

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	4 February 2025
Title:	Review of Contract Standing Orders
Report From:	Assistant Director – Legal Services and Monitoring Officer

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Purpose of this Report

1. The purpose of this report is to seek Cabinet's endorsement to amend Contract Standing Orders largely to comply with the new Procurement Act 2023 for approval by the County Council.

Recommendation(s)

2. That the Cabinet approves the revised Contract Standing Orders set out in Annex 2 to the County Council for approval.

Executive Summary

3. Following the Procurement Act 2023 (PA 2023) receiving Royal Assent, a review of the County Council's Contract Standing Orders has been undertaken in order to identify any changes required as a consequence of the new legislation. The review also identified a small number of additional desirable changes to the Contract Standing Orders.
4. At its meeting on 24th January 2025, the Audit Committee considered a report on the review of Contract Standing Orders and recommended that Cabinet approves them and recommends them to the County Council.

Contextual information

5. The PA 2023, which received Royal Assent on 26 October 2023, will come into full force and effect on 24 February 2025. Together with secondary legislation supporting it, the PA 2023 establishes a new public procurement regime in England, Wales and Northern Ireland.

6. Although many of the concepts and rules from the previous procurement regime remain, these have been extensively rewritten to move away from the language of the EU directives on procurement and the Public Contract Regulations 2015 (PCR 2015). The PA 2023 adopts a new approach in respect of the objectives, its principles, contract management and transparency publication requirement.
7. The PA 2023 will only apply to new procurements commenced on or after 24 February 2025. The PCR 2015 will continue to apply to any procurement commenced or contract awarded before 24 February 2025.
8. A review of the County Council's Contract Standing Orders, contained in Part 3, Chapter 6 of the County Council's Constitution, has identified a number of amendments required to ensure that the County Council's procedures comply with the new legislative requirements. Pursuant to Part 1, Chapter 7 of the County Council's Constitution, the Audit Committee's Terms of Reference include:

"to make recommendations to the County Council for the making or amending of financial regulations, standing orders related to contracts or regulations related to the conduct of the County Council's business."
9. This report proposes that a number of amendments be made to the Contract Standing Orders largely to reflect the requirements of the PA 2023 applying to new procurements from 24 February 2025. A copy of the County Council's existing Contract Standing Orders is attached at Annex 1. A copy of the proposed revised Contract Standing Orders is attached at Annex 2. The proposed amendments are also detailed in the table below.
10. The following table sets out the Contract Standing Orders affected by the proposed changes, together with a brief description of the proposed change:

Contract Standing Order Amended	Description of Proposed Change
Contract Standing Order 1	Introducing new definitions and amending existing definition to reflect the new PA 2023 and maintain the continuity of the PCR 2015 to existing procurements
Contract Standing Order 2.2	To make it clear that procurements under PCR 2015 or the Provider Selection Regime (PSR) started before 24 February 2025 (including resulting contracts and modifications to those contracts) will continue to be regulated by the existing

	procurement regime under the PCR 2015 and the PSR
Contract Standing Order 2.5	To insert new defined term “UK Procurement Legislation”
Contract Standing Order 2.6	To insert new core procurement objectives and principles which apply generally in the award of public contracts – including those of a value below the Thresholds under PA 2023
Contract Standing Order 2.7	To replace “Procurement Network” with “Procurement Function” to align with the PA 2023, as there is a centralisation of procurement under the PA 2023 and therefore the Procurement Network no longer exists
Contract Standing Order 3.1	To reflect the new definition of “Framework”
Contract Standing Order 4.2	To make it clear that the 48 month rule no longer applies under the PA 2023. A contract will be deemed to be above threshold for the purposes of procurement if the value cannot be calculated
Contract Standing Orders 4.4 and 4.5	To insert new defined term “UK Procurement Legislation”
Contract Standing Order 5.1	To reference the new definition of “Framework”
Contract Standing Order 5.2	To replace “Director of Corporate Operations” with “Assistant Director, Strategic Procurement” reflecting an existing delegation of authority in place Also, to insert new defined term “UK Procurement Legislation”
Contract Standing Order 5.3	To insert new defined terms “UK Procurement Legislation” and “Framework”

Contract Standing Orders 6.1	To insert new defined terms “UK Procurement Legislation” and “Central Digital Platform” which would be the central platform for publication of the required notices under the PA 2023
Contract Standing Order 6.2	To delete provision for discretionary additional publication as, in practice, this has been considered not to be value for money
Contract Standing Order 6.3	To reflect that the PA 2023 replaces dynamic purchasing systems with a single new ‘commercial tool’ called a dynamic market. Also, to insert new defined term “Central Digital Platform”
Contract Standing Order 6.4	To insert new defined term “UK Procurement Legislation” and amended to reflect the position under PA 2023 in respect of several notices that would now be required for publication
Contract Standing Orders 7.1, 7.2, 7.3 and 7.5	To reflect the new definition of “Framework”
Contract Standing Order 8.1 and 8.2	To insert new defined term “UK Procurement Legislation” and to reflect the new definition of “Framework”
Contract Standing Order 9.1	To insert new defined term “UK Procurement Legislation”
Contract Standing Order 9.2	To insert new defined term “UK Procurement Legislation”. Additionally, to delete provision relating to procedures that are no longer relevant and replace with the two new procedures under the PA 2023
Contract Standing Orders 9.3 and 9.4	To delete provision relating to procedures that are no longer

	relevant and to reflect current governance arrangements
Contract Standing Order 10.1	To delete an erroneous reference to a non-existent contract standing order
Contract Standing Order 11.2	To reflect the change of term introduced by PA 2023 – the existing term ‘Most Economically Advantageous Tender’ is now replaced by “Most Advantageous Tender’
Contract Standing Order 11.5 and 11.8	To insert new defined term “UK Procurement Legislation”
Contract Standing Order 12.2	To reflect the PA 2023 that direct awards are now subject to Transparency Notices prior to any award being made
Contract Standing Order 12.3	To insert new defined term “UK Procurement Legislation”

11. The proposed changes ensure that there is appropriate provision made within the revised Contract Standing Orders for both new procurements commencing on or after 24 February 2025, which are regulated by the PA 2023, and also for any ongoing procurements already published or awarded prior to 24 February 2025 (which continue to be regulated by the existing procurement regime under the PCR 2015 and the PSR).

