

# **Article 6 (b)**

## **STANDING ORDERS RELATING TO CONTRACTS AND PROCUREMENT**

**2024 UPDATE**

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## **1.0 Introduction and Status of the Standing Orders**

- 1.1 The Standing Orders for Contracts and Procurement provide the framework rules for the procurement of all works, goods, materials, and services by the Council, and also set out the Council's tendering and contract rules and procedures.
- 1.2 The Standing Orders are intended to help the Council to achieve value for money in the use of public resources, comply with legal requirements, including the Public Contracts Regulations 2015, promote good purchasing practice, demonstrate public accountability, manage risk, and help deter fraud and corruption in the undertaking of all procurement.
- 1.3 The Finance Manager is responsible for undertaking an annual review of the Standing Orders and submitting any revisions to the Council at the Annual Meeting. The Standing Orders may only be amended or varied by resolution of the Council.
- 1.4 The Finance Manager is also responsible for issuing guidance, advice, and training to underpin these Standing Orders.
- 1.5 The requirements of these Standing Orders apply to every Member and officer responsible for undertaking procurement activity on behalf of the Council.
- 1.6 Service managers, under the direction of the Finance Manager and Town Clerk, are responsible for ensuring that all staff in their service areas with responsibility for raising purchase orders are made aware of the existence and content of these Standing Orders and that they comply with their requirements whenever engaging in any procurement activity.
- 1.7 Service managers must ensure that they are able to demonstrate the achievement of value for money by having regard to a combination of economy, efficiency, and effectiveness in the use of public resources when undertaking all procurement activity.
- 1.8 All officers with responsibility for drawing up contracts on behalf of the Council or a Committee, to which the power of making contracts has been delegated, must ensure that they comply with the requirements of these Standing Orders and the Public Contracts Regulations 2015.
- 1.9 In order to ensure that the Standing Orders are flexible to the Council's operational requirements, a list of exemptions from the main provisions of these Standing Orders is available in Standing Order 6. Applications for exemptions from the Standing Orders must be formally requested, agreed by the Town Clerk and Finance Manager, and subsequently reported to and approved by the relevant committee of the Council.
- 1.10 These Standing Orders will not apply in those circumstances where works, goods, materials, or services are to be purchased under agency arrangements with another local authority or public sector body. In such cases, the procurement of the works, goods, materials, or services will be made in accordance with that organisation's own Standing Order rules for procurement. In particular, where using a contract let by a central purchasing body, which the Council is entitled to access, these standing orders will be deemed to have been fully complied with.

- 1.11 No other exception can be made from the provisions of these Standing Orders, unless in an emergency or other exceptional circumstances with the approval of the Town Clerk. All such exceptions must subsequently be reported to and approved by the Council and the report must specify the emergency or exceptional circumstances by which the exception has been justified.
- 1.12 Any known breach of or non-compliance with these Standing Orders must be reported to the Council's Internal Auditor. The Internal Auditor, in consultation with the Town Clerk and Finance Manager, will decide whether the breach or non-compliance represents a significant risk of harm to the Council's interests, and what disciplinary action may be required, and will report to Council accordingly.

## **2.0 Procurement Responsibilities**

### **Authorised Officers of the Council**

- 2.1 All officers with responsibility for raising and certifying purchase orders and drawing up contracts on behalf of the Council must comply with the provisions of these Standing Orders.
- 2.2 Officers authorised to raise and certify purchase orders and therefore undertake procurement activity and are set out in the Council's Approved List of Authorised Officers which is attached at Appendix 1.
- 2.3 It is accepted that in very rare cases, responsibility for raising purchase orders may be delegated to an officer not included on the approved list. However responsible officers must ensure that they take responsibility for the procurement, that the provisions of these Standing Orders are applied, and that the purchase order is subsequently certified by a responsible officer.
- 2.4 Only a senior officer or service manager of the Council may authorise invoices for payment. Senior officers are currently as follows:-
  - Town Clerk
  - Finance Manager
  - Senior Accountancy Assistant
  - Corporate and Policy Officer
  - Works and Environment Manager
  - Grounds Maintenance Services Co-ordinator
  - Head of Leisure and Events
  - Sports Complex Manager
  - Senior Administration Officer
  - Pre-School Manager
- 2.5 Service managers must also ensure that the appropriate procurement records are kept in line with these Standing Orders and that any contracting and tendering procedures are undertaken in accordance with the specific procedures set out in Standing Orders 11 to 19.
- 2.6 The Town Clerk and Finance Manager are available to provide advice and training to officers around undertaking procurement activity and to assist with the interpretation and application of these Standing Orders.

## **Town Clerk, Finance Manager, and Internal Auditor**

- 2.7 The Finance Manager and Town Clerk are responsible for ensuring compliance with these Standing Orders and for agreeing the use of any exemptions from requirements of the Standing Orders.
- 2.8 The Internal Auditor is responsible for reviewing the application of the Standing Orders in procurement activity, undertaking an annual audit of purchase ordering, tendering and contracts, and investigating any breaches or non-compliance with the Standing Orders that represents a significant risk of harm to the Council's interests.
- 2.9 The Finance Manager is responsible for the annual review and update of the Standing Orders and reporting this to the Annual Meeting of the Council each year.
- 2.10 The Town Clerk is responsible for ensuring that a file record for each individual tender and contract is maintained, and that all original contract documents are securely held on Council premises.
- 2.11 The Town Clerk is also responsible for providing officers with relevant legal advice, in relation to procurement and contracts, where appropriate, and for reporting to the Council, following advice from the Internal Auditor, any breach or non-compliance with the Standing Orders representing a significant risk of harm to the Council's interests.

## **The Council and its Committees**

- 2.12 The Council is responsible for the consideration and approval of the Standing Orders, the consideration and approval of any material exemptions from the Standing Orders (routine exemptions may be reported to the appropriate spending committee), and the consideration of any breaches or non-compliance with the Standing Orders.

## **3.0 Definition of Contracts and Procurement Activity**

- 3.1 For the purposes of these Standing Orders, contracts and procurement activity is defined as being:-

*“A commitment to future expenditure arising from any arrangement or agreement made by or on behalf of the Council for the carrying out of work, the supply of goods and materials, or the delivery of services.”*

This definition therefore encompasses the arrangements for all areas of procurement relating to both the Council's Revenue and the Capital Budgets and includes the following:-

- The supply of goods, materials, vehicles, plant, machinery, or equipment;
- The hire, lease or rental of vehicles, plant, machinery, or equipment;
- The execution of works to land or buildings;
- The delivery of services including training of staff, servicing of vehicles and machinery, consultancy, cash collection, sub-contract work and stocktaking services.

