

Procurement Policy 2020-23

Author:	James Abbott	Date:	July 2020
Version:	Version 1.0	Review due:	July 2023
Related documents (appendices etc)		<ul style="list-style-type: none"> • Equality and Health Impact Assessment 	

Approved by Head of Service (Sal Khan):	
Date of Equality and Health Impact Assessment:	
Date sent to Corporate and Commercial Manager (James Abbott)	
Date sent to Communications Team (Programmes and Transformation)	
Date sent to Equalities and Organisational Development Officer (Stiliyana Stoyanova)	
Date sent to Member Support	

Document Review			
Version	Amendment	By	Date
v1.0	Publication	James Abbott	July2020

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Section 1: Background

1.1 Introduction

1.1.1 Like all local authorities the Council is required to commission and procure a wide range of supplies, services and works to support its activities, from back office functions to public facing front line services. Whether it is called procurement, commissioning, purchasing, contracting or buying, East Staffordshire Borough Council spends approximately £10million a year on obtaining a range of supplies, services and works from the external market.

1.1.2 As such the Council undertakes a number of procurement exercises every year. This includes: undertaking OJEU compliant tendering exercises; further competitions from existing framework agreements; and tenders to the open market below the OJEU threshold. There are also a number of examples of functions being commissioned with community and voluntary organisations.

1.1.3 But tender exercises account for a small proportion of the Council's purchases, with the vast majority being below the tender threshold detailed in the Council's Contract Procedure Rules. However it should be noted that a spend analysis exercise reported in late 2019 demonstrated that the majority of transactions made by the Council were for purchases that have a contract in place.

1.2 Principles

1.2.1 With such significant spend it is imperative that the Council has in place robust arrangements for ensuring that its supplies, products and services are procured or commissioned in a way that provides Value for Money. Ensuring Value for Money means the Council will take into account the optimum combination of quality and "whole-life" cost.

1.2.2. This document provides a policy framework for the processes and resource allocation of the organisation in its procurement of works, supplies and services. The policy is intended to, and must, be used in conjunction with the Council's Contract Procedure Rules as set out in Part 4D of the Constitution, and having regard to the Council's Financial Regulations, as set out in Part 4H of the Constitution.

1.2.3 It incorporates methods and techniques designed to meet the varying requirements of the Council. The policy will guide officers in making the right decisions when undertaking contracting activities while complying with the Council's Contract Procedure Rules which form part of the Council's Constitution.

1.2.4 The Council will continue its approach of using best practice procurement approaches and processes. This will assist in the delivery of high quality services to support strategic priorities while ensuring Value for Money. Long term sustainability will also be promoted, as will the public duties to promote equality of opportunity both within the Council's operations and through the impact of its buying decisions, using

effective selection and management of its relationships with its partners and supply chain.

1.3 Influences

1.3.1 A number of internal drivers have also been taken into account in the policy, building on the implementation of the Council's previous Procurement Strategies.

1.3.2 The Council has a well embedded ethos of efficiency and effective resource management. This revolves around the fundamental approach of analysis of evolving internal and external needs to shape delivery models, which may in turn lead to commissioning or procurement (using the most appropriate model) of services from providers in the public, private, voluntary or community sector.

1.3.3 A number of external influences have also been taken into account in the preparation of this policy, including the following:

- As a result of Central Government's continuing commitment to reducing the national budget deficit, East Staffordshire Borough Council has faced ongoing reductions in its budget settlements from Government;
- The public duty to promote equality of opportunity (East Staffordshire Borough Council's policy for achieving this is set out in its Single Equality Scheme);
- The National Procurement Strategy for Local Government in England 2018 which sets out a vision for local government procurement, and encourages all councils in England to engage with the delivery of outcomes in three key areas:
 - (i) Showing Leadership:** Engaging councillors; engaging senior managers; working with partners; engaging strategic suppliers
 - (ii) Behaving commercially:** Creating commercial opportunities; managing contracts and relationships; managing strategic risk
 - (iii) Achieving community benefits:** Obtaining social value; engaging local SMEs and micro-businesses; enabling voluntary and community sector engagement

This Procurement Policy is designed to be an enabler for the Council's delivery of the National Procurement Strategy and the themes above are integrated throughout the Policy.

- The Localism Act which gives Community and Voluntary groups the right to express an interest in taking over the running of a local service. According to the Act, the authority must consider and respond to this challenge;

- The Public Services (Social Value) Act requires all public commissioning bodies in England and Wales to consider how the services they commission and procure might improve the economic, social and environmental well-being of the area;
- The Government's Transparency Code which encourages local authorities to make public data, including contract information and expenditure data, openly available.

1.4 Links to Legislation and Guidance

1.4.1 This policy is intended to, and must, be used having regard to applicable National and European procurement legislation and practices.

1.4.2 Specifically, the Public Contracts Regulations 2015 came into force on 26th February 2015. These regulations implement the 2014 EU Public Sector Procurement Directive, and other reforms recommended by Lord Young of Graffham aiming to make public procurement more accessible to small businesses.

1.4.3 National interpretations and guidance on the implementation of the Public Contracts regulations 2015 are provided by the Cabinet Office. This is regularly updated.

1.4.4 Following the announcement that the United Kingdom has left the European Union the current rules on trade, travel, and business for the UK and EU will continue to apply during a transition period. This transition period is in place until the end of 2020 while the UK and EU negotiate additional arrangements, with new rules taking effect on 1st January 2021.

