

Report to Business and Transformation Scrutiny Panel

Agenda Item:

A.5

Meeting Date: 22 August 2019
Portfolio: Finance, Governance and Resources
Key Decision: No
Within Policy and Budget Framework NO
Public / Private Public

Title: PROCUREMENT AND COMMISSIONING STRATEGY 2019 - 2021
Report of: CORPORATE DIRECTOR OF FINANCE AND RESOURCES
Report Number: RD.23/19

Purpose / Summary:

This report outlines the updated Procurement and Commissioning Strategy covering the period 2019-2021. The Procurement and Commissioning Strategy sets out the principles by which the Council will operate its Procurement and Commissioning activities. The Strategy includes relevant governmental and legislative requirements with regard to Procurement, including requirements of European Procurement Legislation.

Recommendations:

Business and Transformation Scrutiny Panel is asked to scrutinise and comment on the Procurement and Commissioning Strategy 2019-2021.

Tracking

Executive:	16 September 2019
Overview and Scrutiny:	22 August 2019
Council:	n/a

1. BACKGROUND

- 1.1 The Procurement and Commissioning Strategy was last updated in 2017.
- 1.2 Therefore, the Procurement and Commissioning Strategy has been updated to reflect the current position and activity to be undertaken in the following two years. It details how the Council will operate its procurement function over the period 2019-2021 and conforms with the required legislation.
- 1.3 The aim of this Procurement and Commissioning Strategy is to set a clear framework for activity throughout the authority, which reflects the Council's Corporate Plan and which complements the Council's constitution and contracts procedure rules.
- 1.4 Effective procurement and commissioning will support the key strategies and goals of the Council and help to deliver corporate priorities. They will be used as a lever to support the efficiency agenda and the wider council objectives such as equal opportunities, sustainability, the environment and local economic regeneration.

2. MAIN CONSIDERATIONS

- 2.1 The main change made to the updated version of the Strategy concerns the addition of the Council's decision to declare a Climate Change Emergency and that the Council will have consideration to this when undertaking procurement where it is appropriate to do so.

3. RISKS

- 3.1 Without a Procurement and Commissioning Strategy the Council would not be setting out how it will undertake its procurement in an open and transparent manner and comply with the appropriate laws and regulations.

4. CONSULTATION

- 4.1 Business and Transformation Scrutiny Panel are considering this report on 22 August 2019 prior to the Executive considering and approving the Strategy on 16 September 2019.

5. CONCLUSION AND REASONS FOR RECOMMENDATIONS

- 5.1 Business and Transformation Scrutiny Panel is asked to scrutinise and comment on the Procurement and Commissioning Strategy 2019-2021.

6. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES

6.1 Effective procurement will enable the Council to achieve its priorities in relation to the Carlisle Plan.

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Appendices **Appendix 1 – Procurement and Commissioning Strategy 2019-**
attached to report: **2021**

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- None

CORPORATE IMPLICATIONS/RISKS:

LEGAL - effective and efficient procurement ensures that the Council gets best value when spending its public funds. There are internal and external controls, namely the Contract and Financial Procedure Rules, Public Contracts Regulations and EU Directives, all of which must be complied with. Approval of the Strategy is an Executive Function.

FINANCE – Contained within the report

EQUALITY – This report and strategy do not raise any specific equality issues.

INFORMATION GOVERNANCE – The Council's procurement procedure requires the processing of personal information in relation to individuals and sole traders. The Council should ensure its procurement documentation is open and transparent in terms of processing of personal information. The documentation should also make clear what information the Council is obliged to publish and/ or disclose in accordance with the Freedom of Information Act.

Procurement and Commissioning Strategy

Carlisle City Council

2019 to 2021

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1.0 Introduction

This document sets out the Council's strategic approach to procurement and commissioning for the period 1 April 2019 to 31 March 2021.

The Procurement and Commissioning Strategy is intended to ensure the council obtains optimum value for money in all its procurement and commissioning activities within a framework that supports the principles and priorities of sustainable development.

The principles contained within this strategy will be applied to all procurement and commissioning activity throughout the period 2019 to 2021.

Effective procurement and commissioning is crucial in securing high quality, value for money public services.

2.0 What is Procurement and Commissioning?

Procurement is:

The process of acquiring goods, work and services, including acquisitions from third parties and covers the full life-cycle from the initial concept to the end of the useful life of an asset or service. It has a wider scope than 'purchasing' or 'buying'.

