

NOTICE OF MEETING

STANDARDS COMMITTEE

Thursday, 13th October, 2016, 7.00 pm - Civic Centre, High Road, Wood Green, London N22 8LE

Members: Councillors Kaushika Amin (Chair), David Beacham, Stuart McNamara, Felicia Opoku and Lorna Reith

Quorum: 3

1. FILMING AT MEETINGS

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Although we ask members of the public recording, filming or reporting on the meeting not to include the public seating areas, members of the public attending the meeting should be aware that we cannot guarantee that they will not be filmed or recorded by others attending the meeting. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. APOLOGIES FOR ABSENCE

3. URGENT BUSINESS

The Chair will consider the admission of any late items of urgent business.

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct.

5. MINUTES OF LAST MEETING (PAGES 1 - 4)

To confirm and sign the minutes of the meetings of the Standards Committee held on 13 June 2016.

6. VERBAL REPORT OF THE ASSISTANT DIRECTOR FOR CORPORATE GOVERNANCE AND MONITORING OFFICER

7. PROPOSED CHANGES TO THE COUNCIL'S CONTRACT STANDING ORDERS (PAGES 5 - 42)

Proposed Changes to the Council's Contract Standing Orders.

8. NEW ITEMS OF URGENT BUSINESS

To consider any items admitted at item 3 above.

9. DATES OF NEXT MEETINGS

The Standards Committee's next meetings would be 23 January 2017 and 4 April 2017.

10. EXCLUSION OF THE PRESS AND PUBLIC

That the press and public be excluded from the meeting for consideration of items 11 and 12 as they contain exempt information as defined in Section 100a of the Local Government Act 1972 (as amended by Section 12A of the Local Government Act 1985); paras 1 & 2; namely information relating to any individual, and information likely to reveal the identity of an individual.

11. MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE (PAGES 43 - 44)

To consider and sign the minutes of the Standards Assessment Subcommittee held on 19 July 2016.

12. NEW ITEMS OF EXEMPT URGENT BUSINESS

To consider any items admitted at 3 above.

Michael Kay, Democratic Services and Scrutiny Manager
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Bernie Ryan
Assistant Director – Corporate Governance and Monitoring Officer
River Park House, 225 High Road, Wood Green, N22 8HQ

Wednesday, 05 October 2016

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**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE
HELD ON MONDAY, 13TH JUNE, 2016, 7.00 - 8.15 pm****PRESENT:**

Councillors: Kaushika Amin (Chair), Stuart McNamara, Felicia Opoku and Charles Wright

49. FILMING AT MEETINGS

The Chair drew Member's attention to the notice on the summons.

50. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Beacham and Reith. Councillor Wright attended as a substitute for Councillor Reith.

51. URGENT BUSINESS

There were no matters of urgent business.

52. DECLARATIONS OF INTEREST

Councillors Amin, Opoku and Wright declared a personal interest as school governors in relation to item 7. No further Declarations of Interest were made.

53. MINUTES AND MATTERS ARISING

The minutes of the Standards Committee of 7 March were noted.

54. VERBAL REPORT OF THE ASSISTANT DIRECTOR FOR CORPORATE GOVERNANCE AND MONITORING OFFICER

Raymond Prince, Assistant Head of Legal Services, attending on behalf of the Assistant Director for Corporate Governance and Monitoring Officer, had no matters to report.

55. PROPOSED CHANGES TO THE COUNCIL'S CONSTITUTION

Gina Clarke, Senior Corporate Lawyer, introduced the paper that requested the Committee's agreement to a number of changes to the Council's Constitution, which would be submitted for adoption to the July meeting of Full Council.

In relation to the proposed abolition of the Pensions Committee and Pensions Board and their replacement with a combined Pensions Committee and Board, the Committee, regretting the absence of an officer to explain the policy decision,

requested a note explaining the motivation for the merging of the Pensions Committee and the Pensions Board.

In relation to the proposed amendment to the Terms of Reference of the Staffing and Remuneration Committee, the Committee requested a list of human resources policies and procedures that the Council recommends to school governing bodies, as referred to in Appendix 2 of the report.

In relation to the proposed amendment to the Planning Sub-Committee's handling of applications submitted by, or on behalf of, the Council, the Committee received assurances from Emma Williamson, Acting Assistant Director for Planning that she would seek to highlight such applications in the list regularly circulated to Members and to outline in the Planning Protocol criteria for applications that would not be delegated to officers.

The Committee did not agree to the recommendation that the Assistant Director for Schools and Learning be responsible for the nomination of school governors, rather than the Democratic Services Manager. That recommendation would not be taken forward to Full Council. The Constitution would need to be amended to reflect that the Council is now responsible for nominating, rather than appointing, school governors.

In relation to the changes to the Constitution that were made by the Monitoring Officer under Article 14.03 of the Constitution, to ensure the Constitution reflected the statutory position, the Committee requested a note on the Council's appointment of the Leader and how the Leader's appointment of Cabinet members was communicated to Members.

It was therefore:

Resolved

In relation to the Pensions Committee and Pensions Board, that the Standards Committee recommend full Council:

- a) approve the abolition of the Pensions Committee and the Pensions Board;
- b) pursuant to Regulation 106(2) of the Local Government Pension Scheme (Amendment) (Governance) Regulations 2015, approve the establishment of a combined Pensions Committee and Board;
- c) approve the terms of reference of the new combined Pensions Committee and Board, to be reflected in the Constitution at Part Three Section B;
- d) approve the consequential change to the scheme of Members' Allowances at Part Six of the Constitution
- e) appoint the following Council members to the new combined Pensions Committee and Board:
 - Councillor C Bull
 - Councillor Bevan
 - Councillor Adamou
 - Councillor Blake
 - Councillor G Bull

Councillor Ross

- f) pursuant to Regulation 107(1), (2) and (4) note:
 - (i) the appointment of the following employer and employee representatives to the new combined Committee and Board:
 - Keith Brown (employer representative)
 - Randy Plowright (employee representative)
 - (ii) the remaining vacant employer and employee seats are to be filled in accordance with the appointment process set out in the terms of reference for the new combined Pensions Board and Committee

That the Standards Committee recommend full Council approve the changes to the terms of reference for the Staffing and Remuneration Committee (as set out in Appendix 2 of the report).

That the Standards Committee recommend full Council approve the following minor amendments to the Constitution:

- a) amendment to Part Three, Section B3, paragraph 4.2(E) to enable the Council's planning applications to be approved by an officer where the Chair agrees (Appendix 3 of the report);
- b) amendment to Part Two, Article 4.01 and Part Three, Section B1, paragraph 2, to clearly set out the policy framework as prescribed in law, with any additional policies added by choice set out clearly;
- c) amendment to Part Four, Section F, (Cabinet Procedure Rules) paragraph 1.7. to set out the actual current cabinet start time of 6.30pm;
- d) amendment to Part Four, Section C, paragraph 8 to allow the Statement of Attendances to be presented either at the last meeting of the municipal year or at annual council;
- e) amendment to Part Two, Article 10.08(a) (ii) (C) to remove the reference to the Haringey Strategic Partnership.

56. NEW ITEMS OF UNRESTRICTED URGENT BUSINESS

There were no new matters of unrestricted urgent business.

57. DATES OF NEXT MEETINGS

The Standards Committee's next meetings would be 13 October 2016, 23 January 2017, and 4 April 2017.

58. EXCLUSION OF THE PUBLIC AND PRESS

59. NEW ITEMS OF RESTRICTED URGENT BUSINESS

There were no new matters of restricted urgent business.