Finance

N/A

Performance

N/A

Consultation and Equalities

12. There are no equality impacts deriving from the Recommendations set out in this Report.

Climate Change Impact Assessment

13. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience impacts of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how

projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.

14. The carbon mitigation tool and/or climate change adaptation tool were not applicable because the decision is administrative in nature.

Conclusions

15. The Cabinet recommends to Full Council the revised Contract Standing Orders set out in Annex 2 for approval.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because:

It relates to the good governance of the County Council

Other Significant Links

Links to previous Member decisions:

<u>Title</u>	<u>Date</u>
Audit Committee Review of Contract Standing Orders Report https://democracy.hants.gov.uk/documents/s129686/15%20-%20Audit%20Cttee%20Amendment%20to%20CSO%20final%2030%20Dec%2024%20for%20publication.pdf	24 January 2025

Direct links to specific legislation or Government Directives

<u>Title</u>	<u>Date</u>
N/A	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

EQUALITIES IMPACT ASSESSMENT:

Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Equalities Impact Assessment:

No equality impacts have been identified in relation to the Recommendations in this Report.

Part 3 Chapter 6

Contract Standing Orders

1. Interpretation
2. Status of, and Compliance with, Contract Standing Orders
3. Approval to spend
4. Contract Value and Aggregation
5. Framework Agreements and Suitability of Contractors
6. Publication of Notices
7. Purchasing Procedures for Contracts of a Value less than £179,000
8. Tendering Procedures for Contracts of a Value of £179,000 or greater but less than relevant Threshold
9. Tendering Procedures for Contracts Above Thresholds
10. Receipt and Opening of Tenders
11. Evaluation of Tenders and Award of Contract
12. Waiver of Contract Standing Orders

Contract Standing Order 1: Interpretation

1.1 In these Contract Standing Orders, the following terms have the following meanings:

“Advance Works Order” means an advance works order issued under CSO 11.10

“Area of Responsibility” means the function and area of responsibility for a Chief Officer as detailed in Part 1, Chapter 13, Paragraph 1.2, and Part 2, Chapter 4 of the County Council’s Constitution

“Chief Officer” means any of the posts identified at Part 1 Chapter 13, Paragraph 1.2 of the County Council’s Constitution

“Contract” means

- (i) any agreement for the supply of goods, services, or the execution of works to or for the Council including the use of consultants;
- (ii) any Framework Agreement; or
- (iii) any agreement where no payment is made by the County Council but which is of financial value to the Contractor (e.g. a catering concession)

but does not include (without exception)

(iv) an employment contract: or

(v) a Grant Agreement

"Contract Lead Officer" means a County Council officer nominated to deal with Contracts in accordance with CSO 3.3

“Contractor” means the party or potential party to a Contract

“Contracts Finder” means a web-based portal provided for the purposes of the UK Regulations by or on behalf of the Cabinet Office

“County Council” means Hampshire County Council

“CSO”/ "CSOs" means Contract Standing Order/ Contract Standing Orders

“Thresholds” means the thresholds for public advertisement of goods, works and services contracts as provided for in the UK Regulations and advised by the Government

“Evaluation Report” means a report on the evaluation of tenders prepared under CSO 11

“Framework Agreement” means an agreement between one or more contracting authorities (bodies governed by public law) and one or more Contractors as defined in CSO 5.1

“Grant Agreement” means an agreement giving financial assistance to an individual or organisation with no supply of goods or services, or execution of works, in return

“Procurement Network” means a formal group of officers of the County Council representing all departments and procurement teams whose main purpose is to provide leadership on procurement matters for the County Council

“Senior Officer” means a County Council officer on Grade H or above “UK e-notification service” are as defined in the UK Regulations

“UK Regulations” means the Public Contracts Regulations 2015 and the Health Care Services (Provider Selection Regime) Regulations 2023 as amended from time to time

“works” “supplies” & “services” are as defined in the UK Regulations

Contract Standing Order 2: Status of, and Compliance with, Contract Standing Orders

- 2.1 By law, the County Council is required to make standing orders with respect to contracts for the supply of goods or services or for the execution of works which provide for securing competition and regulation of the manner in which tenders are invited.
- 2.2 The County Council is a contracting authority for the purposes of the UK Regulations, and is thereby legally bound to comply with certain practices and procedures in the award of Contracts.
- 2.3 The County Council has therefore adopted these Contract Standing Orders (CSOs), setting set out the procedures that must be followed in relation to the procurement and award of a Contract. CSOs provide a framework to ensure that the County Council uses its resources efficiently in making purchasing decisions to obtain best value in public services. CSOs also provide a means of safeguarding the reputation of the County Council and its staff from any implication of dishonesty or corruption.
- 2.4 The Chief Financial Officer and Monitoring Officer are the joint custodians of these CSOs and are responsible for keeping them under review. This includes giving advice on their implementation and interpretation.
- 2.5 Every Contract made by the County Council or on its behalf (irrespective of the source of funding) shall comply with the UK Regulations and all other domestic legal requirements, CSOs and Financial Regulations. In the event that there is any conflict or inconsistency between the provisions of CSOs and any legal requirement, the legal requirement shall apply.
- 2.6 The UK Regulation-based principles, including non-discrimination, equal treatment, transparency and proportionality, apply generally in the award of public contracts – including those of a value below the Thresholds. Care must be taken at all times to ensure that nothing is done which is discriminatory, improper or which distorts competition.
- 2.7 It is the role of the Director of Corporate Operations / Chief Financial Officer to publish the [Corporate Procurement Strategy](#) and to maintain a Procurement Network on behalf of the County Council.
- 2.8 These CSOs are supplemented by the Procurement Best Practice Guide maintained by the Director of Corporate Operations / Chief Financial Officer. In the event that there is any conflict or inconsistency between the provisions of the Procurement Best Practice Guide and CSOs, CSOs shall apply.
- 2.9 These CSOs supplement the Officers' Code of Conduct and a failure to comply will normally be regarded as a disciplinary offence. Where a person who is not a County Council employee is contracted to a position where

they are authorised to carry out purchasing functions, it is a condition of their contract that they comply with CSOs.

