

Thanet District Council Contract Procedure Rules

Revision 04 Final Version CPR Section

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Section 1 - Introduction - Purpose of the Contract Procedure Rules

- 1.1 These Contract Procedure Rules (CPR's) are made in accordance with the requirements of Section 135 of the Local Government Act 1972.
- 1.2 The purpose of these CPRs is to provide a structure within which procurement decisions are made and implemented. Procurement decisions and processes are important because the money involved is public money and the structure ensures that the Council is:
 - 1.2.1 delivering value for money
 - 1.2.2 maximising public benefit
 - 1.2.3 sharing Information for the purpose of allowing Suppliers and others to understand the Council's procurement policies and decisions
 - 1.2.4 acting, and being seen to act, with integrity
 - 1.2.5 furthering its corporate objectives
 - 1.2.6 purchasing fit for purpose goods, services and works
 - 1.2.7 improving the economic, social and environmental wellbeing of the district
- 1.3 Procurement by the Council, from planning to delivery, shall incorporate principles of sustainability, efficiency, whole life costing and cost savings, where appropriate.
- 1.4 These CPRs do not provide guidelines on what is the best way to procure works, supplies (goods), services and the granting of service or works concessions. They set out **minimum** requirements to be followed.
- 1.5 It may be a disciplinary offence to fail to comply with these CPRs. All employees have a duty to report breaches of CPRs to the Section 151 Officer or the Council's Monitoring Officer.
- 1.6 Any officer or Member who suspects any misconduct or corruption in relation to a procurement by or on behalf of the Council must refer to the Council's Whistleblowing Code and follow the guidance contained. The Whistleblowing Code can be found on the Council's intranet at <https://tom.thanet.gov.uk/corporate/policies/whistleblowing-policy> or a copy is available from the Council's Monitoring Officer.
- 1.7 All purchasing shall be conducted in accordance with Regulatory Provisions which include (in order of precedence) :
 - 1.7.1 (Save in cases where Public Contract Regs. 2015 apply under statutory transitional arrangements) the Procurement Act 2023, the Procurement Regulations 2024 and other secondary legislation in force from time to time, with associated documentation and guidance.
 - 1.7.2 other relevant UK legislation.
 - 1.7.3 the Council's Constitution including these CPRs, the Council's Financial Regulations and Scheme of Delegation.

Section 2 - General Principles

- 2.1 Unless otherwise stated, all figures within these CPR's are exclusive of VAT.
- 2.2 There is the presumption that the Council will secure "best value" for local residents by undertaking a competitive procurement process which complies with the Council's statutory duties. The only exceptions to this principle are where these CPRs permit a contract award without competition using an approved Waiver application or via a Direct Award process.
- 2.3 The Council must carry out any "covered procurement" in accordance with the Act.
- 2.4 In carrying out a covered procurement, in addition to the matters listed in paragraph 1.2 above, the Council must have regard to the following:
 - 2.4.1 equal treatment of Suppliers
 - 2.4.2 all reasonable steps must be taken to ensure a Supplier is not put at an unfair advantage or disadvantage when a different treatment is considered justified
 - 2.4.3 consider whether barriers to participation for small and medium enterprises can be removed or reduced.
- 2.5 Duty to consider lots:
 - 2.5.1 Before publishing a UK4 Tender Notice the Council must consider: whether the goods, services or works to be supplied under the contract could reasonably be supplied under more than one contract and whether the contracts could appropriately be awarded by reference to lots
 - 2.5.2 Where considered appropriate, the Council must either proceed with a process by reference to lots or provide and record reasons for not proceeding under lots.
- 2.6 The Council must have regard to the National Procurement Policy Statement when undertaking procurements.
- 2.7 All procurement procedures (including obtaining quotes), from pre-procurement activities, procurement process, contract award and preparations to deliver the contract objectives (including contract management) shall be undertaken in a manner so as to ensure:
 - 2.7.1 sufficient time is given to plan and run the process
 - 2.7.2 equal opportunity and equal treatment
 - 2.7.3 openness and transparency
 - 2.7.4 probity
 - 2.7.5 the outcomes delivery the business needs including sustainability and supports the delivery of the Council's carbon reduction targets
- 2.8 Records are to be maintained and kept on file to demonstrate how these general principles have been taken into consideration during procurement decisions throughout the procurement lifecycle.

- 2.9 The Responsible Officer shall seek advice from Procurement and Legal where necessary throughout the procurement process.
- 2.10 The Responsible Officer shall complete and submit a Legal Instruction Form to the Head of Legal for contracts with an estimated value of £140,000.00 and above, where advice is needed and a review of documentation is required as per the threshold process or when awarding a contract of the same value or above. Although CPRs only require the Responsible Officer to provide information for contracts of £140,000.00 and above, should advice be required below this value, the appropriate form should be submitted.
- 2.11 Certain contracts are exempted for the purpose of the Act. Advice should be sought from the Procurement Section and Legal Services where required. Schedule 2 of the Act sets out contracts that are exempted contracts.

Section 3 - Conflicts of Interest

- 3.1. All members of the Council, staff, directly employed consultants, agency workers and external consultants (consultant employees and subconsultants) engaged to act on behalf or support the Council must take all reasonable steps, as required by the Procurement Section to identify and keep under review any conflicts of interest or potential conflicts of interest.

Conflicts of interest to consider include (but not limited to):

- actual conflicts where there may be a direct benefit
- potential conflicts where there may be wider family interests
- perceived conflicts - where some benefit has been provided in the past - like entertainment received from a Supplier

Section 4 - General Requirements

4.1 Roles and Responsibilities

- 4.1.1 The Chief Executive, Directors and each Head of Service shall have overall responsibility for the procurement activities undertaken by his or her Directorate.

- 4.1.2 Each Head of Service shall be responsible for the procurement activities undertaken by his or her service and shall

- be accountable to the Council for the performance of his/her duties in relation to procurement
- comply with the Council's decision making processes including, where appropriate, implementing and operating a Scheme of Delegation
- ensure the Council has due regard to its statutory obligations and the Council's policies which include but are not limited to the Equality Act 2010 and Data Protection Act 2018 and the implementation of the UK General Data Protection Regulation (GDPR)
- consult with the Procurement Section and Legal Services as necessary
- attend training in relation to these CPRs and ensure that

- any Responsible Officer to whom he or she appoints under CPR does the same
 - take immediate action in the event of breach of these CPRs , which will include as a minimum promptly informing the Responsible Officer's line manager (unless that person is suspected of being involved) and the Monitoring Officer and the Section 151 Officer of such breach.
- 4.1.3 Before the procurement activity commences, each Head of Service must also consider and detail the policy delivery requirements within the Procurement Strategy so as to enable the Responsible Officer to complete the templates for the appropriate Notices and associated procurement documents to be published by the Procurement Section.
- 4.1.4 A Responsible Officer is an officer with responsibility for supporting the procurement processes to secure the required works, supplies (goods) or services as authorised by their Head of Service on behalf of the Council.
- 4.1.5 A Responsible Officer's duties in respect of procurement shall ensure that :
- they act within the scope of their responsibility and authority, as authorised by their Head of Service/Director
 - their actions are compliant with all Regulatory Provisions and these CPRs.
 - all relevant officers are reminded of the relevant statutory provisions and the Council's requirements relating to declarations of interest and confidentiality undertakings affecting any purchasing process in order for them to comply with these requirements
 - there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used
 - the purchasing process, from planning to delivery incorporates (where appropriate) principles of best value, sustainability, efficiency, whole life costing and cost savings
 - value for money is achieved and other priorities listed at 1.2 of CPRs.
 - adequate and appropriate security (such as a bond or guarantee) is taken to protect in the event of non-performance as deemed necessary by the Head of Finance, Procurement and Risk.
 - proper records are maintained of all stages of the procurement process including contract award procedures, waivers, direct award in special circumstances, exemptions, extensions and other variations and contract management activities, regardless of contract value or as required under the Act - Section 98
 - all contracts of a value of £5,000.00 are included on the Council's Contract Register, maintained by the Procurement Section
- 4.1.6 All Council officers and consultants engaged to act on behalf of the Council shall take into account the different routes, processes and

procedures (as appropriate in the context), to procure goods, services and works. This shall include taking into account the wider project requirements and making sufficient preparations for the procurement and contract management activities to deliver the project on time, to the required specification and within budget. Guidance must be sought from Procurement and Legal as required.