Procurement requires local authorities to ensure sustainability and to secure continuous positive outcomes for the community whilst taking into account the fundamental principles of efficiency, economy and effectiveness. Value for money within a procurement context is defined as the optimum combination of whole life costs and positive social, economic and environmental outcomes.

Commissioning is:

The whole service approach to the design, management, delivery and monitoring of a specialist service. It is an ongoing cyclical process to secure the strategic development of services provided from public, private or voluntary organisations and involves planning, designing and implementing a range of services that are required. It is facilitated by procurement activity.

3.0 The Council's vision and values

The Council's vision is 'to improve the health, wellbeing and economic prosperity of the people of Carlisle.'

This strategy is informed by and supports the values and priorities of the Carlisle Plan. It will be periodically reviewed to ensure it reflects the evolving needs of the Council.

The Council's core principles of Clarity, Commitment and Confidence are also taken into account as part of the Procurement function.

The procurement function has a significant role to play with the council's vision and values being realised through responsible and innovative procurement.

There is a substantial challenge ahead with local government facing uncertainties around funding settlements from central government over the coming years which will place financial pressure on the council. The Council sees itself as being an enabling authority and through effective procurement will be able to obtain value for money for the public purse and promote economic growth thus contributing to the Council's efficiency plan.

4.0 Procurement Strategy in context

This strategy provides a corporate focus for procurement and commissioning. It provides a framework for a strategic approach to procurement throughout the council.

The strategy addresses:

- All elements of procurement and commissioning activity;
- A 'whole life' approach ensuring minimum environmental impact and maximum cost effectiveness wherever possible;
- The solutions available to the Council

The strategy complies with:

- Existing procurement legislation, including the EU Procurement Directives
- All related legislation and national policy drivers including, but not limited to the
 - Public Contracts Regulations 2015,
 - Children Act 2004,
 - Concession Contracts Regulations 2016,
 - Utilities Contracts Regulations 2016,
 - The Public Procurement (Amendments, Repeals and Revocations) Regulations 2016
 - Social Value Act 2012,
 - Localism Act 2011,
 - Freedom of Information Act 2000,
 - Equalities legislation,
 - National Procurement Strategy,
 - Transformational Government Agenda
 - EU General Data Protection Regulations,

The strategy also emphasises the importance of socially responsible procurement, using whole life costs, involving users and assessing the social, environmental and economic impact of procurement decisions.

Procurement at the Council is governed by the Council Constitution, predominantly the Contract Procedure Rules and Financial Regulations, and other internal policies and procedures.

The Council recognises the benefits of working with partner organisations and has informal arrangements for procurement support on an ad-hoc basis with Cumbria County Council when required. The Council is also a member of EPiC (Effective Procurement in Cumbria), a collaborative procurement arrangement across Cumbria which includes the County Council, the six District Councils, the NHS, Cumbria Police and the Lake District National Park Authority.

5.0 The Council's Commitment

The Council's sustainable procurement and commissioning strategy identifies:

- ✓ The role that procurement and commissioning plays in delivering the council's objectives and its contribution to the community, workforce issues, diversity, equality and sustainability.
- ✓ That all procurement activity will include due consideration of social, economic and environmental factors and will be addressed on whole life costing.
- ✓ How the Council will undertake procurement activity using the most efficient and effective methods and will select the most appropriate delivery mechanisms to ensure value for money.
- ✓ How robust contract management will support improved service and alternative delivery through continuous improvement in the quality of goods, works and services, and that all contracts are supported by a sound business case and options appraisal.
- ✓ That procurement will be fair, open and transparent and undertaken to the highest standards of probity, integrity, honesty and professionalism.
- ✓ Where the Council decide that the best value option is to aggregate supplies or let a longer term contract or framework agreement it will ensure that bidders demonstrate their track record in achieving value for money.
- ✓ The role of SME specialist suppliers in delivering elements of larger contracts and framework agreements.
- ✓ The Council will promote a positive approach to equality and diversity issues throughout the region.

6.0 Procurement Responsibilities

6.1 Key Aim

The key aim of the Council's Sustainable Procurement and Commissioning Strategy is to support the procurement of goods, services and works that meet our obligations to stakeholders and customers whilst balancing our environmental, social, economic and equality objectives and our commitment to sustainable development.

