

Report of the Interim City Solicitor to the meeting of the Governance and Audit Committee to be held on 15 April 2016

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Subject:

Amendments to the Constitution

Summary statement:

This report provides members with details of the annual review of the Financial Regulations and Contracts Standing Orders Sections of the Council's Constitution and makes recommendations for their amendment.

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**Leader
Overview & Scrutiny Area:**

Corporate



1. Summary

- 1.1 This report provides members with details of the annual review of the Financial Regulations and Contracts Standing Orders Sections of the Council's Constitution and makes recommendations for their amendment.

2. Background

- 2.1. During the municipal year 2015/16, Finance Officers have undertaken their annual review of Financial Regulations to ensure they properly reflect appropriate governance procedures for the Council. This report sets out the proposals for amendments to deliver those changes and improvements. The Committee is asked to consider the proposed amendments to the Constitution for recommendation to Council for formal approval on the 17 May 2016 and seeks delegated authority to the City Solicitor to implement the proposed amendments.

3. Amendments to the Financial Sections of the Constitution

- 3.1 There are only minor changes to Financial Regulations. These have been annotated on Appendix 1, which highlights the changes to financial regulations.
- 3.2 Contract Standing Orders were substantially re-written in 2015 following the publication of new public contract regulations in February 2015. Twelve months on, a relatively small number of amendments are proposed to improve clarity on the policy and procedures for both procurement and contracting. Consultation with key stakeholders is still on-going.

Below is a list of the main changes that are proposed:

- The glossary of main terms will be updated to reflect new terminology
- Dynamic Purchasing Systems are added to the list of procurement options
- Further clarity on how to apply exceptions to using in-house services for contracts with a value over £100,000.
- Mandating use of Council's electronic procurement portal, Yortender, for contracts with a value greater than £5,000 where a quote or tender is required.
- Mandating use of procurement risk assessment form for all contracts over £100,000. The form also acts as a checklist of key pre-contracting requirements.
- Links to bradnet included and more references to requirements to publish contract details.

- Information on novation of contracts
- Simplification of advice on contract award process
- Addition of “easy to use” table to assist officers identify available procurement options based on contract value.

The aim is to improve overall control of procurement so that the law is followed, value for money obtained and exceptions are properly authorised. The effect of these on contract standing orders is shown as tracked changes in Appendix 2.

4. Financial and Resource Appraisal

- 4.1 The resources required to amend the Constitution can be met from existing provision.

5. Legal Appraisal

- 5.1 Article 17 of the Constitution requires the Monitoring Officer to take steps to make himself/herself aware of the strengths and weaknesses of the Constitution and make recommendations for improvement.
- 5.2 The review and development of the Constitution is undertaken in compliance with the provisions of the Local Government Act 2000, regulations and guidance made and issued under the Act.

6. Other implications

- 6.1 There are no equal rights, sustainability, community safety, Human Rights Act or trade union implications of this report.

7. Not for publication documents

- 7.1 None

8. Recommendations

- 8.1 That the Governance and Audit Committee consider the proposed amendments to the Constitution listed in Appendices 1 and 2 attached to this report and consider which, if any, should be recommended to Council for adoption and implementation.
- 8.2 That the Interim City Solicitor reports any recommendations to Council and ensures the agreed amendments are implemented.
- 8.3 That the Interim City Solicitor be granted delegated authority to make consequential amendments to the Constitution as a result of the recommendations approved by Full Council.

12. Appendices

Appendix 1 - Draft amendments to Financial Regulations.

Appendix 2 - Draft amendments to Contract Standing Orders.

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PART 3F Financial Regulations

GENERAL

1 Application

- 1.1 These Financial Regulations are made in accordance with the provisions of section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations 2003 and subsequent amendments to provide for the proper administration of the Council's financial affairs. The Director of Finance has overall responsibility for this administration. More detailed guidance is contained in Financial Advice Notes and other procedures issued by the Director of Finance.
- 1.2 In these Financial Regulations "Appropriate Officer" means the Chief Executive, Strategic Directors, Directors, City Solicitor or any other officer designated by resolution of the Executive.
- 1.3 In these Financial Regulations "Appropriate Member" for the purposes of paragraph 16.4.2 means the portfolio holder for the service area required to comply with the Financial Regulations and the Ward members where the proposed expenditure has implications for a specific Ward.
- 1.4 These Regulations state the principles of financial control and administration, which must be followed by all officers of the Council. Failure to comply with these Financial Regulations may result in disciplinary action against the officer(s) concerned. Appropriate Officers must certify annually their compliance with internal controls.
- 1.5 In applying these Financial Regulations, all officers shall have regard to the duty of Best Value under the Local Government Act 1999.
- 1.6 The Governance and Audit Committee may alter these Financial Regulations on the recommendation of the Director of Finance.
- 1.7 The Director of Finance may allow specific exceptions to these Financial Regulations where in his/her opinion it is in the Council's interest. The Director of Finance must keep a record of these exceptions and report these to the Governance and Audit Committee on an annual basis.
- 1.8 The Director of Finance can alter the financial limits in these regulations because of changes in the value of money. S/he must report any alterations to the next meeting of the Governance and Audit Committee.
- 1.9 All amounts quoted in these Financial Regulations refer to values excluding Value Added Tax.
- 1.10 In applying these Financial Regulations, all officers shall comply with the Budget and Policy Framework Procedure Rules set out in Part 3C of the

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Constitution and implement the specific further requirements and best practice advice provided by the Director of Finance.

FINANCIAL CONTROLS AND PROCEDURES

2 Accounting Control

- 2.1 The Director of Finance is responsible for approving and controlling the Council-wide accounting and financial systems. Appropriate Officers must comply with these accounting and financial systems.

3 Audit Arrangements

- 3.1 The Director of Finance must monitor, review and report on:
- 3.1.1 The soundness and adequacy of financial management control systems and how they are implemented.
 - 3.1.2 How far established policies, plans and procedures are complied with and the financial effect.
 - 3.1.3 How far assets, resources and interests are accounted for and safeguarded from losses due to fraudulent offences, waste, extravagance and inefficiency.
- 3.2 S/he can visit all premises to see cash, stores and other property. S/he has access to any documents and all other data sources s/he thinks necessary. S/he can ask any officer for any information and explanations s/he thinks necessary and may produce a report. The officer concerned then has two months to respond to the report detailing the intended action to be taken on the report's recommendations. The Appropriate Officers are responsible for appropriate procedures being in place to ensure that the intended action has been implemented. The Director of Finance must take to the Governance and Audit Committee the Annual Internal Audit Plan, the Annual Internal Audit Report and any other report relevant to Internal Audit. The Director of Finance must inform the Governance and Audit Committee every year about any replies to reports which are still outstanding.
- 3.3 If any officer suspects or knows of any losses or irregularities concerning cash, property, stores or other financial matters s/he must inform the Corporate Fraud Unit at once and discuss action to take. The Director of Finance must report serious losses and irregularities to the Governance and Audit Committee.

4 Statement of Accounts

4.1 Each year the Director of Finance must produce to the Executive an outturn report for the previous financial year showing income and expenditure on both capital and revenue account compared against estimates.

4.2 Each year the Director of Finance must produce the Council's Statement of Accounts (which shall include the Annual Governance Statement) and submit them to the Governance and Audit Committee.

5 Payments to Staff

5.1 Appropriate Officers are responsible for arrangements for paying employees in accordance with rules issued and systems established by the Director of Finance.

