



Corporate Procurement Strategy 2014 - 2017

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Corporate Procurement Strategy 2014 - 2017

Vision and Priorities

1. Wealden District Council's vision for procurement is to:
 - (a) Carry out all procurement in line with the law and best practice;
 - (b) Support the achievement of the Council's corporate objectives; and
 - (c) Obtain goods, services and works which meet the needs of customers and achieve the optimum combination of value for money and management of risk.
2. The vision will be delivered by four priorities for 2014 - 2017:
 - (a) Procurement that is effectively managed and monitored complying with relevant rules;
 - (b) Procurement that engages all commissioners/buyers, is market aware and delivers value for money and competitiveness;
 - (c) Procurement that is sustainable, inclusive, and socially responsible; and
 - (d) Procurement that works with partners and suppliers to everyone's advantage and exploits the benefits of technology.
3. The priorities for Procurement are delivered through the Procurement Strategy Delivery Plan which is attached as Annex A to this strategy.

What is Procurement?

4. Procurement is the process of acquiring goods, works and services, covering both acquisition from third parties and from in-house providers. The process spans the whole cycle from identification of needs, through to the end of a services contract or the end of the useful life of an asset. It involves option appraisal and the critical "make or buy" decision which will determine whether the provision of services externally or in-house is appropriate.
5. The Council will make its procurement decisions to further its corporate objectives and on the basis of best value for money (the economically most advantageous offer in the EU and UK regulations). Best value is defined as "the optimum combination of whole life costs and benefits to meet the customer's requirement". Contracts will not be awarded only on the basis of lowest initial price. There will always be an assessment of quality, benefits and the costs that will be incurred by the Council throughout the life of the asset or contract period.
6. The Council believes that value for money is delivered by operating a mixed economy of service provision with ready access to a diverse, competitive range of suppliers providing quality services. Key to the creation and maintenance of a competitive range of suppliers is the Council's use of competition for its own procurements wherever possible and appropriate. Our competitive processes will be without inappropriate barriers bearing in

mind the balance of potential benefits and process costs both to the Council and those asked to compete. “Inappropriate barriers”, for example, can range from restricting access for new entrants to our opportunities to unnecessary obligations on the method of supply or service delivery which stifle change and innovation.

How is procurement delivered?

7. The Strategy defines the framework for promoting effective procurement across the whole of the Council and includes a number of targets and objectives. To facilitate delivery of the Procurement Strategy, the Council has established a Corporate Procurement Unit .The Corporate Procurement Unit has responsibility for promoting and co-ordinating procurement best practice across the Council Corporate Procurement assist, and provide guidance and support to, officers involved in any individual Service procurement activities.
8. The Corporate Procurement Unit also set up corporate contracts and framework agreements for goods and services commonly used across the Council, for example, stationery, paper, gas and electricity. All Services draw off these Contracts as and when required.
9. Responsibility for the procurement of individual Service requirements rests with individual managers within those Services.

Contract Procedure Rules

10. Wealden District Council has its own internal Contracts Procedure Rules, based on the best practice model developed by the Chartered Institute of Public Finance and Accountancy, which regulate all procurement and determines the processes that must be followed according to the contract value.
11. The summarised requirements are shown in the table below:

Good and Services Value	Works and Consultancy Value	Requirement
Up to £3,000	Up to £5,000	One oral quotation but preferably more.
£3,001 up to £25,000	£5,001 up to £50,000	Three written quotations signed off by a line manager
£25,001 to EU threshold	£50,000 to EU threshold	Invitation to Tender (minimum of three, maximum of 6 invited) or use of EU compliant frameworks, e.g. Government Procurement Service
Above EU threshold	Above EU threshold	Full EU Tender exercise or use of EU compliant frameworks, e.g. Government Procurement Service

Public Procurement Regulations

12. All local authorities and public sector bodies are subject to European Union (EU) Public Procurement Directives that govern how it may purchase goods, services and works over a specified value. These directives are included in UK law as The Public Contracts Regulations 2006. In December

2011 the EU Commission announced proposals to reform the current legal framework for public procurement. It is anticipated that these changes will come into effect at the end of 2014 and will support the following objectives:

- Simplify rules and procedures and make them more flexible
- Revise existing Competitive Dialogue and Negotiation procedures and introduce a new innovation partnerships agreement.
- Mandatory use of electronic procurement processes
- Cut administrative burden
- Encourage access to public procurement for SMEs

13. Under the new Directive local authorities have to publish an annual procurement plan and make clear how they will award under the principles of accepting the most economically advantageous tender. There are also clearer guidelines for in-house and inter-authority partnership arrangements. It is proposed that a workshop for Members on these changes will be offered toward the end of 2014.
14. The Treaty of Rome is the framework of principles that underpin the Public Procurement Directives. The Treaty's and the Directive's aims are to open up competition and ensure transparency, fairness and equal treatment for all bidders.
15. The Regulations require that where an estimated value of a contract exceeds the threshold a tender notice must be placed in the supplement to the official journal of the European Union (OJEU) to give all suppliers in the EU an opportunity to tender. The thresholds are reviewed every two years. The thresholds, net of VAT, effective from 1 January 2014 are:
 - (a) **Supplies** £ 172,514
 - (b) **Services** £ 172,514
 - (c) **Works** £ 4,322,012

Supplies

16. Supplies are defined as contracts for the purchase, lease, rental or hire purchase, with or without option to buy, of products. Products are defined by reference to the EU Common Procurement Vocabulary

Services

17. Services are defined as:
 - (a) Maintenance and repair of vehicles and equipment;
 - (b) Transport by land, including armoured car services and courier services;
 - (c) Transport by air but not transport of mail;
 - (d) Transport of mail by land, other than by rail, and by air;
 - (e) Telecommunications services;

