

Contracts and Tenders Standing Orders

1. It is the responsibility of Senior Managers to ensure that all purchasing or commissioning of goods, services or works comply with:
 - (a) legal requirements
 - (b) EU Directives
 - (c) the Council's Financial Regulations
 - (d) 'Spending The Council's Money' (as approved by the Governance & Audit Committee)
 - (e) standards for the management of property, information technology resources and staff
 - (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

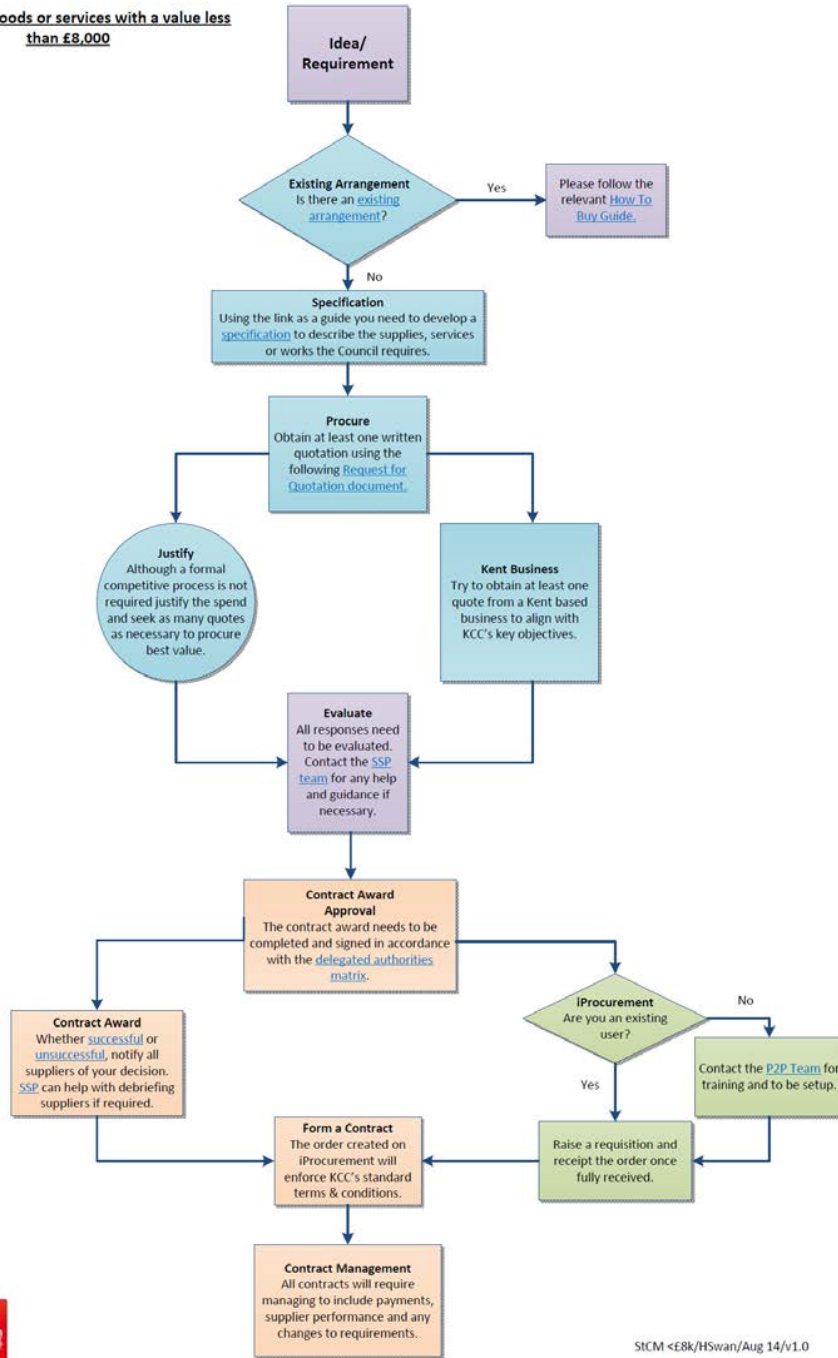
2. (a) All transactions must either fall within the powers delegated to Senior Managers or have been approved by a decision (in accordance with the Council's Constitution) of the Cabinet, the Leader, an authorised Cabinet Member, the Council or one of its committees or sub-committees.
 - (b) No contract, agreement or other document shall be signed or sealed unless it gives effect to:
 - (i) a decision or resolution (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.