5.2 The Appropriate Officer is responsible for the accuracy of all information passed to the Director of Finance that is used for making payments to staff and the Director of Finance is responsible for the accuracy of payments made in accordance with information received.

5.3 Appropriate Officers or their nominees should maintain an up to date signatory list of all officers approved by them to manually authorise all payroll and related documents.

5.4 Appropriate Officers or their nominees should authorise staff who can have Chief Position status on MSS. Only staff with Chief Position status can authorise electronic payroll and related documents including starters and leavers for their staff.

6 Banking Arrangements

6.1 The Director of Finance controls the Council's bank and giro accounts and is responsible for all procedures.

6.2 All cheques, giros, promissory notes and any other financial instruments and other orders for payment can be signed only by the Director of Finance or other officers authorised by her/him.

7 Borrowing and Credit Arrangements

7.1 The Chief Executive and Director of Finance exclusively can negotiate loans to the Council.

7.2 Appropriate Officers must consult the Director of Finance before entering into any property lease, finance lease or other contract for the use of an asset which may be deemed a credit arrangement and controlled under Sections 7 and 8 of the Local Government Act 2003.

8 Investments

- 8.1 The Chief Executive and Director of Finance exclusively can make investments. S/he must put them under the name of the Council and/or the appropriate Trust Fund. Investments can include loans made, to for profit and not for profit organisations providing the purpose of the loan is consistent with the Council's priorities.

9 Treasury Management

- 9.1 The Treasury Management function shall be carried out by the Director of Finance in accordance with the Code of Practice on Treasury Management in the Public Service produced by CIPFA and in accordance with the Treasury Policy Statement and Treasury Management Practices/Schedules approved by the Governance and Audit Committee.
- 9.2 All Council money (excluding cash controlled by schools under delegated budgets) shall be under the control of the Director of Finance.
- 9.3 All operational decisions on borrowing, investment or financing (except for schools under delegated budgets) shall be made by the Director of Finance or officers nominated under the Scheme of Delegation contained in the Treasury Management Practices/Schedules.
- 9.4 Each year the Director of Finance shall present to Governance and Audit Committee the following reports on Treasury:
- 9.4.1 A Treasury Strategy for Borrowing and Annual Investment Strategy which subsequently will also be presented to Council.
- 9.4.2 An Annual Investment Report on Treasury for the preceding year

10 Value Added Tax

- 10.1 Appropriate Officers must fully consider and take into account the VAT implications of all policy decisions.
- 10.2 Where a capital project is proposed which involves expenditure in any of the VAT exempt activity areas Appropriate Officers must:
- 10.2.1 Ensure that the VAT implications are taken into account during the planning stage.
- 10.2.2 Liaise with the Director of Finance on any capital proposals which may have exempt implications; and
- 10.2.3 Ensure that any report to members states that the VAT exempt implications have been considered within the financial implications section of the report.

10.3 Any proposal to change the method by which a service is provided should be notified to the Director of Finance.

11 Partnerships, Joint Ventures and Companies in which the Council is a Guarantor or has a Share Holding Interest

11.1 Where it is proposed that the Council be involved in a partnership arrangement or a joint venture or where the Council is to be a guarantor of a company limited by guarantee or a shareholder of a company, the Appropriate Officer shall first consult with the Director of Finance and City Solicitor on the proposals, and shall agree arrangements to provide for the effective monitoring in each case of the arrangement, Joint Venture or company operation.

11.2 This Regulation does not apply to investments under Regulation 9 or pension fund investments under Regulation 34.

PROCUREMENT OF GOODS, WORKS AND SERVICES

12 Contract Standing Orders

12.1 Any officer of the Council who is either responsible for, or undertakes, procurement of goods, works and services on behalf of the Council, or behalf of any other body for whom the Council acts, must follow the procurement regulations set out in the Council's Contract Standing Orders.

EXPENDITURE REQUIREMENTS

13 Expenditure Limits

13.1 Appropriate Officers may spend up to the total budgeted resources for their services in the most efficient and cost effective manner and deploy those resources flexibly in order to meet the objectives and policies for those services as approved in the Council's budget and policy framework, provided that:

13.1.1 Budget for capital charges and/or statutory charges may not be vired for other purposes.

13.1.2 Portfolio holders are consulted before the Appropriate Officer transfers resources under their delegated control but between Portfolio Holders' remits.

13.1.3 Requests for virement of revenue over £100,000 from the control of one Appropriate Officer to another are to be approved by Council unless agreed by all three leaders of the three largest political groups represented on the Council.

- 13.2 Where a request for virement of revenue over £100,000 is approved in accordance with Standing Order 13.1.3 above the officer seeking approval will notify all elected members of Council of that approval within 5 working days.
- 13.3 The Director of Finance will report all approvals given under Standing Order 13.1.3 to the Executive, as part of the Quarterly Financial Report.
- 13.4 Appropriate Officers are responsible for all expenditure incurred.
- 13.5 Appropriate Officers may make variations within their total budget but where any such variations will have a financial impact on another Council department they must consult with the department concerned.
- 13.6 Appropriate Officers shall not incur expenditure beyond the total budgeted provision, nor make commitments or variations in staffing levels which would lead to increases in expenditure in future years beyond approved limits. Appropriate Officers must inform the Director of Finance immediately if it appears to them that the total expenditure incurred by their services (including expenditure they propose to incur) is likely to exceed the approved budget.

14 Better Use of Budget

- 14.1 In order for Appropriate Officers to manage their budgets more effectively, they may:
 - 14.1.1 Underspend their allocation and carry the balance forward to the following year, or,
 - 14.1.2 Overspend their allocation and deduct the amount overspent from the following year's budget, provided that by carrying a balance forward this would not create an overspending in the following year.
- 14.2 Any action taken under paragraph 14.1.1 or 14.1.2 above must be agreed with the Director of Finance.

15 Procure to Pay and Miscellaneous Payments

- 15.1 Appropriate Officers, or their nominees, are responsible for authorising purchases or miscellaneous payments, and should ensure that either of these is necessary and that there is a budget on the correct financial code to cover such expenditure, before giving approval.
- 15.2 Appropriate Officers should ensure that staff and managers responsible for purchasing goods, services and works are properly trained to follow the procure to pay process and to use SAP Procure to Pay.
- 15.3 Officers who have been delegated responsibility for buying goods, services or works as part of their duties, are responsible for following the procure to pay

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process properly. This includes ensuring that the Council's requirements are clearly articulated to the supplier or contractor (on the purchase order), that expenditure is correctly coded and that contracted suppliers are used where possible.

- 15.4 Appropriate Officers should review and document the access that is given to staff and managers to the SAP Procure to Pay system at least on an annual basis to ensure it is up to date.

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CAPITAL EXPENDITURE

16 Expenditure Arrangements

- 16.1 Appropriate Officers shall ensure that the potential effects of capital expenditure on the Council's VAT position are properly considered in accordance with Regulation 10.

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- 16.2 All Capital Investment proposals must be supported by a business case approved by both the Project Appraisal Group and the Portfolio Holder. These proposals must be evaluated in terms of value for money risk, deliverability and fit within the overall Capital Programme. Only proposals with approved business cases can be included in the Capital Plan.

- 16.3 Appropriate Officers shall ensure that every scheme involving capital expenditure is approved for inclusion in the Capital Investment Plan before any commitment is made, and in this respect:

16.3.1 Schemes to be financed from an approved revenue budget or to be fully financed from capital grant may be approved by the Director of Finance, and

16.3.2 All schemes other than those approved by the Director of Finance in accordance with 16.3.1 must be agreed by the Project Appraisal Group before submission to the Executive for approval.

