

Appendix A – Proposed Amendments to the Contract Standing Orders

A summary of the proposed amendments and reason for the change are provided in Section One. The amendments are included within a copy of the existing Contract Standing Orders in Section Two.

Section One Summary of Changes

Amendment no.	Section	Change	Reason
Procurement Scheme of Delegation (Table 1)			
Amendment 1	Certification of completion of Works or Services.	Remove Approval Thresholds for certification of completion of Works or Services.	Officers who are the most able to confirm completion of Works or Services are those working directly on the various projects and restricting certification has often caused an additional and unnecessary process.
Amendment 2	Roles	Change of name of role from Head of Service to Assistant Director.	Change to the Council's Senior Management Structure.
Amendment 3	Approval of the award of business over £250k.	Wording amended.	To improve clarity, current wording is unclear with regard to the process required.
Amendment 4	Best Value Exemption.	Amend the requirements for approval to be the same as the approval required for all the other Exemptions (see Exemptions Table).	Having a different approval process for the Best Value Exemption than the other types of Exemptions has caused some confusion. Having one process will improve clarity.
Amendment 5	Notes	Addition of notes with regard to the succession of roles.	Enables the change of the name of role to be accommodated without requiring an amendment to the Contract Standing Orders.

Amendment no.	Section	Change	Reason
Amendment 5a	Amendment of value thresholds for approval by role.	Increase £10k for Approved Officers to £25k. Increase Corporate Managers from £75k to £150k.	To align the approval process with the change in value threshold for the sourcing processes. (Amendment 7).
Amendment 5b	Approval of purchase orders and invoices.	The addition of works orders and payment vouchers.	Payment is approved by the Council to its creditors using purchase orders from the Finance system, works orders from the Open Housing system, the approval of invoices and payment vouchers using the Finance system. The addition of works orders and payment vouchers to the Procurement Scheme of Delegation clarifies that all of these routes are subject to the same approval thresholds.
Sourcing Processes (Table 2)			
Amendment 6	Approved Lists	Remove commentary with regard to Approved Lists.	The inclusion of a reference to Approved Lists has caused confusion. Approved Lists are established using the appropriate sourcing process according to the estimated value of expenditure.
Amendment 7	Sourcing Processes	Removal of the Informal Quotation process. Increase the quotation threshold to £25k from £10k for all goods,	The previous use of two types of quotation processes and the different value thresholds for Services/Goods and Works has caused some confusion, the

Amendment no.	Section	Change	Reason
		<p>services and works. Increase the tender thresholds to £150k for goods and services so this is in line with works.</p> <p>Removal of the actual values for the application of the UK Public Contract Regulations, addition of reference to the Commissioning and Procurement Manual.</p>	<p>removal of the informal quotation process and application of the same value thresholds for all categories will improve clarity. The value thresholds for the application of the UK Public Contract Regulations are published in Euros and are realigned every 2 years in Sterling, removal of the actual values enables the change in value to be accommodated without an amendment to the Contract Standing Orders.</p>
Amendment 8	Section 6.3	Removal of the paragraph on Standing Lists.	This section describes the operation of Approved Lists (also known as Standing Lists) and does not contribute to providing guidance on which sourcing process to use.
Amendment 9	Exemptions – Table 3	<p>Rename Exemption Additional Works or Services to Additional Requirements.</p> <p>Exemptions - Urgency A, Additional Requirements and Best Value - Removal of the actual values for the application of the UK Public Contract Regulations, addition of reference to the</p>	<p>Improves clarity as additional goods may also be required.</p> <p>The value thresholds for the application of the UK Public Contract Regulations are published in Euros and are realigned every 2 years in Sterling, removal of the actual values enables the change in value to be accommodated without an amendment to the Contract</p>

