

Contracts and Tenders Standing Orders (in support of paper to Governance and Audit Meeting 23 July 2015)

1. It is the responsibility of Senior Managers to ensure that all purchasing or commissioning of goods, and services or works comply with:

- (a) legal requirements
- (b) EU Directives
- (c) the Council's Financial Regulations
- (d) ~~the Code contained in~~ 'Spending The Council's Money' (as approved by the Governance & Audit Committee) **add flowchart link to STCM pages**
- (e) standards for the management of property, information technology resources and staff ~~and~~
- (f) any conditions attached by the Leader or the Council to the exercise of powers delegated by them
- (g) the Council's Bribery Act Policy

Authority

2. (a) All transactions must **either** fall within the powers delegated to Senior Managers or have been approved by a decision (taken in accordance with the Council's Constitution) of the Cabinet, the Leader, an authorised Cabinet Member, the Council or one of its committees or sub-committees.
- (b) No contract, agreement or other document shall be signed or sealed unless it gives effect to:
- (i) a decision or resolution (taken in accordance with the Council's Constitution) of the Leader, the Cabinet, an authorised Cabinet Member or one of its committees or sub committees or
 - (ii) a decision by an officer exercising delegated powers
3. (a) Budgetary provision must exist before any contract can be entered into. This provision should be explicit in a budget approved by resolution of the Council. ~~Where budgetary approval exists for a specific item further Member approval is not generally required.~~
- (b) Where there is no specific budget line, Senior Managers may approve expenditure up to £100,000, provided the expenditure can be met within budget. Above £100,000 a formal decision by the Leader, the Cabinet or an authorised Cabinet Member is required taken in accordance with the Council's Constitution. ~~Business cases Plans and Business cases~~

Thresholds

4. (a) The financial values (exclusive of Value Added Tax) refer to the total lifecycle of the contract and the rules included within the flowcharts must be followed at which processes become mandatory are:

- (i) below £8,000 – maximise VFM add flowchart link
- (ii) £8,000 to £49,999 – at least three written quotations must be sought from appropriate sources and one supplier must be Kent based add flowchart link
- (iii) £50,000 and above – the competitive tender process, as defined in ‘Spending the Council’s Money’, must be followed add flowchart link

However both the overall obligations of STCM and the statutory requirement to achieve value for money apply to all transactions and don’t just apply from the above amounts and, as such a competitive tender process may be appropriate for procurements below £50,000.

(b) In addition ~~European Union Directives, enacted in UK Law~~ the Public Contract Regulations 2015, set limits for public contracts above which specific procedures are required to be followed. ~~The procedures cover the advertising of contracts, the rejection of suppliers, technical specifications, evaluation, selection and award criteria. All procurements for goods, services and works above the financial thresholds are covered by the legislation but not all procurements for services, social care for example, are subject to the full process.~~ The current levels at which these apply are for goods and services, £172,514 and for works, £4,322,012. All contracts estimated to exceed these values must be notified to the Head of Procurement for guidance and support

(c) There must be no attempt to avoid any of these limits by deliberately manipulating the requirement or frequency of ordering.

(d) The ‘financial values’ here refers to the:

- (i) total amount payable over the contract period, i.e. the Council’s total liability under the contract, and not the budget available in the current year or
- (ii) reasonable expectation of the cost of the consequence of the decision or
- (iii) ~~net~~ commercial benefit’ to the contractor/supplier /provider

whichever is the greater.

