

Contract Standing Orders

Amended March 2023

Warning - pending the finalisation of the Contract Standing Orders by the Constitutional Working Group, please note the following:

The Procurement Act 2023 came in to force on 24 February 2025. The current Contract Standing Orders refer to the previous procurement regulations (the Public Contracts Regulations 2015) and are, therefore, inconsistent with the latest legislation.

Until such time the Contract Standing Orders are updated, the requirements of the Procurement Act 2023 supersede those of the Public Contracts Regulations 2015, except where residual requirements remain.

Should there be a conflict between relevant legislation and these Contract Standing Orders, the legislation will take priority over the CSOs.

For further advice, please contact the Strategic Procurement Team on procurement@bathnes.gov.uk

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A Statement of Principles

1. Mandatory Compliance

1. Council Officers **MUST** comply with these Contract Standing Orders in all instances when buying goods, services and works on behalf of the Council and failure to comply may result in disciplinary procedures.

2. General Principles

- 2.1 These Contract Standing Orders (“**CSOs**”) provide the framework that governs the Council’s commissioning and procurement of Contracts for works, services and goods / supplies. Following these CSOs helps the Council to demonstrate:

- 2.1.1 good internal governance;
- 2.1.2 stewardship and the proper spending of public monies;
- 2.1.3 Value for Money in the Council’s Contracts;
- 2.1.4 compliance with relevant law.

- 2.2 The purpose of all contracting activity is to:

- 2.2.1 seek continuous improvement of the Council’s functions having regard to the optimum combination of economy, efficiency and effectiveness in keeping with the Council’s duty to seek Best Value (and Value for Money);
- 2.2.2 achieve Value for Money for the Council and the Residents, with reference to the economic, social and environmental value of each Contract;
- 2.2.3 promote the well-being of the Council’s Residents and Area through the effective functioning of the Council, the efficient use of the Council’s resources, and a universal concentration on the Social Value that can be achieved.

- 2.3 Every Contract and official order made by the Council (or any part of it) shall be for the purpose of achieving fulfilment of the Council’s statutory functions or the furtherance of the Council’s strategic or policy goals.

- 2.4 The Appendices to these CSOs provide further detail and form part of these CSOs as if they were drafted as one document. The Director of Legal and Democratic Services has the delegated authority to alter these CSOs accordingly. Any questions about the application of these CSOs should be

directed to the Director of Legal and Democratic Services and/or the Head of Strategic Procurement & Commissioning.

2.5 All figures in these CSOs are **exclusive** of VAT unless stated otherwise.

2.6 Directors will:

2.6.1 ensure that the appropriate member, Cabinet or full Council (as appropriate given the Scheme of Delegations) is consulted on any procurement activity prior to its publication in the Council's Forward Plan;

2.6.2 ensure that audit trails are in place for all procurement activity in accordance with these CSOs.

3. What these CSOs Cover

3.1 These CSOs apply:

3.1.1 whenever the Council intends to spend money (or provide other payments in kind) under Contracts for goods (supplies), works or services;

3.1.2 to expenditure from either capital or revenue sources;

3.1.3 to concessions (for further info, speak to Procurement);

3.1.4 to grants;

3.1.5 to goods for re-sale;

3.1.6 to both Officers and Members;

3.1.7 to all bodies where the Council acts as the Lead Authority including the Avon Pension Fund.

3.2 These CSOs **do not** apply:

3.2.1 to contracts of employment;

3.2.2 to acquisitions and disposals of land or buildings (these are covered by the **Financial Regulations**) – unless related to a Contract for works, services or goods;

3.2.3 to the seeking of offers in relation to financial services in connection with the issue, purchase, sale or transfer of securities or other financial instruments, in particular transactions by the Council to raise money or capital;

3.2.4 to internal Service Level Agreements between departments within the Council.

- 3.2.5 In the case of civil contingencies
- 3.2.6 In the case of individual investments which are not deemed as the purchase of goods or services for the purposes of the Council's CSOs
- 3.3 The following entities have their own rules and are not bound by these CSOs, except where they participate in joint purchasing with the Council:
 - 3.3.1 maintained schools within the Area;
 - 3.3.2 companies in which the Council has an interest **except for** Local Housing Development Vehicles and situations where there is a Local Authority Controlled Company;
- 3.4 In exceptional circumstances only, certain exemptions can be approved by following the process set out at **Appendix 2 (CSO Exemptions)**. The persons who are authorised to approve the exemptions are set out in **Appendix 12 (Scheme of Delegations)**. Seeking an exemption of these CSOs **does not** exempt the Council from complying with the General Principles or with general law.
- 3.5 These CSOs can only be amended by the Director of Legal and Democratic Services in consultation with the Head of Strategic Procurement.

4. Other Key Documents

- 4.1 These CSOs should be read alongside the following:
 - 4.1.1 the Council's Procurement Strategy
(<https://intranet.bathnes.gov.uk/procurement-commissioning-strategy-2021-2024-think-climate-think-local-think-innovation>);
 - 4.1.2 the Council's Financial Regulations;
 - 4.1.3 the Council's Social Value Policy;
 - 4.1.4 the Transparency Code;
 - 4.1.5 Any other guidance provided by the Strategic Procurement & Commissioning Team, including Business Ethics (Appendix 3), Confidentiality, Intellectual Property, Data Protection, Transparency & Redaction (Appendix 4).
- 4.2 Anyone undertaking purchasing activity on behalf of the Council (but especially in the context of purchasing value above the Thresholds) **MUST** refer to the following documents, where appropriate:
 - 4.2.1 the Public Procurement (EU Exit) Regulations 2020;

- 4.2.2 the Public Contract Regulations 2015 (as amended by the above Regulations);
- 4.2.3 Concession Contracts Regulations 2016;
- 4.2.4 the Public Services (Social Value) Act 2012;
- 4.2.5 the Bribery Act 2010;
- 4.2.6 the Small Business, Employment and Enterprise Act 2015;
- 4.2.7 the Equalities Act 2012;
- 4.2.8 the Modern Slavery Act 2015;
- 4.2.9 the Finance Act 2020 (in respect of employment status IR35)
- 4.2.10 National Procurement Policy Statement 2021 (PPN 05/21)
- 4.2.11 any other relevant legislation.

5. Contracts Pipeline

- 5.1 All revenue procurements over £50k in value **MUST** be entered on the Contracts Pipeline which can be found on the public website. This enables the Council to keep track of budgets and plan for future expenditure and it allows suppliers and the local community awareness of upcoming projects.
- 5.2 Applications to make an entry on the Contracts Pipeline **MUST** be made via the Strategic Procurement Team.

B Developing the Commissioning Plan

6. General

6.1 What is the Commissioning Plan?

Prior to entering into any procurement, you **MUST** develop your business case by researching the procurement and speaking to all relevant parties, obtaining all relevant information. The Commissioning Plan falls out of this research and forms the business case that is approved prior to commencing the procurement.

- 6.2 The requirement for goods and/or services **MUST** start with an identifiable need which reflects the Council's overall objectives identified within Directorate, Service and Team Plans. You **MUST** understand the business requirements and how it impacts all levels of the organisation and local community. Consider the relevance of Council policies and procedures and how they have a bearing on the requirement.

7. Budget

- 7.1 Before starting the procurement, you **MUST** have budgetary approval. You **MUST** establish the aggregated monetary value of your requirement early, as this identifies the process that you follow, influences the amount of work you do and indicates the level of interest that will be generated.