4.2 Financial Thresholds and the procurement procedure to be followed

4.2.1 Table 01 below sets out the procurement procedure to be followed for the stated value ranges for the estimated contract value.

4.2.2 The Procurement Section will coordinate the publishing of the appropriate Notices and associated procurement documents on the Central Digital Platform, with the Responsible Officer providing the necessary information for completion of Notices within required timescales.

4.3 Table setting out financial thresholds and procedures:

4.3.1 The below table (Table 01) sets out a summary of the procedure to be followed for procurements depending on the estimated contract value.

Total Value	Type of Contract	Procurement Procedure to be used
Up to £24,999.99 exclusive of VAT (Up to £29,999.99 inclusive of VAT)	Supplies, services and works	Quotation Procedure A minimum of one written quote in advance (More than one quote may be sought to assist with demonstrating value for money). Responsible Officer maintaining records on file of all communications with Suppliers, receipts to be kept as a record of the procurement and to assist with the recovery of any VAT payments
Procurement Act 2023		
£25,000.00 to £139,999.99 exclusive of VAT (£30,000.00 to £167,999.99 inclusive of VAT)	Supplies, services and works	CPR Below-threshold Quotation procedure (These procurements are still subject to regulated below-threshold contracts obligations under PA23.) A minimum of three compliant quotes obtained (Recommendation to seek five quotes in advance, to increase likelihood of achieving three compliant quotes). <i>(Important: Should quotes be sought via advertisement, advice must be sought from the Procurement Section in advance of issuing quotation request, <u>as additional</u></i>

CPR Layout Based Upon Procurement Lifecycle

		<p><i>Regulated/Notifiable below-threshold contract obligations will apply)</i></p> <p>See CPR Below-threshold Quotation procedure for detail on Framework / DPS requirements/ Dynamic Market</p> <p>Responsible Officer to use Quick Quotes authorised by the Procurement Section or other method agreed with Procurement in advance.</p>
<p>£140,000.00 to *£179,086.66 exclusive of VAT</p> <p>(£168,000.00 to *£214,904.00 inclusive of VAT)</p>	Supplies and services	<p>Regulated/Notifiable Below-threshold Tender Procedure</p> <p>Via the Procurement Section using the e-procurement portal</p> <p>A minimum of three compliant tenders obtained.</p> <p>See Regulated/Notifiable Below-threshold Quotation procedure for detail on Framework / DPS requirements</p>
<p>£140,000.00 to *£4,477,174.16 exclusive of VAT</p> <p>(£168,000.00 to *£5,372,608.99 inclusive of VAT)</p>	Works	<p>Regulated/Notifiable Below-threshold Tender Procedure</p> <p>A minimum of three compliant tenders obtained.</p> <p>Via the Procurement Section using the e-procurement portal</p> <p>See Regulated/Notifiable Below-threshold Quotation procedure for detail on Framework / DPS requirements</p>
,	Supplies and services	<p>Above Threshold Procurement Procedure under the Procurement Act 2023</p> <p>Via the Procurement Section using the e-procurement portal via an Open Tender, Competitive Flexible Procedure, Framework, Dynamic Market or via transition arrangements described elsewhere in these CPRs</p>
<p>Above *£4,477,174.17 exclusive of VAT</p> <p>(*Above £5,372,609.00 inclusive of VAT)</p>	Works	<p>Above Threshold procurement procedure under the Procurement Act 2023</p> <p>Via the Procurement Section using the e-procurement portal via an Open Tender, Competitive Flexible Procedure, Framework, Dynamic Market or via transition arrangements described elsewhere in these CPRs</p>

Light Touch Procedure		
£25,000.00 to £527,950.00 exclusive of VAT (£30,000.00 to £663,540.00 inclusive of VAT)	Mainly or wholly for Services	Light Touch Procedure Via the Procurement Section using the e-procurement portal Note this procedure is unlikely to be needed by the Council
Service/Works Concession Contracts		
Below *£4,477,174.17 exclusive of VAT (Below *£5,372,609.00 inclusive of VAT)	Service and works concessions	Regulated/Notifiable Below-threshold Tender Procedure Via the Procurement Section using the e-procurement portal Note this procedure is unlikely to be used often by the Council
Above *£4,477,447.17 exclusive of VAT (Above *£5,372,609.00 inclusive of VAT)	Service and works concessions	Above Threshold Procurement Procedure under the Procurement Act 2023 Via the Procurement Section using the e-procurement portal Note this procedure is unlikely to be used often by the Council

4.3.2 Threshold amounts for the award of public contracts may be changed from time to time by legislation. On future amendment of these threshold amounts, the Monitoring Officer / Section.151 Officer has joint authority to show new threshold values.

- 4.4 Consideration of project size, value and complexity
These CPRs state the minimum requirements to be met by the Responsible Officer. The Responsible Officer shall always give due regard to the nature, complexity and estimated cost of the contract and allow a reasonable and proportionate consideration of the process and time needed for the process to be undertaken.
- 4.5 Consideration of the Specification
4.5.1 An appropriate specification must be prepared which sets out a clear and comprehensive description of the Council's requirements with regard to the supplies, services or works which are to be delivered.
- 4.6 Procurement Initiation Form (PIF)
For all contracts above £25,000.00, the Responsible Officer must ensure either the Council's Short PIF or Standard PIF, depending on which is required, is fully completed together with information / attachments (see

Section 4 Pre-Procurement Activities) and submitted to the Procurement Section, sufficiently in advance for the procurement process to be scheduled within the procurement activities programme.

4.6.1 Procurements with an estimated value above £25,000.00 to below £140,000.00 will utilise the Short PIF template. Procurements with contract value of £140,000.000 or above will utilise the Standard PIF template.

4.7 Use of e-procurement system

The Council uses a secure e-procurement system which provides an audit trail of procurement activity, notices and communications with Suppliers. All procurements with an estimated value of £25,000.00 and above shall be issued electronically via the Council's e-procurement system. In exceptional circumstances, an alternative e-procurement system or other electronic method of communication may be used if a concession is granted by the Procurement Section. In these circumstances, the Procurement Section will act as the interface between the Responsible Officer and the operator of the alternative e-procurement system.

4.8 Procurement Pipeline

4.8.1 A Procurement Pipeline is to be prepared, and the Pipeline information once established will be updated on a quarterly basis or at such time as material changes in the Procurement Pipeline information become known, to allow the Council to plan and utilise its resources effectively and efficiently and ensure there are adequate resources available to support the delivery of the objectives under the CPRs.

4.8.2 Each Director shall make arrangements within their department to assemble the specified procurement pipeline information for all procurements with a value more than £25,000.00 and provide to the Procurement Section within agreed timescales.

4.8.3 The Procurement Section will assemble the procurement pipeline information to comply with the Act, into a single pipeline schedule that represents the Council's overall procurement requirements and which will feed into the procurement programme. The draft Pipeline Notice will be issued to the Directors for verification prior to the official publication of the Notice.

4.9 Publication of Notices

The Council is required to publish a wide range of procurement Notices to comply with the Procurement Act 2023 and secondary legislation.

4.10 Record keeping

The Responsible Officer shall undertake the record keeping activities associated with the procurement activity. This includes during the preparation and undertaking the procurement activity which shall include any communications with Suppliers and decisions made in relation to the procurement process.

