

Refresh of Contract Standing Orders

Constitutional Review Working Party 27 February 2024

Report Author	Chris Blundell, Director of Corporate Services - Section 151
Portfolio Holder	Cllr Rob Yates, Portfolio Holder for Corporate Services
Status	For Decision
Classification:	Unrestricted
Key Decision	No
Ward:	All Wards

Executive Summary:

The purpose of this report is to propose revisions to Contract Standing Orders (CSO's) to CRWP

Recommendation(s):

- 1) CRWP are asked to support revised content of CSO's and recommend changes contained to the Standards Committee.

Corporate Implications

Financial and Value for Money

There are no financial implications arising directly from this report and the proposed changes will help improve the efficient and effective use of resources.

Legal

Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972. Local authorities have some discretion as to the form of their Contract Standing Orders and the proposed revisions are within the scope of that discretion.

Corporate

Corporate priorities can only be delivered with robust finances and this report gives Members the opportunity to review the Council's current position.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the

decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

There are no direct equality implications arising from this report, however the delivery and implementation of and budgetary changes will consider this as part of the budget setting process and be reported to members in due course.

It is important to be aware of the Council's responsibility under the Public Sector Equality Duty (PSED) and show evidence that due consideration has been given to the equalities impact that may be brought upon communities by the decisions made by Council.

There are no particular equalities considerations arising.

Corporate Priorities

This report relates to the following corporate priorities: -

- *To create a thriving place*
- *To work efficiently for you*

1. Introduction and background

- 1.1 Section 135 of the Local Government Act 1972 requires Local Authorities “to make standing orders with respect to the making by them or on their behalf of contracts for the supply of goods or materials or for the execution of works”.
- 1.2 Contract Standing Orders form part and are included within the Council’s Constitution and set out the minimum obligations and minimum requirements to be followed by officers when making purchases.
- 1.3 The format and general content for Contract Standing Orders originates from their review in 2018. In general the formatting has largely been maintained and continues to provide a level of standardisation across the Kent authorities. Standardisation had especially beneficial across East Kent as this provided consistency of rules for shared service providers (i.e. East Kent Services) and also provides ease of approach when undertaking joint or collaborative procurements with other local authorities.
- 1.4 A requirement of the existing Contract Standing Orders (CSO’s) is that they are reviewed and updated as necessary with any such recommendations made by the Procurement Manager being considered by the Constitutional Review Working Party and recommended to the Standards Committee. Following which, they are to be presented to Full Council for adoption.

2.0 Reasons necessitating review and changes undertaken

- 2.1 The Council’s Contract Standing Orders have been reviewed in the light of changes to current levels of projected spend across the organisation on what are seen to be key

Regeneration and Housing projects over the Medium Term along with a high inflation environment over a number of years. Whilst there are a number of subtle amendments, the main changes of significance are to formally implement changes to the PCR2015 spend thresholds, CCR2016 thresholds, as notified by Cabinet Office which came into force 1st January 2024, an increase to the values of the thresholds for below thresholds contracts and an update to organisational changes in job titles.

An increase in quotation threshold was considered following recommendation contained in the outcome report of independent review of Financial Management Governance (June 2021). The recommendation was made that the lower limit (threshold) of £10k for quotations in relation to procurement appears to be too low and that this could be increased to improve autonomy and timeliness of operational decisions. Whilst this recommendation was looked to be progressed, the Council's Corporate Restructure took precedence. A further independent review was undertaken of the Procurement process following the Corporate restructure completion, in consultation with the Procurement Team and Officers across the organisation who are involved in undertaking Procurements, and the recommendations included a desire for CSO thresholds to be increased.

List of CSO Refresh amendments below:

- Reference to EU Rules has been updated to Public Procurement Rules throughout the document.
- Reference to OJEU has been updated to Find a Tender Service (FTS) throughout the document, to reflect the current service for higher-value, public contract opportunities (tenders) within the UK.
- **Under CSO 4 General Principles applying to All Contracts**
 - **CSO 4.2** Contract value increased to £50,000.00
 - **CSO 4.3** Contract value increased to £50,000.00
 - **CSO 4.7** Contract value increased to £50,000.00
 - **CSO 4.8** Value removed and wording updated.
- **Under CSO 5 Responsibilities of Chief Executive, Deputy Chief Executive, Corporate Directors, Directors and Responsible Officers - Update to Role titles**
 - **CSO 5.1** Update to Role titles
 - **CSO 5.2** Update to Role title
 - **CSO 5.3** Update to Role title
 - **CSO 5.4.1** Update to Role title
 - **CSO 5.4.7** Contract value increase to £140,000.00
 - **CSO 5.4.8** Updated values from Euros to GDP
 - **CSO 5.5** Update to Role titles
- **Under CSO 6 Thresholds and Procedures**
 - **CSO 6.3** Contract value increased to £50,000.00
 - **CSO 6.5.1** - Value updated to reflect PCR2015 Reg.109
 - **CSO 6.6** Table of financial thresholds amended to reflect changes to PCR2025 Regulations and CCR2016 thresholds implemented from 1 January 2024, and amendments to the thresholds/procedures for below thresholds contracts.
- **Under CSO 7 Financial Thresholds and Processes Applying to Approval and Execution of Contracts**
 - **CSO 7.1** Update to Role title
 - **CSO 7.2** Update to Role title
 - **CSO 7.3** Contract value increased to £50,000.00
 - **CSO 7.5** Contract value increased to £140,000.00
 - **CSO 7.6** Contract value increased to £50,000.00

- **Under CSO 10 Submission and Opening of Tenders**
 - **CSO 10.1** Contract value increased to £140,000.00
 - **CSO 10.4** Contract value increased to £140,000.00
- **Under CSO 12 Waivers**
 - **CSO 12.1** Contract value increased to £25,000.00
 - CSO 12.1.2 - Update to regulation being used.
 - **CSO 12.1.6** Update to Role title
 - **CSO 12.3.2** Update to Role title

- **Under CSO 13 Extensions and other Variations to Existing Contracts**
 - **CSO 13.5** Update to wording

3.0 Roles & Responsibilities

- 3.1 Part of the Procurement Managers role is to acknowledge and understand best practice, building on existing working practices and to encourage a culture of continuous improvement ensuring a robust, effective and accountable delivery within all procurement activity.
- 3.2 This approach is continuing to be taken ready for the implementation of the Procurement Act 2023 anticipated to take effect from 1 October 2024, which will be implemented along with a training programme for all Officers across the Council who are in position of making purchasing decisions. Procurement would seek to ensure the benefits of existing local knowledge and service delivery/expertise applied to tendering processes is complimented by consistent, proportionate controls, processes and procedures across procurement activity as a whole.
- 3.3 The CSOs have been reviewed to ensure that Officers work in partnership with the Procurement Team which in essence maintains Services as the delivery experts, whilst Procurement (& Legal) ensure that all procurement activity is effective, legal and not open to challenge, reducing and mitigating any potential risk to officers and the authority. With recent reviews undertaken of the Procurement process and CSOs further amendments are anticipated to be put forward for review and decision later this year, however, have not been included at this time due to a full rewrite of CSOs being required for the new Procurement Act 2023 anticipated to come in October 2024 and these changes are better placed to be incorporated at that time.

4.0 Options

- 4.1 CRWP endorse the proposed changes and content of CSO's and make recommendation to the Standards Committee
- 4.2 CRWP do not endorse the proposed changes and content of CSO's and provide further instruction in this regard to the Procurement Manager.

5.0 Planned Changes in Procurement Legislation

- 5.1 The new Procurement Act 2023 is anticipated to come into force in October 2024. This will require a number of changes to be incorporated into CSOs to reflect the requirements that are captured under the new Procurement Act 2023 going forward and those requirements that will still sit under PCR2015. It is anticipated that a full review and rewrite of CSOs will be required due to the number of changes being made, transparency and contract management requirements to be met. At this time

full guidance on the implementation is limited and therefore is unable to be incorporated within this refresh of CSOs. Regular training is continuing to be undertaken by Procurement and Legal on information available.

Contact Officer: Matthew Sanham, Head of Finance and Procurement
Reporting to: Chris Blundell, Director of Corporate Services - Section 151

Annex List

Annex 1 Contract Standing Orders

Background Papers

Procurement Contract Regulations 2015

<https://www.legislation.gov.uk/ukxi/2015/102/contents/made>

Local Government Transparency Code 2015

<https://www.gov.uk/government/publications/local-government-transparency-code-2015>

Government issued Procurement Policy Notes

<https://www.gov.uk/government/collections/procurement-policy-notes>

Procurement Act 2023

<https://www.legislation.gov.uk/ukpga/2023/54/contents/enacted>

Corporate Consultation

Finance: *N/A*

Legal: Ingrid Brown (Head of Legal and Democracy & Monitoring Officer)