

**CHORLEY BOROUGH COUNCIL
CONTRACT PROCEDURE RULES**

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Contract Procedure Rules

1. Introduction

- 1.1 These Rules form part of the Council's Constitution and are the Council's Contract Procedure Rules for purchasing goods, works and services for the Council. They do not apply to internal purchases or internal service provision, only where you need to buy something from outside the Council.
- 1.2 The Rules apply to any contract that results in a payment being made by the Council as well as to some types of contracts where a service is being provided for the Council which results in some income being generated for the Council.
- 1.3 The Rules also apply to the disposal of surplus goods (see paragraph 37) and to Concession Contracts (paragraph 38).
- 1.4 The Rules also apply when an external body, authority, company, consultant or other person has been engaged to carry out procurement or disposal on behalf of the Council.
- 1.5 The Rules apply to procurements which are to be commenced on or after 28 October 2024. Procurements commenced before that date (and contracts awarded following such procurements) shall continue to be regulated by the requirements of the Public Contracts Regulations 2015 (**PCR**), including the award of a call-off contract from a framework, where the procurement for the framework commenced before that date.
- 1.6 The Rules cover Regulated and Unregulated Procurement activities of the Council. Regulated Procurements covers the award of contracts regulated by the Procurement Act 2023 (**PA**) and the Procurement Regulations 2024 (**PR**). Compliance with the PA and PR is a strict legal requirement upon the Council, and it is not open to the Council to waive compliance for such procurements. Unregulated Procurement covers contracts of a value below £30,000 (including VAT) which are not covered by the PA. A more limited form of regulation applies to contracts with a value between £30,001 and specified thresholds in the PA (**Below-threshold Contracts**).
- 1.7 These Rules do not replicate the legislation. If an officer is in doubt about whether the PA applies to a proposed procurement, they must seek the guidance of the Procurement Team. However, the Rules do set out the Council's position under the PA, where there is discretion or choice and provide the necessary guidance to officers and members to understand how they work. For Unregulated Procurements, these Rules provide a comprehensive code which the Council shall follow in letting relevant contracts, which must be followed unless waived in the exceptional circumstances set out in paragraph 39 (Waivers of Contract Procedure Rules).
- 1.8 Quotations for grant funded contracts for goods, services or works, where they are procured by the Council, should be invited, in accordance with these Rules, except to the extent that any specific requirements for the receipt of the grant specify different requirements, in which case the specific grant procedures must be followed, and the procurement completed in accordance with the relevant grant procedural requirements. Please note that there is a difference between using grant funding to procure goods, services or works from suppliers (which must be in accordance with these CPRs); and the Council awarding grants itself (which do not fall within these CPRs as they do not relate to the procurement of goods, works and services but rather the award of money to organisations to deliver grant objectives). Where the Council awards a grant, as opposed to a contract for goods, services or works, subsidy control laws apply rather than public procurement laws.
- 1.9 The Rules have four main purposes:

- to ensure compliance with the PCR and PA;
- to obtain Value for Money in the way we spend money, so that we may in turn offer better and more cost-effective services to the public;
- to avoid corruption and ensure high ethical standards; and
- to protect people who follow the Rules.

1.10 The Rules must be read in conjunction with the Council's Financial Procedure Rules, Procurement Guidance and any other internal controls laid down by the Council for example the Council's Anti-Fraud and Corruption Policy and Whistle Blowing policy.

2 Compliance

2.1 Every contract entered into by the Council shall be entered into in connection with the Council's functions and must comply with:

- (a) all relevant statutory provisions;
- (b) the PCR and PA;
- (c) the Council's Constitution including these Contract Procedure Rules, the Authority's Financial Regulations and Financial Procedure Rules and the Council's Scheme of Delegation
- (d) the Council's vision, priorities, enabling strategies and policies (e.g. Corporate Plan, Procurement Strategy, Sustainable Procurement Policy and Social Value Policy requirements).

2.2 The PA obliges the Council to follow the National Procurement Policy Statement (**NPPS**), published by the government on 13 May 2024, and which may be amended from time to time, for both Regulated Procurement and Unregulated Procurement. The NPPS sets out a number of important obligations upon the Council for procurement including:

- (a) priority to achieving value for money;
- (b) due consideration for the inclusion of social value objectives; and
- (c) providing a level playing field for small and medium enterprises (SMEs), voluntary, community and social enterprise (VCSE) and start-ups.

If there is any doubt about the terms of the NPPS, advice should be sought from the Procurement Team.

2.2 At all times during a contract award procedure for an Above-threshold Contract, the Council, through its members and officers, shall consider and implement the PA Objectives. The Council shall also consider the PA Objectives in the award of Below-threshold Contracts and Unregulated Procurement.

2.3 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. Members shall comply with the Code of Conduct for Councillors, and officers shall comply with the Code of Conduct for Officers.

2.4 Effective audit trails must be maintained at all stages throughout the procurement procedure, particularly when approval or agreement is required and at evaluation/decision making stages.

3. Conflicts of Interest, Gifts & Hospitality (and Conflicts Assessment for Above-threshold Contracts)

- 3.1 Every officer entitled to buy supplies, services or works shall comply with the requirements of the Officer Code of Conduct in respect of conflicts of interest, gifts and hospitality.
- 3.2 The PA requires that before publishing a tender notice for an Above-threshold Contract, the Council must take all reasonable steps to identify, and keep under review, any conflicts of interest or potential conflicts of interest. The Council must take all reasonable steps to ensure that a conflict of interest does not put a supplier at an unfair advantage or disadvantage in the procurement. Before publishing a tender notice, the Council must also prepare a conflicts assessment in relation to the procurement. This conflicts assessment must include details of any conflicts or potential conflicts of interest identified by the Council; and any steps the Council has taken or will take to mitigate them. This conflicts assessment must be kept under review and revised as necessary during a procurement for an Above-threshold Contract.

4. Procurement Plan

- 4.1 Prior to the start of each financial year, each Director must prepare a procurement plan setting out their department's contracts to be procured (over £30,000) during that financial year, and where possible for forthcoming years. A copy of the plan must be supplied to the Procurement Manager who shall use this information to formulate an Annual Procurement Plan for the Council.
- 4.2 Any procurements planned with a contract value of £100,000 or above should be communicated to Democratic Services for inclusion on the Notice of Key Decisions.
- 4.3 The PA also obliges local authorities which expect to spend more than £100 million per year to publish a pipeline notice annually, on the Central Digital Platform, by 26 May each financial year, setting out information on any contracts with a value of more than £2 million for which they intend to publish a Tender Notice or transparency notice in the next 18 months from the 1st April. While the Council does not spend over £100 million per year on goods, services and works, it may consider publishing a pipeline notice detailing contracts with an expected value of £2 million which it expects to procure in any given financial year.

5. Who has authority to carry out procurement on behalf of the Council?

- 5.1 Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Constitution (Scheme of Delegation). Officers with delegated authority may only authorise other officers who have the appropriate skills and knowledge appropriate to the task. Officers shall be informed by his/her Director/Service Head, in writing, of the extent of any delegated authority and any applicable financial thresholds for each procurement. These officers shall be known as Authorised Officers.

5.2 Revenue Expenditure

Subject to the provisions of Paragraph 5.6, Directors and their Authorised Officers may seek Tenders and Quotations in accordance with these Contract Procedure Rules for any item of revenue expenditure for which budget provision has been made, and may accept such tenders/quotations in accordance with these Contract Procedure Rules, up to a total contract value of £100,000. Contract awards above £100,000 constitute a Key Decision and must appear in the Notice of Key Decisions, prior to any decision being taken as described in the Council's Constitution.

5.3 Capital Expenditure

Subject to the provisions of Paragraph 5.6, Directors and their Authorised Officers may seek Tenders and Quotations in accordance with these Contract Procedure Rules, the particulars of which are shown as approved in the Council's capital programme for the current financial year and which have also been approved/comply with any additional requirements of the Council's Financial Regulations. Directors and their Authorised Officers may accept Tenders /Quotations in accordance with these Contract Procedure Rules and the Council's Financial Regulations up to a total contract value of £100,000.