8. Key stakeholders

- 8.1 You **MUST** identify the key stakeholders for the project including anyone impacted by the requirement. You should consider doing a Communications Plan for larger projects. You **MUST** be mindful of any Conflict of Interest and take necessary precautions to ensure that if there is a conflict, it is mitigated and/or managed.

9. Proportionality

2. 9.1 You **MUST** conduct a process that is proportionate to the value and risks of the requirement. **Market Analysis**

10.1 Consider talking to suppliers before starting the procurement, trialling products, visiting supplier premises or the premises of a supplier's customer. The Regulations explicitly permit preliminary market consultation. This type of pre-procurement engagement or consultation could focus on:

- What is being purchased?
- Is the specification realistic? Is it too ambitious? Not ambitious enough?
- What will the process look like?
- Do potential bidders have any concerns about timescales, for example?
- Is there a supply market for the requirement?

You **MUST** keep adequate records of market research carried out.

11. Bidders' conflicts of interest

11.1 If a potential candidate has advised the Council or been involved in the preparation of the procurement procedure, the Council is expected to take "appropriate measures" to ensure the resulting competition is not distorted by that candidate's pre-procurement involvement. This might include, for example, communicating relevant information to other candidates / tenderers. The Council cannot exclude a candidate from a procurement unless there is genuinely no other way to ensure that there is equal treatment of tenderers in the procurement process.

C Developing the Procurement Plan

12. Procurement Plan

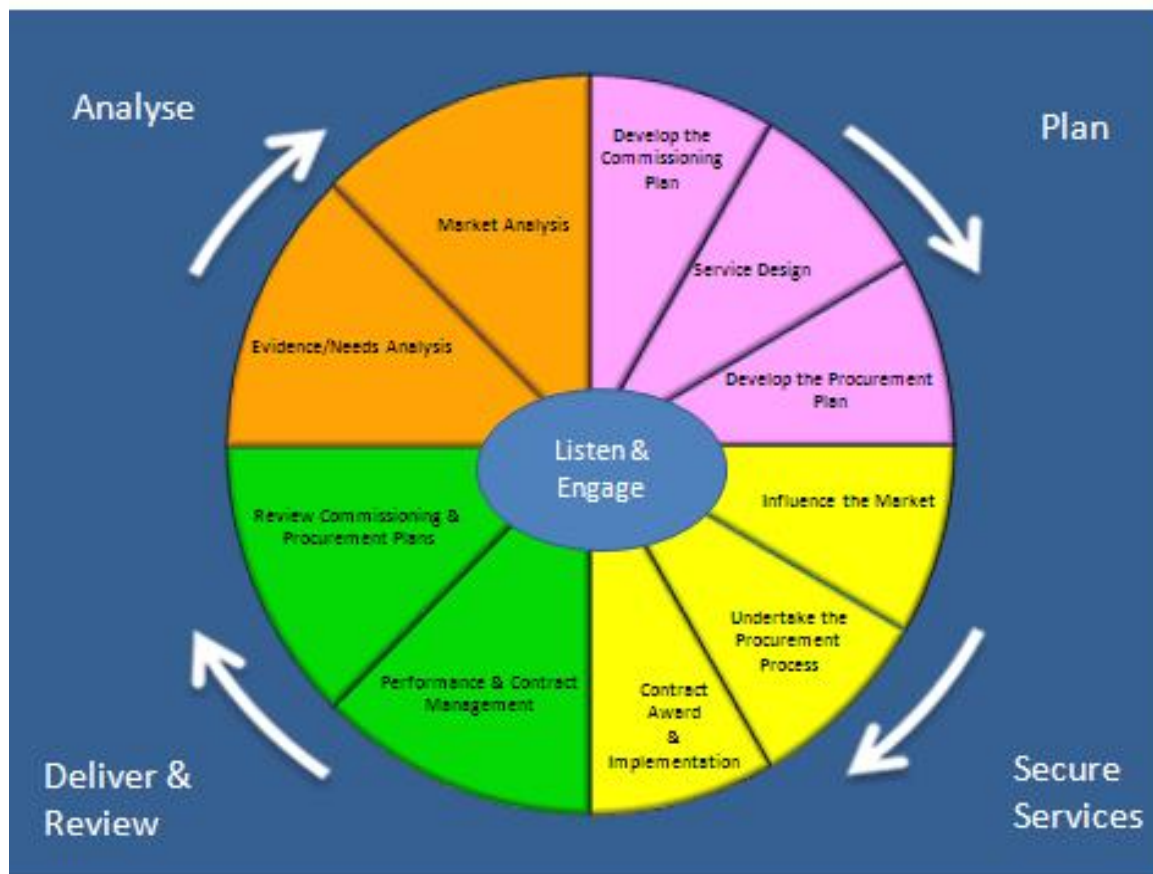
ALLOW PLENTY OF TIME TO DRAFT THE SPECIFICATION AND THE DETAIL IT WILL NEED
How can Think Local apply to what you are buying? (Appendix 21)
Does the scope include Social Value for Residents or the Area? see Appendix 6 (Social Value)
Does the Council already have in place any Contract or Framework in scope which you should be using? Check the Contract Register see Appendix 7 (Contract Register)
Is there an external Framework or Contract that you should be using? see Appendix 8 (Framework Agreements)
How will you decide on the procurement route? see Appendix 9 (Procurement Options)
Should we be leasing rather than buying? See Appendix 10 (Asset Leasing)
If buying, what form of Contract are you going to use? see Appendix 11 (Contract Forms and Terms & Conditions)
Who has the delegated authority to agree the purchase/approve the procurement method and process/approve the Contract award? see Appendix 12 (Scheme of Delegations)
How will you decide who will win the Contract? see Appendix 13 (Evaluation Criteria & Debriefing)

12.1 You **MUST** refer to the latest published guidance on the intranet for Consultancy and ensure the required approvals are in place.

D Undertake the Procurement Process

13. Procurement Process

13.1 The Procurement Cycle below illustrates the procurement and commissioning process from planning, through contracting with the supplier, performance monitoring and reviews and finally analysis of the outcomes and the market for future needs.



13.2 Summary Financial Thresholds

See the table below to understand the procurement process dependent on the Contract value (See **Appendix 15 (Minimum Requirements)** for further details).

You should carefully estimate the value of the contract. If you issue tenders for a below threshold contract and the tender responses indicate that the value of the successful tender will go above the threshold, you **MUST** stop the process and re-tender. To avoid this, it is better to consider tendering for an above threshold contract in the first instance.

1. UP TO £5,000
1.1 <i>Have you followed “Developing the Procurement Plan”?</i>
1.2 Consider use of a purchasing card below £500.
1.3 Apply Think Local
1.4 Demonstrate Value for Money by testing the market by getting at least three written quotes
2. £5,001 – £50,000
<i>2.1 Have you followed “Developing the Procurement Plan”?</i>
2.2 Apply Think Local
2.3 Consider the Social Value Policy
2.4 Obtain at least 3 written Quotes via the Council’s e-tendering system if below £50k. You MUST Publish an Award Notice in Contracts Finder if the contract is above £30K (inc VAT)
2.5 Complete a Contract Spend Request
2.6 DO NOT use a Selection Questionnaire. Consider what suitability questions to ask instead (see Appendix 14 (Capability and Financial Checks))
2.7 Award the Contract based on your chosen criteria (price or price and quality).

