

Contract Procedure Rules

1. Introduction

- 1.1. These Contract Procedure Rules (“the CP Rules”) have been issued in accordance with Section 135 of the Local Government Act 1972 and are intended to promote good practice and public accountability and deter corruption. They provide a corporate framework for the procurement of all goods, services and works for the Council.
- 1.2. These CP Rules are designed to ensure that all procurement activity is conducted with openness, probity and accountability.
- 1.3. These CP Rules must be read in conjunction with other parts of the Council’s Constitution (for example, if a decision about a contract is also a “Key Decision” then the requirements set out in the Constitution in relation to Key Decisions will also have to be met).
- 1.4. Individuals responsible for entering into contracts, purchasing or disposing must comply with all the relevant statutory requirements together with the CP Rules, Financial Regulations, the Code of Conduct, the Counter Fraud, Corruption, and Bribery Policy and procurement strategies and policies. Officers must ensure that any Agents, Consultants and contractual partners acting their behalf also comply.
- 1.5. Any references to legislation will include any amendment and/or update.

2. Procurement Principles

- 2.1. The aims of these CP Rules are to promote good purchasing practice, public accountability and transparency, to support the delivery of the Council’s objectives and priorities, to ensure that the Council obtains value for money, compliance with legislation and to deter corruption. Following the rules is the best defence against allegations that a decision has been made incorrectly or fraudulently. Failure to follow them may result in disciplinary action being taken or even criminal proceedings.
- 2.2. Every contract entered into by the Council must be in connection with a Council function and shall be procured in accordance with all relevant legislation. These CP Rules have been written to reflect the current legislative requirements; however, in the event of any inconsistencies between these CP

Appendix A

Rules and legislative requirements (including any Public Procurement Notices PPNs) the latter will take precedence.

2.3. All contracts must be entered into the Council's contract register and must be effectively monitored throughout the contract period.

3. Scope

3.1. These CP Rules shall apply to all contracts for the procurement by the Council of works, goods and services unless otherwise expressly stated.

3.2. These CP Rules shall not apply to:

- i. An employee's individual terms of employment including staff sourced through employment agencies under a corporate contract;
- ii. The acquisition, disposal, or transfer of land (to which Financial Regulations will still apply);
- iii. The making of grants or sponsorship agreement;
- iv. Where the Council is providing goods and services/works to another; or
- v. Special cases, as authorised by the Monitoring Officer, relating to the:
 - (a) Engagement of solicitor/barrister and specialist resource libraries;
 - (b) Engagement of adjudicators/arbitrators in disputes; or
 - (c) specialist positions engaged directly by the Council.

3.3. In certain circumstances set out in these CP Rules exemptions may be granted in accordance with paragraph 9. For the avoidance of doubt an exemption under paragraph 9 is not required for the contracts awarded under paragraph 3.2 above.

4. Authority

4.1. The first stage of procuring any contract is to ensure that Officers have sufficient approved funding for the potential procurement of goods or services and that Purchase Order Numbers are acquired.

4.2. All Council spend that requires a valid purchase order raised, should be approved before the delivery or the works, goods or services commence.

5. Declaration of Interest and Prevention of Corruption and Collusion

5.1. If it comes to the knowledge of a Councillor, or Officer of the Council, that a contract in which they have an actual, future or perceived financial, non-

Appendix A

financial or personal interest, has been or is proposed to be entered into by the Council, they shall immediately give written notice of such to the Monitoring Officer. Failure to do so may be a breach of the Code of Conduct and an offence in accordance with section 117 of the Local Government Act 1972 and the Procurement Act 2023.

5.2. Where the Monitoring Officer confirms that the interest declared prevents participation, the Officer or Councillor must not take part in the tender process except to the extent permitted by the Monitoring Officer.

5.3. A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of issued share capital (whichever is the less) is not a personal interest for the purposes of these CP Rules

5.4. Also refer to the relevant Council's policies relating to gifts, bribery, corruption and counter fraud.

The following clause (or suitable alternative drafted by the Council's legal department) shall be put in every written contract:

"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone on the Contractor's behalf does any of the following:

- i. Offer, give or agree to give anyone, any inducement or reward in respect of this or any other Council contract (even if the Contractors does not know what has been done); or
- ii. Commit an offence under the Bribery Act 2010 or section 117(2) of the Local Government Act 1972; or
- iii. Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

Any clause limiting the Contractor's liability shall not apply to this clause."

