

AGENDA MANAGEMENT SHEET

Name of Committee

Audit and Standards Committee

Date of Committee

20 February 2008

Report Title

Contract Standing Orders Review

Summary

This report outlines the results of the review of the Council's Contract Standing Orders and seeks members comments on the revised Contract Standing Orders and associated documents

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Would the recommended decision be contrary to the Budget and Policy Framework?

No.

Background papers

Council's Contract Standing Orders

Minutes of meetings of Contractors Coordinators / CSO Review Group

CONSULTATION ALREADY UNDERTAKEN:-

Details to be specified

Other Committees

.....

Local Member(s)

County wide

Other Elected Members

.....

Cabinet Member

Cllr Peter Fowler

Chief Executive

.....

Legal

David Carter – reporting officer

Finance

Paul White and Dave Clarke – comments incorporated

Other Chief Officers

.....

District Councils

.....

Health Authority

.....

Police

Other Bodies/Individuals Considered by contracts coordinators / CSO Review Group on 11th July, 7th September, 19th November and 17th January

FINAL DECISION NO

SUGGESTED NEXT STEPS:

Details to be specified

Further consideration by this Committee

To Council For approval on 18th March 2008

To Cabinet For consideration 13 March 2008

To an O & S Committee

To an Area Committee

Further Consultation

Audit and Standards Committee – 20 February 2008

Contract Standing Orders Review

Report of the Strategic Director of Performance and Development

Recommendation

That the Audit and Standards Committee considers the results of the review of Contract Standing Orders and

- (i) recommends to Cabinet and Council that the draft minor contracts procedure (Appendix 1), the Scheme of Delegation (Appendix 2) and the revised Contract Standing Orders (Appendix 3) are adopted subject to any minor amendments made by the Strategic Director of Performance and Development and the Strategic Director of Resources in advance of those meetings; and
- (ii) supports a strengthened approach to dealing with applications for exemptions from Contract Standing Orders.

1. Background

- 1.1 As part of our commitment to ensuring that the Council maintains sound systems of corporate governance, the Council periodically reviews its Contract Standing Orders. Our last major review was carried out in 2005 / 06 and reported to elected members in March 2006.
- 1.2 This review commenced in July 2007 and has been undertaken through Contract Standing Orders Review Group. The group comprises representatives from each Directorate, including Directorate Contract Coordinators, Audit Officers, legal representatives and the County Procurement Manager. The four meetings held to date have been very well attended with positive and constructive suggestions made about the way in which we can improve our Contract Standing Orders.
- 1.3 The current review takes forward the recommendation of the Audit and Standards Committee in spring 2007 to develop a single minor contracts procedure for the Council. It also seeks to address the outcome of this year's corporate governance audit in relation to the questions around Contract Standing Orders where only 26% of managers said they felt that Contract Standing Orders were easy to understand and only 48% said they clearly understood the limits of their authority. In response to this, Contract Standing Orders have been shortened and simplified and this report proposes that the Council adopts a single scheme of delegation for the letting of contracts.

- 1.4 The review also takes into account;
- the recently reported outcome of the CPA Use of Resources Assessment and the assessment criteria for 2008;
 - the model Contract Standing Orders issued by CIPFA and the Local Government Task Force in early 2007;
 - the recently published Public Interest Report issued by the Audit Commission in relation to a procurement exercise that Leicester City Council had carried out.
- 1.5 It should be noted that this review did not consider Schools' Contract Standing Orders. This needs to be picked up separately in light of the changing environment in which schools operate, and in particular the establishment of an electronic market place being established for schools by the DCSF. A small working group has been established to take this piece of work forward and its first meeting is being held in February.
- 1.6 This report therefore reports the outcome of the review process and seeks members' support on the following;
- The proposed minor contracts procedure for the Council;
 - The proposed Scheme of Delegation for letting contracts;
 - The revised Contract Standing Orders.

2. Minor Contracts Procedure

- 2.1 In response to a recommendation made by the Committee in spring 2007, the review of Contract Standing Orders proposes that the Council adopts a single minor contracts procedure across the Council. This would replace the existing arrangements whereby each Directorate has their own set of contracting rules for minor contracts. Members should note that it is proposed that the Minor Contract level is increased from £10,000 to £30,000 (see paragraph 4.3.4 below for more detail).
- 2.2 The draft proposed minor contracts procedure is set out in *Appendix 1*. In summary the procedure, which must followed for all minor contracts let by the Council, contains the following key principles;
- Officers must get value for money and consider the need for competition, efficiencies and savings;
 - Officers should follow the Council's code of conduct for employees when letting contracts (Employer and Employee Responsibilities);
 - Where there is a corporate or standard contract (eg WCC, ESPO, OGC) this should be used
 - A single quote is acceptable for contracts with a total value of less than £2,000. This should be confirmed in writing for contracts with a value of over £500
 - Contracts with a total value of more than £2,000 must be awarded under competitive conditions (at least 2 written quotes for contracts below £10,000, and at least 3 written quotes for contracts between £10,000 and £30,000);
 - All bidders must be treated equally and fairly;
 - Information received from suppliers is confidential and must not be disclosed to a third party;

- Quotes must be assessed against our chosen award criteria which should be determined before we ask for prices
- Written records of all minor contracts must be kept
- Winning bids should be kept for at least 6 years after the contract comes to an end and documents relating to unsuccessful or late tenders for at least 2 years from the date the contract starts
- The Council's scheme of delegation must be followed when letting minor contracts.

2.3 The procedure also contains a decision tree (page 2) which contracts coordinators have welcomed to help simplify and clarify the process.

2.4 Members are asked to support the draft Minor Contracts Procedure which may be subject to further minor amendments before it is reported to Council on 18th March.

3. Scheme of Delegation

3.1 This year's corporate governance audit identified an area for improvement in the context of Contract Standing Orders. Only a relatively small percentage of those managers responding (48%) clearly understood the limits of their authority. This view was echoed by contracts coordinators who felt that the Council's arrangements for letting contracts would benefit from greater certainty / clarification and that we should take the opportunity now to include a number of principles which haven't traditionally been formally incorporated into our contracting arrangements.

3.2 The resulting draft scheme is contained at **Appendix 2** of this report. In summary the Scheme proposes that prescribed levels of authority be delegated to specified tiers of officers covering the following;

- Where we are buying goods, services or works;
- Where we are supplying goods, service or works to an external third party;
- Where we are disposing of WCC assets to an external third party
- Where an exemption from Contract Standing Orders is sought.

3.3 Of particular note is that the Scheme recommends that for all contracts above £1m, Cabinet approval must be obtained to start the contracting process. The expectation is that at this stage, authority would also be requested for the relevant Strategic Director to award the contract at the conclusion of the tender process and that only in exceptional circumstances would there be a need for further Cabinet authority to award the contract. These arrangements are intended to apply equally to select list arrangements and framework agreements (where the Council calls off contracts from a framework of contractors).