- 2.10 These CSOs shall always be interpreted and applied in a way that supports the achievement of the County Council's identified business objectives, within relevant legal frameworks.
- 2.11 Any contracts procured and awarded by way of collaboration with other public bodies where a competitive process has been followed that complies with the equivalent of these CSOs of the leading organisation will be deemed to comply with these CSOs and no waiver in accordance with CSO 12 will be required.

Contract Standing Order 3: Approval to spend

- 3.1 The procurement of a Contract (not including a Framework Agreement) is subject to the approval of the relevant decision maker who has the authority to give approval for the relevant expenditure under the Constitution. The giving of approval is subject to the expenditure involved having been included in approved estimates and sufficient budgetary provision having been made in the County Council's capital programme or revenue budget.
- 3.2 In estimating the value of the Contract, the principles of CSO 4 shall be applied
- 3.3 In all cases, the Chief Officer within whose Area of Responsibility the Contract falls shall designate a Senior Officer as Contract Lead Officer for the Contract. It shall be the responsibility of the Contract Lead Officer to ensure that the processes followed in relation to the procurement and award of the Contract are compliant with these CSOs.

Contract Standing Order 4: Contract Value and Aggregation

- 4.1 The estimated value of a Contract shall be the total value of the Contract net of VAT. This is the total consideration estimated to be payable over the full term of the Contract by the County Council to the Contractor which shall include any option to extend the term under the contract. Where the Contract is one where no payment is made by the Council (e.g. a concession) a best estimate of the financial value to the Contractor shall be ascertained.
- 4.2 Where the Contract period is indefinite or uncertain, the estimated value shall be calculated on the basis that the Contract will be for a period of four years.
- 4.3 The estimated value of a Framework Agreement is the total value of all the Contracts which could be entered into by the County Council and other contracting authorities, further to that Framework Agreement.
- 4.4 Purchases of the same or similar goods or services must be aggregated wherever practicable. Contracts must not be artificially separated so as to circumvent the application of any part of CSOs or the UK Regulations.
- 4.5 Contracts which are each of a value below the relevant Threshold may nevertheless be subject to full UK Regulations tendering requirements, where they constitute a series of related or repeat purchases. Advice should be sought where this is the case, in order that the relevant procurement route can be adopted.

Contract Standing Order 5: Framework Agreements and Suitability of Contractors

- 5.1 A Framework Agreement is an agreement between one or more contracting authorities (bodies governed by public law) and one or more Contractors, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. Framework Agreements may be established by the County Council, or by other public bodies, or public sector buying consortia, as arrangements through which the County Council, along with other public bodies, may make specific purchases.
- 5.2 Where appropriate a Framework Agreement that has been approved as suitable by the Director of Corporate Operations / Chief Financial Officer should be used for the making of the proposed purchase. A suitable Framework Agreement shall be appropriate for the specific requirement and procured in compliance with the UK Regulations, and the terms and conditions applicable shall meet the minimum requirements of the County Council.
- 5.3 Provisions contained in the UK Regulations which govern Framework Agreements must be complied with when concluding a Framework Agreement or awarding a contract based on a Framework Agreement.
- 5.4 In all cases where a Contract is awarded under these CSOs, a Contractor can only be appointed who, as a minimum:
- a) meets the County Council's insurance requirements for the Contract (in respect of public liability, product, professional indemnity and/or employer's liability as appropriate, based on an assessment of risk for the Contract)
 - b) is registered for tax and holds a valid certificate (where appropriate).

Contract Standing Order 6: Publication of Notices

- 6.1 In all cases where, by virtue of these CSOs or by UK Regulations, a public notice is required, it shall be placed on the corporate tendering opportunities portal on Hantsweb and on Contracts Finder.
- 6.2 Where the estimated total value of a proposed Contract is £179,000 or above, the notice shall additionally be placed in at least one relevant local publication and/or journal circulating among Contractors who undertake Contracts of that nature. However, this is not required where the relevant Chief Officer is satisfied that to do so would not be value for money.
- 6.3 Where the value of the contract is £25,000 or greater, or a Framework / Dynamic Purchasing System (DPS) call-off contract at any value, the information regarding the Contract award is required to be placed on Contracts Finder.
- 6.4 Where the value of the Contract exceeds the relevant Threshold, the Contract notice and Contract award notice shall also be placed in the UK e-notification service in accordance with the UK Regulations.

Contract Standing Order 7: Purchasing Procedures for Contracts of a Value less than £179,000

- 7.1 Where the estimated value of the Contract, calculated in accordance with CSO 4, is less than £179,000 and there is a suitable Framework Agreement approved by the Director of Corporate Operations / Chief Financial Officer under CSO 5.2, that Framework Agreement shall be used.
- 7.2 Where no suitable Framework Agreement is available, and the estimated value of the Contract, calculated in accordance with CSO 4, is less than £1,000, then one written quotation should be obtained.
- 7.3 Where no suitable Framework Agreement is available, and the estimated value of the Contract, calculated in accordance with CSO 4, is £1,000 or greater and less than £179,000 three written quotations should be requested against the same written request for quotation in accordance with the procedure set out in the Procurement Best Practice Guide. Where it proves not reasonably practicable to obtain three quotations, then provided three written quotations have been requested in accordance with the procedure set out in the Procurement Best Practice Guide a contract may be awarded
- 7.4 In the selection of the Contractor, the Contract Lead Officer shall bear in mind the need to seek best value for money and be able to demonstrate that they have achieved this.
- 7.5 The Contract shall be evidenced in writing, by submission of an order in accordance with the Framework Agreement or, where a Framework Agreement is not used, by the placing of an order on the basis that the price in the written quotation received shall apply.