- 5.4 For the sake of clarity, the decision to commence a procurement exercise (as opposed to a decision to award a contract in the circumstances described in paragraphs 5.2 and 5.3 above) is not deemed to be a Key Decision unless the decision forms part of and is taken at the same time as a decision that will result in a change to service provision which will have a significant effect on two or more wards of the Council.
- 5.5 Any procurement which involves the transfer of Council Staff shall be treated as a High Value Contract and, as such, Cabinet or relevant Executive Cabinet Portfolio Member authority must be sought for such acceptance.
- 5.6 For all High Value Contracts, prior approval of the proposed contract award procedure including the evaluation criteria and weightings to be applied, shall be sought from Executive Cabinet. In cases of urgency, such prior approval may be obtained by Executive Member decision which shall clearly state the grounds and justification for such urgency. Where the prior approval decision has been taken by Executive Member on grounds of urgency, the decision to award the contract shall be made by the Executive Cabinet.

6. Exempt Contracts

- 6.1 The Rules do not apply to the following types of Contract:
- (a) individual contracts for the provision of temporary staff. (The arrangements with staffing agencies, however, should be subject to a competitive procurement process in accordance with these Contract Procedure Rules);
 - (b) contracts of employment which make an individual a direct employee of the Council;
 - (c) contracts relating solely to disposal or acquisition of an interest in land (including buildings);
 - (d) contracts for advice by and representation by a lawyer with regard to legal proceedings (or contemplated legal proceedings); or
 - (e) any other contract within the remit of Schedule 2 of the PA.

If you are in any doubt about whether the Rules apply, you **must** always check with the Procurement Team.

7. Pre-Procurement Procedure

- 7.1 Before commencing a procurement it is essential that the Authorised Officer leading the procurement has identified the business need and fully assessed any options for meeting those needs. Consideration shall be given to the Council's Procurement Strategy, Sustainable Procurement Policy and procurement guidance, as appropriate.

7.2 Before undertaking a procurement the Authorised Officer shall:

- (a) consider all other means of satisfying the need (including recycling and reuse where appropriate);
- (b) prepare an estimate of expenditure in accordance with paragraph 8;
- (c) satisfy themselves that they have the necessary authority to deal with the procurement and that there is budget provision for the procurement in accordance with the provisions of paragraph 5;
- (d) undertake a risk assessment;
- (e) in respect of an Above-threshold Contract, prepare a conflicts assessment in relation to the procurement (as required by section 83 PA), including details of:
 - (i) conflicts or potential conflicts of interest identified; and
 - (ii) any steps the Council has taken or will take to mitigate any conflicts of interest.

The Council must keep this conflicts assessment under review, revise it as necessary, and confirm that a conflicts assessment has been prepared and revised throughout any Above-Threshold Contract procurement.

- (f) complete an Equality Impact Assessment where any change in service provision is proposed that will have equality impacts;
- (g) establish a business case for the procurement and consider whether the procurement should follow the Council's Project Management Framework/Toolkit. Procurements which may benefit from use of the toolkit are usually higher value and are:
 - unique, new or complex leading to significant system, process or service changes,
 - impact on numerous services
 - have a significant reputational impact on the Council

The level of resource and detail deployed in carrying out the requirements of 7.1 and 7.2 shall be proportionate to the nature and the value of the contract being procured.

8. **Calculating the Contract Value**

- 8.1 Prior to commencing any procurement you must estimate the total monetary value of the contract (including VAT) over its full duration, including any extension options (i.e. not the annual value). The estimated total value of the contract will determine which procedure you must then adopt.
- 8.2 Where it is proposed to procure a contract on terms which will provide for renewal on a "rolling" basis, the Authorised Officer must make a reasonable estimate of the term of the contract in order to estimate the contract value. If during the term of the Contract it appears that the estimated contract value may be exceeded by anticipated further renewals of the contract, the provisions for contract extension at paragraph 34 shall apply. This Rule shall not apply to rolling contracts where the annual value is below £10,000. Such contracts shall be subject to an annual review.
- 8.3 Circumstances may arise where a number of low value contracts of the same type, for regular, routine, similar goods or services are given to one Supplier within a 12-month period. In this

case, 12 months expenditure should be aggregated to determine which procedure should be followed. When the value of those contracts is aggregated the effect may be to move the total purchase from one value band to another. This may mean that a different procurement method has to be followed to comply with these Rules, or it may be necessary to seek a waiver of these Rules in such circumstances.

- 8.3.1 The requirement to aggregate under the circumstances described at paragraph 8.3 will not apply where The Authorised Officer identifies that the spend activity is:
- (a) unknown or unplanned and therefore cannot be specified at the commencement of the 12 months period or
 - (b) of a similar general category but is so varied that it would be impractical or difficult to specify, the aggregate annual value is less than £30,000, and a blanket discount arrangement, schedule of rates or other such general framework agreement would be impractical and lead to additional cost.
- 8.3.2 In any event, the Authorised Officer shall ensure that Value for Money is achieved, make best use of the Council's purchasing power by aggregating where appropriate, undertake periodic review of the procurement decision, and keep appropriate records including the reason for any decision not to aggregate, throughout.
- 8.4 In accordance with Schedule 3 of the PA, if an Authorised Officer is unable to make a reasonable estimate of the contract value, it must treat the contract as if it is an Above-threshold Contract. In addition, section 4(3) of the PA prohibits an Authorised Officer from estimating a contract value with a view to securing that any requirement of the PA does not apply (i.e. under-estimating the contract value).
- 8.5 If, following calculation of the estimated value, the low value route (below) £30,000 is used, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £30,000, the matter shall be submitted for approval via the electronic request for waiver form located on The Loop which will seek approval from the Procurement Team, relevant Director, Legal and Financial services and the relevant Portfolio holder. Provided that the aforementioned are of the opinion that a robust exercise with an appropriate level of competition has been carried out, with a genuine pretender estimate, they may collectively approve the contract award.
- 8.6 If, following calculation of the estimated value, the intermediate route (below £100,000) is selected, and, after evaluating in accordance with the evaluation criteria, the preferred offer is valued at over £100,000, then the matter shall be referred initially to the Director/Head of Service for approval who shall consult the Monitoring Officer. The Director/Head of Service and the Monitoring Officer shall be given full details including how the estimated value was calculated, the amount of the estimated value, the value of all quotations received and the evaluation model applied leading to selection of the preferred offer. Provided that the preferred offer is within 10% of the pre tender estimate and the Director/Head of Service and the Monitoring Officer are of the opinion that a robust exercise has been carried out with a genuine pre-tender estimate, they may collectively recommend that the process be continued under the High Value Contract route and that full details of the process followed be included in the subsequent report requesting approval for the award decision to be submitted to Cabinet or the Executive Cabinet Portfolio Member. In such circumstances Cabinet would be requested to grant a waiver.

9. Low Value Contract: £30,000 and below including VAT

- 9.1 Where the estimated value or amount of the proposed contract is £30,000 or below, the Authorised Officer shall ensure that Value for Money is achieved and that the arrangements made secure the best available terms for the Council. Good practice would be to obtain written or electronic quotations (including at least one Local Supplier where possible); however, evidenced verbal quotations are acceptable (e.g. an email or file note recording details of the verbal quotation received). The Authorised Officer should ensure that the number and type of quotations received are appropriate and proportionate to the contract risk and value. Where the estimated value or amount of the proposed contract is more than £12,000, the expectation is that at least 3 RFQs shall be invited via email or through the Council's e-procurement portal "The Chest" – if this does not happen then the reasons for not so doing should be recorded.
- 9.2 The purchase order must be made on an official purchase order and shall specify the services, supplies or works to be provided and set out the price and terms of payments.
- 9.3 Two Authorised Officers must be involved in the ordering and receiving process.
- 9.4 Every purchase order (whether issued as a result of High, Intermediate or Low Value Contract) **must** contain the current approved standard form of terms and conditions of contract between the Council and the Supplier. A quotation and a purchase order will create a legally binding contract.
- 10. Intermediate Value Contract: £30,001 to £100,000 including VAT (Quotations)**
- 10.1 For contracts valued between £30,001 and £100,000, at least 3 RFQs shall be invited through the Council's e-procurement portal "The Chest", before a formal purchase order is issued specifying the supplies, services or works to be provided. If only one or two responses are submitted by suppliers invited to submit a RFQ, the Council may proceed with the award process without the need for a waiver.
- 10.2 Where a procurement is above £30,000 in value, and the intention is to advertise it on "The Chest", the PA requires that the opportunity is **first advertised** on the Central Digital Platform with a below-threshold Tender Notice. Additionally, for all contract awards above £30,000, whether the opportunity was openly advertised or not, a Contract Details Notice must still be published on the Central Digital Platform following the award of the contract. In both instances, the notices must include the specific details listed in the PR, and in both instances, these notices may be accommodated through The Chest.
- 10.3 At least one Local Supplier should be included in the Suppliers to be invited to quote where possible.
- 10.4 Invitations to Quote shall:
- (a) specify or refer to a specification of the goods, materials, services or work required;
 - (b) state the date and time by which the quotation must be received;
 - (c) include the instructions for submission and state that no quotation will be considered unless it is received in accordance with those instructions; and
 - (d) set out the evaluation criteria.
- 10.5 All quotations shall be evaluated in accordance with the evaluation criteria set out in the quotation documents. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Advantageous Tender to the Council.