- 3.4 In addition and for the first time, it is proposed that Directorates are given authority to approve exemption requests from their Directorate where the total contract value is estimated to be below £10,000. This gives greater flexibility to Directorates however, in order to monitor the use of this greater discretion, it is recommended that Directorate Contracts Coordinators submit an annual report to the County Procurement Manager setting out the details of those exemptions which have been agreed within Directorate. As an additional check and balance, compliance with the required procedures could also form part of the annual CSO audit process.

4. Contract Standing Orders

- 4.1 The revised draft Contract Standing Orders (CSOs) are set out in **Appendix 3**. The revised version is considerably shorter than the current version of the document and great efforts have been made to simplify our contracting procedures.
- 4.2 In addition, our existing CSOs contained a number of sections which were more guidance as opposed to specific rules which must be followed. In order that CSOs is treated as a rule book which sets out the minimum requirements that we expect, all of the guidance has been taken out of CSOs and it is intended that this be incorporated within the Procurement Code of Practice with electronic links being created as appropriate (see all underlined text in CSOs). Our Procurement Code is also currently the subject of a significant review and amendments will be finalised following members approval of the revised CSOs.
- 4.3 In addition to the amendments already referred to above, the key amendments that have been made to CSOs are as follows;
- 4.3.1 A requirement that all contracts with a total value of £10,000 or above are recorded within the corporate electronic contract management system and that contracts cannot be let unless the details are entered onto the system;
- 4.3.2 Amendments to the roles and responsibilities of the contracts coordinators;
- 4.3.3 Deletion of the requirement for Financial Service Managers to submit financial information to the Strategic Director of Performance and Development about the expected future spend on contracts for the next financial year. Traditionally this information has enabled the council to publish EU PIN (prior information notices). There is no statutory obligation to issue such notices and with recent changes to the EU rules, the benefits of doing so are now much reduced. This process is therefore not felt to add sufficient value to our contracting processes for it to remain an absolute requirement;

- 4.3.4 A requirement to include reference to our key corporate policies in tender invitation packs (eg Whistle blowing, sustainability, business continuity, risk, equalities and special contract arrangements which are where the Council gives preferential treatment to bidders are sheltered workshops);
- 4.3.5 A slight relaxation of the rules to allow tenders for contracts below £10,000 to be received by fax or e-mail. The potential for challenges of undue process are felt to be low in this area and in reality, use of faxes is reducing and more tenderers rely on e-mail correspondence to make contact with the Council;
- 4.3.6 It is proposed that the contract levels be amended so that;
- (i) Minor Contracts are contracts which have an estimated total value of below £30,000. The current threshold is £10,000
 - (ii) Ordinary Contracts are above £30,000 but below the current EU threshold for goods and services (currently £139,893)
 - (iii) Major Contracts are above the current EU threshold for goods and services. This effectively raises the threshold for major contracts which is currently £100,000
- In relation to these limits, whilst this gives greater flexibility for contracts below £30,000, the requirements for contracts above £30,000 have been strengthened. Under current rules, officers have discretion as to whether they formally seek tenders or more informal quotes for Ordinary Contracts between £10,000 and £100,000. Under this arrangement, the unwritten rule has tended to be that tenders should be obtained for contracts above £30,000. These proposals would formalise that arrangement and require all contracts above £30,000 to be tendered. As regards the Major Contracts threshold, the feedback from contracts coordinators was that it was confusing for the Council to have an upper threshold of £100,000 at which point all the Council's rules for major contracts kick in, and then to have to consider a separate EU threshold at which different EU requirements apply. For this reason it is proposed to merge these thresholds;
- 4.3.7 It is proposed that for contracts with a total value of less than £10,000, any applications for exemptions can be dealt with by the Directorate provided there is approval from the Financial Services Manager and the Contracts Coordinator (as set out in para 3.4 above). Whilst it is proposed that our approach to exemptions below £10,000 be relaxed, it is recommended that our approach to exemptions above this level be strengthened to include a revised application form which requires more robust information to justify the request. This is to ensure that we are getting value for money from our procurement activity and that applications for exemptions are requested on an exceptional basis; this approach is likely to result in more applications being rejected in future and Directorates being alert to the implications of this approach as regards their future contracting activity. Strategic Directors will also receive periodic information detailing the exemption requests made by their Directorates;

- 4.3.8 A proposed extension of the rules on late tenders to also apply to late Pre Qualification Questionnaires (the sifting document which allows the Council to shortlist the number of tenderers that they invite to bid);
- 4.3.9 A reduction in the period of time for which rejected tenders are required to be kept unopened on file;
- 4.3.10 New section on the disposal of County Council assets;
- 4.3.11 A new requirement that draft copies of any EU adverts (Contract Notices) that intended to be placed in the Official Journal of the European Union are sent to the County Procurement Manager for approval;
- 4.3.12 Clarification / simplification of the sections on negotiations, framework agreements, debriefings for contractors, and tender requirements in line with the proposed Scheme of Delegation.

5 Conclusions

- 5.1 Members of the Audit and Standards Committee are therefore asked to consider the contents of this report and;
- (i) Recommend to Cabinet and Council that the draft minor contracts procedure, the Scheme of Delegation and the revised Contract Standing Orders are adopted subject to any minor amendments made by the Strategic Director of Performance and Development and the Strategic Director of Resources in advance of those meetings;
 - (ii) To support a strengthened approach to dealing with applications for exemptions from Contract Standing Orders.

DAVID CARTER
Strategic Director of Performance and Development

Shire Hall
Warwick
23 January 2008

APPENDIX 1

WARWICKSHIRE COUNTY COUNCIL - MINOR CONTRACT PROCEDURES

These procedures apply to all contracts with a total aggregate value below £30,000

You should decide on your requirements for the goods, services or works (the specification) before you ask for quotations. You need to consider: -

- What you want
- When you want it
- Where you want it
- How many
- To what quality

A detailed specification should be included with the letter of invitation to quote for any requirement over £10,000.

Requirements for Minor Contracts which Officers MUST comply with: -

- These Minor Contract Procedures only apply to contracts with external organisations (i.e. not WCC schools)
- These Minor Contract Procedures apply to the employment of any external expert or consultant
- All officers of the Council must comply with the Council's code of conduct for employees (found in Managing People) when carrying out any procurement activity
- Where there is a recognised WCC, ESPO or OGC contract, you should use it. WCC, ESPO & OGC contracts are deemed to comply with these Minor Contract Procedures
- You must get proper value for money and consider the need for competition, efficiencies and savings at all times
- You must follow the Council's Scheme of Delegation for letting contracts
- Contracts with a total value expected to exceed £2,000 must be awarded under competitive conditions
- Where there is insufficient competition to allow the required number of quotes to be obtained, you may seek an exemption from Minor Contract Procedures, following the process set out in Contract Standing Orders. Exemption from Minor Contract Procedures will only be permitted in unusual circumstances.
- The Cost Centre Manager (CCM) must ensure that there is sufficient budget (in the current and future financial years) to cover the commitment being made.
- All bidders must be treated equally and fairly
- All written quotations must be opened at the designated time by at least 2 WCC officers
- Quotes must be assessed against your chosen award criteria. Your criteria should be determined before you ask for quotes
- Information received from suppliers is confidential and must not be disclosed to a third party
- Where it is recommended to accept a bid which is not the lowest then the reasons must be documented
- WCC Officers MUST keep proper written records of all Minor Contracts
- Minor contracts should be kept for 6 years after the contract comes to an end, and documents relating to unsuccessful or late tenders for at least 2 years from the date the contract starts.
- The European Procurement Rules may still apply to minor contracts It is the responsibility of the officer undertaking the procurement to check whether the European Procurement Rules apply and if so, that they are complied with

