

**NORTH LINCOLNSHIRE COUNCIL**

**COUNCIL**

**AMENDMENTS TO ARTICLE 14 OF THE CONSITUTION AND THE CONTRACT  
PROCEDURE RULES (CPRs)**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

1.1 To seek approval to amendments to the CPRs (Part D Rule 7) and Article 14 of the Constitution following legislative change and local and national developments in procurement practice.

1.2 The key points in this report are:

- The mandatory procedures on how procurement should be conducted are set out in the CPRs which form part of the Council's Constitution.
- CPRs were last substantively updated and approved by Council in January 2021.
- Amendments to the CPRs are required to ensure that they continue to meet legislative requirements, reflect best practice, guidance and align with the Council's organisational development goals.

**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 the CPRs, which form an integral part of the Council's constitution.

2.2 CPRs were last substantively reviewed and approved by Council in January 2021.

2.3 Since the CPRs were last reviewed, there has been legislative change and practice developments at both national and local level, which may be summarised as follows:

- National – Procurement Policy Note 10/21 Threshold and Inclusion of VAT was issued in December 2021 setting new thresholds for the Public Contract Regulations and changes to estimating contract values and VAT.

- Social Value – the inclusion of Social Value in all tender exercises over the value of £100,000.
- Electronic Signature Software – in line with developments in electronic signature software and the move towards electronic contracting and document management, the Council has purchased electronic signature software (DocuSign), including an electronic Common Seal. It is therefore proposed to amend Article 14 of the Constitution to enable documents that are required to be executed by affixing the Council's common seal to include the flexibility to affix an electronic common seal in addition to the current paper common seal. The proposed changes to Article 14 are shown highlighted in Appendix 1.
- Framework Agreement Governance – clarification is required to the relevant governance approvals required for calling off an established Council-Wide Contract, Framework Agreement and Dynamic Purchasing System.
- Exception Requests – clarification is required to confirm when a request is required and when they request should also be a Key Decision.
- Highways and Construction Framework – clarification on internal use of the Council-Wide Contract.

2.4 The following key amendments to the CPRs are proposed to ensure that they continue to reflect best practice and enable the achievement of the council's goals, priorities and outcomes:

- All procurement exercises over the value of £100k must comply with the Social Value Portal National Themes, Outcomes and Measures Framework (CPR 1.2).
- New governance approvals included where the capital budget for the procurement exercise has already been approved by Council. (CPR 1.4.7)
- Reflecting guidance in Procurement Policy Note 10/21 the new procedural threshold and inclusion of VAT when calculating overall value of a procurement exercise have been included and adopted. (CPR 1.5.1)
- Service Areas are to comply with the Highways and Construction and Professional Services requirements table when calling off any works or services under the Highways and Construction Framework or Professional Services Framework. (CPR 1.5.5)
- New simplified table setting out the governance requirements and approvals for procuring a call off contract under a Council-Wide Contract, established Framework Agreement or Dynamic Purchasing System. This is to assist service users to easily identify what is required and by when. (CPR 1.5.5).
- All contracts (unless determined otherwise), including those that are to be executed by the Assistant Director of Governance and Partnerships shall be signed and completed using the Council's electronic signature software

(DocuSign). This is to align practices and procedures to the recently procured Council-Wide electronic signature software contract. (CPR 1.6.5 to 1.6.8)

- The process for supply of works from £100,000 to £4,733,252 (threshold level) may only be used where it has been agreed with the Service Area Lead and the Business Services Framework Manager Lead that the Council-Wide Contract (Highways and Construction Framework) cannot be used.
- Clarification that a Key Decision must be obtained for any request for exception to the CPR's where the request meets the criteria for a Key Decision. (CPR 3.3)
- Clarification to confirm when an exception request form is required and when it is not when undertaking to use a procurement process within a Council-Wide Contract, established Framework or Dynamic Purchasing System. (CPR 3.4)

2.5 These proposed amendments to the CPRs are shown highlighted in Appendix 2.

### **3 OPTIONS FOR CONSIDERATION**

3.1 Option 1: Approve the proposed amendments to the CPRs and Article 14 within the Council's Constitution as detailed in Appendices 1 and 2.

3.2 Option 2: Do not approve the proposed amendments to the CPRs and Article 14 within the Council's Constitution.

### **4. ANALYSIS OF OPTIONS**

4.1 Option 1: The proposed amendments will ensure the CPRs and Article 14 reflect current public procurement policy, legislation and best working practice, following input from relevant legal, professional and technical advisors.

4.2 Option 2: To not approve the proposed amendments to the CPR's and Article 14 would mean that they do not adhere to current public procurement policy, legislation and best working practice.

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

5.1 The proposed amendments will help the Council obtain better value for money from its contracting arrangements. Furthermore, a modern and effective procurement framework underpinned by effective CPRs will support the Council's organisational development goals and attainment of wider council objectives as detailed in the Council Plan.

5.2 A council-wide communication message will be issued detailing the changes 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 No other relevant implications have been identified arising from this report.

**7. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE) CONSULTATION**

7.1 An Integrated Impact Assessment has been completed with no adverse findings identified.

**8. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTEREST DECLARED**

8.1 Feedback and advice has been sought from relevant legal, professional and technical advisors and key users of CPRs.

8.2 No conflicts of interest have been declared or identified arising from this report.

**9. RECOMMENDATIONS**

9.1 That Option 1 is approved and the proposed amendments to the CPRs and Article 14 as detailed in this report are approved, adopted, and incorporated into the Constitution.

DIRECTOR: GOVERNANCE AND COMMUNITIES

CHURCH SQUARE HOUSE  
SCUNTHORPE  
DN15 6NL

Ref: Katy Hague/Nina Torr  
Date: 9 May 2022

**Background Papers used in the preparation of this report:**

Contract Procedure Rules report to Council in January 2021.

#### **B14.01 FINANCIAL MANAGEMENT**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part D of this Constitution.

#### **B14.02 CONTRACTS**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part D of this Constitution.

#### **B14.03 LEGAL PROCEEDINGS**

The Assistant Director: Governance and Partnerships is authorised to institute, defend, settle or participate in any legal proceedings in cases where such action is necessary to give effect to decisions of the Council or in any case where that officer considers that that action is necessary to protect the Council's interests.

Where any document is necessary to any legal procedure or any proceedings on behalf of the Council, it will be signed by the Assistant Director: Governance and Partnerships or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

#### **B14.04 THE COMMON SEAL OF THE COUNCIL**

The Common Seal of the Council, including an electronic version approved by the Assistant Director: Governance and Partnerships, will be kept in a safe place in the custody of the Assistant Director: Governance and Partnerships. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal, including an electronic version, will be affixed to those documents which in the opinion of the Assistant Director: Governance and Partnerships should be sealed. The affixing of the Common Seal will be attested by the Assistant Director: Governance and Partnerships or any other officer authorised by him in writing.

# Part D Rule 7: Contract Procedure Rules

May 2022

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## Procurement Frequently Asked Questions

- Do CPRs apply – page 3,4
- Is it a Key Decision – page 6 and process tables on page 8,9
- Do I need an exception – page 26
- Where can I find an exception request form – TopDesk
- Where can I get further guidance? – Procurement “Ask Us” TopDesk
- What is the process for Supplies and Services?
  - Up to £100k – table on page 20, Self-service Checklist on TopDesk
  - £100k-£189k – table on page 21
  - Over £189k – table on page 22

## 1. Contract Procedure Rules

### 1.1. Introduction

- 1.1.1. The Local Government Act 1972 section 135 requires the Council to have standing orders setting out for how it will enter into contracts. These Contract Procedure Rules (CPRs) are the framework of mandatory procurement procedures that must be followed by officers and members when entering into contracts on behalf of the Council. They form an integral part of the Council's Constitution.
- 1.1.2. These CPR's govern **ALL** purchases of works, goods, services, and supplies across the whole Council, which must be adhered to by Council officers, duly authorised third persons and members.
- 1.1.3. All Council procurements **MUST** demonstrate: true and fair competition, public accountability, an open, fair, and transparent process, seek to prevent bribery and corruption, whilst ensuring probity. All procurements **MUST** demonstrate a full audit trail.
- 1.1.4. If the Council fails in this duty to adhere to these CPR's and legislative requirements, 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 members also have a personal responsibility to comply with these CPRs. Procurement practices are scrutinised by bidders and government (The Public Procurement Review Service).