5.5. All Officers, Councillors, potential and existing contractors must be made aware of the Council's Whistleblowing Policy.

6. Calculating the Contract Value

6.1. The value of the contract is the **TOTAL** amount (including VAT) the Council, as a whole, plans or might spend over the whole duration of the contract (including extensions) on a given requirement. The total is ALL and ANY spend with the supplier, for the specific requirement/scope of works, regardless of the department or individual initiating the purchase.

6.2. A contract should be calculated as follows:

- i. A lump sum contract (inclusive of VAT) – this is a one-off, capital project, only used by one person/department – the value is the total budget available (including any contingency);
- ii. A periodic contract (inclusive of VAT) - this is where there is an annual, regular, potentially on-going requirement, by either one or all departments – the contract value is the potential annual spend (across the whole Council) multiplied by the number of years the contract is to run (including any extension). Often managed through initiating a framework or establishing a term (schedule of rates) contract.

6.3. In no circumstances may any item or group of items be broken down into small purchase packages to avoid the requirements of these CP Rules.

7. Expenditure Threshold Processes

7.1. All purchases are subject to the following procedure*:

Total Contract Value (including VAT)	Procurement Process	Requirements
Up to £15,000	Single quotation required	A formal procurement process does not need to be followed but the quotation should be in writing.
Between £15,001 and £74,999	3 written quotations required.	Unless a recognised trade or professional contract is to be used (e.g. JCT) then the

Appendix A

	In a case where it is not possible to obtain three quotations, written advice of the Chief Finance Officer/Monitoring Officer should be obtained.	Council's standard terms and conditions should generally be used. To be conducted with procurement officer involvement
£75,000 up to UK Legislative Procurement Thresholds	3 tenders, to be advertised as appropriate.	In addition to the above, the finance department as part of the procurement process should undertake a financial appraisal of potentially successful Suppliers. Consideration should also be given to whether a performance bond is appropriate.
Over UK Legislative Procurement Thresholds	Procurement run via the Councils e-tendering system and an advertisement should be placed on the Find a Tender Service and the Central Digital Platform as required.	A formal procurement process to be carried out in accordance with the UK Procurement Legislation including the publishing of all appropriate notices.

* Where a contract is notifiable (i.e. above £30,000 and openly advertised) under the Procurement Act 2023 the relevant steps must be followed. For further advice please to the procurement or legal team.

Appendix A

7.2. Those officers wishing to enter into contracts must use reasonable endeavours to achieve the minimum number of quotations/tenders referred to in the above table. If it is not possible to achieve the minimum number of quotations/tenders a clear note must be placed on the contract file giving the reasons why the minimum number could not be achieved.

8. Contract Formalities

8.1. Agreements shall be completed as follows (subject to delegated financial limits) and a signed copy retained by the Procurement Officer on a central register:

Total Value	Method of Completion
Up to an including £100,000	Signature which can include electronic signature.
Above £100,000	Formally sealed by the Council in accordance with this constitution which can include electronic sealing accompanied by a completed and signed delegated authority form.

8.2. The Agreement must be sealed where:

- i. The Council wished to enforce the contract for more than six years after its end;
- ii. There is no consideration, or the price paid or received under the contract is nominal and does not reflect the value of the goods or services; and/or
- iii. Where there is any doubt about the authority of the person signing for the other contracting party.

8.3. Where contracts are to be sealed, they must be forwarded to Legal Services for entry in the Seal Register and the affixing and attesting of the Seal. They must be accompanied by the completed delegated authority.

Appendix A

8.4. The officer responsible for securing signature of the contract must ensure that the person signed for the other contracting party has authority to bind it.

8.5. Following award of any contracts in excess of £5,000 the officer must provide the contract information to the procurement officer for entry onto the Contracts Register which is found on the council's website.