The award

5. Senior Managers may sign documents on behalf of the Council or authorise officers to do so **in accordance with the Delegated Authorities Matrix (link to Financial Regulations)** ~~This authority may be given by inclusion in the nominated officers' terms of appointment, by specific resolution or as part of a system implementing delegation arrangements within a directorate.~~
6. Where a contract for a Consultant is estimated to cost ~~£20,000~~ **£50,000** or more details of the proposed award must be forwarded to the relevant Cabinet Member prior to the appropriate officer making the award. In this context a Consultant is defined as a named individual (i.e. the Council states it wants individual x) taken on to perform a particular, temporary, and defined, task. ~~Add flowchart link.~~ **Members and Officers are also reminded to seek guidance over the engagement of ex-employees as consultants (add link to Kent Scheme - Terms and Conditions of Employment)**
7. (a) Any contract with a value in excess of £1m must be made in writing and either:
- (i) affixed with the common seal of the Council and be attested by at least one authorised officer (as defined in clause 8 below) or
 - (ii) signed as a deed by at least one authorised officer (as defined in clause 9 below)
8. The common seal of the Council shall be affixed to any document or agreement if the Director of Governance and Law considers it appropriate for the purpose of transacting the Council's business or safeguarding its interests.
9. The seal may be fixed and witnessed or the document signed as a deed only by the Director of Governance and Law or officers authorised by him in writing to do so.
10. The Director of Governance and Law shall ensure a register is maintained of all documents and agreements that are sealed including the name of the person who witnessed the affixing of the seal.

After the award

11. (a) For contracts of £50,000 or more, **where a non-competitive process is used to determine the contractor, the Single Source Justification Report (link) will include evidence of the advice obtained from Legal Services and Strategic Sourcing and Procurement :**
- (i) ~~quality issues as well as price have been taken into account such that it's more advantageous to accept a tender(s) other than the lowest or~~
 - (ii) ~~acceptance of the most favourable tender(s) means that the approved budget will be exceeded or~~
 - (iii) ~~a non-competitive process was used to determine the contractor*~~

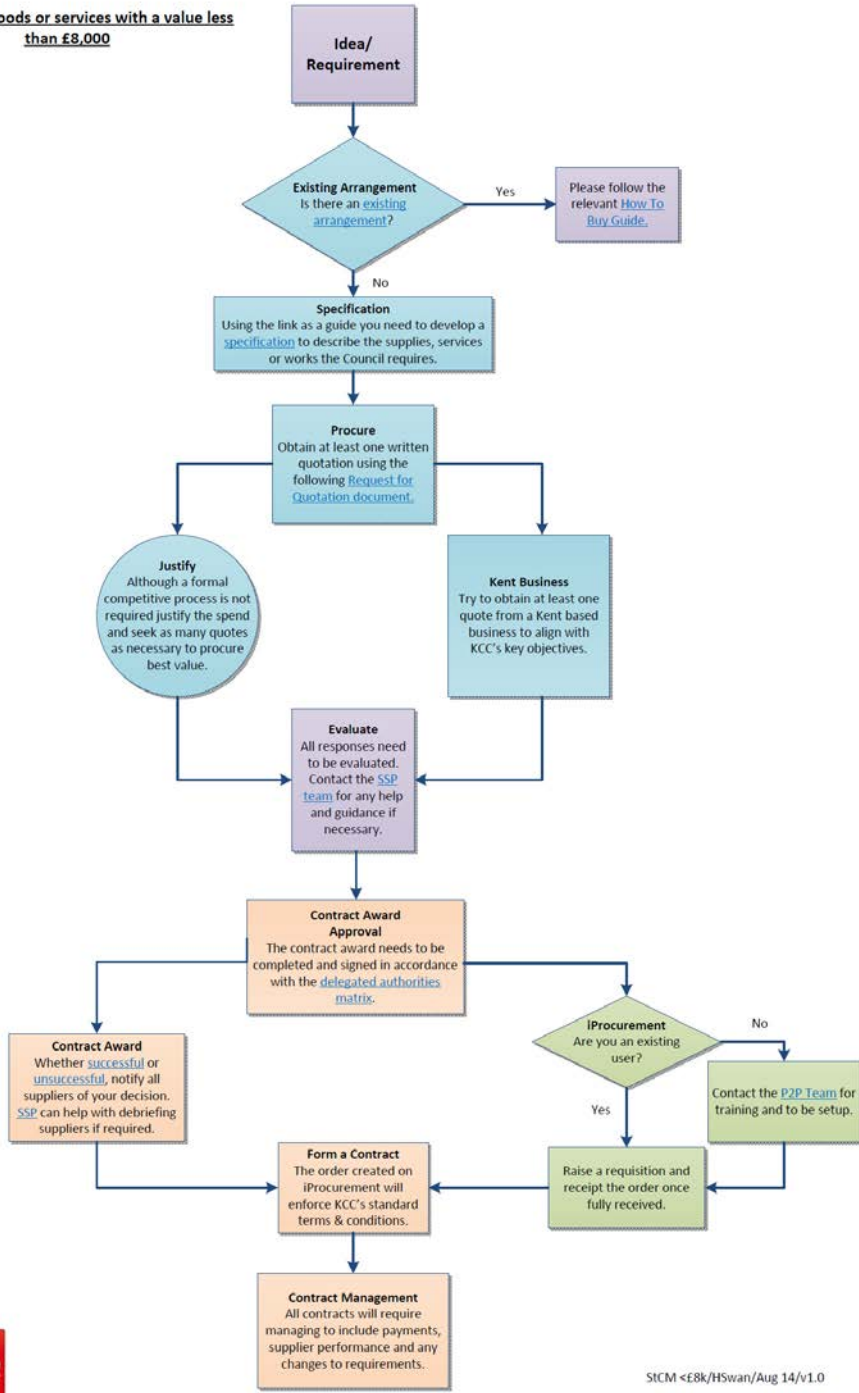
the approved Award Report must be sent to the Head of Democratic Services within **14 days** **2 days** of the contract being awarded so that s/he may notify Members of the Scrutiny Committee on a quarterly basis.

