
CONTRACT STANDING ORDERS AND PURCHASING GUIDE

To: **Standards Committee**

Date: **4th September 2013**

Main Portfolio Area: **Business, Corporate and Regulatory Services**

By: **Karen Paton, Strategic Procurement Manager**

Classification: **Unrestricted**

Ward: **(Not applicable)**

Summary: Review of Contract Standing Orders and associated Purchasing Guide

For Decision

1.0 Introduction and Background

- 1.1 This report was submitted and discussed at Constitutional Review Working Party on 21st August 2013.
- 1.2 The Contract Standing Orders (CSO's) and the associated Purchasing Guide were last reviewed by the Standards Committee in March 2012 and the amendments contained recommendations to Council which were adopted in April 2012. Clause 16.1 of the CSOs stipulates that 'these Contract Standing Orders shall be reviewed and updated on a regular basis'. A review to update both documents to reflect both internal changes and external changes in legislation has now been undertaken.

2.0 The Current Situation

- 2.1 The review of Contract Standing Orders and the Purchasing Guide has concentrated on four areas including reinforcement of management protocols in respect of any potential conflict of interest and confidentiality obligations within the procurement process; inclusion of obligations now required of the council under the Public Services (Social Value) Act 2012, realignment of headings of Standard Contract Clauses listed at CSO17 with clause headings contained within the council's General Conditions of Contract and updating contract details to reflect the current organisational structure. For ease of reference the proposed changes are emboldened and underlined within the Contract Standing Orders and the Purchasing Guide Annex's 1 & 2.
- 2.2 The council has in place an existing declaration protocol to manage potential conflict of interest, which for procurement projects also includes a confidentiality undertaking for those participating in Procurement activity on behalf of the council, forming part of the council's Procurement framework. For completeness and to further evidence best practice it is proposed to include reference to this protocol as appropriate to the related CSO's throughout both Contract Standing Orders and the Purchasing Guide. Reference to this protocol is included at CSO 5, "Responsibilities of Senior Managers, Service Managers and Responsible Officers" at 5.4.2. and included at Appendix 1 "Tender

opening - Instructions to opening members/officers” in order to inform the proceedings from the outset and application throughout the course of tender opening process.

- 2.3 Inclusion of Conflict of Interest as detailed in the General Conditions of Contract, as a standard contract clause at CSO 17 to be included for all procurements valued £10K and over.
- 2.4 The Public Services (Social Value) Act 2012 came into full force 31st January 2013 which places a requirement on all public bodies as contracting authorities for the purposes of the Public Procurement Regulations applying to services, to consider the economic, environmental and social benefits of their approaches to procurement before the procurement process starts. This requirement previously appended to CSO’s is now included under CSO 5 “Responsibilities of Senior Managers, Service Managers and Responsible Officers” at section 5.6 and guidance in application, included within the Purchasing Guide.
- 2.5 Changes to CSO 17 Standard Contract Clause headings to align with clause headings found in the General Conditions of Contract these having been reviewed since the last refresh of CSO’s and the Purchasing Guide.
- 2.6 Non material amendments to Job Titles and Section headings to align with the current council structure/establishment and authorisation to the Strategic Procurement Manager to undertake such non-material amendments as a result of restructures, as required from time to time, without the requirement to revert to the Constitutional Review Working Party, provided that a report on amendments be brought to the next available meeting of the Constitutional Review Working Party.

3.0 Options

- 3.1 To recommend approval of the proposed changes to Contract Standing Orders and these reflected in the associated Purchasing Guide as listed at 2.2, 2.3, 2.4 2.5 & 2.6, which include amendments as proposed by the Constitutional Review Working Party as follows:
 - 3.1.1 the words, “**minor amendments**”, being changed to “**non-material amendments**”; and
 - 3.1.2 the words, “**provided that a report on the amendments be brought to the next available meeting of the Constitutional Review Working Party**”, being added to the final recommendation
- 3.2 To retain the Contract Standing Orders and Purchasing Guide in their current format.

4.0 Next Steps

- 4.1 N/A

5.0 Corporate Implications

5.1 Financial and VAT

- 5.1.1 Costs would be limited to officer time required to make the amendments to the current Contract Standing Orders and Purchasing Guide.

5.2 Legal

- 5.2.1 Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972

5.3 Corporate

5.3.1 These Contract Standing Orders support the organisation in the delivery of corporate priorities within the Corporate Plan 2012/2016.

5.3.2 Ensuring Contract Standing Orders and associated documents are updated as required, is critical to maintaining robust procurement framework and formal procedures, which give clear guidance and instruction on compliance requirements and upholds transparency of operation, which reduces risk of challenge within procurement activity.

5.4 Equity and Equalities

5.4.1 These Contract standing Orders and Purchasing Guide identify the statutory requirement under European and UK law and obligations placed on the contractor to comply with relevant legislation. Application of these CSO's and Purchasing Guide are contained within the Equality Impact Assessment for Procurement.

6.0 Recommendation(s)

6.1 The Standards Committee approve and recommends to the Full Council the amendments to the Contract Standing Orders and Purchasing Guide as shown in Annex's 1 and 2, such amendments relating to the following areas:

- Reinforcement of Conflict of Interest and confidentiality undertaking protocols including addition of "Conflict of Interest" contract clause as standard for contracts valued £10K and over.
- Inclusion of obligations and requirements of the council in respect of Public Services (Social Value) Act 2012.
- Realignment of headings of Standard Contract Clauses to the council's General Conditions of Contract
- **Non-material** amendments to Job Titles and Section headings to align with the current council structure/establishment.
- Authorisation to the Strategic Procurement Manager to undertake such **non-material** amendments as a result of restructures, as required from time to time, without the requirement to revert to the Constitutional Review Working Party, **provided that a report on amendments be brought to the next available meeting of the Constitutional Review Working Party.**

7.0 Decision Making Process

7.1 This is a non-key decision subject to Call in.

7.2 Presented to the Standards Committee who will subsequently make recommendation to Full Council.

Future Meeting if applicable: Council	Date: 3 October 2013
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Contact Officer:	<i>Karen Paton, Strategic Procurement Manager</i>
Reporting to:	<i>Sue McGonigal, Chief Executive</i>

Annex List

<i>Annex 1</i>	<i>Contract Standing Orders (Draft Revision 2013)</i>
<i>Annex 2</i>	<i>Purchasing Guide (Draft Revision 2013)</i>

Background Papers

Title	Details of where to access copy
<i>Minutes of Constitutional Working Party 21st August 2013</i>	<i>Democratic Services</i>

Corporate Consultation Undertaken

<i>Finance</i>	<i>Sarah Martin</i>
<i>Legal</i>	<i>Harvey Patterson</i>
<i>Democratic Services</i>	<i>Nicholas Hughes</i>