(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 in accordance with the Council's Constitution.

Thresholds

4. (a) The financial values (exclusive of Value Added Tax) refer to the total lifecycle of the contract and the rules included in the flowcharts must be followed:
 - (i) Less than £8,000

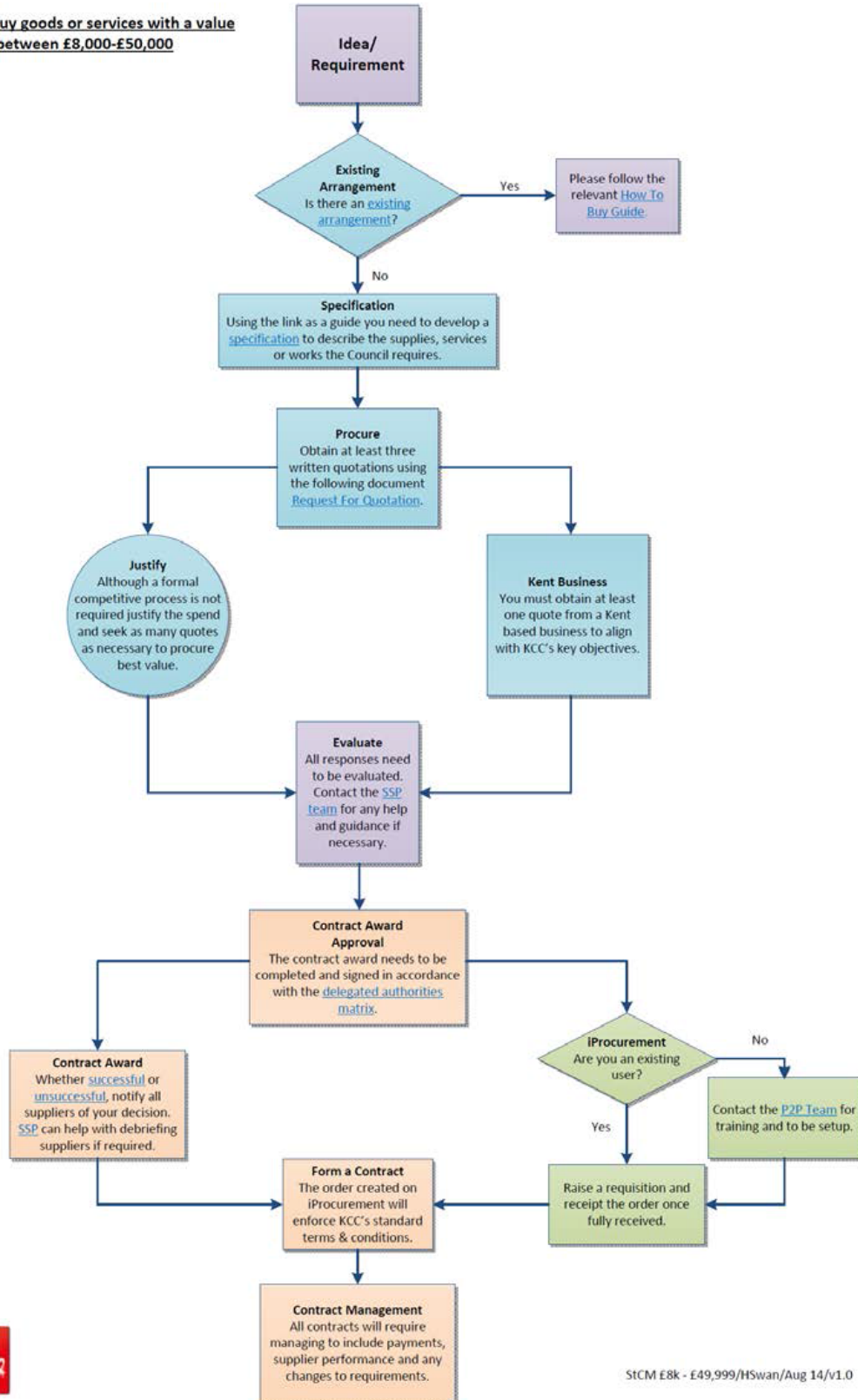
How to buy goods or services with a value less than £8,000



