

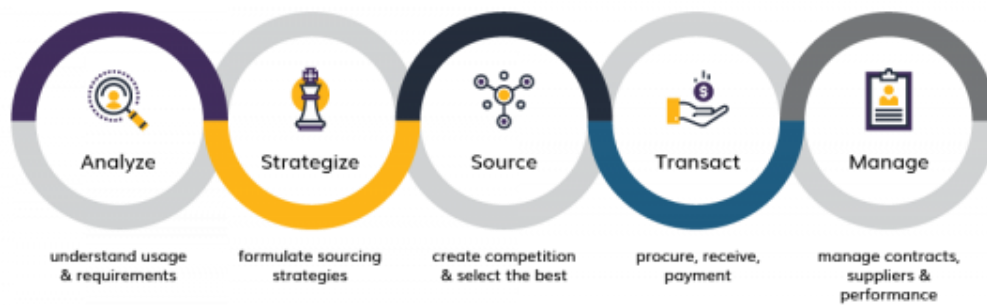


Chelmsford City Council

Procurement Manual

June 2021

Version 1.4



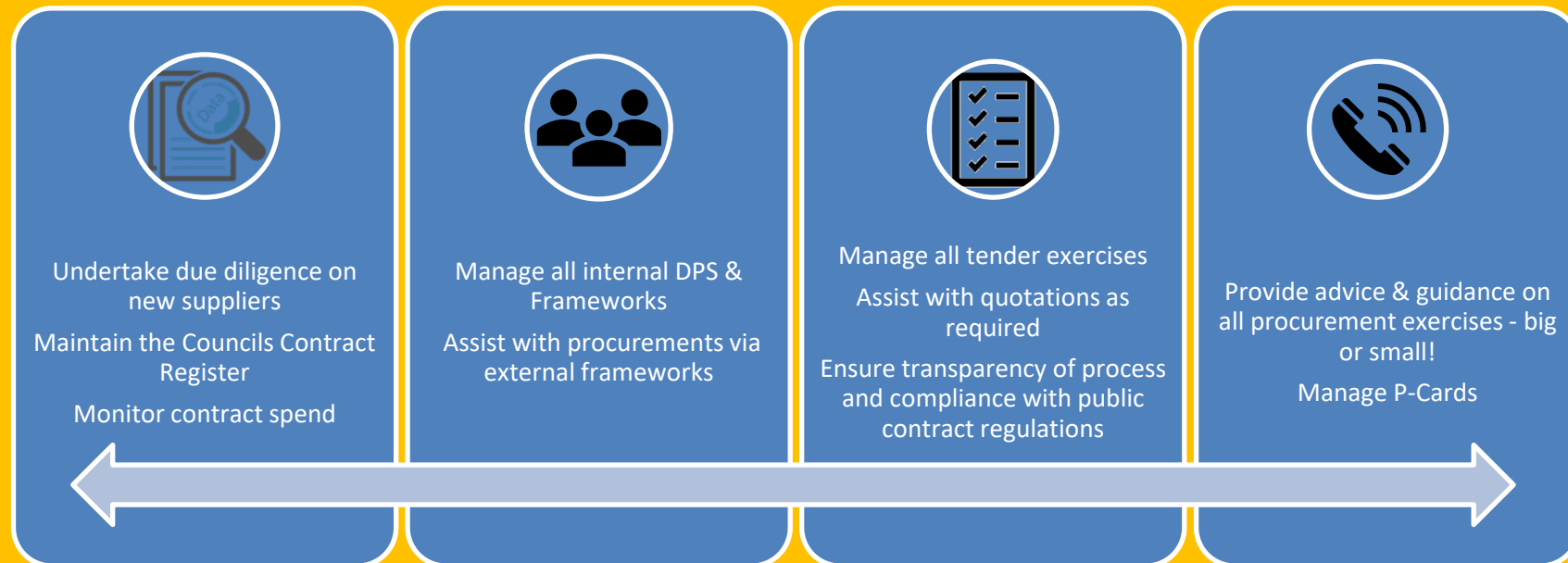
Introduction & Background

<p>1 Purpose</p> <p>OTHER USEFUL DOCUMENTS:</p> <p><i>Public Contracts Regulations 2015</i></p> <p><i>Concession Contracts Regulations 2016</i></p> <p><i>Public Services (Social Value) Act 2012 (Amended 2019)</i></p>	<p>This is a practical guide to the supply and procurement of goods, services and works at Chelmsford City Council.</p> <p>It provides day to day assistance to staff in how they should go about spending their budget. And its purpose is to provide staff with the tools to ensure that:</p> <ul style="list-style-type: none">• The Council achieves value for money• The principles of fair, open and transparent procurement are adhered to• Spend is compliant with the Council's Contract Rules (part of our Constitution)• Spend is compliant with Public Contract legislation• The Council, and its suppliers, meet their obligations under a wide range of other legislation, including:<ul style="list-style-type: none">i. Health and Safety at Workii. Safeguardingiii. Modern Slaveryiv. Data Protectionv. Social Value
<p>1.1 Using Procurement to achieve policy aims.</p> <p>FOR FURTHER INFORMATION SEE:</p> <p><i>Council's Social Value Policy</i></p>	<p>The Council may also wish to use Procurement to implement policy.</p> <p>This may relate to areas such as:</p> <ul style="list-style-type: none">• Using Local Businesses• Social Value• Environmental Standards• Use of apprenticeships

The Procurement Team

- 2 The Team**
- Alison Chessell, Procurement and Risk Services Manager
 - Emma Till, Procurement Officer
 - Ben Glasson, CIPS Graduate Trainee Officer
- The team works closely with Nick Pavitt, Senior Contract Lawyer
Please contact us for advice, guidance and help with your procurement exercises, whatever the value or scope.

2.1 Procurement Team Functions



- 2.2 Officers Duty in Procurement**
- It is every officers duty to ensure the Council gets value for money from all its purchases.
 - Seek advice on procurement issues whenever in doubt – the rules for public sector procurement are based in legislation so it's important to be sure.

What is Procurement & The Procurement Cycle

3	Introduction	<p>Procurement includes all the processes the Council can use to acquire Works, Services and Goods.</p> <p>Some procurement is low value and transactional in nature – buying a new kettle for the office, for example. Other things are more complex and have to be undertaken using a strict process. These processes ensure that the Council is acting in a fair and transparent manner and access to public sector work is open to all.</p> <p>The Council has two sets of rules that it must consider when sourcing anything:</p> <ol style="list-style-type: none"> 1. The Contract Rules – which are part of the Financial Rules, a key part of the Councils constitution. These are the rules that apply to purchases below threshold. 2. Public Contract Regulations 2015 – this is the legislation which dictates how all public sector organisations must carry out their procurement activities. These are the rules that apply above ‘threshold’ – more of that later!
