

GOVERNANCE AND AUDIT COMMITTEE

Wednesday, 9th October, 2024

10.00 am

**Council Chamber, Sessions House, County Hall,
Maidstone**





AGENDA

GOVERNANCE AND AUDIT COMMITTEE

Wednesday, 9th October, 2024, at 10.00 am
Council Chamber, Sessions House, County
Hall, Maidstone

Ask for: **Katy Reynolds**
Telephone: **03000 42252**

Membership (13)

- Conservative (8) Mrs R Binks (Chairman), Mr T Bond, Mr N J D Chard,
Mr P C Cooper, Mrs S Hudson, Mr O Richardson, Mr M Whiting and
Mr S Webb
- Labour (1) Mr A Brady
- Liberal Democrat (1): Mr C Passmore (Vice-Chairman)
- Green and Independent (1) Mr M A J Hood
- Independent Member (2) Ms C Black and Dr D A Horne

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Introduction/Webcasting
2. Apologies and Substitutes
3. Declarations of Interest in items on the agenda for this meeting
4. Minutes of the meeting held on 23 July 2024 (Pages 1 - 8)
5. Update on Progress against Internal Audit Recommendations (Pages 9 - 14)
6. Annual Customer Feedback Report 2023/24 (Pages 15 - 50)
7. Customer Feedback Policy Updates (Pages 51 - 78)
8. Update to Spending the Council's Money (Pages 79 - 186)

9. Progress Update on the Grant Thornton Value For Money Recommendations
To follow.
10. Audit Risk Assessment (Pages 187 - 230)
11. Financial Management Code of Practice - Compliance Assessment (Pages 231 - 246)
12. Audit Backstop and Revised Date (Pages 247 - 250)
13. External Audit Progress Report and Sector Update (Pages 251 - 270)
14. Other items which the Chairman decides are urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Benjamin Watts
General Counsel
03000 416814

Tuesday, 1 October 2024

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

KENT COUNTY COUNCIL

GOVERNANCE AND AUDIT COMMITTEE

MINUTES of a meeting of the Governance and Audit Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 23 July 2024.

PRESENT: Mrs R Binks (Chairman), Ms C Black, Mr A Brady, Mr N J D Chard, Dr D Horne, Mr M A J Hood, Mr C Passmore (Vice-Chairman), Mr S Webb and Mr M Whiting

ALSO PRESENT: Mr D Jeffrey and Mr H Rayner

IN ATTENDANCE: Mrs C Head (Head of Finance Operations), Mr B Watts (General Counsel), Mr J Idle (Head of Internal Audit), Mr M Scrivener (Head of Risk and Delivery Assurance), Miss K Reynolds (Governance Advisor), Mr N Buckland (Head of Pensions and Treasury), Mr J Graham (Pension Fund Treasury and Investments Manager), Ms C Maynard (Head of Commercial and Procurement), Mr R Benjamin (Audit Manager), Ms D Chisman (Audit Manager), Ms A Palmer (Deputy Audit Manager), Mr R Smith (Audit Manager), Ms K Herbert (Deputy Audit Manager), Ms Louise Taylor (Deputy Audit Manager) and Mr J Betts (Acting Corporate Director Finance)

UNRESTRICTED ITEMS

216. Apologies and Substitutes

(Item 2)

Apologies for absence had been received from Mr Bond and Mr Cooper.

217. Declarations of Interest in items on the agenda for this meeting

(Item 3)

There were no declarations of interest.

218. Minutes of the meeting held on 16 May 2024

(Item 4)

RESOLVED that the minutes of the meeting held on 16 May 2024 were a correct record and that a paper copy be signed by the Chairman.

219. Governance and Audit Committee Annual Report to County Council

(Item 5)

1. The General Counsel and the Chair introduced the report and reminded Members of the proposed governance timescales for the Governance and Audit Committee Annual Report to County Council. The Committee was encouraged to provide feedback to the Chair on the draft report. Members were told of the planned

reports, including the External Auditor's Annual Report, which would also be considered at the September County Council meeting. The timing of the reports aimed to provide Members with sufficient information ahead of the Budget meeting in February.

2. RESOLVED to delegate authority to Officers to finalise the Governance and Audit Committee's Annual Report to County Council in consultation with the Chair.

220. Annual Governance Statement Update

(Item 6)

1. The General Counsel introduced the report which provided Members with an update on the approach to the Annual Governance Statement (AGS) for 2023/24. It was highlighted that the Committee would be asked to contribute to this year's process through a series of informal meetings with Officers.
2. RESOLVED to note the approach to the Annual Governance Statement for 2023/24.

221. Internal Audit Progress Report

(Item 7)

The Corporate Director Adult Social Care and Health; the Corporate Director Growth, Environment and Transport; the Director of Integrated Commissioning, Cabinet Member for Environment; the Cabinet Member for Highways and Transport; and the Deputy Cabinet Member for Adult Social Care and Public Health were in attendance for this item.

1. The Head of Internal Audit and the Audit Manager introduced the report which detailed summaries of completed Audit reports for the period May to July 2024. There were 12 summaries of completed work of which 11 reports were finalised and 1 was draft at the time of publication. The Audit Manager highlighted some good examples of positive assurance, including two audits which were assigned the highest level of assurance: 'RB36-2024 – Data Security Protection Toolkit' and 'RB02-2024 – Performance Management'.
2. Members were told that the 'RB31-2024 – Helping Hand Support Scheme – Business Workstream Phase 1', assigned 'Limited' assurance, had originally been requested due to concerns over the administration of the scheme. It was highlighted that this was a COVID-19 grant administered during a period of unprecedented challenge. It was said that lessons had been learnt through the audit process and would be applied to other grant audits.
3. It was highlighted that there had been an overall decline in the implementation of agreed management actions by their due date from 40% as reported to February Governance and Audit Committee to 34% for this reporting period.
4. Questions for this item were taken under agenda Item 8: Internal Audit Annual Report 2023-24.
5. RESOLVED to note the Internal Audit Progress Report for the period May to July 2024.

222. Internal Audit Annual Report 2023-24

(Item 8)

The Corporate Director Adult Social Care and Health; the Corporate Director Growth, Environment and Transport; the Director of Integrated Commissioning, Cabinet Member for Environment; the Cabinet Member for Highways and Transport; and the Deputy Cabinet Member for Adult Social Care and Public Health were in attendance for this item.

1. The Head of Internal Audit introduced the report which included 2 main elements:
 - The Annual Opinion with the analysis and evaluation which supports it and;
 - Internal Audit performance and compliance with professional standards.

It was emphasised that the coverage of the Internal Audit service is to support the effective delivery of the Council's objectives including how well risks can be managed as well as possible.

2. The overall opinion for 2023-24 was one of **Adequate** Assurance on the Council's systems of governance, risk management and internal control and this opinion is incorporated into the Annual Governance Statement.
3. Members were reminded of the challenging context within which the Council was operating in, and how this impacted the opinion for 2023-24. However, it was highlighted for pure assurance based work, there had that there had been a significant improvement and upward trajectory in the proportion of systems, processes or functions which were assigned an assurance level of "Substantial" or High" with 52% in 2023-24 compared to 26% in 2022-23. There was a decrease in the assigning of "Limited" assurance in 2023-24 to 13% from 35% in 2022-23.
4. For 2023-24, full implementation rates of agreed management actions had decreased to 34% in 2023-24 from 50% in 2022-23. There had been concerns regarding implementation rates for a number of years. Internal Audit commented that they would take additional action to assist in the monitoring and delivery of agreed management actions, will emphasise that the reports and actions aim to support the Council in managing risks to prevent things occurring that are not beneficial and work with senior management towards improving the culture towards these actions. Members were told that there was poor correlation between the prospects for improvement assigned at the end of an audit and the subsequent full implementation of actions.
5. The second part of the Annual Report related to the Internal Audit service itself and the following points were highlighted:
 - a) The extensive work undertaken on grant certifications in 2023-24;
 - b) The wide range of external clients that IA provide services to, which in 2023-24 has raised the highest level of income at £451k, which contributed towards a significant budget saving for the Council;
 - c) Compliance with professional internal audit standards, with reference to the new Global Internal Audit Standards that are being addressed for 2025;
 - d) The Quality Assurance and Improvement Programme (QAIP), which set out targeted improvements for 2024-25;
 - e) The first full year of reporting an increased in outcome based metrics which were highly positive;

- f) Client surveys at the end of each audit which concluded 93% satisfaction;
 - g) The Annual Perception survey to GAC members and CMT officers , which included positive responses and this year of the 11 questions asked, 7 had 100% strongly agreeing/ agreeing;
 - h) An overview of the resources of the service, highlighting positive recruitment when required, in a challenging market; and
 - i) That there had been no significant issues which impact upon the ability of the service to deliver in relation to independence and scope.
6. In response to questions and comments from Members it was said that:
- a) There were various reasons for which the full implementation of management actions had not been achieved, including optimism bias in setting deadlines, cross-directorate actions, and the Council's current operating environment. It was anticipated that, further to the recent meetings between the Corporate Management Team (CMT) and the Internal Audit Team, there would be an improvement in the implementation rate. However, Members sought further assurance. A progress report from management on the implementation of the agreed actions would be presented at the next meeting.
 - b) With regards to 'RB19-2024 – Schools Financial Services (SFS) – Contract Management', the Council's governance in relation to wholly owned companies separated the powers between commissioning and Council-side activity. This was in line with best practice. Following a request for clarification regarding contract management, it was agreed that the a paper providing further information would be considered as part of the agenda setting process.
 - c) Relating to 'RB31-2024 – Helping Hand Support Scheme – Business Workstream Phase 1', Members were assured by the Interim Corporate Director of Finance that there was no indication that the funding had been misused. Further clarification regarding the Internal Audit process in relation to advisory and follow-up audits would be provided to the Committee.
7. RESOLVED to note the report as a source of independent assurance regarding the risk, control and governance environment across the Council, noting the outcomes from 23-24 IA work and the resultant "Adequate" opinion to the AGS.

223. Risk Management Verbal Update

(Item 9)

1. The Head of Risk and Delivery Assurance provided Members with a verbal update on the Corporate Risk Register. It was highlighted that a corporate estate risk survey had been completed and no further cases of reinforced autoclaved aerated concrete (RAAC) had been found in the Council's estate. Further to presentation to the risk owner, the risk would be de-escalated or closed as appropriate.
2. The risk rating of the risk relating to the Council's capacity to care for unaccompanied asylum seeking children arriving in Kent (UASC) had been reduced slightly, but remained high. Further information regarding the current operational and legal position could be found in the Cabinet report: [\(Public Pack\)Item 6 - UAS Children update report Agenda Supplement for Cabinet, 11/07/2024 10:00 \(kent.gov.uk\)](#).

3. Members were reminded that preparations were ongoing ahead of the introduction of the European Union's new Entry-Exit System.
4. In response to questions and comments from Members it was said that the Committee's tracking of the risk relating to the Council's financial position would be considered as part of the agenda setting process.
5. RESOLVED to note the verbal update.

224. Treasury Management Outturn Report 2023-24

(Item 10)

1. The Pension Fund and Treasury Investments Manager introduced the report which provided an overview of Treasury Management activity in 2023-24 and developments in 2024-25. Members were told that there were indications that interest rates had peaked and it was anticipated that they may decrease following the Bank of England's Monetary Policy Committee meeting in early August 2024.
2. Members were told that the Strategic Pooled Funds portfolio was valued at cost in line with regulations. The accounting standard prescribing this - the IFRS 9 statutory override - was due to expire on 31 March 2025, and from 2025/26 the Council would be required to value the Strategic Pooled Funds portfolio at market value.
3. In response to questions and comments from Members it was said that:
 - a) The Treasury Management team were closely monitoring interest rates and would look at the potential to enter into additional external borrowing. It was expected that interest rates would start to decline in the second half of 2024 and to settle at a terminal rate of 3% by 2026.
 - b) Investments would be positioned to mitigate the risks associated with this decrease in interest rates. Members were told that a key risk was interest rates reducing more rapidly than expected. However, the age of the portfolio had been increased as a tool to mitigate this risk.
4. RESOLVED to endorse the report and recommend that it is submitted to County Council.

225. External Audit Progress Report and Sector Update

(Item 11)

1. Ms Lucy Nutley introduced the report. Members were told that the Council had published the draft statement of accounts for 2023/24 on 31 May 2024, alongside the appropriate public inspection notice. Grant Thornton had started their audit fieldwork on both the Kent County Council Financial Statements and the Kent Pension Fund Financial Statements. The Value for Money (VFM) findings would be reported to the Committee in the External Auditor's Annual Report towards the end of 2024.
2. In response to questions and comments from Members it was said that:
 - a) There were some examples of other authorities where these returns were also delayed. However, KCC's three year delay was significant. There was no known financial impact of the late completion of the Teachers Pensions

returns. Members were told that KCC needed further information from the schools to progress.

- b) Members would receive an update on the Council's progress towards addressing the recommendations outlined in the previous year's VFM findings.
- c) The Committee's role in relation to the Council's productivity plans would be considered as part of a review of the Committee's Terms of Reference.

3. RESOLVED to note the report for assurance.

226. Other items which the Chairman decides are urgent
(Item 12)

There were no matters arising.

Governance and Audit Committee Action Tracker

Meeting Date	Minute No.	Agenda Item/Subject	Action	Responsible Officer/Area	Status
23 July 2024	222.6.a	Internal Audit Annual Report 2023-24	A progress report from management on the implementation of the agreed management actions would be presented at the next meeting.	Ben Watts	This has been added to the agenda for 9 October 2024.
23 July 2024	223.4	Risk Management Verbal Update	Committee's tracking of the risk relating to the Council's financial position would be considered as part of the agenda setting process.	Mark Scrivener John Betts	To be discussed at agenda setting meeting for 12 November 2024.
23 July 2024	225.2.b	External Audit Progress Report and Sector Update	Members would receive an update on the Council's progress towards addressing the recommendations outlined in the previous year's VFM findings.	Ben Watts John Betts	This has been added to the agenda for 9 October 2024.
23 July 2024	225.2.c	External Audit Progress Report and Sector Update	The Committee's role in relation to the Council's productivity plans would be considered as part of a review of the Committee's Terms of Reference.	Ben Watts Katy Reynolds	This will be reviewed by December 2024.
23 July 2024	222.6.b	Internal Audit Annual Report 2023-24	Following a request for clarification regarding contract management (and the Council's	Ben Watts	To be discussed at agenda setting meeting for 12 November 2024.

			governance in relation to wholly owned companies), it was agreed that a paper providing further information would be considered as part of the agenda setting process.		
23 July 2024	222.6.c	Internal Audit Annual Report 2023-24	Further clarification regarding the Internal Audit process in relation to advisory and follow-up audits would be provided to the Committee.	Jonathan Idle	Completed: Further information provided to the Governance and Audit Committee via email on 13 August 2024.

From: Amanda Beer, Chief Executive
Ben Watts, General Counsel

To: Governance and Audit Committee, 9 October 2024

Subject: Update on Progress against Internal Audit Recommendations

Status: Unrestricted

ACTION from Previous Meeting

1. Background

- a) In July 2024, the Committee received and noted (for assurance) the Internal Audit Annual Report for 2023-24. In introducing the item, the Head of Internal Audit identified the reduced implementation rates of agreed management actions and explained the concern around the direction of travel of this key indicator.
- b) Members had the opportunity at the meeting in July to express their concerns around the metric and requested that this report be prepared to provide further information as to the changes that have and are being made.

2. Progress

- a) It is important to start by repeating the comment from officers at the previous meeting, that the poor performance against this metric was unacceptable. The actions are those agreed by management with auditors and, as such, the compliance rates must and will improve.
- b) After the Internal Audit Annual Report was discussed at Corporate Management Team, a number of immediate steps were taken by the Chief Executive. These included:
 - i. Repeating to senior management the need to urgently understand and improve the completion of agreed actions
 - ii. An immediate review by Internal Audit and senior management of outstanding actions to urgently progress the issues
 - iii. Greater prioritisation given to the completion of management agreed actions
 - iv. Regular discussions and oversight from respective directorate management team meetings to ensure progress is timely
- c) The Chief Executive also raised at the time and has continued to raise progress against agreed management actions with individual line reports and collectively as part of Corporate Management Team discussions.

- d) In August 2024, revised Operating Standards (rules that cover expectations for all staff) were published on KNet and clearly set out the Internal Audit process and the escalation route for non-completion of management actions.
- e) Moving forward, as mentioned at the Governance and Audit Committee meeting in July, senior management and audit managers are working together and highlighting progression of actions as part of their regular meetings.
- f) Similarly, there will be a greater focus in future audits on the agreement of management actions both in terms of deliverability and timescale both from Internal Audit colleagues (as mentioned by the Head of Internal Audit at the previous meeting) and with officers in management positions agreeing the actions and timescales.
- g) At the last meeting, there were 37 actions, one of which relates to Budget Savings. As there is a Budget Savings follow-up audit on the 2024/25 plan, this one has been removed from the figures as Internal Audit do not currently include programmed follow-ups in their high-level follow-up statistics. This is usually explained separately in the Internal Audit paper that comes to the Committee.
- h) Internal Audit colleagues have advised that there has been additional engagement since July and that they have received a considerable amount of additional information regarding progress and possible implementation of actions.
- i) This has resulted in a quarter of the actions having been closed (8 implemented and 1 closed with management accepting the risk). The breakdown of these can be found at Appendix 1 to this paper. There is further activity ongoing and further evidence being provided to Internal Audit and an updated position will be provided to the Committee.
- j) Some of the issues have had revised plans put in place which will see resolution in the coming quarter and it is intended to provide updates on a rolling basis to the Governance and Audit Committee MS Teams site in order that Members can review and identify those overdue actions on a deep dive basis at agenda setting and ensure that update papers are brought forward as Members require.

3. Conclusions

- a) The seriousness and need for timely compliance with Management Actions has been reinforced by the Chief Executive and understood by the Corporate Management Team.
- b) Improvements to compliance and engagement with the process have already been made and are anticipated to make improvements for the current financial year.

- c) Corporate and Directorate Management Teams will continue to scrutinise this beyond the current list of outstanding actions and will prioritise implementation of actions that will also be subject to greater consideration of deliverability and timeliness moving forwards.

4. Recommendation

- a) The Governance and Audit Committee NOTE the progress update
- b) The Governance and Audit Committee AGREE to receive compliance reporting through the Teams site
- c) The Governance and Audit Committee AGREE a further update report before the end of this administrative cycle

5. Background Documents

[Covering Report Internal Audit Annual Report and Opinion 2023-24.pdf \(kent.gov.uk\)](#)

Annual Report - [INTERNAL AUDIT PROGRESS REPORT GOVERNANCE AND AUDIT COMMITTEE 26 January 2023 \(kent.gov.uk\)](#)

[\(Public Pack\)Internal Audit Annual Report 2023-24 Appendix 2 Agenda Supplement for Governance and Audit Committee, 23/07/2024 14:00 \(kent.gov.uk\)](#)

6. Report Author and Relevant Director

Ben Watts, General Counsel

This page is intentionally left blank

Appendix 1 – Management Actions as at 30 September 2024

KCC	Due		Implemented		In Progress		Closed - management accepts risk		Superseded		Total
	High	Medium	High	Medium	High	Medium	High	Medium	High	Medium	
High	0	0	0	0	0	0	0	0	0	0	0
Substantial	0	5	0	1	0	4	0	0	0	0	5
Adequate	3	11	1	3	2	7	0	1	0	0	14
Limited	6	4	0	2	6	2	0	0	0	0	10
No Assurance	1	1	0	0	1	1	0	0	0	0	2
Advisory	4	1	1	0	3	1	0	0	0	0	5
Total	14	22	2	6	12	15	0	1	0	0	36

This page is intentionally left blank

KCC Annual Customer Feedback Report 2023/24

By: Amanda Beer – Deputy Chief Executive
To: Governance and Audit Committee
Date: 5th September 2024
Subject: KCC Annual Customer Feedback Report 2023/24
Classification: Unrestricted

Summary: This report provides a summary of the compliments, comments and complaints recorded by the Council. The report includes statistics relating to customer feedback received by the Council and a sample of complaints considered by the Ombudsman.

Recommendation: The Committee is asked to note the contents of this report for assurance.

1. Introduction

- 1.1 This is the Council's annual report on compliments, comments and complaints.
- 1.2 Overall complaints volumes are down slightly this year, there were a number of key changes this year that resulted in complaints in a number of areas. These included SEND and Unaccompanied Asylum Seekers (UASC).
- 1.3 For the purposes of this report customer feedback only relates to those comments, compliments and complaints received from members of the public and our external customers. It does not include internal feedback between departments or contractors.

2. Progress in refining practices within KCC

- 2.1 The council uses a customer feedback system enabling us to breakdown data easily, understand trends and react to evolving issues.
- 2.2 This year all the directorate complaints teams were centralised into one team under Marketing and Resident Experience (MRX) within the Deputy Chief Executive's Department (DECD). The focus of the newly centralised team this year has been on clearing backlogs of complaints particularly in SEN and Highways. Whilst not all complaints are handled by the centralised team, the vast majority of the Council's high volume feedback services are. Going forward, the team's focus will be on supporting directorates in improving timeliness, consistency and providing robust responses to our residents and service users.

3. Overview of Customer Feedback Received

- 2.1 A compliment is an expression of thanks or congratulations or any other positive remark. (Internal compliments are excluded from this process).

- 2.2 A comment is a general statement about policies, practices or a service as a whole, which has an impact on everyone and not just one individual. A comment can be positive or negative in nature. Comments may question policies and practices, make suggestions for new services or for improving existing services.
- 2.3 A complaint is an expression of dissatisfaction, whether justified or not and however made, about the standard or the delivery of a service, the actions or lack of action by the Council or its staff which affects an individual service user or group of users. This is consistent with the definitions used by other local authorities.
- 2.4 The following table gives an overview of the feedback received by KCC as a whole compared with the previous year.

Table 1 – Feedback received by KCC compared with previous year

Year	Complaints (Stage 1)	Comment	Compliments	Local Government and Social Care Ombudsman complaints
2023/24	5537	1797	1324	304
2022/23	5580	273	1162	229
Difference	43	1524	162	75
% difference	-1%	+558%	+14%	+33%

- 2.5 This year saw a slight decrease in volumes of cases received on the previous year but broadly complaint numbers are similar to the previous year. The increase in comments can be attributed to more robust logging of these types of feedback, the most common were those received via GovMetrics on our website and those relating to the Booking System for Household Recycling and Waste Centres (HWRC)
- 2.6 There is an expectation that as the Council makes further decisions regarding service provision that there will be a steady increase in feedback being received in relation to those decisions. For example, in this year we have seen an increase in feedback in relation to proposals made to change HWRCs, the closure of Blackburn Lodge on the Isle of Sheppey and for various road schemes.
- 2.7 There has also been significant backlog in responding to complaints in SEN and Highways & Transportation, which is impacting on both volumes and timescales. This in turn causes increase in volumes as customers chase responses to their previous enquires or escalate these when they fall out of timescale. Over the course of 2023/24 a concerted effort was made to reduce these backlogs, with support from the newly centralised team.

Table 2 - Complaints received at stage 1 (local resolution)

Stage 1	Adults Social Care and Health	Children, Young People and Education	Growth, Environment & Transport	Chief Executive and Deputy Chief Executive Departments	Total
2023/24	992	1164	3157	224	5537
2022/23	958	1240	3231	151	5580
Difference	34	-76	-74	73	-94
% difference	4%	-6%	-2%	48%	-2%

- 2.8 Adult Social Care and Health (ASCH), saw an increase of 4% from the previous year. There is an ongoing backlog in the Blue Badges service and the closure of Blackburn Lodge generated complaints from families and the community. ASCH saw increases across the board all of which contributed to the general rise in this directorate.
- 2.9 Children, Young People and Education (CYPE) saw a decrease in complaints overall. This follows years of increases in volumes. As work is ongoing to improve service provision in SEN, the expectation that these complaints will start to fall in respect to contact and communications, but may increase in respect to outcomes, as parents and carers dispute Council decisions. Work is currently ongoing to reduce the backlog of complaints awaiting responses in this area.
- 2.10 Within Chief Executive's (CED) and Deputy Chief Executive's Departments (DECD), there was an increase in the number of complaints received for these departments.
- 2.11 The majority of complaints in CED & DECD were logged regarding Finance and the Contact Centre.
- 2.12 Where customers complain regarding the Contact Centre, calls are listened to, where fault is found training is carried out with staff members. The number of complaints is low in comparison to the hundreds of thousands of calls responded to on an annual basis.
- 2.13 We also received 51 cases that were logged and responded to but were not for KCC, these included household waste collections and other complaints which are the responsibility of third parties such as District and Borough Councils or NHS.
- 2.14 Overall, we have seen a 2% decrease in the number of complaints received at stage one. A breakdown of complaints received by division/service can be found in Appendix A.

Table 3 – Feedback received at Stage 2 compared with the previous year

Stage 2	Adult Social Care and Health	Children, Young People and Education	Growth, Environment and Transport	Chief Executive and Deputy Chief Executive Departments	Total
2023/24	41	167	231	19	458
2022/23	14	220	160	30	424
Difference	27	-53	71	-11	34
% difference	193%	-24%	44%	-37%	8%

2.15 ASCH have started to log additional issues raised following stage 1 informally as stage 2. Usually a 2-stage process with the Local Government Ombudsman acting as the second stage is employed for ASCH complaints, however there are times when it is appropriate to respond to additional queries raised following our stage 1 response. We therefore log these as an escalation but not in a formal stage 2 format.

2.16 We have seen a significant increase in complaints escalating to stage 2 within GET, this is largely due to the clearing of the backlog of cases over the year. In addition, work has been undertaken to identifying cases which might be perceived as ongoing complaint issues and escalating these appropriately through the complaints process.

2.17 Cases closed by Directorate at Stage 1

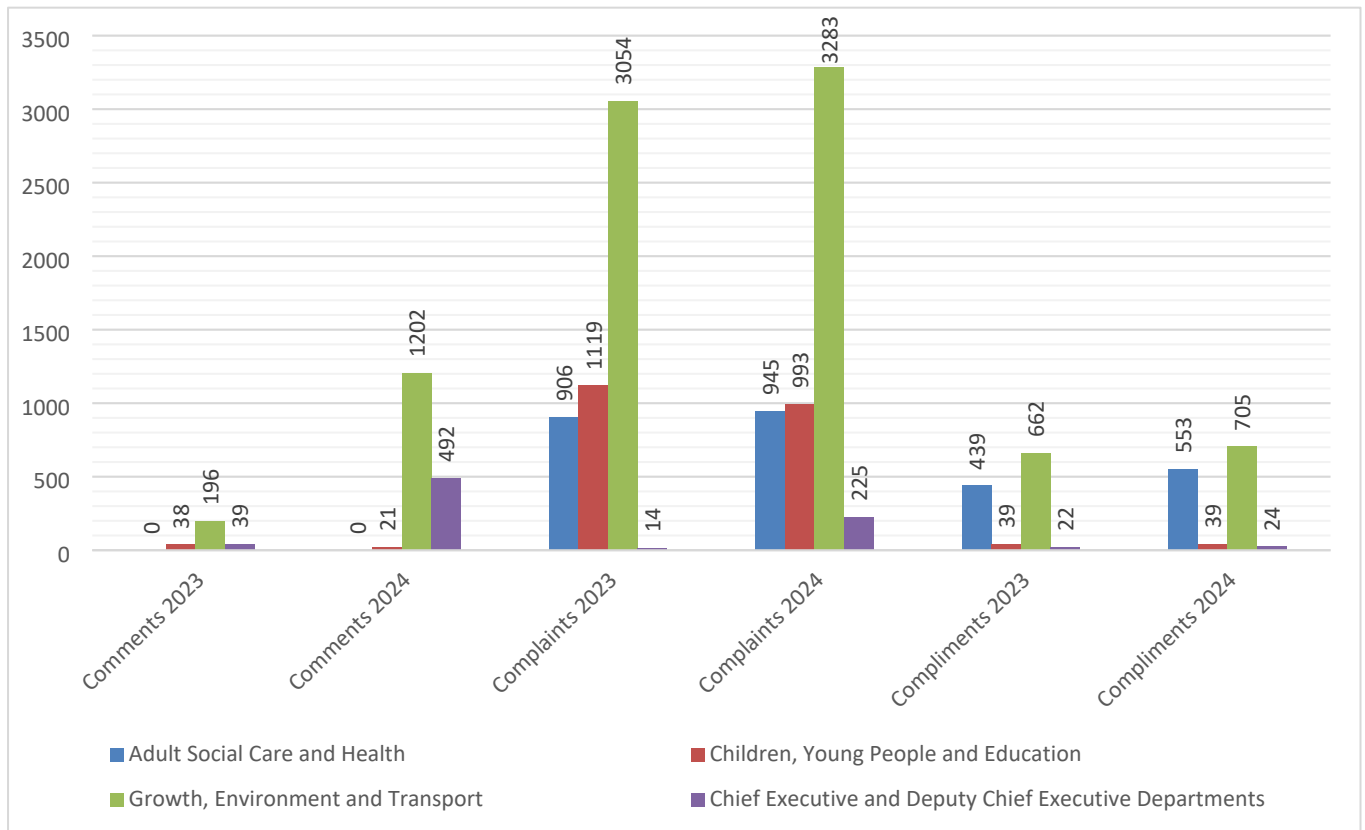
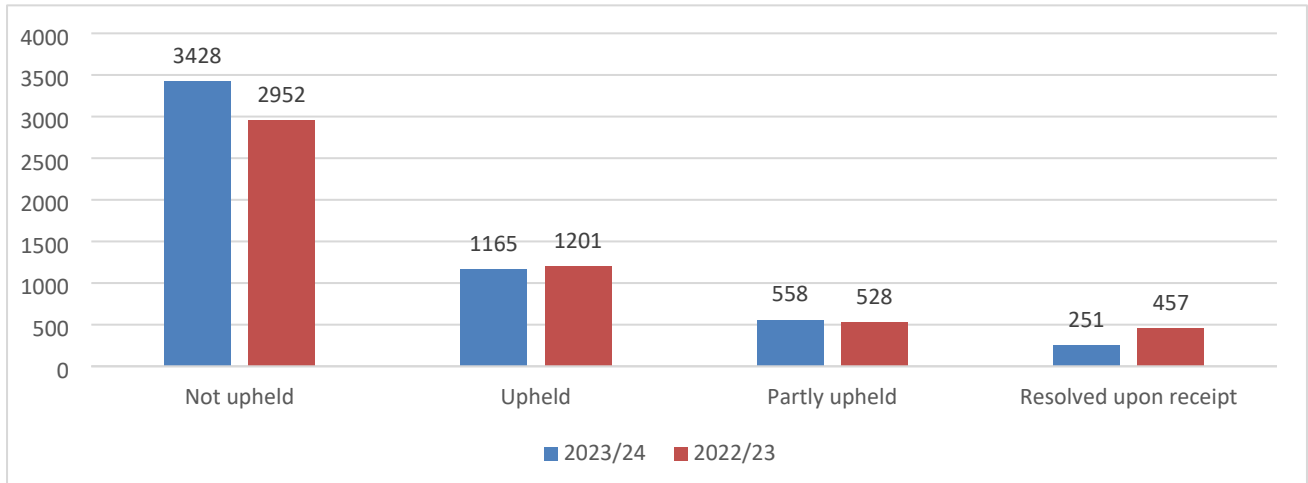


Table 4 - Cases closed by Directorate at Stage 1

	Comment	Complaint	Compliment	Total
Adult Social Care and Health	0*	945	553	1498
Children, Young People and Education	21	993	39	1053
Growth, Environment and Transport	1202	3283	705	5190
Chief Executive and Deputy Chief Executive Departments	492	225	24	741
Total for 2023/24	1715	5446	1321	8482
Total for 2022/23	273	5248	1162	6662
Difference	1442	219	159	1820
% Difference	528%	4%	14%	27%

*ASCH log informal concerns and feedback of this nature under other categories

Case outcomes at Stage 1*



*Number of cases closed will not equal the number received

Table 5 – Stage one - cases not upheld, upheld, partly upheld and resolved upon receipt

Stage 1	Not upheld	Upheld	Partly upheld	Resolved upon receipt
2023/24	3428	1165	558	251
%	63%	21%	10%	5%
2022/23	2952	1201	528	457
%	56%	23%	10%	9%

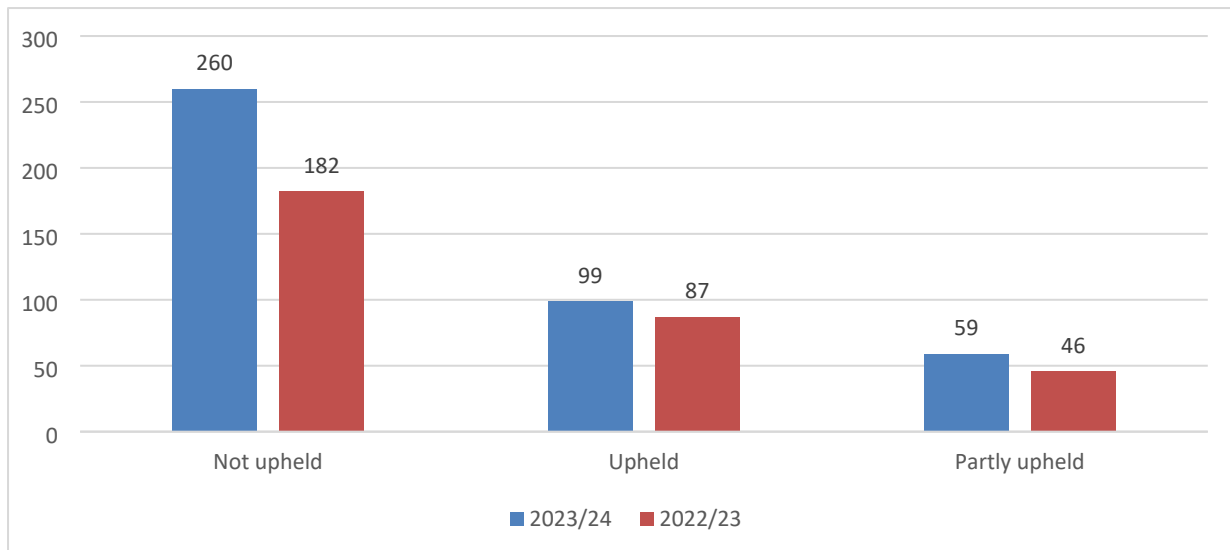
2.18 The number of cases upheld versus not upheld remains steady. 43 cases were withdrawn.

2.19 An example of a not upheld and partially upheld case.

A not upheld example may include where a resident complains about KCC policy, but that policy had been through consultation, comments had been considered at committee meetings and a key decision had been made to implement the policy.

Partially upheld cases will be where some elements of the complaint were not upheld, as in the example above but other elements, for example if they had cause to complain about staff behaviour and this was found to be upheld, then this would cause the overall complaint to be partially upheld.

2.20 Case outcomes at Stage 2*



*Number of cases closed will not equal the number received

Table 6 – Stage two – Not upheld, upheld, partly upheld.

Stage 2	Not upheld	Upheld	Partly upheld
2023/24	260	99	59
%	56%	21%	13%
2022/23	182	87	46
%	59%	28%	15%

2.21 There is a marked increase in the number of complaints upheld at stage 2, however 61 of these were already upheld or partially upheld at stage 1 which demonstrates that in the majority of cases customers are exercising their right to escalate to stage 2. This may be because they were unhappy with the proposed remedies offered at stage 1 or because they wanted to take their complaint further, either to stage 2 or Ombudsman. 15 cases were overturned and the remainder bypassed stage one where conversations had already been going on.

2.22 Table 7 below tracks the other types of feedback received by the Council including Member and MP enquiries and informal concerns compared with the previous year. Enquiries include Ask a Kent Librarian service requests which account for a significant proportion of the volumes received below.

Table 7 – Volumes received for other types of feedback.

	Member/MP enquiry	Enquiry (includes Ask a Kent Librarian)	Informal Concerns	Representation	SEN Enquiries
2023/24	2619	16158	286	0	779
2022/23	2634	14708	247	0	n/a
Difference	-15	1450	39	0	779

2.23 The number of MP and Member enquiries has remained steady. Originally the new SEN enquiries hub was launched using the feedback system to log queries, but this has now been moved to an alternative method.

2.24 A representation is a procedure for cases where a complainant wishes to complain about something eligible for progression through the statutory Children Act complaints procedure, but there is something else in progress which prevents them from having it accepted. This would include a Section 47 child protection enquiries, legal proceedings, a Child and Family Assessment, Tribunal, disciplinary etc.

Table 8 - Reasons for complaints this year

Primary cause	2023		2024	
	Total	%	Total	%
Quality of service	2131	40%	2764	50%
Communications	794	15%	797	14%
Policy and Procedure	1067	20%	746	13%
Service not provided	718	13%	601	11%
Staff Conduct	197	4%	252	5%
Equalities and regulatory	205	4%	199	4%
Not for KCC	62	1%	126	2%
Value for money	32	1%	28	1%
Comment/Enquiry use only	0	0%	26	0%
Blank	0	0%	7	0%
Issues with service	171	3%	3	0%
Impact of major incident	5	0%	1	0%
Service failure	3	0%	0	0%
Total	5385		5550	

*Some cases will have more than one reason for the complaint

3.21 The biggest topic was 'quality of service' which accounted for 50% of cases, of which 45% of cases under this category were upheld. This is demonstrated in table 9 below.

KCC Annual Customer Feedback Report 2023/24

Table 9 – Breakdown of reasons for upheld* complaints by Directorate Stage one and two**

Complaint reason	Adults Social Care Services & Health	Children Young People & Education	Growth Environment & Transport	Strategic & Corporate Services	Total	%
Communications or Information	80	152	41	12	285	23%
Equalities & regulatory	4	15	20	2	41	3%
Policy and procedure	58	20	32	0	110	9%
Quality of service	79	281	188	17	565	45%
Service not provided	1	4	8	0	13	1%
Staff Conduct cause	4	23	51	9	87	7%
Value for money	0	1	1	0	2	0%
Issues with service	20	89	51	1	161	13%
Total	246	585	392	41	1264	
%	19%	46%	31%	3%		

*table only includes upheld complaints and not those partially upheld

**some complaints may have multiple reasons as to why they were upheld

4. Compliance with standards

- 4.1 KCC is committed to acknowledging any complaints received within 3 working days and to provide the customer with a response within 20 working days. As a whole KCC **responded to 61%** of complaints within corporate timescales which compares to **75%** the previous year. The KPI for complaints responses is 85%.
- 4.2 This year services struggled with meeting deadlines for handling complaints within timescales. Staff have been reminded of the importance of keeping customers up to date and of meeting timescales. Performance has been challenging, particularly in a number of key areas of the organisation where there are already existing pressures, such as SEN, and where there were gaps in staffing, for example Highways & Transportation. There has also been significant change in customer habits/behaviours.
- 4.3 This year, of those 39% that were not answered in timescale, were as a result of either staff availability or workload. This reason significantly increases in those services where there is already pressure, for example SEN. As the backlog begins to decrease we expect that these services will be able to respond in a more timely manner.

Table 10 - Delay reasons

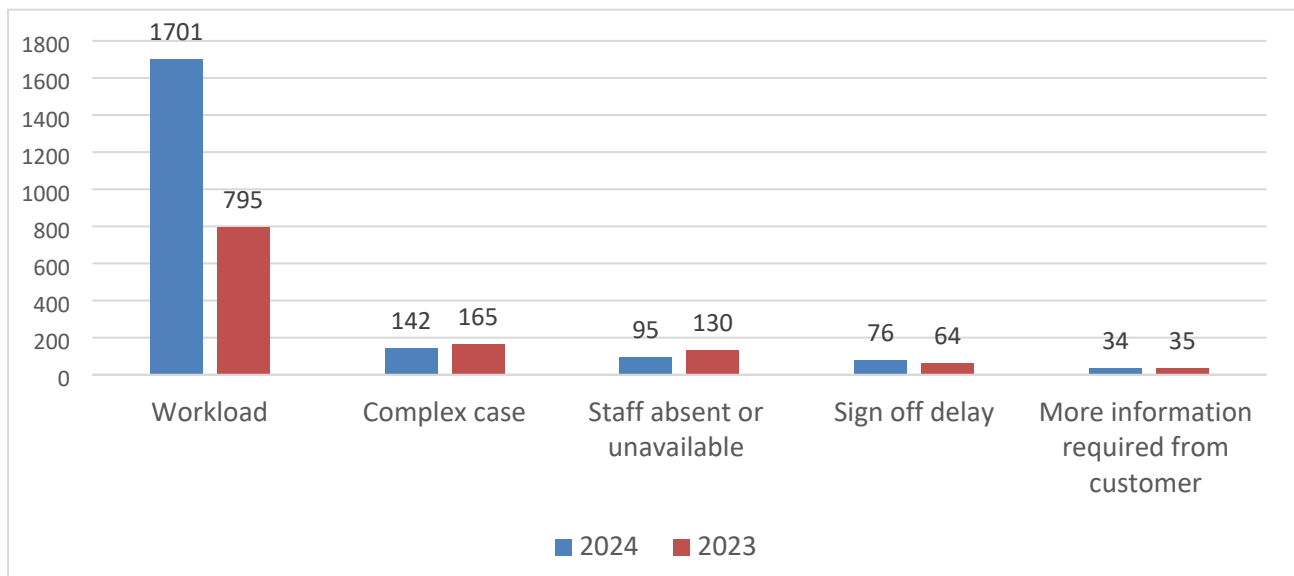


Table 11 - Top five overall delay reasons

	Workload	Complex case	Sign off delay	Staff absent or unavailable	More information required from customer
2023/24	1701	142	76	95	34
2022/23	795	165	64	130	35
% of total complaints closed	31%	3%	1%	2%	<1%

- 4.4 The above table (table 11) shows the overall delay reason cited alongside the percentage of complaints that represents the number of total complaints closed. Workload is the most cited reason.
- 4.5 In Adult Social Care (table 12), while workload is the primary reason for delay against KCC timescales, the second highest reason is complex case. The team continues to work with the service to reduce the number of complaint responses that are delayed.
- 4.6 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 makes provision for customers and the complaints team to set the timescales for responding. This can be up to 6 months for the most complex of cases, and means that complaints will often not meet the 20 working day KCC standard. This is because an agreement with the customer has been formed to allow for more time to investigate and respond.
- 4.7 In addition, any joint working complaints with health, have an agreed 30 working day response time.
- 4.8 Within CYPE this year, there has been a significant increase in workload cited as a reason for those delays. This is particularly evident in areas already under significant pressure such as SEN, where 85% of cases closed were recorded as late due to workload. In May, the Council received an Ombudsman Public report which detailed the Council's backlog in SEN complaints. An action plan was put in place to reduce the backlog. This work is ongoing.
- 4.9 In GET, there was a significant increase in workload being cited as the reason for delay. The team responsible for managing responses were significantly impacted by staff absences and vacancies and therefore performance was lower than expected. This has since been resolved and a concerted effort was made to clear the backlog.

Table 12 - Top three delay reasons by directorate**Adults Social Care and Health**

	Complex case	Workload	Sign off delay
2023/24	108	215	27
2022/23	88	54	28
% of total complaints closed by Directorate	11%	23%	3%

*Top 3 reasons remain unchanged

Children Young People and Education

	Workload	Sign off delay	Complex case
2023/24	577	28	9
2022/23	467	31	25
% of total complaints closed by Directorate	59%	3%	1%

*Top 3 reasons remain unchanged

Growth Environment and Transport

	Workload	Staff absent or unavailable	Complex Case
2023/24	880	80	20
2022/23	271	107	50
% of total complaints closed by Directorate	27%	2%	>1%

*Top 3 reasons remain unchanged

Strategic and Corporate Services

	Workload	Staff absent or unavailable	Complex Case
2023/24	26	6	5
2022/23	5	n/a	2
% of total complaints rec'd by Directorate	12%	3%	2%

5. Customer communications channels

- 5.1 Information on 'How to complain' is available on our website and on our Complaints, Comments and Compliments leaflets. The public can provide feedback to the Council through a number of different channels including via our online form, phone, email and through Social Media.
- 5.2 The breakdown below indicates by percentage which channel customers have chosen to communicate feedback (compliments, comments & complaints).

Table 13 - Channels used to communicate compliments, comments, informal concerns and complaints

	Phone	Letter	Email	Comment card/ Face to Face	Online	Contact via Corporate Director, Member or MP	Govmetric	Other
2023/24	10%	2%	27%	2%	42%	<1%	16%	1%
Volume	868	183	2452	171	3758	10	1465	36
2022/23	13%	2%	33%	2%	50%	<1%	n/a	<1%
Volume	969	133	2396	119	3598	10	n/a	13

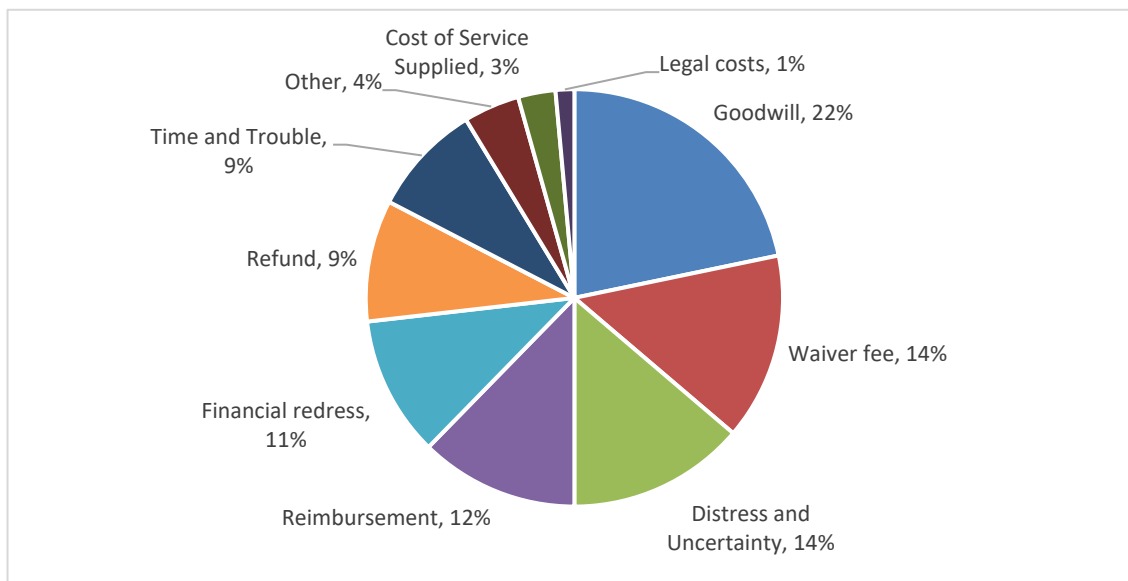
- 5.3 There is a significant proportion of complaints are now being submitted via digital methods. 69% of feedback received is arriving digitally either by email or via the online form.

6. Compensation across all complaints received by KCC

- 6.1 In 2023/24 £200,746.07 was paid in compensation, settlements, changes to the amount we charge and waived charges as a result of complaints to the organisation this includes;
- £81,676.89 has been paid or waived as part of local resolution in Adult Social Care and Health. This figure also includes the adjustments to the cost of care provided. The service has adapted their processes to ensure that this information is consistently calculated and recorded as part of the complaint outcome.
 - £980.47 has been paid out for Growth, Environment and Transport.
 - £117,088.71 has been paid out for Children, Young People and Education Directorate including Community Learning and Skills and Children Social Work Services
 - £1,000 has been paid out for Strategic and Corporate Services.
 - £108,499.24 of the payments above were made following Local Government and Social Care Ombudsman Decisions found against KCC.

- 6.2 This is an increase of £22,031.41 from 2022/23 when £178,714.66 was paid out in settlements or through waived charges.
- 6.3 There was a complaint in which there was a substantial reimbursement that was awarded in this financial year, however this is not reflected in this year's figures as the case was finally closed in the financial year 2024/25. The total sum awarded will be reflected in next year's totals.

Table 14 - Compensation complaint reason chart



Reason	Volume	%
Goodwill	30	22%
Waiver fee	20	14%
Distress and Uncertainty	19	14%
Reimbursement	17	12%
Financial redress	15	11%
Refund	13	9%
Time and Trouble	12	9%
Other	6	4%
Cost of Service Supplied	4	3%
Legal costs	2	1%
Total	138	

- 6.4 It is important to note that monies paid out during the 2023/24 financial year may relate to complaints recorded in previous years. This is due to the time that elapses between the date the complaint was lodged and achieving resolution. This is particularly true of Ombudsman complaints.

7. Levels of complaints to the standards committee (Member complaints)

Complaints recorded in 2023/24

- 7.1 During 2023/24 the Monitoring Officer has responded to 1 complaints of alleged misconduct of the breach of the Elected Member Code of Conduct.

Table 15

Number of Complaints				Outcome
2023/24	2022/23	2021/22	2020/21	
0	2	9	8	No Action or resolved upon receipt. Dismissed by the Monitoring Officer
1	0	0	0	Action taken by party

8. The Local Government and Social Care Ombudsman complaints review 2023/24

Overview of Ombudsman

- 8.1 In cases where a customer is unhappy with the responses received about their complaint from the Council they can exercise their right to involve the Local Government and Social Care Ombudsman (LGSCO). The Ombudsman will investigate cases where a customer has exhausted the Council's own complaints policy and feel that their case has not been appropriately heard or resolved.
- 8.2 Each year, in July, the Ombudsman issues an annual review to each local authority. In his letter he sets out the number of complaints about the authority that his office has dealt with and offers a summary of statistics to accompany this.
- 8.3 The annual review statistics are publicly available, allowing councils to compare their performance on complaints against their peers; copies of the Annual Review letter as well as any published Ombudsman complaints are issued to the Leader of the Council and Chief Executive to encourage more democratic scrutiny of local complaint handling and local accountability of public services.
- 8.4 Decision statements made are published on the Ombudsman's website six weeks after the date of the final decision. The information published will not name the complainant or any individual involved with the complaint. Cases in which the complainant, despite redaction of names, can be easily identified are not published.

9. KCC Performance – Ombudsman complaints

- 8.1 It should be noted that there will be discrepancies between the volume recorded by the Ombudsman and the authority. This is due to the Ombudsman recording complaints that it does not progress to Kent County Council, as it is able to resolve the issue at first point of contact, either through referring the customer to the Council or it is identified as out of jurisdiction.
- 8.2 Last year the Ombudsman has noted that the way in which they choose which complaints they will investigate has changed, leading to a higher number of complaints being upheld vs not upheld. The below is the Ombudsman's explanation of the change.
- 8.3 "Over the past two years, we have reviewed our processes to ensure we do the most we can with the resources we have. One outcome is that we are more selective about the complaints we look at in detail, prioritising where it is in the public interest to investigate. While providing a more sustainable way for us to work, it has meant that changes in uphold rates this year are not solely down to the nature of the cases coming to us. We are less likely to carry out investigations on 'borderline' issues, so we are naturally finding a higher proportion of fault overall.
- 8.4 During 2023/24 KCC received a total of **304** decisions from the Ombudsman this included 91 referred back for local resolution. The full letter and Ombudsman statistics can be found in Appendix B.
- 8.5 Each complaint provides an opportunity to learn from our customers and improve our systems and we need to focus on those complaints that are upheld to ensure that lessons are learned.
- 8.6 The Ombudsman's report noted that the national average upheld is **84%** of complaints they investigated; this is the same as last year.
- 8.7 The average upheld rate for other County Councils has increased from 80% to 85%. Kent County Council's average is **81%**; this was a decrease from last year's 87% upheld.
- 8.8 In **3%** of upheld cases the Council had provided a satisfactory remedy before the complaint reached the Ombudsman. This compares to an average of 7% in similar authorities.
- 8.9 The Ombudsman found the highest proportion of complaints upheld nationally to be in Education and Children's services, of 304 cases received by the LGSCO for Kent, 186 were about Education and Children Services. Nationally 92% of complaints regarding SEN provision and EHC plans are upheld.
- 8.10 The Ombudsman highlighted that the Council needs to improve its timeliness in its responses to both our customers and the Ombudsman itself. There was one instance

in which the Council did not carry out agreed actions, which meant that the Council complied with the Ombudsman's recommendations in 98% of cases.

8.11 The Ombudsman also recognised the Council's efforts in working with the LGSCO to improve the current position.

10. Public Report

10.1 The Council received one public report in 2023/24. The details of the report were presented to CYPE Cabinet Committee in 2023.

10.2 Report summary

Education – special educational needs Mrs X complained the Council failed to ensure her son, Y, received the Speech and Language Therapy (SALT) set out in his Education, Health and Care plan (EHCP). She also complained the Council has delayed the EHCP process and that communications were poor.

10.3 Recommendations

The Council must report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended)

In addition to the requirement set out above, to remedy the injustice caused the Council should:

- apologise to Mrs X and Y for failing to issue a decision following the annual review in June 2021, not issuing the EHCP in the statutory timescales, not ensuring the SALT provision specified in the plan was provided, not responding to the complaint and its poor communication;
- pay Mrs X £300 to acknowledge the time and trouble she has spent pursuing this complaint and for the Council's failure to formally respond to it;
- pay £200 to acknowledge the frustration and distress caused due to the Council's faults;
- pay £1,300 for not providing SALT sessions over 13 months which would have been in place had the EHCP been issued within an appropriate timescale. This money should be used for Y's benefit;
- pay £100 a month, for every month the SALT was not set up from January 2023 until the SALT provision is in place. This money should be used for Y's benefit; and
- evidence SALT provision has started and is being delivered in line with the requirements of the EHCP.

In addition, the Council should write to each of the 170 people it has identified to apologise for its delay responding to their stage one and two complaints. The apology should:

- explain they have been identified following an investigation by us;
- set out the steps the Council has already taken to reduce its stage one and two complaint backlog.

It should also explain that, in line with our recommendation, the Council will consider what further steps it should take to prevent a future backlog; and

- include that, once they receive the stage two response, they have the right to complain to us if they remain dissatisfied with the Council's response to the substantive matter they complained about. It should say that if we choose to investigate the main issue they complain about, we can also consider the Council's complaint handling.

Final report

To improve services, the Council should within three months of the date of this report:

- review its EHCP annual review procedure to ensure it follows statutory timescales set out in the Special Educational Needs and Disabilities (SEND) regulations. Ensure decisions about maintaining, amending or discontinuing plans are communicated clearly and promptly to the young person and their family to enable appeal rights to be engaged;
- develop an action plan to show how it intends to address ongoing delays with EHCP annual reviews and complaints about them.

This report should be taken to the relevant committee for democratic scrutiny; and

- update us on the backlog for stage one and two responses and its timeliness. The Council has accepted these recommendations.

11. Local authority report – Kent County Council

11.1 For further information on interpretation of statistics click on this link to go to <http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

11.2 The following table examines the number of complaints received by the Ombudsman over the last three years against the LGSCO's service categories.

Table 16

	Adult care Services	Benefits and Tax	Corporate and other services	Education and children's services	Environmental services	Highways and transport	Housing	Planning and Development	Other	Total
<u>2023/24</u>	75	0	6	186	10	22	1	1	3	304
<u>2022/23</u>	67	1	4	146	5	19	0	0	1	243
2021/22	55	0	3	96	7	20	0	1	0	182

Decisions made

11.3 The following table examines the number of complaints decided by the Ombudsman over the last three years and decision category given by the LGSCO.

11.4 There has been a significant increase in the number of cases needing the Council's input and response in the last year. Even those closed after initial enquiries can represent a significant workload for both the Customer Feedback team and the services it supports.

Table 17 – LGSCO complaint decisions

	<u>Detailed investigation carried out</u>		Advice given	Closed after initial enquiries	Incomplete / Invalid	Referred back for local resolution	Total
	Upheld	Not upheld					
2023/24	76	18	2	101	16	91	304
2022/23	53	8	7	91	8	62	229
2021/22	65	30	0	75	2	10	182

12. Ombudsman Complaints – Themes and Outcomes

12.1 The following section examines some cases that were investigated by the Ombudsman. The complaint and the subsequent decisions are taken from the Ombudsman’s website where all decisions (in which the complainant cannot be identified) are published.

Table 18 - Children, Young People and Education

	Upheld	Not upheld	Closed: out of jurisdiction/ no further action or withdrawn	Premature	Total
Children Social Work Services	11	1	23	2	37
Kent Test/ School Admission appeals	3	1	8	0	12
Home to School Transport/ Free School Meals	0	1	3	0	4
Special Educational Needs	41	2	13	41	97
The Education People	0	0	0	0	0
Community Learning and Skills	0	0	1	0	1
Closed by LGSCO – not sent to KCC	0	0	3	27	30
Total	56	5	51	70	182

Children Social Care - Upheld example – 22 015 191

Complaint

Miss X complained about the Council’s actions and decision in relation to her daughter, F’s care in 2020 when she was discharged from a mental health hospital.

Outcome

The Council has upheld Miss X’s complaints after investigating them under the statutory children’s complaints procedure. It agreed to pay Miss X and F £250 each to acknowledge the distress and uncertainty caused by poor placement planning upon F’s discharge. It agreed to pay Miss X a further £500 to acknowledge the significant delays in completing stage 2 of the complaints procedure.

Children Social Care – Not upheld example – 22 013 930

Complaint

Miss X complained the Council has failed to properly consider an application she made for a blue badge for her son. She said without a blue badge, it limits the opportunities he has to access the community. The Ombudsman does not find fault in the Council's actions.

Education - Not upheld example – 23 003 616

Complaint:

Mr X complains:

- a. about the Council's decision to refuse to carry out an education, health and care needs assessment for his son and the conduct of officers who dealt with the matter. Mr X says the actions of the Council caused significant distress to him and his family.
- b. that the Council delayed in carrying out the needs assessment following the Tribunal order and in issuing the education, health and care plan. As a result, Mr X's son's special education needs were not met for longer than necessary.

Outcome

The Council did not issue Y's final EHC plan within the statutory timescale. But, on balance, I do not consider the Council is at fault for the delay.

The delays were caused by the need to rearrange the educational psychology assessment on two occasions. This was because Mr X could not attend the assessment arranged for December 2022 and Y could not be at school for the assessment scheduled for January 2023. The educational psychologist then could not carry out the assessment until late February but, on balance, I do not consider this is fault. It is inevitable that the assessment would take some time to rearrange due to the educational psychologist's work commitments.

