

# STANDING ORDERS

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**Nottingham**  
**City Homes**

**PART 3: TENDER AND CONTRACT PROCEDURE  
RULES**

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# 1 STATUS OF THE TENDER AND CONTRACT PROCEDURE RULES

## 1.1 Introduction

1.1.1 The Tender & Contract Procedure Rules (the **Rules**) represent the primary guidance for staff in relation to everything the Company purchases and the related contractual arrangements, that must be followed at all times. The Regulations apply to Nottingham City Homes (NCH) Group and all its subsidiaries.

1.1.2 It is a disciplinary offence to breach these Rules or related procedures, policies or instructions. All breaches of the Rules, whether inadvertent or otherwise, must be brought to the attention of the Director of Investment & Business Services who shall investigate and report to the Audit Committee.

## 1.2 Definitions (for the purposes of these Rules)

1.2.1 "**The Company**" refers to Nottingham City Homes Group and includes all its subsidiary companies.

1.2.2 "**The Scheme of Delegation**" sets out the powers reserved by the Board and those delegated to others as included in the Company's Standing Orders Part 1: Governance.

1.2.3 "**The Responsible Officer**" refers to the operational officer responsible for leading on a specific procurement project or purchase.

1.2.4 "**Contract**" refers to a legally binding formal agreement with specific terms between two or more parties (person or entities) for performing, or refraining from performing, some specified act(s) in exchange for valuable benefit known as lawful consideration.

## 1.3 Responsibilities

1.3.1 The Board is responsible for approving tendering and contracting rules and ensuring compliance mechanisms are in place.

1.3.2 The Audit Committee shall consider any changes to the Rules prior to Board approval, recommending the full Rules to the Board for approval at least once every 3 years.

1.3.3 The Company's procurement team provide a centralised procurement service for the Company and are to be consulted on all purchasing matters. All contractual matters must be raised with the Company Solicitor.

**1.3.4** Members of the Executive Management Team (EMT) have responsibility for all contracts tendered and entered into by their department and are accountable to the Board for ensuring compliance with European (EU), UK and other relevant legislation as well as the Company Standing Orders ensuring that Value for Money (VFM) is obtained at all times.

**1.3.5** Responsible Officers have responsibility for ensuring that:

- (a) Where a corporate Contract already exists an order shall be placed in accordance with that Contract.
- (b) No invitation to tender is issued or contract entered into unless sufficient and approved budget provision exists.
- (c) A clear audit trail of evidence is kept to support tendering and contracts decisions made as required by these Rules.
- (d) Adequate and secure contract files are kept for all Contracts upon which they are engaged, with key original contract documentation being retained by the Company Solicitor.
- (e) No contractor or supplier starts work in relation to a contract before it is signed by them, unless it has been formally documented that it is at their own risk.

**1.3.6** All employees, agency staff, consultants, Board members and third parties acting on the Company's behalf, have responsibility for ensuring the following when participating in procurement, tender and contractual matters:

- (a) No undue favour is shown to any contractor or supplier, nor is there any discrimination against contractors or suppliers.
- (b) Conduct when tendering is in accordance with the highest standards of propriety and any possible conflicts of interest of any kind are declared.
- (c) Nothing is done that contravenes EU or UK law or legislation.
- (d) No political or other irrelevant considerations as defined by section 17 of the Local Government Act 1988 are introduced into the procurement process
- (e) Social value is considered in accordance with the Public Services (Social Value) Act 2012.

## **1.4 Dispensations & Special Circumstances**

**1.4.1** Dispensations from the Rules allowed for emergency actions and operational issues as well as the required authorisation / reports, are as set out in Part 2 of the Standing Orders (Financial Regulations **1.4**).

**1.4.2** No dispensations may be granted from the Scheme of Delegation or which would result in a breach of EU or UK law.

**1.4.3** The requirement to obtain quotes for aggregated expenditure up to a value of £50k (see section 3.1) is not required in the following circumstances where authorisation is obtained from the Chief Executive:

- **Specialist providers** – works, goods, or services are of a type only provided by specialist suppliers or provided through a one-off initiative/project.
- **Existing ICT systems** – additions or enhancements to existing ICT software, systems of up to 50% of the contract value (to a maximum of £50k)
- **Consultants** – see section 5.3.