Minor Contract Procedures – Decision Tree

This document should be read in conjunction with the Procurement Code of Practice and Contract Standing Orders. Cost Centre Managers must be familiar with both documents.

| | | | |
|----|---|-----|--|
| 1. | Is the total contract value greater than £30,000 | Yes | These procedures do not apply – refer to Contract Standing Orders for details of how to proceed |
| | | No | Continue to step 2 |
| 2. | Is there a WCC mandatory contract | Yes | Use the mandatory contract |
| | | No | Continue to step 3 |
| 3. | Is there an ESPO contract available for WCC use | Yes | Use the ESPO contract |
| | | No | Continue to step 4 |
| 4. | Is there an OGC or other Authority contract available for WCC use | Yes | Use that contract |
| | | No | Continue to step 5 |
| 5. | Is the total contract value < than £2,000 | Yes | Obtain a verbal quotation from at least 1 supplier (confirmed in writing if > £500) and place an order through WCC financial systems |
| | | No | Continue to step 6 |
| 6. | Is the total contract value £2,000 or above but < £10,000 | Yes | Obtain verbal quotations from at least 2 suppliers (confirmed by the suppliers in writing). Place an order through WCC financial systems. |
| | | No | Proceed to step 7 |
| 7. | Is the total contract value £10,000 or above but < £30,000 | Yes | Obtain at least 3 written quotations using the WCC standard quotations template and place an order through WCC financial systems. Enter details in Contracts Management System |
| | | No | Go back to step 1 |

Summary of Requirements if steps 5 – 7 apply

| Value | Requirements |
|--------------------------------|--|
| < than £2,000 | A single oral quotation is acceptable (confirmed in writing if greater than £500) however a second quotation should be considered |
| £2,000 or above but < £10,000 | At least 2 written quotations must be obtained before an order is placed through WCC financial systems. Fax / e-mail quotes are permissible |
| £10,000 or above but < £30,000 | At least 3 written quotations must be obtained using the WCC standard quotations template before an order is placed through WCC financial systems – CMS Entry Required |
| £30,000 or above | These minor contract procedures do not apply and you should refer to Contract Standing orders |

APPENDIX 2

Standard Scheme of Delegation in Respect of Letting of Contracts WCC as Customer or Partner

| | DELEGATION | | | |
|--|---|---|--|--|
| Total Contract Value | Column 1 Authority to start process | Column 2 Contract Terms | Column 3 Authority to award contract | Column 4 Contract Signing |
| Major Contracts (Including contracts awarded from framework arrangements and select lists) £1,000,000 and above | Cabinet. This authority will also generally give the Strategic Director delegated authority to award the contract (ie Column 3 authority) | Strategic Director of Performance and Development, unless standard terms and conditions have already been approved by the Strategic Director of Performance and Development | Generally N/a as covered by Column 1. Cabinet authority to award the contract may need to be sought in exceptional circumstances | Send to Strategic Director of Performance and Development to arrange signing / sealing. The relevant authority must be provided at the same time |
| Major Contracts (Including contracts awarded from framework arrangements and select lists) £500,000 and above but below £1,000,000 | Strategic Director | Strategic Director of Performance and Development, unless standard terms and conditions have already been approved by the Strategic Director of Performance and Development | Strategic Director | Send to Strategic Director of Performance and Development to arrange signing / sealing. The relevant key decision record must be provided at the same time |
| Major Contracts (Including contracts awarded from framework arrangements and select lists) EU threshold for goods and services and above but below £500,000 | Head of Service or above | Strategic Director of Performance and Development, unless standard terms and conditions have already been approved by the Strategic Director of Performance and Development | Head of Service or above | Send to Strategic Director of Performance and Development to arrange for signing and sealing |
| Ordinary Contracts £30,000 and above but below EU threshold for goods and services | Third Tier Manager (ie officer who reports directly to a Head of Service) or above | Strategic Director of Performance and Development unless standard terms and conditions have already been approved by the Strategic Director of Performance and Development | Line Manager or above of person who starts the process (column 1) | Third Tier Manager or above |
| Minor Contracts Below £30,000 | Cost Centre Manager or above | Cost Centre Manager or above | Line Manager or above of person who starts the process (column 1) | Cost Centre Manager or above |

WCC as Supplier/ WCC Disposing of Assets

| Total Contract Value | Delegation | | | |
|---|--|---|--|--|
| | Authority to start process | Contract Terms | Authority to award contract | Contract Signing |
| Above the EU threshold for goods and services | Strategic Director provided Strategic Director of Performance and Development is satisfied on the legality of the bid and the Insurance Team Leader is satisfied that the activity is covered by the Council's insurance | Strategic Director of Performance and Development unless standards terms and conditions have already been approved by the Strategic Director of Performance and Development | Strategic Director provided Strategic Director of Resources is satisfied that the bid is financially practicable | Send to Strategic Director of Performance and Development to arrange signing / sealing |
| £30,000 and above but below EU threshold for goods and services | Head of Service provided Strategic Director of Performance and Development is satisfied on the legality of the bid and the Insurance Team Leader is satisfied that the activity is covered by the Council's insurance | Strategic Director of Performance and Development, unless standard terms and conditions have already been approved by the Strategic Director of Performance and Development | Head of Service or above provided Strategic Director of Resources is satisfied that the bid is financially practicable | Head of Service or above |
| Under £30,000 | CCM or above provided Insurance Team Leader is satisfied that the activity is covered by the Council's insurance | CCM or above Insurance Team Leader | CCM or above | CCM or above |

Exemptions from CSOs

| Total Contract Value | Authority to apply for exemption | Authority to Approve Applications for exemptions |
|---|---------------------------------------|--|
| £10,000 and above and any applications to vary insurance levels | Strategic Director or Head of Service | Strategic Director of Performance and Development and Strategic Director of Resources (or his/her nominee) |
| Under £10,000 | Cost Centre Manager or above | Directorate Financial Services Manager and Directorate Contracts Coordinator |

Notes

- Other responsibilities are detailed separately in the Contract Standing Orders. These must be followed as applicable in addition to the stipulations of this Scheme of Delegation
- The Strategic Director of Performance & Development and the Strategic Director of Resources may reduce the value of minor, ordinary and major contracts as detailed above if they conclude that a Directorate's arrangements for agreeing contracts have not met the requirements of the Contract Standing Orders.

Contract Standing Orders

**Council rules for buying goods, materials, work, or
services**

EFFECTIVE FROM 1st APRIL 2008

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Appendix 1 Minor Contract Procedures

Appendix 2 Contract Scheme of Delegation

Contract Standing Orders (CSOs)

Section 1 Purpose and scope

1 Purpose

The Council approves CSOs. The Procurement Code of Practice also forms part of CSOs and must be followed. The Council's Minor Contract Procedures contained at Appendix 1 must be followed for contracts below £30,000.