CHAIR: Councillor Kaushika Amin

Signed by Chair

Date

DECISION MAKING REPORT

Report for: Standards Committee

Item number: 7

Title: Proposed changes to the Council's Contract Standing Orders

Report authorised by : Assistant Director of Commercial and Operations

Lead Officer: Barry Phelps, X 2744
Barry.phelps@haringey.gov.uk

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non Key

1. Describe the issue under consideration

- 1.1. The Council Constitution governs the organisation of council decision making. It is kept under review and when necessary amendments are proposed to Standards Committee for consideration and recommendation on to full council.
- 1.2. This report proposes changes to the constitution by amending the Contract Standing Orders, Part Four of the Constitution, Section J of Contract Procedure Rules.
- 1.3. The changes recommended in this report are to support the new Procurement Target Operating Model, which transitions Procurement into a strategic and more commercially focused department, with support for low level procurement activity being undertaken by the Shared Service Centre.
- 1.4. These changes will enable Procurement to deliver £2.8m of MTFS targets over the next 3 years and help to drive further savings in any future MTFS.
- 1.5. The changes to Procurement thresholds align Haringey to those of other London Authorities.
- 1.6. Additional changes are required to support the introduction of new regulations, technologies, inconsistencies in the current CSO's and minor drafting amendments.
- 1.7. Amendments to consider consortia arrangements with other bodies (i.e. shared services with other boroughs).

- 1.8. For ease of reference the recommendations are divided into the following four areas, setting out amendments:
 - to support the procurement Target Operating Model;
 - to enable the introduction of new procurement related technology platforms;
 - to enable the use of a Dynamic Purchasing System (DPS);
 - to support the introduction of new or updated regulations; and
 - to address inconsistencies relating to thresholds and key decisions.
- 1.9. The following Councillors have been consulted and support the proposals stated in this report
 - Cllr Demirci – Member for Corporate Resources
 - Cllr Arthur – Member for Finance and Health
 - Cllr Kober – Leader of the CouncilCllr Engert – Leader of the Opposition has also received a copy of this report in draft.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1. That Standards Committee recommends that council make the following amendments to Contract Standing Orders, Part Four of the Constitution, Section J Contract Procedure Rules:
- 3.2. **Amendments to support the new Procurement Target Operating Model:**
 - 3.2.1. Increase the threshold of delegated powers for Directors to act in the most expedient and efficient manner from £5,000 to £10,000 (CSO 8.02);
 - 3.2.2. Increase the values for the procurement process requesting at least 3 competitive quotes from between £5,000 and £100,000 to between £10,000 and £160,000 (CSO 8.03);
 - 3.2.3. Increase the threshold of goods and services contracts requiring advertisement (tender) with an estimated value of £100,000 to a new threshold of £160,000 (CSO 9.01.1);
 - 3.2.4. Increase the threshold of Works contracts requiring advertisement (tender) with an estimated value of £25,000 to a new threshold of £500,000 (CSO 9.01);
 - 3.2.5. Introduce a threshold of £500,000 or more for contracts subject to the Light Touch Regime (social care related) requiring advertisement (tender) (CSO 9.01);
 - 3.2.6. Increase the threshold for the commencement of works, goods or services under a Letter of Intent from £50,000 to £100,000 or 10% of the total contract value, whichever is the higher (CSO 9.07.3); and

3.2.7. Require approval from the Chief Operating Officer before entering into any joint procurement activity with other contracting authorities (CSO 7.04).

3.3. Amendments relating to the introduction of new Procurement related technology platforms:

- 3.3.1. Mandate the use of Corporate Procurement related systems to include corporate sourcing and contract management systems (defined in CSO 2.02 c);
- 3.3.2. Mandate contracts are stored in the Councils Contract Repository (CSO 3.02 h);
- 3.3.3. The threshold requiring all contracts valued at £5,000 or more to be entered onto the corporate contracts register, is increased to a new threshold of £10,000 or more and is now required to be recorded in the Corporate Contracts repository (CSO 3.02 m); and
- 3.3.4. Amendments to include provision for sealing, award and signing of contracts by electronic means as provided within the Corporate Procurement Systems (CSO 9.02.4 and 9.08.9).

3.4. Amendments relating to the use of a Dynamic Procurement System:

- 3.4.1. Incorporate amendments to facilitate the use of a Dynamic Purchasing System (CSO 9.04).

3.5. Amendments to support the introduction of new or updated regulations:

- 3.5.1. Incorporate amendments to support statutory changes to the Public Contracts Regulations 2015 (as amended) (the “Regulations”) (multiple references throughout the document have been added); and
- 3.5.2. Incorporate amendments to support introduction of the Concession Contracts Regulations 2016 (the “Regulations”) (multiple references throughout the document have been added).

3.6. Amendments to address inconsistencies relating to thresholds and Key Decisions

- 3.6.1. Increase the threshold for waivers requiring Cabinet approval above £250,000 to a revised threshold of £500,000 or more (CSO 10.01.1 a); and
- 3.6.2. Increase the threshold for waivers requiring Director approval below £250,000 to below a revised threshold of below £500,000 (CSO 10.01.1 b).
- 3.7. Additional minor drafting amendments to the Contract Standing Orders as required to support the above changes.
- 3.8. Extension to the current Consortia drafting (CSO 7.04 d) to make provision for on-going shared services arrangements, whereby procurements may be undertaken by one of the other members of the Consortia on behalf of the Council.

4. Reasons for Decisions

4.1. Procurement Operating Model

- 4.1.1. These proposed changes support the introduction of a new strategic and commercially focused Procurement Target Operating Model (TOM). The TOM will be comprised of

Strategic Procurement Partners (SPP) who will have oversight and responsibility for all expenditure within their relevant categories, regardless of value and whether the business units, or Procurement are procuring works, goods or services. They will be supported by a team of Procurement Delivery Managers (PDM) who will be responsible for leading on all procurements over £160,000. This will enable Procurement to deliver on its MTFS targets and concentrate on high value/risk procurements.

- 4.1.2. The existing thresholds are not aligned to other Local Authorities within London. Haringey currently has one of the lowest threshold requiring goods and services contracts to be tendered (£100,000). More than two thirds of all other Authorities in London have a threshold aligned to the statutory threshold of £164,000. Regarding works contracts, in this case Haringey currently has the lowest threshold in London requiring works contracts to be tendered (£25,000). More than half of all other Authorities in London have a threshold aligned to the statutory threshold of c£4.2m.
- 4.1.3. There are a number of increases in thresholds being recommended, this will represents around 10% - 20% reduction of non Works related procurements currently having to be advertised (tendered), enabling officers in business units to procure services in a more efficient, timely and effective manner without the need to fully comply with the requirements of an advertised (tender) opportunity.
- 4.1.4. It is anticipated the Request for Quotes (RfQ) process (procurements below £160,000) undertaken by the business units will increase by 170 in number per year; however this additional work is offset by the substantial reduction in effort required to undertake a full tender processes, as mentioned in 4.1.3 above.
- 4.1.5. Should the procurement thresholds remain as currently stated, Procurement would require an additional two Procurement Delivery Managers to manage the additional workload.
- 4.1.6. Officers will be required to submit a robust business case and obtain appropriate approval of any Haringey led joint procurement activity with other contracting authorities. Currently there is no formal requirement for officers to advise the executive officers of such an initiative. This amendment is to ensure at an executive level there is sufficient understanding of the commitments and exposure for the Council relating to any such arrangements.
- 4.1.7. There is no statutory requirement to advertise (tender) opportunities below the thresholds recommended in this report.
- 4.1.8. Increasing the threshold for delegated powers to Directors from £5,000 to £10,000 reflects an increase in the costs of goods and services procured since the last revision of the CSO thresholds. This will enable these low value procurements (generally aimed at the local SME market) to be undertaken in a more expedient manner.