Factors that may be considered when acquiring goods, services or works:

- Consideration of the entire life cycle of products/assets/services including costs of disposal.
- The environmental impact over the life cycle of a product/asset/service, including its impact in terms of carbon dioxide emissions.
- Social aspects such as labour conditions, equality and diversity and fairly traded products where appropriate.
- Any applicable regulations, requirements, conditions or specifications such as EU Directives.
- The consideration of price, quality, risk, availability and functionality of goods, works and services.
- The consideration of goods, works and services that may stimulate innovation, create jobs and retain wealth in the area or contribute to the establishment of a low carbon economy.

6.2 Social Responsibility

The council continues to work both regionally and nationally to ensure socially responsible procurement and commissioning is delivered, and engaging with organisations, agencies and the independent and voluntary sectors to do this. The three strands of socially responsible procurement and commissioning (economic, sustainable and environmental) are addressed in more detail below. The Council will also have regard to the Social Value Act 2012 when commissioning and procuring services to drive positive change in the local community and where appropriate will include requirements that can be evaluated in tenders.

6.3 Local Economic Responsibility

The council is one of the largest spending organisations in the city and the sub-region, and the more money that is spent locally, the greater positive impact this will have on the local economy, particularly for small and medium sized businesses.

The council can legitimately support locally based businesses, by:

- working pro-actively with local organisations to explain how to do business with the council, providing information about future procurement and commissioning activity, and advertising tenders on the council and other websites;
- participate in “Meet the Buyer” events which encourage businesses to bring along developing products and services;
- encouraging the development and utilisation of Business to Business portals to promote trading between businesses within Cumbria;
- encouraging suppliers to provide local services by local people where possible;
- encouraging suppliers to adopt the Living Wage, secure apprenticeships and delivering training;
- develop local supply chains through early engagement with the local market where there is the possibility to add value;
- acknowledging that sustainability needs to be embedded by developing longer term contracts therefore the council policy will be, when appropriate, to have a minimum of three year contracts except where the business case demonstrates this is not viable.

6.4 Social Enterprise Responsibility

The council recognises and values the added benefits that the voluntary and social enterprise sectors can provide and will explore the use of the voluntary and social enterprise sectors in its procurement and commissioning activities.

Proactive measures such as advertising on the Regional Improvement and Efficiency and other websites must always be considered as well as any required advertising routes as identified in the Council's Contracts procedure rules.

6.5 Environmental & Climate Change Responsibility

The council, along with its partners, is committed to ensuring that services are delivered in a way that protects the quality of the environment and minimises any adverse impact on community well-being. The council recognises that procurement and commissioning is integral in delivering more sustainable outcomes for the city and the wider community. To

achieve this, it is necessary to ensure that environmental and broader sustainability considerations are taken into account throughout the procurement and commissioning process, along with the use of local suppliers where appropriate.

Following the Council's decision to declare a Climate Change Emergency in March 2019, the Council will now ensure that the procurement process will include obtaining details of tenderers' Climate Change Policies, alternative prices for recycled and recyclable products (where appropriate), and details of any other climate change action the bidder may be undertaking. This information will be used in the tender evaluation process.

6.6 Equality Responsibility

The Council, as an influential, democratically elected body, is able to promote a positive approach to equality throughout the region. In its procurement and commissioning processes, it demonstrates its commitment to all its users, suppliers and contractors, by ensuring that contractual arrangements actively promote equality.

Our Procurement and Commissioning Equality of Opportunity statement explains the Council's expectations:

“The City Council is committed to meeting its legal duties under the nine strands of equality. Our aim is to eliminate discrimination, promote equality of opportunity and promote positive relations in the delivery of all services. The Council is responsible for meeting its duty on all functions, including those which are carried out by an external supplier. All organisations wishing to contract with the Council must be able to demonstrate that all reasonable practicable steps are taken to allow equal access and equal treatment in employment and service delivery for all.”

6.7 Localism Responsibility

The Localism Act 2011 incorporates a Community Right to Challenge element which gives organisations the opportunity to express an interest in delivering a service. The Authority must be cognisant of this provision when assessing the criteria used to select the organisations invited to tender. A balance shall need to be found between a desire to simplify procurement processes for bidders and the requirement for robust checks of organisations' financial stability, commercial experience and legal compliance. This may be achieved through tailored procurement documentation and consideration of the risks that are proportionate for each project.

