Luton Borough Council

Procurement Policy

Version: V1.14

Version 1.14

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Contents

Background to Procurement Policy

Procurement is a complex function guided by numerous policies and statutes. A comprehensive Procurement Policy - one that lays out these policies and applicable laws is critical to ensuring that Procurement, agency staff, and all stakeholders follow the proper procedures and rules so all will have a clear and consistent understanding of the required regulations and organisational approach to Procurement.

Purpose and Application

The Procurement Policy has three main purposes:

1. To obtain Best Value in the way the Council spend money, so that it may in turn offer better and more cost effective services to the public;
2. To support the ability of Luton Borough Council's Central Procurement Team to procure and manage goods, services and suppliers effectively including informing all Council Officers of the appropriate procedures and responsibilities;
3. To enable the Council to comply with legal obligations that govern the spending of public money such as the EU Procurement Directives as implemented into UK law by the Public Contracts Regulations 2015.

This Procurement Policy applies to and binds all Directors, Heads of Service, Managers and officers of Luton Borough Council in any situation where they are involved in a Procurement process, whether as requisitoners, specifiers, purchasers (for those requirements under £1,000), or those who validate or authorise payment.

Best Value Duty

The Policy supports the Council's ability to meet its "Best Value Duty". The Council's "Best Value Duty" is very important. It means that we **must** always consider how each Procurement is consistent with the Council's duty to secure continuous improvement in what we do having regard to economy, efficiency and effectiveness. We therefore need to question whether we should be buying anything at all and if we should do, whether we can do it ourselves, or jointly, or rely on someone else to get better value.

The Policy supports the Council's ability to meet obligations set by EU and Government expectations of individuals and companies. Government and EU public Procurement Policy require that the Council **must** permit, and be seen to be permitting, freedom of opportunity to trade with the Council and to be open and transparent about how we buy things. If we fail in this duty, an external party may have cause for a complaint against us and may be able to claim damages

Scope

The scope of this policy applies to:
1. All contracts made by, for or on behalf of the Council with the exception of contracts for any interest in land and employment contracts;
2. Any renewal or extension of contracts beyond their original scope or term as they apply to the formation of new contracts;
3. All parts of the Council's business and where the Council is acting as an agent for

another body unless the principal lawfully directs to the contrary;

4. To any person, not an officer of the Council, who is engaged to manage a contract on behalf of the Council;
5. The selection of nominated suppliers and nominated sub-contractors for products, works and services covered by a main contract;
6. All applicable UK and EU Legislation and in particular that relating to competition, public procurement and tendering procedures;
7. Where the Council is a member of any consortium or similar body, or is collaborating with another body which is acting as its agent, the regulations of that body shall apply, but Procurement shall not enter into any such arrangements unless satisfied that the Council will thereby achieve best value for money and proper control within the consortium or by the agent over procurement arrangements;
8. Procurement staff acting as client agents and making contracts on behalf of other budget holders shall ensure that their budgets are not exceeded without their authority.

Out of scope

The Policy does not cover grants which the Council may receive or make, except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered.

This Policy does not apply to the Procurement of land or to any interest in land.

Organisational Context

This Policy supports the Council's Corporate Portfolio and the Mission Statement, Vision and Values set out in the Procurement Strategy and is to be read in conjunction with the Council's Constitution, Part 4, Standing Orders in particular Chapter 9 "Contracts Procedure Rules".

Every contract made by or on behalf of the Council including its Executive and Cabinet Members shall comply with:

- This Policy;
- The Council's Financial Regulations;
- The Councils Standing Orders, in particular Chapter 9 "Contract Procedure Rules";
- All relevant statutory provisions including in particular the Local Government Act 1988 Part II, Local Government Act 1999, Local Government Act 2000, the Public Contracts Regulations 2015 and the Local Government (Contracts) Act 1997;
- European Union treaties and European Council Directives;
- The rules on State Aid;
- Any direction by the Council, the Executive Cabinet Member or Committee having appropriate delegated authority.

Chief Officers will be responsible for ensuring that their staff comply with this Policy.
The Strategic Procurement Manager will investigate any incidences of non compliance and is responsible for providing advice on this Policy.

The Policy governs the method by which the Council spends money on goods and services which the Council needs to deliver its services. They do not apply to internal purchases or service provision, and only apply to external purchases from outside the Council.

The Policy applies to any contract (including a purchase order) that results in a payment being made by the Council. It also applies to some types of contracts where a service is being provided for the Council which results in income being generated for the Council.

If you are in any doubt about whether the Policy applies you **must** always check with the Central Procurement Team.

Policy objectives

The Council's Procurement Policy exists for a number of discrete but often interconnected purposes. These objectives are expanded below, and are reflected in the detailed procedures that follow.

The Policy commits the Council, and every individual involved in Procurement and Contract Management processes within the Council, to use their best endeavours to ensure that our Procurement and contracting activities are:

- legal;
- accountable and auditable;
- ethically, environmentally and socially responsible;
- economically effective;
- conducive to maintaining the Council's ability to exploit appropriate technological, commercial and organisational developments as they arise;
- capable of identifying, minimising and managing risks that may threaten the supply chain or the wider organisation;
- open to continuous improvement and development, in particular by the training, development and support of staff.

In addition it is the Central Procurement Team's objective that, as far as is within their power, they will only engage suppliers and contractors who subscribe to and operate on similar principles. Joint venture partners, and the management of outsourced activities on an organisation's behalf, are similarly expected to abide by and promote these principles.

Of these objectives, Legality and Accountability and Auditability, are non-negotiable. There are no circumstances in which it is permissible for the Procurement activity or those engaged in it consciously, to break, or knowingly to risk breaking, the laws that apply.

There are no circumstances in which it is permissible to requisition or buy goods or services or commit the organisation's funds without documenting the transaction. Each transaction should be documented in such a way that at a future date it is possible to determine who requested, made, or approved the expenditure, the purpose of the expenditure, the process by which all key decisions were arrived at, and by whom, and the destination of any goods or services received and of any payments made.