- (f) Financial services: Insurance services and banking and investment services other than financial services in connection with the issue, sale, purchase or transfer of securities and central bank services;
- (g) Computer and related services;
- (h) Research and development services;
- (i) Accounting, auditing and book-keeping services;
- (j) Market research and public opinion polling services;
- (k) Management consultancy services;
- (l) Architectural services;
- (m) Advertising services;
- (n) Building-cleaning services and property management services;
- (o) Publishing and printing services;
- (p) Sewerage and refuse disposal service;
- (q) Hotel and restaurant services;
- (r) Transport by rail;
- (s) Transport by water;
- (t) Supporting and auxiliary transport services;
- (u) Legal services;
- (v) Personnel placement and supply services;
- (w) Investigation and security services;
- (x) Education and vocational health services;
- (y) Health and social services;
- (z) Recreational, cultural and sporting services; and
- (aa) Other services.

Works

18. Works are defined as contracts where the outcome of building or civil engineering, works taken as a whole, that is sufficient of itself to fulfil an economic and technical function. This means, in simpler terms, civil engineering and building works including major refurbishment projects.
19. Discrete parts of works must be aggregated to reach the total value of the Works contracts. For example, if the construction of a new building is divided into three phases, site clearance, construction and fitting out, the threshold must be applied to the value of all three phases, even though the activities are different and even though different contractors may be used. Related services (for example, architectural or quantity surveying services) may be purchased under separate contracts, in which case their value need not be counted against the whole works project value. However, the Directive must be applied if separate services contracts exceed the Services threshold.

Tender procedures

20. There are different types of tendering procedures that can be adopted including the Open, Restricted, Negotiated, Accelerated and the Competitive Dialogue procedure as detailed below:

- (a) **Open** - The Council places a notice and all companies who respond to the notice are sent tender documents and invited to submit a tender;
- (b) **Restricted** – The Authority places a notice and all companies who respond to the notice are sent a pre-qualification questionnaire (PQQ). The Authority assesses all completed, returned PQQ's to arrive at a shortlist of companies from whom tenders are invited;
- (c) **Negotiated** – The Negotiated route may only be used in exceptional circumstances and the Council will therefore normally use the Open or Restricted Procedure. When using the Negotiated Procedure, Wealden District Council will publish a notice. Contractors will be selected on the basis of published pre-qualification criteria and invited to negotiate;
- (d) **Accelerated** – An accelerated form of Restricted Procedure may be used where, for reasons of urgency, suppliers cannot be allowed the periods normally required. This may only be used in genuine cases of urgency, and the grounds for using the accelerated procedure must be included in the Contract Notice;
- (e) **Competitive Dialogue** – Competitive Dialogue is a new procedure for use with particularly complex contracts where an authority considers that the open or restricted procedure will not allow the award of the contract due to its inability to define the technical, financial or contractual solution to meet its needs. Competitive Dialogue is defined in the Directive as follows: “Competitive Dialogue is a procedure in which any economic operator may request to participate and whereby the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on the basis of which the candidates chosen are invited to tender.”
- (f) **Frameworks** - a framework agreement with suppliers sets out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. Use of frameworks, such as central government's Buying Solutions frameworks, means the Council has access to EU compliant arrangements without the need to undertake tender exercises. Frameworks are such that any local authority may elect to use them at any time.
- (g) **Consortia** - public authorities may join together to form a consortium and one authority lets the contract on behalf of the others. These contract arrangements are usually limited to the named consortium members.

21. Each of the above procedures impose minimum timescales covering the tender activities to ensure that reasonable time to respond to adverts and prepare submissions is given to interested parties.

Tender evaluation

22. Returned tenders are evaluated against pre-determined criteria usually by a panel of officers. Evaluation will focus on how the Tender proposes to deliver the service/supplies including quality and cost (price). Wherever possible, whole life costing will be applied. The balance between quality and cost will depend on the particular requirement.
23. If the tender has been obtained through the open procedure the quality evaluation will include the financial and technical capacity of the company including a financial assessment, health and safety, customer references etc. If the tender has been invited through the restricted procedure these aspects will be considered at the pre-qualification stage.
24. All Tenderers will be notified in writing of whether or not they have been successful in their bid. Within the limits of current legislation and good practice we will always offer unsuccessful tenderers an opportunity to discuss the reasons why their bid has failed.

Contract management

25. The Council has to monitor its performance to ensure Best Value and our Suppliers and Contractors will be expected to provide the Service in accordance with the requirements set out in the contract documentation.
26. The Council is continually striving to improve its own performance and expects its suppliers to do the same. The Council will look seriously at the position of any supplier that fails to perform to the levels required.
27. Suppliers and Contractors will be asked to comment on any adverse performance that is reported and should be aware that any instances of poor performance could be addressed by remedies set out in the contract including, where applicable, liquidated damages or early termination of the Contract. Examples of adverse performance would include areas such as:
 - (a) Poor health and safety practices;
 - (b) Poor quality of goods or service;
 - (c) Poor adherence to work programme; and
 - (d) Breaches of legislation which put Council services at risk.

E-Procurement

28. E-Procurement is the ability to trade with all suppliers using e-mail and web technology. It removes paper processes and reduces costs for both buyer and supplier, making trading simpler and more cost effective. E-procurement also helps reduce costly mistakes, such as incorrect orders and deliveries, and is a key to ensuring quick payment. Without pieces of

paper to get lost in the post or mislaid, supplier invoices can be turned around and settled quickly.