CSOs for Schools are contained in a separate document.

CSOs help us to:

- get value for money;
- keep within the law;
- maintain standards of conduct;
- be fair to our suppliers;
- protect our officers;
- show the public that we are honest; and
- meet the Council's corporate and directorate aims and policies.

2. Scope

CSOs must be followed for **all** contracts with outside organisations or people. Community, foundation and voluntary schools in Warwickshire are not classed as outside organisations.

A contract is any agreement to provide goods, works or services in exchange for payment. CSOs cover all types of contract including placing orders, loan or leasing arrangements, employing outside consultants and even cases where the Council is supplying goods, works or services, or disposing of assets (other than land) or spending grant income received from a third party.

3. Officers' responsibilities

3.1 Strategic Directors (for their Directorate)

- **To follow** CSOs and any codes of practice, guidance or instructions provided by the Strategic Director of Performance and Development and the Strategic Director of Resources.

- **To follow** the Council's Contract Scheme of Delegation (Appendix 2).
- **To follow** all relevant UK and European laws.
- **To make sure** that all contracts comply with financial standing orders and that there are effective systems in place to control budgets properly.
- **To agree** with the Strategic Director of Resources how best to check the financial situation of suppliers to ensure that the Council manages risk effectively and to make sure that financial evaluations are undertaken in accordance with advice given by the Strategic Director of Resources.
- **To get** legal, financial and other advice in good time and to make sure that contracts are legal and we can carry out our duties under them.
- **To make sure** that their directorates have systems in place to avoid fraud and corruption.
- **To provide** any information which the Strategic Director of Performance and Development or the Strategic Director of Resources needs to help us meet legal requirements and our own CSO procedures.
- **To appoint** a Contracts Co-ordinator for their directorate.
- **To record** all contracts with a total value of £10,000 or above within the Contracts Management System.
- **To make sure** that all relevant officers with powers to agree contracts have received corporate procurement training before receiving those powers.
- **To make sure** that all Council suppliers have in place sufficient insurance cover as appropriate to the contract in accordance with the Council's [insurance guidance](#).
- **To make sure** that any of their officers involved in contract negotiations are sufficiently skilled and understand the legal parameters that apply to contract negotiations.

3.2 Strategic Director of Performance and Development

- **To provide** codes of practice, guidance and instructions on any matters which are relevant to contracting arrangements.
- **To carry out audits** to assess whether directorates have used CSOs correctly and to report annually on the results.
- **To sign and record** in our central registers all contracts under seal **and** all major contracts.

- **To maintain** a record of all exemption applications made which have a total contract value of £10,000 or above.
- **To consult** the Strategic Director of Resources and recommend action if a directorate's arrangements for agreeing contracts have not met the requirements of these CSOs. This action may include reducing the value at which contracts are classified as minor, ordinary and/or major.
- **To approve** all contracts with a total value of £30,000 or above where we are the supplier.

3.3 Strategic Director of Resources

- **To provide** codes of practice, guidance and instructions on any matters which are relevant to contracting arrangements.
- **To make sure** that we get proper value for money.
- **To consult** the Strategic Director of Performance and Development and provide guidance on any relevant financial matter.
- **To consult** the Strategic Director of Performance and Development and recommend action if a directorate's arrangements for agreeing contracts have not met the requirements of these CSOs. This action may include reducing the level at which contracts are classified as minor, ordinary and/or major.

3.4 Contracts Co-ordinator

Each directorate should choose a member of staff to act as its 'Contracts Co-ordinator' and should tell the Strategic Director of Performance and Development the name of that person. Each Contracts Co-ordinator is responsible for;

- monitoring compliance with Contract Standing Orders by their Directorates;
- ensuring that his/her directorate records details of all contracts that the directorate has let with a total value of £10,000 or above in the Contracts Management System;
- approving applications for exemptions from their Directorate where the total value of the contract is below £10,000;
- acting as the point of contact for consultation on matters relating to procurement and contracting;
- disseminating information on procurement and contracting to relevant officers within their directorate; and
- submitting an annual report by 31 January each year to the Strategic Director of Resources (County Procurement Manager) detailing the exemptions below £10,000 approved by their directorate in the previous calendar year.

3.5 Authorised Officers

Authorised Officers are those officers who are authorised by their Strategic Directors to carry out the day to day activities required to let a contract. They must;

- * make sure that they follow the Councils Contract Scheme of Delegation (Appendix 2);
- * make sure that where appropriate any requirements relating to key decisions have been complied with (see paragraph 4.1 below);
- * make sure that any actions taken are within their powers;
- * check that there are sufficient funds in the budget to cover the financial commitment they are making both in the current and future financial years; and
- * provide details of all the contracts they are responsible for to their directorate's Contracts Co-ordinator.

3.6 Financial Services Managers

Financial Services Managers are responsible for approving applications for exemptions from their Directorate where the total value of the contract is below £10,000.

3.7 Cost centre managers

Cost Centre Managers must make sure they are familiar with their responsibilities which are clearly set out in the 'Cost Centre Manager's Guide'.

3.8 All officers

- * To understand the procedures they must follow when agreeing contracts and ordering goods, work or services for the Council.
- * To follow the code of conduct for employees (found in Managing People).
- * To declare to their line manager any interest which could influence their judgement in contracting matters. Officers must also record their interest and their partner's interest in the Staff Register of Interests which is updated annually.

Section 2 Steps Prior to Purchase

4. Approvals

- 4.1 The Council's [Contract Scheme of Delegation](#) (Appendix 2) sets out the approvals necessary for different types on contract.
- 4.2 Before beginning a purchase, the Authorised Officer responsible for letting the contract must:
- make sure that the appropriate authority is in place to start the process and spend the money (see the Council's Contract Scheme of Delegation at Appendix 2);
 - make sure that there is enough money in the budget to cover the total whole-life financial commitment being made (including any consultant's or other external charges or fees);
 - make sure that the [Forward Plan](#) requirements have been followed where the purchase is a [Key Decision](#). The definition of a Key Decision and the Forward Plan requirements can be found in the Council's Standing Orders (Standing Order 10 and Standing Order 14).

5. General Requirements

Before beginning a purchase, the Authorised Officer responsible for it must also;

- 5.1 Carry out an options appraisal to decide what procurement method is most likely to achieve the purchasing objectives;
- 5.2 Assess the risks associated with the purchase and how to manage them;
- 5.3 Prepare a [procurement plan](#) where the value of the purchase exceeds £100,000 or where the purchase poses a significant risk to the Council and send a copy to the County Procurement Manager;
- 5.4 For contracts with a total value of £10,000 or above, create an entry in the Contracts Management System and get a contract number. You can not let a contract which has a total value of £10,000 if it is not recorded in the Contracts Management System;
- 5.5 Consider whether the European Procurement Rules apply. If they do, you must inform the Strategic Director of Performance and Development (Corporate Legal Services Manager) and the Strategic Director of Resources (County Procurement Manager) before you start the tender process. You must also send a draft of your OJEU Contract Notice to the County Procurement Manager for approval before it is submitted.