The educational psychologist took a month to send their report to the Council. On balance, I consider the time taken to produce the report was not excessive and does not amount to fault. The Council then issued the draft EHC plan and the final EHC plan within appropriate timescales.

1. Education - Upheld example – 23 001 283

Complaint

Mrs X complains the Council did not issue her son, Y's, Education, Health and Care plan (EHCP) within the required timescales. Mrs X complains Y was unable to receive a suitable education until his EHCP was issued at the end of June 2023.

Mrs X says this has caused distress and frustration for her and Y. She says that he has lost out on provision he should have received if the plan had been issued on time.

Outcome

To remedy the injustice caused by the faults I have identified, the Council has agreed to take the following action within four weeks of the date of my final decision:

- apologise to Mrs X for the delay in finalising Y's EHCP, the delayed appeal rights and the lost opportunity for Y to access the educational provision set out in his EHCP;
- pay Mrs X £250 to acknowledge the distress and frustration caused by the wait for the EHCP to be issued;
- pay Mrs X £900 to acknowledge Y's lost opportunity to access specialist educational provision set out in his plan, whilst it was delayed.

Table 19 - Growth, Environment and Transport

	Upheld	Not upheld	Closed: out of jurisdiction/no further action or withdrawn	Premature	Total
Environment & Waste	0	2	5	3	10
Growth and Communities (inc LRA)	0	0	0	1	1
Highways & Transportation	0	2	18	1	21
Total	0	4	23	5	32

Not Upheld example – 22 009 127

Complaint:

1. Mr X and Mrs X complained they suffered inconvenience because the Council did not consider their access needs to a field, before, and then during a road closure.

2. Because of this Mr and Mrs X suffered significant inconvenience and added stress.

Outcome

The Council have a power to restrict or fully close a road. The legislation allows this where there are road works. The regulations explain what the Council should do when it approves a TTRO. The Council correctly followed the procedure.

The Council carried out consultation with those affected by the road closures as part of the initial planning process for the road works. This included the landowner of the field Mr X rents and there is no evidence the Council were aware of any specific access needs that Mr or Mrs X would have.

There is no legal requirement for the Council to ensure access after it became aware of Mr X’s situation. However, we would expect to see the Council make efforts to try and resolve these issues. The Council continued to liaise with Mr X with the intention of trying to help with access.

This liaison included a site visit, it involved others outside the Council and recognised the need for access by animal welfare practitioners. This contact carried on after the Council had dealt with Mr X’s complaint. This is the evidence we would expect to see and there was no fault in this.

There were no complaints heard at Ombudsman stage regarding GET that were Upheld at this time.

Table 20 – Chief Executive and Deputy Chief Executive Departments

Upheld	Not upheld	Closed: out of jurisdiction/no further action or withdrawn	Premature	Total
0	2	3	1	6

Not Upheld example – 22 012 436

Complaint:

The complainant, who I shall refer to as Miss X, complains the Council has refused her request for reasonable adjustments to enable her to access an adult education course.

Outcome:

Miss X complains the Council was discriminatory in failing to make adjustments she considered reasonable to enable her to study an adult education course. We

discontinued our investigation because we do not have jurisdiction to investigate the matter Miss X complains of.

Table 21 - Adult Social Care and Health

Upheld	Not upheld	Closed: out of jurisdiction/no further action or withdrawn	Premature	Total
20	7	23	15	65

Not Upheld example – 23 010 048

Complaint:

The Council, and the care home providing services on behalf of the Council, wrongly accused Mr Z of mismanaging his father’s finances and wrongly reported him to the police.

Mrs Z, complaining on behalf of her husband Mr Z, says the situation caused distress and had a negative impact on their health.

Outcome

There is no fault as the Council correctly began a safeguarding investigation when concerns about finances were raised and correctly involved the police.

Upheld example – 23 001 147

Complaint:

The complainant, who I shall call Mr X, complains the Council has charged him for care from 24 October to 13 November 2022, which should have been free as reablement care.

Mr X says this has caused him to pay for care which he feels should have been free and he would like this refunded.

Outcome

The Council accepts that all the OT equipment was not delivered to Mr X. This was fault, as the Council’s reablement protocol refers to the provision of equipment. The equipment was originally ordered by the hospital OT and they could have also followed this up. This had an impact on Mr X, but from what I can see would not have been the sole reason the period of reablement was not successful. Mr X is now living at a new address, with a different care package, and so this part of the complaint cannot be remedied by delivering the missing equipment.

Mr X's representative's main point is that the Council brought the reablement care to an end prematurely. The argument is that the Council should have allowed the full 6 weeks before deciding what happened next. This would have meant that Mr X did not have to pay for care from 24 October to 13 November 2022, as reablement care is free.

Having looked at the care notes I can see why the Council carried out the review on 11 October. The care agency had told them that Mr X's calls were taking longer than the time assigned. Mrs X was also struggling to care for Mr X when the carers were not present and was asking for help. Mr X had fallen twice and had agreed to go into respite/residential care. I cannot see any evidence of fault in making a decision before the end of the 6 weeks that Mr X required ongoing care. Mr X agreed to go into respite/residential care.

Mr X's representative also argues a point of law. The legislation they refer to is the Care and Support (Charging and Assessment of Resources) Regulations 2014. Part 2 refers to the power of the Council to charge for care and support. In section 3 it says 'a local authority must not make a charge for intermediate care and reablement support services for the first 6 weeks of the specified period or, if the specified period is less than 6 weeks, for that period'.

The guidance says the Council can provide reablement support free of charge for less than 6 weeks. There is no guidance to say whether the specified period can change after a re-assessment.

In this complaint, the Council's decision to reassess the care needs before the end of the 6 weeks was without fault, given the concerns of the carers and Mr X's wife. Mr X continued to receive care at home but this no longer had the goal of reablement. Mr X was then required to pay a financial contribution towards the cost of the care.

The Council's reablement care protocols are clear. They say 'Enablement is a time limited assessment service which is provided free for up to 6 weeks; the duration being determined according to individual need. The service aims to support individuals to reach agreed goals.....'.

In response to my enquiries, the Council said 'Enablement protocols for the service say that a period of reablement can be as long as six weeks but can also end sooner, and is considered to have ended once a person's ongoing needs have been identified, and/or they are felt to have achieved the goals agreed at the start of the intervention.

I can find no evidence of fault in the Council's decision to end the reablement care and charge for the care at home until Mr X went into respite/residential care. The Council reassessed Mr X and determined that he was no longer suitable for reablement care before the end of the 6 week period. Once the Council decided that Mr X was no longer suitable for reablement care, then it follows the Council could charge Mr X for his care as the reablement care had ended.

Within one month of the date of the decision on this complaint the Council should:

- Apologise to Mr X. We publish guidance on remedies which sets out our expectations for how organisations should apologise effectively to remedy injustice. The organisation should consider this guidance in making the apology I have recommended in my findings.

The Council should provide us with evidence it has complied with the above actions.

13. LESSONS LEARNED

13.1 Where the Ombudsman has made a decision against the Council, steps are taken by officers in the service to ensure that any lessons learned are applied across the service to improve the customer experience and avoid any further complaints of a similar nature.

13.2 With regards to lessons learned across the Council, the following table shows a list of actions that have been recorded where they exceed 100 complaints.

Table 22 - Top remedy actions

Action taken	Stage 1
Formal apology	790
Explanation	431
Provided service requested	314
Arrange staff training or guidance	281
Financial remedy	154
Discuss at team meeting	132

12.1 Other actions taken include changing or reviewing communications, changing or reviewing a service, offering advice, reviewing contract or partner arrangements and changing or reviewing policies or procedures.

14. RECOMMENDATIONS

13.1 The Committee is asked to note the contents of this report for assurance.

Report Author:

Pascale Blackburn-Clarke
 Customer Experience and Engagement Manager
 03000 417025
 Pascale.blackburn-clarke@kent.gov.uk

Relevant Corporate Director:

Amanda Beer, Deputy Chief Executive
 03000 415835
 Amanda.beer@kent.gov.uk

Appendix A – Directorate overview of Customer Feedback Received

Children, Young People and Education

All Feedback Reported

	Complaints (Stage One)	Comments	Compliments	Resolved Local Government and Social Care Ombudsman enquiries & complaints*
2023/24	1164	21	40	186
2022/23	1240	38	39	121
2021/22	1049	42	91	96

The below table compares the number of complaints received in 2023/24 with those received in 2021/22 and 2022/23.

Service	2021/22	2022/23	2023/24
Integrated Children's Services <i>(Was Specialist Children Service/Children's Social Work Services)</i>	825	991	397
Education (includes Community Learning & Skills) <i>(Was Education Services)</i>	222	236	145
SEN & Disabled Children's Services	n/a	n/a	608
Corporate Directors Office (includes The Education People)	2	13	15
Total Complaints	1049	1240	1164

Growth, Environment and Transport

All Feedback Reported

	Complaints (Stage one)	Comments	Compliments	Resolved Local Government and Social Care Ombudsman enquiries & complaints*
2023/24	3157	1233	702	33
2022/23	3231	196	662	26
2021/22	3238	226	703	28

The below table compares the number of complaints received in 2023/24 with those received in 2021/22 and 2022/23.

Service	2021/22	2022/23	2023/24
Environment (<i>was Environment, Planning and Enforcement</i>)	172	145	73
Growth & Communities (<i>was Economic Development</i>)	4	4	96
Highways and Transportation	2791	2822	2565
Waste	n/a	n/a	235
Libraries, Registrations and Archives	271	260	187
GET Corporate Directors Office	n/a	n/a	1
Total Complaints	3238	3231	3157

Adult Social Care and Health

All Feedback Reported

	Complaints (Stage One)	Comments	Compliments	Resolved Local Government and Social Care Ombudsman enquiries & complaints*
2023/24	992	0	553	75
2022/23	958	0	375	48
2021/22	744	0	375	55

The below table compares the number of complaints received in 2023/24 with those received in 2021/22 and 2022/23.

Service	2021/22	2022/23	2023/24
Adult Social Care and Health	744	958	992
Total Complaints	744	958	992

Strategic and Corporate Services

All Feedback Recorded

	Complaints (Stage One)	Comments	Compliments	Resolved Local Government and Social Care Ombudsman enquiries & complaints*
2023/24	173	514	23	7
2022/23	151	39	22	4
2021/22	179	17	39	3

The below table compares the number of complaints received in 2023/24 with those received in 2021/22 and 2022/23.

Service	2021/22	2022/23	2023/24
Finance (includes Insurance)	39	26	47
Governance, Law and Democracy (<i>was FOI</i>)	13	15	31
Marketing and Resident Experience	64	41	36
Strategy, Policy, Relationships and Corporate Assurance	-	34	3
Infrastructure	16	11	32
Strategic Commissioning (includes Public Health)	34	1	6
Other including HR	13	10	18
Total Complaints	179	138	173

Appendix B

Ombudsman Letter

17 July 2024

By email

Ms Beer
Chief Executive
Kent County Council

Dear Ms Beer

Annual Review letter 2023-24

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2024. The information offers valuable insight about your organisation's approach to complaints, and I know you will consider it as part of your corporate governance processes. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to ensure effective ownership and oversight of complaint outcomes, which offer valuable opportunities to learn and improve. In addition, this year, we have encouraged Monitoring Officers to register to receive the letter directly, supporting their role to report the decisions we uphold to their council.

For most of the reporting year, Paul Najsarek steered the organisation during his tenure as interim Ombudsman, and I was delighted to take up the role of Ombudsman in February 2024. I look forward to working with you and colleagues across the local government sector to ensure we continue to harness the value of individual complaints and drive and promote systemic change and improvement across the local government landscape.

While I know this ambition will align with your own, I am aware of the difficult financial circumstances and service demands that make continuous improvement a challenging focus for the sector. However, we will continue to hold organisations to account through our investigations and recommend proportionate actions to remedy injustice. Despite the challenges, I have great confidence that you recognise the valuable contribution and insight complaints, and their swift resolution, offer to improve services for the public.

Complaint statistics

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

Complaints upheld - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic. This year, we also provide the number of upheld complaints per 100,000 population.

Compliance with recommendations - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

Satisfactory remedy provided by the authority - In these cases, the organisation upheld the complaint and we agreed with how it offered to put things right. We encourage the early resolution of complaints and give credit to organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 24 July 2024. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

Your organisation's performance

During the year, we [issued a public report](#) about your Council's failure to respond to a complaint about speech and language therapy provision to a young boy with an Education, Health, and Care (EHC) Plan. Our investigation found the boy was without provision for a long period and delays in completing the EHC Plan frustrated the complainant's right of appeal to the relevant Tribunal.

During the investigation, we found the Council had a backlog of 170 unanswered children's services and education complaints, with average response times far exceeding the timescale set out in the Council's policy.

We recommended, and the Council agreed, to apologise to the mother and son, and pay £1,800 for their time, trouble, frustration, and distress, and make payments to recognise the failure to provide speech and language therapy. We also asked the Council to contact those people affected by the significant delays in its complaint handling, to review its EHC Plan procedures and develop an action plan to reduce delays to both the EHC review process and complaints about them. I am satisfied with the actions the Council has taken in this case.

The theme of delay continued in your response to enquiries and other correspondence from this office during the year. After showing some improvement last year, there were multiple occasions when our investigations were delayed by the Council's failure to respond in a timely way to our requests for information, and in particular, complaints about your Children's Services department. It is particularly concerning that in three cases we had to write to explicitly remind you of our legal power to issue a witness summons to obtain the information we had asked for before it was produced.

It is also disappointing that your Council failed to provide evidence it had complied with the recommendations we made in one complaint during the year. In this case you agreed to review and arrange the provision in a child's EHC Plan and share a final amended EHC Plan with the child's mother. Despite reminding you over several weeks of the need to provide evidence to satisfy us this action was complete, we only received acknowledgment that you recognised it needed to be done.

Non-compliance with our recommendations is taken very seriously; it reflects extremely poorly on the Council and undermines residents' confidence that it is genuinely willing and committed to putting

matters right when it has been at fault. I ask you to ensure your Council has robust mechanisms in place to enable it to fully evidence compliance with the recommendations it agrees to and reduce any repeat of these failings.

Despite these concerns, I recognise your officers have engaged constructively in meetings with my Assistant Ombudsman during 2024, setting out plans to improve your complaint handling functions. I am pleased you are committed to resolving the situation and look forward to seeing improvements in the current year.

Supporting complaint and service improvement

In February, following a period of consultation, we launched the [Complaint Handling Code](#) for councils, setting out a clear process for responding to complaints effectively and fairly. It is aligned with the Code issued to housing authorities and landlords by the Housing Ombudsman Service and we encourage you to adopt the Code without undue delay. Twenty councils have volunteered to take part in an implementation pilot over the next two years that will develop further guidance and best practice.

The Code is issued to councils under our powers to provide guidance about good administrative practice. We expect councils to carefully consider the Code when developing policies and procedures and will begin considering it as part of our processes from April 2026 at the earliest.

The Code is considered good practice for all organisations we investigate (except where there are statutory complaint handling processes in place), and we may decide to issue it as guidance to other organisations in future.

Our successful complaint handling training programme continues to develop with new modules in Adult Social Care and Children's Services complaint handling available soon. All our courses include practical interactive workshops that help participants develop their complaint handling skills. We delivered 126 online workshops during the year, reaching more than 1,700 people. To find out more visit www.lgo.org.uk/training or get in touch at training@lgo.org.uk.

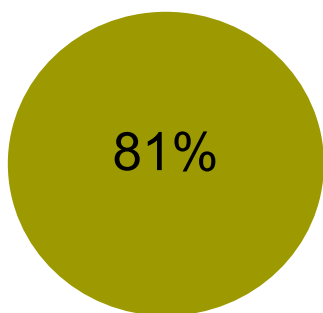
Returning to the theme of continuous improvement, we recognise the importance of reflecting on our own performance. With that in mind I encourage you to share your view of our organisation via this survey: <https://www.smartsurvey.co.uk/s/ombudsman/>. Your responses will help us to assess our impact and improve our offer to you. We want to gather a range of views and welcome multiple responses from organisations, so please do share the link with relevant colleagues.

Yours sincerely,



Amerdeep Somal
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Complaints upheld



81% of complaints we investigated were upheld.

This compares to an average of **85%** in similar organisations.

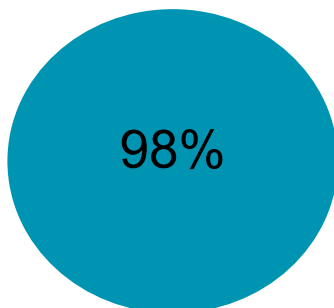
76
upheld decisions

This is 4.8 upheld decisions per 100,000 residents.

The average for authorities of this type is 4.5 upheld decisions per 100,000 residents.

Statistics are based on a total of **94** investigations for the period between 1 April 2023 to 31 March 2024

Compliance with Ombudsman recommendations



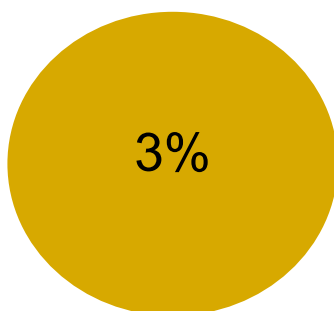
In **98%** of cases we were satisfied the organisation had successfully implemented our recommendations.

This compares to an average of **100%** in similar organisations.

Statistics are based on a total of **63** compliance outcomes for the period between 1 April 2023 to 31 March 2024

- Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

Satisfactory remedy provided by the organisation



In **3%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **7%** in similar organisations.

2
satisfactory remedy decisions

Statistics are based on a total of **76** upheld decisions for the period between 1 April 2023 to 31 March 2024

By: Pascale Blackburn-Clarke
Customer Experience and Relationship Manager
To: Governance and Audit Committee
Date: 9 October 2024
Subject: Customer Feedback Policy Updates
Classification: Unrestricted

Summary: This report outlines the changes to the Customer Feedback Policy and the key reasons for the Council not adopting the LGSCO's Code for Complaints Handling timescales.

1. Introduction

- 1.1 In Autumn 2023, the Local Government and Social Care Ombudsman (LGSCO) consulted on the potential introduction of a new code of conduct. The code looked to streamline processes so that they are consistent across all of England's Councils. Timeliness and consistency across all councils played a big part in the Ombudsman's reasons for wanting to introduce the code. Kent County Council responded with robust reasons as to why the proposed changes should not go ahead.
- 1.2 The outcome of the consultation was published on 8 February 2024. The Ombudsman launched the code in February 2024 with a view to Councils adopting it by 2026/27.
- 1.3 This paper is intended to set out the reasons for the Council not proceeding with the code at this present time but to state our intention to do so once the Council has improved its current position in relation to the timescales for complaints handling.
- 1.4 Key performance targets and activity indicators on the level of and response times to complaints are reported on in the Performance Dashboard, which is discussed at Policy and Resources Cabinet Committee on a quarterly basis. The latest of these papers is referenced at the end of this report.
- 1.5 An annual report on customer feedback is presented to Governance and Audit Committee. The latest report looking at 2023/4 will go to the October meeting of that Committee. This includes details of the annual letter from the LGSCO which offers valuable opportunities to learn and improve. This year's letter, whilst noting that the Authority had not successfully implemented LGSCO recommendations in 2% of cases, commented that "officers have engaged constructively in meetings with my Assistant Ombudsman during 2024, setting out plans to improve your complaint handling functions. I am pleased you are committed to resolving the situation."

2. Code summary

- 2.1 The code does not impact statutory timelines already set out in the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 for Adult Social Care complaints and for those eligible for Children Act Complaints process but all other complaints for example, SEN, Highways, Education will be impacted.
- 2.2 For Stage 1 complaints the code allows for acknowledgements to be given within 5 days of receipt, followed by a 10 further days for a response. Any extension should be no more than 10 working days without good reason, and the reason(s) should be clearly explained to the individual. Councils are also obliged to provide the LGSCO's details to the complainant at this point.
- 2.3 Stage 2 follows the same acknowledgement within 5 days and 20 further days for the response. Complainants are not compelled to state why they want an escalation.
- 2.4 MPs and Member enquiries can be dealt with however the Council deems appropriate, but it is considered to be good practice to tell residents that they can use the complaint route instead.
- 2.5 The code gives guidance regarding performance reporting. A self-assessment form has to be completed annually and provided as part of the annual reporting of complaints. This also has to be completed following "a significant restructure, merger and/or change in procedures." This will be challenging for us due to our size and constant change.
- 2.6 There is also a line regarding reporting more widely, "organisations should report back on wider learning and improvements from complaints to stakeholders, such as citizens' panels, staff and relevant committees."

3. The Council's current position according to Self-Assessment tool

- 3.1 The LGSCO has developed a self-assessment tool, which Councils are expected to complete to determine the health of their complaints handling. Appendix A holds a completed copy of the self-assessment based on the Council's current position.
- 3.2 With the exception of the time to respond to stage one complaints, the Council broadly is in line with the Ombudsman's ambitions under the code. Sufficient dedicated resources are available within the complaints teams except when there are consistently high numbers of complaints in a particular area leading to service backlogs

4. Potential performance impact

- 4.1 The current KCC policy allows for 20 working days at stage one. We acknowledge our complaints within 3 days but set the clock running from working day of receipt. Our current Key Performance Indicator for responses

within that timescale is set at 85% but this has not been met for a number of years. Performance currently is at 67% (August 2024), largely due to a backlog within Special Educational Needs and Adult Social Care and Health.

- 4.2 Adults and Children Act complaints are exempt from this code, as are service requests. So this position could improve to some extent under the new code. For example, Adult Social Care complaints are allowed under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 makes provision for customers and the complaints team to set the timescales for responding. This can be up to 6 months for the most complex of cases, and means that complaints will often not meet the 20 working day KCC standard. This is because an agreement with the customer has been formed to allow for more time to investigate and respond.

Under the code these complaints would be exempt from the described timescales.

- 4.3 However, the vast majority of our complaints come under the Corporate Complaints procedure, which means that a significant volume of complaints will be expected to be handled in this way, including complex areas such as Special Educational Needs (SEN).

- 4.4 The council has three options regarding this new code of conduct:

1. Adopt the code and aim to meet the new standards immediately

In order to maintain our benchmark of 85% and meet the new code standards, it would be necessary to significantly increase the number of staff managing complaints in the dedicated complaints teams. Currently the teams are managing unsustainable caseloads, and the proposed shortening of timescales will make it harder keep up with the pace required.

The number of staff needed in the front line to respond to complaints would also need to be increased, to enable capacity to respond quicker to complaints. This is expected to be significant in terms of cost to the organisation.

2. Acknowledge and accept lower benchmark for complying with the response timescales.

An alternative is to reduce the floor standard benchmark for handling complaints within the prescribed timescale. This may bring criticism and runs the risk of reputational damage if Ombudsman prescribed timescales are routinely missed. Whilst this option may lessen the impact on staff resources in the service, there will still be a drive to respond in the prescribed timescales to meet any new benchmark.

Whilst there is an argument that says complaints teams should prioritise those it knows can be responded to in time to help achieve the benchmark, it is not always possible to tell which cases will or will not be responded to in time, in advance.

3. Maintain KCC's current policy and intend to meet the LGSCO code when practicable

This would enable the Council to continue putting efforts into achieving its current standards and work towards achieving the code when practicable to do so.

- 4.5 It is proposed that the Council adopts option 3. The risk with not adopting the LGSCO code and instead maintaining existing timescales is that as currently we are not meeting these we will be open to more criticism than previously from the LGSCO. However, it will be made clear that the Council aims to meet the code when practicable to do so.

5. Risks in accepting the timelines outlined in the Code

5.1 Prioritisation of work

- 5.1.1 The Council has limited resources and recognises and prioritises the handling of complaints within that. But it is important not to create a situation where unrealistic timelines mean that instead of being able to work on substantively resolving issues, staff are impeded by the need to respond to additional complaints because those timelines have not been met. In short, these proposals risk collapsing not just the complaint system but whole sections of service.

- 5.1.2 For example; a 10 day turn around in a service such as Soft Landscapes where we receive large numbers of complaints at a particular time of year, means that we are asking the very people who are working hard to complete a programme of work to avoid complaints to prioritise complaints over completing the work that caused complaints in the first place, creating a catch 22 scenario.

- 5.1.3 This is also true of many other high-volume services such as Blue Badges, SEN, Highways and Waste.

5.2 Resourcing

- 5.2.1 Staff morale is likely to be impacted in complaints teams where there has already been backlogs and the churn of complaints received and responded to by the Council is high. It is likely that even with a drop in performance timeline expectations staff will be adversely affected by timescales, and we are likely to see attrition and staff turnover. This will impact relationships with teams, knowledge and support to staff on the front line.

- 5.2.2 The point of an effective and efficient customer service complaints team is to ensure that customers get a fair hearing and that lessons are learned from where we have got things wrong. Rushing investigations means that this is a likely casualty and therefore does not result in better outcomes for either the customer or the Council, which should be learning from mistakes.
- 5.2.3 The potential change in timescales also carries a significant risk for front line staff. The organisation has little room for manoeuvre in how it operates in relation to complaints handling, and a large part of why timescales are not met is workloads. Any change in timescales puts significant pressure on those staff too.

5.3 Impact to investigations and issues resolved at stage one

- 5.3.1 The unintended but inevitable outcome of the LGSCO proposals would be a material weakening of initial complaint investigations with additional complaint burdens, which would be unrecoverable through the remainder of the process. In our professional view, it would also inevitably increase escalation to the LGSCO with a reduction in meaningful outcomes at an earlier stage for complaints – something which would stand in opposition to what we believe the fundamental purpose of the process should be. This in itself would then lead to maladministration for having not properly investigated concerns up front.
- 5.3.2 The proposals do not reflect our experience of complainants, most want their issues resolved as quickly as possible, and miss the opportunity to meaningfully investigate and seek to resolve early where things have gone wrong. The proposals will remove the space for check and challenge within the organisation, which may impede the opportunity for concessions and recognition that might resolve the complaint earlier in a global sense.

5.4 Ombudsman sanctions

- 5.4.1 The Ombudsman states;

“We may make a finding of maladministration where local councils policies and procedures depart from the Code without sufficient explanation. We may also make a finding of maladministration where a local council, without good reason, does not meet the standards in the Code when responding to an individual complaint.”

- 5.4.2 Whilst not mandatory it appears that we may find ourselves out of favour on complaints that do escalate to the Ombudsman if we fail to meet our own timescales. Current Council performance means that this would be the case in a significant number of cases.
- 5.4.3 However, the Council does have aspirations to meet the code and will endeavour to do so as soon as possible. We are currently not meeting our own standards and we would need to do so before attempting to adopt a code

which halves the current timescales. The reputational and relationship damage to our residents and customers would be significant.

6. Legislative powers & Member involvement

6.1 The code is not mandatory, the LGSCO do not have the legislative powers given to them under the Local Government Act of 1974 to compel councils to adopt the code, however the Ombudsman has advised that Councils need to consider the code and adoption of the guidance on complaints handling within. They have said that they recognise that some Councils will find it more of a challenge than others to adopt but will be looking for Councils to adopt it by 2026/27 which is when they will consider the code as part of their casework.

6.2 The Ombudsman has stated that

“Councils should follow the Code unless there are good reasons not to. If a council decides not to follow the Code through its policies and procedures this could be set out in the self-assessment or another report to the relevant Member of scrutiny committee explaining the council’s reasons for this.”

6.3 Councils across England are currently considering their position in relation to the Ombudsman’s code. Some have agreed to take part in a pilot to help understand the impact and practical advice needed to implement the code fully. Whilst it is clear some Councils are able to adopt the code early, for example those who currently handle housing complaints under the code which is already mandated by the Housing Ombudsman; there are others that are still considering how they will approach the code. These are typically facing similar challenges to ourselves.

6.4 Whilst the policy is an operational matter, it is important that Members have an overview of the proposals and an opportunity to comment on the Council’s intention and the current direction of travel, noting the intention to adopt the code when possible.

7. Updating the Customer Feedback Policy

7.1 The customer feedback policy has not been formally updated since 2017, due in part to the pandemic and more latterly to the Ombudsman’s intention to release a code which was expected to have an impact on any policy decisions we needed to make.

7.2 We have reviewed our current policy with a view to remaining with the Council’s current commitment of acknowledging receipt of all complaints within 3 days and responding within 20 working days for Stage One complaints and 20 working days for Stage Two complaints.

7.3 As this Policy deviates from the Ombudsman’s recommended timelines, Members are asked to review and comment on the Council’s policy and timelines.

7.4 Should Members be minded to consider the adoption of the timescales outlined in the Ombudsman's code of complaint handling, it will be necessary to bolster front line services to enable the handling of complaints within a tighter timeframe. There is likely to be a shift in priorities with the Council's Complaints' Service Level Agreements (SLA) being quicker than some of our Service SLAs, resulting in the potential for more complaints rather than fewer complaints as staff juggle business as usual priorities alongside quicker timescales for complaints.

8. Other updates to the Policy

8.1 There have been a number of other updates to the Policy, including:

1. amalgamating all the complaints policies into one
2. adding clear reasons for not accepting complaints, for example legal cases, alternative appeal routes and HR issues.
3. updating contact details and links.

9. Recommendations

9.1 The Governance and Audit Committee are asked to note and comment on the updated Policy, including direction of travel with regards to the Ombudsman's code.

9.2 The Governance and Audit Committee are asked to comment on and acknowledge the self-assessment form at Appendix A.

Report Author

Pascale Blackburn-Clarke
Customer Experience and Relationship Manager
Pascale.blackburn-clarke@kent.gov.uk

Background papers:

[Link to last P&R performance report in May.](#)

[Link to the Ombudsman's complaints handling code.](#)

This page is intentionally left blank

CUSTOMER FEEDBACK POLICY (COMPLIMENTS, COMMENTS AND COMPLAINTS)

		Amendments
Document Owner	Pascale Blackburn-Clarke Pascale.blackburn-clarke@kent.gov.uk Tel: 03000 417025	
Version	V1.0 - September 2017	
	V1.1 – January 2019	Amendment of acts, addition of privacy notice statement and review date of policy.
	V.1.2 – April 2020	Appropriate Policy Document for GDPR
Approved	V1.0 Policy and Resources Committee – 15 th September 2017	
Formal Review Date	September 2022	
Version	V2 for comments at committee	Amendments to what we will not accept as complaint, timelines for submitting complaints, minor updates including links etc.

Contents

Introduction	3
Aim of policy	3
KCC Complaints' Standard	3
What is a complaint, comment or compliment?	3
Who can make a complaint, comment or compliment?	5
How a complaint can be made	6
Stages of the complaints' procedure	6
Exceptions to the KCC complaints' procedure	7
Confidentiality	14
Complaints, Comments and Compliments Monitoring	14

Introduction

This policy sets out KCC's position on compliments, comments and complaints management.

KCC has a genuine desire to learn from what our customers tell us and use it to improve:

- the services we provide
- the policies we develop
- how we behave as an organisation.

We are committed to operating an effective customer feedback system that demonstrates to the public that we:

- are putting customers at the heart of everything we do
- listen to what residents have to say
- are open, honest and transparent
- are responsive and fair.

KCC has a centralised approach for complaints, comments and compliments management. Individual Directorates and business units are responsible for supplying the centralised function with appropriate information and responses, enabling the feedback team to respond to in a timely manner. Services are also accountable to the Governance and Audit Committee where they may be asked to report to the committee to respond to questions relating to their residents' and service users' feedback and improvements made as a result.

Aim of policy

The purpose of this policy is to:

- clarify how the public may make a complaint about us
- define the standards the public can expect when they make a complaint
- recognise the importance of customer feedback in providing feedback about Council services and performance
- set out how the Council will monitor customer feedback and use that information to improve services and identify training needs.

KCC Complaints' Standard

We will acknowledge receipt of a complaint within three working days.

We will use plain English

We will answer all complaints within 20 working days or explain why a reply may take longer.

What is a complaint, comment or compliment?

COMPLAINT

A complaint is an expression of dissatisfaction, however made (whether that service is provided directly by the Council or by a contractor or partner), about the standard of / or the delivery of a service, the actions or lack of action by the Council or its staff which affects an individual or group of users.

Some examples of what might be complained about:

- An unwelcome or disputed decision
- Concern about the quality or appropriateness of a service
- Delay in decision making or provision of services
- Delivery or non-delivery of services
- Quantity, frequency or change of a service
- Attitude or behaviour of staff
- Refusal to answer reasonable questions
- Giving misleading or unsuitable advice
- How a policy decision has directly affected someone negatively

These definitions are in line with those complaints that are considered by the Local Government Ombudsman.

Examples:

- a customer complains that the Council has failed to follow its own procedures and that the member of staff dealing with them was rude and unhelpful
- a customer requested several months ago that a pothole outside their house needed repairing, the agreed timescale for fixing the pothole has passed and the pothole still has not been repaired
- a customer is unhappy with the delay in carrying out a social care assessment
- a customer who attends an Adult Education Class complains that when they turned up for their class it had been cancelled and no one had let them know.

COMMENT

A comment is a general statement about policies, practices or a service as a whole, which has an impact on everyone and not just one individual. A comment can be positive or negative in nature. Comments may question policies and practices, make suggestions for new services or for improving existing services.

Examples:

Positive Comment

- I am very happy that the Council has added book reservations to the online system for the Library Service

Negative Comments

- I am unhappy with the Council's decision to introduce parking charges at its country parks
- The website has information that is out of date.

COMPLIMENT

A compliment is an expression of satisfaction, thanks, praise or congratulations. (Internal compliments are excluded from this process).

Examples:

- I would like to thank the Customer Service Advisor for the prompt and efficient way in which they answered the telephone and dealt with my query. They were most helpful and friendly
- I was very grateful when I needed to see someone about the difficulties I was having that the Council Officer was able to meet with me in the evening.

Who can make a complaint, comment or compliment?

Any individual or organisation that uses or receives a Council service or has been affected by the actions of the Council can make a complaint if they are dissatisfied with the service. Complaints can also be made by a relative, a Member or MP, carer, friend or advocate on someone's behalf. We may have to seek consent if someone raises a complaint on behalf of someone else to ensure they agree with that person raising a concern about the service they have received.

If someone lacks capacity to provide such consent, we will need to be satisfied that the person is acting in their best interests. Without this, any response we may be able to provide will be limited in its content.

We will accept complaints relating to:-

- statutory or non-statutory services provided to individual customers
- services provided to schools
- services commissioned and delivered through other providers on behalf of the Council.

The Customer Feedback Policy does not cover complaints from members of staff, trainees, apprentices, or persons on work placements, involving working conditions, pay or other internal grievances.

We will not accept complaints:

- on a matter where the customer or the Council has started legal proceedings or has taken court action, this does not include cases where the customer has simply threatened legal proceedings against the Council. We will investigate complaints from customers that are not related to the legal proceedings or where the investigation will not prejudice the outcome of any current court action or legal proceedings (or criminal investigation).
- which are considered to be the initial reporting of faults, for example on the highways or initial request for services.
- on issues that have already had a decision at Court or in Tribunal.
- on issues that have already had a final decision from the Local Government and Social Care Ombudsman.
- through the complaints process from members of staff, current or former, in relation to personnel issues. We will only investigate complaints from staff, current or former, if they are in relation to accessing a service as a customer outside of their employment.
- Where over 12 months have passed since the complainant was aware of the issue occurring. We will exercise discretion to accept matters being raised as a late complaint if there are mitigating circumstances that meant someone was unable to raise a complaint earlier.

- Where there is an appropriate alternative route for a complaint to be raised, i.e. appeals panels or tribunals.
- Where someone is seeking payment for loss or damages against the Council. These claims will be passed to the Insurance team to be handled as a claim. We can investigate a complaint but will not be able to decide if we can award damages on behalf of the Council.

In the interests of public efficiency, the Council reserves the right not to pursue a complaint if it is deliberately repetitious or raised with the intent to frustrate processes. The Council expects staff to be treated with respect and dignity throughout the process and will not tolerate rudeness or abuse from people wishing to raise a complaint. The Council reserves the right to discontinue communication if any unacceptable behaviour persists.

If the complaint relates to a member of staff, the Council may not be able to provide details of the outcome of that complaint, depending on the nature of the complaint and its allegations.

Complaints and Safeguarding

Safeguarding procedures and protection of an individual take precedence over the complaint procedures. Therefore, a complaint investigation may be suspended, depending on the circumstances of the case, until the relevant safeguarding procedures have been concluded.

How a complaint can be made

A complaint can be accepted in any form (including face to face, email, via social media or by telephone). However, for the sake of clarity, any complaint, and the steps taken to deal with it, should be recorded in writing. We must take account of the complainant's individual circumstances and specific needs when communicating during the complaint process, bearing in mind such issues as disability and first language.

Stages of the complaint's procedure

Before submitting a formal complaint, we would advise initially raising any issues directly with the member of staff that has been dealing with the person or their immediate manager. Most problems can be resolved this way. However, if informal resolution has been unsuccessful, a formal complaint can be raised.

The KCC complaint process follows three steps:

Stage 1: Local Resolution

Our standard is to acknowledge the complaint within **three working days**, and to provide a full reply within **20 working days**. Where this is not possible, we will keep the complainant informed at the earliest opportunity before the completion of 20 working days when a full reply is likely to be sent, if this is known. The customer feedback team will work with the service responsible to address the issues raised in the complaint.

Stage 2: Complaint Escalation

If someone remains dissatisfied, their complaint can be investigated by writing to the Corporate Director of the service involved or responding to our response, requesting it to be escalated to stage 2.

The timescale for a formal response is **20 working days**. For more complex cases it will be a maximum of 65 working days.

At the conclusion of stage 2, the person complaining will be informed of their right to escalate their complaint to the Local Government and Social Care Ombudsman.

Stage 3: Local Government and Social Ombudsman

If the person remains unhappy with the outcome of an investigation, they can ask the [Local Government and Social Care Ombudsman](#) to conduct an independent review of their complaint.

To make a complaint, compliment or comment please use one of the following contact methods:

- [fill in our online form](#)
- call 03000 41 41 41 or text relay 18001 03000 41 41 41
- write to Customer Feedback at Invicta House, County Road, Maidstone ME14 1XX

Exceptions to the KCC complaints' procedure

There are separate procedures for complaints relating to the following services. This is to take into account the statutory requirements Kent County Council is required to meet.

Adult Social Care Complaints

Stage 1

We will acknowledge the complaint to confirm we have received it, and a member of the Customer Care and Complaints team will contact the person making the complaint to discuss a plan of action to deal with the concerns. This initial communication will normally take three working days.

We aim to respond to most complaints within 20 working days, but additional time is required to investigate more complex complaints. We will keep the complainant informed of any delays in the process. People can expect their complaints to be listened to, to be investigated fairly and responded to.

Escalation Stage

The majority of complaints will escalate straight to Ombudsman following investigation and response at Stage 1, however there are circumstances where it may be appropriate to review the complaint and supply a further response, this might be where the complainant

submits new information that was previously not available or asks follow up questions following receipt of their Stage 1 response or where the Council feels there is value in supplying a further response. Each complaint will be considered individually in respect of the circumstances.

Stage 2

If it has not been possible to resolve the complaint, then further contact should be made with the Customer Care and Complaints team using the contact methods above to see if anything further can be done. Contact can however be made at this point with the [Local Government and Social Care Ombudsman](#) who will review the way we have dealt with the complaint.

To make a complaint about Adult Social Care please use one of the following contact methods:

- [fill in our online form](#)
- email: customercarecomplaintsadults@kent.gov.uk
- call: 03000 41 04 10
- write to: Customer Care and Complaints Team, 3rd floor Invicta House, County Road, Maidstone ME14 1XX
- text relay: 18001 03000 41 04 10

Children's Social Care

The majority of complaints will be handled via KCC's usual complaints process, however if the complaint is regarding services in relation to the below criteria, it may be handled as a Statutory Children Act Complaint.

- Children in need
- Looked after children
- Special Guardianship support
- Post-adoption support

All new complaints are assessed for eligibility to use this statutory process. Who is making the complaint, what is being complained about, or another concurrent procedure may prevent a complaint from being progressed through this procedure. The customer will be advised accordingly by the Children's Complaints Team if this affects them.

Children Act Complaints process

Stage 1 – Local Resolution

Most issues can be settled quite simply by discussing the problem with a member of staff. Customers may prefer to write to us, and support should be offered locally to do this if required. Formal complaints must be sent or forwarded to the Children's Complaints Team (csccomplaints@kent.gov.uk) promptly, this is so they can be monitored and progressed correctly.

We will work with the team involved and aim to settle complaints as quickly as possible, usually between 10 and 20 working days. If we become aware that the complaint investigation will take longer, we will keep the complainant updated.

Stage 2 - Investigation

If it is not possible to settle a complaint at Stage 1, or the complainant remain dissatisfied with the response, the complainant may request that their complaint progresses to Stage 2 of the procedure. This can be requested by contacting the Children's Complaints Team and involves an investigation by an Investigating Officer and Independent Person who are appointed to examine the complaint in detail.

If we investigate at Stage 2:

- an Investigating Officer with no prior knowledge of the case will look into the issues raised;
- an Independent Person from an external provider, will also be appointed to oversee the complaint investigation;
- the Investigating Officer and the Independent Person will contact the customer to discuss the complaint and make sure they fully understand the issues.

When the investigation is complete, the Council's response to the findings of the investigation will be sent to the complainant, copies of the investigation reports will also be provided. We aim to do this within 25 working days of the investigation starting, but it can take longer. We will keep the complainant informed of progress. Where it is not possible to complete the investigation within 25 working days, it may be extended to a maximum of 65 working days.

Stage 3 – Review Panel

If the complainant remains dissatisfied following the Stage 2 investigation, they have a right to request for their complaint to be considered again, this time by an Independent Review Panel. A Review Panel will be held within 30 working days of the request being accepted.

Stage 4 Local Government and Social Care Ombudsman

If the complainant remains unhappy with the decision made by the panel about your complaint, they can complaint to the [Local Government and Social Care Ombudsman](#)

To make a complaint about Childrens Social Care, Special Educational Needs or Education please use one of the following contact methods:

- [fill in our online form](#)
- write to Kent Children's Social Services, Customer Care, Kroner House, Eurogate Business Park, Ashford, TN24 8XU
- call 03000 41 11 11
- email cscomplaints@kent.gov.uk
- text 07860008025, start your message with the word complaint.

Complaints by Governors

If the Local Government and Social Care Ombudsman refuses to consider a complaint brought by a governor, then the local authority will arrange for the complaint and/or the investigation to be independently reviewed. This process only applies where a governor makes a complaint in relation to:

- a. Their personal treatment by the local authority or the conduct of officers acting on behalf of the local authority, and
- b. Relating to their role as a governor of a local authority controlled or maintained school, and
- c. Where the actions complained of do not relate to the management of the school and are not covered by the School's existing complaint process,
- d. Where the LGSCO has refused to consider, accept or investigate the complaint and
- e. Where the incidents complained of took place within the last six calendar months

A copy of any report will be provided to the complainant and the Cabinet Member for Children, Young People and Education.

Complaints about Schools

If a parent/carer is worried about their child's learning or welfare at school, speak to their child's class teacher or head of year first. If they are not satisfied with the teacher's response, arrange to speak to the head teacher. If this isn't practical, they can ask for a copy of the school's complaints procedure to help them decide whether they wish to make a formal complaint.

Local Authority Schools

The School Information Regulations (England) requires local authority-maintained schools to have a procedure published online for dealing with all complaints relating to their school and to any community facilities or services that the school provides. The procedure should be available to anybody who wishes to make a complaint against the school.

Each school can decide on how many stages the procedure will include, usually two or three.

If a parent/carer remains dissatisfied after completing the school's complaints procedure, then they have a right to refer their complaint to the Secretary of State for Education.

Further information can be obtained by calling the National Helpline on 0370 000 2288 or going online at: [Complaints procedure - Department for Education - GOV.UK \(www.gov.uk\)](http://www.gov.uk) or by writing to:

Department for Education School Complaints Unit 2nd Floor, Piccadilly Gate Store Street
Manchester M1 2WD

Ofsted

In certain circumstances, Ofsted will investigate complaints by parents about their child's school, they will then decide whether to use their inspection powers to facilitate an investigation. Further

information about what complaints Ofsted will investigate can be found online at:
<https://www.gov.uk/complain-about-school/state-schools>

Academy and Free Schools

The Education (Independent School Standards) Regulations 2010 requires Academy and Free Schools to have a procedure for dealing with complaints from parents of pupils. The procedure must comply with part 7 of [The Education \(Independent Schools Standards\) Regulations 2014](#).

The ESFA (Education and Skills Funding Agency) handles complaints about Academies and Free Schools and if you remain dissatisfied following the Academies complaints procedure the complainant has a right to defer to the ESFA by going [online](#) or by post to: Complaints Team Education and Skills Funding Agency, Cheylesmore House, Quinton Road, Coventry, CV1 2WT

Complaints relating to Schools Admissions or Home to School Transport

Primary and Secondary Schools

A parent or carer can appeal if you were refused a place at one of their preferred schools.

To appeal for a primary school place please read our [guide](#).

To appeal for a secondary place please read our [guide](#).

Appeal hearing

The hearing lets a parents/carers explain to an independent appeal panel why they think their child should be given a place at the school and lets the school explain why it could not offer their child a place.

Decision – Primary

There is a legal maximum class size for reception, year 1 and year 2. This is 30 children per teacher. A parents/carers appeal can be turned down if all the classes have already reached their legal limit, unless:

- the admission arrangements were unlawful
- the admission arrangements weren't correctly and impartially applied
- the decision to refuse admission wasn't reasonable.

We will write to tell the parents/carers the panel's decision as soon as possible. We cannot tell anyone of the decision by telephone.

Decision – Secondary

We will write to tell the parents/carers the panel's decision as soon as possible. We cannot tell anyone of the decision by telephone.

School Transport Appeals

If parents/carers are unhappy with our decision to turn down their application for free school transport they can call us on 03000 41 21 21 to discuss the reasons why. If they are still unhappy then they have the right to make [an appeal](#).

Parents/carers can attend the hearing to put your case to the panel.

The decision will be sent to you in writing within 5 working days of the appeal hearing.

Complain about the appeals process

Parents/Carers can complain about the way the appeal was carried out, but they cannot complain about the decision itself. To complain about the way in which the appeal was carried out parents/carers can refer their complaint to the [Local Government and Social Care Ombudsman](#).

Complaints about a County Councillor

Our county councillors all adhere to the Kent Code of Conduct for Members.

Stage 1

Further information can be found here:

- [our guide on how to make a complaint](#)
- [the Kent Code of Conduct for Members](#)

Complaints alleging that councillors have breached the code of conduct are reviewed by a Monitoring Officer and an Independent Person. They decide if any action should be taken and if the matter should be investigated and referred to a Hearing Panel.

They will not deal with complaints about things that are not covered by the Kent Code of Conduct for Members. The complaint must state the reasons why it is considered that the councillor has not followed the Kent Code of Conduct for Members.

Stage 2

The complaint must be sent to:

- email democratic.services@kent.gov.uk
- print and post the councillor complaints form to Democratic Services, Kent County Council, Sessions House, County Hall, Maidstone, Kent ME14 1XQ.

Requests for Information

To complain about our response to a request for information under the Freedom of Information Act or other related legislation:

Stage 1

Send full details of the complaint asking for an internal review to the Chief Executive's Office

- email freedomofinformation@kent.gov.uk
- write to Chief Executive's Office, Sessions House, County Hall, Maidstone, Kent ME14 1XQ.

Or to complain about a request for access to personal information (subject access requests) or report a suspected Data Protection breach:-

- email dataprotection@kent.gov.uk
- write to Information Resilience & Transparency Team, room 2.71, Sessions House, County Road, Maidstone, Kent. ME14 1XQ

Stage 2

If the complainant is still unhappy, they can raise the matter with the Information Commissioner:

- call 0303 123 1113
- email casework@ico.org.uk
- go to the [Information Commissioner's website](https://www.ico.org.uk).

Complaints relating to the Fluency Duty (Part 7 of the Immigration Act 2016)

Customers wishing to make a complaint under the Fluency Duty Code of Conduct (Part 7 of the Immigration Act 2016) should do so under the normal KCC complaints' procedure.

Public authorities are subject to the fluency duty in relation to all of their staff who work in customer-facing roles.

The fluency duty does not extend to workers employed directly by a private or voluntary sector provider of a public service.

For the purposes of the fluency duty, a legitimate complaint is one about the standard of spoken English of a public sector member of staff in a customer-facing role. It will be made by a member of the public or someone acting on his or her behalf complaining that the authority has not met the fluency duty.

A complaint about a member of staff's accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint about the fluency duty.

For more information on the Fluency Duty Code of Conduct please visit [Microsoft Word - 20161128 FINAL Code of Practice.docx \(publishing.service.gov.uk\)](#)

Confidentiality

Any complaint processed through the procedure will be dealt with in accordance with the requirements of the Data Protection Act (DPA) 2018, General Data Protection Regulation (GDPR) and Freedom of Information Act. A Privacy Notice is available which defines how information is collated and stored for the purposes of handling customer feedback.

Equalities Data

While responding to customer feedback we may collect equalities data which may include, ethnicity, religion, sexuality, disability or if the person is a carer.

It is not necessary to submit any equalities information if the person chooses not to. KCC is committed to the principle that all our customers have the right to equality and fairness in the way they are treated and in the services that they receive. Any information provided will be used to see if there are any differences in views for different groups of people, and to check if services are being delivered in a fair and reasonable way. No personal information which can identify the individual, such as a name or address, will be used in producing equality reports. We will follow our Data Protection policies to keep all personal information secure and confidential.

Individuals' equalities data will not be included as part of the complaint unless it has been referred to in the body of the complaint and needs to form a part of the investigation or is relevant in how we provide the response.

Processing is necessary for reasons of substantial public interest as the lawful basis on which we collect and use people's special category data for statutory purposes (e.g. when investigating a complaint) or for equalities monitoring, (e.g. when identifying or keeping under review the existence or absence of equality of opportunity or treatment between groups of people with the view to enabling such equality to be promoted or maintained.)

Details of KCC's Equality Policy can be viewed on our website [Equality, diversity and inclusion - Kent County Council](#)

Vexatious and Unreasonably Persistent Behaviours

The Council is committed to dealing with all complaints equitably, comprehensively and in a timely manner. It does not normally limit the contact that complainants have with Council staff and offices. The Council does not expect staff to tolerate behaviour which is abusive, offensive or threatening and will take action to protect staff from such situations.

If communication from members of the public is offensive or threatening however, consideration will be given to limit the level of contact.

The County Council's guidance on handling unreasonably persistent and vexatious behaviours is set out in separate guidelines and can be located on our website [Complaints and compliments - Kent County Council](#)

Compliments, Comments and Complaints Monitoring

All customer feedback should be logged, including those that are resolved at first point of contact.

We will collaborate and share learning from customer feedback across the organisation. This will help us to improve our services for our customers. This insight should be used within the business planning process. We are committed to reducing the number of upheld Ombudsman complaints through the thorough investigation of complaints at Stages 1 and 2.

The complaints' system data will be used to report on the Corporate Key Performance Indicators and to compile the Annual Customer Feedback report. This report is presented to the Governance and Audit Committee which is webcast on Kent.gov.uk, the report will then be made available on the website. The report will contain high level information relating to:

- the number of complaints, comments and compliments received by each Directorate.
- how complaints are received; telephone, letter, e-mail
- % answered within standards
- % of those upheld
- performance relating to Local Government Ombudsman complaints
- examples of complaints received and investigated by the Ombudsman
- identified improvements to service delivery introduced in response to complaints
- recommended action to minimise or avoid similar complaints in the future
- recommended procedural improvements for handling and resolving complaints
- identified training and information needs
- compensation paid.

Services will be responsible for, and accountable for, reporting to Governance and Audit the nature of their complaints received at Stages 1 and 2, when requested.

Separate reports detailing the performance of Adult Social Care and Children, Young People and Education complaints are also prepared and presented to their relevant committees.

Our latest reports can be found here - [Complaints and compliments - Kent County Council](#)

Other Relevant Policies

The LGSCO publishes its Complaints Handling code as guidance for Councils. The latest version can be found here - [Complaint Handling Code - Local Government and Social Care Ombudsman](#)

KCC's self-assessment for the code can be found here - (Link to be added after Governance and Audit Committee)

There are other relevant policies and procedures that staff should reference, these are available on KNet (KCC's intranet):

- Customer Feedback Privacy Notice
- Unreasonably Persistent and Vexatious behaviours Policy
- Data Retention Policy

- Operating Standards
- Records Management Policy
- Data Protection Policy
- Data Quality Policy

Self-assessment against the requirements of the Code

Code section	Action	Do we follow the Code: Yes/No	Explanations and Commentary
1: Definition of a service request and complaint	We recognise the difference between a service request and a complaint, and these are defined in our policies and procedures.	Yes	
2: Exclusions	Our complaints policy sets out circumstances where we would not consider a complaint. These are reasonable and do not deny individuals access to redress.	Yes	
3: Accessibility and awareness	We provide different channels through which individuals can make complaints. These are accessible and we can make reasonable adjustments where necessary	Yes	
4: Complaint handling resources	We have designated, sufficient resource assigned to take responsibility for complaint handling. Complaints are viewed as a core service and resourced accordingly.	Yes	Under the Council's current 20-day stage one complaints it considers it has sufficient resource with dedicated teams to support Directorates in handling complaints.

Code section	Action	Do we follow the Code: Yes/No	Explanations and Commentary
5: The complaint handling process	We have a single policy for dealing with complaints covered by the Code and individuals are given the option of raising a complaint where they express dissatisfaction that meets the definition of the complaint in our policy.	Yes	
6: Complaints stages (Stage 1)	We process stage 1 complaints in line with timescales and processes set out in the Code.		No – the Council responds to ‘corporate’ complaints within 20 working days. The Council starts the time from day of receipt, not from acknowledgement of the complaint. The code allows for time to start from acknowledgement. Resulting in 15 day timescales in total.
6: Complaints stages (Stage 2)	We process stage 2 complaints in line with timescales and processes set out in the Code.	Yes	The council starts timescales from day of receipt and not from acknowledgement. This allows for 25 days in total. The Council will continue to start from date of receipt and work to 20 days.
7: Putting things right	When something has gone wrong we take action to put things right.	Yes	
8: Performance reporting and self-assessment	We produce an annual complaints performance and service improvement report for scrutiny and challenge which includes a self-assessment against the Code.	Yes	An Annual Report is presented to Governance and Audit Committee.

Code section	Action	Do we follow the Code: Yes/No	Explanations and Commentary
9: Scrutiny & Oversight	We have appropriate senior leadership and governance oversight of the complaints process and performance.	Yes	<p>The person responsible for managing the complaints teams, has access to both the Chief Executive and the Council’s Monitoring Officer and a regular slot at CMT.</p> <p>Key performance and activity indicators are presented quarterly to Policy and Resources Committee and an Annual Report is presented to Governance and Audit Committee.</p>

This page is intentionally left blank

From: Clare Maynard, Head of Commercial and Procurement Division

John Betts, Interim Corporate Director for Finance

To: Governance and Audit Committee

Date: 9 October 2024

Subject: Update to Spending the Council's Money for the Procurement Act 2023

Executive Summary:

This paper sets out the substantive changes that are required to Spending the Council's Money as a result of the upcoming Procurement Act 2023 (the 'Act'). From **24 February 2025**, the Act will become the primary governing legislation for public procurement, applying to all contracting authorities in England, Wales and Northern Ireland. It will introduce the biggest change to public procurement in over 15 years.

The paper outlines the main ambitions of the new legislation, before detailing its key provisions and the changes proposed to Spending the Council's Money (SCM), the mandatory rules that anyone spending money on behalf of KCC must comply with. These changes would come into force on the 'go-live' date for the new legislation.

The proposed changes will help ensure the Council is compliant with the Act, addressing new requirements which relate to pre-procurement activity, tendering, social value and tackling barriers facing SMEs and VCSEs, excluding suppliers, and transparency throughout the Council's procurement and contract management.

With some discrete policy positions on how KCC will implement the legislation, the proposed changes to SCM also seek to position the Council to take advantage of the opportunities that the Act presents while mitigating the biggest challenges and risks.

The proposed changes, which have been subject to a comprehensive legal review, as well as internal scrutiny, demonstrate KCC's commitment to ensuring its key spending rules remain fit for purpose in a changing operating environment.

Preparation for the Act has been an important programme for KCC, which has been led by the Commercial and Procurement Division but with cross-Council support. Such collaboration has been evidenced on the review of Spending the Council's Money, and will continue to be crucial as wider preparations are progressed.

Recommendations:

Support the substantive changes proposed to Spending the Council's Money, detailed in Sections 2 to 8 and available in full in the appended documents.

Recommend to County Council that the substantive changes proposed to Spending the Council's Money be approved.

Agree that the Head of Commercial and Procurement and Section 151 Officer will revisit Committee to update on any further changes necessary due to Government's preparation of a new National Procurement Policy Statement (see paragraph 1.5).

1. Introduction

- 1.1 The Procurement Act 2023 (the 'Act') introduces a new set of regulations for public procurement that will apply to all contracting authorities in England, Wales, and Northern Ireland from the 'go-live' date of **24 February 2025**.
- 1.2 The new regulations represent a significant change to the way public bodies buy goods, services and works. They will replace current public procurement rules, including those set out in the Public Contracts Regulations (PCR) 2015.
- 1.3 The intention of the reforms is to create a simpler, more flexible procurement regime, encourage consideration of social value, and reduce the barriers facing SMEs and VCSEs wishing to access contracting opportunities. The regulations also intend to allow authorities to take action on suppliers posing unacceptable risks, while also embedding transparency throughout the commercial life cycle.
- 1.4 KCC's preparation for the Act commenced in April 2024 and a key activity has been the review of the Council's mandatory spending rules contained within Spending the Council's Money (SCM). This paper outlines the substantive changes required to SCM as a result of the legislation and to position KCC to take full advantage of the new regulations, while mitigating the associated risks.
- 1.5 Members should note that the new regulations were originally due to come into force on 28 October 2024. However, on 12 September 2024, it was confirmed that the 'go-live' date for the regulations would be slipped to 24 February 2025.
- 1.6 While no changes are expected to be made to the regulations themselves, Government will be using this extra time to prepare a new National Procurement Policy Statement (NPPS), which sets out the Government's priorities for procurement and that the new regulations will require authorities to take into account. This may require further minor changes to SCM.

