

# Standards & legislation

- 18 All procurement activity must be conducted in accordance with the Council's Financial Regulations and Procurement Rules, UK Legislation and EU Procurement Legislation. Compliance with the regulatory framework is vital: protecting the Council against litigation, and securing accountability for the way in which public money is spent. Failure to comply with legislative and regulative rules may constitute misconduct and lead to formal disciplinary action.
- 19 All staff and members involved in procurement must:
- ensure that any procurement exercise is legal, transparent and does not expose the Council to unacceptable risk;
  - seek any necessary advice, guidance and support from the Corporate Procurement Team and refer to them in respect of any contract for goods, works or services in excess of the relevant EU thresholds;
  - conduct procurement exercises in a fair and transparent manner, consistent with the requirements of the Council's Financial Regulations and the procedures set out in the Procurement Guidance Manual for practitioners;
  - report any concerns they may have over the conduct of any procurement exercise, known fraud or corruption or any other breach of the Council's Financial Regulations to the Chief Internal Auditor for investigation and action;
- 20 In addition, commissioning officers must take into consideration the requirements of the following legislation to ensure that the procurement process is not prejudiced or open to future challenge.
- The Race Relations Amendment Act,
  - TUPE Regulations;
  - Local Government Act;
  - Freedom of Information Act.
- 21 In doing so, the following principles must be reflected in the documentation, evaluation and award of contracts when selecting and dealing with suppliers:
- the elimination of unlawful racial discrimination, be that direct, indirect or institutional;
  - promote equality of opportunity and good relations between persons of different racial groups.
- 22 Full details of all legislative and regulatory requirements at each stage in the procurement process are set out in the Council's Financial Regulations & Procurement Rules and the Procurement Guidance Manual for practitioners.

# Risk management

- 23 Risk management is integral to good management practice enabling the Council to better understand, document and mitigate the risks and opportunities arising from any given procurement exercise.
- 24 Procuring goods, services and works from third parties exposes the Council to a range of risks. Procurement risk is often considered from a simple transactional perspective relating to an individual procurement, eg what risks would we run if a contractor fails to deliver a service. However, thinking about procurement as a strategic management concern for the Council, also means thinking about the risks the Council as a corporate entity would be exposed to if any part of the overall process of procurement across the organisation breaks down or is badly managed. Having an effective management infrastructure which includes everything from appropriate governance, decision making, staffing and contract management arrangements is crucial to managing the procurement risks the Council is exposed to everyday as a result of all the various individual commissioning and purchasing activities taking place across the organisation.
- 25 The management of risk should be proportionate to the size and value of the procurement exercise but should always include consideration of the following stages in the risk management cycle:
- **Identify** the risks that exist
  - **Assess** those risks for potential frequency and severity
  - **Eliminate** the risks that can be eliminated
  - **Reduce** the effect of those risks that can not be eliminated
  - **Monitor** the results of any risk management action taken
  - **Evaluate** and balance hazards and opportunities to make well-informed decisions
- 26 Where a major procurement exercise is to be undertaken a recognised project methodology should be adopted, such as Prince II. Integral to most project methodology is the development of a formal risk register.
- 27 Successful risk management flows from an early assessment of likely risks in the planning stage of any given procurement. Whilst the kinds of risk arising will be specific to each procurement, consideration of the following risk factors would be typical in most exercises:
- discontinuity in the supply of essential goods or services;
  - procurement outcomes that are contrary to Council objectives;
  - fraud and corruption;
  - prosecution and litigation for infringement of regulations;
  - change in the external environment;
  - understanding the market;
  - future supply and demand for the product.