2.8	You MUST record the new Contract on Contract Register
2.9	Publish the Contract award on Contracts Finder if the contract is above £30K (inc VAT)
3. £50,001 – £100,000	
3.1	<i>Have you followed “Developing the Procurement Plan”?</i>
3.2	You MUST add to Contracts Pipeline
3.3	Apply Think Local
3.4	MUST apply the Social Value Policy
3.5	Complete the Contract Spend Request
3.6	Consider whether to call off from an existing Framework Agreement
3.7	Advertise in Contracts Finder (see Appendix 20 Below Threshold Contracts)
3.8	DO NOT use a Selection Questionnaire. Consider what suitability questions to ask instead (see Appendix 14 (Capability and Financial Checks))
3.9	You MUST conduct relevant Due Diligence for the preferred bidder before award.
3.10	Award the Contract based on your chosen criteria (price and quality) and complete the Procurement Evaluation Report.
3.11	You MUST record the new Contract on Contract Register
3.12	Publish the Contract award on Contracts Finder
4. £100,001 – Threshold (see Appendix 16 for thresholds)	
4.1	<i>Have you followed “Developing the Procurement Plan”?</i>
4.2	You MUST add to Contracts Pipeline
4.3	You MUST apply the Social Value Policy

4.4	Advertise in Contracts Finder (see Appendix 20 Below Threshold Contracts)
4.5	Complete the Contract Spend Request
4.6	Consider whether to call off from an existing Framework Agreement
4.7	DO NOT use a Selection Questionnaire. Consider what suitability questions to ask instead (see Appendix 14 (Capability and Financial Checks))
4.8	You MUST conduct relevant Due Diligence for the preferred bidder before award.
4.9	Award the Contract based on your chosen criteria (price and quality) and complete the Procurement Evaluation Report.
4.10	You MUST record the new Contract on Contract Register
4.11	You may get the Contract sealed if appropriate.
4.12	Publish the Contract award on Contracts Finder
5.	Works contracts between goods and services threshold value and works Threshold (see Appendix 16 for thresholds)
5.1	<i>Have you followed “Developing the Procurement Plan”?</i>
5.2	You MUST add to the Contracts Pipeline
5.3	You MUST apply the Social Value Policy
5.4	Complete the Contract Spend Request
5.5	Consider whether to call off from an existing Framework Agreement
5.6	If not using an existing framework, advertise the Contract and invite tenders through the Council’s e-tendering system.
5.7	You MUST evaluate the financial standing of the tenderers (See Appendix 14 (Capability and Financial Checks)). You CAN use a Works Selection Questionnaire
5.8	You MUST take up references for the preferred bidder before award (a

Reference Questionnaire is available from Procurement)
5.9 You MUST complete the Procurement Evaluation Report
5.10 Award the Contract based on your chosen criteria (price and quality)
5.11 If above £500k you MUST get the Contract sealed, if below then only if appropriate.
5.12 You MUST record the new Contract on Contract Register
6. Above Threshold (see Appendix 16 for thresholds)
6.1 <i>Have you followed “Developing the Procurement Plan”?</i>
6.2 You MUST add to Commissioning Intentions List
6.3 You MUST apply the Social Value Policy
6.4 Complete the Contract Spend Request
6.5 Consider whether to call off from an existing Framework Agreement
6.6 If not using an existing framework, follow a compliant procedure – see Appendix 19 (<i>Procurement Options</i>) – through the Council’s e-tendering systemContract.
6.7 You MUST evaluate the financial standing of the tenderers (Appendix 14 (Capability and Financial Checks)). If using a Selection Questionnaire, you MUST use the Cabinet Office Standard SQ
6.8 You MUST take up references for the preferred bidder before award (a Reference Questionnaire is available from Procurement)
6.9 You MUST complete the Procurement Evaluation Report
6.10 Award the Contract based on your chosen criteria (price and quality)
6.11 If above £500k you MUST get the Contract sealed, if below then only if appropriate.
6.12 You MUST record the new Contract on Contract Register

E Contract Award & Implementation

14. General

- 14.1 Prior to contract award you **MUST** ensure all that all of the objectives stated in the specification are met by the outcome of the Procurement.

15. Approval to Award

- 15.1 The Procurement Evaluation and Approval Report **MUST** be completed in line with the Public Procurement Regulations. The report **MUST** explain how you have come to the decision to award.
- 15.2 The report **MUST** be signed-off by the appropriate delegated officer prior to notifying the supplier(s). See **Appendix 12 Scheme of Delegations** for details.

16. Notifying Suppliers

- 16.1 There are strict rules for above threshold procurements on how to debrief suppliers including a **Mandatory** 10-day Standstill Period prior to confirming Contract award. **Appendix 14 Contract Award & Debriefing** gives more information.
- 16.2 If the supplier requests a verbal debrief, discuss this with Procurement.

17. Publications

- 17.1 For Contracts above the Thresholds, you **MUST** submit a Contract Award Notice in 'Find A Tender' unless the contract has been awarded under a framework.
- 17.2 All Contracts awards above £30K (inc VAT) in value **MUST** be published on Contracts Finder. **See Appendix 20 (Below Threshold Contracts caught by Part 4 of the Regulations).**
- 17.3 You **MUST** update the Contract Register (see **Appendix 7 (The Council's Contract Register)**)
- 17.4 You **MUST** file documents in the Contract Register in line with document retention policies (see **Appendix 17 Document Retention**).

F Post Contract Award

18. General

- 18.1 Following Contract award you **MUST** put into place the agreed contract management controls and measures. You **MUST** review it regularly to ensure the Contract achieves its objectives and future benefits.

19. Contract Management

- 19.1 You **MUST** establish processes for recording the receipt of goods and progress of work, reviewing performance reports etc.
- 19.2 You **MUST** put in place both formal and informal communications to manage the relationship, as appropriate.
- 19.3 You should capture the views of the service users/interested stakeholders including feedback to them on the service performance.

20. Reviews

- 20.1 You **MUST** review the commissioning plan (against any changes in priorities/ objectives)
- 20.2 You **MUST** review the risk assessments and make any amendments to resource assumptions
- 20.3 You **MUST** review procurement plans to identify any changes or improvements to methodology for next time
- 20.4 All answers to above **MUST** be used to inform future commissions

21. Continuous Improvement

- 21.1 You should review your success against your original plans, i.e. did you achieve the outcomes you set out to achieve and do you understand what contributed to or prevented success?
- 21.2 You should share your learning with colleagues, service users and stakeholders to ensure you are continuously improving your processes and skills.
- 21.3 Reflect on the views of service users/stakeholders when reviewing whether the Commissioning and Procurement Plans were successful.

22. Contract Extensions

- 22.1 Extending a Contract can only happen in particular circumstances **(see Appendix 18 Contract Variations & Extensions for details).**