Legality

Procurement and contracting activity will fully respect and comply with:

- All applicable UK laws and regulations;

- All applicable European Union laws, directives and regulations (including those governing Public Procurement, where relevant);
- The relevant laws, regulations and so on of other territories in which organisations operate, to which we supply, or from which we source;
- International laws, treaties and agreements to which the UK government is party (including, for example, any United Nations-approved trade sanctions);

Note: this includes not only those laws directly applicable to the buying and selling of goods and services - it includes amongst others the laws on:

- Taxation – the Procurement Team will not be a party to the evasion of income, sales, corporate, VAT, or other taxes, customs duties, or other charges, either by Procurement Professionals, their customers, or their suppliers;
- Environmental regulations;
- Employment regulations,
- Health and Safety regulations
- Anti-Bribery and Corruption

The Council is committed to the fair and effective application of laws and regulations. There is therefore a positive duty on the organisation and its members to report and refer any and all reasonably founded suspicions of illegal activity (for example, attempts at corruption, evidence of anti-competitive or cartel-like activity, breaches of employment or environment law).

The Procurement Policy shall support, protect and where possible preserve the anonymity of 'whistleblowers', inside or outside of our organisation, who act in good faith, even if their suspicions should subsequently prove to be unfounded.

The Council, and individual members, will give full co-operation to legitimate authorities investigating such claims. This specifically includes the duty to ensure that any conceivably relevant documentation is preserved and made available, even if such documents could be construed adversely to the interests of the organisation or individual members.

Accountability and Auditability

The Council will maintain systems that will, for all purchases, contracts and external commitments record, identify and as appropriate provide justification for:

- The originator of the requirement;
- The purpose for which the requisition was made;
- The route by which the requisition was approved;
- The methods adopted in accordance with the Procedures below, (or any variation from Procedure, with reasons) to procure the requirement, with all relevant documentation (for example Requests for Quotation, Tender documents and so on) and the reasons for decisions made;
- The source of supply;
- The compliance or otherwise of the goods or service, and of the supplier or contractor, with the requirement as specified in the contract or other agreement;
- All actions taken to remedy any defect as recorded above; and the results;

- The route by which payment was authorised, and when, to whom and in what sum any payment(s) are made.

Note: The above is the minimum requirement – there may be many Procurements for which much more detailed accountability is required.

Table 1, E-Procurement/ Finance Systems currently in use by the Council

System	Scope / Use	Users
General Ledger	System where all the Council's financial transactions are recorded.	Finance and Cost Centre Managers, plus other users view-only access
Procurement Portal (large spend commitments – above £100,000)	eSourcing portal where tender processes are carried out as necessary.	Central Procurement Team
Procurement Portal (medium spend commitments - between £1,000 and £100,000)	eSourcing portal where supplier quotations are received for lower value items (Quick Quotes).	Central Procurement Team
Spend Analytics	To present the Council's spend In relation to time, value, commodity/ service type or category.	Central Procurement Team
Contracts Management Database	To support the Council's ability to track and manage suppliers and their performance, issues and risks.	Central Procurement Team
Corporate Purchase Order System (AFP)	Corporate system to place all LBC purchase orders with external suppliers. All orders should be placed on this system before the goods and invoice are received. The system is designed to be a two stage process (requisition and approval).	Cost Centre Managers and additional requisitioners from all Service Areas

Accounts Payable (Creditors)	System which pays all the Council's invoices. Core supplier's details are kept and maintain within this system.	Centralised Accounts Payable team and users of other interfaces plus other users view-only access
Internet / Intranet	Network used to share information within the Council, such as policies, communications, spend data, etc.	Office-based employees

It is a fundamental of the Policy that as far as is possible (and subject to the Procedures for low-value purchases), the requistioner, the buyer, negotiator or contractor, and the authoriser of payment, will be different persons, all identifiable in the records maintained.

Public Services (Social Value) Act 2012 (SVA)

The SVA legislation is designed to compel local authorities to consider at pre-procurement stage the social, economic and environmental impact of each procurement/purchasing decision. The intention of the Act is to ensure that any business that can provide social value as a consequence of securing contracted work is able to identify, measure and report on such impact, thereby increasing the effectiveness of procurement decisions. Luton Borough Council has therefore a responsibility to its residents to enforce the SVA on each procurement exercise in order to secure more benefit for Luton than simply the provision of products or services.

The Act, which became law in March 2012 and came into force in January 2013, covers public service contracts (including primarily service contracts with a works or goods element where the service element is greater in value), but not goods contracts.

The Act is a mandatory process within the pre-procurement stage of the commissioning process, during which services are conceived and designed, specifications developed, and engagement with partners, stakeholders and current and potential providers takes place. In addition, all tender documents must include a detailed question regarding the SVA, requiring bidders to specify how they will contribute to the community.

In this respect, the Central Procurement Team will be responsible for leading and enforcing the compliance in the use of the SVA across the Council during pre-procurement and tender stages, as well as for raising awareness of the social value and engaging colleagues in how to implement the policy when involved in procurement / commissioning processes.

Further detail on the Social Values Act 2012 can be found at the following address: https://www.gov.uk/government/news/government-reviews-ground-breaking-social-value-act.

Corporate Social Responsibility (CSR)

Beyond the requirements of law and other regulations that Procurement professionals are bound to observe, the Council has responsibilities (often referred to as Corporate Social Responsibility (CSR)) to the wider community. Guidance on the general application of CSR in the Procurement and supply management context within the Council may be found in the Procurement Strategy.

When seeking to apply CSR criteria within a tender process a 'balanced' or 'weighted' scorecard approach is recommended - necessarily, the weightings to be applied to the various economic, social and environmental factors likely to be significant in a Procurement must be determined, and aligned with corporate policy and goals, before the Procurement process commences.

It is important that the Procurement function, as a major agent in the translation of such policies into action, ensures that it is fully represented in the formulation of such policies. Areas of CSR policies that are relevant to the supply chain may include some or all of the following:

- Environmental responsibility;
- Human rights;
- Equal opportunities;
- Diversity;
- Corporate governance;

- Sustainability;
- Impact on society;
- Ethics and ethical trading;
- Biodiversity;
- Community involvement.