6.8 Safeguarding Responsibility

The Council and its partners, contractors, voluntary and third party organisations that deliver services are all required to have regard to section 11 of the Children Act 2004

which includes the development of Child and Vulnerable Adult Protection Statements. If those parties do not have their own policy they must agree to abide by the Council's policy at the contract signing stage of their employment. Details of the Council's Safeguarding Policy can be found on the Council's website.

7.0 Procurement Principles

Procurement and commissioning decisions, such as whether to continue to provide the goods, services or works, and whether to provide them internally or externally are central to this strategy. The following principles will form the basis of all procurement and commissioning activity in order to achieve value for money and thereby demonstrate economy, efficiency and effectiveness of service delivery:

- Procurement will support improved service delivery through the freeing up of resources by coordinating procurement activity and improving the quality of goods, services and works.
- Procurement will ensure that the Council obtains value for money in the acquisition and management of its resources, balancing quality, total life, total acquisition costs and the wider well-being objectives.
- The council will undertake all procurement and commissioning activity within a corporate framework to enable all officers to obtain goods, services and works to the required quality and in the most efficient manner, to enable the council to respond promptly and effectively to internal services, citizens and businesses.
- The council will ensure that procurement and commissioning activity is undertaken in the most effective and appropriate manner, considering all options including but not exclusively:
 - developing and promoting use of corporate contracts
 - undertaking vendor and contract management
 - using approved nationally negotiated Framework Agreements (for example those arranged by the Crown Commercial Service where considered appropriate),
 - using approved e-procurement solutions wherever possible
 - developing strategic partnerships, particularly where they will deliver significant service improvement and/or efficiencies.
 - improving the capability of small and medium sized enterprises to bid for goods, works or services in accordance with the SME Concordat and of the capability of the third sector to tender for council contracts. (Also to identify gaps where we do not have local suppliers and to seek to develop the market).
 - utilising our partners/suppliers supply chains
 - undertaking collaborative procurement with other Councils and organisations
 - valuing innovation and creativity

- having consideration to climate change in the products and services procured and the suppliers used
- Procurement and commissioning activity will support, promote and be driven by council policies and priorities, including equality and diversity objectives, sustainability and economic regeneration and stakeholders interests.
- Procurement and commissioning activity will be transparent and fully compliant with the Freedom of Information Act, fair, consistent and be undertaken to the highest standards of probity and accountability. All procurement and commissioning decisions will be evidence based.
- The Council will administer procurement and commissioning through the Procurement Section. This is a corporate resource, which leads on corporate contracts and supporting projects, whilst enabling services (which have best knowledge of local service requirements) to procure and commission locally within a clear corporate framework. It provides support wherever required to each service and monitors procurement activity across the council. It will undertake reviews of all strategic procurement and commissioning projects to ensure compliance with the relevant rules and that the optimal benefit to the Council is achieved.
- The choice of procurement and commissioning methods will seek to ensure simple or routine transactions can be carried out in the most efficient manner, be dependent upon the strategic importance, the value of the goods, services or works, and the potential risk associated with each procurement option. Different procurement and commissioning options will be suitable for different goods, works and services and will involve undertaking different practical steps to achieve the desired outcome.

7.1 Procurement Skills

Intelligent procurement requires officers equipped with the relevant skills to carry it through. The Council will continue to ensure that there is sufficient ability and professional expertise to deliver this strategy, and will furthermore, build skill and capacity amongst council officers to identify the development of innovative procurement practices. Ultimately, the Council will seek to empower officers in their procurement activity and ensure that key personnel have the necessary skills and knowledge to employ best practice and obtain value for money.

The following objectives will be followed in respect of Procurement skills:

- The training and development needs of all officers involved in the Procurement process for the council will be assessed via the use of a competency framework, which will be developed by the Procurement Unit in conjunction with the Cumbrian collaborative (EPIC).
- Employees undertaking procurement and commissioning will not make a commitment to purchase unless there is an adequate budget in place.
- Employees undertaking tendering activity should ensure that they have the necessary skills in writing specifications for goods and services.
- Performance indicators and targets (based on both quality and cost) will be established as part of procurement and commissioning processes.
- Procedures to manage contractual arrangements will be established with performance measured and reported, including benchmarking arrangements.
- Procurement and commissioning procedures and processes will be developed and regularly reviewed.
- The management of risk will be an integral part of the procurement and commissioning process.
- The Council will invest where appropriate in procurement, commissioning and contract management training and the systems to support these processes.