29. The Council introduced a new fully electronic procure to pay system across the authority in April 2010. This system uses internet technology to streamline procurement by employing a simple, browser based interface for the requisitioning and purchasing of goods. The system allows orders to be sent to suppliers by e-mail or, for those suppliers who cannot yet accept orders by this method, by fax or traditional printing and posting. The Council's preferred method of sending orders is by e-mail.
30. The system goes on to allow Council buyers to electronically "Goods Receive" and, provided that it contains the correct price and quotes an official order number, the invoice received can then be scanned in using OCR (Optical Character Recognition) technology and automatically matched for fast and efficient payment to the supplier by BACS. BACS is the Council's preferred payment method and will become a standard condition of doing business with the Council.
31. To ensure effective operation of this system and achieve maximum process efficiencies for both the Council and the Supplier it is essential that every invoice quotes an official Council order number. Invoices that do not quote an order number will be returned to the supplier unpaid as considered appropriate.

Electronic Marketplace

32. An electronic marketplace is an internet based facility that enables trade between one or more purchasing organisations and a variety of suppliers. Like any marketplace, the buyer can shop around for the best price and products.
33. The proper use of an e-marketplaces could help improve the Council's procurement processes and thus respond to the efficiency agenda. E-marketplaces impose an organisational structure and in particular an approval process for all purchases. The Improvement and Development Agency for local government has identified the following benefits:
 - (a) Better prices being negotiated with approved suppliers;
 - (b) Management of catalogues rests with the supplier and reflects contract rates and not generic prices;
 - (c) An improved audit trail;
 - (d) Improved control over spend; and
 - (e) Management information being used by both the Council and its suppliers to make strategic procurement decisions.
34. Generally local authorities integrate the e-marketplace with their finance systems using a process known as "punch out" to source the orders in the marketplace and then returning the information to their purchase ordering systems. There is also a general trend for groups of Councils to implement the e-marketplace together in procurement clusters.

East Sussex Procurement Hub

35. Eastbourne, Hastings, Lewes, Rother and Wealden Councils have established an East Sussex Procurement Hub hosted by Wealden. This is so that District and Borough Councils in East Sussex undertake more joint procurement thus reducing tendering costs and also giving economies of scale. The Hub has so far delivered cost savings or revenue gains of nearly £4m since formation in 2010 and achieved great success with projects such as the countywide Council Tax Single Person Discount and Empty Homes Reviews, Insurance Services, and Grounds Maintenance Services.
36. The Procurement Hub has a joint procurement programme agreed by Chief Finance Officers as the Procurement Hub Management Board. This programme is reflected in the Councils' annual procurement programmes.
37. The Hub has also developed a common Pre-qualification questionnaire for use across East Sussex and has launched a dedicated set of web pages which offer a guide to businesses on how to bid for work for the Councils. There was also a very popular and well attended event; "Understanding the Buyer" which was held in Hailsham in February 2013 and will be run again in Hastings in the Spring of 2014.
38. In support of the Council's Corporate Plan, from April 2014 there will be a formal shared procurement service arrangement in place for Wealden, Rother, and Hastings. Hosted by Wealden, the service will support the authorities with all collaborative and individual contract activities. In addition, there will still be a countywide work programme which will include collaborative arrangements with Lewes and Eastbourne.

The Public Services (Social Value) Act 2012

39. This act places a duty on local authorities, at "pre-procurement" phase of procuring services to consider how what is being procured might improve the economic, social and environmental well-being of their areas; and how they might secure that improvement in the procurement process itself as long as such action is relevant to what is being procured, and is considered to be proportionate.
40. The new act creates no new powers, but requires a more systematic approach to the exercise of existing powers. Failure to comply with this duty creates a further risk to the success of procurement exercises. This reinforces the need to strengthen the pre-procurement planning phase. The Council considers social value in the following ways:
 - (a) Pre-procurement: Before commencing procurement the Council considers the subject matter of the contract and identifies any non-commercial considerations which are relevant and appropriate to be taken into account. For example: when scoping the project; deciding on contract packaging; drafting specifications; sustainability and life-cycle requirements; and selecting the contract structure. Technical specifications must however be linked to the

subject matter of the contract in order to comply with EU Procurement Regulations.

- (b) Contract terms: The Council evaluates the incorporation of social and environmental requirements into the contract terms including any "special " conditions. However, the Council considers any cost associated with including such terms and whether they are essential and affordable.
- (c) Selection stage: Does the delivery of the contract require particular technical expertise? Will the contractor be required to comply with particular policies, e.g. environmental management? Selection criteria must be non-discriminatory, proportionate and linked to the subject matter of the contract and in accordance with the criteria listed in the Regulations. The Council cannot discriminate by only selecting Wealden based companies.
- (d) Award stage: social and environmental issues may be included within the award criteria of the most economically advantageous tender provided they are linked to the subject matter of the contract and expressly referred to in the OJEU contract notice and/or the tender documents. Officers consider how such issues will be evaluated and any applicable weightings in the scoring matrix which must be concluded prior to the Invitation to Tender stage.
- (e) Post award: The Council considers what is expected from suppliers in delivering the contract and how the Council will monitor any non-contractual obligations to derive any benefits, for example training or secondment opportunities.