- 4.1.9. Increasing the current thresholds to £160,000 for the procurement of goods and services whereby the opportunity must be advertised (tendered) aligns closely to that of the current EU threshold (£164,000);
- 4.1.10. Increasing the current threshold to £500,000 for the procurement of Works contracts, whereby the opportunity must be advertised (tendered) is aligned with a key decision. This remains significantly lower than the statutory threshold of c£4.2m. The current Council threshold of £25,000 is disproportionate to the statutory threshold (£4.2m) and does not align to the principles of the Regulations, whereby the intention is to avoid unnecessarily placing demands on suppliers to engage in overly complex procurement processes. Strategic Procurement will still lead on procurement of Works contracts in excess of £160,000 without the requirement to unnecessarily undertake a full tender exercise;
- 4.1.11. Introduction of a threshold of £500,000 or more for those procurements falling under the Light Touch Regime to be advertised (tendered), which aligns with the key decision threshold. The Light Touch Regime came into effect in February 2015, requiring some social care related services to be advertised (tendered) above £589,000. Adopting the £500,000 threshold enables these types of procurements to be undertaken in a more cost effective and efficient manner. Strategic Procurement will lead on these procurements above £160,000.
- 4.1.12. The benefits of amending the thresholds as stated in this report are:
- Undertaking a full tender process can be a costly and time consuming exercise. Increasing these limits enables officers to undertake a more expedient cost effective procurement route whilst continuing to remain within the procurement regulations;
 - The additional cost of facilitating full tenders at lower thresholds is indirectly passed onto the Council and contributes to higher cost of services;
 - Introducing these revised thresholds will encourage more local SME's to register as suppliers and respond to request for quotes. Currently some SME's are put off by the level of input required to tender for opportunities that have a relatively low value;
 - Increasing limits support the principles of the Regulations in relation to unnecessarily requiring suppliers to submit extensive documentation for opportunities and communicate electronically with tenderers;
 - Increasing the Letter of Intent threshold will facilitate scenarios whereby it has not been possible to mobilise a number project/works in a timely manner, thus resulting in costly delays and additional bureaucracy.
- 4.1.13. It is not envisaged there are significant risks related to increasing the thresholds. Commissioners are currently required to undertake low value procurements. Increasing

the threshold has no impact on the policies they still need to comply with. The SSC will undertake quality checks to mitigate risks associated with low level procurements. All procurements in excess of £160,000 will be undertaken by Procurement and therefore the current risk profile does not change.

4.2. Procurement Related Technology

- 4.2.1. The new Procurement TOM includes provision of new technology enablers, mandating the use of the Corporate Procurement related systems. This will significantly simplify processes, increase efficiency, compliance, contract and performance monitoring and support MTFS targets. Processes will be introduced whereby all of these procurements will go through a quality assurance check prior to being published to the market. These checks will include (but not limited to):
 - Is there any existing corporate contracts that should be utilised for the services;
 - Is the correct route to market being used;
 - Are the documents compliant;
 - Has the necessary approval been obtained; and
 - Does the requirement support the strategic management of the category.
- 4.2.2. This will reduce non compliant procurement related risks, non compliant expenditure and increase management of the procurement categories. All of which will contribute to the MTFS targets.
- 4.2.3. The Council currently has a contracts register in the form of a spreadsheet that is published every quarter. Officers are required to update the contract register each quarter ahead of publication. There is evidence this is not being maintained appropriately. The Council has a statutory requirement to publish the qualifying contracts it lets. Mandating the use of the new corporate contract repository: enables:
 - enables the Council to fully understand its contractual liabilities;
 - maintains a central data base for all contracts;
 - enables contract and performance management of the contracts; and
 - enables the Council to meet its statutory publication requirements relating to its contracts.
- 4.2.4. Corporate Procurement will be able to monitor the performance monitoring of the Council's key contracts. By maintaining a central repository for recording performance officers will be able to make sure contracts are being monitored appropriately, thereby ensuring suppliers are meeting their contractual obligations.
- 4.2.5. Increasing the threshold from £5,000 to £10,000 for contracts to be entered onto the contracts register, reduces the time and effort required by officers in administering this process and being able to engage the services of the supplier in an expedient manner.

4.3. Dynamic Purchasing Systems

- 4.3.1. The use of Dynamic Purchasing Systems (DPS) is integral to the delivery of the MTFS targets. Currently there is no reference to the DPS in the CSO's; DPS's are now being more frequently used since the relaxation of the Regulations relating to the use of a DPS. It is therefore appropriate the CSO's are updated to reflect these regulatory requirements and ensure compliance with the Regulations.
- 4.3.2. Introducing electronic approval of contracts is a more cost effective and efficient way of managing processes. Currently 'physical signatures' are required, which is not always practical when utilising electronic platforms to tender (i.e. Dynamic Purchasing Systems, e-auctions etc.). Regulation 34 of the Regulations states Dynamic Purchasing Systems shall be operated as completely electronic processes. Therefore the use of 'physical signatures' at all times is not appropriate. As an example; a DPS is used for temporary accommodation which helps to secure 3,000 properties; as tenants move in and out of these properties (many overnight accommodation) using an electronic signature enables the Council and the provider to agree and sign up to terms without the need to print off and physically sign an agreement. Currently, the CSO's have no provision for electronic signatures, including such changes allows for practical application of electronic signatures where appropriate.

4.4. New and Updated Regulations

- 4.4.1. Additional references to the Regulations have been made throughout the document to ensure they are aligned with the current Regulations and reflect any recent changes to the Regulations.
- 4.4.2. The introduction of the Concession Contract Regulations (CCR) 2016 was introduced in April 2016. The CSO's have been updated to take account of these changes and align them with the procurement processes. Concession contracts can be somewhat complex; however generally these contracts are defined as contracts whereby the Authority may outsource the works or services to which a provider may exploit. However; there is an assumption that the contractor assumes operating risk where, under normal operating conditions, it is not guaranteed to recoup the investments made or the costs incurred in operating the works or the services. An example of a concession could be, where the Authority allows an organisation to lease a building at a peppercorn rent to enable the building to be refurbished and used for social use (i.e. day centre), the refurbishment and operation of the day centre may cost more than the revenue it generates; therefore the operator is taking a risk.

4.5. Inconsistencies in CSO's

- 4.5.1. The requirements for waivers to be referred to Cabinet have been revised to enable a more practical application of such referrals. The threshold has been increased from £250,000 to £500,000 for referral of waivers to cabinet. This avoids anomalies that may occur with having inconsistent thresholds (i.e. currently a director would not be able to waive a contract with a value of £300,000 (only having authority up to £250,000); however if the waiver had been approved at cabinet, a director could subsequently approve an extension of the same contract, up to a value of £500,000 without the need to refer the extension to cabinet). The amendments seek to align the threshold with that of a Key Decision and other similar thresholds stated in the CSO's.
- 4.5.2. The introduction of aggregated values has been applied across some thresholds to be consistent with the 'spirit' of what is defined as a Key Decision. The current drafting of the CSO's potentially enables a contract to be awarded with a value of £499,000 and then have multiple extensions with a value of £499,000 by a Director, without the need to go to Cabinet as a Key Decision.
- 4.5.3. Extension to Consortia exclusions has been included to ensure consistency in the current shared services agreements between the Councils of Haringey, Camden and Islington, and that of the CSO's for each Council relating to Consortia members being empowered to undertake procurements on behalf of Haringey Council.