The following seven points represent the minimum acceptable commitment within a Procurement and Contract Management context:

1. The Procurement function will actively support the adoption of the Living Wage standards across the supply chain, ensuring the Council remains complaint with the Living Wage Legislation. Under no circumstances will the organisation support sourcing where the minimum and legally required standards are not applied.

2. The Procurement function will, where possible, prefer to purchase goods and services that can demonstrate a lower overall (life-cycle) environmental impact.

3. Procurement will treat all actual and potential suppliers and contractors fairly, equally and objectively.

4. Notwithstanding the above, Procurement Procedures will reflect the need to encourage diversity in the supply base, and encourage where appropriate the development of small suppliers, start-up companies, local suppliers and minority-owned suppliers.

5. All reasonable attempts will be made to assist suppliers to overcome difficulties and/or to improve their performance for us. Terminating a supplier or a contract is, except in extreme circumstances such as financial failure or illegal activity, to be regarded as a last resort

6. Procurement activity will have due regard for the needs and sensitivities of the community in which it is located (especially but not solely in terms of environmental and amenity impact).

7. All individuals concerned in the Procurement process should consider themselves bound by the Council's Code of Conduct for Employees.

Economic effectiveness

Luton Borough Council is a major buyer in the local economy, with over a third of the £200 million the Council's spend each year going to local businesses – those with a Luton postcode. Procuring such goods and services in the most economically effective manner is, subject to the legal, ethical and other restraints outlined above, the central role of the Central Procurement Team. In carrying out this role, all those involved in Procurement will have regard to the following:

- The desired outcome is that of greatest value gained at lowest total cost;
- Total cost will as appropriate take into account the full anticipated life-cycle costs of the goods or services, including such factors as maintenance, servicing, reliability costs, and costs of ultimate disposal where this organisation may be responsible for them;
- Value may and should, where appropriate, be assigned, however approximately, to such factors as sustainability, environmental and social benefits and of improving the competitiveness of the supplier base on which we depend;
- In addition to the total cost of acquisition or ownership, it is policy to reduce where possible the administrative cost of acquiring and owning goods and services. Selection of the most appropriate procedure to obtain an approximation to best value without incurring excessive

administrative cost (or without unduly diverting limited resources from other activities and priorities) is therefore vital.

Risk management

The expenditure of resources outside the organisation, and the dependence on an external supply chain, exposes the organisation to a wide variety of risks. A significant function for the Central Procurement Team is to identify, if possible minimise, and otherwise manage the likely impact of such risks (to the Council itself and to other stakeholders).

For any significant expenditure, long-term commitment, or identifiable 'pinch-point' (that is where even a small supply problem could have larger ramifications for the well-being of the organisation) formal risk assessments will be made, as appropriate addressing:

- Supply risk - risks resulting from the non-performance or poor performance of a supplier or contractor;
- Demand risks - arising from requistioners ordering too much, too little, or the wrong goods or services, relative to the actual need;
- Process risks - the risk that the way goods are used or services supplied may not be optimal for the circumstances - even if they comply with the formal requirements of the tender or contract;
- Control risks - risks arising from deficiencies in internal processes and procedures - including, but not confined to, procedures mandated in this document;
- Environmental - the impact of unpredictable hazards from Acts of God through Acts of Parliament to acts of terrorism;
- Social – risks arising from issues related to Corporate Social Responsibility such as Human Rights and so on.

Risk assessment in the supply chain is necessarily subjective: it is nonetheless required that where a significant risk is identified, the nature of the risk shall be identified to stakeholders, and where possible alternative solutions or fall-back positions considered and documented.

Risk Assessment Approaches

Currently Luton Borough Council records Procurement and commercial risks using a risk/value Matrix as set out in the Procurement Strategy. This is shown below:

Bottleneck	Strategic
- Low value, High Risk - May be service critical - Transactional Team to maximise benefits - Processes may include use of multiple suppliers, secondary contracts, etc. - E-procurement allows for transparent arrangements and monitors total volumes across the different supply routes	- High risk / High value - Requires careful project planning and management - Strategic partnerships may be an option - Requires effective working collaboration between the central procurement team and the user area
Routine	**Leverage**
- Low Risk, Low Value - Benefits from the e- procurement system and Transactional Team to drive efficiencies	- Low risk / High value - Should be covered by the use of appropriate corporate arrangements such as corporate contracts, consortia and pre tendered call off

| | arrangements. |
| | • Use of e-procurement routes to drive efficiencies |

Continuous improvement

All personnel involved in the Procurement process are expected to attempt to improve their knowledge and skills, and the organisation will support such activities. The organisation aims to recruit, maintain and develop a core of professionally qualified purchasers (and others with the requisite cognate skills).

Procurement responsibilities and authority

Role of the Central Procurement Team

Luton Borough Council has a Central Procurement Team. It is responsible for leading on all Procurement activity with estimated net values of over £1,000. The function of the team can be broadly separated in to distinct Strategic and Transactional functions, these are described below:

Strategic function:

This takes the form of a Business Partner approach to ensure strong engagement with key stakeholders and departments / service areas such that Procurement is aligned to, supports and understands all service areas and their relevant specialisms ensuring that local service area knowledge is not compromised.

Central Procurement will work closely with the Commissioning teams in departments to ensure alignment and a corporate approach to Procurement governance, policy and guidance throughout the commissioning cycle.

Transactional function:

A Transactional Central Procurement Team that provides a consistent and controlled approach to the more tactical and low value purchases (those between £1,000 and £100,000) which typically lack visibility, compliance, control and value for money.

Role and Responsibility of the Central Procurement Team

The Central Procurement Team has the following operational role and responsibilities within LBC:

- All Procurement for goods and services over £1,000 ex VAT;
- Procurement offer a 'Business Partner' relationship to departments / service areas;
- Central Procurement work closely with the Commissioning teams to ensure alignment and a corporate approach to Procurement governance, policy and guidance throughout the commissioning cycle;
- Central Procurement provide a full end to end Procurement service from opportunity assessment right the way through the contract management and supplier relationship management for all levels of spend above £1,000;
- The Central Procurement Team comprise a multi-disciplinary team with technical, financial and commercial skills;
- Procurement provide systems support to end users via a helpdesk;
- Procurement monitor compliance to process and policy and report findings to the Heads of Service and CLMT on a regular basis;

- Heads of Service and the Strategic Procurement Manager work together to develop a robust Procurement Forward Plan to ensure the correct Procurement resource levels are made available with the correct skill-sets.

