

PROCUREMENT CODE OF PRACTICE



THANET DISTRICT COUNCIL

PROCUREMENT CODE OF PRACTICE

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PROCUREMENT CODE OF PRACTICE

1. Introduction

Thanet District Council's Procurement Code of Practice underpins the Council's Procurement Strategy and is a step-by-step guide for all purchasing activities providing information, advice and guidance for officers responsible for spending the Council's money.

The Procurement Strategy is available electronically at http://www.thanet.gov.uk/PDF/Procurement_Strategy2006-2009.pdf and is a high level view of how to promote effective procurement across the whole organisation. It outlines what good procurement means in Thanet and details the supporting framework.

The Strategic Procurement Group is the working party that is leading and monitoring procurement changes within Thanet District Council.

The membership includes; Corporate Director, Heads of Service and representatives from Purchasing and Finance with Legal input as appropriate.

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2. Regulatory Framework

EU Procurement Rules

The EU Procurement Rules apply to all public service organisations and set out procedures for the award of contracts above defined financial thresholds.

Their purpose is to open up the public procurement market place to ensure the free movement of goods and services throughout the EU, thereby increasing opportunities for competitive suppliers, contractors and service providers to grow in volume and in return provide the community with more innovative service solutions and better value for money. The financial thresholds that determine the application of the EU rules are reviewed bi-annually and apply for the period 1st January to 31st December.

Contact Information for OJEU (Official Journal of the European Union) can be found at <http://simap.europa.eu/> and there is a useful free link to TED (Tenders Electronic Daily): <http://ted.europa.eu/Exec?Template=TED/homepage.htm&DataFlow=hRead.dfl&hpt=ALL&StatLang=EN>

Thanet District Council's Procurement Rules

Contained within TDC's Constitution are the rules that apply to the procurement of goods, services or works that fall below the thresholds established by the EU. A link to the 'Kent Authorities' Contract Standing Orders and Purchasing Guide at Thanet can be found in Chapter 7.

Special Circumstances

It should be noted that the EU Regulations are mandatory and must be applied in full (see Chapter 10). Exemption from any Contract Standing Orders must be authorised by the Decision Maker/Director/151 Officer as prescribed in CS0 13.

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3. Project Management

Project Management is critical to the success of any procurement process. Thanet District Council has a Project Management Guide.

This 'toolkit' draws on many areas of good practice that already exist across Thanet Council and seeks to provide a practical reference point for managers and staff embarking on large projects and sets out the 'standard' by which projects will be run.

The templates contained within the guide are as follows:

- Project Brief with guidance notes
- Business Case with guidance notes
- Action Plan
- Risk Assessment
- Change Control log
- Post Project Review

(Other documents will be added to the guide as it is more widely used and developed).

For further information on the guide please contact the Corporate Project Officer on extension 7201 or the Project Office on extensions 7033/7800/7801.

All Projects and Contracts must comply with legislation, Contract Standing Orders and the Council's Financial Code. For further information see Thanet District Council Constitution at http://www.thanet.gov.uk/council_democracy/cllrs_democracy_elections/constitution.aspx

Depending on the complexity of your project, you will need to identify a Project Sponsor – normally a Head of Service and a Project Board that will oversee the progress and process of the project.

A Project Manager will need to be nominated. His/her role will be to monitor the day-to-day progress and management of the project. (See Figure A – Project Organisation).

Roles and responsibilities should be clearly defined and agreed so that everyone knows what they have to do and when. The stages of the procurement should be set out with clear milestones and expectations of what is to be done at each stage. People with appropriate skills and experience should be assigned to project roles; resources and timescales determined at the outset.

Figure A – Project Organisation*

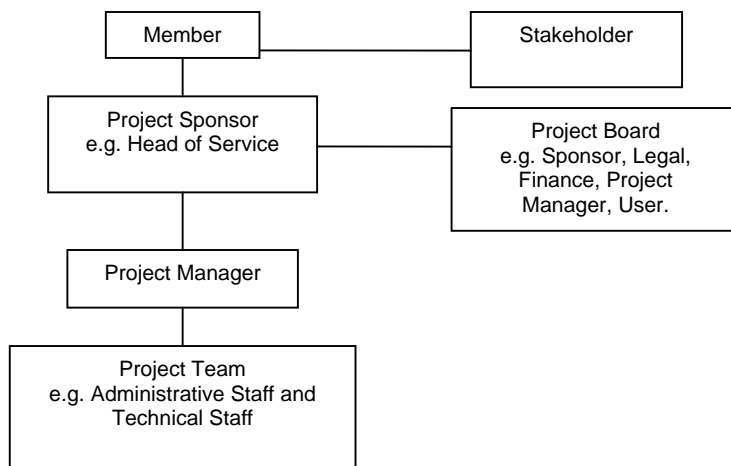


Figure A is a typical structure for a project organisation, with key roles and reporting lines between the roles. *IDEA – Procurement Essentials.

