

Operational Policy



Title: Procurement Policy
Originator: AD Finance & Resources
Approval body and date approved: ELT on 29th May 2019
Date for review: May 2021

1. Introduction

1.1 Our definition of procurement

The term "Procurement" refers to the process by which goods services and works are acquired from third parties. This is a lifecycle process that covers from the initial purchase concept through to the end of the life of the purchased asset or service.

1.2 Value for Money

In procuring goods, services or works, all teams/departments are responsible and accountable for achieving value for money (VfM). In addition, teams/departments are urged to seek continuous improvements in achieving VfM.

1.3 Commitment to Competition

VfM is best achieved by competition. Competition promotes economy, efficiency and effectiveness in Magenta Living expenditure and contributes to the competitiveness of suppliers.

2. Statement of Intent

The purpose of this Policy is to affirm the guidelines for Magenta Living staff that are engaged in procurement activity, in order to ensure compliance with statutory requirements including ML Standing Financial Instructions and UK Procurement Legislation whilst allowing Magenta Living to meet its objectives.

3. Policy

All Magenta Living staff are responsible for ensuring that procurement activity within their business area is carried out in accordance with the Procurement Procedure Rules (PPR, attached appendix 1).

The Procurement team will engage with all staff to fully establish their needs and deliver effective procurement solutions, working with them at an early

stage to drive down costs and improve quality in the goods, services and works to be procured.

3.1 Legal Obligations

Every contract awarded by Magenta Living shall comply with:

- a) Any European Union (EU) Public Procurement Directives in force in the United Kingdom.
- b) UK Statutes and Statutory Instruments.
- c) The law of England and Wales.
- d) Magenta Livings Standing Orders and Financial Regulations
- e) GDPR 2018 Regulations as may be applicable.

In the event of a conflict arising between EU Directives, UK Statutes and Statutory Instruments and the remainder of these PPR's, the EU Directive, UK Statute or Statutory Instrument will prevail.

Every contract awarded by Magenta Living will comply with these PPR's, unless it conflicts with statutory provisions.

The PPR's do not apply to:

- (i) Contracts of employment (see Employment Procedure Rules).
- (ii) The acquisition or disposal of land.

No exception from any of the provisions in these PPR's shall be made unless directed by the Board or a Director or permitted under powers delegated by them.

Every exception made shall be reported to the Board or Audit & Risk Committee.

In the event that Magenta Living proposes to procure a Contract on behalf of and mainly at the expense of another public authority (including under any statutory agency) and that authority has a code or standing orders governing the obtaining and acceptance of tenders and it requests Magenta Living to observe that code/orders, then they shall supersede the PPR's, provided they comply with all relevant legislation.

3.2 Exceptions to Procurement Procedures & Exceptions Reporting

Exemption from the provisions of the Procurement Procedures may be made by the Executive where it is satisfied that such exemption is justified by reason of special circumstances PROVIDED that:

- a) in cases where prior Board approval has not been obtained (a–h below), a report on exemptions with their special circumstances giving rise thereto is submitted for the Board's attention at the next 6 monthly procurement review. These meetings shall be part of the normal Board and will be held in January and July annually.

Exemption from the provisions of the PPR's may be allowed:

- a) Where there is only one viable Supplier and no reasonably satisfactory alternative is available and there would be no genuine competition.
- b) For the execution of Works of a specialised nature which are carried out by only one Supplier.
- c) Where the supply is an extension of an existing Contract, where the existing contract enables such an extension.
- d) In an emergency or where the supply is required so urgently that it is not possible to invite tenders.
- e) For purchases or sales by auction.
- f) Where tenders have already been invited by a consortium, local or central government, or RL-specific purchasing organisation e.g. Procurement for Housing, Fusion 21 , the Alliance or other public body e.g. Crown Commercial Solutions, in accordance with the procurement procedures of that organisation, being subject to the provisions of any European or UK procurement legislation, and Magenta Living is enabled to call-off any subsequent framework agreement awarded by that body. Verification for permitted use of such frameworks MUST be sought via the procurement manager before proceeding with any purchases.
- g) Where any local or central government, or RL-specific purchasing organisation acting on behalf of Magenta Living can negotiate more favourable terms for the purchase of goods or materials or for the execution of works or the provision of services or supplies.
- h) Where it is in Magenta Living's interests to do so, a Contract may be negotiated with one or more Suppliers without inviting competitive tenders or quotations. However, these circumstances are extremely rare and exceptional and would need to be

reported to Magenta Living Board and signed off by a Board Member

Where a, b, c, d or h applies, prior approval must be sought via the Procurement Manager in the first instance for all spend above £10K. Further approval may be required for spend, without competition, above £50K. A list of all such occurrences will be maintained by the Procurement Manager

3.3 Specification

When procuring any goods/services/works it is very important to ensure a clear and concise specification of requirements is included within the RFQ/ITT documentation so that suppliers fully understand the scope of the requirements and can bid to deliver the subsequent Contract.