## **4.0 Public Contracts Regulations 2015**

- 4.1 The Public Contracts Regulations 2015 provide rules for the procurement of goods, services and works, above certain thresholds, by public authorities.
- 4.2 Most of the requirements of the regulations only apply in relation to procurement over the value of the Thresholds of £214,904 (inclusive of VAT) for the supply of goods and services, and £5,372,609 (inclusive of VAT) for public works contracts, and are therefore very unlikely to apply to the Council.
- 4.3 A summary of the requirements of the Public Contracts Regulations 2015, as they are relevant to town and parish councils, is set out below:-
- Any contract opportunity or contract award with an estimated value of £25,000 (excluding VAT) or above must be advertised on the “Contracts Finder” website whether or not it has been advertised elsewhere;
  - However, where a contracting authority is satisfied it is lawful not to advertise a contract opportunity and chooses not to advertise the opportunity at all, the requirement to advertise on Contracts Finder Service does not apply to that contract. This may be the case where, for example, a contracting authority has a standing order stating that advertising is not required for contracts with a value below a certain amount, and there is no legal requirement to advertise the contract. This means that, for example, if a contracting authority is dealing with a procurement worth £40,000; its standing orders state that contracts with a value below £55,000 need not be advertised; it is satisfied there is no legal requirement to advertise, and it does not voluntarily advertise the procurement, then there is no requirement to advertise the procurement on Contracts Finder Service.
  - Where the contracting authority chooses to advertise the procurement on Contracts Finder Service, the information to be published must include the time by which interested parties must respond, how and to whom to respond, and any other requirements to enable participation in the procurement opportunity;
  - Where a council publishes information on Contracts Finder Service it must by means of its website, offer unrestricted and full direct access, free of charge, to any relevant tender contract documents.
  - It is good practice to ensure a pre-qualification stage on all tenders above a value of £55,000 – this will ensure that the potential suppliers have insurance, financial and other regulatory requirements in place, therefore reducing any risk of a procurement or contract failing. Other lower value contracts can be assessed on an individual basis to decide if a pre-qualification is required.
  - Councils should ask candidates to answer ‘suitability assessment questions’ relevant and proportionate to the subject of the procurement, such as whether candidates meet minimum standards of suitability, capability, legal status, industry regulatory requirements or financial standing, evidence of these will be required;

- When a contract is awarded, the council must publish on the Contracts Finder Service website the name of the contractor, the date on which the contract was entered into, the value of the contract, and whether the contractor is a SME (small or medium sized enterprise);
  - Councils must ensure that all contracts contain suitable provisions stating that valid, undisputed invoices will be paid within 30 days, and that contractors include similar provisions in their contracts;
  - Council must publish on their websites each financial year, statistics showing the proportion of invoices paid within 30 days in the preceding financial year; and
  - In complying with any of the above requirements, the Council must have regard to any guidance issued by the Minister for the Cabinet Office.
  - Councils should publish a procurement pipeline for any procurement activity that will be undertaken covering at least a minimum of 18 months
- 4.4 As highlighted above, the Public Contracts Regulations 2015 require local authorities undertaking procurement over the value of £25,000 (excluding VAT) to register the contract under the Governments 'Contracts Finder Service' website.
- 4.5 However, where a contracting authority has existing standing orders in place that have a higher value for advertising procurement opportunities, the higher value applies rather than £25,000.
- 4.6 **For the purposes of implementing the requirements of the Public Contracts Regulations 2015, the Council will publish contract opportunities on the Contracts Finder portal where the contract value is estimated to be over £55,000 (excluding VAT), and where a Standing Orders Exemption has not been applied.**
- 4.7 Local authorities we are still required to post contract award notices on Contracts Finder Service for *all* contract awards above £25,000 (excluding VAT), irrespective of the limits set in these Standing Orders and whether or not a Standing Orders Exemption has been applied.
- 4.8 The Council will therefore advertise the award of any contract over the value of £25,000 (excluding VAT) on the Contracts Finder Service portal.
- 4.9 **Procurement under the value of £55,000 (excluding VAT) will be undertaken within the requirements of these Standing Orders and the Council's Financial Regulations.**

## 5.0 Table of Financial Thresholds for Procurement

5.1 The following table shows the financial thresholds that will apply to the procurement of all works, goods, materials and services and the associated procurement and tendering procedures:-

| Procurement Amount  | Procurement and Tendering Procedure   |
|---|---|
| <p><b>Up to and including £5,500.</b></p>   | <p><b>No written quotations or tenders will be required.</b></p> <p>However, the principles of value for money i.e. having regard to the achievement of economy, efficiency, and effectiveness in the use of public money must be observed and, where possible, evidenced at all times. Officers should ensure that appropriate insurance levels are covered on the procurement and that all orders are covered under the councils' own terms and conditions</p> <p>Please refer to Standing Order 9.</p> |
| <p><b>£5,501 up to and including £54,999.</b></p>   | <p><b>At least three written quotations must be sought.</b></p> <p>This will help to demonstrate and provide evidence of the achievement of value for money. Officers should ensure that appropriate insurance levels are covered on the procurement and that all orders are covered under the councils' own terms and conditions</p> <p>Please refer to Standing Order 10.</p>   |
| <p><b>£55,000 up to and including the GPA Thresholds of £214,904 for goods and services and £5,372,609 for works (inclusive of VAT)</b></p> | <p><b>The procurement opportunity must be registered on the Government's Contracts Finder Service website in accordance with the requirements of the Public Contracts Regulations 2015, unless a Standing Orders Exemption has been approved by the Council.</b></p> <p>Please refer to Standing Order 11.</p>  |
| <p><b>Over the EU Thresholds of £214,904 for goods and services and £5,372,609 for works (inclusive of VAT)</b></p>                         | <p><b>GPA Procedure is mandatory over the GPA Threshold.</b></p> <p>Find A Tender notice is required and at least three tenders must be sought, ensuring that the tender process complies with current GPA Directives.</p> <p>Please refer to Standing Order 12.</p>  |



- 5.2 However, it is important to note that the Council has the power to waive some requirements of these Standing Orders in specific circumstances.
- 5.3 There are a number of exemptions that may be applied for procurement below the Public Contracts Regulations Thresholds of £214,904 (including VAT) for the supply of goods and services, and £5,372,609 (including VAT) for public works contracts, and these exemptions are set out in detail in the following section of these Standing Orders.

## **6.0 Exemptions to the Application of the Standing Orders**

- 6.1 The Council has the power to waive the requirements of these Standing Orders in specific instances, but they must be in accordance with any current procurement legislation.
- 6.2 In such instances, an exemption must be applied for and approved by the Council under this Standing Order.
- 6.3 However, it is important to note that exemptions cannot be applied where the proposed procurement is likely to be above the Public Contracts Regulations Thresholds of £214,904 (including VAT) for the supply of goods and services, and £5,372,609 (including VAT) for public works contracts.
- 6.4 An exemption granted under this Standing Order allows a contract for the procurement of goods, materials, works or services to be placed via direct negotiation with one or more suppliers, rather than in full accordance with these Standing Orders and the requirements of the Public Contracts Regulations 2015 in relation to advertising the procurement opportunity on the Government's Contracts Finder Service website.
- 6.5 However, in applying for an Exemption from the Standing Orders, the responsible officer must still ensure that the principles of value for money i.e. having regard to the achievement of economy, efficiency, and effectiveness in the use of public money have been observed at all times and evidence this as far as possible.
- 6.6 All applications for exemptions, and the reasons for them, must be recorded using the appropriate form, signed by the responsible officer, and countersigned by the Finance Manager and Town Clerk. The Standing Order Exemption Application Form is attached in Appendix 2.
- 6.7 Exemptions in respect of revenue expenditure over the value of £25,000 (excluding VAT) and all capital expenditure over the value of £5,500 must be reported to and considered by the appropriate Committee of the Council and subsequently approved by Full Council.
- 6.8 Exemptions in relation to revenue budget expenditure below £25,000 (excluding VAT) may be approved by the Town Clerk and Finance Manager and do not need to be reported to Committee.
- 6.9 The following exemptions may be applied for, subject to the relevant approval requirements as set out above:-