4.11 Contract Register

4.11.1 The Council's e-procurement system will be used to create and update the Contract Register via the Procurement Section when a Contract is awarded.

4.11.2 Each Director shall be responsible for their Directorate notifying the Procurement Section of any Contracts awarded of £25,000.00 or

above outside the Council's e-procurement system, and will supply the necessary details to complete the entry into the Contract Register.

Section 5 - Pre Procurement Preparations

5.1 Estimating the Contract value

- 5.1.1 The Responsible Officer shall calculate the estimated value of a Contract. This is the maximum amount the Council would expect to pay under the Contract.
- 5.1.2 The Responsible Officer shall re-evaluate the estimated Contract value throughout the pre procurement preparations and whenever it becomes known that there are changes to the information used in the calculation, the estimated value should be adjusted and the necessary approvals obtained to facilitate the continuation of the procurement .
- 5.1.3 The Responsible Officer shall not artificially make adjustments to the Contract duration for ongoing / repeat business requirements, nor divide a similar scope requirement over multiple contracts to suit a particular outcome. The Responsible Officer should seek advice from the Procurement Section on the application of the Act, where they envisage that they may require repeat procurements and/or procurements of a similar type within a specified period.

5.2 Mixed Procurement: above and below threshold

- 5.2.1 The provisions of the Act Section 5 shall apply to the determination of the mixed procurement involving supplies, services and works and whether it is treated as either an above or below threshold procurement.
- 5.2.2 The Responsible officer shall prepare the necessary details, calculations and information for presentation to the Procurement Section and if appropriate Legal Services who will make the decision on the procurement procedures to be followed.
- 5.2.3 Section 5 provisions do not apply to a contract awarded in accordance with a Framework Agreement.

5.3 Procurement Strategy

- 5.3.1 The Procurement Strategy will be developed by the Responsible Officer in collaboration with the Procurement Section and Legal Services. The Procurement Strategy is to be reviewed throughout the project lifecycle and updated in consultation with the Procurement Section to reflect any significant changes and will be revised as necessary subject to securing the necessary agreements. The Procurement Strategy will also consider the following matters where appropriate:
 - 5.3.1.1 National Procurement Strategy
 - 5.3.1.2 Social Value
 - 5.3.1.3 Carbon Net Zero
 - 5.3.1.4 Sustainability
 - 5.3.1.5 Small Medium Enterprises
 - 5.3.1.6 Consideration of Lots and the contract delivery arrangements
 - 5.3.1.7 Consideration of separating Mixed Contracts into separate contracting arrangements
 - 5.3.1.8 Consideration of Key Performance Indicators for contracts

- with an estimated value above £5m
 - 5.3.1.9 Delivery the primary objectives
 - 5.3.1.10 Consideration of Technical Specifications to ensure compliance with Section 56 of the Act.
 - 5.3.2 The Procurement Strategy will identify the Notice requirements and timings when these are required to be issued.
 - 5.3.3 Under the Thanet District Council Project Management Framework, at Stage A Project Initiation, the Responsible Officer will work in collaboration with the Procurement Section and Legal Services to establish the project requirements / the project delivery milestones / initial procurement strategy with outline details that will support the delivery of the project.
- 5.4 Preliminary Market Engagement
- 5.4.1 Preliminary Market Engagement is not mandatory, however, if this activity is undertaken the process is governed by the Act for above the relevant threshold and the Council must comply with the specified requirements.
 - 5.4.2 The Responsible Officer may undertake Preliminary Market Engagement for procurements below the relevant Threshold.
 - 5.4.3 The Responsible Officer may engage with Suppliers and other persons to discuss certain aspects of the procurement.
 - 5.4.4 The Responsible Officer must maintain records of all discussions, communications and documents associated with the Preliminary Market Engagement. The Responsible Officer must ensure that any Preliminary Market Engagement stage is completed prior to the publishing any Quotation/Tender documentation or where a direct award is being undertaken.

Section 6 - Procurement Procedure

- 6.1 Open procedure
For procurements above the relevant financial threshold for supplies, services and works - the single stage "open procedure" is governed by the Act & Regulations.
- 6.2 Competitive flexible procedure
For procurements above the relevant financial Threshold - the "competitive flexible procedure" is governed by the Act & Regulations.
- 6.3 Regulated/Notifiable below-threshold contracts
For procurements below the relevant financial Threshold for supplies, services and works but greater than £25,000.00 - the regulated/notifiable below-threshold contracts procedure is governed by the Act & Regulations.
- 6.4 Direct award in special cases
The award of contracts without competition above the relevant Threshold for supplies, services and works is governed by the Act & Regulations - Section 11 of the CPRs-
- 6.5 Establishing a new commercial tool
The establishment of procurement arrangements is governed by the Act & Regulations which detail the requirements to be followed, which include options for framework / dynamic market.

CPR Layout Based Upon Procurement Lifecycle

- 6.6 Awarding contracts in accordance with frameworks established under PA2023
 - 6.6.1 Frameworks which have been established in accordance with the provisions of the PA2023 will be displayed on the Central Digital Platform. The Responsible Officer will consult with the Procurement Section and the Legal Team to obtain advice and confirm framework suitability for the Council's particular proposed use. An Access Agreement may be required to be completed by the Council and the framework provider prior to use.
- 6.7 Awarding contracts by reference to dynamic markets
 - 6.7.1 The award of a contract under a dynamic market compliant with the Procurement Act 2023 is governed by the Act & Regulations which detail the requirements to be followed.
 - 6.7.2 The Procurement Section will make information available on compliant dynamic markets that have been researched and may be suitable for consideration within the Procurement Strategy, subject to any reserved matters being addressed. If the Responsible Officer wishes to consider another dynamic market which has not been verified by the Procurement Section, the Responsible Officer shall obtain the required information and documents.
- 6.8 Also refer to Section 9 for transition arrangements where these apply.

Section 7 - Procurement Process

- 7.1 Procurement Section to coordinate activities .
 - 7.1.1 The Procurement Section is responsible for the operation and oversight of the Council's e-procurement platform and notices and information published on the Central Digital Platform.
 - 7.1.2 The Procurement Section will coordinate activities for the operation and functioning of the e-procurement platform.
 - 7.1.3 The Responsible Officer will provide such details and information as may be requested for the timely operation of the procurement process.
 - 7.1.4 The Procurement Section will administer the procurement process for Contracts with an estimated contract value above £140,000.00. Should it be determined that a lower value contract is covered as a Regulated/Notifiable below threshold procedure, administration of the procurement process should be discussed and agreed with the Procurement Manager.

- 7.2 Use of standard templates
 - 7.2.1 All procurement activities must be conducted using the Council's approved templates, and based on the relevant procedure identified within Table 01, setting out the financial thresholds and procedures, unless framework templates are agreed for use.
 - 7.2.2 The Responsible Officer must ensure that any external consultants assisting the Responsible Officer with assembly of invitation to tender documents are to be issued with the Council's approved templates applicable and these CPRs, at outset.
 - 7.2.3 Approved templates are available from the Procurement Section and on the Council's intranet site.
 - 7.2.4 The approved templates provide highlighted guidance for the Responsible Officer's consideration and for where amendment is to be made within the template. No amendments are to be made to the approved template outside of these highlighted sections, unless first agreed with the Procurement Section in writing.

- 7.3 Associated quotation/tender documents
 - 7.3.1 The quotation/tender documents shall contain all necessary information to allow Suppliers to prepare their bid submissions with equal opportunity.
 - 7.3.2 The Responsible Officer shall provide all necessary technical information and documentation in advance for the procurement process and review by the Procurement Section and Legal Team, where applicable. Documents are to be provided in a format suitable for use on the e-procurement system
 - 7.3.3 The associated quotation / tender documents will be provided in a standardised format.