Procurement Management - In order to take forward the Council's Procurement and Value for Money Programme the Strategic Procurement Group will be working towards producing a procurement 'toolkit' which will incorporate as appropriate the Project Management Guidance to give structure and set a standard specific to procurement projects. In the meantime, you are advised to follow the procurement cycle as laid down in Chapter 6 incorporating where appropriate, processes as given in the Project Management Guidance.

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4. Options Appraisal

Having identified the business requirement, an options appraisal is required to establish the most feasible way to meet that requirement.

The National Procurement Strategy for Local Government describes the options that English authorities should consider in the context of Best Value Reviews and similar strategic reviews of services (the “make or buy” decision):

- In-house
- Public Sector Consortium
- Tactical Contracts (multiple)
- Non-Profit-Distributing Organisation
- Local Authority Company
- Joint Venture Company
- Partnering Contract
- Framework Agreement
- PFI (Private Finance Initiative)
- Concession or Franchise
- Closure or Disposal
- Mixture of the above

The presumption is that all Council Services should be periodically exposed to “genuine competitive pressure”, unless there are compelling reasons to recommend a different route. This is a mandatory requirement of the best value regime.

When conducting an options appraisal there are a number of internal options:

- a) To cease the service in whole or in part where there is little or no demand for the service from local people; and/or where the costs of provision outweigh the overall benefits of provision; and/or where many other providers exist whose service is better or less expensive than the Council's.

This may be inappropriate if there is a statutory duty for the council to provide that service not necessarily directly; and/or where the demand for the service may be small but is the only way of reaching a discrete or vulnerable group.
- b) Another option is to restructure or reposition the in-house service where there are no developed supply markets for the service; and/or where there are exceptional legal, practical, policy or other issues that have ruled out competition at this stage.

This may be inappropriate where contracts do not allow for change and negotiation and /or where the costs of change outweigh any benefits.
- c) Alternatively, the Council could jointly commission or deliver the service with another public or voluntary sector provider.
- d) The Council may wish to set up a new function or unit to deliver a particular service where a review has identified the need for a service or a gap in provision and there is a clear user need; and/or where the Council agrees to take on the provision of a service from an existing body; and/or where the Council is clear about the need for the service and a budget can be made available. This may not be appropriate where the cost of provision is prohibitive.

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5. Code of Conduct for Employees and Councillors

Employees

All existing members of staff have recently been given personal copies of the Code of Conduct for Employees and all new members of staff receive a copy in their induction pack when they commence employment with the Authority. Further hard copies may be obtained from the HR Unit upon request.

Employees involved in procurement should pay particular attention to sections on:

- Personal Interests
- Separation of roles in tendering
- Corruption; and
- Financial Regulations

Councillors

The Authority's Code of Conduct for Councillors is covered in detail within the Council's "Constitution for Local Governance of Thanet District Council" which is available electronically via the Internet http://www.thanet.gov.uk/council_democracy/cllrs_democracy_elections/constitution.aspx

Whistle Blowing Code and Policy for Ethical Administration

Thanet District Council is committed to the highest possible standards of propriety and accountability in the conduct of its activities for the community. Employees are often the first to realise that something wrong may be happening within the Council. This code is intended to help Officers, Members and Suppliers who have serious concerns over any potential wrong-doing within the Council. Full details of the code can be found at http://www.thanet.gov.uk/pdf/Whistleblowing_code_& Policy_for_Ethical_Administration06.pdf.