Substantive Changes to Spending the Council's Money

2. **Scope, Objectives, and Principles**

- 2.1 As with the existing regulations, the Act will largely apply to the procurements of contracts with an estimated value above the UK public procurement thresholds. However, there are some key exceptions to the regulations. For example, contracts valued below those thresholds, Light Touch Contracts, and Concession Contracts, are only subject to a limited number of the provisions. Notably, the procurement of health care services is out-of-scope of the new Act and are instead subject to the separate Provider Selection Regime (PSR).
- 2.2 **SCM has been updated to differentiate between where the new regulations apply and where there are exceptions or, in the event that healthcare services are being procured, alternative rules need to be followed.** Sections 10, 12, 15, and 16 of SCM, in particular, have been updated to highlight the exceptions, but the delineation is made throughout the document.
- 2.3 Similar to the existing regulations, when awarding a contract under the Act, authorities will need to have regard to the principles of delivering value for

money, acting with integrity, and transparency. However, there is a greater emphasis on realising wider public benefit through procurement, including delivering social value and opening up opportunities to SMEs and VCSEs.

- 2.4 The importance of securing wider public benefit through public procurement is expected to be emphasised in the new National Procurement Policy Statement, which Government will publish ahead of the new regulations coming into force.
- 2.5 **SCM has been updated to ensure the objectives of the regulations are reflected in the principles of SCM and the roles and responsibilities of anyone spending money behalf of KCC, Senior Officers, and the Commercial and Procurement Division (CPD).** Notably, Sections 3, 6, and 7 have been amended to align with the new regulatory objectives, and there are now appropriate references made to these objectives throughout the document.
- 2.6 As with existing public procurement regulations, the Procurement Act 2023 takes a VAT-inclusive approach to calculating and expressing contract values. **SCM has been updated to express all contract values as being inclusive of VAT, to better align with the regulatory position.**

3. Pre-procurement

- 3.1 The new legislation emphasises the importance of pre-procurement preparation, which involves activities such as preliminary market engagement, and developing requirements, award criteria and evaluation methodology. These activities are crucial for KCC to effectively understand and engage the market, develop procurement strategies, and plan procurement processes.
- 3.2 Section 16 of the Act sets out the requirements for preliminary market engagement, which is encouraged but not mandatory. Authorities must specify the purposes of such engagement (e.g., testing the feasibility of requirements, informing the market of procurement plans, or seeking market feedback). Authorities must ensure that no suppliers are advantaged by such engagement.
- 3.3 **Section 26 of SCM has been added to reflect the legal requirements around preliminary market engagement.** It also clarifies that Officers in Services will lead on such engagement, but the CPD will advise and support.
- 3.4 Section 21 of the Act covers the development of requirements, which must be sufficiently clear and specific and not break the rules on technical specifications as set out in Section 56 of the Act. These rules include not referring to particular designs, trademarks, or suppliers, unless it is appropriate to do so.
- 3.5 **Section 25 of SCM has been added to reflect obligations on specification design.** It also clarifies that Officers in Services are responsible for developing specifications, but the CPD will provide challenge and a commercial review.
- 3.6 Section 23 of the Act covers setting award criteria and evaluation methodology, which must be relevant, proportionate, clear, measurable, and specific. The Act also introduces a shift from identifying the 'Most Economically Advantageous Tender' to identifying the 'Most Advantageous Tender', which implies a more balanced consideration of both price and quality, including social value.

3.7 **Section 31 of SCM has been added to reflect the change in emphasis during tender evaluation, underlining that contracts should be awarded based on a balanced consideration of price and quality.** It also sets out that the award criteria and evaluation methodology should be developed in close consultation between Officers in Services and the CPD.

3.8 The changes proposed to SCM will support compliance with the provisions. However, the changes will also help to ensure the Council properly engages markets and KCC's approach to procurement is effectively planned from the outset. This will increase the prospect of achieving best value, while considering wider public benefit and the need to treat all suppliers fairly and equally.

4. Tendering

4.1 The new legislation simplifies the number of competitive tendering procedures available, removing much of the prescriptiveness in the current regulations, and providing authorities with greater flexibility to design their own procedures.

4.2 Section 20 of the Act outlines that authorities may use either a single-stage open tendering procedure or a multi-stage 'competitive flexible' procedure. The 'competitive flexible' procedure allows authorities to design their own procedure based on their objectives, local needs, and the nature of the market, as long as they comply with the principles and procedural requirements of the legislation.

4.3 **Section 29 of SCM has been added to set out the two competitive tendering procedures available to Officers.** Given the risks associated with designing a 'competitive flexible' procedure, Officers will be permitted to use two forms of this procedure that are similar to two already used. Alternative designs will require approval of the Commercial and Procurement Oversight Board.

4.4 Section 22 of the Act allows authorities to set out 'conditions of participation' to test the legal and financial capacity or technical ability of suppliers to deliver the contract. These conditions must be proportionate to the nature, complexity, and cost of the contract, and there are no limitations on the type of accounts and insurance arrangements that authorities can request from suppliers.

4.5 **Section 30 of SCM has been updated to reference 'conditions of participation' instead of 'selection criteria' and to highlight the importance of proportionality when setting these conditions.** The requirement to use the Council's standardised Selection Questionnaire is retained, alongside the new requirement for Officers to refer to the Government Supplier Information System. Where it is leading the procurement, the CPD will lead on setting and assessing against the conditions of participation, working closely with Services.

4.6 **Sections 34 to 37 of SCM have also been updated to provide clarity on the rules and expectations for conducting tendering exercises,** such as using the Council's standard Invitation to Tender documentation, responding to clarification questions, and managing the tenders received.

- 4.7 Section 50 of the Act requires authorities to communicate award decisions to suppliers (both successful and unsuccessful) and to issue assessment summaries, providing more detailed feedback to suppliers than currently.
- 4.8 **Section 40 of SCM has been updated to set out the requirement for Officers to communicate the outcome of the procurement to suppliers who tendered with feedback provided as required by the Act.** It is also set out that the CPD will lead this activity, working closely with Officers in Services.
- 4.9 Section 49 of the Act introduces the concept of an 'Open Framework', a scheme of Frameworks that can run for a longer period of time than a typical Framework and allows authorities to appoint new suppliers during the life of the scheme.
- 4.10 Sections 34 to 40 of the Act introduce Dynamic Markets, in some ways similar to Dynamic Purchasing Systems available under current regulations, but that offer flexibility as they are usable for a wider range of goods, services, or works.
- 4.11 **Section 15 of SCM has been updated to reference the availability of Open Frameworks and Dynamic Markets.** It also clarifies that the CPD will establish such arrangements on behalf of the Council, while Officers in Services will be responsible for calling off contracts from these arrangements.
- 4.12 These changes to SCM will ensure KCC complies with the new legal requirements, while mitigating the risks associated with the provisions and taking advantage of the new flexibilities to secure best value and innovation through procedures that utilise commercial skills.

5. Contract Management

- 5.1 The new legislation recognises that the important work does not stop once a contract is awarded, introducing several requirements for contract management.
- 5.2 Section 52 of the Act requires authorities to publish at least three KPIs for contracts valued at £5m or more and to report at least annually on the supplier's performance against those KPIs. Additionally, section 71 of the Act requires authorities to publish the details of supplier underperformance or breach of contract where it meets the criteria in the legislation.
- 5.3 **Section 43 of SCM has been added to incorporate the new requirements for managing supplier performance.** It clarifies that Officers in Services are responsible for monitoring supplier performance, with the CPD and Legal advising on the appropriate course of action in the event of poor performance and needing to be engaged ahead of publishing any details related to this.
- 5.4 Sections 67 to 70 of the Act require authorities to ensure that suppliers are promptly paid within 30 days of a valid, undisputed invoice (an obligation also placed on suppliers in relation to paying sub-contractors). KCC's compliance with these requirements and payments against contracts must be published.
- 5.5 **Section 44 of SCM has been added to reflect these payment obligations.** It also outlines that Officers may agree to earlier, discounted payments to

suppliers as part of KCC's supplier incentive programme. The role of the CPD and Finance have been clarified in relation to the publication requirements.

- 5.6 Sections 74 and 75 of the Act allow authorities to make changes to contracts in certain circumstances, but require publication of the details of certain changes where they alter the value or the term of the contract to a prescribed degree.
- 5.7 **Section 45 of SCM has been updated to reflect the legal requirements for contract changes.** The CPD will also need to be engaged before changes to contracts valued above the UK public procurement thresholds. Section 10 provides clarity on who should be consulted on and authorise contract changes.
- 5.8 Sections 78 to 80 of the Act provide authorities with rights to terminate contracts in certain circumstances and required contract expiry details to be published.
- 5.9 **Section 46 of SCM has been added to incorporate the provisions relating to contract expiry and termination.** It also includes key considerations to be made ahead of contract exit, such as providing reasonable notice to the supplier and resolving outstanding issues. Officers are directed to engage the CPD, and Legal, ahead of contract exit, especially if early termination is considered.
- 5.10 The SCM changes proposed will support compliance with the above requirements. Further clarity on where the CPD are to be engaged will ensure the whole Council is supported to hold suppliers to account for poor performance, get the best value from contract changes, and mitigate the risks linked to the early termination of contracts, while helping KCC to meet its prompt payment obligations and new transparency requirements.

6. Wider Public Benefit

- 6.1 The new legislation requires authorities to consider the wider public benefit that can be delivered through procurement, including the delivery of social value and reducing barriers facing SMEs and VCSEs. It introduces a number of provisions to ensure authorities consider these legislative priorities when contracting.
- 6.2 The importance of securing wider public benefit through public procurement is expected to be emphasised in the new National Procurement Policy Statement, which Government will publish ahead of the new regulations coming into force.
- 6.3 Section 18 of the Act introduces a new duty for authorities to consider lotting (i.e., splitting up) contracts prior to undertaking a procurement in order to make opportunities more accessible for smaller organisations. Where authorities choose not to lot contracts, they must record the rationale for this decision.
- 6.4 **Section 27 has been added into SCM to cover the duty to consider lotting.** Working with the CPD, Officers in Services will be required to consider lotting contracts prior to undertaking a procurement, considering whether this will make opportunities more accessible for smaller organisations and secure best value.
- 6.5 Beyond considering lotting, there are several references made within the new Act to the importance of taking a proportional approach to activity throughout

the commercial life cycle and specific provisions that will be of benefit to smaller organisations and help ensure contracting opportunities are more accessible.

- 6.6 References have been incorporated throughout SCM to address the need to consider proportionality at the different stages of the commercial life cycle. **Sections 29 and 36 of SCM have been amended to make clear to Officers that they should consider the implications for SMEs and VCSEs when designing their tendering procedures and setting appropriate timeframes.**
- 6.7 Concerning securing social value through procurement, the new Act seeks to encourage this through a number of different provisions. For example, the shift in the new regulations to considering the 'Most Advantageous Tender' rather than 'Most *Economically* Advantageous Tender' intends to move authorities away from simply considering lowest price and factoring in a more balanced assessment of price and quality, including the social value to be delivered.
- 6.8 **Sections 31 and 37 of SCM have been updated to underline the importance of taking into account social value and sustainability when setting award criteria and evaluating tenders.** Sections 25 and 32 also direct Officers to reflect on these areas when developing specifications and KPIs.
- 6.9 As outlined elsewhere within this paper, SCM also now incorporates the legal obligations on KCC to publish details of upcoming contracting opportunities, to provide suppliers with assessment summaries, and to pay suppliers promptly. Adherence to these key requirements will support smaller organisations by providing early visibility of tenders, offering constructive feedback where they are unsuccessful to help improve future tenders, and supporting cash flow.
- 6.10 The changes proposed to SCM will help ensure KCC is compliant with the obligations outlined in this section, but they also go beyond the legal requirements in different respects to secure wider public benefit for Kent.

7. Exclusions

- 7.1 The new legislation will make it easier for authorities to exclude from procurements those suppliers who pose unacceptable risks to the Council.
- 7.2 Section 57 of the Procurement Act allows authorities to exclude suppliers from procurement processes where certain grounds known as mandatory and discretionary grounds apply. The application of exclusion grounds has been extended to a supplier's 'connected persons', 'associated persons' and sub-contractors. Alongside this, Government will be creating and managing a 'debarment list' of suppliers who must be excluded from public procurement.
- 7.3 Schedule 6 of the Act sees the strengthening of mandatory exclusion grounds to include corporate manslaughter, fraud, modern slavery, and tax offences. Schedule 7 of the Act also includes discretionary grounds for exclusion linked to labour market misconduct, environmental misconduct, and breach of contract and poor performance. Where a discretionary ground applies, the supplier must be given the opportunity to evidence 'self-cleaning'.

- 7.4 **Section 39 has been added into SCM to incorporate the exclusions provisions of the Act.** It also clarifies that the CPD will lead on the review, checks, and processes related to exclusions, where it leads the procurement (otherwise Officers in Services can lead on this). Regardless, the CPD and Legal must be consulted with prior to any exclusion being made.
- 7.5 The changes proposed to SCM with regards to exclusions will help ensure KCC is compliant with its associated obligations under the new Act. Additionally, the outlined role of the CPD and Legal in this process will mitigate the legal risks.
- 8. Acting with Integrity and Transparency**
- 8.1 Running through the new regulations is the common thread of transparency, which is an expectation throughout the commercial life cycle. Under the Act, the Council will be required to publish notices of certain upcoming commercial activity to a newly established Government Central Digital Platform.
- 8.2 For individual procurement projects, the notice requirements will include planned procurement notices (where we wish to provide early notice of a contracting opportunity); pre-market engagement notices (where such engagement is carried out); tender notices (ahead of undertaking a procurement), contract award notices (prior to entering a contract); and contract details notices (after entering into a contract with a supplier).
- 8.3 During contract management, as has been indicated elsewhere in this paper, there will be a legal obligation on the Council to publish notices detailing certain contract changes, the performance of suppliers on contracts valued above £5m, underperformance on contracts, and payment compliance information.
- 8.4 Separate notice requirements will apply when establishing Framework Agreements and Dynamic Markets. Limited notice requirements will also apply when calling off from these arrangements and on below threshold contracts.
- 8.5 **SCM has been updated throughout to include reference to the new transparency requirements that apply through the commercial life cycle.** It clarifies that the CPD will lead on the publication of the notices, although Officers in Services must provide information in a complete and timely manner.
- 8.6 Section 93 of the Act requires authorities to publish details of their procurement pipeline, covering contract opportunities at a value of £2m or more and expected to be awarded in the next 18 months. This requirement will create better visibility of procurement plans and allow suppliers to better plan for bids.
- 8.7 **Section 8 of SCM has been updated to reflect the new requirement to publish procurement pipelines.** It also goes beyond the legal requirements, by committing to publish opportunities above the UK public procurement threshold for goods and services, which is below the £2m requirement stipulated in the new legislation, and will support smaller organisations.
- 8.8 Part 5 of the Act provides clearer guidance on how and when to undertake conflicts of interest assessments, ensuring greater focus and consistency when dealing with and recording conflicts of interest. Authorities must prepare a

conflicts assessment for each procurement and publicly confirm that this has been carried out, revised as necessary throughout the commercial lifecycle.

8.9 **Section 22 of SCM has been updated to reflect the new requirements for carrying out conflicts assessments.** It details that Officers must take all reasonable steps to identify and mitigate actual or perceived conflicts of interest that may arise in relation to a procurement from the outset of the process. Officers in Services will create and manage conflicts assessments and must keep these under review, consulting with and seeking sign off from the CPD.

8.10 These transparency provisions will have a resource implication, particularly for the CPD and potentially open up greater opportunity for legal challenge. However, they may also reduce supplier enquiries, encourage competition, help ensure contracting opportunities more accessible to SMEs and VCSEs, and build even greater public trust in KCC's procurement and contracting activity.

9. Conclusion

9.1 The Procurement Act 2023 represents the biggest change in over 15 years to how public bodies buy goods, services, and works.

9.2 These reforms, and the amendments proposed to SCM, have the potential to deliver several benefits to KCC, its supply base, and residents. These opportunities include greater flexibility to design competitive procedures suited to our local needs and to enable us to secure best value, wider public benefit, as well as tailoring processes to reduce barriers facing SMEs and VCSEs.

9.3 With a strengthening of the provisions around contract management and the exclusions regime, the changes may also motivate improved supplier performance, while providing the Council with additional protection against those suppliers posing an unacceptable risk to KCC. Furthermore, the emphasis on transparency throughout the commercial life cycle may also build further trust with residents and suppliers around use of the Kent pound.

9.4 While updating SCM is a key component of preparing KCC for the reforms, and ensuring we are compliant from the 'go-live' date, wider preparatory work is being progressed and will continue. This includes developing detailed guidance for Officers, extending training opportunities, and engaging on the changes across KCC and with our key provider sectors ahead of 24 February 2025.

10. Recommendations

Support the substantive changes proposed to Spending the Council's Money, detailed in Sections 2 to 8 and available in full in the appended documents.

Recommend to County Council that the substantive changes proposed to Spending the Council's Money be approved.

Agree that the Head of Commercial and Procurement and Section 151 Officer will revisit Committee to update on any further changes necessary due to Government's preparation of a new National Procurement Policy Statement (see paragraph 1.5).

11. Financial implications

- 11.1 The new transparency rules will have resource implications with KCC having to publish up to 15 notices for each procurement and in contract management. These are pressures that are shared with and have been expressed by many other public sector bodies subject to the new regulations. Government have undertaken a New Burdens Assessment for the Act, but have determined that these pressures will balance with the benefits of the new regulations.
- 11.2 The Council is working internally and with its e-procurement systems provider to automate the information and publication process linked to the new transparency requirements and to mitigate their impact, as far as possible.

12. Legal implications

- 12.1 A transition period, during which procurements and contracts already underway or concluded under the previous legislation will continue to be subject to those regulations, will see KCC having to work with multiple procurement regulations (the PCR 2015, the new Act, and the separate regime for healthcare services).
- 12.2 As with any legislation, there will be a period of uncertainty until the new procurement regulations are tried and tested, case law develops, and further secondary legislation and guidance is published. During this time, there is a risk of wrongful application or misinterpretation of the regulations and challenge.
- 12.3 The Council is mitigating these risks with the wider preparatory work described, particularly updating and communicating Spending the Council's Money, guidance for staff, and extending training and development opportunities.

13. Further Information

[Procurement Act 2023](#)

[The Procurement Regulations 2024](#)

[Transforming Public Procurement Knowledge Drops](#)

[Parliamentary Statement on Delaying Commencement of the Procurement Act 2023](#)

14. Contact details

Report Authors:

Michael Bridger, Commercial Standards and Improvement Manager

Rebecca Rhodes, Commercial Ethics and Sustainability Lead

Relevant Senior Officers:

Clare Maynard, Head of Commercial and Procurement Division

John Betts, Interim Corporate Director for Finance



Kent County Council Spending the Council's Money

The Council's Rules for Procurement and
Spending Activity



PART A: INTRODUCTION	3
1. PURPOSE	3
2. FORMAL STATUS OF SCM	3
3. KEY PRINCIPLES	3
4. COMPLIANCE	43
5. SCOPE	54
6. THE ROLE OF ANYONE BUYING ON BEHALF OF THE COUNCIL	65
7. RESPONSIBILITIES AND ACCOUNTABILITIES OF THE WIDER COUNCIL	86
8. PROCUREMENT PIPELINE	119
9. APPROVALS FOR CONTRACTING ACTIVITY	1240
PART B: REQUIREMENTS FOR SOURCING GOODS, SERVICES AND WORKS	1314
10. PROCEDURES FOR PROCUREMENT BY AGGREGATE CONTRACT VALUE	1314
11. CALCULATING THE AGGREGATE CONTRACT VALUE	1613
12. DETERMINING THE APPLICABLE PROCUREMENT REGULATIONS	1613
13. PROCUREMENT BUSINESS CASES	1713
14. USING EXISTING CONTRACTUAL ARRANGEMENTS	1714
15. FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS (DPS')	1714
16. CONCESSION CONTRACTS	1915
17. TEMPORARY STAFF, CONTRACTORS, AND CONSULTANTS	2015
18. COLLABORATION WITH OTHER PUBLIC BODIES	2146
19. LIABILITY AND SECURITY	2146
20. FINANCIAL SECURITY	2146
21. FRAUD, BRIBERY AND CORRUPTION	2247
22. DOCUMENT RETENTION	2317
PART C: REQUIREMENTS FOR QUOTATION OR TENDERING PROCEDURES	2318
23. ENGAGING THE COMMERCIAL AND PROCUREMENT DIVISION	2318
24. REQUIREMENT TO ADVERTISE AND PUBLISH INTENDED PROCUREMENT ROUTE	2418
25. USE OF SELECTION QUESTIONNAIRES (SQS) AND BASIC SELECTION CRITERIA	2749
26. REQUEST FOR QUOTATIONS	ERROR! BOOKMARK NOT DEFINED.20
27. INVITATIONS TO TENDER	2720
28. FORMS OF CONTRACT	2921
29. SUBMISSION, RECEIPT AND OPENING OF TENDERS	3222
30. POST-SELECTION QUESTIONNAIRE (SQ) AND TENDER CLARIFICATIONS	ERROR! BOOKMARK NOT DEFINED.23
31. EVALUATION	3423
32. CONTRACT AWARD, AGREEMENT AND SIGNATURE	3624
33. CONTRACT TIERING AND MANAGEMENT RESPONSIBILITY	ERROR! BOOKMARK NOT DEFINED.25
34. CONTRACT AWARD NOTICES	3825
35. CONTRACT MODIFICATIONS, EXTENSIONS AND NOVATIONS	3926
36. DISPOSING OF SURPLUS GOODS, MATERIALS OR ASSETS	4427
37. WAIVERS	4527
38. EMERGENCY PURCHASES	4527
39. PURCHASE ORDERS	4528
40. SUBSIDIES	4628
APPENDIX 1: DEFINITIONS	4729

Part A: Introduction

1. Purpose

- 1.1. This document, 'Spending the Council's Money' is referred to hereafter as 'SCM'. SCM is the mandatory rules and processes that must be followed and complied with when spending money on behalf of Kent County Council ('the Council'). The purpose of SCM is to ensure that, prior to any expenditure being incurred, there is proper consideration of the process, and that any procurement or contracting is carried out in a fair, open, and transparent way such that the outcome will represent value for money to the Council and the county's residents.
- 1.2. It is important to understand that whilst SCM is an internal Council document, it does seek to incorporate and embed procedures across the Council to also ensure compliance with external obligations placed upon the Council, including those found in relevant procurement legislation, applicable case law, and both statutory and non-statutory guidance. Non-compliance with SCM would therefore not only be a breach of an internal Council set of rules but could result in the Council acting unlawfully in terms of procurement legislation, applicable case law, and guidance. Repeated or egregious instances of non-compliance with SCM (e.g., those which result in unlawful practice) may result in disciplinary action being taken.

2. Formal Status of SCM

- 2.1. SCM is referenced in the Council's Contracts and Tenders Standing Orders ('the Orders'), which are written into the Constitution and made under Section 135 of the Local Government Act 1972.
- 2.2. The Corporate Director for Finance, as the Council's Section 151 Officer, is the custodian of SCM. However, the Section 151 Officer may delegate the responsibility for keeping SCM under review and up to date to the Head of Commercial and Procurement within the Council. Where the law is changed in a way that affects SCM, those with delegated responsibility will issue a bulletin and the change must be observed until these documents are revised to reflect the changes. Where there is a difference between current legislation, applicable case law, and/or statutory and non-statutory guidance governing procurement, contracting and public expenditure ('current law and guidance') and SCM, the current law and guidance prevails.

3. Key Principles

- 3.1. SCM is underpinned by the following key principles:
 - a. To ensure that there is accountability for the Council's external spending.
 - b. To ensure that those spending money for or on behalf of the Council act in the best interests of the Council and with high standards of integrity ~~probity~~.
 - c. To manage the Council's exposure to financial and legal risk
 - d. To ensure that the Council meets its statutory duty to deliver best value for money, while considering how to maximise public benefit and creating ~~ing~~ healthy competition and markets for the goods, services, and works purchased.
 - e. In respect of health care services, the Council meets its statutory duty to act with a view to securing the needs of the people who use the services, improving the quality of the services, and improving the efficiency in the provision of the services.
 - f. To be transparent to our residents about how the Council spends their money.
 - f.g. To ensure that public money is spent legally and fairly.
 - g.h. To support the Council to achieve its corporate aims, including the delivery of its supporting our sustainability and social value objectives, delivery in line with the public sector equality duty, ~~and~~ encouraging the growth of local businesses and reducing or

- removing the barriers facing, Small and Medium Enterprises (SMEs) and Voluntary, Community, and Social Enterprises (VCSEs) when accessing contracting opportunities.
- i. To ensure the Council has due regard to the national policy priorities for public Procurement that are outlined in the National Procurement Policy Statement (NPPS).

4. Compliance

- 4.1. SCM applies to all Members and Officers and those working for, or on behalf of, the Council. That means:
- Individuals, permanent or temporary, and whether via a contract of employment or engaged through an agency, or otherwise, as a contractor or consultant.
 - Schools and business/trading units.
 - Third parties undertaking procurements specifically on the Council's behalf.
- 4.2. Anyone who buys goods, services, or works on behalf of the Council, including Members, Officers, temporary staff, contractors, and consultants, must always comply with SCM.
- 4.3. Confirmed breaches of SCM must be reported to the Monitoring Officer, who will report them to Internal Audit and the Governance and Audit Committee as the parties responsible for monitoring and oversight of the Council's compliance with SCM.
- 4.4. Those found to be in breach of SCM will be subject to investigation which will lead to proportionate action being taken which may include disciplinary action in line with the Council's relevant Code of Conduct.
- 4.5. All such individuals who are buying on behalf of the Council must follow the Council's policies, as amended from time to time, particularly those relevant to SCM that are listed below:
- Contracts and Tenders Standing Orders
 - Financial Regulations
 - Scheme of Delegation
 - Code of Conduct (i.e., the 'Kent Code')
 - Property Management Protocol
 - Corporate Grants Procedure
 - Anti-Bribery Policy
 - Anti-Fraud and Corruption Strategy
 - Whistle Blowing Policy and Procedure
- 4.6. The legislation by which public procurement is governed in the UK must also be followed, including, but not limited, to the following legislation as amended from time-to-time:
- The Procurement Act 2023 and the Public Procurement Regulations 2024¹
 - The Health Care Services (Provider Selection Regime) Regulations 2023 ('the PSR')
 - The Public Contracts Regulations (PCR) 2015²
 - The Utilities Contracts Regulations (UCR) 2016³
 - The Concession Contracts Regulations (CCR) 2016⁴
 - The Defence and Security Public Contracts Regulations (DSPCR) 2011⁵

¹ Applicable to procurements commencing on or after the 'go live' date for the Act and Regulations – 24 February 2025.

² Applicable to contracts awarded under this regime until the point that they expire or are re-tendered.

³ Applicable to contracts awarded under this regime until the point that they expire or are re-tendered.

⁴ Applicable to contracts awarded under this regime until the point that they expire or are re-tendered.

⁵ Applicable to contracts awarded under this regime until the point that they expire or are re-tendered.

- f.g. The Public Services (Social Value) Act 2012
- g.h. The Modern Slavery Act 2015
- h.i. Local Government Act 1999 (LGA 1999)
- i.l. Competition Act 1998

4.7. The Council must also comply with any applicable case law and statutory guidance issued in connection with the above legislation, as such guidance is amended from time-to-time.

5. Scope

- 5.1. Apart from the exemptions listed below, SCM covers all Council spend with external suppliers regardless of how they are funded, or which systems are used to place orders with suppliers. This includes services sourced from other local authorities or public bodies under the relevant legislation.
- 5.2. There are circumstances when exemptions exist under the procurement regime and/or where the Council's internal rules may not apply to the requirement you are seeking to commission (see table below for a non-exhaustive list – other exemptions may apply under the applicable procurement legislation). The ~~Early~~ earliest possible engagement with Commercial and Procurement and Legal colleagues should be undertaken when scoping to ensure that the correct procedures are followed. Exemption from compliance with SCM does not negate the need to consider the most appropriate route forward to achieve value for money.
- 5.3. In accordance with Section 50 of SCM, Officers may also seek a Waiver to deviate from SCM to the extent that it relates to a Waiver to internal Council made rules and would not contravene the Procurement Act 2023, PCR 2015, CCR 2016, the PSR, or other applicable legislation.

Exemption	Relevant Policy/Law
Contracts for the acquisition or lease of land and/or real estate.	Kent County Council Property Management Protocol Section 123 of the Local Government Act. <u>Schedule 2 of the Procurement Act 2023.</u> Regulation 10 of the Public Contracts Regulations 2015
Contracts for permanent or fixed-term employment (not including agency staff, contractors and consultants).	HR/Recruitment Policies. <u>Schedule 2 of the Procurement Act 2023.</u> Regulation 10 of the Public Contracts Regulations 2015
Non-trade mandatory payments to third parties, such as insurance claims, pension payments, or payments to public bodies.	These are not subject to competition due to their nature and are not in consideration for the provision of supplies, services, or works.
A declared emergency authorised by the Emergency Planning Officer.	The Civil Contingencies Act 2004.
Awarding of Grants where this is not an extension of funding for currently contracted services.	Corporate Grants Procedure – where a genuine grant award and not a public contract for services.
Loans and investments.	Kent County Council Financial Regulations and Treasury Management Strategy. <u>Schedule 2 of the Procurement Act 2023.</u> Regulation 10 of the Public Contracts Regulations 2015
Placement of a child with Special Educational Needs where already directed following statutory assessment.	Children and Families Act 2014 and ESFA guidance 2019-20, paragraph 86.

Direct payments to customers following care assessment (e.g., payments under Self-Directed Support or Individual Budgets).	Section 12 of The Care Act 2014.
Where an adult with care and support needs expresses a preference for particular accommodation.	Section 30 of The Care Act 2014.

6. The Role of Anyone Buying on Behalf of the Council

6.1. Anyone who buys on behalf of the Council is responsible for:

- a. Complying with SCM and all policies, legislation and regulations listed in Sections 4.5 and 4.6.
- b. Ensuring that adequate consideration has been taken to determine if procurement is the correct approach to delivering the required provisions.
- ~~c.~~ c. Acting with integrity ~~probity~~ at all stages of procurement and in contract management activity and having due regard to any actual or perceived conflicts of interest that may arise, putting in place mitigating actions, and keeping documented conflicts assessments under review, could influence the outcome of procurements.
- ~~e.d.~~ e.d. Having regard to the particular barriers facing SMEs and VCSEs wishing to access contract opportunities and proactively considering how to reduce or remove them.
- ~~e.~~ e. Being aware of, avoiding and discouraging the influence of anti-competitive practices such as cartel behaviour, bid rigging, and conduct practised in collusion or in concertation, also being mindful of potential breaches of the Competition Act 1998 more generally.
- ~~d.f.~~ d.f. Throughout all procurement and contracting activity, working to achieve the delivery of value for money, whilst considering how to maximise wider public benefit.
- ~~e.g.~~ e.g. Purchasing from existing contracts and internal and external Framework Agreements in the first instance wherever they are appropriate for the requirement in question and can be used in a legally compliant way.
- ~~f.h.~~ f.h. Ensuring there is adequate budget available for any purchase.
- ~~g.i.~~ g.i. Raising a properly completed purchase order and ensuring it is approved *before* the requirements are delivered to the Council, regardless of which finance system is used.
- ~~h.j.~~ h.j. Ensuring specifications are drafted to meet the identified needs and requirements and that proper consideration is given to value for money and corporate requirements around sustainability, social value, equality and diversity, and data and privacy.
- ~~i.k.~~ i.k. Engaging with the Commercial and Procurement Division as early as possible to obtain advice, guidance, and support and where they are required to in accordance with Section 10 of SCM. This point of engagement should be as soon as it is determined that procurement is the correct approach and always ahead of preliminary market engagement.
- ~~j.l.~~ j.l. Ensuring the total aggregate contract value is calculated in accordance with Section 11 of SCM.
- ~~k.m.~~ k.m. Undertaking contract tiering to assess the level of risk associated with the contracts to be managed and to determine appropriate resourcing and support required. This exercise is to be undertaken as soon as possible after it is decided that procurement is the appropriate route to meet the requirement, prior to contract award, and during contract management).
- ~~l.n.~~ l.n. Following the guidance set out by the Commercial and Procurement Division around buying on behalf of the Council and the management of contracts in accordance with their value, risk, and complexity.
- ~~m.o.~~ m.o. Engaging with the Commercial and Procurement Division at the earliest opportunity where a Challenge or Representation is made against a procurement or contracting decision taken, ensuring responses are reviewed by an appropriately qualified, independent Officer, and acting fairly, impartially, and provided within prescribed timescales.

- ~~n.p.~~ Ensuring that, where required, a commercial case as a part of an overall business case, is developed that is efficient and suitable for the purchase and market concerned, considering any other relevant sourcing options with assistance from the Commercial and Procurement Division and, as relevant, the Finance Team and Legal Team.
- ~~q.~~ Planning an appropriate, proportionate timetable for any procurement or sourcing exercise subject always to any regulatory requirements on timescales.
- ~~o.r.~~ Ensuring that suppliers are treated the same with no supplier put at an unfair advantage or disadvantage in the Council's procurement or contracting activity.
- ~~p.s.~~ Ensuring that any TUPE and pensions related issues are properly considered prior to inviting tenders or quotations with legal advice sought where appropriate.
- ~~q.t.~~ Ensuring that there is appropriate insurance cover in place for any awarded contract in accordance with Council guidance.
- ~~r.u.~~ Ensuring that any procurement requirements and contract terms take account of any head-contract or funder requirements where the goods or services are part or wholly funded by Central Government or the relevant third-party funder.
- ~~s.v.~~ Ensuring that accurate contract information is maintained, and that for all contracts each with a total aggregate contract value of £2530,000 or more (excluding-including VAT), and longer than three months in duration, the Commercial and Procurement Division are provided with accurate contract information in order to create a record on the Council's contract management system.
- ~~t.w.~~ Ensuring that all contract records on the Council's contract management system remain up to date with changes made throughout the lifetime of the contract.
- ~~u.x.~~ Determining and following the required governance route and obtaining all necessary approvals for the procurement and, where required, decisions in contract management.
- ~~v.y.~~ Ensuring that appropriate legal guidance and support is sought in accordance with Section 10 of SCM and where required for Contract Modifications, extensions and Novations.
- ~~w.z.~~ Ensuring that appropriate legal guidance and support is sought prior to taking any action related to supplier performance or any finding that the supplier is or has become an "excluded" or "excludable" supplier for the purposes of the Procurement Act 2023
- ~~aa.~~ Ensuring that HR is consulted, and the appropriate approval obtained for requirements of temporary staff, contractors, or consultants outside the agreed corporate contract with Connect2Kent (a trading subsidiary of Commercial Services Trading Ltd.).
- ~~x.bb.~~ Ensuring that ICT is consulted on any procurement involving ICT.
- ~~y.cc.~~ Having proper regard for all necessary legal, financial, and professional advice received.
- ~~z.dd.~~ Facilitating and ensuring the publication of ~~contract-N~~ notices, which may include contract documentation and performance information (appropriately redacted), in accordance with the requirements of the relevant legislation and as stipulated in Section 10 and Part C of SCM.
- ~~ee.~~ Maintaining a full record and audit trail of all procurement and contract management activity, including decisions made and evidence that all relevant issues and criteria have been considered and that reasons for any decisions are justified. This documentation must be accessible and available to the Commercial and Procurement Division on request.
- ~~aa.ff.~~
- ~~bb.gg.~~ Ensuring fraud, bribery and corruption risks have been appropriately considered, seeking specialist advice from Internal Audit and Counter Fraud, as and when required.
- ~~ee.hh.~~ Reporting any non-compliance with SCM or relevant legislation to the Monitoring Officer.

6.2. Contracts are to be managed day-to-day by a named Officer within Services, who will be either a dedicated Contract Manager or an Officer who has those responsibilities as part of a broader role (the only exception to this requirement for a named Contract Manager being for those contracts valued below £2530,000 exelinc. VAT). The Commercial and Procurement Division will provide the commercial lead to support the Contract Manager on all high-risk contracts identified through the Council's contract tiering model.

7. Responsibilities and Accountabilities of the Wider Council

- 7.1. Members of the Council are responsible and accountable for providing strategic direction on procurement activity and arrangements, in line with the Member role in decision-making set out in the Constitution.
- 7.2. Executive Members of the Council are responsible and accountable for:
 - a. Approving relevant financial expenditure to be incurred through contracting where the Constitution would require a Key Decision or Significant Decision of the Executive
 - b. Taking relevant decisions around financial expenditure made through contracting in line with the Scheme of Delegation
- 7.3. The Section 151 Officer is responsible for:
 - a. Ensuring, in liaison with the Monitoring Officer, that the appropriate requirements are in place in this document and other relevant policies to govern financial expenditure made through contracting with external parties.
 - b. Ensuring the correct financial processes and systems are in place to manage financial expenditure made through contracting with external parties.
 - c. Delegating appropriate responsibility for managing financial expenditure made through procurement to the Head of Commercial and Procurement and the Commercial and Procurement Division.
 - d. Reporting any non-compliance with SCM or relevant legislation to the Monitoring Officer.
- 7.4. The Monitoring Officer is responsible for:
 - a. Determining and maintaining, in liaison with the Section 151 Officer, the appropriate systems for monitoring and reporting on non-compliance with SCM.
 - b. To determine if reported breaches constitute non-compliance and report non-compliance with SCM to Internal Audit and Governance and Audit Committee.
 - c. Enabling the provision of appropriate legal advice to the Council and the management of legal risk.
- 7.5. Internal Audit and Counter Fraud are responsible for:
 - a. Providing independent assurance that the procurement rules have been followed through risk-based auditing.
 - b. Providing support and advice on conducting fraud risk/impact assessments where required.
 - c. Recording and reporting on financial irregularities within contracting activity undertaken.
- 7.6. Corporate Directors, Directors, and/or Heads of Service (as applicable under the Council's Scheme of Delegation) are specifically responsible for:
 - a. Providing strategic direction for all procurement undertaken in their area of responsibility.
 - b. Ensuring that adequate consideration has been taken to determine if procurement is the correct approach to delivering the required provisions.
 - c. Ensuring all procurement and decision-making adheres to the Scheme of Delegation.
 - d. Obtaining the necessary internal governance, whether by way of a Leader and/or Cabinet Member decision, as required by the Council's Scheme of Delegation, bearing in mind the total aggregate contract value, before undertaking any procurement and contracting.
 - e. Engaging with the Commercial and Procurement Division, ensuring they are notified in advance of all proposed contracts each with a total estimated aggregate value above the Public Procurement Threshold ~~PCR 2015 threshold~~ for goods and services regardless of

whether the contract is for goods, services, or works. As a minimum, this point of engagement should be as soon as it is determined that procurement is the correct approach and always ahead of preliminary market engagement. This will support development of the Procurement Pipeline and enable the commissioning of appropriate legal advice to ensure to ensure compliance with SCM.

- f. Officers must engage with the Commercial and Procurement Division at the earliest opportunity, regardless of contract value prior to any classification of the supplier as “excluded” or “excludable” both for the purposes of any procurement or the application of any contractual remedies related to such a classification (including rights to terminate).
- f.g. For any contracts subject to the Provider Selection Regime, Officers must engage with the Commercial and Procurement Division at the earliest opportunity, regardless of contract value, prior to any procurement, contract award, or Contract Modification, to determine the appropriate involvement. This is to minimise the legal risk to the Council.
- g.h. Ensuring their Officers undertake contract tiering to assess the level of risk associated with contracts to be managed, working closely with the Commercial and Procurement Division. (both as part of developing the Procurement Pipeline and, prior to contract award).
- i. Nominating appropriately skilled and qualified Officers to undertake procurement and contract management activity, where this takes place within their area of responsibility.
- h.j. Ensuring their staff act with integrity ~~probity~~ at all stages of procurement and in contract management, activity and having due regard to any actual or perceived conflicts of interest that may arise, putting in place mitigating actions, and keeping documented conflicts assessments under review~~could influence the outcome of procurements.~~
- k. Ensuring all sourcing decisions ultimately represent value for money and are within the budgetary limits that have been approved, alongside an appropriate consideration of how to maximise wider public benefit in all contracting activity.
- l. Ensuring their Officers engage with the Commercial and Procurement Division before procuring any contract with a total aggregate contract value above the applicable Public Procurement Threshold ~~PCR 2015 threshold for goods and services, regardless of whether the contract is for goods, services or works~~, in order for them to provide advice on the most appropriate sourcing route and, where relevant, in accordance with Section 10, lead on the procurement.
- i.m. Ensuring their Officers follow the guidance set out by the Commercial and Procurement Division when procuring any contract with a total aggregate value below the applicable Public Procurement Thresholds. Services should always engage the Division where there are concerns about their ability to undertake the project or the risk and complexity.
- j.n. For any contracts subject to the Provider Selection Regime, Officers must engage with the Commercial and Procurement Division at the earliest opportunity and prior to undertaking any procurement, contract award or Modification to contracts subject to that regime. That is regardless of the value of such contracts and is aimed to minimise the legal risk to the Council.
- o. Ensuring there is due regard to the particular barriers facing SMEs, and VCSEs wishing to access contract opportunities and consideration given as to how to remove or reduce them.
- p. Ensuring in all procurement and contracting activity undertaken in their Services, suppliers are treated the same and no supplier is put at an unfair advantage or disadvantage.
- k.g. Ensuring their Officers seek guidance from the Commercial and Procurement Division at the earliest opportunity where a Challenge or Representation is made against a procurement or contracting decision taken by the Council, ensuring responses are fair, impartial, and provided within prescribed timescales.
- t.r. Ensuring their Officers seek appropriate legal advice in accordance with Section 10 of SCM where required for contract Modifications, extensions and Novations to determine the level of legal advice required to mitigate legal risk.
- m.s. Providing for appropriate and effective management of all contracts under their area of responsibility and managing relationships with Key Suppliers identified.

- ~~n.t.~~ Officers must engage with the Commercial and Procurement Division prior to any publication of any Notices in relation to poor performance (including assessments against any KPIs if applicable) or the application of any contractual remedies (including rights of termination) related to publication by any other contracting authority of any Notice related to the supplier's performance.
- ~~o.u.~~ Ensuring sufficient funds are available for relevant procurement and contracting activity and allocating appropriate funds within their budget.
- ~~p.v.~~ Ensuring ~~arrangements are in place for~~ their Officers ~~to provide the Commercial and Procurement Division with the information they need in a full and timely manner to publish the publish n~~ Notices required in accordance with the ~~requirements of~~ relevant legislation and as stipulated in Section 10 and Part C of SCM.
- ~~q.w.~~ Ensuring arrangements are in place for maintaining full records and audit trails of all procurement and contract management activity for their Services, including decisions made, evidencing that all relevant issues and criteria have been considered and that reasons for any decisions are justified. This documentation must be accessible and available to the Commercial and Procurement Division on request.
- ~~r.x.~~ Ensuring the fraud, bribery and corruption risks have been appropriately considered, seeking specialist advice from Internal Audit and Counter Fraud.
- ~~s.y.~~ Reporting any non-compliance with SCM or relevant legislation to the Monitoring Officer.

7.7. The Commercial and Procurement Division is responsible for:

- a. Working closely with Officers, Senior Officers (Heads of Service and above), and Finance to agree, develop and deliver a Procurement Pipeline that will be authorised by the CMT.
- b. Providing expert category and market knowledge to help Services within the Council find the right suppliers in the right way and at the right time, irrespective of the contract value.
- c. Providing advice and guidance, and support to procure where it is deemed necessary, to Services where the total estimated aggregate value of the contract resulting from sourcing activity will be from £2530,000 (excluding-including VAT) up to the Public Procurement Threshold PCR 2015 threshold for goods and services and up to £1m for works.
- d. Leading on all procurements where the estimated total aggregate contract value of the contract resulting from the procurement exercise will exceed the Public Procurement Threshold PCR 2015 threshold for goods and services and over £1m for works.
- e. For any contracts that are subject to the Provider Selection Regime, the Division will lead on all procurements (unless it determines otherwise based on a consideration of the risk and complexity of the procurement and the commercial skills required).
- f. Ensuring that there is early engagement with the Council's Legal Team on any planned procurement activity in the Procurement Pipeline so that appropriate legal support can be provided or commissioned to support the procurement activity.
- g. Ensuring efficient and effective purchasing and procurement practices are in place.
- h. Acting with integrity ~~probity~~ at all stages of procurement and in contract management activity and having due regard to any actual or perceived conflicts of interest that may arise, putting in place mitigating actions, and keeping documented conflicts assessments under review that could influence the outcome of procurements.
- i. Maintaining guidance in relation to buying on behalf of the Council and the management of contracts, according to the value, risk, and complexity of the contract.
- j. Taking a commercial lead on all high-risk contracts (identified through contract tiering), working alongside named Contract Managers within Services and as and when required, named legal advisors.
- k. Taking a commercial lead on Contract Modifications, contract extensions, and Novations where it is deemed necessary, ensuring that legal advice is taken promptly.
- l. Taking a commercial lead in developing strategic relationships with Key Suppliers (identified through supplier segmentation), working alongside Senior Officers (Heads of Service and above) within Services.

- m. Advising Services and helping to ensure there is an appropriate consideration of the particular barriers facing SMEs, and VCSEs wishing to access contracting opportunities with proper regard given as to how to reduce or remove them.
- n. Advising Services and helping to ensure appropriate consideration of how wider public benefit, including in line with ~~Embedding~~-sustainability and social value objectives can be delivered across the Council's supply chain.
- o. Taking a commercial lead, engaging the Legal Team as necessary, to respond fairly and, impartially, and within any legally prescribed timescales to Challenges and Representations made against a procurement and contracting decision taken by the Council. ~~Any, with~~ such Challenges and Representations will to be reviewed by an appropriately qualified, independent Officer.
- p. ~~Where the Division is leading on the procurement or contracting activity, it is responsible for e~~Ensuring the publication of ~~n~~Notices, which may include contract documentation and performance information (appropriately redacted), in accordance with the requirements of the current law and guidance and as stipulated in Section 10 and Part C of SCM. ~~In all other instances, it is the responsibility of the Officer leading the activity in the Service to ensure this.~~
- q. Engaging the Legal Team as necessary in relation to any proposed publication in relation to poor performance or the classification of a supplier as "excluded" or "excludable" under the Procurement Act 2023, or any action proposed to be taken as a result of any publication or classification by other contracting authorities.
- ~~q.r.~~ Ensuring there is a full record and audit trail maintained for all procurement and contracting activity led on by the Division. Ensuring that all contracts with a total aggregate contract value at or above £2530,000 (inexclusing VAT) the Public Contract Regulations 2015 requirement for advertising opportunities on Contracts Finder, have a record created on the Council's contract management system.
- ~~r.s.~~ Reporting any non-compliance with SCM or relevant legislation to the Monitoring Officer and, where required by the relevant legislation, publishing details of the Council's compliance and a summary of the procurement and contracting activity undertaken.

8. Procurement Pipeline

8.1. To enable the Council to maintain an accurate oversight of procurement activity across the full range of Council services and is able to meet its statutory obligation to publish upcoming contracting opportunities, the Head of Commercial and procurement is responsible for the development of the Procurement Pipeline in liaison with Corporate Directors.

8.1.8.2. -This is to identify the following:

- a. For each Directorate, all contracts each with an aggregate value above the Public Procurement Threshold PCR 2015 threshold for goods and services, regardless of whether the contract is for goods, services, or works, which are due to be procured, extended, renewed, or replaced.
- b. The applicable public procurement legislation (e.g., Procurement Act 2023, PCR 2015 or the PSR, or other applicable legislation)
- c. The aggregate contract value across the life of each contract.
- d. The tier (risk level) of the contract.
- ~~d.e.~~ The contract subject matter.
- ~~e.f.~~ The procurement activity required.
- g. The estimated date when any Tender Notice will be published.
- ~~f.h.~~ The estimated date when further Notices are expected to be published for the contract, namely the Contract Award Notice (pre-award) and Contract Details Notice (post-award).
- ~~g.i.~~ The expected start date for the commencement of the contract or extension.
- ~~h.j.~~ Whether there is an option to extend the existing contract or not.
- ~~i.k.~~ The expected start date of any new contract or extension.

- j.l. Likely legal advice that will be required, in consultation with the Council's Legal Team.
- k.m. Whether the cost will be met from capital, revenue, or a combination.

~~8.2.8.3.~~ The Procurement Pipeline must be developed and agreed as a part of during the business planning cycle, as a minimum covering the period of the next 18 months, before it is then submitted to the CMT for approval.

8.4. Under the Procurement Act 2023, the Council must publish an appropriately adapted version of the Procurement Pipeline, satisfying the requirements of Section 93 of the Procurement Act 2023.

~~8.3.8.5.~~ Where the aggregate contract value is projected to be exceeded by 5% or more than the value stated within the Procurement Pipeline that has been approved by the CMT, the S151 Officer and Finance Business Partners must be consulted with and, where required, approve that change in contract value in line with the summary tables s below and the contract award must be put on hold pending that approval.

~~8.4.8.6.~~ If the need arises during the year for procurement activity on contracts at or above the Public Procurement Threshold PCR 2015 threshold for goods and services which have not been pre-approved through the developed Procurement Pipeline, then approval to procure must be sought by the Director of the Service concerned, before any procurement activity may begin, in line with the below:

£1m and above (excluding including VAT)	Director of the relevant Service, the Head of Commercial and Procurement, S151 Officer, and the CMT.
£100,000 - £1m (excluding including VAT)	Director of the relevant Service in consultation with the Head of Commercial and Procurement and S151 Officer.

9. Approvals for Contracting Activity

9.1. Officers must ensure they seek approval for all procurement and contracting activity and decisions in line with the Constitution, the Scheme of Delegation and the requirements outlined in Section 10 of SCM.

Part B: Requirements for Sourcing Goods, Services and Works

10. Summary of Procedures for Procuring, Contract Authorisation and Management, and Contract Modifications by Aggregate Contract Value

Table A – Procurement Procedures – Contracts Subject to the Procurement Act 2023 (PA23)

Aggregate Contract Value (<u>exclusive-inclusive</u> of VAT)	Procurement Method	Who is authorised to carry out the procurement?	Must the contract be formally advertised?	Legal Advice Required
Up to £2429,999.99	One written quote	Any Officer	No	No requirement provided there is use of the Council's standard template contracts, held by the Commercial and Procurement Division, and on their advice that the terms selected are appropriate.
£2530,000 – up to the Public Procurement Threshold for Goods and Services (£179,807,214,904) OR up to £1m for Works	Three written quotes (Unless using another compliant route under the PA23, such as a tendering procedure, a Framework, Dynamic Market, or DPS)	Any Officer (Unless the Commercial and Procurement Division, Legal Team, and/or Officers in Services have concerns about the Service's ability to undertake the project or the risk and complexity)	Only required where Officers undertake a tendering procedure under the PA23, with advertisement required to the FTS-Central Digital Platform and the Council's tendering portal	No requirement provided there is use of the Council's standard template contracts, held by the Commercial and Procurement Division, and on their advice that the terms selected are appropriate. Where a Framework Agreement and call off terms have already had a legal review, there will be no requirement for there to be a further legal review on future call offs provided that there are no changes proposed to be made to the call off terms. If changes are proposed early engagement with Legal should be undertaken.
Above the Public Procurement Threshold for Goods and Services (£179,807,214,904) OR above £1m for Works	A fully PA23 compliant tendering procedure (Unless using another compliant route available under the PA23 such as a Framework, Dynamic Market, or DPS)	The Commercial and Procurement Division	Yes, advertisement is required to the FTS-Central Digital Platform and the Council's tendering portal	Commercial and Procurement Division will contact the Council's Legal Team at the outset of the procurement to arrange for external legal support. The legal advice required will be scoped with Services input and will be determined based on the risk and complexity of the requirement. Where a Framework Agreement and call off terms have already had a legal review, there will be no requirement for there to be a further legal review on future call offs provided that there are no changes proposed to be made to the call off terms. If changes are proposed, early engagement with Legal should be undertaken

Table B – Procurement Procedures – Contracts Subject to the Provider Selection Regime (PSR)

Aggregate Contract Value (<u>exclusive-inclusive</u> of VAT)	Procurement Method	Who is authorised to carry out the procurement?	Must the contract be formally advertised?	Legal Advice Required
Up to £2429,999.99	A provider selection process permitted under the PSR (e.g., Direct Award A, Direct Award B, Direct Award C, the Most Suitable Provider Process, or the Competitive Process)	The Commercial and Procurement Division (Unless the Commercial and Procurement Division and Legal Team determine otherwise based on the commercial acumen required and the project's risk and complexity)	Specific advertising and Notice requirements apply depending on the provider selection process followed under those regulations	No requirement provided there is use of the Council's standard template contracts, held by the Commercial and Procurement Division, and on their advice that the terms selected are appropriate.
£2530,000 – up to the Public Procurement Threshold for Goods and Services (£179,807,214,904) OR up to £1m for Works				No requirement provided there is use of the Council's standard template contracts, held by the Commercial and Procurement Division, and on their advice that the terms selected are appropriate. Where a Framework Agreement and call off terms have already had a legal review, there will be no requirement for there to be a further legal review on future call offs provided that there are no changes proposed to be made to the call off terms. If changes are proposed early engagement with Legal should be undertaken.
Above the Public Procurement Threshold for Goods and Services (£179,807,214,904) OR above £1m for Works				Commercial and Procurement Division will contact the Council's Legal Team at the outset of the procurement to arrange for external legal support. The legal advice required will be scoped with Services input and will be determined based on the risk and complexity of the requirement.

				Where a Framework Agreement and call off terms have already had a legal review, there will be no requirement for there to be a further legal review on future call offs provided that there are no changes proposed to be made to the call off terms. If changes are proposed, early engagement with Legal should be undertaken
--	--	--	--	--

Table C – Contract Authorisation and Management

Aggregate Contract Value (<u>exclusive-inclusive</u> of VAT)	Who must approve the contract award?	Must the intention to award and the award itself be published?	Who can sign the contract on the Council's behalf?	Contract authorisation (for the creation of orders)	Where should the contract details be maintained?	Must there be a named contract manager?
Up to £2429,999.99		No			Locally within the Service	No
£2530,000 – up to the Public Procurement Threshold for Goods and Services (£179,807,214,904) OR up to £1m for Works	Up to £50k, the budget manager Up to £250k, the Service Head Up to £500k, the Service Director Up to £1m, the CMT Director	Only required where Officers undertook a tendering procedure under the PA23. The intention to award the contract and the award itself (made after standstill) must be published to the FTSCentral Digital Platform . Specific requirements apply to PSR contracts depending on the procedure followed.	Up to £500k, the Service Director OR Senior Commercial and Procurement Officer (to £250k) and Commercial and Procurement Manager / Sourcing Support Team Manager (to £500k)	Up to £50k, buyer can approve Up to £100k, Commercial and Procurement Officer / Senior Buyer can approve Up to £250k, Senior Commercial and Procurement Officer	On the Council's Contract Management System	Yes, within the Service
Above the Public Procurement Threshold for Goods and Services (£179,807,214,904) OR above £1m for Works	Above £1m, approval must be sought from The Leader, Cabinet or Cabinet Member The Leader, Cabinet, and Cabinet Member have no limit on the value of contracts they can award Where the contract value is projected to exceed the value in the approved Procurement Pipeline by 5% or more, the Section 151 Officer and Finance Business Partners must be consulted prior to award	Yes, the intention to award the contract and the award itself (made after standstill) must be published to the Central Digital PlatformFTS . Contracts with a total value of £5m (<u>including VAT</u>) or more also require a redacted copy of the contract and 3 KPIs to be published. Specific requirements apply to PSR contracts depending on the procedure followed.	Up to £1m, the CMT Director OR the Strategic Commercial and Procurement Lead Above £1m, the CMT Director OR Head of Commercial and Procurement with Cabinet or Cabinet Member approval to award and express authorisation of the Monitoring Officer to sign or seal	Up to £500k, Commercial and Procurement Manager OR Sourcing Support Team Manager Up to £1m, Strategic Commercial and Procurement Lead Above £1m, Head of Commercial and Procurement when correct political or previously delegated authority is in place	On the Council's Contract Management System	Yes, within the Service

Table D – Contract Modifications

Aggregate Contract Value (<u>exclusive-inclusive</u> of VAT)	Who must approve the contract modification?	Must the contract modification and any other details be published?	Who can sign the modification on the Council's behalf?	Required engagement beyond the relevant Service and Cabinet Members	Where should the contract modification be saved?
Up to £2429,999.99		No		<u>No further engagement required, except where it is believed that the modification may trigger procurement or legal risks.</u>	<u>Locally within the Service</u>
£2530,000 – up to the Public Procurement Threshold for Goods and Services (£179,807,214,904) OR up to £1m for Works	<u>Up to £50k, the budget manager</u> <u>Up to £250k, the Service Head</u> <u>Up to £500k, the Service Director</u> <u>Up to £1m, the CMT Director</u>	<u>Only required where Officers tendered the original contract under the PA23 and the modification increases or decreases the value of the contract by 10% or less (goods and services) or 15% or less (works).</u> <u>Specific requirements apply to PSR contracts depending on the procedure followed.</u>	<u>The Service Director and CMT Director have no limit on the value of the contracts they can sign modifications for (with Cabinet or Cabinet Member Decision to award the modification and expression authorisation of the Monitoring Officer to sign and seal).</u>	<u>No further engagement required, except where it is believed that the modification may trigger procurement or legal risks.</u> <u>At this threshold, Officers should be particularly mindful of the risk for contract modifications to take the total aggregate value of the contract above the UK public procurement thresholds at which point additional regulatory requirements apply.</u>	<u>On the Council's Contract Management System</u>
Above the Public Procurement Threshold for Goods and Services (£179,807,214,904) OR above £1m for Works	<u>Above £1m, approval must be sought from The Leader, Cabinet or Cabinet Member</u> <u>The Leader, Cabinet, and Cabinet Member have no limit on the value of the contracts they can approve modifications for.</u>	<u>Only required where Officers tendered the original contract under the PA23 and the modification increases or decreases the value of the contract by 10% or less (goods and services) or 15% or less (works).</u>	<u>The Commercial and Procurement Manager / Sourcing Support Team Manager can sign modifications up to £500k where delegated in writing by the relevant Service Director.</u>	<u>Engage with the Commercial and Procurement Division.</u>	<u>On the Council's Contract Management System</u>

		<p>Contracts with a total value of £5m (including VAT) or more also require a redacted copy of the modified contract to be published.</p> <p>Specific requirements apply to PSR contracts depending on the procedure followed.</p>			
--	--	--	--	--	--

10.1. Officers should note that the above summary tables are not exhaustive of the requirements that must be followed the different value thresholds. There will also be some limited exceptions to the above requirements, which are permitted under the relevant procurement regulations for certain types of contract (e.g., those awarded under Frameworks, Dynamic Markets, or DPS', light touch regime contracts, concessions contracts, and more). Officers should refer to Part C of SCM and guidance issued by the Commercial and Procurement Division and available on KNet for a more comprehensive understanding of the requirements and expectations on Officers.