10.5 Where the risk in a specific procurement is perceived to be high, then that procurement shall be treated as a High Value Contract.

10.6 Any procurement that may involve a transfer of Council staff shall be treated as a High Value Contract.

11. High Value Contracts: Above £100,000 including VAT (Tenders)

11.1 All contracts with a cumulative value of over £100,000 shall be classed as High Value Contracts.

11.2 Additionally, any contract where Council employees may be transferred to other bodies or where risk in the procurement is perceived to be high shall be treated as a High Value Contract.

11.3 All High Value Contracts must be advertised on the Council's e-procurement portal "The Chest". The PA requires that the opportunity is **first advertised** on the Central Digital Platform with a below-threshold Tender Notice.

11.4 The below-threshold Tender Notice should set out the Council's requirements and the expectation is that tenders will be invited from interested suppliers. The accompanying procurement documents will set out:

- (a) the specification of the goods, materials, services or work required;
- (b) the date and time by which the quotation must be received;
- (c) instructions for submission and state that no tender will be considered unless it is received in accordance with those instructions; and
- (d) the evaluation criteria.

11.5 All tenders shall be evaluated in accordance with the evaluation criteria set out in the procurement documents. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Advantageous Tender to the Council.

11.6 For High Value Contract, Below-threshold Contracts, a Contract Details Notice must be published on the Central Digital Platform following the award of the contract. In both instances, the notices must include the specific details listed in the PR, and in both instances, these notices may be accommodated through The Chest.

11.7 Nothing in these Rules prevents you from adopting any aspect of the High Value Contract procurement procedure in the procurement of Low or Intermediate Value Contracts.

11.8 Reservation of Below-threshold Contracts to particular suppliers, SMEs, VCSEs, public service mutuals, suppliers in a particular borough or UK-based

Where relevant and appropriate, consideration may be given to the reservation of procurements for Below-threshold contracts in accordance with Cabinet Office guidance at [https://assets.publishing.service.gov.uk/media/668bffb17541f54efe51bba1/Guidance -
_Below_Threshold_FINAL.pdf](https://assets.publishing.service.gov.uk/media/668bffb17541f54efe51bba1/Guidance_-_Below_Threshold_FINAL.pdf):

- 11.8.1 by Supplier location - this means being able to run a competition and specify that only Suppliers located in a geographical area can bid. This could be UK-wide to support domestic supply chains and promote resilience and capacity, or where appropriate, by county (metropolitan or non-metropolitan) to tackle economic inequality and support local recruitment, training, skills and investment. Supplier location should not be defined by nations of the UK (i.e. England, Scotland, Wales, Northern Ireland) and where a county reservation is to be applied, only a single county may be reserved. Supplier location should be described by reference to where the Supplier is based or established and has substantive business operations and not by location of corporate ownership; or
- 11.8.2 Reserve the procurement for SMEs, VCSEs or public service mutuals - this means being able to run a competition and specify that only SMEs, VCSEs and public service mutuals can bid.
- 11.9 Any procurement which is to be reserved as described at paragraph 11.8 above must ensure Value for Money and good commercial judgement and where the reservation is by Supplier location, approval for the rationale and decision required, on each occasion must be sought from either the Section 151 Officer or Monitoring Officer.
- 11.10 Where a procurement is reserved as described above this must be made clear both in the procurement documentation and Tender Notice and all other Rules will continue to apply, including any requirement to publish contract opportunities on The Chest and the Central Digital Platform (and awards on the Central Digital Platform).

12. Contracts Subject to the PA: Above-threshold Contracts

- 12.1 Above-threshold Contracts shall be procured in accordance with the PA. Under the PA, the contract must be procured using either:
- (a) a single-stage tendering procedure without restriction on who can submit tenders (an **“Open Procedure”**); or
 - (b) such other competitive tendering procedure as the Council considers appropriate for the purpose of awarding the Above-threshold Contract (a **“Competitive Flexible Procedure”**).

For each Above-threshold Contract, a Tender Notice shall be published in the prescribed form on the Central Digital Platform to invite tenders or expressions of interest.

Advertisements published in addition to the Tender Notice must not appear in any form before the Tender Notice is published on the Central Digital Platform and should not contain any information additional to that contained in the Tender Notice.

- 12.2 From 1 January 2024 – 31 December 2025, the total contract values which classify different types of contact as an Above-threshold Contract are as set out below. All figures are inclusive of VAT:
- (a) good and services: £214,904;
 - (b) works: £5,372,609;
 - (c) light touch social and other services: £663,540; and
 - (d) Concession Contracts: £5,372,609.

These thresholds are revised every two years. The Cabinet Office will publish a Procurement Policy Note confirming the new thresholds from 1 January 2026.

- 12.3 The PA is complex, and sets out legal obligations on the Council in respect of procurement of Above-threshold Contracts. These rules differ from those contained in the PCR, so officers **must** consult the Shared Procurement Team and Legal Services department prior to commencing any procurement which is subject to the PA.
- 12.4 Before publishing a Tender Notice for an Above-threshold Contract, the Council shall consider whether to publish a Planned Procurement Notice setting out its intention to carry out a procurement for an Above-threshold Contract. The Council shall, if possible, issue the Planned Procurement Notice at least 40 days prior to the Tender Notice, in order to give the ability if required to utilise reduced tendering periods in the procurement itself.
- 12.5 Before publishing a Tender Notice for an Above-threshold Contract, the Council shall consider whether to undertake preliminary market engagement. Where the Council undertakes preliminary market engagement, it shall, unless it has good reason not to, publish a preliminary market engagement notice. Should it choose not to publish such a notice, it must provide the reasons for conducting such engagement without a preliminary market engagement notice in the Tender Notice itself. Officers must ensure that any preliminary market engagement is carried out in a manner which does not put any suppliers at an unfair advantage or which otherwise distorts competition. Preliminary market engagement shall only be carried out after consultation with the Authorised Officer.
- 12.6 If an officer is concerned that the supplier's participation in any preliminary market engagement has put it at an unfair advantage or otherwise distorts competition, they must seek the advice of Authorised Officer as to whether to exclude such supplier from the tendering procedure.
- 12.7 The Council may undertake preliminary market engagement for any other procurement (e.g. for a Below-threshold Contract or Unregulated Procurement) in such manner as it deems appropriate, provided such engagement does not put any supplier at an unfair advantage or otherwise distort competition.
- 12.8 Before commencing a procurement for an Above-threshold Contract, the Council shall consider whether the requirement could reasonably be supplied under more than one contract and whether such contracts could appropriately be awarded by reference to Lots. Commissioners of services shall seek guidance from the Authorised Officer as to whether their requirements can be met in this way. Where the Council concludes not to procure by reference to Lots, it must record its reason for not doing so.
- 12.9 The Council must confirm, in the tender notice for an Above-threshold Contract, that a conflicts assessment has been prepared (see paragraph 3).
- 12.10 Where a contract (other than a framework, Concession Contract or contract for light touch services) is estimated to have a value exceeding £5 million, the Council must set at least three key performance indicators in the contract unless it is considered that performance could not be appropriately assessed by reference to key performance indicators.
- 12.11 The PA also requires the Council to publish a contract performance notice annually in respect of a supplier's performance against the key performance indicators of each contract with a value exceeding £5 million.