- 7.4 Form of Contract options
 - 7.4.1 The Responsible Officer shall instruct Legal Services in advance to seek legal advice and / or information concerning suitable contract conditions, as required.

 - 7.4.2 As a general rule, all contracts (with exception of those purchases transacted on Government Procurement Cards) & concession agreements shall include Standard Clauses as set out in the CPR

Section 13. Only in exceptional circumstances - where Legal Services has first agreed in writing that said Clauses may reasonably be excluded without significant compromise to TDC - may these be excluded from the contract/agreement concerned

7.4.3 All contracts above £25,000.00 shall be made using one of the following as applicable to nature, complexity, risk and size of contract.

7.4.3.1 the Council's Official Purchase Order conditions accompanied by the Council's Standard Clauses* (refer to the CPR Section 13)

7.4.3.2 * the Council's Standard Clauses are available on intranet@<https://docs.google.com/document/d/1Q5dxzQFNhIZbEpxxQYI84NJetENqKgtrddb59yW7xWI/template/preview>)

7.4.3.3 the Council's General Conditions of Contract* available on intranet @ <https://sites.google.com/thanet.gov.uk/tom/financial-services/procurement-flexibility/quotation-and-tender-templates-toolkit>

7.4.3.4 a standard form of contract (e.g. NEC, JCT etc) using the latest edition as published accompanied by the Council's Standard Clauses* (refer to the CPR Section 13) or

7.4.3.5 the Suppliers Terms & Conditions (in exceptional circumstances only) accompanied by the Council's Standard Clauses* (refer to the CPR Section 13)

Advice and agreement must be sought from Legal Services prior to issue and award in respect of 7.4.3.4 and prior to award in respect of 7.4.3.5. N.B. In respect of 7.4.3.2 – 7.4.3.5 an Official Purchase Order must be raised relating to contract spend and budgetary commitment, as required under the Council's Financial Procedure Rules.

*Contract clauses are maintained by Legal Services and are subject to amendment from time to time. Officers must therefore check via the intranet that they are using the latest version/s.

7.4.4 As a minimum, all contracts of a value of £50,000 or more shall include clauses which set out:

7.4.4.1 The works, supplies (goods), services, material, matters or things to be carried out or supplied

7.4.4.2 Specify the price to be paid, the estimated price or the basis on which the price is to be calculated

7.4.4.3 The time within which the contract is to be performed

7.4.4.4 Quality requirements and/or standards which must be met

7.4.4.5 Requirements on the contractor to hold and maintain

appropriate insurance

7.4.4.6 Adequate contract management and audit provisions

7.4.4.7 What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)

7.4.4.8 Inclusion of the Council's Standard Clauses (Ref CSO 16) placing a duty on the contractor to comply with all relevant legislative requirements and discharge of obligations under said legislation.

7.5 Conditions of Participation

7.5.1 The Responsible Officer shall provide the project specific / technical information to complete any Conditions of Participation for use. The Council's Procurement Section must be satisfied that the conditions are deemed proportionate to ensuring that Suppliers have met the minimum legal, financial capacity and technical ability stated to perform the contract.

7.6 Award Criteria - Most Advantageous Tender (MAT)

7.6.1 All procurements above £25,000.00 must contain award criteria.

7.6.2 The award criteria (and any sub-criteria) must be clearly stated within the tender documents together with evaluation methodology.

7.7 Preparations for publication of the Notice and associated tender documents

7.7.1 The Responsible Officer will provide technical and project information required for the draft Notice and fully completed tender documents to the Procurement Section to enable the Procurement Section sufficient time to verify compliance with the CPR's, the Act, that the documents are in the correct format for use on the Council's e-procurement platform or other agreed route to market. The Procurement Section will endeavour to complete the review within five working days.

7.7.2 Once the Procurement Section has completed the review of the final draft Notice and associated tender documents, the Responsible Officer will seek the review and approval of these documents with TDC Legal for all procurements with an estimated contract value above £140,000.00. TDC Legal will require no less than 10 working days to complete the review unless previously agreed otherwise.

7.7.3 The Procurement Section will set up the administration of the e-procurement platform for procurements above £140,000.00 required for the publication process.

7.8 Approvals to proceed with a procurement activity

For procurements over the relevant threshold, the choice of procurement procedure to be used and the decision to proceed to issue the Tender Notice and associated tender documents, must be authorised in writing by the relevant Head of Service and the Procurement Section in advance.

7.9 Time Limits

7.9.1 The Act specifies certain minimum time limits, which the Council must comply with during any competitive tendering process. There are no maximum time limits and the Council has an obligation to consider other factors to determine the reasonable time limits.

These include but are not limited to the following

6.10.1.1 the nature and complexity of the Contract being awarded;
6.10.1.2 the need for site visits, physical inspections and other practical steps;

6.10.1.3 the need for sub-contracting;

6.10.1.4 the nature and complexity of any modification of the tender Notice or any associated tender documents;

6.10.1.5 the importance of avoiding unnecessary delay.

7.9.2 The time limits set must be the same for each Supplier

7.9.3 The Council requires all Notices, associated tender documentation and communications with Suppliers and tender submissions to be issued in electronic format and the minimum time periods specified under the Act.

7.10 Clarifications and additional tender information

7.10.1 The Procurement Section will support the clarification process for procurements of £140,000.00 and above, and other matters that need to be considered and responded to. The Responsible Officer shall provide a full and timely response to any technical / operational clarifications and any additional tender information as requested by the Procurement Section so as to avoid delays to the procurement process.

7.10.2 The Responsible Officer will identify clarifications and other issues for procurements below £140,000.00 which require a response.

7.11 Submission of Quotation and Tenders “opening” process

7.11.1 All procurements above £25,000.00 must be submitted by the Supplier using the Council’s e-Procurement portal, unless another e-Procurement Portal has been agreed with the Procurement Section. Under these conditions, the quotations and tenders shall only be submitted and accepted in accordance with the requirements stated in the associated tender documents.

7.11.2 In exceptional circumstances (which must be agreed in advance in writing with the Procurement Section), an alternative mechanism to receive quotations and tenders may be utilised.

7.11.3 All tenders shall remain unopened within the e-procurement portal until after the tender submission deadline and the electronic seal for within the eProcurement Portal has been removed.

7.11.4 No tenders received after the specified tender submission deadline are to be accepted or considered by the Council unless first agreed in writing by the Procurement Manager and/or Head of Finance, Procurement and Risk, and only in exceptional circumstances.

7.11.5 Tenders shall be opened electronically by an officer of the Procurement Section on the Council’s eProcurement system providing a full audit trail of all activity undertaken. Where tenders are expected to have a value of £140,000.00 or more, invitations to the opening of these tenders will be sent to the appropriate Portfolio Holder or another Cabinet Member and the appropriate Shadow Portfolio Holder or another Shadow Cabinet Member, a Procurement Officer, one Responsible Officer and a Democratic Services Officer to undertake the completion of the Record of Receipt of Tender Document of all tenders received including names and addresses

and the date and time of opening. In circumstances where both Portfolio/Cabinet member and/or, both Shadow Portfolio/Cabinet members are unable to attend, opening of tenders can and should be undertaken in presence of officers and at least one substitute Member to ensure procurement programme is maintained.

7.12 Debarment / Excluding Suppliers

7.12.1 For procurements above the relevant financial Threshold, the requirements for Debarment / Excluding Suppliers are specified under the Act - Sections 57 to 66. (To the fullest extent permitted by legislation) the Council will adopt the same principles for procurements below the relevant financial Threshold

7.12.3 These provisions for debarment / excluding Suppliers also apply to associated person or connected person and sub-contract Suppliers where they are identified within the Supplier's quotation/tender submission and are relied upon to satisfy any Conditions of Participation.

7.13 Compliance check of the Conditions of Participation quotations and tender submissions

7.13.1 The Procurement Section will undertake the compliance checks of the Conditions of Participation for tender submissions.

