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CITY COUNCIL – SUPPLEMENT PACK TWO

Monday 26 March 2018

2 pm

Council House, Plymouth

Members:

Councillor Mrs Foster, Chair

Councillor Kelly, Vice Chair

Councillors Mrs Aspinall, Ball, Mrs Beer, Bowie, Bowyer, Mrs Bowyer, Mrs Bridgeman, Carson, Churchill, Coker, Cook, Dann, Darcy, Philippa Davey, Sam Davey, Deacon, Downie, Drean, Evans, Fletcher, K Foster, Fry, Hendy, James, Jordan, Martin Leaves, Michael Leaves, Sam Leaves, Loveridge, Lowry, Dr Mahony, Mavin, McDonald, Morris, Murphy, Nicholson, Parker-Delaz-Ajete, Penberthy, Mrs Pengelly, Rennie, Ricketts, Riley, Singh, Smith, Sparling, Stevens, Storer, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent, Wheeler, Wigen and Winter.

Members are invited to attend the above meeting to consider the items of business overleaf.

This meeting will be webcast and available on-line after the meeting. By entering the Council Chamber, councillors are consenting to being filmed during the meeting and to the use of the recording for the webcast.

The Council is a data controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with authority's published policy.

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Tracey Lee

Chief Executive

City Council

9. Constitutional Amendments

(Pages 1 - 24)

The City Council will be asked to approve changes to Contract Standing Orders following consideration at Audit Committee and the Constitutional Review Group (CRG).

PLYMOUTH CITY COUNCIL

Subject:	Contract Standing Orders
Committee:	Council
Date:	26 March 2018
Cabinet Member:	Cllr John Riley, Cabinet Member for Democracy and Governance
CMT Member:	Andrew Hardingham
Author:	Simon Arthurs (Senior Financial Analyst), Lesley Skeats (Procurement Services Manager), Charliy Whitehead (Project Manager)
Contact:	Tel: Simon Arthurs e-mail: arthurss@plymouth.gov.uk
Ref:	TBC
Key Decision:	No
Part:	I

Purpose of the report:

A transformational change project is being undertaken in the Procurement Service Function to make it leaner, more efficient, fit for purpose and enable it to focus more strategically on the needs of its clients, which will in turn benefit the city and its citizens. There are a number of work streams being looked at as well as a number of quick wins; the first of which is responding to client feedback by implementing self-service for lower level transactions.

We are proposing an amendment to section H of the Constitution which will enable officers across PCC to self-serve up to the value of £25,000 within an approved process. Low value spend (less than £25,000) will be managed through a self-service portal. This will empower front line staff to self-serve and will allow goods/services to be procured quicker within the Contract Standing Orders rules.

By implementing self-service we can refocus the efforts of the Procurement Services Function which will:

- Enable the delivery of a fit for purpose Procurement Services Function focusing on value adding activities for the benefit of delivering the city's outcomes for its customers and citizens.
- Permit procurement resource to focus on value-add/strategic procurement activities which will enhance the opportunities to deliver savings or secure best value.
- Allow the team to be more visible with individual departments which in turn will develop relationships and allow the service to be proactive rather than reactive.
- Free up time for the team members to upskill and progress, ensuring resilience within the Procurement Services Function driving succession planning, more consistency for a better relationship with the other function's clients.

Corporate Plan 2016-2019:

Pioneering Plymouth- This project fully supports this vision and new leaner ways of working, providing innovation, empowerment and delivering procurement services that are flexible, accountable and efficient.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

As this is a change to internal business process, the changes to systems and delivery of training will be met within existing resources.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:

Ensure and maintain compliance

- Robust communication plan
- In depth user training and on-line guidance will be developed
- Individuals who require access to the system will not be given log in until they have completed and passed an on-line training module.
- Improve the awareness of Contract Standing Orders.
- Internal Audit will undertake spot checks to monitor compliance.

Recommendations & Reasons for recommended action:

That Council –

1. Notes the agreement of the Audit Committee and Constitutional Review Group to the changes
2. Approves the amendments to Contract Standing Orders, Part H of the Constitution

Alternative options considered and reasons for recommended action:

Do nothing- Remain as is

The Procurement Services Function would be unable to provide the skilled resource who would otherwise be focusing on providing strategic added value and thereby benefiting the council.

Background papers:

Briefing Report

Amended Section H of the Constitution- Contract Standing Orders

Sign off:

Fin	pl171 8.223	Leg	ALT/ 2306 7	HR	N/A	Corp Prop	N/A	IT	N/A	Strat Proc	N/A
Originating SMT Member Andrew Hardingham											
Have you consulted the Cabinet Member(s) named on the report? Yes											

REPORT

BACKGROUND

Following the review of the Procurement Services Function it was highlighted that work was needed to better understand the function’s offer to the business. It became apparent that a transformational review of the service would be beneficial to make the function more efficient and fit for purpose. It is understood that by making changes and focussing the function more strategically on the needs of its clients, then benefits would be seen both internally to the council and externally to the city and its citizens.

The transformation project has a number of work streams being looked at as well as identifying quick wins. The first of which is responding to client feedback by implementing self-service for lower level transactions.

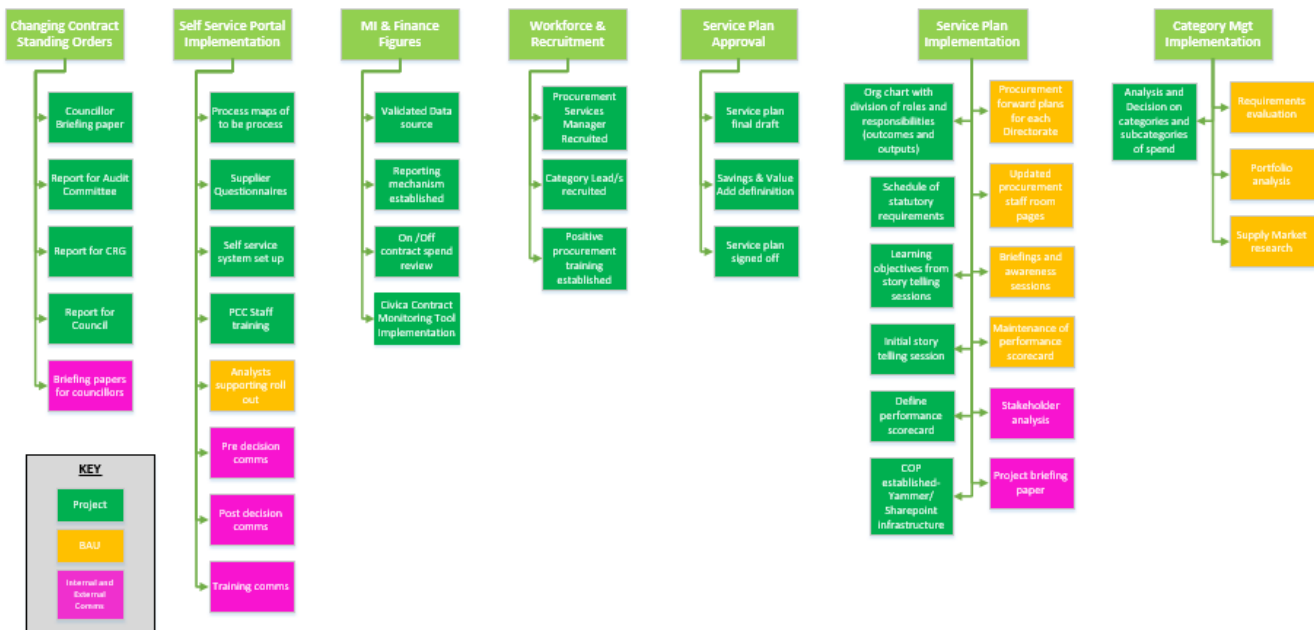
FSS- Procurement Transformation Project- Product Breakdown Structure