13. Suitability Assessment and Conditions of Participation and Exclusion of Suppliers

- 13.1 "Conditions of Participation" is the new terminology, under the PA, for what was previously known as a Selection Questionnaire or Pre-Qualification Questionnaire. It is an initial stage of a procurement process where the Council assesses whether a Supplier has the legal, financial and technical capacity to perform an Above-threshold Contract (and is therefore eligible to be

invited to submit a tender in the next stage of the procurement). The stage is backward, rather than forward-looking, so is not related to how the Supplier might perform the contract in question but rather on its current compliance and past performance (i.e. backward-looking).

- 13.2 Conditions of Participation should not be used as a distinct stage when procuring a Below-threshold Contract; or a call-off contract from a framework agreement as Suppliers on framework agreements are already pre-qualified. However, the Council may ask for suitability information in a call-off or Below-threshold Contract procurement as part of the award stage questions.
- 13.3 Before conducting any evaluation of tenders for Above-threshold Contracts, the Council must consider whether a Supplier is an Excluded Supplier or an Excludable Supplier. The Council shall disregard any tender from a supplier that is an Excluded Supplier. Where the Council receives a tender from an Excludable Supplier, it shall consider whether it shall disregard that tender. No decision to exclude an Excludable Supplier shall be taken without the agreement of the Authorised Officer.
- 13.4 As part of every tendering procedure for an Above-threshold Contract, the Council shall request information about whether a supplier is intending to subcontract any part of the performance of the contract and shall request that such information as is necessary to determine whether the subcontractor is an Excludable Supplier.
- 13.5 Where a proposed subcontractor is an Excluded Supplier, the Council shall exclude the supplier from the procurement.
- 13.6 Where a proposed subcontractor is an Excludable Supplier, the Council shall treat the supplier as an Excludable Supplier and determine whether to exclude the supplier from the procurement.
- 13.7 Where the Council determines to exclude the supplier, it shall notify the supplier of its intention and give the supplier a reasonable opportunity to find an alternative subcontractor.
- 13.8 The Council shall exclude a supplier if the supplier acts improperly during a procurement, and its behaviour puts it at an unfair advantage in relation to the award. A supplier is deemed to have acted improperly where it:
 - 1.1.1 fails to provide information requested by the Council;
 - 1.1.2 provides incomplete, inaccurate or misleading information;
 - 1.1.3 accesses confidential information of the council; or
 - 1.1.4 unduly influences the Council's decision making in relation to any contract.
- 13.9 Where the Council excludes a supplier, it shall notify the Cabinet Office.
- 13.10 The Council shall exclude a supplier which is on the Debarment List or is an associated person of a supplier on the Debarment List.
- 13.11 Any procurement subject to the PA shall be in full compliance with it and any statutory guidance published by the Cabinet Officer. The PA stipulates what must and/or may be taken account of, in assessing eligibility, economic and financial standing and technical and/or professional ability.

14 The Invitation to Tender

- 14.1 The ITT for an Above-threshold Contract shall include details of the Authority's requirements for the particular contract including:
- (a) a description of the services, supplies or works being procured;
 - (b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
 - (c) instructions for completing and returning the tender documentation;
 - (d) notification that tenders received after the closing date and time will not be considered;
 - (e) a specification and instructions on whether any variants are permissible;
 - (f) the Council's terms and conditions of contract;
 - (g) the evaluation criteria including any weightings (and whether these evaluation criteria will remain the same throughout the process or whether the Council intends to refine the evaluation criteria and/or weightings);
 - (h) pricing mechanism and instructions for completion;
 - (i) whether the Council is of the view that TUPE may apply;
 - (j) form and content of method statements to be provided;
 - (k) rules for tender submission;
 - (l) details of how the particular procurement process will operate, including any optional stages which the Council may or may not introduce; and
 - (m) any further information which will inform or assist suppliers in preparing tenders.
- 14.2 The ITT for other Regulated Procurements should also incorporate the points listed in paragraph 14.1 but consideration should be given as to the proportionality of the ITT, and process followed, in respect of the value and subject-matter of the contract being procured.

15. Submission, Receiving and Opening of Tenders/Quotations through The Chest

- 15.1 Every response to an Invitation to Tender/Quote for a Regulated Procurement must be submitted through The Chest by no later than the time and date specified for submission of tenders/quotations in the Invitation to Tender/Quote document.
- 15.2 The Procurement or Authorised Deputy shall verify (remove the e-seal) and release all tenders and quotes to the Authorised Officer once the deadline for their receipt has passed. This verification role may be given to a suitably-trained Authorised Officer for Intermediate Value Contracts.
- 15.3 The Chest will automatically record the date and time of receipt of each submission. No quotations or tenders which have been submitted to The Chest after the deadline for submission has passed may be considered. However, where a system fault/technical issue has occurred which is beyond the supplier's control; and this fault/technical issue has prevented on-time submission, if the supplier is able to evidence it submitted its tender in advance of the submission deadline, it will be investigated to verify the circumstances. The matter shall be referred to the Monitoring Officer and the relevant Director for a decision as to how to proceed.
- 15.4 The Procurement Manager or other Authorised Officer shall complete a Record of Tenders/Quotations received form summarising the quotations received.
- 15.5 The Authorised Officer must notify the Procurement Manager of the eventual outcome of the procurement exercise for entry into the Contracts Register by completing and submitting the final sections of the Record of Tenders/Quotations Received Form.
- 15.6 The closing date for the receipt of tenders/quotations may be extended, in appropriate circumstances, at the written discretion of the Monitoring Officer. In considering any such

extension, consideration will be given to the duty to treat suppliers the same; and, in the procurement of an Above-threshold Contract, the PA Objectives.

15.7 Tenders and Quotations shall not be opened until the deadline has passed for their receipt.

16. Traditional Hard Copy Tenders and Quotes (Exceptional Circumstances Only)

16.1 The Council's preferred method of tendering is by electronic means through The Chest. However, in very exceptional circumstances (e.g. contracts where there are items required, which cannot be submitted electronically), tenders and quotes may be submitted in hard copy format with the prior approval of the Monitoring Officer and the Procurement Manager.

16.2 Tenders and Quotations received in accordance with Paragraph 16.1 shall be addressed to the Procurement Manager, Shared Financial Services, Town Hall Market Street, Chorley, PR7 1DP in a sealed envelope endorsed with the word "Tender" or "Quotation" as appropriate, followed by the subject matter to which it relates. No marks shall be included upon the envelope that identifies the bidder prior to the opening of the envelope. The Procurement Manager shall record the date and time of receipt of such Tenders and Quotations and shall keep them in a secure place where they shall remain unopened until the time and date specified for their opening.

16.3 Tenders and Quotations received in accordance with this paragraph 16 shall be opened by the Procurement Manager or Authorised Deputy and at least one other Authorised Officer. An immediate record shall be made of the Tenders/Quotations received including the Supplier's name, value, and the date and time of opening on the Record of Tenders/Quotes Received Form.

16.4 Officers should be aware that where tenders for Above-threshold Contracts may not be submitted electronically, section 54 of the PA sets a longer minimum period for tenders to be submitted.

17. Evaluation

17.1 Tenders subject to the PA shall be evaluated in accordance with the evaluation criteria set out in the Tender Notice and invitation to tender, which determine the Most Advantageous Tender. All other tenders and quotations shall be evaluated in accordance with the evaluation criteria notified to suppliers in the Tender Notice and/or Invitation to Tender/Quote.

17.2 All contracts, except where lowest price is predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Advantageous Tender to the Council.

17.3 Determining the Most Advantageous Tender involves scoring tenders objectively using scoring criteria which should:

- be pre-determined and listed in the Invitation to Tender/Quote with their specific percentage weightings;
- be weighted according to their respective importance. This is mandatory for High Value Contracts and recommended for Intermediate Value Contracts. Authorised Officers must consult the Procurement Manager where it is intended not to follow this recommendation for Intermediate Value Contracts with a value above £50,000 and provide a valid justification for this.;
- be strictly observed at all times throughout the tender process;

- reflect the objective of securing Value for Money;
- include price evaluation;
- adopt whole-life costing where appropriate, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal should be taken into account. Additionally, the use of energy efficient products or the use of sustainable materials with a longer life span may impact on the whole life cost;
- be capable of objective assessment;
- include, where applicable, the quality of the supplier's proposals to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
- avoid discrimination or perceived discrimination on the basis of nationality, or other cause contrary to any of the Council's policies or the PA.

