



## Committee report

Committee	<b>AUDIT COMMITTEE</b>
Date	<b>9 MAY 2016</b>
Title	<b>CONTRACT STANDING ORDERS</b>
Report of	<b>HEAD OF LEGAL SERVICES</b>

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### EXECUTIVE SUMMARY

1. The purpose of this report is to provide the committee with a high level view of the council's Contract Standing Orders (CSOs) which will be recommended to Full Council for adoption at its meeting on 25 May 2016.

### BACKGROUND

2. The council last reviewed its CSOs in 2014 which were approved by Full Council on 16 July 2014.
3. In February 2015, the Public Contracts Regulations 2015 ("Regulations") were laid in Parliament and came in to force on the 26 February 2015. These regulations implement the 2014 EU Public Sector Procurement Directive and a number of new reforms, recommended by Lord Young of Graffham, to make public procurement more accessible to small businesses.
4. It is necessary to review the CSOs and update to take account of the changing nature of the council and to ensure the rules governing the purchase of goods, services and the commissioning of works are fit for purpose for the foreseeable future and reflect the new regulations.

### STRATEGIC CONTEXT

5. The CSOs support the achievement of the priorities in the council's Corporate Plan 2014 - 2017 and its Procurement Strategy.

### THE NEW CSOs

6. A review has highlighted that the core values of CSOs are still fit for purpose and will not change in terms of the underlying fundamental principle of competition via competitive tendering. This is considered to be the fairest way of awarding contracts and will deliver value for money for the council and its community in the most transparent way.

7. The CSOs do, however, require some revision as they are, in some areas, out of date following changes to the regulations and the working practices of the council.
8. The CSOs being proposed to Full Council in June are set out in the attached appendix. The major changes are as follows:
  - (a) The introduction of the e-tendering system, for example, the issuing and receipt of tenders, communication with tenderers and tender opening practices.
  - (b) The new CSOs reflect the changes to the regulations, and in particular the requirements that have been introduced under the Lord Young reform which directly impacts local authority standing orders. This includes the removal of a pre-qualification stage for all below threshold procurements and a requirement for contracts with a whole life value greater than £25,000 to be advertised in the open market and, in particular, on Contracts Finder.
  - (c) A new threshold of between £10,001 and £25,000 has been introduced which requires officers to seek three quotes. The intention is to introduce greater transparency to the council's processes and to seek/demonstrate best value. The new threshold also mandates that if they offer best value, officers should use Isle of Wight based suppliers.
  - (d) The CSOs clarify the role of the Procurement Board and sets out a new process for officers who wish to seek a waiver of the CSOs.
  - (e) Officers are encouraged to carry out pre-procurement market engagement/consultation before embarking on a competitive process.
  - (f) The threshold at which the council seals its contracts has been raised from £100,000 to £250,000. The sealing limit has never been reviewed and it was felt that £250,000 aligns the council with the practices of other local authorities.

## CONSULTATION

9. A draft of the proposed CSOs has been provided to members of the council's Senior Management Team and officers of the council who are familiar with the current CSOs for review and comment.

## FINANCIAL / BUDGET IMPLICATIONS

10. There are no direct financial or budgetary implications arising from this report, although any procurement carried out in accordance with the CSOs and contracts awarded will contribute directly to the council's total expenditure.
11. The adoption of the CSOs will assist in tighter financial control but without restricting any flexibility the council requires to operate as a commissioning authority.

## CARBON EMISSIONS

12. There are no direct implications relating to carbon emissions arising from this report. However, officers will be required when carrying out procurements and awarding

contracts to have due regard to the Procurement Strategy in relation to sustainability which covers carbon emissions.

### LEGAL IMPLICATIONS

13. Section 135 of the Local Government Act 1972 requires local authorities to put in place standing orders which regulates its purchasing and the manner in which tenders are invited and contracts awarded.
14. The Public Contracts Regulations 2015 regulates the purchasing by public sector bodies of contracts for goods, works or services. These regulations together with relevant EU directives are designed to open up the EU's public procurement market to competition and promote free movement of goods and services. The most recent regulations include a number of reforms which were recommended by Lord Young of Graffham, to make public procurement more accessible to small businesses.
15. The implementation of the CSOs will ensure the council continues to comply with its obligations under both the Local Government Act 1972 and the Public Contract Regulations 2015.

### EQUALITY AND DIVERSITY

16. The council, as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
17. There are no direct equality and diversity implications arising from this report. Equality and diversity implications will be considered for each procurement at the appropriate time.

### PROPERTY IMPLICATIONS

18. There are no direct property implications arising from this report. Any property implications will be considered for each procurement at the appropriate time.

### OPTIONS

19. The council is required by the Local Government Act 1972 to have procedures in place regulating the procurement and award of its contracts. The adoption of the Contract Standing Orders will assist the council in meeting its Corporate Priorities and deliver its vision. The following will be presented to Full Council as its options in relation to the adoption and implementation of the CSOs:
  - Option A – to adopt the Contract Standing Orders set out in the appendix to this report to be implemented on 1 June 2016 and delegate to the head of legal services to make minor amendments to the CSOs as required from time to time; or

- Option B – to adopt amended CSOs; or
- Option C – not to adopt either the CSOs or any amended CSOs.

### RISK MANAGEMENT

20. Failure to have CSOs has the potential to pose significant threat to the council's financial health and reputation.
21. The adoption and implementation of the CSOs will ensure that the council contracts in an open, fair and transparent way and any procurement exercise will therefore mitigate against any challenge on any of these grounds.

### RECOMMENDATION

22. The committee is asked to note the report and support the recommendation to Full Council of Option A:

To adopt the Contract Standing Orders set out in the Appendix to this report to be implemented on 1 June 2016 and delegate to the head of legal services to make minor amendments to the CSOs as required from time to time.

### APPENDICES ATTACHED

23. [Appendix](#) – Isle of Wight Council Contract Standing Orders.

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