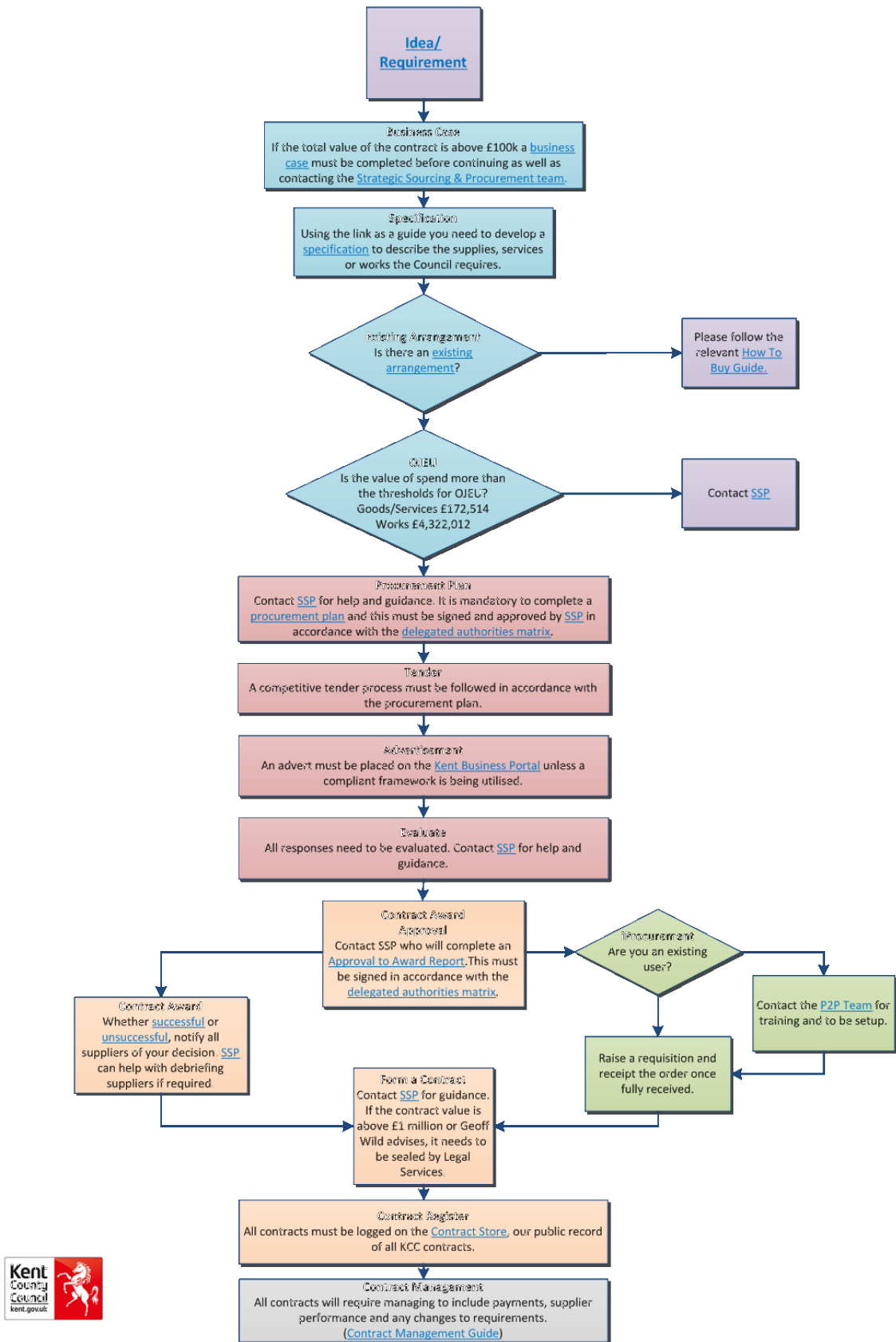
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(ii) £8,000 to £50,000

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



(iii) More than £50,000



However both the overall obligations of the Code 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 of £50,000 and below.

(b) In addition, the Public Contract Regulations 2015 set limits for public contracts above which specific procedures are required to be followed. 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:

(i) the 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) the reasonable expectation of the cost of the consequence of the decision or

(iii) the 'commercial benefit' to the contractor, supplier or 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 in the Financial Regulations.