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3.1	9 Step Procurement Cycle	<p>All procurements, straightforward or complex, follow a simple 9 step process – whether you know you are doing it or not!</p> <div data-bbox="571 1223 1362 1834" data-label="Diagram"> </div> <p>Identification of need is not as simple as “I need”. The Council is required to look at grouping together spend in similar categories to get the best possible price. This is called aggregation. Aggregation must be considered prior to deciding which procurement process is appropriate.</p>
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		<p>Also, it is key to the Council staying aligned to corporate aims and strategies, e.g. seeking to become a Carbon Neutral Council.</p>
<p>3.1.1</p>	<p>PLAN Identify Need</p> <p><i>Route to Market Assessment – essential for higher value processes.</i></p>	<p>The first step is to be clear as to your requirement – this may take the form of a specification.</p> <p>This could be as simple as work boots size 9. Or it could be more detailed, specifying the service requirements for our site cleaners or a technical specification for new software.</p> <p>Whatever the need, it is important to find out who else in the organisation is buying the same or a similar thing and if there is already a contract in place for its supply.</p> <p>Where there is no contract in place, the process may become more complex, and the Procurement Team are here to help. But much of this will depend on the amount to be spent.</p> <p>And so, the key questions at this point are:</p> <ul style="list-style-type: none"> • Is there any budget available and has the spend been approved? • Is a business case required - usually when spend is of a strategic or contentious nature. <p>Budget – the Council will have considered the likely cost of the work/goods or services it requires and assigned a value in its accounts.</p> <p>This budget amount is used to calculate a contract value. The contract value is the financial benefit that holding a contract with the Council will give the supplier over a 4 year period OR the life of the agreement; if it is for a shorter period.</p> <p>The contract value dictates which route to market (procurement process) options are available to the Council. More of this below...</p> <p>Analyse the Market</p> <p>In addition to understanding the need it is important think about the market from which your need will be sourced. This is about identifying potential suppliers who are capable, and suitable, of meeting the Councils requirements. Some markets, such as for office supplies, are large and highly competitive. Other markets are more niche with only a few active suppliers.</p> <p>The Procurement Team will work with you to decide on the most</p>