APPENDIX 1 - Glossary

Appendices	The appendices to these CSOs
Area	The administrative area of B&NES
Best Value	The Council's duty to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness in accordance with section 3(1) of the Local Government Act 1999 and associated statutory guidance
Business Case	A document that must form part of a Contract Spend Request for approval, prior to procuring revenue spend above £25,000.
Contracts Pipeline	The Council's published list of future procurement and commissioning activities above £25,000 found on the B&NES website. The intention is to highlight to potential suppliers the forthcoming opportunities for tendering. This is a statutory requirement under Localism Act.
Compliant Process	A procurement exercise that has been carried out in accordance with the Public Procurement (EU Exit) Regulations 20. See Appendix 20 Procurement Processes for a list of the main types of procurement procedures
Conflict of Interests	A set of circumstances that creates a risk that an individual's ability to apply judgement or act in one role is or could be, impaired or influenced by a secondary interest.
Contract	An agreement to supply Goods/Services/Works formed when there is an offer by one party and an acceptance of that offer by a second party. A Contract can be written or verbal.
Contract Award Notice	An advertisement entered by a buyer in 'Find a Tender' to advise interested parties that a Contract has been awarded by the buyer to a named supplier.
Contract Notice	An advertisement entered by a buyer in 'Find A Tender' to advise interested parties of the intention of the buyer to go to market to buy goods/services/works. It gives details of the requirements of the buyer.
Contract Register	The Council's repository for all its current Contracts and Framework Agreements, located on the Council's e-tendering

	system.
Contracts Finder	The UK Government's website on which all opportunities that are advertised for Contracts and Framework Agreements (and call-offs from Framework Agreements) for goods services and works above £30,000 (inc VAT) MUST be published. You advertise on Contracts Finder via the Council's e-tendering system.
Council Executive	The body of local Councillors elected by the community to decide on how the Council will carry out its various activities.
Council Members	The elected councillors who sit on the Council Executive
CSOs	These Contract Standing Orders (including the Appendices)
EIR 2004	Environmental Information Regulations 2004
Financial Regulations	The Council's Financial Regulations, found on the intranet.
Find A Tender	From 2021, the site where Contracts are advertised in the UK. Replaces the need to publish in Europe.
FOIA	The Freedom of Information Act 2000
Forward Plan	A list of council decisions for forthcoming months which can be found on the public website.
Framework Agreement	An 'umbrella' agreement that sets out the prices, service levels, and terms and conditions for subsequent call-off orders.
General Principles	The General Principles set out at A – Statement of Principles
Grant	An arrangement will be a grant when the Council gives a donation to an organisation without receiving a benefit in return. The organisation is not obliged to provide the service. It can decide not to provide the service but would then have to repay the donation.
Invitation to Tender or ITT	The invitation to tender is sent at the stage of the procurement process when you invite selected bidders to present their tenders in response to the stated requirements and evaluation criteria.

Light Touch Regime	The Light-Touch Regime is a specific set of rules for Contracts for certain services that tend to be of lower interest to cross-border providers. It includes certain social, health and education services. The list of services to which LTR applies is covered in Appendix 10 .
Local	Within the Area
Local Authority Controlled Company	<p>Where a contracting authority sets up a separate legal entity and then awards contracts to that legal entity. A two-part test must be satisfied, relating to control and activity:</p> <ul style="list-style-type: none"> • Control: the controlling authority exercises sufficient control over the controlled body; and • Activity: the controlled body carries out the essential part of its activities for its owner authority. <p>In addition, there must be no private sector participation in the body which satisfies the two-part test.</p>
Most Economically Advantageous Tender or MEAT	Awarding a Contract for works, goods or services based on a combination of overall cost AND service elements, not just cost alone.
Officer	Employee of the Council
Prudential Code	The Prudential Code for Capital Finance in Local Authorities
Quote/Quotation	A request for pricing and/or quality bid from a potential supplier for goods/services/works below £50,000. Similar to a Tender but with less detail required from bidders.
Regulations	The Public Procurement (EU Exit) Regulations 2020 and Public Contracts Regulations 2015
Residents	Residents of the Area
Scheme of Delegations	The Scheme of Delegations set out at Appendix 12 (Scheme of Delegations)
Selection Questionnaire	A questionnaire used in certain procurement procedures which allow procurers to shortlist the number of companies to be invited to Tender. Above Threshold this MUST reflect the Cabinet Office standard SQ and associated guidance : A SQ is NOT permitted for procurements valued between £30k (inc VAT) and the Goods and Services threshold (Appendix

	20 Procurement Processes refers).
Social Value	Described in the Public Services (Social Value) Act 2012 as improvements to the economic, social and/or environmental well-being of the Area. The benefits sought could be in the form of social benefits (for example reducing anti-social behaviour), economic benefits (for example increasing local employment), or environmental benefits (for example reducing local congestion).
Social Value Act	The Public Services (Social Value) Act 2012, which requires the Council to consider, pre-procurement, how what it procures might improve the economic, social and environmental well-being of the Area, and how best to use the procurement process to secure that improvement. There is also a duty to consider whether to undertake any consultation in making its decisions.
Standstill Period	A Mandatory 10-day period (which MUST be applied above Threshold between the notification to suppliers of the decision to award the Contract and the date of signing/entering into the Contract. The period is intended to give unsuccessful tenderers the opportunity to challenge the award if they wish. The period is longer if notifications are not sent electronically.
Tender	Request for pricing and/or quality bid from a potential supplier for goods/services/works above £50,000. Similar to a Quote but Tenders require more detailed proposals.
Think Local	The Council's policy on local purchasing
Thresholds	The financial thresholds above which a Contract published via Find A Tender will normally be required, as set out at Appendix 15 (Minimum Requirements and Thresholds)
Threshold Level	The financial contract value at which you MUST advertise your contract in Find A Tender. See Appendix 16 for details.
TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006. Legislation which protects employment rights of those whose job will be transferred to a new employer upon change of contractor by award of a Contract.
Value for Money	The optimum combination of whole-of-life costs and quality

(VfM)	(or fitness for purpose) of the goods, works or Services to meet the Council's requirement
VAT	Value Added Tax

Appendix 2 CSO Exemptions

1. Contracts below the Thresholds

Specific Officers may approve exemptions to these CSOs (to the extent that it is lawfully able to do so) in genuinely urgent situations and/or where there is a sound legal, financial or Value for Money reason (See **Appendix 12 Scheme of Delegations**). They **MUST**:

- give reasons for doing so on the Exemption Form (and record these in the minutes of the relevant meeting);
- The completed and signed exemption form (available via the Procurement Intranet pages) **MUST** be entered in the Contract Register (see **Appendix 7 Contract Register**)

The following are considered acceptable reasons for seeking an exemption:

- quantifiable and significant cost and efficiency savings can be achieved through seeking an alternative route;
- reasons of extreme urgency mean that normal time limits cannot be met, including as a result of unforeseen emergency or disruption to Council services;
- the Council would otherwise be exposed to immediate and significant financial, legal or reputational risk that has been identified in the relevant risk register;
- only one Contractor is objectively able to provide the works, services or supplies in question, for example where the supplier has exclusive Intellectual Property, artistic or other rights, is a monopoly or where the goods bought are for re-sale (in which case the exemption **MUST** be to the number of Quotes / Tenders that are sought);
- additional or new services, supplies or works are required which, through unforeseen circumstances, were not included in an existing Council Contract and are necessary for the completion of the Contract and/or cannot be carried out separately.
- new works or services/supplies are required which are a repetition of works, services/supplies carried out under the original Contract, provided they are required within 1 year of the original Contract.
- goods are required as a partial replacement for or addition to existing goods or installations and obtaining them from another source would result in incompatibility or disproportional technical difficulties in operation or maintenance.

- the Council has the benefit of a Local Authority Controlled Company under Regulation 12, and exercises over the company concerned a control which is similar to that which it exercises over its own departments and, at the same time, that company carries out the essential part of its activities with the Council's control.

You are reminded that an exemption will **not** be granted where this means the Council would not be complying with the General Principles or general law.

2. Contracts above the Thresholds

It is illegal to sign-off an exemption when the value of the Contract is above the threshold. You may need to consider other procurement routes, for example, using a Framework Agreement. See **Appendix 19 (Procurement above the Thresholds)** for details. If you are having difficulty you **MUST** consult with Strategic Procurement for more information.

Appendix 3 Business Ethics

1. General

Business ethics focuses on what constitutes right or wrong behaviour in the world of business. The following will help you to address ethical dilemmas during your procurement process.

2. Code of Conduct

All procurement exercises **MUST** be carried out with openness and transparency and with integrity and fairness to all suppliers.