Strategic Outcomes

To ensure Procurement functions effectively, calculating savings & value add and ensuring legal compliance as well as specifying requirements to procure goods and services at lowest total cost of ownership.

To deliver a procurement service that is capable of achieving a reputation amongst managers in the council and suppliers, that is easy to do business with, adds value and is transparent.

To create a role for a subject matter expert, such as that they are able to design and see implemented a procurement function that could be beneficially aligned in a shared service and approved by health.



CHANGES TO CONTRACT STANDING ORDERS

In the first work stream of this project we are proposing an amendment to section H of the Constitution which will enable officers across PCC to self-serve up to the value of £25,000 within an approved process. Low value spend (less than £25,000) will be managed through a self-service portal.

This will empower front line staff to self-serve and will allow goods/services to be procured quicker within the Contract Standing Orders rules.

SUMMARY OF THE PROPOSED AMENDMENTS

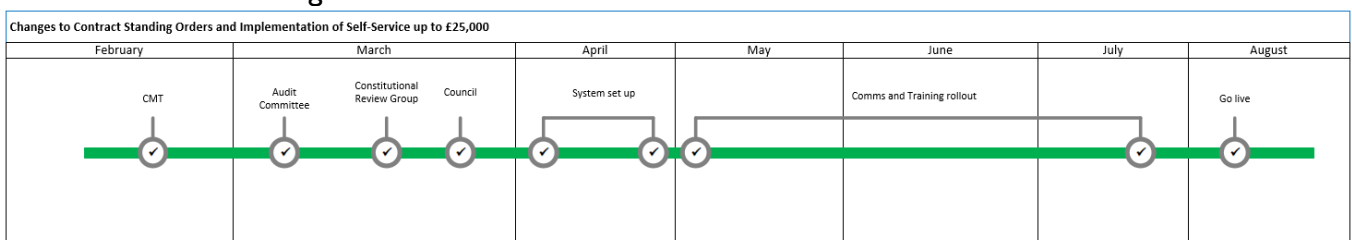
- Up to £500 no change- option to use Purchase Card. A review of Purchase Cards will be undertaken as part of a separate work stream.
- £501-£5,000 one quote- self serve using financial system
- £5,001-£25,000 three quotes- self serve using financial system
- £25,001 no change to the process. Purchase requisition sent to the Procurement Team (Requisition soon to be an on-line Firm step form)

CONDITIONS TO MITIGATE RISK WITHIN THE PROCESS

- Procurement Services function will authorise approval of all new suppliers (this will ensure the Council maximise existing contracts/frameworks already in place).
- Creditors will continue to undertake the due diligence on all new suppliers which ensures clear separation of duties.
- Internal Audit will be asked to undertake spot checks to monitor compliance.
- Full user training and on-line guidance will be developed. It is the intention that access to the self-service system will only be given to individuals who undertake and pass the on-line training module (yet to be developed).
- A robust communication plan will be developed to ensure all staff are aware.

TIMESCALES

It is proposed that following a robust communications and training plan, the self-service portal will go live to all staff on 1st August 2018.



CHANGES TO BE APPROVED

Attached are the marked up version of Section H of the Constitution- Contract Standing Orders.

PLYMOUTH CITY COUNCIL CONSTITUTION

PART H

STANDING ORDERS AND REGULATIONS

Contract Standing Orders

1. When do these standing orders apply?
2. Other relevant guidance, rules and law
3. Responsibility to follow these standing orders and relevant law
4. Interests of councillors and officers in contracts
5. Gifts and hospitality
6. Procurement advertisements
7. Before a contract is procured
8. Estimating the total contract value
9. Format of contracts
10. Contract terms and conditions
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12. Purchasing Card Procurement
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40. Debriefing
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49. Contract Extension and Variation
50. Termination of Contracts
51. Review and Amendment of Contract Standing Orders
52. Interpreting Contract Standing Orders

Comment [WC1]: This section has been amended to reflect the changes below

1. When do these standing orders apply?

- 1.1 These standing orders apply when the council expects to spend money or provide other value for goods, works or services. They do not apply to contracts of employment with the council. They apply to both capital and revenue and cover:
 - contracts for goods, works or services
 - acquisitions and disposals of land or buildings
- 1.2 The officers named in Standing Order 11.3 have authority to waive the requirements of any of these rules (but they must always comply with national and EU law.)

2. Other relevant guidance, rules and law

- 2.1 All contracts entered into by the council must be to carry out the council's functions or be in connection with the council's functions. They must comply with:
 - all relevant national law and EU procurement law
 - all relevant EU procurement rules and guidance
 - the Financial Regulations (see part H of the Constitution)
 - the budget and policy framework procedures (see part B of the Constitution)
 - the Constitution.
- 2.2 Officers must consider the requirements of the Constitution and legal issues when entering contracts and must ensure the risks are fully assessed.

3. Responsibility to follow these standing orders and relevant law

- 3.1 These standing orders apply to all officers. It is the responsibility of the relevant Assistant Director to make sure that their staff follow these standing orders.
- 3.2 The council may take disciplinary and/or legal action against anyone who breaks these rules or the relevant national or EU law.