10.2. As outlined in Section 24 of SCM, it is critical that Officers engage at the earliest opportunity with the Commercial and Procurement Division on all contracts planned with an estimated total aggregate value above the Public Procurement Thresholds for goods and services, regardless of whether the contract is for goods, services, or works. For those contracts subject to the PSR, Officers should engage with the Division prior to any procurement, contract award, or Contract Modification. Regardless of the value of the contract and the regulations that apply, Officers should engage with the Division where their ability to undertake the project or are concerned about the risk and complexity of the procurement. This early engagement will help to ensure that the appropriate level of support is provided and the necessary steps are taken by Officers procuring.

11. Calculating the Aggregate Contract Value

- 11.1. Aggregate contract value must be calculated in accordance with the applicable legislation but, broadly speaking, this means the estimated total aggregate value payable in pounds Sterling ~~exclusive~~inclusive of Value Added Tax (VAT) over the entire contract period, including any options, renewals, and extensions of the contract.
- 11.2. Officers must make an effort to calculate an accurately estimated contract value over the contract period to ensure that the appropriate procurement route is taken that adheres to SCM and legislation.
- 11.3. Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of SCM or legislation.
- 11.4. In the case of Framework Agreements or Dynamic Markets, Officers must engage the Commercial and Procurement Division in accordance with Section 15 of SCM. ~~Dynamic Purchasing Systems (DPS)~~ the contract value must be calculated to include the total maximum estimated value, ~~net~~inclusive of VAT, of all the contracts envisaged to be awarded for the total term of the Framework Agreement or the Dynamic Market~~DPS~~. In the case of a Framework awarded under an Open Framework, the value of the Framework is to be treated as including the value of all Frameworks awarded, or to be awarded.

12. Determining the Applicable Procurement Regulations

- 12.1. Where Officers are procuring or contracting on behalf of the Council, they must adhere to the relevant public procurement regulations (as set out in Section 4.6).
- ~~12.2.~~ The Procurement Act 2023~~PCR 2015~~, and the associated~~or other applicable~~ regulations, as set out in Section 4.6, ~~will~~ apply to the procurement, award, entry into, and management of contracts for procurement ~~of~~ goods, services, and works where the procurement commenced on or after the 24 February 2025. While the Procurement Act 2023 is applicable to contracts with a total aggregate contract value above the Public Procurement Thresholds, there are also several provisions applicable to contracts below those Thresholds, except those in scope of the PSR.
- ~~12.3.~~ The PCR 2015, and its associated regulations, will continue to apply to contracts, including Framework Agreements and Dynamic Purchasing Systems (DPS)', that were awarded under that regime until the point they expire or are re-tendered. Officers must note that, under the Procurement Regulations 2024, all existing DPS will terminate on or before 23 February 2029.
- ~~12.2.~~12.4. Regardless of contract value, when procuring 'health care services' whether alone or as part of a 'mixed procurement' as defined in Regulation 3 and Schedule 1 of the PSR, Officers must follow the requirements of the PSR.
- ~~12.3.~~12.5. A 'mixed procurement' means the procurement of health care services and other goods or services that are procured together with those health care services. For the PSR to apply, the main subject matter of the procurement (more than 50% of the estimated lifetime value of the contract) must be for health care services rather than other goods or services and the Council must be of the view that the other services or goods could not reasonably be supplied under a separate contract without having or being likely to have a material adverse impact on the Council's

ability to act in accordance with the procurement principles set out in Regulation 4 of the PSR.

12.6. As well as the requirements of SCM, Officers should follow guidance set out by the Commercial and Procurement Division around procuring and contracting under the different regulations. As stated in Section ~~243~~ of SCM, the Commercial and Procurement Division should be engaged early where Officers are concerned about the risk and complexity, or their ability to undertake, a project.

~~12.4.~~12.7. -Where PSR applies, the Commercial and Procurement Division should be engaged before any procurement, contract award, or Contract Modification to determine the right level of involvement.

13. Procurement Business Cases

13.1. Any procurement with a total contract value below the Public Procurement Threshold ~~PCR 2015 thresholds~~ for goods, services or works should have a completed business case using the Council's Low Value Procurement Business Case template.

13.2. Any procurement with a total contract value above the Public Procurement Thresholds ~~PCR 2015 thresholds~~ for goods, services or works must have completed a Commercial Case as part of a wider business case using the Council's High Value Procurement Business Case template.

13.3. While Services are the owners and primary authors of any completed business case, the Commercial and Procurement Division will develop the Commercial Case through close working with Services, where the Division is leading the procurement.

14. Using Existing Contractual Arrangements

14.1. Prior to proceeding with any new procurement and contracting process, Officers must first, subject to any specific regulatory requirements (e.g., compliance with the requirements of PSR and any other sector specific regulatory requirements), determine whether the identified need can be met through contracting with the Council's Local Authority Trading Companies, utilising existing Council contracts, or by calling off of a Framework Agreement or Dynamic Market (or, prior to 23 February 2029, an existing DPS) ~~DPS~~ that has been established by or has been recommended by the Commercial and Procurement Division and Legal Team as a legally compliant route to market.

~~14.2. Subject to any specific regulatory requirements (e.g. compliance with the requirements of PSR), o~~ Only where it is determined that the identified need cannot be met through such arrangements as outlined in 14.1, or it has been determined in consultation with the Commercial and Procurement Division that such arrangements will not deliver best value, can Officers proceed with a new procurement and contracting process.

14.3. Officers must note that all DPS established under the PCR 2015 will expire on or before 23 February 2029, and from 24 February 2029, it will not be possible to award contracts under a DPS.

15. Framework Agreements and Dynamic Markets ~~Dynamic Purchasing Systems (DPS')~~

15.1. All requirements to set up new Frameworks, including 'Open Frameworks', or Dynamic Markets ~~DPS'~~ that will be managed by the Council must be referred to the

Commercial and Procurement Division, who will make the appropriate arrangements and, as necessary, will consult with the Council's Legal Team. From 24 February 2025, no new DPS may be established but existing DPS may be used prior to 24 February 2029.

15.2. Any Framework or Dynamic Market DPS that is developed by the Council must include contract terms that allow the arrangements to be reviewed at trigger points to ensure that they continue to reflect value for money throughout their life.

15.3. An 'Open Framework' is a scheme of Frameworks that provides for the award of successive Frameworks on substantially the same terms. However, an Open Framework must provide for the award of a Framework at least once during the period of three years beginning with the day of the award of the first Framework, and each period of five years beginning with the day of the award of the second Framework.

15.4. When establishing Frameworks, the Notices that must be published to the Central Digital Platform are a Tender Notice, with the detail of the procedure being used to procure the Framework, a Contract Award Notice, prior to the award being made, and a Contract Details Notice, once the award of the Framework has been made.

15.5. When re-opening and awarding Frameworks in the scheme of an Open Framework, a new Tender Notice must be published to the Central Digital Platform alongside a Contract Award Notice, prior to the award being made, and a Contract Details Notice, once the award is made.

15.6. There are specific Notices that must be published to the Central Digital Platform for Dynamic Markets. These separate Notices cover the advertisement, establishing, modification, and the termination of a Dynamic Market under the applicable legislation.

~~15.3.~~ 15.7. Where the Council accesses an existing Framework Agreement, Dynamic Market, or (prior to 24 February 2028) a DPS (the latter having been procured under the PCR 2015), the Framework Agreement, Dynamic Market, and or DPS terms and conditions of contract must be used, amended as appropriate, as permitted by the Framework Agreement, Dynamic Market, or DPS and the applicable procurement legislation.

~~15.4.~~ 15.8. Before accessing existing Frameworks, Dynamic Market, or DPS' established by third parties, due diligence checks must be carried out, including by engaging the Commercial and Procurement Division, who may also consult with the Council's Legal Team. taking relevant legal advice, This is to ensure demonstrate that the Council can lawfully access and use the identified Framework Agreement, Dynamic Market, or DPS and that the call-off contract terms are fit for purpose and provide value for money.

~~15.5.~~ 15.9. Call-offs from a Framework will be via a direct award process or a further competition (depending on the call-off procedure(s) included in the Framework) and call-offs from a Dynamic Market or DPS will be via a further competition).

~~15.6.~~ 15.10. For Frameworks regulated by the Procurement Act 2023 or the PCR 2015, a direct award may be made from a Framework that permits direct awards where it:

- a. Sets out all the terms governing the provision of the goods, services, or works and they do not require amendment or supplementary terms and conditions.
- b. The objective conditions for making a direct award to a particular supplier on the Framework are clear and unambiguous in the contract arrangements.

- c. Value for money can be demonstrated through the direct award (e.g., the supplier provides the most **economically** advantageous solution for the need).
- d. An assessment has been made to ensure it meets the needs in terms of innovative solutions and represents value for money, taking into account procurement costs.

~~15.7.~~15.11. For health care services Frameworks regulated by the PSR, Officers should consult Regulations 16-18 of the PSR and the relevant PSR statutory guidance to determine the flexibilities permitted when making direct awards.

~~15.8.~~15.12. A call to further competition can be made under the terms of a Framework (where expressly provided for in the Framework), Dynamic Market, or a DPS. All suppliers on the Framework, Dynamic Market, or DPS capable of performing the contract must be invited to tender against the requirement in accordance with the Framework, Dynamic Market, or DPS mechanisms provided and the applicable procurement regulations. In the case of pursuing competition under a Dynamic Market or DPS, a Tender Notice must be published with the correct details.

~~15.9.~~15.13. Except for health care services contracts regulated by the PSR, each contract award under a Framework, a Dynamic Market, or a DPS ~~(with a value over £25,000, excluding VAT)~~ must be published on the FTS and Contracts Finder Central Digital Platform in accordance with the applicable legislation-Procurement Policy Note 01/23. This will be through a Contract Details Notice that must be published following the award of the contract in accordance with the Framework, Dynamic Market, or DPS.

~~15.10.~~15.14. For contracts awarded under a Framework for health care services regulated by the PSR, Officers are required to publish their intention to award the contract where they are following the competitive process to award the contract.

~~15.11.~~15.15. For contracts awarded under a Framework for health care services regulated by the PSR, Officers are also required to publish a Notice of the award of the contract on the Central Digital Platform~~FTS~~. This applies for contracts made with or without a competition. Officers are to consult the PSR for details of what information needs to be included in the Notice depending on the call-off procedure used.

15.16. Advice must be sought from the Commercial and Procurement Division, who may also consult with~~and~~ the Legal Team, for any proposed modifications to Frameworks, Dynamic Market, or DPS contract terms. This includes any modifications to the call-off or selection process, planned re-opening and awarding in the scheme of an Open Framework, conditions of membership for a Dynamic Market or DPS, and the re-assessment or proposed removal of suppliers from such arrangements (including where a supplier has been classified as “excluded” or “excludable”). Details of any variation may require the publication of further Notices to the Central Digital Platform.

16. Light Touch Contracts

16.1. Light touch contracts are contracts for certain social, health, education, and other services that are provided directly to individuals or groups of people and which, under Section 9 of the Procurement Act 2023, receive special treatment and greater flexibility under the regulations. Light touch contracts must meet specific provisions to be considered to be a light touch contract and advice must be sought from the Commercial and Procurement Division, who may also consult with the Legal Team.

16.17. Concession Contracts

~~16.1.17.1.~~ Concession contracts are contracts under which the Council outsources works or services to a contractor or provider, or makes available an asset, which the contractor or provider then has the right to commercially exploit to recoup its investment and make a return. The key feature is that the contractor or provider bears the operating risk of the arrangement and so has no guarantee of recouping its investment or operating costs. Concession contracts must meet certain criteria to be considered to be a concession in accordance with the [Section 8 of the Procurement Act 2023](#) ~~Concession Contracts Regulations 2016~~ and advice must be sought from the Commercial and Procurement Division, ~~who may also consult with the~~ and Legal Team. [Any existing concession contracts and any concession contracts where the procurement begins before 24 February 2025 will continue to be subject to the CCR 2016.](#)

17.18. Temporary Staff, Contractors, and Consultants

~~17.1.18.1.~~ A Consultant is a person (not an employee), agency, or firm engaged for a limited period of time on a project or requirement specific basis to carry out a specific task or set of tasks which meet a desired set of outputs or outcomes. A consultant provides subject matter expertise, support, and/or experience to the Council either because it does not possess the skills or resources in-house or requires an independent evaluation or assessment to be made.

~~17.2.18.2.~~ This definition excludes:

- a. Agency staff, interim, or role-specific duties which should be sourced through the Council's corporate contract with Connect2Kent.
- b. Routine services, e.g., maintenance, cleaning, and security.
- c. Professional services, e.g., architects, structural engineers, forensic archaeologists, specialist social care support, training etc.

~~17.3.18.3.~~ Regardless of value, Officers must ensure that they follow the processes outlined on KNet when contracting temporary and agency staff and consultants. They must also ensure that they are compliant with the Kent Scheme Terms and Conditions.

~~17.4.18.4.~~ In the event that Officers are unable to successfully source the required staff or consultant through the process outlined on KNet, they must engage with the Commercial and Procurement Division for advice on using appropriate Frameworks.

~~17.5.18.5.~~ No temporary worker, contractor, or Consultant may be procured or engaged outside of the corporate contract with Connect2Kent without prior approval from the Council's People Strategy Manager (Resourcing) ~~and in consultation with the~~ [Commercial and Procurement Division](#).

~~17.6.18.6.~~ Where it is agreed that a temporary worker, contractor, or Consultant may be sourced outside of the corporate contract, and the total aggregate value of such engagement is estimated to be £~~2530~~,000 or more [\(including any applicable VAT\)](#), competition is to be sought in the same manner as would be required for any procurement of the same value following the requirements outlined in the summary tables under Section 10.

~~17.7.18.7.~~ If the total aggregate value of such an engagement exceeds £50,000, the decision to award must also be made in consultation with the relevant Cabinet Member.

18-19. Collaboration with Other Public Bodies

~~18-1-19.1.~~ The Council may enter into collaborative agreements for the procurement of goods, services, and works with other public bodies or Central Purchasing Bodies where this offers best value for money for Kent residents. This may mean the Council leading procurements and contracting on behalf of other public bodies or vice-versa.

~~18-2-19.2.~~ However, where this is proposed, it should be noted that the relevant legislation as stipulated in Section 4.6 will continue to apply as will the principles outlined in SCM. Ahead of any such collaboration with other public bodies, advice must be sought from the Head of Commercial and Procurement in conjunction with the Section 151 Officer and the Legal Team before entering into such arrangements.

19-20. Liability and Security

~~19-1-20.1.~~ To protect the Council, insurance is required where the Council purchases goods, services, or works provided by a supplier. The minimal levels of insurance cover for Public Liability Insurance, Employers' Liability Insurance, Professional Indemnity (Negligence) Insurance and other relevant insurances are set out in guidance on KNet. Advice should be obtained from the Insurance Team in accordance with that Council guidance.

~~19-2-20.2.~~ In some instances where the contract value, risk, or scope may be particularly high, additional insurance cover may be required. Equally, where some contracts may be suitable for micro businesses, lower levels of insurance may be considered, as part of a wider assessment of the need for proportionality between the Council's requirements and removing or reducing barriers to participation for small businesses. Reasonable approaches to apportioning risk should be adopted through using limits and exclusions of liability and insurance cover requirements taking into account insurable risks and associated costs. However, in these instances, advice should be sought from the relevant Officer within the Insurance Team.

~~19-3-20.3.~~ Where the Council is providing goods, services, or works to another organisation (that is not a part of the Council), Services must not arrange their own insurance policies and should contact the Insurance Team in the first instance who arrange cover on behalf of the Council.

20-21. Financial Security

~~20-1-21.1.~~ For all procurements above the Public Procurement Threshold PCR 2015 threshold for goods and services, regardless of whether the contract is for goods, services, or works, the Commercial and Procurement Division should determine if a supplier requires additional financial checks based on the perceived financial risk. ~~If required, t~~The Commercial and Procurement Division and Finance must confirm that suppliers are financially robust both prior to contract award and Services are expected to monitor this, in consultation with the Division and Finance, during the life of the contract.

21.2. However, as set out in Section 30.4 of SCM, when assessing a supplier's financial capacity as a part of testing their capacity to perform the contract, Officers must not require suppliers to submit audited annual accounts unless they are, or were, required to have audited accounts in accordance with Part 16 of the Companies Act 2016.

~~20-2-21.3.~~ Advice should be obtained from the Finance Team, the Commercial and Procurement Division, and Legal Team if there are concerns about the financial

stability of a supplier prior to contract award and through the duration of the contract to enable steps to be taken to mitigate risk.

~~20.3.21.4.~~ Tender documents must include a statement asserting that, where requested, suppliers need to provide security for performance and outline the level of security needed, the financial checks to be applied on tenders, how financial suitability will be assessed, and any checks that will be required during the life of the contract. However, these requirements should be proportionate to the risk and the need to consider how to remove or reduce barriers to participation for SMEs and VCSEs.

~~20.4.21.5.~~ Where either the total aggregate value of the contract exceeds £1m (excluding VAT) within any twelve month period, or there is doubt as to the financial credibility of a supplier, but the Council has decided to accept the level of risk, then additional forms of security to a level determined by the Finance Team may be required, for example:

- a. A Parent Company, Ultimate Company, or Holding Company guarantee, where the financial standing of those companies proves acceptable.
- b. A Director's Guarantee or Personal Guarantee, where finances prove acceptable.
- c. A Performance Bond, retained funds, or cash deposit.
- d. Any other security (such as escrow arrangements), which has been determined to be appropriate by Finance.

~~20.5.21.6.~~ Advice from the Legal Team should also be taken on any and all such forms of guarantee, bond or security being used.

21.22. Conflicts of Interest and Preventing Fraud, Bribery and Corruption

22.1. Officers must comply with the requirements under Part 5 of the Procurement Act 2023 to take all reasonable steps to identify and mitigate actual or perceived conflicts of interest that may arise in relation to a procurement. Officers must prepare a conflicts assessment once it has been decided that procurement is the appropriate route to meet the required need, thereafter, keeping this documented assessment under review throughout the procurement process and during the life of the contract.

~~21.1.22.2.~~ To protect the Council against the risk of fraud, bribery, and corruption, Every contract shall include provision for termination of that contract (and recovery of losses) where the supplier, their employees, or anyone acting on the supplier's behalf:

- a. Offers, gives, or agrees to give anyone an inducement or reward in respect of any contract with the Council.
- b. Commits an offence under the Bribery Act 2010, or
- c. Commits any of the offences listed in Schedule 6 of the Procurement Act 2023, Regulation 57(1) of the PCR 2015 or Regulation 38(8) of CCR 2016.

~~21.2.22.3.~~ In the event that anyone buying or managing a contract on behalf of the Council becomes aware of a supplier's involvement in fraudulent or corrupt activity, they must report this to the Head of Commercial and Procurement and seek advice from the Council's Counter Fraud Team and Legal Team.

~~21.3.22.4.~~ Further to the above, Officers must comply with the Council's Code of Conduct, Anti-Fraud and Corruption Strategy and Anti-Bribery Policy. Officers must not invite or accept any gift or reward in respect of the award or performance of a contract and gifts and hospitality must be recorded in line with guidance set out on the intranet.

~~21.4. Officers must also comply with the requirement to make declarations of interest within the procurement process to ensure any actual or perceived conflicts can be appropriately managed.~~

~~21.5.~~22.5. In addition to what is outlined in this section, declarations of interest should be made through the Council's annual declaration of interest process and prior to the commencement of any procurement exercise that an individual is to be involved with.

22.23. Document Retention

~~22.1.~~23.1. The retention of procurement and contractual information is prescribed in the Limitation Act 1980, the Procurement Act 2023, the PCR 2015 and the PSR as applicable. In summary, the following is required:

- a. Contracts executed under hand (retained for 6 years after last action on a contract).
- b. Contracts executed under seal as Deeds (retained for 12 years after last action on a contract).
- c. Sufficient documentation to explain and justify decisions taken in all stages of the procurement procedure including tender documents for unsuccessful bidders as required by Section 98 of the Procurement Act 2023, PCR 2015 Regulation 84, and PSR Regulation 24, as applicable.
- d. Records created by contract management meetings for contracts executed under hand (retained for the life of the contract and 6 years thereafter).
- e. Records created by contract management meetings for contracts executed under seal as Deeds (retained for the life of the contract and 12 years thereafter).

~~22.2.~~23.2. Additional document retention requirements are outlined and updated from time-to-time in guidance that can be found on KNet and must be complied with.

Part C: Requirements for Quotation or Tendering Procedures

23.24. Engaging the Commercial and Procurement Division

~~23.1.~~24.1. At the earliest opportunity, Officers must engage the Commercial and Procurement Division and Legal Team in any procurement exceeding an estimated total aggregate contract value above the Public Procurement Threshold PCR-2015 threshold for goods and services, regardless of whether the contract is for goods, services, or works. As a minimum expectation, this point of engagement should be as soon as it has been determined that procurement is the correct approach to delivering the required provisions and always in advance of any preliminary market engagement. This is to allow for the Council's Procurement Pipeline to be updated and for resources to be planned accordingly.

~~23.2.~~24.2. Regardless of the estimated total contract value, Officers must contact the Commercial and Procurement Division ~~and Legal Team~~ for advice and support on any procurement if they are concerned about their ability to carry out the procurement or the risk or complexity of the procurement.

~~23.3.~~24.3. Where the procurement or contracting is in-scope of the PSR, Officers must engage with the Commercial and Procurement Division ~~and Legal Team~~ at the earliest opportunity and prior to any proposed procurement, Contract Modification, and contract award taking place. The CPDDivision, who may also consult with the Council's and Legal Team, will determine the appropriate level of involvement, and any external support required depending on the risk and complexity of the procurement and the commercial acumen and experience required.

25. Specifications

25.1. Officers must ensure that specifications are drafted to meet the identified needs with proper consideration given to value money and corporate objectives around supporting social value, sustainability, equality and diversity, and data and privacy.

25.2. While Officers may choose between different types of specification (e.g., input- or output-focused) dependent on their requirements, Section 56 of the Procurement Act 2023 requires that specifications do not refer to a particular design, licensing model, or a description of characteristics where they could refer to performance or functional requirements. Specifications must also not refer to a UK Standard unless the standard adopts internationally recognised equivalents, or there is no such equivalent.

25.3. Specifications must not refer to particular trademarks, trade names, patents, designs or types, places of origin, or producers or suppliers, unless the Council considers it necessary in order to make its requirements are understood. However, if such matters are referred to, the procurement documentation must also ensure that tenders or proposals demonstrating quality or performance will not be disadvantaged.

25.4. Officers in Services are responsible for developing specifications, but the Commercial and Procurement Division can be engaged to provide a commercial review and input on specifications where the Division will the lead procurement for the contract.

26. Preliminary Market Engagement

26.1. How Officers are permitted to engage with the market, prior to issuing any tender, is governed by Section 16 of the Procurement Act 2023.

26.2. The Council may choose to engage in preliminary market engagement to:

- a. Develop the Council's requirements and approach to the procurement.
- b. Design a procedure, Conditions of Participation, or award criteria.
- c. Prepare a Tender Notice and associated tender documents.
- d. Identify suppliers that may be able to supply the goods, services, or works required.
- e. Identify likely contractual terms.
- f. Build capacity among suppliers in relation to the contract being awarded.

26.3. When undertaking preliminary market engagement, Officers should take steps to ensure that suppliers participating in the engagement do not receive an unfair advantage, and competition in relation to the contract award is not otherwise distorted. If a supplier gains an unfair advantage, and the advantage cannot be avoided, then the supplier must be excluded from participating in the tender. However, advice should be sought from the Commercial and Procurement Division in such circumstances.

26.4. Where preliminary market engagement is planned, a Preliminary Market Engagement Notice be published to the Central Digital Platform.⁶ In the event that Officers consider that prior publication is not appropriate in a given situation, Officers should engage with the Commercial and Procurement Division in advance in order to agree whether an exception is appropriate and any appropriate safeguards. This is to minimise legal risk to the Council. While the Commercial and Procurement Division will process the

⁶ Section 17 of the Procurement Act 2023 requires that a contracting authority publish a preliminary market engagement notice prior to carrying out any engagement or to set out why it did not within the relevant tender notice. However, as a matter of good practice and to minimise legal risk, the Council requires that any preliminary engagement be preceded by a preliminary market engagement notice.

Notice, Officers in Services must provide the information required in a full and timely manner.

26.5. Preliminary market engagement for contracts that are regulated by the PSR is subject to separate requirements under those regulations. Specifically, it is recommended that such engagement be undertaken where a Most Suitable Provider Process is followed.

26.6. Officers in Services are expected to lead on preliminary market engagement, but the Commercial and Procurement Division can be engaged to advise on the most appropriate approach and can support the delivery of the engagement, particularly for procurements that the Division will thereafter lead on.

27. Duty to Consider Lots

27.1. For contracts with an estimated aggregate value above the applicable Public Procurement Thresholds, Section 18 of the Procurement Act 2023 requires Officers to consider whether the goods, services, or works to be supplied under the contract could be supplied under more than one contract, and whether such contracts could most appropriately be awarded by reference to different lots.

27.2. As a part of this consideration, Officers should consider whether lotting would help to secure best value for money. Where it is considered that a contract could be awarded by reference to lots, then the tender must account for this, carefully considering the most appropriate lotting approach and the award criteria and evaluation methodology that would allow for the identification of the Most Advantageous Tenders (MATs).

27.3. Where it is decided not to progress with lotting, then Officers must ensure that the tender documentation should include the reasons for not taking this approach.

27.4. Officers in Services should work jointly with the Commercial and Procurement Division to determine whether lotting is appropriate and to document the decision taken.

24-28. Requirements to Advertise and Publish Intended Procurement Route

28.1. Where contracts are subject to the Procurement Act 2023, Section 21 of the legislation requires that contracts with an estimated total aggregate value above the applicable Public Procurement Thresholds are advertised through a Tender Notice that is published to the [Central Digital Platform](#) (unless an exemption applies under the applicable regulations). They must also be published on the Council's tendering portal.

28.2. Where appropriate, a Planned Procurement Notice, as permitted under Section 15 of the Procurement Act 2023, may be used to reduce the required tendering period and to provide suppliers, especially SMEs and VCSEs, advanced notice of an opportunity. However, any use of such a Notice must be on the advice of the Commercial and Procurement Division as there are specific regulatory requirements around their use, the timing, and the publication of the Notice to the [Central Digital Platform](#).

~~Subject to paragraph 27.3 below, contracts with estimated values which are equal to or exceed the Regulatory Thresholds set out in the PCR 2015 or other applicable procurement legislation must be advertised on the Find a Tender Service (FTS) by publishing a contract notice or, where advised by the Commercial and Procurement Division, a Prior Information Notice (PIN), as defined in the regulations, can be used as a call for competition.~~

28.3. Contracts with an estimated total aggregate value below the applicable Public Procurement Thresholds only need to be advertised to the [Central Digital Platform](#), with a Tender Notice, and the Council's tendering portal where Officers will follow a tendering procedure. These requirements do not apply where the Council seeks quotations or only seeks tenders from particular or pre-selected suppliers as permitted under the regulations.

~~24.1.~~ 28.4. Irrespective of contract value, specific advertising and Notice requirements apply to health care services contracts and mixed health care services contracts regulated by the PSR depending on the provider selection process followed under those regulations. Where the intention is to follow the Most Suitable Provider Process available under the PSR, a Notice of the intended approach must be published to the [Central Digital Platform](#) ~~FTS~~ in advance. Where the Council decides to follow a Competitive Process under the PSR, the Council must invite offers by submitting a contract Notice for publication, including all the information required in Schedule 8 to the PSR.

~~24.2. Except for health care services contracts and mixed health care services contracts regulated by the PSR, all contracts which are advertised on FTS must also be advertised on Contracts Finder within 24 hours of the time that the Council becomes entitled to post it, that is after either it appears on FTS, or where it has not appeared, but 48 hours have elapsed from the time the FTS has confirmed receipt of the notice to the Council.~~

28.5. When advertising the tendering opportunity, in accordance with Section 29 of SCM, the procurement documentation must be made available at the same time that any required Tender Notice is published on the [Central Digital Platform](#) and the Council's tendering portal.

28.6. Any form of advertisement must state the place where interested providers may obtain the procurement documentation and the deadline for receipt of submissions.

~~24.3. All procurement documentation, including the contract terms, must be available from the time any contract notice is published on FTS if required by the chosen regulatory procedure.~~

~~24.4. Each contract opportunity with a total aggregate contract value estimated to be above the applicable PCR 2015 threshold for goods, services or works must be advertised on the Council's tendering portal or another secure electronic system, where interested parties must be able to electronically access all procurement documentation, and Contracts Finder (as applicable).~~

~~24.5. Each contract opportunity with a total aggregate contract value estimated below the applicable PCR 2015 can be advertised on the Council's tendering portal if it is deemed beneficial, however, support must be sought from the Commercial and Procurement Division to do this.~~

~~24.6. The Commercial and Procurement Division is responsible for ensuring all notices and publications of contract opportunities above the Regulatory Thresholds are published in accordance with SCM. Below this threshold, it is the responsibility of the Service to ensure the rules are adhered to.~~

~~24.7. Any form of advertisement must state the place where interested providers may obtain the procurement documents and the deadline for receipt of submissions.~~

28.7. While the Commercial and Procurement Division will publish the Notices at this stage, whether Planned Procurement, Tender, or any other Notices that are required, Officers in Services must provide the required information in a full and timely manner.

28.8. Where the Commercial and Procurement Division is leading the procurement, the Division will ensure that all other requirements for advertising are correctly followed to satisfy the relevant regulations. Where Officers in Services are leading the procurement, they will be responsible for ensuring that the requirements outlined in this section are appropriately followed.

29. Competitive Tendering Procedures

29.1. When undertaking a competitive tendering procedure, Officers are responsible for following the applicable procurement regulations set out in Section 4.6 of SCM and must ensure that the procedure is undertaken in accordance with the published Tender Notice and any associated, published procurement documentation.

29.2. Section 20 of the Procurement Act 2023 stipulates the tendering procedures that can be followed when procuring contracts under that legislation. These are:

- a. A single stage tendering procedure without a restriction on who can submit tenders (i.e., an 'open procedure'), or
- b. Such other competitive tendering procedure as the Council considers appropriate for the purposes of awarding the contract (i.e., a 'competitive flexible procedure).

29.3. Where the estimated total aggregate value of a contract is below the applicable Public Procurement Thresholds, and the contract is not regulated by the PSR, Officers may choose to follow a quotation process as outlined in Section 36 of SCM instead of undertaking a tendering procedure. This is permitted for goods and services contracts with an estimated total value up to the Public Procurement Threshold for goods and services and for works contracts with such a value up to £1m, above which a fully Procurement Act 2023 compliant tendering procedure must be followed (which includes call-offs from Framework Agreements, Dynamic Markets or (prior to 24 February 2029) DPS).

29.4. Where Officers undertake a tendering procedure for contracts with an estimated total aggregate below the applicable Public Procurement Thresholds, Section 85 of the Procurement Act 2023 is the governing legislation and stipulates the procedure. Except in the limited circumstances outlined in Section 30.6 below, Officers must not restrict the submission of tenders for such contracts by reference to a supplier's suitability to perform the contract, including their legal and financial capacity or their technical ability to perform the contract.

29.5. Regardless of the total aggregate contract value, Officers may use another compliant route such as a Framework or Dynamic Market, as permitted in Section 15 of SCM.

29.6. Irrespective of contract value, for contracts which are for health care services and mixed health care services that are therefore regulated by the PSR, Officers must follow a provider selection process permitted under Part 2 of the PSR when procuring the contract. This may include a Competitive Process as permitted under that regime.

29.7. In any case, Officers must ensure the procedure chosen is a proportionate means of awarding the contract, considering the nature, complexity, and cost of the contract. When choosing and designing the procedures, Officers must have regard to the barriers to participation for SMEs and VCSEs and how to remove or reduce these.

29.8. The Commercial and Procurement Division will lead on the tendering of contracts for goods and services with an estimated total aggregate value above the Public Procurement Threshold for goods and services. The Division will also lead on the procurement of works contracts with an estimated total value above £1m.

29.9. Officers in Services may lead on the tendering of contracts for goods and services with an estimated total value up to the Public Procurement Threshold for goods and services. For works contracts, Officers in Services may lead on the tendering of such contracts up to an estimated total value of £1m.

29.10. Where the procurement or contract is in-scope of the PSR, Officers must engage the Commercial and Procurement Division prior to any proposed procurement or provider selection process taking place. The Division will determine the appropriate level of involvement, and any external support required depending on the risk and complexity and the commercial experience required.

29.11. Regardless of contract value and who can lead the tendering, Officers must contact the Commercial and Procurement Division for advice and support if they are concerned about their ability to carry out a procurement or its risk and complexity.

30. Conditions of Participation Use of Selection Questionnaires (SQs) and Basic Selection Criteria

30.1. Where Officers seek to set Conditions of Participation in a tender, in accordance with Section 22 of the Procurement Act 2023, Officers must ensure that they are a proportionate means of ensuring that suppliers have the legal and financial capacity or the technical ability to perform the contract in question.

30.2. Subject to Section ~~30~~29.7 below, Officers must refer to the Supplier Information System contained within the Central Digital Platform and use the Council's standard and most up to date Selection Questionnaire (SQ) ~~and adhere to regulatory requirements around such selection procedures to collect the information required and to assess suppliers against the Conditions of Participation for all procurement of contracts that are estimated to exceed the relevant Public Procurement Thresholds.~~ This is unless suppliers have already been pre-qualified through an alternative sourcing route such as a Framework Agreement, a Dynamic Market, or a DPS.

30.3. This pre-qualification of suppliers, ~~by assessing against Conditions of Participation,~~ enables the Council to test the suitability of suppliers bidding for Council contracts, through applying minimum standards of legal and financial standing and technical ~~ability and professional~~ that prospective suppliers should meet. However, as well as being proportionate, all the methods and criteria for assessing the suitability of suppliers must be transparent, proportionate, objective, and non-discriminatory.

30.4. Where Officers choose to assess a supplier's legal and financial capacity as a part of testing their capacity to perform the contract, they must not:

- a. Require suppliers to submit audited annual accounts unless they are, or were, required to have audited accounts in accordance with Part 16 of the Companies Act 2016.
- b. Require suppliers to have insurance relating to the performance of the contract to be in place before the award of the contract.

30.5. Where Officers choose to assess a supplier's technical ability as a part of testing their ability to perform the contract, they must not:

- a. Require them to have been awarded a contract by a specific contracting authority,
- b. Break the rules on specifications (see Sections 25.2 and 25.3 of SCM), or
- c. Require particular qualifications without allowing for their equivalents.

30.6. Officers must not use an SQ stage (or pre-qualification stage) for any contract with a value below the Public Procurement Thresholds, regardless of whether it is for goods, services or works. In accordance with Section 29.4 of SCM, when tendering for any contract with an estimated total aggregate value below the applicable Public Procurement Thresholds, Officers must not restrict the submission of tenders by reference to an assessment of a supplier's suitability to perform the contract, including their legal and financial capacity or their technical ability to perform the contract. However, for works contracts valued between the Public Procurement Threshold for goods and services and the Public Procurement Threshold for works, the Council Suppliers may use a pre-qualification stage using the Common Assessment Standard.

~~24.8.~~30.7. There are different requirements for health care services contracts and mixed health care services contracts regulated by the PSR where the Council is required to undertake reasonable and proportionate due diligence on providers. When using Direct Award Process C, the Most Suitable Provider Process, or the Competitive Process (except use of the Competitive Process to award a contract under a Framework) in the PSR, Officers must not award a contract to or conclude a Framework Agreement with a provider who does not meet the basic selection criteria formulated in accordance with Regulation 19 of and Schedule 16 to the PSR. The basic selection criteria may only relate to suitability to pursue a particular activity, economic and financial standing and technical and professional ability, and all requirements must be related and proportionate to the subject matter of the contract or the Framework.

30.8. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section and ensure that any testing of Conditions of Participation, or basic selection criteria under the PSR, satisfies the relevant regulations. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are correctly followed. As a part of the activity in this section, close working, including with the Council's Finance Team and Legal Team, will be required.

31. Setting Award Criteria and Evaluation Methodology

31.1. For contracts that are subject to the Procurement Act 2023, Officers should develop award criteria and an evaluation methodology that will enable them to accurately determine the Most Advantageous Tender (MAT). They may be developed and consulted on early as a part of preliminary market engagement and, thereafter, as set out in Section 34.2(e) of SCM, Officers must include the award criteria and evaluation methodology within the procurement documentation.

31.2. When setting the award criteria, Officers must be satisfied that they:

- a. Relate to the subject matter of the contract,
- b. Are sufficiently clear, measurable, and specific,
- c. Do not break the rules on specifications, (see Sections 25.2 and 25.3 of SCM), and
- d. Are a proportionate means of assessing tenders, having regard to the nature, complexity, and cost of the contract.

31.3. Evaluation methodology must be designed to accurately determine the Most Advantageous Tender (MAT) with the correct balance between price and quality. This evaluation methodology should be developed through close consultation between Officers in Services and the Commercial and Procurement Division.

24.9-31.4. Officers should also be aware of any additional Council policies related to social value and sustainability in tender evaluations and apply these as required and appropriately linked to the subject matter of the contract.

31.5. For health care services contracts and mixed health care services contracts regulated by the PSR and using either Direct Award Process C, the Most Suitable Provider Process, or the Competitive Process, Officers must determine the appropriate balance of the five key criteria set out in Regulation 5 of the PSR of quality and innovation; value; integration, collaboration, and service sustainability; improving access, reducing health inequalities, and facilitating choice; and social value.

31.6. Any criteria that may be used to disqualify a supplier must be clearly specified within the tender. Suppliers may not be disqualified except where the tender has stipulated that failure to meet one or more of the specified criteria would disqualify a tender.

24.10-31.7. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section and ensure that the award criteria and evaluation methodology, or key criteria and evaluation of this under the PSR, satisfies the relevant regulations. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are correctly followed. As a part of the activity in this section, close working between the Division and Officers in Services will be required.

32. Key Performance Indicators

32.1. Officers should develop key performance indicators (KPIs) to help assess a supplier's performance against the contract. They should be developed early as a part of specification development and can be consulted on in preliminary market engagement, thereafter, being included in procurement documentation.

32.2. Any KPIs developed should be relevant and proportionate to the nature, size, and complexity of the contract. When developing KPIs, Officers must consider the risks associated with setting too many KPIs or potential for ambiguity around KPIs, which may lead to confusion with suppliers, higher pricing, and other unintended outcomes.

32.3. Officers should refer to guidance issued by the Commercial and Procurement Division around the development of KPIs and standard contract KPIs that may be relevant. Officers should also be aware of any additional Council policies related to social value and sustainability when setting KPIs and consider applying these proportionately.

32.4. Where contracts are subject to the Procurement Act 2023, Section 52 of the Act requires that any contract that is awarded with an estimated total aggregate value in excess of £5m must have a minimum of three KPIs specified within them with performance against these KPIs then monitored and reported by way of Notices. However, this requirement does not apply if the contract is awarded via a Framework.

32.5. Officers in Services are responsible for developing KPIs, but the Commercial and Procurement Division can be engaged to provide a commercial perspective and input on KPIs for contracts that the Division will lead the procurement for.

25-33. Forms of Contract

33.1. Officers must issue an appropriate form of contract that suppliers will be required to agree to if they are awarded the contract. The Council has different sets of Standard Terms and Conditions that must be applied to contracts based on their value and the nature of what is being procured (i.e., goods and services, or works). That is unless one of the following reasons is present:

- a. The requirements of the contract are judged to carry a level of risk and complexity that requires bespoke terms and conditions.
- b. The contract is for an internal Framework, Dynamic Market, or DPS that will require bespoke terms and conditions to be agreed as a part of it being established.
- c. It is deemed to be more appropriate for the supplier's terms and conditions to be applied to the procurement given the nature of the requirement or the market.
- d. The contract is a call-off from an existing Framework which includes an established form of contract.
- e. Another form of contract is applicable and more appropriate for this procurement.

33.2. Officers must follow guidance provided in the Standard Terms and Conditions relevant to their procurement to ensure they include all mandatory clauses. Where any clauses need to be amended, or any of the above reasons for deviation apply, Officers must seek advice from the Commercial and Procurement Division before following any alternative approach. The Commercial and Procurement Division will may then consult with and request further approval from the Legal Team.

33.3. If bespoke or alternative Terms and Conditions will be used, Officers must contact the Commercial and Procurement Division who will seek advice from the Legal Team.

33.4. Where Officers are uncertain of the Standard Terms and Conditions applicable to their contract, they should consult with the Commercial and Procurement Division. Where the Division is already involved, they will work jointly with Officers in Services, and the Legal Team, as necessary, to determine the most appropriate form of contract.

26-34. Invitations to Tender

26-1-34.1. Whether undertaking a tendering procedure under the Procurement Act 2023 or the PSR, , Officers must issue Invitations to Tender and tendering instructions to every supplier who is or has been:

- a. Invited to tender following a pre-qualificationselection process (where such a stage has taken place).
- b. Listed on the relevant Framework Agreement, Framework lot, Dynamic Market, or DPS and who is capable and willing to tender.
- c. Requested the supply of tender documents under an open tendering process.

26-2-34.2. All Invitations to Tender must specify the goods, services, or works that are required, together with the form of contract that will apply. All suppliers invited to tender must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis. All Invitations to Tender shall also include (subject to any additional requirements under the Procurement Act 2023PCR-2015, the PSR, or other applicable procurement regulations):

- a. A specification that fully describes the Council's requirements.

- b. A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- c. A requirement for tenderers to fully complete all tender documents.
- d. Notification that tenders are submitted to the Council on the basis that they are prepared at the tenderer's expense and reserve the right for the Council to decide not to proceed to award without incurring any contractual liability and without becoming liable to reimburse any bidder costs or expenses.
- e. A description of the award procedure and evaluation methodology.
- f. The form of contract that the supplier will need to agree to.
- g. The deadline for any questions asked during the tender.
- h. The deadline for tender receipt.

~~26.3.~~34.3. Officers must, in writing, advise every supplier submitting a tender that:

- a. No extension of time will be allowed for the receipt of any tender, unless that is at the discretion of the Council.
- b. Tenders received after the date and time specified for receipt may be rejected.
- c. Any departure from tendering instructions may lead to the tender being rejected.
- d. the Council does not bind themselves to accept any tender or to accept any tender in full.
- e. The tender documents must be in electronic format.
- f. The tenderers signed form of tender cannot be different in detail to that provided as a part of the e-sourcing process unless it includes changes to tender documents that were made by the Officer responsible for the procurement.

34.4. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are correctly followed. As a part of the activity in this section, close working will be required between the Division and Officers in Services.

~~27.35.~~ **Post-Selection Questionnaire (SQ) and Tender Clarifications**

~~27.1.~~35.1. Officers must maintain a written record and clear audit trail of all clarifications received as a part of any pre-qualification stage post-SQ and as a part of any tendering procedure undertaken, detailing all contact with the tenderer, including the clarification requested and the response provided. All communications must be recorded via the Council's tendering portal or another secure electronic system (all clarifications requested, and the responses provided must be available for audit purposes).

~~27.2.~~35.2. Confirmation must be provided in the award report that paperwork submitted as a part of testing against any exclusion criteria and any Conditions of Participation ~~the SQ for due diligence~~ has been checked and approved in line with the Council's requirements for due diligence outlined in guidance available on KNet.

35.3. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are appropriately followed.

~~28.36.~~ **Submission, Receipt and Opening of Tenders**

~~36.1. Suppliers must be given an adequate period in which to prepare and submit a tender, with this time period at least satisfying the minimum timescales required in the applicable regulations and being commensurate to the complexity of the requirement.~~

~~36.2. When determining the appropriate timeframe, as well as the regulatory requirements, Officers should consider the need to have regard to the particular barriers facing SMEs and VCSES wishing to access contract opportunities and how to remove or reduce these barriers. This may include through considering tender response timescales that are more appropriate for SMEs and VCSEs.~~

~~28.1.~~36.3. Every tender over the applicable Public Procurement Thresholds PCR 2015 thresholds, or which has otherwise been advertised on the Council's tendering portal must be received by a secure method using either the Council's tendering portal or another secure electronic system appropriate for the procurement.

~~28.2. Suppliers or providers who have expressed interest in a tender must be given an adequate period in which to prepare and submit a tender, consistent with the complexity of the contract requirement. The PCR 2015 includes specified tendering time periods that apply when following a procurement route under those regulations.~~

~~28.3.~~36.4. Officers must have notified all suppliers of the correct tender return instructions, including the date, time, and place (e.g., the details of the Council's e-sourcing system).

~~28.4.~~36.5. In exceptional circumstances, the deadline for receipt of tenders may be extended with the agreement of the lead Commercial and Procurement Officer, if the extension of time will not disadvantage any tenderer.

~~28.5.~~36.6. No extension to the deadline can be given once the seal has been broken on the Council's tendering portal.

~~28.6.~~36.7. All tenders received via the Council's tendering portal must be opened by those specified as responsible on the system. All tenders must be opened at the same time.

~~28.7.~~36.8. No person can be involved in the opening process who:

- a. Has not completed the Council's e-learning on procurement and contracting.
- b. Has any pecuniary interest in any supplier used by the Council.
- c. Is serving a probationary period.
- d. Is the subject of disciplinary proceedings.
- e. Has any outstanding dispute with the Council, or
- f. Has tendered their resignation.

~~28.8.~~36.9. Any tender that does not comply with the Council's requirement as set out in the tender invitation should normally be excluded from consideration, with the circumstances recorded on the Council's tendering portal. Officers may, however, seek the agreement of the lead Commercial and Procurement Officer to amend the requirements in appropriate circumstances. Any relaxation of the requirements must be disclosed when seeking approval required for acceptance of a tender.

~~28.9.~~36.10. Officers must also check that every tender sum has been calculated by reference to the minimum specification required and stipulated in the tender. If they discover any departure from the specification, they can, subject to what is stated in the procurement documentation, treat it as grounds for disregarding the tender. The

Officer must also check that every tender sum is stated net of VAT or any other Tax or Duty.

36.11. Officers may also disregard any tender that offers a price that is considered to be abnormally low for the performance of the contract. However, before disregarding a tender on these grounds, Officers must notify the supplier that the price is considered to be abnormally low and give the supplier reasonable opportunity to demonstrate that it will be able to perform the contract for the price offered.

~~28.10.~~36.12. If a request is made to accept a late tender due to technical issues or circumstances that could not have been foreseen, Officers should ensure that any additional time granted is minimal and does not allow for covert amendments or additions to tender content.

36.13. Any late tenders that are not accepted, and any marked tenders, must not be opened until the award to the successful supplier has been made.

36.14. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are appropriately followed.

29.37. Evaluation

37.1. The evaluation of tenders should be undertaken only against the award criteria and evaluation methodology that was stipulated in the procurement documentation.

37.2. For procurements that are subject to the Procurement Act 2023, tenders are to be evaluated based on the assessment and identification of the 'Most Economically Advantageous Tender' (MEAT). An evaluation based on the MEAT must ~~may~~ consider both price and quality, including any social value or sustainability criteria, and does not require the tender to be awarded to the lowest priced bid alone.

~~29.1.~~ Evaluation methodology must be designed to accurately determine the correct balance between price and quality and can be developed in consultation with the Commercial and Procurement Division.

~~29.2.~~37.3. For health care services contracts and mixed health care services contracts regulated by the PSR and using either Direct Award Process C, the Most Suitable Provider Process, or the Competitive Process, Officers must assess offers from providers taking into account the five key criteria set out in Regulation 5 of the PSR of quality and innovation; value; integration, collaboration, and service sustainability; improving access, reducing health inequalities, and facilitating choice; and social value.

~~29.3.~~ Officers should be aware of any additional Council policies related to social value and sustainability in tender evaluations and apply these as required where linked to the subject matter of the contract.

~~29.4.~~37.4. Officers must ensure that a moderator is assigned to confirm the final scoring and to mediate any differences between the evaluation panel.

~~29.5.~~37.5. The evaluation panel must include at least two scorers and they must understand the purpose of the procurement, the requirements of the contract, and the evaluation criteria.

37.6. Each evaluator and moderator must complete a conflicts of interest form, disclosing any interest that may raise questions of impartiality. It must also be recorded how identified conflicts (actual or perceived) will be mitigated. This should be added to the conflicts of interest assessments that will have initially been developed at the outset of the procurement and that will be kept up to date throughout the process.

37.7. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are appropriately followed.

30-38. Request for Quotations

30.1-38.1. Where permitted to seek quotations under Section 10 of SCM, Officers must ensure that all quotations from potential suppliers are provided against the same requirement and are requested/submitted within the same window of opportunity. Where the requirement is clarified or changed through the process, all invited organisations must have the opportunity to quote against that revised requirement.

30.2-38.2. As a minimum, Officers are required to seek the number of quotations stipulated in the summary table in Section 10. These quotations must be competitive.

30.3-38.3. For audit purposes, Officers must also ensure that an electronic record of all quotations received is retained in line with the Council's record retention policy.

30.4-38.4. If Officers receive a lower number of quotes back from suppliers than they are required to seek according to the appropriate procurement procedure defined in Section 10 of SCM, they are not required to seek further quotes unless it is necessary to fulfill the need and achieve value for money.

30.5-38.5. Officers in Services are required to use their own judgement to determine if a quote reflects value for money.

30.6-38.6. For the avoidance of doubt, Officers cannot follow a quotation process where the estimated total aggregate value of their contracts is above the relevant Public Procurement Threshold for goods and services contracts or above £1m for works contracts, where a compliant tendering procedure must instead be followed. Additionally, when procuring health care services regulated by the PSR, Officers are required to follow a provider selection process permitted under the PSR and in line with the guidance provided by the Commercial and Procurement Division.

38.7. Officers in Services will typically lead the request for quotations process. However, they should refer to the advice and guidance available on KNet when undertaking this. Should Officers still have concerns about their ability to undertake this activity, they should contact the Commercial and Procurement Division at the earliest opportunity.

39. Excluding Suppliers

39.1. Before assessing any Conditions of Participation, tenders or quotations, and prior to determining the supplier to be awarded a contract, Officers must check whether suppliers, or their Connected Persons or Associated Persons and subcontractors, are on the Debarment List. Where it materialises that suppliers are on that list for a Mandatory Exclusion Ground, they must be excluded from the procurement process and must not be awarded the contract. In the case of their Associated Persons and

subcontractors being on the list, suppliers should be provided with the opportunity to replace them.

39.2. Where suppliers, or their Associated Persons and subcontractors, are on the Debarment List for a Discretionary Exclusion Ground, or they otherwise self-declare that a Mandatory or Discretionary Exclusion Ground applies as part of the procurement process, Officers may exercise discretion on whether to exclude them. However, the supplier must be provided with the opportunity to 'self-clean' (i.e., to provide evidence that the circumstances are not continuing or are unlikely to re-occur and/or to replace the Associated Persons or subcontractor) before any exclusion.

39.3. Where the Commercial and Procurement Division is leading the procurement, the Division will ensure that the appropriate reviews, checks, and processes are undertaken, consulting with the Legal Team prior to any exclusion being made.

39.4. Where Officers in Services are leading the procurement, they are responsible for undertaking the initial review and checks in line with guidance available on KNet. However, they must engage with the Commercial and Procurement Division, who may also engage with the Council's Legal Team, prior to any exclusion taking place.

31.40. Intention to Award, Contract Award, Agreement and Signature

~~31.1.40.1.~~ Before proceeding with the regulatory requirements around the award of contracts, as outlined between Sections 40.4 and 40.7 below, notifying suppliers of a contract award, Officers must complete an Award Report and have this approved by the relevant authority as stipulated in Section 10 of SCM and the Council's Scheme of Delegation.

~~31.2.40.2.~~ The Award Report should:

- a. Be 'complete' in its own right, allowing the reader to understand the process and the decision reached. Reference should be made to any additional information available in the contract file.
- b. Show the recommendation and authorisation process with appropriate signatures.

~~31.3.40.3.~~ Additionally, where a contract for a consultant (as defined in Section 178 of SCM) is estimated to have a total value of £50,000 or more, the decision to award the contract must be made in consultation with the relevant Cabinet Member.

~~31.4.40.4.~~ Following the above, the successful supplier/s and all unsuccessful suppliers must be notified in writing of the proposed contract award through the Council's tendering portal (or any other secure electronic system appropriately used for the procurement) and in accordance with the Procurement Act 2023~~PCR 2015~~, the PSR, or other applicable procurement regulations.

40.5. Officers must provide an assessment summary to each supplier who has submitted an assessed tender for contracts that are above the applicable Public Procurement Thresholds and which are not regulated by the PSR. These assessment summaries must satisfy the requirements of Section 50 of the Act and Regulation 31 of the Procurement Regulations 2024. For those contracts that are subject to the PSR, Schedule 9 of the PSR applies.

40.6. Following the provision of assessment summaries to suppliers, a Contract Award Notice must be published to the Central Digital Platform, in accordance with the

applicable regulations (unless there is an exemption to this requirement under the regulations). This Notice will set out that the Council intends to enter into the contract. While the Commercial and Procurement Division will process the Notice, Officers in Services must provide the information required in a full and timely manner.

~~40.7.~~ Contracts must not be awarded until first observing and concluding any mandatory standstill period required under the Procurement Act, PCR-2015, the PSR, or other applicable procurement regulations or, where there is no legally prescribed standstill, any standstill period committed to in the Tender or Contract Award Notice. Any Challenges or Representations received during this period must be raised with the Commercial and Procurement Division, who may also consult with the and Legal Team as necessary, so that they are able to provide a fair, impartial, and timely view on the most appropriate course of action.

~~31.5.~~40.8. Contracts must also not be awarded where the Finance Team has raised significant concerns regarding financial information provided as a part of the tender process.

~~31.6.~~40.9. All transactions must fall within the powers delegated to Officers or have been approved by a decision or resolution (in accordance with the Council's Constitution) of an authorised Cabinet Member, the Cabinet, the Leader of the Council, or one of its Committees or Sub-committees.

~~31.7.~~40.10. Following the above, the successful supplier/s and all unsuccessful suppliers must be notified in writing of the contract award through the Council's tendering portal or another secure electronic system and in accordance with the Procurement Act 2023PCR-2015, the PSR, or other applicable procurement regulations.

~~Officers should notify all unsuccessful suppliers of the contract award in writing through the Council's tendering portal.~~

~~31.8.~~40.11. Where the award is for neither the original offer nor for all parts of the offer the written acceptance must be explicit as to what is being accepted.

~~31.9.~~40.12. The agreement with the successful supplier/s will generate rights and obligations on each party. To be legal, a contract must fulfil the following requirements:

- a. There must be 'offer and acceptance' (i.e., one party has made an offer that has been accepted by the other).
- b. It must be the intention of each party to be legally bound.
- c. There must be valuable consideration on each side (e.g., one party may deliver, or undertake to deliver services for which the other party will pay).
- d. The parties must have the legal capacity to enter the contract.
- e. The contract must be legal, and
- f. The contract must not be procured by force, coercion, or undue influence, nor must it rest on fraud or misrepresentation.

~~31.10.~~40.13. All contracts shall be entered into on behalf of and in the name of "The Kent County Council," this being the name of the Council prescribed by Section 2 of the Local Government Act 1972. Contracts cannot be entered into by Committees, Directorates, Members or Officers because they are not the correct legal entity for contracting purposes.

~~31.11.~~40.14. No contract, agreement or other document shall be signed or sealed unless it gives effect to:

- a. A decision or resolution of the Leader, the Cabinet, an authorised Cabinet Member or one of its Committees or Sub-committees, or
- b. A decision by an Officer exercising delegated responsibility.

~~31.12.~~40.15. Officers must ensure the contract is signed or sealed in accordance with the Constitution.

40.16. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are appropriately followed. The Legal Team advice must be taken engaged where clarity is required over the correct form of execution required.

1. Contract Award Notices

~~31.13.~~ For all contracts subject to the PCR 2015, UCR 2016, CCR 2016 or DSPCR 2011 with estimated values over the Regulatory Thresholds, a full contract award notice must be published by the Commercial and Procurement Division to the FTS no later than 30 days after the contract award date and to Contracts Finder no later than 90 days after the contract award date).

~~31.14.~~ There is no requirement to publish contract award notices to FTS for call-off contracts from a framework agreement but there is a requirement to publish a contract award notice to Contracts Finder within 90 days of the contract award date where the value of the call-off contract is above £25,000 (excluding VAT).

~~31.15.~~ For all other contracts under the Regulatory Thresholds but above £25,000 excluding VAT, a simplified contract award notice must be published on Contracts Finder (again including all call-off contracts from framework agreements and DPS's) no later than 90 days after the award of a contract.

~~31.16.~~ For health care services contracts and mixed health care services contracts regulated by the PSR:

- a. where Direct Award Process C, the Most Suitable Provider Process, or a Competitive Process is followed, or a contract is being awarded based on a framework agreement following competition, Officers are required to publish a notice of their intention to award, which triggers the start of a standstill period (see applicable Schedule in the PSR for details of the required content of notices depending on which procurement process is used).

