

## REVIEW OF CONTRACT STANDING ORDERS

<b>Head of Service:</b>	Gillian McTaggart, Head of Corporate Assurance
<b>Wards affected:</b>	(All Wards);
<b>Urgent Decision?(yes/no)</b>	No
<b>If yes, reason urgent decision required:</b>	
<b>Appendices (attached):</b>	Appendix 1 – Updated CSO's Appendix 2 – Current CSO's

### Summary

The Contract Standing Orders set out the rules for procuring contracts on behalf of the Council. This report outlines the amendments to the Contract Standing Orders including changes to the level of threshold.

These amendments were approved by the Strategy and Resource Committee at its meeting on the 16<sup>th</sup> November 2021.

### Recommendation (s)

#### The Council is asked to:

- (1) Agree to the amendments of the Contract Standing Orders
- (2) Agree that the Constitution be updated accordingly.

## 1 Reason for Recommendation

- 1.1 By adopting the updated Contract Standing Orders (CSO's), the Council will bring its rules in line with current practices and commit to delivering efficient and cost-effective procurements.

## 2 Background

### 2.1 What are the Contract Standing Orders

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- 2.1.1 The Contract Standing Orders ('CSO's) set out how the Council manages its spending. They relate to the purchasing of all goods, works & services and ensure that prior to any expenditure Officers give proper consideration as to whether the purchase is required, and that Contracts are entered into in a fair, open and transparent way.
- 2.1.2 Officers who purchase on behalf of the Council are responsible for following the CSO's. Heads of Service are accountable for all procurement in their respective areas of responsibility.
- 2.1.3 The CSO's form part of the Constitution and apply to all contracts entered in to by the Council for the procurement of goods, works and services.

### **2.2 Procurement Team**

- 2.2.1 Procurement sits within the Corporate Assurance team and consists of one Procurement Officer leading on procurements within Threshold 3 of these CSO's whilst advising Officers on all procurement related enquiries.
- 2.2.2 Procurement work closely with Legal Services who ensure compliance with procurement regulations and contractual obligations.
- 2.2.3 The Councils spends approximately £14m per year on goods, works and services. The majority of this spend is within thresholds 1 and 2 – under £189k.

### **2.3 The Procurement Strategy**

- 2.3.1 The Councils procurement strategy works to enable the Council in delivering its strategic objectives.
- 2.3.2 The procurement strategy was last updated in September 2017 and has been redrafted to reflect the Councils priorities. Approval of the updated strategy is scheduled at Strategy and Resources Committee on the 27<sup>th</sup> January 2022.

### **2.4 Changes to Procurement since Brexit.**

- 2.4.1 Public procurement in the UK is regulated by the Public Contracts Regulations 2015 (the "PCR 2015"), which derive from the EU Public Contracts Directive 2014 – this is retained law. Therefore, the PCR 2015 continue to apply to public procurements in the UK.

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- 2.4.2 Where the value of the contract exceeds the relevant EU Procurement Directive threshold then the Council must comply with the EU tendering requirements set out in the PCR 2015. Below this value, the Councils CSO's govern the way in which contracts can be procured.
- 2.4.3 The EU threshold means the threshold set out within the Public Contract Directive as amended from time to time for public supply contracts, public works contracts and public service contracts awarded by local authorities. These thresholds are detailed in Annex 2 of the updated CSO's (Appendix 1).
- 2.4.4 Although local authorities continue to follow the PCR's, plans have been put in place to transform public procurement. In December 2020, the Transforming Public Procurement Green Paper was published setting out its proposed changes to the public procurement regime with the ambition of speeding up and simplifying the procurement processes. The Cabinet Office have stated that the principles outlined were broadly welcomed but it is unlikely that any changes would take effect until 2023 at the earliest.

### 2.5 Proposed amendments to the CSO's

- 2.5.1 The updated CSO's offer greater clarity on procurement procedures and enables Officers to procure in a manner that is simpler, more concise, and auditable whilst ensuring greater compliance with lower value exercises.
- 2.5.2 The CSOs have been benchmarked against the County Council and 11x District and Borough Councils who, although varying in yearly spend, serve a similar demographic of residents.
- 2.5.3 There are an agreed set of CSO's with key updates outlined in table 1 below.

Table 1:

CSO #	CSO	Commentary
1	Introduction	Revised wording but no material change
2	Statutory Requirements	Revised wording but no material change
3	Compliance	Clarity of policies and regulations Officers must consider when procuring.

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4	Scope	Greater clarity on types of contracts that are not covered by the CSO's.
5	Roles and Responsibilities	The roles of the Procurement Officer and Officers clearly defined.
6	Purchase Orders (PO's)	Advice on PO's and how/when they should be raised.
7	Purchasing Cards	Directs Officers to the 'Purchasing Card User Guide' on e-hub for further information
8	Temporary Staff, Consultants and Professional Services	New advice on agency workers
9	IR35	New advice on what IR35 is and how it applies to the Council
10	Grants	New advice on grants and rules governing them.
11	Social Value	Reflecting new or updated legislation
12	Modern Slavery	Reflecting new or updated legislation
13	Sustainable procurement	Reflecting new or updated legislation
14	Reverse VAT	New advice on reverse VAT and when it came into force.
15	Accessibility Standards	Reflecting new or updated legislation
16	Transparency	Reflecting new or updated legislation Disbandment of OJEU and the essential use of Contracts Finder and Find A Tender.
17	e-Tendering	Advice on the Councils new e-tendering system and its importance in tendering
18	Contract Register	Revised wording but no material change
19	Freedom of Information (FOI)	Reflecting new or updated legislation
20	Exemptions	Addition of exemption (a)
21	Waivers	Update to Officers with the authority to approve waivers.
22	Permission to Tender	Revised wording but no material change
23	Contract Value Calculation	Revised wording but no material change