**1.4.4** The continuation of existing contracts to supply support services or software if the alternative would be an expensive and time consuming capital expenditure (e.g replacement of Northgate Housing system, or installation of new telephone system – due to the ending of existing support cost contract). In such circumstances the Responsible Officer and Sourcing Manager should ensure that every effort is made to obtain advantageous pricing and support levels.

## **2 INTERPRETATION AND APPLICATION**

### **2.1 Guiding Principles**

- 2.1.1** The Company is committed to ensuring and maximising Value for Money (VFM) and all employees involved in any procurement process shall ensure that VFM is secured at all times.
- 2.1.2** Procurement activity within the Company shall always support social value and seek to maximise opportunities to engage with local suppliers and contribute towards sustaining and improving local jobs and employment within the City of Nottingham. The Company is a Living Wage employer and encourages and expects its suppliers to pay its employees the Living Wage.
- 2.1.3** Procurement shall fully support the increasing level of insourcing work completed by the Company as its commercialism and growth agenda increases the need to source materials rather than contracting works.
- 2.1.4** Before commencing any external procurement exercise the Responsible Officer and Sourcing Manager must have first explored the potential of delivering the service with resources within the Company and then whether or not NCC will be able to provide the service or product through its resources or supply agreements.
- 2.1.5** Before commencing any formal tendering exercise the Responsible Officer and Sourcing Manager must have first explored the potential for using existing Frameworks.
- 2.1.6** In all cases best value from supply contracts can be maximised through on-going engagement and regular contract management reviews with the supplier. The Responsible Officer is responsible for monitoring the performance of suppliers to obtain best value for the Company.

### **2.2 Preliminary Activity, Estimates and Confidentiality**

- 2.2.1** No tender shall be invited or Contract entered into without either delegated authority under the Scheme of Delegation (contained within Part 1 of the Standing Orders) or express authority from the Board / appropriate Committee and under no circumstances where a contract already exists..
- 2.2.2** Procurement of computer hardware, software and associated maintenance contracts require authorisation, in line with the delegated levels, by the Business Transformation team.

- 2.2.3** A note of the authority obtained or delegated authority relied on must be kept in or noted in the contract file. A tender must not be invited unless the tender evaluation framework has been completed and agreed.
- 2.2.4** Responsible Officers must take reasonable steps to verify the accuracy or validity of estimates prepared for the purpose of obtaining quotes/tenders. If this involves obtaining external verification by inviting estimates of the cost of work, goods, materials or services, it must be made clear to the contractor that this is not a tender, cannot be accepted as such and does not give them preference should they subsequently submit a tender.
- 2.2.5** All matters relating to tenders and Contracts must be dealt with in confidence and all records, contracts and deeds relating to the tendering exercise must be subject to adequate control and security and retained in line with the requirements of the Company's document retention policy.
- 2.2.6** The names of bidders shall not be disclosed to other bidders or otherwise during the procurement process except as permitted by the Public Contracts Regulations 2015 (PCRs) and other applicable law. All such disclosures require the specific agreement of the relevant member of EMT.
- 2.2.7** No tenderer shall be given any information relating to the success of their tender, except in accordance with the PCRs and the principles of equal treatment and transparency.

## **2.3 Contract Value and Aggregation**

- 2.3.1** Subject to the EU rules, the value of a Contract shall be calculated on the basis set out in Regulation 6 of the PCRs. It is not the anticipated annual spend if the contract is for more than 1 year. The calculation shall be based on the total amount payable over the entire contract period, excluding VAT, including any options and potential extensions.
- 2.3.2** Particular care needs to be taken, since a whole company view is required. Hence, what staff might consider to be an unrelated Contract, but comprising the same works or supply, would be deemed under the EU rules to be a parts of the whole and hence subject to aggregation for the purposes of the EU threshold values. Where there is any doubt the Procurement Team shall be consulted and shall advise accordingly.
- 2.3.3** Contracts ordinarily treated as a single supply should not be split into two or more Contracts in order to avoid the application of these Rules. Contracts shall be packaged to best ensure outcome for the Company through competition and ensuring VFM.