~~* Contracts awarded without competition of adult and children's services required by law under the National Assistance Act 1948 and the Children Act 1989 are exempt from this reporting requirement.~~

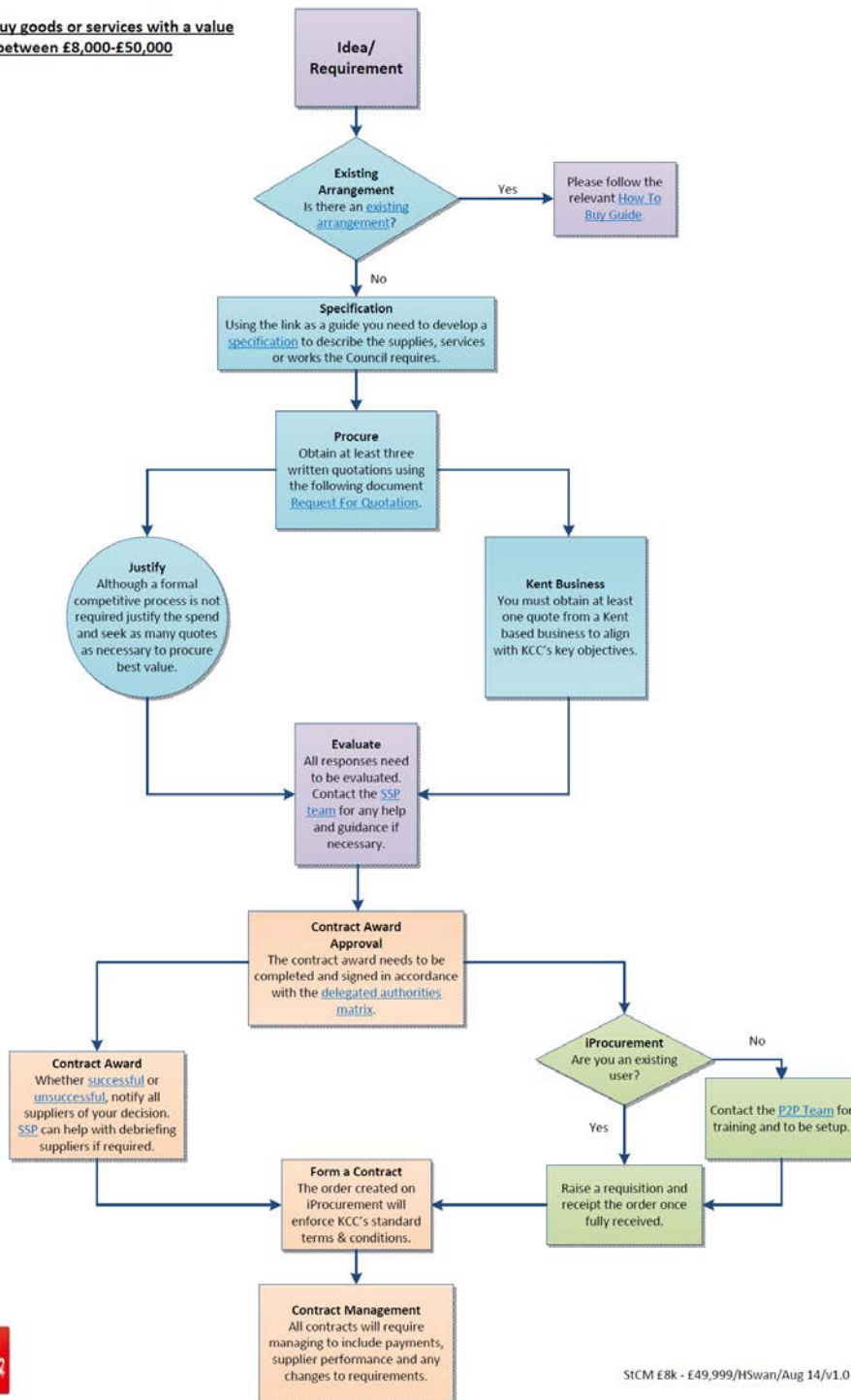
~~(a) — Where multiple firms are awarded contracts the rationale for the awards must be reported where any of the contractors has tendered a higher price than any of the unsuccessful firms.~~