1.4.5 Advice for public authorities, businesses and other organisations on the outcome for public procurement policy from 1st January 2021 has been published.

1.4.6 The key change is the introduction of a new e-notification service called "Find a Tender" which will be used to post and view public sector procurement notices. However it should be noted that the Council's contracted Procurement Software provider (BiP Solutions) have confirmed they have undertaken the necessary development to be able to publish notices to "Find a Tender", so there should be minimal change for officers in terms of the tender advertisement process.

1.4.7 The following resources provide useful information to support officers when considering procurement and related issues:

- Link to [Public Contracts Regulations 2015](#)
- Link to [Procurement Policy Notes](#)
- Link to [UK Withdrawal Advice for Contracting Authorities](#)
- Link to [Local Government Procurement: Fraud and Corruption Risk Review](#)

- Link to [Competition and Markets Authority](#)

1.4.8 Procurement advice and guidance can also be obtained internally by contacting the Council’s Programmes and Transformation Team.

Section 2: Procurement Policy

2.1 The Procurement Life-Cycle

2.1.1 This section summarises the principles of procurement and commissioning which all officers should have an awareness of, however specific context and additional information is detailed in the subsequent sections.

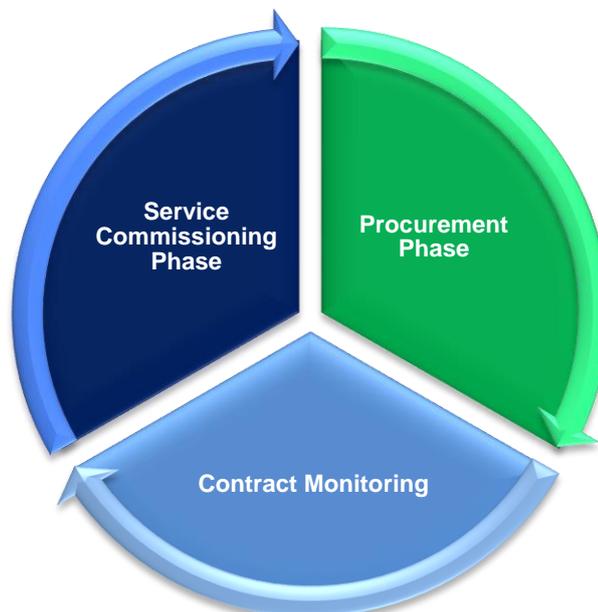
2.1.2 The Council takes the approach of devolved responsibility for procurement, i.e. Service / Contract managers are ultimately responsible for their own budgets and therefore all associated purchases in compliance with the Contract Procedure Rules.

2.1.3 Procurement is the process of obtaining supplies, services and works, but it has a far wider scope than “purchasing”, “buying” or “commissioning”. Officers should take a holistic approach to service delivery, by assessing what users really need from services and securing services or products that best meet that need utilising the most appropriate model.

2.1.4 This policy considers procurement in a way that encompasses the full life-cycle of the asset or service contract. The “life-cycle” is the period from the initial definition of the business need through to the end of the useful life of the asset or service contract.