appropriate route or process to meet your need. The Team can assist with market research, approaching the market during the planning phase, as well as increasing market interest later in the cycle.

Potential Routes to Market (Procurement Processes)

There are a number of routes/processes that can be used:

- Via a public sector procurement framework, either by direct award OR further competition.
- Full tender process for contracts valued over PCR (Public Contract Regs) thresholds.
- RFQ (Request for Quotation) or RFP (Request for Proposal) for contracts below threshold
- Set up of a Council operated framework or DPS (Dynamic Purchasing System).

At this point the preferred method is dependent on the value of the procurement.

Thresholds – Contract Rules

Up to £50,000 Service Mangers may decide on the best method for the procurement. This decision must consider:

- Aggregation – the purchase of similar items elsewhere in the Council may make the procurement exceed threshold.
- Value for money - it is every Council employees responsibility to ensure that value for money is sought and care taken to ensure that the price paid is reasonable.
- A minimum of two quotes is advised and evidence of this should be retained for audit purposes.

Between £50,000 and £100,000 the minimum requirement is for three written quotations.

Over £100,000 a more formal tender exercise is required and this will be conducted with assistance from the Procurement Team.

Thresholds – Public Contract Regulations

Over threshold (PCR limits) a PCR compliant method must be used and this must follow set timescales. The Procurement Team will advise and manage this process for you.

The thresholds change annually but currently stand at:




- £189,330 for goods and services, and
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		<ul style="list-style-type: none"> • £4,33,252 for works. <p>Please also refer to the Councils Constitution – Section 4.1 Contract Rules for further guidance.</p>
<p>3.1.3</p>	<p>Finalise the Procurement Strategy – Route to Market</p> <p><i>Social Value Environmental Agenda Use of Local Businesses</i></p>	<p>Sourcing stage – using the agreed route to market.</p> <p><u>External Frameworks:</u></p> <ul style="list-style-type: none"> • An access agreement must be completed. • The framework will also dictate the process to be followed to make a contract award. • May involve a mini competition OR a direct award following a desk based evaluation. • Award notifications must be provided to the framework provider. • The framework call-off contract must be used. <p><u>Full Tender Process:</u></p> <p>The following documents to be prepared. The Procurement Team will undertake most of the work on your behalf:</p> <ul style="list-style-type: none"> • Instructions for tenderers (ITT) • Selection questionnaire (SQ) • Form of tender and associated declarations • Specification of requirement • Drafts terms and conditions (the Contract) • Award criteria and scoring methodology <p>There may also be a need for an Key Decision item to go to Cabinet or for an Executive Decision notification to be published. Where delegated authority is being used, this must also be formally recorded.</p> <p><u>RFQ/RFP:</u></p> <p>Similar to above, however, a light touch approach will be taken.</p> <p><u>Internal Framework / DPS:</u></p> <p>This is to meet common, regularly used services. The Council currently operates live frameworks for: Aboriculture and Parks Minor Works.</p>
<p>3.1.4</p>	<p>SOURCE Approach the Market</p>	<p>Whichever route is taken, the regulations require that the process be done electronically. To facilitate this, and to provide a full audit trail, the Procurement Team have e-sourcing software call Delta. Delta alerts the market to opportunities via the national websites Contracts Finder and Find a Tender Service (FTS).</p>