5. Alternative Options Considered

5.1. Do Nothing

- 5.1.1. This option would not support the Council's desire to migrate to a strategic and commercially focused Procurement service, nor support some of the statutory requirements relating to the Regulations for communicating electronically.
- 5.1.2. It would increase the resource requirements in Corporate Procurement and severely place the Procurement MTFS savings under pressure.
- 5.1.3. Not applying updates to the CSO's would place the Council at risk of non compliance with some Regulations; therefore exposing the Council to financial and reputational risks.

6. Background information

6.1. Target Operating Model

- 6.1.1. Between September and December 2015 Procurement undertook a number of workshops with key stakeholders within the organisation, comprising of some Heads of Service, Assistant Directors and above. The purpose was to engage with business units to identify what operating model the business wanted in respect of the Procurement function. The clear directive from the business units was to create a Procurement operating model that focused on a strategic and commercial function,

supported with a business partner approach. With this in mind, a Procurement operating model was developed incorporating a strategic partner function, supported by a tier of procurement delivery managers. Who would be responsible for delivering procurements in excess of £160,000. Additional support for lower level procurement and transactional activities would be undertaken from within the SSC.

- 6.1.2. In February 2016 the Resource Priority Board approved the new TOM for Procurement. The new TOM transitions the Procurement department from a predominately reactive service into a strategic and commercially focused service.
- 6.1.3. The implementation of the TOM will incorporate training and education programmes to assist with the transition associated with a change in thresholds and new ways of working into the business units.
- 6.1.4. The introduction of the new Procurement TOM will assist in the delivery of £2.8m of savings over the next 3 years and form the basis of potential further savings in subsequent MTFSSs.
- 6.1.5. During the workshops in late 2015, all business units agreed that the current thresholds should be raised to enable the Procurement department to focus on high value, high risk procurements and the lower value procurements should be undertaken within the business units. A threshold of £160,000 was deemed to be appropriate level in defining what is considered low value. The practicality of these thresholds, aligns with some of the Procurement regulatory thresholds in place.
- 6.1.6. Procurements below £160,000 will be undertaken by the service areas within the Council and will be supported through the provision of a revised procurement tool kit and via access to support services in the SSC; however Procurement will continue to 'own' the expenditure across all categories.
- 6.1.7. The Procurement department will deliver high value, high risk procurements valued in excess of £160,000 (subject to the changes to CSOs' being approved).

6.2. Procurement Related Technology

- 6.2.1. The Procurement TOM is supported by the introduction of new technology enablers, these enablers primarily consist of the following:
 - Corporate sourcing portal with in-built quality assurance controls for all procurements;
 - Contract management system to centrally record all contracts let. There will also be performance management and contract monitoring incorporated into the solution; and
 - Enhancements to SAP to enable more efficient management of data and processes, providing an integrated environment between SAP, the sourcing and contract managements solutions.

6.3. Dynamic Purchasing Systems

- 6.3.1. The regulations relating to the use of DPS have been significantly relaxed in the current Regulations, as a result of these changes; the Council has recently invested in a corporate Dynamic Purchasing System (DPS). The DPS is a strategic sourcing tool that complements the new procurement TOM providing an electronic platform to advertise and manage up to £100m of expenditure across multiple categories.
- 6.3.2. The DPS operates as a live framework environment, which is being used more frequently throughout Public Sector and will be a major contributor to delivering the MTFS targets.
- 6.3.3. The DPS will enable suppliers to join at any time during the life of the DPS (provided they have met the accreditation and enrolment requirements) and 'bid' for the services managed through the DPS. This creates an active and dynamic supply chain that encourages SME participation and competition.
- 6.3.4. The CSO's require updating to facilitate the use of the DPS more efficiently.

6.4. New and Updated Regulations

- 6.4.1. The introduction of new regulations or amendments to current regulations has come into force since the previous update to the CSO's. These updates need to be reflected in the CSO's to ensure the Council continues to comply with regulations and avoids any associated risks of not complying with regulations.
- 6.4.2. The Regulations require all government agencies to communicate electronically with suppliers by April 2018, enhancing the CSO's will prepare the Council in meeting this requirement.

6.5. Inconsistencies in CSO's

- 6.5.1. During the review of the current CSO's a number of minor inconsistencies were identified. This has created some confusion with officers when trying to apply the CSO's. It is therefore appropriate to address these inconsistencies and ensure they are aligned with the 'spirit' or intention of the CSO's.

7. Contribution to strategic outcomes

- 7.1. The recommendations in this report are a key enabler to migrate the Procurement services into a strategic and commercially focused service, which will deliver increased value for money and savings across the services. The benefits include:
 - Enables Procurement to deliver the MTFS targets.
 - Improve how we use technology to enable more efficient and effective services.
 - Improve governance and controls on how the Council spends its money.

- Enables increased monitoring of performance across the supply chain to ensure residents obtain value for money.
- Support the Council's desire to enable increased self-service and channel shift users into new ways of working.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

8.1. Finance

8.1.1. The Chief Finance Officer has read and noted the recommendations in this report and has no issues to raise. Approval of these recommendations will support the delivery of savings included in the Council's current MTFS and ensure that professional procurement staff are focussed on the high value, high risk procurement activity which should promote best value for the authority.

8.2. Procurement

- 8.2.1. The Head of Procurement has prepared this report in consultation with senior officers within the Council and legal services.
- 8.2.2. It is the Head of Procurement's view; the recommendations made in this report fully support the future strategic direction of the Procurement Services.

8.3. Legal

- 8.3.1. The Assistant Director of Corporate Governance notes the contents of the report and sees no legal reasons preventing Members from approving the recommendations in the report.

8.4. Equality

N/A

9. Use of Appendices

Appendix 1 – Proposed changes to Contract Standing Orders

10. Local Government (Access to Information) Act 1985

N/A

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0. Statement of Principles

- 0.1 The Contract Standing Orders provide the framework rules for the Council's procurement of works, goods and services. Following them will assist to ensure value for money, propriety and the proper spending of public money.
- 0.2 The Procurement Code of Practice provides more detail and shall govern Council tendering and contract procedures. The Head of Procurement shall maintain and issue the Procurement Code of Practice. Any procurement activity shall proceed in accordance with the Contract Standing Orders and the Procurement Code of Practice and all such other guidance issued by the Head of Procurement.
- 0.3 The Head of Procurement shall make the latest version of the Contract Standing Orders and the Procurement Code of Practice available to every Director, Member and officer of the Council. Directors, or officers acting on their behalf, shall apply the requirements of the Contract Standing Orders and the Procurement Code of Practice when engaging in any procurement activity.
- 0.4 The purpose of procurement activity shall be used (amongst other things) to achieve Best Value in accordance with the Council's statutory or approved objectives. This should include an innovative approach to building partnerships with the private and not-for-profit sectors and collaborating with other public sector bodies within a robust contractual framework. Officers with responsibility for procurement shall ensure that they are able to demonstrate achievement of Best Value with regards the optimal combination of economy, efficiency and effectiveness.
- 0.5 Every contract or official order for works, goods or services made by the Council shall be for the purpose of achieving the Council's statutory or approved objectives and shall conform to all relevant English law of England and Wales and of the European Union law.
- 0.6 Directors shall ensure that the Cabinet or an appropriate Member of the Cabinet is consulted on any procurement activity prior to its publication in the Council's Forward Plan.
- 0.7 Directors must ensure that audit trails are in place for all procurement activity in accordance with the Procurement Code of Practice.
- 0.8 No Member of the Council shall enter into any contract on the Council's behalf.

