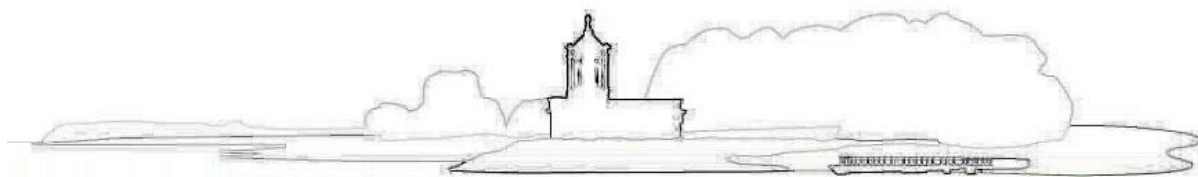


Rutland County Council

PART 10 OF THE CONSTITUTION CONTRACTS AND GRANTS PROCEDURE RULES

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1. Introduction

The purpose of these Contract Procedure Rules is to set out the principles, roles and processes involved in procurement at the Council. All procurements must comply with these rules, the Council's Financial Procedural Rules, Procurement Toolkit, the Officer Scheme of Delegation, English law, and European law in force in England and the duty of Best Value.

All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome.

These Rules seek to protect the Council's reputation by minimising the risk of allegations of corruption, dishonesty and failure to meet legal obligations, as such the Rules must be followed in all procurement activities.

These Rules are supported by detailed practical guidance available in the Council's Procurement Toolkit located on the Rutland County Council section of the Welland Procurement Portal <http://wellandprocurement.org.uk/>

- 1.1 All procurement activities must be carried out in a fair, open, transparent, proportionate and non-discriminatory manner.
- 1.2 These Rules apply to contracts or agreements with external organisations where the Council pays for:
 - 1.2.1 Goods and/or Services.
 - 1.2.2 Works of any kind.
 - 1.2.3 Hire, rental or lease of equipment, material and/or plant.
- 1.3 These Rules do not apply in the following circumstances:
 - 1.3.1 The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This does not extend to any goods, services or works contracts that may be required to make the land, existing buildings or immoveable property ready for acquisition, disposal or leasing.
 - 1.3.2 Direct employment of permanent or fixed term employees, or of interim or agency staff. For the avoidance of doubt these Rules do apply to consultancy and employment agency contracts.
 - 1.3.3 Instructing barristers or solicitors provided those costs do not exceed the relevant - UK Procurement Threshold.
 - 1.3.4 The lending or borrowing of money by the Council.
 - 1.3.5 Contracts between Local Authorities as defined by Clause 12 of the Public Contract Regulations 2015 or Clause 17 of the Concession Contracts Regulations 2015.

- 1.4 The provision of Grants to external organisations is dealt with separately under Rules 19.1 to 19.8
- 1.5 Whilst 1.3.5 and 1.3.6 are not covered by these Rules, these contracts must be approved by the relevant Chief Officer, in consultation with the appropriate Portfolio Holder. The Public to Public Contract Exemption Request Form must be used.
- 1.6 When commissioning goods, services, and works through collaborative joint purchasing, where one of the other contracting authorities is acting as procurement lead, the Officer responsible must satisfy themselves that the procurement complies with all relevant directives, legislation, and guidance.

2. Roles and Responsibilities

Officers

- 2.1 Officers are individually responsible for ensuring that they fully understand and comply with all aspects of these Rules, failure to do so may result in disciplinary action.
- 2.2 The Responsible Officer for the procurement must comply with these Contract Procedure Rules, the Council's Procurement Toolkit, and the Financial Procedural Rules. The Officer is also responsible for ensuring that any Agents acting on behalf of the Council do so in compliance with these Rules and should seek written confirmation of their agreement.
- 2.3 The Officer must have regard to the guidance and template documentation in the Procurement Toolkit located on the Rutland County Council section of the Welland Procurement Portal.
- 2.4 The Officer must check whether a suitable Corporate Contract or other Publicly Available Contract/ Framework Agreement exists before seeking to let another Contract. Where such a contract does exist, its use should be considered.
- 2.5 The Officer must complete the relevant corporate forms and keep the records detailed in these Rules.
- 2.6 Where a procurement procedure is regulated by the Public Contract Regulations 2015 or the Concession Contract Regulations 2016, the Officer must contact Welland Procurement at the earliest opportunity before embarking on the procurement.
- 2.7 The Officer should take legal, financial, and other professional and technical advice.
- 2.8 The Officer must ensure that they have the correct authorisation to procure and award the contract.

- 2.9 The Officer must ensure that there is sufficient budget provision agreed and that they have the budget holder's approval, before embarking on the procurement.
- 2.10 Where any employee of the Council or of a Supplier may be affected by any transfer arrangement (TUPE), the Officer must ensure that the Transfer of Undertaking (Protection of Employment Regulations 2006 issues are considered and obtain relevant advice.
- 2.11 All contracts with a value at or above £5,000 p.a. must be added to the relevant Directorate's Contract Register to ensure compliance with the Transparency Regulations.
- 2.12 Officers must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended and to address any performance issues as soon as possible.
- 2.13 Where an Officer has a potential conflict of interest in a procurement, the Officer must declare this immediately to the relevant Director and Monitoring Officer. The Officer may be required to withdraw from the procurement process. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions and risks being prosecuted under the Bribery Act 2010.
- 2.14 Officers must:
- 2.14.1 Not disclose any confidential and commercially sensitive information to unauthorised persons;
 - 2.14.2 Achieve best value for money and consider opportunities for costs avoidance/waste reduction;
 - 2.14.3 Ensure that all equality issues are addressed (carrying out an equality impact assessment where required.
 - 2.14.4 Keep records as detailed in these Rules.
 - 2.14.5 Carry out due diligence on successful suppliers, both at Contract Award, and for the duration of the Contract.

Chief Officer

- 2.15 Chief Officers must ensure that they and their Officers comply with these Rules at all times.
- 2.16 Chief Officers must ensure that Value for Money is achieved in all procurements.
- 2.17 Chief Officers must ensure that they have in place a scheme of delegation that records in writing what action Officers are authorised to take under these Rules.

3. Prevention of Corruption/ Declaration of Interests

Officers

- 3.1 Officers shall behave in a manner consistent with Rule 2 with regards to declaring any potential conflict of interest or the receipt of a gifts/hospitality in line with the Council's Policy.
- 3.2 Officers are required to complete the Evaluator Conflict of Interest Declaration Form for each individual tender valued at or above £50,000 per annum that the Officer is involved with. This must be submitted in advance of the tender closing date to the relevant chair of the Evaluation Panel or the Responsible Officer for the tender.
- 3.3 Where an Officer has a potential conflict of interest within a procurement, the Officer must declare this immediately to the relevant Chief Officer and Monitoring Officer. The Officer may be required to withdraw from the procurement process. The conflict must be logged on the Officers' Register of Interests. Any Officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and sanctions and risks being prosecuted under the Bribery Act 2010.

Members

- 3.4 Members will at all times act in a manner consistent with the Code of Conduct.

Contract Provisions

- 3.5 All contracts must contain the right to terminate the contract in the event of a contractor offering any inducement, committing fraud, or committing an offence under the Prevention of Corruption Acts.
- 3.6 All contracts must require contractors to comply with the Council's Corporate Counter Fraud Strategy.

4. Exemptions to these Rules

- 4.1 Where a procurement is valued above the relevant UK Procurement Threshold and there is no legislative exemption, the exemptions listed in this Section will not apply.
- 4.2 All exemptions must be authorised by the relevant Chief Officer, in consultation with the appropriate Portfolio Holder, subject to one of more of the following criteria being fulfilled:
 - 4.2.1 **Value for Money:** where proprietary or patented goods or services; or the requirement is of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; or the compatibility with existing goods or services is required and/or where those existing goods or services can only be sourced from the same supplier; or there is clear

evidence that the procurement exercise will provide no additional value for money.

- 4.2.2 **Genuine emergencies:** critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, bombing, landslide etc.
- 4.2.3 **Urgent Situations not of the Council's own making:** the urgency must have been reasonably unforeseeable (e.g. existing supplier going into liquidation and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning shall not justify an exemption. Where this exemption is used, a compliant procurement must be implemented as soon as possible.
- 4.2.4 **Collaborative/Joint Procurement:** where another contracting authority/public body is acting as the 'lead buyer' and provided that the Responsible Officer can demonstrate those arrangements comply with relevant Regulations and best practice.
- 4.2.5 **Contracts for the execution of either mandatory works or provision of goods or services which must be provided by Statutory Provider** other than the Council. This includes but is not limited to public utility companies and other legal authorities.
- 4.2.6 **Individual Social Care Placements** which are required to be approved via a separate approval process in accordance with Council's Standard Operating Protocol for the Placement of Individuals in Social Care & Special Educational Needs and Disability Services.
- 4.3 The original signed version of the Exemption Request Form must be held by the Responsible Officer.
- 4.4 Officers must keep a record of any Exemption under Rule 4 and the reasons for it, plus the negotiations surrounding the contract award.
- 4.5 Where the total value of the contract is £5,000 or more, the resultant contract must be added to the Contract Register to ensure compliance with Transparency Regulations.
- 4.6 An award notice is required on Contracts Finder for all Contracts with a total value of £20,800 or above.
- 5. Income Opportunities**
 - 5.1 Officers must seek legal and financial advice for any contracts which will generate income for the Council, including to determine if the Concession Contract Regulations 2016 applies.