4. Interests of Councillors and officers in contracts

- 4.1 Requirement to avoid conflicts of interest: Councillors, officers and anyone acting for the council in connection with the procurement, award and management of council contracts must act with the highest standards of probity and avoid conflicts of interest.
- 4.2 Councillors' interests: Councillors must follow the Councillors Code of Conduct ([see Part G of the Constitution](#)). In addition, it is a criminal offence for a Councillor not to declare a financial interest in a contract.
- 4.3 Officer interests, reports and advice: Officers must declare interests in contracts. It is a criminal offence for an officer not to declare a financial interest in a contract. (This does not apply to an officer's own contract of employment or their tenancy of a council owned property).
- 4.4 Directors are responsible for recording officers' financial interests in a register that is kept in the department.
- 4.5 Officers should not write reports on something they have declared an interest in; or advise council or the cabinet or a committee on something they have declared an interest.

5. Gifts and hospitality

- 5.1 As a general rule councillors and officers must not accept:
- any gift (other than an inexpensive gift such as a calendar or diary for use in the office); or
 - any hospitality from suppliers or potential suppliers, or from any firm or organisation with whom the council has had, is having or may have any dealings of any kind - without the written authorisation of a Director.
- 5.2 'Hospitality' includes drinks, meals, entertainment, overnight accommodation, travel and holidays, but does not include a lift in a private or company car or a taxi or refreshments in the course of office duty (e.g. a working lunch).
- 5.3 All staff who accept gifts or hospitality must complete a receipt of gift or hospitality form. Once completed the form should be sent to the Monitoring Officer.
- 5.4 Directors must immediately enter in a register, particulars of:
- any gift (including how it has been returned to the giver or otherwise disposed of e.g. donated to the Lord Mayor for charitable purposes); and
 - any hospitality.

6. Procurement advertisements

- 6.1 The council will publish all procurement opportunities over £150,000 unless the procurement is sourced via a framework (see Section 30) and all contract awards over £25,000~~£150,000~~.
- 6.2 Strategic Procurement will publish an advertisement:
- in OJEU (if required by the Regulations)
 - on the Council's chosen procurement portal (~~www.supplyingthesouthwest.org.uk~~)
 - on Contracts Finder
- 6.3 If the notice is published in OJEU, then the procurement documents for that particular procedure must be available for suppliers to download from the date of publication of the OJEU contract notice.

7. Before a contract is procured

Before undertaking a procurement the authorised officer must:

- identify the need for the services, goods or works in question and fully assess all options for meeting those needs (including recycling and re-use where appropriate)
- establish a business case for the procurement
- establish the council has the legal power to enter into the contract
- contact ~~strategic P~~procurement Services function to discuss the available options (where thresholds apply).
- if it is a capital project make sure the project has been accepted onto the capital programme. See capital programme governance.
- consider whether there is an appropriate framework agreement ~~or such as a~~ Crown Commercial Services (CCS) contract framework that could be used)
- consider the council's procurement business plan as appropriate
- choose a course of action which represents best value for money for the council

- for works procurements >£1,000,000 consider adoption of the employment and skills strategy, for further information contact [strategie Pprocurement Services function](#).
- consider [whether the requirements under the Public Services \(Social Value\) Act 2012 applies to the procurement in respect of any procurements that are subject to the Public Contract Regulations 2015](#)
- determine the contract type and the level of contract management resource required to manage the contract.

8. Estimating the total contract value

- 8.1 The total contract value is the total amount (minus VAT) that is expected to be paid to the supplier as a result of the contract award during the whole of the contract. If the value is £50,000 per annum for two years, then the total value of the contract is estimated at £100,000. It includes
- the value of any non-monetary consideration or benefit the council is giving to the supplier
 - the value of anything the council is getting for free as part of the contract
 - any amount that could be paid by extending the contract (if it is possible to extend it).
- 8.2 If the length of a contract is uncertain and the value cannot be reasonably estimated, its total value will be its estimated monthly value times 48.
- 8.3 A single contract must not be split into smaller contracts to get around these contract standing orders or the law, and goods, services or works must not be split to get around these contract standing orders or the law.
- 8.4 Where the proposed procurement for goods, works or services may result in the requirement being split into lots, the value shall be based upon the value of all lots.
- 8.5 The contract must be treated as a high value procurement where there is a transfer of staff.

9. Format of contracts

- 9.1 Contracts must be in writing.
- 9.2 Contracts must be executed as a deed (sealed) if they are for property building and construction, nil consideration, probate, or if the Head of Legal Services advises they must be executed as a deed.
- 9.3 Contracts must be signed by the Head of Service (or their designee). Where contracts are required to be sealed or executed as a deed please contact legal services.
- 9.4 Contracts over the EU threshold must comply with relevant EU procurement law.
- 9.5 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 if the [strategie Pprocurement Services Mmanager](#) is satisfied that the arrangements are secure.

10. Contract terms and conditions

- 10.1 Contracts must be entered into on the council's terms and conditions, which will be referenced on each purchase order and included with each Invitation to tender (ITT). Exceptions to this rule must be approved by the Head of Legal Services.
- 10.2 Where contracts are subject to the Regulations, the rules relating to technical specifications will be followed and any reference to a technical standard, make or type will be prefaced with the words "or equivalent".

10.3 The standard terms and conditions of the council are available on the document library and the council’s website.

11. When is there no need to seek quotes or tenders?

11.1 Emergencies: If there is an unforeseen emergency or a disaster involving immediate risk to persons, property or serious disruption to council services or significant financial loss any Director can approve waiving these rules after consulting the Head of Legal Services where practicable. They must prepare a report for the next Cabinet to support the action taken.

11.2 Exempt contracts: The following contracts are exempt from the requirements to obtain tenders provided that quotations are sought.

- contracts relating solely to disposal or acquisition of an interest in land, provided that the contract is not deemed to be a works contract in which case the contract shall be procured in accordance with these rules as a works contract;
- contracts for individual personal care services;
- transactions conducted by the Chief Finance Officer in respect of dealing in the money market or obtaining finance for the council;
- contracts offered by the Head of Legal Services for the appointment of counsel;
- contracts where a sole supplier has exclusive rights (e.g. alterations to statutory undertakers apparatus).

11.3 Where there is a written waiver: In cases where the EU regulations do not apply, the Head of the relevant service area, Head of Legal Services and the ~~heads of strategic p~~Procurement ~~Services M~~anager can waive the requirements of any of the contract rules. All waivers and the reasons for them must be recorded using the designated form which can be found on the document library. The waiver form must be ~~approved signed by the Director and agreed~~ by the Head of the relevant service area, Head of Legal Services and the ~~e-heads of strategic p~~Procurement ~~Services M~~anager.