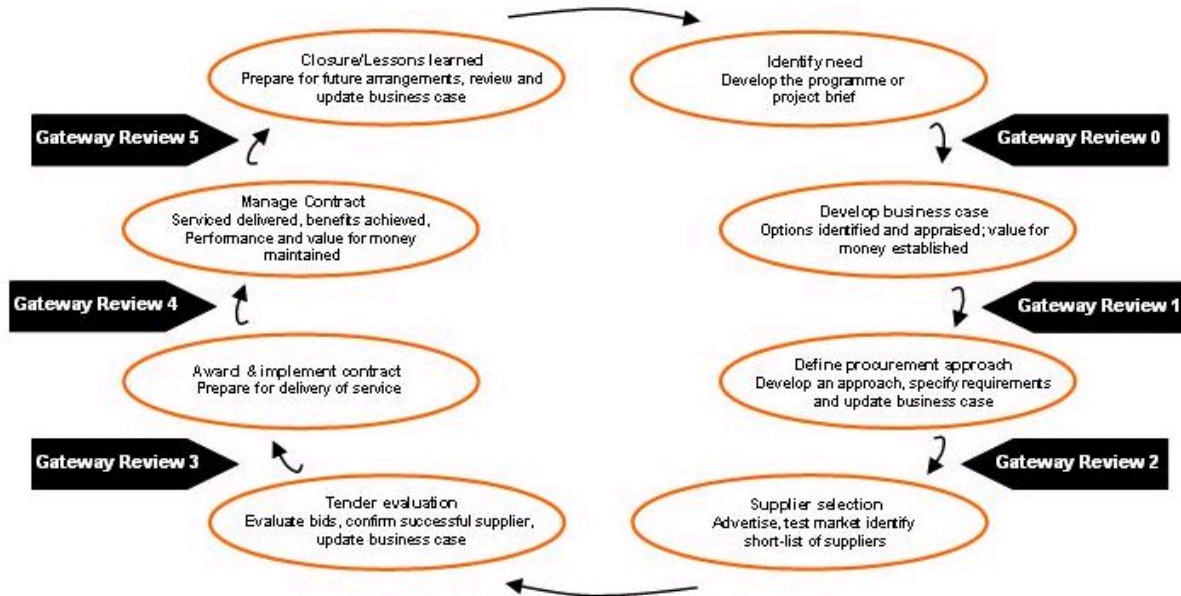
6. Preparing to Purchase

The Procurement Cycle

It is helpful to think of the procurement process as a **cycle**. The procurement cycle comprises the steps shown in Figure B below. Viewing a procurement project in this way emphasises the importance of the business case and ensures that procurement is not mistakenly regarded as simply the process of advertising and evaluating tenders.

Tailoring

All procurements should be carried out in accordance with the principle of the procurement cycle at Figure B*.



*Figure B – The procurement cycle and gateway reviews

Steps in the Procurement cycle

Each of the key steps of the procurement cycle is outlined below:

- 6.1 **Identifying Needs** – Needs may be recognised in a number of ways such as a demand from members, the identification of weaknesses through Comprehensive Performance, Best Value reviews or inspections, the end of an existing contract or the failure of a contract.
- 6.2 **Developing the business Case** – The business case is an essential document for project success. It provides justification for the procurement in terms of its alignment with the objectives of the authority; it also provides the basis for managing the delivery of the project on time, within budget and to agreed quality standards. The business case will be an evolving document throughout the procurement cycle and include all key stakeholders e.g. Human Resources for TUPE requirements.
- 6.3 **Defining the procurement approach** – It will be essential for authorities to **communicate** with suppliers throughout the procurement cycle to create a **dialogue** (taking care not to show favouritism or provide representatives with an unfair advantage).
- 6.4 **Competition** – Advertising provides an important link between the authority and suppliers. **Contract notices** should aim to attract an adequate number of suitable suppliers and therefore they should be carefully worded and the publications used should be project specific. For contracts covered by the procurement regulations, there are clearly defined rules on advertising and the number of suppliers to be invited to tender.
- 6.5 **Evaluating tenders** – Traditionally, tenders have been assessed on the basis of **lowest initial price** alone. This can lead to tenderers reducing prices in the hope of making up the difference by cutting corners, inflating prices for variations to contract and pursuing claims. However, you should produce a strong evaluation matrix which is weighted to the priorities required within your project. A robust tendering process is key to the success or failure of any contract.

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- 6.6 **Awarding and implementing the contract** – In major projects, the mobilisation and implementation phases of the procurement process are critical to success. They may involve the transfer of staff, assets, data and third party contracts. The **management of change** more generally will be a key task and HR professionals will need to be involved from an early stage. There are two other activities to carry out following the award of the contract:
- Debriefing
 - Post-implementation review
- 6.7 **Managing the contract and supplier relationship** – Effective contract management is a vital and often neglected part of the procurement process. In many people's minds, procurement ends when the contract is awarded! Once the contract is handed over to the Contract Manager he must ensure that all the necessary provisions are in place for the contract to continue, be aware of and plan for any risks associated with the contract, manage the relationship with the supplier and measure that performance is in accordance with the terms of the contract. Unless pro-active and professional contract management takes place, even the best specified and procured contracts can fail to deliver what was expected of them.
- 6.8 **Closure and lessons learned** – The **exit** strategy for every contract must be clearly defined (including contingency plans for **early termination**) and the period running up to the exit managed to ensure that there is no loss of service delivery if this is still appropriate. Decisions on future arrangements must be made in adequate time to allow for a full procurement process should a further procurement be required.