Section 3 Conducting a Purchase

6. Deciding which procedure and competition requirements

6.1 Contract Procedure

The table below sets out which procedures must be followed for different contract values.

The Total Value of the contract is:

Yearly contract value x Contract period in years (including any extension periods). [\[link to worked example\]](#)

| Total Value | Type of Contract | Procedure to Follow |
|--|------------------|---|
| Below £30,000 | Minor | Minor Contract Procedures (contained at Appendix 1) |
| £30,000 or above but below EU threshold for goods and services | Ordinary | Ordinary contract procedures |
| The EU threshold for goods and services or above | Major | Major contract procedures and EU procurement rules as appropriate |
| Any value contract where we are the Supplier | Supply | Supply contract procedures (section 26) |
| Any value contract where we are disposing of assets | Disposal | Disposal procedures (section 30) |

6.2 Competition requirement

- all contracts must meet the requirements of CSOs
- All contracts with a total contract value of £2,000 or above must be competitively let unless you have obtained an exemption from CSOs (see Section 7)
- You must not enter into separate contracts or select methods of calculating Total Value in order to minimise the application of CSOs or EU Procurement Rules. [EU guidance](#) can be accessed through the Procurement Code of Practice.

7. Exemptions from Contract Standing Orders

7.1 We will only allow exemptions from Contract Standing Orders **in exceptional circumstances**. For contracts with a total contract value of £10,000 or above exemptions must be approved by the Strategic Director of Performance and Development and the Strategic Director of Resources. For contracts with a total contract value of below £10,000 exemptions can be approved by your Directorate Financial Services Manager and Contracts Coordinator.

7.2 To apply for an exemption, you must fill in an [Exemption Form](#) which must be signed (electronically or by hand) in accordance with the Council's Contract Scheme of Delegation (Appendix 2). It should then be sent to those with authority to approve exemptions as set out in the Council's Contract Scheme of Delegation. You must allow plenty of time for your application to be considered and to allow for tendering if your application is refused.

7.3 Examples of circumstances which **may** justify an exemption are:

- * **urgency** - real emergencies, not delays in making arrangements to agree particular contracts;
- * **no real competition** - the Strategic Director must use market analysis to explain why there is insufficient competition;
- * **extending an existing contract** - it must be in our interests to negotiate with the existing supplier;
- * **price control** – if the price is controlled by trade organisations or government order and there is no reasonable alternative;
- * **repairs or parts** – if the only option is to repair or buy new parts for existing equipment or buildings and there is only one supplier;
- * **a partnership arrangement** – if the supplier is making a large contribution to the funding, and the work, goods or services could not be provided as economically without that contribution.

7.4 For certain categories of contract, directorates may wish to apply for a block/blanket exemption. In such cases the justification for seeking such a blanket exemption must be clearly set out in the [Exemption Form](#).

7.5 An exemption must also be obtained where you want to vary the insurance levels the Council requires contractors to have in place. An [Insurance Exemption Form](#) must be completed and the same process as set out at paragraph 7.2 above must be followed.

8. Drafting your [contract specification](#)

- 8.1 You must produce a description of the goods, services or works you need before you start the tender process (the specification). This will allow you to compare prices properly and once the contract has been let, will enable you to manage the contractor's performance.
- 8.2 The level of detail of your specification will depend on the value and type of goods, services or works you are buying.

9. Deciding which procurement method

9.1 To select your contractor you can either use;

- **Centrally approved contracts** - (eg. WCC, ESPO, OGC etc). Where these exist they **MUST** be used and you will be deemed to have complied with CSOs. Further details can be obtained from the County Procurement Unit.
- **An external tender service** - i.e If it is more cost effective to use an organisation like ESPO to carry out the procurement process for you.
- **Approved supplier lists** - Where such a list is available. You must not use approved supplier lists for contracts governed by the EU Procurement Rules as these contracts must be advertised.
- **Conducting a competitive process** – ie if the above options are not suitable or cost effective. The rules set out in CSOs must be followed. Where there are different rules for different types or values of contract, these are set out in paragraphs 10 – 23 below.

10. Getting prices / advertising

There are different rules on whether you need to advertise and invite tenders depending on the type of contract concerned. These are set out below.

| Type of Contract | Minimum Procedure |
|--|---|
| Minor Below £30,000 | You must follow the Minor Contract Procedures contained at Appendix 1 |
| Ordinary £30,000 or above but below EU threshold for goods and services | As a minimum, you must advertise on the Council's web-site (Tender's Available page). You should also consider advertising more widely (eg external trade or professional journals). You should assess the cost and benefits of using such advertising media. |

| Type of Contract | Minimum Procedure |
|---|---|
| Major but not EU (this applies to works contracts only) Above the EU threshold for goods and services but below the EU threshold for works . | As a minimum you must advertise on the Council's web-site (Tenders Available page) [link to application form and Supply2Gov] . For higher value contracts you should advertise more widely (eg external trade or professional journals) unless there are valid reasons for not doing so (such as the cost vs benefits of using such advertising media). |
| EU contracts (whether goods, services or works) | You must advertise in the EU Journal and invite to tender. [Link to SIMAP] You must also advertise on the Council's web-site (Tenders Available page). [Link to application form] |

11. ShortlistingTenderers

- 11.1 Contracts that are subject to the EU procurement rules (and other contracts where that is appropriate) generally follow a two-stage process;
- **Stage 1; selection.** This stage uses a [Pre-Qualification Questionnaire](#) ('PQQ') to short-list those tenderers who you want to invite to submit a tender and;
 - **Stage 2 ; evaluation.** This will usually lead to the award of the contract. It is at this stage that any contract specific proposals (e.g. price and how the contract will be delivered) are assessed. Evaluation is dealt with in more detail at 12 below.
- 11.2 The EU rules say that at Stage 1 (selection) you may only consider those matters which are relevant to the performance of the contract in question (eg financial standing, expertise, experience and technical capacity). You **CAN NOT** consider the suppliers' proposals as to *how* the contract would be delivered.
- 11.3 Where you are advertising for suppliers, **you must agree and record your method for selecting short-listed tenderers before you advertise.** When deciding your method, you must;
- Treat all tenderers in the same way ;
 - Keep the process simple and clear; and
 - Record and retain all documentation relating to your selection decisions.
- 11.4 You must give tenderes a reasonable amount of time properly to complete the PQQ.
- 11.5 The receipt and opening of PQQs should be formally recorded, dated and signed by 2 Directorate officers.