Officers of the Council **MUST** conduct themselves in line with the Council's HR Code of Conduct including with regards to the receiving of hospitality and gifts and the giving and receiving of sponsorship.

3. Separation of Roles during Tendering

Council Members and employees involved in the tendering process and dealing with contractors **MUST** be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility **MUST** be aware of the need for accountability and openness.

Council Member and employees who are privy to confidential information on Tenders or costs for either internal or external contractors **MUST** not disclose that information to any unauthorised party or organisation. For further information, see the Members' Code of Practice guidance document (LINK).

4. Conflicts of Interest

There **MUST** be no conflict of interest with any suppliers or contractors. Where a conflict is identified, the member of staff concerned **MUST** not take any further part in the tendering process, to preserve the integrity of the process. For further advice, contact the Legal Department or the Procurement team.

5. Corruption

Council Members and employees **MUST** be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made, it is for the individual to demonstrate that any such rewards have not been corruptly obtained. For further guidance, see the B&NES Gifts and Hospitality policy on the intranet.

6. Use of Financial Resources

Council Members and Officers **MUST** ensure that they use public funds entrusted to them in a responsible and lawful manner and in accordance with the Council's Financial Regulations. They should strive to ensure Value for Money to the Area and to avoid legal challenge to the Council.

7. Lobbying

It is recognised that lobbying is a normal and perfectly legitimate element of the process of local governance however it is important that Members protect their impartiality and integrity when dealing with external contractors and suppliers.

Members **MUST NOT** breach the Bath & North East Somerset Code of Conduct by listening to or receiving viewpoints from contractors and suppliers or other interested parties during a procurement exercise. Indicating a bias toward a particular product, supplier or contractor would prejudice impartiality and could lead to a legal challenge against the Council.

8. Former Council Employees

Council Members and employees should endeavour to ensure that where they contract with a supplier to provide services or works to the Council, that the supplier does not employ a former Council employee when producing and submitting the response to the tender. This will ensure that all suppliers in the tendering process are treated fairly and that no one supplier is given a tendering advantage and respects Council confidentiality.

Appendix 4 Confidentiality, Intellectual Property, Data Protection, Transparency and Redaction

1. Confidentiality

- 1.1 The Council has a responsibility to ensure that information provided to suppliers and provided by suppliers is treated confidentially. This is not only good practice but also gives the suppliers confidence that they are being treated fairly and without discrimination. Information provided by the Council is given to suppliers in confidence and only to those whom they need to consult for the purpose of preparing the Tender, such as professional advisors or joint bidders.
- 1.2 If a Conflict of Interest arises or if at any time during the procurement it is discovered that the tenderer has not acted confidentially, the Council has the right to eliminate them from the procurement exercise.
- 1.3 Tenderers have the right to state what elements of their Tender response they want to remain confidential however under the Freedom of Information Act the Council **MUST** provide information requested with some exceptions such as commercially confidential items (pricing, intellectual property etc.) which can be redacted from the version published in the public domain. Contractors' cooperation may be needed to ensure the Council complies with requests for information.

2. Intellectual Property

- 2.1 "Intellectual Property Rights" includes patents, inventions, trademarks, service marks, logos, design rights, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations.
- 2.2 Generally speaking, all intellectual property rights in all works or supplies provided under a Contract which are written or produced on a bespoke or customized basis would be owned by the Council and the contractor should be required to ensure that it allows such ownership.
- 2.3 However, where the supplier provides existing intellectual property right protected material to the Council under a Contract, it has to warrant it has the right to do so and it fully indemnifies the Council against all loss or liability arising from any third party intellectual property rights claims

arising both from such existing material and in relation to any such bespoke work.

3. Data Protection Act & GDPR

- 3.1 The Data Protection Act 2018 defines UK law on the processing of data on identifiable living people and are the legislation that govern the protection of personal data in the UK. All Council Officers are legally obliged to comply.
- 3.2 The Council's Terms and Conditions of Contract contain clauses which state how contractors process and store personal data provided to them under a Contract.
- 3.3 In certain Contracts, where a supplier is required to process personal data or hold personal information for the purpose of executing the Contract, then Officers **MUST** include an Information Governance questionnaire in the corresponding Invitation to Tender. Further guidance can be obtained from the Information Governance Manager.

4. Transparency

- 4.1 Under the Local Government Transparency Code the following items **MUST** be published.
 - all individual items of expenditure above £500;
 - every transaction made using a Government Procurement Card;
 - a list of all Invitations to Tender for goods and services exceeding £5000;
 - a list of all contracts, Framework Agreements, purchase orders and commissioned activity in excess of £5000.

5. Redaction of Data

- 5.1 It is the responsibility of the service department to ensure that the information provided for publication under the transparency code has been cleansed and any personal or sensitive information has been redacted prior to publication.

Appendix 5 Specifications

For a compliant procurement process, the Council **MUST** draft the technical specifications for a Contract upfront, before starting the procurement process. This is good practice even if the contract is below the threshold.

What the technical specifications look like will vary widely depending on the nature of the Contract. If you are having difficulty drafting a specification for the Contract, guidance is available on the Procurement intranet page.

In addition, information can be found on the following:-

- Health & Safety
- Transfer of Undertakings in Employment (TUPE)
- Insurance

However, you may need to obtain specific advice from the Health, Safety & Wellbeing Manager, Human Resources or the Team Leader, Insurance, Banking & Control.

Appendix 6 Social Value

The Social Value Act requires the procurer to consider securing economic, social, or environmental benefits when buying services above the Thresholds through what is being bought, and how it is procured.

This duty relates to:

- **all** service Contracts to which the Regulations apply (including those under the Light Touch Regime;
- services Contracts with a works / supplies element that is so incidental that the Contract would ordinarily be considered a services Contract under the Regulations; and
- Frameworks Agreements for such Contracts.

The Council **MUST** also think about whether **consultation** on Social Value matters is needed.

The Council's Social Value Policy applies to:

- **all** works Contracts (including Contracts for a mixture of works and services or supplies) where the value of the Contract is expected to exceed **£500,000**;
- **all** services Contracts and supplies Contracts (including Contracts for a mixture of works and supplies or services, and regardless of whether a full procurement regime applies) where the value of the Contract is expected to exceed **£100,000**;
- **all** Framework Agreements where the anticipated spend in any financial year is expected to exceed £500,000 for works and £100,000 for goods and services;
- **all** joint Contracts with other purchasers where the value of the Council expenditure is expected to exceed £500,000 for works and £100,000 for goods and services.

The Social Value Policy focuses on achieving targeted recruitment and training through Contracts as the Council's priority, but where other aspects of Social Value are relevant to a Contract they should of course be considered.

Appendix 7 The Council's Contract Register

The Council's Contract Register is available through the Council's e-tendering system and records and stores information on the Council's Contracts. It provides:

- key information to Council Members and Officers on existing current and expired Contracts;
- limited information to the general public (including start and end dates, Contract value, and key contact details);
- information on Contracts to allow Officers to retender in good time.

When should I put something on the Contract Register?

Recording of Contracts on Contract Register is **Mandatory** for all Contracts valued above **£5,000**. However, it is recommended for Contracts of any value.

Any agreed exemptions **MUST** be placed on Contract Register.

You **MUST** also keep the information on Contract Register up to date, for example if:

- a Contract is extended;
- the key contact for a Contract changes (e.g. if an Officer leaves).

Before you Purchase Anything

You **MUST** check the Contract Register before you start any procurement activity, in case there is an existing Council Contract which covers your need. Saving time and expense by using an existing Contract will almost always represent Value for Money.