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7. Kent Authorities' Contract Standing Orders and Purchasing Guide at Thanet

The Contract Standing Orders form part of Thanet District Council's Constitution and are available with the Purchasing Guide at :

http://www.thanet.gov.uk/council_democracy/tenders_contracts/thanet_purchasing_guide.aspx

Having Standing Orders in place for Contracts is a requirement under section 135 of the Local Government Act 1972. Contract Standing Orders are the starting point for good purchasing practice. The CSO's not only contain the core obligations for a robust purchasing framework but the accompanying Purchasing Guide provides additional and improved guidance to officers when undertaking purchasing which can involve complex technical provisions and legal rules.

The Constitution is periodically updated and adjustments to the financial limits are reviewed accordingly and therefore it is imperative that all Officers responsible for spending the Council's money are fully aware of the scope that the CSO's provide. It should be noted that the EC Regulations (detailed in Chapter 9) are mandatory and must be applied in full.

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8. Collaborative and Partnership Working

The Council is an active member of the Kent Buying Consortium, Kent Connects and actively involved with the South East Regional Centre of Excellence. The Council sees collaboration as a cornerstone of its procurement activity and it will look to develop partnerships arrangements and continue to seek and utilise, existing and future collaborative opportunities across the whole of the public sector, and as identified within the private and voluntary sectors as appropriate, as part of our procurement option appraisal.

The Council acknowledges the importance of partnerships in delivering services. It already benefits from a range of partnerships and is committed to exploring all options (with private, public and voluntary organisations) and will seek to foster existing and new partnerships where they will deliver best value and who are committed to uphold Council policy standards i.e. Health & Safety, Equality, Code of Conduct, in order to provide quality services to the Thanet Community both now and the future.

To view all current contracts see the Council's Contract and Procurement Programme (Contract Register) http://www.thanet.gov.uk/PDF/Contract_and_Procurement_Programme.pdf and for information on all planned procurements for the next 4 years see the Council's Strategic Procurement and Value for Money Programme [http://thanetweb/pdf/Procurement%20 and Value for Money Programme-Published0207.pdf](http://thanetweb/pdf/Procurement%20and%20Value%20for%20Money%20Programme-Published0207.pdf) .

South East Centre of Excellence (SECE)

The Centre is responsible for supporting all of the 74 Local Authorities within the South East, in their delivery of the aims of the National Procurement Strategy and Gershon Efficiency Review: www.sece.gov.uk. SECE have launched a South East Region Business Portal designed to allow the sharing of information about existing contracts (Contract Store) and forthcoming tendering opportunities (Opportunities) across the 74 Local Authorities of the South East region. www.sece.gov.uk/businessportal

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9. Pre-qualification and Accreditation

Supplier assessment is an essential element of procurement as organisations need assurance that potential suppliers are suitable to tender for contract opportunities in terms of their legal, financial and technical capacity.

A formalised mechanism to assess this is an important part of any procurement operations and is commonly referred to in the public sector as 'pre-qualification' or PQQ.

However, private sector companies offer public purchasers what are often referred to as 'supplier accreditation services'. These effectively involve the purchaser transferring responsibility for the overhead of gathering and assessing supplier information and establishing and maintaining their supplier databases and approved lists to a commercial provider. These service providers typically levy a charge on suppliers wishing to be included on the database (in the hope of a resulting opportunity) rather than purchasers.