Sustainable Procurement

- 41. Wealden District Council is committed to protecting the local environment, addressing the environmental impact of our activities and ensuring a better quality of life for everyone. We encourage key suppliers to demonstrate an awareness of sustainability issues and to promote practices that are consistent with their policies.
- 42. The Council's procurement activities will support its aims of protecting the environment. The principles of waste reduction, recycling and the use of environmentally acceptable materials shall be considered throughout the process. The Council will also ensure that procurement activities comply with sustainable development principles and promote practices that will contribute to future generations in Wealden.
- 43. Specifically the Council will:
 - (a) Attain Level 3 of the National Procurement Task Force Flexible Framework for Sustainability by the end of 2014 (see Annex B for the framework);

- (b) Educate, train and encourage internal purchasers to review their procurement spend with a goal of reduced usage and adopting more environmentally friendly alternative products;
- (c) Consider the costs and benefits of environmentally preferable good/services as alternatives;
- (d) Investigate the impact of the Council's expenditure on goods and services to identify potential environmental impacts;
- (e) Ensure that where appropriate, suppliers' environmental credentials are, as far as legally practicable considered in the supplier evaluation process and that environmental and sustainability criteria are used in the award of contracts;
- (f) Encourage and persuade suppliers to adopt environmentally friendly processes, supply environmentally friendly goods/services and monitor and take measures to reduce the carbon footprint of their operations;
- (g) Specify that the minimum packaging should be used appropriate to protect the goods in transit and that packaging should ideally be reusable and returnable or, as a minimum, be recyclable;
- (h) Address barriers to entry in order that Small and Medium Sized Enterprises (SMEs), local suppliers and the community and voluntary sector are encouraged to bid for the Council's business.

Small businesses

- 44. Wealden District Council recognises the important contribution that small businesses can make to the delivery of public services and the vital role these businesses play in the local and national economy. We aim to encourage a mixed range of suppliers in order to help develop and stimulate a varied and competitive marketplace.
- 45. The Council has a duty to ensure all procurement is open and transparent. This means that the process for the selection and award of contracts has to be fair and seen to be so. The Council must show that the winning tender was chosen in a fair and proper manner and have the evidence to support this. Ultimately, it can be challenged that a contract was awarded unfairly under the Remedies Directive.
- 46. The Council must abide by European rules on procurement. These require, for purchases exceeding set limits, that tendering is open to anyone within the European Union, subject to their ability to deliver such services. We cannot limit competition to British or Sussex companies. The larger the contract, the greater the competition from further afield.
- 47. The Council will seek to ensure that contracts are packaged to allow small and medium enterprises to compete, subject to that delivering best value. Where we believe a larger contract will deliver best value we will ask the larger suppliers how they integrate small and medium local businesses into their supply chains.

48. In accordance with the Localism Act 2011, the Council will consider how to improve the social, economic or environmental well-being of the area but only so far as this is consistent with public procurement law. Consideration will be given to how we improve the practices of the supply chain by considering such things as apprenticeship schemes, local recruitment initiatives, community benefits and where relevant, support for vulnerable or disadvantaged people.

Equality and Diversity

49. Wealden District Council is committed to equality and diversity. Suppliers providing services to, or on behalf of Wealden District Council must carry out their duties in accordance with legislation governing race, gender and disability, sexual orientation, age and religion or belief. Failure to comply with the equality duty could make the authority, and in some cases, individuals, liable to legal action and prevent suppliers from being allowed to tender for Wealden District Council services and works.
50. It is important to ensure that procurement and equality are appropriately integrated to ensure compliance with our statutory obligations and to promote our vision of valuing diversity throughout our partnership and contractual working. This is to ensure that:
- (a) The Council's vision for equality and diversity, as outlined in the Equality Scheme, is reflected in service design, delivery and review;
 - (b) The Equality Scheme is reflected appropriately in the process and procedures associated with tendering and procurement generally;
 - (c) Community needs are reflected in service design, delivery and review; and
 - (d) Contractors fulfil their own equal opportunity obligations as employers and service providers in respect of equality areas when carrying out work for the Council.
51. The Council's standard terms and conditions include an equality clause. Where an invitation to tender is issued it will include standard equality and diversity questions that must be answered. The Council's approach is to strongly encourage potential suppliers to demonstrate a commitment to equalities. We recognise that a small firm may not have written equality policies, and other companies who may have formal policies may not refer to it in recruitment processes. This will not automatically exclude them from selection. The Council's equality and diversity questions are designed to show the supplier's commitment to equality and diversity.

Health and Safety

52. Wealden District Council is committed to ensuring the health, safety and welfare of its employees and that of all others affected by its undertakings. Contracts to supply goods or services will only be awarded to contractors who can satisfy the Council requirements in terms of resources required

and their health and safety competence. Suppliers will be expected to demonstrate:

- (a) A commitment to the health and safety of its employees, client and others;
- (b) Up to date health and safety policies and procedures;
- (c) Adequate risk assessment procedures;
- (d) An adequate system of monitoring and reporting accidents, incidents and ill health;
- (e) Access to competent health and safety advice; and
- (f) Contracts are monitored to ensure compliance with contract standards and health and safety requirements.

Risk Management

- 53. Risk management should not be seen as the avoidance of all risk. Good risk management is taking advantage of what innovation has to offer, having given due consideration to what can go wrong and putting in place established solutions to deal with it.
- 54. In order to ensure that the procurement process delivers best value in the widest sense, it is appropriate to adopt an approach based on risk management principles. In this way, contracts involving a high level of risk (whether that risk is in terms of impact on customers, finance, time, the environment, safety or service delivery) should involve a more detailed process, whereas low risk projects would not generally justify a resource-intensive procurement procedure.
- 55. Generally, “high-risk” projects will also be “high-value”. However, where “high-value” contracts involve a low risk (in terms of time or safety factors), they would normally still be subjected to a more detailed process, given the expenditure which will be incurred.
- 56. All high-risk procurement projects should have their own risk register, which is regularly reviewed, in line with the Council's project management procedures.

Localism Act 2011: Community Right to Challenge

- 57. Sections 81 to 86 of the Localism Act 2011 introduce the Community Right to Challenge. Under the Community Right to Challenge, relevant bodies, which are voluntary and community groups, Parish Councils and local authority staff, will be able to express an interest in taking over the running of local public services.
- 58. Relevant bodies exercise the community right to challenge by submitting to the Council an expression of interest in providing or assisting in providing a relevant service on behalf of the Council.
- 59. The Council must have regard to guidance from the Secretary of State in the exercise of its functions relating to the community right to challenge. It may specify periods within which relevant bodies may submit expressions

of interest. If it does so, the Council must publish details including publication on the Council's website. If the Council has not specified such details, relevant bodies may submit expressions of interest at any time. The Council intends to have a five year rolling Commissioning Programme in which it will specify when expressions of interest may be submitted and therefore it may refuse to consider expressions submitted outside the specified period in that Programme.