## **2.4 European Union**

**2.4.1** Whilst the UK remains a member of the EU if these Rules are affected by any Directive issued by the European Union the provisions of the Directive will override and/or be used in conjunction with these Rules.

**2.4.2** In relation to every proposed Contract, consideration shall be given to the question whether or not the value of the Contract is equal to or exceeds the relevant threshold set by the relevant EU Directive and published in the Official Journal of the European Union (OJEU). Where there is any doubt the Procurement Team shall be consulted and shall advise accordingly.

## **2.5 Application of the Rules and Contract Extensions**

**2.5.1** In the event of any conflict between EU law, UK law and these Rules, whilst the UK remains a member of the EU, EU law shall prevail over UK law and UK law shall prevail over these Rules.

**2.5.2** If a contract involves the generation of income for NCH or the contractor, the Responsible Officer must make an estimate of the value of the contract (taking into account the possible income) and apply these Rules if the value of the agreement is deemed to be £10k or above.

**2.5.3** These Rules do not apply to:

- Contracts of employment; or
- Contracts for the sale or acquisition of land.
- Service level agreements, or similar arrangements, between NCH and its subsidiaries or with Nottingham City Council (NCC).

**2.5.4** As a wholly owned subsidiary of NCC, these Rules do not ordinarily apply to those services provided to the Company by NCC under the terms of a Service Level Agreement (or similar arrangement).

**2.5.5** Where a contract does not have any provision for an extension, an extension may be agreed, subject to the submission of a business case approved by the Chief Executive. In such cases similar contract terms and conditions must apply and EU thresholds must not be exceeded by the total contract spend (including extension).

### 3 EXPENDITURE LEVELS

#### 3.1 Contracts & Expenditure Valued Up to £50k

3.1.1 Where a corporate Contract already exists an order shall be placed in accordance with that Contract without exception. Where there is any doubt, the procurement team shall be contacted to confirm whether or not an existing contract/procurement route exists within the Company.

3.1.2 Where a Contract does not already exist and the service or supply can't be fulfilled either internally or from NCC the following requirements shall be satisfied based upon estimated contract values:

- Less than £2k – 1 competitive written quote must be obtained (Responsible Officers are still responsible for ensuring that VFM is secured);
- £2k to £50k – at least 2 competitive written quotations must be obtained.

3.1.3 For any goods, works or services costing between £2k and £50k **Appendix 1** must be completed and retained by the Responsible Officer and a copy provided to the procurement team.

#### 3.2 Contracts & Expenditure Valued Above £50k

3.2.1 Where a corporate contract does not exist and the estimated value of the contract is more than £50k the contract must be procured via the procurement team. The Sourcing Manager will consult with the Responsible Officer to decide whether quotes or a tendering process is required.

3.2.2 If quotes are agreed, at least 3 written quotations must be obtained. Decisions not to tender shall be recorded on **Appendix 1**, with a copy retained by the procurement team, and EU thresholds must not be exceeded by the total quote value (including extensions and future awards).

3.2.3 Where it is decided to tender, the procurement process (including accessing complaints frameworks) shall be undertaken through the Procurement Team. The procurement of contracts estimated to be in excess of relevant EU thresholds (<http://www.ojeu.eu/thresholds.aspx>) must be undertaken in accordance with the provisions of the EU Directives.

## **4 TENDERS & CONTRACTS**

### **4.1 Contracts Not Requiring Formal Tendering**

**4.1.1** Where orders are placed through NCC contracts or frameworks (see section 5) accessible by the Company which are EU compliant, these shall not need to be tendered, subject to the required authorisation (see 5.1.2).

### **4.2 Choosing the Tendering Method**

**4.2.1** The decision as to which tendering method is selected (e.g. open restricted, competitive dialogue) in each instance shall rest with the Sourcing Manager who shall ensure that EU Directives and (where relevant) Section 20 of the Landlord and Tenant Act 1985 are applied and followed at all times.