~~For all contracts awarded and framework agreements concluded (including all call-off contracts awarded based on a framework agreement whether with or without competition), contract award notice must be published to the FTS within 30 days, whichever PSR procurement process is used to award the contract (see applicable Schedule in the PSR for details of the required content of notices depending on which procurement process is used).~~

41. Publication of Awarded Contract Details

41.1. Where contracts are subject to the Procurement Act 2023, Section 53 of the Act states that contracts with a total aggregate value above the applicable Public Procurement Thresholds must have a Contract Details Notice published to the Central Digital

Platform within 30 days of the contract being entered into. This Notice will outline that the Council has entered into the contract, and it must also be published on the Council's tendering portal.

~~31.17.41.2.~~ For all other contracts under the Public Procurement Regulatory Thresholds but above £2530,000 (excluding including VAT), and not regulated by the PSR, a simplified Contract award-Details Notice must be a published on the Central Digital Platform as soon as reasonably practicable following the award. Contracts Finder (again including all call-off contracts from framework agreements and DPS's) no later than 90 days after the award of a contract.

41.3. For contracts awarded under the Procurement Act 2023 with a value of more than £5m (including VAT), an appropriately redacted copy of that contract be published before the end of 90 days beginning with the day on which the contract is entered into. Officers must produce a redacted copy of the contracts and retain these alongside the original copy.

41.4. As a part of the tendering procedure, or when agreeing contract terms with a supplier, Officers must establish the commercially sensitive information that will be redacted. From the Council's perspective, Officers must also identify whether there is any operationally sensitive material that should be redacted.

41.5. Whilst material may be identified as sensitive, Officers must satisfy themselves that it is not the case that it is simply preferable to redact this information, but that it is permissible to do so under the applicable regulations.

41.6. As set out in Section 52 of the Procurement Act 2023, any contract that is awarded with an estimated total aggregate value in excess of £5m must also have a minimum of three KPIs specified within them, unless an exemption available under the regulations applies to the contract. The details of these KPIs must be published alongside the redacted copy of the contract, where required.

41.7. Where the Commercial and Procurement Division leads the procurement, they will work with suppliers to identify the commercially sensitive information to be redacted. However, where Officers in Services is leading the procurement, they will be responsible for this information. Officers in Services will always be responsible for identifying the operationally sensitive information that should be redacted.

41.8. The redaction of contracts will be undertaken by the Officer leading the procurement, with the support of available redaction software or, where that is not available and Officers are uncertain as to how to redact, in consultation with the Council's Information Governance Team and Legal Team, as necessary.

41.9. The Commercial and Procurement Division will publish the Contract Details Notice, the appropriately redacted copy of contracts, and KPI information, as required, but Officers in Services must provide the information required in a full and timely manner.

32.42. Contract Tiering and Contract Management Responsibilities

32.1.42.1. Senior Officers (Heads of Service and above) are ultimately responsible for the effective management of contracts within their area in line with guidance issued by the Commercial and Procurement Division and available on KNet.

32.2.42.2. All contract management activities should be delivered by either a dedicated Contract Manager or by someone with that responsibility as part of a wider role.

42.3. The named Contract Manager must assess the level of risk of their contract by completing a tiering exercise using the tiering tool and guidance made available by the Commercial and Procurement Division on KNet. This exercise must be undertaken as soon as possible after it has been decided that procurement is the appropriate route to meet the requirement, with the exercise repeated prior to contract award, and at regular intervals during the management of the contract.

~~32.3.~~42.4. The classification assigned to the contract following the tiering exercise must be notified to the Commercial and Procurement Division and recorded on the Council's contract management system. For those contracts within the Procurement Pipeline, the Commercial and Procurement Division will be able to take a lead on this contract tiering exercise, working closely with Officers in Services as a part of the procurement process and award of the contract. The named Contract Manager will retain responsibility for undertaking the tiering exercise during contract management.

~~32.4.~~42.5. The Commercial and Procurement Division will take a commercial lead on all high-risk contracts identified through the tiering exercise, working alongside the named Contract Managers within Services and any named legal advisor.

~~32.5.~~42.6. The Head of Commercial and Procurement is responsible for ensuring that training is available to support Contract Managers across the Council regardless of the tier of the contract that they are managing. Senior Officers (Heads of Service and above) are responsible for ensuring that those managing contracts within their area are appropriately trained.

33-43. Managing and Reporting on Contract Performance

43.1. For contracts awarded under the Procurement Act 2023 with a total aggregate value of more than £5m (including VAT), Section 52 of the Act requires the assessment and publication of information about the supplier's performance against the KPIs that have been published in accordance with Section 53 of the legislation and Section 41.6 of SCM. That is unless an exemption available under the regulations applies to the contract.

43.2. The supplier's performance against the identified KPIs must be assessed and published at least once every twelve months. Officers must report performance in line with the standardised rating system prescribed in the Procurement Regulations 2024, with the performance information published via a Contract Performance Notice on the Central Digital Platform.

43.3. Under Section 71 of the Procurement Act 2023, for contracts that are subject to the legislation and for which there is no exemption in the regulations, Officers may be required to publish information, via a Contract Performance Notice on the Central Digital Platform, where a supplier breaches the contract and/or in the event of poor performance.

43.4. Breaches are understood as being where a supplier fails to meet one or more of the key terms that were agreed at contract award. Officers must publish information on breaches where they are sufficiently serious to the extent that they result in full or partial contract termination, the award of damages, or a settlement agreement.

43.5. Poor performance is understood as a failure of the supplier to deliver aspects of the contract to the Council's satisfaction, taking into account the frequency, duration, and impact on contract delivery. In the event of serious and persistent poor performance,

after suppliers have been provided with the opportunity to improve their performance and failed to do so, Officers are required to publish the performance information.

43.6. The Commercial and Procurement Division will publish the Contract Performance Notices required, however, Officers in Services are responsible for assessing supplier performance in accordance with the guidance that is provided by the [Division](#) on KNet. However, Officers in Services must provide the Division with the information that is required for the Notices in a full and timely manner.

43.7. With regards to reporting performance against KPIs for contracts worth £5m or more, the Commercial and Procurement Division will work with Officers in Services to ensure that, as a part of finalising the KPIs with the supplier prior to contract award, there is alignment to the prescribed rating system and the supplier understands what is being measured, when, how, and against what system. The named Contract Manager is responsible for ensuring the agreed approach is adhered to in contract management.

43.8. With regards to breaches that are sufficiently serious that they meet the publication requirements ([including performance against KPIs against of the prescribed rating system](#)), regardless of the contract value, Officers in Services must contact the Commercial and Procurement Division as early as possible. The Division may also consult with the Council's Legal Team to consider the legal risks before advising Officers on the most appropriate course of action to take.

~~33.1.~~43.9. With regards to poor performance that meets the threshold of serious and persistent failures that, if not addressed, will require the publication of that information. Officers in Services should contact the Commercial and Procurement Division as soon as possible if it relates to a contract that is above the relevant Public Procurement Thresholds. Otherwise, Officers should refer to guidance issued by the Division and available on KNet. Where the Division is involved, they will advise on the course of action to take with the supplier to attempt to rectify the situation.

34.44. Contract Payments and Reporting on Payments

~~34.1.~~44.1. Once the right supplier has been found in line with the processes required by SCM, Officers must not make verbal commitments but raise a Purchase Order (via iProcurement or an equivalent service-specific system). This must be approved in accordance with the Council's Financial Regulations and Scheme of Delegation before it is sent to the supplier, and *before* any goods or services have been received.

44.2. Under Section 67(2) of the Procurement Act 2023, Officers must accept and process for payment any electronic invoice issued to the Council for payment under a contract where that invoice is in the required electronic form, and it is not disputed. Officers cannot override these terms, which are implied into contracts under the [Procurement Act 2023](#).

44.3. In accordance with Section 68 of the Procurement Act 2023, Officers must ensure that *any sum due to be paid under a contract by the Council is paid before the end of the period of 30 days beginning with the day on which the invoice is received, or, if later, the day on which the payment falls due in accordance with the invoice. Such payment may be made by a third party to satisfy the regulatory requirement, but only with the agreement of the payee. In accordance with Section 73 of the Act, these 30 day payment terms are also implied into subcontracts. Officers cannot restrict or override these terms, which are implied into contracts under the [Procurement Act 2023](#).*

44.4. Officers may agree with a supplier that a sum due under a contract is to be paid earlier than the 30 days required. However, this must be applied in accordance with the Council's supplier incentive programme, the Financial Regulations and Scheme of Delegation. As part of agreeing any such payment arrangement and mechanisms with a supplier, Officers must consult the Commercial and Procurement Division and Finance Team.

44.5. Under Section 69 of the Procurement Act 2023, the Council is required to publish a Payments Compliance Notice to the Central Digital Platform, providing information on the extent to which the Council is compliant with the prompt payment provisions outlined in Section 44.3 above. This Notice must be published within 30 days of the end of the reporting periods stated in the regulations, detailing payments made under contracts and sums owed by the Council that have become payable. Reporting must be completed every six months.

44.6. Under Section 70 of the Procurement Act, 2023, and associated regulations, Officers must also publish specific information, via Payments Compliance Notices, in relation to any payment of more than £30,000 made by the Council under contracts subject to the legislation. This information must be published before the end of the period of 30 days beginning with the last day of the quarter in which the payment was made.

44.7. The Commercial and Procurement Division and the Council's Finance Team will work jointly to publish the Payment Compliance Notices required under this section of SCM. However, Officers in Services must follow guidance issued by the Division and Finance Team on KNet to ensure the payment information required for these Notices is linkable to the relevant contract and available to those teams in a complete and timely manner.

35-45. Contract Modifications, Extensions and Novations

35-1-45.1. For contracts with a total aggregate value over the Public Procurement Thresholds, Officers must engage with the Commercial and Procurement Division and obtain agreement in line with the Scheme of Delegation before any Modifications are made (whether in terms of value, duration, scope, or otherwise).

45.2. As well as mitigating procurement and legal risks, this is due to Contract Modifications being subject to specific requirements under the Procurement Act 2023 and PCR 2015. Under Section 75 of the Procurement Act 2023, with limited exceptions, these requirements include the need for information on changes to contracts procured under that legislation to be published to the Central Digital Platform through a Contract Change Notice. The Contract Change Notice must be published before the Modification is made. Officers must engage with the Commercial and Procurement Division as to whether the Council will observe a voluntary standstill period prior to entry into the Modification and if so, the length of the standstill period (to be a minimum of 8 working days). Officers should note that if a voluntary standstill is to be observed it must be included in the Contract Change Notice and must be complied with.

35-2-45.3. In some circumstances, regardless of the contract value, proposed Modifications to contracts may trigger procurement or legal risks and advice must be sought from the Commercial and Procurement Division and the Council's Legal Team where Officers believe this to be the case. For example, this may include where the proposed Modification would take the total aggregate value of the contract from a total value below the applicable Public Procurement Thresholds to a contract above that the relevant threshold.

~~35.3.45.4.~~ Contracts that have been originally advertised with extension options can be extended subject to Officers receiving the acceptance required in the summary table included within Section 10 of SCM. However, where the total aggregate contract value is above the applicable Public Procurement Thresholds, the Commercial and Procurement Division should be engaged before any extension of the contract.

45.5. In accordance with the Procurement Act 2023, a redacted copy of any modified or extended contract with a value of more than £5m must be published to the Central Digital Platform before the end of 90 days beginning with the day on which the change is signed.

~~35.4.45.6.~~ In addition to any procurement or legal requirements, Contract Modifications or extensions may only be made if the value of the Contract Modification or extension added to the value of the original contract does not exceed the authorisation threshold in the summary table in Section 10 of SCM. Where that is the case, then the appropriate level of authorisation, which would be required considering the re-calculated total aggregate value of the contract, must instead be sought.

~~35.5.45.7.~~ All Contract Modifications and extensions~~amendments~~ must be recorded in writing, signed, or sealed appropriately, and retained alongside the original copy of the contract on the Council's contract management system.

~~35.6.45.8.~~ Legal advice must be taken where clarity is required over the correct form of execution required for any Contract Modifications or extensions.

~~35.7.45.9.~~ ~~The~~ Any extension or ~~m~~Modification must have an approved budget allocation for it to be made.

~~35.8. In addition to any legal requirements, extensions or modifications may only be made if the value of the extension or modification added to the value of the original contract does not exceed the authorisation threshold in the summary table in Section 10.~~

~~35.9.45.10.~~ There are separate requirements for health care services contracts and mixed health care services contracts regulated by the PSR, Officers must engage with the Commercial and Procurement Division prior to making any Modification as specific legal requirements will apply, including requirements for the publication of Notices.

~~35.10.45.11.~~ Where a contractor sells, merges, or transfers their business to another organisation, the existing contract/s that the Council has with that contractor should be novated where that is determined to be acceptable to the Council. Officers in Services must consult with ~~T~~the Commercial and Procurement Division and the Legal Team ~~must be consulted with~~ to review the existing contract and the requested Novation so that the acceptability to the Council can be determined. The Council's Finance Team must also be consulted with to ensure that the proposed new organisation will be financially robust.

~~35.11.45.12.~~ Guidance issued by the Commercial and Procurement Division and available on KNet outlines the circumstances under which Contract Modifications, extensions, and Novations are permitted and the processes to be followed and the considerations to be made to ensure these represent value for money~~under the law.~~

45.13. While the Commercial and Procurement Division will process the required Notices, and publish any appropriately redacted Contract Modifications or extensions, Officers in Services must provide the information required in a full and timely manner.

45.14. Contracts which were procured prior to 24 February 2025 (including procurements commenced before that date and call-offs from Frameworks or DPS in place at that date) continue to be subject to the PCR 2015 (or CCR 2016 as the case may be). However, where a proposed change to a pre-24 February 2025 contract does not fall within one of the permitted grounds for modification (e.g. Regulation 72(1) of PCR 2015) the modification may be deemed to be a new contract awarded under the Procurement Act 2023.

45.15. Regardless of the contract value and the procurement regulations that apply, Officers in Services will be responsible for undertaking all other activities in this section. However, as described, they should engage with the Commercial and Procurement Division, the Legal Team and Finance Team, as necessary, who will be able to advise and support in certain circumstances, particularly if there is legal risk.

46. Contract Expiry and Terminating Contracts

46.1. Regardless of the total contract value, and the regulations which apply (the Procurement Act 2023, PCR 2015, the PSR, or other procurement regulations), where it is planned to allow contracts to expire at the end date (including extensions) or on completion of deliverables, Officers must give suppliers reasonable notice of their intentions and allow suppliers an opportunity to respond. Officers must also ensure any outstanding disputes are settled and payments made before the contract ends.

46.2. For those contracts subject to the Procurement Act 2023, with limited exceptions, Section 80 of the Act requires a Contract Termination Notice to be published where a contracts expires at its planned end date or on the completion of deliverables. Officers must confirm with the supplier in writing when their contract has come to an end.

46.3. Regardless of the total contract value, and the regulations that apply, where Officers believe that there may be grounds for early termination for breach of contract, poor performance, or, as the supplier, their Associated Persons or subcontractors have become excludable suppliers on Mandatory or Discretionary Exclusion Grounds, Officers must contact the Commercial and Procurement Division at the earliest possible opportunity. Officers must not proceed with any early termination until they have consulted with the [Division](#), who may also consult with the Council's Legal Team.

46.4. For those contracts subject to the Procurement Act 2023, with limited exceptions, where any early termination takes place, Section 80 of the Act requires Officers to publish a Contract Termination Notice. Officers must also confirm with the supplier in writing when the early termination of the contract has been completed.

46.5. There are different Notice requirements for the expiry and termination for health care services contracts and mixed health care services contracts regulated by the PSR. Consequently, Officers must engage with the [Division](#) prior to the end of such contracts..

46.6. The named Contract Manager is responsible for planning appropriately for the end of contracts and ensuring the smooth conclusion and transition away from contracts. However, the Commercial and Procurement Division, in consultation with the Council's Legal Team, as necessary, will be able to advise Contract Managers with this process, particularly for contracts identified as high risk through contract tiering..

46.7. The Commercial and Procurement Division will publish the Contract Termination Notices required, and any final Contract Performance Notices, but Officers in Services must provide the Division with the information required in a full and timely manner.

36-47. Disposing of Surplus Goods, Materials or Assets

~~36.1.47.1.~~ Disposal of surplus goods, materials, or assets (including recycling of any goods, materials, or assets that have a scrap value), must follow the processes and controls defined in guidance on KNet. This is to ensure that the Council receives proper reimbursement, where appropriate, and that disposal is cost effective.

~~36.2.47.2.~~ However, advice must always be sought from the Council's Finance Team when making valuations for such surplus goods, materials, or assets, and determining the correct process to follow. The Council's Infrastructure Team should also be consulted in the case of the disposal of buildings or land.

37-48. Emergency Purchases

~~37.1.48.1.~~ An emergency purchase that contravenes SCM is only allowed where there is an imminent risk to life or property, ~~or~~ where there is a need to secure Council property or assets (e.g., where there has been a break-in or equipment failure, such as a flood), or there is an otherwise lawful ground provided for in the applicable regulations outlined in Section 4.6 of SCM.

~~37.2.48.2.~~ For contracts subject to the Procurement Act 2023~~PCR 2015, UGR 2016, CCR 2016 or DSPCR 2011~~ with an estimated total aggregate value above the Public Procurement Thresholds, emergency purchases must be compliant with the relevant legal provisions (i.e., Chapter 3 and Schedule 5 of the Procurement Act 2023~~Regulation 32 of PCR 2015~~ or another exemption set out in the regulations~~PCR 2015~~). For health care services contracts and mixed health care services contracts regulated by the PSR, Officers should refer to Regulation 14 of the PSR in the first instance to justify any urgent contract awards or Modifications.

~~37.3.~~ ~~Officers can use their Purchase Card, within their allocated limits, to pay in these situations. If the supplier does not accept Purchase Cards, then Officers may give a verbal order to proceed and then raise a purchase order the following working day. The Commercial and Procurement Division must be notified of any emergency purchases on that following working day.~~

~~37.4.48.3.~~ For the avoidance of doubt, the above Sections ~~48.1 38.1~~ and ~~48.2 38.2~~ do not apply to those purchases made outside of the hours of 09:00 to 17:00 by the Council's emergency duty and social care teams.

~~37.5.48.4.~~ Issues arising with contracts leading to a requirement for urgent mitigating actions are not necessarily considered emergency purchases. These should be dealt with as a part of risk mitigation within the contract management process.

~~37.6.48.5.~~ Any emergency purchases made must be reported to the relevant Head of Service and Service Director who will be responsible for reporting this to the Council's Head of Commercial and Procurement and Section 151 Officer.

38. Purchase Orders

~~38.1.~~ ~~Once the right supplier has been found in line with the processes required by SCM, Officers must not make verbal commitments but raise a Purchase Order (via iProcurement or an equivalent service specific system). This must be approved in accordance with the Council's Financial Regulations and Scheme of Delegation before it is sent to the supplier, and before any goods or services have been received.~~

39-49. Subsidies

~~39.1-49.1.~~ Officers must engage with the Legal Team for advice prior to proceeding with any Subsidy and must inform the Monitoring Officer of all Subsidies. All Subsidies must be carried out in line with the Subsidy Control Act 2022 and where necessary a notice must be published to the National Subsidy Database. These notices will be published by the Legal Team and Officers must ensure they provide all necessary data.

40-50. Waivers

~~40.1-50.1.~~ Where the application of SCM prevents or inhibits the delivery or continuity of a Service, Officers may seek a Waiver to deviate from SCM to the extent that it relates to what would be a Waiver to internal Council made rules.

~~40.2-50.2.~~ A Waiver must be sought for any proposed procurement or contractual action which is not compliant with SCM. However, a Waiver cannot be given if it would contravene the [Procurement Act 2023](#), PCR 2015, the PSR, or any other applicable legislation [outlined in Section 4.6 of SCM](#).

~~40.3-50.3.~~ Officers must obtain approval for a Waiver from the ~~Head of~~ Commercial and Procurement [Division, including the Head of Commercial and Procurement, as necessary](#), using the pro-forma [and guidance](#) available on KNet. The request should identify the requirement that is subject to the request and the reason for which the Waiver is sought, including the proposed justification and associated risks.

~~40.4-50.4.~~ For Waivers of SCM in relation to contracts with a value of £1m (excluding VAT) or more, the Head of Commercial and Procurement will also seek approval from the Council's Section 151 Officer and/or Monitoring Officer.

~~40.5-50.5.~~ A Waiver can be requested retrospectively. However, this will be viewed as non-compliance with SCM and, as with all examples of non-compliance with SCM, will be reported to the Monitoring Officer and the Governance and Audit Committee.

~~40.6-50.6.~~ The Commercial and Procurement Division will maintain a log of all Waivers that have been sought, rejected, and authorised.

51. Procurement Oversight and Investigation

~~51.1.~~ [Under the Procurement Act 2023, the compliance of contracting authorities with the Act may be investigated by a central government Procurement Review Unit \(PRU\). Where investigations are undertaken, the PRU will issue recommendations for improvement to the contracting authority and monitor the delivery of action plans. These investigations and the findings of the PRU may be published.](#)

~~51.2.~~ [Under the PSR, where providers have raised a Representation to a contracting authority and remain unsatisfied with the response and are of the view that the PSR has not been applied correctly, they may submit a representation to an independent PSR Review Panel that sits outside of the Council. Where the Panel agrees to review the Representation, it will consider it and share advice with the provider and the authority, and this information may also be published, at least in summary form.](#)

~~51.3.~~ [Should there be any investigation by the PRU or the PSR Review Panel into the Council's procurement practice, the Council's response will be jointly led by the Commercial and Procurement Division and the Legal Team. Officers must fully co-](#)

operate with those leading the Council's response, providing any required information in a full and timely manner and making themselves available to support the lead Officers and the PRU or PSR Review Panel to understand the cause of the compliance issues.

Appendix 1: Definitions

Associated Person/s – A person that the supplier is relying on in order to satisfy the Conditions of Participation under the Procurement Act 2023, but not a person who is to act as guarantor.

Challenge/s – a Challenge can be understood as when an organisation sets out its intention to bring a claim against the contracting authority in relation to its decision to award a contract. This may include when a bidder has been informed, they were unsuccessful in their bid and are challenging the decision of the Council or may include other third parties where they have standing under the relevant legislation to bring a legal challenge.

Condition/s of Participation – As defined under Section 22 of the Procurement Act 2023, condition that a supplier must satisfy if the supplier is to be awarded the contract.

Contract extension – extending the duration of a contract as allowed and defined under the terms of that contract and relevant procurement regulations.

Contract Modification – making an amendment to a contract as defined in the relevant procurement regulations.

Contract Novation – transferring the rights and obligations of one party under a contract to a third party.

Contract tiering – applying a rating to contracts based on their perceived value, risk and complexity which may be used to determine appropriate contract management measures.

Debarment List – A list, which is maintained by central government and is permitted for and detailed under Section 62 of the Procurement Act 2023, containing those suppliers who may be debarred from bidding for public contracts for a specific period.

Delegated responsibility – responsibility for authorising or carrying out Council activities that has been bestowed upon an individual or team from the executive power.

Discretionary Exclusion Ground/s – One of a number of grounds for potentially excluding a supplier as defined under Schedule 7 of the Procurement Act 2023.

Dynamic Market/s – a purchasing tool established pursuant to sections 34 to 40 of the Procurement Act 2023, comprising a list of suppliers who have met any applicable conditions for membership of the Dynamic Market and who are eligible to participate in future procurements. Membership of a Dynamic Market is not closed and new suppliers may join during its life.

Dynamic Purchasing System (DPS) – an electronic commercial purchasing tool for commonly used purchases the characteristics of which, as generally available on the market, meet their requirements and under which new suppliers are able to join at any time, subject to the rules in Regulation 34 of the PCR 2015 (for DPS’).

Framework or Framework Agreement – an agreement between one of more contracting authorities and one of more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period.

Integrity ~~Probity~~— having strong moral principles, honesty, and decency.

Key Supplier – any individual, group or organisation that delivers contracts on behalf of the Council that are deemed to be strategically important which may be defined through supplier segmentation, by contract tiering, or any Council strategy.

Mandatory Exclusion Ground/s – One of a number of grounds for potentially excluding a supplier as defined under Schedule 6 of the Procurement Act 2023.

National Procurement Policy Statement (NPPS) – The NPPS sets out the strategic priorities for public procurement, which contracting authorities must have regard to, with information and guidance on how contracting authorities can support their delivery.

Non-compliance – purposefully or unknowingly breaching any of the rules or responsibilities stated in SCM.

Non-statutory guidance – sets out what the Council can and should do to implement best practice procedures.

Notices – A Notice (sometimes referred to as a ‘transparency notice’) of procurement or contracting activity that the Council is required to publish to ~~Contracts Finder and/or Central Digital Platform~~ (or such other digital platform that as required by law) according to the Procurement Act 2023, PCR 2015, the PSR, or other applicable procurement regulations.

Open Framework – A scheme of Frameworks that provides for the award of successive Frameworks on substantially the same terms, as defined and permitted under Section 49 of the Procurement Act 2023.

~~PCR 2015 Public Procurement~~ Threshold for goods and services contracts – As of 1 January 2024, this value is £179,087 (exclusive of VAT) and £214,904 (inclusive of VAT).

~~PCR 2015 Public Procurement~~ Threshold for works contracts – As of 1 January 2024, this value is £4,477,174 (exclusive of VAT) and £5,372,609 (inclusive of VAT).

Procurement – the act of engaging and contracting with a third party to source or deliver goods, services and works projects on behalf of the Council.

Procurement Pipeline – a forward look of potential commercial activity for the Council.

Representation/s – a Representation, a term more associated with procurements and contracting subject to the PSR, can be understood as being when a provider requests the contracting authority reviews their decision. This may include a decision to award or to modify a contract.

Small and Medium Sized Enterprise (SME) – Suppliers that have fewer than 250 staff and have a turnover of an amount less than or equal to £44m, or a balance sheet total of an amount less than or equal to £38m.

Sourcing – the act of obtaining goods, services and works through procurement or other applicable activities such as using existing contracts or Frameworks.

Spending the Council's Money – the Council's mandatory rules and processes for spending money on behalf of the Council.

Statutory guidance – sets out what the Council must do to comply with the law.

Subsidy/ies - A subsidy or government incentive is a form of financial aid or support extended to an economic sector generally with the aim of promoting economic and social policy.

Supplier/s – any individual, group or organisation that is contracted to supply or deliver goods, services and works on behalf of the Council.

Total aggregate contract value - the estimated total aggregate value payable in pounds sterling inclusive of Value Added Tax (VAT) over the entire contract period, including any extensions of the contract and including any sums paid by third parties.

Value for money – most advantageous combination of cost and quality that is affordable for the Council and will fulfill the requirement suitably.

Voluntary, Community and Social Enterprise (VCSE) – An incorporated voluntary, community, or social enterprise organisation which serves communities, and which is either a charity, Community Interested Company, or Community Benefit Society.

Waiver - a request to deviate from the rules of SCM.

This page is intentionally left blank



Kent County Council Spending the Council's Money

The Council's Rules for Procurement and
Spending Activity



PART A: INTRODUCTION	4
1. PURPOSE	4
2. FORMAL STATUS OF SCM	4
3. KEY PRINCIPLES.....	4
4. COMPLIANCE	5
5. SCOPE	6
6. THE ROLE OF ANYONE BUYING ON BEHALF OF THE COUNCIL.....	7
7. RESPONSIBILITIES AND ACCOUNTABILITIES OF THE WIDER COUNCIL	8
8. PROCUREMENT PIPELINE	12
9. APPROVALS FOR CONTRACTING ACTIVITY	13
PART B: REQUIREMENTS FOR SOURCING GOODS, SERVICES AND WORKS	14
10. SUMMARY OF PROCEDURES FOR PROCURING, CONTRACT AUTHORISATION AND MANAGEMENT, AND CONTRACT MODIFICATIONS BY AGGREGATE CONTRACT VALUE.....	14
TABLE A – PROCUREMENT PROCEDURES – CONTRACTS SUBJECT TO THE PROCUREMENT ACT 2023 (PA23)	14
TABLE B – PROCUREMENT PROCEDURES – CONTRACTS SUBJECT TO THE PROVIDER SELECTION REGIME (PSR)	14
TABLE C – CONTRACT AUTHORISATION AND MANAGEMENT	15
TABLE D – CONTRACT MODIFICATIONS.....	15
11. CALCULATING THE AGGREGATE CONTRACT VALUE	17
12. DETERMINING THE APPLICABLE PROCUREMENT REGULATIONS	17
13. PROCUREMENT BUSINESS CASES	18
14. USING EXISTING CONTRACTUAL ARRANGEMENTS	18
15. FRAMEWORK AGREEMENTS AND DYNAMIC MARKETS	18
16. LIGHT TOUCH CONTRACTS	20
17. CONCESSION CONTRACTS.....	20
18. TEMPORARY STAFF, CONTRACTORS, AND CONSULTANTS.....	21
19. COLLABORATION WITH OTHER PUBLIC BODIES	21
20. LIABILITY AND SECURITY.....	22
21. FINANCIAL SECURITY	22
22. CONFLICTS OF INTEREST AND PREVENTING FRAUD, BRIBERY AND CORRUPTION	23
23. DOCUMENT RETENTION.....	23
PART C: REQUIREMENTS FOR QUOTATION OR TENDERING PROCEDURES	24
24. ENGAGING THE COMMERCIAL AND PROCUREMENT DIVISION	24
25. SPECIFICATIONS	24
26. PRELIMINARY MARKET ENGAGEMENT	25
27. DUTY TO CONSIDER LOTS.....	25
28. REQUIREMENTS TO ADVERTISE AND PUBLISH INTENDED PROCUREMENT ROUTE	26
29. COMPETITIVE TENDERING PROCEDURES.....	27
30. CONDITIONS OF PARTICIPATION AND BASIC SELECTION CRITERIA	28
31. SETTING AWARD CRITERIA AND EVALUATION METHODOLOGY	29
32. KEY PERFORMANCE INDICATORS.....	30
33. FORMS OF CONTRACT	31
34. INVITATIONS TO TENDER	31
35. POST-SELECTION QUESTIONNAIRE (SQ) AND TENDER CLARIFICATIONS	32
36. SUBMISSION, RECEIPT AND OPENING OF TENDERS	32
37. EVALUATION	34
38. REQUEST FOR QUOTATIONS	34
39. EXCLUDING SUPPLIERS.....	35
40. INTENTION TO AWARD, CONTRACT AWARD, AGREEMENT AND SIGNATURE	36
41. PUBLICATION OF AWARDED CONTRACT DETAILS.....	37
42. CONTRACT TIERING AND CONTRACT MANAGEMENT RESPONSIBILITIES.....	38
43. MANAGING AND REPORTING ON CONTRACT PERFORMANCE.....	39
44. CONTRACT PAYMENTS AND REPORTING ON PAYMENTS.....	40
45. CONTRACT MODIFICATIONS, EXTENSIONS AND NOVATIONS.....	41
46. CONTRACT EXPIRY AND TERMINATING CONTRACTS	43

47.	DISPOSING OF SURPLUS GOODS, MATERIALS OR ASSETS	43
48.	EMERGENCY PURCHASES	44
49.	SUBSIDIES	44
50.	WAIVERS	44
51.	PROCUREMENT OVERSIGHT AND INVESTIGATION	45
APPENDIX 1: DEFINITIONS		46

Part A: Introduction

1. Purpose

- 1.1. This document, 'Spending the Council's Money' is referred to hereafter as 'SCM'. SCM is the mandatory rules and processes that must be followed and complied with when spending money on behalf of Kent County Council ('the Council'). The purpose of SCM is to ensure that, prior to any expenditure being incurred, there is proper consideration of the process, and that any procurement or contracting is carried out in a fair, open, and transparent way such that the outcome will represent value for money to the Council and the county's residents.
- 1.2. It is important to understand that whilst SCM is an internal Council document, it does seek to incorporate and embed procedures across the Council to also ensure compliance with external obligations placed upon the Council, including those found in relevant procurement legislation, applicable case law, and both statutory and non-statutory guidance. Non-compliance with SCM would therefore not only be a breach of an internal Council set of rules but could result in the Council acting unlawfully in terms of procurement legislation, applicable case law, and guidance. Repeated or egregious instances of non-compliance with SCM (e.g., those which result in unlawful practice) may result in disciplinary action being taken.

2. Formal Status of SCM

- 2.1. SCM is referenced in the Council's Contracts and Tenders Standing Orders ('the Orders'), which are written into the Constitution and made under Section 135 of the Local Government Act 1972.
- 2.2. The Corporate Director for Finance, as the Council's Section 151 Officer, is the custodian of SCM. However, the Section 151 Officer may delegate the responsibility for keeping SCM under review and up to date to the Head of Commercial and Procurement within the Council. Where the law is changed in a way that affects SCM, those with delegated responsibility will issue a bulletin and the change must be observed until these documents are revised to reflect the changes. Where there is a difference between current legislation, applicable case law, and/or statutory and non-statutory guidance governing procurement, contracting and public expenditure ('current law and guidance') and SCM, the current law and guidance prevails.

3. Key Principles

- 3.1. SCM is underpinned by the following key principles:
 - a. To ensure that there is accountability for the Council's external spending.
 - b. To ensure that those spending money for or on behalf of the Council act in the best interests of the Council and with high standards of integrity.
 - c. To manage the Council's exposure to financial and legal risk
 - d. To ensure that the Council meets its statutory duty to deliver best value for money, while considering how to maximise public benefit and creating healthy competition and markets for the goods, services, and works purchased.
 - e. In respect of health care services, the Council meets its statutory duty to act with a view to securing the needs of the people who use the services, improving the quality of the services, and improving the efficiency in the provision of the services.
 - f. To be transparent to our residents about how the Council spends their money.
 - g. To ensure that public money is spent legally and fairly.
 - h. To support the Council to achieve its corporate aims, including the delivery of its sustainability and social value objectives, delivery in line with the public sector equality duty, encouraging the growth of local businesses and reducing or removing the barriers

facing, Small and Medium Enterprises (SMEs) and Voluntary, Community, and Social Enterprises (VCSEs) when accessing contracting opportunities.

- i. To ensure the Council has due regard to the national policy priorities for public Procurement that are outlined in the National Procurement Policy Statement (NPPS).

4. Compliance

4.1. SCM applies to all Members and Officers and those working for, or on behalf of, the Council. That means:

- a. Individuals, permanent or temporary, and whether via a contract of employment or engaged through an agency, or otherwise, as a contractor or consultant.
- b. Schools and business/trading units.
- c. Third parties undertaking procurements specifically on the Council's behalf.

4.2. Anyone who buys goods, services, or works on behalf of the Council, including Members, Officers, temporary staff, contractors, and consultants, must always comply with SCM.

4.3. Confirmed breaches of SCM must be reported to the Monitoring Officer, who will report them to Internal Audit and the Governance and Audit Committee as the parties responsible for monitoring and oversight of the Council's compliance with SCM.

4.4. Those found to be in breach of SCM will be subject to investigation which will lead to proportionate action being taken which may include disciplinary action in line with the Council's relevant Code of Conduct.

4.5. All such individuals who are buying on behalf of the Council must follow the Council's policies, as amended from time to time, particularly those relevant to SCM that are listed below:

- a. Contracts and Tenders Standing Orders
- b. Financial Regulations
- c. Scheme of Delegation
- d. Code of Conduct (i.e., the 'Kent Code')
- e. Property Management Protocol
- f. Corporate Grants Procedure
- g. Anti-Bribery Policy
- h. Anti-Fraud and Corruption Strategy
- i. Whistle Blowing Policy and Procedure

4.6. The legislation by which public procurement is governed in the UK must also be followed, including, but not limited, to the following legislation as amended from time-to-time:

- a. The Procurement Act 2023 and the Public Procurement Regulations 2024¹
- b. The Health Care Services (Provider Selection Regime) Regulations 2023 ('the PSR')
- c. The Public Contracts Regulations (PCR) 2015²
- d. The Utilities Contracts Regulations (UCR) 2016³
- e. The Concession Contracts Regulations (CCR) 2016⁴
- f. The Defence and Security Public Contracts Regulations (DSPCR) 2011⁵
- g. The Public Services (Social Value) Act 2012

¹ Applicable to procurements commencing on or after the 'go live' date for the Act and Regulations – 24 February 2025.

² Applicable to contracts awarded under this regime until the point that they expire or are re-tendered.

³ Applicable to contracts awarded under this regime until the point that they expire or are re-tendered.

⁴ Applicable to contracts awarded under this regime until the point that they expire or are re-tendered.

⁵ Applicable to contracts awarded under this regime until the point that they expire or are re-tendered.

- h. The Modern Slavery Act 2015
- i. Local Government Act 1999 (LGA 1999)
- j. Competition Act 1998

4.7. The Council must also comply with any applicable case law and statutory guidance issued in connection with the above legislation, as such guidance is amended from time-to-time.

5. Scope

- 5.1. Apart from the exemptions listed below, SCM covers all Council spend with external suppliers regardless of how they are funded, or which systems are used to place orders with suppliers. This includes services sourced from other local authorities or public bodies under the relevant legislation.
- 5.2. There are circumstances when exemptions exist under the procurement regime and/or where the Council's internal rules may not apply to the requirement you are seeking to commission (see table below for a non-exhaustive list – other exemptions may apply under the applicable procurement legislation). The earliest possible engagement with Commercial and Procurement and Legal colleagues should be undertaken when scoping to ensure that the correct procedures are followed. Exemption from compliance with SCM does not negate the need to consider the most appropriate route forward to achieve value for money.
- 5.3. In accordance with Section 50 of SCM, Officers may also seek a Waiver to deviate from SCM to the extent that it relates to a Waiver to internal Council made rules and would not contravene the Procurement Act 2023, PCR 2015, CCR 2016, the PSR, or other applicable legislation.

Exemption	Relevant Policy/Law
Contracts for the acquisition or lease of land and/or real estate.	Kent County Council Property Management Protocol Section 123 of the Local Government Act. Schedule 2 of the Procurement Act 2023. Regulation 10 of the Public Contracts Regulations 2015
Contracts for permanent or fixed-term employment (not including agency staff, contractors and consultants).	HR/Recruitment Policies. Schedule 2 of the Procurement Act 2023. Regulation 10 of the Public Contracts Regulations 2015
Non-trade mandatory payments to third parties, such as insurance claims, pension payments, or payments to public bodies.	These are not subject to competition due to their nature and are not in consideration for the provision of supplies, services, or works.
A declared emergency authorised by the Emergency Planning Officer.	The Civil Contingencies Act 2004.
Awarding of Grants where this is not an extension of funding for currently contracted services.	Corporate Grants Procedure – where a genuine grant award and not a public contract for services.
Loans and investments.	Kent County Council Financial Regulations and Treasury Management Strategy. Schedule 2 of the Procurement Act 2023. Regulation 10 of the Public Contracts Regulations 2015
Placement of a child with Special Educational Needs where already directed following statutory assessment.	Children and Families Act 2014 and ESFA guidance 2019-20, paragraph 86.

Direct payments to customers following care assessment (e.g., payments under Self-Directed Support or Individual Budgets).	Section 12 of The Care Act 2014.
Where an adult with care and support needs expresses a preference for particular accommodation.	Section 30 of The Care Act 2014.

6. The Role of Anyone Buying on Behalf of the Council

6.1. Anyone who buys on behalf of the Council is responsible for:

- a. Complying with SCM and all policies, legislation and regulations listed in Sections 4.5 and 4.6.
- b. Ensuring that adequate consideration has been taken to determine if procurement is the correct approach to delivering the required provisions.
- c. Acting with integrity at all stages of procurement and in contract management and having due regard to any actual or perceived conflicts of interest that may arise, putting in place mitigating actions, and keeping documented conflicts assessments under review..
- d. Having regard to the particular barriers facing SMEs and VCSEs wishing to access contract opportunities and proactively considering how to reduce or remove them.
- e. Being aware of, avoiding and discouraging the influence of anti-competitive practices such as cartel behaviour, bid rigging, and conduct practised in collusion or in concertation, also being mindful of potential breaches of the Competition Act 1998 more generally.
- f. Throughout all procurement and contracting activity, working to achieve the delivery of value for money, whilst considering how to maximise wider public benefit,
- g. Purchasing from existing contracts and internal and external Framework Agreements in the first instance wherever they are appropriate for the requirement in question and can be used in a legally compliant way.
- h. Ensuring there is adequate budget available for any purchase.
- i. Raising a properly completed purchase order and ensuring it is approved *before* the requirements are delivered to the Council, regardless of which finance system is used.
- j. Ensuring specifications are drafted to meet the identified needs and requirements and that proper consideration is given to value for money and corporate requirements around sustainability, social value, equality and diversity, and data and privacy.
- k. Engaging with the Commercial and Procurement Division as early as possible to obtain advice, guidance, and support and where they are required to in accordance with Section 10 of SCM. This point of engagement should be as soon as it is determined that procurement is the correct approach and always ahead of preliminary market engagement.
- l. Ensuring the total aggregate contract value is calculated in accordance with Section 11 of SCM.
- m. Undertaking contract tiering to assess the level of risk associated with the contracts to be managed and to determine appropriate resourcing and support required. This exercise is to be undertaken as soon as possible after it is decided that procurement is the appropriate route to meet the requirement, prior to contract award, and during contract management).
- n. Following the guidance set out by the Commercial and Procurement Division around buying on behalf of the Council and the management of contracts in accordance with their value, risk, and complexity.
- o. Engaging with the Commercial and Procurement Division at the earliest opportunity where a Challenge or Representation is made against a procurement or contracting decision taken, ensuring responses are reviewed by an appropriately qualified, independent Officer, and acting fairly, impartially, and provided within prescribed timescales.
- p. Ensuring that, where required, a commercial case, as a part of an overall business case, is developed that is efficient and suitable for the purchase and market concerned,

considering any other relevant sourcing options with assistance from the Commercial and Procurement Division and, as relevant, the Finance Team and Legal Team.

- q. Planning an appropriate, proportionate timetable for any procurement or sourcing exercise subject always to any regulatory requirements on timescales.
 - r. Ensuring that suppliers are treated the same with no supplier put at an unfair advantage or disadvantage in the Council's procurement or contracting activity.
 - s. Ensuring that any TUPE and pensions related issues are properly considered prior to inviting tenders or quotations with legal advice sought where appropriate.
 - t. Ensuring that there is appropriate insurance cover in place for any awarded contract in accordance with Council guidance.
 - u. Ensuring that any procurement requirements and contract terms take account of any head-contract or funder requirements where the goods or services are part or wholly funded by Central Government or the relevant third-party funder.
 - v. Ensuring that accurate contract information is maintained, and that for all contracts each with a total aggregate contract value of £30,000 or more (including VAT), and longer than three months in duration, the Commercial and Procurement Division are provided with accurate contract information in order to create a record on the Council's contract management system.
 - w. Ensuring that all contract records on the Council's contract management system remain up to date with changes made throughout the lifetime of the contract.
 - x. Determining and following the required governance route and obtaining all necessary approvals for the procurement and, where required, decisions in contract management.
 - y. Ensuring that appropriate legal guidance and support is sought in accordance with Section 10 of SCM and where required for Contract Modifications, extensions and Novations.
 - z. Ensuring that appropriate legal guidance and support is sought prior to taking any action related to supplier performance or any finding that the supplier is or has become an "excluded" or "excludable" supplier for the purposes of the Procurement Act 2023
 - aa. Ensuring that HR is consulted, and the appropriate approval obtained for requirements of temporary staff, contractors, or consultants outside the agreed corporate contract with Connect2Kent (a trading subsidiary of Commercial Services Trading Ltd.).
 - bb. Ensuring that ICT is consulted on any procurement involving ICT.
 - cc. Having proper regard for all necessary legal, financial, and professional advice received.
 - dd. Facilitating and ensuring the publication of Notices, which may include contract documentation and performance information (appropriately redacted), in accordance with the requirements of the relevant legislation and as stipulated in Section 10 and Part C of SCM.
 - ee. Maintaining a full record and audit trail of all procurement and contract management activity, including decisions made and evidence that all relevant issues and criteria have been considered and that reasons for any decisions are justified. This documentation must be accessible and available to the Commercial and Procurement Division on request.
 - ff.
 - gg. Ensuring fraud, bribery and corruption risks have been appropriately considered, seeking specialist advice from Internal Audit and Counter Fraud, as and when required.
 - hh. Reporting any non-compliance with SCM or relevant legislation to the Monitoring Officer.
- 6.2. Contracts are to be managed day-to-day by a named Officer within Services, who will be either a dedicated Contract Manager or an Officer who has those responsibilities as part of a broader role (the only exception to this requirement for a named Contract Manager being for those contracts valued below £30,000 inc. VAT). The Commercial and Procurement Division will provide the commercial lead to support the Contract Manager on all high-risk contracts identified through the Council's contract tiering model.

7. Responsibilities and Accountabilities of the Wider Council

- 7.1. Members of the Council are responsible and accountable for providing strategic direction on procurement activity and arrangements, in line with the Member role in decision-making set out in the Constitution.
- 7.2. Executive Members of the Council are responsible and accountable for:
 - a. Approving relevant financial expenditure to be incurred through contracting where the Constitution would require a Key Decision or Significant Decision of the Executive
 - b. Taking relevant decisions around financial expenditure made through contracting in line with the Scheme of Delegation
- 7.3. The Section 151 Officer is responsible for:
 - a. Ensuring, in liaison with the Monitoring Officer, that the appropriate requirements are in place in this document and other relevant policies to govern financial expenditure made through contracting with external parties.
 - b. Ensuring the correct financial processes and systems are in place to manage financial expenditure made through contracting with external parties.
 - c. Delegating appropriate responsibility for managing financial expenditure made through procurement to the Head of Commercial and Procurement and the Commercial and Procurement Division.
 - d. Reporting any non-compliance with SCM or relevant legislation to the Monitoring Officer.
- 7.4. The Monitoring Officer is responsible for:
 - a. Determining and maintaining, in liaison with the Section 151 Officer, the appropriate systems for monitoring and reporting on non-compliance with SCM.
 - b. To determine if reported breaches constitute non-compliance and report non-compliance with SCM to Internal Audit and Governance and Audit Committee.
 - c. Enabling the provision of appropriate legal advice to the Council and the management of legal risk.
- 7.5. Internal Audit and Counter Fraud are responsible for:
 - a. Providing independent assurance that the procurement rules have been followed through risk-based auditing.
 - b. Providing support and advice on conducting fraud risk/impact assessments where required.
 - c. Recording and reporting on financial irregularities within contracting activity undertaken.
- 7.6. Corporate Directors, Directors, and/or Heads of Service (as applicable under the Council's Scheme of Delegation) are specifically responsible for:
 - a. Providing strategic direction for all procurement undertaken in their area of responsibility.
 - b. Ensuring that adequate consideration has been taken to determine if procurement is the correct approach to delivering the required provisions.
 - c. Ensuring all procurement and decision-making adheres to the Scheme of Delegation.
 - d. Obtaining the necessary internal governance, whether by way of a Leader and/or Cabinet Member decision, as required by the Council's Scheme of Delegation, bearing in mind the total aggregate contract value, before undertaking any procurement and contracting.
 - e. Engaging with the Commercial and Procurement Division, ensuring they are notified in advance of all proposed contracts each with a total estimated aggregate value above the Public Procurement Threshold for goods and services regardless of whether the contract is for goods, services, or works. As a minimum, this point of engagement should be as soon as it is determined that procurement is the correct approach and always ahead of

preliminary market engagement. This will support development of the Procurement Pipeline and enable the commissioning of appropriate legal advice to ensure to ensure compliance with SCM.

- f. Officers must engage with the Commercial and Procurement Division at the earliest opportunity, regardless of contract value prior to any classification of the supplier as “excluded” or “excludable” both for the purposes of any procurement or the application of any contractual remedies related to such a classification (including rights to terminate).
- g. For any contracts subject to the Provider Selection Regime, Officers must engage with the Commercial and Procurement Division at the earliest opportunity, regardless of contract value, prior to any procurement, contract award, or Contract Modification, to determine the appropriate involvement. This is to minimise the legal risk to the Council.
- h. Ensuring their Officers undertake contract tiering to assess the level of risk associated with contracts to be managed, working closely with the Commercial and Procurement Division.
- i. Nominating appropriately skilled and qualified Officers to undertake procurement and contract management activity, where this takes place within their area of responsibility.
- j. Ensuring their staff act with integrity at all stages of procurement and in contract management, having due regard to any actual or perceived conflicts of interest that may arise, putting in place mitigating actions, and keeping documented conflicts assessments under review.
- k. Ensuring all sourcing decisions ultimately represent value for money and are within the budgetary limits that have been approved, alongside an appropriate consideration of how to maximise wider public benefit in all contracting activity.
- l. Ensuring their Officers engage with the Commercial and Procurement Division before procuring any contract with a total aggregate contract value above the applicable Public Procurement Threshold , in order for them to provide advice on the most appropriate sourcing route and, where relevant, in accordance with Section 10, lead on the procurement.
- m. Ensuring their Officers follow the guidance set out by the Commercial and Procurement Division when procuring any contract with a total aggregate value below the applicable Public Procurement Thresholds. Services should always engage the Division where there are concerns about their ability to undertake the project or the risk and complexity.
- n. For any contracts subject to the Provider Selection Regime, Officers must engage with the Commercial and Procurement Division at the earliest opportunity and prior to undertaking any procurement, contract award or Modification to contracts subject to that regime. That is regardless of the value of such contracts and is aimed to minimise the legal risk to the Council.
- o. Ensuring there is due regard to the particular barriers facing SMEs, and VCSEs wishing to access contract opportunities and consideration given as to how to remove or reduce them.
- p. Ensuring in all procurement and contracting activity undertaken in their Services, suppliers are treated the same and no supplier is put at an unfair advantage or disadvantage.
- q. Ensuring their Officers seek guidance from the Commercial and Procurement Division at the earliest opportunity where a Challenge or Representation is made against a procurement or contracting decision taken by the Council, ensuring responses are fair, impartial, and provided within prescribed timescales.
- r. Ensuring their Officers seek appropriate legal advice in accordance with Section 10 of SCM where required for contract Modifications, extensions and Novations to determine the level of legal advice required to mitigate legal risk.
- s. Providing for appropriate and effective management of all contracts under their area of responsibility and managing relationships with Key Suppliers identified.
- t. Officers must engage with the Commercial and Procurement Division prior to any publication of any Notices in relation to poor performance (including assessments against any KPIs if applicable) or the application of any contractual remedies (including rights of termination) related to publication by any other contracting authority of any Notice related to the supplier’s performance.

- u. Ensuring sufficient funds are available for relevant procurement and contracting activity and allocating appropriate funds within their budget.
- v. Ensuring their Officers provide the Commercial and Procurement Division with the information they need in a full and timely manner to publish the Notices required in accordance with the relevant legislation and as stipulated in Section 10 and Part C of SCM.
- w. Ensuring arrangements are in place for maintaining full records and audit trails of all procurement and contract management activity for their Services, including decisions made, evidencing that all relevant issues and criteria have been considered and that reasons for any decisions are justified. This documentation must be accessible and available to the Commercial and Procurement Division on request.
- x. Ensuring the fraud, bribery and corruption risks have been appropriately considered, seeking specialist advice from Internal Audit and Counter Fraud.
- y. Reporting any non-compliance with SCM or relevant legislation to the Monitoring Officer.

7.7. The Commercial and Procurement Division is responsible for:

- a. Working closely with Officers, Senior Officers (Heads of Service and above), and Finance to agree, develop and deliver a Procurement Pipeline that will be authorised by the CMT.
- b. Providing expert category and market knowledge to help Services within the Council find the right suppliers in the right way and at the right time, irrespective of the contract value.
- c. Providing advice and guidance, and support to procure where it is deemed necessary, to Services where the total estimated aggregate value of the contract resulting from sourcing activity will be from £30,000 (including VAT) up to the Public Procurement Threshold for goods and services and up to £1m for works.
- d. Leading on all procurements where the estimated total aggregate contract value of the contract resulting from the procurement exercise will exceed the Public Procurement Threshold for goods and services and over £1m for works.
- e. For any contracts that are subject to the Provider Selection Regime, the Division will lead on all procurements (unless it determines otherwise based on a consideration of the risk and complexity of the procurement and the commercial skills required).
- f. Ensuring that there is early engagement with the Council's Legal Team on any planned procurement activity in the Procurement Pipeline so that appropriate legal support can be provided or commissioned to support the procurement activity.
- g. Ensuring efficient and effective purchasing and procurement practices are in place.
- h. Acting with integrity at all stages of procurement and in contract management and having due regard to any actual or perceived conflicts of interest that may arise, putting in place mitigating actions, and keeping documented conflicts assessments under review..
- i. Maintaining guidance in relation to buying on behalf of the Council and the management of contracts, according to the value, risk, and complexity of the contract.
- j. Taking a commercial lead on all high-risk contracts (identified through contract tiering), working alongside named Contract Managers within Services and, as and when required, legal advisors.
- k. Taking a commercial lead on Contract Modifications, contract extensions, and Novations where it is deemed necessary, ensuring that legal advice is taken promptly.
- l. Taking a commercial lead in developing strategic relationships with Key Suppliers (identified through supplier segmentation), working alongside Senior Officers (Heads of Service and above) within Services.
- m. Advising Services and helping to ensure there is an appropriate consideration of the particular barriers facing SMEs, and VCSEs wishing to access contracting opportunities with proper regard given as to how to reduce or remove them.
- n. Advising Services and helping to ensure appropriate consideration of how wider public benefit, including in line with sustainability and social value objectives can be delivered across the Council's supply chain.
- o. Taking a commercial lead, engaging the Legal Team as necessary, to respond fairly and, impartially, and within any legally prescribed timescales to Challenges and

Representations made against a procurement and contracting decision taken by the Council. Any such Challenges and Representations will be reviewed by an appropriately qualified, independent Officer.

- p. Ensuring the publication of Notices, which may include contract documentation and performance information (appropriately redacted), in accordance with the requirements of the current law and guidance and as stipulated in Section 10 and Part C of SCM.
- q. Engaging the Legal Team as necessary in relation to any proposed publication in relation to poor performance or the classification of a supplier as “excluded” or “excludable” under the Procurement Act 2023, or any action proposed to be taken as a result of any publication or classification by other contracting authorities.
- r. Ensuring there is a full record and audit trail maintained for all procurement and contracting activity led on by the Division. Ensuring that all contracts with a total aggregate contract value at or above £30,000 (including VAT) have a record created on the Council’s contract management system.
- s. Reporting any non-compliance with SCM or relevant legislation to the Monitoring Officer and, where required by the relevant legislation, publishing details of the Council’s compliance and a summary of the procurement and contracting activity undertaken.

8. Procurement Pipeline

8.1. To enable the Council to maintain an accurate oversight of procurement activity across the full range of Council services and is able to meet its statutory obligation to publish upcoming contracting opportunities, the Head of Commercial and procurement is responsible for the development of the Procurement Pipeline in liaison with Corporate Directors.

8.2. This is to identify the following:

- a. For each Directorate, all contracts each with an aggregate value above the Public Procurement Threshold for goods and services, regardless of whether the contract is for goods, services, or works, which are due to be procured, extended, renewed, or replaced.
- b. The applicable public procurement legislation (e.g., Procurement Act 2023, the PSR, or other applicable legislation)
- c. The aggregate contract value across the life of each contract.
- d. The tier (risk level) of the contract.
- e. The contract subject matter.
- f. The procurement activity required.
- g. The estimated date when any Tender Notice will be published.
- h. The estimated date when further Notices are expected to be published for the contract, namely the Contract Award Notice (pre-award) and Contract Details Notice (post-award).
- i. The expected start date for the commencement of the contract or extension.
- j. Whether there is an option to extend the existing contract or not.
- k. The expected start date of any new contract or extension.
- l. Likely legal advice that will be required, in consultation with the Council’s Legal Team.
- m. Whether the cost will be met from capital, revenue, or a combination.

8.3. The Procurement Pipeline must be developed and agreed as a part of the business planning cycle, as a minimum covering the period of the next 18 months, before it is then submitted to the CMT for approval.

8.4. Under the Procurement Act 2023, the Council must publish an appropriately adapted version of the Procurement Pipeline, satisfying the requirements of Section 93 of the Procurement Act 2023.

8.5. Where the aggregate contract value is projected to be exceeded by 5% or more than the value stated within the Procurement Pipeline that has been approved by the CMT, the S151 Officer

and Finance Business Partners must be consulted with and, where required, approve that change in contract value in line with the summary tables below and the contract award must be put on hold pending that approval.

- 8.6. If the need arises during the year for procurement activity on contracts at or above the Public Procurement Threshold for goods and services which have not been pre-approved through the developed Procurement Pipeline, then approval to procure must be sought by the Director of the Service concerned, before any procurement activity may begin, in line with the below:

£1m and above (including VAT)	Director of the relevant Service, the Head of Commercial and Procurement, S151 Officer, and the CMT.
£100,000 - £1m (including VAT)	Director of the relevant Service in consultation with the Head of Commercial and Procurement and S151 Officer.

9. Approvals for Contracting Activity

- 9.1. Officers must ensure they seek approval for all procurement and contracting activity and decisions in line with the Constitution, the Scheme of Delegation and the requirements outlined in Section 10 of SCM.