- 16.4 Appropriate Officers shall ensure that:

16.4.1 The scheme is designed and specified within the approved costs in the Capital Investment Plan (which will be shown at outturn prices) in consultation with the Director Finance where appropriate.

16.4.2 Appropriate Members are consulted on plans and detailed estimates for schemes over £75,000.

16.4.3 Where appropriate, Government or any other source of external funding approvals have been received.

16.4.4 The tender to be accepted does not exceed the technical officer's estimate of the tender price (as reflected in the Capital Investment Plan) by more than:

16.4.4.1 10% or £100,000, whichever is the lesser, for schemes costing over £75,000.

16.4.4.2 15% or £7,500, whichever is the lesser for schemes costing £75,000 and below.

16.5 Appropriate Officers shall ensure compliance with all current policies on capital expenditure including the requirement to refer schemes (excluding schemes that are entirely funded by external grants) to the Executive immediately prior to entering into any completely new commitments. In addition Appropriate Officers shall be responsible for keeping both the appropriate Executive member with portfolio and the Director of Finance advised of schemes; and shall ensure that the resultant revenue consequences of a capital scheme can be financed within their approved revenue budget.

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17 Monitoring the Capital Investment Plan

17.1 Each Appropriate Officer must ensure that annual spending on capital schemes does not exceed the approved cost.

17.2 Once a scheme has started an Appropriate Officer must report to the Executive at the point at which it becomes apparent that the cost of a capital scheme will exceed the approved figure in the Capital Investment Plan by more than the amounts referred to in 16.4.4.

17.3 Additional works to an approved scheme beyond the original scheme proposals exceeding the approved figure in the Capital Investment Plan may only be authorised by the Executive.

17.4 Where the approved cost of schemes is reliant on funding from specific resources such as supplementary credit approvals and grants, Appropriate Officers must secure the funding before entering into commitments.

17.5 Capital expenditure and funding form part of the financial monitoring reports prepared for the Executive which must include the benefits of investment. Each Appropriate Officer will monitor capital spending and resources and provide information in accordance with the timetable and guidelines issued by the Director of Finance.

INCOME REQUIREMENTS

18 Income Arrangements

18.1 When the authority provides goods or discretionary services to bodies or individuals external to the Council, Appropriate Officers must ensure

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- 18.1.1 A sound business case is established
 - 18.1.2 The Council has legal authority to carry out the service
 - 18.1.3 All relevant financial, employment and legal aspects have been properly considered and
 - 18.1.4 The Council is not exposed to unreasonable or disproportionate financial or other risk
- 18.2 Appropriate Officers are responsible for arrangements for the collection, receipt, recording, banking and safe-keeping of all Council income in accordance with rules issued by the Director of Finance.
 - 18.3 Appropriate Officers are responsible for all arrangements for credit facilities and accounting for doubtful debts in accordance with rules issued by the Director of Finance. The Council's Accounts Receivable System must be used for the recording and collection of credit income due and the recovery of all outstanding debt unless other arrangements have been agreed with the Director of Finance. Arrangements whereby customers self-bill should not be entered into.
 - 18.4 All contracts where the Council agrees to provide a service for a fee must be in writing and state the services to be provided, the price to be paid, the payment agreement and the time within which the contract is to be performed.
 - 18.5 Credit notes must only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt and once it is confirmed that the debt is not payable. Credit notes must be approved by the relevant Appropriate Officer or their nominated Senior Officers before they are raised.
 - 18.6 The Director of Finance must approve the writing-off of debts and other losses except where s/he has specified the level of small value debts below £100 for which Appropriate Officers can give approval. S/he may also nominate senior officers within his/her department to approve write-offs.

19 Prevention of Money Laundering

- 19.1 In accordance with the Money Laundering Regulations 2007, the Council will not accept cash payments in excess of €15,000. For practical purposes, this limit is set at £9,000 subject to Financial Regulation 1.8.
- 19.2 All officers must adhere to guidance issued by the Director of Finance on compliance with Money Laundering Regulations

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20 Review of Fees, Charges and Concessions

- 20.1 The introduction of any fee, charge or concession, or removal of any subsidy must be approved by the Executive unless it is required by legislation or is in accordance with approved policy or strategy.
- 20.2 The Appropriate Officer must review fees charges and concessions annually; including circumstances where there is a legal power to charge but no charge is currently applied.
- 20.3 The annual review must have regard to relevant policies and strategies, cost of service and budget implications and inflation. In particular where there is a requirement for a service to break even or to generate a surplus, the review must have regard to this requirement.
- 20.4 Appropriate Officers may vary fees charges and concessions in line with inflation forecasts stated by the Director of Finance.
- 20.5 Proposed variations to fees, charges and concessions other than in line with inflation forecasts must be referred to the Executive, except that minor variations may be made by the Appropriate Officer after consultation with the appropriate Executive portfolio holder subject to any budgetary consequences being managed within existing service revenue budgets.

21 Grant Applications and Claims

- 21.1 Appropriate Officers are responsible for arrangements for the submission of grant applications to outside agencies, the certification of claims and the proper management of monies received in accordance with the Corporate Standard 3.
- 21.2 The Director of Finance must be informed of all grant applications in excess of £100,000 at the time of application; and the result of all such grant applications as soon as this is known.

MANAGEMENT OF ASSETS

22 Asset Register

- 22.1 The Strategic Director Regeneration and Culture will keep the asset register of the Council and will issue procedures for its maintenance and valuation.
- 22.2 Appropriate Officers must ensure that all assets which are used by or are the responsibility of their services are recorded in accordance with rules laid down by the Director of Finance and Strategic Director Regeneration and Culture. Appropriate Officers must supply such information to the Director of Finance and Strategic Director Regeneration and Culture as may be required by her/him from time to time.

23 Keeping Inventories and Stock Control

- 23.1 Appropriate Officers must keep inventories of equipment, plant and machinery in accordance with rules issued by the Director of Finance. Inventories must be regularly reviewed and all items physically checked at least annually.
- 23.2 Stock held for re-sale must be valued at the lower of cost or net realisable value. Where valuation on this basis would result in a reduction in the overall carrying value of the range of stock held at a particular establishment of more than 10%, the Director of Finance must be consulted as to the appropriateness of the valuation. Any stock losses should be dealt with under Financial Regulation 3.3.

24 Property Marking

- 24.1 Wherever possible, all portable and/or attractive equipment, plant and machinery that belongs to the Council must be visibly and permanently marked to show that it is the property of Bradford Council. In the case of new equipment the Appropriate Officer must first check to ensure that marking will not invalidate the warranty. Leased items will be marked as such where marking is acceptable to the Lessor.

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25 Control of Assets

- 25.1 Appropriate Officers are responsible for the safekeeping and proper use of all Council assets and other resources under their control.

26 Private Property

- 26.1 When an Appropriate Officer has to look after private property s/he must make a complete inventory of the property under her/his custody and make arrangement for its safekeeping.

27 Private Funds

- 27.1 Appropriate Officers must ensure that when an employee because of her/his job has to look after money that does not belong to the Council s/he must keep it separate from the Council's money and make arrangements for its recording and safekeeping.
- 27.2 A private fund can only be set up with the approval of an Appropriate Officer.
- 27.3 Private funds must be audited every year by two independent individuals or one CCAB qualified accountant. Copies of the audited accounts must be sent to the Appropriate Officer.
- 27.4 The Director of Finance can see all records and vouchers for private funds. S/he must be told of any funds which do not comply with all these requirements.