The Central Procurement Team is also authorised to fulfil the following functions:

- Establish the Procurement Policy and ensure that the Policy is adhered to;
- Establish and support standard procedures that will enable the organisation to meet the objectives of the Procurement Policy, while having regard to economic effectiveness;
- Establish the rules and procedures by which Procurement authority may be delegated to and exercised by other individuals and/or departments; regularly review such parameters and practices; and ensure that the exercise of such delegated authority continues to meet the Procurement Policy requirements;
- Maintain records and data systems in such a way that an appropriate, auditable, trail of each Procurement activity is available, that supplier performance can be monitored, that demand can be aggregated, supply requirements anticipated, and adherence to Policy demonstrated.

Interrelationship with internal Council Service Areas

The table below provides further detail on the role of the centralised Procurement Team and the allocation of responsibilities between Procurement and Departments / Service Areas, as well as giving an indication of the skill sets required for this model to operate effectively.

Procurement Cycle – Stages	Central Procurement Team	Department / Service Area
Analyse		
Needs analysis – including: *Population needs assessment; data collection; scanning of policy, legislation and strategy; trends, forecasting & sensitivity testing;*	Joint	Joint
Plan (Procurement)		
Policy and governance – including *Procurement policies; standing orders; Procurement governance arrangements*	Lead	-
Standards and plans – including; *Tendering plan; Category strategies and plans Model contracts & Service Level Agreements Standard tendering processes and documentation; best practice guidance and toolkits.*	Lead	Support
Data, Information– including; *Contract database; analysis of spend, supply and demand; market research; supplier analysis; benchmarking; soft market testing.*	Lead	Support
Procurement – including; *Category management; supplier assessment and approval; market development and conditioning; Procurement project management; market engagement; negotiation, bespoke contracts and service level agreements; cost analysis & financial models; performance frameworks; payment mechanisms, specification; evaluation models; contingency planning; benefits management and monitoring; exit planning*	Lead	Support

Procurement Cycle – Stages	Central Procurement Team	Department / Service Area
E-Systems – including; *E-Catalogues; E-tendering system; E-auctions; intranet pages and web-site management*	Lead	Support
Plan (Commissioning)		
Strategic business case – including; *Scanning of client, community & provider environment; Modelling & forecasting; whole system analysis; stakeholder analysis and engagement; availability of resources & funding; intervention approach; partnership approach; benefits, impact potential and outcomes focus, high level target outcomes; options development and appraisal; Cost-benefit overview; budget estimates.*	Support	Lead
Detailed business case– including; *Project team and management arrangements; Governance framework & key decisions; Risk analysis & management proposals; Partnership arrangements; Client / customer engagement; Market engagement; Design management; Cost analysis / Total cost of ownership; Benchmarking; Value engineering; Commercial structures; Funding strategy; Acquisition strategy (stimulate, provide, procure); Define key performances* *Benefits planning; Equality impact assessment; resource requirements; approval to proceed.*	Support	Lead
Do		
Contract management – day to day supplier liaison *Day to day supplier queries, communications and engagement. Informal performance monitoring and feedback into master performance reviews.*	Support	Lead
Contract management and review – including; *Mobilisation & transition; performance monitoring & management; service improvement; value management / re-negotiation; benchmarking & review; decommissioning / exit management*	Lead	Support
Review		
Review *strategy, market and contract performance*	Lead	Support

General Approach

Across all functions shown above Procurement will adopt an holistic attitude to the needs and policies of the organisation; will attempt where possible to operate in a cross-functional manner involving and recognising the needs of all stakeholders in the Procurement (internal and external); and will as far as is practicable take a long-term view of the benefits and risks to the organisation (or whole supply chain, as appropriate) of any proposed Procurement.

Records, systems and data

The Central Procurement Team, in collaboration with others (such as end-users, finance/accounts) maintain systems that will record and monitor all historic and current Procurement activity, and that are capable of generating appropriate reports to inform and improve future activity.

Such systems will wherever possible automate the flow of relevant information to, from and within the Central Procurement Team. The systems will be capable of recording, analysing, correlating, cross-referencing, and reporting suitably on all purchases and commitments for goods, works and services, including Procurement exercises where no contract is ultimately awarded.

The Central Procurement Team shall also have the responsibility to record and report on any other contractual or supplier issue that arises such as any unethical approach or inducement, possible conflicts of interest or failure by a supplier to meet the Council's requirements.

Legal and ethical concerns

Whether verified or not, all concerns about the legal and/or ethical conduct of suppliers should be flagged and logged by the Strategic Procurement Manager. It is worth noting that poor legal and ethical practices often manifest themselves initially as minor and unverifiable incidents - a pattern of behaviour may, if such incidents are logged properly, become apparent well before any provable wrongdoing.

Any improper approaches, whether in the form of inducements or threats, must be reported, even if they are sufficiently ambiguous to allow of an innocent construction. All Procurement professionals when undertaking any Procurement activity should consider themselves bound by the Council's Code of Conduct for Employees. The following points should be particularly noted:

Gifts, hospitality and other inducements

Only gifts of small intrinsic value - pens, desk diaries and the like - may be accepted from actual or potential suppliers. Gifts of real worth should be reported, and returned to the supplier with a polite explanation of why the offer is unacceptable. Suppliers who persist in making such offers should be made aware that the Council will cease to deal with them. On occasion it is necessary both to give and receive hospitality. However, any hospitality offered or accepted must be modest and proportional to the occasion and of the type and scale that you would offer if the situations were reversed. The Councils hospitality policy should be adhered to all times.