6. Legal Involvement

- 6.1 The formal advice of the Monitoring Officer must be sought prior to award of the following contracts:
- 6.1.1 Where the total contract value including any extension period, exceeds £500,000;
 - 6.1.2 Those involving lease arrangements;
 - 6.1.3 Those which are complex or involve a recognisable risk;
 - 6.1.4 Where it is an extension within its terms to an existing contract that will bring the overall value over £500,000;
 - 6.1.5 Where it is a variation to an existing contract with no greater value than UK Thresholds;
 - 6.1.6 Where invoice payments are made to finance or factoring companies;
 - 6.1.7 Those involving the transfer of non-land assets;
 - 6.1.8 Those involving TUPE or pension arrangements; and/or
 - 6.1.9 Where it is proposed to use the contractor's own contract terms and conditions.

7. Contract Documentation

- 7.1 All contracts must be in writing.
- 7.2 Where the contract is of a non-complex nature and the provisions in relation to the valuation allow the use of the Council's Short-Form Terms and Conditions for Goods and Services then a purchase order is an acceptable form of contract. This must include a clear description of the quotation, the terms agreed for delivery and a clear specification or description of the subject of the order together with the Short Form Terms & Conditions for Goods and Services.

8. Document Retention and Disposal

- 8.1 Written records by must be kept in accordance with the Council's Document Retention Guidance for Procurement & Contracts, as detailed in the Procurement Toolkit.
- 8.2 Where the contract is valued below £50,000 p.a., the following records must be kept:
- 8.2.1 Authorisation of Award Criteria (where relevant)
 - 8.2.2 Request for Quotation document
 - 8.2.3 Quotations received
 - 8.2.4 A written record of the reason if the lowest price is not accepted

- 8.2.5 A record of the Award approval
- 8.2.6 Records of communications with the successful contractor during the procurement process.
- 8.3 Where the contract is valued at or above £50,000 p.a., the following records must be kept:
 - 8.3.1 Any pre-tender market research and consultation
 - 8.3.2 Pre-procurement Business Case, plus the relevant Chief Officer or Cabinet approval
 - 8.3.3 The method for obtaining Tenders
 - 8.3.4 Procurement documents
 - 8.3.5 Tenders submissions received
 - 8.3.6 The Award Criteria in descending order of importance and evaluation methodology
 - 8.3.7 A written record of the evaluation, any tender clarification, bidder interview/presentation stage or post tender negotiation
 - 8.3.8 Contracting decision and the reasons for it
 - 8.3.9 A record of the Award approval
 - 8.3.10 Contract documents
 - 8.3.11 Performance Bonds/Parent Company Guarantee, where required
 - 8.3.12 On-going contract management and supplier performance monitoring mechanisms
 - 8.3.13 Records of communications with the successful contractor during the procurement process
 - 8.3.14 A Regulation 84(1) tender report, for contracts valued at or above the UK Procurement Threshold.

9. Procurements valued under £5,000 p.a.

- 9.1 Where the contract is valued below £5,000 p.a., the Contracts may be placed by direct negotiation with one or more supplier using a Council Purchasing Card (P-Card), in accordance with the Council's Purchasing Card Policy and the Financial Procedural Rules.
- 9.2 No contract will be procured under this provision shall be greater in value than £25,000 and/or 5 years over the total life of the contract (whichever is the lesser).

10. Procurements valued between £5,000 p.a. to £24,999 p.a.

- 10.1 Where the contract is valued between £5,000 and £24,999 p.a., Officers are required to seek at least one written quotation. Value for money remains a primary objective and so Officers may decide to seek more than one quotation to ensure that objective is achieved.
- 10.2 No contract will be procured under this provision shall be greater in value than £50,000 and/or 5 years over the total life of the contract (whichever is the lesser).

- 10.3 In the case of works, pre agreed hourly/daily rates are acceptable, provided that the total cumulative value of spend using these rates does not exceed UK Procurement Thresholds over the full life of the project.

Receiving the Quotation

- 10.4 Quotations of this value can be submitted via email or via the electronic tendering system ProContract.
- 10.5 For Quotes received via ProContract, a representative of Welland Procurement will be responsible for unsealing the quotes and releasing them to the Responsible Officer. It shall be the responsibility of the Responsible Officer to record details of all quotes received within the Quotation Register for the relevant Directorate.
- 10.6 The quotation must be received before any order is processed and must include the following information (where relevant):
- 10.6.1 A description of the goods, services or works to be supplied;
 - 10.6.2 When and where they will be supplied;
 - 10.6.3 The value of the requirements;
 - 10.6.4 Payment terms.

Awarding a Contract

- 10.7 The contract award must be authorised by the relevant budget holder using Section 2 of the Award Criteria & Award Authorisation Form.
- 10.8 The Council's Short Form Terms & Conditions for Goods and Services should usually be used unless deemed inappropriate by the budget holder.
- 10.9 Officers must have a purchase order in line with Financial Procedure Rules.
- 10.10 The Officer must keep the following records:
- 10.10.1 Request for Quotation Template
 - 10.10.2 Quotation received
 - 10.10.3 Authorisation of Award Form
 - 10.10.4 Records of communications with the successful contractor during the procurement process
- 10.11 If more than one quotation is sought, all bidders must be notified of the Award decision simultaneously in writing by the Responsible Officer (either via email or via ProContract if used), as to whether or not their bid was successful.
- 10.12 Where more than one quotation is received, if an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award decision, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of quotation responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible

Officer provide a verbal debriefing to any bidder as part of the procurement process.

- 10.13 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.
- 10.14 The Responsible Officer' shall carry out this due diligence at Contract Award and for the duration of the Contract.

11. Procurements valued between £25,000 p.a. and £49,999 p.a.

- 11.1 Where the contract is valued between £25,000 p.a. and £49,999 p.a. the Responsible Officer must either:

11.1.1 Obtain a quote under one of the Council's corporate contracts;
a) Officers should refer to section 15 of these Rules (Corporate Contracts)

or

11.1.2 Place an order with a supplier under a framework agreement;
a) Where a suitable framework agreement exists, the Officer may use the framework if the Council is mentioned as a potential purchaser under the framework agreement. Officers must follow the call-off procedure set out in the framework agreement (either direct award without competition or a further competition). Welland Procurement can advise Officers on appropriate framework agreements and the correct call-off procedure to use. Officers should refer to paragraph 16 of these Rules (Framework Agreement).

11.1.3 Obtain three (3) written quotes from other suppliers. At least one of the suppliers invited to submit a quotation should be local, where local means in the sub-region or region.

11.1.4 Where fewer than 3 potential suppliers can be identified, no formal request for Exemption is required, provided the Officer keeps a written record of the reason for it and all potential suppliers should be invited to quote. It is accepted that the Officer may receive fewer than 3 quotations even where 3 or more suppliers have been invited to quote.

- 11.2 No contract will be procured under this provision shall be greater in value than £100,000 and/or 5 years over the total life of the contract (whichever is the lesser).

- 11.3 When a quotation is sought, the Request for Quotation template document must be used. In any case the criteria for selecting the Most Economically Advantageous Quotation must be established before the quotations are invited and be made clear in the procurement documentation.

- 11.4 If there is clear justification that the contract opportunity is required to be advertised, for example because:
- 11.4.1 The relevant Officer cannot immediately identify 3 potential suppliers to invite to quote; and/or
 - 11.4.2 The procurement opportunity is either politically sensitive or high profile (as determined by the Responsible Officer)
- then it may be advertised on a local portal (including the Council's website). It must be advertised via Welland Procurement on Contracts Finder within 24 hours of the time when it was first advertised.

Receiving the Quotation

- 11.5 Quotations must be submitted to the Responsible Officer—via email or the Electronic Tendering System, ProContract, hosted by Welland Procurement. Quotations received by other means must be rejected.
- 11.6 It shall be the responsibility of the relevant Officer to safeguard all email Quotations received by the Council, until the appointed time for opening. Each Quotation must be:
- 11.6.1 Suitably recorded so as to subsequently verify the date and precise time it was received;
 - 11.6.2 Adequately protected immediately on receipt, to guard against amendments to its contents;
 - 11.6.3 Recorded in the Quotation Register within the relevant Directorate;
 - 11.6.4 Opened at the same time once the closing time and date for their submission has expired. Quotations must be opened in the presence of two Officers.
- 11.7 For Quotes received via ProContract, a representative of Welland Procurement will be responsible for unsealing the quotes and releasing them to the Responsible Officer. It shall be the responsibility of the Responsible Officer to record details of all quotes received within the Quotation Register for the relevant Directorate.
- 11.8 Evaluation of the quotations received must be carried out using the evaluation criteria identified in the procurement documentation. Clarification questions may be asked where responses would not result in a material change to the bid received.