Appendix 8 Framework Agreements and Dynamic Purchasing Systems

Framework Agreements

A Framework Agreement is an ‘umbrella’ agreement negotiated with suppliers whereby at the start of the agreement the exact quantity of goods or services required over the period of the agreement cannot be determined.

1. For example, when you put together an agreement with a supplier to buy stationery, you won’t know exactly how many pens, pencils, rulers etc. you will need over the period of the agreement, or when you will place the orders.
2. The intention behind a framework is to streamline the competitive process by enabling one tender process to set up the protocol by which multiple Contracts can be called off. They can be created so that one, or many, purchasers are able to benefit from the arrangements. Equally they can be created with one provider, or a number (in which case often a “mini-competition” is used to decide which provider is used each time there is a call-off.
3. Frameworks are therefore useful when you anticipate that you are likely to need the same – or similar- provision on several occasions over time. They are normally limited to four years in length.
4. There is no obligation to buy anything from a Framework Agreement and you are not committing the Council to any spend. However, every time you place an order from a Framework Agreement, you are entering into a legally binding Contract.

For more information on Framework Agreements, the Procurement team has a guidance document available on the intranet.

Dynamic Purchasing Systems

A DPS is similar to a framework agreement however whereas a framework is set once the award has been made and no new suppliers can be added to it, a DPS will allow new suppliers to be added, PROVIDED that they meet the objective selection criteria laid out in the original contract notice or advertisement.

Appendix 9 Procurement Options

1. Below the Thresholds

Below the Thresholds, the procurement process is more flexible. See the main body of the CSOs, and **Appendix 15 (Minimum Requirements)** for details of the requirements for different values of spend.

You **MUST** consider if there is an existing Contract or Framework you could use, either one established by the Council, or one procured by a central purchasing body.

Use of the the Council's e-tendering system is **Mandatory** for Contracts above £5000, allowing you to:

- Advertise the Contract
- Complete A Tender
- Award the Contract.

Where a Contract above £30,000 (inc VAT) is advertised publicly the opportunity must be advertised on Contracts Finder through publication of a Contract Notice. Note: a Contract Notice is not required where the process is an invited process in accordance with the CSOs or where it is a call-off from an existing Framework Agreement, however the requirement in relation to an Award Notice is applicable. Where the Contract is above £30,000 (inc VAT) an Award Notice must be published on Contracts Finder within 30 days of the Contract award date. See Appendix 20 for further details.

2. Above the Thresholds

Please see **Appendix 19 (Procurement above the Thresholds)**.

3. The Light Touch Regime

This section applies to Contracts for the following Services:

- Health, social and related Services
- Administrative, social, education, healthcare and cultural Services
- Compulsory Social Security Services
- Benefit Services

- School Meals and Catering Services
- Other community, social and personal Services including Services furnished by trade unions, political organisations, youth associations and other membership organisation Services
- Religious Services
- Hotel and Restaurant Services
- Legal Services
- Other administrative and government Services
- Provision of Services to the community
- Prison related Services, public security and rescue Services to the extent not excluded pursuant to point (h) of Article 10
- Investigation and security Services
- International Services
- Postal Services
- Miscellaneous Services

When you are buying these services, the “Light Touch Regime” will apply if the Contract is valued above the Threshold. The Threshold is higher than for other Goods and Services. See Appendix 16 Thresholds.

Under the Light Touch Regime, you **MUST**:

- issue a Contract Notice or Prior Information Notice in Find A Tender
- follow a transparent and fair procedure which treats potential service providers equally; and
- issue a Contract Award Notice.

The Regulations require the Council to:

- give information in the Contract Notice about:
 - any conditions for participating in the competition (e.g. “selection” criteria);
 - any time limits for contacting the Council;
 - the award procedure that the Council will apply.
- ensure that any time limits imposed on interested providers are reasonable and proportionate.

The Council can choose to apply a procedure that looks similar to one of the procurement procedures (see **Appendix 19 (Procurement above the EU Thresholds)**) but does not have to.

The Council **MUST** apply the Guidance of the new Light Touch Regime for Health, Social Education and certain other Service Contracts published by Crown Commercial Service.

Appendix 10 Asset Leasing

1. General

1.1 The implementation of the Prudential Code introduced new freedoms for local authorities to pursue various capital and revenue options for the funding of asset acquisitions. It is therefore important to ensure the most cost-effective form of funding is sourced for each acquisition.

1.2 Objectives of controlling

Asset leases are to ensure-:

- (a) compliance with the Prudential Code
- (b) terms and conditions of leases are appropriate.
- (c) the lease is correctly recorded in the Council's accounts.
- (d) compliance with the Regulations.

1.3 Implications if the above objectives are not achieved:

- (a) non-compliance with the Prudential Code Value for Money requirements.
- (b) the cost of leasing the asset is greater than alternative finance options.
- (c) the Council's accounts are incorrectly stated.
- (d) legal challenge as a result of a breach of the Regulations.

1.4 Key Responsibilities for Members and Officers:

- (a) every Director **MUST** refer all proposed leasing arrangements, within their Services, to the Director of Finance and S151 Officer and;
- (b) approval **MUST** be obtained from the Director of Finance and S151 Officer for all asset leases.

1.5 More information on the Prudential Code can be obtained from www.cipfa.org

1.6 Asset leases are treated as supplies Contracts for the purpose of the Regulations and so the Regulations will apply in the normal way.

Appendix 11 Contract Forms and Terms & Conditions

1. General

The Regulations require the Council to make its procurement documents available electronically from the published date of the Contract Notice (Regulation 53). Procurement documents include the proposed Terms and Conditions of Contract (T&Cs) as well as SQs and ITTs. This means that the SQ, ITT and T&Cs, for any procurement process ***MUST*** be drafted **before the Contract Notice is issued**.

The Council considers it good practice to apply this rule to all Contracts, whether or not the Regulations are applicable. It is therefore the expectation that the Contract form will have been decided on before the procurement / tendering process starts.

2. Contracts below the Thresholds

For the majority of Contracts under the Thresholds it will normally be appropriate to use the Council's standard small value Terms and Conditions which are available on the Procurement intranet page.

3. Contracts above the Thresholds

For Contracts above the Thresholds you should use the Council's standard Terms and Conditions which are available on the Procurement intranet page.

It may be more appropriate to use an industry standard form of Contract, or a bespoke Contract drafted for the particular Contract in question.

When considering which type of Contract to use, you should consider the points in the guidance document attached, and if appropriate discuss with the Procurement team.

Appendix 12 Scheme of Delegations

The following people / positions / committees have delegated authority to agree or approve expenditure:

Contract Value	Authority to Agree Procurement Process	Place on Commissioning Intentions (Y/N)	Approval Docs Required	Authority to Award Contract	Authority to Sign an Exemption	Authority for Signing & Sealing¹
Up to £5000	Cost Centre Manager	N	Bid Evaluation	Cost Centre Manager	Cost Centre Manager	Cost Centre Manager (signing)
£5,001 to £50,000	Cost Centre Manager	N	Bid Evaluation	Cost Centre Manager	Director	Cost Centre Manager (Signing)
£50,001 to £100,000	Service Area Manager	Y	Tender Evaluation Document	Service Area Manager	Director	Director (Signing) unless sealing is agreed to be appropriate.
£100,001 to Threshold	Director	Y	Tender Evaluation	Director (Recorded)	Chief Operating	Director (Signing)

¹.