A specification should be clear and constructed in such a way that suppliers can provide exact costs for the goods/services/works. The specification must ensure that a clear pricing schedule can be drawn up so that suppliers provide costs for the whole of the requirement, therefore ensuring that no omissions are made.

3.4 Thresholds

Before entering into any Contract or placing an order, the Assistant Director/Head of Service responsible shall be satisfied that value for money has been fully considered; that the cost is known, or an estimate of the cost has been prepared and that adequate budgetary provision exists.

Value	Procurement Route
£0 and below £2.5K	Direct purchase by staff (no formal written quotes required, but preferred)
£2.5K and below £10k	Direct purchase by staff (3 quotes required)
£10K and below £50K	Direct purchase by staff (written quotes required) & requirement to be posted via Magenta Living's e-tendering portal. Where deemed appropriate to advertise, a hyperlink to the opportunity must also be published on the 'tenders' page of Magenta Living's website, and in 'Contracts Finder' for spend over £25K

£50K and below EU Threshold	Competitive Tendering exercise run in consultation with the Procurement Team & requirement advertised via e-tendering portal with hyperlink to the opportunity on the 'tenders' page of Magenta Living's website, and in 'Contracts Finder'
EU Threshold and over, including call-offs from framework (panel)	Procurement must be led by the Procurement Team and competed in OJEU via the e-tendering portal. A hyperlink to the opportunity must be placed on the 'tenders' page of Magenta Living's website should also be placed, and advertised in 'Contracts Finder'

3.5 Supplier Relationships & Probity

All Suppliers will be treated equally, with integrity, fairness, and courtesy and in a professional manner.

Magenta Living needs to ensure integrity and Value for Money is achieved in all procurement activity through testing the market and competing requirements. Relationships with suppliers should be constructive but built on a competitive approach that will lead to cost savings and better quality.

Controls within the procurement and financial processes exist to promote good practice and prevent fraud.

All staff have individual responsibility for safe and proper arrangements when engaged in procurement activity at all levels of spend.

Staff involved in any procurement activity must consider the following:

- There should be no conflict between official duties and private interests- all conflicts of interest or potential conflicts of interest must be declared;
- There should be no improper influence placed on any person involved in the procurement process to show favour (or disfavour) towards any supplier;
- Information provided by suppliers should always be regarded and treated as confidential ;
- Should a 3rd party be required to handle confidential supplier/contract information for the purposes of the procurement process e.g. as an independent technical lead, then they must complete and sign a Non-disclosure/confidentiality agreement;
- All staff must conduct any procurement activity in compliance with the Magenta Living probity policy

3.6 Framework Agreements

A Framework Agreement is an agreement between one or more Contracting Authorities* (*such as Magenta Living or another Registered Landlord or

public body) with one or more suppliers, in which the Supplier(s) agree to deliver Goods/Services or Works at pre-agreed terms including price. A framework agreement usually last for 4 years and there is no commitment to purchase from it.

A framework Agreement itself is NOT a Contract. When Magenta Living 'call's off' (purchases Goods/Services/Works) from a Framework Agreement, then the subsequent call-off is the legal binding Contract.

Frameworks are normally set up when a Contracting Authority, such as Magenta Living or range of Contracting Authorities wishes to purchase a range of Goods/Services/Works over a period of time and negates the need to go out to a full OJEU competitive procurement each time. Instead you can 'call off' from the pre-procured Framework.

Magenta Living has procured some of its own framework agreements, such as

- Voids repairs and maintenance works;
- Drainage works;
- Scaffolding
- Repairs and Maintenance – responsive repairs

There are a number of external Bodies that have some framework agreements that are available for use by Magenta Living.

The procurement manager should be contacted in the first instance when considering whether a suitable framework agreement is available to meet individual requirements.

3.7 Approved Suppliers

Magenta Living does not operate approved lists of suppliers – instead, where a regular programme of Works is envisaged we would consider setting up a framework agreement of suppliers, whom we can call-off Works from on a regular basis, with pre-agreed rates and Terms and Conditions. The framework agreement would be set up via a formal tendering process.