Awarding a Contract

- 11.9 The relevant Chief Officer should select the quotation that offers the best value for money and meets due diligence checks.
- 11.10 The contract award must be authorised by the relevant Chief Officer using Section 2 of the Award Criteria & Award Authorisation Form.
- 11.11 The Council's Short Form Terms & Conditions for Goods and Services must be used unless deemed inappropriate by the Responsible Officer. The relevant

Chief Officer must authorise use of any alternative set of Contract Terms and Conditions.

- 11.12 Officers must have a Purchase Order in line with Financial Procedure Rules.
- 11.13 A Contracts Finder Award Notice must be advertised by Welland Procurement following the award of any Contract or Framework Agreement valued at or above £20,800.
- 11.14 All bidders must be notified of the Award decision simultaneously in writing by the Responsible Officer (either via email or ProContract if used), as to whether or not their bid was successful.
- 11.15 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award decision, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of quotation responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible Officer provide a verbal debriefing to any bidder as part of the procurement process.

Post Award

- 11.14 The Budget Holder must keep the following records:
 - 11.14.1 Request for Quotation Template
 - 11.14.2 Quotations received
 - 11.14.3 Authorisation of Award Form
 - 11.14.4 Records of communications with the successful contractor during the procurement process
- 12. Procurements Valued between £50,000 p.a. and the Current Goods and Services - UK Procurement Threshold**
 - 12.1 Where the contract is valued between £50,000 p.a. and the current goods and services UK Procurement Threshold. Responsible Officers must procure in line with Rule 12.7. All interested suppliers are eligible to submit a Tender; no pre-qualification of suppliers is permitted.
 - 12.2 Contracts of this value must be managed using the Electronic Tendering System hosted by Welland Procurement.
 - 12.3 For Contracts valued above £50,000 p.a. Officer must consider what wider economic, social and environmental benefits (Social Value) are available to the local community through the Contract being procured.

Prior to obtaining Tenders

- 12.4 Officers must obtain the approval of the relevant Chief Officer and Cabinet prior to embarking on the procurement.

- 12.5 A contract risk register must be drawn up by the Responsible Officer for the tendering, award, and management of the contract.
- 12.6 Officers should complete a Pre-procurement Business Case to provide additional clarification to inform the procurement proposal and support the authorisation/approval process, where the nature of the procurement is considered strategic, complex and/or high risk.

How to Invite Tenders

12.7 Responsible Officers must either:

12.7.1 Procure the contract requirements through one of the Council's corporate contracts.

- (a) Officers should refer to section 15 of these Rules (Corporate Contracts).
- (b) If an approved supplier under an existing corporate contract can meet the contract requirements, they should be instructed them directly.
- (c) Where a supplier under a Corporate Contract procures goods, services, or works on the Council's behalf they must follow the tendering procedures detailed in this section.
- (d) Where Responsible Officers do not wish to procure through a corporate contract a written record of the decision must be kept.

12.7.2 Place an order with a supplier under a framework agreement.

- (a) Where a suitable framework agreement exists, the Officer may use that framework if the Council is mentioned as a potential purchaser. Officers must follow the call-off procedure set out in the framework agreement (either direct award without competition or a further competition). Welland Procurement can advise Officers on appropriate framework agreements and the correct call-off procedure to use. Officers should refer to paragraph 16 of these Rules (Framework Agreement).

12.7.3 Where you need to source your requirements on the open market, a single stage/open tender process must be completed.

- (a) Officers must consider how to achieve the Most Economically Advantageous Tender using the Invitation to Tender template and ensure that there is sufficient detail to enable the submission of competitive offers.
- (b) Potential bidders must be given sufficient time to prepare and submit their tender, consistent with the urgency and/or complexity of the contract requirements.

- (c) Where, for whatever reason, additional tender information is not supplied to potential bidders at least 6 days before the fixed time/date for receipt of tenders, the Responsible Officer shall extend the time limit for receipt of tenders so that all potential bidders may be aware of all the information needed to produce their Tender. The length of any extension shall be proportionate to the importance of the additional information provided.
- 12.8 The Council's Open Tender documents must be used. The Responsible Officer must ensure that all relevant procurement documents are finalised before the procurement is advertised.
- 12.9 The evaluation criteria and methodology set out in the procurement documentation must:
 - 12.9.1 Be relevant to the subject matter of the goods, services or works to be provided under the contract and proportionate in all circumstances, and
 - 12.9.2 Secure an outcome which will provide best value for money for the Council, based on whole life costs.
- 12.10 The tendering procedure will be managed using the Electronic Tendering system hosted by Welland Procurement unless otherwise dictated by the framework.

Advertising

- 12.11 The procurement opportunity must be advertised on Contracts Finder by Welland Procurement.
- 12.12 The procurement may also be advertised on other portals (East Midlands Tenders Portal). Welland Procurement is responsible for managing advertising. In all instances Officers must use the Advertising Template and submit it to Welland Procurement.
- 12.13 If the procurement is likely to be of interest locally, an advert maybe placed on the Council website.
- 12.14 The advertisement shall contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract. The full set of procurement documentation must be made electronically available at the time the tender is advertised:
 - 12.14.1 Specification and Service Levels
 - 12.14.2 Contract terms and conditions
 - 12.14.3 Weighting evaluation criteria and methodology
 - 12.14.4 Standard Suitability Questions (the suitability questions must not be modified, without advice from Welland Procurement
 - 12.14.5 Form of Tender and Collusive Tendering Certificate.
 - 12.15.6 TUPE information where relevant.
- 12.15 If tendering to create a Framework Agreement the advert published must also indicate:

- 12.15.1 That it is a framework agreement which is being tendered
- 12.15.2 The duration of the framework agreement
- 12.15.3 Whether the framework is divided into lots
- 12.15.4 The expected maximum number of contractors to be awarded onto the framework and/or onto each lot
- 12.15.5 The estimated total value of the contracts to be covered by the framework period, including any extension
- 12.15.6 The award criteria for choosing framework contractors and the subsequent criteria for placing call-off orders.

Receiving the Tenders

- 12.16 Tenders shall be received via the electronic tendering system, ProContract, where a representative of Welland Procurement will be responsible for unsealing the tenders and releasing to the Responsible Officer. The Responsible Officer must maintain an independent corporate Tender log.
- 12.17 Tenders received after the fixed closing date and time or Tenders which are not submitted in accordance with these Rules will be disqualified, unless agreed otherwise by the Monitoring Officer.
- 12.18 Tenders must be evaluated in accordance with the advertised weighted evaluation criteria. Clarification questions may be asked as long as the response would not have the effect of materially changing the tender received.
- 12.19 When an abnormally low bid is submitted, the Responsible Officer shall require the bidder to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social or labour law, the Responsible Officer must reject the Tender following consultation with the relevant Chief Officer.

Awarding a Contract

- 12.20 The bidder with the highest evaluation score will be awarded the contract. If this is not the case, the advice of the Welland Procurement must be sought prior to award.
- 12.21 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.
- 12.22 The Responsible Officer shall carry out this due diligence at Contract Award and for the duration of the Contract.
- 12.23 The contract award must be authorised by:
 - a) the relevant Chief Officer in consultation with the appropriate Portfolio Holder, where Cabinet has granted delegated authority for 'authorisation of

award at the time that Cabinet approval to embark on the procurement was granted; or

b) Cabinet where no such delegated authority has been granted.

12.24 Where Rule 12.23 applies, the contract award must be authorised using the Contract Award Authorisation Form.

12.25 All bidders must be notified of the Award decision simultaneously in writing via ProContract by the Responsible Officer whether or not their bid was successful.

12.26 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of tender responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible Officer provide a verbal debriefing to any bidder as part of the procurement process.

12.27 The Council's Corporate Contract Terms & Conditions for Goods and Services must be used to support contracts of this value. An Officer must seek the authorisation of the relevant –Chief Officer in consultation with the Monitoring Officer, in order to alter the terms of the Council's Corporate Contract Terms & Conditions and/or use an alternative industry-specific Terms & Conditions.

12.28 The Contract Terms & Conditions must be signed by the relevant Chief Officer. Any contract resulting from such a tender process shall be executed as a standard contract, unless valued at £100,000 p.a. or above where it must be sealed as a Deed unless authority is given by the Monitoring Officer to execute as a contract.