7.13.2 The Responsible Officer will undertake the compliance checks for quotations in Notifiable CPRBelow-threshold procurement procedures. The Procurement Section will provide advice to support where necessary.

7.13.3 The Responsible Officer shall assist the Procurement Section to undertake the compliance checks of any technical aspect of the Conditions of Participation, by immediately notifying of any errors and / or discrepancies within the Conditions of Participation submissions.

7.13.4 Where a Supplier's submission does not meet the Conditions of Participation, the Procurement Section may advise that the submission is to be excluded.

7.14 Quality/Technical Evaluation of quotation/tender submissions

7.14.1 For contracts with a value of £140,000.00 and above, the Procurement Section will lead the evaluation process and verify compliance with the Act & Regulations. The Responsible Officer will provide any necessary support and resources required to facilitate this.

7.14.2 The Responsible Officer shall undertake a compliance check of the technical tender submissions to ensure that the submissions comply with the stated submission requirements described within the procurement documents. The Procurement Section will provide advice to support where necessary.

7.14.3 The Responsible Officer shall immediately notify the Procurement Section of any errors, qualifications, submissions that exceed the stated submission limits and / or discrepancies within the technical tender submission.

7.14.4 Tender submissions shall be evaluated using evaluation criteria stated in the associate tender documents.

7.14.5 A minimum of two Council officers with suitable knowledge and

experience of the technical subject matter of the procurement are to undertake the technical evaluation. Each evaluator is to record their independent evaluation score and provide a description of the evaluation assessment for consideration during the moderation process.

7.15 Price Evaluation of tender submissions

7.15.1 The Responsible Officer shall ensure each price submission is fully checked for compliance with the obligations stated within the Notice and associated tender documents.

7.15.2 The Responsible Officer shall immediately notify the Procurement Section of any errors, qualifications and / or discrepancies within a priced tender submission.

7.15.3 As part of the Procurement Section's compliance checks, all information should be made available to enable validation that the price evaluation has been conducted in accordance with the methodology stated within the procurement documents.

7.16 Post Tender Submission Clarifications

7.16.1 Where the Procurement Section is aware or has been notified of any errors, qualifications and / or discrepancies within a Supplier's tender submission, the Council may permit a limited opportunity that is considered proportionate for a Supplier to clarify matters relating to their tender submission where it is deemed necessary and appropriate, whilst maintaining the principles of equal treatment of Suppliers.

7.16.2 Where a Supplier responds to a post tender submission clarification and the Procurement Section accepts the clarification message is not likely to impact on the principles of equal treatment, the clarification message will be issued to the Responsible Officer and relevant evaluators to enable them to complete the evaluation of the tender submission and / or compliance checking process.

7.16.3 Suppliers who have not complied with the submission requirements may be excluded from the procurement process. The Procurement Section may consult with Legal Services to review the circumstances before a Supplier is excluded from the procurement process where it is deemed necessary.

7.17 Moderation of the technical tender submissions

7.17.1 The moderator shall be a representative from the Procurement Section, who will establish a moderation meeting to review the independent evaluation scores and justifications with all the evaluators. Any proposal for a moderator being outside the Procurement Section, must be agreed in writing with the Procurement Manager in advance of the evaluation.

7.17.2 The moderator shall create the moderation meeting report which will record the details of the moderation meeting together with the consensus scores reached and the supporting descriptive justification for the consensus scores. The moderation meeting report will be issued to all the evaluators to confirm that the report represents the outcome of the moderation process.

7.18 Overall Evaluation Ranking

7.18.1 The Procurement Section shall review the final technical and price

evaluation scores following moderation, to verify the overall scores to identify the Most Advantageous Tender submission and overall score and ranking of each tender submission.

7.19 Approvals

7.19.1 When a decision is made to award a Contract then the Responsible Officer must, in addition to complying with their general obligations under these CPRs and the Act & Regulations, ensure the appropriate approvals have been obtained to authorise that decision before any communications are made with Suppliers.

7.20 Assessment summaries

7.20.1 For procurements above the relevant financial Threshold, the requirement for assessment summaries is specified under the Act - Section 50. A template will be provided to the Responsible Officer by Procurement for completion.

7.20.2 The Responsible Officer shall provide the completed assessment summaries to the Procurement Section who will verify the assessment summaries and, when satisfied on their completeness, issue these to the relevant Suppliers prior to the issue of the Contract Award Notice

7.20.3 The Responsible Officer is to apply the same provisions for an assessment summary for a below threshold procurement.

7.21 Contract Award Notice and Standstill

7.21.1 Before proceeding with any process to award a Contract, the Procurement Section will verify that there has been no change to the status of the Supplier or an associated person on the debarment list to determine if the Supplier is an “excluded Supplier” or “excludable Supplier.” If a change in status of the Supplier is observed, the Procurement Section in conjunction with Legal Services shall issue instructions on how to proceed.

7.21.2 For procurements above the relevant financial Threshold, the requirement for Contract Award Notice and Standstill are specified under the Act - Sections 50 and 51.

7.21.3 The Responsible Officer shall provide the technical details and information to complete the Contract Award Notice template to enable the Procurement Section to complete the Notice requirements.

7.21.4 The “mandatory standstill period” under the Act - Section 51 is eight working days beginning with the day on which the Contract Award Notice is published.

7.21.5 The Procurement Section / Legal Services may advise the Responsible Officer to apply a “voluntary standstill period” for a Regulated/Notifiable below-threshold Tender where it is considered advisable to protect the best interests of the Council.

7.22 Supplier adoption process

7.22.1 The Responsible Officer will check the Council’s financial system to determine if the Supplier is already registered.

7.22.2 If the Supplier is not registered on the Council’s financial system, it shall be the Responsible Officer’s responsibility to ensure a new Supplier Adoption/Readoption of Supplier Form is completed with all details, information and supporting documentation and evidence

where necessary. The Responsible Officer should restrict all communications with the Supplier to only those strictly necessary to secure the required supporting information and evidence. The Responsible Officer can find the requirements for the Supplier Adoption process here:

<https://sites.google.com/thanet.gov.uk/tom/financial-services/new-supplier-adoption>

- 7.23 Execution of contracts and issuing of Purchase Orders
- 7.23.1 All contracts above £25,000.00 or more shall be made in writing.
- 7.23.2 All Contracts and other agreements valued at £140,000.00 or above including any order made under a framework, DPS or Dynamic Market arrangement shall be executed as a deed under the Council's common seal.
- 7.23.3 For all Contracts and agreements valued at £140,000.00 or above, the Responsible Officer will co-ordinate arrangements with Legal Services for the preparation of legal agreements where applicable for issuing to the Supplier. (Note Legal Services will require a minimum of two working weeks to undertake the preparation of the legal agreement.) A Contracts Instruction Form is to be submitted to Legal Services in advance of the Contract award to be made, with all relevant details included.
- 7.23.4 No instructions / communications are to be issued for supplies, services or works to commence before the Contract execution formalities are complete, without Legal's prior agreement.
- 7.23.5 Where particular risks have been identified with respect to a procurement it may be necessary for other lower value contracts to be reviewed and approved by Legal Services and/or executed as a deed.
- 7.23.6 For all Contracts valued below £140,000.00, officers with appropriate delegated authority may sign these under hand. The Responsible Officer shall make arrangements to raise an official Purchase Order relating to Contract spend and budgetary commitment, as required under the Council's Financial Procedure Rules.
- 7.23.7 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 (or any amended regulations in force at the time) provided the sufficiency of security arrangements has been approved by the Senior ICT Manager.
- 7.23.8 After execution of the Contract, the Responsible Officer shall make arrangements to raise an official Purchase Order relating to contract spend and budgetary commitment, as required under the Council's Financial Procedure Rules.
- 7.24 For above threshold contracts, Electronic Invoicing provisions are implied under Section 67 of the Act and the following process will apply
- 7.24.1 The Council shall accept and process for payment an electronic invoice submitted for payment by the Supplier where the invoice is undisputed and where it complies with the standard on electronic invoicing. (Standard Clause 13.1.12 in Section 13 refers)
- 7.25 Publication of Contract Details Notice
- 7.25.1 For procurements with an estimated value of more than £5 million,

the Council must publish a copy of the contract within 90 days as specified under the Act - Section 53.