60. The following information must be submitted with the expression of interest:
 - (a) Details of the relevant body;
 - (b) Details of the relevant body's financial situation;
 - (c) Details of the relevant service to which the expression of interest relates;
 - (d) Information that confirms the relevant body will be able to participate in a procurement exercise;
 - (e) The relevant body to state that it is capable of providing the service; and
 - (f) The outcomes to be achieved including how the proposal meets service users' needs and the social value offered by the proposal.
61. Additional information may be required to be submitted once Regulations are made by the Secretary of State.
62. When the Council considers an expression of interest, section 83 requires it to accept or reject it, or modify it in accordance with section 84. If the Council accepts an expression of interest, it must carry out a procurement exercise. It must specify the minimum and maximum period that will elapse between the date when the Council accepts the expression and the date when the procurement exercise will begin. The Council must consider how it might promote or improve the social, economic or environmental well-being of the area but only so far as this is consistent with public procurement law and other legislation. Any expression of interest accepted is highly likely to trigger an EU Procurement process.
63. The Act provides that an expression of interest can be rejected only on grounds specified by the Secretary of State in regulations. It is intended that the regulations will include the following grounds:
 - (a) The relevant body is not suitable;
 - (b) The service is exempt;
 - (c) The service has been stopped or decommissioned;
 - (d) The expression of interest is outside the period specified by the Council during which they can be submitted;
 - (e) The relevant service is already subject to procurement or negotiation for a service agreement;
 - (f) The expression of interest is frivolous or vexatious;
 - (g) The Council believes that acceptance would lead to contravention of an enactment or rule of law or

- (h) Where there is no specified period during which expressions of interest can be submitted and an existing contract or other service agreement is in place, except where the Council is considering future provision of the service. (This ensures the Council will not have to run a procurement exercise for services which are already contracted out.)
- 64. Section 84 allows the Council to modify an expression of interest if the Council thinks that the expression of interest would not otherwise be capable of acceptance and if the relevant body that submitted the expression of interest agrees.
- 65. The Council must specify the maximum period that will elapse between the receipt of an expression of interest and the date when it will notify the relevant body that submits an expression of interest of its decision in respect of that expression. It must publish details, including publication on its website.
- 66. If the Council has specified a period within which expressions of interest must be submitted, its notification to the relevant body of the notification period must be within 30 days of the end of the specified period.
- 67. If the Council has not specified such a period, its notification to the relevant body of the notification period must be within 30 days of the receipt by the Council of the expression of interest. The Council must notify the relevant body of its decision in writing. If the decision is to modify or reject the expression of interest, the notification must include reasons. The Council must publish the decision including publication on the its website.
- 68. The ability for the Council to determine the time frame for expressions of interest in respect of particular services, means that this can be synchronised with commissioning cycles for services. As the transparency agenda requires publication of more details on forthcoming tender processes then groups will have more idea when to make relevant expressions of interest.
- 69. Where the Council chooses to set a period for receiving expressions of interest it must have regard to factors set out by the Secretary of State in guidance. The policy document suggests that these factors should be:
 - (a) The Council needs to provide bodies with sufficient time to prepare and submit expressions of interest;
 - (b) The nature and the complexity of the service; and
 - (c) The timescale for any existing commissioning cycle relevant to the service for which a period is being specified or any other relevant authority processes (e.g. Cabinet decision making or budget setting).
- 70. There will also be guidance about the factors to take account of in setting a timescale including:
 - (a) The need to notify the decision within a reasonable period;
 - (b) The nature, scale and complexity of the service;

- (c) The complexity of the expression of interest received;
 - (d) The need to agree modifications; and
 - (e) The time scale for any existing commissioning cycle.
71. Where the expression of interest is accepted, a procurement exercise will be undertaken in respect of the service to which the expression of interest relates. This will vary depending upon the nature of the service and its value but is likely to be an EU Procurement process. The relevant body will then need to compete against the market to provide the service.

Corporate Framework for Service Commissioning

72. The Council will periodically review the way it delivers services in order to ensure that it is delivering the best value for money for the residents of Wealden. This work will be guided by the emerging work on the Council's 2015 Vision which seeks to position the Council in the context of localism, the Open Public Services White Paper and the new, much reduced, financial resources position.
73. The overall process of service review is called "service commissioning" Wealden District Council service commissioning framework has three stages which are detailed below.

Stage 1: Review the service

74. Decide the outcomes that are wanted over the medium and long term. These should be expressed as outcomes or outputs and they should be measurable. These should be in line with the Sustainable Community Strategy aims and objectives. This stage must include input from Members, customers, staff, Parish Councils and the voluntary and community sector. At this stage it will be appropriate to invite expressions of interest under the Localism Act 2011.
75. Defining outcomes and outputs is key - the method of delivery is left to the service provider and therefore facilitates innovation and continuous improvement. There may be certain circumstances that an input specification is required but generally they should be avoided. Ensure that performance indicators are built in too - that way the service provider is responsible for delivering the Council's performance indicators. Consider in all cases that payment by results should be a key driver in the specification.
76. Benchmark the service's costs and performance against others.
77. There should be a general assumption that a soft market test is undertaken as a gateway unless there are appropriate reasons such as low value. A soft market test is used to understand the supply market and also to gauge where the current service provision sits against what is on offer in the market. Remember that a supply market includes the Parish Councils, charities, community enterprises and staff seeking to form a mutual.