Invitations to visit user sites, attend specialist conferences, association annual dinners and the like as the guest of a supplier should be treated with caution and approved in advance by the Strategic Procurement Manager. Invitations extended to a spouse or other guest will be declined except in exceptional circumstances which should be approved by the Strategic Procurement Manager. All invitations to sporting occasions and other functions with little or no business content should be reported and declined. This applies at all times, not just in working hours. Invitations should be declined politely but firmly.

Some inducements are unavoidable, as they come packaged with the product. The obvious example is 'air miles' earned on business travel. All benefits gained through spending the organisation's funds are the property of the organisation and should be reported and surrendered (although if they are of no value to the organisation the Strategic Procurement Manager may authorise the recipient to retain them).

Further guidance on the Council's gifts and hospitality policy can be found in the Gifts and Hospitality Policy.

Anti-competitive behaviour

From time to time, buyers may become aware of supplier organisations apparently acting in collaboration to fix prices or divide up markets. More rarely, there may be arrangements between buyers from different organisations designed to put pressure on suppliers. Any such arrangement is

illegal unless reported to the Office of Fair Trading and if necessary specifically cleared by the Restrictive Practices Court. Any such suspicions should be reported (with any supporting evidence) to the Central Procurement Team which will investigate and, if necessary, pass the information to the Office of Fair Trading.

'Whistleblowers'

It is our policy to support, protect and, where possible, preserve the anonymity, of any of our employees that report apparently questionable activity, even if their fears subsequently prove to be unfounded. Early reporting is essential, so that, where necessary, legal advice can be taken and both the individual and the organisation protected.

Please refer to the Council's Whistleblowing Policy for more detail.

Category Management

The Central Procurement Team Business Partners are focused on specific service areas taking lead responsibility for all Procurement in particular classes of goods and/or services. The Business Partner is then supported by a suitably experience category manager who is aligned specifically to the service area in question. All requirements within such categories should be channelled through the appropriate Business Partner in the first instance.

Further information on how Business Partners approach each category can be obtained by contacting the relevant Business Partner.

Procurement cards

Luton Borough Council allows the use of Government Procurement Cards (GPC) in certain situations and for transactions under a net value of £1,000. The GPC offers a simple method to purchase and pay for business related, low value, non-recurring goods and services which are **NOT** covered by existing contracts.

The GPC looks, and is used, much like any other Visa Card and should be accepted by any establishment or organisation which accepts payment by Visa. However:
- It cannot be used to withdraw cash;
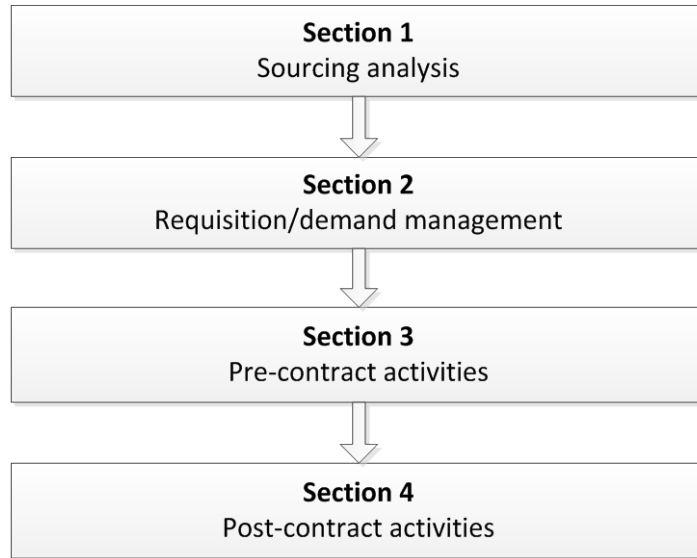- It must not be used for any personal purchases.

The GPC is a charge card, not a credit card and card balances must be paid in full within 14 days of receipt of invoice.

Further guidance can be found in the LBC Government Procurement Card Policy.

The Procurement and Contract Management Model

The Procurement model in use at Luton Borough Council illustrates all possible elements within a typical end to end Procurement activity.

Necessarily, there will be many instances where simpler procedures apply. Nonetheless, all procedures used should comply with the model as far as is possible, and any deviation should be checked against the model to ensure that no excessive risks are being incurred by adopting a simpler or less rigorous procedure. The model process divides into four sections:

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│           Section 1             │
│        Sourcing analysis        │
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│           Section 2             │
│   Requisition/demand management │
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│           Section 3             │
│      Pre-contract activities    │
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│           Section 4             │
│     Post-contract activities    │
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Although the precise nature of these activities will vary according to the nature of the Procurement, and some elements may not apply in all cases, the principles are constant. They should be adhered to, and carried out in the appropriate sequence.

Section 1 - Sourcing analysis

Sourcing analysis draws on historic and current Procurement data; wider market intelligence, and the forward-looking plans, forecasts and expectations of the organisation and the wider supply chain to ensure that appropriate Procurement strategies are available for all classes of external expenditure, and that they are aligned with the Procurement Policy and the overall organisational policy objectives.

The analysis will attempt to predict the likely future requirements on the Central Procurement Team and match these to available resources and appropriate timescales. At any given moment some classes of purchase will command more constant attention; nonetheless the Central Procurement Team will ensure that ALL classes of external spend are regularly reviewed over an appropriate timescale.

Section 2 - Demand Management

It is helpful for Luton Borough Council to distinguish between its direct and indirect spend. The distinction is between those services that can be linked to service delivery (direct spend) and the capital equipment, services and supplies required for running the organisation but which are not in any real sense 'sold on' to the end consumer (indirect spend).

Direct and Indirect spend

For both categories of expenditure, once alerted to the likely requirement, Procurement will:

- Identify the categories of spend involved (and using past experience, other likely expenditures that have not yet been raised but will probably be required in association: transport/logistics, for example)
- Suggest and construct the appropriate cross-functional teams to identify the needs of, and then manage/take ownership of, the Procurement. These should be as small as possible whilst containing individuals of the appropriate seniority.
- Discuss and determine the appropriate sourcing strategy - that may include at one extreme the make or buy decision, at the other, the possibility of an outsourcing of future direct management control. Appropriate procedures and processes should be agreed, bearing in mind the need to minimise risk and transaction cost, and optimise value, to achieve the desired economic and other objectives, to comply with the Procurement Policy.