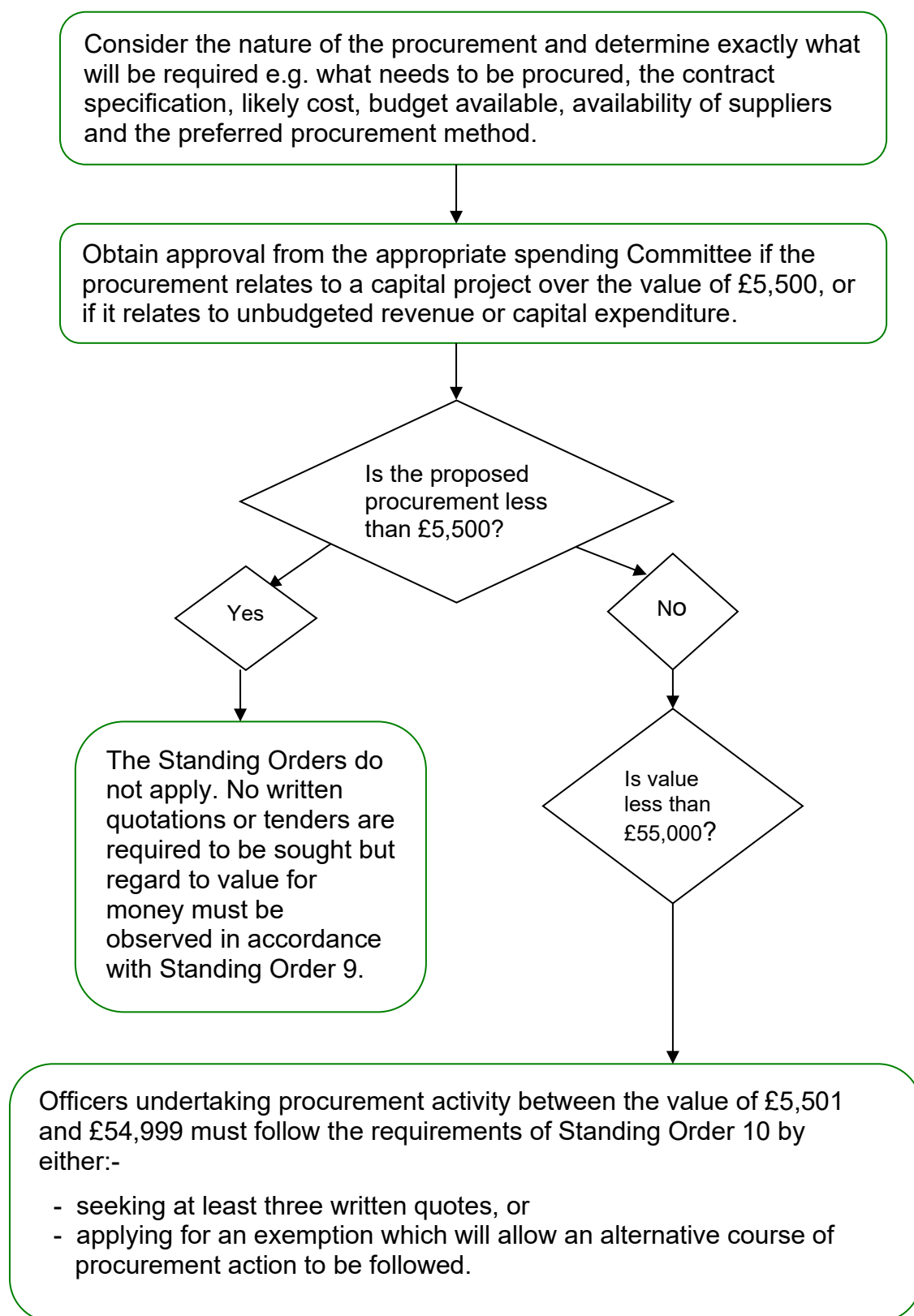
- a) Contracts for **mandatory works by statutory contractors**;
- b) **Grants** to other public sector organisations, community organisations or charities;
- c) The goods, materials, works or services to be purchased are **sold at a fixed price**;
- d) The goods or materials are **patented** and only available directly from one supplier, or the goods, materials, works, or services are of a **proprietary or specialised nature** and for which it is not therefore possible to obtain competitive prices;
- e) The goods or materials are only obtainable from a **limited number of suppliers** or the services or works can only be carried out by a limited number of **contractors**. However, in such cases a reasonable number of those suppliers or contractors must be invited to submit tenders;
- f) The price of the goods or materials to be purchased are **controlled by trade organisations** or for other reasons there is **no genuine competition** for the goods, materials, services or works;
- g) Any contract or sub-contract that is substantially for the undertaking of specialist services or works in which the **exercise of professional knowledge is of primary importance**;
- h) The work to be executed or the goods or materials to be supplied relates to **emergency repairs** to or parts for buildings, vehicles, machinery, equipment, or plant;
- i) The work to be executed, services required or the goods or materials to be purchased are required as a **matter of urgency** due to circumstances outside the Council's control, or which could not have been diligently foreseen;
- j) Officers and the Council are of the opinion that in any particular case **more favourable terms are likely to be obtained by negotiating a price** with a supplier or contractor for the goods, materials, services or works;
- k) The purchase of the goods, materials, services, or works is to be made using **standing arrangements with another local authority or public sector body**;
- l) Where the procurement relates to an **extension of an existing contract where there is significant benefit to be gained by extending the contract, or where a change of supplier would cause:-**
  - **disproportionate technical difficulties**;
  - **diseconomies**; or
  - **significant disruption to the delivery of Council services.**

This extension is not available on already expired contracts, in addition to this consideration of any grant funding conditions must be taken into account.

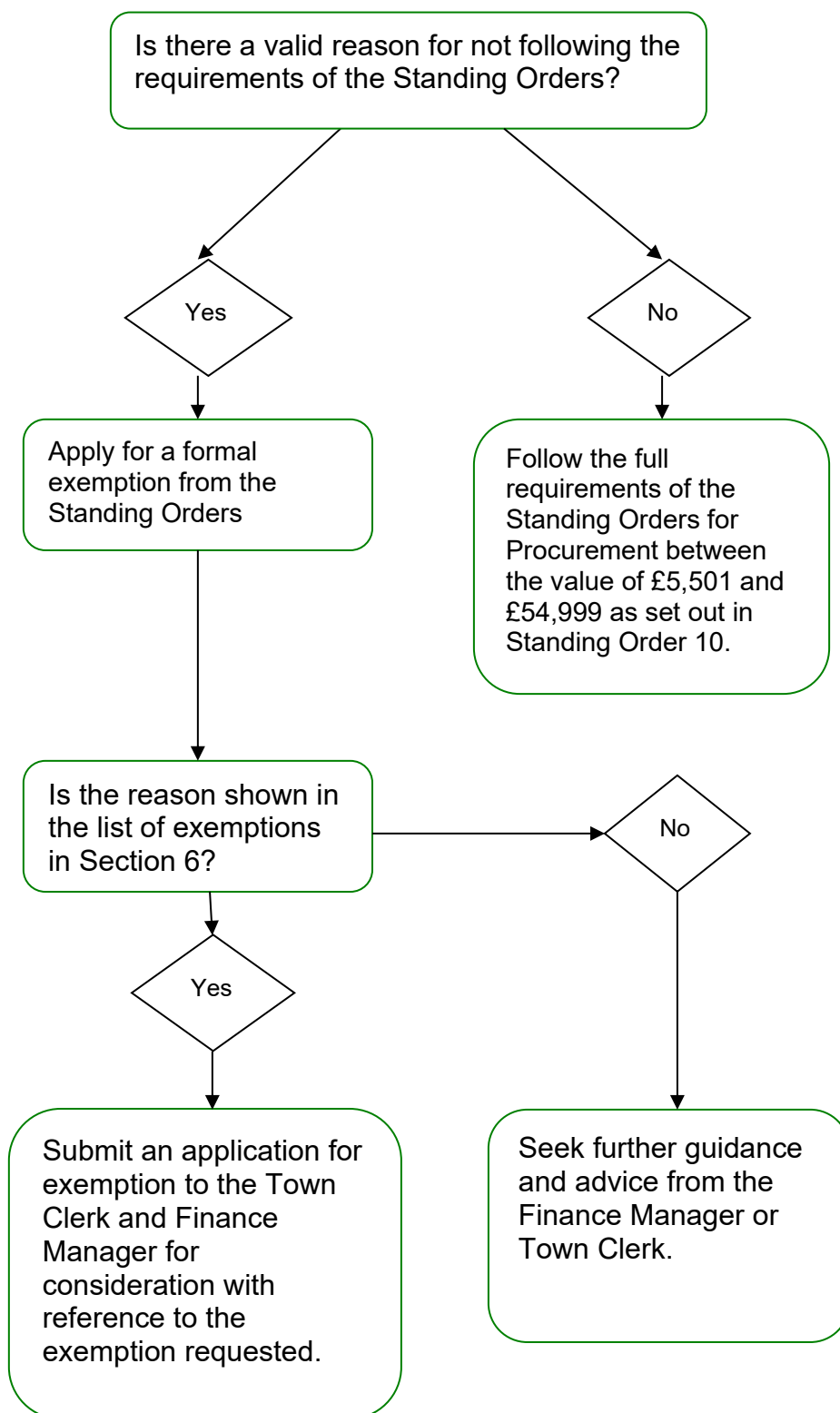
- 6.10 Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property, other assets or serious disruption to Council services, the Town Clerk may authorise the exemption, and the exemption may be applied prior to approval by the Council.
- 6.11 However, the Town Clerk must prepare a report for the next meeting of the appropriate Committee setting out details of the action taken and seeking retrospective approval.