Soft market testing guidance (from 4Ps)

78. In undertaking the appraisal of both project and procurement options, Local Authorities should consider carrying out Soft Market Testing (SMT) with service providers active in the market.
79. SMT is the process whereby one party (usually a public body such as a Local Authority), at an early stage in development of its proposals but prior to formulating any formal procurement opportunity, seeks input from the market as to what might be the most potentially attractive way of packaging and scoping a future procurement opportunity. This exercise can also provide an opportunity for the Authority to obtain insight into how service providers might approach the delivery of the service in question, or how they might address particular local circumstances that may impact on the services or proposals more generally. It also gives useful early insight into the likely level of interest in a proposed project from that market.
80. The information sought by the Authority from the market will vary depending on the scheme under consideration, the service area which is the subject of the SMT, the circumstances of the authority and many other factors. However, topics commonly covered by SMT exercises include the scope of the scheme, costs and affordability issues, the payment mechanism and monitoring arrangements, key risks envisaged to be transferred, contractual structures and terms and the proposed timetable for procurement through to the commencement of the service.
81. Thorough preparation for the SMT exercise is essential to ensure that the Authority makes the most of the information available from the market and extracts maximum input and interest from those from whom it is seeking a response. It is advisable to prepare a document providing information to the market about the Authority and any other procurement partners, the basic proposals as they have been developed to date, the scope of the scheme, employment and other issues.
82. The document or accompanying papers might also contain a list of specific issues upon which the Authority is seeking particular assistance or feedback from the market when working up the proposal. Such issues should be worded carefully to encourage the best quality feedback.
83. Sales pitches from any responding organisation should be avoided. The focus should be on the issues upon which the Authority has indicated it wants feedback. It should be remembered at all times that a SMT exercise is not part of a procurement exercise so the use of terms such as 'bidders' should be avoided. It should also be made clear in the SMT documentation that the SMT exercise will not include or preclude any organisation from participating in any future procurement exercise that might subsequently be undertaken.
84. The timing of an SMT exercise is another important consideration. As mentioned above, SMT exercises, generally speaking, should be carried out at an early stage in the development of proposals for improving services or scoping options for procurement. Market soundings should be approached

on the basis of what the market, in general terms, might or might not accept in terms of risk transfer, service delivery options, payment mechanisms and so on and whether there is interest in the type of scheme at the level of cost under consideration.

85. The SMT exercise should not be carried out at too early a stage otherwise the authority will run the risk of appearing vague and uncertain about its objectives and this will not generally inspire confidence in the Authority's ability to ultimately bring the proposal to the market. The Authority should aim to develop good quality information about the general proposal to give those responding the information they require to help them, in turn, provide good quality feedback.

Stage 2: Recommend a commissioning route

86. Councillors have given clear direction on the outcomes they require from service commissioning. It should:
- (a) Lead to culture change;
 - (b) Maintain or ideally improve customer service; and
 - (c) Reduce cost;.
87. The commissioning route chosen should ideally deliver all three of these outcomes.

Key Factors influencing the most appropriate model to adopt

- **Lead to culture change**
 - Strength of leadership
 - Capacity for learning and innovation
 - Flexibility and commercial freedom.
- **Maintain or improve customer service**
 - Specialist skills/capabilities, underdeveloped knowledge base
 - Strengthening of customer focus
 - Effective management systems
 - Performance v cost benchmark.
- **Reduce Cost**
 - Opportunities to generate income
 - Economies of scale
 - Need for capital investment
 - Technological requirements
 - Flexibility and commercial freedom
 - Cost control issues
 - Impact on the Council's pension assets and liabilities
 - Ability to influence own costs e.g. support services, corporate and democratic core, employment overheads.

- **Cross cutting**

- Risk (financial/reputation/environmental)
- EU competition requirements and Public Procurement Regulations
- Organisational capacity and critical mass.

88. The following are options with points to consider under each commissioning route.

Withdraw from the service in whole or part

- The Council does not have a statutory responsibility to either provide the service directly, or ensure it is provided through another provider.
- Evidence of low need or demand for the service.
- Other providers can continue without intervention or support from the local authority.
- Costs of the service or activity considerably outweigh benefits.
- Service or activity makes no contribution to corporate objectives.

Improved in-house service delivery

- The existing internal service is, or is close to meeting local targets and national standards as identified in the benchmarking at stage 1.
- There is no or an inadequate supply market.
- Cost of externalisations are likely to be high.
- The service is of such importance to the Council and the risk of any service failure is so great that Members choose to keep provision in-house.
- This option must always establish clear service improvements and time scales which shall be monitored.

Shared Services

- Services are provided from a single point.
- Participating organisations are willing to subdue their separate identities in the interests of the joint service.
- Financial and other risks can be shared on an equitable basis.
- Resilience is provided by bringing resources together.
- Participating organisations do not have the expertise or sufficient resources to deal with all requests for service, but the volume does not justify further investment by each authority.
- Sharing resources, staff etc will produce valuable economies and improved quality.
- All participating organisations require a very similar service.
- Clear lines of responsibility and accountability are necessary.

Market testing

- The Community Right to Challenge has automatically invoked the market testing route
 - There is an active and competitive supply market and appropriate expertise available through external service providers
 - The service is easy to specify and monitor.
 - A new service area is being developed and the authority has no preference between in-house and external provision.
 - In-house performance can be compared and benchmarked against competition.
 - There is evidence available to indicate the potential and probability of in-house service improvement.
 - The pressure of competition would stimulate improvements in in-house performance.
 - The pressure of competition would improve the value of the tenders received.
 - The benefits of using the market outweigh the costs of procurement.
89. It is anticipated that in most cases an in-house bid would occur, however, in some circumstances it may not be appropriate.