1.1.5. These CPRs:

- help the Council obtain value for money so that, in turn, value for money services may be provided to the public;
- ensure the Council complies with the law governing spending of public money and the policy on transparency regarding Council expenditure;
- provide a legal and auditable framework for the Council's procurement activities;
- protect Council officers and members from undue criticism or allegation of wrongdoing; and
- support the delivery of commissioning strategies.

## 1.2. Compliance and Application

1.2.1. These CPR's DO apply to:

- all contracts for the supply of works, goods, or services (including consultancy) to the Council, regardless of value, including where the spend has been provided by way of a grant to the Council;
- partnership and collaborative arrangements with other public bodies;
- concession contracts;
- development agreements to which the Public Contract Regulations 2015 ("the **Procurement Regulations**") apply;
- in-house providers;
- any acceptance of a "community right to challenge" under the Localism Act 2011;
- and any substantial modification of an existing contract except where the modification has clearly been provided for in the original contract terms or has been approved in writing by the Council's Monitoring Officer.

1.2.2. They do NOT apply to:

- where requirements are sourced and delivered internally;

- academies (unless the Council is leading a procurement which an academy is participating);
  - where a Council acts for another non-regulated body;
  - a contract with a Council-owned company which the Council's Monitoring Officer advises falls outside the scope of procurement in accordance with the Procurement Regulations;
  - contracts for the acquisition or disposal of land and buildings;
  - contracts of employment;
  - where the Council awards a grant to an external organisation;
  - contracts for local bus services, where the de-minimis provisions of the Transport Act 1985 and regulations made under it apply provided that they are awarded in accordance with those regulations and criteria approved by the Council'; and
  - contracts, which the Council's Monitoring Officer, in conjunction with the service area lead advises in writing falls within the provisions of section 91 of the Transport Act 1985.
- 1.2.3. Maintained Schools shall procure or purchase goods, works, suppliers or services in accordance with the Scheme for Financing Schools and the Procurement Regulations (when appropriate).
- 1.2.4. All procurement of services and contracts shall comply with:
- these CPR's;
  - the Council's Finance Manual;
  - the Council Plan;
  - the Council's Social Value Charter;
  - the Social Value Portal National Themes, Outcomes and Measures Framework (where appropriate and upon advice from the Procurement Team);
  - where applicable the Procurement Regulations and UK Legislation;
  - the Best Value Statutory guidance;
  - any Public Procurement Policy Notes (where appropriate and upon advice from Procurement Team and Legal Services); and
  - where applicable the UK Steel Charter.
- 1.2.5. An audit trail for all procurements should be maintained and where they are over the threshold level (identified within paragraph 1.5.1) specific decisions

and verifications must be recorded and be available throughout the procurement and after the contract has been awarded in line with the Procurement Regulations and UK Legislation requirements.

- 1.2.6. No member or officer of the Council acting without proper authority shall enter, either orally or in writing, into any contract in the Council's name.
- 1.2.7. 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 these CPR's unless otherwise exempted in writing by the Assistant Director Governance and Partnerships.
- 1.2.8. Where the Council is procuring jointly with North East Lincolnshire Borough Council, this must be done in accordance with the terms of the Joint Procurement Agreement. A Joint Project Initiation Document must be completed and signed by both authorities at the beginning of the procurement exercise.
- 1.2.9. Where the Council is procuring with any other body (such as any other Council or a Clinical Commissioning Group or other health body), then a legally binding agreement must be entered into with that body to secure the actions or contributions of all parties, such terms of the agreement must be approved by the Monitoring Officer.
- 1.2.10. Where there is a conflict between these CPR's and the Procurement Regulations, the Procurement Regulations shall prevail.
- 1.2.11. These CPR's may be reviewed and/or amended:
  - by the Monitoring Officer in accordance with the Council Scheme of Delegation; or
  - by the Monitoring Officer where such amendments are required due to an emergency or as appropriate in accordance with Council Constitution; or
  - at any time, where considered appropriate, in accordance with the Council's Constitution.

### 1.3. Confidentiality and Conflicts of Interest

- 1.3.1. Subject to the Council's obligations under the Freedom of Information Act 2000, codes of practice and local policy requirements, any information provided by economic operators that is designed as confidential which has been forwarded to the Council by economic operators shall not be disclosed to any other third party or person.

- 1.3.2. The Council shall, when undertaking a procurement, take appropriate measures to effectively prevent, identify and remedy arising in accordance with the Council's Officer's Code of Conduct.
- 1.3.3. A procurement includes:
- preliminary market consultations;
  - developing procurement documentation.
  - deciding on the scope or structure of the procurement;
  - choice of award procedure;
  - selection of tenderers;
  - mini competitions or direct awards through Framework Agreements or Dynamic Purchasing Systems;
  - award of the contract; and
  - contract management.
- 1.3.4. A conflict of interest includes, but is not limited to, where any Council officer or member has:
- a direct or indirect financial, economic, or other personal interest which might be perceived to compromise their impartiality and independence; and
  - accepts or has accepted gifts or hospitality from organisations or suppliers that the Council has dealings with.
- 1.3.5. All members and Council officers are to complete the Council's Conflict of Interest Form prior to starting any procurement exercise.
- 1.3.6. Conflicts of interest must be proactively monitored throughout the procurement process, documented, risk assessed and where a conflict is identified, notified to the Monitoring Officer. Records must be available on request and will form part of the Regulation 84 report for all contracts procured in accordance with the Procurement Regulations.

#### 1.4. Governance Requirements

- 1.4.1. The Council's Constitution requires all officers, to obtain the necessary approvals before commencing a procurement exercise and upon award of a contract.
- 1.4.2. The type of approval will vary depending on the value of the procurement exercise/contract. The table below identifies the governance requirements for all procurement exercise excluding those which are a call off from an

existing Council-Wide Contract, Framework Agreement or DPS (these are set out at paragraph 1.5.5.6). The values stated in the table below are accumulated spend over the lifetime of the contract, including any extensions.

- 1.4.3. A Key Decision is an executive decision that is likely to:
- result in the council incurring expenditure or the making of savings (including the receipt or loss of income) over £350,000.
  - have significant effects on communities living or working in an area comprising of two or more electoral wards or electoral divisions in the area of the local authority.
- 1.4.4. The government has not defined the term 'significant'. Each council is free to make its own arrangements for decisions within the definition of a 'key decision'.
- 1.4.5. Where a procurement exercise or contract is below the value of £350,000 but may have effect on community living as identified in paragraph 1.4.3. above, the Service Area Lead must seek written confirmation from the relevant Director (in conjunction with Democratic Services) as to whether a Key Decision is required.
- 1.4.6. For any procurement exercise or contract, where a Key Decision is required, the Key Decision Notice and Decision should be published and concluded at the earliest opportunity within the process, and in all cases prior to any Contract Notice being published or Invitation to Tender being made available to the market.
- 1.4.7. In accordance with paragraph 1.3 of the Council's Scheme of Delegation to Officers a Director may delegate their powers under these CPRs to another officer, either fully or in part and subject to such limitations as considered reasonable by the Director, providing such delegation is in writing and signed and dated by the Director and a copy of such delegation is supplied to the Service Manager Democracy. It is recommended that before any such delegation takes place, the written advice of the Service Manager: Democracy is obtained.
- 1.4.8. Service Areas are encouraged to contact Democratic Services for any advice and support in relation to the governance requirements set out in these CPRs.