2.1.5 The key stages are illustrated in Figure 1. These are intended to be cyclical.

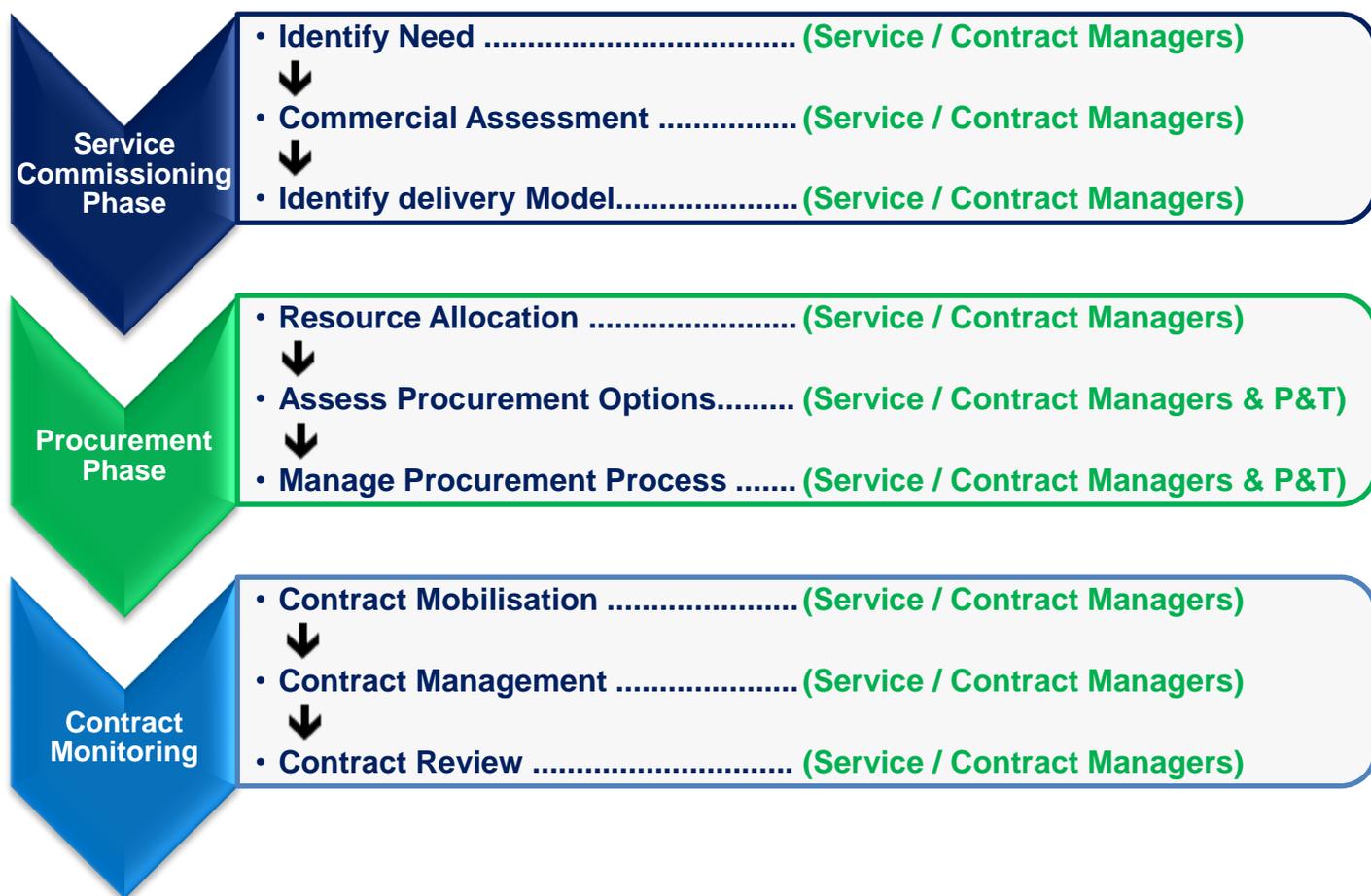
Figure 1: Procurement Life-Cycle



2.1.6 There is support available to all Service / Contract managers, however it is important to define the responsibilities for procurement to ensure the process is as effective as possible and achieves its outcomes for the Council and its residents.

2.1.7 Taking the three phases of the Procurement Lifecycle as detailed in Figure 1, officers should consider each of the stages within each Lifecycle phase noting the responsibility for each. The stages and responsibilities are shown in Figure 2 below:

Figure 2: Procurement Lifecycle Stages and Responsibility



2.1.8 The following sections fully detail the principles and purpose of each of the phases and stages shown in Figure 2. Officers must pay regard to these when considering any procurement.

2.1.9 Service Commissioning Phase

2.1.9.1 The “Service Commissioning” phase covers the first 3 stages of the full life-cycle and includes the review and analysis of relevant data to support an evidenced based decision making process. It is essential to understand at this stage what the intended outcomes are (i.e. what is to be achieved rather than how it is to be achieved).

2.1.9.2 In the “Identify Need” stage, service managers should assess the need for the function they are considering for procurement at an early stage. They should look at the “as-is” provision, forecast and manage demand and take account of any potential Business Transformation that could be undertaken.

2.1.9.3 The “Commercial Assessment” stage should identify the market (which may include soft market testing), engage in market development where necessary, undertake risk assessment and review budgets or sources of funding. Only once these two phases have been properly considered can the most appropriate delivery model be identified.

2.1.9.4 These models could include procuring or commissioning the service (or elements of) from the external market, outsourcing or selling the service as a going concern, sharing services internally / externally or setting up as a social enterprise or joint venture.

2.1.9.5 Please note that if the analysis in this phase results in a function or service that is to be revised or delivered in a different way, then an Equality and Health Impact Assessment may be required.

2.1.9.6 Where the analysis demonstrates a particularly complex approach to procurement is required, the estimated contract value is in excess of £200,000 or any other potential need for a corporate level project based approach is identified, then a report should be provided to the next available monthly Business Assurance Group (BAG) meeting to agree an appropriate project management approach. This could include the project being added to the Corporate Programme and reported to the BAG on an ongoing basis.

2.1.10 Procurement Phase

2.1.10.1 The “Procurement” phase can only commence once service managers have comprehensively established that procurement or commissioning with the external market is appropriate. Service Managers should ensure that appropriate staff resource and technical capability are allocated to the Procurement (and Contract Monitoring) phase in order for specifications and other technical documents to be collated and prepared. These documents in turn contribute to identifying the most appropriate procurement method, which may include full tendering, joint procurement with other organisations or accessing framework agreements (by direct call-off or further competition as appropriate).

2.1.10.2 It is important to ensure that in any procurement or commissioning process, the selection phase is made as simple as possible and proportionate to the scale and complexity of the contract. This will help smaller organisations to compete for contracts, while still allowing the Council to identify suitable providers and manage risk appropriately. Service Managers are responsible for managing their procurements, and the Programmes and Transformation Team will provide the associated advice and

guidance on the undertaking and managing of a tender process in compliance with the applicable legislation.

2.1.11 Contract Monitoring

2.1.11.1 Once the Procurement phase is over, the relationship between the Council and supplier begins. Service Managers are responsible for mobilising the contract and the works / supplies / services with the contractor. Service Managers are also responsible service/contract manager upon award of a contract to ensure that the draft contract documentation used in the procurement process is fully completed to enable legal services to engross the agreement.

2.1.11.2 “Service Managers” are also “Contract Managers” and officers will need to make sure that they provide an appropriate level of resource throughout the contract duration to manage this element to build and develop relationships with suppliers so that the return on investment is maximised.

2.1.11.3 All contracts should be managed, but not all contracts will require the same level of resource to manage them. Service managers should prioritise the key strategic contracts and regularly monitor and report on their performance to ensure that these contracts are achieving the Corporate Priorities.