28 Land and Buildings

- 28.1 Appropriate Officers must consult with the Strategic Director Regeneration and Culture before acquiring or disposing of land or buildings by whatever means (purchase, sale, lease, tenancy or licence). The Strategic Director Regeneration and Culture shall ensure compliance with all relevant current legislation, policies and protocols
- 28.2 The Director of Finance shall be consulted on the annual asset disposal plan and will approve all asset disposals before contract exchange.

29 Disposal of Assets

- 29.1 When disposing of any other asset, Appropriate Officers must ensure the Council's Land and Property Disposal Policy and the Community Asset Transfer Policy is followed.

INFORMATION MANAGEMENT

30 Computer and Information Management

- 30.1 Appropriate Officers shall make adequate arrangements for the protection, identification, security, recording and proper use of all:
 - 30.1.1 Computer hardware/software and associated technologies owned by or accessible to the Council.
 - 30.1.2 Council information systems, manual and electronic, including the control of access to premises where information is processed.
- 30.2 Appropriate Officers shall have regard to the provisions of the British Standard Code of Practice for Information Security Management (BS 7799) or any replacement thereof for the time being in force when considering the protection and security of personal, financial, sensitive and confidential information.
- 30.3 All officers must comply with the Council's guidelines relating to the use of computer hardware, software, related technologies, E-mail and the Internet.

INSURANCE ARRANGEMENTS

31 Insurance Cover

- 31.1 The Director of Finance will arrange all insurance cover and keep a record of details.

31.2 Appropriate Officers must immediately tell the Director of Finance about:

31.2.1 New risks to be insured.

31.2.2 Alterations to existing insurance cover required.

31.2.3 Insured Assets which have been disposed of.

31.3 Each year Appropriate Officers must check that insurance cover is adequate.

32 Insurance Claims

32.1 The Appropriate Officer, immediately s/he is aware of any loss, liability or damage which may involve a claim, must notify the Director of Finance who will negotiate and/or arrange settlement in accordance with any insurance arrangements made.

PENSION FUND

33 Pension Arrangements

33.1 The Governance and Audit Committee has legal and strategic responsibility for the West Yorkshire Pension Fund. The WYPF Joint Advisory Group and the WYPF Investment Advisory Panel have been established to support and assist the Governance and Audit Committee. All decisions of the Joint Advisory Group and the Investment Advisory Panel are reported to the Governance and Audit Committee.

33.2 The Director, West Yorkshire Pension Fund will control the management of the pension function in accordance with pension regulations and legislation, the decisions of the Joint Advisory Group, and the decisions of the Governance and Audit Committee.

33.3 The investment of the funds of the West Yorkshire Pension Fund shall be carried out by the Director, West Yorkshire Pension Fund in accordance with investment regulations, the decisions of the Investment Advisory Panel and the decisions of the Governance and Audit Committee. All investments shall be in the name of City of Bradford Metropolitan District Council on behalf of the West Yorkshire Pension Fund.

33.4 The Director of Finance is responsible for the preparation of the year end accounts for the West Yorkshire Pension Fund.

PUBLIC ACCOUNTABILITY REQUIREMENTS

34 Rules for Officers

34.1 An officer of the Council must not, in connection with her/his office of employment, accept any fee or reward whatsoever other than his/her proper remuneration.

34.2 An officer must not receive or give or offer any gift or bribe or personal inducements in connection with the Council's business.

34.3 An officer must not use Council property, assets or materials for other than the purposes of the Council. Permission of the Appropriate Officer must be sought for use of Council property, assets and materials for other purposes and such permission may only be given if it can be shown that such use is in the Council's interests.

34.4 An officer must not subordinate his/her duty to the Council to his/her private interests or put herself/himself in a position where her/his duty and private interests conflict.

34.5 If any officer suspects or knows of any financial loss or irregularity they must inform the Corporate Fraud Unit immediately.

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34.6 An officer must comply with the Employee Code of Conduct.

35 Cashing of Cheques

35.1 The cashing of personal cheques (whether drawn against the Council's bank account or any other) by any officer is prohibited except with the specific approval of the Director of Finance.

City of Bradford MDC

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Document History
Document source
The latest version of this document is available in the J:\Procurement\Procurement Standard Documents\Contract Standing Orders sub-folder within the shared area used by Commissioning & Procurement.
Revision history
Version number ... [1]
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CONTRACTS STANDING ORDERS (CSOs)

2016 / 2017

PART 3G Contracts Standing Orders 2016/17

Definitions

'Aggregation' is the combining together of the total contract value from separate contracts where they meet a single requirement for works, goods or services or where a series of contracts within a twelve month period are for the same type of goods or services.

- 'Authorised Officer' is any officer permitted by a Chief Officer to authorise orders and contracts as per clause 2.4
- 'Best Value for Money' is the optimum combination of whole life costs, quality and benefits, including economic, environmental and social value to meet the customer's requirement
- 'Bradford District' is the geographical area administered by the Council
- 'Chief Officer' is the Chief Executive, Strategic Directors, Director, City Solicitor or any other officer designated by resolution of the Executive.
- 'Contract' means a formal agreement between the Council and any Contractor made by issue of a letter of acceptance or official order for:
 - the supply of works, goods or services including consultants
 - a call-off from a framework agreement
 - an arrangement where no payment is made but there is financial value to the Contractor e.g. a catering concession

It does not include employment and property contracts or grant agreements

- 'Contracts Finder' is a portal for information on contracts over £10,000 with the government and its agencies <https://online.contractsfinder.businesslink.gov.uk/>
- 'Contract Value' is the total monetary value over its full duration, including any extension options (not the annual value)
- 'Contract and Grant Register' a record of all grants and contracts except one-off purchases under £5,000
- 'Contractor' an individual or organisation that contracts with the Council to provide works, goods or services
- 'Controlled Entities' a subsidiary company of the Council where the Council exercises control similar to that over its own departments, the subsidiary carries out at least 80% of its activity for the Council and there is no direct participation of private capital
- 'Corporate Contract' is an agreement procured in consultation and for the benefit of more than one Council department. More details can be found on bradnet <http://intranet.bradford.gov.uk/working-day/corporate-contracts>
- 'Council' means the local authority or City of Bradford Metropolitan District Council

