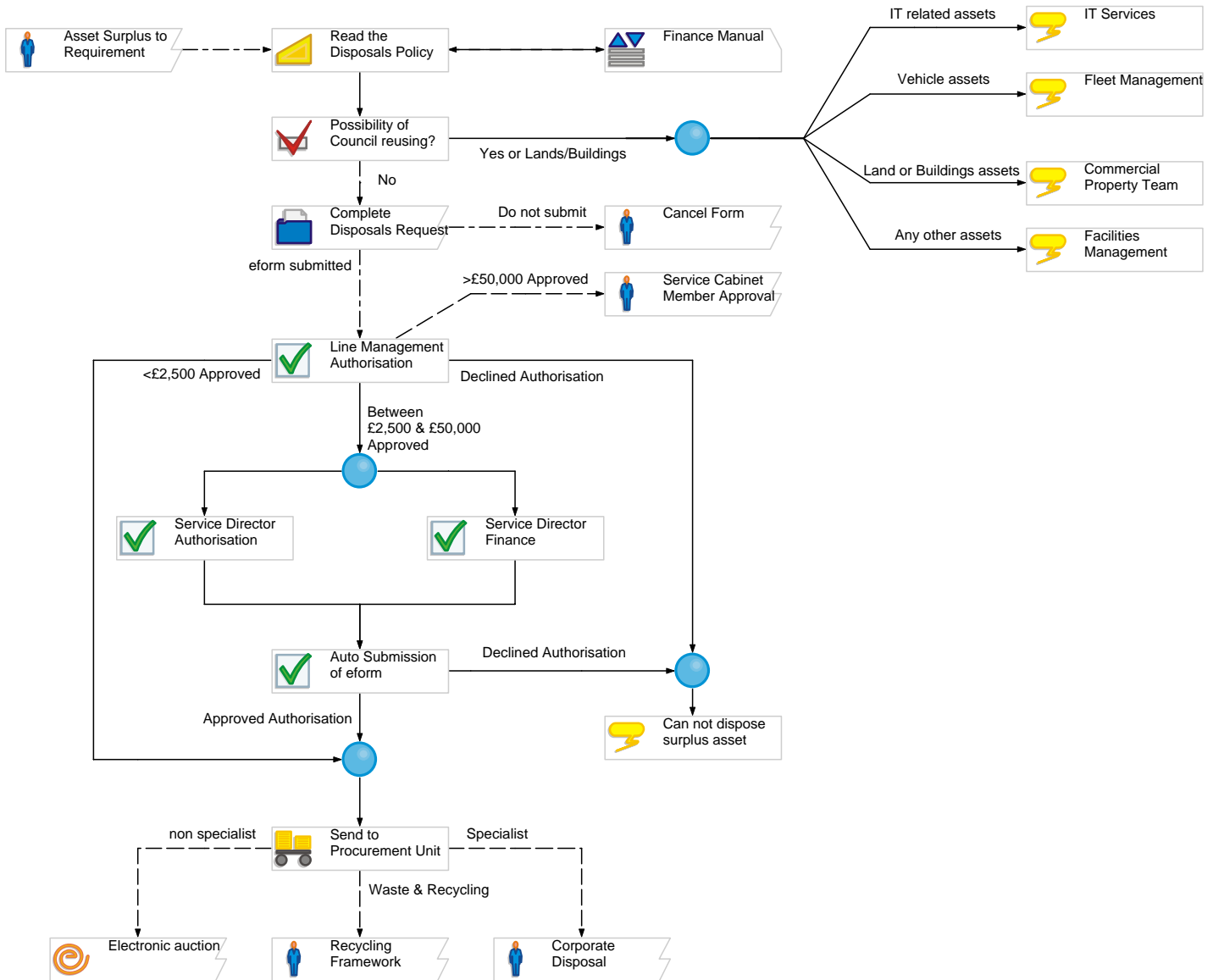
18 DISPOSAL & WRITE-OFF OF ASSETS (EXCLUDING LAND & PROPERTY)

18.1 A disposal request form must be completed for disposals under £50,000, approved by authorised officers (as detailed in the process map below) and forwarded to the Corporate Procurement Unit to be actioned based on the information provided. Items over £50,000 will require service cabinet member approval.

The process for disposal is detailed in the chart below:

Contract Procedure Rules

Disposal & Write-Off Of Assets



Contract Procedure Rules

19 MAINTAINED SCHOOLS

- 19.1 Schools are required to comply with CPRs except where amended by the school's Scheme of Financial Delegation.