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24	Consideration and budget approval	Revised wording but no material change
25	Declaration of Interest	Revised wording but no material change
26	Contract Management	Revised wording but no material change
27	Form of Contract	Revised wording but no material change
28	Sealing and Signing of Contracts	Revised wording but no material change
29	Novation	Advice on what novation is.
30	Financial Security	Updated advice on the minimum financial cover suppliers must have when entering into a contract with the Council.
31	Economic and Financial Standing	Revised wording but no material change
32	Disposal of Land and Property	No change
33	Disposal of other Council Assets	No change
34	Work for Third Parties	No change
35	Partnerships	No change
36	Council Members and Contracts	No change
Section 6	Procurement Thresholds and Procedures	The number of thresholds has reduced from 4 to 3.
Annex 1	Officers 'How to Guide'	'How to guide' has been written to support Officers procuring within thresholds 1 and 2.
Annex 4	Templates	Quick Quote (QQ) and Request for Quotation (RFQ) templates have been drafted to ensure uniformity across the Council when procuring.

2.5.4 The most notable change to the CSO's is the reduction in procedure thresholds, reducing from 4 to 3. Combining the previous threshold 1 and 2 permits the following three changes:

- 3 quotes must be requested for any spend under £25,000 ensuring best value for money.
- Reduction in timescales. Timescales were rarely adhered to, therefore ensuring three quotes are received mitigates reducing the previous 21 days.

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- Use of the Quick Quote (QQ) template ensures uniformity from Officers when requesting. In addition, Officers will be able to provide auditable records of their exercise.

- 2.5.5 Since being reported to Strategy and Resources Committee on 16 November a minor amendment has been made to the CSO's to reflect the role of Directors in approving and signing contracts. This relates to Threshold Table within Section 6, (page 17).
- 2.5.6 A review of the Councils spending behaviour highlights that the majority of spend for goods and services is under the EU tendering requirements. By combining the two thresholds, Officers will be able to undertake QQ's quicker enabling a more cost-efficient service.
- 2.5.7 In line with CSO 18.2 (page 9 of Appendix 1 – Updated CSO's), Officers must inform the Procurement Officer of Contracts over £5k. The QQ template will be used to send this information in order for the Contract Register to be updated accordingly.
- 2.5.8 In 2019, a review of the Councils procurement function highlighted a lack of oversight on spend particularly with the same supplier. Since then, the Councils Contract Manager takes an active role in reviewing the Councils spend and the suppliers it contracts with allowing for greater visibility on the spend. This review takes place every 6 months within the Corporate Assurance team.

### 3 Risk Assessment

#### Legal or other duties

##### 3.1 Impact Assessment

- 3.1.1 As these CSOs form part of the Councils constitution, it is important they are kept up to date as they offer a source of key information to Officers.
- 3.1.2 All Officers purchasing on the Councils behalf will be affected by these updates as they now clearly detail a set of procedures to be followed. They have been drafted in a clear and informative way ensuring that all Officers have the tools to purchase on the Councils behalf compliantly.
- 3.1.3 The newly updated CSO's will be published and publicised on the Councils intranet by the Communications Team. They will be further publicised during the induction and training of new Council Officers where appropriate.

##### 3.2 Crime & Disorder

- 3.2.1 No specific issues

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- 3.3 Safeguarding
  - 3.3.1 No specific issues
- 3.4 Dependencies
  - 3.4.1 No specific issues
- 3.5 Other
  - 3.5.1 No Specific issues

### 4 Financial Implications

- 4.1 There are no direct financial implications for this report.
- 4.2 **Section 151 Officer's comments:** None arising from this report

### 5 Legal Implications

- 5.1 Pursuant to S135 of the Local Government Act 1972, local authorities are required to make standing orders in respect of contracts.
- 5.2 **Legal Officer's comments:** Legal Services will continue to work closely with procurement colleagues to support appropriate procurement processes and compliance with both Standing Orders relating to contracts and all relevant procurement legislation. The changes to the CSOs, once approved by Full Council, will be highlighted to Council officers by publication on the intranet and a series of training delivered by the Procurement Team.

### 6 Policies, Plans & Partnerships

- 6.1 **Council's Key Priorities:** The following Key Priorities are engaged:
  - 6.1.1 Effective Council
- 6.2 **Service Plans:** The matter is included within the current Service Delivery Plan.
- 6.3 **Climate & Environmental Impact of recommendations:**
  - 6.3.1 Within the newly drafted CSO's, there is specific reference to Social Value (CSO 11) and Sustainable Procurement & Climate Change (CSO 13) ensuring that they are considered when procuring.
- 6.4 **Sustainability Policy & Community Safety Implications:**
  - 6.4.1 There are no specific concerns
- 6.5 **Partnerships:**

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6.5.1 The Councils Procurement Officer continues to work closely with its counterparts within the Surrey Procurement Group and have a commitment to work collaboratively where appropriate.

### 7 Background papers

7.1 The documents referred to in compiling this report are as follows:

#### **Previous reports:**

- Update to Contract Standing Orders [2018]
- <http://th-modgov-01/documents/s9879/Update%20to%20Contract%20Standing%20Orders.pdf>

#### **Other papers:**

- None