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- 'DPS or Dynamic Purchasing System' is an electronic process for commonly used purchases that are generally available and is open throughout the contract period to any new supplier that meets the selection criteria
- 'Electronic Auction' is a process whereby suppliers who have submitted admissible tenders can revise their original prices or values during the period of the auction
- 'EU Procurement Rules' are the Directions and Regulations implemented by the UK to set out the law on public procurement
- 'EU Thresholds' the financial threshold at which the EU Procurement rules are applicable.
 - As of 1st January 2016 these are: Works (maintenance and construction) €5,186,000 (£4,104,394) and Services and Supplies €207,000 (£164,176).
 - Social, Health and some other services will have a threshold of €750,000 (£589,148) and a new light touch regime has been introduced.
- 'Exception to Competition Log' a record of all contracts awarded without competition as a result of the contract meeting one of the requirements listed in CSO 10.1 now incorporated as separate fields in the Contract and Grant Register.
- 'Framework Agreement' an agreement which allows the Council to call-off from a Contractor to provide services, goods or works at agreed standards and prices. If the Council calls off services, goods or works from the Contractor then a binding contract comes into place.
- 'Grant' for the purposes of these contract standing orders means a formal agreement giving financial assistance to an individual or organisation to assist in meeting its general purpose or objectives but where the specific supply of goods, works or services is not required in return. There may be award criteria, performance targets and conditions on how the money is spent and Officers should monitor these in accordance with the terms of the grant agreement.
- 'Light touch regime' applies to social, health and some other services as listed in Schedule 3 of the Public Contracts Regulations where a higher threshold applies below which the Council has more freedom on the procurement procedures to apply providing they are sufficient to comply with the principles of transparency and equal treatment of suppliers.
- 'Local Supplier' is any supplier that provides works, goods or services from a location within the Bradford District or where a substantial number of any employees working directly on the contract are resident in the Bradford District.
- 'Officer' means employee(s) of the Council
- 'OJEU' is the Official Journal of the European Union which is the publication in which all tenders from the public sector above relevant financial thresholds must be published
- 'Procurement Risk Assessment Form' a form which evaluates the overall risk of the procurement by assessing the likely impact of the procurement in terms of key criteria such as: corporate priorities, equalities, community benefits, information security, complexity, timescale, value

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- 'Public Service Mutual' an organisation which has left the Council parent body but continues to deliver public services. Mutuals are organisations in which employee control plays a significant role in their operation.

'Quotation' a formal written offer to execute works, purchase supplies, or provide services at a stated price of a value less than £100k

- 'Sheltered workshop' an organisation that employs a proportion of disadvantaged or disabled workers which allows the supplier to be eligible to bid for certain types of contracts which can be specifically reserved to organisations meeting the criteria
- 'SIRO' Senior Information Risk Owner is the person with overall accountability and responsibility for information governance. Currently the Director of Finance
- 'Tender' a written offer to supply or purchase goods, execute works or provide services at a stated price of a value more than £100k
- 'TUPE' means the Transfer of Undertakings (Protection of Employment) Regulations 2006
- 'Whole Life-Cycle Costs' is an estimate of the total costs of works, goods or services over their life. It is a combination of the purchase price, implementation and operating costs, procurement and contract management costs, disposal costs less any residual value
- 'YORtender' is the procurement portal for the Yorkshire and Humber region. www.yortender.co.uk which must be used for obtaining quotes or tenders all contracts over £5,000.

1 Introduction

- 1.1 The purpose of Contract Standing Orders is to set clear rules by which the Council spends money on works, goods and services. The rules apply to any contract or grant that results in payment being made by the Council.
- 1.2 Public procurement must be undertaken in accordance with principles enshrined in EU and national legislation. The Council must always act to promote competition and to ensure that each procurement is conducted as an open, transparent and fair competition. The Council must avoid practices which may restrict or distort competition.
- 1.3 All amounts quoted in these Standing Orders are exclusive of recoverable VAT.
- 1.4 Any dispute or difference as to the interpretation of these Standing Orders shall be resolved by the City Solicitor.
- 1.5 The Assistant Director Commissioning & Procurement shall undertake a formal review of Contract Standing Orders on an annual basis which will be reported to the Governance and Audit Committee.

2. Compliance

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- 2.1 Every contract made by or on behalf of the Council for works, goods and services and all Council employees engaged to act in any capacity to manage or supervise a contract must comply with:-
- EU Procurement rules where applicable
 - All relevant statutory provisions including the Public Contracts Regulations 2015, competition law and Public Services Acts (e.g. Social Value, Care Act 2014)
 - The Council's Constitution including these Standing Orders, the Council's Financial Regulations and the Council's Procurement policies
 - The Council's strategic objectives and policies
- 2.2 All Council employees and organisations engaged on the Council's behalf shall ensure that all procurement activity is undertaken with regard to high standards of probity and in a manner which avoids any conflicts of interest. Any conflicts of interest that do arise shall be dealt with in accordance with the Council's '*Code of Practice in relation to Conflicts of interest and Registration of interests*' available from the Human Resources intranet pages.
- 2.3 In applying these Standing Orders, all officers shall have regard to the duty of Best Value under the Local Government Act 1999.
- 2.4 Within limits specified by him/her, a Chief Officer may permit other officers to authorise orders and contracts in their own names on behalf of the Council. Any orders or contracts made shall remain the responsibility of a Chief Officer. Chief Officers must maintain an up to date record of authorised officers.
- 2.5 All orders for works, goods or services must be placed using the Council's approved systems in advance of the invoice being received and coded to the appropriate account codes. Miscellaneous payments must only be used where the payments not as a result of a purchase. For example, a refund, grant payment or third party party payment.
- 2.6 With regard to new major projects all officers must comply with the approved Project Management Framework documents.
- 2.7 Exemption from these Standing Orders shall only be awarded in exceptional circumstances and following authorisation by either:
- 2.7.1 The Executive after considering a report by a Chief Officer; or
- 2.7.2 A Chief Officer obtains the agreement of the Director of Finance and the City Solicitor. A Chief Officer must retain written reasons of the decision.
- 2.8 Exemptions authorised under Standing Order 2.7.2 will be reported to Governance and Audit Committee on a quarterly basis.
- 2.9 All Chief Officers are responsible for ensuring compliance by their staff and shall report all breaches to the Assistant Director of Commissioning and Procurement.
- 2.10 Failure to comply with these Contract Standing Orders and the Commissioning Framework may result in disciplinary action against the officers concerned.

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3 Social, Economic, Environmental and Ethical Considerations

- 3.1 In formulating proposals for a services contract, the Authorised Officer must consider the Public Services (Social Value) Act implications and whether and to what extent any ethical, social or environmental aspects of procurement should be taken into account. These would include: the Council's Fair Trade Policy, sustainability, equality and diversity, living wage, means of production and community benefit (including maximising employment and training opportunities within the District).
- 3.2 Where appropriate and always subject to EU law and Public Contract Regulations, the Authorised Officer should ensure tenders or quotes are framed in such a way to encourage local suppliers, small and medium sized companies (SME's) and third sector organisations such as social enterprises to bid. This includes dividing the contract into lots.

4 Pre-Contract Requirements for all Contracts

- 4.1 The procurement of works, goods or services should be done through existing approved arrangements where they exist. These include:
- In-house provision
 - Corporate contracts, framework agreements or DPS
- 4.2 Other arrangements should be considered and used where it can be evidenced that they provide best value for money:
- Contracts, framework agreements or DPS established by central purchasing bodies (Crown Commercial Services, YPO etc.)
 - Collaborative or shared service arrangements with another public body
 - Alternative delivery vehicles such as Controlled Entities (Teckal) or Public Service Mutuals
 - Sheltered workshops
 - Other approved e-procurement solutions (e.g. purchasing cards)
- 4.3 Where the Council has an in-house provision and the estimated contract value is less than £100,000, external suppliers can only be used when the Strategic Director providing such in-house provision confirms that they are unable to meet the requirements on that occasion due to insufficient resources, skills or capacity.
- 4.4 If the estimated contract value is more than £100,000, the Strategic Director providing such in-house service may also be required to clearly demonstrate that they provide best value for money.
- 4.5 In the event that the Strategic Director providing such in-house provision is able to sub-contract the works, goods or services to an external supplier, they must obtain the agreement of the Strategic Director requiring the works, goods or services before doing so.
- 4.6 All procurement processes will be proportionate to the total value of the contract (see Table 1), the nature of the works, goods or services and the Council will produce clear accessible documentation which must be available in electronic format.
- 4.7 Before inviting tenders or quotations, the Authorised Officer must:

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- 4.7.1 for contracts with a total estimated contract value in excess of £2m, report details to the relevant Overview and Scrutiny Committee using the agreed pre-contract reporting process determined by the Assistant Director of Commissioning & Procurement
- 4.7.2 have carried out, where appropriate pre-procurement engagement with the market (including talking to suppliers, clients and other stakeholders) to understand the availability, strengths and weaknesses of markets and to develop the specification and the best value for money procurement and contractual approach. Pre-engagement with the market must be done in such a way that ensures the subsequent procurement process remains open, fair and transparent with no supplier gaining an unfair advantage which would distort competition.
- 4.7.3 consider whether a framework agreement, DPS or electronic auction is appropriate and would deliver best value for money seeking advice from the Assistant Director of Commissioning and Procurement where necessary
- 4.7.4 divide the contract into separate lots or indicate in the procurement document the main reasons why this would not provide value for money
- 4.7.5 be satisfied that a written and clear specification has been prepared which will form the basis of the contract.
- 4.7.6 where there is a significant supply risk and for all contracts valued over £100,000, complete a procurement risk assessment form (held by Commissioning and Procurement) and produce and maintain a documented risk log
- 4.7.7 consider at the outset any equality and diversity implications that may require an equality impact assessment to be undertaken
- 4.7.8 consider at the outset any TUPE implications
- 4.7.9 consider at the outset any data protection, information security or data processing implications that may require additional schedules or terms and conditions and need the SIRO to be notified
- 4.7.10 consider at the outset any implications from the Social Value Act
- 4.7.11 prepare and document an estimate of the whole life-cycle costs including where appropriate any on-going costs and/or disposal costs and ensure that the cost is within the approved current and future budget provision for both capital and revenue expenditure
- 4.7.12 ensure that all evaluation criteria including sub-criteria have been determined in advance, put in order of relative importance or weighting and published in the tender documentation. This includes any selection criteria used to evaluate the supplier and award criteria used to evaluate the tender or quote.

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4.7.13 ensure that electronic versions of all the appropriate and approved forms of procurement documentation is available through an internet portal immediately on publication of any advert

4.8 Before entering into any contract, the Authorised Officer must

4.8.1 be sure that they have the necessary authority to enter into the contract and that these Standing Orders, the Council's Financial Regulations and procurement advice have been complied with, and that the proposed contract represents best value for money

4.8.2 be satisfied about the technical capability of such proposed contractor; and

4.8.3 where there is a significant supply risk and all contracts which exceed £100,000, consult with the Director of Finance and the Assistant Director of Commissioning and Procurement to agree appropriate checks on the financial and resource capacity of the contractor to perform the contract and to agree what, if any, security should be provided for performing the contract. Forms of security include such as: parent company guarantee, Director's guarantee and performance bonds.

4.9 Authorised Officers are responsible for arrangements to ensure the proper control and use of Council ordering and contracting procedures, in accordance with guidance issued by the Director of Finance and City Solicitor.

4.10 All quotations and tenders must be undertaken using the Council's standard template documentation unless prior approval has been obtained from the Assistant Director of Commissioning and Procurement

5 Selective Tendering From Approved Lists

5.1 Selective tendering from an approved list does not comply with the new regulations when inviting bids for a total contract value over £25,000 and must not be used.

6 Contracts under £25,000

6.1 For contracts valued at below £25,000, there are minimal competition requirements and the Authorised Officer concerned should proceed in a manner to enable the most efficient management of the service but must use a local supplier where the supply base is available.

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6.2 The Authorised Officer must be able to demonstrate best value for money and may invite quotes using local suppliers only where the supply base is available. All quotations must be in writing.

6.3 Officers shall retain a written record of actions taken and the reasons.

6.4 Invitations to quote over £5,000 must use the Council's procurement portal, Yortender and all contracts over £5,000 must be recorded on the Contract and Grant Register.

7 Contracts between £25,000 and £100,000

7.1 The Authorised Officer must seek at least 4 written quotations or advertise an invitation to tender for a proposed contract of an estimated contract value of over £25,000 and up to £100,000 inviting a minimum of two local suppliers where the supply base is available. All invitations to quote or invitations to tender for contracts must use the Council's procurement portal, YORtender and also Contracts Finder. A record must be kept of the reasons for accepting a quotation or tender.

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7.2 If 4 quotations or tenders cannot be obtained owing to insufficient suitable suppliers prepared to quote or provide tenders, then the Authorised Officer must keep a record of this.

7.3 No pre-qualification questionnaire is permitted during the procurement stage under the EU threshold but suitable assessment questions which are relevant and proportionate may be asked. Only the winning bidder(s) will be required to submit certificates and documents as evidence of their legal and financial standing and technical or professional ability in addition to specific requirements relating to insurance, health and safety, equality, environmental management etc.

8 Contracts over £100,000

8.1 Where the contract value is likely to exceed the EU threshold, taking account of the rules of aggregation, it must be tendered in accordance with the relevant EU procurement rules. The exception to this rule is through an existing framework or DPS agreement that has been established via a compliant EU procurement process.

8.2. Before commencing any process for the procurement of works, goods or services with an estimated contract value in excess of £100,000 or any process which involves a proposed service transfer or the development of a strategic partnership, the Authorised Officer must consult the Assistant Director of Commissioning and Procurement.

8.3 For contract values of £100,000 or more, contractors must be appointed by one of the procedures under Contract Standing Order 9

8.4 All tenders shall be advertised and available for download on the YORtender system and Contracts Finder. Standard template documentation must be used

8.5 All tenders above the relevant EU threshold must be advertised in the OJEU.

9 Procurement Procedures

9.1 The **open procedure** under which all those interested may respond to the advertisement by submitting a tender. This is often the most expedient system and enables all of the suppliers in the market that wish to engage in the process to submit a tender. There is no pre-qualification questionnaire (PQQ) or short-listing stage prior to invitation to tender (ITT).

9.2 The **restricted procedure** under which a selection is made of those who respond to the advertisement and only they are invited to submit a tender. This procedure can only be used for tenders above the EU threshold for goods and services. For clarity this procedure can be used for works contracts above the EU threshold for goods and services but below the EU threshold for works.

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- 9.3 The **competitive dialogue procedure** under which a selection is made of those who respond to the advertisement and the Council enters into dialogue with potential bidders to develop one or more suitable solutions on which the chosen bidders submit a tender. This can be used where the contract is complex and cannot be purchased “off the shelf”
- 9.4 The **competitive procedure with negotiation** under which a selection is made of those who respond to the advertisement and only they are invited to submit a tender. The Council may then open negotiations to seek improved offers. This applies to more strategic, complex or high value projects and must be done in consultation with the Assistant Director Commissioning and Procurement as there are limited circumstances under which this process can be used.
- 9.5 The **innovation partnership procedure** under which a selection is made of those who respond to the advertisement and the Council uses a negotiated approach to invite suppliers to submit innovative ideas to meet a need where there is no suitable existing “product” on the market. The partnership can be awarded to more than one supplier.
- 9.6 The Public Contracts Regulations contain both mandatory and discretionary grounds for exclusion of a supplier from the tender process which now includes previous poor performance. The time limits are five and three years respectively but if a supplier provides evidence to demonstrate its current reliability this must be evaluated in light of the seriousness of the misconduct and relevance of the exclusion criteria.