- 11.6 You should not normally accept the submission of a late PQQ except in the same circumstances where a late tender would also be accepted (see paragraph 15 below).
- 11.7 Once a supplier has been selected through the selection stage, they are deemed to be suitable to undertake the contract and you cannot then fail them on the same criteria at the evaluation stage (Stage 2) unless relevant changes occur during the later stages of the procurement process (e.g. a change in a supplier's financial standing).
- 11.8 A minimum number of short-listed suppliers are then invited to submit tenders. (See paragraph 13 below)

12. Evaluation

- 12.1 **Before you ask for prices** (whether by quotation or invitation to tender) **you must decide and record how you will assess the quotations or tenders that you receive.** Your criteria must be designed to ensure that the Council gets best value for money.
- 12.2 You must publish any tender scoring system or similar tender evaluation model to be used prior to the issue of the invitation to tender. At the same time, you must also notify suppliers of any weightings to be used. These rules apply to all contracts regardless of whether or not they are subject to the EU procurement rules. [\[link to PcoP\]](#)
- 12.3 In deciding on your evaluation criteria you may need to consider how the views of service users and/or other stakeholders can be taken into account in the procurement process. You must follow any guidance contained in the Procurement Code of Practice in relation to service user/stakeholder engagement.
- 12.4 Strategic Directors must make sure that the contract award criteria
- Do not prevent fair competition
 - Do not illegally discriminate between tenderers
 - Meet any relevant UK and EU laws
- 12.5 The basic award criteria can be:
- Most economically advantageous tender (MEAT), where considerations other than price apply. This will be the most suitable criterion in most cases as it provides the Council with the greatest flexibility; or
 - Lowest price where the Council is the buyer;
 - Highest price where the Council is the seller
- 12.6 Where your award criteria is based on the most economically advantageous offer, you may take into account relevant considerations such as price, technical standard, experience and skills, past performance, social and environmental considerations, practical considerations, financial proposals, contract management, quality management proposals and delivery proposals.

13. Inviting Tenders

- 13.1 Where you are advertising for tenderers, you must invite at least 3 tenderers to tender, (or 5 tenders if the EU Restricted Procedure rules apply).
- 13.2 You must send them an invitation to tender together with the contract documents and a tender form. Your invitation to tender must include information on the Council's policies and requirements on;
- Equalities
 - Sustainability
 - Whistle blowing
 - Business continuity
 - Risk
 - Special contract arrangements following the OGC guidance where contracts are awarded to sheltered workshops

You must also include instructions on how and when they must return their tenders. A standard [invitation to tender](#) is available through the Procurement Code of Practice.

- 13.3 You must give tenderers a reasonable amount of time properly to complete the tender and you must factor a reasonable response time into your procurement timetable. What is 'reasonable' will depend upon a number of factors, e.g. the amount/complexity of the information that you require.
- 13.4 Invitations to tender can only be sent electronically if in accordance with guidance given by the Strategic Director of Performance and Development and the Strategic Director of Resources.
- 13.5 During the period allowed for preparing tenders, you must record all your communications with tenderers. If a tenderer raises a query during this period, you must pass it on to all tenders together with your reply. Remember not to give the identity of the tenderer who has raised the query.
- 13.6 You must not pass on the names or details of suppliers to anyone at any time during the tendering process.

14. Returning Tenders

- 14.1 Tenders can be returned by hand or by post. Tell your tenderers to use postal services that provide them with proof of postage and the time of sending. For contracts with a total value of £10,000 or above tenders can only be received electronically if in accordance with guidance given by the Strategic Director of Performance and Development and the Strategic Director of Resources.
- 14.2 For contracts with a total value of £10,000 or above you must not accept tenders sent by fax.

- 14.3 When you receive a written tender, stamp or write the date and time on the packaging. Do not open any of the tenders (whether received by hand, by post or electronically) until the final deadline for receiving them. Keep them in a safe place.
- 14.4 If you open a tender by mistake before the deadline, write down how this has happened. In the case of tenders received by post or hand, attach this to the packaging and re-seal the tender immediately. In the case of electronic tenders, keep a copy on the contract file. In all cases, do not tell anyone about the contents of the tender.
- 14.5 If you receive fewer tenders than expected, do not contact tenderers to ask whether they have sent one in.

15. Late tenders and PQQs

- 15.1 You should normally reject tenders and PQQs which you receive after the deadline.
- 15.2 In exceptional circumstances a Strategic Director can accept a late tender or PQQ. This only applies if:
- * you have not opened any tenders or any PQQ; **and**
 - * you have proof that the tender or PQQ was posted in enough time to meet the deadline. If the tender or PQQ is delivered by hand, the person delivering it must explain why it is late. Your Strategic Director or his/her authorised officer must be satisfied with the reason. You must record this reason; **and**
 - * in the case of major contracts you must have the agreement of the Strategic Director of Performance and Development.
- 15.3 If you decide to accept a late tender or PQQ, you must treat that tender or PQQ in the same way as all others. You must record full details of your decision to accept the late tender or PQQ on file.
- 15.4 If you decide to reject the late tender or PQQ, you should leave it on file, unopened at least until you have awarded the contract and the successful tenderer has accepted. At this stage, you can open the tender or PQQ and inform the tenderer that his bid was not considered because it arrived late.

16. Opening tenders

- 16.1 Before the deadline for return of tenders, you must agree a time for opening the tenders. Try to open the tenders as soon as possible after the deadline for returning them. If a delay becomes necessary, the Authorised Officer must agree to this and the reason must be recorded. Never extend the deadline for returning tenders or delay the time for opening them to allow for late tenders.

- 16.2 The Authorised Officer must make sure that the procedures for opening tenders are followed and that the correct records and documents are completed.
- 16.3 The opening requirements as set out in the table below must be followed

| Type of contract | Opening requirements |
|--|--|
| Ordinary | Tenders opened in front of at least 2 officers from contracting directorate |
| Major or EU which has a total contract value above the EU threshold for goods and services including any call-off contract under a framework agreement | Tenders opened in front of at least 1 officer from the contracting directorate and 1 officer from Law and Governance authorised by the Strategic Director of Performance and Development |

- 16.4 You must open all tenders at the same session. Open them one at a time. Then each officer must sign and date them. Record the details of each tender on a [tender return form](#). Each officer must sign and date the form.
- 16.5 The officers opening the tenders must sign the total price page. Where the prices are not contained in a single page or where other pages contain relevant pricing information (eg hourly or discounted rates), all relevant pages containing pricing information must be signed.
- 16.6 Once the tenders have been opened, store them again in a safe place.

17. Evaluating Tenders

- 17.1 Before assessing the tenders, you must check that each one meets the requirements of your specification. You must also make sure that there are no major mistakes and that nothing is missing.
- 17.2 You must also check the accuracy of the figures in each tender. If you find minor mistakes which do not affect the overall price or the specification, contact the tenderer and ask them to confirm the correct figures in writing. Keep a record of all mistakes and attach it to the tender documents together with any corrections you have agreed with the tenderer.
- 17.3 Whichever contract award criteria you decide on (see paragraph 12.4), this is how you must evaluate. You must not change your criteria part way through the process.

- 17.4 The Authorised Officer should accept the tender which offers the Council best value for money having assessed all the tenders against your chosen award criteria (see paragraph 12). This applies whether you get prices by quotes under the Minor Contract Procedures (see Appendix 1) or by more formal tendering processes.
- 17.5 The results of your assessment are strictly confidential, so you must not pass them on to anyone who is not involved in the evaluation process.
- 17.6 Your assessment documentation should clearly show;
- * the result of your assessment of each tender;
 - * a comparison of assessment results; and
 - * your recommendation for who should be awarded the contract.
- 17.7 The information referred to at paragraph 17.6 above, should be sent to the person with sufficient delegated authority to award the contract as set out in the Council's [Contract Scheme of Delegation](#) (contained at Appendix 2). You should always consider whether your recommendation for awarding the contract should be put before the Cabinet **before** contacting the successful tenderer.