Transfer role to another organisation

- The activities of, or services provided by, the receiving organisations fit with the Council's overall objectives.
- Agencies already exist or are being formed.
- Commercial freedom is needed to secure private sector investment, under current regulations.
- The transfer to a relevant authority under the Community Right to Challenge has been proven through the competitive process.
- Setting up of a trading company to provide freedom to trade for profit but this must be balanced against the set up costs and also the Public Procurement Regulations competition requirements. Use of the "Teckal" exemption may apply in this case. Teckal exemption applies when: the Council exercises over the company a control which is similar to that which it exercises over its own departments; and the company carries out the essential part of its activities with the Council. These rules mean a joint venture with another Council can use the exemption but a joint venture with the private sector cannot.

Hybrid within a service

- A service is made up of discrete aspects that have different tests applied to them (front line staff and back office processes, for example.)

- Areas of excellence exist side-by-side with services that need considerable improvement.
- Different elements make clearly different contributions to overall service delivery.
- There is a wide range of user needs, which are best met in different ways.
- External resources can most effectively be used to support in-house services rather than competing.

Stage 3 Commission the service

90. For key services reviewed then a recommendation on the Commissioning route should be made for Councillors to make a decision. The soft market test should provide a valuable indication of whether in-house service provision, externalisation or a hybrid approach is best.
91. Where the option chosen is Market Testing then the procedures required by the Public Contracts Regulations 2006 SI 5/2006 will need to be followed (this places EU competition regulations in English Law), subject to any Teckal exemption.
92. The Council must, as part of the Invitation to Tender, set out the award criteria. The weighting between cost and quality will be decided for each tender. In certain limited circumstances it may be necessary to decide a fixed price up front and ask tenderers to specify what they will provide for that price and therefore the entire evaluation becomes about quality. Ideally contracts should be outcomes based and there should be payment by results by default.

Wealden District Council Procurement Strategy Delivery Plan

Procurement Priorities				
	Procurement that is effectively managed and monitored complying with relevant rules	Procurement that engages all commissioners/buyers, is market aware and delivers value for money and competitiveness	Procurement that is sustainable, inclusive, and socially responsible	Procurement that works with partners and suppliers to everyone’s advantage and exploits the benefits of technology
Objectives	<ol style="list-style-type: none"> 1. To ensure that all procurement is in accordance with EU rules, the Council’s Contract Procedure Rules and published Procurement Guidance and Best Practice. 2. To deliver an effective service which maximises efficiency for joint procurement, and collaborative working through the East Sussex Procurement Hub. 	<ol style="list-style-type: none"> 3. To contribute to the achievement of the Council’s targets for efficiency gains and savings. 4. To put in place procurement contracts which will maximise the delivery of value for money. 5. To ensure all buyers and commissioners are suitably trained in procurement and commissioning. 	<ol style="list-style-type: none"> 6. To encourage a mixed range of suppliers to help create a varied and competitive marketplace. 7. To ensure that small firms, Parish Councils, voluntary organisations, community enterprises and potential staff mutual are not unfairly excluded from bidding for council business. 8. To reduce the negative effect on the environment of the products and services we buy. 9. To promote and demonstrate best practice for sustainable procurement. 10. To ensure that procurement activity incorporates statutory requirements and local aspirations in regard to Equality and Diversity. 	<ol style="list-style-type: none"> 11. To electronically enable as many steps in the procurement cycle as possible. 12. To introduce, where feasible, further e-Commerce solutions e.g. e-marketplace, e-auctions, e-tenders.

Procurement Priorities				
	Procurement that is effectively managed and monitored complying with relevant rules	Procurement that engages all commissioners/buyers, is market aware and delivers value for money and competitiveness	Procurement that is sustainable, inclusive, and socially responsible	Procurement that works with partners and suppliers to everyone's advantage and exploits the benefits of technology
Key Targets	<ol style="list-style-type: none"> 1. No breaches of Contract Procedure Rules or EU Rules as appropriate. 2. Work with East Sussex Borough and District Councils to formalise collaborative working through the East Sussex Procurement Hub. 3. Develop a suite of performance indicators with members of the East Sussex Procurement Hub 	<ol style="list-style-type: none"> 4. Achieve savings of £350,000 per annum in the period 2010 - 2015. 5. Identify, develop and take maximum advantage of procurement collaborative opportunities and framework agreements, where these prove beneficial. 6. Develop suitable procurement and commissioning training for buyers and commissioners. 	<ol style="list-style-type: none"> 7. All relevant procurement exercises include sustainability factors within the specification and evaluation criteria. 8. Achieve Level 3 of the Flexible Framework for Sustainable Procurement by 2014. 9. Contribute to the reaching of the "achieving" level of the Equality Framework for Local Government by ensuring all relevant procurement exercises include equality and diversity requirements within the evaluation criteria. 	<ol style="list-style-type: none"> 10. Percentage of orders to be sent electronically: 95% by 2015. 11. Percentage of suppliers paid by BACS: 95%. 12. 99% of suppliers paid within terms. 13. Develop e-tendering capability by 2015.