<u>Value (Whole Life including extensions)</u>	<u>Type/level of approval</u>	<u>Action Required Pre- Procurement</u>	<u>Action required Post Award</u>
<p>Below £350,000*</p> <p>*Please also consider paragraphs above regarding Key Decision if applicable</p>	<p>Director approval to commence procurement exercise and award contract within delegations.</p>	<ul style="list-style-type: none"> <li>• Officer Decision Record to commence procurement to be signed by the relevant Director and/or authorised officer and recorded accordingly on a timely basis.</li> <li>• Approval to award may be delegated to another officer at this stage, but such delegation must be included within the Officer Decision Record and a copy provided to the Service Manager: Democracy.</li> </ul>	<ul style="list-style-type: none"> <li>• Officer Decision Record signed by the relevant Director for the award of the contract after a successful procurement exercise.</li> <li>• If approval to award has been delegated by a Director to another officer, then an Officer Decision Record must be completed by that officer and a copy of the written delegation provided to the Service Manager: Democracy.</li> <li>• Any Officer Decision Record that relates to a decision to award a contract that is over £100,000, save those contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities, must be recorded and published via Democratic Services in accordance with the arrangements specified in the Council's Constitution.</li> </ul>
<p>£350,000 - £999,999</p>	<p>Key Decision Notice and Director approval to commence</p>	<ul style="list-style-type: none"> <li>• Key Decision Notice to be signed by the Director: Governance and Communities and published on the council's</li> </ul>	<ul style="list-style-type: none"> <li>• An Officer Decision Record to award must be signed by the Director and recorded and published via Democratic</li> </ul>

	<p>procurement exercise and award contract within delegations.</p>	<p>website via Democratic Services for a minimum of 28 days prior to the officer decision to commence the procurement. (General exception and special urgency provisions are available in exceptional circumstances)</p> <ul style="list-style-type: none"> <li>• The Decision to commence procurement is then taken and published any reasonable time after the 28 days.</li> <li>• Officer Decision Record to commence procurement to be signed by relevant Director and/or authorised officer <b>and</b> published on the council's website via Democratic Services on a timely basis (with any accompanying report, unless the report contains exempt commercially sensitive and related financial information – both should still be sent to Democratic Services).</li> <li>• Once the Officer Decision Record has been published elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny panel (meeting to be held within 5 working days</li> </ul>	<p>Services in accordance with the arrangements specified in the Council's Constitution, save those contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities.</p> <ul style="list-style-type: none"> <li>• If approval to award has been delegated by a Director to another officer, then an Officer Decision Record must be completed by that officer and a copy of the written delegation provided to the Service Manager: Democracy.</li> </ul>
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		<p>of call in being received). The Decision is implemented after the 2 workings days if not called in.</p> <ul style="list-style-type: none"> <li>Approval to award may be delegated to another officer at this stage, but such delegation must be included within the Officer Decision Record and a copy provided to the Service Manager: Democracy.</li> </ul>	
<p>£1,000,000 plus</p>	<p>Key Decision Notice and Cabinet Member decision to commence procurement exercise.</p> <p>Director decision to award contract with award report to reference cabinet member notification of procurement outcome.</p>	<ul style="list-style-type: none"> <li>Key Decision Notice to be signed by the Director; Governance and Communities and published on the council's website via Democratic Services for a minimum of 28 days prior to the Cabinet Member Decision to commence the procurement. (General exception and special urgency provisions are available in exceptional circumstances)</li> <li>The Decision (by way of Cabinet Member minute) is then taken and published any reasonable time after the 28 days.</li> <li>Cabinet Member report to be published on the Council's website via Democratic Services on a timely</li> </ul>	<ul style="list-style-type: none"> <li>An Officer Decision Record to award must be signed by the Director and recorded and published via Democratic Services in accordance with the arrangements specified in the Council's Constitution, save those contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities.</li> <li>The Director should inform the relevant Cabinet Member of the outcome of the procurement exercise and the decision to award.</li> </ul>

		<p>basis.</p> <ul style="list-style-type: none"> <li>• 5 clear days after the Cabinet Member report has been published the minutes of the meeting with the Cabinet Member are published and elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny panel (meeting to be held within 5 working days of call in being received). The Decision is implemented after the 2 workings days if not called in.</li> </ul>	
<p>£0 - £1,000,000 plus where the Capital budget has already been approved by Council</p>	<p>Director approval to commence procurement exercise and award contract within delegations.</p>	<ul style="list-style-type: none"> <li>• Officer Decision Record to commence procurement to be signed by the relevant Director and/or authorised officer and recorded accordingly on a timely basis.</li> <li>• Approval to award may be delegated to another officer at this stage, but such delegation must be included within the Officer Decision Record and a copy provided to the Service Manager: Democracy.</li> </ul>	<ul style="list-style-type: none"> <li>• Officer Decision Record signed by the relevant Director for the award of the contract after a successful procurement exercise.</li> <li>• If approval to award has been delegated by a Director to another officer, then an Officer Decision Record must be completed by that officer and a copy of the written delegation provided to the Service Manager: Democracy.</li> <li>• Any Officer Decision Record that relates to a decision to award a contract that is over £100,000, save those contracts relating to placements for individuals care</li> </ul>

			<p>and support or such other categories of contract that are exempted by the Director: Governance and Communities, must be recorded and published via Democratic Services in accordance with the arrangements specified in the Council's Constitution.</p>
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## 1.5. Pre-Procurement Requirements

### 1.5.1. Calculating the Contract Value and Procedural Thresholds

- It is important to ensure that the correct procedure is adopted and where there is a risk of a requirement falling above a threshold, the process for the higher threshold should be applied. Any procurement exercise or contract valued within 10% of the relevant threshold, the Service Area Lead should consider following a tendering process in accordance with the Procurement Regulations.
- The thresholds that apply will be those advised by the Cabinet Office, as detailed below and as may be amended from time to time. The current thresholds set out below are valid from 1 January 2022:

<b>Public Sector Contracting Authorities (excluding Schedule 1 authorities)</b>						
<b>Supplies</b>	<b>Services</b>	<b>Light Touch Regime</b>	<b>Concessions</b>	<b>Works</b>	<b>Utilities (Works)</b>	<b>Utilities (Services)</b>
£213,477	£213,477	£663,540	£5,336,937	£5,336,937	£5,336,937	£426,9655

- In determining which threshold applies, the whole-life costing including the cost of maintenance, spares, upgrades, decommissioning, and disposal inclusive of VAT of the proposed contract or framework agreement must be considered. Any option to extend and potential future modifications to a contract must also be considered as to whether the thresholds would be exceeded with the extension value included, even if the option to extend or the foreseen modifications is not eventually exercised.
- 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. Where requirements include a mix of supplies, services and/ or works elements, advice should be sought from The Procurement Team as to which threshold is applicable and to determine the process to be followed.
- The Council must not Disaggregate or sub-divide like or similar works by procuring multiple smaller or charter contracts to avoid the requirements of these CPRs, the Procurement Regulations or UK Legislation.

- All monetary thresholds referred to in this document include VAT and all applicable taxes and charges.

### **1.5.2. Planning and Approvals**

- Service Area Leads must allow sufficient time to carry out a procurement exercise in order to be compliant with these CPR's and the Procurement Regulations.
- For any procurement exercise or contract that is over the value of the procedural thresholds set out at paragraph 1.5.1 above, Service Area leads are advised to establish a project team based on the complexity and risk. As a minimum it is advised that the following is to be included within the project team:
  - the Services Area Lead responsible for the managing and delivering the procurement exercise and contract;
  - a representative from the Procurement Team;
  - a representative from Legal Services;
  - a representative from Finance;
  - a representative from Business Services where the contract or procurement relates to construction and highways works; and
  - a representative from Human Resources.
- Prior to commencing any procurement exercise the relevant approval should be obtained in accordance with the governance requirements set out at paragraph 1.4 above or paragraph 1.5.5.6 below for a call off under a Council-Wide Contract, Framework Agreement or DPS.
- A timetable, for all procurement exercises, should be established and must consider all mandatory timeframes, set out in paragraph 1 and 2 of these CPR's. It should also cover all pre-procurement planning, which includes everything from governance approval up to award of the contract.
- The Service Area are responsible for the delivery of the procurement exercise, including ensuring contract management once the contract has been awarded.

### **1.5.3. Pre-Market Consultation**

- The Council encourages all Services Areas to consider undertaking Pre-Market Consultation, prior to defining the specification requirements of any procurement exercise where there is a need for:
  - market research; and/or

- benchmarking; and/or
- a new approach to service delivery; and/or
- developing or evolving service delivery need.
- Undertaking Pre-Market consultation can help inform the specification, the evaluation criteria, and conditions of contract to ensure the Council's objectives can be best met by the market.
- In all pre-market consultations, full regard should be had to the principles of equal treatment, transparency, proportionality, and non-discrimination to ensure an effective competition can take place once the procurement has commenced.

#### **1.5.4. Identifying the right procedure and form of contract**

It is important to ensure that any procurement exercise is undertaken under the most appropriate procedure for the Council to achieve the best possible outcome to meet its needs. The paragraphs below set out the procedures and contracts that can be used or followed, as appropriate, with advice from the Procurement Team and Legal Services.