10 Exceptions to Requirements of Competition

- 10.1 Subject to the statutory requirements for procurement processes above EU thresholds, and provided that the market for a proposed contract has been investigated and it can be demonstrated that departure from these Rules is justifiable and provides overall value for money, no procurement process is required where one or more of the following exceptions apply:

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- 10.1.1 the purchase of proprietary or patented goods or materials or services which, in the opinion of the Authorised Officer, are obtainable only from one supplier, and where no reasonably satisfactory alternative is available;
- 10.1.2 the execution of works or the supply of goods or services are controlled by a statutory body
- 10.1.3 the execution of works or supply of goods or services are of a specialised nature which, in the opinion of the Authorised Officer, are carried out by only one supplier, and where no reasonably satisfactory alternative is available;
- 10.1.4 the execution of works or supply of goods or services for which the Authorised Officer can demonstrate that no genuine competition can be obtained;
- 10.1.5 the purchase of a named product required to be compatible with an existing installation as approved by the Authorised Officer;

- 10.1.6 procurements made through or on behalf of any consortium, local authority, statutory or similar body provided that tenders or quotations are invited and contracts placed in accordance with national or EU legislation;
- 10.1.7 obtaining work or supplies from the Industrial Services Group or other in-house service provider;
- 10.1.8 special education, health or social care contracts, if in the opinion of the Authorised Officer and following consultation with the Assistant Director of Commissioning and Procurement, it is considered in the Council's interests and to meet its obligations under relevant legislation;
- 10.1.9 the execution of works or the supply of goods and services that are required so urgently as not to permit compliance with the requirements of competition.
- 10.1.10 carrying out, with the approval of the Director of Finance, security works where the publication of documents or details in the tendering process could prejudice the security of the works to be done.

- 10.2 The Authorised Officer must retain written reasons justifying the decision to use Standing Order 10.1 and be able to demonstrate that best value for money has been obtained.
- 10.3 Any contract awarded using an exception to competition shall be notified to the Assistant Director Commissioning & Procurement and recorded in the "Exceptions to Competition Log".

11 Submitting and Opening Tenders and Quotations

- 11.1 Every invitation to tender or request for a quotation must state that a tender or quotation will only be considered if it is received by the specified closing date and time by the Council's approved-on-line electronic tender process or for quotes below £5,000 at the specified place in a sealed envelope with the word "QUOTATION" and the title of the contract written on it. The Authorised Officer must keep the envelopes received in secure custody.
- 11.2 All tenders or quotations for each contract must be opened together by two officers appointed by the Authorised Officer at a prescribed time.
- 11.3 The Authorised Officer must keep a record of all tenders and quotations.
- 11.4 The Authorised Officer must disqualify a tender or quotation which fails to comply with the requirements of this Standing Order and must return the tender or quotation to the tenderer or quotation provider stating the reason for the disqualification.

Deleted: "TENDER" or

Deleted: (as appropriate)

Deleted: or if received by electronic means as prescribed by the Director of Finance and City Solicitor

Deleted: The specified location for the receipt of tenders over £100,000 is Room 113, City Hall. All such tenders or quotations will be opened in the presence of an officer from the staff of the City Solicitor and recorded. For tenders under £100,000 the Authorised Officer must designate the specified place for the receipt of tenders.

11.5

12 Errors in Tenders and Quotations

- 12.1 Prior to acceptance of any tender or quotation received, any arithmetic error or other minor discrepancy made in good faith can be corrected by the City Solicitor after consultation with the Authorised Officer in one of the following two ways:
- 12.1.1 The tenderer shall be given details of the error(s) found during the examination of the tender and shall also be given the opportunity of confirming without amendment or withdrawing the tender; or
 - 12.1.2 Amending the tender to correct genuine arithmetic error(s) provided that in this case, apart from these genuine arithmetic errors, no other adjustment, revision or qualification is permitted.
- 12.2 A written record must be kept of all such amendments

13 Post Tender and Quotation Negotiations

- 13.1 In the interests of ensuring an open, fair and transparent process, negotiation following receipt of tenders is only permissible in limited circumstances.
- 13.2 No negotiation must be undertaken following receipt of tenders where the tender was subject to EU procurement rules except where the “competitive procedure with negotiation” or “innovation partnership” has been used.
- 13.3 The Authorised Officer may, after consulting with the Assistant Director of Commissioning and Procurement, and where it is intended to obtain better value for money, authorise negotiations with one or more tenderers or quotation providers where s/he considers that none of the tenders or quotations are acceptable and it is in the Council’s interests to do so.
- 13.4 Negotiation on behalf of the Council should be conducted by two or more Authorised Officers and a written record kept of the negotiation.

14 Accepting Tenders and Quotations

- 14.1 Prior to accepting a tender or quotation the Authorised Officer must evaluate all tenders and quotations received in accordance with the evaluation criteria issued with the tender documentation.
- 14.2 The Authorised Officer can only accept the most economically advantageous tender or quotation using whole-life costs and must record the reasons for acceptance.
- 14.3 The Authorised Officer must investigate any tender considered to be abnormally low and disregard any bid based on approaches in breach of environmental or social law.
- 14.4 All suppliers who submit a tender or quotation should be notified in writing of their success or failure in a timely manner using the standard documents and offered feedback.

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- 14.5 For all tenders covered by the EU procurement rules, the minimum statutory standstill period is required between notification of the award decision and final contract award.
- 14.6 All contracts over £5,000 must be awarded on the YORtender system and all contracts over £25,000 must also be awarded on Contracts Finder. All contracts above the EU threshold must also be published in OJEU.
- 14.7 For every contract, framework or DPS agreement over the EU threshold, a written report must be retained which includes details of:
- the winning bid,
 - the suppliers involved,
 - results of any selection process,
 - the value and subject matter of the contract,
 - justification for using any negotiated type procedure,
 - any decision not to award,
 - reasons for not using electronic communications,
 - any conflict of interest,
 - reasons for rejecting abnormally low bids.

15 Contract Extensions, Variations or Novation

- 15.1 The Authorised Officer can extend a contract by any value subject to the extension being permitted within the scope and terms of the original contract and before the expiry date.
- 15.2 An options appraisal must be undertaken to determine if it represents best value for money to extend the contract and any approval required must be sought in a timely manner
- 15.3 The Authorised Officer must make every effort to negotiate improved terms with regard to the cost and quality of the goods or services.
- 15.4 No extension shall be made until funding has been secured in accordance with the Council's Financial Regulations or any other similar requirement.
- 15.5 All contract variations must be carried out within the scope of the original contract and must not materially affect or change the contract.
- 15.6 A new procurement will be required if the proposed variation has a material change where one or more of the following are met;
- 15.6.1 the variation introduces new conditions which had they been part of the original procurement procedure would have allowed other candidates to be selected to bid or the contract to be awarded to another tenderer
- 15.6.2 the variation changes the economic balance in favour of the contractor
- 15.6.3 the variation extends the scope of the contract considerably
- 15.7 Contract variations which are not within the scope of the original contract are also permitted where:

- 15.7.1 additional works, goods or services are required and a change of contractor cannot be made for economic or technical reasons or would cause significant operational disruption
- 15.7.2 the variation could not have been foreseen and does not alter the overall nature of the contract
- 15.7.2 any increase in price is still within the financial threshold of the original procurement and does not exceed 50% of the initial contract value