~~(b)~~ (b) Being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant for **£20,000-£50,000** or more must be reported, as a non-competitive procurement, to the Head of Democratic Services within **14 2** days of the contract being awarded so that s/he may notify Members of the Scrutiny Committee. **Link to Single Source Justification Report**

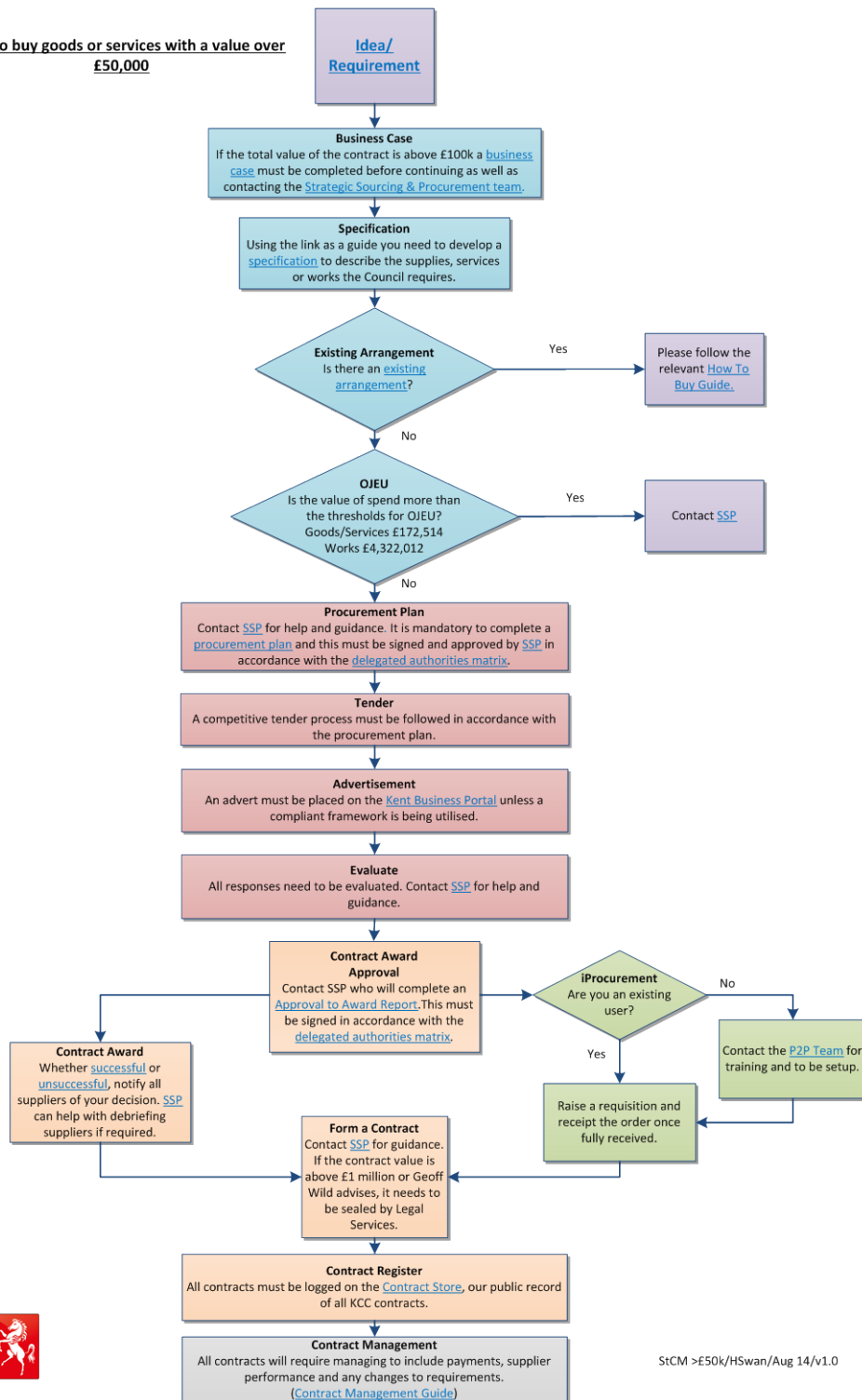
How to buy goods or services with a value less than £8,000