#### **1.5.5. Council-wide Contracts and established Frameworks or DPS**

Where a Council-Wide Contract exists for supplies, services, or works, it must be used except in the following circumstances where the requirement;

- cannot be obtained through a council-wide contract; or
- cannot be obtained in the required timescale through a council-wide contract;
- or cannot be obtained with the required specification through a council-wide contract.
- The following categories of supplies, services or works are managed on a council-wide basis:
  - Building Works, Accommodation & Facilities Management
  - Civil Engineering & Non-Building Construction Works
  - Cleaning Services
  - Energy, Fuel & Water
  - Financial & Leasing Services
  - ICT Supplies & Services
  - Legal Services
  - Leisure
  - Printing Services
  - Public Health
  - Social or Personal Care services & Placement Activity
  - Training & Development Services

- Transport Services
  - Vehicles & Fleet
  - Waste Disposal & Recycling
- 
- Where a Service Area are to undertake a procurement exercise using the Council-Wide Highways and Construction Framework or the Professional Services Framework, they must do so in accordance with the Highways and Construction and Professional Services Framework Requirements table which can be found on the Commissioning and Procurement Topdesk page.
  - Advice and approval should be obtained from the Procurement Team should a departure from the use of council contracts be considered.
  - For higher value purchases through a council-wide contract (£5k+) the value for money benefit of wider competition should be considered.
  - Where possible Framework Agreements or Dynamic Purchasing Systems (“DPS”) either established by Central Purchasing Bodies or other contracting authorities (as defined by the Procurement Regulations) must be used.
  - Prior to calling off under any established Framework Agreement or DPS:
    - , advice from the Procurement Team must be sought; and
    - the terms and conditions must also be approved by Legal Services.
  - The governance approvals for calling off any established Framework Agreement or DPS are as follows:

Value (whole life including extensions) down	Type of procedure	Governance approvals required
Below £350,000	by way of mini competition with MEAT criteria applied with either a price/quality split or 100% price	the requirements set out in paragraph 1.4.7 of these CPR's
£350,000 to £999,999	by way of mini competition with MEAT criteria applied with either a price/quality split or 100% price	The requirements set out in paragraph 1.4.7 of these CPR's
£1,000,000 plus	by way of mini competition with MEAT criteria applied with either a price/quality split or 100% price	The requirements set out in paragraph 1.4.7 of these CPR's
Below £350,000	by way of direct award (only where direct award can be undertaken in accordance with the terms and conditions of the established framework or DPS)	<ul style="list-style-type: none"> <li>• Officer Decision Record signed by the relevant Director for the award of the contract.</li> <li>• If approval to award has been delegated by a Director to another officer, then an Officer Decision Record must be completed by that officer and a copy of the written delegation provided to the Service Manager: Democracy.</li> <li>• Any Officer Decision Record that relates to a decision to award a contract that is over £100,000, save those contracts relating to placements for individuals care and support or such other categories of contract that are exempted by the Director: Governance and Communities, must be recorded and published via Democratic Services in accordance with the arrangements</li> </ul>

Value (whole life including extensions) down	Type of procedure	Governance approvals required
		specified in the Council's Constitution
£350,000 to £999,999	by way of direct award (only where direct award can be undertaken in accordance with the terms and conditions of the established framework or DPS)	<ul style="list-style-type: none"> <li>• Key Decision Notice to be signed by the Director: Governance and Communities and published on the council's website via Democratic Services for a minimum of 28 days prior to the officer decision to award. (General exception and special urgency provisions are available in exceptional circumstances)</li> <li>• The Decision to award the contract is then taken and published any reasonable time after the 28 days.</li> <li>• Officer Decision Record to award the contract to be signed by relevant Director and/or authorised officer <b>and</b> published on the council's website via Democratic Services on a timely basis (with any accompanying report, unless the report contains exempt commercially sensitive and related financial information – both should still be sent to Democratic Services).</li> <li>• Once the Officer Decision Record has been published elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny panel (meeting to be held within 5 working days of call in being received). The Decision is</li> </ul>

Value (whole life including extensions) down	Type of procedure	Governance approvals required
		implemented after the 2 workings days if not called in.
£1,000,000 plus	by way of direct award (only where direct award can be undertaken in accordance with the terms and conditions of the established framework or DPS)	<ul style="list-style-type: none"> <li>• Key Decision Notice to be signed by the Director; Governance and Communities and published on the council’s website via Democratic Services for a minimum of 28 days prior to the Cabinet Member Decision to commence the procurement. (General exception and special urgency provisions are available in exceptional circumstances)</li> <li>• The Decision (by way of Cabinet Member minute) is then taken and published any reasonable time after the 28 days.</li> <li>• Cabinet Member report and minute to be made and published on the Council’s website via Democratic Services on a timely basis.</li> <li>• Once the minutes of the meeting with the Cabinet Member have been published elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny panel (meeting to be held within 5 working days of call in being received). The Decision is implemented after the 2 workings days if not called in.</li> </ul>
£0-£1,000,000 plus where the Capital budget has	by way of mini competition with MEAT criteria applied with either	<ul style="list-style-type: none"> <li>• The requirements set out in paragraph 1.4.7 of these CPR’s</li> </ul>

Value (whole life including extensions) down	Type of procedure	Governance approvals required
already been approved by Council and the call off procedure is	a price/quality split or 100% price	
£0-£1,000,000 plus where the Capital budget has already been approved by Council	by way of direct award (only where direct award can be undertaken in accordance with the terms and conditions of the established framework or DPS)	<ul style="list-style-type: none"> <li>• Officer Decision Record to award the contract to be signed by relevant Director and/or authorised officer <b>and</b> published on the council's website via Democratic Services on a timely basis (with any accompanying report, unless the report contains exempt commercially sensitive and related financial information – both should still be sent to Democratic Services).</li> <li>• Once the Officer Decision Record has been published elected members have 2 working days to call-in the decision to be considered by the relevant scrutiny panel (meeting to be held within 5 working days of call in being received). The Decision is implemented after the 2 workings days if not called in.</li> </ul>

**1.5.6. Reserved Contracts**

- Certain contracts can be reserved so that the competition is not available to the wider market and is limited to certain types of providers, such as SMEs and Voluntary, Community and Social Enterprises, and/or based on supplier location, in order to allow the Council to further meets its objectives.
- The threshold values for a reserved contract are £122,976 for supplies

and services and £4,733,252 for works, inclusive of VAT. The list of 'qualifying organisations' which can be subject to reserved contracts is prescribed and is predominately made up of health, social care, or education services. Advice must be sought from the Procurement Team where there is an intent to reserve a contract and an exception should be obtained in accordance with paragraph 3 of these CPR's.

#### **1.5.7. Dynamic Purchasing Systems**

- A DPS is a completely electronic system which may be established to purchase commonly used supplies, services or works and must operate for a defined duration. It does not guarantee any services to the providers who may be admitted to it.
- Advice from the Procurement Team must be sought should a DPS be established.

#### **1.5.8. Framework Agreements**

- A Framework Agreement is a closed list of providers who have been ranked following a tender exercise and can be awarded contracts in line with the framework terms.
- All Framework Agreements must comply with the following:
  - maximum length of 4 years (unless exceptional and approved by the Monitoring Officer in writing)
  - identify all Contracting Authorities that can access the agreement; and
  - provide an estimated value of all potential call-offs by all contracting authorities
- No contractual commitment attaches from the creation of a framework itself, however contracts are formed when requirements are called-off under a purchase order or a call-off contract.
- Any Framework Agreement must be established in accordance with the requirements of these CPRs and/or the Procurement Regulations. Service Areas must not disaggregate purchases to avoid them, and guidance should be sought from the Procurement Team and Legal Services.

#### **1.5.9. Light Touch Regime**

- The light-touch regime ("LTR") is a specific set of rules for certain service contracts that tend to be of low interest to potential tenderers. Those service contracts mainly centre around social, health and education services.
- The use of LTR must be undertaken on the advice of The Procurement

Team.

#### **1.5.10. Concession Contracts**

- Concession contracts are governed by the Concession Contracts Regulations 2016. They are used where the Council engages a third party to provide a service or works, with or without a fee payable by the Council.
- Consideration for the service is in the form of the concessionaire being given a right to charge for the services being provided.
- Advice from the Procurement Team must be sought before engaging in any procurement exercise relating to a concession contract.