## 7.0 Flow Chart for the Application of Standing Orders for the Undertaking of Procurement Activity

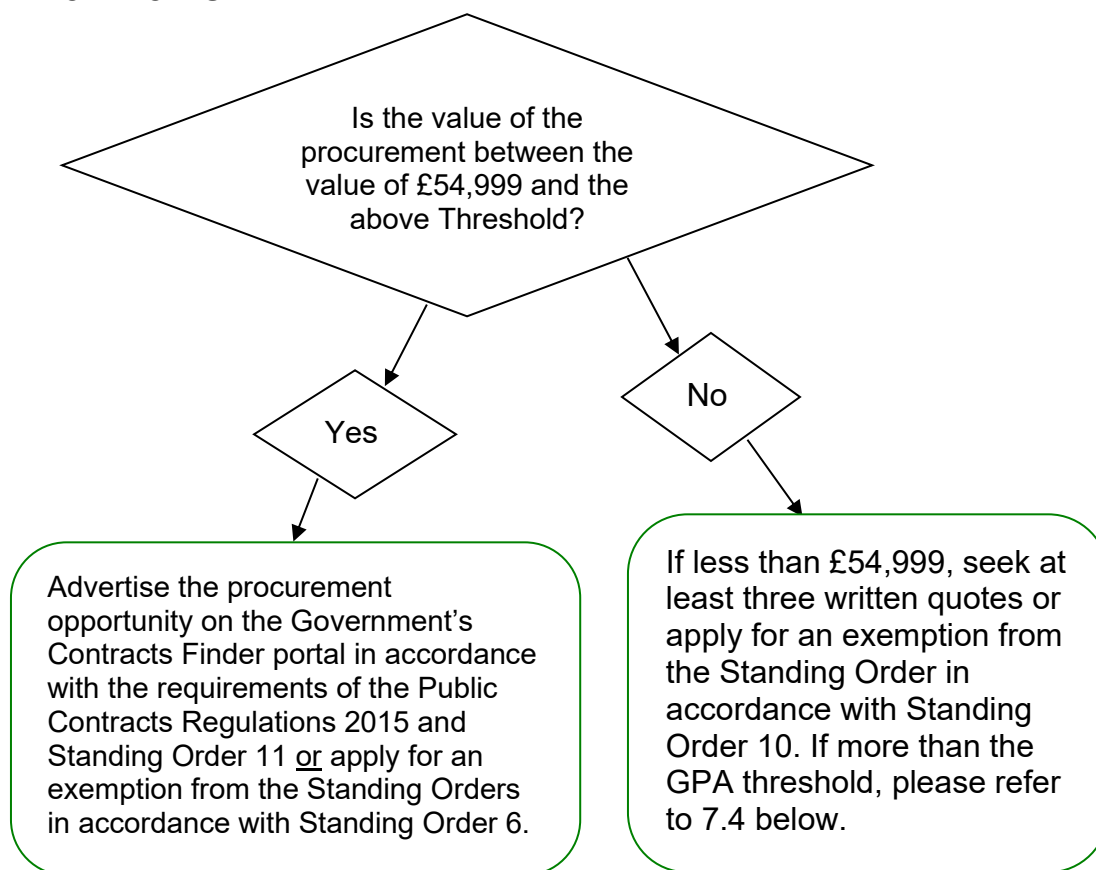
### 7.1 Procedure to Follow Prior to Undertaking Procurement



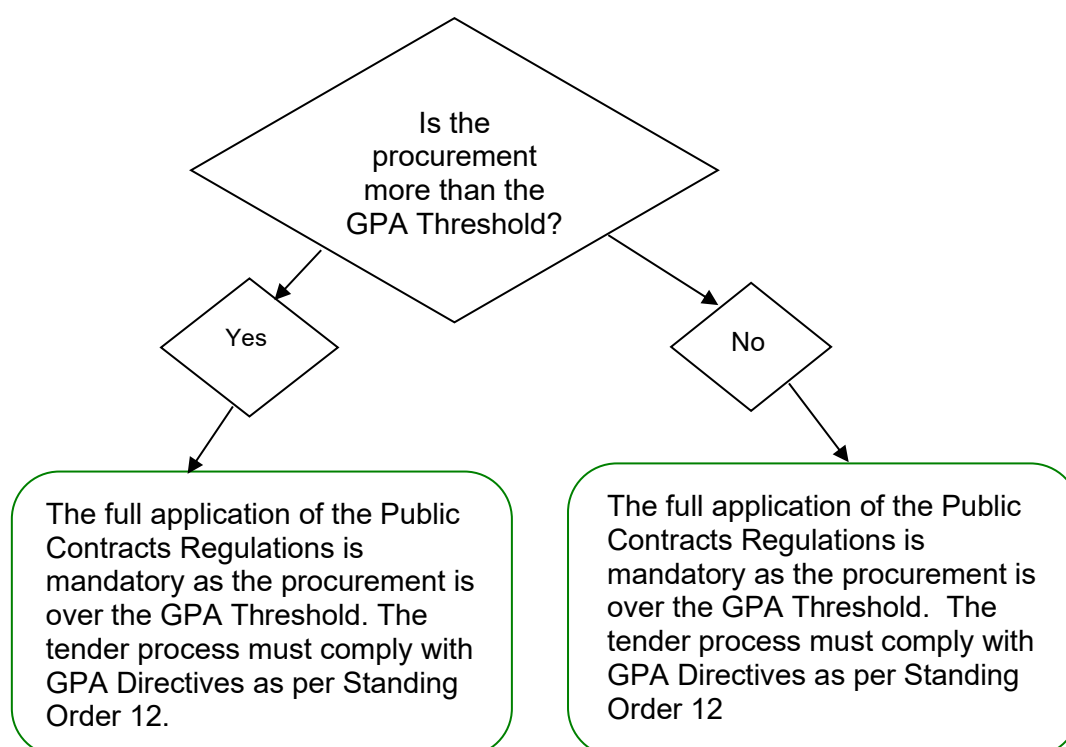
## 7.2 Procedure for Procurement Between the Value of £5,501 and £54,999 (including Applications for Exemptions From the Requirements of the Standing Orders)