9. Exemptions

9.1. It is acknowledged that the marketplace or extenuating circumstances does not always allow for the procedures to be followed. Subject to compliance at all times with procurement rules, contracts can also be entered into in the following circumstances:

There is no genuine competition, for example; works, supplies and services:

- a) Are sold only at a fixed price and no reasonably satisfactory alternative is available;
- b) are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available;
- c) are of a proprietary type only available from a single supplier;
- d) are required for repairing or servicing existing specialist plant or equipment;
- e) involve the provision of highly specialised professional legal or other services;
- f) constitute a reasonable short-term extension (under 6 months) of a time-based contract or form part of a serial programme, the terms having been negotiated with the contractor on the basis of rates and prices contained in an initial contract awarded competitively;
- g) are for the supply of goods or services where there is only one supplier and no acceptable alternative;
- h) are for loans arrangements;
- i) are for the extension, addition to or maintenance of existing buildings, works plant or equipment, where the Cabinet has decided that this can only be done satisfactorily by the original supplier; or
- j) where the Cabinet considers it desirable on commercial grounds to accept a quotation from a supplier already engaged by the Council on a project

Appendix A

provided that further services have a connection with the original project and that the price is not more than 75% of the original contract sum.

Emergencies:

- k) A waiver is necessary because of unforeseen emergency involving immediate risk to persons, property or serious disruption to Council services. In extreme circumstances it is accepted that prior written approval may not be possible.

Disruption;

- l) The contract is an extension to an existing contract and a change of supplier would cause disproportionate technical difficulties, diseconomies of scale or significant disruption to Council services (such as software procurement).

Other;

- m) That, in the view of the Monitoring Officer, the timescales involved with a traditional procurement process would disadvantage the Council.

9.2. All exemptions, and the reasons for them, must be recorded within the Procurement Exemption form. Exemptions shall be signed by the Officer raising the exemption request and countersigned by the Procurement Officer, the Section 151 Officer and the Monitoring Officer. A process guide is included as part of the Exemption Form.

9.3. Exemptions will be summarised and reported to the Governance, Risk and Audit Committee as a standing item at each meeting and then at year end as part of the Monitoring Officer's Annual Report (covering the full financial year).

9.4. It should be noted that the contract cannot commence until the exemption form has been satisfactorily completed, with the exception of an emergency situation, when the form must be completed as soon as practical.

10. Collaborative and Partnership Arrangements

Appendix A

- 10.1. In order to secure value of money the council may enter into collaborative procurement arrangements with other local authorities or public bodies. The relevant Director must consult with the Head of Legal and the Procurement Officer where the supply of goods and/or services is to be made using collaborative procurement arrangements.
- 10.2. Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these CP Rules and no exemption is required. However, agreement must be sought from the Monitoring Officer.
- 10.3. All purchases made via a local authority purchasing and distribution consortium (Framework agreements) are deemed to comply with these CP Rules and no exemption is required. However, purchases above the UK Threshold must be let under the UK Procedure, unless the consortium has satisfied this requirement already by letting their contract in accordance with the UK Procedures on behalf of the Council and other consortium members.
- 10.4. The use of e-procurement technology does not negate the requirement to comply with all elements of these CP Rules, particularly those relating to competition and value for money.

11. Standards and Award Criteria

- 11.1. The officer must define and document award criteria that are appropriate to the purchase, before tenders are sought. Award criteria must be designed to secure an outcome giving best value for money for the Council. The basic criteria shall be:
 - i. Whole life cost - where payment is to be made by the Council. Whole life cost is defined as total cost paid by the Council regarding this product or service for the duration of the contract period. Examples include vehicles: - initial purchase price, plus fuel, plus maintenance, road tax, insurance etc.
 - ii. Highest price - if payment is to be received.
 - iii. Most advantageous offer - where considerations other than purchase price also apply.
- 11.2. If the last criterion is adopted, it must be further defined by reference to sub-criteria. Sub-criteria may refer only to relevant considerations. These may

Appendix A

include price, service, quality of goods, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance, partnering, long term relationships, and any other relevant matters.

11.3. The extent and weighting of these sub-criteria must be decided and documented prior to first advertising the contract opportunity.

12. Invitation to Tender

12.1. The Invitation to Tender shall state that no tender will be considered unless it is received by the date, time and conditions stipulated in the Invitation to Tender.

12.2. The conditions applying to Invitations to Tender shall include the following:

- i. A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers or descriptions contained in bills of quantities, including details of workmanship, health and safety and quality.
- ii. The relevant British, European or International standards that apply to the subject matter of the contract in order to describe the required quality.
- iii. A requirement for Suppliers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the Bidder to any other party (except where such a disclosure is made in confidence for a necessary purpose)
- iv. A requirement for Suppliers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.
- v. Notification that tenders are submitted to the Council on the basis that they are compiled at the Bidder's expense.
- vi. A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible, in descending order of importance, including any non-financial criteria.