12. Purchasing Card Procurement

12.1 Purchasing cards are badged charge cards, issued to an individual for the express function of purchasing one off requirements or low value, low risk goods and services for the authority which are not available as a catalogue item on the CIVICA purchasing system.

12.2 Only the person whose name appears on the card is authorised to use the card up to the maximum transaction value as detailed in table 13

12.3 They work in a similar way to personal credit cards, however they do not offer extended credit and the balance on the cards is automatically paid off monthly. Cash cannot be withdrawn except by nominated Emergency Response Officers.

12.4 Purchasing cards shall only be used in accordance with the Purchasing Card Cardholder User Guide which is available on the document library.

12.5 The application form to apply for a Purchase Card is available on the document library.

13.

13.

13. Table of purchase card limits

Officer	Maximum Transaction Limit	Maximum Authorised Card Limit
Chief Officers	£10,000	£50,000

Buyer/Procurement Officer	£5,000	£50,000
Emergency Planning Officer	£20,000	£100,000
Standard PCC Employee	£500	£2000

14. Lodge Cards

- 14.1 Lodge cards are a type of credit card which are badged and “lodged” with the supplier so the card number does not need to be quoted on each order. They provide a cost effective and simple means of managing and allocating spend, ensuring the availability of electronic management information without the need for placing purchase orders.
- 14.2 Lodge cards should be used with suppliers whose service is provided centrally to a service area such as schools catering, travel, stationery etc. Agreement for the use of a lodge card will only be given by the [Strategic Procurement Services mManager](#).

15. Fuel Cards

- 15.1 Fuel cards are a type of credit card used solely to purchase fuel; they can be used in all of the major UK filling stations.
- 15.2 There are three different types of cards:
 - Person Card: This card is assigned to a specific person and can only be utilised by that person when using a hire car or a fleet vehicle which is utilised by a number of people. This card cannot be used for casual and essential users.
 - Vehicle Card: This card is utilised for our fleet vehicles and is allocated to a specific registration
 - Bearer Card: Bearer cards are not assigned to either an individual or specific vehicle they are assigned to a department for all to use. These cards offer a high risk of fraudulent use, therefore, the issuing and management of the card has to be done in a controlled manner as detailed in the instructions for use (available on the document library).
- 15.3 Application forms for any of the above fuel cards are available [on the document library from strategic procurement](#).
- 15.4 Fuel cards shall only be used in accordance with the Fuel Card Cardholder User Guide (available on the document library).

16. Contract Procurement – existing and corporate contracts

- 16.1 Competitive quotations and tenders are not required if there is a contract already in place.
- 16.2 The contract register detailing the list of contracts [in line with the latest version of the Local Government Transparency code](#) is available on the [Council’s intranet and internet website document library](#).
- 16.3 Many of the corporate contracts are set up as catalogue items available to purchase using the CIVICA purchasing system. Anyone with access to the system can place a purchase order for catalogued goods and services by [Finding a Product](#) in the Civica Purchasing system.

17. [General Principles for Procurement](#)

Comment [WC2]: This section has been added at the beginning to cover of some key principles. Some of the information has been moved from later in the document to this section as it applies generally to procurement.

- 17.1 All procurements must be undertaken in a fair and transparent manner.
- 17.2 All procurements must comply with Contract Standing Orders -and where the procurement value exceeds the relevant thresholds be undertaken in accordance with the Public Contracts Regulations 2015, relevant Crown Commercial Services' procurement policy notices and all legislation.
- 17.3 In the event of a re-tender due to legal obligations under procurement law, authorisation to re-tender is not required. In all other circumstances (i.e. new procurements) business case approval must be sought in accordance with the table of authorisation detailed in 18.
- 17.4 Any contract that is funded by capital funds can only be approved if it is on the capital programme.
- 17.5 Where the service involves the transfer of employees from one service provider to another, the Council must consider the Transfer of Undertakings Protection of Employment Regulations (TUPE) regulation applies.
- 17.6 Where the procurement is over £100,000 and not a one off purchase, the contract award must be recorded in the contracts register, which is maintained by the Procurement Services function.

Comment [WC3]: We have renamed the team all through this document as it no longer reflected what the team is called.

18. Summary Table of procurement routes dependent upon value

Type	Value range	Department	Activity	
Low Value/Low Risk	Requisitioner standard RFQ	up to £5000	Self Service within Department	One written quotation
	Requisitioner standard RFQ	between £5,001 and £25,000	Self Service within Department	Three written quotations
Medium Value/Medium Risk	Procurement standard RFQ	£25,001 - £100,000 (goods / services)	Procurement Services Function	Three written quotations
		£25,001 - £200,000 (works)		
	Procurement technical RFQ	£100,001 - £150,000 (goods/services) £200,001 - £2,000,000 (works)	Procurement Services Function	Five written quotations
High Value/High Risk	Below EU Threshold	£150,0001- EU Threshold (goods/services)	Procurement Services Function	Tender advertised /Framework used
		£2,000,001 – EU Threshold (works)		
	Above EU Threshold	See OJEU	Procurement Services Function	Tender advertised /Framework used

Comment [WC4]: This table has been slightly amended from to show the changes in the standing orders for under £25,000. A few other rewording changes and clarifications have been made to ensure that this summarises the information in the next few sections.

19. Procurements Below £25,000

19.1 For any procurements under £25,000 departments are able to self-serve.

19.2 All new suppliers not currently approved on Creditors will need to be approved by the Procurement Services function prior to a requisition being raised.

19.3 Low Value/Low Risk Procurements

19.3.1 Requisitioner standard RFQ one quote (up to £5,000)

For those procurements up to £5,000 departments are required to source a minimum of one written quotation.

19.3.2 Requisitioner standard RFQ three quotes (between £5,001 and £25,000)

For those procurements between £5,001 and £25,000 departments are required to seek a minimum of three written quotes, two of which shall be from local suppliers where possible.

20. Procurements £25,001 and above

20.1 For any procurement above £25,001 (or high risk or technical) a procurement initiation form (available on the self-service on PCC intranet) needs to be completed and sent to the Procurement Services function mailbox. For all procurements above £25,000 the opportunity must be awarded advertised on Contracts Finder and the Council's chosen portal.