In the case of ad hoc/ unplanned Goods/Services/Works a list of potential suppliers should be sourced each time there is a requirement.

The only suppliers approved for use are those suppliers who are currently on a Framework Agreement that is open for use by Magenta Living. But in those instances, the successful suppliers are only approved to provide the Goods/Services/Works as specified for the particular framework they have been appointed on and not for any other work.

3.8 Advertisement

To encourage competition including from SME's and local suppliers, all purchases above £10K should be carried out via the e-tendering portal and, where deemed practicable, also advertised on the tenders page of the Magenta website . If the requirement is advertised and the spend exceeds £25K, details of the procurement opportunity must also be posted on the Governments' Supplier Opportunities portal 'Contracts Finder'

In addition, there may be other medium for advertisements such as trade magazines, specialist publications, mail shots, local press etc which are deemed as the best approach to notify specialist suppliers of a forthcoming procurement opportunity.

Any procurement above the EU Threshold* (<http://www.cabinetoffice.gov.uk/resource-library/policy-and-standardsframework-%E2%80%93-legal-framework>) will require advertisement in the Official Journal of the European Union -OJEU which defines method of advertisement, relevant mandatory minimum timescales etc. The process must be as stated within the [Public Contracts Regs 2015](#) Staff must seek advice from the Procurement Manager before agreeing on methodology for advertising the requirement.

3.9 Receipt and Opening of Tenders

All tenders received within the timescales set for receipt of tenders will be formally received and opened via the portal, in line with Magenta Living's Tender opening procedures as outlined in the Procurement Procedure Rules.

3.10 Evaluation Criteria

Evaluation criteria is the criteria a purchaser will used to determine the successful bidder. For procurements above £50K the evaluation criteria should be agreed jointly by the procurement technical lead and the Procurement Team. Guidance Note – Determining Evaluation Criteria and Procurement Procedure 006 outlines the process to be followed when considering award criteria and evaluating bids. Full details of evaluation criteria and scoring methodology MUST be provided in ALL tenders/requests for quotations above £10K.

The Procurement team can assist staff with the development of evaluation criteria tailored to each specific procurement, if required.

3.11 Contract Rewards: Contracts and Purchase Orders

All Suppliers of Goods/Services/Works will be covered by an appropriate Contract, Purchase Order or Agreement (reflecting the value and level of risk to Magenta Living).

Once the tendering/ Request for quote process is complete and a decision made as to the successful supplier(s), a Contract will be prepared.

A formal Contract should be agreed with the successful Supplier where the whole life cost for goods and / or services (total anticipated spend for the duration of the agreement) is greater than £50,000.

Where the anticipated whole life cost is less than this threshold, a Purchase Order utilising ML's standard Terms and Conditions of Contract should be used as the contractual relationship.

In respect of Contracts for Works, all Contracts for works below £1M should be procured using Magenta Living Standard Form of Contract or other JCT Standard Form, as amended by Magenta Living, as deemed appropriate. Advice should be sought from the Procurement team re the most appropriate Form of Contract for Works.

All formal Contracts should be prepared in liaison with the Procurement Team and hard copy signed contracts retained in the Legal Safe. A pdf copy should also be added to the Contracts Register on the portal.

The Responsible Director or those with sufficient delegated Authority should sign the Contract on behalf of Magenta Living. Contracts over £1M in value must go to Board for approval BEFORE signature. All Contracts over £100K must be signed with the Company seal.

Any proposed Variation to a contract must be authorised by the Procurement Manager and responsible AD/Director as defined in the Contract Checklist. A formal Variation must be completed, signed and dated by both parties, added to the Contract. The hard copy Variation Document will be retained with the Contract in the legal safe and a .pdf copy added to the Contracts Register.

A copy of Magenta Living's standard Form of Contract and Standard Terms and Conditions are available on YETI and on the tenders page of our website.

3.12 Leaseholder Consultation

Under the Commonhold and Leasehold Reform Act (CLARA) 2002, Registered Landlords must consult with leaseholders before they carry out any work or enter into specific agreements for work or services (or both) above a certain value – qualifying works – also referred to as 'major works'.

Before considering any procurement exercise the Leaseholder Team via the Head of Community Regeneration must be consulted to establish whether any formal consultation is required.

Failure to comply will result in Magenta Living failing to recover the total costs of the works and the amount recoverable through service charge being capped at a maximum of £100 for Qualifying Long Term Agreements and in the case of Qualifying Works £250.