**4.2.2** All tenders and procurement shall wherever possible be performed through the Company's electronic tendering system.

### **4.3 Preparation of Specification**

**4.3.1** A detailed and unambiguous specification of the goods, materials or services or work required to be supplied or carried out must be prepared by the RO.

**4.3.2** The tender documents must require the tenderer to supply all goods, works and services that meet all necessary legislative and industry standard approvals and are compliant with relevant standards.

### **4.4 Advertising Tenders**

**4.4.1** For all tendered contracts a public notice must be published in Source Nottinghamshire and, if relevant or applicable in related trade newspapers /journals/ web portals. The public notice shall state how interested persons may submit quotes or obtain tender documents and include the last date when tenders will need to be received. Tenders shall be invited and advertised in accordance with applicable EU Directives.

**4.4.2** All contracts must be advertised sufficiently to ensure competition, avoid discrimination on any basis, including on grounds of nationality and allow impartiality of procurement procedures to be reviewed. For all tendered contracts effort shall be made to obtain at least three (3) tender submissions.

## **4.5 Tendering by Reference to Schedule of Rates**

- 4.5.1** This Rule applies in any case where provision has been made in the Company's approved estimates for the execution of work and/or the supply of goods, materials or services, which are of a recurring nature.
- 4.5.2** Potential suppliers may be invited to tender by reference to rates set against individual items or categories of work, goods, materials or services which will in force for the life of the contract.
- 4.5.3** Selection is not limited to a single successful tender. The number of tenders selected must be sufficient to undertake all planned works and shall be determined by the estimated capacity of each tenderer.
- 4.5.4** In order to ensure competitive tendering of prices, Schedules of Rates that are fixed within a contract must not be set up for less than 6 months.

## **4.6 Standard Contract Clauses**

- 4.6.1** All contract terms and conditions must either be approved by the Company Solicitor or must be drawn up and vetted by them or by an appointed external solicitor, before tenders are invited.
- 4.6.2** Liquidated Damages – For every contract which exceeds an estimated, annual value of £100k the Responsible Officer must consult with the Company Solicitor as to whether a provision for liquidated and ascertained damages to be paid by the contractor, in case the terms of the Contract are not duly performed, should be included within the Contract.
- 4.6.3** Use of Performance Bonds - for every contract for works of £500k or more in estimated annual value the Responsible Officer must undertake a risk assessment and consult with the Company Solicitor about whether the contractor should be required to furnish a bond and if so in what amount and upon what terms for due performance of the Contract.
- 4.6.4** For Contracts of less than £500k performance bonds will not necessarily be required unless a risk assessment so indicates. The choice of measure to be applied to each Contract must be determined by the relevant Responsible Officer in light of the risk assessment, and in consultation and agreement with the Company Solicitor.
- 4.6.5** Contracts must include a provision requiring the contractor to provide any information which may be required and requested by the Company such as performance data or information required for the purposes of audit, inspection, investigation, legal proceedings or staff transfers (see **6.3**).

## **4.7 Receipt of Tenders**

- 4.7.1** All tenders must be delivered, opened and retained in accordance with the requirements of the Company's adopted electronic tendering systems.
- 4.7.2** Where non-electronic tendering is undertaken tenders must be delivered to the Company Solicitor and remain in their secure custody. Tenders shall be opened and recorded by the Company Solicitor at an agreed time after the tender closes in the presence of a representative from the procurement team.
- 4.7.3** The time for submission of tenders shall not be extended in advance of the normal closing date except, in exceptional circumstances, with the agreement of the Company Solicitor. The Procurement Team must ensure that all the tenderers are informed of the changes and that no tenderer is disadvantaged by the extension.