Appendix A

- vii. Tenders received by fax or other electronic means (e.g. e-mail) will be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Section 151 Officer and the Monitoring Officer
 - viii. The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with; in particular, whether the overall price prevails over the rates in the tender or vice versa.
- 12.3. All invitations to tender must specify the terms and conditions of contract that will apply.
- 12.4. The invitation to tender must state that the Council does not bind itself to accept the lowest tender, or any tender (after the application of financial and nonfinancial criteria).
- 12.5. All Suppliers invited to tender must be issued with the same information at the same time and subject to the same conditions. Should questions arise during the tendering period which in the Council's judgement are of material significance then Contract Officers must write to all Suppliers to explain the nature of the question and our formal reply.

13. Shortlisting

- 13.1. Where a shortlisting process is required, this must be agreed with the procurement officer and an appropriate, clear, transparent, and objective description of the shortlisting mechanism included in the tender documents.

14. Submission, Receipt and Opening of Tenders

- 14.1. Potential Suppliers must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity and the urgency of the contract requirements. Normally at least 21 days should be allowed for submission of tenders. The UK Procurement Legislation lays down specific time periods.
- 14.2. Tenders over the value of £74,999 must be submitted electronically via the Council's e-tendering system.
- 14.3. Tenders received via fax or email must be rejected.
- 14.4. No tender shall be considered unless received in compliance with the terms of and by the time stipulated in the advertisement or other invitation.

15. Clarification Procedures and Post-Tender Negotiation

- 15.1. Any clarifications issued by the Council or sought by a bidder will be via the e-tendering portal and must be provided to all Suppliers where required. Where clarification results in a substantial or fundamental change to the specification or contract terms the contract must not be awarded but re-tendered.
- 15.2. Except when following specific procedures, negotiation is not allowed under the UK Procurement Legislation.

16. Evaluation, Award of Contract and Debriefing Suppliers

- 16.1. Apart from the debriefing required or permitted by these CP Rules, UK Procurement Legislation, the Freedom of Information Act 2000 and Environmental Information Regulation 2004, the confidentiality of quotations, tenders and the identity of Suppliers must be preserved at all times and information about one Bidder's response must not be given to another Bidder.
- 16.2. Tenders shall be promptly evaluated for compliance by the relevant officer and/or appropriate procurement officer.
- 16.3. Tenders must be evaluated, and contracts awarded in accordance with the award criteria.
- 16.4. The arithmetic in compliant tenders must be checked. If arithmetical errors or discrepancies are found which would affect the tender figure (in an otherwise successful tender), they should be notified to the Bidder, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the Bidder.
- 16.5. Subject to 16.4 if the Bidder withdraws or fails to confirm their tender within 10 working days or such period as agreed, the next tender is to be examined and dealt with in the same way. Any exception to the above procedure may only be authorised by the Monitoring Officer or the Section 151 Officer, after consideration of a suitable report prepared by the contract officer, or the procurement officer who examined the tender.

Appendix A

16.6. All unsuccessful Suppliers shall be notified promptly and in accordance with the contract conditions, and UK Procurement Legislation

16.7. Where the total value is over the UK Threshold for Public Procurement, the Officer must notify all Suppliers simultaneously and as soon as possible of the intention to award the contract to the successful Bidder and stipulating the standstill period applied in the notification and the information required in the legislation. If an unsuccessful Bidder challenges the decision the Officer shall not award the contract and shall immediately seek the advice of the Section 151 Officer.

17. Liquidated Damages

17.1. Where contracts are estimated to exceed £74,999 in value or amount and which are for the execution of works (or for the supply of goods, materials or services by a particular date or series of dates), or which are for a lesser value if appropriate, liquidated damages are to be considered.

17.2. Liquidated damages shall be assessed by the Contract Officer in conjunction with the appropriate Procurement Officer if applicable. Such damages shall be determined on a relevant and suitable basis, which is properly substantiated by appropriate supporting documentation.

18. Insurance

18.1. In connection with the carrying out of all works, irrespective of value, the Bidder shall indemnify the Council and provide such insurance as may be required under the conditions of the contract. This shall, as a minimum, indemnify the Authority against injury and damage to persons and property. The minimum value for any one occasion or series of occasions arising out of one event shall be based upon:

- i. Circumstances relevant to the particular contract in question, or
- ii. A minimum value periodically determined by the Section 151 Officer

18.2. The Contract Officer shall ensure that the appropriate insurance documents have been submitted by the Bidder in conjunction with the contract conditions. The Contract Officer shall ensure that the adequacy of the submitted insurance documents is confirmed by the Council's Insurance Officer.