6. Where a contract for a Consultant is estimated to cost over £50,000, 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. Members and Officers are also reminded to seek guidance over the engagement of ex-employees as consultants (see 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 9 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.

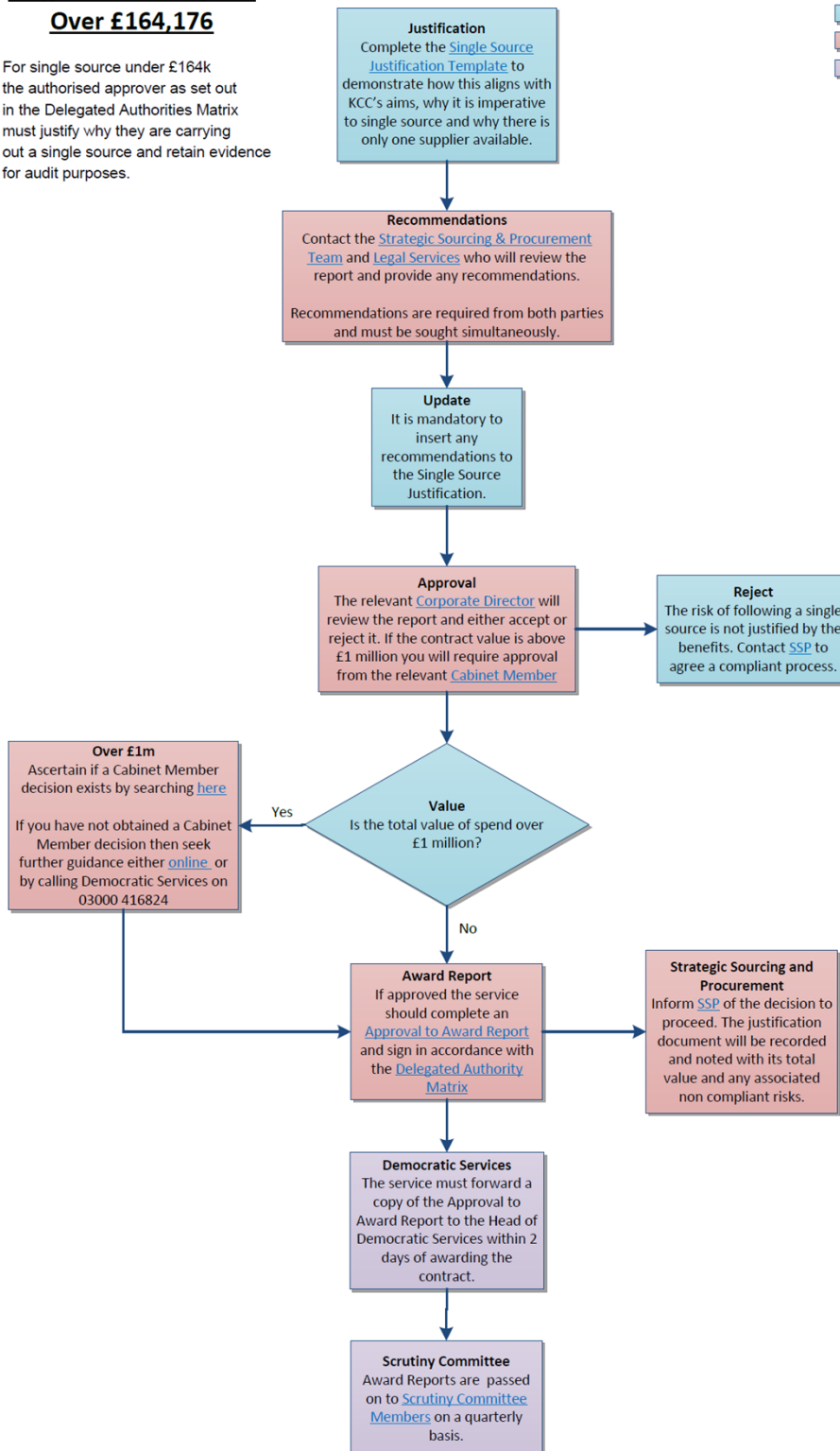
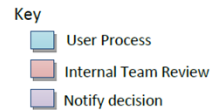
9. The seal may be fixed and witnessed or the document signed as a deed only by the Director of Governance and Law or officers authorised by him in writing to do so.

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.