Contract Standing Order 8: Tendering Procedures for Contracts of a Value of £179,000 or greater but less than relevant Threshold

- 8.1 Where the estimated value of the Contract, calculated in accordance with CSO 4, is £179,000 or greater but less than the relevant Threshold, and there is a suitable Framework Agreement approved by the Director of Corporate Operations / Chief Financial Officer, under CSO 5.2, that Framework Agreement shall be used.
- 8.2 Where no suitable Framework Agreement is available, tenders shall be invited using a procedure comparable/similar to the open procedure under the UK Regulations.
- 8.3 The procedure requires the publication of a notice in accordance with CSO 6. The public notice shall specify (i) a time period within which interested parties may express an interest in tendering, and (ii) the method by which such interest shall be expressed. At the end of this period, an invitation to tender shall be sent to all parties who have expressed an interest, specifying a reasonable period for tenders to be returned.
- 8.4 In all cases, every invitation to tender shall include the following:
- A statement that the tendering process will be conducted within the County Council's corporate electronic tendering system;
 - Full instructions on how to submit their tender to this system;
 - Advice that tenders, once received in the system, will be anonymous until the time specified for their opening;
 - Advice as to the deadline for submission of tenders to this system
- 8.5 In exceptional circumstances, and with the prior approval of the Director of Corporate Operations / Chief Financial Officer, an invitation to tender may be sent to tenderers in hard copy paper form, rather than through the electronic tendering system.
- 8.6 The invitation to tender shall state the evaluation criteria, including sub-criteria and sub-sub-criteria (where used), weightings and scoring criteria that will be applied in the award of the Contract. These criteria must be capable of objective assessment, include price and any other relevant factors, and be weighted by relative importance. The invitation to tender shall also include the terms and conditions that will apply to the Contract.
- 8.7 The Contract shall be evidenced in writing by the completion of a formal

written Contract, the terms of which have been approved by the Assistant Director of Legal Services and Monitoring Officer or other person authorised by him for this purpose.

Contract Standing Order 9: Tendering Procedures for Contracts above Thresholds and Modifications of Contracts above Thresholds

- 9.1 The UK Regulations set a financial threshold beyond which prescribed tendering procedures must be followed. The Thresholds are reviewed every two years, and the updated figures can be found in the Best Practice Guide.
- 9.2 Where the estimated value of the Contract is in excess of the relevant Threshold, the procedures set out in the UK Regulations must be followed. In most cases, the open procedure, restricted procedure or competitive procedure with negotiation will be used, but in certain specialist cases, the negotiated procedure without prior publication, competitive dialogue procedure or innovation partnership procedure shall apply. Advice on which procedure is appropriate to the specific case should be sought from the Monitoring Officer.
- 9.3 Approval of the Chief Officer within whose area of responsibility the contract falls, in consultation with the Monitoring Officer, shall be sought to the use of the negotiated procedure without prior publication, competitive dialogue procedure or innovation partnership procedure.
- 9.4 In the event that the Chief Officer determines that the contract relates to a strategic or policy decision, then approval of the Executive or, in respect of Non-Executive matters, the Committee with delegated responsibility for the relevant service area shall be sought to the use of the negotiated procedure without prior publication, competitive dialogue procedure or the innovation partnership procedure.
- 9.5 Any proposed modifications to existing contracts which have not been provided for in the initial procurement documents in clear, precise and unequivocal review clauses shall be approved by the Chief Officer within whose areas of responsibility the contract falls, in consultation with the Monitoring Officer. In the event that the Chief Officer determines that the contract relates to a strategic or policy decision, then approval of the Executive shall be sought or, in respect of Non-Executive matters, the approval of the Committee with delegated authority for the relevant services area, shall be sought.
- 9.6 In the event that the Chief Officer for the relevant service area is unavailable the decisions reserved to that Chief Officer by paragraphs 9.3, 9.4 and 9.5 may be taken by a Deputy Chief Officer nominated by the Chief Officer for the relevant service area.

Contract Standing Order 10: Receipt and Opening of Tenders

- 10.1 Subject to CSO 10.2 – 10.3, all tenders shall be opened at the same time, by an officer independent of the procurement process and appropriately trained to open tenders on the electronic tendering system as soon as reasonably practicable on or after the date for return of tenders. People under contract to the County Council, but not permanent employees of the County Council shall not open tenders unless approved by a Chief Officer or Monitoring Officer.

- 10.2 The officer opening tenders shall record, in respect of each tender opened, the name of the tenderer and, where applicable, the total value.

Contract Standing Order 11: Evaluation of Tenders and Award of Contract

- 11.1 The Contract Lead Officer (who should normally be an employee of the County Council) shall ensure that the tenders received are evaluated in accordance with the evaluation criteria that have been adopted for the Contract, and stated in the invitation to tender. These criteria must be capable of objective assessment, include price and other relevant factors, and be weighted by relative importance.
- 11.2 The Contract Lead Officer shall produce a written report evaluating each tender received against the evaluation criteria. The report shall identify the tenderer who has submitted the most economically advantageous tender (i.e. the tender that achieves the highest score in the evaluation) and recommend the award of the Contract to that tenderer. This report shall be submitted to the person authorised to award the Contract under CSO 11.4.
- 11.3 No contract may be awarded unless the expenditure involved has been included in approved estimates and sufficient budgetary provision made in the County Council's capital or revenue accounts in accordance with CSO 3.1. The Evaluation Report shall confirm how this requirement is met.
- 11.4 Each Chief Officer is authorised to award and sign any contract entered into on the County Council's behalf, where it relates to their Area of Responsibility, and where the value of the Contract is less than £179,000. The Contract may be awarded and signed by a Senior Officer who is authorised to do so on behalf of the Chief Officer as documented in that Chief Officer's scheme of financial delegation. All other Contracts shall be awarded by the Monitoring Officer or a Senior Officer nominated by the Monitoring Officer for this purpose, and signed by or on behalf of the Monitoring Officer in accordance with Part 1, Chapter 16 of the Constitution.
- 11.5 Where the value of a Contract is above the relevant Threshold, the Contract shall be awarded in accordance with the UK Regulations and in particular the requirements relating to a "standstill" period prior to the Contract being entered into.
- 11.6 All Contracts, including an arrangement subject to a purchase order, must be made in writing under English Law, and must clearly and carefully specify the supplies, services or works to be provided, the agreed programme for delivery and the price and terms for payment together with all other terms and conditions.
- 11.7 Where purchases of a value less than £179,000 are made for which standard terms and conditions have been approved by the Monitoring Officer those standard terms should be used. Where a Contract is

estimated at a value £179,000 or above or is of an unusual or complex nature, the Monitoring Officer shall be consulted to produce a suitable set of conditions of contract or to advise on existing conditions for use under a Framework Agreement.