2.1.11.4 This phase involves the mobilisation of the contract and the ongoing operation and management of the contract for the duration of the contract term. This includes monitoring the performance and cost of the contract (including the reporting of management information) and managing technical or financial variations where applicable. Where contract potential disputes arise these should be referred to the Legal Team for support as necessary.

2.1.11.5 The phase concludes with a review of the performance of the contract, ahead of the contract expiry so that the procurement process can move cyclically into the need identification phase for future delivery of the service.

2.2 Thresholds and Procurement Types

2.2.1 All contracts for purchase by the Council will fall under the definition of Works, Supplies or Services.

- **Works:** In general this will include the execution of building or engineering projects. It can range from civil engineering or construction projects right through to the installation of fixtures / fittings or work such as plastering or joinery.
- **Supplies:** The definition of supplies is broad, but could include contracts for the purchase of goods such as consumable items.

- **Services:** This will include any proposed public service contract. This is a wide ranging definition, but examples could include waste collection or recycling contracts.

2.2.2 The procurement process the Council is required to follow when purchasing works, supplies or services is dependent upon the type and estimated value of the contract. For 'lower value' contracts, quotations will be obtained and the budget manager and relevant Head of Service will make the decision as to which supplier to award the contract to. This decision will normally be based on best value for money.

2.2.3 For all other contracts, the proposed works, supplies or services will be advertised as widely as possible. Suppliers will be asked to express their interest in applying and will then be invited to tender for the contract. Tender documents will be evaluated against pre-determined criteria to find the successful candidate.

2.2.4 Where permissible and appropriate, potential suppliers may be invited to complete a Selection Questionnaire (SQ) before being invited to tender for a contract. Based on the SQs submitted, a short-list will be produced and these potential suppliers will then be invited to tender for the contract.

2.2.5 All public sector bodies including local authorities are also subject to EU public procurement directives that govern how they may purchase supplies, works or services over a specific value. The Public Contracts Regulations 2015 detail fully the requirements for undertaking procurement procedures which are both above and below the European thresholds.

2.2.6 Figure 3 below details the thresholds that govern what procurement procedure must be used. For further advice and guidance on choosing procurement procedures please contact a member of the Council's Programmes and Transformation Team.

Figure 3: Procurement Thresholds

TYPE OF CONTRACT / ESTIMATED VALUE		PROCUREMENT PROCEDURE
Works	Supplies / Services	
Up to £3,000	Up to £3,000	One oral quotation (confirmed in writing where the total value exceeds £500)
£3,001 to £50,000	£3,001 to £50,000	Three written quotations
£50,001 to £4,733,252	£50,001 to £189,330	Invitation to tender to at least three, and normally no more than six candidates
£4,733,252* and above	£189,330* and above	Follow the EU procurement procedure

**EU threshold figures with effect from 1st January 2020*

2.2.7 Procurement at the Council is decentralised across the different service areas and departments of the Council, whereby each Service works within our Contract

Procedure Rules, Financial Regulations and applicable National and / or European legislation, and individual budget managers are able to procure supplies and services.

2.2.8 As every budget manager has ownership of procurement this can result in different approaches being undertaken to procurement, demand management and supplier relationship management. This can make it difficult for the Programmes and Transformation Team to keep fully informed of future requirements or develop core corporate contracts on behalf of the authority. To allow effective forward planning of procurement exercises by the Programmes and Transformation Team, all future potential procurements (including new purchases and where current contracts are expiring) should be documented by services as part of the annual service planning process, and the contracts register kept up to date by contract managers at least quarterly.

2.2.9 The Programmes and Transformation Team will continue to provide relevant training for key procurers and implement and manage appropriate systems across the organisation, standardising the way in which procurement is undertaken and to provide procurers with the tools and knowledge to make their specified purchase in the most appropriate way. This could include looking to share resources with other authorities. The Programmes and Transformation Team provides co-ordinated corporate support by:

- Providing an experienced skill and knowledge base;
- Providing project management support and other advice and guidance to support Service Managers to Service Managers undertaking procurements;
- Administering the tendering process in higher value (i.e. above £50,000) procurement exercises;
- Ensuring best value and best practice;
- Collaborating with other procurement organisations.

2.2.10 Where estimated contract values exceed the tender threshold, having established the need to procure and compiled a detailed specification, procuring officers should liaise with the Programmes and Transformation Team for advice on timescales at the earliest opportunity, bearing in mind that a full tender process can take upward of three months.

2.2.11 Procuring officers should adhere to the timetables compiled, as delays in providing information (for example specification documents or other technical information), will delay procurement processes leading to the risk of contracts not being let in time, which in turn leads to the potential for service failure. To mitigate this risk, services and departments should ensure that appropriate staff resource and technical capability are allocated to the procurement exercise to liaise with the Programmes and Transformation Team throughout the process. Procuring officers should also liaise with the Financial Management and Legal teams at the outset.

2.3 Procurement Policy Principles in Practice

2.3.1 The Procurement Process

2.3.1.1 There are a number of officers that may have involvement in, or take responsibility for, procurement processes – for the purposes of this policy the term “Budget Manager” has been used to describe the officer with overall responsibility for the contract being procured. Elements of the procurement process can be delegated to an alternative technical officer or contract manager.