#### **1.5.11. Open, Competitive Dialogue, Negotiated Procedures, and Innovation Partnerships**

- The Open procedure should be used for all contracts and procurement exercises where the Service Area can clearly identify its requirements and the requirements can suitably be met by the market.
- The use of Competitive Dialogue can be used for procurement exercises where there are complex service requirements, and the preferred delivery option cannot be determined from preliminary market consultation.
- The Negotiated Procedure can be used in limited circumstances, principally where it is not clear at the outset that the Council cannot adequately specify its requirements as they need to be developed with the market.
- The use of Innovation Partnerships can be for inherently innovative development such as core research or new technical advancement.
- Part two of these CPR's sets out the process for undertaking an Open procurement exercise (except for the supply of Works over £100,000 up to the relevant threshold) and the advice of the Procurement Team and Legal Services should be sought where the Service Area wishes to use any of the other procedures as set out above.

#### **1.5.12. Transfer of Undertaking (Protection of Employment) Regulations 2006 (as amended) (TUPE)**

- Careful consideration must be given as to whether TUPE shall apply at commencement of any procurement exercise.
- Where a procurement exercise may involve the TUPE transfer of Council officers, the advice of the Strategic HR Lead and Legal Services must be

obtained prior to the start of the procurement.

- Any procurement exercise involving the TUPE transfer of Council officers must be approved by the relevant Director on the advice of the Director Governance & Communities.
- The application of TUPE should also be considered in respect of staff employed by existing contractor(s) when the Council is looking to re-procure the service currently provided by such contractor(s). Written guidance should be sought from the Legal Services.
- An anonymised table of TUPE information and, where relevant, pension information, must be available for release with the tender documentation, using the TUPE matrix template which is available from the Procurement Team or TOPdesk. Further information can be shared with interested parties on the successful completion of the appropriate non-disclosure agreement.

## 1.6. Contract Templates, Signing, Extending and Modification

- 1.6.1. In all instances the Council's standard terms and conditions must be used except where:
- a Council Wide Contract is being used;
  - an established Framework Agreement or DPS is being used;
  - any Contract under the value of £25,000; or
  - the relevant Director, in consultation with the Assistant Director Governance and Partnerships, has confirmed it is appropriate for alternative terms and conditions to be used.
- 1.6.2. The Council's standard terms and conditions for contracts with a value of up to £100,000, can be accessed via the Procurement Team portal on TOPdesk. Advice from Legal Services should be sought for:
- contracts over the value of £100,000;
  - Framework Agreements and DPS (where they are not established);
  - IT contracts; and
  - low value contracts, where there is a specific need or bespoke requirement.
- 1.6.3. Pursuant to paragraph 2.6 of the Council's Scheme of Delegation, all Directors are authorised to sign contracts that do not exceed the value of £100,000, provided that:

- the conditions set out in paragraph 2.6 of the Council Scheme of Delegation have been complied with; and
  - it does not require the affixation of the Common Seal.
- 1.6.4. Directors may seek to delegate their authority to sign contracts (as set out at paragraph 1.6.3) provided such delegation is undertaken in writing in accordance with the Council's Constitution, a copy of such delegation is provided to the Service Manager, Democracy and follows the Authorisation of Orders levels set out in the Council's Finance Manual.
- 1.6.5. The Assistant Director Governance and Partnerships is authorised to sign contracts that exceed the value of £100,000 and unless they determine otherwise, such contracts shall be executed by way of deed, under the electronic Common Seal of the Council.
- 1.6.6. The Assistant Director Governance and Partnerships is authorised to affix the electronic Common Seal of the Council to such contracts using the Council's electronic signature software.
- 1.6.7. Where a Contract is required (in accordance with paragraph 1.6.5 and 1.6.6) to be executed by the Assistant Director Governance and Partnerships the Service Area Lead shall complete a Contract Signature Form on the Legal and Democracy TOPdesk Page to arrange for the contract to be signed and completed. FOR THE AVOIDANCE OF DOUBT, the Service Area Lead shall not send the contract directly to the Assistant Director Governance and Partnerships either by email or through the Council's electronic signature software.
- 1.6.8. Contracts that do not need to be executed by the Assistant Director Governance and Partnerships, are to be signed electronically using the Council's electronic signature software. Services Areas are encouraged to contact IT Applications Team to ensure they have appropriate access to the electronic signature software prior to signing or completing any contract.
- 1.6.9. A Contract can be extended provided that:
- the original contract included a specific provision to allow for it to be extended in both duration and value; and
  - it is appropriate to do so given the performance of the contract which has been identified through contract management by the Service Area.
- 1.6.10. Any Contract extension or variation during its term cannot cause:
- the aggregated value of the contract to breach the thresholds set out at paragraph 1.5.1.2, where it was procured as a below threshold:
  - a breach of UK Legislation (such as the Procurement Regulations); and/or
  - the value would exceed what was original advertised by more than 50%.
- 1.6.11. Where the Contract does not include an extension advice should be sought from the

Procurement Team and Legal Services.

- 1.6.12. Under limited circumstances, the Procurement Regulations permit contract modifications during their term (regulation 72) and must be within the scope, or similar to the original specification and contract. Advice must be sought from the Procurement Team and Legal Services in the first instance.
- 1.6.13. Changes to contracts and/or terms and conditions must be authorised by the relevant Director and substantial (i.e., material) changes to contracts and/or terms and conditions must be authorised by the relevant Director following consultation with the Assistant Director Governance and Partnerships.

## 1.7. Award Letters

- 1.7.1. All contracts let that are valued 10% under the relevant threshold (as identified at paragraph 1.5.1.2 above) are to be awarded on YORtender using the contract details page. There is no specific requirement to issue an additional award notice to the tenderers who were unsuccessful, but this can be done should the Service Area consider it to be appropriate.
- 1.7.2. All contracts let on or over the relevant threshold (as identified at paragraph 1.5.1.2 above):
  - must be awarded on YORtender using the contract details page;
  - all candidates and/or tenderers must be issued with a Pre-Award Letter and Notice via YORtender; and
  - a standstill period must be applied.
- 1.7.3. All Pre-Award Letters and Notices must:
  - be on the Council's standard template; and
  - approved and signed by the Assistant Director Governance and Partnerships.
- 1.7.4. The Assistant Director Governance and Partnerships will not authorise or sign any Pre-Award Letters without first seeing the Decision to Award.
- 1.7.5. Where a request for further feedback or a potential challenge to a Pre-Award Letter is received advice from the Procurement Team and/or Legal Services must be obtained

## 2. North Lincolnshire Borough Council Procurement Requirements

The Council is required to comply with these CPR's and the Procurement Regulations when undertaking a procurement exercise. All procurement exercises must have a full audit trail, obtain value for money, and achieve efficient delivery of Council Services. The paragraphs below set out the processes, including their minimum requirements for each separate value, to achieve this.

## 2.1. General Requirements

2.1.1. All procurement exercises are to be compliant with the requirements set out in this part 2 and consideration should also be given to the following with advice from the Procurement Team:

- economic development/environmental/sustainability implications;
- social value
- policy implications;
- risk management; and
- any other service delivery commitments

2.1.2. Advertising of Tenders

- All procurement exercises over the value of £100,000 must be advertised and let using the Council electronic purchasing system YORtender.
- The Procurement Team and/or the Services Area will:
  - publish details of all contracts let over £5,000 via YORtender on the Council's live Contracts Register (e-tendering system)
  - report annually to the relevant Cabinet Member for procurement on all contracts let over £5,000 (via YORtender) in the previous 12 months.
- Service Area Leads must notify the Procurement Team when, they have awarded a procurement exercises or entered into a contract over the value of £20,883, so that the Procurement Team can advertise these on Contracts Finder.
- It is at the discretion of the relevant Director as to whether any procurement exercises/opportunities are advertised using web-based media, such as twitter and the council website. Any advertisement shall:
  - specify the nature and purpose of the contract;
  - outline how to submit a compliant tender;
  - state the last date and time when tenders will be accepted; and
  - comply in all respect with the requirements of UK Legislation.

2.1.3. Compliance

Any tenderer who fails to complete all the documentation and/or comply with the tender instructions and submission requirements set out in the Invitation to Tender may be deemed to be non-compliant and, subject to the discretion of the Council, acting reasonably, have their tender rejected. Advice must be sought from the

Procurement Team and Legal Services prior to rejecting any tender submission.