### 7.3 Procedure to follow for all Procurement Over the Value of £54,999 and up to the GPA Thresholds (including VAT) of £214,904 for Goods and Services and £5,372,609 for Works



### 7.4 Procedure for Procurement Over the Value of £214,904 for Goods and Services and £5,372,609 for Works (including VAT)



## **8.0 Procedure Prior to Procurement**

- 8.1 Before commencing the procurement process, the responsible officer should ensure that they have:-
- Considered the objectives of the procurement and how this contributes towards the Council's strategic aims and targets;
  - Considered the need to achieve value for money;
  - Verified the lawful nature of the proposed procurement, particularly when the procurement activity relates to a new service or initiative or an irregular payment;
  - Appraised the need for the expenditure and its priority;
  - Ensured that sufficient Revenue or Capital Programme Budget provision exists;
  - Informed the Finance Manager if the expenditure is unexpected, unbudgeted, or is likely to be material;
  - Assessed the risks associated with incurring the expenditure (undertaking a formal risk assessment if necessary);
  - Referred to the Standing Orders in order to determine the required procurement action;
  - Considered which procurement method is most likely to achieve the purchasing objectives and achieve value for money e.g. seeking quotes, negotiating with existing suppliers, testing the market, utilising professional advice e.g. County Council procurement staff, surveyors, architects, etc.
- 8.2 In all cases where the procurement is over £5,500 and relates to a capital programme project, approval must be sought from the appropriate spending committee before proceeding.
- 8.3 All regular expenditure relating to the Revenue Budget and any Capital Programme Budget expenditure that is less than £5,500 is not required to be reported to Committee but the procurement process must follow the requirements of these Standing Orders.
- 8.4 However, if the procurement involves unbudgeted revenue or capital expenditure, approval must always be sought from the Policy and Resources Committee before proceeding.
- 8.5 Responsible officers may consult with potential suppliers prior to the issue of any invitation to quote or tender, but only in general terms about the nature, level and standard of the supply or service and other general matters, provided that this does not prejudice any potential candidate.
- 8.6 Where seeking more than one quote, responsible officers should avoid seeking technical advice from suppliers, as this may prejudice the equal treatment of all potential candidates.

## **9.0 Procurement up to and including £5,500**

- 9.1 Where the total value of the procurement is less than £5,500, these Standing Orders do not include a formal requirement to seek three written quotations or tenders, although there is nothing to stop authorised officers from seeking three quotes if they wish to do so.
- 9.2 What is important is that authorised officers are satisfied that value for money i.e. economy, efficiency, and effectiveness in the use of public money, has been achieved and can be evidenced.
- 9.3 This could be demonstrated by informally seeking prices from a number of alternative suppliers e.g. via an internet search, using suppliers that have provided a good service and value for money to the Council in the past, or negotiating a better deal with existing suppliers.
- 9.4 In terms of the keeping of records for procurement under the value of £5,500, all supplementary evidence relating to the purchase should be retained, including copy purchase orders, price lists, web page prints, emails, and invoices.

## **10.0 Written Quotations (Procurement over £5,501 up to and including £54,999)**

- 10.1 Where the procurement of the goods, materials, services, or works is in excess of £5,500 but below £54,999, at least three written quotations are required to be obtained, unless an exemption has been applied for and approved under the requirements of Standing Order 6.
- 10.2 The authorised officer will be required to set out, ideally in writing, the particulars of the procurement or a specification for the contract into which the Council wishes to enter, and to seek, via invitations to quote, at least three written quotations from relevant persons, suppliers, or contractors able to provide the required goods, materials, or services, or undertake the required works.
- 10.3 The Council does not have a contracted list of suppliers and the choice of suppliers should be based on the professional knowledge of the authorised officer undertaking the procurement.
- 10.4 Every effort should be taken to obtain at least three written quotations, and consideration should be given to seeking more quotes if more than three relevant suppliers are available.
- 10.5 If less than three quotes are actually received following the invitation to quote, this Standing Order permits only those quotations actually received to be considered. Further quotes do not need to be sought.
- 10.6 Upon receipt of written quotations, the authorised officer will then be required to evaluate the quotes received against the requirements of the procurement or the contract specification and recommend the preferred contractor, including the reasons if the lowest price is not accepted or if less than three quotes were received.
- 10.7 All procurement relating to capital projects over £5,500 must be reported to the appropriate spending Committee. These reports must include the full background to the project, any exemption applied for from the



Standing Orders, details of the quotes sought and received, and the recommended contractor, including the reasons if the lowest price has not been accepted.

- 10.8 There are a number of items of expenditure relating to the Revenue Budget which are over the value of £5,500. These include loan repayments, senior citizens trips, information technology contracts, the insurance contract, CCTV running costs, bedding plants, fireworks display and bar supplies.
- 10.9 However, as these are all regular payments already well-established within the Revenue Budget, these Standing Orders do not require revenue expenditure to be reported to Committee.
- 10.10 However, a record of the decision to incur any revenue expenditure over the value of £5,500 must be published on the Council website in order to comply with the Openness of Local Government Bodies Regulations 2014 and Local Government Transparency Code.
- 10.11 The Financial Regulations provide further information on these requirements.
- 10.12 Please note that a contract award notice must be published on the Government Contracts Finder Service portal for all contract awards over the value of £25,000 (excluding VAT).
- 10.13 Additionally, if the procurement involves unbudgeted revenue or capital expenditure or a request to use the contingency sum, approval must be sought from Policy and Resources Committee before proceeding.
- 10.14 The following supporting records must be kept for all procurement activity between the value of £5,501 and £54,999:-
  - Copies of the invitations to quote;
  - Copies of any contract specification;
  - Copies of all quotations received;
  - Reports to Committee or Council;
  - Purchase orders, emails, delivery notes and invoices;
  - Copies of any contract where relevant;
  - Standing Order Exemption Form if an exemption is applied;
  - A record of the reasons if the lowest price was not accepted;
  - Copies of correspondence with the successful contractor;

## **11.0 Public Notice of Contract on Contracts Finder Service (Procurement over £55,000 (excluding VAT) up to and including £214,904 (inclusive of VAT) for goods and services and £5,372,609 (inclusive of VAT) for works)**

- 11.1 This Standing Order shall have effect where the Council is undertaking a procurement exercise for the supply of goods, materials, services or works that is over the Council's procurement threshold of £55,000, but below the Public Contracts Regulations EU threshold of £214,904 for goods and services and £5,372,609 for works.
- 11.2 This Standing Order will only apply on the rare occasions that the Council itself manages the procurement exercise and not in cases where the contract is to be managed by another local authority.
- 11.3 This Standing Order may also be waived if an exemption has been applied for and approved under the requirements of Standing Order 6.
- 11.4 In all other cases where the Council is undertaking a procurement exercise between the value of £55,000 and £214,904 for goods and services and £5,372,609 for works, quotes or tenders will be sought following the advertising of the contract opportunity via the Government's Contracts Finder Service website, in accordance with the requirements of the Public Contracts Regulations as set out in Standing Order 4, whether or not it has been advertised elsewhere.
- 11.5 The public notice must set out the nature and purpose of the contract into which the Council wishes to enter and must include the time by which interested parties must respond, how and to whom to respond, and any other requirements to enable participation in the procurement.
- 11.6 The Council must also, by means of its website, offer unrestricted and full direct access, free of charge, to any relevant contract documents.
- 11.7 The Council must not include a pre-qualification stage in a procurement exercise whereby the council assesses the suitability of candidates with a view to reducing the number of candidates who will proceed to a later stage of the process.
- 11.8 The Council may ask candidates to answer 'suitability assessment questions' relevant and proportionate to the subject of the procurement, such as whether candidates meet minimum standards of suitability, capability, legal status or financial standing.
- 11.9 Detailed tendering procedures including instructions for tenderers, standard conditions of tender, submission, receipt and opening of tenders, shortlisting, evaluation and award of contract and the withdrawal of tenders are set out in Standing Orders 13 to 18.
- 11.10 The Council need only consider those expressions of interest or tenders received and if fewer than three organisations have responded to the public notice, the Council does not need to seek further tenders.
- 11.11 When a contract is awarded, the Council must publish on the Contracts Finder Service website the name of the contractor, the date on which the

contract was entered into, the value of the contract, and whether the contractor is a SME (small or medium sized enterprise).