		<p>In addition, to ensure transparency of opportunity for SMEs and local business, all opportunities are published on the Council’s website and via its social media feeds.</p> <p>The Contract under which the requirement is fulfilled is key to this process – both the Council and the supplier must have a clear understanding of their responsibilities.</p> <p>For goods the Councils standard terms are usually sufficient, however, for services and works other terms may be required. And it is important that when publishing an approach to the market the terms under which it will be awarded are stated.</p> <p>Please speak to the Procurement Team if you are unclear what terms or contract should be applied – we will liaise with Legal on your behalf.</p>
<p>3.1.5</p>	<p>Supplier Selection</p>	<p>A rigorous selection process is required to:</p> <ul style="list-style-type: none"> - Ensure transparency of process and decision making. Being fair and transparent are the foundations of all public sector procurement. - Prevent legal challenges, this is when a supplier suggests that the process undertaken was in some way unfair. This can result in us having to repeat the competition or at worst, legal action. - Ensure that the suppliers we work with are properly qualified, operate ethically, suitably insured and have a stable financial background. <p>The scoring process must be documented and decisions and scoring reasons must be noted. In the case of a legal challenge these will be essential for a fair court judgement. These records are also subject to Freedom of Information.</p> <p>Scoring criteria and methodology should be published as part of the tender or quotation documentation. The Council is also required to provide feedback to unsuccessful suppliers – an appropriate evaluation process enables this to be done.</p>
<p>3.1.6</p>	<p>Finalise Award</p>	<p>Prior to finalising an award clarification should be sought from suppliers on any elements that are unclear or that the evaluation panel are unsure of. This can include pricing, queries on service provision or key dates. If you are unsure please seek advice from the Procurement Team.</p> <p>Entering into a contract without understanding the full ramifications for the Council can prove costly.</p> <p>Only after full clarity is achieved and scores moderated in the light of this</p>

		<p>can a contract be issued.</p> <p>The Procurement Team will work with you and the Councils legal team to ensure the terms are appropriate.</p>
3.1.7	MANAGE Implement Arrangement	<p>For purchase of goods this may be as simple as issuing a purchase order, but for services and works, a pre-implementation or mobilisation meeting will be key.</p> <p>An arrangement started without proper preparation will never achieve its full potential.</p>
3.1.8	Manage Arrangement	<p>This is probably the most important phase of any procurement. A 'let and forget' mentality will cost money.</p> <p>Arrange regular contract review meetings, request management information and review it against KPIs regularly. Set improvement targets if needed and above all keep a record.</p> <p>This is a two-way process so please ensure you keep engaged with your suppliers and that they are able to contact you.</p> <p>The Councils new finance system includes a contract monitoring module. This will enable us to track spend against contracts as well as log all monitoring and review meetings and communication. This software will also alert the contract manager and administrator to any important dates and actions required.</p>
3.1.9	Review And Renew	<p>Well before the end of the contract it is necessary to review the success of the arrangement, record lessons learned and begin the PLAN phase for the next procurement.</p> <p>Also, the Council has to abide by transparency rules which mean it must publish:</p> <ul style="list-style-type: none"> - A register of all contracts it lets - All spend over £250 <p>In addition all frameworks require users to complete Contract Award Notifications. These forms provide the provider with details ensure that the framework remains within the rules laid down in the Public Contract Regulations.</p>