Where this evaluation methodology is used, any resulting contract must be awarded to the Supplier which submits the Most Advantageous Tender, i.e. the tender that achieves the highest score in the objective assessment.

- 17.4 The evaluation criteria must be consistently and strictly observed at all times through the contract award procedure by any officer involved in the quotation/tender evaluation process. The Authorised Officer must keep comprehensive records of the evaluation exercise including the scores and comments and justification for those scores and shall sign the final selection record.
- 17.5 For each contract above £100,000, the Authorised Officer shall form an Evaluation Team with responsibility for evaluating tenders. The Authorised Officer shall keep comprehensive written records of the evaluation exercise including the scores and comments and justification for those scores, and the lead officers of the evaluation team shall sign the final selection record.
- 17.6 The Council may, in Competitive Flexible Procedures, refine the award criteria and/or the weightings, provided that it has given notice of its intention to do so in the tender notice or the tender documents. Any decision to give notice of the intention to refine shall require the agreement of the Authorised Officer and the application of any refinement to the criteria or waiting to a procedure shall be carried out after consultation with the Authorised Officer.
- 17.7 If the Council suspects that a tender received is abnormally low for performance of the contract, it must raise with the Authorised Officer before proceeding with evaluation. The PA requires that before a tender is disregarded/excluded for being abnormally low, the supplier must be notified that the Council considers the price to be abnormally low, and gives the supplier reasonable opportunity to demonstrate that it will be able to perform the contract for the price offered.

18. Tender/Quotation Clarification

- 18.1 Bidders may request clarification on aspects of the Tender/Quotation documentation prior to submission by submitting a clarification question through The Chest. The Authorised Officer must ensure the same treatment of all bidders, and where relevant should anonymise the question and publish that together with the response to all potential bidders through The Chest. Care should be taken not to reveal the identity of the Supplier or any information which may be deemed to be commercially confidential to them during the clarification process.

- 18.2 During the evaluation process, Authorised Officers may clarify aspects of a submitted Tender or a Quotation which are unclear, lacking in detail, ambiguous or appear to show a misunderstanding of the requirements. The areas requiring clarification should be set out in writing by the procurer and a written response requested from the bidder. All such communications should be issued or recorded through The Chest to ensure a full e-audit trail of the procurement.
- 18.3 For more complex service procurements where officers want to obtain a fuller understanding of bidders' proposals and method statements it may be appropriate to hold a clarification meeting. In such circumstances a formal written record of the meeting shall be completed and agreed by all parties. Minor points of clarification and obvious errors (e.g. mathematical error) should be dealt with in accordance with Clause 18.2 above and should not require a meeting.

When conducting clarification, as throughout the procurement process, the Authorised Officer must bear in mind the Rules and, in respect of an Above-threshold Contract, the PA Objectives.

19. Errors in Tenders/Quotations

- 19.1 Errors in Tenders/Quotations must be dealt with by asking the Supplier to confirm the Tender as submitted or withdraw their bid. However, where a Supplier has made a visible and genuine arithmetical error, they may be given an opportunity to correct that error. Suppliers may not, however, modify their tenders after the deadline for submission has passed (except as provided for in any procurement documents related to a Competitive Flexible Procedure).
- 19.2 Tenders/Quotations must state how errors in Tenders/Quotations must be dealt with.
- 19.3 Careful consideration must be given to the effect of any procedure adopted when dealing with errors in Tenders and the reflection which any such procedure may have on the integrity on the officers and members of the Council. It is essential that the procedure adopted is transparent, bidders are treated the same and the integrity of the Council is upheld.

20 Post-Tender Negotiation

- 20.1 In designing a Competitive Flexible Procedure for an Above-threshold Contract, the Authorised Officer should consider whether to incorporate post-tender negotiation into the process. The Invitation to Tender should explain where the Council reserves the right to conduct post-tender negotiation and how the process will be conducted.

21. Bonds, Guarantees and Insurance

- 21.1 For High Value Contracts, the Authorised Officer shall consider whether to include in the procurement documentation, the requirement that the successful supplier provides a performance bond and/or a parent company guarantee (if applicable).
- 21.2 The Authorised Officer shall consider and include, where relevant, in the Tender documentation the appropriate type (employee liability, public liability, professional indemnity, etc.) and level of insurance requirements for each contract.

22 Awarding Contracts and Contract Award Notice

- 22.1 The Council shall only award a contract where at the time of contract award this represents the Most Advantageous Tender, or is the lowest price depending on contract award criterion,

included in the Tender Notice or Invitation to Tender/Quote.

- 22.2 A contract must only be awarded and signed by a person authorised to do so, who must ensure that the appropriate budget holder has the funds in place to sustain the contract prior to award.
- 22.3 Directors/Heads of Service should ensure that proper records of all procurement activity are retained in electronic or hard copy format as appropriate. In particular, section 98 of the PA requires the Council to keep records sufficient to explain “material decisions” made in the procurement and award of Above-threshold Contracts. A decision is “material” if, under the PA, the Council is required to publish or provide a notice, document or other information in relation to the decision; or to make the decision.
- 22.4 For all High Value Contract award decisions, and any which involve any potential transfer of the Council’s employees, the decision to award a contract shall be made by the Executive Cabinet or by the relevant Executive Cabinet Portfolio Member, unless Cabinet have previously delegated that decision to the Director of the spending directorate.
- 22.5 Any procurement of £100,000 or more in value constitutes a Key Decision and must therefore be included in the relevant Notice of Key Decisions as described in the Council’s Constitution, before the contract award decision is taken.
- 22.6 The highest standards of probity are required of all officers and members involved in the procurement, award and management of Council contracts. It is essential to maintain effective audit trails at all stages throughout the procurement procedure particularly where approval or agreement is required.
- 22.7 For Above-threshold Contracts, following completion of evaluation, assessment summaries must be provided to all tenderers detailing their scores and feedback for their scores. The assessment summary of the successful tenderer must also be provided to unsuccessful tenderers. In addition, a contract award notice must also be published on the Central Digital Platform. It is advised that the contract award notice is published on the same day as the assessment summaries are provided as it commences the standstill period (see paragraph 23).
- 22.8 The PA does not require a contract award notice to be published prior to the award of a Below-threshold Contract.
- 22.9 The PR set out the information to be included in a contract award notice.

23 Standstill Period

- 23.1 For Above-threshold Contracts (except where related to light touch social and other services), publication of the contract award notice on the Central Digital Platform commences an eight working day standstill period. For Above-threshold Contracts for light touch contracts, call-off contracts awarded pursuant to framework agreements or Dynamic Markets and some contracts awarded pursuant to section 41 of the PA (direct award), there is no mandatory standstill period. However, the Authorised Officer should consider a voluntary standstill period.
- 23.2 The PA does not require a mandatory standstill period to be observed in the award of a Below-threshold Contract.
- 23.3 Authorised Officers should consult the Shared Procurement Team for advice on the specific detail which must be included in assessment summaries and contract award notices under the PA.

24 Contract Details Notice and publication of contracts with a value exceeding £5 million

- 24.1 The Contract Details Notice is a new notice under the PA and is published on the Central Digital Platform following execution of either a Below-threshold Contract or an Above-threshold Contract. This replaces the requirement under the PCR to publish a contract award notice on Contracts Finder and applies regardless of whether a contract has been advertised or not. As there is not always a requirement to publish a Tender Notice for a Below-threshold Contract, this may be the first and only notice published in a procurement for a Below-threshold Contract.
- 24.2 The PR set out the information to be included in a Contract Details Notice.
- 24.3 If a contract has a value exceeding £5 million, the Council must publish a copy of the contract within 90 days of execution (or 180 days in the contract is for light touch services).

25. Letters of Intent

- 25.1 Letters of intent shall only be used in exceptional circumstances and, by prior written agreement with the Monitoring Officer, as follows:
- (a) Where a Supplier is required to provide services, supplies or works prior to formal written acceptance by the Council; or
 - (b) Where the Council's form of tender does not include a statement that until such time as a formal contract is executed, the Council's written acceptance of a tender shall bind the parties into a contractual relationship.