Amendment no.	Section	Change	Reason
		<p>Commissioning and Procurement Manual.</p> <p>Exemptions - Additional Requirements and Best Value, minor changes to wording.</p> <p>Increase the threshold to which the best value exemption can be applied to £150k.</p>	<p>Standing Orders.</p> <p>Improves clarity.</p> <p>The best value exemption is aligned to the Council's tender thresholds which is increased to £150k for goods, services and works.</p>
Amendment 10	Throughout the Contracts Standing Orders	Replacement of should, must or may with shall.	Improves clarity with regard to the need to ensure compliance with Contract Standing Orders and provides consistency.
Amendment 11	Section 1.2	Minor rewording of text.	Improves clarity.
Amendment 12	Section 5	<p>Rewording of text and remove reference to EU. Equality has been removed as the responsibilities the Council has are provided for in the Equality Act 2010.</p> <p>The principle of sustainability has been given its own section.</p>	<p>Improves clarity around principles that shall be applied to all of the Council's commissioning and procurement. Responsibilities derived from Legislation are additional to these general principles.</p> <p>Highlights the principle of sustainability.</p>
Amendment 13	Section 8	Addition of wording to 8.2 with regard to extending a contract.	Provides additional clarity with regard to when a contract can be extended.

Section Two – Proposed Amendments

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1. Introduction

1.1 These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972 and the purpose is to provide a framework within which commissioning and purchasing decisions are undertaken to enable the Council to:

- furthers its priorities
- use its resources efficiently
- commission quality goods, services and works
- operate in a fair, open and transparent manner
- safeguard its reputation from the implication of dishonesty or corruption.

1.2 **Amendment 11** These Contract Standing Orders provide the minimum standards and requirements that ~~should~~ shall be met on all occasions when the Council enters into an agreement for the supply of goods, services or the execution of works. ~~Further guidance that should shall be applied to all of the Council's commissioning and procurement is provided in the Council's Commissioning and Procurement Manual.~~ Further guidance that shall also be applied is provided in the Council's Commissioning and Procurement Manual.

1.3 These Contract Standing Orders apply to all contracts, leases, concessions and agreements entered into by or on behalf of the Council; except where:

- The goods, services or works are provided by a wholly owned subsidiary of the Council or where the Council controls the subsidiary in a similar way to which control is exercised over their own departments, more than 80% of the subsidiary's activities are undertaken for the Council and there is no direct private capital participation in the subsidiary.

- The Council collaborates with other Public Authorities to deliver a public service with a view to achieving objectives that they have in common and the collaboration is implemented in a manner governed solely by considerations relating to the public interest.
- The Council has established a Mutual Organisation delivering a service contract in relation to education, healthcare and housing, health and social work services, or library and other cultural services. A contract may be awarded for no more than 3 years.
- Circumstances where purchases are made or services rendered as a consequence of a contract made by another Local Authority, Government Department, Government Body or Agent, the benefits of which the Council obtains as a result of participation in a consortium.
- Goods are purchased by public auction.
- The lending or borrowing of money.
- The appointment of any Officer directly employed by the Council.
- The sale or purchase of any land or buildings.
- The provision of services by Legal Counsel.
- Agreements setting out the conditions which the Council will provide funding to particular voluntary sector bodies.
- The goods or services are supplied at a fixed price or the prices are wholly controlled by trade organisations or Government order and no satisfactory alternative is available.

2. Delegated Authority

2.1 All commissioning and procurement activity by the Council ~~should~~ shall be undertaken in compliance with the Council's Procurement Scheme of Delegation which is provided in Table 1.

Table 1 – Standard Procurement Scheme of Delegation

<p>£ Value excl. VAT Amendment 5a</p>	<p>Approve the Selection of Suppliers to Invite to Tender</p>	<p>Approve the award of business</p>	<p>Signing of contracts</p>	<p>Approval of Purchase orders and invoices Amendment 5b Approval of purchase or works orders, payment vouchers or invoices</p>	<p>Approval of certification of completion for services and works Amendment 1</p>	<p>Approval of contract extensions</p>	<p>Approval of exemption from undertaking competitive sourcing</p>
<p>Up to £10k £25k</p>	<p>Not Applicable</p>	<p>Approved Officer</p>	<p>Approved Officer</p>	<p>Approved Officer</p>	<p>Approved Officer</p>	<p>Approved Officer</p>	<p>Corporate Manager</p>
<p>£10k £25k to £75k</p>	<p>Not Applicable</p>	<p>Corporate Manager</p>	<p>Corporate Manager</p>	<p>Corporate Manager</p>	<p>Approved Officer</p>	<p>Corporate Manager</p>	<p>Corporate Manager</p>