Post Award

12.29 The Officer must keep the following records:

12.29.1 Any pre-tender market research and consultation

12.29.2 Pre-procurement Cabinet approval (including Pre-procurement Business Case, where completed

12.29.3 The method of obtaining tenders

12.29.4 Tender documents produced by the Council

12.29.5 Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract

12.29.6 A written record of the evaluation, including any tender clarification, bidder interview/presentation stage or post tender negotiation

12.29.7 Any contracting decision and the reasons for it

12.29.8 A record of the Award approval

12.29.9 A signed copy of the Contract document, which should be retained for the life of the contract and in normal circumstances for 6 years thereafter

12.29.10 Performance Bonds/Parent Company Guarantee, where required

- 12.29.11 Records of communications to and from bidders during the procurement process
- 12.29.12 On-going contract management and supplier performance monitoring mechanisms
- 12.30 The Responsible Officer is responsible for the subsequent storage and safe keeping of the signed contract.
- 12.31 An award notice is required on Contracts Finder, Welland Procurement is responsible for such award notices.
- 12.32 The Responsible Officer must add the Contract to the relevant directorate's Contract Register to ensure compliance with Transparency Regulations.
- 13. **Procurements for Works Contracts Valued between the Goods and Services - UK Procurement Threshold and the Works - UK Procurement Threshold; AND Procurements for Light Touch Contracts Valued between the Goods and Services – UK Procurement Threshold and the Light Touch – UK Procurement Threshold**
 - 13.1 For Works contracts valued between the Goods and Services - UK Procurement Threshold and the Works - UK Procurement Threshold, the Officer can choose either a **single stage/open tender process** or a **two stage/restricted tender process**.
 - 13.2 For Light Touch contracts valued between the Goods and Services – UK Procurement Threshold and the Light Touch - UK Procurement Threshold, the Officer can choose either a **single stage/open tender process** or a **two stage/restricted tender process**.
 - 13.3 Officers must seek formal advice from Welland Procurement prior embarking on the procurement and throughout the process.
 - 13.4 Officer must consider what wider economic, social and environmental benefits are available to the local community through the Contract being procured.

Prior to obtaining your Tenders

- 13.5 Officers must obtain Cabinet approval (using the Procurement Cabinet Report) prior to embarking on the procurement. If you have not already obtained budgetary approval where the total value of the Contract is at or above £1,000,000 (one million), this will need to be obtained from Council prior to seeking Cabinet approval to embark upon the procurement.
- 13.6 Officers must complete a contract risk register for the tendering, award and management of the contract, using the Council's Contract Risk Assessment Tool.

- 13.7 A Pre-procurement Business Case is required to support the procurement proposal and brief the relevant Chief Officer and appropriate Portfolio Holder prior to Cabinet. The business case must be presented within sufficient time to enable comments to be taken into consideration and must set out relevant justification for undertaking the procurement.
- 13.8 For contracts valued £250,000 and above, the Council may require the contractor to provide a Performance Bond or a Parent Company Guarantee, or a suitable financial deposit for the due performance of the contract according to the nature of the contract. Performance Bonds are usually required where there is a parent company, the contract value is high and/or there is financial risk to the Council in the opinion of the Responsible Officer and/ or the relevant Chief Officer.

How to Invite Tenders

- 13.9 Officers may choose either a **single stage/Open tender process** or a **two stage/Restricted tender process**, using an electronic tendering system.
- 13.9.1 Officers should consider how they will get the Most Economically Advantageous Tender using the Invitation to Tender template and ensure that there is sufficient detail to enable the submission of competitive offers.
- 13.9.2 Potential bidders must be given sufficient time to prepare and submit their tender, consistent with the urgency and/or complexity of the contract requirements.
- 13.9.3 Where, for whatever reason, additional tender information is not supplied to potential bidders at least 6 days before the fixed time/date for receipt of tenders, the Responsible Officer shall extend the time limit for receipt of tenders so that all potential bidders may be aware of all the information needed to produce their Tender. The length of any extension shall be proportionate to the importance of the additional information provided.
- 13.10 Either the Open Tender template or Restricted Tender template must be used. The Officer must ensure that all relevant procurement documents are finalised before the procurement is advertised.
- 13.11 The evaluation criteria and methodology set out in the procurement documentation must:
- 13.11.1 Be relevant to the subject matter of the goods, services or works to be provided under the contract and proportionate in all circumstances, and
- 13.11.2 Secure an outcome which will provide best value for money for the Council, based on whole life costs.
- 13.13 The tendering procedure will be managed using an electronic tendering system, the Officer must therefore contact Welland Procurement to access that system.

Advertising

- 13.14 The procurement opportunity must be advertised on Contracts Finder, Welland Procurement is responsible for managing this advertising.
- 13.15 The procurement may also be advertised on other portal (East Midlands Tenders Portal, Welland Procurement is responsible for managing this advertising on your behalf. In all instances Officers must use the Advertising Template and submit it to Welland Procurement Unit.
- 13.16 The advertisement shall contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract. The full set of procurement documentation must be made available electronically at the time that the tender is advertised:
- 13.16.1 Specification and Service Levels
 - 13.16.2 Terms and Conditions of contract
 - 13.16.3 Weighting evaluation criteria and methodology
 - 13.16.4 Standard Suitability Questions (the suitability questions must not be modified without advice from Welland Procurement
 - 13.16.5 Form of Tender and Collusive Tendering Certificate.
 - 13.16.6 TUPE information where relevant.
- 13.17 If tendering to create a Framework Agreement the advert published must indicate:
- 13.17.1 That it is a framework agreement which is being tendered
 - 13.17.2 The duration of the framework agreement
 - 13.17.3 Whether the framework is divided into lots
 - 13.17.4 The expected maximum number of contractors to be awarded onto the framework and/or onto each lot
 - 13.17.5 The estimated total value of the contracts to be covered by the framework period, including any extension
 - 13.17.6 The award criteria for choosing framework contractors and the subsequent criteria for placing call-off orders.

Receiving the Tenders

- 13.18 Tenders shall be received via the electronic tendering system, ProContract, where a representative of Welland Procurement will be responsible for unsealing the tenders and releasing to the Responsible Officer. The Responsible Officer must maintain an independent corporate tender log.
- 13.19 Tenders received after the fixed closing date and time or Tenders which are not submitted in accordance with these Rules will be disqualified, unless otherwise agreed by the Monitoring Officer.
- 13.20 Tenders must be evaluated in accordance with the advertised weighted evaluation criteria. Clarification questions may be asked as long as the response would not have the effect of materially changing the tender received.

- 13.21 When an abnormally low bid is submitted, the Responsible Officer shall require the bidder to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social or labour law, the Responsible Officer must reject the Tender following consultation with the relevant Chief Officer.

Awarding a Contract

- 13.22 The bidder with the highest evaluation score will be awarded the contract. If this is not the case, the advice of the Welland Procurement must be sought prior to award.
- 13.23 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.
- 13.24 The Responsible Officer shall carry out this due diligence at Contract Award and for the duration of the Contract.
- 13.25 The contract award must be authorised by:
- a) the relevant Chief Officer in consultation with the appropriate Portfolio Holder, where Cabinet has granted delegated authority for 'authorisation of award at the time that Cabinet approval to embark on the procurement was granted; or
 - b) Cabinet where no such delegated authority has been granted; or
 - c) Council where the total value of the Contract is at or above £1,000,000 (one million).
- 13.26 Where Rule 13.24 (a) applies, the contract award must be authorised using the Contract Award Authorisation Form.
- 13.27 All bidders must be notified of the Award decision simultaneously in writing via ProContract by the Responsible Officer whether or not their bid was successful.
- 13.28 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of tender responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible Officer provide a verbal debriefing to any bidder as part of the procurement process.
- 13.29 The Council's Corporate Contract Terms & Conditions for Goods and Services must be used to support contracts of this value. An Officer must seek the authorisation of the relevant Chief Officer in consultation with the Monitoring Officer, to alter the terms of the Council's Corporate Contract Terms & Conditions and/or use an alternative industry-specific Terms & Conditions.

- 13.30 The contract terms and conditions must be signed by the Council's Chief Executive. Any contract resulting from such a tender process must be executed as a Deed under seal.

Post Award

- 13.31 The Officer must keep the following records:
- 13.-31.1 Any pre-tender market research and consultation
 - 13.-31.2 Pre-procurement Cabinet approval (including Pre-procurement Business Case)
 - 13.-31.3 The method of obtaining tenders
 - 13.-31.4 Tender documents produced by the Council
 - 13.-31.5 Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract
 - 13.-31.6 A written record of the evaluation, including any tender clarification, bidder interview/presentation stage or post tender negotiation
 - 13.-31.7 Any contracting decision and the reasons for it
 - 13.-31.8 A record of the Award approval
 - 13.-31.9 A signed copy of the Contract document, which should be retained for the life of the contract and in normal circumstances for 12 years thereafter
 - 13.-31.10 Performance Bonds/Parent Company Guarantee (Contracts valued above £250,000), where required
 - 13.-31.11 Records of communications to and from bidders during the procurement process
 - 13.-31.12 On-going contract management and supplier performance monitoring mechanisms
13. 32 The Responsible Officer is responsible for the subsequent storage and safe keeping of the signed contract.
- 13.33 An award notice is required on Contracts Finder, Welland Procurement is responsible for such award notices.
- 13.34 The Responsible Officer must add the Contract to the relevant directorate's Contract Register to ensure compliance with Transparency Regulations.

