

Appendix 3

Contracts and Tenders Standing Orders

- 1** It is the responsibility of the Chief Executive and Managing Directors to ensure that all purchases of goods and services comply with:
 - (a) legal requirements;
 - (b) EU Directives;
 - (c) the Council's Financial Regulations;
 - (d) the Code contained in 'Spending The Council's Money' (as approved by the Governance & Audit Committee);
 - (e) standards for the management of property, information technology resources and staff; and
 - (f) any conditions attached by the Leader or the Council to the exercise of powers delegated by them.

Authority

- 2**
 - (a) All transactions must fall within the powers delegated to the Chief Executive or Managing Director or have been approved by a decision (in accordance with the Council's Constitution) of the Cabinet, the Leader, an authorised Cabinet Member, the Council or one of its committees or sub-committees.
 - (b) No contract, agreement or other document shall be signed or sealed unless it gives effect to:-
 - (i) a decision or resolution (in accordance with the Council's Constitution) of the Leader, the Cabinet, an authorised Cabinet Member or one of its committees or sub committees; or
 - (ii) a decision by an officer exercising delegated powers.
- 3**
 - (a) Budgetary provision must exist before any contract can be entered into. This provision should be explicit in a budget approved by resolution of the Council. Where budgetary approval exists for a specific item further Member approval is not generally required.
 - (b) Where there is no specific budget line, the Chief Executive and Managing Directors may approve expenditure up to £100,000, provided the expenditure can be met within budget. Above £100,000 a formal decision by the Leader, the Cabinet or an authorised Cabinet Member is required in accordance with the Council's Constitution.

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4 Thresholds

(a) The financial values (exclusive of Value Added Tax) at which processes become mandatory are:

- (i) £8,000 to £49,999 - three written quotations must be sought from appropriate sources.
- (ii) £50,000 and above – the competitive tender process, as defined in ‘Spending The Council’s Money’, must be followed.

However both the overall obligations of the Code and the statutory requirement to achieve value for money apply to all transactions and don’t just apply from the above amounts and, as such a competitive tender process may be appropriate for procurements below £50,000.

(b) In addition European Union Directives, enacted in UK Law, set limits for public contracts above which specific procedures are required to be followed. The procedures cover the advertising of contracts, the rejection of suppliers, technical specifications, evaluation, selection and award criteria. All procurements for goods, services and works above the financial thresholds are covered by the legislation but not all procurements for services, social care for example, are subject to the full process.

The current levels at which these apply are for goods and services, £144,371 and for works, £3,611,319.

(c) There must be no attempt to avoid any of these limits by deliberately manipulating the requirement or frequency of ordering.

(d) The ‘financial values’ here refers to:

- (i) the total amount payable over the contract period, i.e. the Council’s total liability under the contract, and not the budget available in the current year; or
- (ii) the reasonable expectation of the cost of the consequence of the decision; or
- (iii) the ‘net benefit’ to the contractor

whichever is the greater.

The award

5 The Chief Executive, Managing Directors and the Director of Law and Governance may sign documents on behalf of the Council or authorise officers to do so. This authority may be given by inclusion in the nominated officers’ terms of appointment, by specific resolution or as part of a system implementing delegation arrangements within a directorate.

6 Where a contract for a Consultant is estimated to cost £20,000 or more details of the proposed award must be forwarded to the relevant Cabinet Member prior to the appropriate officer making the award. In this context a Consultant is defined as a

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named individual (i.e. the Council states it wants individual x) taken on to perform a particular, temporary, and defined, task.

- 7 (a) Any contract with a value in excess of £1m must be made in writing and either:
 - (i) affixed with the common seal of the Council and be attested by at least one authorised officer, or
 - (ii) signed by at least two authorised officers.

- 8 The common seal of the Council shall be affixed to any document or agreement if the Director of Law and Governance considers it appropriate for the purpose of transacting the Council's business or safeguarding its interests.

- 9 The seal may be fixed and witnessed only by the Director of Law and Governance or officers authorised in writing to do so.

- 10 The Director of Law and Governance shall ensure a register is maintained of all documents and agreements which are sealed including the name of the person who witnessed the affixing of the seal.

After the award

- 11 (a) For contracts of £50,000 or more where:
 - (i) quality issues as well as price (to achieve Best Value), have been taken into account such that it's more advantageous to accept a tender(s) other than the lowest; or
 - (ii) acceptance of the most favourable tender(s) means that the approved budget will be exceeded; or
 - (iii) a non-competitive process was used to determine the contractor*;

the approved Award Report must be sent to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.

* Contracts awarded without competition of adult and children's services required by law under the National Assistance Act 1948 and the Children Act 1989 are exempt from this reporting requirement.

- (b) Where multiple firms are awarded contracts the rationale for the awards must be reported where any of the contractors has tendered a higher price than any of the unsuccessful firms.

- (c) Being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant for £20,000 or more must be reported, as a non-competitive procurement, to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the Cabinet Scrutiny Committee.