Procurement Methods – General Info

4	Introduction	<p>A bit more information about the procurement processes/methods that are available to you.</p>
4.1	Procurement Card 	<p>Procurement cards in use at the Council are a version of Mastercard.</p> <p>They are the best method for low value, low volume purchases, and purchasing rail travel.</p> <p>Card holders are responsible for prompt recording and evidencing of card use on the Councils finance system.</p> <p>Procurement cards cannot be used for the payment of staff or consultants.</p>
4.2	Framework Agreement 	<p>A framework agreement is a pre-tendered contract which names the Council as a potential user. They are fully compliant with procurement regulations and are often used to cover commonly used goods or services. By combining the spend of multiple public sector bodies they can achieve excellent value for money. They can also be a quick route to market.</p> <p>The Procurement Team have lots of experiencing accessing these types of agreement.</p> <p>You should note that a framework agreement has a maximum lifetime of four years.</p>
4.3	Dynamic Purchasing System (DPS) 	<p>Introduced into Public Procurement Regulations in 2015, the Dynamic Purchasing System allows the establishment of pre-qualified suppliers who are invited to bid for opportunities as they arise.</p> <p>Unlike the framework agreement, a DPS doesn't have to be limited to four years, and also allows for ongoing applications from suppliers during the life of the DPS.</p> <p>This is an innovative procurement method that could be effective for many commodities and services.</p>
4.4	Request for Quotations or Proposal	<p>For contract values over £50,000 and up to £100,000 (where a framework or DPS is not used), at least three written quotations must be obtained.</p> <p>By obtaining multiple quotations you are able to:</p>



- Meet the requirement to demonstrate value for money.
- Test the market, to see what other solutions may be available.
- Evidence and support the decision to spend.

Any process exceeding £50k should involve the Procurement Team.

All quotations must be requested in writing and by electronic means. This can be done via the Delta e-sourcing system with the assistance of the Procurement Team.

Any request for quotation (RFQ) must include a specification for the goods or service required, details of how the winning quotation will be scored and awarded, and the type of contract terms to be used.

Advice on any or all of these matters can be sought from the Procurement Team.

4.5 Formal Tender



For contract values over £100k a formal tender process is required. And a Procurement Officer will be assigned to manage the process for you.

These procedures can be time consuming, so early notification is required. When dealing with a recurring requirement, contact the procurement team as soon as the final year of the contract is entered.

Large and complex tenders take a minimum of 3 months to complete.

Poor and late planning may result in a poor procurement, which could give rise to a wide range of performance issues during the life of the next contract.

The better the existing contract is managed, the better the next contract will be.

4.6 Compliance Register



Public Contract Regulations

The public sector procurement regulations provide a list of instances/exceptions to a full tender process.

Please note that failure to plan is not one of these!

Councils Contract Rules

The Councils rules do allow for certain purchases to be exempt from its contract rules. Any exemption must be discussed with the Procurement Team and a compliance register form completed.

		<p>The form records the reason for the exemption (see below) and the rationale behind it. It requires signature by the Service Directors and the CEO.</p> <p>The Compliance Register cannot be used for over threshold purchases.</p>
<p>4.6. a</p>	<p>Compliance Register Extract</p> <p><i>On the right is an extract from the Compliance Register</i></p> <p><i>Reason (a) does not relate to a failure to plan!</i></p> <p><i>The full Compliance Register Form is available from the Procurement Intranet page.</i></p>	<p>The circumstances where a Director may decide that the Contract Procedure Rules should not apply to a procurement are where the proposed contract: -</p> <ul style="list-style-type: none"> a) is required urgently or arises from an unforeseen emergency thus preventing an ITT or quotation, or; b) relates to services or goods which can only be supplied or obtained from a single source, or; c) relates to the procurement of goods services or works with specific technical qualities which would result in incompatibility or disproportionate technical difficulties, or; d) is an extension of an existing contract but subject to compliance with EU and UK legislation, or; e) is in accordance with any existing government circular, PPN or legislation which differs from these Contract Procedure Rules, or; f) for any other reason which would not give rise to any genuine competition.