2.3.1.2 Once budget managers have gone through the relevant assessment of procurement needs as described in the Service Commissioning phase of the Procurement Lifecycle (**Figure 2**) the following points should be considered before undertaking procurement exercises of any value:

- **Confirm the need for procurement:**
 - What do you want to buy?
 - Do you need to buy it?
 - Can the service being procured be delivered in a different way prior to the procurement to make the purchase better value for money?
 - Are there any lessons learned from previous contract issues or service delivery issues that should be factored into specifications, contracts, tender documents.

- **Confirm the procurement approach:**
 - The Programmes & Transformation Team should be notified at the earliest opportunity when a procurement process is necessary.
 - What is the contract length? (You should consider the scope for contract extensions).
 - What is the estimated contract value (contract value is for the entire length of the contract e.g. £10,000 per annum for a 3 year contract = £30,000 for entire length of contract).
 - Are there framework agreements that could be accessed?
 - Are there other corporate contracts already in place that could be utilised instead of procuring?
 - Does soft market testing need to be undertaken?
 - Establish a Timetable for the Procurement Process.

- **Confirm the financial implications**
 - The Financial Management Unit should be notified at the earliest opportunity when a procurement process is necessary.
 - What are the budgetary implications? (For example, is there an existing budget for this purchase, or is this to be a growth item?).
 - Consider the benefits of purchase versus leasing (for example, in certain circumstances it may be more appropriate to borrow the money to

purchase supplies outright rather than to lease over a period of years, or vice-versa). Where leasing may be appropriate Officers must consult with the Chief Finance Officer and adhere to the Leasing rules under the Financial Regulations, including undertaking an options appraisal that must be prepared in accordance with the Prudential Code to ensure the Council obtains Value for Money.

- Undertake risk assessment to understand service and financial risk relating to the procurement.
- Agree financial assessment methodology.

➤ **Confirm the legal implications**

- The Legal team should be notified at the earliest opportunity when a procurement process is necessary.
- What will the contract terms and conditions be?
- Confirm the legal framework for tender documentation

➤ **Consider any input that may be required from other relevant departments or stakeholders, for example:**

- Human Resources may need to be involved in the process, particularly where there may be TUPE implications or Equalities implications
- Corporate Health and Safety input may be required, particularly where CDM regulations need to be considered
- Environmental Health may need to be consulted on issues of climate change sustainability
- Engagement with the relevant Member(s)

2.3.2 Responsibilities by Contract Value

2.3.2.1 Once the most appropriate procurement process has been agreed it is important to define the responsibilities of the procurement process to ensure it is as effective as possible and achieves the desired outcomes for the Council and its residents. Support is available to all from the Programmes and Transformation Team to officers undertaking procurement exercises.

2.3.2.2 It is essential that all officers involved in procurement process ensure that they provide the appropriate level of staff and time resource to guarantee they are able to provide timely input at the relevant milestones.

Up to £3,000

2.3.2.3 The responsibility for purchases up to the value of £3,000 lies with the relevant budget manager. As with all tenders it is essential to ensure the necessary budget is available for the purchase.

2.3.2.4 For purchases up to £3,000 managers need only gather one oral quotation, sought from a suitable supplier, which should be confirmed in writing where the Total Value exceeds £500. Budget managers are responsible for the shortlisting.

2.3.2.5 Depending on the complexity of the requirements it may be appropriate to create a specification and use the “Quick Call” eProcurement function described in more detail in Paragraph 2.3.4.

2.3.2.6 Advice is available from Programmes and Transformation Team if required.

Between £3,001 and £50,000

2.3.2.7 A minimum of three quotations must be sought from suitable suppliers.

2.3.2.8 Within this threshold the most appropriate way of purchasing is dependent upon the available budget, requirements of the supplies/works/services being procured and the time available to carry out the process. It is essential that budget managers have considered these before initiating a procurement exercise.

2.3.2.9 In all cases there will be the need for a specification and evaluation methodology to be developed and it is the responsibility of the budget managers to create them. The detailed nature of each specification will differ depending on the overall requirements and potential costs. For example, the specification for the printing of signage will significantly differ to a specification relating to the appointment of consultant support.

2.3.2.10 Budget managers will need ensure that appropriate terms and conditions are in place for all purchases. This may involve support from the legal team should there be the need for contract documentation to be created, and FMU if there are any financial implications that need to be considered.

2.3.2.11 Budget managers should use electronic means for inviting quotes using the “Quick Call” function, described in more detail in Paragraph 2.3.4.

2.3.2.12 Shortlisting of quotes and associated award should be undertaken in line with the Contract Procedure Rules.

2.3.2.13 Advice is available from Programmes and Transformation Team if required.

Greater than £50,001 (inclusive of OJEU)

2.3.2.14 In this threshold competitive tendering must be carried out. It is essential to involve a member of the Programmes and Transformation Team who will undertake a number of duties to support you from the beginning of the process.

2.3.2.15 Where the contract value is estimated to exceed the relevant European thresholds the tender process must also follow the EU procurement procedure.

2.3.2.16 However, as an alternative to tendering, where appropriate, the Council may opt to use Framework Agreements to award contracts. This could be through a direct call-off or through further competition with the suppliers on the framework as appropriate.

