

Constitution and Associated Documents – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
Contract standing orders Whole document	<p>All references to Head of Law and Governance and Head of Service(s)</p> <p>All references to Procurement Manager now Strategic Commercial and Procurement Manager</p>	<p>Replace all references to Head of Law and Governance and Head of Service(s) with Director and Director(s)</p> <p>Replace Procurement Manager with Strategic Commercial and Procurement Manager</p>
<p>Reason for proposed change: To reflect current organisational structure</p>		
Contract standing orders: Whole document	<p>All reference to European Procurement</p> <p>All reference to Official Journal of the European Union</p>	<p>To be replaced with UK procurement legislation</p> <p>To be replaced with Find a Tender Service</p>
<p>Reason for proposed change: To comply with current legislative requirements</p>		
Contract standing orders, Section 3	New Section 3 (4) to be to added	Section 3 (4) The proposed contract should be appended to the waiver with any associated insurances and accreditations as required.

		Confirmation of financial viability of the contractor as set out in [INSERT PARAGRAPH REF] will be required.
	Reason for proposed change: To ensure due diligence is carried out on all contractors	
Contract standing orders: Section 8 (5)	(5) Where it is proposed to undertake a procurement exercise and the estimated total cost of the works/services to be procured will or is reasonably expected to exceed £500,000 in value, a report must be submitted to Cabinet. The report must include details of the works/services concerned, the financial implications over the whole length of any proposed contract and the procurement method to be utilised. The approval of the Cabinet is required to enable the procurement to be progressed	(5) Where it is proposed to undertake a procurement exercise and the estimated total cost of the works/services to be procured will or is reasonably expected to exceed £500,000 in value, a report must be submitted to Cabinet. Bi-annually a report will be presented to Cabinet detailing the procurements over £500,000. The relevant Director will be responsible for agreeing the specification and award criteria.
	Reason for proposed change: To reflect current practice.	
Contract standing orders: Section 8 (6)	(f) The instruction of, advice from or service provided by counsel or instructions to solicitors to act on the Council's behalf; (g) Procurements made through or on behalf of any consortium, association or similar body provided that tenders or quotations are invited and contracts placed in accordance with procedures which are broadly equivalent to	To be removed and lettering adjusted accordingly

<p>these Standing Orders and also comply with any National or EU Legislation;</p> <p>(i) Purchases, works and services required by the Assistant Chief Executive/appropriate Director of Service so urgently as not to permit compliance with the requirements of competition. The urgency in this case must arise from unforeseen circumstances and not just failure to address the need for compliance in a timely manner. In any event the national and European procurement regulations will still apply;</p> <p>(j) Special education or social care contracts, if in the opinion of the Assistant Chief Executive/appropriate Director of Service and Director of Law and Governance, it is considered in the Council's interests and to meet its obligations under a relevant legislation (Guidance note attached as Appendix 3); and</p> <p>(k) The exercise of specified Statutory Grant Aid powers delegated to the Assistant Chief Executive/appropriate Director of Service.</p> <p>(o) Contracts for Out of Area GUM (Genito Urinary Medicine)</p>	
<p>Reason for proposed change: A process is undertaken in respect of those services</p>	

Contract standing orders Section 8	New Section 8 (7) to be added	(7) ICT contracts to £100,000 per annum where this is the purchase of licencing, software or a single source supplier at the discretion of the Strategic Commercial and Procurement Manager in consultation with the Chief Information Officer
Reason for proposed change: To reflect limited markets		
Contract standing orders Section 11 (3)	(3) All quotations between £10,001 and £50,000 in value must be returned in writing to the offices of the Procurement Manager or through the Council's electronic contracts management system. The Assistant Chief Executive/Director of Service is responsible for ensuring that such quotations are returned in an envelope pre marked with the word "Quotation" and the subject to which it relates or in a form prescribed by any electronic system used for the purpose. All quotations must be submitted by the time and date specified in the invitation as being the last time and date for receipt. A record of quotations received, opened and considered must be retained.	(3) All quotations between £10,001 and £50,000 in value must be returned through the Council's electronic contracts management system.
Reason for proposed change: We do not accept tenders in writing		
Contract standing orders Section 11 (4)	(4) The Procurement Manager must make arrangements for the receipt, registration and	To be removed