- 7.25.2 The Responsible Officer - in consultation with the Council's Information Governance Manager - will prepare a copy contract with information redacted that can reasonably be regarded as confidential to that Supplier, having due regard to statutory and other guidance and case law on the subject. Legal Services will seek the agreement of the Supplier for the publication of the redacted contract, taking advice from the Information Governance Manager on any reasonable requests to redact any further confidential information. Any matter which cannot be resolved between parties is to be referred back to the Procurement Section / Legal Services who will seek guidance from said Information Governance Manager as to how the Council should proceed.
- 7.25.3 The Responsible Officer shall provide the technical details and information to complete the contract details Notice template to enable the Procurement Section to complete the Notice requirements.
- 7.25.4 The Procurement Section will publish the contract details Notice together with the redacted contract.

Section 8 - Contract Management

8.1 Contract management requirements - monitoring arrangements

The Responsible Officer shall ensure there are monitoring arrangements in place to ensure the Contract is delivered in the prescribed manner to the required quality, on time and not exceeding the authorised budget.

8.2 Payment arrangements

8.2.1 The Act sets out certain implied terms that will be incorporated into the payment arrangements for all public contracts, with exception of concession contracts. These implied terms relate to above the relevant Threshold value, which are specified within Part 4 of the Act and similar implied terms for below threshold contracts, which are specified within Part 6 of the Act. The provisions of these implied terms are as set out in Standard Clauses 13.1.5 and 13.1.12.

8.2.2 The Financial Procedure Rules sets out the responsibilities for the Section 151 Officer, Directors and Responsible Officers in respect of Payments.

8.3 Payment Compliance Notices

8.3.1 The Act sets out the requirement for publishing a payment compliance Notice every six months for all public contracts above the relevant financial Threshold, the requirements are specified under the Act - Section 69 and Regulation 38.

8.3.2 The Council's Finance Department will make the arrangements for the collection of the relevant data.

8.3.3 The Responsible Officer will make available any records that may have resulted in failure to make payment within 30 days.

8.3.4 The Procurement Section will assemble the details and information

for the payment compliance Notice and publish within the specified timescale.

8.4 Information about payments

8.4.1 The Act sets out the requirement for publishing information on a quarterly basis about payments of more than £25,000.00 for all public contracts; the requirements of the Act are specified under Section 70.

8.4.2 The Council's Finance Department will make the arrangements for the collection of relevant data.

8.4.3 The Procurement Section will assemble the details and information for the payment compliance notice and publish within the specified timescale.

8.5 Assessment of contract performance

8.5.1 The Act sets out the requirement for publishing information on an annual basis to assess the performance against the key performance indicators established under the Act - Section 52 for each Contract with an estimated value over £5m. The assessment of Contract performance requirements of the Act are specified under Section 71.

8.5.2 The Responsible Officer must assess and report the performance of the Supplier against the key performance indicators throughout the lifecycle and on the termination of the Contract. These assessments and any actions and communications arising from them must be recorded and kept as a written record.

8.5.3 The Responsible Officer must also report situations where a Supplier has breached the Contract or considers the Supplier is not performing to the Council's satisfaction and has been given an opportunity to improve performance but has failed to do so. These situations and any actions and communications arising from them must be kept as a written record.

8.5.4 The Responsible Officer must make Legal Services and the Procurement Section aware as soon as it has been identified that a breach or poor performance is occurring.

8.5.5 Legal Services will advise the Responsible Officer on any actions to be taken to protect the interests of the Council.

8.5.6 The Responsible Officer must provide the details and information to Legal Services and the Procurement Section within 25 days of the assessment or breach or poor performance to enable the Notice to be issued within the 30 days specified under the Act Section 71.

8.6 Modifying a public contract

8.6.1 The Act sets out the requirements for modifying a Contract (both those above and below the financial Threshold) . Due to the complexity of these provisions the Responsible Officer shall seek advice and agreement from Legal Services and the Procurement Section before any proposed modification is made and agreed with the Supplier.

8.6.2 The Responsible Officers will notify Legal Services and the Procurement Section of any proposed modification to a contract in advance, where it would:

8.6.2.1 increase or decrease the term of the Contract by more than 10% of the maximum term provided for on award

- 8.6.2.2 increase or decrease the estimated value of the Contract by more than 10% of its estimated value for supplies and services or
 - 8.6.2.3 increase or decrease the estimated value of the Contract by more than 15% of its estimated value for works. , or
 - 8.6.2.4 materially change the scope of the Contract, or
 - 8.6.2.5 change the balance of the Contract in favour of the Supplier.
- 8.6.3 The Responsible Officer shall note the requirement for the Council to issue a contract change Notice under certain circumstances described below, before the modification is made. The Responsible Officer must act in a timely manner to avoid the Council defaulting on its obligations under the Act & Regulations.
- 8.7 Contract change Notice
 - 8.7.1 The Act sets out the requirements for the Council to issue a contract change Notice before modifying a Contract in certain circumstances which are specified under the Act Section 75. Due to the complexity of these provisions the Responsible Officer shall seek advice from Legal Services and the Procurement Section before the proposed modification is discussed or agreed with the Supplier.
- 8.8 Voluntary standstill period on the modification of contracts
 - 8.8.1 The Act sets out the requirements where the Council may wish to adopt a “voluntary standstill period” before a modification to a Contract is made which are specified under the Act Section 76.
 - 8.8.2 The Responsible Officer should seek the advice of Legal Services and the Procurement Section on whether the Council should adopt a “voluntary standstill period” or not.
 - 8.8.3 If the Council adopts a “voluntary standstill period” it is to be stated within the contract change Notice.
- 8.9 Publication of Modifications
 - 8.9.1 The Act sets out the requirement for publication of modifications to a Contract with an estimated value over £5m which are specified under the Act - Section 77. Refer to CPR 7.25.2 for the redaction of information for the publication process to be followed.
- 8.10 Termination of public contracts and Notices of termination
 - 8.10.1 The Act sets out an implied term of every public contract that the Contract can, if a termination ground applies, be terminated by the Council as specified under the Act Section 78. Due to the complexity of these provisions the Responsible Officer shall seek advice from Legal Services and the Procurement Section. (Standard clause 16.1.11 Section 13 refers).
 - 8.10.2 The Act sets out provisions for Contract termination Notice as specified under the Act Section 80. The Responsible Officer shall provide the technical details and information to complete the Contract termination Notice template to enable the Procurement Section to complete the Notice requirements.
 - 8.10.3 The Procurement Section will assemble the details and information for the Contract termination Notice and publish within the specified 30 day timescale.