Other Important Information

5.1	Property Transactions	Property Transactions are exempt from a competitive procurement process, but are subject to Key Decision requirements.
5.2	Staff, Temps and Consultants	<p>Engagement of staff is not subject to the procurement process.</p> <p>However, the use of temporary staff is. The Council has addressed this by putting in place two master vendor agreements through which all temp staff must, in the first instance, be recruited. Talk to your HR Business Partner for more information.</p> <p>The Council uses a variety of consultants to provide expert opinion, advice and input to many areas of its work, and consequently the aggregated spend on consultants is high.</p> <p>There is a large array of frameworks that exist for consultancy and the Procurement Team can advise on what might be most suitable.</p>
5.3	IR35 – Off Payroll Working	<p>IR35 makes sure that anyone who is carrying out work that would have been done by employee, a consultant for example, is paying the appropriate tax and contributions.</p> <p>It is the Council's responsibility to decide if the IR35 rules apply.</p> <p>Please speak to your HR Business Partner for further information.</p>
5.4	Concessions & Utilities	<p>A concession is an opportunity, granted to a third party, to gain financial benefit from an activity. For example the Council lets concessions contracts for its cafes, for ice cream pitches and for bailiff services on parking fines.</p> <p>Letting a concession is, in many ways, similar to a procurement and the use of a formal process achieves the best results for the Council. Concession contracts are covered by the Concession Contracts Regulations 2016.</p>
5.5	Sponsorship	<p>Sponsorship is not subject to Contract Procedure Rules.</p> <p>Companies offering sponsorship to the Council may expect preferential treatment in procurement processes. This is illegal and anti-competitive. The acceptance of sponsorship during a procurement process may result in a legal challenge. The Procurement Services Manager must be kept informed of all sponsorship agreements.</p>

Social Value, Modern Slavery and Ethical Procurement

6	Aims	<p>The Council has the following aims and responsibilities that generally fall under the tile of 'Social Value':</p> <ul style="list-style-type: none">- To be carbon neutral by 2030- Ensure our supply chain is free from MDS (modern day slavery) <p>Our commitment to these aims is reflected in:</p> <ul style="list-style-type: none">- Our Social Value Procurement Policy- Signing the Charter Against Modern Day Slavery <p>The Council is also been asked, by the Cabinet Office, to priorities the support of businesses and SMEs (Small Medium sized Enterprises) from the local area.</p>
6.1	Approach	<p>Many of the procurement processes we undertake include a requirement for suppliers to provide information on their environmental and social policies.</p> <p>On larger procurements a minimum of 10% of the response score is allocated to these factors.</p> <p>This is done via a proforma that looks at a suppliers:</p> <ul style="list-style-type: none">- Environment policy, with a focus on single use plastic and recycling and reuse- Use of local suppliers and supply mileage- Prompt payment policy- Approach / use of apprenticeships and general training policy for staff <p>We expect suppliers to be fully aware of their supply network and any areas of modern day slavery risk.</p> <p>It is the responsibility of all members of staff who undertake purchasing or procurement activities to do so with consideration to these factors.</p>
6.2	Work in Progress	<p>The Council has undertaken a broad brush audit of its tier one suppliers to expose potential areas of modern day slavery risk.</p> <p>High risk categories commonly used by the Council are construction and work. This is also an area of considerable spend with around 30 suppliers.</p> <p>Medium risk categories – hospitality and security.</p>

	Low risk categories include technology, with many high tech companies using suppliers in Asia.
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Frequently Asked Questions