20.2 Medium Value/Medium Risk Procurements

20.2.1 Procurement standard RFQ (£25,000 - £100,000 (goods/services) and £25,001 - £200,000 (works))

~~For goods and services procurements valued between £25,001 below and £100,000 and for non-technical works procurements valued between £25,001 below and £200,000 the procurement initiation form purchase requisition (available on the document library) will need to contain: be completed detailing the a full specification, including manufacturers part number (if applicable), quantities, delivery required by date and charge codes, and sent to the procurement mailbox. The operational Procurement Services function team will source at least three written quotations, two of which shall be from local supplier's where possible, utilising the chosen portal, Sell 2 Plymouth, before a formal purchase order is issued specifying the goods or services to be provided and setting out the price and terms of purchase. Faxed or e-mailed quotations are acceptable for these purposes.~~

20.2.2 Procurement technical RFQ (£100,001 - £150,000 (goods/services) and £200,001 - £2,000,000 (works))

~~For technical procurements or those valued above £100,001 and below £150,000 for goods and services and above £2,000,001 but below £2,000,000 for works, the procurement initiation form will need to contain: a detailed specification, will need to be completed including and evaluation criteria, plus for works, the chosen terms and conditions will also need to be included, and sent to the procurement mailbox. The strategic Procurement Services function department will support this procurement by seeking at least five written quotations, four of which shall be from local suppliers where possible, utilising the chosen portal, Sell 2 Plymouth.~~

20.3 To avoid unnecessary risk, only council approved purchasing suppliers should be used.

Comment [WC5]: Section 19 outlines the key changes we want to make to CSOs whereby the business can self-serve up to a value of £25,000. This is the main decision point.

Comment [WC6]: We are undergoing a change of portal therefore believe this document should state "chosen portal" rather than stipulating the actual portal. Otherwise this document will have to be amended each time the portal contract is retendered.

Comment [WC7]: This has been moved section 17.

20.3 ~~Approved suppliers are those who have registered and have been green flagged on the Sell 2 Plymouth vendor management portal. (<http://www.sell2plymouth.co.uk>)~~

Comment [WC8]: We will no longer be using this portal so this no longer needs to be included.

20.3 High Value/High Risk Procurements

~~For all procurements above £150,000 for goods and services and £200,000 for works, approval must be obtained for both evaluation criteria and award of contract in accordance with the table in section 18.~~

20.3.1 Below EU Threshold procurements (£150,001-EU Threshold (goods/service) and £2,000,001-EU Threshold (works))

Goods and Services:

~~Below threshold procurements applies to procurements valued above £150,001 and the EU Threshold for goods and services. The Procurement Services function must undertake a one stage procurement procedure as deselection is not allowed. However, suppliers may still be disqualified if they do not meet the minimum requirements of the Council. The opportunity must be advertised and awarded on Contracts Finder and the Council's chosen portal.~~

Works:

~~Below threshold procurements applies to procurements valued between and £2,000,001 for works but below and the EU threshold for works. The Procurement Services function will undertake either a one stage or two stage procurement procedure. The opportunity must be advertised and awarded on Contracts Finder and the Council's chosen portal. See section 22 or contact Strategic Procurement for the current EU threshold values.~~

20.3.2 ~~For tenders below the threshold the open procedure must be used as deselection is not allowed. However, suppliers may still be disqualified if they do not meet the minimum requirements of the council.~~

20.3.2 Above EU Threshold procurements (£150,001-EU Threshold (goods/service) and £2,000,001-EU Threshold (works))

~~For all procurements valued above EU Threshold, a tender and contract award procedure must be conducted in accordance with The Public Contracts Regulations 2015.~~

~~For all procurements of goods and services valued above £150,000 or above £2,000,000 for works procurements or those where staff will transfer, a tender and contract award procedure must be conducted in accordance with these contract rules. The outcome of the contract award procedure must be recorded in the contracts register, which is maintained by the strategic procurement department.~~

~~For all procurements above £150,000, approval must be obtained for both the evaluation criteria and award of contract in accordance with the table in section 21.~~

~~In the event of a re-tender due to legal obligations under procurement law, authorisation to re-tender is not required. In all other circumstances (i.e. new procurements) Business case approval must be sought in accordance with the table of authorisation detailed in 21.~~

~~Any contract that is funded by capital funds can only be approved if it is on the capital programme.~~

20. Summary table of procurement routes dependent upon value

Comment [WC9]: This section has moved up to 18.

Value range	Department	Documents required	Activity	To be sent to:
<£100K (goods / services) and <£200K (works)	Operational procurement (buying team)	Purchasing requisition; specification	Request for Quotation (3 suppliers)	Purchasing.requisition@plymouth.gov.uk

>£100K but <£150K (goods-/ services) and >£200K but <£2m (works)	Strategic procurement	Specification, evaluation criteria, terms and conditions	Request for Quotation (5 suppliers)	procurement@plymouth.gov.uk
>£150K and below EU threshold (goods/services) and >£2m and below EU threshold (works)	Strategic procurement	Tender docs, specification, evaluation criteria, terms and conditions	Tender (advertised on portals)	procurement@plymouth.gov.uk
>EU thresholds	Strategic procurement	Tender docs, specification, evaluation criteria, terms and conditions	Tender (advertised on portals)	procurement@plymouth.gov.uk

21. Who can authorise contracts?

	Contract Value	Who can authorise the outline business case or tender?	Who can agree the evaluation criteria?	To be placed on the Forward Plan?	Approval documents required	* Who can award the contract?
<u>Low value/Low risk</u>	<u>Up to £25,000</u>	<u>Department</u>	<u>Department</u>	<u>N/A</u>	<u>N/A</u>	<u>Department</u>
<u>Medium value/Medium risk</u>	<u>£25,001-£150,000</u>	<u>Procurement Services function</u>	<u>Procurement Services function</u>	<u>N/A</u>	<u>N/A</u>	<u>Procurement Services function</u>
<u>High value/High risk</u>	Over £150,000 and less than £500,000	Assistant Director	Assistant Director	N/A (unless it constitutes a key decision)	Contract Award Report	Assistant Director
	Over £500,000 <u>and over</u> and less than £2,000,000	Cabinet Member	Assistant Director	N/A (unless it constitutes a key decision)	Contract Award Report and Executive Decision Report	Cabinet Member
	Over £2,000,000 <u>and over</u> or a key decision	Cabinet	Assistant Director	Yes	Contract Award Report and Cabinet Report	Cabinet

[*Please refer to Legal Standing Orders paragraph 2 – Signing of documents.](#)

22. High Value/High risk procurement process

22.1 Prior to the commencement of procurement the authorised officer will develop the procurement approach.

22.2 One of ~~six~~ four procurement procedures must be used as appropriate for the particular procurement i.e. open, restricted, competitive procedure with negotiation, competitive

dialogue, innovation partnership, or ~~or negotiation without prior publication competitive procedure with negotiation.~~ Information on these procedures are detailed below (see sections 242 to 296).