Part B: Requirements for Sourcing Goods, Services and Works

10. Summary of Procedures for Procuring, Contract Authorisation and Management, and Contract Modifications by Aggregate Contract Value

Table A – Procurement Procedures – Contracts Subject to the Procurement Act 2023 (PA23)

Aggregate Contract Value (inclusive of VAT)	Procurement Method	Who is authorised to carry out the procurement?	Must the contract be formally advertised?	Legal Advice Required
Up to £29,999.99	One written quote	Any Officer	No	No requirement provided there is use of the Council's standard template contracts, held by the Commercial and Procurement Division, and on their advice that the terms selected are appropriate.
£30,000 – up to the Public Procurement Threshold for Goods and Services (£214,904) OR up to £1m for Works	Three written quotes (Unless using another compliant route under the PA23, such as a tendering procedure, a Framework, Dynamic Market, or DPS)	Any Officer (Unless the Commercial and Procurement Division, Legal Team, and/or Officers in Services have concerns about the Service's ability to undertake the project or the risk and complexity)	Only required where Officers undertake a tendering procedure under the PA23, with advertisement required to the Central Digital Platform and the Council's tendering portal	No requirement provided there is use of the Council's standard template contracts, held by the Commercial and Procurement Division, and on their advice that the terms selected are appropriate. Where a Framework Agreement and call off terms have already had a legal review, there will be no requirement for there to be a further legal review on future call offs provided that there are no changes proposed to be made to the call off terms. If changes are proposed early engagement with Legal should be undertaken.
Above the Public Procurement Threshold for Goods and Services (£214,904) OR above £1m for Works	A fully PA23 compliant tendering procedure (Unless using another compliant route available under the PA23 such as a Framework, Dynamic Market, or DPS)	The Commercial and Procurement Division	Yes, advertisement is required to the Central Digital Platform and the Council's tendering portal	Commercial and Procurement Division will contact the Council's Legal Team at the outset of the procurement to arrange for external legal support. The legal advice required will be scoped with Services input and will be determined based on the risk and complexity of the requirement. Where a Framework Agreement and call off terms have already had a legal review, there will be no requirement for there to be a further legal review on future call offs provided that there are no changes proposed to be made to the call off terms. If changes are proposed, early engagement with Legal should be undertaken

Page 12

Table B – Procurement Procedures – Contracts Subject to the Provider Selection Regime (PSR)

Aggregate Contract Value (inclusive of VAT)	Procurement Method	Who is authorised to carry out the procurement?	Must the contract be formally advertised?	Legal Advice Required
Up to £29,999.99	A provider selection process permitted under the PSR (e.g., Direct Award A, Direct Award B, Direct Award C, the Most Suitable Provider Process, or the Competitive Process)	The Commercial and Procurement Division (Unless the Commercial and Procurement Division and Legal Team determine otherwise based on the commercial acumen required and the project's risk and complexity)	Specific advertising and Notice requirements apply depending on the provider selection process followed under those regulations	No requirement provided there is use of the Council's standard template contracts, held by the Commercial and Procurement Division, and on their advice that the terms selected are appropriate.
£30,000 – up to the Public Procurement Threshold for Goods and Services (£214,904) OR up to £1m for Works				No requirement provided there is use of the Council's standard template contracts, held by the Commercial and Procurement Division, and on their advice that the terms selected are appropriate. Where a Framework Agreement and call off terms have already had a legal review, there will be no requirement for there to be a further legal review on future call offs provided that there are no changes proposed to be made to the call off terms. If changes are proposed early engagement with Legal should be undertaken.
Above the Public Procurement Threshold for Goods and Services (£214,904) OR above £1m for Works				Commercial and Procurement Division will contact the Council's Legal Team at the outset of the procurement to arrange for external legal support. The legal advice required will be scoped with Services input and will be determined based on the risk and complexity of the requirement. Where a Framework Agreement and call off terms have already had a legal review, there will be no requirement for there to be a further legal review on future call offs provided that there are no changes proposed to be made to the call off terms. If changes are proposed, early engagement with Legal should be undertaken

Table C – Contract Authorisation and Management

Aggregate Contract Value (inclusive of VAT)	Who must approve the contract award?	Must the intention to award and the award itself be published?	Who can sign the contract on the Council's behalf?	Contract authorisation (for the creation of orders)	Where should the contract details be maintained?	Must there be a named contract manager?
Up to £29,999.99		No			Locally within the Service	No
£30,000 – up to the Public Procurement Threshold for Goods and Services (£214,904) OR up to £1m for Works	Up to £50k, the budget manager Up to £250k, the Service Head Up to £500k, the Service Director Up to £1m, the CMT Director	Only required where Officers undertook a tendering procedure under the PA23. The intention to award the contract and the award itself (made after standstill) must be published to the Central Digital Platform. Specific requirements apply to PSR contracts depending on the procedure followed.	Up to £500k, the Service Director OR Senior Commercial and Procurement Officer (to £250k) and Commercial and Procurement Manager / Sourcing Support Team Manager (to £500k)	Up to £50k, buyer can approve Up to £100k, Commercial and Procurement Officer / Senior Buyer can approve Up to £250k, Senior Commercial and Procurement Officer	On the Council's Contract Management System	Yes, within the Service
Above the Public Procurement Threshold for Goods and Services (£214,904) OR above £1m for Works	Above £1m, approval must be sought from The Leader, Cabinet or Cabinet Member The Leader, Cabinet, and Cabinet Member have no limit on the value of contracts they can award Where the contract value is projected to exceed the value in the approved Procurement Pipeline by 5% or more, the Section 151 Officer and Finance Business Partners must be consulted prior to award	Yes, the intention to award the contract and the award itself (made after standstill) must be published to the Central Digital Platform. Contracts with a total value of £5m (including VAT) or more also require a redacted copy of the contract and 3 KPIs to be published. Specific requirements apply to PSR contracts depending on the procedure followed.	Up to £1m, the CMT Director OR the Strategic Commercial and Procurement Lead Above £1m, the CMT Director OR Head of Commercial and Procurement with Cabinet or Cabinet Member approval to award and express authorisation of the Monitoring Officer to sign or seal	Up to £500k, Commercial and Procurement Manager OR Sourcing Support Team Manager Up to £1m, Strategic Commercial and Procurement Lead Above £1m, Head of Commercial and Procurement when correct political or previously delegated authority is in place	On the Council's Contract Management System	Yes, within the Service

Table D – Contract Modifications

Aggregate Contract Value (inclusive of VAT)	Who must approve the contract modification?	Must the contract modification and any other details be published?	Who can sign the modification on the Council's behalf?	Required engagement beyond the relevant Service and Cabinet Members	Where should the contract modification be saved?
Up to £29,999.99		No		No further engagement required, except where it is believed that the modification may trigger procurement or legal risks.	Locally within the Service
£30,000 – up to the Public Procurement Threshold for Goods and Services (£214,904) OR up to £1m for Works	Up to £50k, the budget manager Up to £250k, the Service Head Up to £500k, the Service Director Up to £1m, the CMT Director	Only required where Officers tendered the original contract under the PA23 and the modification increases or decreases the value of the contract by 10% or less (goods and services) or 15% or less (works). Specific requirements apply to PSR contracts depending on the procedure followed.	The Service Director and CMT Director have no limit on the value of the contracts they can sign modifications for (with Cabinet or Cabinet Member Decision to award the modification and expression authorisation of the Monitoring Officer to sign and seal).	No further engagement required, except where it is believed that the modification may trigger procurement or legal risks. At this threshold, Officers should be particularly mindful of the risk for contract modifications to take the total aggregate value of the contract above the UK public procurement thresholds at which point additional regulatory requirements apply.	On the Council's Contract Management System
Above the Public Procurement Threshold for Goods and Services (£214,904) OR above £1m for Works	Above £1m, approval must be sought from The Leader, Cabinet or Cabinet Member The Leader, Cabinet, and Cabinet Member have no limit on the value of the contracts they can approve modifications for.	Only required where Officers tendered the original contract under the PA23 and the modification increases or decreases the value of the contract by 10% or less (goods and services) or 15% or less (works). Contracts with a total value of £5m (including VAT) or more also require a redacted copy of the modified contract to be published. Specific requirements apply to PSR contracts depending on the procedure followed.	The Commercial and Procurement Manager / Sourcing Support Team Manager can sign modifications up to £500k where delegated in writing by the relevant Service Director.	Engage with the Commercial and Procurement Division.	On the Council's Contract Management System

10.1. Officers should note that the above summary tables are not exhaustive of the requirements that must be followed the different value thresholds. There will also be some limited exceptions to the above requirements, which are permitted under the relevant procurement regulations for certain types of contract (e.g., those awarded under Frameworks, Dynamic Markets, or DPS', light touch regime contracts, concessions contracts, and more). Officers should refer to Part C of SCM and guidance issued by the Commercial and Procurement Division and available on KNet for a more comprehensive understanding of the requirements and expectations on Officers.

10.2. As outlined in Section 24 of SCM, it is critical that Officers engage at the earliest opportunity with the Commercial and Procurement Division on all contracts planned with an estimated total aggregate value above the Public Procurement Thresholds for goods and services, regardless of whether the contract is for goods, services, or works. For those contracts subject to the PSR, Officers should engage with the Division prior to any procurement, contract award, or Contract Modification. Regardless of the value of the contract and the regulations that apply, Officers should engage with the Division where their ability to undertake the project or are concerned about the risk and complexity of the procurement. This early engagement will help to ensure that the appropriate level of support is provided and the necessary steps are taken by Officers procuring.

11. Calculating the Aggregate Contract Value

- 11.1. Aggregate contract value must be calculated in accordance with the applicable legislation but, broadly speaking, this means the estimated total aggregate value payable in pounds Sterling inclusive of Value Added Tax (VAT) over the entire contract period, including any options, renewals, and extensions of the contract.
- 11.2. Officers must make an effort to calculate an accurately estimated contract value over the contract period to ensure that the appropriate procurement route is taken that adheres to SCM and legislation.
- 11.3. Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of SCM or legislation.
- 11.4. In the case of Framework Agreements or Dynamic Markets, Officers must engage the Commercial and Procurement Division in accordance with Section 15 of SCM. The contract value must be calculated to include the total maximum estimated value, inclusive of VAT, of all the contracts envisaged to be awarded for the total term of the Framework Agreement or the Dynamic Market. In the case of a Framework awarded under an Open Framework, the value of the Framework is to be treated as including the value of all Frameworks awarded, or to be awarded.

12. Determining the Applicable Procurement Regulations

- 12.1. Where Officers are procuring or contracting on behalf of the Council, they must adhere to the relevant public procurement regulations (as set out in Section 4.6).
- 12.2. The Procurement Act 2023, and the associated regulations, as set out in Section 4.6, apply to the procurement, award, entry into, and management of contracts for procurement goods, services, and works where the procurement commenced on or after the 24 February 2025. While the Procurement Act 2023 is applicable to contracts with a total aggregate contract value above the Public Procurement Thresholds, there are also several provisions applicable to contracts below those Thresholds.
- 12.3. The PCR 2015, and its associated regulations, will continue to apply to contracts, including Framework Agreements and Dynamic Purchasing Systems (DPS'), that were awarded under that regime until the point they expire or are re-tendered. Officers must note that, under the Procurement Regulations 2024, all existing DPS will terminate on or before 23 February 2029.
- 12.4. Regardless of contract value, when procuring 'health care services' whether alone or as part of a 'mixed procurement' as defined in Regulation 3 and Schedule 1 of the PSR, Officers must follow the requirements of the PSR.
- 12.5. A 'mixed procurement' means the procurement of health care services and other goods or services that are procured together with those health care services. For the PSR to apply, the main subject matter of the procurement (more than 50% of the estimated lifetime value of the contract) must be for health care services rather than other goods or services and the Council must be of the view that the other services or goods could not reasonably be supplied under a separate contract without having or being likely to have a material adverse impact on the Council's ability to act in accordance with the procurement principles set out in Regulation 4 of the PSR.

- 12.6. As well as the requirements of SCM, Officers should follow guidance set out by the Commercial and Procurement Division around procuring and contracting under the different regulations. As stated in Section 24 of SCM, the Commercial and Procurement Division should be engaged early where Officers are concerned about the risk and complexity, or their ability to undertake, a project.
- 12.7. Where PSR applies, the Commercial and Procurement Division should be engaged before any procurement, contract award, or Contract Modification to determine the right level of involvement.

13. Procurement Business Cases

- 13.1. Any procurement with a total contract value below the Public Procurement Threshold for goods, services or works should have a completed business case using the Council's Low Value Procurement Business Case template.
- 13.2. Any procurement with a total contract value above the Public Procurement Thresholds for goods, services or works must have completed a Commercial Case as part of a wider business case using the Council's High Value Procurement Business Case template.
- 13.3. While Services are the owners and primary authors of any completed business case, the Commercial and Procurement Division will develop the Commercial Case through close working with Services, where the Division is leading the procurement.

14. Using Existing Contractual Arrangements

- 14.1. Prior to proceeding with any new procurement and contracting process, Officers must first, subject to any specific regulatory requirements (e.g., compliance with the requirements of PSR and any other sector specific regulatory requirements), determine whether the identified need can be met through contracting with the Council's Local Authority Trading Companies, utilising existing Council contracts, or by calling off of a Framework Agreement or Dynamic Market (or, prior to 23 February 2029, an existing DPS) that has been established by or has been recommended by the Commercial and Procurement Division and Legal Team as a legally compliant route to market.
- 14.2. Only where it is determined that the identified need cannot be met through such arrangements as outlined in 14.1, or it has been determined in consultation with the Commercial and Procurement Division that such arrangements will not deliver best value, can Officers proceed with a new procurement and contracting process.
- 14.3. Officers must note that all DPS established under the PCR 2015 will expire on or before 23 February 2029, and from 24 February 2029, it will not be possible to award contracts under a DPS.

15. Framework Agreements and Dynamic Markets

- 15.1. All requirements to set up new Frameworks, including 'Open Frameworks', or Dynamic Markets that will be managed by the Council must be referred to the Commercial and Procurement Division, who will make the appropriate arrangements and, as necessary, will consult with the Council's Legal Team. From 24 February 2025, no new DPS may be established but existing DPS may be used prior to 24 February 2029.

- 15.2. Any Framework or Dynamic Market that is developed by the Council must include contract terms that allow the arrangements to be reviewed at trigger points to ensure that they continue to reflect value for money throughout their life.
- 15.3. An 'Open Framework' is a scheme of Frameworks that provides for the award of successive Frameworks on substantially the same terms. However, an Open Framework must provide for the award of a Framework at least once during the period of three years beginning with the day of the award of the first Framework, and each period of five years beginning with the day of the award of the second Framework.
- 15.4. When establishing Frameworks, the Notices that must be published to the Central Digital Platform are a Tender Notice, with the detail of the procedure being used to procure the Framework, a Contract Award Notice, prior to the award being made, and a Contract Details Notice, once the award of the Framework has been made.
- 15.5. When re-opening and awarding Frameworks in the scheme of an Open Framework, a new Tender Notice must be published to the Central Digital Platform alongside a Contract Award Notice, prior to the award being made, and a Contract Details Notice, once the award is made.
- 15.6. There are specific Notices that must be published to the Central Digital Platform for Dynamic Markets. These separate Notices cover the advertisement, establishing, modification, and the termination of a Dynamic Market under the applicable legislation.
- 15.7. Where the Council accesses an existing Framework Agreement, Dynamic Market, or (prior to 24 February 2028) a DPS (the latter having been procured under the PCR 2015), the Framework Agreement, Dynamic Market, and DPS terms and conditions of contract must be used, amended as appropriate, as permitted by the Framework Agreement, Dynamic Market, or DPS and the applicable procurement legislation.
- 15.8. Before accessing existing Frameworks, Dynamic Market, or DPS' established by third parties, due diligence checks must be carried out, including by engaging the Commercial and Procurement Division, who may also consult with the Council's Legal Team. This is to ensure that the Council can lawfully access and use the identified Framework Agreement, Dynamic Market, or DPS and that the call-off contract terms are fit for purpose and provide value for money.
- 15.9. Call-offs from a Framework will be via a direct award process or a further competition (depending on the call-off procedure(s) included in the Framework) and call-offs from a Dynamic Market or DPS will be via a further competition).
- 15.10. For Frameworks regulated by the Procurement Act 2023 or the PCR 2015, a direct award may be made from a Framework that permits direct awards where it:
- a. Sets out all the terms governing the provision of the goods, services, or works and they do not require amendment or supplementary terms and conditions.
 - b. The objective conditions for making a direct award to a particular supplier on the Framework are clear and unambiguous in the contract arrangements.
 - c. Value for money can be demonstrated through the direct award (e.g., the supplier provides the most advantageous solution for the need).
 - d. An assessment has been made to ensure it meets the needs in terms of innovative solutions and represents value for money, taking into account procurement costs.

- 15.11. For health care services Frameworks regulated by the PSR, Officers should consult Regulations 16-18 of the PSR and the relevant PSR statutory guidance to determine the flexibilities permitted when making direct awards.
- 15.12. A call to further competition can be made under the terms of a Framework (where expressly provided for in the Framework), Dynamic Market, or a DPS. All suppliers on the Framework, Dynamic Market, or DPS capable of performing the contract must be invited to tender against the requirement in accordance with the Framework, Dynamic Market, or DPS mechanisms provided and the applicable procurement regulations. In the case of pursuing competition under a Dynamic Market or DPS, a Tender Notice must be published with the correct details.
- 15.13. Except for health care services contracts regulated by the PSR, each contract award under a Framework, a Dynamic Market, or a DPS must be published on the Central Digital Platform in accordance with the applicable legislation. This will be through a Contract Details Notice that must be published following the award of the contract in accordance with the Framework, Dynamic Market, or DPS.
- 15.14. For contracts awarded under a Framework for health care services regulated by the PSR, Officers are required to publish their intention to award the contract where they are following the competitive process to award the contract.
- 15.15. For contracts awarded under a Framework for health care services regulated by the PSR, Officers are also required to publish a Notice of the award of the contract on the Central Digital Platform. This applies for contracts made with or without a competition. Officers are to consult the PSR for details of what information needs to be included in the Notice depending on the call-off procedure used.
- 15.16. Advice must be sought from the Commercial and Procurement Division, who may also consult with the Legal Team, for any proposed modifications to Frameworks, Dynamic Market, or DPS contract terms. This includes any modifications to the call-off or selection process, planned re-opening and awarding in the scheme of an Open Framework, conditions of membership for a Dynamic Market or DPS, and the re-assessment or proposed removal of suppliers from such arrangements (including where a supplier has been classified as “excluded” or “excludable”). Details of any variation may require the publication of further Notices to the Central Digital Platform.

16. Light Touch Contracts

- 16.1. Light touch contracts are contracts for certain social, health, education, and other services that are provided directly to individuals or groups of people and which, under Section 9 of the Procurement Act 2023, receive special treatment and greater flexibility under the regulations. Light touch contracts must meet specific provisions to be considered to be a light touch contract and advice must be sought from the Commercial and Procurement Division, who may also consult with the Legal Team.

17. Concession Contracts

- 17.1. Concession contracts are contracts under which the Council outsources works or services to a contractor or provider, or makes available an asset, which the contractor or provider then has the right to commercially exploit to recoup its investment and make a return. The key feature is that the contractor or provider bears the operating risk of the arrangement and so has no guarantee of recouping its investment or operating costs. Concession contracts must meet certain criteria to be considered to be a concession in accordance with the Section 8 of the Procurement Act 2023 and

advice must be sought from the Commercial and Procurement Division, who may also consult with the Legal Team. Any existing concession contracts and any concession contracts where the procurement begins before 24 February 2025 will continue to be subject to the CCR 2016.

18. Temporary Staff, Contractors, and Consultants

18.1.A Consultant is a person (not an employee), agency, or firm engaged for a limited period of time on a project or requirement specific basis to carry out a specific task or set of tasks which meet a desired set of outputs or outcomes. A consultant provides subject matter expertise, support, and/or experience to the Council either because it does not possess the skills or resources in-house or requires an independent evaluation or assessment to be made.

18.2. This definition excludes:

- a. Agency staff, interim, or role-specific duties which should be sourced through the Council's corporate contract with Connect2Kent.
- b. Routine services, e.g., maintenance, cleaning, and security.
- c. Professional services, e.g., architects, structural engineers, forensic archaeologists, specialist social care support, training etc.

18.3. Regardless of value, Officers must ensure that they follow the processes outlined on KNet when contracting temporary and agency staff and consultants. They must also ensure that they are compliant with the Kent Scheme Terms and Conditions.

18.4. In the event that Officers are unable to successfully source the required staff or consultant through the process outlined on KNet, they must engage with the Commercial and Procurement Division for advice on using appropriate Frameworks.

18.5. No temporary worker, contractor, or Consultant may be procured or engaged outside of the corporate contract with Connect2Kent without prior approval from the Council's People Strategy Manager (Resourcing) and in consultation with the Commercial and Procurement Division.

18.6. Where it is agreed that a temporary worker, contractor, or Consultant may be sourced outside of the corporate contract, and the total aggregate value of such engagement is estimated to be £30,000 or more (including any applicable VAT), competition is to be sought in the same manner as would be required for any procurement of the same value following the requirements outlined in the summary tables under Section 10.

18.7. If the total aggregate value of such an engagement exceeds £50,000, the decision to award must also be made in consultation with the relevant Cabinet Member.

19. Collaboration with Other Public Bodies

19.1. The Council may enter into collaborative agreements for the procurement of goods, services, and works with other public bodies or Central Purchasing Bodies where this offers best value for money for Kent residents. This may mean the Council leading procurements and contracting on behalf of other public bodies or vice-versa.

19.2. However, where this is proposed, it should be noted that the relevant legislation as stipulated in Section 4.6 will continue to apply as will the principles outlined in SCM. Ahead of any such collaboration with other public bodies, advice must be sought from

the Head of Commercial and Procurement in conjunction with the Section 151 Officer and the Legal Team before entering into such arrangements.

20. Liability and Security

- 20.1. To protect the Council, insurance is required where the Council purchases goods, services, or works provided by a supplier. The minimal levels of insurance cover for Public Liability Insurance, Employers' Liability Insurance, Professional Indemnity (Negligence) Insurance and other relevant insurances are set out in guidance on KNet. Advice should be obtained from the Insurance Team in accordance with that Council guidance.
- 20.2. In some instances where the contract value, risk, or scope may be particularly high, additional insurance cover may be required. Equally, where some contracts may be suitable for micro businesses, lower levels of insurance may be considered, as part of a wider assessment of the need for proportionality between the Council's requirements and removing or reducing barriers to participation for small businesses. Reasonable approaches to apportioning risk should be adopted through using limits and exclusions of liability and insurance cover requirements taking into account insurable risks and associated costs. However, in these instances, advice should be sought from the relevant Officer within the Insurance Team.
- 20.3. Where the Council is providing goods, services, or works to another organisation (that is not a part of the Council), Services must not arrange their own insurance policies and should contact the Insurance Team in the first instance who arrange cover on behalf of the Council.

21. Financial Security

- 21.1. For all procurements above the Public Procurement Threshold for goods and services, regardless of whether the contract is for goods, services, or works, the Commercial and Procurement Division should determine if a supplier requires additional financial checks based on the perceived financial risk. The Commercial and Procurement Division and Finance must confirm that suppliers are financially robust prior to contract award and Services are expected to monitor this, in consultation with the Division and Finance, during the life of the contract.
- 21.2. However, as set out in Section 30.4 of SCM, when assessing a supplier's financial capacity as a part of testing their capacity to perform the contract, Officers must not require suppliers to submit audited annual accounts unless they are, or were, required to have audited accounts in accordance with Part 16 of the Companies Act 2016.
- 21.3. Advice should be obtained from the Finance Team, the Commercial and Procurement Division, and Legal Team if there are concerns about the financial stability of a supplier prior to contract award and through the duration of the contract to enable steps to be taken to mitigate risk.
- 21.4. Tender documents must include a statement asserting that, where requested, suppliers need to provide security for performance and outline the level of security needed, the financial checks to be applied on tenders, how financial suitability will be assessed, and any checks that will be required during the life of the contract. However, these requirements should be proportionate to the risk and the need to consider how to remove or reduce barriers to participation for SMEs and VCSEs.

21.5. Where either the total aggregate value of the contract exceeds £1m (excluding VAT) within any twelve month period, or there is doubt as to the financial credibility of a supplier, but the Council has decided to accept the level of risk, then additional forms of security to a level determined by the Finance Team may be required, for example:

- a. A Parent Company, Ultimate Company, or Holding Company guarantee, where the financial standing of those companies proves acceptable.
- b. A Director's Guarantee or Personal Guarantee, where finances prove acceptable.
- c. A Performance Bond, retained funds, or cash deposit.
- d. Any other security (such as escrow arrangements), which has been determined to be appropriate by Finance.

21.6. Advice from the Legal Team should also be taken on any and all such forms of guarantee, bond or security being used.

22. Conflicts of Interest and Preventing Fraud, Bribery and Corruption

22.1. Officers must comply with the requirements under Part 5 of the Procurement Act 2023 to take all reasonable steps to identify and mitigate actual or perceived conflicts of interest that may arise in relation to a procurement. Officers must prepare a conflicts assessment once it has been decided that procurement is the appropriate route to meet the required need, thereafter, keeping this documented assessment under review throughout the procurement process and during the life of the contract.

22.2. To protect the Council against the risk of fraud, bribery, and corruption, every contract shall include provision for termination of that contract (and recovery of losses) where the supplier, their employees, or anyone acting on the supplier's behalf:

- a. Offers, gives, or agrees to give anyone an inducement or reward in respect of any contract with the Council.
- b. Commits an offence under the Bribery Act 2010, or
- c. Commits any of the offences listed in Schedule 6 of the Procurement Act 2023, Regulation 57(1) of the PCR 2015 or Regulation 38(8) of CCR 2016.

22.3. In the event that anyone buying or managing a contract on behalf of the Council becomes aware of a supplier's involvement in fraudulent or corrupt activity, they must report this to the Head of Commercial and Procurement and seek advice from the Council's Counter Fraud Team and Legal Team.

22.4. Further to the above, Officers must comply with the Council's Code of Conduct, Anti-Fraud and Corruption Strategy and Anti-Bribery Policy. Officers must not invite or accept any gift or reward in respect of the award or performance of a contract and gifts and hospitality must be recorded in line with guidance set out on the intranet.

22.5. In addition to what is outlined in this section, declarations of interest should be made through the Council's annual declaration of interest process and prior to the commencement of any procurement exercise that an individual is to be involved with.

23. Document Retention

23.1. The retention of procurement and contractual information is prescribed in the Limitation Act 1980, the Procurement Act 2023, the PCR 2015 and the PSR as applicable. In summary, the following is required:

- a. Contracts executed under hand (retained for 6 years after last action on a contract).

- b. Contracts executed under seal as Deeds (retained for 12 years after last action on a contract).
- c. Sufficient documentation to explain and justify decisions taken in all stages of the procurement procedure including tender documents for unsuccessful bidders as required by Section 98 of the Procurement Act 2023, PCR 2015 Regulation 84, and PSR Regulation 24, as applicable.
- d. Records created by contract management meetings for contracts executed under hand (retained for the life of the contract and 6 years thereafter).
- e. Records created by contract management meetings for contracts executed under seal as Deeds (retained for the life of the contract and 12 years thereafter).

23.2. Additional document retention requirements are outlined and updated from time-to-time in guidance that can be found on KNet and must be complied with.

Part C: Requirements for Quotation or Tendering Procedures

24. Engaging the Commercial and Procurement Division

- 24.1. At the earliest opportunity, Officers must engage the Commercial and Procurement Division and Legal Team in any procurement exceeding an estimated total aggregate contract value above the Public Procurement Threshold for goods and services, regardless of whether the contract is for goods, services, or works. As a minimum expectation, this point of engagement should be as soon as it has been determined that procurement is the correct approach to delivering the required provisions and always in advance of any preliminary market engagement. This is to allow for the Council's Procurement Pipeline to be updated and for resources to be planned accordingly.
- 24.2. Regardless of the estimated total contract value, Officers must contact the Commercial and Procurement Division for advice and support on any procurement if they are concerned about their ability to carry out the procurement or the risk or complexity of the procurement.
- 24.3. Where the procurement or contracting is in-scope of the PSR, Officers must engage with the Commercial and Procurement Division at the earliest opportunity and prior to any proposed procurement, Contract Modification, and contract award taking place. The Division, who may also consult with the Council's Legal Team, will determine the appropriate level of involvement, and any external support required depending on the risk and complexity of the procurement and the commercial acumen and experience required.

25. Specifications

- 25.1. Officers must ensure that specifications are drafted to meet the identified needs with proper consideration given to value money and corporate objectives around supporting social value, sustainability, equality and diversity, and data and privacy.
- 25.2. While Officers may choose between different types of specification (e.g., input- or output-focused) dependent on their requirements, Section 56 of the Procurement Act 2023 requires that specifications do not refer to a particular design, licensing model, or a description of characteristics where they could refer to performance or functional requirements. Specifications must also not refer to a UK Standard unless the standard adopts internationally recognised equivalents, or there is no such equivalent.

25.3. Specifications must not refer to particular trademarks, trade names, patents, designs or types, places of origin, or producers or suppliers, unless the Council considers it necessary in order to make its requirements are understood. However, if such matters are referred to, the procurement documentation must also ensure that tenders or proposals demonstrating quality or performance will not be disadvantaged.

25.4. Officers in Services are responsible for developing specifications, but the Commercial and Procurement Division can be engaged to provide a commercial review and input on specifications where the Division will the lead procurement for the contract.

26. Preliminary Market Engagement

26.1. How Officers are permitted to engage with the market, prior to issuing any tender, is governed by Section 16 of the Procurement Act 2023.

26.2. The Council may choose to engage in preliminary market engagement to:

- a. Develop the Council's requirements and approach to the procurement.
- b. Design a procedure, Conditions of Participation, or award criteria.
- c. Prepare a Tender Notice and associated tender documents.
- d. Identify suppliers that may be able to supply the goods, services, or works required.
- e. Identify likely contractual terms.
- f. Build capacity among suppliers in relation to the contract being awarded.

26.3. When undertaking preliminary market engagement, Officers should take steps to ensure that suppliers participating in the engagement do not receive an unfair advantage, and competition in relation to the contract award is not otherwise distorted. If a supplier gains an unfair advantage, and the advantage cannot be avoided, then the supplier must be excluded from participating in the tender. However, advice should be sought from the Commercial and Procurement Division in such circumstances.

26.4. Where preliminary market engagement is planned, a Preliminary Market Engagement Notice be published to the Central Digital Platform.⁶ In the event that Officers consider that prior publication is not appropriate in a given situation, Officers should engage with the Commercial and Procurement Division in advance in order to agree whether an exception is appropriate and any appropriate safeguards. This is to minimise legal risk to the Council. While the Commercial and Procurement Division will process the Notice, Officers in Services must provide the information required in a full and timely manner.

26.5. Preliminary market engagement for contracts that are regulated by the PSR is subject to separate requirements under those regulations. Specifically, it is recommended that such engagement be undertaken where a Most Suitable Provider Process is followed.

26.6. Officers in Services are expected to lead on preliminary market engagement, but the Commercial and Procurement Division can be engaged to advise on the most appropriate approach and can support the delivery of the engagement, particularly for procurements that the Division will thereafter lead on.

27. Duty to Consider Lots

⁶ Section 17 of the Procurement Act 2023 requires that a contracting authority publish a preliminary market engagement notice prior to carrying out any engagement or to set out why it did not within the relevant tender notice. However, as a matter of good practice and to minimise legal risk, the Council requires that any preliminary engagement be preceded by a preliminary market engagement notice.

- 27.1. For contracts with an estimated aggregate value above the applicable Public Procurement Thresholds, Section 18 of the Procurement Act 2023 requires Officers to consider whether the goods, services, or works to be supplied under the contract could be supplied under more than one contract, and whether such contracts could most appropriately be awarded by reference to different lots.
- 27.2. As a part of this consideration, Officers should consider whether lotting would help to secure best value for money. Where it is considered that a contract could be awarded by reference to lots, then the tender must account for this, carefully considering the most appropriate lotting approach and the award criteria and evaluation methodology that would allow for the identification of the Most Advantageous Tenders (MATs).
- 27.3. Where it is decided not to progress with lotting, then Officers must ensure that the tender documentation should include the reasons for not taking this approach.
- 27.4. Officers in Services should work jointly with the Commercial and Procurement Division to determine whether lotting is appropriate and to document the decision taken.

28. Requirements to Advertise and Publish Intended Procurement Route

- 28.1. Where contracts are subject to the Procurement Act 2023, Section 21 of the legislation requires that contracts with an estimated total aggregate value above the applicable Public Procurement Thresholds are advertised through a Tender Notice that is published to the Central Digital Platform (unless an exemption applies under the applicable regulations). They must also be published on the Council's tendering portal.
- 28.2. Where appropriate, a Planned Procurement Notice, as permitted under Section 15 of the Procurement Act 2023, may be used to reduce the required tendering period and to provide suppliers, especially SMEs and VCSEs, advanced notice of an opportunity. However, any use of such a Notice must be on the advice of the Commercial and Procurement Division as there are specific regulatory requirements around their use, the timing, and the publication of the Notice to the Central Digital Platform.
- 28.3. Contracts with an estimated total aggregate value below the applicable Public Procurement Thresholds only need to be advertised to the Central Digital Platform, with a Tender Notice, and the Council's tendering portal where Officers will follow a tendering procedure. These requirements do not apply where the Council seeks quotations or only seeks tenders from particular or pre-selected suppliers as permitted under the regulations.
- 28.4. Irrespective of contract value, specific advertising and Notice requirements apply to health care services contracts and mixed health care services contracts regulated by the PSR depending on the provider selection process followed under those regulations. Where the intention is to follow the Most Suitable Provider Process available under the PSR, a Notice of the intended approach must be published to the Central Digital Platform in advance. Where the Council decides to follow a Competitive Process under the PSR, the Council must invite offers by submitting a contract Notice for publication, including all the information required in Schedule 8 to the PSR.
- 28.5. When advertising the tendering opportunity, in accordance with Section 29 of SCM, the procurement documentation must be made available at the same time that any required Tender Notice is published on the Central Digital Platform and the Council's tendering portal.

- 28.6. Any form of advertisement must state the place where interested providers may obtain the procurement documentation and the deadline for receipt of submissions.
- 28.7. While the Commercial and Procurement Division will publish the Notices at this stage, whether Planned Procurement, Tender, or any other Notices that are required, Officers in Services must provide the required information in a full and timely manner.
- 28.8. Where the Commercial and Procurement Division is leading the procurement, the Division will ensure that all other requirements for advertising are correctly followed to satisfy the relevant regulations. Where Officers in Services are leading the procurement, they will be responsible for ensuring that the requirements outlined in this section are appropriately followed.

29. Competitive Tendering Procedures

- 29.1. When undertaking a competitive tendering procedure, Officers are responsible for following the applicable procurement regulations set out in Section 4.6 of SCM and must ensure that the procedure is undertaken in accordance with the published Tender Notice and any associated, published procurement documentation.
- 29.2. Section 20 of the Procurement Act 2023 stipulates the tendering procedures that can be followed when procuring contracts under that legislation. These are:
- a. A single stage tendering procedure without a restriction on who can submit tenders (i.e., an 'open procedure'), or
 - b. Such other competitive tendering procedure as the Council considers appropriate for the purposes of awarding the contract (i.e., a 'competitive flexible procedure').
- 29.3. Where the estimated total aggregate value of a contract is below the applicable Public Procurement Thresholds, and the contract is not regulated by the PSR, Officers may choose to follow a quotation process as outlined in Section 36 of SCM instead of undertaking a tendering procedure. This is permitted for goods and services contracts with an estimated total value up to the Public Procurement Threshold for goods and services and for works contracts with such a value up to £1m, above which a fully Procurement Act 2023 compliant tendering procedure must be followed (which includes call-offs from Framework Agreements, Dynamic Markets or (prior to 24 February 2029) DPS).
- 29.4. Where Officers undertake a tendering procedure for contracts with an estimated total aggregate below the applicable Public Procurement Thresholds, Section 85 of the Procurement Act 2023 is the governing legislation and stipulates the procedure. Except in the limited circumstances outlined in Section 30.6 below, Officers must not restrict the submission of tenders for such contracts by reference to a supplier's suitability to perform the contract, including their legal and financial capacity or their technical ability to perform the contract.
- 29.5. Regardless of the total aggregate contract value, Officers may use another compliant route such as a Framework or Dynamic Market, as permitted in Section 15 of SCM.
- 29.6. Irrespective of contract value, for contracts which are for health care services and mixed health care services that are therefore regulated by the PSR, Officers must follow a provider selection process permitted under Part 2 of the PSR when procuring the contract. This may include a Competitive Process as permitted under that regime.

- 29.7. In any case, Officers must ensure the procedure chosen is a proportionate means of awarding the contract, considering the nature, complexity, and cost of the contract. When choosing and designing the procedures, Officers must have regard to the barriers to participation for SMEs and VCSEs and how to remove or reduce these.
- 29.8. The Commercial and Procurement Division will lead on the tendering of contracts for goods and services with an estimated total aggregate value above the Public Procurement Threshold for goods and services. The Division will also lead on the procurement of works contracts with an estimated total value above £1m.
- 29.9. Officers in Services may lead on the tendering of contracts for goods and services with an estimated total value up to the Public Procurement Threshold for goods and services. For works contracts, Officers in Services may lead on the tendering of such contracts up to an estimated total value of £1m.
- 29.10. Where the procurement or contract is in-scope of the PSR, Officers must engage the Commercial and Procurement Division prior to any proposed procurement or provider selection process taking place. The Division will determine the appropriate level of involvement, and any external support required depending on the risk and complexity and the commercial experience required.
- 29.11. Regardless of contract value and who can lead the tendering, Officers must contact the Commercial and Procurement Division for advice and support if they are concerned about their ability to carry out a procurement or its risk and complexity.

30. Conditions of Participation and Basic Selection Criteria

- 30.1. Where Officers seek to set Conditions of Participation in a tender, in accordance with Section 22 of the Procurement Act 2023, Officers must ensure that they are a proportionate means of ensuring that suppliers have the legal and financial capacity or the technical ability to perform the contract in question.
- 30.2. Subject to Section 30.7 below, Officers must refer to the Supplier Information System contained within the Central Digital Platform and use the Council's standard and most up to date Selection Questionnaire (SQ) to collect the information required and to assess suppliers against the Conditions of Participation. This is unless suppliers have already been pre-qualified through an alternative sourcing route such as a Framework Agreement, a Dynamic Market, or a DPS.
- 30.3. This pre-qualification of suppliers, by assessing against Conditions of Participation, enables the Council to test the suitability of suppliers bidding for Council contracts, through applying minimum standards of legal and financial standing and technical ability that prospective suppliers should meet. However, as well as being proportionate, all the methods and criteria for assessing the suitability of suppliers must be transparent, proportionate, objective, and non-discriminatory.
- 30.4. Where Officers choose to assess a supplier's legal and financial capacity as a part of testing their capacity to perform the contract, they must not:
- a. Require suppliers to submit audited annual accounts unless they are, or were, required to have audited accounts in accordance with Part 16 of the Companies Act 2016.
 - b. Require suppliers to have insurance relating to the performance of the contract to be in place before the award of the contract.

- 30.5. Where Officers choose to assess a supplier's technical ability as a part of testing their ability to perform the contract, they must not:
- a. Require them to have been awarded a contract by a specific contracting authority,
 - b. Break the rules on specifications (see Sections 25.2 and 25.3 of SCM), or
 - c. Require particular qualifications without allowing for their equivalents.
- 30.6. In accordance with Section 29.4 of SCM, when tendering for any contract with an estimated total aggregate value below the applicable Public Procurement Thresholds, Officers must not restrict the submission of tenders by reference to an assessment of a supplier's suitability to perform the contract, including their legal and financial capacity or their technical ability to perform the contract. However, for works contracts valued between the Public Procurement Threshold for goods and services and the Public Procurement Threshold for works, the Council Suppliers may use a pre-qualification stage using the Common Assessment Standard.
- 30.7. There are different requirements for health care services contracts and mixed health care services contracts regulated by the PSR where the Council is required to undertake reasonable and proportionate due diligence on providers. When using Direct Award Process C, the Most Suitable Provider Process, or the Competitive Process (except use of the Competitive Process to award a contract under a Framework) in the PSR, Officers must not award a contract to or conclude a Framework Agreement with a provider who does not meet the basic selection criteria formulated in accordance with Regulation 19 of and Schedule 16 to the PSR. The basic selection criteria may only relate to suitability to pursue a particular activity, economic and financial standing and technical and professional ability, and all requirements must be related and proportionate to the subject matter of the contract or the Framework.
- 30.8. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section and ensure that any testing of Conditions of Participation, or basic selection criteria under the PSR, satisfies the relevant regulations. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are correctly followed. As a part of the activity in this section, close working, including with the Council's Finance Team and Legal Team, will be required.

31. Setting Award Criteria and Evaluation Methodology

- 31.1. For contracts that are subject to the Procurement Act 2023, Officers should develop award criteria and an evaluation methodology that will enable them to accurately determine the Most Advantageous Tender (MAT). They may be developed and consulted on early as a part of preliminary market engagement and, thereafter, as set out in Section 34.2(e) of SCM, Officers must include the award criteria and evaluation methodology within the procurement documentation.
- 31.2. When setting the award criteria, Officers must be satisfied that they:
- a. Relate to the subject matter of the contract,
 - b. Are sufficiently clear, measurable, and specific,
 - c. Do not break the rules on specifications, (see Sections 25.2 and 25.3 of SCM), and
 - d. Are a proportionate means of assessing tenders, having regard to the nature, complexity, and cost of the contract.

- 31.3. Evaluation methodology must be designed to accurately determine the Most Advantageous Tender (MAT) with the correct balance between price and quality. This evaluation methodology should be developed through close consultation between Officers in Services and the Commercial and Procurement Division.
- 31.4. Officers should also be aware of any additional Council policies related to social value and sustainability in tender evaluations and apply these as required and appropriately linked to the subject matter of the contract.
- 31.5. For health care services contracts and mixed health care services contracts regulated by the PSR and using either Direct Award Process C, the Most Suitable Provider Process, or the Competitive Process, Officers must determine the appropriate balance of the five key criteria set out in Regulation 5 of the PSR of quality and innovation; value; integration, collaboration, and service sustainability; improving access, reducing health inequalities, and facilitating choice; and social value.
- 31.6. Any criteria that may be used to disqualify a supplier must be clearly specified within the tender. Suppliers may not be disqualified except where the tender has stipulated that failure to meet one or more of the specified criteria would disqualify a tender.
- 31.7. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section and ensure that the award criteria and evaluation methodology, or key criteria and evaluation of this under the PSR, satisfies the relevant regulations. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are correctly followed. As a part of the activity in this section, close working between the Division and Officers in Services will be required.

32. Key Performance Indicators

- 32.1. Officers should develop key performance indicators (KPIs) to help assess a supplier's performance against the contract. They should be developed early as a part of specification development and can be consulted on in preliminary market engagement, thereafter, being included in procurement documentation.
- 32.2. Any KPIs developed should be relevant and proportionate to the nature, size, and complexity of the contract. When developing KPIs, Officers must consider the risks associated with setting too many KPIs or potential for ambiguity around KPIs, which may lead to confusion with suppliers, higher pricing, and other unintended outcomes.
- 32.3. Officers should refer to guidance issued by the Commercial and Procurement Division around the development of KPIs and standard contract KPIs that may be relevant. Officers should also be aware of any additional Council policies related to social value and sustainability when setting KPIs and consider applying these proportionately.
- 32.4. Where contracts are subject to the Procurement Act 2023, Section 52 of the Act requires that any contract that is awarded with an estimated total aggregate value in excess of £5m must have a minimum of three KPIs specified within them with performance against these KPIs then monitored and reported by way of Notices. However, this requirement does not apply if the contract is awarded via a Framework.
- 32.5. Officers in Services are responsible for developing KPIs, but the Commercial and Procurement Division can be engaged to provide a commercial perspective and input on KPIs for contracts that the Division will lead the procurement for.

33. Forms of Contract

- 33.1. Officers must issue an appropriate form of contract that suppliers will be required to agree to if they are awarded the contract. The Council has different sets of Standard Terms and Conditions that must be applied to contracts based on their value and the nature of what is being procured (i.e., goods and services, or works). That is unless one of the following reasons is present:
- a. The requirements of the contract are judged to carry a level of risk and complexity that requires bespoke terms and conditions.
 - b. The contract is for an internal Framework, Dynamic Market, or DPS that will require bespoke terms and conditions to be agreed as a part of it being established.
 - c. It is deemed to be more appropriate for the supplier's terms and conditions to be applied to the procurement given the nature of the requirement or the market.
 - d. The contract is a call-off from an existing Framework which includes an established form of contract.
 - e. Another form of contract is applicable and more appropriate for this procurement.
- 33.2. Officers must follow guidance provided in the Standard Terms and Conditions relevant to their procurement to ensure they include all mandatory clauses. Where any clauses need to be amended, or any of the above reasons for deviation apply, Officers must seek advice from the Commercial and Procurement Division before following any alternative approach. The Commercial and Procurement Division will then consult with and request further approval from the Legal Team.
- 33.3. If bespoke or alternative Terms and Conditions will be used, Officers must contact the Commercial and Procurement Division who will seek advice from the Legal Team.
- 33.4. Where Officers are uncertain of the Standard Terms and Conditions applicable to their contract, they should consult with the Commercial and Procurement Division. Where the Division is already involved, they will work jointly with Officers in Services, and the Legal Team, as necessary, to determine the most appropriate form of contract.

34. Invitations to Tender

- 34.1. Whether undertaking a tendering procedure under the Procurement Act 2023 or the PSR, , Officers must issue Invitations to Tender and tendering instructions to every supplier who is or has been:
- a. Invited to tender following a pre-qualification process (where such a stage has taken place).
 - b. Listed on the relevant Framework Agreement, Framework lot, Dynamic Market, or DPS and who is capable and willing to tender.
 - c. Requested the supply of tender documents under an open tendering process.
- 34.2. All Invitations to Tender must specify the goods, services, or works that are required, together with the form of contract that will apply. All suppliers invited to tender must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis. All Invitations to Tender shall also include (subject to any additional requirements under the Procurement Act 2023, the PSR, or other applicable procurement regulations):
- a. A specification that fully describes the Council's requirements.
 - b. A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer

to any other party (except where such a disclosure is made in confidence for a necessary purpose).

- c. A requirement for tenderers to fully complete all tender documents.
- d. Notification that tenders are submitted to the Council on the basis that they are prepared at the tenderer's expense and reserve the right for the Council to decide not to proceed to award without incurring any contractual liability and without becoming liable to reimburse any bidder costs or expenses.
- e. A description of the award procedure and evaluation methodology.
- f. The form of contract that the supplier will need to agree to.
- g. The deadline for any questions asked during the tender.
- h. The deadline for tender receipt.

34.3. Officers must, in writing, advise every supplier submitting a tender that:

- a. No extension of time will be allowed for the receipt of any tender, unless that is at the discretion of the Council.
- b. Tenders received after the date and time specified for receipt may be rejected.
- c. Any departure from tendering instructions may lead to the tender being rejected.
- d. the Council does not bind themselves to accept any tender or to accept any tender in full.
- e. The tender documents must be in electronic format.
- f. The tenderers signed form of tender cannot be different in detail to that provided as a part of the e-sourcing process unless it includes changes to tender documents that were made by the Officer responsible for the procurement.

34.4. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are correctly followed. As a part of the activity in this section, close working will be required between the Division and Officers in Services.

35. Post-Selection Questionnaire (SQ) and Tender Clarifications

35.1. Officers must maintain a written record and clear audit trail of all clarifications received as a part of any pre-qualification stage and as a part of any tendering procedure undertaken, detailing all contact with the tenderer, including the clarification requested and the response provided. All communications must be recorded via the Council's tendering portal or another secure electronic system (all clarifications requested, and the responses provided must be available for audit purposes).

35.2. Confirmation must be provided in the award report that paperwork submitted as a part of testing against any exclusion criteria and any Conditions of Participation has been checked and approved in line with the Council's requirements for due diligence outlined in guidance available on KNet.

35.3. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are appropriately followed.

36. Submission, Receipt and Opening of Tenders

- 36.1. Suppliers must be given an adequate period in which to prepare and submit a tender, with this time period at least satisfying the minimum timescales required in the applicable regulations and being commensurate to the complexity of the requirement.
- 36.2. When determining the appropriate timeframe, as well as the regulatory requirements, Officers should consider the need to have regard to the particular barriers facing SMEs and VCSES wishing to access contract opportunities and how to remove or reduce these barriers. This may include through considering tender response timescales that are more appropriate for SMEs and VCSEs.
- 36.3. Every tender over the applicable Public Procurement Thresholds , or which has otherwise been advertised on the Council's tendering portal must be received by a secure method using either the Council's tendering portal or another secure electronic system appropriate for the procurement.
- 36.4. Officers must have notified all suppliers of the correct tender return instructions, including the date, time, and place (e.g., the details of the Council's e-sourcing system).
- 36.5. In exceptional circumstances, the deadline for receipt of tenders may be extended with the agreement of the lead Commercial and Procurement Officer, if the extension of time will not disadvantage any tenderer.
- 36.6. No extension to the deadline can be given once the seal has been broken on the Council's tendering portal.
- 36.7. All tenders received via the Council's tendering portal must be opened by those specified as responsible on the system. All tenders must be opened at the same time.
- 36.8. No person can be involved in the opening process who:
 - a. Has not completed the Council's e-learning on procurement and contracting.
 - b. Has any pecuniary interest in any supplier used by the Council.
 - c. Is serving a probationary period.
 - d. Is the subject of disciplinary proceedings.
 - e. Has any outstanding dispute with the Council, or
 - f. Has tendered their resignation.
- 36.9. Any tender that does not comply with the Council's requirement as set out in the tender invitation should normally be excluded from consideration, with the circumstances recorded on the Council's tendering portal. Officers may, however, seek the agreement of the lead Commercial and Procurement Officer to amend the requirements in appropriate circumstances. Any relaxation of the requirements must be disclosed when seeking approval required for acceptance of a tender.
- 36.10. Officers must also check that every tender sum has been calculated by reference to the minimum specification required and stipulated in the tender. If they discover any departure from the specification, they can, subject to what is stated in the procurement documentation, treat it as grounds for disregarding the tender. The Officer must also check that every tender sum is stated net of VAT or any other Tax or Duty.
- 36.11. Officers may also disregard any tender that offers a price that is considered to be abnormally low for the performance of the contract. However, before disregarding a tender on these grounds, Officers must notify the supplier that the price is considered

to be abnormally low and give the supplier reasonable opportunity to demonstrate that it will be able to perform the contract for the price offered.

- 36.12. If a request is made to accept a late tender due to technical issues or circumstances that could not have been foreseen, Officers should ensure that any additional time granted is minimal and does not allow for covert amendments or additions to tender content.
- 36.13. Any late tenders that are not accepted, and any marked tenders, must not be opened until the award to the successful supplier has been made.
- 36.14. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are appropriately followed.

37. Evaluation

- 37.1. The evaluation of tenders should be undertaken only against the award criteria and evaluation methodology that was stipulated in the procurement documentation.
- 37.2. For procurements that are subject to the Procurement Act 2023, tenders are to be evaluated based on the assessment and identification of the 'Most Advantageous Tender' (MAT). An evaluation based on the MAT must consider both price and quality, including any social value or sustainability criteria, and does not require the tender to be awarded to the lowest priced bid alone.
- 37.3. For health care services contracts and mixed health care services contracts regulated by the PSR and using either Direct Award Process C, the Most Suitable Provider Process, or the Competitive Process, Officers must assess offers from providers taking into account the five key criteria set out in Regulation 5 of the PSR of quality and innovation; value; integration, collaboration, and service sustainability; improving access, reducing health inequalities, and facilitating choice; and social value.
- 37.4. Officers must ensure that a moderator is assigned to confirm the final scoring and to mediate any differences between the evaluation panel.
- 37.5. The evaluation panel must include at least two scorers and they must understand the purpose of the procurement, the requirements of the contract, and the evaluation criteria.
- 37.6. Each evaluator and moderator must complete a conflicts of interest form, disclosing any interest that may raise questions of impartiality. It must also be recorded how identified conflicts (actual or perceived) will be mitigated. This should be added to the conflicts of interest assessments that will have initially been developed at the outset of the procurement and that will be kept up to date throughout the process.
- 37.7. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are appropriately followed.

38. Request for Quotations

- 38.1. Where permitted to seek quotations under Section 10 of SCM, Officers must ensure that all quotations from potential suppliers are provided against the same requirement and are requested/submitted within the same window of opportunity. Where the requirement is clarified or changed through the process, all invited organisations must have the opportunity to quote against that revised requirement.
- 38.2. As a minimum, Officers are required to seek the number of quotations stipulated in the summary table in Section 10. These quotations must be competitive.
- 38.3. For audit purposes, Officers must also ensure that an electronic record of all quotations received is retained in line with the Council's record retention policy.
- 38.4. If Officers receive a lower number of quotes back from suppliers than they are required to seek according to the appropriate procurement procedure defined in Section 10 of SCM, they are not required to seek further quotes unless it is necessary to fulfill the need and achieve value for money.
- 38.5. Officers in Services are required to use their own judgement to determine if a quote reflects value for money.
- 38.6. For the avoidance of doubt, Officers cannot follow a quotation process where the estimated total aggregate value of their contracts is above the relevant Public Procurement Threshold for goods and services contracts or above £1m for works contracts, where a compliant tendering procedure must instead be followed. Additionally, when procuring health care services regulated by the PSR, Officers are required to follow a provider selection process permitted under the PSR and in line with the guidance provided by the Commercial and Procurement Division.
- 38.7. Officers in Services will typically lead the request for quotations process. However, they should refer to the advice and guidance available on KNet when undertaking this. Should Officers still have concerns about their ability to undertake this activity, they should contact the Commercial and Procurement Division at the earliest opportunity.

39. Excluding Suppliers

- 39.1. Before assessing any Conditions of Participation, tenders or quotations, and prior to determining the supplier to be awarded a contract, Officers must check whether suppliers, or their Connected Persons or Associated Persons and subcontractors, are on the Debarment List. Where it materialises that suppliers are on that list for a Mandatory Exclusion Ground, they must be excluded from the procurement process and must not be awarded the contract. In the case of their Associated Persons and subcontractors being on the list, suppliers should be provided with the opportunity to replace them.
- 39.2. Where suppliers, or their Associated Persons and subcontractors, are on the Debarment List for a Discretionary Exclusion Ground, or they otherwise self-declare that a Mandatory or Discretionary Exclusion Ground applies as part of the procurement process, Officers may exercise discretion on whether to exclude them. However, the supplier must be provided with the opportunity to 'self-clean' (i.e., to provide evidence that the circumstances are not continuing or are unlikely to re-occur and/or to replace the Associated Persons or subcontractor) before any exclusion.
- 39.3. Where the Commercial and Procurement Division is leading the procurement, the Division will ensure that the appropriate reviews, checks, and processes are undertaken, consulting with the Legal Team prior to any exclusion being made.

39.4. Where Officers in Services are leading the procurement, they are responsible for undertaking the initial review and checks in line with guidance available on KNet. However, they must engage with the Commercial and Procurement Division, who may also engage with the Council's Legal Team, prior to any exclusion taking place.

40. Intention to Award, Contract Award, Agreement and Signature

40.1. Before proceeding with the regulatory requirements around the award of contracts, as outlined between Sections 40.4 and 40.7 below, Officers must complete an Award Report and have this approved by the relevant authority as stipulated in Section 10 of SCM and the Council's Scheme of Delegation.

40.2. The Award Report should:

- a. Be 'complete' in its own right, allowing the reader to understand the process and the decision reached. Reference should be made to any additional information available in the contract file.
- b. Show the recommendation and authorisation process with appropriate signatures.

40.3. Additionally, where a contract for a consultant (as defined in Section 18 of SCM) is estimated to have a total value of £50,000 or more, the decision to award the contract must be made in consultation with the relevant Cabinet Member.

40.4. Following the above, the successful supplier/s and all unsuccessful suppliers must be notified in writing of the proposed contract award through the Council's tendering portal (or any other secure electronic system appropriately used for the procurement) and in accordance with the Procurement Act 2023, the PSR, or other applicable procurement regulations.

40.5. Officers must provide an assessment summary to each supplier who has submitted an assessed tender for contracts that are above the applicable Public Procurement Thresholds and which are not regulated by the PSR. These assessment summaries must satisfy the requirements of Section 50 of the Act and Regulation 31 of the Procurement Regulations 2024. For those contracts that are subject to the PSR, Schedule 9 of the PSR applies.

40.6. Following the provision of assessment summaries to suppliers, a Contract Award Notice must be published to the Central Digital Platform, in accordance with the applicable regulations (unless there is an exemption to this requirement under the regulations). This Notice will set out that the Council intends to enter into the contract. While the Commercial and Procurement Division will process the Notice, Officers in Services must provide the information required in a full and timely manner.

40.7. Contracts must not be awarded until first observing and concluding any mandatory standstill period required under the Procurement Act, the PSR, or other applicable procurement regulations or, where there is no legally prescribed standstill, any standstill period committed to in the Tender or Contract Award Notice. Any Challenges or Representations received during this period must be raised with the Commercial and Procurement Division, who may also consult with the Legal Team as necessary, so that they are able to provide a fair, impartial, and timely view on the most appropriate course of action.

40.8. Contracts must also not be awarded where the Finance Team has raised significant concerns regarding financial information provided as a part of the tender process.

- 40.9. All transactions must fall within the powers delegated to Officers or have been approved by a decision or resolution (in accordance with the Council's Constitution) of an authorised Cabinet Member, the Cabinet, the Leader of the Council, or one of its Committees or Sub-committees.
- 40.10. Following the above, the successful supplier/s and all unsuccessful suppliers must be notified in writing of the contract award through the Council's tendering portal or another secure electronic system and in accordance with the Procurement Act 2023, the PSR, or other applicable procurement regulations.
- 40.11. Where the award is for neither the original offer nor for all parts of the offer the written acceptance must be explicit as to what is being accepted.
- 40.12. The agreement with the successful supplier/s will generate rights and obligations on each party. To be legal, a contract must fulfil the following requirements:
- a. There must be 'offer and acceptance' (i.e., one party has made an offer that has been accepted by the other).
 - b. It must be the intention of each party to be legally bound.
 - c. There must be valuable consideration on each side (e.g., one party may deliver, or undertake to deliver services for which the other party will pay).
 - d. The parties must have the legal capacity to enter the contract.
 - e. The contract must be legal, and
 - f. The contract must not be procured by force, coercion, or undue influence, nor must it rest on fraud or misrepresentation.
- 40.13. All contracts shall be entered into on behalf of and in the name of "The Kent County Council," this being the name of the Council prescribed by Section 2 of the Local Government Act 1972. Contracts cannot be entered into by Committees, Directorates, Members or Officers because they are not the correct legal entity for contracting purposes.
- 40.14. No contract, agreement or other document shall be signed or sealed unless it gives effect to:
- a. A decision or resolution of the Leader, the Cabinet, an authorised Cabinet Member or one of its Committees or Sub-committees, or
 - b. A decision by an Officer exercising delegated responsibility.
- 40.15. Officers must ensure the contract is signed or sealed in accordance with the Constitution.
- 40.16. Where the Commercial and Procurement Division is leading the procurement, the Division will lead on the activity outlined in this section, ensuring the requirements of relevant regulations are satisfied. Where Officers in Services lead the procurement, they will be responsible for ensuring that the requirements are appropriately followed. The Legal Team must be engaged where clarity is required over the correct form of execution required.