£150k							
£75k to £150k to £250k	Corporate Manager	Head of Service Amendment 2 Assistant Director	Assistant Director	Head of Service Assistant Director	Corporate Manager	Head of Service Assistant Director	Head of Service Assistant Director
Over £250k	Corporate Manager	Amendment 3 Director and for strategic requirements also the Executive Committee for Mid Suffolk and Strategy Committee for Babergh.	Council's Monitoring Officer	Director	Corporate Manager	Director	Director
All values	Amendment 4 For the Best Value Exemption for to undertake a competitive sourcing process approval for all values is required by: Head of Legal and Governance and the Corporate Manager Commissioning & Procurement.						

Amendment 5

Notes

(1) Corporate Manager or Professional Lead or the role which succeeds these roles.

(2) Assistant Director or the role which succeeds this role.

2.2 Delegation of Authority to Approved Officers

Corporate Managers have responsibility to delegate authority to Approved Officers and ~~should~~ shall ensure that they have the appropriate levels of capability and understanding to undertake the role.

2.3 Recording of Delegations

Effective records of delegations ~~should~~ shall be maintained in the Council's Authorised Signatory List which the Council's Section 151 Officer or his/her nominee has responsibility for the compilation of. Corporate Managers **Amendment 10** (or the role which succeeds this role) have responsibility to ensure that details of Approved Officers are maintained in the Authorised Signatory List.

2.4 Approval of the Award of Business of Strategic Contracts

For the purpose of approval strategic contracts are defined as:

- Over £250k in value **and**
- The goods, services or works have a significant impact upon the delivery of the Council's services and are not replacements for an existing operation.

Following the completion of the evaluation phase of procurement for a Strategic Contract approval of the award of business ~~must~~ shall be obtained from the Executive Committee or/and Strategy Committees. This approval can be delegated from the relevant Committee(s) to an Officer with the appropriate level of responsibility; however the delegation ~~must~~ shall be in place before the procurement process commences.

2.5 Variation from the Procurement Scheme of Delegation

Where requirements for high value contracts and purchase orders occur on a regular basis the Section 151 Officer may approve a variation from the Standard Procurement Scheme of Delegation for requirements up to £250k. Any such variations ~~should~~ shall be recorded in the Council's Authorised Signatory List.

3. Personal Interests

3.1 Employees of the Council and Members of the Council ~~should~~ shall give notice in writing to the Council of any pecuniary interest, direct or indirect, which he/she has in a contract entered into (or to be entered into) by the Council.

3.2 Such notification ~~should~~ shall be given to the Council's Monitoring Officer.

4. Management of Records

4.1 Proper records of all communications, reports, minutes, meetings, quotes, tenders, contract and other relevant documents ~~should~~ shall be retained securely so as to protect the integrity of the process and managed in accordance with the Council's policy on The Management and Retention of Records.

4.2 A record of all Contracts ~~should~~ shall be entered into the Council's Contract Register.

5. Principles

Amendment 12

5.1 ~~The Councils are required to comply with the Fundamental Treaty Principles of the EU which should be applied to all of the Councils' commissioning and procurement, the principles are:~~

- ~~• Non-discrimination on the basis of nationality~~
- ~~• Transparency~~
- ~~• Equality and fairness~~

5.2 ~~All of the Councils' commissioning and procurement should be undertaken in an open and fair manner which provides the same information to all suppliers and an equal opportunity to all potential suppliers.~~

~~5.3 The Councils should ensure that comparable situations are not treated differently and that different situations are not treated similarly.~~

~~5.4 The process of the Councils' commissioning and procurement and the impact of the outputs and outcomes achieved should not impact adversely upon any communities or groups within a community.~~