20 PROVISION OF SERVICES TO EXTERNAL BODIES

- 20.1 In all cases where the council proposes to supply services to, or carry out work for external bodies with or without charging, prior written advice should be obtained from the Director of Policy & Resources (NLC) or the Strategic Director Governance and Transformation (NELC).

21 CAPTURING SAVINGS

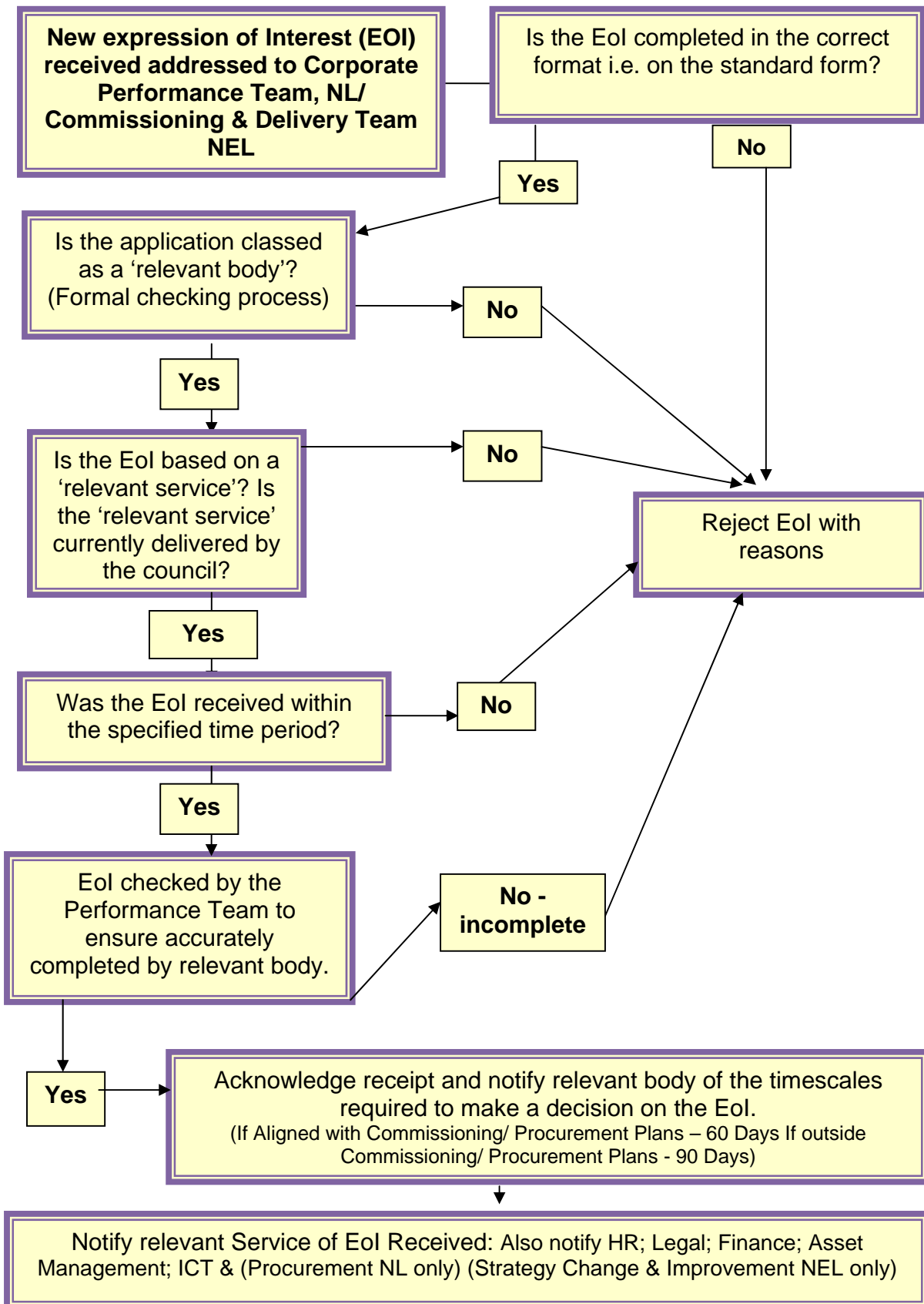
- 21.1 Any savings that are achieved through procurement activity must be recorded. Please refer to Appendix 1 of the document entitled 'Budget adjustment process' for guidance on this or seek advice from PANNEL if required.