The Council, as a rule, does not keep an approved list/select list of Contractors/Suppliers as this has been deemed inefficient to both the Council and perspective Suppliers due to the level of resources required to maintain one. For construction and other contracts as appropriate, the Council has approved Constructionline and BiP Select Accredited. A person or company who wishes to apply to become a supplier on either of these lists can do so by contacting:

- Constructionline* - Call 0870 240 0152 or register at http://www.constructionline.co.uk/static/html/static_page/ApplyForms.htm
- BiP Select Accredited* - Call 0845 270 7094 or register at www.delta-ets.com

There are four methods of pre-qualification/accreditation available. Officers can use the Constructionline or BiP Select Accredited list or both. Companies may also download the pre-qualification questionnaire from the TDC website http://www.thanet.gov.uk/council_democracy/tenders_contracts/tender_processes.aspx which allows in-house vetting of a company not registered with either of the above. In some circumstances, a procurement-specific approach to pre-qualification may be deemed necessary, in which suppliers are assessed in respect of their suitability to bid for a specific individual requirement - the Council's standard PQQ should be used and enhanced as necessary to include additional specific requirements i.e. performance bond and where additional insurances may be deemed necessary (see consultancy services).

The minimum number of contractors/suppliers selected to bid for contracts is specified within the Authority's Contract Standing Orders. If the pre-qualification and accreditation system produces a number of suppliers in excess of the requirement a decision must be made whether to see all suppliers or allow the system to randomly select the required number. The tender list once produced should be printed and filed in the relevant project file. The system retains all information relating to tender lists run and an auditable report is available

Consultancy Services

When appointing any consultant(s), the underlying principles are the same, whereby Contract Standing Orders must be adhered to and the procurement process should be as rigorous as any other Council contract that you award. However, in addition any consultant used by the Authority will need to show as part of the pre-qualification/accreditation process that they have Professional Indemnity Insurance if they are being engaged for professional work that may result in a financial loss-the level of cover should be adequate to more than cover the value of the contract.

*Constructionline & BiP Select Accredited

Constructionline is recognised by the DTI as their endorsed register of pre-qualified construction, facilities management contractors and consultants. The service provides the facility through using set criteria to search for contractors/suppliers/consultants. On application a contractor/consultant must submit financial details in the form of accounts, technical references, insurance and tax certification where applicable. Health and Safety and Equal Opportunities information is also part of the application. Enquiries may be made on individual contractors/consultants to check for suitability. Health and Safety and Equal Opportunities are available for download.

The BiP Select national pre-qualification service offers a simple and structured approach to pre-qualification via supplier assessment across common criteria, delivering better value for money to both buyers and suppliers, and is open to all. BiP Select gives suppliers recognition through pre-qualification and access to thousands of public sector buyers. Buyers have access to a diverse database of approved suppliers and a single, transparent selection process. Suppliers can choose to apply for either Select Certify or Select Accredited status.

For both Constructionline and BiP Select supplier information is updated on an annual basis and a fee is levied to suppliers for accreditation status.

The number of contractors invited to bid for individual contracts is to be specified in accordance with the Authority's Contract Standing Orders as outlined in the Procurement and Tendering Processes.

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10. EC Procurement Regulations

Public Sector procurement is governed by EC directives and UK procurement regulations (EC Rules). These apply to the majority of procurements of works, services and supplies with a total value, excluding VAT, over a specified threshold (see Table 1). They stipulate rules and time limits for the procurement process particularly concerning advertising, supplier selection, tendering, specifications and contract award with the aim to increase competition across Europe.

See http://europa.eu.int/comm/internal_market/publicprocurement/legislation_en.htm#current

Authorities need to comply with their obligations under the procurement regulations in order to avoid legal challenge by suppliers or the European Commission.

A Quick Guide to EU Procurement Rules is also available on the Tenders and Contracts pages of the TDC website.

EU Procurement Public Sector Threshold Values	
Works (General Building and Civil Engineering Works and Demolition including the construction of roads, bridges and railways etc. together with the installation of fixtures and fittings and the finishing of building works).	£3,927,260
Services (Means the supply to the Council of any service other than works and will include most thing other than works or the supply of goods).	£156,442
Supplies (Contracts are for the supply of goods only and not for the supply of any work or service).	£156,442

***Table 1 – Procurement regulation thresholds as at 31st January 2010. (These are biennially reviewed).**

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11. Standard Contract Documentation

Doing business with Thanet District Council

In very general terms, the following will be expected of people who want to work for the council as contractors. More detailed requirements will be included in the specific contract documents:

- The council contracts under English law and the jurisdiction of the English courts.
- Suppliers must accept the council's General Conditions of Contract. Follow the link below for more details.
- Suppliers must have no convictions for fraud, corruption, serious environmental breaches or other relevant offences.
- Suppliers must be assessed as financially sound.
- Suppliers must have relevant insurances.
- Suppliers must be willing to provide a parent company guarantee or performance bond as required.
- The council will seek references from current or past employers.
- Suppliers must provide evidence of any relevant certificates relating to professional status, quality standards, environmental standards, etc.
- Suppliers must provide relevant policy statements relating to health and safety, environment and equal opportunities as requested.
- Suppliers must be able to provide details of the company's policies and procedures for ensuring equal opportunities. A statement of the council's policy can be found at http://www.thanet.gov.uk/jobs_careers/equal_opportunities.aspx
- Thanet District Council and its staff, elected members and volunteers should undertake reasonable care that contractors doing work on behalf of the Council are monitored appropriately. Any contractor or sub-contractor where workers are likely to come into contact with children should have it's own equivalent Child Protection Policy, or failing this, must comply with the terms of the Council's Child Protection Policy. Where there is potential for contact with children or young people it is the responsibility of the manager who is using the services of the contractor to check that the correct Criminal Records Bureau check has been satisfactorily completed.

Conditions of Contract

The Council will always contract under its own [Conditions of Contract](#) (pdf, 298KB) as a minimum requirement.

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e-Procurement

“E-Procurement” describes the use of an electronic system to acquire goods, work and services and payments from third parties. The solutions currently available on the market include:

- Complete “end-to-end” procurement systems that are integrated with financial back office systems.
- Stand-alone modules used to seek tenders or quotations (known as e-Sourcing).
- Web based systems that enable ordering from approved catalogues (e-Marketplaces).
- Other web-based systems such as e-Auctions.
- Procurement cards for ordering and payment.
- Payment through BACS and CHAPS

This is a changing market and TDC are keeping abreast of new solutions that are appearing via our involvement with Kent Connects and the South East Centre of Excellence (SECE).

Any supplier to the Council must ensure that they adopt the technical drivers facing e-Government by using the standards emerging from e-GIF which provide a framework for integration between disparate systems. The following link details the standards:

<http://www.govtalk.gov.uk/schemasstandards/egif.asp>

When entering into any new contracts – you should always consider what options are available for e-procuring and work with suppliers to promote adoption. Always ensure that any supplier contacts the Purchasing Department on extension 7111 for up-to-date advice.

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13

Sustainability and Best Value

Sustainability

Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It means improving the quality of life for people today, as well as thinking about those who will live after us.

The UK Government defines sustainable development as meeting four objectives at the same time, in the UK and the World as a whole:

- Social progress which recognises the needs of everyone
- Effective protection of the environment
- Prudent use of natural resources
- Maintenance of high stable levels of economic growth and employment

Local government expenditure on goods, works and services has significant economic, social and environmental impacts, and the UK Government now expects local authorities to pursue sustainable development objectives within the framework of public procurement law (EC rules) and Best Value. Further information link: <http://www.sustainable-development.gov.uk/about/contact.htm#Procure>

Delivering Best Value

Best Value is all about innovation and not accepting what we have always done as being the only and necessarily right way. Best Value Reviews require authorities to apply the 4 C's to each of their functions:

- **Challenging** current perceptions of service requirement and methods of delivery;
- **Consulting** with stakeholders on how services can be delivered and improved;
- **Comparing** Thanet District Council with other enablers/providers to further develop best practice and benchmark cost and seeking;
- **Competition** for service where the market is able to most effectively meet the Council's needs.

In procurement, best value for money is defined as "The optimum combination of whole life costs and benefits to meet the customer's requirements". Contracts should not be awarded on the basis of lowest initial price alone. There must always be an assessment of quality and the costs incurred by the authority throughout the life of the asset or contract period.

This approach enables sustainability and quality to be taken into account. For example, the consideration of whole life costs allows factors such as fuel efficiency and replacement cycles to be taken into account.

The Council is committed to encouraging a mixed range of suppliers, including local SME's (small and medium enterprises) provided that it is consistent with other key procurement policies and ultimately, legal compliance. Contracts and individual purchases should be assessed against Best Value for Thanet as a whole – social and community costs.

The corporate procurement strategy provides a framework for the Council to obtain best value in all of its procurement activities. The strategy addresses all elements of procurement activity from identifying need, considering options, procuring the appropriate goods, services or works, effective supplier and contract management, through to the disposal of assets. The strategy also addresses the many solutions available to the Council from establishing corporate contracts, using collaborative and consortia arrangements, through to developing long-term strategic partnerships.

The Procurement Strategy (version 2) is reflective of the progress and achievement of the Council to date within its procurement activity and now responds more widely to a continually changing environment.