7.2 Procurement Code of Conduct

All procurement and commissioning activity must be undertaken to the highest standards of ethics and probity. The council insists on high ethical standards from its suppliers, and in turn it must exhibit the highest ethical standards itself.

Officers and members must comply with the relevant Codes of Conduct when dealing with procurement and contract issues.

All employees must adhere to the requirements placed upon them by Contract Procedure Rules and Standing Orders and in terms of procurement and commissioning activities, act professionally by:

- Maintaining the highest possible standard of integrity in all business relationships, both inside and outside their organisations.

- Rejecting business practice, that might reasonably be deemed improper, and never use their personal authority for personal gain.
- Enhancing the proficiency and stature of the profession by acquiring and maintaining current technical knowledge and the highest standards of ethical behaviour.
- Fostering the highest possible standards of professional competence amongst those for whom they are responsible.
- Optimising the use of resources, which they are responsible for, or influence to provide the maximum benefit to their organisation.
- Complying both with the letter and the spirit of:
 - The Public Procurement Legislative Framework
 - Contractual obligations.

7.3 E-Procurement

The Council will continue to use advances in technology to improve the efficiency and effectiveness of its procurement function where it is cost effective to do so and there is a clear return on investment.

With this in mind, the Council will advertise all procurement activity via the e-procurement portal (currently The Chest), and will only consider tender responses submitted via this route. The Council also advertises all procurement activity on the Government's Contract Finder website.

7.4 Procurement Communication

7.4.1 The Council will publish the following information on its website:

- Guidance for suppliers on how to do business with the council,
- Details of forthcoming bidding opportunities,
- Contact details for each contract,
- Details of our key suppliers.
- We will advertise contracts by using electronic systems and other means in order to encourage greater diversity and competition.
- We will give potential suppliers an opportunity to discuss the procurement or commission in order to understand our requirements and assess their own suitability. Nothing will be done, however, which would give a particular business or provider an unfair advantage in competing for a specific contract.

- At tender stage we will require that all prime contractors outline their equality policies.

7.4.2 The Council will operate 'Fair Tender Processes' as follows:

- We will apply our rules and policies fairly.
- At pre-tender stage and during the tender process we will ensure that all responders have equal access to relevant information.
- We will keep the tender process as simple as possible in order to help minimise the costs to suppliers.
- If a pre-qualification stage is used we will use a council-wide prequalification questionnaire containing common core questions with limited bespoke additions for each contract. We will work with regional and national partners to ensure a consistent approach to pre-qualification.
- We will assess potential suppliers against published pre-qualification and tender evaluation criteria. These criteria will be proportionate to the risks of the individual contract process. In particular the criteria relating to financial standing will not be set unreasonably so as to exclude new or small businesses.

7.4.3 The Council will offer feedback on procurement submissions as follows:

- We will offer meaningful feedback, where requested, to suppliers following the procurement and commissioning process, in order that they can improve for future tenders.
- We will seek feedback from suppliers, and their respective trade associations, on our tender processes and address where we can any problems that are brought to our attention.
- We will publish a complaints procedure.

7.4.4 The Council will operate Contract Management as follows:

- We will treat suppliers openly and fairly.
- Suppliers will:
 - Be paid on time. (As quickly as possible but no more than 30 days from the receipt of an undisputed invoice).
 - Receive honest and constructive feedback on the supplier's performance of the contract.
 - Be given notice of any performance problems and an opportunity, if appropriate, to put matters right.