In some Procurements, and especially those with a significant speculative, design or development aspect, or where there is likely to be an element of risk sharing between buyer and supplier, it may be appropriate at this point to identify potential partners. However, great care should be taken to ensure that this does not unduly constrain competition or distort the way in which the procedures are implemented to the advantage or detriment of potential suppliers.

Procurement must be assiduous in ascertaining that the projected demand is a genuine requirement, whether from the production plan or the real needs of the end users. It is appropriate also at this stage to ascertain that funds on the likely scale required are indeed available. If the 'requirement' is more in the nature of a research exercise, it should be made clear that, whilst Procurement will do all it can to provide estimates of costs and benefits, the full panoply of the procedures will not be invoked until proper authorisation for the work is received.

At every milestone in the Procurement procedure, reference back should be made to ensure that:

- the requirement is still valid;
- the likely required resources are still available.

Once a definite, or near-definite, demand or requisition has become apparent, the Central Procurement Team should take the following procedure that leads (usually) to the award of a contract.

Section 3 – Pre-contract activities

Identification of need

The Central Procurement Team will establish an effective liaison with the user or requisitioner by the Business Partner structure to determine the requirements in detail and thus produce a specification. In drafting a specification a number of factors need to be considered:

- Are there technical alternatives, approaches or solutions that may achieve an acceptable result at lower cost, or perhaps using existing resources?
- Is the projected level of demand realistic, and is the timescale for which it is required appropriate? This may suggest reducing projected quantities or deferring the demand, it may on the other hand suggest that quantities required have been underestimated, or that the need is sufficiently urgent that, for example, a full tendering process is inappropriate or impossible. Requisitions giving timescales 'as soon as possible' should be referred back;
- Can the complexity of the Procurement be reduced - for example by redesign to use standard components, or by buying an off-the-peg, rather than bespoke, solution?

- What budget is available, and does this at least approximately correspond to the likely cost of the Procurement? Depending on the nature of the Procurement it may be necessary to query the provision for on-costs, such as maintenance, upgrades or end-of-life disposal, as well as the initial cost of acquisition.

Specifications for services are different in that, wherever possible, services should be specified in terms of desired results and outcomes, rather than by prescribing the method by which these are to be achieved. Output-Based Specifications are also highly desirable for the supply of capital and production goods, works and so on, but in their nature these are more likely to be heavily constrained by technical considerations.

When drafting specifications the following points should be considered:

- Technical standards should only be used where necessary to ensure satisfactory performance. International or national standards in the public domain should be used: specifiers must guard against creating in-house standards. If standards not in the public domain have to be used, copies should be provided with the package.
- In order to reduce inventory and increase Procurement leverage, a standardisation policy for commonly used materials may be in force, and the specification should make full use of this where practicable. It is for the user department to show why a standard part or material does not fulfil the need.
- The specification should wherever possible avoid the use of trade names, proprietary processes and other descriptions which could have the result of reducing effective competition. Care should be taken not to misuse trade names as generics. Trade names should only be used in a specification if the use of that proprietary product is essential to achieve a specific technical end.
- The specification must contain all the information necessary for a supplier to prepare a valid bid. Note: for contracts for services, a draft Service Level Agreement may be offered instead of, or in addition to, a Specification.

Procurement Project Plan

When undertaking an external procurement, a project plan, with projected timescales, will be developed. It is recommended that these timescales be referred back to the user/requisitioner for confirmation that they are appropriate to the urgency of the need.

Note: This Procurement plan is distinct from the Annual Procurement Plan that the Central Procurement Team work to on an annual basis charting the organisation's overall Procurement requirements.

It is important that lessons are learned and promulgated from all instances where the timescale of the requirement appears to preclude a full tendering process (even if that would not, in the event, be the preferred Procurement method). Emergencies do arise, but users and requisitioners must understand the time requirements of an effective Procurement process and should be discouraged from 'last minute' requisitioning.

The Procurement plan will identify the duties and responsibilities of team members, and the authorisations and approvals that will be required at every stage of the process.

E-Procurement

Note that, although the delivery mechanisms for Procurement by e-sourcing, e-auctions and similar techniques are very different, the process involved is essentially the same as for a conventional Procurement, and the same procedures need to be followed -, because of the compression of timescales which e-Procurement techniques offer, it is even more important that the 'documentation' is 'right first

time' as there are fewer opportunities for amendment or renegotiation. A Procurement Project Plan is therefore required for e-Procurement in the same way as for conventional Procurement.

Procurement procedures

There are three different procurement processes dependent upon the value of the spend commitment. At LBC, spend commitments are separated into three categories according to their size, these are;

- Minor spend commitments - £0 to £999
- Medium spend commitments - £1,000 to £100,000
- Major spend commitments - £100,001 to unlimited

Each category of spend is led and managed in a slightly different way according to and reflecting the structure of the Central Procurement Team. The individual differences are highlighted in Table 2 below:

Table 2, Elements of spend commitments

Category	Total Value of Contract or PO	Lead Business Area	Tender Requirements	E-Procurement System Used	Exceptions
Minor Spend Commitments	£0-£999	Responsible Council Officer/ Budget holder (Not Central Procurement Team)	Two to three competitive quotations prior to raising a PO. It is good practice to clearly state requirements and standards within the Purchase Order as well as any rebates or volume discounts as agreed.	Government Procurement Card (GPC) where available	The Commitment must represent the sum total of all requirements.
Medium Spend Commitments	£1000 -£100,000 (See process below)	Central Procurement Team - Transactional Team	Competitive quotes / tenders managed and led by the Transactional Procurement Team.	Quick Quotes System	Unless the Corporate Director certifies impracticable, See Standing Order 84 Exceptions.
Major Spend Commitments	£100,001 – unlimited (See process below)	Central Procurement Team - Strategic Team	Full and compliant tender process (i.e. Open, Restricted Competitive Dialogue or Negotiated).	eSourcing Platform	Opportunities valued between £100,001 and the OJEU threshold

Valuation of spend commitments and contracts

An estimated value must be established at the start of the procurement process. If the procurement is related to another procurement or is for supplies, services or works which are, or may also be, procured by another division of the Council or on a recurring basis this could affect the contract value for the purpose of this Policy (that is the requirements for aggregation may apply). In such circumstances you should seek guidance from the Central Procurement Team.