#### 2.1.4. Late Tender or e-Sourcing Suite Access Errors

- The Council will not accept any late tender, other than where:
  - the tenderer can prove that a system access error has occurred;
  - YORtender have provided a system report confirming that the site was unavailable on the submission deadline; and/or
  - the Crown Commercial Services have provided a report from their Services e-Sourcing Suite system confirming that there was an error at the time of the submission deadline
- Any acceptance of a late tender shall be approved by the relevant Director in consultation with the Procurement Team and Legal Services.

#### 2.1.5. Omissions, Ambiguities, and Inconsistencies

- All clarifications, by the Council or tenderers, must be raised via YORtender. Guidance from the Procurement Team is recommended in all circumstances but mandated where the issue, error, omissions, or inconsistency is linked to price or potentially creates a material change.
- Where there is an omission, ambiguity, or inconsistency in a tender (including an arithmetical error), the Council reserves the right to contact the tenderer in writing via YORtender, setting out the ambiguous or inconsistent part and the alternative interpretations of it.
- The tenderer will be required to clarify within an appropriate time limit, via YORtender, which of the interpretations are correct and submit or complete relevant information or documentation, provided that such requests are made in compliance with the principles of equal treatment and transparency. Clarification is not an opportunity to alter or improve a bid it is only to clarify submissions.

#### 2.1.6. Abnormally low tenders

Where a tender has been received and it is considered by the Service Area to be abnormally low, explanations from tenderers must be sought. The Council may reject the tender where the explanation does not satisfy the concern/s.

#### 2.1.7. Prevention of corruption and the Bribery Act 2010

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

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.

2.1.8 Under the Bribery Act 2010 the following offences 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; and
- failing to prevent bribery

## 2.2. Procurement Process, Timescales and Evaluation

- 2.2.1. The table below sets out the minimum requirements for each tender process depending on its value, once all the pre-procurement requirements set out within part 1 of these CPR's have been considered/undertaken and approval to proceed has been obtained (as set out in paragraph 1.4.1).
- 2.2.2. Advice should be sought from the Procurement Team and Legal Services as indicated in the tables below.

Value (Whole life including extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>Supplies/Services/ Works</p> <p>Up to £100,000 (this does not include aggregate spend for one-off purchases)</p>	<p><b>The Self-service guidance which can be found within the Procurement Portal on TOPdesk must be followed</b></p> <ul style="list-style-type: none"> <li>Typically, securing minimum of 3 written quotations based on a specification is an effective way of demonstrating competition and value for money.</li> <li>You must use YORtender to help you comply with these requirements.</li> <li>Your requests of bidders should be proportionate to the value and complexity of your requirement</li> <li>Treating all potential suppliers equally and fairly is crucial for securing a successful</li> </ul>	<ul style="list-style-type: none"> <li>Sufficient time must be given prior to going out to tender to finalise specification and to obtain relevant approvals as set out at paragraph 1.4.1 above.</li> <li>The request for quote documentation must be advertised for a minimum of 10 calendar days and is to be shared with all potential tenderers (except where approved otherwise by the Budget</li> </ul>	<ul style="list-style-type: none"> <li>The evaluation of requests for quotation or bids should be based on objective, transparent criteria and fully disclosed to bidders in advance of them submitting their bids.</li> <li>The criteria should be either:                             <ul style="list-style-type: none"> <li>Lowest “compliant” price; compliant meaning ability to meet the specification in full; (requirements are well defined); or</li> <li>Most Economically Advantageous (MEAT) – a mix of price and quality, setting out the % weighting allocated to price/quality and any sub criteria</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Decision to award must be obtained in accordance with the relevant section of paragraph 1.4.1 depending on value.</li> <li>All the Council’s expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>Any spend over £20,883k must be published on Contracts Finder in accordance with paragraph 2.1.2 above.</li> <li>Decision to award to be published using the contract details page on YORtender.</li> </ul>

Value (Whole life including extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
	<p>outcome and minimising the risk of a challenge.</p>	<p>Holder or Director).</p>	<p>used.</p>	
<p>Supplies/Services £100,000 - £213,47 (Threshold Level)*</p> <p><b>Support and advice from the Procurement Team and Legal Services should be sought throughout this process</b></p> <p>*Where the spend is within 10% of the relevant threshold (as identified within paragraph 1.5.1 above) and the Procurement Regulations have</p>	<ul style="list-style-type: none"> <li>• Adhere to the council governance frameworks for project management and produce a procurement timetable.</li> <li>• Indicative contract values to be published as an open advert on YORTender and on Contracts Finder.</li> <li>• Tender documentation to be published on YORTender.</li> <li>• All tender submissions must be kept confidential, opened by an officer of appropriate seniority, independent and non-conflicted.</li> <li>• Only fully complaint</li> </ul>	<ul style="list-style-type: none"> <li>• Sufficient time must be given prior to going out to tender to finalise specification and to obtain relevant approvals as set out at paragraph 1.4.1 above.</li> <li>• Request for quote or tender documentation must be advertised for a minimum of 10 calendar days but can be increased if</li> </ul>	<p>The evaluation criteria to be set will depend on the level of complexity and need based on the desired outcome. Advice from the Procurement Team should be sought if the Service Area Lead is unsure which criteria is the most suitable.</p> <p>The criteria should be either</p> <ul style="list-style-type: none"> <li>• Lowest “compliant” price; compliant meaning ability to meet the specification in full (where requirements are well defined); or</li> <li>• Most Economically Advantageous (MEAT)</li> </ul>	<ul style="list-style-type: none"> <li>• Decision to award must be obtained and published in accordance with the relevant section of paragraph 1.4.1 depending on value.</li> <li>• All the Council’s expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>• Any spend over £20,883k must be published on Contracts Finder in accordance with paragraph 2.1.2</li> </ul>

Value (Whole life including extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>been applied, the publishing and award process for above threshold should be followed and advice from the Procurement Team or Legal Services should be sought</p>	<p>tenders should be accepted</p> <ul style="list-style-type: none"> <li>• No negotiation with the existing or potential providers is permitted</li> <li>• At least two tender responses must be received.</li> <li>• The acceptance of the successful tender is concluded after evaluation</li> </ul>	<p>appropriate.</p> <ul style="list-style-type: none"> <li>• Sufficient time must be given to evaluate all request for quote/tender submissions.</li> </ul>	<ul style="list-style-type: none"> <li>– a mix of price and quality, setting out the % weighting allocated to price/quality and any sub criteria used.</li> <li>• The split should be 60% price and 40% quality with a minimum sub-weighting of 10% allocated to Social Value any variation from 10% to be addressed through pre-procurement governance.</li> <li>• Advice from the Procurement Team should be sought if the split of 60% Price and 40% cost is not considered appropriate and where it is agreed to be changed the change in split and justification for such change must</li> </ul>	<p>above.</p> <ul style="list-style-type: none"> <li>• A notification of award must be advertised on the contracts register via <a href="#">YORtender</a> .</li> <li>• The decision to award must be published using the contract details page on YORtender.</li> </ul>

Value (Whole life including extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
			be included in the pre-procurement Officer Decision report.	