- 11.8 Every contract must also include certain clauses, in a form approved by the Monitoring Officer, to protect the County Council from fraud and to ensure that Contractors understand their responsibilities when they are acting on the County Council's behalf as well as clauses required to comply with the UK Regulations.
- 11.9 The Chief Officer within whose area of responsibility the Contract falls shall allocate to a Senior Officer responsibility for the ongoing management of the Contract.
- 11.10 In exceptional circumstances, where a Contract has been awarded under CSO 11.4, but it is considered necessary in the best interests of the County Council to initiate the provision of goods or services under that Contract prior to the Contract being signed, the issue of an Advance Works Order by the Monitoring Officer may be requested. Issue will be subject to confirmation that a decision to award the Contract has been made in accordance with CSOs, the necessary funding for the Contract having been approved, and the value of the Advance Works Order not exceeding £179,000.

Contract Standing Order 12: Waiver of Contract Standing Orders

- 12.1 Any of the requirements of these CSOs may be waived in an individual case, by the person authorised as follows:
- Where the estimated value of the Contract is less than **£179,000**, the Chief Officer within whose area of responsibility the Contract falls
 - Where the estimated value of the Contract is **£179,000** or greater, the Chief Officer within whose area of responsibility the Contract falls, with the benefit of advice from the Monitoring Officer
 - Where the estimated value of the contract is £179,000 or greater the Chief Officer, with the benefit of advice from the Monitoring Officer, determines that the Contract relates to a decision on a strategic or policy decision, the Executive or, in respect of Non-Executive matters, the Committee with delegated responsibility for the relevant service area
- 12.2 A request for the issue of a waiver must be made in writing to the person authorised under CSO 12.1, with full reasons as to why the waiver is required, and evidence that the issue of a waiver will not prevent best value from being obtained. The decision in response to the request for a waiver must also be in writing. No action shall be taken to enter into the Contract until such request has been submitted and the decision made.
- 12.3 The County Council is subject to legal requirements to ensure fair competition for Contracts of a value exceeding the Thresholds, and subject to obligations under the UK Regulations to ensure that all Contracts (regardless of value) are awarded having regard to the need to avoid any action that is discriminatory, improper or which distorts competition.
- 12.4 It is understood that a waiver may be utilised where it can be demonstrated that the ability to act quickly to engage a single supplier would make economic sense and fit with service requirements, in circumstances where there is no more effective way to secure the capacity.
- 12.5 In the event that the Chief Officer for the relevant service area is unavailable, the decision reserved to that Chief Officer by paragraph 12.1 may be taken by a Deputy Chief Officer nominated by the Chief Officer for the relevant service area.

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9. Tendering Procedures for Contracts Above Thresholds
10. Receipt and Opening of Tenders
11. Evaluation of Tenders and Award of Contract
12. Waiver of Contract Standing Orders

Contract Standing Order 1: Interpretation

1.1 In these Contract Standing Orders, the following terms have the following meanings:

“Advance Works Order” means an advance works order issued under CSO 11.10

“Area of Responsibility” means the function and area of responsibility for a Chief Officer as detailed in Part 1, Chapter 13, Paragraph 1.2, and Part 2, Chapter 4 of the County Council’s Constitution

“Central Digital Platform” means a web-based portal provided for the purposes of the UK Procurement Legislation by or on behalf of the Cabinet Office

“Chief Officer” means any of the posts identified at Part 1 Chapter 13, Paragraph 1.2 of the County Council’s Constitution

“Contract” means:

- (i) any agreement for the supply of goods, services, or the execution of works to or for the Council including the use of consultants;
- (ii) any Framework Agreement; or
- (iii) any agreement where no payment is made by the County Council but which is of financial value to the Contractor (e.g. a catering concession)

but does not include (without exception)

- (iv) an employment contract: or
- (v) a Grant Agreement

“Contract Lead Officer” means a County Council officer nominated to deal with Contracts in accordance with CSO 3.3

“Contractor” means the party or potential party to a Contract

“Contracts Finder” means a web-based portal provided for the purposes of the PCR 2015 by or on behalf of the Cabinet Office

“County Council” means Hampshire County Council

“CSO”/“CSOs” means Contract Standing Order/ Contract Standing Orders

“Thresholds” means the thresholds for public advertisement of goods, works and services contracts as provided for in the UK Procurement Legislation and advised by the Government

“Evaluation Report” means a report on the evaluation of tenders prepared under CSO 11

“Framework” means a contract between a contracting authority and one or more Contractors that provides for the future award of contracts by a contracting authority to the Contractor or Contractors as defined in CSO 5.1

“Grant Agreement” means an agreement giving financial assistance to an individual or organisation with no supply of goods or services, or execution of works, in return

“Most Advantageous Tender” is the tender that the contracting authority considers:

- (a) satisfies the contracting authority’s requirements, and
- (b) best satisfies the award criteria when assessed by reference to:
 - (i) the assessment methodology under section 23(3)(a) PA 2023, and
 - (ii) if there is more than one criterion, the relative importance of the criteria under section 23(3)(b) PA 2023

“PCR 2015” means the Public Contract Regulations 2015 which continues to apply to any tender commenced or contract procured prior to Procurement Act coming into force on 28 October 2024