15.8 In the event that a Supplier ceases to provide the work, goods or services whether as a result of insolvency, company restructuring, company purchase, termination of the contract or any other reason then the Authorised Officer must consult with the Assistant Director of Commissioning and Procurement before novating or assigning the contract to a new Supplier

16 Written Contracts

- 16.1 The Authorised Officer must ensure every contract is in writing.
- 16.2 Every contract with a contract value of £100,000 or more must be executed under seal as a Deed with the common seal of the Council by the City Solicitor where;
 - the Council wishes to enforce the Contract for more than 6 years after its end (e.g. for land or construction works); or
 - it is required by parties to the Contract; or
 - the price paid or received under the Contract is a nominal price and does not reflect the value of the goods/services; or
 - the City Solicitor deems it necessary taking into account the nature of the contract
- 16.3 Contact the City Solicitor where a contract is required to be sealed as a Deed, for example property and construction contracts or where the documents need to be retained for more than six years after the end of the contract.
- 16.4 Otherwise the following rules for signature apply:
 - any contract with a total value over £2 million must be signed by a Chief Officer
 - any contract with a total value less than £2million must be signed by a Senior Officer (3rd tier or above) except
 - where the total value is less than £100,000 in which case an Authorised Officer (4th tier or above) can sign within the limits specified by a Chief Officer as per contract standing order 2.4.
- 16.5 All contracts with the exception of one-off purchases below £5,000 shall be recorded on the Contract and Grant Register.
- 16.6 A briefing note is required using the prescribed document for all new contracts or extensions to contracts where the total contract value is over £100,000

Deleted: The checklist of reasons form (held by Procurement) why the Contract has not been awarded under seal must be completed

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17 Professional Services and Consultants

- 17.1 An Authorised Officer may only appoint external consultants providing professional or consulting services if such services are not available within the Council or if Council officers providing them do not have the resources to meet the needs of the Authorised Officer.
- 17.2 An Authorised Officer must consult with the Strategic Director providing such services before making an external appointment.

18 Contract Conditions

18.1 The Council's Standard terms and conditions, [available on bradnet](#), should be entered into wherever possible for all contracts. If this is not possible a supplier will be asked to submit their terms which must be formally approved by the City Solicitor prior to entering into the contract.

Deleted: 17.3 . External consultants and technical officers engaged to supervise contracts must follow these Standing Orders and Financial Regulations as applicable and their contracts for services must state this requirement.¶

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18.2 The above rule shall not apply to:

- UK government standard documentation or government sponsored schemes such as Academies and amendments may be made for best value for money or project specific reasons.
- Construction and/or engineering contracts where bespoke conditions based on accepted industry practice are used e.g. JCT, NEC3 or ICE

18.3 All written contracts shall contain:

- details of the work, goods or services to be provided
- full details of the prices to be paid, frequency and any discounts
- the period or times over which the contract is to be performed
- suitable provisions that state that valid undisputed invoices will be paid by the Council within 30 days and a condition requiring contractors to include similar provisions in their contracts, and so on down the supply chain
- a termination clause relating to circumstances where there has been a breach of EU law on public procurement particularly where this results from a change in the awarded contract

19 Leases and Other Credit Agreements

19.1 The Authorised Officer must ensure that prior to entering into any lease or credit arrangement which has a capital cost, the cost must first be approved for inclusion in the Capital Investment Plan in accordance with Financial Regulations relating to capital expenditure.

20 Grants

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- 20.1 The Authorised Officer must follow the Council's principles, processes and template documents as appropriate for awarding grants prior to entering into any grant arrangements
 - 20.2 Before awarding any grant with an estimated value in excess of £100,000, the Authorised Officer must consult the Assistant Director of Commissioning and Procurement.
 - 20.3 All grant agreements shall be recorded in the Contract and Grant Register.

21 Payment for Work on Account

- 21.1 The Director of Finance will make payments on account only on certificates (or other forms approved by the Director of Finance) which have been issued by the Authorised Officer, or the Architect/Engineer/ Supervising Officer appointed to deal with a particular contract.
- 21.2 As a general principal payment for goods, works and services are not to be made in advance of delivery other than in a low contract value and low risk situation.

22 Claims

- 22.1 The Authorised Officer must inform the City Solicitor of all claims by or against suppliers which are the subject of formal dispute resolution or litigation between the Council and the supplier.

23 Contracts Where Members Have an Interest

- 23.1 Where no competitive tendering process has been undertaken, no supplier or organisation in which a member has an interest, may be chosen or appointed unless the member's interest has been disclosed in accordance with the Members' Code of Conduct.

TABLE 1

Value Band	Total Contract Value	Procurement Options	Additional procedures
1	£0 - £24,999	<ul style="list-style-type: none"> Minimal competition requirement but must demonstrate value for money Must use in-house or corporate contract Must use local supplier if available Consider using purchasing card for low value, low risk purchases Invite one or more quotes if appropriate 	<ul style="list-style-type: none"> All quotes in writing Use Yortender for quotes over £5,000 All contracts over £5,000 to be entered in the Contract & Grant Register
2	£25,000 - £99,999	<ul style="list-style-type: none"> Must use in-house or corporate contract Consider availability of an existing suitable framework or DPS arrangement Consider if exception to competition applies Minimum of four quotes inviting at least two local suppliers if available Formal tender process 	<ul style="list-style-type: none"> All quotes in writing Use Yortender for quotes or formal tender All contracts to be entered in the Contract & Grant Register
3	£100,000 – EU threshold	<ul style="list-style-type: none"> Must use in-house or corporate contract Consider availability of an existing suitable framework or DPS arrangement Consider if exception to competition applies Formal tender process 	<ul style="list-style-type: none"> All proposed contracts must be referred to Commissioning & Procurement Complete Procurement Risk Assessment Form Use Yortender for formal tender Complete briefing note for contract award and extensions All contracts to be entered in the Contract & Grant Register
4	Above EU threshold	<ul style="list-style-type: none"> Must use in-house or corporate contract Consider availability of an existing suitable framework or DPS arrangement Full EU tender process with advert published in OJEU 	<ul style="list-style-type: none"> All proposed contracts must be referred to Commissioning & Procurement for consultation and advice Complete Procurement Risk Assessment Form Use Yortender for formal tender Complete briefing note for contract award and extensions Report to Overview & Scrutiny for contracts over £2million All contracts to be entered in the Contract & Grant Register

Version Control**Document History****Document source**

The latest version of this document is available in the
 J:\Procurement\Procurement Standard Documents\Contract Standing Orders
 sub-folder within the shared area used by Commissioning & Procurement.

Revision history

Version number	Date	Summary of changes	Revision marks
0.1	01/03/16	Prepared by Roy Barraclough	Yes
0.2	02/03/16	Prepared by Roy Barraclough following comments by Duncan Farr	Yes
0.3	14/03/16	Prepared by Roy Barraclough following comments by C&P	Yes
0.4	17/03/16	Prepared by Roy Barraclough following comments by SN	Yes

Approvals

This document will be approved by the following people.

Name	Role	Date
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Alex Gledhill for Stuart McKinnon-Evans	Director of Finance	
Steve Fleming for Parveen Akhtar	City Solicitor	
Governance & Audit Committee		15/04/16
Council		

Distribution

This document has been distributed to:

Name	Role
Commissioning & Procurement Mgt Team	Consultation
Steve Fleming – Legal Services	Consultation
Alex Gledhill - Finance	Consultation