Value (Whole life incl extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>Supplier/Services Over £213,477, and Works over £5,336,937 (Threshold Levels)</p> <p><b>Support and advice from the Procurement Team and Legal Services should be sought throughout this process</b></p>	<ul style="list-style-type: none"> <li>Adhere to the council governance frameworks for <a href="#">project management</a> and produce a procurement timetable. Project managers should ensure that procurement is undertaken in line with the Council's agreed project management framework, as appropriate.</li> <li>Use standard tender documentation, unless agreed otherwise with Procurement Team.</li> </ul> <p>A suite of construction framework agreements and construction contracts have been developed to meet the majority of the Council's Works requirements and</p>	<ul style="list-style-type: none"> <li>Sufficient time must be given prior to going out to tender to finalise specification, obtain relevant approvals as set out at 1.4.1 above.</li> <li>Tender documentation must be advertised for a minimum of 35 calendar days but can be decreased in certain circumstances with advice from the Procurement Team.</li> <li>Sufficient time must be given</li> </ul>	<p>The evaluation criteria to be set will depend on level of complexity and need based on the desired outcome. Advice from the Procurement Team should be sought if the Service Area Lead is unsure which criteria is the most suitable.</p> <p>The criteria should be either</p> <ul style="list-style-type: none"> <li>Lowest "compliant" price; compliant meaning ability to meet the specification in full (where requirements are well defined); or</li> <li>Most Economically Advantageous (MEAT) – a mix of price and quality, setting out the % weighting allocated to price/quality and any sub criteria used. The split should be 60%</li> </ul>	<ul style="list-style-type: none"> <li>Contract notice must be published on Find a Tender Services prior to going out to tender.</li> <li>All the Council's expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>Any spend over £20,883k must be published on Contracts Finder in accordance with paragraph 2.1.2.</li> <li>Decision to award must be obtained and published depending on value in accordance with paragraph 1.4.1.</li> <li>Pre-Award Letters must be sent to all tenderers/candidates using YORtender and a 10-day standstill period must be applied.</li> <li>Post Award Letters must be sent to all tenderers/candidates using YORtender once the 10-day standstill period above has expired.</li> </ul>

	<p>should be considered.</p> <ul style="list-style-type: none"> <li>• An open formal tender procedure must be used</li> <li>• Where only one bid is received, advice should be sought from the Procurement Team or Legal Services prior to evaluation.</li> </ul>	<p>to evaluate all request for quote/tender submissions</p>	<p>price and 40% quality with a minimum sub-weighting of 10% allocated to Social Value any variation from 10% to be addressed through pre-procurement governance.</p> <ul style="list-style-type: none"> <li>• Advice from the Procurement Team should be sought if the split of 60% Price and 40% cost is not considered appropriate and where it is agreed to be changed the change in split and justification for such change must be included in the pre-procurement Officer Decision report..</li> </ul>	<ul style="list-style-type: none"> <li>• If a potential challenge or formal challenge is received support and advice must be obtained from Legal Services and extension of the standstill period considered.</li> <li>• Contract Award Notice must be published on Find a Tender Services.</li> </ul>
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Value (Whole life incl extensions)	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>Works £100,000 to £4,733,252</p> <p>This process should only be used when it has been agreed between the Service Area Lead and the Business Services and Framework Management Lead that the Council Wide Contract (Highways and Construction Framework) cannot be used.</p>	<ul style="list-style-type: none"> <li>Adhere to the council governance frameworks for project management and produce a procurement timetable.</li> <li>Restricted process to be followed, except where determined otherwise by the Service Area.</li> <li>Indicative contract values to be published as an open advert on YORtender and on Contracts Finder.</li> <li>Tender documentation to be published on YORtender.</li> <li>All tender submissions must be kept confidential and opened by an officer of appropriate seniority who is independent and non-conflicted.</li> <li>Only fully compliant tenders should be accepted.</li> <li>At least six tender responses must be received.</li> </ul>	<ul style="list-style-type: none"> <li>Sufficient time must be given prior to going out to tender to finalise specification and to obtain relevant approvals as set out at paragraph 1.4.1 above.</li> <li>Tender documentation must be advertised for a minimum of 10 calendar days but can be increased if appropriate</li> </ul> <p>Sufficient time must be given to evaluate all request for quote/tender</p>	<p>The evaluation criteria to be set will depend on the level of complexity and need based on the desired outcome and relevant legislation. Advice from the Procurement Team should be sought if the Service Area Lead is unsure which criteria is the most suitable.</p> <p>The criteria should be either</p> <ul style="list-style-type: none"> <li>Lowest “compliant” price; compliant meaning ability to meet the specification in full; or (where requirements are well defined); or</li> <li>Most Economically Advantageous (MEAT) – a mix of price and quality, setting out the % weighting allocated to price/quality and any sub criteria used. The Price quality should be 60% price and 40% quality</li> </ul>	<ul style="list-style-type: none"> <li>Decision to award must be obtained in accordance with the relevant section of paragraph 1.4.1 depending on value.</li> <li>All Council’s expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>Any spend over £20,883k must be published on Contracts Finder portal in accordance with paragraph 2.1.2 above.</li> <li>A notification of award must be advertised on the contracts register via <a href="#">YORtender</a>.</li> <li>The decision to award must be published using the contract details page on</li> </ul>

	<ul style="list-style-type: none"> <li>• The acceptance of the successful tender is concluded after evaluation.</li> <li>• NEC form of contract to be used, except where determined otherwise in accordance with these CPR's.</li> </ul>	<p>submissions</p>	<p>with a minimum sub-weighting of 10% allocated to Social Value any variation from 10% to be addressed through pre-procurement governance.</p> <ul style="list-style-type: none"> <li>• Advice from the Procurement Team should be sought if the split of 60% Price and 40% cost is not considered appropriate and where it is agreed to be changed the change in split and justification for such change must be included in the pre-procurement Officer Decision report</li> </ul>	<p>YORtender.</p>
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Value - all	Process/minimum requirements	Timescales	Evaluation	Publishing and Award
<p>Local Bus Services, Education Transport Bus, and Taxis (including where subsidised)</p> <p><b>Support and advice from the Procurement Team and Legal Services should be sought throughout this process</b></p>	<ul style="list-style-type: none"> <li>• Invitations to tender should be made pursuant to section 89-91 of the Transport Act 1985 and all other relevant regulations and legislation.</li> <li>• Minimum subsidy contracts are deemed Concession Contracts and should be procured under the Concession Contracts Regulations 2016.</li> <li>• Invitations to tender should be advertised using the Council’s standard tender documentation which include:               <ul style="list-style-type: none"> <li>○ a statement that the Council are not obligated to accept the cheapest tender.</li> <li>○ a statement that, provided it is accompanied by a fully compliant bid, a tenderer may propose an alternative approach to meeting the transport requirement set out in the tender.</li> <li>○ a statement to the effect that when deciding whether to accept a tender the Council has a statutory duty to consider the effect on competition in the local</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Sufficient time must be given prior to going out to tender to finalise specification and to obtain relevant approvals as set out at paragraph 1.4.1 above.</li> <li>• Request for quote or tender documentation must be advertised for a minimum of 35 calendar days which can be decreased upon advice</li> </ul>	<p>Evaluation criteria depends on the level of complexity and need based on the desired outcome and relevant legislation. Procurement Team advice should be sought if the Service Lead is unsure which criteria is the most suitable.</p> <p>The criteria should be</p> <ul style="list-style-type: none"> <li>• Lowest “compliant” price; compliant meaning ability to meet the specification in full; (where requirements are well defined); or</li> <li>• Most Economically Advantageous (MEAT) – a mix</li> </ul>	<ul style="list-style-type: none"> <li>• Contract notice must be published on Find a Tender Services prior to going out to tender.</li> <li>• All Council’s expenditure over £500 is published externally and open to audit and public scrutiny.</li> <li>• Any spend over £20,883k must be published on Contracts Finder in accordance with 2.1.2 above.</li> <li>• decision to award must be obtained in accordance with the relevant section of paragraph 1.4.1 depending on value.</li> <li>• Pre-Award Letters are to be sent to all tenderers/candidates using YORtender and a 10-day standstill period must be applied.</li> <li>• Post Award Letter are to be sent to all tenderers/candidates using YORtender once the 10-day standstill period has expired.</li> <li>• If a potential challenge or formal challenge is received, support and advice must be obtained from Legal Services and extension of</li> </ul>

	<p>market, and a combination of economy, efficiency, and effectiveness.</p> <ul style="list-style-type: none"> <li>• Tender documentation to be published on YORtender</li> </ul>	<p>from the Procurement Team.</p>	<p>of price and quality, setting out the % weighting allocated to price/quality and any sub criteria used which shall include as a minimum 10% allocated to Social Value any variation from 10% to be addressed through pre-procurement governance.</p>	<p>the standstill period considered.</p> <ul style="list-style-type: none"> <li>• Contract Award Notice must be published on Find a Tender Services.</li> </ul>
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## 2.3. Tender Documentation

- 2.3.1. For all procurement exercises under the value of £100,000, the Council's standard tender documentation templates are to be used. The templates can be found on the Procurement Team portal on TOPdesk as part of the **Procurement under £100,000 checklist**.
- 2.3.2. For all procurement exercises over the value of £100,000, the Council's standard tender documentation templates are to be used. The templates can be obtained from the Procurement Team via the **Ask Us** portal on TOPdesk.
- 2.3.3. The tender documentation for all procurement exercises, except those under the value of £100,000 or where the Procurement Team advises differently should include:
- the national Standard Supplier Questionnaire (“SSQ”) template for services and supplies (which can include additional supplier suitability questions);
  - the Supplier Questionnaire PAS 91 for works contracts;
  - clear instructions for the submission of pricing quotations;
  - a clear written specification;
  - a form of tender including anti-collusion certificate;
  - freedom of information declaration;
  - a pricing schedule;
  - Method statements;
  - insurance limits requirements; and/or
  - the approved terms and conditions

Service Area Leads should obtain advice from the Procurement Team with regards to what documentation is required when appropriate.