18. Notifying tenderers

- 18.1 **Notification – on contracts not subject to the full EU procurement rules** (that is contracts for Part B Services or contracts below the EU procurement thresholds);
- You must write and tell the successful tenderer your decision as soon as possible **after you have received all necessary approvals** (see paragraphs 3, 4 and 27).
 - You must tell unsuccessful tenderers after you have told the successful tenderer and the successful tenderer **has accepted**.

[Standard letters](#) are available in the Procurement Code of Practice.

- 18.2 If unsuccessful tenderers ask why their tender was not successful, you can tell them in general terms about the areas of their tender which scored well and poorly in your assessment. You should do this within 15 working days of the request. Do not give them details of the other tenders. The name of the successful tenderer and the value of their bid will be made available to the public (see paragraph 20).
- 18.3 **Notification – on contracts subject to the full EU procurement rules;**
- You must write and tell ALL tenderers, both successful and unsuccessful your decision as soon as possible **after you have received all necessary approvals** (see paragraphs 3, 4 and 27). This includes all those tenderers who submitted a PQQ.
 - You must wait a minimum of **ten calendar days** (the standstill period) between telling ALL tenderers your decision and entering into a contractually binding agreement with the successful tenderer.

- 18.4 Your letter must be sent to all those tenderers who submitted a tender or a PQQ (valid or invalid). It must set out:
- * the award criteria;
 - * where scores are being used, the score the tenderer obtained against those award criteria;
 - * where appropriate, the score the winning tenderer obtained; and
 - * the name of the winning tenderer.

[Standard letters](#) are available in the Procurement Code of Practice.

- 18.5 **Debriefings – On contracts not subject to the full EU procurement rules.** It is good practice to provide a debriefing to any unsuccessful tenderer who requests one. Wherever possible this should be done within 15 working days of the date the request was received

- 18.6 **Debriefings - On contracts subject to the full EU procurement rules.** You must provide a debriefing to any unsuccessful tenderer who requests one. The time limits for providing a debrief will depend on when the request is received.

- *Request received within first 2 working days of the standstill period – debrief at least 3 working days before the end of the standstill period. You may need to extend the standstill period around public holiday periods.*
- Request received outside of this period – debrief within 15 working days of the date the request was received.

- 18.7 The debrief must inform the tenderer of the reasons why he was unsuccessful and, if the tenderer submitted was an admissible tender, you must inform him of the characteristics and relative advantages of the successful tenderer.

19. Clarification and Post-Tender Negotiations

- 19.1 Providing clarification to tenderers or seeking clarification from tenderers, whether in writing or during a meeting, is permitted.
- 19.2 However discussions with tenderers after submission of a tender and before contract award with a view to obtaining adjustments in price, delivery or content (post-tender negotiation) whether as part of a value engineering process or otherwise must be the exception rather than the rule. In particular such negotiations must not be conducted in an EU procurement where this might distort competition, especially with regard to price.
- 19.3 In all cases, the Council's [Guidance on Clarification and Negotiation](#) must be followed.

20. Disclosure of tender information

- 20.1 You must not give tenderers or suppliers or anyone who has a financial interest in the contract any information about the bids or affairs of any other tenderer or contractor unless the law says you must do this. The information you receive is confidential.
- 20.2 The only information you should make public is the name of the successful tenderer and the value of their bid. You must not release this information until the contract has been awarded and accepted.
- 20.3 Strategic Directors may decide to make public the value of the other bids received. This information should **not** include the names of the unsuccessful tenderers. However, it is good practice to let tenderers know how they performed in the competition and you may want to give them more information. If this information includes the names of unsuccessful firms, then it must be done in a way that does not link a firm to its bid. Strategic Directors should make sure that if they are planning to release any information, tenderers know this at the start of the process.

21. Keeping Written Records

- 21.1 Each directorate **must keep proper written records** of:
- * the different stages of the tendering process including all the quotes and letters you have received, and notes of phone calls and meetings about selecting suppliers;
 - * the awarding of the contract;
 - * any information provided to tenderers or contractors; and
 - * any decisions made, together with the reasons for those decisions.
- 21.2 You must keep these records for the periods set out in paragraph 23.

22. Contracts Register

- 22.1 Each Directorate must record in the Contracts Management System:
- details of all contracts with a total value of £10,000 or above it has agreed; and
 - details of all contracts it has agreed where we are the supplier (see [paragraph 26](#) below for further details).
- 22.2 In addition, each Directorate must make sure that all major contracts (contracts above the EU threshold for goods and services) are recorded in the Central Contracts Register maintained by Law and Governance.

23. Storing Documents

- 23.1 You must consider confidentiality when storing contracts and other information relating to tenders and agreements.
- 23.2 Subject to paragraph 23.3 you must store all contracts as set out in the table below.

| | Successful Tenders | Un-successful or Late tenders |
|------------------------------|---|--|
| Minor | Keep the contract at least 6 years after Contract comes to an end | At least 2 years from the date contract starts |
| Ordinary and Major contracts | Keep the contract and any relevant correspondence and records (eg any documents which might have a bearing on the way the contract is interpreted) at least 6 years after contract comes to an end. | At least 2 years from the date the contract starts |

- 23.3 Contracts made as a deed or under seal must never be thrown away.
- 23.4 You must not throw away contract documentation without the Strategic Director of Performance and Development's permission if you are aware that a legal action or claim for personal injury or death either has been made or there is a possibility that such an action or claim will be made.

Section 4 Special Types of Contract

24. Approved Supplier Lists

24.1 A Strategic Director may use approved supplier lists to:

- * choose tenderers to bid for a contract; or
- * buy one-off items.

You must not use approved supplier lists for contracts governed by the EU Procurement rules. These contracts must be advertised.

24.2 You must follow the Council's Contract Scheme of Delegation (Appendix 2) when setting up supplier lists.

24.3 Before drawing up an approved supplier list you should advertise and invite people to apply to become approved suppliers for the particular type of contract. You must also advertise on the Council's web-site (Tenders Available page). When considering whether to include someone on the list you must consider:

- * their past performance on similar contracts (quality and costs);
- * their technical capacity;
- * their specialist experience and skills in the type of products and services you are looking for;
- * their financial situation;
- * their other commitments; and
- * any other qualifications which are relevant, do not prevent fair competition and do not illegally discriminate between suppliers.

24.4 If you use an approved supplier list, you will need a system for selecting suppliers from the list. Your system must make sure that all suppliers on the list have the same opportunity over time to tender for work and must be approved by the Strategic Director of Performance and Development (Corporate Legal Services Manager) and the Strategic Director of Resources (County Procurement Manager).

24.5 Review your approved supplier lists every two years against the requirements set out above to assess whether a supplier should remain on or be added to the list. You should also consider whether there are any new suppliers to add to the list.

24.6 You should start new approved supplier lists after **advertising** at least every five years, or earlier if the number of approved suppliers remaining on the list means there is little competition.