41. Publication of Awarded Contract Details

- 41.1. Where contracts are subject to the Procurement Act 2023, Section 53 of the Act states that contracts with a total aggregate value above the applicable Public Procurement Thresholds must have a Contract Details Notice published to the Central Digital Platform within 30 days of the contract being entered into. This Notice will outline that

the Council has entered into the contract, and it must also be published on the Council's tendering portal.

- 41.2. For all other contracts under the Public Procurement Thresholds but above £30,000 (including VAT), and not regulated by the PSR, a simplified Contract Details Notice must be published on the Central Digital Platform as soon as reasonably practicable following the award. .
- 41.3. For contracts awarded under the Procurement Act 2023 with a value of more than £5m (including VAT), an appropriately redacted copy of that contract be published before the end of 90 days beginning with the day on which the contract is entered into. Officers must produce a redacted copy of the contracts and retain these alongside the original copy.
- 41.4. As a part of the tendering procedure, or when agreeing contract terms with a supplier, Officers must establish the commercially sensitive information that will be redacted. From the Council's perspective, Officers must also identify whether there is any operationally sensitive material that should be redacted.
- 41.5. Whilst material may be identified as sensitive, Officers must satisfy themselves that it is not the case that it is simply preferable to redact this information, but that it is permissible to do so under the applicable regulations.
- 41.6. As set out in Section 52 of the Procurement Act 2023, any contract that is awarded with an estimated total aggregate value in excess of £5m must also have a minimum of three KPIs specified within them, unless an exemption available under the regulations applies to the contract. The details of these KPIs must be published alongside the redacted copy of the contract, where required.
- 41.7. Where the Commercial and Procurement Division leads the procurement, they will work with suppliers to identify the commercially sensitive information to be redacted. However, where Officers in Services is leading the procurement, they will be responsible for this information. Officers in Services will always be responsible for identifying the operationally sensitive information that should be redacted.
- 41.8. The redaction of contracts will be undertaken by the Officer leading the procurement, with the support of available redaction software or, where that is not available and Officers are uncertain as to how to redact, in consultation with the Council's Information Governance Team and Legal Team, as necessary.
- 41.9. The Commercial and Procurement Division will publish the Contract Details Notice, the appropriately redacted copy of contracts, and KPI information, as required, but Officers in Services must provide the information required in a full and timely manner.

42. Contract Tiering and Contract Management Responsibilities

- 42.1. Senior Officers (Heads of Service and above) are ultimately responsible for the effective management of contracts within their area in line with guidance issued by the Commercial and Procurement Division and available on KNet.
- 42.2. All contract management activities should be delivered by either a dedicated Contract Manager or by someone with that responsibility as part of a wider role.
- 42.3. The named Contract Manager must assess the level of risk of their contract by completing a tiering exercise using the tiering tool and guidance made available by

the Commercial and Procurement Division on KNet. This exercise must be undertaken as soon as possible after it has been decided that procurement is the appropriate route to meet the requirement, with the exercise repeated prior to contract award, and at regular intervals during the management of the contract.

- 42.4. The classification assigned to the contract following the tiering exercise must be notified to the Commercial and Procurement Division and recorded on the Council's contract management system. For those contracts within the Procurement Pipeline, the Commercial and Procurement Division will be able to take a lead on this contract tiering exercise, working closely with Officers in Services as a part of the procurement process and award of the contract. The named Contract Manager will retain responsibility for undertaking the tiering exercise during contract management.
- 42.5. The Commercial and Procurement Division will take a commercial lead on all high-risk contracts identified through the tiering exercise, working alongside the named Contract Managers within Services and any named legal advisor.
- 42.6. The Head of Commercial and Procurement is responsible for ensuring that training is available to support Contract Managers across the Council regardless of the tier of the contract that they are managing. Senior Officers (Heads of Service and above) are responsible for ensuring that those managing contracts within their area are appropriately trained.

43. Managing and Reporting on Contract Performance

- 43.1. For contracts awarded under the Procurement Act 2023 with a total aggregate value of more than £5m (including VAT), Section 52 of the Act requires the assessment and publication of information about the supplier's performance against the KPIs that have been published in accordance with Section 53 of the legislation and Section 41.6 of SCM. That is unless an exemption available under the regulations applies to the contract.
- 43.2. The supplier's performance against the identified KPIs must be assessed and published at least once every twelve months. Officers must report performance in line with the standardised rating system prescribed in the Procurement Regulations 2024, with the performance information published via a Contract Performance Notice on the Central Digital Platform.
- 43.3. Under Section 71 of the Procurement Act 2023, for contracts that are subject to the legislation and for which there is no exemption in the regulations, Officers may be required to publish information, via a Contract Performance Notice on the Central Digital Platform, where a supplier breaches the contract and/or in the event of poor performance.
- 43.4. Breaches are understood as being where a supplier fails to meet one or more of the key terms that were agreed at contract award. Officers must publish information on breaches where they are sufficiently serious to the extent that they result in full or partial contract termination, the award of damages, or a settlement agreement.
- 43.5. Poor performance is understood as a failure of the supplier to deliver aspects of the contract to the Council's satisfaction, taking into account the frequency, duration, and impact on contract delivery. In the event of serious and persistent poor performance, after suppliers have been provided with the opportunity to improve their performance and failed to do so, Officers are required to publish the performance information.

- 43.6. The Commercial and Procurement Division will publish the Contract Performance Notices required, however, Officers in Services are responsible for assessing supplier performance in accordance with the guidance that is provided by the Division on KNet. However, Officers in Services must provide the Division with the information that is required for the Notices in a full and timely manner.
- 43.7. With regards to reporting performance against KPIs for contracts worth £5m or more, the Commercial and Procurement Division will work with Officers in Services to ensure that, as a part of finalising the KPIs with the supplier prior to contract award, there is alignment to the prescribed rating system and the supplier understands what is being measured, when, how, and against what system. The named Contract Manager is responsible for ensuring the agreed approach is adhered to in contract management.
- 43.8. With regards to breaches that are sufficiently serious that they meet the publication requirements (including performance against KPIs against of the prescribed rating system), regardless of the contract value, Officers in Services must contact the Commercial and Procurement Division as early as possible. The Division may also consult with the Council's Legal Team to consider the legal risks before advising Officers on the most appropriate course of action to take.
- 43.9. With regards to poor performance that meets the threshold of serious and persistent failures that, if not addressed, will require the publication of that information, Officers in Services should contact the Commercial and Procurement Division as soon as possible if it relates to a contract that is above the relevant Public Procurement Thresholds. Otherwise, Officers should refer to guidance issued by the Division and available on KNet. Where the Division is involved, they will advise on the course of action to take with the supplier to attempt to rectify the situation.

44. Contract Payments and Reporting on Payments

- 44.1. Once the right supplier has been found in line with the processes required by SCM, Officers must not make verbal commitments but raise a Purchase Order (via iProcurement or an equivalent service-specific system). This must be approved in accordance with the Council's Financial Regulations and Scheme of Delegation before it is sent to the supplier, and *before* any goods or services have been received.
- 44.2. Under Section 67(2) of the Procurement Act 2023, Officers must accept and process for payment any electronic invoice issued to the Council for payment under a contract where that invoice is in the required electronic form, and it is not disputed. Officers cannot override these terms, which are implied into contracts under the Procurement Act 2023.
- 44.3. In accordance with Section 68 of the Procurement Act 2023, Officers must ensure that any sum due to be paid under a contract by the Council is paid before the end of the period of 30 days beginning with the day on which the invoice is received, or, if later, the day on which the payment falls due in accordance with the invoice. Such payment may be made by a third party to satisfy the regulatory requirement, but only with the agreement of the payee. In accordance with Section 73 of the Act, these 30 day payment terms are also implied into subcontracts. Officers cannot restrict or override these terms, which are implied into contracts under the Procurement Act 2023.
- 44.4. Officers may agree with a supplier that a sum due under a contract is to be paid earlier than the 30 days required. However, this must be applied in accordance with the Council's supplier incentive programme, the Financial Regulations and Scheme of Delegation. As part of agreeing any such payment arrangement and mechanisms with

a supplier, Officers must consult the Commercial and Procurement Division and Finance Team.

- 44.5. Under Section 69 of the Procurement Act 2023, the Council is required to publish a Payments Compliance Notice to the Central Digital Platform, providing information on the extent to which the Council is compliant with the prompt payment provisions outlined in Section 44.3 above. This Notice must be published within 30 days of the end of the reporting periods stated in the regulations, detailing payments made under contracts and sums owed by the Council that have become payable. Reporting must be completed every six months.
- 44.6. Under Section 70 of the Procurement Act, 2023, and associated regulations, Officers must also publish specific information, via Payments Compliance Notices, in relation to any payment of more than £30,000 made by the Council under contracts subject to the legislation. This information must be published before the end of the period of 30 days beginning with the last day of the quarter in which the payment was made.
- 44.7. The Commercial and Procurement Division and the Council's Finance Team will work jointly to publish the Payment Compliance Notices required under this section of SCM. However, Officers in Services must follow guidance issued by the Division and Finance Team on KNet to ensure the payment information required for these Notices is linkable to the relevant contract and available to those teams in a complete and timely manner.

45. Contract Modifications, Extensions and Novations

- 45.1. For contracts with a total aggregate value over the Public Procurement Thresholds, Officers must engage with the Commercial and Procurement Division and obtain agreement in line with the Scheme of Delegation before any Modifications are made (whether in terms of value, duration, scope, or otherwise).
- 45.2. As well as mitigating procurement and legal risks, this is due to Contract Modifications being subject to specific requirements under the Procurement Act 2023 and PCR 2015. Under Section 75 of the Procurement Act 2023, with limited exceptions, these requirements include the need for information on changes to contracts procured under that legislation to be published to the Central Digital Platform through a Contract Change Notice. The Contract Change Notice must be published before the Modification is made. Officers must engage with the Commercial and Procurement Division as to whether the Council will observe a voluntary standstill period prior to entry into the Modification and if so, the length of the standstill period (to be a minimum of 8 working days). Officers should note that if a voluntary standstill is to be observed it must be included in the Contract Change Notice and must be complied with.
- 45.3. In some circumstances, regardless of the contract value, proposed Modifications to contracts may trigger procurement or legal risks and advice must be sought from the Commercial and Procurement Division and the Council's Legal Team where Officers believe this to be the case. For example, this may include where the proposed Modification would take the total aggregate value of the contract from a total value below the applicable Public Procurement Thresholds to a contract above that the relevant threshold.
- 45.4. Contracts that have been originally advertised with extension options can be extended subject to Officers receiving the acceptance required in the summary table included within Section 10 of SCM. However, where the total aggregate contract value is above

the applicable Public Procurement Thresholds, the Commercial and Procurement Division should be engaged before any extension of the contract.

- 45.5. In accordance with the Procurement Act 2023, a redacted copy of any modified or extended contract with a value of more than £5m must be published to the Central Digital Platform before the end of 90 days beginning with the day on which the change is signed.
- 45.6. In addition to any procurement or legal requirements, Contract Modifications or extensions may only be made if the value of the Contract Modification or extension added to the value of the original contract does not exceed the authorisation threshold in the summary table in Section 10 of SCM. Where that is the case, then the appropriate level of authorisation, which would be required considering the re-calculated total aggregate value of the contract, must instead be sought.
- 45.7. All Contract Modifications and extensions must be recorded in writing, signed, or sealed appropriately, and retained alongside the original copy of the contract on the Council's contract management system.
- 45.8. Legal advice must be taken where clarity is required over the correct form of execution required for any Contract Modifications or extensions.
- 45.9. Any extension or Modification must have an approved budget allocation for it to be made.
- 45.10. There are separate requirements for health care services contracts and mixed health care services contracts regulated by the PSR, Officers must engage with the Commercial and Procurement Division prior to making any Modification as specific legal requirements will apply, including requirements for the publication of Notices.
- 45.11. Where a contractor sells, merges, or transfers their business to another organisation, the existing contract/s that the Council has with that contractor should be novated where that is determined to be acceptable to the Council. Officers in Services must consult with the Commercial and Procurement Division and the Legal Team to review the existing contract and the requested Novation so that the acceptability to the Council can be determined. The Council's Finance Team must also be consulted with to ensure that the proposed new organisation will be financially robust.
- 45.12. Guidance issued by the Commercial and Procurement Division and available on KNet outlines the circumstances under which Contract Modifications, extensions, and Novations are permitted and the processes to be followed and the considerations to be made to ensure these represent value for money.
- 45.13. While the Commercial and Procurement Division will process the required Notices, and publish any appropriately redacted Contract Modifications or extensions, Officers in Services must provide the information required in a full and timely manner.
- 45.14. Contracts which were procured prior to 24 February 2025 (including procurements commenced before that date and call-offs from Frameworks or DPS in place at that date) continue to be subject to the PCR 2015 (or CCR 2016 as the case may be). However, where a proposed change to a pre-24 February 2025 contract does not fall within one of the permitted grounds for modification (e.g. Regulation 72(1) of PCR 2015) the modification may be deemed to be a new contract awarded under the Procurement Act 2023.

45.15. Regardless of the contract value and the procurement regulations that apply, Officers in Services will be responsible for undertaking all other activities in this section. However, as described, they should engage with the Commercial and Procurement Division, the Legal Team and Finance Team, as necessary, who will be able to advise and support in certain circumstances, particularly if there is legal risk.

46. Contract Expiry and Terminating Contracts

46.1. Regardless of the total contract value, and the regulations which apply (the Procurement Act 2023, PCR 2015, the PSR, or other procurement regulations), where it is planned to allow contracts to expire at the end date (including extensions) or on completion of deliverables, Officers must give suppliers reasonable notice of their intentions and allow suppliers an opportunity to respond. Officers must also ensure any outstanding disputes are settled and payments made before the contract ends.

46.2. For those contracts subject to the Procurement Act 2023, with limited exceptions, Section 80 of the Act requires a Contract Termination Notice to be published where a contract expires at its planned end date or on the completion of deliverables. Officers must confirm with the supplier in writing when their contract has come to an end.

46.3. Regardless of the total contract value, and the regulations that apply, where Officers believe that there may be grounds for early termination for breach of contract, poor performance, or, as the supplier, their Associated Persons or subcontractors have become excludable suppliers on Mandatory or Discretionary Exclusion Grounds, Officers must contact the Commercial and Procurement Division at the earliest possible opportunity. Officers must not proceed with any early termination until they have consulted with the Division, who may also consult with the Council's Legal Team.

46.4. For those contracts subject to the Procurement Act 2023, with limited exceptions, where any early termination takes place, Section 80 of the Act requires Officers to publish a Contract Termination Notice. Officers must also confirm with the supplier in writing when the early termination of the contract has been completed.

46.5. There are different Notice requirements for the expiry and termination for health care services contracts and mixed health care services contracts regulated by the PSR. Consequently, Officers must engage with the Division prior to the end of such contracts..

46.6. The named Contract Manager is responsible for planning appropriately for the end of contracts and ensuring the smooth conclusion and transition away from contracts. However, the Commercial and Procurement Division, in consultation with the Council's Legal Team, as necessary, will be able to advise Contract Managers with this process, particularly for contracts identified as high risk through contract tiering..

46.7. The Commercial and Procurement Division will publish the Contract Termination Notices required, and any final Contract Performance Notices, but Officers in Services must provide the Division with the information required in a full and timely manner.

47. Disposing of Surplus Goods, Materials or Assets

47.1. Disposal of surplus goods, materials, or assets (including recycling of any goods, materials, or assets that have a scrap value), must follow the processes and controls defined in guidance on KNet. This is to ensure that the Council receives proper reimbursement, where appropriate, and that disposal is cost effective.

47.2. However, advice must always be sought from the Council's Finance Team when making valuations for such surplus goods, materials, or assets, and determining the correct process to follow. The Council's Infrastructure Team should also be consulted in the case of the disposal of buildings or land.

48. Emergency Purchases

48.1. An emergency purchase that contravenes SCM is only allowed where there is an imminent risk to life or property, where there is a need to secure Council property or assets (e.g., where there has been a break-in or equipment failure, such as a flood), or there is an otherwise lawful ground provided for in the applicable regulations outlined in Section 4.6 of SCM.

48.2. For contracts subject to the Procurement Act 2023 with an estimated total aggregate value above the Public Procurement Thresholds, emergency purchases must be compliant with the relevant legal provisions (i.e., Chapter 3 and Schedule 5 of the Procurement Act 2023 or another exemption set out in the regulations). For health care services contracts and mixed health care services contracts regulated by the PSR, Officers should refer to Regulation 14 of the PSR in the first instance to justify any urgent contract awards or Modifications.

48.3. For the avoidance of doubt, the above Sections 48.1 and 48.2 do not apply to those purchases made outside of the hours of 09:00 to 17:00 by the Council's emergency duty and social care teams.

48.4. Issues arising with contracts leading to a requirement for urgent mitigating actions are not necessarily considered emergency purchases. These should be dealt with as a part of risk mitigation within the contract management process.

48.5. Any emergency purchases made must be reported to the relevant Head of Service and Service Director who will be responsible for reporting this to the Council's Head of Commercial and Procurement and Section 151 Officer.

49. Subsidies

49.1. Officers must engage with the Legal Team for advice prior to proceeding with any Subsidy and must inform the Monitoring Officer of all Subsidies. All Subsidies must be carried out in line with the Subsidy Control Act 2022 and where necessary a notice must be published to the National Subsidy Database. These notices will be published by the Legal Team and Officers must ensure they provide all necessary data.

50. Waivers

50.1. Where the application of SCM prevents or inhibits the delivery or continuity of a Service, Officers may seek a Waiver to deviate from SCM to the extent that it relates to what would be a Waiver to internal Council made rules.

50.2. A Waiver must be sought for any proposed procurement or contractual action which is not compliant with SCM. However, a Waiver cannot be given if it would contravene the Procurement Act 2023, PCR 2015, the PSR, or any other applicable legislation outlined in Section 4.6 of SCM.

50.3. Officers must obtain approval for a Waiver from the Commercial and Procurement Division, including the Head of Commercial and Procurement, as necessary, using the pro-forma and guidance available on KNet. The request should identify the

requirement that is subject to the request and the reason for which the Waiver is sought, including the proposed justification and associated risks.

50.4. For Waivers of SCM in relation to contracts with a value of £1m (excluding VAT) or more, the Head of Commercial and Procurement will also seek approval from the Council's Section 151 Officer and/or Monitoring Officer.

50.5. A Waiver can be requested retrospectively. However, this will be viewed as non-compliance with SCM and, as with all examples of non-compliance with SCM, will be reported to the Monitoring Officer and the Governance and Audit Committee.

50.6. The Commercial and Procurement Division will maintain a log of all Waivers that have been sought, rejected, and authorised.

51. Procurement Oversight and Investigation

51.1. Under the Procurement Act 2023, the compliance of contracting authorities with the Act may be investigated by a central government Procurement Review Unit (PRU). Where investigations are undertaken, the PRU will issue recommendations for improvement to the contracting authority and monitor the delivery of action plans. These investigations and the findings of the PRU may be published.

51.2. Under the PSR, where providers have raised a Representation to a contracting authority and remain unsatisfied with the response and are of the view that the PSR has not been applied correctly, they may submit a representation to an independent PSR Review Panel that sits outside of the Council. Where the Panel agrees to review the Representation, it will consider it and share advice with the provider and the authority, and this information may also be published, at least in summary form.

51.3. Should there be any investigation by the PRU or the PSR Review Panel into the Council's procurement practice, the Council's response will be jointly led by the Commercial and Procurement Division and the Legal Team. Officers must fully cooperate with those leading the Council's response, providing any required information in a full and timely manner and making themselves available to support the lead Officers and the PRU or PSR Review Panel to understand the cause of the compliance issues.

Appendix 1: Definitions

Associated Person/s – A person that the supplier is relying on in order to satisfy the Conditions of Participation under the Procurement Act 2023, but not a person who is to act as guarantor.

Challenge/s – a Challenge can be understood as when an organisation sets out its intention to bring a claim against the contracting authority in relation to its decision to award a contract. This may include when a bidder has been informed, they were unsuccessful in their bid and are challenging the decision of the Council or may include other third parties where they have standing under the relevant legislation to bring a legal challenge.

Condition/s of Participation – As defined under Section 22 of the Procurement Act 2023, condition that a supplier must satisfy if the supplier is to be awarded the contract.

Contract extension – extending the duration of a contract as allowed and defined under the terms of that contract and relevant procurement regulations.

Contract Modification – making an amendment to a contract as defined in the relevant procurement regulations.

Contract Novation – transferring the rights and obligations of one party under a contract to a third party.

Contract tiering – applying a rating to contracts based on their perceived value, risk and complexity which may be used to determine appropriate contract management measures.

Debarment List – A list, which is maintained by central government and is permitted for and detailed under Section 62 of the Procurement Act 2023, containing those suppliers who may be debarred from bidding for public contracts for a specific period.

Delegated responsibility – responsibility for authorising or carrying out Council activities that has been bestowed upon an individual or team from the executive power.

Discretionary Exclusion Ground/s – One of a number of grounds for potentially excluding a supplier as defined under Schedule 7 of the Procurement Act 2023.

Dynamic Market/s – a purchasing tool established pursuant to sections 34 to 40 of the Procurement Act 2023, comprising a list of suppliers who have met any applicable conditions for membership of the Dynamic Market and who are eligible to participate in future procurements. Membership of a Dynamic Market is not closed and new suppliers may join during its life.

Dynamic Purchasing System (DPS) – an electronic commercial purchasing tool for commonly used purchases the characteristics of which, as generally available on the market, meet their requirements and under which new suppliers are able to join at any time, subject to the rules in Regulation 34 of the PCR 2015 (for DPS’).

Framework or Framework Agreement – an agreement between one of more contracting authorities and one of more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period.

Integrity – having strong moral principles, honesty, and decency.

Key Supplier – any individual, group or organisation that delivers contracts on behalf of the Council that are deemed to be strategically important which may be defined through supplier segmentation, by contract tiering, or any Council strategy.

Mandatory Exclusion Ground/s – One of a number of grounds for potentially excluding a supplier as defined under Schedule 6 of the Procurement Act 2023.

National Procurement Policy Statement (NPPS) – The NPPS sets out the strategic priorities for public procurement, which contracting authorities must have regard to, with information and guidance on how contracting authorities can support their delivery.

Non-compliance – purposefully or unknowingly breaching any of the rules or responsibilities stated in SCM.

Non-statutory guidance – sets out what the Council can and should do to implement best practice procedures.

Notices – A Notice (sometimes referred to as a ‘transparency notice’) of procurement or contracting activity that the Council is required to publish to Central Digital Platform (or such other digital platform that as required by law) according to the Procurement Act 2023, PCR 2015, the PSR, or other applicable procurement regulations.

Open Framework – A scheme of Frameworks that provides for the award of successive Frameworks on substantially the same terms, as defined and permitted under Section 49 of the Procurement Act 2023.

Public Procurement Threshold for goods and services contracts – As of 1 January 2024, this value is £179,087 (exclusive of VAT) and £214,904 (inclusive of VAT).

Public Procurement Threshold for works contracts – As of 1 January 2024, this value is £4,477,174 (exclusive of VAT) and £5,372,609 (inclusive of VAT).

Procurement – the act of engaging and contracting with a third party to source or deliver goods, services and works projects on behalf of the Council.

Procurement Pipeline – a forward look of potential commercial activity for the Council.

Representation/s – a Representation, a term more associated with procurements and contracting subject to the PSR, can be understood as being when a provider requests the contracting authority reviews their decision. This may include a decision to award or to modify a contract.

Small and Medium Sized Enterprise (SME) – Suppliers that have fewer than 250 staff and have a turnover of an amount less than or equal to £44m, or a balance sheet total of an amount less than or equal to £38m.

Sourcing – the act of obtaining goods, services and works through procurement or other applicable activities such as using existing contracts or Frameworks.

Spending the Council’s Money – the Council’s mandatory rules and processes for spending money on behalf of the Council.

Statutory guidance – sets out what the Council must to do to comply with the law.

Subsidy/ies - A subsidy or government incentive is a form of financial aid or support extended to an economic sector generally with the aim of promoting economic and social policy.

Supplier/s – any individual, group or organisation that is contracted to supply or deliver goods, services and works on behalf of the Council.

Total aggregate contract value - the estimated total aggregate value payable in pounds sterling inclusive of Value Added Tax (VAT) over the entire contract period, including any extensions of the contract and including any sums paid by third parties.

Value for money – most advantageous combination of cost and quality that is affordable for the Council and will fulfill the requirement suitably.

Voluntary, Community and Social Enterprise (VCSE) – An incorporated voluntary, community, or social enterprise organisation which serves communities, and which is either a charity, Community Interested Company, or Community Benefit Society.

Waiver - a request to deviate from the rules of SCM.

By: Peter Oakford, Deputy Leader and Cabinet Member for
Finance, Corporate & Traded Services
John Betts – Interim Corporate Director Finance

To: Governance and Audit Committee – 9 October 2024

Subject: **Audit Risk Assessment**

Classification: Unrestricted

Summary: The attached questionnaire from Grant Thornton summarises management's responses to questions on the Council's processes in relation to general enquiries of management, fraud, law and regulations, going concern, related parties and accounting estimate.

FOR DECISION

Introduction

1. Under International Standards on Auditing (UK and Ireland) (ISA(UK&I)) auditors have specific responsibilities to communicate with the Governance and Audit Committee (G&AC). ISA (UK&I) emphasises the importance of two way communication between the auditor and the Governance & Audit Committee and also specify matters that should be communicated.
2. This two way communication enables the auditor to obtain information relevant to the audit from the committee. In turn, it supports the Committee in fulfilling its responsibilities in relation to the financial reporting process.
3. Usually the questionnaire is completed as part of the audit planning process. However, due to delays in finalising the Statement of Accounts (the reasons for which are addressed elsewhere on the agenda today and continue to be a nationwide challenge), they are on the agenda today.

Purpose of Report

4. The External Auditors (Grant Thornton) are required to obtain an understanding of management processes and the G&AC oversight of these processes, as part of their overall risk assessment procedures. This covers the following areas:
 - General Enquiries of Management
 - Fraud
 - Laws and regulations
 - Related Parties
 - Going Concern

- Accounting Estimates
5. The attached report includes a series of questions on each of these areas and the response we have provided to Grant Thornton. Although incorporated into a Grant Thornton report and layout, these are responses are from KCC management.
 6. The G&AC should consider these management responses in terms of its understanding and provide any comments it wishes to make.

Recommendation

7. Members are asked to consider and agree the management responses provided to Grant Thornton.

Report authors:

Joe McKay
Acting Chief Accountant

John Betts
Interim Corporate Director - Finance

Informing the audit risk assessment for Kent County Council 2023/24

Page 189

Name: Parris Williams
Title: Director
Tel: +44 (0)20 7383 5100
Email: parris.williams@uk.gt.com



The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect your business or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

Table of Contents

Section	Page
Purpose	4
General Enquiries of Management	6
Fraud	9
Fraud Risk Assessment	10
Laws and Regulations	15
Impact of Laws and Regulations	16
Related Parties	18
Going Concern	20
Accounting Estimates	22
Accounting Estimates - General Enquiries of Management	23
Appendix A – Accounting Estimates	26

Purpose

The purpose of this report is to contribute towards the effective two-way communication between Kent County Council's external auditors and Kent County Council's Governance and Audit Committee, as 'those charged with governance'. The report covers some important areas of the auditor risk assessment where we are required to make inquiries of the Governance and Audit Committee under auditing standards.

Background

Under International Standards on Auditing (UK), (ISA(UK)) auditors have specific responsibilities to communicate with the Governance and Audit Committee. ISA(UK) emphasise the importance of two-way communication between the auditor and the Governance and Audit Committee and also specify matters that should be communicated.

This two-way communication assists both the auditor and the Governance and Audit Committee in understanding matters relating to the audit and developing a constructive working relationship. It also enables the auditor to obtain information relevant to the audit from the Governance and Audit Committee and supports the Governance and Audit Committee in fulfilling its responsibilities in relation to the financial reporting process.

Communication

As part of our risk assessment procedures, we are required to obtain an understanding of management processes and the Council's oversight of the following areas:

- General Enquiries of Management
- Fraud,
- Laws and Regulations,
- Related Parties,
- Going Concern, and
- Accounting Estimates.

Purpose

This report includes a series of questions on each of these areas and the response we have received from Kent County Council's management. The Governance and Audit Committee should consider whether these responses are consistent with its understanding and whether there are any further comments it wishes to make.

General Enquiries of Management

Question	Management response
<p>1. What do you regard as the key events or issues that will have a significant impact on the financial statements for 2023/24?</p>	<p>The High Needs deficit remains the single biggest financial risk. The Council is now part of the safety valve programme, which includes a recovery plan that sees the Dedicated School Grant (DSG) deficit continuing to increase between 2022-23 to 2025-26, before stabilising to the level of the grant in 2026-27. The accumulated deficit is forecast to peak at £235m before falling in 2027-28 and is cleared over the six years of the plan, with £224m contributions from DfE and KCC. The risk remains that if the in-year deficit does not reduce as planned, the DfE contributions could be withheld, which would leave the Council carrying a higher than planned deficit, requiring a larger contribution from General Fund, if the current override is removed.</p> <p>The second largest risk is the scale of savings needed to balance 2023-24 and planned in 2024-25 and over the medium term. The Council's budget recovery strategy "Securing Kent's Future" (SKF) identified significant investment in front-line services to right-size budgets for previous year's and forecast current year pressures. This is due primarily to demand and inflation in adult social care, children's social care and home to schools.. SKF acknowledges that putting spending on these services onto a sustainable basis will take time to turn around through transformation programmes. These controls have had some impact in reducing the final 2023-24 outturn but nonetheless the council ended 2023-24 with an on overall overspend (with significant overspends in adults and children's) requiring a drawdown from budget stabilisation reserves.</p> <p>Capital spending also continues to face above normal inflationary pressures often exacerbated by lack of inflation uplifts in departmental grants. This combination results in real terms reductions in capital spending and alternative sources of capital funding from developer contributions/capital receipts have been affected by slowdown in activity due to rise in interest rates.</p>
<p>2. Have you considered the appropriateness of the accounting policies adopted by Kent County Council? Have there been any events or transactions that may cause you to change or adopt new accounting policies? If so, what are they?</p>	<p>Yes</p> <p>No</p>

General Enquiries of Management

Question	Management response
2. Have you considered the appropriateness of the accounting policies adopted by Kent County Council? Have there been any events or transactions that may cause you to change or adopt new accounting policies? If so, what are they?	Yes No

General Enquiries of Management

Question	Management response
<p>3. Is there any use of financial instruments, including derivatives? If so, please explain</p> <p>Page 196</p>	<p>Yes, but no derivatives. Details of our financial instruments are included in the Statement of Accounts. See Note 38 of the Statement of Accounts</p>
<p>4. Are you aware of any significant transaction outside the normal course of business? If so, what are they?</p>	<p>No</p>

General Enquiries of Management

Question	Management response
5. Are you aware of any changes in circumstances that would lead to impairment of non-current assets? If so, what are they?	No
6. Are you aware of any guarantee contracts? If so, please provide further details	No
7. Are you aware of the existence of loss contingencies and/or un-asserted claims that may affect the financial statements? If so, please provide further details	No, Not aware of any loss contingencies or unasserted claims that may affect the financial statements.
8. Other than in house solicitors, can you provide details of those solicitors utilised by Kent County Council during the year. Please indicate where they are working on open litigation or contingencies from prior years?	Invicta Law, the Council's retained (and owned) legal provider. Bevan Brittan LLP, Browne Jacobsen, Burgess Salmon, Anthony Collins, Ashfords LLP, Bates Wells, Dentons, Freeths, Kennedys, Pinsent Masons, Taylor Rose, Trowers, Weightmans Bird and Bird. No significant or material litigation from prior years.

General Enquiries of Management

Question	Management response
<p>9. Have any of the Kent County Council's service providers reported any items of fraud, non-compliance with laws and regulations or uncorrected misstatements which would affect the financial statements? If so, please provide further details</p>	<p>No – some low level fraud has been reported but it would not affect the financial statements.</p> <p>No – none from a legal perspective that would materially affect the financial statements.</p>
<p>10. Can you provide details of other advisors consulted during the year and the issue on which they were consulted?</p>	<p>Newton Europe – to review the robustness of the savings and growth plans for 2023-24 and longer term savings and cost reduction measures and to work with Children's Services on SEND.</p> <p>PWC – a new Capital Reporting Solution to significantly enhance the monitoring and reporting of the Council's 10 year capital programme</p> <p>Itelligenti – to develop revenue and capital financial monitoring reporting solutions using the latest technology to enable more automation and a move away from manual spreadsheet based reporting</p> <p>Bettergov – to provide support with Mosaic changes/development.</p> <p>MCL – to provide consultancy/advice to Public Transport on concessionary fare re-imburement and support for the delivery of the Bus Service Improvement Plan, including establishing the Bus Enhanced Partnership</p> <p>Highways regularly use a number of professional advisors to support their work in delivering major schemes. SLC Rail have been commissioned to support on the implementation Agreement and contractual matters for Thanet Parkway (Network Rail).</p>
<p>11. Have you considered and identified assets for which expected credit loss provisions may be required under IFRS 9, such as debtors (including loans) and investments? If so, please provide further details</p>	<p>Expected credit losses have been considered. Trade debtors will factor in expected credit losses as set out in our bad debt policy.</p>

Fraud

Matters in relation to fraud

ISA (UK) 240 covers auditors responsibilities relating to fraud in an audit of financial statements.

The primary responsibility to prevent and detect fraud rests with both the Governance and Audit Committee and management. Management, with the oversight of the Governance and Audit Committee, needs to ensure a strong emphasis on fraud prevention and deterrence and encourage a culture of honest and ethical behaviour. As part of its oversight, the Governance and Audit Committee should consider the potential for override of controls and inappropriate influence over the financial reporting process.

As Kent County Council's external auditor, we are responsible for obtaining reasonable assurance that the financial statements are free from material misstatement due to fraud or error. We are required to maintain professional scepticism throughout the audit, considering the potential for management override of controls.

As part of our audit risk assessment procedures we are required to consider risks of fraud. This includes considering the arrangements management has put in place with regard to fraud risks including:

- assessment that the financial statements could be materially misstated due to fraud,
- process for identifying and responding to risks of fraud, including any identified specific risks,
- communication with the Governance and Audit Committee regarding its processes for identifying and responding to risks of fraud, and
- communication to employees regarding business practices and ethical behaviour.

We need to understand how the Governance and Audit Committee oversees the above processes. We are also required to make inquiries of both management and the Governance and Audit Committee as to their knowledge of any actual, suspected or alleged fraud. These areas have been set out in the fraud risk assessment questions below together with responses from Kent County Council's management.

Fraud risk assessment

Question	Management response
<p>1. Has Kent County Council assessed the risk of material misstatement in the financial statements due to fraud?</p> <p>How has the process of identifying and responding to the risk of fraud been undertaken and what are the results of this process?</p> <p>How do the Council's risk management processes link to financial reporting?</p>	<p>Yes and the risk is considered to be minimal. Controls are in place through the budget setting, budget monitoring and year-end analytical review. We now have details on a business intelligence dashboard of cost centres per budget manager, key service lines and manager analysis. This enables an easily accessible view at a detailed level, allowing us to target and challenge any budget manager where we perceive there may be anomalies. We also have a regular balance sheet management review. Variances are explained and validated. Significant changes from previous year's spend are also identified and explained. Spending controls during 2023-24 and challenge against requisitions will also have minimised the threat of fraud</p> <p>Fraud risks have been developed through the analysis of fraud referrals, both within the organisation and through engagement with other public/ private sector organisations and publications such as fighting fraud locally. This has resulted in an overall risk of fraud included in the corporate risk register (CRR0049). There is a specific risk within Libraries, Registration and Archive (LRA0008) on internal fraud.</p> <p>Specific risks around employee pay and expenses (PC0004) and procurement fraud (SC006) have been identified and relevant controls have been put in place to help mitigate against the risk event. In addition to the above, work has progressed with engaging with Divisional Management Teams in embedding fraud risk assessments and the mapping out of controls to mitigate the risk. There are still 6 divisions left to work with to complete this exercise. Once done, the risk assessments will form part of the relationship management meetings between the Risk team and Divisions.</p> <p>In addition work continues with Business Units to map out their fraud risks at a service level.</p>
<p>2. What have you determined to be the classes of accounts, transactions and disclosures most at risk to fraud?</p>	<p>Mandate Fraud continues to be a risk for all organisations via email hacks, financial assessment in respect of personal budgets, use of direct payments, imprest accounts, IR35 Compliance, procurement fraud have been considered as most at risk to fraud, however these have not resulted in values of fraud or error that would be material to the accounts. In addition, Blue Badge fraud remains the highest referral fraud type with reputational damage being the main risk as opposed to financial risk.</p>

Question	Management response
<p>3. Are you aware of any instances of actual, suspected or alleged fraud, errors or other irregularities either within Kent County Council as a whole, or within specific departments since 1 April 2023? If so, please provide details.</p>	<p>We are aware of instances of actual, suspected or alleged fraud, errors or other irregularities these are covered in the Counter Fraud Progress Reports presented to Governance and Audit (G & A) Committee - Browse meetings - Governance and Audit Committee (kent.gov.uk)</p> <p>Counter Fraud Progress reports were presented to G&A committee in October 2023, February 2024 and May 2024.</p> <p>Key risk areas have been around Adult Social Care – Procurement, where there have been actual losses as a result of payments continuing after a person has passed away, where a person wasn’t receiving care and where a person’s planned absence wasn’t charged for. There was also a case of overpayments due to a difference between a purchase order and care plan. None of these were over £100k, so would have no material impact on the accounts. There is a potential floss of up to £140k, following a novation of contracts to another provider, which is being followed up for recovery.</p> <p>The other key area is around direct payments, where there have been 12 irregularities identified, resulting in actual loss of £28k and one case received in 2022/23 but progressed in 2023/24 that has identified an actual loss of £18k where a third party continued to claim a direct payment for a deceased relative.</p> <p>Also identified in 2022/23, but reported to G&A in 2023/24 was an irregularity where an additional £1.3m of additional tax liability was paid to HMRC due to no or incorrect CEST assessments being completed.</p> <p>Lower levels of fraud within Blue Badges continue to be received.</p>

Page 201

Question	Management response
4. As a management team, how do you communicate risk issues (including fraud) to those charged with governance?	<p>A Counter Fraud Report is provided to the Governance and Audit committee which is also provided for information to the Corporate Management Team.</p> <p>There is a corporate risk register that goes to G&A Committee and Corporate Management Team (CMT) on a regular basis.</p> <p>The Head of Internal Audit & Counter Fraud regularly liaises with the Council's Statutory Officers to discuss risks.</p> <p>Internal Audit & Counter Fraud colleagues regularly liaise with the Council's Corporate Risk Management Team.</p>

Fraud risk assessment

Question	Management response
<p>5. Have you identified any specific fraud risks? If so, please provide details.</p>	<p>Fraud related to Adult Social Care placements is a specific risk area, due to the high volumes of transactions going through and the nature of some of those transactions (for example, with direct payments).</p>
<p>Do you have any concerns there are areas that are at risk of fraud?</p>	<p>As highlighted above, misuse of Blude Badges continues to be a concern.</p>
<p>Are there particular locations within Kent County Council where fraud is more likely to occur?</p>	<p>As already highlighted from Question 1, there is a specific risk within Libraries, Registration and Archive (highlighted in the directorate risk register as LRA0008) on internal fraud.</p>
<p>What processes do Kent County Council have in place to identify and respond to risks of fraud?</p>	<p>Given the size and complexity of KCC, with a significant number of payments going to a wide range of suppliers and other public bodies, whom have a legitimate need to amend their bank details, that this process is used to submit a fraudulent change of bank details (mandate fraud) to KCC in order to divert funds.</p>
<p>What processes do Kent County Council have in place to identify and respond to risks of fraud?</p>	<p>Through the report to G&A committee, analysis of the fraud types (existing and emerging), volumes and amount is derived from the reporting for financial irregularities by services to the Counter Fraud Team This processes is a requirement of the financial regulations of the Council.</p> <p>The Anti Fraud and Corruption Strategy has been updated to reference any new initiatives, policies or strategies to be risk assessed for fraud by a Counter Fraud Specialist. This requirement is still being embedded within the organisation and is raised through relationship management meetings.</p>

Fraud risk assessment

Question	Management response
<p>7. How do you assess the overall control environment for Kent County Council, including:</p> <ul style="list-style-type: none"> the existence of internal controls, including segregation of duties; and the process for reviewing the effectiveness the system of internal control? <p>If internal controls are not in place or not effective where are the risk areas and what mitigating actions have been taken?</p> <p>What other controls are in place to help prevent, deter or detect fraud?</p> <p>Are there any areas where there is a potential for override of controls or inappropriate influence over the financial reporting process (for example because of undue pressure to achieve financial targets)? If so, please provide details</p>	<p>Each year an annual audit plan is developed that takes into account the risks of the council, including fraud risks. Where there is a significant risk (such as imprest accounts) this has prompted a full review to assess the effectiveness of internal controls.</p> <p>Standard fraud awareness sessions have been delivered, in particular to:</p> <ul style="list-style-type: none"> Commissioning Officers on fraud risks within the commissioning life cycle. Infrastructure on fraud and bribery risks. School Finance officers, senior leaders and governors. <p>In addition, a school anti-fraud policy has been updated to include a fraud risk assessment for the schools to complete and embed into their risk management framework.</p> <p>Participation in the NFI helps detect fraud and error within the council's systems.</p> <p>The performance of Budget Managers against budget is a factor in their annual performance assessment, so inappropriate influence over the financial reporting process is a potential risk . However, this is a relatively minor risk and is mitigated by regular budget monitoring, schemes of delegation and year end processes. Reminders that evidence to support all transactions has been issued to finance teams. Key decisions and other significant decisions are reviewed to establish and set out the financial implications and these are provided by the finance team. The implementation of spending controls and challenge against requisitions will also help to mitigate this.</p>

Question	Management response
8. Are there any areas where there is potential for misreporting? If so, please provide details	Reporting of irregularities has improved during 2023/24 due to greater awareness of the need to report irregularities to internal audit, this is evidenced through the counter fraud progress report where a significant increase in referrals have been received. However, there is still a continued need to remind managers of the need to report financial irregularities to Internal Audit.

Fraud risk assessment

Question	Management response
<p>9. How does Kent County Council communicate and encourage ethical behaviours and business processes of its staff and contractors?</p> <p>How do you encourage staff to report their concerns about fraud?</p> <p>What concerns are staff expected to report about fraud? Have any significant issues been reported? If so, please provide details</p>	<p>KCC communicates and encourages ethical behaviour and business processes of its staff and contractors in a number of ways. The KCC standards include the Nolan principles and KCC's values which set out the expected behaviours, the staff code of conduct and the Anti-Fraud and Corruption Strategy and Anti Bribery Policy. There is e-learning provided to support the prevention and detection of fraud and a whistle blowing policy which encourages staff to report their concerns, the Counter Fraud Team is included in this policy as an alternative to raising concerns with management.</p> <p>Whistleblowing is included in Fraud Awareness presentations.</p> <p>Staff are expected to raise all financial irregularities with Internal Audit. Significant issues that have been raised have resulted in audits being conducted.</p>
<p>10. From a fraud and corruption perspective, what are considered to be high-risk posts?</p> <p>How are the risks relating to these posts identified, assessed and managed?</p>	<p>Currently Senior Officers (KR16 and above) have delegated authority to spend up to £1m, these posts are considered high risk due to no separation of duty being required, however in practice, Heads of Service will present business cases to support Spending the Council's Money (which is the Council's Contract Standing Orders) and this has been reviewed and updated I 2023/24..</p> <p>There is an enhanced vetting process in place when recruiting into a KR16 and above, this ensures that not only the information provided on the application form is correct, but also ensures there are no financial or reputational risks to the authority.</p> <p>Furthermore, through the development of the fraud, bribery and corruption risk assessment, further areas of high risk will be identified with relevant controls being identified to mitigate the risk, for example regular reminders on declarations of interest, budget monitoring, separation of duties, rotation of duties.</p>

Question	Management response
<p data-bbox="112 186 664 270">11. Are you aware of any related party relationships or transactions that could give rise to instances of fraud? If so, please provide details</p> <p data-bbox="112 303 664 387">How do you mitigate the risks associated with fraud related to related party relationships and transactions?</p>	<p data-bbox="695 186 1773 298">As part of the NFI exercise we are alerted to potential conflicts of interest, these are investigated and where needed a formal investigation is progressed. The matches have resulted in the need to update declarations of interests for members and officers who sit on charity boards as part of their position within KCC.</p> <p data-bbox="695 330 1808 475">Regular reminders of declarations are issued. As part of the supplier set up process requestors are required to confirm there is no conflict of interest when setting up a supplier. It also requires the budget holder to authorise the setting up of the supplier, as well as authorisation from the commissioning category manager. In addition, reminders on whistle blowing procedures are issued to all staff to prompt any concerns being raised with either management or Internal Audit.</p> <p data-bbox="695 507 1808 587">In addition, the NFI produces a match to identify staff/ members involvement with companies which is reviewed and investigated. No related party relationships and transactions have been identified through the NFI to date or reported to Internal Audit & Counter Fraud by management.</p>

Fraud risk assessment

Question	Management response
<p>12. What arrangements are in place to report fraud issues and risks to the Governance and Audit Committee?</p> <p>How does the Governance and Audit Committee exercise oversight over management's processes for identifying and responding to risks of fraud and breaches of internal control?</p> <p>What has been the outcome of these arrangements so far this year?</p>	<p>A comprehensive Counter Fraud Report is presented to the Governance and Audit Report at each meeting. This includes issues and risks identified during the reported period. The Committee makes use of the exempt part of the Committee meeting, where needed, to consider in more detail fraud issues and risks.</p> <p>Governance and Audit Committee has the ability to call in any manager to question their arrangements in addressing the risks of fraud.</p> <p>Governance and Audit Committee have considered the reports and relevant enquiries have been made by members of the committee on fraud figures and trends as well as individual cases.</p> <p>Relevant policies are updated yearly or two yearly, this include Anti Fraud and Corruption Strategy, Anti Bribery Policy, Anti Money Laundering Policies and Whistleblowing.</p>
<p>13. Are you aware of any whistle blowing potential or complaints by potential whistle blowers? If so, what has been your response?</p>	<p>Yes, we have had a number of concerns raised through the whistle blowing hotline, depending on the nature of the concern these have either been addressed through management engagement or through an investigation by a member of the Counter Fraud Team.</p>
<p>14. Have any reports been made under the Bribery Act? If so, please provide details</p>	<p>No there have been no reports been made under the Bribery Act</p>

Law and regulations

Matters in relation to laws and regulations

ISA (UK) 250 requires us to consider the impact of laws and regulations in an audit of the financial statements.

Management, with the oversight of the Governance and Audit Committee, is responsible for ensuring that Kent County Council's operations are conducted in accordance with laws and regulations, including those that determine amounts in the financial statements.

As auditor, we are responsible for obtaining reasonable assurance that the financial statements are free from material misstatement due to fraud or error, taking into account the appropriate legal and regulatory framework. As part of our risk assessment procedures we are required to make inquiries of management and the Governance and Audit Committee as to whether the body is in compliance with laws and regulations. Where we become aware of non-compliance or suspected non-compliance we need to gain an understanding of the non-compliance and the possible effect on the financial statements.

Risk assessment questions have been set out below together with responses from management.

2019

Impact of laws and regulations

Question	Management response
<p>1. How does management gain assurance that all relevant laws and regulations have been complied with?</p> <p>What arrangements does Kent County Council have in place to prevent and detect non-compliance with laws and regulations?</p> <p>Are you aware of any changes to the Council's regulatory environment that may have a significant impact on the Council's financial statements?</p>	<p>In addition to audit activity, contractual provisions are in place with legal services providers to escalate issues of legal compliance to the Monitoring Officer. Provisions on compliance with laws and regulations are included in the Council's Operating Standards (which have been reviewed in the past six months) and the Constitution which are dip sampled through meeting attendance and decision review. Regular items and discussions on governance are held with CMT.</p> <p>The Monitoring Officer is a Member of CMT and Corporate Board, line managed by the Chief Executive. The Annual Governance Statement includes questions on compliance that are reviewed and tested throughout the year, with a very transparent state of affairs.</p> <p>The Monitoring Officer now also meets weekly with the Leader and Chief Executive to discuss activity and early areas of legal risk and non compliance. The Monitoring Officer, Chief Executive, Section 51 Officer and Head of Internal Audit also meet monthly to triage, triangulate and discuss risks arising.</p> <p>The Monitoring Officer seeks assurance on relevant items and has issued Section 5 reports in previous financial years, where appropriate. The Monitoring Officer is very active through a detailed and tested Annual Governance Process.</p> <p>There are no material changes to the council's regulatory environment likely to have a significant impact on the financial statement but there are material upgrades planned to the processes of the Council and the behaviours expected in line with the AGS assurances and plans. The Council's operating environment continues to be challenging in line with rest of local government.</p>

Impact of laws and regulations

Question	Management response
<p>2. How is the Governance and Audit Committee provided with assurance that all relevant laws and regulations have been complied with?</p>	<p>Through the provision of an annual standalone report on the Annual Governance Statement. This year, Members will also meet as a focus group to inform the AGS finalisation and deep dive into key issues around statutory compliance.</p> <p>The AGS includes a specific report from the Monitoring Officer detailing concerns around statutory compliance that have arisen within year.</p> <p>Similarly, regular reporting on progress against the actions identified is brought before the Committee mid-year. In each calendar year therefore, there are also reports relating to this in addition to activity on items like the Code of Corporate Governance etc.</p>
<p>3. Have there been any instances of non-compliance or suspected non-compliance with laws and regulation since 1 April 2023 with an on-going impact on the 2023/24 financial statements? If so, please provide details</p>	<p>For noting, the Council's Monitoring Officer holds open a Section 5 report within the relevant period relating to the Council's inability to meet statutory duties in relation to unaccompanied asylum seeking children but this does not have an ongoing impact on the 2023/24 financial statements, save for as expressly referred. Similarly, the AGS notes areas of concern around statutory compliance which fall short of a Section 5 report.</p>
<p>4. Are there any actual or potential litigation or claims that would affect the financial statements? If so, please provide details</p>	<p>No material claims received at the time of completion.</p>
<p>5. What arrangements does Kent County Council have in place to identify, evaluate and account for litigation or claims?</p>	<p>The Chief Accountant liaises with Legal Services team to capture all potential claims handled and managed by Governance, Law and Democracy. Legal estimate the potential 'loss' as best they can. This is then reported to G&A Committee through the Statement of Accounts.</p> <p>Insurance claims are handled through the insurance team in conjunction with the insurer and panel solicitors.</p>
<p>6. Have there been any reports from other regulatory bodies, such as HM Revenues and Customs, which indicate non-compliance? If so, please provide details</p>	<p>There is one ongoing query with HMRC regarding the charging of VAT in prison libraries, where VAT hasn't been charged. This is an area that HMRC are challenging with various local authorities.</p>

Related Parties

Matters in relation to Related Parties

Kent County Council are required to disclose transactions with bodies/individuals that would be classed as related parties. These may include:

- bodies that directly, or indirectly through one or more intermediaries, control, or are controlled by Kent County Council;
- associates;
- joint ventures;
- a body that has an interest in the authority that gives it significant influence over the Council;
- key management personnel, and close members of the family of key management personnel, and
- post-employment benefit plans (pension fund) for the benefit of employees of the Council, or of any body that is a related party of the Council.

A disclosure is required if a transaction (or series of transactions) is material on either side, i.e. if a transaction is immaterial from the [type of body]'s perspective but material from a related party viewpoint then the Council must disclose it.

ISA (UK) 550 requires us to review your procedures for identifying related party transactions and obtain an understanding of the controls that you have established to identify such transactions. We will also carry out testing to ensure the related party transaction disclosures you make in the financial statements are complete and accurate.

Related Parties

Question	Management response
<p>1. Have there been any changes in the related parties including those disclosed in Kent County Council's 2023/24 financial statements?</p> <p>If so please summarise:</p> <ul style="list-style-type: none"> the nature of the relationship between these related parties and Kent County Council whether Kent County Council has entered into or plans to enter into any transactions with these related parties the type and purpose of these transactions 	No
<p>2. What controls does Kent County Council have in place to identify, account for and disclose related party transactions and relationships?</p>	Members and Senior Officers are required to complete declarations of interest which are reviewed during the year end closure process. This is now done through Oracle employee self-service. Information is also collected via the early return process.
<p>3. What controls are in place to authorise and approve significant transactions and arrangements with related parties?</p>	Normal procurement and payment authorisation rules.
<p>4. What controls are in place to authorise and approve significant transactions outside of the normal course of business?</p>	The Financial Regulations and the delegation matrix sets out the responsibilities that are to be followed. There are 'how to buy' and other guidance on procurement processes available on the Intranet. All payments and procurement follow the same rules.

Going Concern

Matters in relation to Going Concern

The audit approach for going concern is based on the requirements of ISA (UK) 570, as interpreted by Practice Note 10: Audit of financial statements and regularity of public sector bodies in the United Kingdom (Revised 2020). It also takes into account the National Audit Office's Supplementary Guidance Note (SGN) 01: Going Concern – Auditors' responsibilities for local public bodies.

Practice Note 10 confirms that in many (but not all) public sector bodies, the use of the going concern basis of accounting is not a matter of significant focus of the auditor's time and resources because the applicable financial reporting frameworks envisage that the going concern basis of accounting will apply where the body's services will continue to be delivered by the public sector. In such cases, a material uncertainty related to going concern is unlikely to exist.

For this reason, a straightforward and standardised approach to compliance with ISA (UK) 570 will often be appropriate for public sector bodies. This will be a proportionate approach to going concern based on the body's circumstances and the applicable financial reporting framework. In line with Practice Note 10, the auditor's assessment of going concern should take account of the statutory nature of the body and the fact that the financial reporting framework for local government bodies presume going concern in the event of anticipated continuation of provision of the services provided by the body. Therefore, the public sector auditor applies a 'continued provision of service approach', unless there is clear evidence to the contrary. This would also apply even where those services are planned to transfer to another body, as in such circumstances, the underlying services will continue.

For many public sector bodies, the financial sustainability of the body and the services it provides are more likely to be of significant public interest than the application of the going concern basis of accounting. Financial sustainability is a key component of value for money work and it is through such work that it will be considered.

Going Concern

Question	Management response
<p>1. What processes and controls does management have in place to identify events and / or conditions which may indicate that the statutory services being provided by Kent County Council will no longer continue?</p>	<p>The main processes/controls that the Council currently operates include the following:</p> <ul style="list-style-type: none"> • Annual budget setting and medium-term plan setting out spending plans. Although the budget does not narrowly distinguish spending between statutory and discretionary services, there is the ability to show this split, if necessary, to identify changes in statutory spend. The budget is also mapped to Securing Kent's Future objectives including: <ul style="list-style-type: none"> • spending on adult social care, children's social care and home to school transport (objective 2) • spending on discretionary and statutory services where local members have most scope for local policy choices (objective 3) • spending on support functions (objective 4) • spending on other (largely statutory) services <p>The changes in spending across these four categories is mapped across all three years of the MTFP and in particular the rising proportion of overall spending covered by the first category increasing from 66% in 2023-24 to 71% in 2026-27</p> <ul style="list-style-type: none"> • Regular Budget Monitoring based on budget manager's forecasts. This is supported by separate monitoring of key savings through Strategic Reset Programme (SRP) Board. • Performance Monitoring based on a RAG rating of 37 Key Performance Indicators where green identifies where performance is at or above target, amber where performance is below target but above a floor level and red where performance is below the floor level
<p>2. Are management aware of any factors which may mean for Kent County Council that either statutory services will no longer be provided or that funding for statutory services will be discontinued? If so, what are they?</p>	<p>Potentially inadequate funding and/or unaffordable changes in costs or demand. Again, these would be identified through budget planning and budget/performance management and addressed accordingly.</p>

Going Concern

Question	Management response
<p>3. With regard to the statutory services currently provided by Kent County Council, does Kent County Council expect to continue to deliver them for the foreseeable future, or will they be delivered by related public authorities if there are any plans for Kent County Council to cease to exist?</p>	<p>Yes, although the position will need to be kept under review as part of budget planning</p>
<p>4. Are management satisfied that the financial reporting framework permits Kent County Council to prepare its financial statements on a going concern basis? Are management satisfied that preparing financial statements on a going concern basis will provide a faithful representation of the items in the financial statements?</p>	<p>Yes, we are satisfied that the arrangements allow the Council to prepare financial statements on a going concern basis. A separate Section 25 assurance statement is considered at the full Council budget meeting. The 2024-25 assurance statement noted the challenge of setting a balanced budget due to ongoing and escalating cost pressures alongside insufficient funding in the local government finance settlement and uncertainty over future settlements. The conclusion was an assurance that the council demonstrates financial sustainability over the short-term although considerable uncertainty remains over the medium term.</p>

Accounting estimates

Matters in relation to accounting estimates

ISA (UK) 540 (Revised December 2018) requires auditors to understand and assess a body's internal controls over accounting estimates, including:

- The nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates;
- How management identifies the need for and applies specialised skills or knowledge related to accounting estimates;
- How the body's risk management process identifies and addresses risks relating to accounting estimates;
- The body's information system as it relates to accounting estimates;
- The body's control activities in relation to accounting estimates; and
- How management reviews the outcomes of previous accounting estimates.

As part of this process auditors also need to obtain an understanding of the role of those charged with governance, which is particularly important where the estimates have high estimation uncertainty, or require significant judgement.