“Procurement Function” means a formal group of officers of the County Council representing all departments and procurement teams whose main purpose is to provide leadership on procurement matters for the County Council

“Senior Officer” means a County Council officer on Grade H or above

“UK e-notification service” are as defined in the UK Procurement Legislation

“UK Procurement Legislation” means the PCR 2015, Procurement Act 2023 (PA 2023), Procurement Regulations 2024 and the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR) as amended from time to time

“Works” “Supplies” & “Services” are as defined in the UK Procurement Legislation

Contract Standing Order 2: Status of, and Compliance with, Contract Standing Orders

- 2.1 By law, the County Council is required to make standing orders with respect to contracts for the supply of goods or services or for the execution of works which provide for securing competition and regulation of the manner in which tenders are invited.
- 2.2 The County Council is a contracting authority for the purposes of the UK Procurement Legislation, and is thereby legally bound to comply with certain practices and procedures in the award of Contracts.
- 2.3 The County Council has therefore adopted these Contract Standing Orders (CSOs), setting set out the procedures that must be followed in relation to the procurement and award of a Contract. CSOs provide a framework to ensure that the County Council uses its resources efficiently in making purchasing decisions to obtain best value in public services. CSOs also provide a means of safeguarding the reputation of the County Council and its staff from any implication of dishonesty or corruption.
- 2.4 The Chief Financial Officer and Monitoring Officer are the joint custodians of these CSOs and are responsible for keeping them under review. This includes giving advice on their implementation and interpretation.
- 2.5 Every Contract made by the County Council or on its behalf (irrespective of the source of funding) shall comply with the UK Procurement Legislation and all other domestic legal requirements, CSOs and Financial Regulations. In the event that there is any conflict or inconsistency between the provisions of CSOs and any legal requirement, the legal requirement shall apply.
- 2.6 The UK Procurement Legislation- set out core procurement objectives and principles which apply generally in the award of public contracts – including those of a value below the Thresholds. These are broadly; equal treatment of suppliers/contractors and not putting them at unfair advantage or disadvantage, transparency, delivering value for money, maximising public benefit, sharing information, integrity and having regards to SMEs. Contracting authorities must "have regard" to any published national procurement policy statement (NPPS). Care must be taken at all times to ensure that nothing is done which is discriminatory, inconsistent with the procurement objectives, improper or which distorts competition.
- 2.7 It is the role of the Director of Corporate Operations / Chief Financial Officer to publish the [Corporate Procurement Strategy](#) and to maintain a Procurement Function on behalf of the County Council.
- 2.8 These CSOs are supplemented by the Procurement Best Practice Guide maintained by the Director of Corporate Operations / Chief Financial Officer. In the event that there is any conflict or inconsistency between the provisions of the Procurement Best Practice Guide and CSOs, CSOs shall apply.

- 2.9 These CSOs supplement the Officers' Code of Conduct and a failure to comply will normally be regarded as a disciplinary offence. Where a person who is not a County Council employee is contracted to a position where they are authorised to carry out purchasing functions, it is a condition of their contract that they comply with CSOs.
- 2.10 These CSOs shall always be interpreted and applied in a way that supports the achievement of the County Council's identified business objectives, within relevant legal frameworks.
- 2.11 Any contracts procured and awarded by way of collaboration with other public bodies where a competitive process has been followed that complies with the equivalent of these CSOs of the leading organisation will be deemed to comply with these CSOs and no waiver in accordance with CSO 12 will be required.

Contract Standing Order 3: Approval to spend

- 3.1 The procurement of a Contract (not including a Framework contract) is subject to the approval of the relevant decision maker who has the authority to give approval for the relevant expenditure under the Constitution. The giving of approval is subject to the expenditure involved having been included in approved estimates and sufficient budgetary provision having been made in the County Council's capital programme or revenue budget.
- 3.2 In estimating the value of the Contract, the principles of CSO 4 shall be applied
- 3.3 In all cases, the Chief Officer within whose Area of Responsibility the Contract falls shall designate a Senior Officer as Contract Lead Officer for the Contract. It shall be the responsibility of the Contract Lead Officer to ensure that the processes followed in relation to the procurement and award of the Contract are compliant with these CSOs.

Contract Standing Order 4: Contract Value and Aggregation

- 4.1 The estimated value of a Contract shall be the total value of the Contract net of VAT. This is the total consideration estimated to be payable over the full term of the Contract by the County Council to the Contractor which shall include any option to extend the term under the contract. Where the Contract is one where no payment is made by the Council (e.g. a concession) a best estimate of the financial value to the Contractor shall be ascertained.
- 4.2 Where the Contract period is indefinite or uncertain, the contract will be deemed to be above the relevant Threshold.
- 4.3 The estimated value of a Framework Agreement is the total value of all the Contracts which could be entered into by the County Council and other contracting authorities, further to that Framework Agreement.
- 4.4 Purchases of the same or similar goods or services must be aggregated wherever practicable. Contracts must not be artificially separated so as to circumvent the application of any part of CSOs or the UK Procurement Legislation.
- 4.5 Contracts which are each of a value below the relevant Threshold may nevertheless be subject to full UK Procurement Legislation tendering requirements, where they constitute a series of related or repeat purchases. Advice should be sought where this is the case, in order that the relevant procurement route can be adopted.