14. Procurements Valued Above the Relevant UK Procurement Threshold

- 14.1 Where the anticipated value of the contract exceeds the relevant **UK** Procurement threshold, the formal advice of Welland Procurement must be sought as early as possible and in any case before any procurement activity takes place.

Prior to obtaining your Tenders

- 14.2 Officers must obtain Cabinet approval (using the Procurement Cabinet Report) prior to embarking on the procurement. If budgetary approval has not already

been obtained where the total value of the Contract is at or above £1,000,000 (one million), this will need to be obtained from Council prior to seeking Cabinet approval to embark upon the procurement.

- 14.3 Officers must complete a contract risk register for the tendering, award and management of the contract, using the Council's Contract Risk Assessment Tool.
- 14.4 A Pre-procurement Business Case is required to support the procurement proposal and brief the relevant Chief Officer and appropriate Portfolio Holder prior to Cabinet. The business case must be presented within sufficient time to enable comments to be taken into consideration and must set out relevant justification for undertaking the procurement.
- 14.5 For contracts valued £250,000 and above, the Council may require the contractor to provide a Performance Bond or a Parent Company Guarantee, or a suitable financial deposit for the due performance of the contract according to the nature of the contract. Performance Bonds are usually required where there is a parent company, the contract value is high and/or there is financial risk to the Council in the opinion of the Responsible Officer and/ or the relevant Chief Officer.

How to Invite Tenders

- 14.6 Officers may choose either a **single stage/Open tender process** or a **two stage/Restricted tender process** or a method defined by the Public Contract Regulations 2015, using an electronic tendering system.
 - 14.6.1 Officers should consider how they will get the Most Economically Advantageous Tender using the Invitation to Tender template and ensure that there is sufficient detail to enable the submission of competitive offers.
 - 14.6.2 Potential bidders must be given sufficient time to prepare and submit their tender, consistent with the urgency and/or complexity of the contract requirements.
 - 14.6.3 Where, for whatever reason, additional tender information is not supplied to potential bidders at least 6 days before the fixed time/date for receipt of tenders, the Responsible Officer shall extend the time limit for receipt of tenders so that all potential bidders may be aware of all the information needed to produce their Tender. The length of any extension shall be proportionate to the importance of the additional information provided.
- 14.7 Welland Procurement will provide appropriate Tender template documentation, based on the relevant procurement procedure being used. The Officer must ensure that the Government's mandatory 'Standard Selection Questionnaire' is used. The Questionnaire should be used in the single stage/Open tender process to test that suppliers can meet the minimum levels of suitability; or in a two stage/Restricted tender process to pre-qualify suppliers based on their

financial standing and technical or professional capability, prior to be invited to tender.

- 14.8 The evaluation criteria and methodology set out in the procurement documentation must:
 - 14.8.1 Be relevant to the subject matter of the goods, services or works to be provided under the contract and proportionate in all circumstances, and
 - 14.8.2 Secure an outcome which will provide best value for money for the Council, based on whole life costs.
- 14.9 The Officer must ensure that all relevant procurement documents are finalised before the procurement is advertised.
- 14.10 Contracts of this value must be managed using the Electronic Tendering System hosted by Welland Procurement.

Advertising

- 14.11 The procurement opportunity must be advertised through UK's Find a Tender Service (FTS) and Contracts Finder, Welland Procurement is responsible for managing this advertising.
- 14.12 The procurement may also be advertised on other portal (East Midlands Tenders Portal), Welland Procurement is also responsible for managing this advertising. In all instances Officers must use the Advertising Template and submit it to Welland Procurement.
- 14.13 Welland Procurement shall ensure that required national advertising through Contracts Finder and East Midlands Tenders Portal does not take place before the Find a Tender Service (FTS) Opportunity Notice is published. The FTS Notice shall be published on Contracts Finder within 24 hours of it first appearing in FTS.
- 14.14 The advertisement shall contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract. The full set of procurement documentation must be made available electronically at the time that the tender is advertised:
 - 14.14.1 Specification and Service Levels
 - 14.14.2 Terms and Conditions of contract
 - 14.14.3 Weighting evaluation criteria and methodology
 - 14.14.4 The Government's Standard Selection Questionnaire (this mandatory Questionnaire must not be modified, although additional 'contract specific questions' may be asked.
 - 14.14.5 Form of Tender and Collusive Tendering Certificate
 - 14.14.6 TUPE information where relevant
- 14.15 If tendering to create a Framework Agreement the advert published must indicate:
 - 14.15.1 That it is a framework agreement which is being tendered
 - 14.15.2 The duration of the framework agreement

- 14.15.3 Whether the framework is divided into lots
- 14.15.4 The expected maximum number of contractors to be awarded onto the framework and/or onto each lot
- 14.15.5 The estimated total value of the contracts to be covered by the framework period, including any extension
- 14.15.6 The award criteria for choosing framework contractors and the subsequent criteria for placing call-off orders.

Receiving the Tenders

- 14.16 Tenders shall be received via the electronic tendering system, ProContract, where a representative of Welland Procurement will be responsible for unsealing the tenders and releasing and releasing to the Responsible Officer. The Responsible Officer must maintain an independent corporate Tender log.
- 14.17 Tenders received after the fixed closing date and time or Tenders which are not submitted in accordance with these Rules will be disqualified, unless otherwise agreed by the Monitoring Officer.
- 14.18 Tenders must be evaluated in accordance with the advertised weighted evaluation criteria. Clarification questions may be asked as long as the response would not have the effect of materially changing the tender received.
- 14.19 When an abnormally low bid is submitted, the Responsible Officer shall require the bidder to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social, or labour law, the Responsible Officer must reject the Tender following consultation with the relevant Chief Officer.

Awarding a Contract

- 14.20 The bidder with the highest evaluation score will be awarded the contract. If this is not the case, the advice of the Welland Procurement must be sought prior to award.
- 14.21 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.
- 14.22 The Responsible Officer shall carry out this due diligence at Contract Award and for the duration of the Contract.
- 14.23 The contract award must be authorised:
 - a by the relevant Chief Officer in consultation with the appropriate Portfolio Holder, where Cabinet has granted delegated authority for 'authorisation of award' at the time that Cabinet approval to embark on the procurement was granted; or
 - b by Cabinet where no such delegated authority has been granted; or

c by Council where the total value of the Contract is at or above £1,000,000 (one million).

- 14.24 Where Rule 14.22 (a) applies, the contract award must be authorised using the Contract Award Authorisation Form.
- 14.25 All bidders must be notified of the Award decision simultaneously in writing via ProContract by the Responsible Officer whether or not their bid was successful. The content of the 'Intention to Award' letter (standstill notice) shall take a specific format to be compliant with the Public Contract Regulations 2015 and reduce the risk of legal challenge, so Welland Procurement must be involved in drafting and/or reviewing these letters before they are issued to all bidders.
- 14.26 A minimum of 10 calendar day mandatory standstill period must be allowed after announcing the intention to award, to provide unsuccessful Bidders the opportunity within that period to challenge the award decision before the contract is formally awarded.
- 14.27 The standstill period is expected to end at midnight on the end of the 10th/15th calendar day, after the day on which the notice was transmitted, provided that this day falls on a working day. If this day falls on a weekend, then the standstill period will end midnight on the next available working day. After which a 'Confirmation of Award' letter may be issued to all bidders.
- 14.28 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the contract award, the Responsible Officer must provide the appropriate information within 15 calendar days from receipt of the written request. The confidentiality of tender responses and the identity of other bidders must be preserved at all times, and information about one bidder's response must not be disclosed to another bidder. Under no circumstances must the Responsible Officer provide a verbal debriefing to any bidder as part of the procurement process.
- 14.29 The Council's Corporate Contract Terms & Conditions for Goods and Services must be used to support contracts of this value. An Officer must seek the authorisation of the relevant Chief Officer in consultation with the Monitoring Officer, to alter the terms of the Council's Corporate Contract Terms & Conditions and/or use an alternative industry-specific Terms & Conditions.
14. 30 Any contract resulting from such a tender process must be executed as a Deed.

Regulation 84(1) tender report

14. 31 Where the total Contract value is at or above the relevant UK Procurement threshold, Welland Procurement will produce a Regulation 84(1) tender report to meet the Council's legal obligations under the Public Contract Regulations 2015. This provides details of the tender and the evaluation process, including justification for decisions taken during the procurement process and the final award recommendation.