26. Contract Terms and Conditions

- 26.1 Contracts shall be entered into on the Council's terms and conditions, or an appropriate industry standard form of contract or other form of contract approved by Legal Services. This may be a Supplier's contract suitably amended to protect the Council's interests. However, where the contract has been tendered the contract shall be in accordance with the tender conditions. Draft terms and conditions shall be included with each purchase order and Invitation to Tender/Quote.
- 26.2 In all cases, before a contract is entered into, Authorised Officers must ensure that they have authority to enter into the proposed contract for the full contract value including any extension option and fully understand the contractual obligations. In particular where terms and conditions other than the Council's terms and conditions are to be used, Authorised Officers must ensure they fully understand the contractual obligations including any notice periods which must be observed to prevent any non-authorised automatic roll-on.
- 26.3 Where contracts are subject to the PA, the Rules relating to technical specifications shall be followed and any reference to a technical standard, make or type shall be prefaced with the words "or equivalent".

27. Execution of Contracts

- 27.1 High Value Contracts shall be passed to Legal Services for sealing execution and secure storage, unless otherwise agreed with the Monitoring Officer.
- 27.2 Intermediate Value Contracts should be signed by at least two appropriately Authorised Officers.
- 27.3 Low Value Contracts may be signed by an officer with the appropriate authority.

27.4 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Monitoring Officer.

28. Records of Tenders and Contracts/Contracts Register

28.1 Each Director/Head of Service shall maintain his/her own register of all contracts entered into by his/her department.

28.2 The Procurement Manager shall maintain a register of all High Value and Intermediate Value contracts entered into by the Council.

28.3 Authorised Officers shall notify the Procurement Manager of all Intermediate Value and High Value Contract awards for entry into the Contracts/Transparency Register by completing and submitting the final sections of the Record of Tenders and Quotations Received Form.

28.4 Additionally, the Authorised Officer must notify the Procurement Manager of all contracts awarded, above £5,000, as soon as possible after the Contract Award, for inclusion in the Contract/Transparency Register.

28.5 Quarterly publication of the Council's Contracts/Transparency Register is a mandatory requirement of the Local Government Transparency Code. Each Director and/or Authorised Officer shall ensure the accuracy of the Council's Contracts/Transparency Register by responding to the quarterly return issued by the procurement team.

29. Approved Standing List of Suppliers for Below-threshold Contracts and Dynamic Markets for Above-threshold Contracts

29.1 The Council may maintain Approved Standing Lists of Suppliers that meet its suitability requirements. Quotations and tenders for Below-threshold Contracts and Unregulated Procurement may be invited from Suppliers included on an Approved Standing List. Where the Authority intends to use an Approved Standing List for services, supplies or works contracts, the Approved Standing List should be reviewed and advertised on a regular basis.

29.2 Each Approved Standing List shall:

- (a) be compiled and maintained by the relevant Authorised Officer;
- (b) contain the names of all persons who wish to be included in it and who after appropriate enquiries have been made by the Authorised Officer concerned, are approved by the Council or Cabinet as provided for in the scheme of delegation; and
- (c) indicate whether a person whose name is included in it is approved for contracts for all, or only some, of the specified Below-threshold Contract values or amounts or categories.

29.3 At least four weeks before each Approved Standing List is first compiled, a notice inviting applications for inclusion in it shall be published on The Chest, and where, relevant the Central Digital Platform.

29.4 Each Approved Standing List shall be amended as required from time to time to include new applications for inclusion and to delete any person no longer applicable for inclusion. Each Approved Standing List shall be formally reviewed in the manner set out below by the appropriate Director/Head of Service at intervals not exceeding three years. At least four weeks before each review, each person whose name appears in the approved stand shall be

asked whether s/he wishes his/her name to remain there. Notices inviting applications for inclusion in the list shall be published in the manner provided by paragraph 29.3 above.

- 29.5 Where an Invitation to Tender is limited to those named on the Approved Standing List maintained under this paragraph, an Invitation to Tender for that contract shall be sent to at least four of the persons on the list. These people will be approved for a Below-threshold Contract for that value or amount or of that category, or, if there are fewer than four such persons, to all such persons. If there are more than four people, the Authorised Officer, will select the organisations who will receive invitations, and the manner in which they are sent. This will be either generally or in relation to a particular Below-threshold Contract or to a category of contracts provided that the manner of selection shall include a system of rotation from persons appearing on the Approved Standing List.
- 29.6 The Council may also establish arrangements for the purposes of awarding Above-threshold Contracts known as a Dynamic Market by submitting a dynamic market notice to the Central Digital Platform and The Chest.
- 29.7 In establishing a Dynamic Market, the Council shall set conditions for participation relating to the legal and financial capacity to perform contracts to be awarded by reference to membership of the Dynamic Market and which have the technical ability to perform the contract. Such conditions shall be proportionate to the requirements, having regard to the nature, complexity and cost of the contract to be awarded.
- 29.8 To award a public contract under a Dynamic Market, the Council must utilise the Competitive Flexible Procedure. In this case, it is not necessary to seek the permission of the Authorised Officer or to undertake the procedure, as it is the only procedure which may be used.
- 29.9 If a tender is submitted by a supplier which is not a member of the Dynamic Market, the Council shall exclude such supplier and disregard the tender unless the supplier has made an application for membership of the Dynamic Market and the Council has accepted the application.
- 29.10 If, due to exceptional circumstances arising from the complexity of the particular procurement, the Council is unable to assess an application to be admitted to the Dynamic Market prior to the deadline for submitting a request to participate in the procedure (or where no such invitation has been made, the deadline from receipt of initial tenders), the Council shall not exclude the supplier or disregard the tender.

30. Nominated and Named Sub-Suppliers

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

31 Framework Agreements

- 31.1 Framework Agreements are agreements with Suppliers for the provision of supplies, works or services on agreed terms for a specific period. Unlike normal contracts which require certainty (on price, quantity and other details), Framework Agreements usually state only non-binding estimated quantities against which orders are placed as and when required during the contract period (this procedure is known as a “call-off”). As soon as the quantity/price etc. are fixed and an order placed, a contract is formed. Frameworks offer benefits of bulk-buying, improved service and reduced administration costs over the period of the arrangement.
- 31.2 A Framework Agreement may have the option or requirement for the Council to hold a “further competition” or “mini competition” with all of the Suppliers included on the Framework Agreement who are capable of meeting the Council’s requirements. Quotations invited under a

further competition shall be received and opened in accordance with these Contract Procedure Rules, unless received and opened by the public sector framework provider (e.g. Yorkshire Purchasing Organisation or Crown Commercial Service or others) on the Council's behalf, who may receive and open such bids in accordance with their Contract Procedure Rules or the rules set out in the Framework Agreement.

- 31.3 All Framework Agreements procured by the Council must be in accordance with these Contract Procedure Rules and the PA.
- 31.4 Where the Council has entered into a Framework Agreement through procurement or is able to place orders from existing Framework Agreements procured by other public bodies, then the Council may benefit from using those contracts without entering into a full, separate procurement.
- 31.5 Where a public sector framework is used in accordance with the above provisions, without entering into a full, separate procurement process, all other relevant aspects of these Contract Procedure Rules will still apply, including any approval which may be required for the procurement award procedure (in this case to use the identified framework), approval for the evaluation criteria and weightings (in the event of a further competition under the framework), and approval for the contract award prior to contract acceptance. In addition, while Tender Notices are not required for call-off contracts, the Council must publish a contract award notice for all Above-threshold call-off contracts. A Contract Details Notice must also be published for all call-off contracts which have a value exceeding £30,000.
- 31.6 Authorised Officers shall investigate whether call-off contracts or frameworks are relevant to their procurement activity as better value for the Council may be obtained by using an existing Council or other framework.
- 31.7 Legal/Procurement Advice should be sought in advance before awarding a contract to a Supplier using a framework agreement not procured directly by the Council.
- 31.8 Any appropriate Council Framework Agreements in place shall be used regardless of value, provided the standing order requirements in relation to delegated authority are met. An effective audit trail shall be maintained.

32. Joint / Collaborative Procurement

- 32.1 Authority to engage in joint/collaborative procurement activity with another contracting authority shall be in accordance with these CPRs. Joint/ collaborative procurement activity, for High Value Contracts, requires Cabinet approval prior to tenders being invited.
- 32.2 The Authorised Officer shall ensure that the joint/collaborative procurement activity complies fully with the PA.
- 32.3 In any joint or collaborative procurement process the parties involved in the procurement should appoint a "lead body" to carry out the procurement. The procurement should then be conducted in accordance with the lead body's Rules. If this approach requires any waivers of the lead body's Rules, it shall be that body's responsibility to seek approval for, and obtain, such waiver(s).

