

Audit and Standards Committee

Contract Standing Orders

4 November 2021

Recommendation

That the revised Contract Standing Orders attached as Appendix 1 are recommended to Cabinet and to Council for approval.

1. Executive Summary

- 1.1 Contract Standing Orders (CSOs) set out procedures designed to ensure that the Council achieves value for money and social value, that it complies with statutory requirements, and that its affairs are prudently managed and properly controlled. There is a balance to be drawn between empowering officers to get on with the job in the most effective and efficient way and ensuring that the Council is protected from undue risk of challenge without being considered to be taking an approach which is overly risk adverse.
- 1.2 CSOs as currently drafted are legally compliant but have proven difficult in some circumstances for officers to interpret without seeking further guidance. A number of changes to titles and internal procedures have also taken place over the past two years which now need to be updated. A review, which was intended to address these issues, was commenced as part of the EU Exit workstream however was delayed due to pressures caused by the pandemic. As a consequence, the opportunity has been taken to review CSOs and this forms part of a wider constitutional review which will be considered by Cabinet and Council in December.
- 1.3 The proposed revisions to CSOs are highlighted in Appendix 1. There are no major changes to procedures and no substantial alteration to limits of authority or sign off as a result of this review. The only alteration to a limit of authority/sign off is to raise the threshold for one written quote to below £25,000 and for three written quotes to between £25,000 and £100,000 (previously one quote was up to £10,000 and three quotes was £10,000 to £100,000). £25,000 is not out of step with other authorities there being a very broad range of thresholds at this level.
- 1.4 The key change to CSOs has been to simplify language and to restructure the document to follow the life cycle of a procurement activity (i.e. from initial considerations, through authorisations required, how to tender and onto completion of the procurement and what happens if amendments are required post contract). We have also taken the opportunity to make the language within CSOs more inclusive, seeking to avoid gender-based pronouns and to

follow guidance from Equalities colleagues in this regard. We have also taken the opportunity to correct changes in titles and team names and clarify the post Brexit position.

- 1.5 There will be a need to further review Contract Standing Orders once the outcome of the Government's consultation on post EU transition procurement is known and any changes to legislation are notified.
- 1.6 As part of the review there are no major changes to procedures and no alteration to limits of authority or sign off. Appendix 2 contains a comparison version between the original CSO document and the proposed revised version at Appendix 1. Although there looks to be significant amendment the majority of changes are due to reordering and enhancing of existing text. The key changes are:
 - 1.6.1 Section 1 – expanding on the purpose and importance of CSOs to provide context to the rules that follow and linking to Financial Regulations
 - 1.6.2 Para 1.7 – clarification of requirements where a joint procurement with partners is undertaken
 - 1.6.3 Section 2 – clarification in relation to the extent and primacy of procurement legislation and expanding upon when CSO's apply as well as confirming the exemptions
 - 1.6.4 Section 3 – Highlighting the role of officers in a procurement
 - 1.6.5 Para 4.2 - reinforcing legislative rules preventing disaggregation of procurement
 - 1.6.6 Para 4.3 and 4.4 - providing context to preparing for a procurement and how to commence purchasing activity updated in light of EU exit
 - 1.6.7 Para 4.5 – clarification on use of frameworks and basic requirements of contracting process within the council
 - 1.6.8 Para 4.6 – Confirming the need for legal advice on extension or amendment of a contract
 - 1.6.9 Para 4.8(e) - confirming the Council's move to electronic signatures using Docusign where legally permitted,
 - 1.6.10 Para 4.9 – Clarifying the base requirements for any contract in terms of drafting
 - 1.6.11 Para 4.10 - updating requirements for record keeping
 - 1.6.12 Para 5.4 - inclusion of clarity over the requirements of the Social Value Act
 - 1.6.13 Para 6.2 - clarity over term “consultant”
 - 1.6.14 Section 11 – Highlighting transparency requirements and consistency information to be provided fairly to all bidders
 - 1.6.15 Section 15 – updating reporting requirements in light of EU exit
 - 1.6.16 Para 16.2 - clarifying requirements for external service delivery
 - 1.6.17 Para 17.3 – clarification on disposal of goods/assets by auction
 - 1.6.18 Definitions – updated
 - 1.6.19 Section 6.1 - Raise in threshold level for one quote to below £25,000 and for three quotes to from £25,000 to below £100,000.
 - 1.6.20 Old Section B – moved into text earlier in the document to reflect the procurement cycle as mentioned previously

1.7 Officers are satisfied that the revised document meets the requirements of procurement legislation and provides clarity over the process for procuring goods, services and works, and providing services to other organisations.

1.8 Minor corrections may be made to pick up formatting and typing errors in advance of final approval by Council.

2. Financial Implications

2.1 There are no direct financial implications arising from this report.

3. Environmental Implications

3.1 There are no direct environmental implications arising from this report.

4. Timescales associated with the decision and next steps

4.1 The Contract Standing Orders if endorsed will proceed to Cabinet and full Council in December 2021 for approval along with any other constitutional changes recommended following conclusion of the review.

Appendices

1. Revised Contract Standing Orders
2. Appendix 2 Comparison of existing CSOs and Appendix 1.

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The report was circulated to the following members prior to publication:

Local Member(s): n/a

Other members: n/a