Post Award

- 14.32 The Officer must keep the following records:
- 14.32.1 Any pre-tender market research and consultation
 - 14.32.2 Pre-procurement Cabinet approval (including Pre-procurement Business Case)
 - 14.32.3 The method of obtaining tenders
 - 14.32.4 Tender documents produced by the Council
 - 14.32.5 Tenders received from bidders. The successful tender should be retained for at least the life of the contract. Unsuccessful tenders should be retained for the first 12 months of the contract
 - 14.32.6 A written record of the evaluation, including any tender clarification, bidder interview/presentation stage or post tender negotiation
 - 14.32.7 Any contracting decision and the reasons for it
 - 14.32.8 A record of the Award approval
 - 14.32.9 A signed copy of the Contract document, which should be retained for the life of the contract and in normal circumstances for 12 years thereafter
 - 14.32.10 Performance Bonds/Parent Company Guarantee (Contracts valued above £250,000), where required
 - 14.32.11 Records of communications to and from bidders during the procurement process
 - 14.32.12 On-going contract management and supplier performance monitoring mechanisms
 - 14.32.13 Regulation 84(1) tender report.
- 14.33 The Officer is responsible for the subsequent storage and safe keeping of the signed contract.
- 14.34 An FTS Contract Award Notice shall be published by Welland Procurement, in addition to the Contracts Finder Award Notice. The FTS Contract Award Notice must be published within a reasonable time (no later than 90 calendar days after the award date).
- 14.34 Where the award notice is published via the Find a Tender Service, Welland Procurement shall not publish the award notice on Contracts Finder it first appears on FTS.
- 14.35 The publication of information in the award notice must adhere to the requirements of the Public Contract Regulation 2015, such information shall include the:
- 14.35.1 Name of the Contractor,
 - 14.35.2 Date on which the contract was entered into, and
 - 14.35.3 Value of the contract
- 14.36 The Responsible Officer must add the Contract to the relevant directorate's Contract Register to ensure compliance with Transparency Regulations.

15. Procuring via one of the Council's Corporate Contracts

- 15.1 The Council has entered into a number of partnership arrangements for either:
 - 15.1.1 Direct delivery of internal services (e.g. payroll)
 - 15.1.2 Direct delivery of its services to the public (e.g. the refuse collection service)
 - 15.1.3 Centralised procurement of other bought in services (e.g. agency staff etc).
- 15.2 Where the requirement can be satisfied from an existing Corporate Contract then the call-off Order will be considered consistent with these Rules, so long as the call-off procedures defined within the individual contract are followed.
- 15.3 Failure to use an existing corporate contract may result in the Council being in breach of the contract, which may incur financial penalties for the Council.
- 16. Procuring via a Framework Agreement or Dynamic Purchasing System (DPS)**
 - 16.1 A contract of any value can be procured via a framework agreement or DPS. Compliance with these Rules and relevant national and law is achieved through compliance with the framework agreement/DPS terms and conditions. This will involve:
 - 16.1.1 reviewing relevant Framework/DPS guidance document(s)
 - 16.1.2 reviewing the correct process for call off (which may be through further competition or direct award)
 - 16.1.3 following the stated call off process, as laid out in the Framework/DPS documentation
 - 16.2 For the avoidance of doubt, a framework agreement or DPS is considered a compliant procurement route where:
 - 16.2.1 It has been entered into by the Council in compliance with these Rules;
or
 - 16.2.2 Another contracting authority, purchasing consortium or Central Government has tendered the framework agreement or DPS in compliance with national and procurement law and the Council is named as a potential user of the arrangement.
 - 16.3 The Responsible Officer shall undertake due diligence checks on the successful bidder(s) and any organisation relied upon to meet the winning supplier's selection criteria, to evidence their fulfilment of the selection criteria, and that there are no grounds for exclusion.
 - 16.4 The Responsible Officer shall carry out this due diligence at Contract Award and for the duration of the Contract
 - 16.5 Where the value of the Call-off Contract is below the relevant UK Procurement Threshold, the contract award must be authorised by the relevant Chief Officer in consultation with the relevant Head of Service., using the Framework Access and Call-off Award Form.

- 16.64 Where the value of the call-off Contract is above the relevant UK Procurement Threshold, the contract award must be authorised by Cabinet.
- 16.75 The call-off contract may be signed by the relevant Chief Officer in accordance with financial limits provided that Rule 16.3 has been met.
- 16.86 Officers must not make any substantive changes to the call-off terms and conditions of the Framework Agreement or DPS.
- 16.97 Where the call-off contract is valued over £20,800 an award notice is required to be published on Contracts Finder, Welland Procurement is responsible for publishing such award notices.
- 16.10 Where the Council is using an external framework, and the total value of the contract is £5,000 or above, the Responsible Officer must add the Contract to the relevant Directorate's Contract Register to ensure compliance with Transparency Regulations.
- 16.11 Where the Council has set up a framework, only the framework needs to be recorded on the register. It is not necessary to record the individual call-offs from the framework.
- 16.12 The Officer is responsible for the subsequent storage and safe keeping of the signed contract.

17. Contract Management

17.1 Contract Manager

- 17.1.1 All contracts must have a named Contract Manager for the entirety of the contract.
- 17.1.2 During the life of the contract, the Contract Manager must monitor the overall performance of the contract in line with the specification, agreed service levels and contract terms.

17.2 Variation

- 17.2.1 In any case where a variation to an existing contract means that the value of a contract would exceed the relevant UK Procurement Threshold, or where there is any material change to the contract, the contract must be treated as a new procurement under these Rules.
- 17.2.2 A material change is one which:
- (a) Would have allowed the admission of other Bidders or the acceptance of another tender; or
 - (b) Extends the scope of the contract considerably to include goods, services or works not initially covered by the original Specification; or

- (c) Changes the economic balance in favour of the contractor in a manner not provided for in the procurement documents;
- (d) For clarity, a change will be deemed immaterial if the value of the modification is both below the relevant UK procurement Threshold and below 10% of the original contract value for goods and services (or 15% for works contracts).

17.2.3 A Corporate Contract or Framework Agreement must not be varied beyond its original contractual terms and specification, unless the contract documents specifically include a contract variation provision, which clearly states the scope and nature of a possible variation.

17.2.4 This Rule will not apply to the variation of an Individual Placement Agreement (IPA), which shall be processed as an Exemption under Rule 4, unless the total contract value of the IPA exceeds the UK threshold for the Light Touch Regime, in which case these Rules on Contract Variation shall apply.

17.2.5 Contract variations must be approved by the relevant Chief Officer in the first instance, in consultation with the Monitoring Officer and appropriate Portfolio Holder.

17.2.6 Cabinet must agree to the variation where the increase in the total value of the contract brought about by the variation exceeds £100,000 p.a.

17.2.7 Prior to any variation being agreed the Responsible Officer must ensure that sufficient additional budget provision has been approved by the budget holder.

17.3 Extension of Contracts where the extension is allowed for within the contract

17.3.1 This Rule will not apply to the extension of an Individual Placement Agreement (IPA), which will be processed as an Exemption under Rule 4, *unless* the total contract value of the IPA is in excess of the UK threshold for the Light Touch Regime, in which case these Rules on Contract Extension shall apply.

17.3.2 Where a contract extension is specifically allowed for within the Contract: approval of that extension can be made by the relevant Responsible Officer in line with the financial limits, prior to the extension being invoked and the decision recorded in writing.

17.3.23 A Framework Agreement shall only be extended if the contract documents allow this and the original framework term together with an extension does not exceed four (4) years except in exceptional circumstances.

17.4 Extension of Contracts where the no extension is allowed for within the contract

17.4.1 Where a business need has been identified which means that a contract is required to be extended beyond the term permissible in the original contract documents, the Responsible Officer requesting the extension must be satisfied that an extension would achieve value for money and be reasonable in all circumstances.

17.4.2 Where Rule 17.4.1 applies, advice must be sought from the Monitoring Officer and, where the Contract is subject to the Public Contract Regulations 2015, from Welland Procurement.

17.4.3. If an Officer wishes to extend a Contract where the value of the extension is below £50,000 p.a. and provided that Rules 17.4.1 and 17.4.2 have been complied with, then the permission of the budget holder is required.

17.4.4 If an Officer wishes to extend a Contract where the value of the extension is above £50,000 p.a. and provided that Rules 17.4.1 and 17.4.2 have been complied with, permission must be authorised by the relevant Chief Officer, in consultation with the Monitoring Officer and appropriate Portfolio Holder.

17.4.5 Contracts with a total contract value above £500,000, can only be extended with the authorisation of Cabinet.

17.4.6 Contracts with a total contract value at or above £1,000,000, can only be extended with the authorisation of Council.

17.5 Termination

17.5.1 A contract valued below £100,000 p.a. must not be terminated unless:

- (a) Advice has been obtained from the Monitoring Officer; and
- (b) Written approval has been obtained by the relevant Chief Officer in consultation with the relevant Portfolio Holder, using the Exemption & Contract Management Form (Section B – Termination).

17.5.2 A contract valued at or above £100,000 p.a. can only be terminated where written approval has been obtained from the Monitoring Officer and authorisation from the Cabinet has been obtained.

17.6 Assigning Contracts

17.6.1 A contract valued below £100,000 p.a. must not be assigned unless:

- (a) Advice has been obtained from the Monitoring Officer; and
- (b) Written approval has been obtained by the relevant Chief Officer in consultation with the relevant Portfolio Holder, using the Exemption & Contract Management Form (Section B – Assignment).