2.3.2.17 The points listed below set out the key principles and responsibilities that need to be undertaken or considered by the relevant participants as part of the procurement process:

➤ **Service / Contract Manager Responsibilities**

- Service / Contract Managers have overall responsibility for the procurement process
- Coordinate with a Programmes and Transformation representative to arrange a procurement start up meeting with all necessary representatives allowing sufficient time for procurement to be undertaken
- Agree budgetary implications with Finance
- Provide input to indicative procurement timetable to ensure it meets the service need and decision making timetable
- Prepare the specification
- Contribute to risk assessments balancing service risk and financial risk
- Provide input on Quality / Cost weightings
- Provide input on evaluation criteria
- Answer any technical clarification questions as part of the tender process
- Undertake evaluation of bids
- Prepare and co-ordinate the sign-off of EDRs / reports approving contract award
- Mobilise the contract with successful bidder
- Liaise with legal representative to ensure that the contract is engrossed
- Ensure the contract details are listed on the corporate contracts register

➤ **Programmes and Transformation Responsibilities**

- Prepare and communicate an indicative procurement timetable
- Provide procurement advice to the Service / Contract manager
- Provide project management advice to the Service / Contract manager
- Contribute to risk assessments balancing service risk and financial risk
- Prepare tender documentation
- Manage tendering portal
- Moderate the evaluation
- Prepare and award contract notices and decision notices / letters
- Provide any relevant input to EDRs / reports approving contract award

- **Legal Representative Responsibilities**
 - Prepare draft contract documentation
 - Comment on procurement documents, for example to ensure consistency between contract and tender documents
 - Contribute to risk assessments balancing service risk and financial risk
 - Administer preparation and signature of contract pack post decision.
 - Contribute to EDRs / reports approving contract award
 - Provide legal advice as necessary throughout the process

- **Finance Representative Responsibilities**
 - Provide advice on budgetary issues
 - Provide advice on financial assessment methodology and proportionate evaluation thresholds
 - Contribute to risk assessments balancing service risk and financial risk
 - Provide advice on Financial Regulations
 - Undertake financial assessment
 - Contribute to EDRs / reports approving contract award
 - Provide financial advice as necessary throughout the process

2.3.2.18 Upon conclusion of the procurement process, including any required standstill period (see Paragraph 2.3.7 for further information on standstill periods), appropriate approvals have been granted and the Contract pack is passed to legal for preparation and signature, the Programmes and Transformation representative will publish an award notice via the portal at which point their support to the project will cease and the Service / Contract Manager will mobilise the contract with the successful bidder.

2.3.3 eProcurement in Tenders

2.3.3.1 “eProcurement” describes the use of an electronic system to acquire and pay for supplies, works and services from suppliers. The benefits include the elimination of paper based systems, stationery, postage and time delays.

2.3.3.2 All tenders should be carried out using e-procurement methods, via the Council’s e-procurement software solution www.delta-esourcing.com provided by BiP Solutions. The Delta System offers suppliers the ability to view East Staffordshire Borough Council’s contract announcements in real time, access contract documentation independently and submit tender documentation online quickly and easily. It is vital that eProcurement is used in all tender processes as the Public Contracts Regulations 2015 brought in new regulations governing the electronic availability of procurement documents.

2.3.4 eProcurement in Quotation Gathering and Contract Management (Quick Call)

2.3.4.1 The Council's eProcurement software solution also provides a fully auditable tool for managing procurements where the gathering of quotations are required, this is known as the "Quick Call" function.

2.3.4.2 This function allows for contract lists to be set up, ensuring improved supplier engagement, a simple mechanism for exchanging requirements, quotations and feedback in addition to easily identifying and recording usage with 'local' suppliers.

2.3.4.3 This contributes to an increased focus on below tender threshold purchasing across the Council, and assists in building a detailed spend profile for the Council's purchasing activities to allow for more detailed category management.

2.3.5 Transparency

2.3.5.1 Electronic access to tender documentation and advertisement of opportunities is closely related to issues of openness and transparency.

2.3.5.2 The [Transparency Code 2015](#) stipulates that all contracts and agreements are published online at least quarterly and in easily readable formats. This requirement is to allow potential suppliers, including small and medium sized enterprises, access to contracts registers, increasing the accessibility of future opportunities for working with the Council.

2.3.6 When Limited Numbers of Bids are Received

2.3.6.1 Budget managers should ensure that the required number of quotes have been obtained.

2.3.6.2 When less than the required number of bids / quotations under the Contract Procedure Rules has been received the procurement process may continue and be evaluated and awarded (including when only one bid has been received) if it is determined that:

- The specifications were clear and not unduly restrictive;
- Adequate competition was solicited and it could have been reasonably assumed that more than one bid would have been submitted.
- The price is within the financial framework of the Council; and
- The bid received is compliant with the minimum requirements of the procurement process.

2.3.6.3 Where less than the required number of bids / quotations under the Contract Procedure Rules has been received and a contract is to be awarded then an Exemption to the Contract Procedure Rules Form must be completed.

2.3.7 Standstill Period

2.3.7.1 Prior to contract award, all interested parties must be informed of the outcome of the tender process. The “standstill” period provides for a short pause between the point when the contract award decision is notified to bidders, and the final contract conclusion, during which time suppliers can challenge the decision.

2.3.7.2 A minimum 10 day standstill period is mandatory in tenders over the EU threshold.

2.3.7.3 For competitive tenders below the EU threshold or where quotations have been obtained a standstill period is not mandatory but should be considered as best practice. There is no minimum length for a standstill period within this threshold, but Budget Managers should assess the risk associated with the specific contract being tendered when agreeing a standstill period.