## **4.8 Clarification Procedures and Post Tender Negotiation**

- 4.8.1** Clarification of an Invitation to Tender to potential or actual bidders shall not be provided after the submission date for the tender, where the bidder is seeking to make adjustments in price, delivery or content of their bid.
- 4.8.2** Where necessary diligence meetings will be attended by a member of the procurement team and the Responsible Officer and held to verify the tender submission. The meeting will challenge quality and service delivery aspects to ensure that the supplier or service provider fully understood the work content and service level required.
- 4.8.3** Tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents, or after clarification of prices in terms of their accuracy or reliability. Any actions agreed by both parties as part of post-tender negotiations shall be recorded on the contract file and shall not include fundamental changes to the specification or contract terms.

## **4.9 Alterations to Amounts of Tenders**

- 4.9.1** Alterations to a tender sum will not be permitted except where allowed under Rules **4.9.2** and **4.9.3** below.
- 4.9.2** In the case of tenders submitted based on priced bills of quantities, schedules of estimated quantities or schedules of work which are submitted with the tender and form part of the tender documents, the effect of errors in totalling, extensions or calculations or other errors or omissions discovered in the tenders will be ascertained and the details notified in writing to the tenderer who will be given the opportunity to:

- Confirm the offer at the original amount or withdraw the offer; or
- Amend the offer to correct genuine errors or omissions.

**4.9.3** The tenderer will be required to confirm in writing either their agreement to the offer at the original amount, withdrawal of the offer or agreement to adjust tender amount. In the absence of written confirmation being provided by the tenderer the tender will be treated as having been withdrawn.

#### **4.10 Disregarding and Rejecting Tenders**

**4.10.1** Tenders shall be disregarded where submissions do not comply with tendering Instructions or the provisions of these Rules.

**4.10.2** The Company reserves the right to reject a tender where it has legitimate concerns about the financial standing of a tenderer. Contracts shall not be awarded where the total contract value is likely to exceed 50% of the respective tenderer's turnover unless authorised by the respective member of EMT. All decisions to reject a tender shall be recorded on the contract file.

**4.10.3** Tenders may be re-scored down or rejected if the due diligence process raises doubt over the ability of the tenderer to fulfil the requirements of the tender specification or deliver the key outputs. This Rule does not extend to allow scores to be increased.

#### **4.11 Acceptance of Tenders**

**4.11.1** The evaluation process, award criteria and/or the options appraisal, of the tenders received must be clearly documented in the contract file and shall include confirmation that all technical and financial vetting of the potential contractors has been carried out prior to the letting of any contract.

**4.11.2** Award criteria will be set on the basis of selecting the Most Economically Advantageous Tender or quote.

**4.11.3** In accordance with the Company's VFM obligations, the evaluation process must take account of both lifetime costs and quality aspects of the tenders received.

**4.11.4** The evaluation process may involve the identification of a panel who will collectively score the bidders against the award criteria. In such circumstances the panel shall include the Responsible Officer and in most cases a member of the Procurement Team. Panel membership must remain consistent throughout the process.

- 4.11.5** When selecting an interview panel it is acceptable to include members not involved in the scoring of contractors, provided the interview panel includes all those who were involved in that scoring.
- 4.11.6** Tenders where the price submitted is abnormally low, shall be requested to explain the basis of its tender price. If the explanation is not considered adequate the tender may be rejected, subject to taking into account Regulation 69 of the PCRs.
- 4.11.7** Certificates regarding insurance arrangements must be obtained from successful tenderers before any services are provided or works are undertaken in a Contract. Evidence of renewal must be obtained by Responsible Officers through the duration of the contract.
- 4.11.8** Where only one tender is received the Sourcing Manager in consultation with the Responsible Officer must decide whether to accept that tender or to re-tender.
- 4.11.9** All suppliers and potential suppliers which participated in any stage of an above EU threshold procurement process shall be advised of the relevant information, as set out in Regulation 86 of the PCRs. Any formal challenge received in relation to a procurement process shall be referred to the Company Solicitor immediately.
- 4.11.10** Any proposal not to accept a tender from any person or organisation based on their conduct/performance when providing a previous contract must be referred to the Company Solicitor.
- 4.11.11** The procurement team shall ensure that adequate procurement records are retained as required by these Rules and a report containing all the information required by Regulation 84 of the PCRs is produced for each tendered contract. Reports shall be signed by the Responsible Officer and lead procurement officer.
- 4.11.12** The procurement team should be consulted on the application of all PCRs as required by the Rules, and the Company Solicitor if required, to support Responsible Officers and ensure full compliance.

