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To: County Council

Date: 25th May 2023

Subject: Review of the Council's current spending rules (Spending the Council's Money)

Summary: This report summarises a review and update of the Council's Contract Standing Orders 'Spending the Council's Money' and the subsequent revisions to the Constitution.

Recommendation:

County Council is asked to:

- i. Approve the revised Contract Standing Orders ("Spending the Council's Money") – as attached as Annex 2 and recommended by Governance & Audit Committee
 - ii. Approve revisions to the Constitution wording on contract standing orders – as attached as Annex 1
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1. Introduction

"Spending the Council's Money" was initially published in June 2010 as a document that provided both mandatory rules and guidance for carrying out contracting activities in the Council. Section 135 of the Local Government Act 1972 requires that local authorities have such standing orders in place.

With changes to government regulations, technology and the Council's structure, the original document has become outdated. In 2021/22, the elements of "Spending the Council's Money" that were for guidance were reviewed and a new suite of guidance was issued for staff. However the mandatory elements of "Spending the Council's Money", including our procurement thresholds, have not been reviewed until now.

Governance & Audit committee have reviewed the proposed rules and an updated version of “Spending the Council’s Money”, consisting of a set of mandatory rules for the Council’s external spending activity, is attached (as Annex 2) for approval.

2. Case for Change

A key motivation for the update is to make the content up-to-date and easily understandable. However, this is also about ensuring that everyone who is spending the Council’s money knows and adheres to the rules that are in place.

Since the conception of “Spending the Council’s Money”, prices of goods and services have increased significantly, and many local authorities have higher thresholds that reflect this, whilst KCC’s thresholds have not changed. This means that KCC’s rules have become more restrictive, compared to other local authorities, leading to additional bureaucracy for relatively small amounts of spend, compared with the Council’s overall budget.

There is nothing that has fundamentally changed within the contract standing orders to address any perceived weaknesses in control and governance issues, but any set of rules that are simplified and laid out to make them easy to understand and navigate should improve the control environment and ensure that governance is easier to follow and monitor. For example, there are now clear sections covering the need for a procurement business case and an annual procurement pipeline to test that major procurements are adequately resourced.

A recent report by Grant Thornton¹ on lessons learned from recent auditor reports in Local Government procurement and contract management highlighted a number of key recommendations which support the proposed changes to “Spending the Council’s Money”. These include:

- a. Having clear procurement and contract management processes and rules in place, that are clearly communicated and understood
- b. Where there is non-compliance, it should be dealt with promptly, rectified and lessons learned should be shared
- c. Ensuring roles and responsibilities of individuals involved in procurement and contract management are clear, for both the local authority and for suppliers

3. Amendments to Constitution wording

Following the review of Spending the Council’s Money, there is a requirement to update the Constitution as there is a small section in the Constitution (sections 13.3 to 13.23). regarding contract standing orders. Proposed changes to the Constitution are attached as Annex 1. Adherence to standards will be reported to the Chief Executive as well as those Elected Members charged with governance.

¹ Grant Thornton (December 2022) ‘Local government procurement and contract management’ Available at: [Local government procurement and contract management \(grantthornton.co.uk\)](https://www.grantthornton.co.uk/local-government-procurement-and-contract-management)

4. Spending the Council's Money - Summary of Content

Responsibilities and Conduct

“Spending the Council's Money” clearly establishes the responsibilities of different teams and officers involved in procurement activity, which previously has not been defined in their entirety. In addition to this, the document delegates some authority over decision making to the Head of Commercial role.

The document also clearly states the expectations of staff and other individuals who are buying on behalf of the Council.

Contract Pipeline

“Spending the Council's Money” mandates the requirement to establish a Contract Pipeline. This is simply a forward look of potential commercial activity for the Council and may include the procurement of a contract or a framework, a call-off from a framework, a significant contract amendment or a contract extension. It is important to better engage with markets, plan and manage resources, improve transparency and improve governance and decision-making. This is an element that we are aware will be required in the upcoming changes to public procurement regulations.

The document also implements a new requirement for approval of increases of actual aggregate contract value of 5% more from that budgeted before contract award, to help scrutinise value for money decisions more effectively.

Requirements for Sourcing Goods, Services and Works

“Spending the Council's Money” defines the expected considerations and activities that must take place in order to ensure that the chosen procurement route will be appropriate for the related value and risk and deliver value for money.

Some of the elements included in this section are procurement thresholds, calculating the contract value, business cases, using existing arrangements and Local Authority Trading Companies (LATC's), financial security and using framework agreements.