25. Framework Agreements

25.1 Framework agreements ('call-off contracts') allow the Council to fix terms and conditions in advance and to award contracts as and when they arise without needing to re-advertise or re-tender.

25.2 Framework agreements must be for a **maximum of four years**. If you are in any doubt about their duration you should seek advice from the Strategic Director of Performance and Development and the Strategic Director of Resources..

25.3 You must follow the Council's Contract Scheme of Delegation (Appendix 2) when setting up framework agreements and call-off contracts.

25.4 Framework agreements are subject to all UK and EU procurement legislation and must also follow these Contract Standing Orders (including the Procurement Code of Practice). [Framework guidance](#) can be obtained through the Procurement Code of Practice

26. Contracts where the Council is the supplier

26.1 CSOs apply if we are supplying goods, work or services. Procedures will be different and will probably depend mostly on the person or organisation letting the contract.

26.2 The Strategic Director must keep a list of supply contracts and a list of the directorate's unsuccessful bids. He or she must record the details of all individual contracts with a total value of £10,000 or above and a global entry for all contracts below £10,000 in the Contracts Management System (see paragraph 22).

26.3 Where the Council is the supplier

- You must secure the appropriate approvals as set out in the Council's Contract Scheme of Delegation (Appendix 2)
- For contracts over £30,000, the Strategic Director of Resources must be satisfied that our bid is financially practical
- For contracts over £30,000, the Strategic Director of Performance and Development must confirm that we can legally enter into the contract before we provide a tender

- For contracts over £30,000, the Strategic Director of Performance and Development must approve the terms and conditions
- For all value contracts, there must be enough insurance to cover any liability we may have under the proposed contract. You must seek advice from the Council's Insurance Manager.
- You must follow the rules in CSOs on non disclosure of tender information (paragraph 20), keeping written records (paragraph 21) storing documents (paragraph 23) and signing contracts (paragraph 31)

27. Loans and Leasing Arrangements

You must not make loans or leasing arrangements (eg. a contract for a photocopier), other than those purchased through centrally approved arrangements, **without approval** from the Strategic Director of Resources. You can apply to the Strategic Director of Resources through your financial services manager. Where you are unsure about the contract terms you should seek advice from the Strategic Director of Performance and Development.

28. Appointing experts and consultants

- 28.1 **You need to be clear about the** status of people we use as experts or consultants. Employment status is not a matter of choice. You cannot simply decide to treat working arrangements as employment or self-employment. It depends on the work to be done and how much control we have over them.
- 28.2 Where individuals operate under a '**contract for services**' (as an independent contractor), these CSOs apply. Such individuals are self-employed and paid through Order and Payments. You must ensure that there is appropriate Professional Indemnity Insurance to cover the work of the consultant. Further advice on this can be obtained from the Council's Insurance Manager.
- 28.3 Where a person is taken on under a '**contract of service**', the Council's HR (recruitment) policies apply. Such individuals are employees of the Council and must be paid through Payroll.
- 28.4 There may be financial consequences where we get a person's status wrong. Further guidance on [appointing consultants](#) can be found in the Procurement Code of Practice. Any penalties and backdated tax imposed by the HM Revenue and Customs will be charged to the Directorate concerned where it is clear that they have not followed guidance.

29. Collaborative and Partnership Arrangements

- 29.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must also follow these Contract Standing Orders.
- 29.2 Collaborative and partnership arrangements include joint working where one partner takes the lead and awards contracts on behalf of the other partners, long term collaborative partnerships, pooled budgets and joint commissioning.
- 29.3 Further guidance can be obtained from the Strategic Director of Performance and Development. [Partnership Guidance](#) is also available through the Procurement Code of Practice.

30. Asset Disposal

- 30.1 You must obtain value for money where you wish to dispose of surplus or obsolete stocks/stores or assets (other than land)
- 30.2 Unless you can demonstrate that you are disposing of assets for local community benefit (eg a transfer of redundant computers to a voluntary or community sector organisation) you must demonstrate value for money by;
 - Disposing via a public auction,
 - Advertising in appropriate media, including the Council's website and inviting interested parties to tender
- 30.3 When disposing of the Council's assets you must
 - Follow Council's Contract Scheme of Delegation (Appendix 2)
 - Treat all tenderers equally & fairly
 - Seek legal advice if there are health & safety implications or if tenderers are seeking warranties
 - Keep all documentation relating to the process for at least 2 years from the date of the disposal
 - Keep proper written records of all disposals for at least 2 years from the date of the disposal

Section 5 Written Contract and Other Formalities

31. Ordering and entering into a written contract

- 31.1 Once you have selected a supplier, you need to complete the contractual arrangements.
- 31.2 You must check whether there is an [approved format](#) for entering the contract which has been approved by the Strategic Director of Performance and Development.
- 31.3 If there is no approved format or you need to make changes to an approved format, send your draft or details of the changes to the Strategic Director of Performance and Development for approval.
- 31.4 All ordinary and major contracts must be in writing and must meet the [contract requirements](#) set out in the Procurement Code of Practice.
- 31.5 Each Strategic Director must make sure that the contracts with his or her Directorate are;
- legal;
 - in line with financial regulations;
 - drafted properly;
 - appropriate; and
 - are able to protect our interests fully.

32. Signing Contracts

- 32.1 You must make sure that the contract is signed by a properly authorised officer as set out in the Council's Contract Scheme of Delegation (Appendix 2).
- 32.2 All major contracts must be either;
- sealed by the Council and witnessed (signed) by a designated officer; **or**
 - signed by **two** designated officers.

Designated officer means the Chief Executive, the Strategic Director of Performance and Development and any other officer authorised by either or both of them.

33. Certified Contracts

If a supplier asks us to certify that the contract is legal, you must pass the contract to the Strategic Director of Performance and Development before signing it. You must also send details of the approval for the contract and any other relevant documents.

34. Parent Company Guarantees and Performance Bonds

You must seek the advice of the Strategic Director of Resources on whether a parent company guarantee or performance bond is needed in cases where;

- there is doubt about the suppliers financial standing
- the contract poses a high risk to the Council

35. Performance Monitoring

35.1 During the life of the contract, the Authorised Officer should monitor the contract in respect of the following;

- Performance;
- Compliance with specification and contract;
- Cost;
- Any Best Value requirements;
- User satisfaction; and
- Risk management

35.2 Where the contract is to be re-let this information should be available early enough to inform the approach to re-letting the subsequent contract.

36. Declarations of interest

36.1 Officers must declare to their line manager any interest which could influence their judgement in contracting matters. Officers must also record their interest any interest held by a close family member in the Staff Register of Interests which is updated annually.

36.2 Where an officer has an interest which could influence their judgment in contracting matters, he/she must not take part in the contracting process.

36.3 All officers involved in contracting matters must have regard to the Employee Code of Conduct which can be found in Managing People.

37. Interpretation

Any generic reference to 'Strategic Directors' in these Contract Standing (as opposed to the Strategic Director of a specific Directorate) is to be interpreted as including the Chief Executive of the Council.

APPENDIX 1 MINOR CONTRACTS PROCEDURE

APPENDIX 2 CONTRACT SCHEME OF DELEGATION