Contract Standing Order 5: Framework and Suitability of Contractors

- 5.1 A Framework is a contract between a contracting authority and one or more Contractors that provides for the future award of contracts by a contracting authority to the Contractor or Contractors, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged by the Framework contracts may be established by the County Council, or by other public bodies, or public sector buying consortia, as arrangements through which the County Council, along with other public bodies, may make specific purchases.
- 5.2 Where the Assistant Director, Strategic Procurement approves the use of a Framework(s) this shall be used for the purposes of making proposed purchases. A suitable Framework shall be appropriate for the specific requirement and procured in compliance with the UK Procurement Legislation, and the terms and conditions applicable shall meet the minimum requirements of the County Council.
- 5.3 Provisions contained in the UK Procurement Legislation which govern Framework must be complied with when concluding a Framework contract or awarding a contract based on a Framework.
- 5.4 In all cases where a Contract is awarded under these CSOs, a Contractor can only be appointed who, as a minimum:
 - a) meets the County Council's insurance requirements for the Contract (in respect of public liability, product, professional indemnity and/or employer's liability as appropriate, based on an assessment of risk for the Contract)
 - b) is registered for tax and holds a valid certificate (where appropriate)

Contract Standing Order 6: Publication of Notices

- 6.1 In all cases where, by virtue of these CSOs or by UK Procurement Legislation, a public notice is required, it shall be placed on the corporate tendering opportunities portal on Hantsweb and on the Central Digital Platform or Contracts Finder (as applicable).
- 6.2 Where the value of the contract is £25,000 or greater, or a Framework / dynamic market call-off contract at any value, the information regarding the Contract award is required to be placed on Central Digital Platform or Contract Finder (only if the PCR 2015 applies).
- 6.3 Where the value of the Contract exceeds the relevant Threshold, the **appropriate required notices** shall also be placed in the UK e-notification service in accordance with the UK Procurement Legislation.

Contract Standing Order 7: Purchasing Procedures for Contracts of a Value less than £179,000

- 7.1 Where the estimated value of the Contract, calculated in accordance with CSO 4, is less than £179,000 and there is a suitable Framework approved by the Director of Corporate Operations / Chief Financial Officer under CSO 5.2, that Framework shall be used.
- 7.2 Where no suitable Framework is available, and the estimated value of the Contract, calculated in accordance with CSO 4, is less than £1,000, then one written quotation should be obtained.
- 7.3 Where no suitable Framework is available, and the estimated value of the Contract, calculated in accordance with CSO 4, is £1,000 or greater and less than £179,000 three written quotations should be requested against the same written request for quotation in accordance with the procedure set out in the Procurement Best Practice Guide. Where it proves not reasonably practicable to obtain three quotations, then provided three written quotations have been requested in accordance with the procedure set out in the Procurement Best Practice Guide a contract may be awarded
- 7.4 In the selection of the Contractor, the Contract Lead Officer shall bear in mind the need to seek best value for money and be able to demonstrate that they have achieved this.
- 7.5 The Contract shall be evidenced in writing, by submission of an order in accordance with the Framework or, where a Framework is not used, by the placing of an order on the basis that the price in the written quotation received shall apply.

Contract Standing Order 8: Tendering Procedures for Contracts of a Value of £179,000 or greater but less than relevant Threshold

- 8.1 Where the estimated value of the Contract, calculated in accordance with CSO 4, is £179,000 or greater but less than the relevant Threshold, and there is a suitable Framework contract approved by the Director of Corporate Operations / Chief Financial Officer, under CSO 5.2, that Framework shall be used.
- 8.2 Where no suitable Framework is available, tenders shall be invited using a procedure comparable/similar to the open procedure under the UK Procurement Legislation.
- 8.3 The procedure requires the publication of a notice in accordance with CSO 6. The public notice shall specify (i) a time period within which interested parties may express an interest in tendering, and (ii) the method by which such interest shall be expressed. At the end of this period, an invitation to tender shall be sent to all parties who have expressed an interest, specifying a reasonable period for tenders to be returned.
- 8.4 In all cases, every invitation to tender shall include the following:
 - A statement that the tendering process will be conducted within the County Council's corporate electronic tendering system;
 - Full instructions on how to submit their tender to this system;
 - Advice that tenders, once received in the system, will be anonymous until the time specified for their opening;
 - Advice as to the deadline for submission of tenders to this system.
- 8.5 In exceptional circumstances, and with the prior approval of the Director of Corporate Operations / Chief Financial Officer, an invitation to tender may be sent to tenderers in hard copy paper form, rather than through the electronic tendering system.
- 8.6 The invitation to tender shall state the evaluation criteria, including sub-criteria and sub-sub-criteria (where used), weightings and scoring criteria that will be applied in the award of the Contract. These criteria must be capable of objective assessment, include price and any other relevant factors, and be weighted by relative importance. The invitation to tender shall also include the terms and conditions that will apply to the Contract.
- 8.7 The Contract shall be evidenced in writing by the completion of a formal written Contract, the terms of which have been approved by the Assistant Director of Legal Services and Monitoring Officer or other person authorised by him for this purpose.

Contract Standing Order 9: Tendering Procedures for Contracts above Thresholds and Modifications of Contracts above Thresholds

- 9.1 The UK Procurement Legislation set a financial threshold beyond which prescribed tendering procedures must be followed. The Thresholds are reviewed every two years, and the updated figures can be found in the Best Practice Guide.
- 9.2 Where the estimated value of the Contract is in excess of the relevant Threshold, the procedures set out in the UK Procurement Legislation must be followed. Under the PA 2023, the competitive tendering procedure has been reduced to just two procedures, namely the open procedure and the competitive flexible procedure. All above-threshold procurements that commence on or after 24 February 2025 must use one of these two competitive procedures, unless the contracting authority is making a direct award or awarding a call-off contract under a framework. All awards under a dynamic market must be made using a competitive flexible procedure. The aim of the competitive flexible procedure is to enable a contracting authority to design a bespoke procedure that suits the nature of the individual procurement.
- 9.3 In certain specialist cases where complex procedures are used advice on which procedure is appropriate to the specific case should be sought from the Assistant Director of Strategic Procurement who shall consult with the Monitoring Officer, where appropriate.
- 9.4 In the event that the Chief Officer determines that the contract relates to a strategic or policy decision, then approval of the Executive or, in respect of Non-Executive matters, the Committee with delegated responsibility for the relevant service area shall be sought.
- 9.5 Any proposed modifications to existing contracts which have not been provided for in the initial procurement documents in clear, precise and unequivocal review clauses shall be approved by the Chief Officer within whose areas of responsibility the contract falls, in consultation with the Monitoring Officer. In the event that the Chief Officer determines that the contract relates to a strategic or policy decision, then approval of the Executive shall be sought or, in respect of Non-Executive matters, the approval of the Committee with delegated authority for the relevant services area, shall be sought.
- 9.6 In the event that the Chief Officer for the relevant service area is unavailable the decisions reserved to that Chief Officer by paragraphs 9.3, 9.4 and 9.5 may be taken by a Deputy Chief Officer nominated by the Chief Officer for the relevant service area.