Appendix A

- 18.3. The Contract Officer shall ensure that insurance cover is maintained throughout both the period of the contract and the maintenance period (where appropriate).

19. Bonds and Parent Company Guarantees

- 19.1. The contract officer, when assessing the Suppliers contractor's financial viability, must consult the Section 151 Officer about whether the Council requires security for due performance of the contract and whether a Parent Company Guarantee is necessary when a Bidder is a subsidiary of a parent company and the total value exceeds UK Procurement Thresholds.
- 19.2. Where security is considered to be appropriate and required, the Contract Officer, in consultation with the appropriate officers, shall specify in the tender the nature and amount of the security to be given. This as a minimum shall be at least 10% of the total value of the contract.
- 19.3. The security shall be obtained by the Bidder in a format, and from an institution or bank approved by the Section 151 Officer.

20. Engagement of Consultants/External Project Managers

- 20.1. It shall be a condition of the engagement of any consultant (not being an officer of the Council) who is to be responsible to the Council for the supervision of a contract on its behalf (which may include aspects such as design and preparation of a specification), that in relation to that contract they shall:
- i. Comply with these CP Rules and the Council's Financial Regulations as though he were an officer, subject also to the proviso that any modification or changes to the Council's procedures (to be followed in inviting and opening tenders) be approved in advance by the responsible Contract Officer, through whom all liaison with the Council shall occur.
 - ii. At any time during the carrying out of the contract, produce to the Monitoring Officer, Section 151 Officer, or the Contract Officer, or their authorised representative(s), on request, all records maintained by him in relation to the contract.
 - iii. On completion of a contract, pass all such records to the appropriate Contract Officer; and

Appendix A

- iv. In connection with building construction or engineering schemes, appropriate "as built" drawings shall be handed over to the authority within six months of completion.
- 20.2. All consultants shall be engaged using, where appropriate, standard terms and conditions set by the appropriate professional body. Payment shall be in accordance with agreed schedules of service and scales of fees, or lump sum fees, modified as necessary to reflect individual circumstances.
- 20.3. The Contract Officer shall ensure that any consultants engaged hold appropriate professional indemnity insurance, the extent of which shall be at the discretion of the Contract Officer dependent upon the complexity, scope and value of the scheme.
- 20.4. Ownership of intellectual property shall remain with the Authority at all times.

21. Contract Monitoring and Evaluation

Monitoring and Review

- 21.1. During the life of the contract, the contract Officer or person responsible for the contract must closely monitor and address the following areas:
 - i. Performance;
 - ii. Compliance with specification and contract;
 - iii. Cost;
 - iv. On-going economic and financial standing of the supplier/contractor;
 - v. On-going technical ability and capacity of the supplier/contractor;
 - vi. On-going risk assessment & risk mitigation
- 21.2. Contract Officers must keep management aware of progress, so that any required corrective action can be taken promptly.
- 21.3. Appropriate supporting documentation shall be maintained to substantiate the monitoring undertaken by the person responsible for the contract or the Contract Officer.
- 21.4. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

Appendix A

Notices

21.5. All notices required to be published for contracts above £75,000 shall be done with the assistance of the Procurement Officer and Legal Services

Certificates/Interim Payments

21.6. No certificate of work performed on a contract shall be raised prior to the signing of the contract, subject to compliance with appropriate contract conditions. Any exceptions to this requirement must be approved by the Monitoring Officer and the Section 151 Officer.

21.7. Interim payments to Suppliers shall only be made by the Section 151 Officer or his nominated officer on receipt of an approved form of certificate signed by an authorised officer.

21.8. Where a performance bond is required for a contract, no payment is to be made until the bond has been received. Any exceptions to this requirement must be approved by the Monitoring Officer and the Section 151 Officer.

21.9. Any contractual retention monies shall be deducted from payments in accordance with contract conditions.

Variations to the Contract

21.10. Contracts or framework agreements may be modified without a new procurement procedure only in clearly defined situations as provided for under the UK Procurement Legislation

21.11. In the case of contracts with a total value below threshold, permissible grounds for amendment include the following:

- i. Any variations made to the contract in accordance with the terms of the contract.
- ii. Variations approved and authorised by the Contract Officer together with the appropriate Director.
- iii. In line with the Procurement Act 2023 any variation that will increase the contract value by 50% or more or move it into a different threshold in paragraph 7 (whichever is the lesser) advice should be sought of the Procurement Officer and Legal.