#### **4.12 E-Procurement and E-auctions**

- 4.12.1** The use of e-procurement does not negate the requirement to comply with any aspect of these Rules. Where the e-auction online system allows, the quality and sample evaluations scores will be input so that when the 'Live auction' takes place the most economically advantageous tender is identified in real time through a points scoring mechanism.

**4.12.2** Access to 'live e-auctions' shall be restricted and all attendees required to remove all electronic communication devices from their possession. All attendees will be required to sign a confidentiality agreement.

#### **4.13 Form of Contract**

**4.13.1** Every Contract must be in writing, prepared or on a basis approved by the Company Solicitor. In the case of any doubt as to the suitability of standard forms, the Company Secretary must be consulted. Contracts shall be signed on behalf of the Company to document that approval is given to enter into a contract by:

- Up to a value of £100k—respective Assistant Director or EMT member
- Up to a value of £500k – respective member of EMT
- In excess of £500k – Chief Executive.

**4.13.2** Contracts of a value exceeding £1million (and/or those deemed significantly advantageous to do so by the Company Solicitor) must also be executed as a deed by the Company in the presence of the Chair of the respective Board. A report of the nature of the contract, the contractor, contract value, duration and date of execution shall be reported to the Board.

**4.13.3** Every Contract shall incorporate the following information:

- The work, services or goods to be provided.
- The start, finish and delivery dates as well as any maintenance or defects liability period.
- The price to be paid or the precise method of its ascertainment.
- Circumstances under which the Company will terminate the contract.
- Provisions limiting Company's liability in respect of the contract.
- The contract conditions required by these Rules to be incorporated.

**4.13.4** Authorisation to proceed with provision of services, goods or works under a contract must not be given where the contractor has failed to execute the relevant contract or proof of insurance as deemed required by the works/services.

**4.13.5** Contractors must not be permitted to enter land or buildings belonging to the Company or NCC or access or develop systems / software until a contract is in place.

**4.13.6** The Sourcing Manager shall maintain and monitor a register of all Company contracts in order to ensure all Responsible Officer colleagues are aware of existing contracts and use these in the first instance and to ensure that contracts are re-tendered and/or extended in a timely fashion and in accordance with these Rules.

#### **4.14 Contract Variations and Terminations**

- 4.14.1** Any proposed variation to a contract must be referred to the Company Solicitor so that specific legal advice can be provided and adopted.
- 4.14.2** Variations to contracts must be approved by the respective member of EMT following receipt of legal advice from the Company Solicitor.
- 4.14.3** Claims from contractors in respect of matters not clearly within the terms of any existing contract must be referred to the Company Solicitor to ensure that no settlements are entered into which may invalidate Company insurance or contravene governing documents. All settlements approved must be in line with the Company's Scheme of Delegation.
- 4.14.4** Where a decision is taken by the Company to terminate a Contract the Company may decide that no further tenders from that person / firm shall be sought (see also section **4.11.10**).

#### **4.15 Contract Management**

- 4.15.1** EMT shall ensure that Responsible Officers within their Directorates manage contracts to ensure that goods and services are delivered in line with the requirements of the contract and so that VFM is maximised for NCH.
- 4.15.2** Responsible officers shall ensure that contract management meetings and other control mechanisms are in place and operating effectively on a timely basis as required by the size, cost, risk profile and importance to NCH of the contract.
- 4.15.3** The procurement team shall support Responsible Officers to manage contracts and shall advise and attend meetings to manage contractors as required.

## **5 OTHER CONTRACTUAL ARRANGEMENTS**

### **5.1 Frameworks and Collaborative Arrangements**

**5.1.1** Any procurement process using a third party framework, consortia or collaborative arrangements shall only be undertaken with the agreement and authorisation of the Sourcing Manager.