~~5.5 The Councils' commissioning and procurement should be undertaken with regard to the principle of proportionately. This requires that requirements placed upon suppliers should be appropriate for attaining the objective pursued and should not go beyond what is required to achieve the objectives of the procurement.~~

~~5.6 The selection of offers for goods, services or the execution of works from suppliers should be based upon achieving value for money for the Council, utilising sustainable and ethical sources of supply with minimal impact upon the environment.~~

~~5.7 Subject to the test of fairness and equality for potential suppliers the requirement to support specific regional economic and social development opportunities may be included.~~

5.1 The following principles shall be applied to all the Council's commissioning and procurement.

5.2 Fairness and Transparency

All of the Council's commissioning and procurement ~~should~~ shall be undertaken in an open and fair manner which provides the same information to all suppliers and an equal opportunity to all potential suppliers. The Council ~~should~~ shall ensure that comparable situations are not treated differently and that different situations are not treated similarly.

5.3 The Principle of Proportionately

The Council's commissioning and procurement ~~should~~ shall be undertaken with regard to the principle of proportionately. ~~This requires that~~ Requirements placed upon suppliers should be appropriate for attaining the objective pursued and ~~should~~ shall not go beyond what is required to achieve the objectives of the procurement.

5.4 Value for Money

The selection of offers for goods, services or the execution of works from suppliers ~~should~~ shall be based upon achieving value for money for the Council.

5.5 Sustainability

The selection of offers for goods, services or the execution of works from suppliers ~~should~~ shall ensure that sustainable and ethical sources of supply with minimal impact upon the environment are used.

5.6 Economic and Social Development

Subject to the test of fairness and equality for potential suppliers the requirement to support specific regional economic and social development opportunities may be included.

6. Sourcing Processes

6.1 The sourcing process that ~~should~~ shall be used will depend upon the type and estimated value of the requirement (excluding VAT), refer to Table 2.

6.2 Requirements ~~should~~ shall not be broken down into smaller portions (lots) for the purpose of avoiding the application of the procurement thresholds.

Table 2 – Sourcing Processes

Value of Expenditure	Where an Approved List of Suppliers is Not Used Sourcing Process	Amendment 6 Where an Approved List of Suppliers is Used (see Section 7)
Less than £1k – All Categories	Verbal or email confirmation from supplier, pricing obtained from suppliers' catalogue.	Councils' Standing List as required by the procedures of the relevant Standing List. Framework Agreement as required by the procedures of the relevant Framework Agreement.
Amendment 7 £1k to £10k – All Categories	At least one Informal Quote.	
£10k to £30k – All Categories	At least three Informal Quotes.	
Goods and Services – £30k to £75k	At least three Formal Quotes.	
Goods and Services £75k to £172k	Tender advertised nationally.	
Light Touch Services £75k to £625k	Tender advertised nationally.	
Light Touch Services over £625k	Tender advertised in EU, the formal EU Procurement Regime does not have to be applied, however the EU Treaty principles should be applied and the Contract Award should be published in OJEU.	
Works £30k to £150k	At least three Formal Quotes.	

Works £150k to £4.3m	Tender advertised nationally.
Works over £4.3m	Tender advertised in EU and undertaken using the formal EU Procurement Regime.
£1k to £25k – All Categories	A written quote from the supplier shall be obtained.
£25k to £150k – All Categories	At least three quotes shall be invited using the Formal Quotation Process.
Over £150k – All Categories	<p>A Tender shall be undertaken and advertised nationally and also in the EU where the value threshold for the UK Public Contract Regulations is passed for the relevant category:</p> <ul style="list-style-type: none"> • Goods and Services • Light Touch Services (see Note 1) • Works <p>Definitions of the categories and the current UK Public Contract Regulations Value Thresholds are available in the Commissioning and Procurement Manual.</p>

Notes

(1) Light Touch Services are health, social and related services, administrative social, educational and cultural services, compulsory social services, benefit services, community social and personal services, religious services, catering services for private households, prison services, postal services, investigation and security services.