The spend commitment value means the estimated total value over its full duration, including any extension options. It is not the annual value. Where the duration of the contract is indeterminate, the contract value should be the estimated value of the contract over a period of four years.

The value of contracts must never be deliberately or artificially underestimated or split to avoid the application of procedures set out in this Policy.

Minor Spend commitments

Minor Spend Commitments are the responsibility of the budget holder and business unit that requires the service/goods. They are responsible for following the process set out in Table 2 above and the procurement team do not have a day to day role in processing these requirements (although can be consulted on any questions with regards to the process in this area).

 Minor spend shall be frequently monitored by the Central Procurement Team to ensure that the correct processes are being followed and complied with and ensure projects aren't being broken down into minor requirements so as to avoid the central procurement process for spend above £1,000. Instances of non-compliance will be reported on a regular basis to CLMT and more frequently to departmental management teams, and will lead to disciplinary actions.

Additional analysis will also be undertaken to identify opportunities for the creation of catalogues that can simplify and reduce the cost of regularly purchased low value items for the Council.

Medium spend commitments

Once the requirement has been identified by the budget holder or business unit the Transactional team within the wider Central Procurement Team shall be responsible for processing these requests.

These requirements must be submitted to the Transactional Procurement Team by completing the Achieve e-Form RFQ Process in full.

Through their established and standardised approach to dealing with the wider supply market the Transactional team will be able to provide the following benefits for the Council:

- Drive greater value for the council through smarter procurement realizing saving benefits;
- Deliver sustainability – more influence on where the council spend its money, for example, the local economy and SME's;
- Deliver visibility and wider spend management to achieve greater influence over total spend;
- Deliver long term streamlined operating practices through a leaner procurement process;
- Deliver a flexible operating model to reflect changes in council demand and requirements.

Major spend commitments

Major spend commitments constitute any contract, PO or agreement to spend the Council's money with a value in excess of £100,000 (regardless of length of agreement). These are exclusively led by the Strategic Team within the Central Procurement Team with input from the relevant business unit or budget holder. Should you have a requirement of this nature please contact you dedicated Business Partner in the first instance.

For commitments with values of above the OJEU threshold, Luton Borough Council must follow the mandatory European Union procurement guidelines set out in the European public contracts directive (2004/18/EC). A member of the Central Procurement Team will lead the procurement process and will decide which of the following types of mandated procurement approach is required:

The Open Procedure

Under the Open Procedure suppliers are asked to return a tender by a set date. All tenders will be evaluated before the contract is awarded. The Council will be obliged to publish the tender on the Official Journal of the European Union (OJEU). The Open and Restricted procedures will be the standard procurement approaches for the majority of procurement activity at Luton.

The Restricted Procedure

This is a 2-stage process. In the first stage, interested suppliers are asked to fill out a pre-qualification questionnaire (PQQ) and a short-list is drawn up of suppliers that meet minimum requirements. In the second stage, the shortlisted suppliers are invited to respond to an invitation to tender (ITT). The tenders are then evaluated and the contract is awarded.

The Competitive Dialogue Procedure

This procedure is used for more complex procurements. After a selection process, the buyer then negotiates with suppliers and invites chosen companies to put in a bid. Suppliers put in their tenders and the contract is awarded.

The Competitive Dialogue with Negotiation Procedure

In this procedure, the buyer can enter into contract negotiations during the competitive dialogue process with one or more suppliers.

Contract notices

For all contracts, the Procurement process will adhere to LBC Standing Orders and shall include where appropriate public notices in such publications and / or websites as the Central Procurement Team reasonably considers appropriate to both local and national markets. In addition, contract advertisements will be placed on the national Procurement portal www.contractsfinder.service.gov.uk. This is a free of charge service supported by government to advertise lower value public sector opportunities at no cost to the buyer or potential contractors.

The Council also operates a local Procurement portal and all contracts that are advertised on the portal are automatically posted on the OJEU and contracts finder websites.
Such notices shall contain such information as is most likely to result in tenders offering good value for money and shall wherever practicable permit at least 10 days for a proper response by prospective bidders.

ITT/RFx documentation

The Central Procurement Team, responsible for leading and delivering the Council's Procurement activity, will maintain a Register of ITTs (Invitations to Tender) so that progress, response and outcomes may be monitored.

ITTs and RFx (that is, Requests for Information/Quotation/Price) will be managed electronically via the e-procurement tool and shall contain all the information, including the specification, that a potential supplier or contractor needs to furnish a compliant bid, but only that information.

The Invitation to Tender and its supporting documentation are critical to the success of a procurement. As such, adequate development time must be allowed to ensure that the ITT properly describes the requirements and conditions, without being so prescriptive that opportunities to achieve greater value for money are lost.

Evaluation and selection of suppliers

Often, supplier evaluation at a high level (especially corporate, as opposed to technical, factors such as company profile, financial standing, capacity, market reputation, etc), will be carried out prior to the issue of the ITT/RFx and thus contribute to creating the list of 'pre-qualified' suppliers who are invited to tender.

Creating the contract/relationship

Typically a contract, with its terms and conditions, will be drawn up in light of the ITT, the content of the successful bid, and the results of any post-tender negotiation. This shall be the standard approach within the Council for the majority of goods and services.

Wherever possible the Central Procurement Team will develop and attach a draft form of contract, with Ts and Cs, as part of the ITT. This will allow, subject to any amendments negotiated post-tender, for the same contract to be executed following the tender process although supplementary parts of the agreement, such as delivery schedules and Service Level Agreements, may also need to be negotiated and incorporated.

Before a contract is finally signed, the Central Procurement Team must verify that the proper financial authorisations are still in place.

Letters of Intent

If the process of drafting and agreeing the contract is likely to extend for any period of time, there may be pressure from the supplier for a Letter of Intent to be issued. This should be resisted where possible, as it can often be interpreted as an offer by the buyer, which the supplier is entitled to take as legally binding.