**5.1.2** Contracts procured using frameworks may be awarded directly to the most economical advantageous tender if allowed by the terms of the framework. If framework terms are not precise enough and/or adequate in relation congruent to the Company's requirements then a mini-competition tender must be performed. Whenever a direct award is made i.e. no mini-competition undertaken, the Responsible Officer must complete **Appendix 2** and obtain the required authority.

**5.1.3** Contracts may only be entered into with other ALMOs, local authorities or other public bodies where a competitive process has been followed that complies with these Rules.

**5.1.4** Where the estimated aggregate expenditure is in excess of EU thresholds, arrangements shall only be agreed with frameworks / consortiums that have satisfied EU Directives. Details of all agreements shall be recorded on the Contracts Register.

### **5.2 Contracting Authority**

**5.2.1** These Rules apply to any work which is undertaken by the Company as an agent for another local authority, registered provider or similar public sector organisation as part of an approved consortium. Care must always be taken to ensure that where formally requested, the contracting organisation's own requirements are satisfied in full.

**5.2.2** The Company shall require contracting organisations to confirm they accept financial responsibility for the work to be provided.

### **5.3 Appointment of Consultants**

**5.3.1** Consultants may only normally be used when quotes / tenders have been obtained as required by these Rules. In exceptional circumstances members of EMT may request the appointment of a consultant with cost up to £50k without obtaining quotes as required by **3.2.1** to be approved by the Chief Executive. In all cases a consultancy agreement shall be in place in a format approved by the Company Solicitor (see section **4.13**).

**5.3.2** Members of EMT shall ensure that the Company Secretary is notified when consultants are appointed and that details of the estimated cost and duration are provided to ensure employment rights that may be acquired for long term agreements are observed.

**5.3.3** The use of the term "consultants" in this Rule does not apply where individuals are required to fill establishment posts i.e. those within the Company structure, on a temporary basis:

- Recruitment through an agency or similar organisation which provides temporary staffing resources; or
- Self-employed or sole traders recruited for the respective temporary role.

## **6 OTHER MATTERS FOR CONSIDERATION**

### **6.1 Declarations of Interest**

**6.1.1** All persons who have any interests or relationships which would be in conflict with their involvement in a procurement exercise must stand down and not take part. All employees and those contracted by the Company must inform the Company Solicitor if they believe such interests may exist and have not been declared.

### **6.2 Tenant Involvement in Procurement**

**6.2.1** NCC or NCH tenants shall be able to participate in drawing up specifications and interviewing potential contractors with the approval of the Sourcing Manager.

### **6.3 The Transfer of Undertakings – TUPE**

**6.3.1** The Responsible Officer must, at the earliest opportunity, seek advice from the Company Secretary on the detailed implications if Transfer of Undertakings Protection of Employment Regulations are likely to apply.

**6.3.2** If the Responsible Officer believes that TUPE may apply to a contract, they must notify and advise the contractors in the tender instructions to seek their own independent professional advice.

**6.3.3** Where TUPE implications are likely to apply to new contractors or suppliers as a result of cessation of service by an existing supplier a statement shall be included in all tenders.

### **6.4 Leaseholder Consultation**

**6.4.1** The Rules on Leaseholder consultation must be considered and applied as required to all contracts tendered by the Company. The Company's Leaseholder Consultation Policy & Procedure must be followed at all times.

**6.4.2** Care must be taken in all situations where the recharging thresholds (see **6.4.4**) in Section 20 of the Landlord and Tenant Act 1985 as amended by the Common-hold & Leasehold Reform Act 2002 apply or may apply.

**6.4.3** All leaseholder consultation shall be performed in liaison with the Leaseholder Manager to ensure that adequate advice and support is provided to the procurement team to guarantee that all legislative requirements are satisfied during the consultation process.