Contract Standing Order 10: Receipt and Opening of Tenders

- 10.1 Subject to CSO 10.2, all tenders shall be opened at the same time, by an officer independent of the procurement process and appropriately trained to open tenders on the electronic tendering system as soon as reasonably practicable on or after the date for return of tenders. People under contract to the County Council, but not permanent employees of the County Council shall not open tenders unless approved by a Chief Officer or Monitoring Officer.
- 10.2 The officer opening tenders shall record, in respect of each tender opened, the name of the tenderer and, where applicable, the total value.

Contract Standing Order 11: Evaluation of Tenders and Award of Contract

- 11.1 The Contract Lead Officer (who should normally be an employee of the County Council) shall ensure that the tenders received are evaluated in accordance with the evaluation criteria that have been adopted for the Contract and stated in the invitation to tender. These criteria must be capable of objective assessment, include price and other relevant factors, and be weighted by relative importance.
- 11.2 The Contract Lead Officer shall produce a written report evaluating each tender received against the evaluation criteria. The report shall identify the tenderer who has submitted the Most Advantageous Tender (i.e. the tender that achieves the highest score in the evaluation) and recommend the award of the Contract to that tenderer. This report shall be submitted to the person authorised to award the Contract under CSO 11.4.
- 11.3 No contract may be awarded unless the expenditure involved has been included in approved estimates and sufficient budgetary provision made in the County Council's capital or revenue accounts in accordance with CSO 3.1. The Evaluation Report shall confirm how this requirement is met.
- 11.4 Each Chief Officer is authorised to award and sign any contract entered into on the County Council's behalf, where it relates to their Area of Responsibility, and where the value of the Contract is less than £179,000. The Contract may be awarded and signed by a Senior Officer who is authorised to do so on behalf of the Chief Officer as documented in that Chief Officer's scheme of financial delegation. All other Contracts shall be awarded by the Monitoring Officer or a Senior Officer nominated by the Monitoring Officer for this purpose and signed by or on behalf of the Monitoring Officer in accordance with Part 1, Chapter 16 of the Constitution.
- 11.5 Where the value of a Contract is above the relevant Threshold, the Contract shall be awarded in accordance with the UK Procurement Legislation and in particular the requirements relating to a "standstill" period prior to the Contract being entered into.
- 11.6 All Contracts, including an arrangement subject to a purchase order, must be made in writing under English Law, and must clearly and carefully specify the supplies, services or works to be provided, the agreed programme for delivery and the price and terms for payment together with all other terms and conditions.
- 11.7 Where purchases of a value less than £179,000 are made for which standard terms and conditions have been approved by the Monitoring Officer those standard terms should be used. Where a Contract is estimated at a value £179,000 or above or is of an unusual or complex nature, the Monitoring Officer shall be consulted to produce a suitable set of conditions of contract or to advise on existing conditions for use under a Framework Agreement

- 11.8 Every contract must also include certain clauses, in a form approved by the Monitoring Officer, to protect the County Council from fraud and to ensure that Contractors understand their responsibilities when they are acting on the County Council's behalf as well as clauses required to comply with the UK Procurement Legislation.
- 11.9 The Chief Officer within whose area of responsibility the Contract falls shall allocate to a Senior Officer responsibility for the ongoing management of the Contract.
- 11.10 In exceptional circumstances, where a Contract has been awarded under CSO 11.4, but it is considered necessary in the best interests of the County Council to initiate the provision of goods or services under that Contract prior to the Contract being signed, the issue of an Advance Works Order by the Monitoring Officer may be requested. Issue will be subject to confirmation that a decision to award the Contract has been made in accordance with CSOs, the necessary funding for the Contract having been approved, and the value of the Advance Works Order not exceeding £179,000.

Contract Standing Order 12: Waiver of Contract Standing Orders

- 12.1 Any of the requirements of these CSOs may be waived in an individual case, by the person authorised as follows:
- Where the estimated value of the Contract is less than **£179,000**, the Chief Officer within whose area of responsibility the Contract falls
 - Where the estimated value of the Contract is **£179,000** or greater, the Chief Officer within whose area of responsibility the Contract falls, with the benefit of advice from the Monitoring Officer
 - Where the estimated value of the contract is £179,000 or greater the Chief Officer, with the benefit of advice from the Monitoring Officer, determines that the Contract relates to a decision on a strategic or policy decision, the Executive or, in respect of Non-Executive matters, the Committee with delegated responsibility for the relevant service area
- 12.2 A request for the issue of a waiver must be made in writing to the person authorised under CSO 12.1, with full reasons as to why the waiver is required, and evidence that the issue of a waiver will not prevent best value from being obtained. The decision in response to the request for a waiver must also be in writing. No action shall be taken to enter into the Contract until such request has been submitted, the decision made and the transparency notice has been published. Before making a direct award is approved, the County Council must determine that a direct award justification applies or conclude that there are no suitable tenders following a competitive tendering procedure and have publish a transparency notice stating its intention to make a direct award.
- 12.3 The County Council is subject to legal requirements to ensure fair competition for Contracts of a value exceeding the Thresholds, and subject to obligations under the UK Procurement Legislation to ensure that all Contracts (regardless of value) are awarded having regard to the need to avoid any action that is discriminatory, improper or which distorts competition.
12. It is understood that a waiver may be utilised where it can be demonstrated that the ability to act quickly to engage a single supplier would make economic sense and fit with service requirements, in circumstances where there is no more effective way to secure the capacity.
- 12.5 In the event that the Chief Officer for the relevant service area is unavailable, the decision reserved to that Chief Officer by paragraph 12.1 may be taken by a Deputy Chief Officer nominated by the Chief Officer for the relevant service area.