- 2.3.4. The Council must accept submissions of the information requested in the SSQ made via the European Single Procurement Documentation (“ESPD”) and accept e-certis as a means of proof when certification is requested. It is mandatory for a potential supplier to complete Part 1 and Part 2 of the SSQ, or the ESPD template, for all procurements above the thresholds set out at paragraph 1.5.1.
- 2.3.5. All tender documentation must indicate the Council's obligation to publish commercial and other data provided by tenderers in accordance with Freedom of Information Regulations and the Local Government Transparency Code 2015, as amended.

### Financial Requirements

- 2.3.6. Minimum standards of financial standing and financial appraisals are subject to the advice of the Head of Financial Services, but the requirements must not exceed a turnover of twice the whole-life contract value.
- 2.3.7. Minimum standards of financial standing at award stage should be considered

for all procurement exercises and contracts where, the estimated contract value exceeds the thresholds set out at paragraph 1.5.1, any relevant UK legislation and/or where other risk is identified, including where there would be a significant effect on the delivery of Council services in the event of provider default or cessation of supply or service.

- 2.3.8. Where considered appropriate following a financial appraisal of a potential provider against the Council's minimum standards of financial standing, the potential contractor may be required to provide a Parent Company Guarantee ("PCG") or a Performance Bond ("Bond") in a form acceptable to the Council for the duration of the contract (including any extension period). All financial requirements should be published up front, including the possibility of a Bond or PCG. Any such PCG or Bond shall only be required where it is deemed that there is a specific ascertainable risk or where group company financial information forms part of the financial appraisal.

### 3. Exceptions

- 3.1. These CPR's are to be followed, at all times except in certain circumstances. A Service Area should seek approval from the following should they wish to deviate from these CPR's;
- 3.1.1. The relevant Head of Service if the value of the contract is under £100,000 or
  - 3.1.2. the relevant Director (or authorised officer who has been delegated this authority in accordance with the Council's Constitution) if the value contract is above £100,00 but under £213,477; or
  - 3.1.3. the Director of Governance & Communities following authorisation by the relevant Director (or authorised officer who has been delegated this authority in accordance with the Council's Constitution) if the value of the contract is above £213,477.
- 3.2. All requests for exception must be on the standard template available on TOPdesk.
- 3.3. A Key Decision will be required for any exception request that is likely to:
- result in the council incurring expenditure or the making of savings (including the receipt or loss of income) over £350,000; and/or
  - have significant effects on communities living or working in an area comprising of two or more electoral wards or electoral divisions in the area of the local authority.

and the Key Decision process must be followed as set out in paragraph 1.4 of these CPR's.

3.4. For the avoidance of doubt,

3.4.1. an exception request **does need to be completed**:

- where the value of the contract is below £213,477; and
- where the Service Area are direct awarding a contract under an established Council-Wide contract, Framework Agreement or DPS which does not allow for direct award as a compliant call off procedure;

3.4.2. an exception request **does not need to be completed** where the contract is being procured by way of call off from a Council-Wide Contract, established Framework Agreement or DPS and the Service Area comply with the procedures set out within the Council-Wide Contract, established Framework Agreement or DPS; and

all authorised exceptions should be submitted to the Procurement Team via TopDesk for reporting and monitoring purposes.

3.5. There may be exceptions to the requirements of the CPRs which may be allowed in the following circumstances:

3.5.1. 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. Where the urgent repair relates to a repairs & maintenance item, and where the value exceeds £5,000, a retrospective request for exception is acceptable;

3.5.2. where renewals, repairs and upgrades to buildings, plant, appliances, machinery, vehicles or ICT 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 successors or other sole specialists);

3.5.3. where urgent alternative arrangements are required to maintain the delivery of critical services due to the failure of an existing service provider or supplier;

3.5.4. where an emergency exists as defined in the Council's Emergency Plan;

3.5.5. when the Council is properly required to adopt other procedures in accordance with the relevant regulations;

3.5.6. works orders placed with utility companies (e.g., For re-routing cables

- or pipework);
  - 3.5.7. where there is only one potential supplier of the required supplies, services or works due to market factors and/or service exigency;
  - 3.5.8. where the contract is reserved so that the competition is not available to the wider market and is; limited to certain types of providers, such as SMEs and Voluntary, Community and Social Enterprises, and/or based on supplier location
  - 3.5.9. where contracts are extended beyond their specified term;
  - 3.5.10. where contract are to be modified during their specified term;
  - 3.5.11. for contracts which the Council's Monitoring Officer advises through authorised exception fall within the scope of regulation 32 of the Procurement Regulations;
  - 3.5.12. for contracts which the Council's Monitoring Officer advises falls within the specific exclusions set out in regulation 10 and regulation 14 of the Procurement Regulations; and
  - 3.5.13. where there are other exceptional circumstances.
- 3.6. Where the Services Area believes one of the above apply and/or the contract or modification is likely to be above the threshold set out at paragraph 1.5 above or is subject to the Procurement Regulations, advice must be sought from the Procurement Team and Legal Services before any exception request is submitted for approval.
- 3.7. In all instances a written request for exception, clearly documenting the reasons (including reference to previous exceptions if applicable and how value for money can be evidenced) must be provided in advance to the approving officer before the exception can be approved. All authorised exceptions should be submitted to the Procurement Team via TopDesk for reporting and monitoring purposes.

**DEFINITIONS AND GLOSSARY**

Academy/Academies	A school that is directly funded by central government and independent of local authority control
Regulation 84	Is Regulation 84 of the Public Contracts Regulations 2015 which sets out the decisions made throughout the procurement process which must be recorded and retained
Budget Holder	The manager with responsibility for the budget concerned and with delegated authority to award the contract
Cabinet Member	Elected member of the Council who is responsible for the Cabinet Portfolio under which the service area sits
Central Purchasing Bodies	A contracting authority (as defined by the Procurement Regulations) providing centralised purchasing activities and ancillary activities
Commissioning Strategy	The document by which the Council's Commissioning and Procurement Team sets out its priorities and objectives, and how it will achieve them
Concessions	A Concession Contract is where the Council grants a Service Provider the right to provide a service and rather than pay the Service Provider for providing the service. The Council transfers the opportunity of the market to the Service Provider, along with the demand risk in relation to the level of the market. Revenue from fees paid by service users is kept by the Service Provider and used to meet the costs incurred in delivering the service and potentially to make a profit
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
Contracts Finder	An online database which enables suppliers to search for contract opportunities, across the nation and sectors.
Council Plan	The document by which the Council sets out its priorities

	and objectives, and how it will achieve them
Council	Refers to North Lincolnshire Borough Council unless otherwise specified
CPR	Contract Procedure Rule
Director	Officer who is responsible for a Service Area or grouping of services of the Council
Disaggregate	The splitting down of requirements into lower value packages
ESPD	European Single Procurement Document consists of a self- declaration as preliminary evidence of certification

Finance Manual	
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.
Key Decision	Definition available at <a href="http://democracy.northlincs.gov.uk/meetings/key-decisions/">http://democracy.northlincs.gov.uk/meetings/key-decisions/</a>
Maintained School	Primary and secondary schools funded by central government via the local authority, not charging fees to students
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.
Risk Management	The identification of potential risks and the arrangement of contingency plans to manage or minimise those risks
Service Area	An area of the Council that is responsible for specific service delivery
Service Area Lead	Means the lead officer responsible for the procurement exercise or contract within the Service Area
SME	Means Small and Medium sized Enterprises and is defined as: Any business with fewer than 250 employees and either an annual turnover below £45m or a total balance sheet less than £40m.
UK Legislation	means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements
VAT	Value Added Tax
YORtender	Supplier Contract Management System (or equivalent e-tendering system) web portal by which the Council effectively advertises and manages quotations and tenders