How to buy goods or services with a value between £8,000-£50,000



How to buy goods or services with a value over £50,000

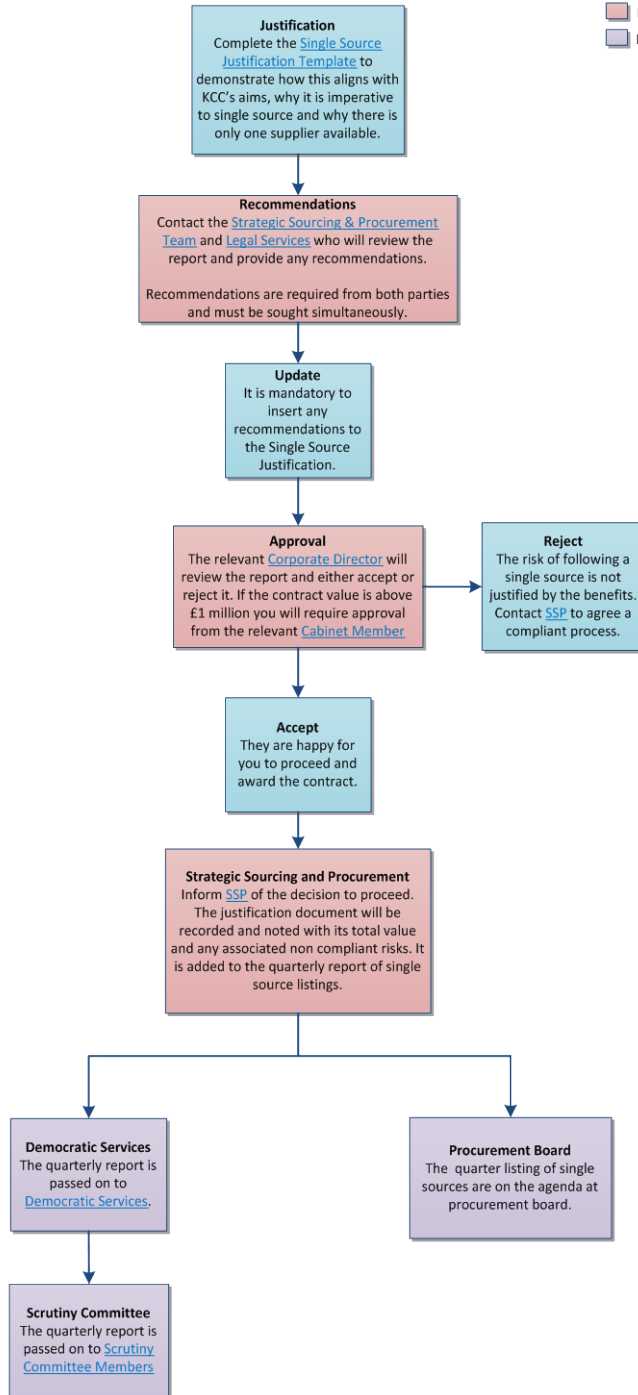


Field Code Changed



**Single Source Request Over
£50,000**

- Key
- User Process
 - Internal Team Review
 - Notify decision



Field Code Changed

Delegated Authorities Matrix

Scheme of Delegation - Approval Limits

Procurement & Invoice Approval Process												
Stage or Transaction Approval	Notes	Members		Officers				Strategic Sourcing & Procurement Team (SSP)				
		The Leader or Cabinet	Cabinet Member	CMT Director	Service Director	Service Head	Budget Manager	Head of Procurement	Category Manager	Procurement Manager	Procurement Officer	P2P Buyer
Contract Award Recommendation acceptance	7/16/17	Unlimited*	Unlimited*	Up to £1m**	Up to £500k except where Property Management Protocol expressly differs	Up to £250k	Up to £50k					
Contract/Framework Signature	8			Up to £1m and over £1m with Cabinet or Cabinet Member Decision to award and express authorisation of the Monitoring Officer to sign or seal*	Up to £500k and over £1m with Cabinet or Cabinet Member Decision to award and express authorisation of the Monitoring Officer to sign or seal*			Up to £1m and over £1m with Cabinet or Cabinet Member Decision to award and express authorisation of the Monitoring Officer to sign or seal*	Up to £250k	Up to £100k	Up to £50k	
Requisition (Budget expenditure) Approval - Procurement	9/10/17			Unlimited where previously approved as designated signatory and where relevant authority is in place	Up to £1m**	Up to £500k	Up to £50k					