22.3 For procurements valued above £150,000 but falling below the EU threshold tender timescales and procedures can be adjusted accordingly but only after consultation with the ~~strategic p~~Procurement Services function.

22.4 For procurements that constitute a key decision or are above £500,000 decisions to approve the business case must be taken by either the cabinet member ~~or~~ cabinet as detailed in table 21 above and (for key decisions) the head of service needs to arrange for notice of the earliest date on which the decision could be taken to be placed on the forward plan. The head of service will also need to provide appropriate reports to the Cabinet Member of Cabinet using the standard forms that are available on the document library or form Democratic support.

23. Application of the Regulations

23.1

23.1 Where an estimated value of a contract exceeds the current EU threshold then the contract must be procured in accordance with the Regulations, unless there is a suitable framework available.

23.2 Public contracts for Social and other specific services as listed in Section 7, Schedule 3, Public Contracts Regulations 74 shall be awarded in accordance with this regulation.~~section.~~

The current EU thresholds can be found here: <http://www.ojeu.eu/thresholds.aspx>

23.3 ~~The current EU thresholds effective from 1st January 2014 that will apply to the 31st December 2015 are:~~

23.3

23.3 ~~Value at which a contract/order must be put through the EU process~~

23.3	Supplies	23.3	Services	23.3	Works
23.3	£172,514*	23.3	£172,514*	23.3	£4,322,012*

23.3 ~~*Contact Strategic Procurement for updates on the EU threshold values~~

23.3

23.3 ~~For procurements subject to EU thresholds a contract notice or prior information notice in the prescribed form will be published in the Official Journal of the European Union (OJEU) in order to invite tenders or expressions of interest.~~

23.3 For procurements subject to EU thresholds a contract notice or prior information notice in the prescribed form will be published in the Official Journal of the European Union (OJEU) in order to invite tenders or expressions of interest.

23.4 This requirement to advertise includes procurements for Social and Other Specific Services (as defined in the Regulations).

23.5 The rules relating to technical specifications and the publication of contract award notices will be observed for all contracts as must the EU Treaty and the general principles of EU law including non-discrimination, equal treatment, proportionality, transparency and mutual recognition.

23.6 The Regulations set out the minimum timescales for receipt of expressions of interest and tenders. Where the council has published a Prior Information Notice announcing its forthcoming contracts for the year ahead, then the council may rely on reduced timescales as set out in the regulations if appropriate.

- 23.7 When using any procedure under OJEU, the contract award is subject to a mandatory 10 calendar day standstill period. The 10 day standstill period starts on the day that all the suppliers are formally notified via either fax letters or e-mail of the decision to award the contract or conclude the framework agreement. This notice must also give details of the criteria for the award, the reasons for the decision, including the characteristics and relative advantages of the successful tender, their respective score against the evaluation criteria (as set down in the ITT) and the score and name of the winning tenderer, and the date before which the council will not enter the contract or conclude the framework agreement. (This standstill period cannot conclude on a non-working day, therefore if the 10th day falls on the weekend, then the standstill period will conclude at midnight on the following Monday). Once the 10 days have expired then on the next working day the council is able to place the contract with the successful tenderer (days to be added for bank holidays), if no valid challenge is received.
- 23.8 The regulations allow contracting authorities to reserve contracts for sheltered workshops and sheltered employment programmes, Public Sector Procurement Directive Article 20 (Regulation 20 of the Regulations) applies. This directive is committed to ensuring equality of employment opportunity for everyone.

24. Restricted Procedure

- 24.1 This is a two stage procedure. Stage 1 is a pre-~~selection qualification~~ stage and is used to de-select suppliers. Stage 2 is the tender stage and is used to determine a successful supplier to whom a contract will be awarded.
- 24.2 The opportunity must be advertised (see section 6).
- 24.3 Only those suppliers selected by the ~~C~~council may be invited to tender. Suppliers will be selected on the basis of published pre-~~qualification~~~~selection~~ criteria.
- 24.4 If the Regulations apply, a minimum of five suppliers must be invited to tender and in all other cases a minimum of three must be invited to tender.
- 24.5 The Restricted Procedure is the council's chosen standard process for procurements above the £150,000. Any other process can only be used if the relevant officers have agreed to waive this rule and have signed the necessary forms – see section 11.3.
- 24.6 If the regulations do not apply, tender timescales can be amended accordingly.

25. Open Procedure

- 25.1 This is a one stage procedure and is used where there are a limited number of suppliers and where timescales will not allow for use of the restricted procedure.
- 25.2 The opportunity must be advertised (see section 6).
- 25.3 Any supplier expressing an interest in tendering for the contract will be able to download the ITT documents.
- 25.4 ~~The ITT must include information of the qualitative selection criteria (if applicable).~~ A minimum requirement threshold score may be determined for the tender questionnaire and this will be published in the advert (or OJEU Contract Notice if applicable) and in the ITT documentation. Any supplier that scores below this minimum threshold is considered unsuitable and will be disqualified. There is no short listing step in the open procedure and all suppliers that score above the minimum requirement threshold must be evaluated.

26. Competitive Procedure with Negotiation

- 26.1 This procedure may only be used after consultation with the ~~strategic p~~Procurement Services manager and having obtained the agreement of the Head of Legal Services. It may only be used in very limited circumstances and is rarely used by local authorities.
The opportunity must be advertised (see section 6).
- 26.2 Only those suppliers selected by the council are invited to tender. Suppliers shall be selected on the basis of published pre-qualification criteria. Any notice will state that a negotiated procedure is being used.
- 26.3 A minimum of three suppliers should be invited to negotiate following publication of a notice.
- 26.4 A minimum of two officers, at least one of whom must be a ~~strategic p~~procurement Services function representative or their delegate, must be present at all times during the negotiations.
- 26.5 The authorised officer must keep proper records of all negotiations and these will be signed as such by all participants.
- 26.6 At all times during the negotiations, the council will consider and implement the principles of non-discrimination, equal treatment and transparency.