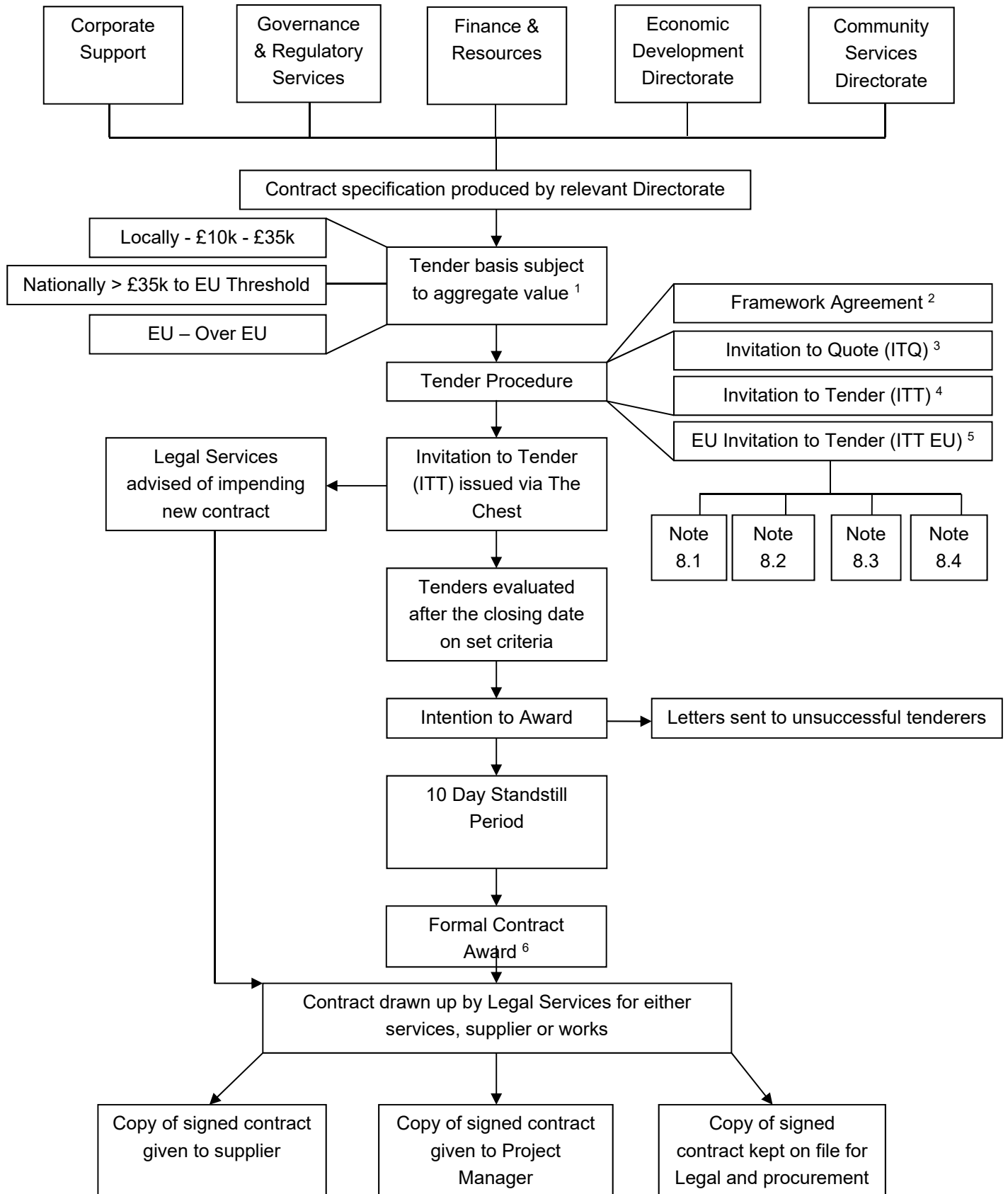
- All contracts will encourage our suppliers to pay their sub-contractors, throughout the supply chain, in line with the Council's payment terms as set out above.
- All contracts will clearly set out what is required of all parties.
- As customers we will make clear to our suppliers, and those wishing to do business with us, what is expected of them.
- The Council will treat personal information in line with GDPR Regulations. The Council has a published privacy notice on its website.

If you have any questions or comments about this strategy:

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Website: www.carlisle.gov.uk
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Appendices

Appendix 1 - Procurement procedure for all Contracts over £10k



Notes

1. All orders for works where the value exceeds £10,000 require a formal legal contract and should follow the procurement routes highlighted above.
2. Orders for works that fall below £10,000 should be placed with an official council order
3. The value of any contract should be determined by estimating how much is likely to be spent with the same supplier for the same service/works over a period of 4-years
4. EU threshold limits vary depending on contract type i.e. Services/Supplies or Works.
5. Framework Agreement – contact Procurement for details/advice.
6. ITQ – Invitation to Quote £10k < £35k
7. ITT – Invitation to Tender £35 – EU Threshold
8. ITT (EU) Above Threshold Invitation to Tender
 - 8.1 OPEN PROCEDURE
 - 8.2 RESTRICTED PROCEDURE – 2 stage including PQQ (only for over EU Threshold tenders)
 - 8.3 COMPETITIVE DIALOGUE PROCEDURE
 - 8.4 NEGOTIATED PROCEDURE

Standstill Period – 10 day period after the contract has been awarded for tenderers to query/appeal against contract award.