

Procedural Note: Breach of Procurement and Contract Procedure Rules

NOTE: This Procedural Note forms part of the Procedures and shall be read in conjunction with the Procedures and any associated Procedural Notes

Background

- 1) This Procedural Note outlines the steps to be taken to monitor compliance with Procurement and Contract Procedures and the steps taken to address potential non-compliance with the Procedures.
- 2) The Steps to be taken to investigate in the event of a suspected breach will be proportionate to value, risk and taking into relevance to significance and seriousness of the issue.
- 4) An awareness of any failure to comply with the Procurement and Contract Procedure Rules and procurement legislation is essential for the Council to appropriately manage and mitigate any resultant risks.

General

- 5) The Procurement Manager will implement and oversee a random sampling and monitoring process of spend on a quarterly basis to identify potential Breaches. The sampling and reporting process is summarised in Appendix A below. Breaches will be reported to Audit and Governance Committee each quarter alongside approved waivers.
- 6) Where a suspected breach of the Procurement and Contract Procedure Rules has taken place, or an individual has become aware that they themselves have breached the Procurement and Contract Procedure Rules, initial referral must be made to the Procurement Manager as soon as practically possible. They may be directed to complete a retrospective Waiver application.
- 7) Where a suspected breach of the Procurement and Contract Procedure Rules is raised by an individual, sufficient information shall be provided to enable the allegations to be suitably investigated, an opinion formed around the seriousness of the breach, and a decision taken as to the actions which shall be taken.
- 8) Suspected breaches of the Procurement and Contract Procedure Rules can be raised by anyone, either internal or external to the Council.
- 9) When notified of a suspected breach, the Procurement Manager shall instigate an initial investigation into the matter in conjunction with the Head of Service for Legal and Democratic Services. The intent, the individual circumstances and the impact of the alleged breach shall be considered.

- I0) The Procurement Manager and Head of Service for Legal and Democratic Services shall endeavour to reach a formal decision around the investigation within 20 working days from initially being brought to their attention.
- I1) The Procurement Manager shall record the overall findings from any investigation, and report actual breaches to the Strategic Director for Corporate Resources and Audit and Governance Committee on a quarterly basis.

Findings of Initial Investigations

- I2) Where the Procurement Manager considers the matter to be a significant and serious failure to comply with the Procurement and Contract Procedure Rules, then the matter shall be referred to the Head of Service of the Officer responsible for the breach for further consideration. In the case for persistent non-compliance, the relevant, Director will be notified and decide on the appropriate action to be taken.
- I3) Where it is suspected that fraud, corruption and / or financial irregularity have taken place, Internal Audit shall be notified immediately.
- I4) The Head of Service of the Officer who was responsible for the breach shall be required to inform the Procurement Manager as to any and all actions taken to rectify the breach.

Appendix A - Sampling and monitoring process for compliance with Contract Procedure Rules

The Procurement Manager will complete this sampling approach on a quarterly basis (10 days after quarter end):

Goods and Services estimated value limit (net VAT)	Works estimated value limit	Sampling approach	Responsibility for Addressing Breach
Below £25k	Below £25k	The procurement team will sample 2 goods & services and 2 works transactions in quarterly spend reports to check that lower levels are spend are once off purchases, in order to ensure there has not been any disaggregation of spend.	Officer Concerned/Relevant Head of Service
£25k - £100k	£25k - £100k	The procurement team will sample 2 goods & services and 2 works transactions in quarterly spend reports for compliance with quotation procedure. The team will also monitor daily and query any requisitions raised that do not appear to relate to a compliantly procured contract.	Officer Concerned/Relevant Head of Service
£100k – UK threshold	£100k - £499,999	The procurement team will sample 2 goods & services and 2 works transactions for compliance with tender procedure, The team will also monitor daily and query any requisitions raised that do not appear to related to a compliantly procured contract.	Relevant Head of Service
>UK Procurement threshold	>UK Procurement threshold	Any transaction >UK procurement threshold will be tested for compliance procedure. The team will also monitor daily and query any requisitions raised that do not appear to related to a compliantly procured contract.	Relevant Head of Service/Service Director

Breaches will be recorded on a register and reported to Audit and Governance Committee quarterly.

The Procurement Manager shall report all breaches over the UK Procurement Threshold

to the Monitoring Officer and Section 151 Officer as soon as they are identified. The Procurement Manager shall also inform Directors of all breaches in their Directorate.