27. Competitive Dialogue Procedure

- 27.1 The competitive dialogue procedure is for use where the ~~strategic p~~procurement Services manager considers that the open or restricted procedure will not allow the award of the contract due to the fact that it is a particularly complex procurement. It can only be used with the most economically advantageous award criteria and this must be stated in the contract notice or accompanying descriptive document.
- 27.2 The council envisages the competitive dialogue procedure being used for many private public partnerships where contracts are complex and the technical means and/or the legal and financial structure cannot be determined without dialogue with suppliers.
- 27.3 In the case of a particularly complex contract, you may be aware of your needs but not know in advance what the best technical, and/or legal and/or financial solution is. A competitive dialogue procedure between buyers and suppliers is therefore necessary to identify the solution or solutions that best meet their needs. Such a dialogue is not allowed under the current open and restricted procedures. However, the process is time-consuming and the most expensive method of procurement.
- 27.4 The opportunity must be advertised (see section 6).
- 27.5 The Regulations set out further rules which apply to Competitive Dialogue Procurements. Competitive Dialogue procurements should be referred to the council's ~~strategic p~~Procurement Services function and legal services teams.

28. Innovation Partnership

- 28.1 The innovation partnership is for used where the Procurement Services manager considers it appropriate and where there is a need for an innovative product, service or work that cannot be met by purchasing products, services or works already available on the market.
- 28.2 It can be used to set up an innovation partnership with one partner or with several partners conducting separate research and development activities.

29. Negotiated procedure without prior publication

- 29.1 This procedure may only be used after consultation with the Procurement Services manager and having obtained the agreement of the Head of Legal Services. It may only be used in very limited circumstances.

30. Predetermined Framework Agreements

- 30.1 Framework agreements set up by third party organisations may be used after consultation with the ~~strategic~~ Procurement Services manager and ~~H~~head of ~~L~~Legal ~~S~~services.
- 30.2 Framework agreements established by the council will be procured in accordance with the regulations.
- 30.3 When awarding call-offs (individual contracts), under framework agreements, the authority does not have to go through the full procedural steps in the Regulations again so long as the rules were followed appropriately in the setting up of the framework agreements themselves.
- 30.4 Call-offs under the framework agreement should be awarded within the terms laid down in the framework agreement.
- 30.5 Arrangements to enter into a contract through a call-off agreement will still require appropriate authorisations as shown in the table of authorisation in section 21+9.

31. Concession Contracts

- 31.1 The Concession Contracts Regulations 2016 applies to over threshold public works concessions and public services concessions. The estimated value of a concession contract is the total turnover the concessionaire generates over the duration of the contract (exc VAT) in respect of the works, services and supplies which are the subject of the concession contract..
- 31.2 This procedure may only be used after consultation with the Procurement Services manager.
- 31.3 The Procurement Service function will use the Council's chosen portal for the advertising of all concession opportunities.

32. Pre-qualification selection

- 32.1 The council will only enter into a contract with a supplier if it is satisfied as to the supplier's:
- eligibility in accordance with regulation 57 of the regulations and
 - economic and financial standing and
 - technical or professional ability in accordance with regulation 58.
- 32.2 ~~Technical ability includes the supplier's quality management systems including human resources, health and safety, equality and diversity provisions and environmental management systems where relevant to the performance of the contract.~~
- 32.2 ~~The council's standard pre-qualification questionnaire template document is available on the document library.~~
- 32.2 Pre-~~selection~~qualification shall not be used for procurements under the EU threshold. Instead, a number of suitability assessment questions may be used if they are relevant to the procurement and proportionate. These questions may relate to information or evidence which the council requires for the purpose of assessing whether suppliers meet minimum standards of suitability, capability, legal status or financial standing.

33. The Invitation to Tender

33.1 The invitation to tender (ITT) will include details of the council's requirements for the particular contract including:

- i. a description of the goods, services or works being procured;
- ii. the procurement timetable including the tender return date and time, which will allow a reasonable period for the applicants to prepare their tenders;
- iii. a specification and instructions on whether any variants are permissible (this must be stated in any OJEU notice);
- iv. the council's terms and conditions of contract;
- v. the evaluation criteria including scoring methodology and any weightings as considered appropriate;
- vi. pricing mechanism and instructions for completion;
- vii. whether the council is of the view that the Transfer of Undertakings Protection of Employment (TUPE) regulations may apply;
- viii. form and content of method statements to be provided;
- ix. a requirement for tenderers to declare that the tender content, price, or any other particulars concerning the tender have not been unnecessarily disclosed to any other party;
- x. any further information which will inform or assist tenderers in preparing tenders;
- xi. a statement that the council is not obliged to accept the lowest or any tender and that the tenderers are responsible for their own costs with regard to the tender;
- xii. the address for the return of a hard copy tender must be:

Plymouth City Council

~~Strategic~~ Procurement ~~Department~~ Services function

Ballard House

Plymouth

PL1 3BJ

Electronic tenders should be uploaded onto the Council's chosen portal

www.supplyingthesouthwest.org.uk

~~33.2 The council's standard tender template document is available on the document library.~~

33.2 The requirements of 31~~29~~.1 may be varied as appropriate for procurements falling under sections: 26- Competitive procedure with negotiation, 27-Competitive dialogue ~~procedure~~, 28-Innovation partnerships, 29-Negotiated procedure without prior publication, and 30-Predetermined frameworks).

34. Submission and Opening of Tenders

34.1 Tenders must be submitted in accordance with requirements set out in the ITT. Hard copy tenders must be kept in a safe place by the ~~strategic p~~Procurement Services function ~~department~~ and remain unopened until the time and date specified for its opening. Tenders received after the specified date and time will not be considered or accepted by the council unless the ~~strategic P~~Procurement Services manager is satisfied that there is sufficient evidence for the tender having been despatched in sufficient time for it to have arrived before the closing date and time.

34.2 Tenders must be opened by an officer of the ~~strategic P~~procurement Services function department and one or more officers of the project team. An immediate record will be made of the tenders received including names, addresses and the date and time of opening.

34.3 Prior to the tender evaluation all officers of the tender evaluation team are required to sign a declaration of direct or indirect interest, canvassing and confidentiality form. The completed form should be returned to the ~~strategic p~~Procurement Services function department.

35. Electronic Tendering

35.1 Requests for quotations (RFQs) and ITTs may be transmitted by electronic means. Quotations and tenders may be submitted by electronic means provided that:

- i. evidence that the transmission was successfully completed is obtained and recorded;
- ii. electronic tenders are kept in a separate secure folder under the control of the strategic procurement department, which is not opened until the deadline has passed for receipt of tenders.

36. Tender Evaluation

36.1 Tenders will be evaluated in accordance with the weighted evaluation criteria which must be detailed in the ITT.

36.2 All contracts will be awarded on the basis of the most economically advantageous offer which represents 'Best Value for Money' to the Ccouncil.

36.3 The evaluation criteria must be predetermined, given weightings, and listed in the ITT documentation, in order of importance if applicable. The criteria must be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

37. Evaluation Team

37.1 An evaluation team will need to be formed for each procurement subject to the Regulations or for goods and services valued above £100,000, or for works procurements valued above £200,000.