2.3.7.4 Budget Managers should debrief unsuccessful bidders upon conclusion of a procurement process if requested.

2.3.8 Award Approval

2.3.8.1 Once shortlisted, it is the responsibility of the Budget Manager to prepare and co-ordinate the sign-off of any necessary Executive Decision Records or Reports approving the contract award.

2.3.8.2 Recommendations for the appointment of a contractor or supplier to the Council must be made in accordance with the Contract Procedure Rules. Officers may accept quotations and tenders received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with the Contract Procedure Rules and, in respect of proposed contracts that are expected to exceed £200,000, the approval of the relevant Deputy Leader has been secured. The awarding of contracts that are expected to exceed £500,000 shall also be approved by the Cabinet.

2.3.9 Exemption to Contract Procedure Rules

2.3.9.1 The Council has the power to waive any requirements within its Contract Procedure Rules via the use of an [Exemption to the Contract Procedure Rules Form](#). This should only be used in exceptional circumstances and must be approved as detailed in the Contract Procedure Rules.

2.3.9.2 Budget managers must ensure that completed and signed forms are sent to Democratic Services for collation and recording.

2.3.10 Contract Register

2.3.10.1 The Council publishes a comprehensive [register of all contracts](#) currently in place along with other procurement spend data on its website. When considering procuring supplies or services, officers should check that there isn't already a contract in place elsewhere in the organisation that could fulfil their requirements before proceeding. Before procuring it is also worth considering whether there are similar contracts that could be consolidated in order to achieve efficiencies or economies of scale.

2.3.10.2 It is essential that the Budget Manager ensures the contract awarded is listed on the corporate contracts register upon contract award.

2.3.10.3 The Council's eProcurement software provides a system for managing the Contracts Register. Budget managers should use this for keeping their Contract records up to date, and for the ongoing contract management process throughout the contract period. The Programmes and Transformation Team will periodically review the contracts register to ensure the budget managers are including all necessary contracts.

2.3.10.4 Guidance on the system can be accessed via [Delta E-sourcing](#) or by contacting a member of the Programmes and Transformation Team.

2.3.10.5 The procurement process used should also be identified on the Contracts Register.

2.3.11 Document Retention

2.3.11.1 Records relating to procurement processes must be retained by Budget Managers in line with the Council's Contract Procedure Rules.

2.3.11.2 Full information on records and retention including the associated timescales can be found in the Council's [Document Retention Guidelines](#).

2.3.11.3 If a particular document does not appear in the attached guidelines you should apply a retention period consistent with the type of document concerned. If you are unsure, consult a member of the Legal section.

2.4 Fraud, Risk Management and Other Considerations

2.4.1 Fraud

2.4.1.1 This Policy fundamentally minimises the opportunity for potentially fraudulent or corrupt activities by setting out the rules and principles that all staff must follow,

including adopting a devolved approach to procurement that integrates a number of departments. However specifically acknowledging and mitigating the risks of fraud and corruption are critical for sound financial management and key to ensuring value for public money.

2.4.1.2 Officers must adhere to the Code of Conduct, Financial Regulations and comply with all Prevention of Corruption and Declaration of Interests rules within the Contract Procedure Rules. Officers must not invite or accept any gift or reward in respect of the award or performance of any contract and should disclose any pecuniary interest and include the appropriate anti-fraud/corruption clause in contract documentation.

2.4.1.3 Officers should ensure that appropriate anti-fraud/corruption measures under the Public Contracts Regulations are included in procurement exercises.

2.4.1.4 To identify potential fraud and corruption incidents, all Officers should be aware of potential issues. The list below is not exhaustive but are example of situations that could be indicative of fraudulent or corrupt activity:

- Abnormally low bids received in a procurement process
- Unsuccessful bidders are subcontractors to the winning contractor
- Similarity between suppliers' bids (similar wording, same errors etc)
- Unexpected refusal to bid by certain suppliers
- Bidders withdrawing from a procurement process unexpectedly
- Unusual timing of a procurement or unnecessary limitations on the number of days to advertise a procurement.
- Procurement of works / supplies / services that are unusual for the department or the Council as a whole.
- One individual championing the need for the works / supplies / services, particularly when against factual information.
- Close relationships between a supplier and an Officer/Member.
- Officer/Member seeking to control a specific procurement of goods and services or insisting on the use of a specific contractor.
- Specifications that are unusually broad, narrow or vague.
- A large number of smaller payments made to a single supplier, as opposed to a single contract.
- Unusual communications between Officers/Members and suppliers.

2.4.1.5 Controls within the financial processes not only help the prevention of fraud but also protect the individuals concerned against allegations of fraud and misappropriation. It is important when referring to these processes to consider the following:

- All budget managers have a duty to ensure that systems are in place to prevent fraud
- Managers and staff should be aware that they have a duty to behave honestly and in a trustworthy manner
- All staff are, individually and collectively, responsible for the safe and proper arrangements of the public purse
- All employees have a role to play in maintaining the standards which the public are entitled to expect of officers of the Council

2.4.1.6 Budget managers must ensure that control measures are in place to ensure appropriate procurement actions are incorporated into their budget management approach. For example confirmation that the required procurement process has been followed and that supplies / services / works have been provided / received should be sought before the approval of requisitions and invoices.

2.4.1.7 Detailed information, guidance and best practice relating to the prevention of fraud and corruption in local government procurement can be found using the link to the Local Government Procurement: Fraud and Corruption Risk Review found in Paragraph 1.4.7.