¹ Not required for Capital Expenditure if on Council's Capital Programme

			Document	Officer Decision)	Officer	unless sealing is agreed to be appropriate Above £500,000 Head of Legal (Sealing)
Above Threshold & Emergency Purchases	Director	Y (but not emergency purchases)	Tender Evaluation Document & Regulation 84 report	Chief Operating Officer (Recorded Officer Decision) with Cabinet Member approval (within budget)	NOT ALLOWED above threshold	Director (Signing) unless sealing is agreed to be appropriate Above £500,000 Head of Legal (Sealing)

Appendix 13 Evaluation Criteria & Debriefing

1. General

The Council **MUST** make its “procurement documents” available electronically from the date of the Contract Notice. The evaluation criteria and the weightings **MUST** be included in either the Contract Notice itself, or in the procurement documents. This means that you **MUST** have agreed the evaluation criteria for the Tender before the Contract Notice is issued.

2. Most Economically Advantageous Tender

Evaluation criteria **MUST** be based on the “Most Economically Advantageous Tender”. This can be identified by:

- price or cost (using life-cycle costing)
- the best price-quality ratio (considering qualitative, environmental and/or social aspects linked to the subject matter of the Contract), including:
 - quality: technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions;
 - organisation, qualification and experience of staff assigned to performing the Contract (where this can have a significant impact on the level of the performance of the Contract);
 - after-sales service and technical assistance, delivery conditions such as delivery date, process and period, or period of completion.

If a Contract is for a fixed price, you can use just quality criteria.

The Procurement Team can advise on what to use for scoring matrices and evaluation criteria.

3. Debriefing

For further information on how to debrief suppliers, please contact the Procurement Team. There is a strict legal process for above threshold debriefs which must be done correctly.

Appendix 14 Capability & Financial Checks

1. General

You **MUST** ensure that any supplier interested in doing business with the Council has both the technical capability and the financial capacity to be able to perform the Contract.

2. Below Thresholds

Below the threshold you **MUST** NOT use a Selection Questionnaire to shortlist tenderers. You can ask “suitability assessment questions” that are relevant to the subject matter of the contract and are proportionate. These can relate to minimum standards of suitability and capability.

3. Above Thresholds

Procurements above the Thresholds using one of the procedures described in **Appendix 19 Procurements above the Threshold – Options and Procedures**. This includes procedures which use a Selection Questionnaire to shortlist candidates before inviting Tenders.

When using a SQ, you **MUST** use the Cabinet Office standard SQ. This includes the government standard questions on financial standing.

4. Framework Agreements and Lots

There are specific rules that **MUST** be applied for Framework Agreements and lots. Please see the Guide to Framework Agreements on the Procurement intranet page.

Appendix 15 Minimum Requirements

1. Contracts Minimum Requirements

VALUE OF CONTRACT	MINIMUM PURCHASING REQUIREMENTS	MINIMUM CONTRACT REQUIREMENTS	ENTER ON COMMISSIONING INTENTIONS	USE OF PROACTIS	ENTER ON CONTRACT REGISTER
Up to £5000	<ul style="list-style-type: none"> - Use purchasing card if accepted by supplier - Demonstrate VfM by testing the market - Think Local 	Ensure written record of purchase and Purchase Card Spend Management System updated if relevant.	No	Recommended	n/a
£5,001 - £50,000	<ul style="list-style-type: none"> - Think Local - 3 written Quotes via the Council's e-tendering system if <£30k (inc VAT) - Advertise on Contracts Finder >£30K (inc VAT) - Do NOT use a SQ but can ask suitability questions - State award criteria - Publish the Contract Award on Contracts Finder if >£30K (inc VAT) 	Council's Standard Contract Terms (unless agreed with the Legal or Procurement departments)	No	Mandatory – (to comply with Local Government transparency requirements – See Appendix 4)	Yes
£50,001 - £100,000	<ul style="list-style-type: none"> - Think Local - Advertise on Contracts Finder 	Council's Standard Contract Terms (unless	Yes	Mandatory – (to comply with Local	Yes

	<ul style="list-style-type: none"> - Consider Social Value Policy - Do NOT use SQ but can ask suitability questions - State award criteria - Publish the Contract Award on Contracts Finder 	agreed with the Legal or Procurement departments)		Government transparency requirements – See Appendix 4)	
£100,001 – PPR Threshold see table below for thresholds	<ul style="list-style-type: none"> - Advertise on Contracts Finder - Apply Social Value Policy - Can use SQ for Works but NOT for Goods and Services below threshold - State award criteria - Publish the Contract Award on Contracts Finder - Contracts over £550k must be sealed 	Follow guidance at Appendix 11 (Contract Forms and Terms & Conditions)	Yes	Mandatory – (to comply with Local Government transparency requirements – See Appendix 4)	Yes
Above PPR Threshold see table below for thresholds	<ul style="list-style-type: none"> - Follow a compliant procedure (see Appendix 9 (Procurement Options), Appendix 5 (Drafting Specifications) and Appendix 13 (Evaluation Criteria) and Appendix 20 (Procurement above the PPR Thresholds - Options)) - Apply Social Value Policy - Advertise on Contracts Finder 	Follow guidance at Appendix 11 (Contract Forms and Terms & Conditions)	Yes	Mandatory – (to comply with Local Government transparency requirements – See Appendix 4)	Yes

	<ul style="list-style-type: none"> and in Find A Tender – Contract MUST be sealed – Publish the Contract Award in Find A Tender 				
Light Touch Regime – <i>Below threshold</i>	<ul style="list-style-type: none"> – Think Local – Advertise on Contracts Finder if >£30k (inc VAT) – Apply the Social Value Policy – State award criteria 	Council's Standard Contract Terms (unless agreed by the Legal or Procurement Departments)	Yes (above £50K)	Mandatory – (to comply with Local Government transparency requirements – See Appendix 4)	Yes
Light Touch Regime – above threshold	<ul style="list-style-type: none"> – Follow LTR compliant procedure (see Appendix 7 Procurement Options) – Apply Social Value Policy – Advertise on Contracts Finder – Award Contract in Find A Tender – Contract MUST be sealed 	Follow guidance at Appendix 11 (Contract Forms and Terms & Conditions)	Yes	Mandatory – (to comply with Local Government transparency requirements – See Appendix 4)	Yes

Appendix 16 Procurement Thresholds & Timescales

TYPE OF CONTRACT	THRESHOLD (£) (TO 31/12/21) NET OF VAT	NEW THRESHOLD (£) (FROM 1/1/2022 – 31/12/2023) INCLUSIVE OF VAT	NEW THRESHOLD (£) (FROM 1/1/2022 – 31/12/2023) BEFORE VAT
Works Contracts and Concession Contracts	£4,733,252	5,336,937	4,269,550
Supplies and/or (most) Services (for Local Government)	£189,330	213,477	170,782
Social and other specific Services (Light Touch Regime applies)	£663,540	663,540 (if inclusive of VAT)	530,832 (if without VAT)

Please note that the new thresholds are inclusive of VAT (due to the UK's obligations under the WTO).