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- 0.9. No Member of the Council shall be permitted to become security under any agreement between the Council and a contractor employed by it.

CONTRACT STANDING ORDERS

1. Introduction

- 1.01. Procurement decisions are among the most important decisions a manager will make because the money involved is public money and the Council is required to ensure that Best Value works, goods and services are provided. Efficient use of resources in order to achieve **best value** is therefore an imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.02. For these reasons it is a disciplinary offence to fail to comply with Contract Standing Orders and the Procurement Code of Practice when letting contracts and raising orders with suppliers. Employees have a duty to report breaches of Contract Standing Orders to an appropriate senior manager and the Head of Audit & Risk Management.

1.03. Unless otherwise provided within these Contract Standing Orders or the Procurement Code of Practice or with the express approval of the Head of Procurement, all procurements should be conducted via the Corporate Procurement Systems, regardless of value.

- 1.04. Reference should be made to the Procurement Code of Practice for more detailed procurement procedures.

2. Definitions and Interpretation

- 2.01. These Contract Standing Orders are made pursuant to section 135 of the Local Government Act 1972 and shall come into force with this Constitution.
- 2.02. Unless the context otherwise requires, in these Contract Standing Orders the terms below shall have the meanings ascribed to them.

a) **“Approved Electronic Means”** means such electronic means of authenticating the formation of a contract, which may include the use of electronic signatures, as may be expressly approved by the Assistant Director of Corporate Governance from time to time or for a specific contract;

b) **“Bids”** means Tenders and Quotations;

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- c) "**Concession Contracts Regulations**" means the Concession Contracts Regulations 2016 (SI 2016/273), as amended from time to time;
- d) "**Contracts Finder**" means a web-based portal provided by or on behalf of the Cabinet Office;
- e) "**Corporate Procurement Systems**" means any one of the following:
- the Corporate Contract Repository being the Wax Digital Contract Management and Supplier Relationship Systems;
 - the Corporate Dynamic Purchasing System (DPS) being the Council's web-based dynamic purchasing system currently provided by adam HTT (as amended);
 - the Corporate Sourcing Solution being the Wax Digital Sourcing Solution;
 - or such other systems as may be approved by the Head of Procurement from time to time;
- a)f) "Director" means an employee of the Council (including Alexandra Palace and Park Charitable Trust) holding a post designated as:
- The Chief Executive
 - MembersA member of the Strategic Leadership Team
 - All Directors and A Director or Assistant DirectorsDirector;
 - The General Manager of Alexandra Palace & Park (as appropriate)
- b)
- b)g) "EU" means the European Union.;
- h) c) "Public Contract Regulations" or "Regulations" means the Public Contracts Regulations 2015 (SI 2015/102), as amended from time to time;
- e)i) "**Regulations**" means the Concession Contracts Regulations and the Public Contracts Regulations, as amended from time to time.
- d) "Bids" shall mean Tenders and Quotations
- 2.03. In the event of any conflict between EU law, Englishthe law of England and Wales and Council policy, the requirements of EU law shall prevail over Englishthe law of England and Wales and the requirements of English law of England and Wales shall prevail over Council policy.
- 2.04. In the event of any doubt as to the interpretation of these Contract Standing Orders or the Procurement Code of Practice, or as to the

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proper procedure to be followed, clarification should be sought from the Head of Procurement.

3. Roles & Responsibilities

3.01 The Cabinet (and Pensions Committee where relevant) will:

- a) hold Directors accountable for any decisions they make under their delegated authority or under these Contract Standing Orders;
- b) approve awards of contract valued at £500,000 (five hundred thousand pounds) or more;
- c) approve any variations or extensions valued at £500,000 (five hundred thousand pounds) or more, whether or not such variation or extension was included in the original award in b) above;
- d) ensure that the award of any contract and any extension or variation valued with an aggregated value at £500,000 (five hundred thousand) or more is treated as a 'key decision' and as such must be in the Council's Forward Plan and comply with the other procedures in that regard set out in the Constitution.

3.02 Directors

TheEach Director has responsibility for all contracts let under his/her control. Heshe is accountable to the Cabinet for the performance of theirhis/her duties in relation to contract letting and management, which are:

- a) to ensure compliance with English and EU law, the law of England and Wales and Council Policy;
- b) to ensure value for money in all procurement matters;
- c) to ensure compliance with Contract Standing Orders and the Procurement Code of Practice;
- d) to maintain a departmental scheme of delegation;
- e) to ensure that all relevant officers are familiar with the provisions of Contract Standing Orders and the Procurement Code of Practice and that they receive adequate training on their operation;

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- f) to ensure compliance with any guidelines issued in respect of these Contract Standing Orders;
- g) to take immediate action in the event of a breach of Contract Standing Orders or the Procurement Code of Practice within his or her area;
- h) to keep: (i) copies of all concluded contracts as required by Regulation 83 of the RegulationsPublic Contract Regulations, and ensure electronic copies of such contracts are stored in the Council's Corporate Contract Repository, and (ii) proper records of procurement procedures sufficient to justify decisions taken at all stages of the procurement procedure for a period of at least three years from the date of award of the contract, as required by Regulation 84 of the Public Contract Regulations;
- i) to keep records of waivers of any provision of these Contract Standing Orders and forward a copy of such records to the Corporate Procurement Unit;
- j) to make appropriate arrangements for the opening of bids and their secure retention so as to protect the integrity of the procurement process;
- k) to ensure that the Council's seal is affixed to any document required to be executed as a deed and that where a document is not expressed to be under seal, it is either signed by two people or authenticated by Approved Electronic Means as provided for in these Contract Standing Orders;
- l) to ensure original sealed contract documents are held by the Assistant Director of Corporate Governance for safekeeping;
- m) to record all contracts valued at £510,000 or more in the Corporate Contracts RegisterRepository;
- n) to ensure effective management of all contracts under his/her control and to a level deemed appropriate in regard to risk or value of each contract.
- o) to ensure that no contract shall be let unless the expenditure involved has been fully considered and approved beforehand and sufficient money has been allocated in the relevant budget.

3.03 Pensions Committee

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The Pensions Committee shall have the same powers and duties of the Cabinet specified in these Contract Standing Orders but limited to procurement decisions and award of contracts relating to the Pension Fund.

4. Scope of Contract Standing Orders

- 4.01. These Contract Standing Orders shall apply to all contracts for the procurement by the Council of works, goods and services (including concessions) unless otherwise expressly stated or these requirements are waived in accordance with [CSO10Contract Standing Order 10](#).
- 4.02. Where the Council:
- (a) secures funding from an external funding body, or
- (b) intends to assign grant funding to an external body;
- [CSO17Contract Standing Order 17](#) and the forming of necessary agreements shall apply.
- 4.03. These Contract Standing Orders shall **not apply** to contracts falling within Regulation 10 of the [Public Contract](#) Regulations. For the avoidance of doubt, this exclusion applies to (amongst other things) contracts of employment, certain contracts for legal services, certain financial services and debt finance and agreements for the sale of land [\(including leases\)](#).
- 4.04. These Contract Standing Orders shall **not apply** to [the seeking contracts falling within Regulation 10 of offers in relation to the Concession Contracts Regulations. For the avoidance of doubt, this exclusion applies to \(but not limited to\) air transport and passenger transport services, certain contracts for legal services, certain financial services in connection with the issue, purchase, sale or transfer of securities or other financial instruments in particular transactions by and debt finance and agreements for the Council to raise money or capital sale of land \(including leases\)](#).