Amendment 8. ~~6.3~~ A Standing List of suppliers may be compiled where the business requirements of the Council require access to a number of suitably qualified suppliers for a specific category, value or quantity of goods, services or the execution of works. Invitations to quote for these categories will be limited to those suppliers whose names are included on the list compiled and maintained for that purpose. All suppliers included on a standing list should be given equal opportunities to respond to invitations to quote.

7. Exemptions to Undertaking a Competitive Sourcing Process

Exemptions to the requirement to undertake a competitive sourcing process should shall be approved in accordance with the Council's Procurement Scheme of Delegation and can only be undertaken in the circumstances listed in Table 3.

Table 3- Exemptions to Undertaking a Competitive Sourcing Process

Amendment 9

Type of Exemption	Criteria	£ Value for which this Exemption can be Applied
Sole Provider	Where for technical or artistic reasons connected with the protection of exclusive rights only a single supplier can meet the requirements.	Unlimited
Urgency A	Emergency action is required which acting diligently the Council could not have foreseen and if not taken would provide an unacceptable impact upon on the delivery of the Council's services.	Goods and Services up to £172k Works up to £4.3m Up to the value of the UK Public Contract Regulations value thresholds.

Urgency B	In cases of extreme urgency, where the health and safety of the public is at stake and the likelihood of harm during the period of delay is considerable, for reasons unforeseeable by and not attributable to the Council.	Unlimited
Additional Works or Services Additional Requirements	<p>Where the Council requires a contractor to provide additional goods or carry out additional works or services beyond 50% of the original contract value (including any extension included in the original terms of the contract); which the Council acting diligently could not have foreseen and undertaking a further competitive sourcing process is unlikely to deliver value for money and will impede upon the delivery of the Council's services. an exemption may be used.</p> <p>The extension cannot include a variation in the scope of the contract.</p>	<p>The contract can be extended to its original value once again and the total expenditure (including the value of the original contract) cannot be above:</p> <ul style="list-style-type: none"> • £172k for goods and services • £625k for Light Touch Services • Works up to £4.3m <p>The contract can be extended by its original value once again. However the total value of the contract must not exceed the UK Public Contract Regulations value threshold for the relevant category.</p>

<p>Best Value</p>	<p>Where there is sufficient evidence that only one supplier is able to undertake the work within the required timescale and undertaking a competitive sourcing process would be unlikely to deliver value for money and will impede upon the delivery of the Councils' services, an exemption may be used.</p> <p>This exemption cannot be applied where insufficient time has been allowed to undertake the relevant procurement process.</p> <p>Where there is sufficient evidence that only one supplier is able to provide the goods or undertake the services or works within the required timescale and undertaking a competitive sourcing process would be unlikely to deliver value for money and will impede upon the delivery of the Council's services.</p>	<p>£75k for Goods and all types of Services</p> <p>£150k for Works</p> <p>£150k</p>
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Notes

(1) The UK Public Contract Regulations value thresholds are available from the Commissioning and Procurement Manual.

8. Extension of Contracts

8.1 The term of existing contracts ~~may~~ shall only be extended if satisfactory performance has been provided from the contracted supplier and there is adequate budgetary provision.

8.2 **Amendment 13** Contracts ~~may~~ shall only be extended for any period that was provided for in the original terms of the contract *(add) unless 8.3 applies.*

8.3 Where the Council requires a contractor to provide additional goods or carry out additional works or services due to circumstances which acting diligently the Council could not have foreseen an extension of up to 50% of the original value of the contract (which includes any extension periods provided for in the terms of the original contract) can be undertaken.

8.4 Contracts ~~may~~ shall not be varied with regard to the scope and the type of goods, services or works that they deliver unless, the variation has already been provided for in the original contract terms or the changes are not substantial and do not alter the nature of the Contract.

9. Purchase and Works Orders

With the exception of the requirements included on the Council's Purchase Order Exemption List an official Purchase or Works Order ~~should~~ shall be used to undertake all financial commitments on behalf of the Council.