Purchase Order Approval	11							Unlimited when correct political or previously delegated authority is in place and no contract is required.*	Up to £250k	Up to £100k	Up to £50k	Up to £8k
Variation Approval	14	Unlimited*	Unlimited*	Up to £1m**	Up to £500k	Up to £250k	Up to £50k					
Variation signature				Unlimited with Cabinet or Cabinet Member Decision to award variation and express authorisation of the Monitoring Officer to sign or seal*	Unlimited with Cabinet or Cabinet Member Decision to award variation and express authorisation of the Monitoring Officer to sign or seal*							
Receipt Confirmation	12			Unlimited	Unlimited	Unlimited	Unlimited					
Invoice Payment	13/17			Unlimited	Up to £1m or over £1m where previous delegation from Cabinet or Cabinet Member is in place*	Up to £500k	Up to £50k					
Contract Extension Approval		Unlimited	Unlimited	Up to £1m or over £1m with Cabinet or Cabinet Member Decision to extend and express authorisation of the Monitoring Officer to sign or seal*								
Contract Extension Signature			Unlimited where previously approved as designated signatory and where relevant authority is in place*	Unlimited with Cabinet or Cabinet Member Decision to award variation and express authorisation of the Monitoring Officer to sign or seal*	Unlimited with Cabinet or Cabinet Member Decision to award variation and express authorisation of the Monitoring Officer to sign or seal*			Up to £1m or over £1m with Cabinet or Cabinet Member Decision to extend and express authorisation of the Monitoring Officer to sign or seal*	Up to £250k	Up to £100k	Up to £50k	Up to £8k
Procurement Plan Approval								Unlimited (Plans of >£1m or of significant risk or with political implications will be advised on by Procurement Board)	Up to £250k	Up to £100k	Up to £50k	