37.2 The project lead will determine the evaluation team appropriate to the procurement which may include but not be limited to the authorised officer, ~~strategic P~~procurement services function, legal & finance.

37.3 It is the responsibility of ~~the -strategic p~~Procurement Services function to ensure fairness and transparency in the evaluation of the tender.

38. Bonds, Guarantees and Insurance

38.1 For high value procurements, the evaluation team will consider as part of its pre-qualification assessment and evaluation process whether a performance bond and/or a parent company guarantee (if applicable) will be required from the preferred supplier.

38.2 The evaluation team must also consider the appropriate type and level of insurance requirements for each contract (e.g. employer liability, public liability, professional indemnity, etc.).

39. Award of Contract

- 39.1 A contract may only be awarded by an officer with the requisite delegated authority to award contracts. The authorised officer should make sure that the budget holder responsible for the contract has sufficient funds in place to sustain the contract prior to award. For all procurements valued at above £500,000 the decision to award a contract must be made by the cabinet member for the relevant portfolio. (See the table in section 21 which demonstrates the decision levels within the council).
- 39.2 In the event that the council does not wish to award a contract after evaluating a tender response the authorised officer should advise all suppliers in writing detailing the reason for the decision and the way forward.

40. Debriefing

- 40.1 The authorised officer responsible for the procurement will provide feedback to all unsuccessful tenderers, detailing the reasons for the decision, including characteristics and relative advantages of the successful tenderer. Scores of the unsuccessful bidder and the winning bidder must also be issued with the award decision.
- 40.2 Should the unsuccessful tenderer request a further debrief after receipt of the feedback detailed in section 39.1 it is the responsibility of the authorised officer to do so. ~~The standard agenda for the debriefing is available on the document library.~~

41. Contract Award Notice

- 41.1 Where a contract has been tendered pursuant to the regulations, the council will publish a contract award notice in OJEU no later than 30 days after the date of award of the contract.
- 41.2 Strategic procurement will publish the contract award notice:
- in OJEU (if required by the Regulations)
 - on the council's ~~chosen procurement~~ portal (~~www.supplyingthesouthwest.org.uk~~)
 - on Contracts Finder (only where the procurement is over £25,000)

42. Contract Management

- 42.1 Head of Service in sponsoring departments are to name Contract Managers for all new contracts. All contracts must have a named Contract Manager for the entirety of the contract.
- 42.2 Contract Managers must follow the council's contract management standards at all times.
- 42.3 Contract Managers must follow the contract management procedures set out on the document library

43. Copies of tenders and contracts and register of contracts

Keeping copies of old tenders and contracts

- 43.1 ~~Strategic Procurement~~ Services function must maintain a list of all tenders received.
- 43.2 For every individual contract above £100,000, a contracts file must be maintained by ~~Strategic Procurement~~ Services function, a copy of the contract must be kept by the Council for at least six years from their ~~contract~~ end date ~~if they were signed~~; and for at least 12 years from their ~~contract~~ end date if signed they were under-sealed.

44. Keeping a register of contracts

44.1 The ~~strategic p~~Procurement ~~Services function~~ ~~unit~~ will allocate a contract number to each individual contract with a total value over £25,001 and will maintain a register of all contracts awarded.

44.2 The contract register will be published in accordance with the Local Transparency – A Practitioners Guide to Publishing New Contracts and Tenders Data, November 2010.

45. What will the contract register record?

45.1 For each contract, the register will record:

- ~~what the contract is for~~ Title of the cContract;
- cContract description
- the total contract value;
- contract reference number;
- OJEU details (if applicable);
- ~~t~~The council officers s name, ~~&~~ contact details and service directorate;
- the name, address & contact details of the contractor;
- the start and end dates;
- the procurement method used;
- whether the contract can be extended and how;
- ~~Type of contract~~ Procurement category (PROCLASS or equivalent);
- nName of contract manager;
- whether a certificate was issued under the Local Government (Contracts) Act;

~~For the full list,~~ The contract register is available in the document library.

46. Joint Procurement

46.1 Any joint procurement arrangements with other bodies including membership or use of purchasing consortia must be approved by the ~~strategic P~~procurement Services manager and the Hhead of Llegal Sservices prior to the commencement of any procurement on behalf of the council.

46.2 Approval will only be given where the joint procurement arrangement assures compliance with the regulations.

47. Consultants

47.1 Any consultants used by the council must be appointed in accordance with these contract rules. The authorised officer must ensure that the consultant's performance is monitored.

47.2 Where the council uses consultants to act on its behalf in relation to any procurement, then the authorised officer must ensure that the consultants carry out any procurement in accordance with these rules.

47.3 No consultant may make any decision on whether to award a contract or who a contract should be awarded to.

48. Statistical Returns

- 48.1 Each year the council will make a statistical return to the government for onward transmission to the European Commission concerning the contracts awarded during the year under the regulations.
- 48.2 The ~~strategie-p~~Procurement Services manager is responsible for this statistical return and will make the necessary arrangements for information to be collected annually. Directors will comply with these arrangements.

49. Contract Extension and Variation

- 49.1 Any contract may be extended or varied in accordance with its terms. Where the terms do not expressly provide for extension an exemption must be sought, contracts subject to the regulations may be extended, if an exemption is approved, by negotiation in accordance with the rules set out in the regulations. Such extension must be notified to the individual cabinet councillor for the relevant portfolio and EU rules taken into consideration.
- 49.2 Other contracts may be extended only where authorisation has been agreed and a suitable contract extension/exemption form has been completed and duly authorised. The authorised officer must always be satisfied that extension will achieve best value for money and is reasonable in all the relevant circumstances.

50. Early Termination of Contracts

- 50.1 Contracts may only be terminated after seeking advice from the ~~strategie-p~~Procurement Services manager and the Head of Legal Services. For any contract exceeding £500,000 in value, termination must be approved by the cabinet member for the relevant portfolio. For any contract that is a key decision or is valued above £2,000,000 termination must be approved by cabinet.

51. Review and Amendment of Contract Standing Orders

- 51.1 These contract rules will be reviewed and updated on a regular basis by the ~~strategie~~ ~~P~~procurement Services manager.
- 51.2 The ~~strategie-p~~Procurement Services manager will produce guidance to the use of contract rules.

52. Interpreting Contract Standing Orders

- 52.1 Questions about the contract standing orders and any related guidance will be dealt with by the ~~Strategie~~ Procurement Services ~~M~~manager or Head of Legal Services. Their interpretation will be final.