Appendix A

21.12. Concerning construction contracts, variations to the contract shall only be made on approved forms.

21.13. The Contract Officer shall inform the Section 151 Officer and the Finance Committee of substantial variations likely to result in over or under-spends.

Price Fluctuations

21.14. The Contract Officer shall ensure that the basis of price fluctuations, where applicable, is appropriate and properly detailed in the tender/contract documentation and shall take advice from the Section 151 Officer or his nominee.

21.15. The Contract Officer shall ensure that any price fluctuations are valid, in accordance with the terms of the contract, and correctly included in interim valuations where appropriate.

Contractual Claims

21.16. The Contract Officer shall ensure that the calculation of sums due to the Bidder for loss and/or expense claims is in accordance with the terms of the contract.

21.17. The Contract Officer shall take due regard to all appropriate supporting documentation when considering a Bidder's contractual claim.

Cancellations (including Determinations)

21.18. The Contract Officer must refer any attempt to cancel a contract or any situation where the right to cancel a contract might arise, to the Legal Section for advice before any acknowledgement or notice is issued.

21.19. Cancellations shall only be made in accordance with the terms of the contract, or in conjunction with offences made under the Bribery Act 2010 or section 117(2) of the Local Government Act 1972 and published in accordance with the Procurement Act 2023

Liquidations and Bankruptcies

21.20. The Contract Officer shall ensure that all actions taken in the event of a contractor liquidation or bankruptcy are in accordance with the conditions of contract.

Appendix A

21.21. For construction contracts, the Contract Officer shall:

- i. Notify the Monitoring Officer and the Chief Executive Officer immediately;
- ii. Secure the site in question;
- iii. Ensure that outstanding works are completed as soon as possible;
- iv. Ensure that the remaining work is undertaken in the most economic, effective and efficient manner;
- v. Ensure that appropriate claims are lodged with the receiver/liquidator;
- vi. Ensure that the appropriate bondsperson is notified; and
- vii. Ensure appropriate insurance is obtained.

21.22. The Contract Officer shall take advice from the Monitoring Officer and Section 151 Officer of the procedures to be followed in the event of a liquidation or bankruptcy and ensure that such procedures are adhered to in the event of such a situation occurring. This includes but is not limited to suspension of payments and Pay Less Notices.

22. Failure to Comply with the Contract Procedure Rules

22.1. Officers must comply at all times with the CP Rules. The only exceptions to this are contained within paragraph 9 (exemptions) above.

22.2. If an Officer does fail to comply or discovers that another Officer has failed to comply with the Contract Procedure Rules, then this should be reported to their line manager as soon as possible. Failure to comply and/or failure to report may be considered under the Disciplinary Procedures of the Council in force.

22.3. In addition to the possible disciplinary consequences, a report may need to be prepared for consideration by the Council's Cabinet explaining the circumstances of the failure to comply with the Contract Procedure Rules and seeking a retrospective waiver accordingly.

23. Other Legislation

23.1. When any employee either of the authority or of a service provide may be affected by any transfer arrangement. Officers must ensure that the Transfer of Undertaking (Protection of Employment Regulations 2006 (TUPE) are considered and obtain advice from HR and Legal Services before proceedings with inviting tenders or quotations. Where Council staff are TUPE

Appendix A

transferred to a 3rd party employer in a procurement exercise this is likely to result in the need for the new employer to provide either continued access to the Local Government Pension Scheme by way of an Admission Agreement with guarantee or bond or offer a broadly comparable scheme to those employees.

23.2. Where personal data relating to individuals is to be shared in a contractual relationship with a 3rd party the council is obligated to ensure that it complies with the UK Data Protection Legislation. Officers must ensure that the procurement exercise is compliant by identifying the data to be shared, purpose, how it will be processed, transferred and protected. Where sensitive personal data is identified officers must arrange a Data Protection Impact Assessment with the councils Data Protection officer.

23.3. An advantage such as a grant, or other funding made to a third party, either by the Council or from another public source, which may be considered as a subsidy will need to be reviewed against "State Subsidy" rules to establish whether a grant, or other contribution, (financial or in kind) affects the procurement or other transaction being considered by the Council. Where State Subsidy is considered, the outcome of any assessment will be recorded and retained with the tender/contract documents.