7	FAQ's	Below are some frequently asked questions. If your question isn't listed here please give the Procurement Team a call.
7.1	I buy lots of low value items. Can I just use a procurement card?	<p>Procurement cards are an excellent way of making low value and one off purchases, but if the Council is regularly purchasing the same goods or similar goods then it will be necessary to look at the level of spend over a three year period and look for a route to market that is both compliant with Public Contracts Regulations 2015. These regulations require aggregated spend of a similar type above the Council's thresholds to be the subject of a competitive procurement.</p> <p>This requirement can be met in several ways including the use of quotation or tender processes, or through using a pre-negotiated framework agreement. Talk to us about options.</p>
7.2	What is a Framework Agreement?	<p>They can be put together by any purchasing organisation and are a method of preselecting suppliers for a given requirement. The suppliers remain on the framework for 4 years and during that time authorised 'buyers' can call off their services/goods to form a direct contractual arrangement.</p> <p>They are often a quick and easy way to access markets for goods and services commonly used by the public sector. They are fully compliant with PCR.</p> <p>Frameworks have lots of advantages but that may not always be price. Mini competitions via frameworks often achieve a better price with the speed advantage of a preselected supplier list.</p>
7.3	I need to get something in a hurry. Is there any way I can avoid using a formal process?	<p>The process needed depends on the level of spend and the frequency of requirement, but there are some situations when formal processes can be waived using a Compliance Register Entry.</p> <p>Failure to plan is not one of those reasons. Services should share their spending plans with the Procurement Team so we can provide timely advice and guidance.</p> <p>There is a full section above on the use of Compliance Registers above.</p>

7.4	<p>My contractor is useless – I don't want them to win the next contract. What can I do?</p>	<p>The beginning of a procurement process to re-let a contract is not the time to deal with performance issues of the incumbent contractor.</p> <p>Contract management is a key part of the success of any contract. Failure to perform or meet targets should be identified by the Contract Manager and managed on an ongoing basis. Only with appropriate records could the decision to not include a supplier in the next procurement cycle be justified.</p>
7.5	<p>The supplier I think should have won the procurement exercise hasn't scored well. Can I change the scores so they win?</p>	<p>Planning an effective tender scoring process is an important part of the planning stages.</p> <p>Scores can be moderated as part of the tender clarifications but adjusting scores without adequate reasons, or adopting a new scoring procedure, is illegal and likely to result in a legal challenge.</p> <p>If a challenge is upheld by the court, the Council would incur high financial penalties and significant reputational damage.</p> <p>Work with the Procurement Team to develop a robust scoring process. Test it thoroughly before going to market.</p> <p>Record your decision for awarding scores as you go. These may be required by the courts. Not having notes may result in a challenge being upheld.</p>
7.6	<p>Why can't I just buy the product or service I want?</p>	<p>The answer to this question is both negative and positive.</p> <p>It is a requirement of being a local government officer that we all use the public funds put under our control wisely, ensuring that the Council Tax payers get value for money. To do this the market must be tested.</p> <p>By conducting an open, fair and transparent process you can buy what you want! By careful specification, and time spent planning procurements properly, especially high value procurements, the Council will purchase what it needs, at a fair price, and can even gain extra benefits for the community.</p> <p>Talking to us early about a requirement will get the right result!</p>
7.7	<p>How long does a tender take?</p>	<p>For a tender above the OJEU limit there are some defined minimum time periods in the process. A tender must be open for a companies to respond for a minimum of 30 days, and once an award decision has been made there is a mandatory standstill period of 10 calendar days.</p> <p>These are just part of the process and sufficient time is needed to prepare documentation, agree a strategy for engaging the market,</p>

tender evaluation, and clarifications.

For tenders below the PCR limit the only requirement is that there should be a reasonable time period for the suppliers to prepare a full response.

The absolute minimum that should be allowed is three months, but six months is usually needed to allow proper planning and development of a robust procurement process.