17.6.2 A contract valued at, or above, £100,000 p.a. can only be assigned where written approval has been obtained from the Monitoring Officer and Section 151 Officer and authorisation from the relevant Chief Officer.

17.6.3 A Contract should not be assigned unless the contract document specifically includes a provision allowing for Assignment of the Contract.

17.7 Novation of Existing Contract

17.7.1 The novation of a contract valued below £100,000 p.a. to a new contractor or other Contracting Authority, must not take place unless:

- (a) Advice has been obtained from the Monitoring Officer; and
- (b) Written approval has been obtained by the relevant Chief Officer-in consultation with the relevant Portfolio Holder-, using the Exemption & Contract Management Form (Section B – Novation).

17.7.2 A contract valued at or above £100,000 p.a. can only be novated where written approval has been obtained from the Monitoring Officer and Section 151 Officer and authorisation from the relevant Chief Officer.

17.7.3 A Contract should not be novated unless the contract document specifically includes a provision allowing for Novation of the Contract.

17.8 Nominated Sub-Contractor and Suppliers

17.8.1 Where a sub-contractor or supplier is nominated by the Council to a main contractor, the provisions of these Rules shall have effect.

18 Other Matters to Consider

18.1 Abnormally Low Bids

18.1.1 Under the Public Contract Regulations 2015, the Council is required to request an explanation of the price or costs proposed in a tender where that price or those costs appear to be abnormally low in relation to the requirement.

18.1.2 Advice should be sought from Welland Procurement during this process to ensure that the requirements of the Public Contract Regulations 2015 are adequately complied with.

18.2 GDPR Requirements

18.2.1 The General Data Protection Regulations impose greater obligations on the Council to protect an individual's personal data.

18.2.2 Officers conducting a procurement should ensure that the GDPR screening questions set out in the Pre-procurement Business Case template are used; or where this template is not required Officers should

seek advice from the Data Protection Officer if this is considered necessary.

18.2.3 Should any of the GDPR screening questions be answered positively, further advice must be sought from Welland Procurement and/or the Council's Data Protection Officer before any further action is taken.

18.3 Sealing a Contract

18.3.1 A contract must be executed as a Deed under seal where:

- (a) The Council wishes to enforce the contract for up to twelve years following its expiry; or
 - (b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods, services or works; or
 - (c) There is any doubt about the authority of the person signing for the other contracting party; or
 - (d) A Bond is established on behalf of the Supplier(s) or their guarantor(s); or
 - (e) Required by the Parties to the agreement; or
 - (f) Any contract with a value £100,000 p.a. and above.
- and the Monitoring Officer has not authorised execution as a contract.

18.3.2 Where contracts are completed by each side adding their common seal, the affixing must be attested by or on behalf of the relevant Chief Officer.

18.3.3 As provided for in Procedure Rule 48 the Common Seal of the Council may be affixed by physical means or by electronic means authorised by the Strategic Director for Law and Governance. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

19 **Grants**

19.1 These Rules apply specifically to Grants made by the Council to external organisations as a contribution to their running costs and/or for the delivery of a project.

19.2 The awarding of grants to external organisations by the Council or on behalf of the Council must be carried out under the principles of openness, fairness, non-discrimination and value for money.

19.2 Grants must only be awarded as a contribution to service or project costs. Any grant in the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered must be treated as a contract and procured accordingly. Officers cannot choose to treat procurement as a grant in order to avoid conducting a competitive process.

19.3 Award and sign-off of Grants

19.3.1 Where the grant is valued below £49,999 p.a., the grant may be awarded by Responsible Officer.

- 19.3.3 Where the grant is valued over between £50,000 p.a., the grant should be awarded by the relevant Chief Officer in consultation with the Portfolio Holder.
- 19.4 In all instances where a Grant is made, the Responsible Officer must keep a written record detailing:
- Why a Grant is being used, and why the award does not constitute a contract;
 - How the organisation(s) awarded the grant were chosen;
 - The justification for the level of Grant, including any negotiation undertaken with the organisation being awarded;
 - The process of monitoring the grant to ensure that it is spent within the Grant Conditions.
- 19.5 A Grant must be made in writing.
- 19.5.1 For Grants valued under £10,000 p.a., this can be in the form of a letter, clearly stating the value of the grant, the purpose of the grant, the period, any Terms and Conditions to be met, and reporting requirements.
- 19.5.2 The Council's standard Grant Agreement must be used for any Grants made over the value of £10,000 p.a, unless deemed inappropriate by the Responsible Officer. For those over the value of £50,000 p.a., the relevant Chief Officer must authorise use of any alternative Grant Agreement used. In all cases any alternate Agreement used must clearly set out all of the areas covered by the Council's standard Grant Agreement.
- 19.6 The Grant Agreement should be signed by the relevant budget holder according to financial limits.
- 19.7 Where the Council receives a Grant and is subsequently awarding that Grant to external organisations, the Responsible Officer must ensure that any organisation receiving any part of that Grant is required to undertake all requirements of the Grant, in order that the Council is able to meet their obligations under the original Terms and Conditions.
- 19.8 All grants must be monitored to ensure they are being used for the purpose which they were awarded for.

Appendix 1: Quick Reference Guide to Contract Procedure Rules

There are several key principles running through the Contract Procedure Rules. The first is that Value for Money must be evidenced in every procurement process. The second is that there must be a budget in place before money is spent (of however much); if no budget exists then one must be sought before any procurement activity begins.

Section of Contract Procedure Rules	Thresholds	Authorisation of Award Criteria	Authorisation of Award	Limits
9	<£5,000 p.a.	Budget Holder	Budget Holder	Maximum value of contract over the period £25,000 and/or contract should be no longer than 5 years in total.
10	£5,000 p.a. to £24,999 p.a.	Budget Holder (paragraph) 10.1	Budget Holder (paragraph) 10.6	Up to a total of £50,000 over the life of the contract and no more than 5 years in total.
11	£25,000 p.a. to £49,999 p.a.	Budget Holder (paragraph) 11.2	Chief Officer in consultation with Portfolio Holder (paragraph)s 11.10	Up to a total of £100,000 over the life of the contract and no more than 5 years in total.
12	£50,000 p.a. to - UK Procurement Threshold for Goods & Services	Chief Officer and Cabinet (paragraph) 12.4	Chief Officer and Portfolio Holder if delegated at award stage; <u>or</u> Cabinet if no such delegation (paragraph) 12.22	Up to a total of the UK Procurement Threshold.
13 and 14	UK Procurement Thresholds and above	Cabinet (paragraph) 13.5 and 14.2	Chief Officer and Portfolio Holder if delegated at award stage; <u>or</u> Cabinet if no	Within Finance Procedure Rules

		Council (above £1million	such delegation; <u>or</u> Council (above £1million (paragraph) 13.24 and 14.22	
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Appendix 2: Definitions

Assign/Assignment	Transfer of a contractual benefit by one person (the assignor i.e. supplier) to another party (the assignee i.e. sub-contractor). The assignor remains liable for the original obligation in its contract with the obligor (purchaser), unless there is an agreement in their contract to the contrary.
Award Criteria	The criteria stated in the Quotation/Tender documentation, by which the successful Bidder is to be selected.
Award Notice	A notice published on the Find a Tender Service and/or Contracts Finder which provides details of the winning bidder and the final value of the contract. Award notices are required for all procurements valued over £20,800 - £25,000 including VAT.
Award Procedure Contract.	The procedure for awarding a Corporate
Best Value	Is the duty on the Council to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
Bidder	Any person/organisation who asks for or is invited to submit a Quotation/Tender.
Call Off	A specific requirement which can be met under the terms of a Framework Agreement/DPS and which is issued under the terms of the Framework Agreement/DPS to form a contract.
Chief Officer	A member of the Corporate Leadership Team: Directors and Deputy Directors
Collaborative Joint Purchasing	Combining selected Products/Services purchases together with like-minded organisations, to negotiate with suppliers for mutual benefit.
Contract	Is a binding agreement between two or more parties for performing, or refraining from performing, some specified act(s) in exchange for lawful consideration.

Contracting Authority	Has the definition contained within the Public Contract Regulations 2015. It means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity
Contract Extension	An extension to the duration of the Contract beyond the initial term, but not including any alteration to the scope of the Contract.
Contract Management	Is the process of managing contract creation, execution and analysis to maximise operational and financial performance of an organisation, all while reducing financial risk.
Contract Manager	The officer responsible for the budget and the management of the contract, including the performance management and ensuring compliance with its terms and conditions.
Contract term	Is the length of the contract including the initial term and any extension periods proposed.
Contract Terms and Conditions	The contractual terms and conditions used by the Council for the procurement of goods, services or works.
Contract Value	is the total value over the whole potential life of the contract; <i>Example:</i> if the annual contract value is £20,000 x 5 years (3yr fixed + extension of 1yr + 1yr) = £100,000.
Contract Variation	Is an alteration to the scope, term or any other part of a Contract. The limitations of the Public Contract Regulations 2015 should be borne in mind when varying a contract.
Corporate Counter Fraud Strategy	The Council's arrangements to exercise its duty to protect the public money that it controls from loss due to dishonesty. It also has a duty to provide assurance to the people of Rutland; to its employees and to other stakeholders that it is taking this responsibility seriously.
Corporate Contract Council.	A contract that has already been let by the Council.