Debriefing unsuccessful bidders

Unsuccessful suppliers should be informed as soon as possible. It may be appropriate to offer a de-briefing on the reasons for their failure (especially if the supplier base is tight and greater competition is sought for the future). Such a de-brief must be careful not to disclose confidential details of competing bids-however in public sector procurement, winning bids and prices are required to be published.

Records

All records of post-tender negotiations and negotiations on contract terms and conditions must be retained.

Service Level Agreements (SLA)

In many procurements, most obviously those for the provision of services, a Service Level Agreement (SLA) should form part of the contract. SLAs can also be used for the provision of goods over an extended period where delivery performance is of the essence, or of machinery and so on, where the supplier retains contractual responsibility for maintenance of the equipment, or has offered guarantees as to 'up-time'. The contract would also lay down the remedies and consequences for failure to perform to the terms of the SLA.

The content of an SLA will naturally vary widely, depending on the nature of the service to be provided. Almost all SLA's will be concerned with the timeliness and the quality of service delivery, and generally will address the following:

• Outcomes to be expected to meet the requirements and expectations of the service users;
• Measurable, verifiable performance targets for the supplier or contractor;
• Performance targets that the procuring organisation binds itself to meet;
• Suitable mechanisms for reporting, especially of non-compliant incidents, in both directions, to agreed timescales and in agreed formats;
• Framework for escalation, for analysing root causes and for resolving difficulties.

Typically, the SLA will need to be updated periodically, within the life of the main contract, to reflect changing circumstances, improved operating procedures and so on. Note that continuous refinement of the SLA is not a proxy for reviewing and re-tendering the contract at the end of the contract period. Note also that it should be made clear that, in the event of a misalignment emerging between the SLA as developed, and the core contract, the latter takes precedence.

Section 4 – Post-contract activities

Contract and Supplier Relationship Management

Procurement responsibility does not end with the award of contract. It is necessary to ensure the following:

• Controls are in place for monitoring progress in the implementation of the contract.
• As appropriate, methods of carrying out acceptance testing, on-site trials and so on, and of confirming that the results of such tests are likely to meet the requirements or expectations of the requisitioners/users.
• As appropriate, establish 'readiness for service' and/or timescales for roll-out across the organisation. Systems should be in place to ensure that end-users are prepared, for example, in terms of training but also in terms of their continuing assessment of performance against the terms of an SLA. Where new and the new Procurement is a replacement for old (such as machinery or systems) the timescale and procedure for 'switchover' and for strip-ping out redundant items, must be confirmed. Note that often this timing will be dependent on wider business issues, not merely on the readiness of the new Procurement. A retailer, for example, will not normally plan a changeover for the weeks immediately before Christmas.

It will be the responsibility of the Central Procurement Team to commercially manage contracts following the tender process and contract execution.

Post contract review

After the Procurement of all major contracts (or in the case of the failure of a Procurement exercise) a formal review will be held involving the Central Procurement Team and other stakeholders, and lessons learned should be fully documented, promulgated and recorded. Authority should be sought for the introduction of additional or revised procedures where appropriate.

Appendix A Government Procurement Card Policy

To be updated following meeting with RBS and agreement with Finance

Appendix B Definitions

"Benchmarking" means the process of comparing business processes and performance measures to industry bests and/or best practices from other industries. Dimensions typically measured are quality, time and cost.

"Best Value" is government policy in the United Kingdom affecting the provision of public services in England and Wales. Best Value was introduced in England and Wales through the 1999 Local Government Act. The range of activities affected includes almost all local authority functions, including Procurement.

"Category Management" is a procurement concept in which the range of products purchased is broken down into groups of similar or related products. Category Management is a systematic, disciplined approach to managing a product category strategically.

"Contract Management" means the process of systematically and efficiently managing contract creation, execution, and analysis for the purpose of maximising financial and operational performance and minimising risk. It includes ensuring compliance with the negotiated and agreed terms and conditions, as well as documenting and agreeing any changes or amendments that may arise during its implementation or execution.

"Supplier Performance Monitoring" means the regular process of evaluating a supplier's performance against measurable service deliverables / performance indicators and verifying compliance with the specification and terms and conditions of the contract.

"e-procurement" (electronic procurement) means the business-to-business purchase and of goods, works and services through the Internet as well as other information and networking systems.

"EU Procurement Directives" means a set of directives that set out the legal framework for public procurement. They apply when public authorities and utilities seek to appoint suppliers to deliver goods, services or works that exceed specified monetary thresholds.

"OJEU" (Official Journey of the European Union) means the publication in which all tenders from the public sector which are valued above a certain financial threshold according to EU legislation, must be published.

"Procurement" means the acquisition of appropriate goods and / or services at the best possible total cost of ownership to meet the needs of the purchaser in terms of quality, quantity, time and location.

"P2P" (Purchase to Pay) means the business processes that cover activities of requesting (requisitioning), purchasing, receiving, paying for and accounting for goods and services.

"Risk Management" means the identification, analysis, assessment, control, and avoidance, minimisation, or elimination of unacceptable risks.

"SME" (Small Medium Enterprises) means any business with fewer than 250 employees.

"Strategic Procurement" means the proactive and planned analysis of supply markets and the selection of suppliers with the objective of delivering solutions to meet pre-determined and agreed business needs.

"Supplier Relationship Management" (SRM) means the strategic planning of, and managing, all interactions with third party organizations that supply goods and/or services to an organization in order to maximise the value of those interactions.

"Sustainable Procurement" means the process whereby organisations obtain the goods, services, works and utilities they need in a way that achieves value for money on a whole life basis in terms of generating benefits for the organisation, society and the economy whilst minimising damage to, or even improving, the environment.

"Tender" means the procedure for generating competitive offers from different bidders looking to obtain an award of business activity in works, goods or service contracts. All purchases and / or contracts must be tendered where the total cost exceeds £75,000 as stipulated in the Council's Standing Orders.

"Value for Money" means the optimum combination of whole life cost and quality (or fitness for purpose) to meet the organisation's requirement.