3.13 Equality and Diversity

Magenta Living expect suppliers will use all reasonable endeavours to make sure that contracted suppliers shall adopt policies to comply with their obligations under Equality and Diversity Law. This is a condition of Contract as specified in Magenta's Standard Form of Contract.

All staff engaged in procurement activity must ensure the procurement process is delivered in accordance with Magenta Living E&D Policy and legislation, including the following principles: -

- (1) There is no discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion, belief or non-belief, sex or sexuality or by association with someone with any of these characteristics or perception of having any of these characteristics or on any other unjustifiable grounds;
- (2) The RFQ/tendering process will be fair/equal, open and transparent;
- (3) ML will ensure that internal policies and procedures do not discriminate against smaller/local potential suppliers and actively seek to include methods of reducing the barriers faced by small/medium enterprises, including social enterprises when dealing with Magenta Living

Further details on Equality and Diversity in procurement can be found in Magenta Living's Equality and Diversity Policy.

3.14 Sustainability, including Environmental, Social Values and VFM

Magenta Living recognises that there are benefits from integrating economic, social and environmental factors into procurement processes by minimising the consumption of non-renewable resources, procuring Goods and Services/ Works which are least harmful to the environment, and promoting best practice with regard to procurement and sustainability.

ML also recognises the responsibility it has to local communities and the potential social impact it may achieve through procured projects. In order to maximise these opportunities, ML will:

a) Ensure that internal policies and procedures do not discriminate against smaller/local potential suppliers including social enterprises and actively seek to include methods of reducing the barriers faced by such organisations when responding to procurement opportunities; such methods may include

- consideration of dividing contracts into Lots where it is deemed to provide best value for money;
- use of e-tendering solutions to minimise tendering costs/ time & resource in completing responses;
- Simplification of procurement documentation and processes to make the process less burdensome and bureaucratic;
- Requesting proof of valid indemnities/ self-certified information such as accounts, SSIP accreditation etc from the successful bidder ONLY prior to contract award

b) Consider value for money (VFM) in terms of whole life costs which includes elements such as defects liability, after sales service, durability, running costs, service and maintenance costs, disposal and exit costs, and not simply the initial cost of acquisition.

c) When procuring larger Services/Works/Goods Contracts, either directly or via frameworks, at the outset when considering designing the service requirements, ML staff will seek to leverage social benefit and incorporate ways within the service delivery to improve the economic, environmental and social well-being of the area and the people who live and work there, in line with Magenta Livings' aim of building sustainable communities in which people want to live. For example, consideration should be given to seeking the provision of apprenticeships and/or employment / training/ volunteer opportunities within the local community as part of the specification/ contract conditions;

d) Establish policies and guidelines that minimise the use of products or methods with a significant adverse environmental impact.

e) Include environmental considerations in all specifications, where appropriate and proportionate and directly relevant to the contract delivery;

f) Work with suppliers to improve their environmental performance.

g) Learn from and share with others experience and best practice on sustainable procurement.

3.15 Doing Business Electronically

The development of e-commerce and e-procurement provides Magenta Living with an opportunity to improve the efficiency of its routine and tactical

purchasing function, providing a better service to end users, suppliers and those applying to do business with Magenta Living.

Magenta Living will post opportunities via our e-tendering portal, to advertise and manage high (& potentially low) value procurement projects. This will be a mandatory requirement for all above threshold procurements under the EU Public Contracts Regulations 2015. The benefits of electronic purchasing are:

- Transparency in the procurement process and a clear audit trail;
- The elimination of unnecessary paperwork and a reduction in waste;
- Reduction in transactional costs, for both Magenta Living and its suppliers, leading to a more efficient supply chain, easier purchasing and reduced staff time spent on administration;
- The provision of better management information for budget holders, Directors, Heads of Service and Magenta as a whole;
- Improved access to contract opportunities for suppliers wishing to do business with Magenta Living;

3.16 Health and Safety

All organisations are required to comply with the duties imposed upon them by the 1974 Health and Safety at Work Act and subordinate legislation.

Magenta Living has a defined set of Health and Safety criteria that must be stated within procurement documentation as a minimum requirement for Providers/Suppliers of Goods/Services/Works where there may be a risk to Magenta, third parties and/or the Supplier's staff in the delivery of the Contract. For below threshold Works projects Providers/Suppliers MUST hold a valid [SSIP](#) accreditation, which must be maintained throughout the Contract delivery period.

For above threshold Works, staff must use the Health and Safety Criteria as stated within the Gov'ts Standard Questionnaire [PAS91 2017](#) for Works Contracts, which includes SSIP accreditation and other requirements. Further advice and details should be sought from the Procurement Team / Magenta's Health and Safety Manager prior to seeking quotes/tenders.

