

Update to Contract Standing Orders

Head of Service/Contact:	Gillian McTaggart, Head of Corporate Governance
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Annex 1 Contract Standing Orders
Other available papers (not attached):	None

Report summary

The Contract Standing Orders set out the rules for letting contracts. This report outlines amendments to the Contract Standing Orders including a change to the lowest level threshold.

Recommendation (s)

That the Committee approves the amendments to the Contract Standing Orders and recommends to the Council that the Constitution be updated accordingly.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 The updated Contract Standing Orders (CSOs) will support the delivery of the Council's Corporate Plan.
- 1.2 Effective procurement results in the efficient use of resources in delivering services.

2 Background

- 2.1 The CSOs form part of the Constitution and apply to all contracts entered into by the Council for the procurement of goods, works and services.
- 2.2 The purpose of the CSOs is to provide a structure within which purchasing decisions are made and implemented which ensures that the Council can meet its corporate objectives, use resources effectively, purchase quality goods and services and safeguard its reputation from any implications of dishonesty or corruption.

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- 2.3 The Public Contracts Regulations 2015 (PCR) came into force in February 2015 which changed the existing procurement regulations. As a result the CSOs were rewritten to reflect the changes in legislation and also improve the governance of procurement.
- 2.4 The changes agreed in June 2016 included that contracts must be awarded to the most economically advantageous tenderer. Below EU thresholds Pre-Qualification Questionnaires (PQQs) are prohibited and above EU thresholds standard questionnaires must be used meaning that in most cases open tenders must be used and therefore all potential tenders expressing an interest must be sent an invitation
- 2.5 It is also a requirements that contracts over £25,000 should be advertised on Contracts Finder and award notices should also be recorded.
- 2.6 However the minimum threshold level was not updated at the time and was kept at £5,000 to give a period to improve controls and evaluate the new processes.
- 2.7 The Council has worked with the London Borough of Sutton to implement e-tendering which was compulsory from April 2018. The Procurement Team at the London Borough of Sutton have also provided support on developing our procurement strategy aligning it to the Corporate Plan, developing standard documentation and guidance.

3 Proposals

- 3.1 The new arrangements have been in place since June 2016 and have been reviewed using feedback from users to assess their requirements. A number of changes to the CSOs are recommended taking these into account. The changes have been shown in tracked changes in Annexe 1. The main aim is to make them easier to understand and simpler to use. Also it is recommend that there is an increase in the lowest threshold level to align with the threshold used by other boroughs and districts and reflect price increases. The CSO's have also be updated to reflect some administrative changes.
- 3.2 Previously two tables were in the CSO's showing the procurement thresholds . These have been simplified into one table. Under the guidance for the Public Contract Regulations, best practice identified two tables, table one for Services, Supplies and Works and table two for Social, Education, Recreation, Sporting and Legal. However the procurement arrangements at the Council are relatively low level with only a few procurements over OJEU levels and there is no need to have separate requirements. The changes to the threshold levels are summarised as follows.

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	Old level		New level
Threshold 1	0 - £5,000	Threshold 1	Up to £10,000
Threshold 2	£10,001 to £25,000	Threshold 2	£10,001 to £25,000
Threshold 3	£25,000 - £74,999		Not required
Threshold 4	£25,001 – OJEU (was £164,176)	Threshold 3	£25,001 – OJEU (currently £181,302)
Threshold 5	EU Threshold to £750,000		Not required
Threshold 6	Over £750,000	Threshold 4	Over OJEU threshold

3.3 The number of threshold levels has reduced from six to four. In addition as detailed in annexe 1, section 5.14 ,the minimum level of quotations has been amended with 5 quotes being required for procurements over the OJEU level (Threshold 4) only and a minimum of three up to a maximum of 5 for procurements between £25,000 and £181,302 (Threshold 3) This is to take into account the difficulty in identifying five suitable suppliers for some recent procurements or suppliers not tendering when requested.

3.4 The waiver process has been altered to reflect that that a waiver will not be required for expenditure under £10,000, previously £5,000 and it is also recommended that an annual report on waivers will go to the Leadership Team rather than Audit, Crime & Disorder and Scrutiny Committee as stated in the previous CSO's.

3.5 The job titles have been updated to reflect changes

4 Financial and Manpower Implications

4.1 There are no financial implications for this report. The annual spend with suppliers is around £9 million.

4.2 **Chief Finance Officer's comments;** *The Contract Standing Orders ensure that the Council is compliant with statutory requirements and achieves value for money through effective procurement. The revised thresholds will improve the efficiency of the procurement process.*

5 Legal Implications (including implications for matters relating to equality)

5.1 Pursuant to section 135 of the Local Government Act 1972, local authorities are required to make standing orders in respect of contracts. These have been drafted to reflect current completion requirements as set out in the Public Contracts Regulations 2015.

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- 5.2 ***Monitoring Officer's comments:*** As noted above, section 135 of the Local Government Act 1972 requires the council to adopt Contract Standing Orders. The proposed changes to the council's Contract Standing Orders comply with the procurement rules.

6 Sustainability Policy and Community Safety Implications

- 6.1 The policy will have no negative impact on sustainability and community safety

7 Partnerships

- 7.1 The Council will continue to work with the London Borough of Sutton but the level of support has been reduced and will focus on system support. Additional support is also available through the Surrey Procurement Officers Group.

8 Risk Assessment

- 8.1 Failure to update the Contract Standing Orders could result in officers making illegal or poor procurement decisions leading to a legal challenge and/ or increased costs.

9 Conclusion and Recommendations

- 9.1 That the Strategy & Resources Committee agree the amendments to the Contract Standing Orders.

Ward(s) affected: (All Wards);