2.4.1.8 Advice in relation to potentially fraudulent or corrupt activities in procurement can be sought from the Chief Finance Officer or the Corporate & Commercial Manager, but any concerns must be reported to the appropriate line manager.

2.4.2 Risk Management

2.4.2.1 All staff involved in procurement will need to assess the risk involved when engaging in any procurement process. This will need to be considered in respect to both cost and service standards and these factors must be paramount when choosing a particular procurement option.

2.4.2.2 Risk assessment proportionate to the work / supplies / services being procured should be carried out at least when:

- Alternatives to existing service provision are being evaluated.
- During the procurement planning stage.
- Whenever a major procurement change is proposed.
- Whenever a change in the procurement process or methods is proposed.

2.4.2.3 The information below will assist budget managers when considering risk in a procurement process.

Figure 3: Risk Management Matrix



2.4.2.4 The high value/high risk area will be the main focus of attention with the other high risk and high value areas proportionally less. Supplies and services which fall into these categories will be assessed carefully when alternatives are being considered.

2.4.2.5 Management of risk involves having processes in place to monitor risks, access to reliable, up-to-date information about risks, an appropriate level of control in place to deal with those risks and decision making processes supported by a framework of risk analysis and evaluation. Risks must be managed in an integrated way.

2.4.3 Other Considerations

2.4.3.1 All budget managers should think strategically when planning and delivering a procurement process. The planning process should be proportionate to the scale and complexity of the supplies/services/works being procured. Budget Managers should ensure that procurement requirements are relevant and proportionate, reflecting the need and the nature of the supply market.

2.4.3.2 It may be the case that not all of the following items apply to all procurement exercises but they should be considered before the procurement process begins.

2.4.3.3 Local Purchasing - The Council recognises its responsibilities to local communities including promoting local economic development. Local businesses should be able to compete for work alongside contractors from outside the area and this should be considered when developing procurement requirements. Where direct quotations are being sought, Budget Managers should attempt to include at least one local supplier in the process where practicable.

2.4.3.4 Community and Voluntary Organisations - Where appropriate the Council should deliver Value for Money for its residents by “commissioning” outcomes rather than “procuring” services in the traditional manner. Commissioning with the third sector should continue to be assessed as an option for future service delivery.

Commissioning decisions should be evidence based and outcomes focused, through engagement with residents, service users, communities and other appropriate stakeholders.

2.4.3.5 Social Value - Budget Managers should think about Social Value, as the outcome of these considerations could inform the whole shape of the procurement approach and the design of the services required. For example Budget Managers should consider whether the services they are going to buy, or the way they are going to buy them, could secure social, economic and environmental benefits for their area or stakeholders. While this is not an exhaustive list, this could include considering some key benefits of Social Value and whether the approach to be taken can:

- Improve value for money by requiring suppliers to do more than ‘just’ deliver the core services as specified
- Increase local spend by through maximising opportunities for local supply chains, including SMEs and Community and Voluntary Organisations
- Increase opportunities for disadvantaged people or promote social mobility
- Enabling skills, training and employment opportunities

2.4.3.6 Value for Money Council - The Council aims to provide services that offer Value for Money in terms of economy, efficiency and effectiveness; that are responsive to the needs of our communities; and that have the capacity to continuously improve performance. Budget managers should review activities and services to determine how, if at all, they can be delivered in future. The Council will consider all options for the future delivery of services and choose the most effective solution from a range of available methods of service delivery.

2.4.3.7 Ethical Procurement - The Council is committed to ethical procurement. It will not discriminate on the grounds of any of the protected characteristics of equality and will provide appropriate, sensitive and accessible services. Budget Managers should ensure that suppliers maintain high standards of integrity and professionalism in their business dealings and practices, adhering to the laws of the countries where they operate. While this is not an exhaustive list, this could include considering:

- Ethical sourcing practices
- Fair employment practices
- Support working conditions that are legal, fair and safe
- Encouraging equality and diversity
- Operating to relevant animal welfare standards

2.4.3.8 Climate Change and Sustainability - All procuring officers should consider “green” or “sustainable” procurement. This is a process that takes into account environmental elements when buying products and services. This could include considering low energy, more sustainable, local purchasing in our procurement and commissioning models. Budget managers should consider action plans on any related

strategy including the Climate Change Strategy. While this is not an exhaustive list budget managers should consider opportunities within the procurement to:

- Ensure contractors and suppliers have an environmental management policy to minimise their environmental impact.
- Work with contractors to promote the reduction of carbon emissions
- Make a positive impact on waste generated in the workplace and recycling provision / recycling rates
- Reduce energy consumption
- Raise awareness and promote positive behaviour regarding climate change
- Enable working with partners for a coordinated approach to tackling climate change
- Achieve / retain appropriate environmental management accreditation
- Reduction in business or fleet mileage
- Considered the future effect that climate change could have on the procurement or service
- Consider all the above in relation to the contractors delivering a service on our behalf and within their supply chain

2.4.3.9 Other Council Policy and Strategy - All procuring officers should pay regard to any other Council Policy or Strategy that may also be in place during the life of this Procurement Policy that could influence their considerations.

Section 3: Further Information and Accessibility

3.1 Further Information

3.1.1 If you want to know more about this policy please contact the Programmes and Transformation Team:

- **Email:** procurement@eaststaffsbc.gov.uk

- **Call:** 01283 508244

3.2 Accessibility

3.2.1 Alternative formats of this publication are available on request. Please contact us to discuss an appropriate format.

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Procurement Policy 2020