5. EU Public Procurement Directives

- 5.01 Where the value of a works, goods or services contract is equal to, or exceeds, the applicable threshold in relation to the Regulations, the provisions of those Regulations shall govern the tendering process and

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shall take precedence over the provisions of these Contract Standing Orders in the event of any conflict.

6. Contract Value and Aggregation

- 6.01. Directors must ensure that a pre-tender estimate of the total contract value is prepared and recorded in writing and in order to determine whether the thresholds under the Regulations apply.
- 6.02. Unless otherwise specifically provided and subject to Contract Standing Order 6.04, reference to total contract value or an estimated total contract value in these Contract Standing Orders means the aggregate value payable in pounds sterling exclusive of Value Added Tax over the entire contract period, including any extension periods as anticipated in the proposed contract.
- 6.03. ContractsA contract's value must not be artificially under or over estimated or divided into two or more separate contracts with the intention of avoiding the application of Contract Standing Orders or the Regulations.
- 6.04. In the case of service concessions where “contracts” may have a nil value, decisionsConcession Contracts these are to award must be made on calculated in accordance with Regulation 9. (3) – (11) of the basis of most economically advantageous tender, including anticipated income over the life of the concessionConcession Contract Regulations.

7. Framework and, Consortia and Joint Procurement Arrangements

- 7.01. Subject to the provision of CSOContract Standing Order 7.02, these Contract Standing Orders shall **not apply** where the Council procures particular works, goods and/or services:
 - a) as part of a group of public sector bodies contracting with one or more contractors (consortium arrangement), provided the contract standing orders of one of the public sector bodies constituting the group and/or where applicable the Regulations have been followed; or
 - b) by selecting one or more contractors from a Framework or similar arrangement (including approved lists and dynamic purchasing systems), established by a public sector body in accordance with the contract standing orders of that public sector body and/or where applicable the Regulations; or

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- c) by selecting one or more contractors from ConstructionLine in accordance with the criteria applicable to the project.
- 7.02. The Council's decision to enter into a contract with the recommended contractor must be made in accordance with CSO Contract Standing Order 9.07.
- 7.03. The Council shall observe these Contract Standing Orders where it procures works, goods and/or services for the benefit, or on behalf of, other public bodies.
- 7.04 Where the Council is considering leading on any joint procurement activities with other contracting authorities, approval must be obtained in advance of any commitment to do so and on the basis of a robust business case from:
- (a) the Cabinet where the joint procurement is liable to result in a contract award that would involve a 'key decision' by the Council;
 - (b) the Chief Operating Officer, after consultation with the Leader of the Council, in other cases.
- 8. Procedure for Contracts under £100160,000**
- 8.01. Contracts for works, goods and/or services with an estimated value below £160,000 (one hundred and sixty thousand pounds) must be procured via the Corporate Sourcing Solution except whereby Contract Standing Order 7.01 applies or where an alternate e-sourcing solution is used that has been pre-approved in writing by the Head of Procurement.
- 8.02. Where a contract for works, goods and/or services has an estimated value of less than £510,000 (fifteen thousand pounds), the relevant Director should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.
- 8.02. Where a contract for works or related consultancy services has an estimated value (or fees) of £5,000 (five thousand pounds) or more, but less than £25,000 (twenty five thousand pounds), at least three competitive quotations should be obtained; and for values of £25,000 or more, a competitive tender process should be followed.
- 8.03. Where a contract for goods or services has an estimated value of £510,000 (fifteen thousand pounds) or more, but less than £100160,000 (one hundred and sixty thousand pounds), at least three competitive quotations should be obtained from chosen contractors via the Corporate Sourcing Solution without the need for an advertisement or to follow the

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tender procedure followed. This activity will be undertaken under the management of the relevant Director without the need for the Head of Procurement to lead on it.

8.04. The quotation procedure shall replicate CSO 9.02-9.04 and be managed by the:

Where a) Director where the contract for works has an estimated value of the contract is £5£10,000 (fifteen thousand pounds) or more, but less than £50,000 (fifty thousand pounds).

b) 160,000 (one hundred and sixty thousand pounds), at least three competitive quotations should be obtained via the Corporate Sourcing Solution or via ConstructionLine without the need for an advertisement or to follow the competitive tender procedure. This activity will be undertaken under the management of the relevant Director without the need for the Head of Procurement where the estimated value of the contract is £50,000 (fifty thousand pounds) or more but less than £100,000 (one hundred thousand pounds).to lead on it.

8.05

8.05. The quotation procedure shall comply with Contract Standing Orders 9.02 to 9.05 and be managed by the relevant Director.

8.06. Where a pre-qualified Framework arrangement (including approved lists) exists in respect of the subject matter and prices have yet to be determined then CSO 9.01f01.2f applies.

8.0607. The Head of Procurement may decide that processes in CSO 8 are not appropriate in order to secure value for money for the Council and to ensure general EU procurement law principles are complied with. If that is the case, he/she may determine another process of selecting a contractor which will meet best value criteria, and/or ensure compliance with EU procurement law. The decision and process must be properly documented.

8.0708. Where a contract with an estimated value of £25,000 (twenty five thousand pounds) or more is advertised, the contract opportunity will must be published on Contracts Finder within 24 hours of the first advertisement. The Contracts Finder publication will comply with Reg Regulation 110 of the Public Contract Regulations as applicable.

9. Procedure for Contracts valued at £100160,000 or more

9.01. Except as otherwise provided, contracts for works, goods and/or services with an estimated value of £100,000 (one expressly permitted by

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or under these Contract Standing Orders, in the case of contracts for works and contracts subject to the Light Touch Regime (Regulation 74 of the Public Contract Regulations or Regulation 19 of the Concession Contracts Regulations as applicable) with an estimated value of £160,000 (one hundred and sixty thousand pounds) or more but less than £500,000 (five hundred thousand pounds), at least three competitive quotations should be obtained via the Corporate Sourcing Solution or via ConstructionLine, without the need for an advertisement or to follow the competitive tender procedure. This activity will be managed by the Head of Corporate Procurement.

9.01.1 Except as otherwise expressly permitted by or under these Contract Standing Orders, contracts for goods and/or services with an estimated value of £160,000 (one hundred and sixty thousand pounds) or more as well as contracts for works and contracts subject to the Light Touch Regime (Regulation 74 of the Regulations or Regulation 19 of the Concession Contracts Regulations as applicable) which have an estimated value of £500,000 (five hundred thousand pounds) or more must be let following publication of an appropriate (tender) advertisement.

9.01.2 Where tenders are to be invited the procedure to be followed shall be determined prior to advertising and be managed by the Head of Procurement and shall be one of the following:

- a) open tender procedure (all interested contractors submit a tender in response to an advertisement);
- b) restricted procedure, 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, with a selection of those contractors subsequently being invited to submit a tender;
- c) competitive procedure with negotiation, 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, with a selection of those contractors being invited to negotiate;
- d) competitive dialogue procedure, 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, followed by dialogue with a selection of those contractors to identify a solution (or solutions) which meets the Council's requirements, and an invitation to the selected contractors to submit tenders based on the solution/s resulting from the dialogue;

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- e) innovation partnership procedure 2 (or more) stage process involving expressions of interest from contractors in response to an advertisement, followed by a competitive award procedure aimed at the development, and subsequent purchase, of an innovative product, service or works;
- | f) Wherewhere it is proposed to award a specific contract based on a framework agreement in which all the terms of the proposed contract are not laid down, a mini-competition shall be held in which tenders shall be invited from all members of the framework agreement that are capable of carrying out the requirements of the specific contract;
- | g) Negotiatednegotiated procedure without prior publication of an advertisement where the requirements of Regulation 32 of the Public Contract Regulations are made out. The Chief Finance OfficerHead of Procurement must first be consulted before this procedure is used.