Procurement Priorities				
	Procurement that is effectively managed and monitored complying with relevant rules	Procurement that engages all commissioners/buyers, is market aware and delivers value for money and competitiveness	Procurement that is sustainable, inclusive, and socially responsible	Procurement that works with partners and suppliers to everyone's advantage and exploits the benefits of technology
Key Actions/Projects 2014/15	<ol style="list-style-type: none"> 1. Provide professional procurement guidance on major procurement projects ensuring that effective option appraisal analysis is conducted. 2. Work with East Sussex Borough and District Councils to formalise collaborative working and develop the East Sussex Procurement Shared Service. 	<ol style="list-style-type: none"> 3. Maximise the use of framework agreements and collaboration arrangements with other partners where they are competitive. 4. Implement the East Sussex Best Deals as identified by the East Sussex Procurement Hub. 	<ol style="list-style-type: none"> 5. Achieve Level 3 of the Flexible Framework for Sustainable Procurement. 	<ol style="list-style-type: none"> 6. Percentage of orders to be sent electronically: 95% by 2015. 7. Percentage of suppliers paid by BACS: 95%. 8. 99% of suppliers paid within terms. 9. 75% of tenders submitted through e-tendering system.
Key Actions/Projects 2015/17	<ol style="list-style-type: none"> 1. Provide professional procurement guidance on major procurement projects ensuring that effective option appraisal analysis is conducted. 2. Work with East Sussex Borough and District Councils to formalise collaborative working and develop the East Sussex Procurement Shared Service. 	<ol style="list-style-type: none"> 3. Maximise the use of framework agreements and collaboration arrangements with other partners where they are competitive. 4. Implement the East Sussex Best Deals as identified by the East Sussex Procurement Hub. 	<ol style="list-style-type: none"> 5. Work towards Level 4 of the Flexible Framework for Sustainable Procurement. 	<ol style="list-style-type: none"> 6. Percentage of orders to be sent electronically: 95% by 2015. 7. Percentage of suppliers paid by BACS: 95%. 8. 99% of suppliers paid within terms. 9. 100% of tenders submitted through e-tendering system.

Flexible Framework for Sustainable Procurement

	Foundation Level 1	Embed Level 2	Practice Level 3	Enhance Level 4	Lead Level 5
People	Sustainable procurement champion identified. Key procurement staff have received basic training in sustainable procurement principles. Sustainable procurement is included as part of a key employee induction programme.	All procurement staff have received basic training in sustainable procurement principles. Key staff have received advanced training on sustainable procurement principles	Targeted refresher training on latest sustainable procurement principles. Performance objectives and appraisal include sustainable procurement factors. Simple incentive programme in place.	Sustainable procurement included in competencies and selection criteria. Sustainable procurement is included as part of employee induction programme.	Achievements are publicised and used to attract procurement professionals. Internal and external awards are received for achievements. Focus is on benefits achieved. Good practice shared with other organisations
Policy, Strategy & Communications	Agree overarching sustainability objectives. Simple sustainable procurement policy in place endorsed by CEO and approved by cabinet member. Communicate to staff and key suppliers.	Review and enhance sustainable procurement policy, in particular consider supplier engagement. Ensure it is part of a wider Sustainable Development strategy. Communicate to staff, suppliers and key stakeholders.	Augment the sustainable procurement policy into a strategy covering risk, process interrogation, marketing, supplier engagement, measurement and a review process. Strategy endorsed by CEO.	Review and enhance the sustainable procurement strategy, in particular recognising the potential of new technologies. Try to link strategy to EMS and include in overall corporate strategy.	Strategy is: reviewed regularly, externally scrutinised and directly linked to organisations' EMS. The Sustainable Procurement strategy recognised by political leaders is communicated widely. A detailed review is undertaken to determine future priorities and a new strategy is produced beyond this framework.

	Foundation Level 1	Embed Level 2	Practice Level 3	Enhance Level 4	Lead Level 5
Procurement Process	Expenditure analysis undertaken and key sustainability impacts identified. Key contracts start to include where appropriate general sustainability criteria. Where possible contracts to be awarded on the basis of value-for-money, not lowest price. Procurers adopt Quick Wins.	Detailed expenditure analysis undertaken, key sustainability risks assessed and used for prioritisation. Sustainability is considered at an early stage in the procurement process of most contracts. Whole-life-cost analysis adopted.	All contracts are assessed for general sustainability risks and management actions identified. Risks managed throughout all stages of the procurement process. Targets to improve sustainability are agreed with key suppliers.	Detailed sustainability risks assessed for high impact contracts. Project/contract sustainability governance is in place. A life-cycle approach to cost/impact assessment is applied.	Life-cycle analysis has been undertaken for key commodity areas. Sustainability Key Performance Indicators agreed with key suppliers. Progress is rewarded or penalised based on performance. Barriers to sustainable procurement have been removed. Best practice shared with other organisations.
Engaging Suppliers	Key suppliers spend analysis undertaken and high sustainability impact suppliers identified. Key suppliers targeted for engagement and views on procurement policy sought.	Detailed suppliers spend analysis undertaken. General programme of supplier engagement initiated, with senior manager involvement.	Targeted supplier engagement programme in place, promoting continual sustainability improvement. Two way communications between procurer and supplier exists with incentives. Supply chains for key spend areas have been mapped.	Key suppliers targeted for intensive development. Sustainability audits and supply chain improvement programmes in place. Achievements are formally recorded. CEO involved in the supplier engagement programme.	Suppliers recognised as essential to delivery of organisations' sustainable procurement strategy. CEO engages with suppliers. Best practice shared with other/peer organisations. Suppliers recognise they must continually improve their sustainability profile to keep the clients business.

	Foundation Level 1	Embed Level 2	Practice Level 3	Enhance Level 4	Lead Level 5
Measurements & Results	Key sustainability impacts of procurement activity have been identified.	Detailed appraisal of the sustainability impacts of the procurement activity has been undertaken. Measures implemented to manage the identified high risk impact areas	Sustainability measures refined from general departmental measures to include individual procurers and are linked to development objectives.	Measures are integrated into a balanced score card approach reflecting both input and output. Comparison is made with peer organisations. Benefit statements have been produced.	Measures used to drive organisational sustainable development strategy direction. Progress formally benchmarked with peer organisations. Benefits from sustainable procurement are clearly evidenced. Independent audit reports available in the public domain.