11.12 The following supporting records for all procurement between the value of £55,000 and £214,904 for goods and services and £5,372,609 for works would be expected to be retained:-

- A copy of the electronic notice published on the Contracts Finder Service website;
- Cuttings or copies of any newspaper or magazine advertisement(s);
- The tender document including contract specification if relevant;
- Completed tender documents received from candidates;
- The contract document, if relevant (see Standing Order 20);
- A record of the reasons if the lowest price was not accepted;
- Copies of all written correspondence with candidates during the tender process;
- Post tender correspondence with the successful contractor;
- Post contract evaluation and monitoring records.

### **Important Note Regarding Standing Orders 12 to 19**

Given the small size of the Town Council and the lack of specialist in-house expertise in relation to professional knowledge e.g. procurement law, surveyors, architects, it is unlikely that the Council would undertake a significant project involving a formal tender process without utilising the services of another local authority or public sector body e.g. Durham County Council.

It is therefore very unlikely that the tendering rules set out in the following Standing Orders 12 to 19 would ever need to be used by the Council.

In cases where procurement is managed by another local authority on behalf of the Council, attention is drawn to Standing Order 1.10 which states that:-

*“These Standing Orders shall not apply in the case where works, goods, materials or services are to be purchased in connection with the carrying out of works under agency arrangements with another local authority or public sector body. In such cases, the procurement the works, goods, materials, or services will be made in accordance with that organisations own Standing Order rules”.*

However, some of the information contained in the following Standing Orders will be relevant to some of the smaller revenue budget-based contracts that may be awarded by the Council from time to time, for example the contracts for bar supplies and the provision of coaches for the senior citizens' trips.

## **12.0 GPA Procedure (Over £214,904 (inclusive of VAT) for goods and services and £5,372,609 (inclusive of VAT) for works)**

- 12.1 This Standing Order shall have effect on the very rare occasions where a tender for specified categories of work or for the supply of specified categories of goods, materials, or services, is at a value over the current GPA Threshold of £214,904 for goods and services and £5,372,609 for works, and where such a contract is not to be managed by another local authority.
- 12.2 In such instances the contract would be subject to the full requirements of the Public Contracts Regulations and GPA Procedure whereby notice in the Find A Tender is required and at least three tenders sought, thereby ensuring that the tender process complies with GPA Directives.

## **13.0 Invitation to Tender and Instructions for Tenderers**

- 13.1 The invitation to tender must state that no tender will be considered unless it is received by the date and time stipulated. No tender delivered in contravention of this rule will be considered.
- 13.2 All invitations to tender will include the following information:-
- A specification of the goods, materials, services or works that are required, describing the Council's requirements, including any British or European Standards that apply, in sufficient detail to enable the submission of consistent and competitive tenders;
  - A requirement for the candidate to declare that the tender content, price, or any other particulars concerning the tender have not been disclosed to any other party;
  - A requirement for the candidate to complete fully and sign all tender documents;
  - Notification that tenders are submitted to the Council on the basis that they are compiled at the candidates' expense;
  - A description of the award procedure and a definition of the award criteria (see Standing Order 15 for further details);
  - A stipulation that any tenders submitted by email, fax or any other electronic means will not be considered;
  - The method by which any arithmetical errors discovered in submitted tenders will be dealt with, in particular whether the overall price prevails over the individual rates in the tender;
  - A statement that the Council is not bound to accept the lowest tender, or any tender received;
  - A statement that unless otherwise agreed by the Council, tenders for a part or parts of the works, services, goods, or materials will be rejected.
- 13.3 All candidates invited to tender must be issued with the same information, at the same time, and subject to the same conditions. Any supplementary information must also be given on the same basis.

- 13.4 All invitations to tender must specify the terms and conditions of the contract that will apply. The content of contract documents is covered in more detail in Standing Order 20.
- 13.5 Candidates invited to respond must be given an adequate period of time in which to prepare and submit a proper tender, consistent with urgency of the contract requirement. This will normally be four weeks.
- 13.6 All tenders which exceed the procurement thresholds must be submitted electronically, this extends to all communication and information exchange during the tender process.
- 13.7 If so decided for any particular contract, the tender conditions should state that the Council may, in its absolute discretion, extend for all candidates the time and date for return.

#### **14.0 Submission, Receipt and Opening of Tenders**

- 14.1 Written tenders relating to formal contracts, and where an exemption to the Standing Orders does not apply, shall be received in an official envelope supplied by the Town Clerk for that purpose.
- 14.2 Such envelopes shall not bear any name or mark indicating the sender and shall remain sealed in the custody of the Town Clerk until the time appointed for their opening.
- 14.3 On receipt by the Council, the envelope shall be initialled by the receiving officer and stamped with the date and time of receipt.
- 14.4 The Council shall be under no duty to consider any tender which is received after the time notified to candidates for return of tender or which otherwise does not comply with these instructions.
- 14.5 Tenders shall be opened at the appointed time and date by an authorised officer in the presence of a Member of the Council. All tenders will be opened at the same time and each tender will be signed and dated by both the Town Clerk and Member.
- 14.6 The Town Clerk will maintain a record on the appropriate contract file of all tenders received, including those opened and those tenders that have been returned as not complying with these instructions.

#### **15.0 Award Criteria and Evaluation of Tenders and Contracts**

- 15.1 Shortlisting and evaluation of tenders must have regard to the standards set out in the tender or contract specification and the award criteria for the tender or contract.
- 15.2 The responsible officer must ascertain if any British or European standards apply to the subject matter of the contract. These standards should have been clearly set out in the invitation to tender and contract specification as set out in Standing Order 13 and are necessary in order to properly describe the required quality of the contract.

- 15.3 The responsible officer must also define the award criteria appropriate to the evaluation of the tenders and shortlist of candidates. Award criteria must be designed in order to ensure an outcome that achieves value for money for the Council, and demonstrates economy, efficiency, and effectiveness in the use of public resources.
- 15.4 The basic award criteria where price is the only consideration to be taken into account, would be as follows:-
- Lowest price to be accepted where payment is to be made by the Council;
  - Highest price to be accepted where payment is to be received by the Council;
- 15.5 However, in most cases there will be a number of considerations other than price that need to be taken into account and in these cases, it should be stated that the 'most economically advantageous' tender will be accepted.
- 15.6 If the 'most economically advantageous' criteria is to be adopted, the award criteria must be further defined by reference to the various non-financial sub criteria.
- 15.7 Sub criteria may refer to a number of relevant considerations and these may include:-
- Quality of goods or service quality;
  - Future running costs;
  - Technical requirements;
  - Previous experience with the supplier or contractor;
  - Delivery date;
  - Environmental considerations;
  - Functional characteristics e.g. security and control features;
  - Safety considerations;
  - After sales service;
  - Technical support e.g. IT software support contract;
  - Any other relevant matters
- 15.8 Award criteria cannot include:-
- non-commercial considerations;
  - matters which are deemed to be anti-competitive within the definitions in the Local Government Act 1988.
- 15.9 All tenders must be checked for arithmetic accuracy. If arithmetic errors are found, they should be notified to the tenderer, who should then be requested to reconfirm the figures or withdraw the tender.
- 15.10 Where the Council seeks clarification of a tender, this must either be requested in writing or by way of a meeting during which recorded minutes must be taken.