9.01.3 Procurements requiring use of a qualitative selection questionnaire must comply with the Crown Commercial Services (CCS) guidance on the use of these questionnaires including any applicable guidance on the use of the European Single Procurement Document (ESPD) provided for in Regulation 59 or the Public Contract Regulations.

9.01.4 Prior approval must be obtained from the Head of Procurement to derogate from the CCS guidance referred to in 9.01.3. Any such derogation must be disclosed to the Cabinet Office.

9.02 Electronic communications, procurement documents, division into lots and receipt and opening of bids

- | 9.02.1. Subject to the terms of Regulation 22 of the Public Contract Regulations, all communication and information exchange in relation to procurement shall be performed using electronic means of communication.
- | 9.02.2. Subject to the terms of Regulation 53 of the RegulationsPublic Contract Regulations or 34 of the Concession Contract Regulations as applicable, the Council will provide unrestricted and full electronic direct access free of charge to the procurement documents from the date of publication of the advertisement, or the date on which an invitation to confirm interest was sent.
- | 9.02.3. The Council may award a contract in the form of separate lots and may determine the size and subject-matter of such lots. Where a contract is subject to the Public Contract Regulations, if the Council determines that

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| it should not be subdivided into lots then in compliance with Regulation 46(2) of the Public Contracts Regulations it shall provide and retain an indication of the main reasons for its decision.

9.02.4 The approval of contract awards, variations and extensions may be evidenced within the Corporate Procurement Systems by electronic copies of signatures.

9.02.5 Due to the nature of works documentation, if bidsBids cannot be submitted electronically, contractors must be informed that their bidsBids will only be considered if they are:

- a) sent in a plain envelope or parcel with a label on which is printed either with the word "Tender" or "Quotation" followed by the subject of the contract; and
- b) contained in a sealed envelope or parcel which does not show the identity of the contractor in any way; and
- c) delivered to the place and by the date and time stated in the invitation.

9.02.56. Bids must be kept safe until the date and time for their opening by the officers given this duty by the Director or Head of Procurement, whichever is responsible for managing the process.

9.02.67. Non-electronic bidsBids must be opened at the same time in the presence of two officers, one of whom has had no involvement in the process. These officers shall be responsible for properly recording the price, duration of any works and all other relevant details of each opened bidBid.

9.02.78 Electronic bidsBids received securely may be opened at the appointed date and time by one officer or appointed consultant.

9.02.89. The Head of Procurement must approve the training and seniority of all officers employed to open bidsBids and also the arrangements for ensuring the independence of such officers from the teams involved in the competitive process.

9.03 Abnormally Low, Late or Non Compliant Bids

9.03.1. In respect of any contract that is subject to the Regulations, if the Council determines that a bidBid is abnormally low then it shall ask the bidder to explain the prices or costs proposed in its bidBid.

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- | 9.03.2. Records of any non-compliant bidsBids and of the date and time of receipt of any late tenders must be kept by officers.
- | 9.03.3. Bids received late may only be considered if the other bidsBids have not yet been opened and:
 - a) failure to comply is the Council's fault; or
 - b) it is clear that the bidBid was sent in such a way that in the normal course of events it would have arrived on time.

9.04 Dynamic Purchasing Systems

- 9.04.1. In appropriate cases, a Dynamic Purchasing System (DPS) may be used to carry out procurements in accordance with Regulation 34 of the Public Contract Regulations, with the prior approval of, and in accordance with a procedure specified by, the Head of Procurement.
- 9.04.2. Where a DPS is to be used to carry out a procurement this must be done through the Corporate DPS unless prior written agreement from the Head of Procurement has been obtained.
- 9.04.3. Electronic formation of individual contracts within the DPS is permitted, subject to Contract Standing Orders 9.08.8. and 9.08.9.

9.05. E-Auctions

In appropriate cases, the submission of prices for a bid may be conducted by e-auction in accordance with Regulation 35 of the Public Contract Regulations, with the prior approval of, and in accordance with a procedure specified by, the Head of Procurement.

9.0506 Post Tender Clarifications/Confirmations

- 9.0506.1. Except where the negotiatedcompetitive procedure with negotiation referred to in CSOContract Standing Order 9.01e01.2c and 9.01.2g applies, negotiation after receipt of formal bids and before the award of contract is only permitted:
 - a) in circumstances which do not put other contractors at a disadvantage, distort competition or adversely affect trust in the competitive process, and
 - b) if the prior authority of the Head of Procurement has been obtained.

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9.0506.2. ~~There may be circumstances where an officer authorised by the Director may contact a contractor in order to clarify an ambiguous bid. This does not constitute post tender negotiations.~~

9.05.3. All communication with contractors under this Contract Standing Order 9.06.2 must be in writing or recorded in writing.

9.0607 Bid Acceptance and, Contract Award and Letters of Intent

9.0607.1. Bids are to be accepted on the basis ~~of~~:

a) either:

a) if the contract value is above the applicable threshold pursuant to the Regulations, of the most economically advantageous tender as determined by the application of the published award criteria ("MEAT"); or

b) if the contract value is below the applicable threshold pursuant to the Regulations, of either (i) MEAT, or (ii) lowest cost.

c) A Director may award, assign, or novate contracts valued up to less than £500,000 (five hundred thousand pounds).

d) All contracts valued at £500,000 (five hundred thousand pounds) or more at the time of award may only be awarded, assigned, or novated by the Cabinet.

e) The award of any contract valued £500,000 (five hundred thousand pounds) or more is a 'key decision' and as such must be in the Council's Forward Plan and comply with the other procedures in that regard set out in the Constitution.

f) In accordance with Part 5 Section C of the Constitution, the award of spot contracts for care packages and contracts for the supply of energy to the Council are not "key decisions".

9.07.2 Where a contract has been awarded, including by way of a call off from a Framework (but not by way of a contract placed under a DPS), with an estimated value of £25,000 or more, the award must be published on Contracts Finder.

9.07.3 Where the provision of works, goods or services under a contract is required to commence prior to the issuance and execution of a formal contract, a Director, if satisfied that it is in the Council's best interest in

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the particular circumstances, may approve issuance of a Letter of Intent pending the issuance and execution of a formal contract. However, the maximum cover afforded by any Letter of Intent shall not exceed £100,000 or 10% of the total contract price, whichever is the higher value.

9.08. Conditions applying to all contracts

9.0708.1. The tender documents in respect of every contract to which the Public Contract Regulations apply shall include: (a) a requirement that the successful contractor must enter into a collateral contract in a form approved by the Assistant Director of Corporate Governance which provides for the allocation of risks between the parties where the contract has been declared ineffective by a court, and (b) provide for the contract to include provisions enabling the Council to terminate the contract in each of the circumstances set out in Regulation 73 of the RegulationsPublic Contract Regulations or Regulation 44 of the Concession Contracts Regulations, as applicable.

9.0708.1A. The tender documents in respect of every contract to which the Regulations apply shall include a requirement that the Council may require the successful contractor must enter into a collateral contract in a form approved by the Assistant Director of Corporate Governance which provides for the allocation of risks between the parties where the contract has been declared ineffective by a court.

9.08.1B. The decision as to whether or not a collateral contract will be required in respect of a contract will ultimately be made, before the formal contract is issued and executed, by the Assistant Director of Corporate Governance or an officer acting under his/her delegated authority.

Valued £510,000 or more:

9.07.2. Except as provided in CSO 9.07.4, all 08.2. All contracts valued at £510,000 (fifteen thousand pounds) or more in value must be in writing by way of a document prepared, or on a basis approved, by the Assistant Director of Corporate Governance.