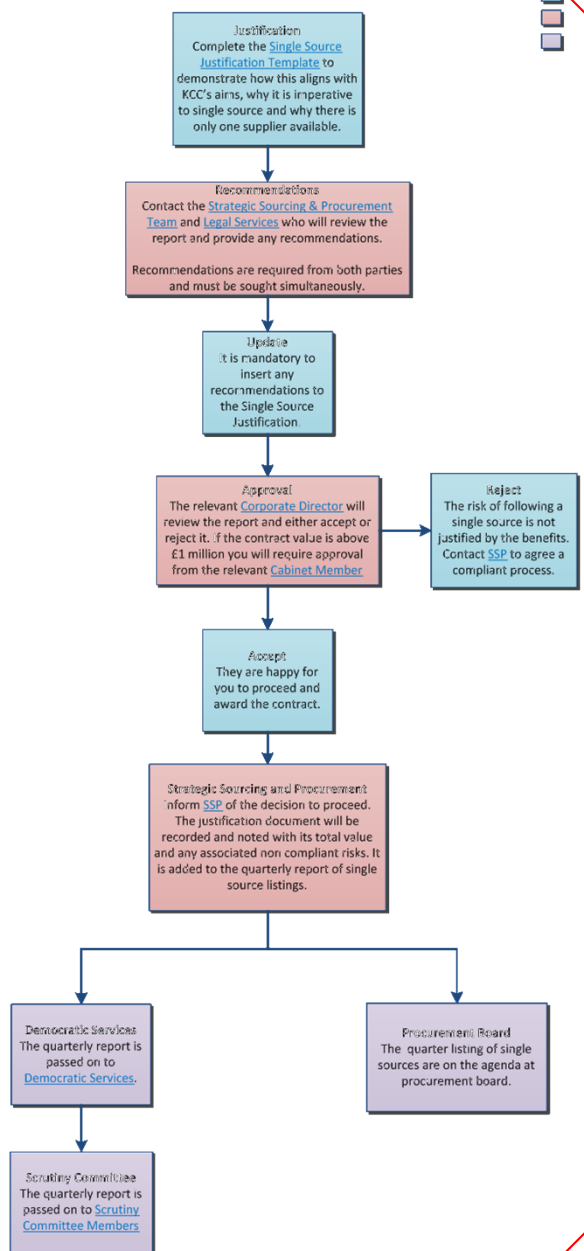
11. (a) For contracts over ~~£164,17650,000~~, where a non-competitive process is used to determine the contractor, the Single Source Justification Report will include evidence of the advice obtained from Legal Services and Strategic Sourcing and Procurement. The approved Award Report must be sent to the Head of Democratic Services within 2 days of the contract being awarded so that s/he may notify Members of the Scrutiny Committee on a quarterly basis. For those contracts with a value of £1million or more a formal cabinet member decision must also be in place before the contract can be awarded.

Single Source Request Over £164,176

For single source under £164k the authorised approver as set out in the Delegated Authorities Matrix must justify why they are carrying out a single source and retain evidence for audit purposes.



Comment [SH-BF1]: Old to be deleted flow chart



(b) Being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant for more than £50,000 must be reported as a non-competitive procurement to the Head of Democratic Services within 2 days of the contract being awarded so that s/he may notify Members of the Scrutiny Committee on a quarterly basis.

13. With the exception of charges and deeds that have to be registered at the Land Registry or Companies Registry in order to take effect or to have legal protection (where a 'wet ink' signature will still be required), electronic signatures will, in line with the Electronic Communication Act 2000, be accepted as a fair representation of a willingness to enter into a contract by the Council and Supplier, insofar as the e-signature is a true representation of the authorised person's written signature and:

_____ (a) the Contract will be entered into in relation to being either under seal (or signed as a deed) or under hand

_____ (b) is supported with a contemporaneous document of authenticity and authorisation on behalf of the Council and the Supplier.

In which case an e-signature and a signature will be referred to as the same.

(where a 'wet ink' signature will still be required), electronic signatures will, in line with the Electronic Communication Act 2000, be accepted as a fair representation of a willingness to enter into a contract with the Council, insofar as the e-signature is a true representation of the authorised person's written signature and:

(a) the Contract will be entered into in relation to being either under seal or under hand

(b) is supported with a contemporaneous document of authenticity and authorisation from the Supplier.

in which case an e-signature and a signature will be referred to as the same.