## **16.0 Post Tender Clarification**

- 16.1 Post tender clarification is defined as clarification with any tenderer after the submission of a tender, but before the award of the contract, with a view to obtaining an adjustment in price, delivery, or content.
- 16.2 However, if post tender clarification results in a fundamental change to the contract specification, the contract must be re-tendered.
- 16.3 Post tender clarification must not be conducted where GPA Procedure applies, as this may distort competition with regard to price.
- 16.4 Post tender clarification must be carried out by the appropriate responsible officer and one other senior officer of the Council, preferably the Town Clerk.
- 16.5 Post tender clarification should only be undertaken with the tenderer that who has previously been identified as submitting the lowest or most economically advantageous tender.
- 16.6 Tendered rates and prices can only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents and contract specification.
- 16.7 The responsible officer must ensure that all post tender clarifications are properly recorded by way of minutes of any meetings held and that agreement to any amendments is made in writing between the tenderer and the Council.

## **17.0 Acceptance and Award of Tenders**

- 17.1 All contracts must be evaluated and awarded in accordance with the contract specification and the award criteria as detailed in Standing Order 15.
- 17.2 The authorised officer, in consultation with the Town Clerk, will be responsible for evaluating the tenders received and recommending the acceptance of the lowest or most economically advantageous tender.
- 17.3 Full details of the procurement, including the tender process followed, contract specification, tenders received, and the recommended award of the tender should be reported to the appropriate spending Committee of the Council. Where the lowest priced tender is not recommended, full details must be given of the award criteria and the non-financial considerations that have been taken into account.
- 17.4 The spending Committee will then consider the tender and make a final recommendation to the Council in respect of the matter.
- 17.5 If the lowest tender exceeds the agreed budget set aside for that matter, then a written report by the responsible officer or the Town Clerk must also be made to the next meeting of the Policy and Resources Committee requesting approval for the additional budget.
- 17.6 Unless otherwise decided by the Council, acceptance of any tender will not give rise to a contract until a purchase order or formal contract

document is completed and signed. Where the invitation to tender stipulates a form of contract or specific contract terms, the form of contract or terms submitted by the tenderer shall not be deemed to be accepted by virtue of the tender being received.

- 17.7 Following acceptance of a tender by the Council, the authorised officer should write to all tenderers who submitted a bid, with the reasons that they were unsuccessful including details of the award criteria and the prices or ranges of prices submitted, but without relating these to tenderer's names.

## **18.0 Nominated Sub-Contractors or Suppliers**

- 18.1 This Standing Order will have effect where the Council approves a contract for the execution of work with a main contractor and also proposes to nominate to the main contractor one or more sub-contractors or suppliers for the execution of the work or the supply of goods, materials, or services within the main contract.
- 18.2 Where a sub-contractor or supplier is to be nominated to the main contractor, tenders for the nomination will be made in accordance with the normal provisions of these Standing Orders and based on the financial thresholds detailed in Standing Order 5.
- 18.3 The terms of the invitation shall require an undertaking by the sub-contractor that if selected that they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against their own obligations under the main contract in relation to the work or goods including in the sub-contract.
- 18.4 The tenders shall be opened, evaluated, and awarded in accordance with Standing Orders 14, 15, 16 and 17 and reported to the appropriate Committee of the Council.



## **19.0 Content of Contract and Contract Conditions**

- 19.1 Procurement of goods, materials, services or works, for which only written quotations are required, will be made by the issue of an official purchase order, duly certified by the appropriate authorised officer.
- 19.2 However, in specific cases, for example where the services or works to be procured are of a specialised or technical nature, a written contract may also be required, signed by the Town Clerk and the Mayor of the Council and an authorised representative of the contractor and sealed on behalf of the Council, prior to the issue of an official purchase order.
- 19.3 Written contracts must, as a minimum, clearly state the following:-
- Signed and sealed Form of Agreement between the Council and the Contractor;
  - Definitions of the terminology used within the Contract;
  - Contract period if applicable;
  - Full description of the services or works to be provided;
  - The time and dates for the delivery of goods, materials, or services to be supplied or the performance of works to be delivered;
  - Any remedies for not meeting the terms of the contract;
  - Staffing requirements and rules;
  - Contract monitoring, inspection, and audit arrangements;
  - Use of Council premises and equipment;
  - Confidentiality rules;
  - Security arrangements;
  - Contract price and payment terms;
  - A statement that the contract is subject to the appropriate laws for the prevention of corruption;
  - Contract default rules;
  - Contract termination rules;
  - Arbitration rules;
  - Assignment, transfer, and sub-letting rules;
  - Income Tax rules;
  - Indemnity to the Council;
  - Insurance requirements;
  - Health and Safety Act requirements;
  - GDPR requirements;
  - Equalities legislation requirements;
  - Right of access to relevant documentation and records of the contractor for monitoring and audit purposes
- 19.4 All contracts must be concluded formally in writing before the supply, service or works begins, except in exceptional circumstances, with the consent of the Town Clerk. An award letter is not sufficient for these purposes.
- 19.5 All contracts for the execution for services or works must include a condition that the contractor will be responsible for ensuring that all persons employed by them, and by any sub-contractor, are in the contractor's or sub contractor's direct employment.
- 19.6 It is expressly agreed that the contractor and sub-contractor will not use 'lump labour'. The expression 'lump labour means the practice of

individual work people or groups of work people contracting as independent labour only sub-contracts, and not being in the direct employment of the contractor or sub-contractor.

- 19.7 The following clauses regarding the prevention of corruption must be included in every written contract:-

*The Council may terminate a contract immediately and recover all of its losses if the contractor, its employees, or anyone acting on the contractor's behalf (subject to the remedies of the relevant contract):-*

- *Offer, give, or agree to give any inducement, reward, or consideration of any kind (other than the tender itself) to any person in relation to the listing or selection of any tenderer or the award of any contract with the Council, whether or not the contractor has knowledge of those acts;*
- *Commit any offence under the Prevention of Corruption Acts 1889 to 1916 (or equivalent law);*
- *Give any fee or reward, the receipt of which is an offence under Section 117 of the Local Government Act 1972 (or equivalent law);*
- *Is shown to have knowingly or recklessly given materially false information to the Council within a tender.*

- 19.8 If the Council terminates the contract under Standing Order 19.7 it shall be entitled to recover from the contractor the amount of any loss caused to the Council. The Council shall not be liable to the contractor for any loss (including loss of profit) caused to the contractor by the termination.

- 19.9 The contractor will indemnify the Council against all liability, loss, damage, death, or personal injury arising out of the performance of the contract. The contractor will have both employers' and public liability insurance to the minimum value that the Council requires and will provide evidence of current insurance cover to the Council.