Finance Approval Process

Finance Approval Process												
Stage or Transaction Approval	Notes	Members		Officers				Strategic Sourcing & Procurement Team (SSP)				
		The Leader or Cabinet	Cabinet Member	CMT Director	Service Director	Service Head	Budget Manager	Head of Procurement	Category Manager	Procurement Manager	Procurement Officer	P2P Buyer
Revenue Virement Limits												
Within Portfolio	1	Above £1m**	From £200k up to (but not including) £1m**	From £200k up to (but not including) £1m**								
Within Portfolio	2		Less than £200k	Less than £200k								
Between Portfolios	1	Above £1m**	From £200k up to (but not including) £1m**	From £200k up to (but not including) £1m**								
Between Portfolios	2		Less than £200k	Less than £200k								
Capital Virement Limits												
Within or across Portfolios	1	Above £1m**	From £200k up to (but not including) £1m**	From £200k up to (but not including) £1m**								
Within or across Portfolios	3		From £50k up to (but not including) £200k	From £50k up to (but not including) £200k								
Within or across Portfolios	4			Less than £50k								
Writing off of obsolete stock	4			Up to £10k								
Ex Gratia Payments	5		More than £8k	Up to £8k								
Writing off irrecoverable debts	6			Up to £10k								

* These decisions/actions are subject to statutory recording and publication requirements. Seek advice from Democratic Services.
 ** These decisions/actions are subject to statutory recording and publication requirements when over £500k. Seek advice from Democratic Services.

Notes:

- Virement of £1m to £200k has to be signed off by Portfolio Cabinet Member, relevant Corporate Director, Deputy Leader and Cabinet Member for Finance and Procurement and Corporate Director of Finance and Procurement. Advice should be sought as to whether the Virement requires a formal Decision to be taken.
- Virement less than £200k has to be signed off by the Corporate Director of Finance and Procurement along with the relevant Cabinet Member and Corporate Director.
- Virement of £200k to £50k has to be signed off by the Corporate Director of Finance and Procurement along with the relevant Cabinet Member and Corporate Director.
- Write off of obsolete stock up to £10k is in consultation with the Corporate Director of Finance and Procurement. Above £10k to be reported to Corporate Director of Finance and Procurement and Deputy Leader and Cabinet Member for Finance and Procurement and then taken to Scrutiny Committee for write off.
- Ex gratia payments above £8k Corporate Directors are responsible for obtaining approval from relevant Cabinet Member, Deputy Leader and Cabinet Member for Finance and Procurement and Corporate Director of Finance and Procurement.
- Write off of irrecoverable debts up to £10k is in consultation with the Corporate Director of Finance and Procurement. Above £10k should be put forward by the relevant Corporate Director to be reported to the Corporate Director of Finance and Procurement in his/her role of Section 151 Officer for his decision in consultation with the and Deputy Leader and Cabinet Member for Finance and Procurement, and then taken to Scrutiny Committee for write off. A report by the relevant Corporate Director will also be submitted to Governance and Audit Committee.
- Award recommendation prepared by Procurement lead
- Authorities only valid if Contract Award Recommendation acceptance has been approved; will also require a review schedule e.g. with Legal Services for non-standard contract use; decisions on signing under seal or under hand
- Only valid for approved budgets/expenditure within plan – values will be used within I-Procurement
- Procurement authorities relate to own budget only
- For simple contracts only, those that are required to be sealed as required in "Contracts and Tenders Standing Orders" must be dealt with by Legal Services.
- May be exercised by any member of staff who can directly confirm receipt of goods, services or works
- Relates to signature on invoices; post I-Procurement implementation this authority is no longer required (3-way system match provides authorisation)
- Approval of a variation against an existing contract
- Approval of an extension to an existing contract, only valid if budget expenditure has been approved by relevant Service Officer
- Cabinet Member Approval where authority has been delegated, in some instances this may require Cabinet Approval in line with the Constitution
- For areas with high expenditure e.g. Highways, Property, ICT approval level can be increased to £5m for Service Directors at Corporate Directors discretion

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