Council	Rutland County Council District Council.
Strategic Director of Resources	The Director responsible for the Resources Directorate.
Document Retention Guidance of time for Procurement & Contracts ccontracts	The Council's guidance on the appropriate length documents relating to tenders, quotations and need to be retained either in hard copy or electronically.
Dynamic Purchasing System (DPS) duration which is	A completely electronic system of limited established by the Council to purchase commonly used goods, services or works; and is open throughout its duration for the admission of contractors who satisfy selection criteria specified by the Council and who submit an Indicative Tender to the Council, or body operating the system on its behalf, and who comply with the specification.
Electronic Tendering System	A system hosted by Welland Procurement that enables the Council and providers to conduct the key activities of the procurement lifecycle over the Internet.
Exemption	Approval given by the relevant –Chief Officer– or the Cabinet of the Council as appropriate to exempt an Officer or Officers from adhering to these Contract Procedure Rules.
Evaluation	The process of assessing received tenders or quotations against the published criteria to identify the winning bidder, i.e. the bidder with the highest evaluation score.
Financial Procedural Rules	The Financial Regulations outlining the Officer's responsibilities for financial matters.
Framework Agreement	A formal tendered arrangement which sets out the terms and conditions under which specific purchases (call-offs) can be made from the successful Bidders, in unpredicted quantities at different times throughout the term of the Framework Agreement.
FTS	The UK's e-notification service Find a Tender.

FTS Notice	Notice posted on the Find a Tender Service including a PIN, a Contract Notice or Award Notice.
Goods Contract	A Contract let by public authorities for the supply of tangible assets including electricity, gas, heat, water, off-the-shelf software and the hire of plant without driver.
Initial Term	The initial period of a contract which may be subsequently extended.
Invitation to Tender	Means the document(s) containing the specification, proposed terms and conditions and other appropriate information, as issued to the Tenderers to solicit formal Tenders.
Irregular Tender	A Tender that does not fully comply with the instructions set out in the Invitation to Tender document.
Life Cycle Costs	means all or part of the following costs over the life-cycle of a goods, service or works, to the extent that they are relevant: <ul style="list-style-type: none"> (i) Costs of acquisition, (ii) Costs of use i.e. use of energy and other resources, (iii) Maintenance costs, (vi) End of life costs i.e. disposal or recycling costs.
Light Touch Regime	Refers to those social and other specific services covered by Part 2: Chapter 3 - Section 7 and the CPV Codes detailed in Schedule 3 of the Public Contract Regulations 2015.
Members	Democratically elected representatives that represent the interests of the people of Rutland at a local, regional and national level.
Monitoring Officer	The Officer appointed by the Council under Section 5 of the Local Government and Housing Act 1989.
Most Economically Advantageous Quotation/Tender	This evaluation criteria is the best combination of price and quality, based on whole life costs, qualitative, environmental and/or social aspects linked to the subject matter of the contract.

Novation	The substitution of a new contract for one already existing. The new contract may be between the same parties or it may involve the introduction of a new party. A novation also takes place when the original parties continue their obligation to one another, but a new agreement is substituted for an old one.
Officer	The Officer responsible for undertaking a purchase.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows – if the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead.
Performance Bond	An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the bondsman the sum of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Council against a level of cost arising from the contractor's failure.
Portfolio Holder	The Council Member whose responsibilities include the area of activity covered by the contract.
Procurement Exercise	Any process by which goods, services and/or works are to be procured, including but not limited to Request for Quotations and Formal Tender Processes following the requirements of an Open or Restricted Tender, or some other method defined by the Public Contract Regulations 2015. For the purpose of these Rules a Contract for a Concession shall be treated as a Procurement Exercise.
Procurement Regulations	Regulations which are given force of law in the UK through the Public Contract Regulations 2015 as amended and any successor regulations which specify in detail the procedures by which public authorities shall undertake their procurement.
Procurement Toolkit	Guide for commissioners of services giving advice on how to procure goods, services, and works in accordance with the Council's constitution and procurement legislation.

Publicly Available Contract	A contract that has been let by another Contracting Authority or a public purchasing consortium such as Crown Commercial Service, ESPO etc and which is available for use by the Council. The Council must have been named specifically or generally within the procurement documentation in order to enable access.
Public Contract Regulations 2015	These Regulations implement the Public Contract Directive 2014 into UK law, and reflect the principles of the Treaty of Rome.
Quotation	An offer to sell goods, services and/or works at a stated price under specified conditions. Written Quotations must be sought in accordance with these Rules.
Quotation Register	A register kept by each Directorate to provide an audit trail for the receipt and opening of all Quotations.
Regulated Procurement Procedures	The procedure required by the UK for awarding contracts where the value exceeds the UK Procurement Thresholds (see Appendix 3).
Responsible Officer	The officer responsible for the budget and acting as the procurement lead during the procurement process.
Rules	The individual rules which together make up Rutland County Council's Contract Procedure Rules, as may be amended from time to time.
Scheme of Delegation	Part 3 and 8 of the Council's Constitution which sets out how the executive and non-executive functions of the Council are delegated to the various decision making bodies and officers of the Council.
Section 151 Officer	The officer appointed under section 151 of the Local Government Act 1972 which requires every local authority to appoint a suitably qualified officer responsible for the proper administration of its affairs.
Selection Questionnaire	Means the set of standard selection questions referred to

(above UK threshold)	in PPN 08/16, which complies with the Crown Commercial Service guidance relating to Selection Questionnaires.
Service Contract	Contract let by public authorities for services as defined in The Treaty of Rome which is for anything other than, civil engineering and building works and works concession contracts.
Social Value Act	The Public Services (Social Value) Act 2012 requires those tendering any Service over the UK Thresholds to consider the economic, social and environmental well-being of the relevant area (normally the County of Rutland) and to apply this to the procurement process. The Council's social value commitment widens the scope of this requirement to goods, services and works above the Council's tender threshold (£50,000 p.a.).
Specification	An exact statement of the particular needs to be satisfied, or essential characteristics that a customer requires (in a good, material, method, process, service, system, or work and which a bidder must deliver.
Suitability Questionnaire (below UK threshold)	Suitability questions which relate to the subject matter of the procurement and are proportionate, and which are required by the Council for assessing the Tenderers suitability, capability, legal status, or financial standing. Regulation 111(6) – Public Contract Regulations 2015.
Tender	A formal offer from a Tenderer, which is capable of acceptance by the Council, which is a response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specification and method statements, as well as information about the Tenderer. The term 'Tender' also includes an E-Tender, except where the context implies otherwise.
Tenderer(s) /Bidder(s)	The person(s) invited to participate in a procurement exercise.
Tender Register	A Register kept by the Governance team to provide an audit trail for the receipt and opening of all non-electronic Tenders.

Terminate	To end a contractual arrangement.
TUPE	Refers to the Transfer of Undertaking (Protection of Employment) Regulations 2006. These regulations ensure the protection of employees when, for example, a business is taken over by another organisation. TUPE regulations ensure that the rights of employees are transferred along with the business.
UK Thresholds	The contract value at which the UK Regulations must be applied. See Appendix 3 for guidance.
Value for Money	Is not necessarily the lowest price, it combines goods or services that fully meet the needs with the level of quality required, delivered at the time needed and at an appropriate price.
Welland Procurement	Welland Procurement is a shared procurement service hosted by Melton Borough Council. Welland Procurement issues guidance and offers assistance on procurement matters to all participating councils.
Whole life costs	The total cost of ownership over the whole length of the contract and sometimes beyond.
Works Contract	Contract let by public authorities for civil engineering and building works and works concession contracts.

Appendix 3: Variable Information

The following information is subject to change during the currency of these Contract Procedure Rules and may be updated as changes occur by the relevant Chief Officer.

Procurement Guidance & Documentation

The Council's Procurement Toolkit together with a suite of procurement documents, templates and forms are available on the Rutland County Council section of the Welland Procurement Portal <http://wellandprocurement.org.uk/>.

UK Thresholds - Valid from: 1st January 2022 until 31st December 2022, the UK Thresholds are:

Goods and Services: £177,897

Works: £4,447,447;

Light Touch Regime: £552,950.

Chief Officers

Please refer to Part 7 of the Constitution for details of the Chief Officers Structure.
<https://rutlandcounty.moderngov.co.uk/ieListDocuments.aspx?CId=349&MId=1735&info=1&MD=Constitution>

Commissioning Team

In the first instance please contact Louise Gallagher, Commissioning Manager or Karen Kibblewhite, Head of Commissioning.

Welland Procurement

In the first instance please contact the Head of Welland Procurement

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