Section 9 - Transition Arrangements

- 9.1 The transitional arrangements are specified within the Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024 (as amended)
- 9.1.1 These regulations determine how procurements which straddle the implementation date of the Act are to be carried out and which legislation applies. The intent is that the implementation of the Act will cause as little disruption as possible for procurements which are already underway, and Contracts which have already been awarded when the Act comes into force.
- 9.1.2 The Transition Regulations set out the rules for which legislation applies to ongoing procurements and Contracts awarded under the previous legislation, which determine how those procurements and Contracts are to be managed. This includes use of Frameworks and DPS's established under Public Contracts Regulations 2015 (PCR).
- 9.1.3 An officer conducting a procurement soon after the Act comes into force will need to consider the provisions in the Act when planning that procurement, even though the Act may not be in force during the planning process. For example, this would mean ensuring that the procurement is in compliance with all obligations contained in the Act e.g. obligations with regard to the National Procurement Policy and Strategy, procurement objectives, conflicts of interest, Notice requirements, record-keeping, KPIs etc., even if this requires the contracting authority to take steps prior to the Act coming into force to ensure compliance.
- 9.2 Provisions coming into force
- 9.2.1 The Act came into force on 24th February 2025
- 9.2.2 Procurements that commence after the coming into force of the Act must be conducted by reference to the Act only (unless the Act and Regulations provide to the contrary)
- 9.3 Saving provisions
- 9.3.1 Procurements that were commenced under the previous legislation (PCR) and the Concession Contracts Regulations 2016 (CCR)) must continue to be procured and managed under that legislation.
- 9.3.2 Any contracts awarded under the previous legislation will continue to be managed under that legislation until such time as the Contract, or "commercial tool" (Framework Agreement or Dynamic Purchasing System), ceases to exist*.
- * Framework Agreements under PCR will generally expire after a maximum 4 year term - Dynamic Purchasing Systems must come to an end as set out when they were established, or by 23rd February 2029 (four years after the new regime comes into effect), whichever is earlier.
- 9.3.3 There are very limited circumstances for the direct award for additional works and services relating to Contracts awarded under the previous regime. If and when this situation may occur, the Responsible Officer shall consult with Legal Services and the Procurement Section who will provide advice on how to proceed.
- 9.4 Procurement Act 2023 interfaces applying to the previous 2015 Regulations

- 9.4.1 Under the Act, the obligation set out in section 69 which requires contracting authorities to publish payment compliance notices every six months will also apply to contracts awarded under the previous regime.

Section 10 - Waivers in exceptional circumstances

- 10.1 The requirement to undertake a competitive procurement process for procurements of £25,000.00 or more but not exceeding the relevant threshold value, may be waived in the following circumstances, where the waiver is justified because of exceptional circumstances which are beyond the control of Council officers and not subject to competition requirements in the Act for below threshold contracts;

- 10.1.1 where it is necessary to protect human, animal or plant life or health,
- 10.1.2 a delay would be likely to lead to financial loss, personal injury or damage to property
- 10.1.3 it is necessary to protect public order or safety
- 10.1.4 the market has been thoroughly investigated and has been demonstrated that only a single source of supply exists, such as for the supply of existing machinery, terms of supply of equipment require that maintenance be undertaken by a specified provider, or where the supply is for maintenance to existing IT equipment or software, including enhancements to current software, which can only be performed by the licensed developer or owner of the system; or where it can be demonstrated the work is of a specialist nature, the skill of the contractor is of primary importance
- 10.1.5 where the supply market has been tested and found to be limited, due to the minimum 3 viable bids not having been received following competition or could not have been achieved

10.2 Waiver approval process

A Responsible Officer who seeks a waiver of CPRs shall do so only in advance and only in exceptional circumstances.

10.3 Requirements that apply to all Waivers

All waivers from these CPRs must be:

- 10.3.1 Submitted with an approved PIF (where applicable)
- 10.3.2 Fully documented
- 10.3.3 Subject to a written report in an approved format, available on the intranet, to be submitted in advance to the relevant Corporate Director for endorsement which shall include reasons for the waiver which demonstrate that the waiver is genuinely required
- 10.3.4 Subject to comment and/or endorsement as to existence of exceptional circumstances by the Procurement Section.
- 10.3.5 Subject to approval in advance by the Chief Executive / Section 151 Officer or his/her authorised representative, who shall record that they have considered the reasons for the

waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional

- 10.4 Estimating the Contract value for Waivers
 - 10.4.1 The Responsible Officer shall calculate the estimated value of the waiver over the entire period the supplies, services or works is anticipated to be required for the exceptional circumstances to be resolved. Consideration should be taken of the cumulative value where there have been a series of waivers for similar supplies, services and / or works. The same principles shall apply to direct awards in special circumstances.
- 10.5 Demonstration of value for money / acting and being seen to act with integrity
 - 10.5.1 The waiver must demonstrate that the Council is receiving value for money and it is in the best interests of the Council to waive the competitive procurement process. The Council must administer the waiver process and act with and be seen to act with integrity and not use the process as a means to negate the CPRs .
- 10.6 Waiver cannot be retrospective
 - 10.6.1 The Responsible Officer seeking a waiver of the CPRs shall do so only in advance of the procurement requirement. If commitments have already been given to a Supplier or the provision of goods, services or works has commenced, the waiver process shall not proceed.

Section 11 - Direct Award in special cases

- 11.1 Special circumstances where a Direct Award may be considered are governed by the Procurement Act - Chapter 3 - Sections 41 to 44.
- 11.2 Officers shall seek guidance from the Procurement Section and Legal Services to determine if a direct award justification applies and the related processes to be followed.
- 11.3 The Responsible Officer shall provide the technical details and information to complete the contract transparency notice template to enable the Procurement Section to complete the Notice publication requirements.

Section 12 - Review and Changes to these Contract Procedure Rules

- 12.1 These CPRs shall be reviewed and updated on a regular basis with any proposed amendments to the CPRs being presented to the Constitutional Review Working Group Party for review and comment, and shall be recommended by the Constitutional Review Working Group Party to Council.
- 12.2 The Procurement Manager will make revisions to the Thresholds as applicable under the Act and is permitted to undertake such non-material amendments as a result of business restructuring as required from time to time, in consultation with and approval of the Monitoring Officer and the Section 151 Officer.
 - 12.2.1 From time to time the Cabinet Office issues Procurement Policy Notes (PPN) and / or other Policy Documents or Communications which reflect

changes in Government Policy that may affect the Council as a contracting authority. The Monitoring Officer in conjunction with the Section 151 Officer may issue such necessary updates / additional guidance required to vary these CPRs to ensure the Council complies with its statutory duties and / or adopts the recommendations under a PPN.

- 12.3 Supplementary guidance will be held separate to these CPRs in support of Rules and will be managed by the Procurement Section in conjunction with Legal Services

Section 13 - TDC Standard Clause

- 13.1 Each Contract (with exception of purchases transacted on Government Procurement Cards) shall include standard clauses, including those indicated “where applicable” dependant on the nature/value of the Contract as follows:

- 13.1.1 Anti-Corruption and Bribery
- 13.1.2 Prevention of Assignment
- 13.1.3 Compliance with Statutes: Health and Safety, Equal Opportunities and National Minimum/Living Wage
- 13.1.4 Freedom of Information
- 13.1.5 Prompt Payment of Invoices (S.68 & S.88 PA23)
- 13.1.6 Conflict of Interest
- 13.1.7 Child Protection and Safeguarding Generally
- 13.1.8 Performance Data Sharing
- 13.1.9 Data Protection
- 13.1.10 TUPE and Employment Matters (where applicable)
- 13.1.11 Termination (S.78 PA23) (above Threshold procurements only)
- 13.1.12 Electronic Invoicing S.67 PA 23)
- 13.1.13 Insurances
- 13.1.14 Liquidated Damages (where applicable)

These Standard Clauses are available on the intranet @ <https://sites.google.com/thanet.gov.uk/tom/financial-services/procurement-flexibility/quotation-and-tender-templates-toolkit>. Standard Clauses are maintained by Legal Services and are subject to amendment from time to time.

Section 14 - Glossary/Definitions

This section contains a list of definitions and expressions used within CPRs to help you understand the terminology at the outset.

Words or phrases that begin with an initial capital letter, initialisms and acronyms are defined in these definitions.