33. Procurement by Consultants

Any consultants used by the Council shall be appointed in accordance with these Contract Procedure Rules. Where the Council uses consultants to act on its behalf in relation to any procurement, then the Authorised Officer shall ensure that the consultants carry out any

procurement in accordance with these Contract Procedure Rules. No consultant shall make any decision on whether to award a contract or who a contract should be awarded to. The Authorised Officer shall ensure that the consultant's performance is monitored.

34. Contract Extension

- 34.1 Any contract which has been procured in accordance with these Rules may be extended in accordance with its terms (subject to financial resources) by the Director/Head of Service or Authorised Officer provided an extension clause was included for within the contract terms and conditions.
- 34.2 Other existing contracts which have been procured in accordance with these Rules may be extended by the Director/Head of Service or Authorised Officer, provided that the total period of this and any previous extension will not together exceed 1 year and the total value of the contract, including the extension, will not make the contract an Above-threshold Contract. The Authorised Officer must keep a record of the reason for the decision to so extend. A formal Waiver of the Rules must be obtained if the proposed extension will add more than £30,000, or more than 20% (whichever is the higher) to the original total contract value; or will mean that the total contract value becomes an Above-threshold Contract.
- 34.3 Any extension exceeding £100,000 in value shall require the approval of the Executive Cabinet or relevant Executive Cabinet Portfolio Member.
- 34.4 If the original contract was subject to the PCR/PA, the contract may only be extended within the parameters identified in the original Tender Notice and/or as provided for within the PCR/PA. If the contract was not subject to the PCR/PA, any extension must not take the total value of the contract above the relevant threshold to make it an Above-threshold Contract.
- 34.5 If the contract was awarded as a framework agreement, the total framework period, including any extensions, cannot exceed four years, except where the Council considers the nature of the goods, services or works to be supplied under contracts awarded in accordance with the Framework Agreement means that a longer term is required.
- 34.6 When negotiating a contract extension, the Authorised Officer must make every effort to negotiate improved contract terms with regard to the cost and quality and shall always be satisfied that the extension will achieve Value for Money and is reasonable in all the relevant circumstances.
- 34.7 All extensions to any Council contracts must be in writing and reported to the Procurement Manager in order that the Contracts Register can be updated accordingly.
- 34.8 Once a Contract has expired it cannot then be extended.

35 Modifications

- 35.1 Modifications to a contract shall be in accordance with these Contract Procedure Rules and the Council's Financial Regulations.
- 35.2 All contract modifications must be carried out within the scope of the original contract. Contract modifications that materially affect or change the scope of the original contract are not permitted.
- 35.3 All contract modifications must be in writing and signed by both the Council and the Supplier except where different provisions are made within the Contract documentation. The value of each modification must be assessed by the Authorised Officer and all necessary approvals

sought prior to the modifications taking place including registration on the Council's Notice of Key Decisions if applicable.

35.4 Contracts procured under the PA **must not** be extended or varied without first consulting Legal Services and the Procurement Manager. Contracts subject to the PA which are modified must be accompanied by a "contract change notice" published on the Central Digital Platform before the change may be executed; and must fall within the permitted contract modifications listed at Schedule 8 of the PA.

35.5 The Authorised Officer shall always be satisfied that the variation will achieve Value for Money for Money and is reasonable in all the relevant circumstances.

36. Termination of a Procurement or a Contract

36.1 If the Council decides to abandon the procurement of an Above-threshold Contract procurement without making an award, it must publish a procurement termination notice on the Central Digital Platform as soon as reasonably practicable.

36.2 Termination of any High Value Contracts shall be approved by the Executive Cabinet or Executive Cabinet Portfolio Member. In emergency situations, the relevant Director may authorise termination of High Value Contracts. In this case, full details including the reason for the contract termination shall be reported back to Council at a later date.

36.3 When an Above-threshold Contract is terminated, whether by discharge, expiry, termination by another party than the Council, rescission or set aside, the Council must publish a contract termination notice on the Central Digital Platform within 30 days of the contract termination.

36.4 Low Value or Intermediate Value Contracts may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract. Legal advice should be sought as appropriate.

37. Disposing of surplus goods

37.1 Heads of Service are responsible for the disposal of their own surplus goods and shall make adequate and safe arrangements to do so.

37.2 An appropriate competitive process shall be applied to the disposal of surplus goods, unless it has been agreed by the Head of Service that the goods in question are to be disposed of to a charitable/not-for-profit organisation, or disposal arrangements have been agreed within the original contract for purchase.

38 Concession Contracts

These Contract Procedure Rules apply to Concession Contracts (please refer to the Definitions at the back of this document). A simple example would be a concession to pitch an ice cream van and sell ice cream on Council land. Please note that specific rules and exemptions apply to Concession Contracts in the PA so advice from legal should be sought in respect of any procurement of a Concession Contract.

39 Waivers of Contract Procedure Rules

39.1 Waivers of any of these Contract Procedure Rules shall only be given in exceptional circumstances and in all cases must make clear which Rules are being waived and be justified because:

- the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is demonstrated to be such that a departure from the requirements of the Rules is justifiable (and in compliance with the PA); or
- the contract is for works, supplies or services that are strictly necessary in circumstances of extreme and unavoidable urgency that could not have been foreseen by the Council and are not attributable to any act or omission of the Council; or
- a direct award justification is available to the Council pursuant to Schedule 5 of the PA.

39.2 For Low Value Contracts, a waiver request is not required but Authorised Officers shall record reasons as set out at CPR 9.1.

39.3 For Intermediate Value Contracts, Authorised Officers shall submit waiver requests via the electronic waiver request procedure located on the approvals channel on Microsoft Teams. On submission of the request, approval will be automatically sought from the relevant Procurement Manager/Senior Procurement Officer, Director of Finance, Monitoring Officer, Chief Executive, Executive Member, all of whom must approve the request for it to be fully approved.

39.4 For High Value Contracts, approval for waiver requests must be obtained from Cabinet.

39.6 Waivers may not be made retrospectively.

39.7 Where the Council makes a direct award pursuant to the PA, it must first publish a transparency notice on the Central Digital Platform setting out its intention to make a direct award. The Council must also publish a contract award notice in respect of the direct award. The Council may be required to observe a standstill period of eight working days from the date of the contract award notice depending on the justification for the direct award. Even where the PA does not require the Council to observe a mandatory standstill period prior to entering into a directly-awarded Above-threshold Contract, the Council should consider observing a voluntary eight working day standstill period where appropriate. A Contract Details Notice is also required in respect of the directly-awarded contract.

40. Non-Compliance

If it comes to the attention of an Authorised Officer that there has been non-compliance with these Contract Procedure Rules in respect of any contract for which s/he is responsible as the Authorised Officer of the procuring department, s/he shall without delay notify the Monitoring Officer who shall take such action as s/he deems necessary. Furthermore, if there is any discrepancy between the amount of the Contract Award and the amount actually paid then the matter should also be brought to the attention of the Monitoring Officer without further delay.

41. Payments Compliance Notice

The PA requires the Council to publish a payments compliance notice, every six months, setting out its compliance with the requirement in the PA to pay suppliers within 30 days of receipt of valid invoices. These notices must be published by 30 April and 30 October.

42. Change of Authorised Officer

If during the life of a contract there is a change in the Authorised Officer who is leading on that particular contract then the outgoing officer should (wherever possible) ensure that the new Authorised Officer is fully briefed on all relevant issues relating to that contract.

43. Review and Amendment of Contract Procedure Rules

The Monitoring Officer is responsible for keeping the Rules under review (with a formal review and if necessary, revision every three years) and monitoring compliance.

DEFINITIONS

“Above-threshold Contracts”

Contracts above specified value thresholds in the PA, which are subject to the full extent of the PA. In the PA, these are defined as “public contracts” (s.3 PA) and subject to “covered procurement” (s.1 PA).