	<p>secure retention of all quotations valued between £10,001 and £50,000. All such quotations must be opened at one time with representatives of the Procurement Manager and the Assistant Chief Executive/Director of Service present and details recorded</p>	
	<p>Reason for proposed change: We do not accept tenders in writing</p>	
<p>Contract standing orders Section 12 (8) to (12)</p>	<p>(8) Where the Director of Law and Governance considers that a non-electronic tender exercise can be carried out, the invitation to tender instructions shall specify that no tender will be received unless it is:</p> <ul style="list-style-type: none"> (a) In a sealed tender envelope, which must bear the word "Tender", and the subject to which it relates; (b) In an envelope which bears no details of name, mark, slogan or logo of the firm on the exterior; (c) Returned to the Offices of the Director or Law and Governance; and (d) submitted by the time and date specified in the Invitation to Tender as being the last time and date for the receipt of tenders. <p>(9) The Director of Law and Governance must, on receipt of a non-electronic tender, indicate on the envelope the date and time of its receipt.</p>	<p>To be removed</p>

	<p>(10) Non-electronic tenders will be opened at one time by a representative of the Director of Law and Governance. Such tenders must only be opened at meetings pre-arranged by the Director of Law and Governance. The Procurement Manager, and the Assistant Chief Executive/relevant Director of Service must be represented at all non-electronic tender openings.</p> <p>(11) Prior to opening, the Director of Law and Governance must have details of:</p> <ul style="list-style-type: none">(a) The type of goods or materials to be supplied or disposed of, or the work or service to be carried out;(b) The name of all potential tenderers; and(c) The date and time of receipt of each tender/quotation as recorded on the envelope. <p>(12) At the time the non-electronic tenders are opened, the Director of Law and Governance or their representative must record:</p> <ul style="list-style-type: none">(a) The amount of each tender where appropriate;(b) The date of the opening of a tender;(c) The signatures of all persons present at the opening of each tender;(d) The reason for any disqualification of any tender;(e) The name of each organisation invited to tender but who did not submit a tender;	
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	(f) Where possible the position by competitive order of value of tenders received; and ensure that: (g) The form of tender is initialled.	
	Reason for proposed change: We do not accept tenders in writing	
Contract standing orders Section 14 (1) and Section 15 (1)(d)	All references to European Regulations	To be replaced with Public Procurement Regulations 2015
	Reason for proposed change: To comply with current legislation	
Contract standing orders Section 16 (1)	(1) For contracts above £50,000, the evaluation team shall consider as part of its pre-qualification assessment and evaluation process whether a performance bond and/or a parent company guarantee (if applicable) shall be required from the preferred contractor.	(1) For contracts above £100,000, the evaluation team shall consider as part of its pre-qualification assessment and evaluation process whether a performance bond and/or a parent company guarantee (if applicable) shall be required from the preferred contractor.
	Reason for proposed change: To align with financial regulations, to allow value for money and to ensure SME's can bid for work	
Contract standing orders Section 16	New Section 16 (3) to be added	(3) Where a framework is established, preferred providers will be notified if due to their financial standing a bond is required, bonds will only be put in place when works are called off under the framework, the level of bond will be agreed due to the value of the

		goods/works and/or services and the financial standing of the tenderer.
	<p>Reason for proposed change: To reflect increase of frameworks in property services, this will add value as bonds will only be requested where necessary rather than on every occasion</p>	
Contract standing orders Section 17	<p>17. Post-Tender Negotiations (1) This Standing Order relates to negotiations after the receipt of a quotation or tender.</p> <p>(2) Negotiations can only be commenced after the Director of Resources and the Director of Law and Governance have given the Assistant Chief Executive/relevant Director of Service written approval of the procedure/s to be adopted to negotiate. A contract can be entered into only when the Director of Resources and the Director of Law and Governance have given written approval to the outcome of the negotiations.</p>	To be removed
	<p>Reason for proposed change: Negotiations only take place in accordance with Public Contracts Regulations and are not generally permitted.</p>	
Contract standing orders Section 21	New Section 21 (7) to be added	(7) Any extension to a contract shall be agreed in writing by the Chief Executive, Assistant Chief Executive or Directors of Service
	<p>Reason for proposed change:</p>	

	To reflect current practice.	
Contract standing orders After Section 25	New Section 26 to be added	26. Bidder Concerns Where a tenderer who raises concerns with the Procurement process the Director of Commissioning and Asset Management shall review the process undertaken. This review shall be limited to confirming that a fair, open and transparent process was undertaken. The technical judgement of the evaluation team shall not be questioned.
	Reason for proposed change: No current process – sits outside complaints procedure	
Implications of proposed change: <ul style="list-style-type: none"> • Finance and other resource implications: N/A • Legal implications: N/A • Consultation/Engagement undertaken (internal and external): N/A • Human Rights implications: N/A • Equalities and Diversity implications: N/A • Risk Management implications: N/A • Crime and Disorder implications: N/A 		

	<ul style="list-style-type: none">• Environment and Sustainability implications: N/A
	Proposed by: Sarah Heslop Service Area: Commissioning & Asset Management Contact Tel. No: 0191 643 5456
	Head of Service sign-off: (please insert a cross in the box) <input data-bbox="781 427 900 485" type="checkbox"/>