- 19.10 The contractor shall pay to the Council liquidated and ascertained damages if the contractor fails or delays in performance. The amount of damage for each period or instance of failure or delay will be set out in the contract and shall be a genuine estimate of the Council's loss. This clause may be omitted where the Town Clerk considers it impractical or unreasonable to apply.

- 19.11 The contractor shall ensure that all sub-contractors employed to undertake the contract are contractually bound to comply with the requirements of this Standing Order and that all such sub-contractors also comply with these requirements.

## **20.0 Declarations of Interest**

- 20.1 If it comes to the knowledge of a Member or a senior officer of the Council, that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she must give written notice to the Town Clerk, who will report such declarations to the Council.
- 20.2 Those Members or officers would then be excluded from taking part in any discussions relating to the contract or voting thereon at the Committee meeting at which the procurement is to be discussed.
- 20.3 The Town Clerk will maintain a register of all declarations of interest notified by Members or Officers.

## **21.0 British and ISO Standard Specification**

- 21.1 Where an appropriate British Standard Specification or Standard Code of Practice issued by the British Standards Institution, or any relevant European Standards issued by the European Union, is current at the date of the tender, the contract shall require that all goods and materials used or supplied, and all workmanship shall be in accordance with those standards. Where more than one such standard exists, equivalent standards shall be accepted.

## **22.0 Engagement of Consultants**

- 22.1 The engagement of consultants must be procured in line with the overall requirements of the Standing Orders.
- 22.2 In considering the need to engage consultants, authorised officers must have a clear understanding of:-
- (1) The precise nature of the work involved and the reasons why it cannot be undertaken by existing staff;
  - (2) Whether sufficient budget provision exists to employ the consultant(s);
  - (3) The procurement action required in accordance with these Standing Orders;
  - (4) The fees or fee scale payable, and when payable, including details of any instalments;
  - (5) The basis on which the fee or fee scale is calculated;
  - (6) What, if any, additional payments, or expenses are payable and on what basis;
  - (7) What provision there is if the work is aborted part way through or if an extension or addition to the work is required;
  - (8) Provision for consultants to give the Council ownership of or copyright in any documentary work on completion of the contract.
- 22.3 The engagement of consultants will be subject to the completion of a formal written letter, contract of appointment or brief.

22.4 Where the value of the consultancy is more than £5,500 per year, approval should be sought from the appropriate spending committee prior to engaging the consultant in line with the main rules of the Standing Orders unless an Exemption to the Standing Orders has been applied for and approved.

22.5 Where an architect, engineer, surveyor, or other consultant is responsible for the supervision of a contract he/she shall comply with the Council's Standing Orders and Financial Regulations as though he/she were an officer of the Council and shall produce to the Town Clerk all records kept in relation to the contract.

## **23.0 Public Contract Regulations 2015**

23.1 In the event of any provision of these Standing Orders being inconsistent with the provisions of any directive or rule issued by the PCR2015, these Standing Orders shall be varied so far as they are inconsistent with such directive or rule and the PCR2015 requirements will be applied accordingly.

## **Appendix 1- Town Council Authorised Officers List**

### **Bank Mandate Officers**

The following officers are identified on the Council's Bank Mandate with authorisation to sign cheques, approve BACs payments and undertake bank transfers.

|                                     |                             |
|-------------------------------------|-----------------------------|
| <i>Town Clerk</i>                   | <i>Mr. Dan Austin</i>       |
| <i>Finance Manager</i>              | <i>Mrs. Tracey Woodhead</i> |
| <i>Corporate and Policy Officer</i> | <i>Miss. Amanda Donald</i>  |
| <i>Senior Accountancy Assistant</i> | <i>Mrs. Angela Blom</i>     |

### **Senior Officers and Service Managers**

The following officers are designated as Senior Officers in accordance with the Council's Financial Regulations and Standing Orders for Procurement and have responsibility for managing budgets, staff, and assets, signing off timesheets, and authorising payments on behalf of the Council.

|  |                             |
|--|-----------------------------|
| <i>Town Clerk</i>                                | <i>Mr. Dan Austin</i>       |
| <i>Finance Manager</i>                           | <i>Mrs. Tracey Woodhead</i> |
| <i>Senior Accountancy Assistant</i>              | <i>Mrs. Angela Blom</i>     |
| <i>Corporate and Policy Officer</i>              | <i>Miss. Amanda Donald</i>  |
| <i>Works and Environment Manager</i>             | <i>Mr. Steve Cooper</i>     |
| <i>Grounds Maintenance Services Co-Ordinator</i> | <i>Mr. Lee Williams</i>     |
| <i>Head of Leisure and Events</i>                | <i>Mrs. Judith Thexton</i>  |
| <i>Sports Complex Manager</i>                    | <i>Mr. Andrew Clark</i>     |
| <i>Senior Administration Officer</i>             | <i>Mrs. Sharna Stretch</i>  |
| <i>Pre School-Manager</i>                        | <i>Miss Julie Gale</i>      |

### **Authorised Officers**

These officers have responsibility for budget monitoring, raising, and certifying purchase orders, dealing with petty cash, raising sales orders and invoices, and reconciling and banking Council income.

|   |                              |
|---|------------------------------|
| <i>Accountancy Assistant</i>              | <i>Mrs. Rebecca Hannan</i>   |
| <i>Corporate Assistant</i>                | <i>Mrs Vikki Anderson</i>    |
| <i>Deputy Pre-School Manager</i>          | <i>Miss. Abigail Gamble</i>  |
| <i>Works Team Leader</i>                  | <i>Mr. Jason Edden</i>       |
| <i>Works Maintenance Technician</i>       | <i>Mr. Gary Parsons</i>      |
| <i>Works Maintenance Technician</i>       | <i>Mr. Jakey Tomlinson</i>   |
| <i>Sports Complex Duty Manager</i>        | <i>Mrs. Lynsey Brown</i>     |
| <i>Sports Complex Duty Manager</i>        | <i>Mrs. Susanne Miller</i>   |
| <i>Sports Complex Duty Manager</i>        | <i>Mrs. Anne Watson</i>      |
| <i>Sports Complex Duty Manager</i>        | <i>Miss. Rachael Tumelty</i> |
| <i>Sports Complex Relief Duty Manager</i> | <i>Mrs. Cyd Upton</i>        |
| <i>Clerical/Events Assistant</i>          | <i>Mrs. Rachel Goddard</i>   |
| <i>Golf Administrator*</i>                | <i>Mr. Chris Lawson</i>      |
| <i>Golf Shop Assistant</i>                | <i>Mr. Andrew Neasham</i>    |

\* The Golf Administrator is also authorised to sign off Golf Staff timesheets.

## Appendix 2 - Contracts and Procurement Standing Order Exemption Application Form

|  |                            |                             |
|--|----------------------------|-----------------------------|
| <b>Description of Procurement / Contract</b> | <b>Responsible Officer</b> | <b>Procurement Amount £</b> |
|--|----------------------------|-----------------------------|

**Description of the Goods, Materials, Services or Works to be Procured:**  
*Please provide a detailed description of the goods, materials, services or works to be procured*

**Name of Contractor / Supplier:**  
*Please provide details of the preferred contractor or supplier,*

**Exemption Claimed:**  
*Please refer to Standing Order 6 and select an Exemption from the list.*

**Reason for Application for Exemption:**  
*Please provide details of the reasons for the application for an Exemption from the Standing Orders.*

**Date to be Reported to Committee:**  
*Please insert the date of the meeting of the appropriate spending committee to which application for the Exemption is to be requested.*

**Manager Authorisation**

| Signature | Designation            | Date |
|-----------|------------------------|------|
|           | <b>Town Clerk</b>      |      |
|           | <b>Finance Manager</b> |      |