Term	Definition
the Act or PA2023	Procurement Act 2023

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the Act & Regulations	Procurement Act 2023, Procurement Regulations 2024 Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024
Access Agreement	An agreement providing access to the Council to call off a Framework or DPS or Dynamic Market owned or operated by another party. Access Agreements are only to be signed by the Procurement Section who may consult with Legal Services
associated tender documents	the documents issued by the Council that fully describe the participation requirements for the procurement process, the submission requirements, the Council's Specification requirements with information sufficient to allow Suppliers to prepare a tender submission in accordance with the Act - Section 21
award criteria	The evaluation criteria described within the Notice or associated tender documents which is applied during a procurement evaluation process in order to determine the most advantageous tender, using a combination of price quality and social value (where appropriate).
Authorisation	The approvals required to enable any Notice to be issued and / or the procurement process to commence or any Contract be awarded.
below threshold procurement	is a procurement for supplies, services or works whose value is below the relevant Contract Threshold value and which is not an exempted contract. See Table 01 for financial thresholds and procedures
Central Digital Platform	Is the electronic platform made available to the Council by a Minister of the Crown who will establish and operate an online system for the purpose of publishing notices, documents and other information under the Act
Conditions of Participation	an initial assessment made of Suppliers' legal or financial capacity to perform the Contract, or their technical ability to do so, made before award criteria are evaluated.
Contract	A legally binding agreement between the

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	Council and the Supplier for the delivery or execution of supplies, services and/or works
Contract Register	A record of all the Council's Contracts and agreements which is to be held by the Procurement Section. The Contract Register will be used to monitor and track Contract expiry dates or track Contract extensions to help identify when preparations should commence for re-procurements where ongoing Supplier arrangements are necessary.
Contract Procedure Rules (CPR or CPRs)	This set of rules forming part of the Council's constitutional document.
commercial tool	Framework, Dynamic Purchasing System or Dynamic Market operated either by the Council or another contracting authority
the Council	Thanet District Council who is a public authority and Contracting Authority as defined under the Act
covered procurement	The award, entry into and management of a public contract. The Council may not carry out a covered procurement except in accordance with the procedures laid out in the Act under Section 11.
Deed	The legal term for a particular form of Contract having specific requirements as to its execution (eg sealing/. signature). The execution of a Contract as a deed extends the limitation period from 6 years to 12 years. All contracts with a value of £140,000.00 or more must be executed as deeds and sealed by the Council.
Dynamic Market (DM):	an electronic system similar to an electronic framework agreement. A DM provides a list of contractors from which the Council can conduct a mini-competition for tenders via the e-tendering system. Suppliers can apply to join the DM at any time. If considering a DM of any value, advice must be sought from the Procurement Section.
Dynamic Purchasing System (DPS)	A Dynamic Purchasing System (DPS) is an online system that allows public sector organisations to buy standard goods, services, and works or who are looking for innovative solutions in new and emerging

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	markets. A DPS allows suppliers to join at any time, increasing competition and choice and enables SME's to participate.
e-tendering system	The electronic procurement system approved for use by the Section 151 Officer for the management of all procurement activity across the Council.
Framework / Framework Provider	Frameworks, otherwise known as Framework agreements, help the public sector and the third sector buyers to procure goods, services and works from a list of pre-approved suppliers, with agreed terms and conditions and legal protections. They usually provide a Competitive process and/or Direct Award route to the market to Call-off from using the Framework Agreement.
Legal Services	TDC Legal or their appointed Advisor
Monitoring Officer	The independent Monitoring Officer appointed by the Council
Most Advantageous Tender (MAT)	The process of evaluating the compliant tender submissions based on the award criteria (quality and price over the life of the Contract) to identify the highest ranked Supplier's offer.
National Procurement Policy Statement	The statement came into effect on 28 February 2024 alongside introduction of the new Procurement Act 2023. It will remain in place until it is withdrawn, amended or replaced, and can be reviewed when the Minister for the Cabinet Office considers it appropriate to do so.
Notice or Notices	The Notice requirements identified within the Act which must be published by the Council at the specified stage within the procurement process.
Government Procurement Card	Government Procurement Cards are for low value and one-off purchases. Each directorate will have Procurement Cardholders identified across the departments. All card purchases should be made in accordance with those procedures stated in the Procurement Card Manual and following the Council's Financial Procedure Rules.

<p>Procurement Pipeline</p>	<p>The Procurement Pipeline will be used to ensure the Council complies with its obligations under the Act to publish annually the UK1 Pipeline Notice. It enables the Council to maintain an accurate oversight of procurement activities across the full range of Council Services; the Procurement Section is responsible for assembling the Procurement Pipeline based upon the information provided by the Director and their delegates.</p> <p>Note the Procurement Section may require the Directors and their delegates to update the Procurement Pipeline information when there are material changes so that the Council can issue an updated UK1 Pipeline Notice Fuller details of the Procurement Pipeline requirements are detailed within these CPRs</p>
<p>Procurement - Open Procedure</p>	<p>a single-stage tendering procedure without a restriction on who can submit tenders (an “open procedure”)</p>
<p>Procurement - Competitive Flexible Procedure</p>	<p>a competitive tendering procedure as defined within these CPRs for the purpose of awarding a public contract</p>
<p>Procurement - Regulated below threshold Procedure</p>	<p>A “regulated below-threshold contract” means a below-threshold contract which is not an exempted contract or a concession contract.</p>
<p>Procurement - Direct award in special cases</p>	<p>Where a direct award justification applies, the Council (a contracting authority) may award a public contract directly by following the procedures detailed within the Act Chapter 3 (Sections 41 to 44) which include publishing the UK5 Transparency Notice and abiding by standstill requirements under the Act.</p>
<p>Procurement Programme</p>	<p>The programme of procurement activities agreed by the Procurement Section to be planned with procurement resources allocated to provide support at the allotted time with the Responsible Officer being</p>

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	liable to provide the necessary details, information and documents to allow the procurement to proceed as anticipated. Full details of the Procurement Strategy requirements are detailed within these CPRs
Procurement Section	TDC Procurement
Procurement Strategy	A procurement strategy is a plan that considers the options, details and information to identify the most efficient process to obtain the services, supplies and works which satisfy the business requirements of the Council. The Responsible Officer is to fully engage and consult with the Procurement Section and obtain agreement prior to the Procurement Strategy being attached to the PIF before final approval and Authorisation is obtained. Full details of the Procurement Strategy requirements are detailed within these CPRs
PCR	Public Contracts Regulations 2015
Records / Record keeping	The details, information and decisions made during the pre-procurement, procurement and contract management stages of the procurement lifecycle which are necessary to comply with the Act & Regulations (Section 98) and are to apply equally for below threshold procurements. Full details of the Record keeping requirements are detailed within these CPRs
Responsible Officer	The officer who has the delegated authority to act as the primary commissioner for a particular procurement activity.
Public contract	Any contract for the supply of goods and/or services and/or works with a contracting authority, which is equal to or above the Threshold value for the particular type of contract and is not an exempted contract. which can also be a framework or concession contract
Quick Quotes	Procurement e-procurement facility provided by the Councils e-procurement portal provided

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Seal	The Council's seal is kept by, and is under the control of, the Head of Legal.
Section 151 Officer	The senior Council officer under section 151 of the Local Government Act 1972, with responsibility for overseeing the proper administration of the Council's financial affairs and budgeting.
Standstill Period	For Above Threshold Contracts and Direct Award in special cases, the period of eight days (or as extended) as set out in the Act after notification of an award decision to suppliers, during which the Contract must not be awarded.
Supplier:	any person, business, company, public entity, or other organisation which offers the delivery of works, services and / or supplies to the market.
Tender submission	an offer made by each Supplier to provide works, services, or supplies to the Council for a particular amount of money which is compliant with the tender submission requirements and normally in the form of a tender or quotation.
Threshold	the contract value above which the Act & Regulations fully apply.
VCSE:	Voluntary Community and Social Enterprise, the voluntary or non-profit sector of the economy.
Value for money	the optimum combination of whole life costs and quality (or fitness for purpose) of the supplies, works or services to meet the Council's requirement.