- 6.4.4** Pre-contract consultation with leaseholders is necessary in the following circumstances:
- A proposed new long term agreement for the provision of works, goods or services may result in a recharge to any leaseholder of more than £100 in any year. A qualifying long term agreement must be for a term of more than one year and includes agreements with no prescribed end date; and/or
  - A proposed contract will include works that may result in a recharge to any single leaseholder of more than £250 including VAT. This applies to works under existing long term agreements, including partnering agreements, as well as ad hoc contracts.
- 6.4.5** Leaseholders may have to be consulted or re-consulted when additional works are deemed necessary under Contracts already in progress. If the full consultation process is not possible, the consultation will comply with legislation.
- 6.4.6** First-Tier Tribunals (Property Chamber) and the Secretary of State have the power to waive some or all consultation requirements, but will do so only if they consider this is reasonable, having regard to all the circumstances.
- 6.4.7** The formal consultation process will vary according to the circumstances, Leaseholder manager will advise This process must be anticipated and incorporated into the procurement programme.
- 6.4.8** The Responsible Officer must provide all information necessary to enable the Leaseholder Team to carry out statutory consultation or to seek dispensation from a First-Tier Tribunal (Property Chamber).

**APPENDIX 1 – All Quotations > £2k: Note for Retention**

Must be completed in all cases where quotes are obtained for estimated expenditure above £2k. See section 3.1 and below – authorisation required for expenditure > £50k).

All quotations obtained are to be recorded using this form and forwarded on to the Procurement Team.

<b>Description of Goods / Service(s)</b>				
<b>Supplier Name</b>	<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
<b>Price Quoted</b>	<b>(1) £</b>	<b>(2) £</b>	<b>(3) £</b>	<b>(4) £</b>
<b>Quote selected &amp; reasons (if not lowest price)</b>			<b>Period quote covers (Insert month &amp; year if one-off)</b>	
<b>Responsible Officer Signature:</b>		<b>Post Title:</b>		<b>Date:</b>

Quotes must only be requested and, more importantly, commitments and orders made with suppliers where sufficient budget provision is in place to fund the proposed expenditure.

**All Quotations > £50k**

Authorisation required where decision is taken not to tender for expenditure estimated to be above £50k but less than EU Thresholds

<b>Post Title:</b>	<b>Sourcing Manager</b>	<b>Justification of Approach</b>
<b>Name:</b>		
<b>Signature:</b>		
<b>Date:</b>		

\* - e.g. expediency in urgent situation, cost of the exercise, limited availability of eligible suppliers.

## APPENDIX 2 – Authority for accessing Frameworks

<b>Name of Framework &amp; Supplier</b>			
<b>Description of goods / service(s)</b>			
<b>Reason for not undertaking a mini competition</b>			
<b>Contract start date</b>		<b>Proposed contract length</b>	
<b>Budget Type</b>	<b>NCH</b> X/√*	<b>NCC</b> X/√*	<b>TOTAL</b>
<b>Budget Code</b>			
<b>Annual Budget</b>	£	£	£
<b>Annual Spend</b>	£	£	£
<b>Contract / Value</b>	£	£	£
<b>Requested by the Responsible Officer (RO)</b>			
<b>Post Title:</b>		<b>Signature:</b>	
<b>Name:</b>		<b>Date:</b>	
<b>Authorised by:</b>			
<b>Post Title:</b>	<b>Sourcing Manager</b>	<b>Signature:</b>	
<b>Name:</b>		<b>Date:</b>	

\* - delete as appropriate. If there are numerous framework prices state 'Various'.

## APPENDIX 3 – Authorisation Levels

<b>EXPENDITURE LEVEL</b>	<b>REF</b>	<b>QUOTES OR TENDERS</b>	<b>NUMBER TO BE OBTAINED</b>
Less than £2k	<b>3.1.2</b>	Quotes	1
Between £2k and £50k	<b>3.1.2</b>	Quotes	2
Between £50k and EU Threshold	<b>3.2</b>	Quotes or Tender #	3
Above EU Thresholds	<b>3.2.3</b>	OJEU Tender	N/A

# - decision requires approval of the Sourcing Manager – see Rule 3.2.1.

	<b>REF</b>	<b>EXECUTED AS A DEED</b>	<b>CHIEF EXECUTIVE</b>	<b>EMT</b>	<b>ASSISTANT DIRECTOR</b>
<b>CONTRACTS</b>	<b>4.13</b>	Above £1million	Up to £1million	Up to £500k	Up to £100k