Many of these elements, other than the procurement thresholds, have not been clearly defined as a mandatory requirement up until this point. However, they are important for consistent practice and to support the Council in saving money through reducing inefficient and inappropriate procurement activity.

Requirements for Quotations and Tender Procedures

“Spending the Council's Money” defines the required activities and documentation for running quotation and tender procedures and the details for how these should be carried out and completed.

The previous version of “Spending the Council's Money” included the mandatory requirements for these procedures, with guidance that differed based on circumstances. This made the document large and unwieldy and required frequent

updating and circumstances changed. This version only states the mandatory requirements (which shouldn't fundamentally change in the short to medium term), with the rest of the guidance covered by Commissioning Standards.

5. Changes to Procurement Thresholds

"Spending the Council's Money" makes changes to the current value thresholds that determine the procurement procedures required to be undertaken. The key changes are summarised in the table below.

Procurement Procedure	Current Threshold	New Threshold
Minimum of one written quote required	Up to £7,999	Up to £24,999
Minimum of three written quotes required	£8,000 - £49,999	£25,000 - PCR Threshold (approx. £177,897**)
A competitive tendering process that follows Council defined procedures and/or regulatory procedures where the thresholds for these are met. This excludes works procurements*.	£50,000 +	PCR Threshold (approx. £177,897**) - £999,999
A competitive tendering process that follows Council defined procedures and/or regulatory procedures where the thresholds for these are met*.	N/A	£1,000,000 +

**Previously this requirement included works procurements. This refers generally to building, construction and engineering related works., "Spending the Council's Money" allows a competitive quotation procedure to be undertaken for works procurements up to £1m.*

***Indicative value excluding 20% VAT*

The new proposed thresholds were derived following research into KCC's contracting activity and other local authority's thresholds and a series of review meetings with a sub-group of the Governance and Audit Committee.

Additionally, the new thresholds define further required elements of the procurement procedure including advertising in line with public procurement regulations, contract award approval and contract signature.

6. Governance and Audit Committee review of Spending the Council's Money

The Governance and Audit Committee were asked to approve amendments made to the Council's Standing Orders (Spending the Council's Money) on the 18th May 2023 and the full papers submitted for this can be found at Annex 2. Prior to the Committee meeting, a G&A subgroup panel was set up and a number of meetings were held in February 2023 to work through the document. Each section was reviewed in detail and discussed with the group and any feedback was recorded and actions to review were noted. Following these meetings, an updated version of the document was produced. The sessions were extremely valuable in being able to test and challenge the proposal

and ensure that all elements had been worked through. There was general agreement and support for the proposal from the group and at the Committee meeting on the 18th May 2023 the Committee approved the revisions to 'Spending the Council's Money' as attached as annex 2 and recommended that the revised version be presented to full Council for noting alongside the proposed amendments to the Constitution.

7. Future Changes to the Rules

There is a strong link between Spending the Council's Money, other Council policies such as the Financial Regulations and government regulations such as The Public Contract Regulations.

We are already preparing for the changes that both the Public Procurement Reforms and the NHS Provider Selection Regime will bring in late 2023, however there will inevitably be some changes required to the Procurement Rules as a result of the reforms. Public Procurement Reforms refers to the Government's proposal to repeal the current EU law-based procurement regulations and replace them with new rules and procedures that would cover local government. The NHS Provider Selection Regime (PSR) refers to a new set of rules for arranging healthcare services in England.

Additionally, changes to technology, systems and the teams in the future may require small changes to be made to the Procurement Rules before we intend to review them again.

In order to avoid the Procurement Rules becoming outdated with these changes, authority for approving non-substantive changes to Spending the Council's Money should be delegated to the Section 151 officer in conjunction with the General Counsel.

Non-substantive changes will include:

- Changes required due to changes in law or changes to relevant KCC policies
- Changes required due to changes in roles or teams that are relevant to Spending the Council's Money
- Changes required due to the adoption of new procurement systems or technologies
- Changes required due to changes to the names of procurement documentation and procedures

Non substantive changes would be reported annually to Audit & Governance committee.

8. Practical Next Steps

A communications programme will be carried out with support from Internal Communications to inform all staff of the new document and changes to existing rules. The wording in the Constitution refers to the new rules and so once updated both will be aligned.

9. Appendices

Annex 1: Proposed changes to Constitutional wording on contract standing orders

Annex 2: Spending the Council's Money