Specifically do Audit Committee members:

- Understand the characteristics of the methods and models used to make the accounting estimates and the risks related to them;
- Oversee management's process for making accounting estimates, including the use of models, and the monitoring activities undertaken by management; and
- Evaluate how management made the accounting estimates?

We would ask the Audit Committee to satisfy itself that the arrangements for accounting estimates are adequate.

Accounting Estimates - General Enquiries of Management

Question	Management response
1. What are the classes of transactions, events and conditions, that are significant to the financial statements that give rise to the need for, or changes in, accounting estimate and related disclosures?	These are set out in the Statement of Accounts, please see Note 5,.
2. How does the Council's risk management process identify and address risks relating to accounting estimates?	Through discussions with valuers and actuaries.
3. How does management identify the methods, assumptions or source data, and the need for changes in them, in relation to key accounting estimates?	<p>Through use of external advisors</p> <p>PPE – Appointment of external valuer – discussion of valuation basis and useful lives. Any changes required discussed with Head of Finance Operations. Use of K2 asset management database for source data. Methodologies for estimation uncertainties in Note 5 of the accounts were agreed with external audit.</p> <p>For IAS 19 confirm with the actuaries with methods and assumptions prior to the preparation of the IAS 19 report and relevant disclosures.</p>
4. How do management review the outcomes of previous accounting estimates?	<p>We have a rolling programme of revaluations so any changes required are identified as we revalue the asset base. Review of accounts by Head of Finance Operations including prior year comparators.</p> <p>Annual review accrual limits, expected credit losses and impairments to ensure they still remain appropriate for the following year</p>
5. Were any changes made to the estimation processes in 2023/24 and, if so, what was the reason for these?	<p>Expected Credit Losses – an estimation of future losses has been included for Trade Debtors. This is not expected to be a material change.</p> <p>No other changes to estimation processes.</p>

Accounting Estimates - General Enquiries of Management

Question	Management response
<p>6. How does management identify the need for and apply specialised skills or knowledge related to accounting estimates?</p>	<p>Have highly skilled, qualified and experienced accounting team. Rigorous procurement process for our valuers.</p>
<p>7. How does the Council determine what control activities are needed for significant accounting estimates, including the controls at any service providers or management experts?</p>	<p>We use our professional judgement to determine what controls are required e.g. thorough review and challenge of asset valuations provided by external valuer. We review and challenge the outcomes of any reports received.</p>
<p>8. How does management monitor the operation of control activities related to accounting estimates, including the key controls at any service providers or management experts?</p>	<p>Control activities are subject to a review process. Any concerns identified are raised as necessary with the management team to address and resolve.</p>
<p>9. What is the nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates, including:</p> <ul style="list-style-type: none"> - Management's process for making significant accounting estimates - The methods and models used - The resultant accounting estimates included in the financial statements. 	<p>Head of Finance Operations and Section 151 Officer review of accounts. Training is provided to Governance and Audit Committee.</p>

Accounting Estimates - General Enquiries of Management

Question	Management response
10. Are management aware of any transactions, events, conditions (or changes in these) that may give rise to recognition or disclosure of significant accounting estimates that require significant judgement (other than those in Appendix A)? If so, what are they?	No
11. Why are management satisfied that their arrangements for the accounting estimates, as detailed in Appendix A, are reasonable?	Management are satisfied with the arrangements due to the analysis and modelling that is undertaken.
12. How is the Governance and Audit Committee provided with assurance that the arrangements for accounting estimates are adequate ?	Assurance is provided through the detail set out in the Statement of Accounts The Committee attend briefing sessions that set out the information and are an opportunity for the Committee to ask questions and raise any queries in addition to the formal committee meeting.

Page 220

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Land and buildings valuations Page 221	Current Value – either Existing Use Value (EUV) or, if specialist asset where there is no market based evidence of current value– Depreciated Replacement Cost (DRC).	Annual review of PPE carrying amount undertaken to inform valuations required to ensure the balance sheet is materially correct. Rolling programme of annual valuations. Thorough review and challenge of asset valuations.	Yes	Degree of uncertainty inherent with any revaluation. We employ professional valuers and rely on expert opinion subject to thorough challenge and review of methodologies and resulting valuations.	No
Surplus asset valuations	Fair Value	As above	Yes	As above	As above

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Investment Property valuations	Fair Value	Annual revaluation as prescribed in the CIPFA Accounting Code of Practice.	Yes	As above	As above
Depreciation	Straight line basis over asset's useful economic life. Componentisation methodology.	Review of valuations including asset lives.	Yes	As above	No

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Valuation of defined benefit net pension fund liabilities Page 223	<p>Roll forward method is used to value the liabilities. For 2023/24 any events that are deemed “material” will be measured under “stop-start” method.</p> <p>Valuations involve projecting future cashflows to be paid from the Fund. Cashflows include pensions paid to current members and those to future members.</p>	<p>Valuations are performed tri-annually and the rolling forward previous valuations should not materially distort the results.</p> <p>For ‘stop-start’ method we will review these events to ensure where material this method should be used.</p>	Yes – Barnett Waddingham	Degree of uncertainty inherent with any revaluation. We employ professional valuers and rely on expert opinion subject to challenge and review.	No

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Fair value estimates for Financial Assets Page 224	Methods and models supplied by our Treasury Advisors Link FV calculations also include 12 month expected credit loss calculation for the investments held at amortised costs, the majority of which are secured bonds. For 2023/24 a multiplication factor of 112% of historic default rates was used to calculate the ECL which was £0 for our portfolio and therefore not material.	Valuations are provided annually	Yes	Apply market prices data from Bloomberg and other sources as appropriate dependent on fair value hierarchy.	No

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Bad Debt Allowance Page 225	<p>The Bad Debt Provision is calculated in line with the attached document and 8.5 of the Financial Regulations. The Sundry Bad Debt Provision is calculated purely based off the age of the debt however the Social Care Bad Debt Provision is calculated through a combination of the age of the debt and the position of the debt (e.g. Secured vs Unsecured).</p>	<p>The percentages are reviewed annually alongside the write off actuals to ensure that they remain appropriate. Additionally, Kent County Council liaise with other local authorities to ensure our Bad Debt Provision is in line with the industry particularly in relation to social care.</p>	<p>No</p>	<p>In order to consider the current Bad Debt Provision calculations Kent County Council have looked at the default rates over previous financial years alongside the value of write offs completed.</p> <p>The average default rate in financial year 2023/2024 was 7.3%. This default rate was calculated using 3 data points throughout the year and looking at accounts raised without a debt (first invoice issued or no previous overdue invoices). These accounts were then cross referenced with the relevant debt report 2 billing periods later to confirm if the invoice remained outstanding. Please note this looks at short-term immediate defaults.</p>	<p>No</p>

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Bad Debt Allowance Page 226				<p>We have compared this to the default rates in financial year 2022/2023, using the same methodology, the default rates for these periods averaged to 7.2%. Kent County Council do not believe there has been sufficient changes to the default rates over the past financial year which would justify changing the current Bad Debt Provision percentages.</p> <p>Over the past 5 financial years, Kent County Council have completed, on average, £600K a year of KentCare write offs. Whilst this amount is increasing it only accounts for less than 4% of our current Bad Debt Provision.</p>	

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
<p>Accrual and provisions</p> <p>Page 227</p>	<p>Creditors, debtors, receipts in advance and payments in advance are only required for revenue items over £5,000 and capital items over £10,000.</p> <p>For capital there are some additional rules as outlined in our Budget Manager pack.</p> <p>Most accruals are managed within our iProcurement system and are automatically posted according to when goods and services have been receipted.</p> <p>Provisions are set up subject to our Provisions guidance and with agreement from the Chief Accountant.</p>	<p>For revenue items, finance forms are submitted to Revenue Finance colleagues by the budget managers in the services and checked by two members of Finance to ensure appropriate evidence has been provided.</p> <p>Provisions are reviewed and adjusted annually within the revenue teams for items such as bad debt using current information.</p>	<p>No</p>	<p>For accruals, there should be strong evidence to support the adjustment. Most accruals are through iProcurement, so reducing the de minimus level for manual accruals would not be material.</p> <p>For provisions, degree of uncertainty inherent with the conditions of a provision.</p>	<p>No</p>

Appendix A Accounting Estimates (Continued)

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
PFI Liabilities	PFI operator models for source data. Accounting models based on disaggregation of unitary charge.	Review of actual unitary charge compared to operators model on an annual basis	No	Annual review of the models and comparing the outcome to previous iterations.	No



This page is intentionally left blank

From: John Betts, Interim Corporate Director - Finance

To: Governance & Audit Committee, 9 October 2024

Subject: Financial Management Code of Practice - Compliance Assessment

Classification: *Unrestricted*

Summary: The report outlines the extent to which the Local Authority can demonstrate that it is satisfying the requirements of the Chartered Institute of Public Finance and Accountancy's Financial Management Code of Practice.

Recommendation(s):

That the Committee comments on and endorses the assessment of compliance against the Financial Management Code for 2024/25, as part of its Annual Governance Statements considerations.

Introduction

1. The Chartered Institute of Public Finance and Accountancy (CIPFA) launched the Financial Management Code of Practice (FM Code), with a flexible introduction in 2021/22, when local authorities were dealing with the COVID-19 pandemic. The FM Code was developed on behalf of the then Ministry of Housing, Communities and Local Government (MHCLG), in the context of increasing concerns about the financial resilience and sustainability of local authorities.
2. The FM Code clarifies how Chief Finance Officers should satisfy their statutory responsibility for good financial administration, as required in section 151 of the Local Government Act 1972 and emphasises the collective financial responsibility of the whole leadership including the relevant Elected Members.
3. Local authorities are expected to demonstrate that the requirements of the FM Code are being satisfied. Officers have previously undertaken this assessment internally. Compliance with the Code has previously been reported by Internal Audit to this committee. However, good practice would suggest that the assessment should be considered by those charged with governance. As part of the Code of Corporate Governance, the Constitution of the County Council also states that it "will comply with the principles and standards of the CIPFA Financial Management Code"¹. This will be the first time that this committee has considered the Council's compliance with the FM Code.

¹ At section 26.6

4. The report sets out the outcome of the compliance self-assessment undertaken for this financial year (2024/25), which finds that the Council is well placed to meet the requirements of the FM Code.

Summary of the Code

5. The FM Code sets out the principles by which authorities should be guided in managing their finances and the specific standards that they should, as a minimum, seek to achieve. Compliance with the code is obligatory but is not currently referenced in legislation, meaning that it is not statutory guidance.
6. However, the FM Code draws heavily on existing statutory guidance:
 - Role of the Chief Financial Officer in Local Government
 - Prudential Code for Capital Finance
 - Code of Practice on Local Authority Accounting in the United Kingdom
7. The FM Code is designed to be flexible to the nature, needs and circumstances of individual authorities. It is up to each authority to determine the extent to which it complies with the Code and to identify what action it may wish to take to better meet the standards that the Code sets out.
8. It does not prescribe the financial management processes that local authorities should adopt. Instead, the code requires that a local authority demonstrates that its processes satisfy the principles of good financial management for an authority of its size, responsibilities and circumstances.
9. The FM Code has six key themes aimed at strengthening the financial resilience and sustainability of local authorities:
 - i. Organisational leadership – demonstrating a clear strategic direction based on a vision in which financial management is embedded into organisational culture.
 - ii. Accountability – based on medium-term financial planning that drives the annual budget process supported by effective risk management, quality supporting data and whole life costs.
 - iii. Financial management is undertaken with transparency at its core using consistent, meaningful and understandable data, reported frequently with evidence of periodic officer action and elected member decision making.
 - iv. Adherence to professional standards is promoted by the leadership team and is evidenced.
 - v. Sources of assurance are recognised as an effective tool mainstreamed into financial management, including political scrutiny and the results of external audit, internal audit and inspection.

- vi. The long-term sustainability of local services is at the heart of all financial management processes and is evidenced by prudent use of public resources.
10. Performance against the six key themes is measured by 17 standards which are arranged over seven sections:
 - (i) The responsibilities of the chief finance officer and leadership team
 - (ii) Governance and financial management style
 - (iii) Long to medium-term financial management
 - (iv) The annual budget
 - (v) Stakeholder engagement and business plans
 - (vi) Monitoring financial performance
 - (vii) External financial reporting
 11. The 17 standards are set out in full in Annex 1.

Status of the FM Code

12. The Redmond Review into local authority financial reporting and external audit which reported in September 2020 included a specific recommendation for MHCLG to review its current framework for seeking assurance that financial sustainability in each local authority in England is maintained. Although not prescribed in the formal recommendation, the review noted that MHCLG could give the FM Code statutory status and require local authorities to report on compliance with the Code in their Annual Governance Statement, with auditors expected to report on material breaches. A response from MHCLG was published in 2021 but did not provide any further update on the status of the FM Code.

Compliance Assessment 2024/25

13. It is for the individual authority to determine whether it meets the standards and to make any changes that may be required to ensure compliance. Authorities should be able to provide evidence that they have reviewed their financial management arrangements against the standards and that they have taken such action as may be necessary to comply with them.
14. An assessment has been made of the Council's current compliance with the 17 Standards in the FM Code. The assessment has been made initially within the Finance service, and has then been tested with the Corporate Management Team. The final test is to check whether the assessment chimes with the understanding of committee members.
15. A self-assessment exercise to benchmark the Council's current processes and practice against the FM Standards has been undertaken using a RAG Rating approach as set out below:

Assessment	Description
GREEN	Compliance is being demonstrated.
AMBER	Minor to Moderate improvements are required to demonstrate full compliance.
RED	Moderate to Significant improvements are required to demonstrate full compliance.

16. The provisional assessment has identified that the Council remains well placed to evidence compliance with the FM Code. Where relevant, proposed further actions that can be taken to enhance compliance have been included in the assessment. The Summary Assessment is included at Annex 1.

17. The Summary Assessment should also be considered alongside the Chief Finance Officer’s statutory report on the budget (Section 25 Report)² as supporting evidence of the consideration given to the financial management arrangements and control frameworks that are in place, when commenting on the robustness of the proposed budget. Where action can be taken to strengthen and enhance compliance with the FM Code, these will be taken forward, reported and be monitored through actions emanating from the Annual Governance Statement.

Annex: Financial Management Code of Practice – Summary Compliance Assessment 2024/25

Background papers: None

² <https://democracy.kent.gov.uk:9071/documents/g9324/Public%20reports%20pack%2019th-Feb-2024%2009.30%20County%20Council.pdf?T=10>

See pages 13 to 20

Self Assessment against the CIPFA Financial Management Code Standards

Section 1: The responsibilities of the chief finance officer and leadership team			
A	The leadership team is able to demonstrate that the services provided by the authority provide value for money.		
	Self Assessment Evidence	Rating	Further Action
	<p>The Council is committed to delivering value for money across all its services. Financial implications are considered as part of every decision report and comprehensive business cases are completed to support financial decisions where appropriate. In addition, our Operating Standards have been updated to include a “Considering Best Value” section, to ensure there is a wide understanding of what best value means.</p> <p>Whilst our external auditors conduct an independent review of value for money, and they have reported positively on our financial management and the Council’s use of resources, they have also identified weaknesses related to financial sustainability, governance, and improving economy, efficiency and effectiveness. These recommendations are all picked up as part of the Governance Recommendations Improvement Plan</p> <p>The Commercial & Procurement division ensures that contracts and purchasing obtain best value across the different services. Contract Standing Orders (“Spending the Council’s Money” document has been updated and will be further amended for changes in the Procurement Act later this year.</p> <p>In recent years we have undertaken comparison of KCC spending against comparable authorities from a number of sources. These include a subscription to LG Futures Financial Intelligence Toolkit, the Local Government Inform interactive tool and Society of County Treasurers benchmarking. The main value for money tool we will look to use this year is LG Inform. This includes trend data over a number of years and we have already produced a suite of benchmark information for main services.</p>	Amber	Necessary improvements (particularly as identified by the external auditors) to be monitored through the Governance Recommendations Improvement Plan (GRIP), as reported to Governance & Audit committee.
B	The authority complies with the CIPFA Statement on the Role of the Chief Finance Officer in Local Government.		
	The responsibilities of the Chief Finance Officer (Corporate Director of Finance) are set out within the Council’s constitution and the Financial Regulations. The Corporate Director of Finance is a member of the Corporate Management Team (CMT) and reports directly to the Chief Executive. All Committee, Council and CMT reports are subject to review by the Corporate Director of Finance, supported by the finance team, ensuring that financial	Green	

implications of decisions are clearly documented and properly considered. The finance team's permanent full-time equivalent staff has an appropriate mix of professionally qualified accountants (CIPFA/ACCACIMA), part qualified, holding the AAT qualification and those who are actively studying for a professional accountancy qualification (CIPFA)/ACCA). Team members are supported through technical and on the job training and are encouraged to take opportunities to enhance their skills and knowledge, ensuring that there is resilience within the team. The Interim Corporate Director of Finance is a professionally qualified accountant with over 30 years of local government finance experience.

Ensure that any new, permanent Corporate Director – Finance has the appropriate knowledge, experience and skills through the recruitment process.

Section 2: Governance and financial management style


C	The leadership team demonstrates in its actions and behaviours responsibility for governance and internal control.		
	Self Assessment Evidence	Rating	Further Action
	<p>These principles around effective governance and internal control are set out for staff and Members within the Constitution and Financial Regulations. CMT regularly receives reports and briefings regarding governance and control, including regular updates on governance matters from the Monitoring Officer as well as internal audit reports.</p> <p>Decisions are made and communicated using the appropriate channels, financial regulations are updated biannually or annually if significant changes are required, processes are adhered to that align with the financial regulations and procedures. Every budget manager is required to sign a Resource Allocation Statement (RAS) before the start of the financial year.</p>	Green	
D	The authority applies the CIPFA/SOLACE Delivering Good Governance in Local Government: Framework (2016).		
	The Council's approach to applying the CIPFA/SOLACE Delivering Good Governance in Local Government Framework is to set out the actions it has taken or plans to take within its Annual Governance Statement (AGS) to ensure that high standards of governance are delivered and maintained. The AGS is reviewed regularly and is seen as a living document rather than an exercise only undertaken annually. Recent AGS have acknowledged that further actions still need to be taken to further improve governance within the Council.	Amber	Monitor delivery of the actions in the Governance Recommendations Improvement Plan (GRIP), as reported to Governance & Audit committee.
E	The financial management style of the authority supports financial sustainability.		
	<p>The Council's Constitution details committee functions and Member and officer delegations. The Financial Regulations support the Constitution and include the Scheme of Delegation. There is a detailed quarterly budget monitoring report and performance management report to Cabinet which includes information on how budget pressures/projected overspends are being managed as well as progress on savings delivery, monitoring of reserves, Treasury Management and Prudential Indicators. Business partners and revenue finance accountants regularly challenge budget managers through the monitoring process and regular meetings with senior officers within the service. Monitoring in the future will also be against key, specific management action to bring the forecast overspend down. Savings plans are also challenged and monitored against. The Council's budget process also takes full account of risk and financial sustainability which is ultimately reflected in the Corporate Director - Finance's Section 25 Assurance</p>	Amber	Undertake a review of the skillsets of Budget Holders (following implementation of Oracle Cloud) and members (particularly post County elections) and offer further training where required (in this year, around development of savings plans)

	<p>Statement to the County Council. The use of Resource Accountability Statements for budget holders to commit to managing their budgets is one practical example of the financial management style of the Council. The other is the development of a longer term capital programme. Recent overspends indicate that there is still work to do in this area.</p>		
--	--	--	--

Section 3: Long to medium-term financial management

F	The authority has carried out a credible and transparent financial resilience assessment.		
	Self Assessment Evidence	Rating	Further Action
	<p>The CIPFA Financial Resilience Index provides some context to the Council's financial position compared to that of other similar councils. Both the overall level of reserves and change in reserves are towards the upper quartile of risk. In response, a major review of all our reserves was undertaken which resulted in us planning to increase our general reserves to 5% of our revenue budget over the course of the MTFP. The review also set out new governance procedures around the creation and use of reserves, including a business case requirement for the drawdown of corporate reserves.</p> <p>The Council has also developed a longer term capital programme to manage the optimism bias that often results in significant slippage.</p> <p>The annual budget process includes an independent Section 25 assurance on the robustness of budget and medium-term financial plan, and adequacy of reserves. This assurance statement is considered by full Council at the annual budget meeting and Council is asked to agree to have regard to the contents of the report when making decisions about the budget. The report includes an evaluation of the background to budget preparations including evaluation of risks and uncertainties, the deliverability of the proposed budget and financial sustainability of the Council.</p> <p>A comprehensive budget report is presented to Council including recommendations to agree the capital programme and financing, revenue budget and medium-term financial plan, council tax levels, Kent pay scheme and key strategies. The report sets out the background to the budget and capital programme including how the financial plans support the council's strategic priorities, the requirements to set a balanced budget, budget consultation, equalities considerations, local government finance settlement, schools funding, a summary of the budget proposals, capital budget strategy and draft programme, revenue budget strategy and draft budget, and levels of reserves. Appendices include high level summaries of capital programme and revenue budget/medium term financial plan, detailed capital programme and revenue budget, revenue budget variation statements, reserves policy, budget risks and assessment of reserves, budget risk register, key strategies (capital strategy, treasury strategy and investment strategy) and MRP statement.</p>	Green	

G	The authority understands its prospects for financial sustainability in the longer term and has reported this clearly to members.		
	Risks to financial sustainability are regularly reviewed and reported to the Governance & Audit Committee and Policy & Resources Committee. The Council has a Strategic Reset Programme and a 3 year Medium Term Financial Plan (MTFP) which is reviewed and updated annually. Specific reports are presented to Cabinet, P&R Committee and Scrutiny Committee – recent examples include reports to Cabinet on the financial risks arising from high inflation and the Covid monitoring reports to P&R setting out how covid funds were being managed.	Green	Relationships with Key strategic partners should be reviewed to ensure they contribute to the achievement of the Authority's objectives
H	The authority complies with the CIPFA Prudential Code for Capital Finance in Local Authorities.		
	The Council complies with the requirements of the Prudential code, and prepares its Capital, Investment and Treasury Management strategies with reference to this. Prudential Indicators are reported on in the quarterly monitoring report which goes to Cabinet. The Council's capital strategy has been approved by Full Council and contains a range of indicators set with reference to the Prudential Code for Capital Finance. Capital spending is monitored by the services and a cross directorate capital officer group meets regularly to review changes and business cases to the capital programme which are then presented to CMT and the Cabinet Member for Finance for sign off. Treasury Management reports are presented to Governance and Audit committee on a quarterly basis and then to full Council half yearly, a synopsis is also included in the quarterly monitoring report.	Green	
I	The authority has a rolling multi-year medium-term financial plan consistent with sustainable service plans.		
	Yes, although with spending reviews only providing a one year position, detailed rolling multi-year MTFP's have not been provided in recent years. Development of the MTFP incorporates modelling to provide decision makers with options and assumptions made. Consultation with stakeholders, including officers, Members, residents and external partners takes places as part of the development of the MTFP. The capital, treasury management and investment strategies support the revenue strategy, and all documents are presented to full Council for approval. The MTFP presented to council for approval in February this year did include a fully balanced position over the 3 years. The overall strategy for the budget and MTFP is to ensure that the Council continues to plan for revenue and capital budgets which are affordable, reflects the Council's strategic priorities, allows the Council to fulfil its statutory responsibilities and continues to maintain and improve the Council's financial resilience. However, it is also important that spending plans take account of the local priorities of the Council, Kent residents and businesses, and local communities. This is not always an easy combination and involves some difficult	Green	Review whether more explicit references to other strategic plans are required in any future MTFP papers.

<p>decisions about service levels and provision both for the forthcoming year and over the medium term. In reaching this balance the Council has regard to bearing down on spending growth (particularly future price and demand increases) while making the necessary investments to support improvement and delivering savings/income generation.</p>		
---	---	--

Section 4: The annual budget

J	The authority complies with its statutory obligations in respect of the budget setting process.		
	Self Assessment Evidence	Rating	Further Action
	The council complies with the statutory obligations for budget setting. A balanced budget was approved by Full Council in February 2024 for 2024/26. The Corporate Director of Finance issued a balanced Section 25 report, recognising the pressures and savings the Council faced going forward, whilst acknowledging the Council had the capacity and capability to deliver, as long as tough decisions were taken and subsequently implemented.	Green	
K	The budget report includes a statement by the chief finance officer on the robustness of the estimates and a statement on the adequacy of the proposed financial reserves.		
	The Corporate Director of Finance's statement on the robustness of estimates and adequacy of reserves is presented to Full Council. A number of reserves are held to mitigate future financial risks and the full Council agreement to plan to deliver general reserves of 5% of the net revenue budget, whilst also supporting the assessment on the adequacy of reserves.	Green	

Section 5: Stakeholder engagement and business plans

L	The authority has engaged where appropriate with key stakeholders in developing its long-term financial strategy, medium-term financial plan and annual budget.		
	Self Assessment Evidence	Rating	Further Action
	<p>A range of key stakeholders including Corporate Management Team (CMT), service heads and the Cabinet are fully involved and engaged in the budget and MTFP discussions and process. In addition, Finance and Governance provide dedicated support to Opposition groups for their alternative budgets / budget amendments.</p> <p>The council undertakes public consultation on the budget strategy for the forthcoming year in advance of publishing budget plans. The results of the resident consultation are considered by Members and CMT with a formal report and analysis of the responses. A separate report on the responses is presented as part of the budget scrutiny and approval process.</p> <p>The draft budget proposals are subject to full scrutiny process through Cabinet committees and scrutiny committee as well as formal consultation with Trade Unions and key stakeholders</p> <p>Individual policy proposals within the budget plan are subject to detailed consultation and equality impact assessment prior to implementation.</p>	Green	
M	The authority uses an appropriate documented option appraisal methodology to demonstrate the value for money of its decisions.		
	The Capital Strategy sets out the definition of capital expenditure and how that spend can be financed. It also sets out a number of core principles for consideration. Investment appraisals and detailed business cases are presented as part of the annual review of the capital programme. These need to identify where the funding is to be met, revenue implications, both additional spend and savings and any other pressure e.g. tax implications. These are then presented to Members as part of the strategic priorities and decision-making process. Risks are also identified within these business cases. These are built into the capital programme. Any reserves drawdown request requires a business case, for example the ICT and Strategic Reset Programme reserves.	Green	

Section 6: Monitoring financial performance

N	The leadership team takes action using reports enabling it to identify and correct emerging risks to its budget strategy and financial sustainability.		
	Self Assessment Evidence	Rating	Further Action
	<p>The budget report includes a comprehensive budget risk register together with a risk assessment. These risks and their mitigations in the budget are assessed as part of budget scrutiny as well as part of the approval of the Budget itself. However, as the Council has overspent in its last two years, not all risks have been completely mitigated.</p> <p>The finance monitoring report is presented to CMT and Cabinet on a quarterly basis. It has been enhanced to consider risk areas and areas of high spend and separate reports are presented on specific areas as and when directed. The monitoring report also looks at the delivery of savings. The latest reserves monitoring position is also included within the quarterly finance report. CMT meet weekly, allowing for urgent matters to be raised outside of the quarterly reporting process. There are comprehensive directorate and corporate risk registers which are regularly presented to the Executive and Governance & Audit committee and are regularly reviewed and updated.</p> <p>Finance has reviewed the monitoring timetable for preparing informal monthly to CMT and senior Members. Raw data (meeting with over 600 budget managers) is normally available within a month, but the narrative, validation and sign off normally takes several weeks. Consequently, between the more formal Quarterly monitoring reports, monthly reports are produced for high value, high risk budgets, to indicate trends and potential overspends, which are discussed with the service. The monthly reports also provide an update on the progress against delivery of key savings in the MTFP which fall under the umbrella of the Strategic Reset Programme Board (SRP Board). The SRP team more generally, covers monitoring of the delivery of savings from three lenses (budget monitoring, data analytics and activity/performance) to provide a broader, richer perspective.</p>	Amber	
O	The leadership team monitors the elements of its balance sheet that pose a significant risk to its financial sustainability.		
	The quarterly financial reports to Cabinet include the following key balance sheet elements, reserves, capital and treasury management. There are key performance indicators on debt and payments. The Council has not had to make any unplanned use of reserves and is planning to increase its general reserves to 5% of its revenue budget.	Green	The budget monitoring report should make explicit the distinction between planned and unplanned movements in reserves.

Section 7: External financial reporting

P	The chief finance officer has personal and statutory responsibility for ensuring that the statement of accounts produced by the local authority complies with the reporting requirements of the Code of Practice on Local Authority Accounting in the United Kingdom.		
	Self Assessment Evidence	Rating	Further Action
	The Council produces fully Code compliant statement of accounts. The accounts are reviewed and signed off by the S151 officer. The Council has a long history of unqualified accounts. The Council generally has a good external audit report and has been recognised for quality working papers and its early closing prior to Covid and the timetable changes.	Green	
Q	The presentation of the final outturn figures and variations from budget allows the leadership team to make strategic financial decisions		
	The final outturn report is presented to CMT and Cabinet. The report provides the final outturn position and detail of significant variances against capital and revenue budgets. The outturn report also includes any cash limit changes that need to be made for the following financial year, subsequent to the annual budget being agreed by full Council. The monthly and quarterly budget monitoring processes enable early identification of issues and allow management action to be identified.	Green	

This page is intentionally left blank

By: Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, Peter Oakford – Peter Oakford
Interim Corporate Director Finance – John Betts

To: Governance and Audit Committee – 9 October 2024

Subject: AUDIT BACKSTOP and REVISED DATES

Classification: Unrestricted

Summary: This report asks Members to note the statement and date changes.

FOR INFORMATION

1. INTRODUCTION

1.1 On 30 July Jim McMahon, Minister of State (Housing, Communities and Local Government), published a Written Ministerial Statement regarding the Audit Backlog. Mr McMahon proposed secondary legislation that, alongside a new Code of Audit Practice, would aim to facilitate a return to timely, purposeful audits of local body accounts. The secondary legislation would amend the Accounts and Audit Regulations (2015) to set a series of backstop dates. Both measures are subject to parliamentary time.

2. KEY POINTS FROM MINISTERIAL STATEMENT

2.1 Last year, just one per cent of councils and other local bodies published audited accounts on time. The backlog is likely to increase again and without decisive action will continue to rise further. A growing backlog hampers necessary fundamental reforms to repair the audit system and undermines local accountability and governance.

2.2 The Minister commended the commitment of local finance teams and auditors in their work to date.

2.3 A “backstop” date is intended to clear the backlog of unaudited accounts. The first “backstop” date would clear the backlog of unaudited accounts up to and including 2022/23, but given the size of the audit backlog, it is unlikely that all outstanding audits will be completed in full ahead of this date.

2.4 Where auditors have been unable to complete audits, they will issue a ‘disclaimed’ or ‘modified’ audit opinion. Disclaimed opinions will likely continue for some bodies for several years.

2.5 The proposed legislation will include five further backstop dates up to and including financial year 2027/28 to allow full assurance to be rebuilt over several audit cycles.

2.6 The proposed backstop dates are:

- Financial years up-to-and-including 2022/23: 13 December 2024
- Financial year 2023/24: 28 February 2025
- Financial year 2024/25: 27 February 2026
- Financial year 2025/26: 31 January 2027
- Financial year 2026/27: 30 November 2027
- Financial year 2027/28: 30 November 2028

2.7 While there will be modified and disclaimed opinions, auditors' other statutory duties – including to report on Value for Money (VfM) arrangements, to make statutory recommendations and issue Public Interest Reports – remain a high priority.

2.8 For financial years 2024/25 to 2027/28, the date by which Category 1¹ bodies should publish 'draft' (unaudited) accounts will change from 31 May to 30 June following the financial year to which they relate. This will give those preparing accounts more time to ensure they are high-quality accounts. This in turn will benefit auditors while still ensuring publication shortly after financial year end.

2.9 Local bodies should not be unfairly judged based on disclaimed or modified opinions, caused by the introduction of backstop dates that are largely beyond their control. Auditors will be expected to provide clear reasons for the issuing of such opinions to mitigate the potential reputational risk that local bodies may face.

3. AUDIT FEES

3.1 Issuing a disclaimed or modified audit opinion and a subsequent return to being able to fully complete audits will require differing levels of work by auditors. Public Sector Audit Appointments Ltd (PSAA) will set scale fees and determine fee variations where the auditor undertakes substantially more or less work than assumed by the scale fee and will consult with bodies where appropriate.

4. KENT'S POSITION

4.1 We welcome these changes as it will provide extra time to ensure that the accounts are fully quality assured and to prepare audit working papers, which will hopefully result in a shorter audit and earlier sign off.

¹ "Category 1" councils have annual income and expenditure exceeding £6.5m, so Kent County Council is a Category 1 council. Smaller authorities have different accounting and audit requirements.

4.2 The previous two years' accounts have not been signed off until the following March. In both years they were available for sign off from November, but either national discussions on accounting treatment or delays in finalising the Annual Governance Statement delayed them from being signed.

4.3 Any delay prolongs the audit, which in turn means that changes cannot be implemented in time for the following year. This year, the draft accounts were published on 31 May which is a huge achievement for everyone involved but requires a significant amount of goodwill from staff. The audit started in early July.

4.4 The current audit is on track, and we do not anticipate being in a backstop position. These changes will assist us in getting back to a realistic timetable, freeing up valuable staff much earlier in the financial year, which will be particularly important during the transition to Oracle Cloud (which is the Council's new financial system).

5. RECOMMENDATION

Members are asked to:

5.1 Note the changes to the proposed backlog dates and general timetable

Cath Head
Head of Finance Operations
cath.head@kent.gov.uk
Tel: 03000416934

This page is intentionally left blank

Kent County Council and Kent Pension Fund

Audit progress report and sector updates

October 2024

Page 251



Contents

Section	Page
Introduction	03
Progress at September 2024	04
Audit deliverables	06
Communications on the local government audit backstop arrangements	07
Ending the local audit backlog	09
Lessons from recent Auditors' Annual Reports	10
Code of practice on good governance	11
Internal Audit - supporting a healthy service	12
Annual review of local government complaints	13
New approaches needed to key educational issues	14
Demand management for social care	15
The social landlord role – what can councils do better?	16
Devolution	17
Governance and Audit Committee Resources	18

The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and, in particular, we cannot be held responsible to you for reporting all the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

Introduction

Your key Grant Thornton team members are:

Council audit

Paul Dossett

Key Audit Partner

T 0207 728 3180

E paul.dossett@uk.gt.com

Pages 2 of 3

Lucy Nutley

Engagement Senior Manager

T 0141 223 0656

E lucy.h.nutley@uk.gt.com

Pension Fund audit

Parris Williams

Key Audit Partner

T 0207 728 2542

E parris.williams@uk.gt.com

Jayanti Gupta

Engagement Manager

T 0207 865 2510

E jayanti.gupta@uk.gt.com

This paper provides the Governance and Audit Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes a series of sector updates in respect of these emerging issues which the Committee may wish to consider.

Members of the Governance and Audit Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications:

<https://www.grantthornton.co.uk/industries/public-sector/local-government/>

If you would like further information on any items in this briefing or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either Paul or Lucy.

Progress at September 2024

Financial statements audit

Our audit work for 2023/24 was originally scheduled to commence on 24 June 2024. However, due to unforeseen absence in the audit and the finance team, our work did not start in earnest until 8 July. We faced further delays in obtaining a full download of the general ledger. This download was required to enable a more efficient process for the audit and finance teams than we have used in prior years. However, we were not able to start our work on journal entries until early August. Despite a relatively slow start, our audit work is now substantially complete in execution but is still subject to our internal review processes.

The accounts were published on the Council's website in advance of the statutory deadline of 31 May 2024, but we note that group accounts were not included in this publication. Group accounts were not made available to the audit team until early September and as a result our work on group accounts is not completed.

Our audit work is now well progressed, and we set out below our progress against the significant audit risks identified at the planning stage of the audit. No new additional significant risks have been identified since the issue of our audit plan.

Risk	Progress update
Management override of controls	<ul style="list-style-type: none"> As planned, we have performed audit testing on a sample of journal entries, based on risk criteria set for the Council. Our journal entry testing has identified no issues. Audit work to assess estimates and critical judgements in the accounts is ongoing, with no issues arising to date.
Valuation of land and buildings	<ul style="list-style-type: none"> As planned, we have performed work to understand management's processes for the obtaining of valuations and entering them in the financial records. We have communicated with the Council's valuer (Wilks, Head and Eve) to understand assumptions used in the valuations and engaged with an auditor's expert valuer (Gerald Eve) to confirm the appropriateness of assumptions used. Audit work is ongoing, with no issues arising to date.
Valuation of defined benefit pension scheme	<ul style="list-style-type: none"> As planned, we have assessed the work of the actuary (Barnett Waddingham) and the assumptions used to obtain a value of the Council's share of the Kent Pension Fund at 31 March 2024. Our work is substantially complete. We await assurances from the auditor of the Kent Pension Fund on the controls in place over membership, contributions and benefits data and fund asset valuations A national issue has recently arisen with the application of IFRIC14 on pension fund liabilities. Work is ongoing to determine the impact of this on the council.

Progress at September 2024

Financial statements audit (continued)

We have performed sample testing across a range of account balances and transactions. Sample sizes have in some instances been large, where we have recognised a higher level of inherent risk, such as the completeness of expenditure. No significant issues or errors have been identified from our audit testing. During testing of REFCUS expenditure (Revenue Expenditure Funded from Capital Under Statute), the finance team identified expenditure which had been incorrectly classified as REFCUS, which will be corrected in the final accounts.

We would like to take this opportunity to thank the finance team and all officers from across the Council who have assisted us in the audit so far. We expect to issue our opinion significantly earlier than in 2022/23.

Pension fund audit

Our audit work on the pension fund is substantially complete, with no significant issues arising. Letters to the auditors of admitted bodies of the Kent pension fund will be issued shortly. Our audit findings report will be presented to a subsequent Governance and Audit Committee.

We would like to take this opportunity to thank the finance team and all officers from the pension fund finance team who have assisted us in the audit so far.

Value for Money

Under the 2020 Code of Audit Practice (the Code), for local government bodies auditors are required to issue our Auditor's Annual Report no later than 30 September or, where this is not possible, issue an audit letter setting out the reasons for delay. This letter has been issued to the Chair of the Governance and Audit Committee to ensure compliance with the Code

Our Value for Money work is underway, and we intend to issue our Auditor's Annual Report (AAR) with our Audit Findings report in December 2024.

The AAR will include detailed follow up of prior year recommendations from both the 2022/23 AAR and the Governance Review.

Audit deliverables

Below are some of the audit deliverables planned for 2023-24.

2023-24 Deliverables	Planned date*	Status
<p>Audit Plan</p> <p>We are required to issue a detailed audit plan to the Governance and Audit Committee setting out our proposed approach in order to give an opinion on the Council's 2023-24 financial statements.</p>	September 2024	Complete
<p>Audit Findings Report</p> <p>The Council's Audit Findings Report will be reported to the Governance and Audit Committee.</p>	December 2024	Not yet due
<p>Audit Findings Report</p> <p>The Pension Fund's Audit Findings Report will be reported to the Governance and Audit Committee.</p>	December 2024	Not yet due
<p>Auditor's Report</p> <p>This includes the opinion on your financial statements for the Council and the Pension Fund</p>	December 2024	Not yet due
<p>Auditor's Annual Report</p> <p>This report communicates the key outputs of the audit, including our commentary on the Council's Value for Money arrangements.</p>	December 2024	Not yet due

*The planned dates are subject to national timetables, agreement with officers and unforeseen technical issues that may arise during the audit period. However, our expectations is to complete all necessary work in line with the proposed backstop date for 2023-24 accounts of 28 February 2025..

Audit deliverables – grants

2023-24 Audit-related deliverables	Planned date	Status
<p>Teachers' Pensions - Certification 2023-24</p> <p>Agreed upon procedures relating to the Teachers' Pensions end of year certificate</p>	TBC	Not started
<p>Teachers' Pensions - Certification 2020/21 - Certification 2021/22 - Certification 2022/23</p>	TBC	In progress
<p>The Council and Grant Thornton are in discussion with Teachers Pensions' regarding non-submission of these returns as due to the change in administration provider for schools from Capita to HR Connect significant difficulties have been faced in obtaining supporting information.</p>		

Page 257

*The planned dates are subject to national timetables, agreement with officers and unforeseen technical issues that may arise during the audit period.

Sector Update

Ending the local audit backlog

A plan for restoring timely assurance to the Local Government audit system was announced by the Minister of State for Local Government and English Devolution on 30th July 2024.

When parliamentary time permits, secondary legislation is going to be used to amend the Accounts and Audit Regulations (2015) and to introduce five new backstop dates:

Page 259 

1. Financial years up-to-and-including 2022/23: 13 December 2024;
2. Financial year 2023/24: 28 February 2025;
3. Financial year 2024/25: 27 February 2026;
4. Financial year 2025/26: 31 January 2027;
5. Financial year 2026/27: 30 November 2027; and
6. Financial year 2027/28: 30 November 2028.

Paul Dossett, Grant Thornton Partner and Head of Local Government, has had an article published in The MJ, where he reviews the reasons for the delays in audited accounts and considers what is required for a long-term solution:

<https://www.themj.co.uk/beyond-the-local-audit-backstop>

Key messages from the Minister are that:

For financial years up to and including 2022/23, if financial audits are not complete by 13 December 2024, disclaimed or modified opinions will be required. The Minister recognises that in most cases these may remain in place for up to two years.

The Minister's statement is, however, "crystal clear" that where there are modified opinions for financial accounts, auditors' other statutory duties – including to report on Value for Money (VfM) arrangements, to make statutory recommendations, and to issue Public Interest Reports, will still be a high priority.

There will be some limited grounds for exemption to meeting the audited accounts backstop dates: Where auditors are considering a material objection; where recourse to the court could be required; or from 2023/24, where the auditor is not yet satisfied with the body's Value for Money arrangements. Nevertheless, Councils need to be aware that the Government intends to publish a list of bodies and auditors that do not have an exemption and yet still do not meet the proposed new dates.

To help Councils comply with these arrangements, for financial years 2024/25 to 2027/28, the Minister states that the deadline for filing Category 1 'draft' (unaudited) accounts will be extended from 31 May to 30 June (allowing higher quality draft accounts); and there will be no routine inspections of local audits (by the Financial Reporting Council or by the Institute of Chartered Accountants in England and Wales) for financial years up to and including 2022/23, unless there is a clear case in the public interest to do so.

Once implemented, the hope is that the new arrangements will help to restore the robust assurance needed to underpin good governance and accountability.

For the full statement, see [Written statements - Written questions, answers and statements - UK Parliament](#).

Lessons from recent Auditors' Annual Reports

In July 2024, Grant Thornton shared findings from a review of just under 100 recent Auditors' Annual Reports (AARs), covering around 30% of all Councils in England. With around 730 different areas for improvement identified, the AARs highlighted five key areas where local government is facing increased challenge:



1. Transformation and saving plans;
2. The Dedicated Schools Grant;
3. Financial governance and internal control;
4. Performance management and procurement; and
5. The Housing Revenue Account.

Page 260



To help Councils with their challenge, Grant Thornton's Lessons report summarised suggestions for improvement into a single checklist for success.

Key questions for Audit Committees from the checklist for success:

- External audit recommendations – are we up to date with monitoring progress and implementation and prior year recommendations?
- Savings and reserves – is our medium-term financial plan up to date?
- Special educational needs and disability – are we on track with arrangements to close any deficit?
- Workforce – do we have an up-to-date strategy?
- The Housing Revenue Account – when did we last review the strategy and arrangements for governance and internal control?

Even before the July 2024 general election, local authorities were key to delivering nationally important policies. Under the new government, the sector looks likely to play an even more pivotal role as, for example, proposed reforms to planning and housebuilding get underway. Audit Committees can use the Grant Thornton checklist for success to assess how ready their organisation is to take advantage of the new opportunities likely to open-up and to step into the new, higher profile role they are likely to be invited to play.

For a full copy of the report, see [Lessons from recent auditor's annual reports \[grantthornton.co.uk\]](https://www.grantthornton.co.uk)

Code of practice on good governance

In June 2024, SOLACE, CIPFA and Lawyers in Local Government (LLG) jointly published a new code of practice on good governance. The code provides advice and sets expectations for the three highest profile statutory roles in local government – the Head of Paid Service, the Chief Finance Officer, and the Monitoring Officer. The aim of the code is to enable these three high profile officers to effectively work together in a ‘Golden Triangle’ - to best advise members, implement decisions, and help achieve good outcomes.

This is a powerful publication because it is the first in which SOLACE, CIPFA and LLG have spoken as one voice. Whilst the Seven Principles of Public Life, or Nolan Principles, apply to all public office holders (and indeed all those in other sectors delivering public services), expectations of the three most senior statutory officers in Councils go further. The fact that this guide is targeted specifically at their three roles is therefore more than welcome.

The new code of practice sets out seven standards the “Golden Triangle” officers should comply with, alongside a series of more direct requirements they should adhere to. The code provides guidance to the three officers concerned; can be used to explain their roles more clearly to others; and provides context for conversations about the roles, the requirements, and actions to be undertaken.

Questions Audit Committees can use the code to ask themselves surround: Do we understand what our most senior officers do? And do they understand the standards they are bound by?

For a full copy of the Code of Practice, see [Code of Practice on Good Governance for Statutory Officers June 2024.pdf \(solace.org.uk\)](#)

The seven standards of the Golden Triangle are:



Understand Governance

Roles and responsibilities



Act Wisely

A duty of enquiry & the exercise of statutory functions



Lead Ethically

The Seven Principles of Public Life



Act Effectively

Robustness in working arrangements



Resource the Roles

Get the tools to do the job



Build Resilience

Deputies and development



Deliver sound decision making

The outcome of good governance

Internal Audit - supporting a healthy service

The Chartered Institute of Internal Auditors (CIIA) published an assessment of the health and status of internal audit within local government in July 2024, using research based on survey findings from 44% of all councils in the United Kingdom and Northern Ireland. The findings were stark and could make worrying reading for any Audit Committee, as survey responses unveiled:

- Fear of speaking out about key findings, including around financial sustainability;
- Difficulty in discussing financial assurance matters with Audit Committee members in public meetings;
- Lack of member understanding of the work of internal audit; and
- Insufficient staffing and inability to recruit to vacant posts, affecting completion of the Internal Audit plan.

New Global Internal Audit Standards (GIAS) are due to come into effect in January 2025 and can be adopted now if entities wish. They include considerations specifically for the public sector.

Respective responsibilities for members and management around supporting, overseeing, and resourcing the internal audit function can be found in the CIIA report.

Audit committees and senior management in local government should consider whether any of the findings are relevant to their organisation and, if so, consider using the transition to the new GIAS as an opportunity to challenge and revisit their practices.

For a full copy of the Institute's findings, see [An evaluation of the health of internal audit in local authorities.pdf](#) (iia.org.uk)

Summary of respective responsibilities to provide:

Support:

Audit committee

Champion the internal audit function.

Senior management

Support recognition of the function throughout the organisation.

Oversight:

Audit committee

Gain an understanding of Internal Audit findings.

Discuss any disagreements with the Chief Executive and senior management.

Senior management

Assist members in understanding the effectiveness of the organisation's governance, risk management and control processes and escalate to members any matters of importance.

Resources:

Audit committee

Discuss the sufficiency of resources, both in numbers and capabilities, at least annually.

Senior Management

Engage with members to provide sufficient resources and resolve any issues around resourcing.

Annual review of local government complaints

The Local Government and Social Care Ombudsman's latest Annual Review of Local Government Complaints was published in July 2024.

The review shows that nationally, there has been an increase in the number of complaints received, an increase in the number of complaints upheld, and ongoing issues within special educational needs; housing; and adult social care services.

The review argues that complaints can be seen as a valuable source of information, and it encourages councils to use complaints information to identify early warning signs of service failure. It includes best practice resources to help councils take valuable learning from complaints, including a performance map and data tables.

Readers are advised by the review to consider, using the interactive data for those councils they are interested in:

- Uphold rates;
- Suitable remedy rates;
- Compliance rates; and
- The nature of service improvement recommendations made.

Councils should bear in mind that since April 2024 [new overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities](#) recommends that scrutiny committee work programmes are informed by the reports and recommendations issued by the Ombudsman.

For a full copy of the Ombudsman's Annual Review, see [Annual Review of Local Government Complaints](#).



New approaches needed to key educational issues

Two recent reports highlighted weaknesses in the educational system that councils have to work with. Both include recommendations for the new government, intended to give disadvantaged children and children with special educational needs and disabilities better outcomes for the money spent.

On 23rd July 2024, the National Audit Office (NAO) published its report on [Improving educational outcomes for disadvantaged children \(nao.org.uk\)](https://www.nao.org.uk/publications/2024/july/improving-educational-outcomes-for-disadvantaged-children/), noting that disadvantaged children include those who are currently, or have previously been, looked after by the council.

The report highlighted that the government spends an estimated £9.2 billion on supporting disadvantaged children and narrowing the attainment gap between them and their peers, but that disadvantaged children still perform less well than their peers across all areas and across all school phases.

Two days later, on 25th July, the ISOS Partnership published an [independent report commissioned by the County Councils network and the Local Government Association](#) showing that educational attainment amongst children with special educational needs and disabilities (SEND) has not improved since 2014, despite councils being projected to spend £12 billion on these services by 2026 (compared to £4 billion a decade ago).

Going forward for SEND, local government could play a pivotal role in delivering any changes of policy. It is important for members to be aware of the changes that could happen in future. The ISOS partnership recommends that the new government:

- Invests in building capacity in mainstream schools to meet children's needs, such as therapists, educational psychologists, and wider inclusion support, helping to reduce the reliance on specialist school places;
- Resets the vision and guiding principles of the SEND system towards inclusion, prevention and earlier support which would cater for young people who do not have a statutory plan, with such plans reserved for the most complex cases;
- Provides a new 'national framework' for SEND;
- Establishes 'Local Inclusion Partnerships' to enable more effective assessments, commissioning and collaboration between councils, schools and health; and
- Creates a National Institute for Inclusive Education as an independent arbiter around inclusive education and support for children and young people with additional needs.



National Audit Office



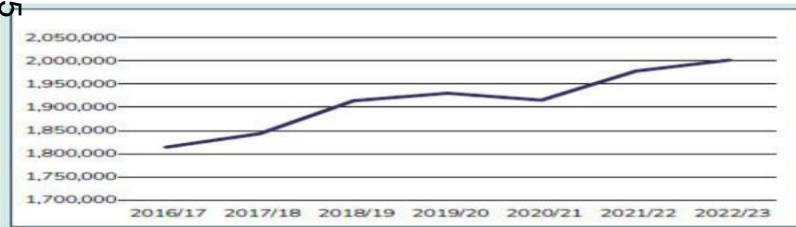
Demand management for social care

In July 2024 CIPFA published a guide to managing rising demand in adult and children's social care, drawing on lessons from nineteen different English councils.

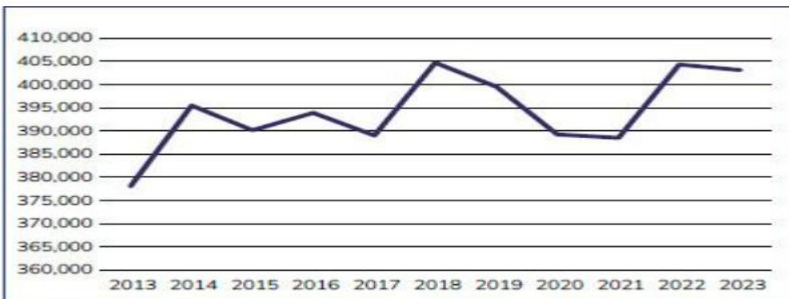
Having highlighted that requests for adult social care and the number of children in need are both rising, CIPFA shared examples of good practice around:

- Adult Social Care – Market management; transitions; transformation and innovation; and
- Childrens' Social Care - Market management; transitions; transformation and innovation.

Rise in the demand for adult social care support for new clients:



Rise in the number of children in need:



The report shows the importance of strong corporate and leadership buy-in; utilising funding and resources from diverse sources; focusing on improving outcomes; making use of monitoring, forecasting and benchmarking tools; and investing in preventative action. However, CIPFA also highlighted the specific contributions that innovative finance professionals can make:

- Financial oversight, analysis and management;
- Grant and resource management;
- Compliance, reporting and risk management;
- Evidence-based decision making and communication;
- Monitoring, forecasting and benchmarking;
- Strategic thinking;
- Funding maximisation;
- Business case and scenario planning;
- Sustainable commissioning; and
- Data utilisation, monitoring and evaluation.

The examples of proactive work by professionals from across the nineteen councils show how co-operation can make a real difference. For more details on the report, see [Managing rising demand in adult and childrens social care \[cipfa.org\]](https://cipfa.org).

The social landlord role – what can councils do better?

The Housing Ombudsman published its latest Insight Report in July 2024: [Insight report - Issue 17 \(housing-ombudsman.org.uk\)](https://www.housing-ombudsman.org.uk/insight-report-issue-17)

The report focused on London – noting that 47% of the cases determined by the Ombudsman in 2023/24 were from residents living in a London postcode, despite the fact that just under one in six homes in the Ombudsman’s membership is located within Greater London.

No other region of England has such a wide gap between the proportion of social housing and complaints, but the Ombudsman noted that outside Greater London, other councils and landlords should also take note of the recommendations and learning points, especially in other urban areas, as they provide vital indicators of where things go wrong and how to stop that from happening.



The report recommends that landlords:

- Foster a positive complaints culture - leadership and governance should be seen to support the complaints’ function, including promoting internal cooperation and engagement with the complaints process;
- Don’t lose sight of the person at the centre of a complaints issue – try to ameliorate the impact of issues outside the landlord’s full control and avoid blame. Be clear about landlord responsibilities where resolution involves dealing with third parties;
- Show that the resident’s experience is important – ensure that details are taken and recorded appropriately so that residents feel listened to; the right solution is found to resolve the issue swiftly; and the communication to the resident is courteous and accurate;
- Remember that complaint handling is a landlord’s opportunity to regain a resident’s trust after they have had a bad experience; and
- Use insight and intelligence from complaints strategically. This ranges from effective root cause analysis of casework through to identifying risks and horizon scanning.

The report makes good reading for members looking to better understand how they can help to stop things going wrong in the council’s relationship with residents.



Devolution

On 16th July 2024, the new Deputy Prime Minister wrote a [Letter to Local Leaders](#) setting out the new government's ambition to:

- Devolve new powers over transport, skills, housing, planning and employment support;
- Provide more regions with integrated settlement and with access to financial flexibility;
- Move away from a deal-based approach, “setting out clear conditions and a clear offer in return for places seeking devolution agreement”; and

Enshrine a presumption towards devolution, so that places can take on new powers automatically if they meet certain conditions.

In the English Devolution Bill one day later, the government started arrangements to legalise a new devolution framework; address within it growth drivers such as employment and planning; and make devolution the “default setting”.

How and when the details of the new devolution revolution will work remains to be seen, but the Deputy Prime Minister has made it clear that new arrangements will be tailored to sensible economic geographies so that local leaders can act at the scale needed to effectively deploy their powers. In most cases that will require councils to come together in new combined authorities. Councils are now encouraged to begin discussions with their neighbouring authorities on this basis.

Members will need to start asking themselves both how ready their organisation is, and how ready their neighbours are.



Ministry of Housing, Communities & Local Government



Governance and Audit Committee resources

The Audit Committee and organisational effectiveness in local authorities (CIPFA):

<https://www.cipfa.org/services/support-for-audit-committees/local-authority-audit-committees>

LGA Regional Audit Forums for Audit Committee Chairs

These are convened at least three times a year and are supported by the LGA. The forums provide an opportunity to share good practice, discuss common issues and offer training on key topics. Forums are organised by a lead authority in each region. Please email ami.beeton@local.gov.uk LGA Senior Adviser, for more information.

Public Sector Internal Audit Standards

<https://www.gov.uk/government/publications/public-sector-internal-audit-standards>

Code of Audit Practice for local auditors (NAO):

<https://www.nao.org.uk/code-audit-practice/>

Governance risk and resilience framework: material for those with a leadership responsibility on good governance (CfGS):

<https://www.cfgs.org.uk/material-for-those-with-a-leadership-responsibility-on-good-governance/>

The Three Lines of Defence Model (IAA)

<https://www.theiia.org/globalassets/documents/resources/the-iias-three-lines-model-an-update-of-the-three-lines-of-defense-july-2020/three-lines-model-updated-english.pdf>

Risk Management Guidance / The Orange Book (UK Government):

<https://www.gov.uk/government/publications/orange-book>

CIPFA Guidance and Codes

The following all have a charge, so do make enquiries to determine if copies are available within your organisation.

Audit Committees: Practical Guidance For Local Authorities And Police

<https://www.cipfa.org/policy-and-guidance/publications/a/audit-committees-practical-guidance-for-local-authorities-and-police-2022-edition>

Delivering Good Governance in Local Government

<https://www.cipfa.org/policy-and-guidance/publications/d/delivering-good-governance-in-local-government-framework-2016-edition>

Financial Management Code

<https://www.cipfa.org/fmcode>

Prudential Code

<https://www.cipfa.org/policy-and-guidance/publications/t/the-prudential-code-for-capital-finance-in-local-authorities-2021-edition>

Treasury Management Code

<https://www.cipfa.org/policy-and-guidance/publications/t/treasury-management-in-the-public-services-code-of-practice-and-crosssectoral-guidance-notes-2021-edition>



© 2024 Grant Thornton UK LLP. Confidential and information only.

'Grant Thornton' refers to the brand under which the Grant Thornton member firms provide assurance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires. Grant Thornton UK LLP is a member firm of Grant Thornton International Ltd (GTIL). GTIL and the member firms are not a worldwide partnership. GTIL and each member firm is a separate legal entity. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions. This proposal is made by Grant Thornton UK LLP and is in all respects subject to the negotiation, agreement and signing of a specific contract/letter of engagement. The client names quoted within this proposal are disclosed on a confidential basis. All information in this proposal is released strictly for the purpose of this process and must not be disclosed to any other parties without express consent from Grant Thornton UK LLP.

This page is intentionally left blank