22 COMMUNITY RIGHT TO CHALLENGE

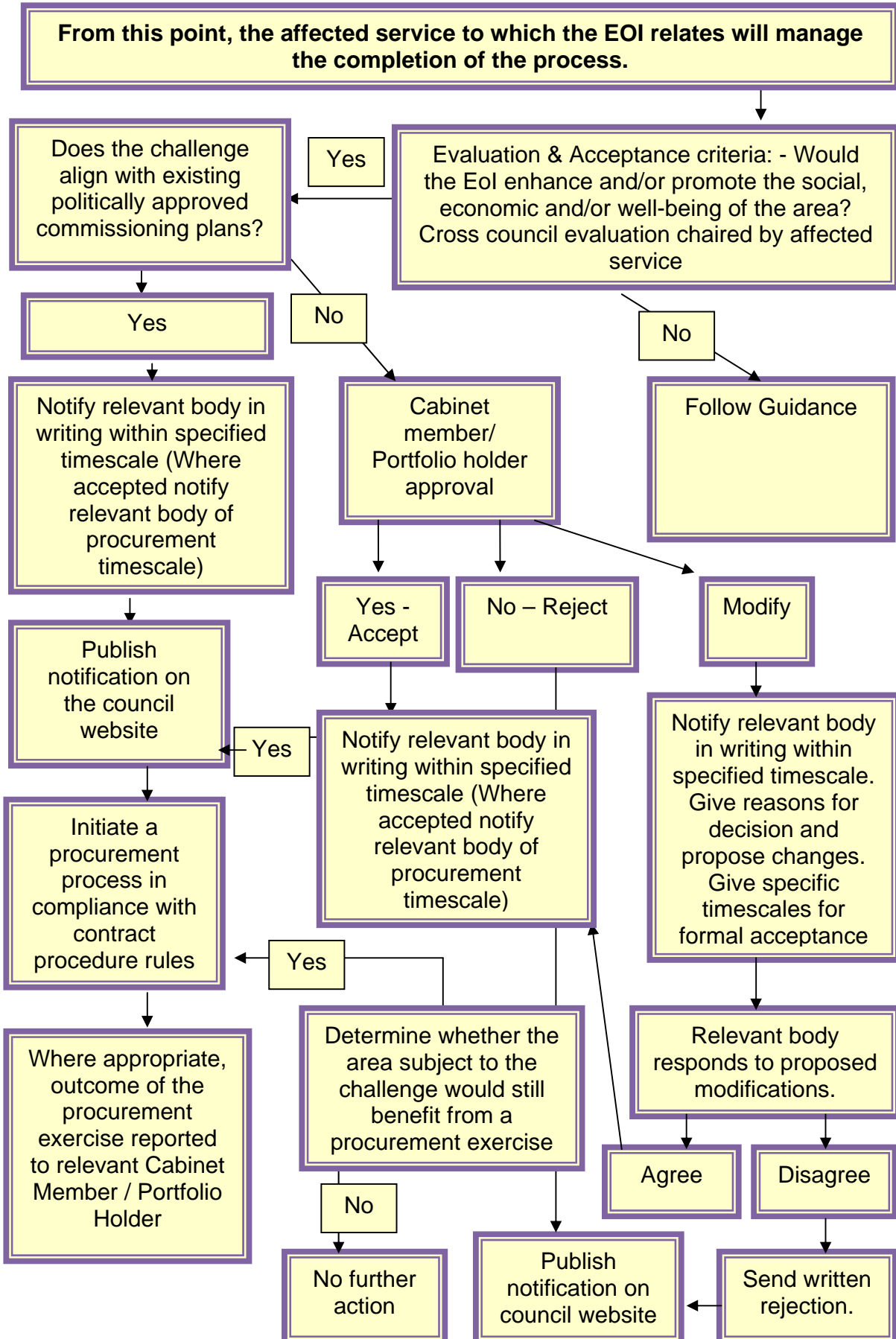
- 22.1 The Localism Act came into force on 15 November 2011. Among its many provisions the Act provides new powers for local communities. One specific and significant provision is the "Community Right to Challenge". The Act provides 'relevant bodies' with the right to challenge the running of local authority services where they believe they could do this differently or better.
- 22.2 Corporate guidance has been produced on the management of challenges received under the Act. An overview of the process for managing challenges is set out below.