	SELECTION STAGE	TENDER STAGE	IF ELECTRONIC TENDER ACCEPTED	TENDER FOLLOWING PIN	TENDER BY AGREEMENT	URGENCY
Open Procedure	n/a	35 days	30 days	15 days	n/a	15 days
Restricted Procedure	30 days	30 days	25 days	10 days	At least 10 days	15/10 days

Competitive Procedure with Negotiation	30 days	30 days	25 days	10 days	At least 10 days	15/10 days
Competitive Dialogue	30 days	n/a	n/a	n/a	n/a	n/a

Appendix 17 Document Retention

Retention Classification	Retention Period
Contracts under seal (above Threshold)	12 years from Contract end This includes all Contract documents (specifications, drawings, certificates, Contract instructions and all relevant correspondence
Contracts not under seal	6 years from Contract end This includes all Contract documents (specifications, drawings, certificates, Contract instructions and all relevant correspondence
Unsuccessful Tenders and Quotes	4 years from the award of Contract
Abandoned Tenders and Quotes	4 years from the date of abandonment
Purchase files	MUST be kept up to date at all times within the Council's e-tendering system and Contract Register
Hard copies of Contracts	Store locally for 6 years after date of purchase then archive 12 years after purchase, review for possible destruction/recycling

The sealing of tenders is carried out by the Legal Department. For more information about the sealing process see the Guide on the Procurement Intranet page.

Appendix 18 Tender & Contract Variations, Extensions & Termination

1. Tender Variations/Variant Bids

Tenderers can submit variant bids linked to the subject matter of the bid, however the Contract Notice or ITT must state the minimum requirements to be met by the variants and specific requirements for their presentation, in particular whether variants may be submitted only where a Tender which is not a variant has also been submitted.

You **MUST** ensure that the award criteria can be applied to variants meeting those minimum requirements as well as to conforming “core” Tenders which are not variants. Only variants meeting the minimum requirements laid down by the Council shall be taken into consideration.

2. Contract Extensions

When you award a Contract/Framework, you **MUST** state the start and end dates and whether there is an option to extend beyond the ‘initial term’. If an extension clause has been included in the Contract, then it is permissible to extend but this should only be done if it represents value for money to extend and if the performance of the supplier warrants it.

Procurement have an extension letter template which can be used. Approval **MUST be obtained prior to extending any contract. For contracts above £20k, this must be obtained from the Contracts Panel.**

3. Contract Variation

Contract variations are risky and can trigger the need for a new procurement exercise. The Regulations set out the changes that can be made to a Contract or Framework Agreement. You **MUST** read the guidance and seek advice from the Procurement Department before making any Contract variation that could fall foul of the Regulations.

4. Contract Termination

Early termination **MUST** be approved by the Head of Strategic Procurement. Contracts may be terminated early by agreement prior to the expiry date of the Contract and in accordance with the termination provisions set out in the Contract.

Appendix 19 Procurement above the Thresholds

Options & Procedures

This Appendix lists the main choices of procurement procedure and the other routes available. You **MUST** seek the support of Procurement and Legal when you undertake any procurement that is above threshold.

Main Choices of Procedure

- Open Procedure
- Restricted Procedure

Other Routes

- Competitive Procedure with Negotiation
- Competitive Dialogue
- Concession Contracts
- Dynamic purchasing systems
- Electronic auction

Lots - if you do not divide the Contract up into lots, you **MUST** explain why in the Contract Notice or procurement documents.

Appendix 20 Below Threshold Contracts.²

(caught by Part 4 of the Regulations)

1. Using Contracts Finder to Advertise Contracts

- 1.1 ***If*** you advertise an opportunity, then you ***MUST*** place an advert on Contracts Finder via the Council's e-tendering system.
- 1.2 This does ***not*** include where you call off from a Framework Agreement or another select/approved list or where the opportunity is an invited quote in accordance with the CSOs.
- 1.3 This ***does*** include when you issue a Prior Information Notice (PIN) or similar – you ***MUST*** advertise “*regardless of how specific the opportunity is*”.
- 1.4 Adverts on Contract Finder ***MUST*** include the following information:
 - (a) the date and time by which an interested supplier ***MUST*** respond if it wishes to be considered (the time period allowed for responses but be sufficient but proportionate);
 - (b) how a supplier ***MUST*** respond to the advert, and to whom; and
 - (c) any other requirements for participating in the procurement.
- 1.5 In reality, Contracts Finder requires more information than this, including an (estimated) Contract value.
- 1.6 When you advertise on Contracts Finder, you ***MUST*** offer unrestricted and full direct internet access free of charge to any relevant Contract and procurement documents and specify in the notice the internet address where those documents can be accessed.

2. Selection Questionnaire

- 2.1 You ***MUST not*** shortlist using an SQ for Contracts below the threshold unless it is for a Works contract.
- 2.2 Instead, you ***can*** ask “suitability assessment” questions that are relevant to the subject matter of the procurement and are proportionate. These questions should relate to information / evidence you need that the candidate meet requirements / minimum standards for:

² In this case, this threshold applies to works contracts as well as services and supplies.

- (a) suitability;
- (b) legal status;
- (c) financial standing.

3. Contract Award Notices on Contracts Finder

- 3.1 The following requirements apply when you award a public Contract – ***whether or not*** it was advertised on Contracts Finder. This includes when you call off from a Framework Agreement and when you run an invited quote in accordance with the CSOs.
- 3.2 You ***MUST***, within 90 days of contract award, publish the following information on Contracts Finder:
 - (a) the name of the contractor awarded the Contract;
 - (b) the date on which the Contract was entered into;
 - (c) the value of the Contract;
 - (d) whether the contractor is an “SME” or “VCSE”.
- 3.3 “VCSE” means a non-governmental organisation that is value-driven, and which principally reinvests its surpluses to further social, environmental or cultural objectives”.
- 3.4 You can withhold any of this information where its release:
 - (a) would impede law enforcement or would otherwise be contrary to the public interest;
 - (b) would prejudice the legitimate commercial interests of a particular economic operator (whether public or private); or
 - (c) might prejudice fair competition between suppliers.
- 3.5 This is most likely to apply to the value of the Contract awarded.

APPENDIX 21 – THINK LOCAL GUIDANCE

What is Think Local?

Think Local is the opening up of opportunities for local organisations, primarily SMEs and VCSEs, to supply the council with goods, works and services.

When to use Think Local

Think Local should be the default approach for contracts up to £100K and should be considered for contracts over that threshold. Think Local does not exempt you from following the procurement processes as outlined in the Contract Standing Orders and is not a reason to direct award to a certain supplier.

When 'Thinking Local' at any threshold:

- ✓ Research the local market
- ✓ Notify suitable local organisations of the potential opportunity
- ✓ Make sure your tender/quote does not exclude local SMEs

Where the CSOs permit a three quote process you are permitted to specifically invite the identified local organisations to quote. However, if it is a publicly advertised process (above £50k) you would alert the local organisations to the opportunity, but will not be able to restrict the opportunity to local organisations

How to 'Think Local'

- 1 Are there suitable organisations in the B&NES area that could deliver the contract?
If yes, invite them to quote or alert them to the tender opportunity (depending on spend and CSO requirements).
- 2 If there are no suitable organisations in the B&NES area, open up your search to the West of England. If suitable organisations exist in this area, invite them to quote or alert them to the tender opportunity (depending on spend and CSO requirements).
- 3 If no suitable organisations exist in B&NES/West of England, consider opening out your search to the South West. If suitable organisations exist in this area, invite them to quote or alert them to the tender opportunity (depending on spend and CSO requirements).
- 4 If no suitable organisations exist in the B&NES/West of England/South West, consider looking for organisations in the Western Gateway region. If suitable organisations exist in this area, invite them to quote or alert them to the tender opportunity (depending on spend and CSO requirements).

<i>Region</i>	<i>B&NES</i>	<i>West of England</i>	<i>South West</i>	<i>Western Gateway</i>
Extent of coverage (some coverage overlaps)	Bath & North East Somerset	B&NES Bristol North Somerset South Gloucestershire	Gloucestershire to Cornwall and across to Wiltshire and Dorset	From Wiltshire to Glamorgan (South Wales)