3.18 Data Protection (GDPR)

New data protection legislation came into force in May 2018, which aims to protect the privacy of all EU citizens and prevent data breaches. It applies to any organisation processing personal data.

The new General Data Protection Regulations (GDPR) specify that any processing of personal data, by a Processor, should be governed by a Contract with certain provisions included.

Therefore, all procured Contracts where supplies/services/works require the Supplier/Contractor to process personal data (as the Processor) on behalf of

Magenta Living (the Controller), must be governed under a legally binding Contract.

Magenta Livings Standard Form of Contract/ Standard Terms of Conditions (for low value services/supplies) contain clauses that reference GDPR obligations. Equally for other standard Forms of Contract such as JCT, Magenta have Schedules of Amendments that should be incorporated into the Contract, which incorporates GDPR obligations that aren't within the standard Form.

It is staff's responsibility to determine if what they require involves a Supplier/Contractor processing personal data on behalf of Magenta Living to deliver the supplies/services/Works, to ensure the appropriate Contract is in place and enter the details of the data, nature of processing etc into the Contract document, before the Contract is signed by both parties.

3.19 Contract Management

Contract Management is an extremely important part of the Procurement lifecycle.

Effective Contract management will ensure effective delivery of contract objectives and outputs resulting in improvements in financial and operational performance.

Magenta Living has a Contract Management Framework in place which sets out the Contract management process, in the Form of:

- Contract Procedure – 008 – Contract Management;
- Contract Management Plan; and
- Contract Management Checklist incorporating a contract management performance monitoring & reporting programme

this must be followed and used by all staff who will be responsible for monitoring and managing the successful delivery of Contracts.

Consideration should also be given to the Magenta Living Risk Management Policy to ensure risks identified within the Contract Management Plan are effectively monitored and managed in line with the Risk Management Policy.

4. Implementation

The policy will be effective from xx. Staff will be made aware of the policy at priority training, through the induction process, procurement training and will also be available on YETI. The policy will be uploaded to the Tenders page of the Magenta Living web site.

This policy should also be read in conjunction with the following associated policies:

- Probity Policy
- TBC

The following procedures have been produced/amended by xx to reflect the approved policy:

- TBC

5. Consultation

The Procurement Strategy Document has been widely consulted on internally primarily with the Senior Leadership Team and Heads of Service. Their views have been fully considered and incorporated where applicable/appropriate within the body of the policy. As it is an internal policy it was considered unnecessary to consult externally to the organisation.

6. Equality Analysis (EA)

We believe all people should be treated with dignity and respect regardless of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (including, nationality, ethnic or national origins), religion, belief or non-belief, sex, or sexuality or by association with someone with any of these characteristics or perception of having any of these characteristics.

It was felt that this policy did not require an EA. Each goods/services/ works contract or agreement needs to be considered for equality duties but not this overarching policy.

7. Monitoring Performance

This policy's effectiveness will be measured using the following performance indicators such as analysis of spend by supplier and type of work, savings achieved through the procurement exercise and the number of projects being procured through formal procurement route by value as well as through customer feedback/complaints.

Monitoring of KPIs will take place through reporting to ELT on a regular basis i.e. quarterly and to the appropriate committee on a 6-monthly basis.

8. Scheme of Delegation

The responsible authority for approving this policy is ELT and was approved on 29th May 2019.

The Responsible Assistant Director for formulating this policy and ensuring its effective implementation is the Assistant Director of Finance and Resources. The Responsible officer for reviewing and monitoring the implementation and performance against this policy is the Procurement Manager.

9. Policy Review

The policy will be reviewed every 2 years or earlier if deemed necessary though the performance monitoring process.

10. Amendment Log

Date of revision:	Record of amendments:	Reason for revision:
<i>26/03/2015</i>	<i>Updated requirements in respect of advertising and social value</i>	<i>Implementation of new EU Procurement Regs 26th Feb 2015</i>
<i>16/05/16</i>	<i>Amendment in requirement re Forms of contract and update to hyperlinks to ML tenders page</i>	<i>Legal advice and Training on Contract drafting Implementation of new ML website</i>
<i>18/05/17</i>	<i>Updated to include policy on Contract Management</i>	<i>Findings from Contract management audit</i>
<i>30/01/19</i>	<i>Updated to include explicit reference to GDPR obligations</i>	<i>As a result of implementation of new GDPR Regs 2018</i>