Contract Procedure Rules

Community Right to Challenge Expression of Interest Process Map



Contract Procedure Rules



Contract Procedure Rules

APPENDIX I **Definitions & Glossary**

Academy	A school that is directly funded by central government and independent of local authority control
Aggregation	The identification of similar purchases made and combined aggregated requirements over a specified period of time
Appropriate Officer	Member of staff who has delegated authority to conduct procurement exercises
Approved List	A list of suppliers/providers who have already been approved as suppliers to the council
BSF	Building Schools for the Future
Cabinet Member	Elected member of the council who is responsible for the Cabinet Portfolio under which the service area sits
Closed Tender Process	A number of providers are selected by the council to be invited to participate in the tender opportunity as opposed to being “open” where anyone can submit an offer.
Commissioning	The process of specifying, securing and monitoring services to meet people’s needs at a strategic level. An ongoing process, it deals with whole groups of people, which distinguishes it from the process of buying individual services.
Constitution	The set of legal, administrative and legislative principles by which the council is governed, especially in relation to the rights of the people it governs.
Contract	Document setting out various particulars for the provision of supplies, services and works
Corporate Plan	The document by which the council sets out its priorities and objectives, and how it will achieve them
Corporate Procurement Manual	Document giving further advice and clarification regarding procurement and templates for use within the procurement process
Corporate Procurement Strategy	The document by which the council’s Strategic Procurement Unit sets out its priorities and objectives, and how it will achieve them
Councils	North East Lincolnshire Borough Council and North Lincolnshire Borough Council

Contract Procedure Rules

CPR	Contract Procedure Rule
Directorate	An area of the council that is responsible for specific service delivery
Disaggregation	The splitting down of requirements into lower value packages
Electronic auction	Price based procurement auction performed online following evaluation against non-price criteria. Usually a reverse auction where bidders repetitively lower their prices.
EU	European Union
Framework Agreement	An overarching agreement with a supplier where prices, specifications and terms are pre-agreed, but where there is no obligation to purchase. Requirements are “called off” as and when required over a specified timeframe.
ITT	Invitation to Tender
Key Decision (NELC)	Definition available at http://www.nelincs.gov.uk/council/policies-and-strategies/governance-and-democracy/constitution/ (section 4(9(b)))
Key Decision (NLC)	Definition available at http://www.northlincs.gov.uk/NR/rdonlyres/5245A9A5-F8C1-482D-A8E4-9E7CDD95E4AB/49138/NLCCConstitution2016.pdf (section B13.03)
Maintained School	Primary and secondary schools funded by central government via the local authority, not charging fees to students.
MEAT	Most Economically Advantageous Tender
Moderated Score	For each criterion or response considered under an evaluation, the evaluation team agrees one score for the said criterion (not an average or an aggregated score across the evaluation team members)
Monitoring Officer	The Monitoring Officer ensures the lawfulness and fairness of council decision making and serves as the guardian of the council's Constitution and the decision-making process. Responsibilities include advising the council on the legality of its decisions, providing guidance to councillors and officers on the council's Constitution and its powers and assisting the Standards Committee in its role of promoting and maintaining high standards of conduct and probity within the council.
NELC	North East Lincolnshire Council

Contract Procedure Rules

NLC	North Lincolnshire Council
OJEU	Official Journal of the European Union
Option Appraisal	The assessment of options in order to establish the most viable or feasible course of action
PIN	Prior Information Notice
PQQ	Pre-Qualification Questionnaire
Priorities	The areas that the council or PANNEL believes are important in order to deliver services to citizens
Procurement	The process of acquiring supplies, services and goods from third parties
Purchasing Consortia	A group of organisations joining together for the shared purpose of purchasing supplies, services or works
Relevant Bodies	A group of organisations defined in the Localism Act 2011, specifically voluntary and community organisations, charitable organisations, a group of two or more council employees, parish and town councils.
RFQ	Request for Quotation
Risk Management	The identification of potential risks and the arrangement of contingency plans to manage or minimise those risks
SCMS	Supplier Contract Management System (or equivalent e-tendering system) web portal by which the council effectively advertises and manages quotations and tenders
SME	Small and Medium sized Enterprises
SME Concordat	A nationally recognised procurement agreement to encourage a mixed range of suppliers to help develop and stimulate a varied and competitive marketplace
Strategic Director	Officer who is responsible for a Directorate of the council
Threshold Level	Sets out the amount of money (or contract value) by which different procurement procedures are followed
TSO	Third Sector Organisation. A non-governmental organisation which principally reinvests its surpluses to further social, environmental or cultural objectives

Contract Procedure Rules

TUPE	The Transfer of Undertaking (Protection of Employment) Regulations 2006 (SI No.2006/246) as amended or re-enacted from time to time
Value for Money	Obtaining the most economical, efficient, and effective solution
VANEL / VANL	Voluntary Action North East Lincolnshire / Voluntary Action North Lincolnshire help and advise people working in the voluntary and community sector through development work, service provision and support, finance and policy provision
VAT	Value Added Tax