From 1 January 2024 – 31 December 2025, these are below. Please note that all figures are inclusive of VAT:

- (a) good and services: £214,904;
- (b) works: £5,372,609;
- (c) light touch social and other services: £663,540;
- (d) Concession Contracts: £5,372,609

“Annual Procurement Plan”

A plan identifying major projects so that appropriate resources can be identified. It also provides a basis for the Council’s pipeline notice and any planned procurement notices and other information provided to Suppliers to give advance notice of bidding opportunities.

“Approved Standing List”

A method of procurement for Below-threshold Contracts where a list of Suppliers is drawn up in response to an advertisement in the relevant trade/local press/ website(s). The potential Suppliers are vetted using the responses to Conditions of Participation and the list is then used to select specific Suppliers for individual Below-threshold Contracts. Care needs to be taken to ensure that the list is carefully managed so that it does not become outdated and that it fully represents the range of innovative solutions that may be available in the market.

“Authorised Officer”

An authorised officer of the Council with appropriate delegated authority to act on the Council’s behalf in accordance with the Constitution. See paragraph 5.

“Below-threshold Contracts”

Contracts with a value between £30,000 and specified thresholds in the PA. Below-threshold contracts are subject to fewer obligations than “Above-threshold Contracts” in the PA.

“Central Digital Platform”

The online system established by the Minister for the Cabinet Office, pursuant to the PR, and which may be accessed on www.gov.uk.

“Competitive Flexible Procedure”

A competitive tendering procedure that the Council considers appropriate for the purpose of awarding an Above-threshold Contract. See paragraph 12.

“Council”

“Council” means Chorley Borough Council.

“Concession Contract”

A concession contract is used where the Council wishes to engage a party to provide a service, consideration for which is in the form of the party (“the concessionaire”) being given a right to charge the public for the services being provided. A simple example would be a concession to pitch an ice cream van and sell ice cream on Council land. If unsure as to whether a proposed contract would come within the scope of this definition, please consult with the Monitoring Officer.

“contract award notice”

A notice setting out that the Council intends to award a contract. In respect of an Above-threshold Contract, this is published after circulating assessment summaries to bidders and commences a standstill period.

“Contract Details Notice”

A new notice under the PA, which must be published on the Central Digital Platform within 30 days of execution of either a Below-threshold Contract or an Above-threshold Contract (or 120 days in respect of a contract for light touch services). This replaces the requirement under the PCR to publish a contract award notice on Contracts Finder and applies regardless of whether a contract has been advertised or not.

“Contracts/Transparency Register”

A register held and maintained by the Procurement Manager containing details of contracts entered into by the Authority.

“Debarment List”

A list of Excluded and Excludable Suppliers managed by the government.

“Dynamic Market”

A dynamic market under the PA is a list of qualified suppliers (i.e. suppliers who have met the ‘conditions for membership’ of the dynamic market who are eligible to participate in future procurements. A dynamic market may be split into categories (referred to as ‘parts’ in the PA), with suppliers only eligible to participate in the parts for which they have qualified.

“Excludable Supplier”

As defined at section 57(2) PA, a supplier is an Excludable Supplier if the Council considers that:

- (i) a discretionary exclusion ground (see Schedule 7 PA) applies to the supplier or an associated person, and
- (ii) the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again.

A supplier is also an Excludable Supplier if it or an associated person is on the Debarment List by virtue of a discretionary exclusion ground.

“Excluded Supplier”

As defined at section 57(1) PA, a supplier is an Excluded Supplier if the Council considers that:

- (i) a mandatory exclusion ground (see Schedule 6 PA) applies to the supplier or an associated person, and
- (ii) the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again.

A supplier is also an Excluded Supplier if it or an associated person is on the Debarment List by virtue of a mandatory exclusion ground.

“Framework Agreement”

An agreement which allows the Council to call-off works, goods or services from a Supplier in accordance with the terms of the agreement. The Framework Agreement may have been procured by the Council itself or by another contracting authority which allows the Council to use the Framework Agreement. The Framework Agreement itself usually constitutes a non-binding offer with no obligations on the Authority to call off from the Supplier. If the Council calls off from the Supplier a binding call-off contract is established. A Framework Agreement can be a binding agreement where it is executed as a deed.

“High Value Contract”

A contract with a cumulative value over £100,000 (including VAT). Where a contract has a value

exceeding value thresholds in the PA, it will be an “Above-threshold Contract”.

“Intermediate Value Contract”

A contract with a cumulative value between £30,001 and £100,000 (including VAT).

“ITT”

Invitation to Tender – the document setting out the Council’s requirements and the process for a procurement procedure.

“Key Decision”

A key decision is defined as any decision in relation to a Cabinet function which is likely:

(a) to result in the Council incurring expenditure which is, or the making of savings which are, significant. The financial threshold above which expenditure/savings become significant is set at £100,000. This financial threshold is applicable to both the revenue and capital budgets.

(b) to be significant in terms of its effect on the communities living in an area comprising two or more Council wards.

“Local Supplier”

Any Supplier within the Chorley borough or any neighbouring borough.

“Low Value Contract”

A contract with a cumulative value of £30,000 and below (including VAT).

“Open Procedure”

A single-stage tendering procedure without restriction on who can submit tenders. Most likely referring to procurement of an Above-threshold Contract (see paragraph 12) but an Open Procedure may also be used for a Below-threshold Contract.

“Monitoring Officer”

Monitoring Officer or Authorised Deputy.

“Most Advantageous Tender”

From the Council’s perspective the most advantageous tender (i.e. highest-scoring) from a Supplier assessed by reference to relevant evaluation criteria linked to the subject matter of the contract in question for example, quality, price, technical merit, aesthetic and functional characteristics, running costs, cost effectiveness, after sales service and technical assistance, delivery date and delivery period or period of completion. See paragraph 17.

“NPPS”

The National Procurement Policy Statement, published by the government on 13 May 2024 and which may be amended from time to time.

“PA”

The Procurement Act 2023, in force from 28 October 2024. References in these Rules to compliance with the PA include compliance with the Procurement Regulations 2024 (**PR**).

“PA Objectives”

The objectives set out at section 12 of the PA which apply to Regulated Procurement of Above-Threshold Contracts. The Council must have regard to the importance of:

- (a) delivering value for money;
- (b) maximising public benefit;
- (c) sharing information for the purpose of allowing suppliers and others to understand the Council’s procurement policies and decisions;

(d) acting, and being seen to act, with integrity.

In addition, the Council must also:

- (a) treat Suppliers the same unless a difference between Suppliers justifies different treatment;
- (b) have regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and
- (e) consider whether such barriers can be removed or reduced.

“PCR”

The Public Contracts Regulations 2015 which apply to procurements completed and contracts executed before 28 October 2024. This includes call-off contracts from frameworks, where the procurement of the framework agreement and execution of the framework agreement was completed before 28 October 2024, but the award of the call-off contract pursuant to the framework is after 28 October 2024.

“PR”

The Procurement Regulations 2024, in force from 28 October 2024. References in these Rules to compliance with the “PA” include compliance with the Procurement Regulations 2024.

“ Procurement Manager”

Procurement Manager or Authorised Deputy.

“Regulated Procurement”

The procurement and award of contracts subject to the PA. Such contracts have a value above £30,000 (including VAT) and above. Note that “Below-threshold Contracts” are regulated by the PA but subject to fewer obligations than “Above-threshold Contracts”.

“RFQ”

Request for Quotation.

“SME”

A “small and medium-sized enterprise” means a supplier that:

- (a) has fewer than 250 staff, and
- (b) has a turnover of an amount less than or equal to £44 million, or a balance sheet total of an amount less than or equal to £38 million.

“Supplier”

Any person, organisations or body of persons providing, or seeking to provide, supplies, services or works to the Council.

“Tender Notice”

This is the re-naming of what used to be named a “contract notice” under the PCR. It advertises the commencement of a procurement and, in the case of a Regulated Procurement, will be published on the Central Digital Platform, before being posted elsewhere (e.g. The Chest).

“The Chest”

An e-portal used by the Council to publish procurement opportunities.

“Unregulated Procurement”

The procurement and award of contracts with a value below £30,000 (including VAT) which are not covered by the Procurement Act 2023.

“Value for Money”

The optimum combination of whole life costs and benefits to meet the Council’s requirements for a contract. Such term equates to the procurement requirement of “Most Advantageous Tender” and is

not necessarily the lowest cost offered by a Supplier.

“VCSE”

A voluntary, community and social enterprise.