9.07.3. Where the works, goods or services to be provided under a contract are required to commence prior to the issuance and execution of a formal contract, a Director, if satisfied that it is in the Council's best interest in the particular circumstances, may approve issuance of a Letter of Intent pending the issuance and execution of a formal contract. However, the maximum cover afforded by any Letter of Intent shall not exceed 10% of the contract price in respect of works or services contracts, or £50,000 in respect of supplies contracts.

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9.07.4. Every contract valued at £50,000 (fifty thousand pounds) or more shall specify:

- a) the works, goods or services to be provided or executed;
- b) the price to be paid or the precise method of its ascertainment and a statement of any discounts or other deductions; and
- c) as appropriate, the start and finish dates, or delivery dates, and any maintenance or defects liability period;
- d) compliance with the Council's insurance requirements. The requirement to comply with the Council's standard insurance requirements may only be waived with the Chief Finance Officer's approval;
- e) compliance with the Council's equality policy;
- f) compliance with regards to the protection of personal data.

9.0708.45. All contracts for the provision of services which may potentially involve either direct or indirect members of the service provider's staff (including agents, sub-contractors and assigns) carrying out a role that involves contact with children and/or vulnerable adults or access to their personal records shall contain a provision requiring the service provider (including agents and assigns) to undertake a Criminal Records Bureau check in respect of each staff member the appropriate level of Disclosure and Barring Service check on relevant employees for which his/her role is eligible prior to provision of the services under the contract being carried out by the relevant staff member and at appropriate intervals thereafter.

9.0708.56. All computer software contracts shall contain a clause to the effect that use of the software by the Council's contractors shall not amount to use by a third party for which an additional software licence might otherwise be required.

Valued £50,000 or more:

9.0708.67. Every contract with a value of £50,000 (fifty thousand pounds) or more must, unless the Assistant Director of Corporate Governance and Chief Finance Officer agree to the contrary, contain clauses to cover the following:

- a) compliance with all applicable legislation;

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- b) a prohibition on assignment and/or subletting without the written consent of the Director;
- c) a provision allowing the Council to cancel the contract and recover any resulting loss from the contractor if the contractor does anything which is contrary to the Bribery Act 2010 or incites breach of Section 117 (2) of the Local Government Act 1972;
- d) a provision to ensure the Council is protected against the contractor's defective performance by default provisions which are appropriate to the contract;
- e) if the contractor is in breach of contract the Council can do any or all of the following:
 - i. i. determine all or part of the contract or determine the contractor's appointment;
 - ii. ii. itself perform the contract in whole or in part;
 - iii. recover from the contractor any additional cost resulting from the completion or cancellation of the contract.ii.
- f) If the contractor has obtained or received by whatever means any information which gives or is intended or likely to give the contractor any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for, and award of, any works/services contract, that the Council shall be entitled to terminate that contract;
- g) It shall be a condition of any contract between the Council and any person (not being an Officer of the Council) who is required to manage a contract on the Council's behalf that, in relation to such contract, he/she shall comply in all respects with the requirements of these Contract Standing Orders as if he/she were an employee of the Council.

9.0708.78.— A contract valued at less than £250,000 (two hundred and fifty thousand pounds) does not require sealing and should either be signed on behalf of the Council, by both the relevant Director and by the Head of the relevant business unit, or authenticated by Approved Electronic Means. However, if the nature of the works, goods or services is such as to pose a high risk of significant latent defects, then the Head of Procurement may decide to have the contract executed under seal as a deed.

Valued £250,000 or more:

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- | 9.0708.89. A contract valued at £250,000 (two hundred and fifty thousand pounds) or more must be executed on behalf of the Council under seal as a deed.-Where appropriate this may be undertaken electronically.
- | 9.0708.0910. Every contract valued at £250,000 (two hundred and fifty thousand pounds) or more must contain clauses to cover the following:
 - a) if it is a contract for works, that the Council may require the contractor to provide security for completing the contract in the form of a bond;
 - b) that where the contractor is a subsidiary or group company, the contractor may be required to provide a parent or group company guarantee.
- | 9.0708.101. The decision as to whether or not a bond or parent company guarantee will be required in respect of a contract valued at £250,000 or more will ultimately be made by the Chief Finance Officer or an officer acting under his/her delegated authority.

10. Waivers, Variations, Extensions and Novations

10.01 Waivers

- | 10.01.1. Contract Standing Orders other than CSO Contract Standing Order 5 (which relates to the Public Contract Regulations) may be waived on the basis set out in CSO 10.01.2 by:
 - a) the Cabinet where the contract value is £250500,000 (twofive hundred and fifty thousand pounds) or more;
 - b) a Director where the contract value is less than £250500,000 (twofive hundred and fifty thousand pounds) (save that the Director shall not have authority to waive CSO 9.0708).
- | 10.01.2. A waiver may be agreed after considering a written report that demonstrates:
 - a) the contract is one entered into between entities within the public sector in circumstances permitted by Regulation 12 of the RegulationsPublic Contract Regulations or Regulation 17 of the Concession Contract Regulations as applicable; or

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- b) the contract is one that the Council is permitted to reserve for certain economic operators in circumstances permitted by Regulation 77 of the Public Contracts Regulations or Regulation 24 of the Concession Contracts Regulations; or
- c) the circumstances of the proposed contract award are covered by a relevant legislative exemption (whether under EU law or English law of England and Wales); or
- d) the value of the contract is below the applicable threshold pursuant to the Regulations and:
 - (i) the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is such that a departure from the requirements of Contract Standing Orders is justifiable;
 - (ii) it is in the Council's overall interest; or
 - (iii) there are other circumstances which are genuinely exceptional.

10.01.3. Waiver requests must be approved before any related contract awards, variations or extensions.

10.01.4. A record of the decision approving a waiver and the reasons for it must be kept and an entry made in a central register maintained and monitored by the Head of Procurement.

10.01.5. Where aan additional waiver of Contract Standing Orders is sought ~~for the second time~~ in relation to the same individual contract, this whereby the aggregated value of the contract increases to £500,000 (five hundred thousand pounds) or more, the waiver must be agreed by the Cabinet.

10.02 Variations and Extension

10.02.1. Subject to the provisions of CSO 3.01; ~~and the Regulations (in particular Regulation 72 of the Public Contract Regulations restrictions and or Regulation 43 of the Concession Contracts Regulations (as applicable), compliance with Financial Regulations, a Director may (and subject to satisfactory outcomes of contract monitoring) authorise; the following~~ may authorise an extension or variation to a contract:

- a) ~~any extension provided for within the terms of a contract and previously included in an award of contract decision taken by Cabinet Director provided the value of the extension or variation is less than £500,000 (five hundred thousand pounds);~~

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- b) ~~any variation or any extension not included in the original contract award and which has a value less than £500,000 (five hundred and thousand pounds);~~
- c) ~~a single extension by up to twelve months of the contract not provided for within the original contract award decision;~~
- d) ~~any variation, and if relevant a consequent change in price, determined in accordance with the contract terms.~~

~~10.02.2. In any other circumstances the Cabinet where the value is £500,000 (five hundred thousand pounds) or more the Cabinet may vary or extend a contract providing that to do so is consistent with the Public Contract Regulations and the Council's Financial Regulations.~~

~~10.02.32. All variations and extensions must be recorded in writing and an electronic copy maintained within the Council's Corporate Contract System.~~

10.03 Novations (Transfers)

In circumstances permitted in Regulation 72 of the Public Contract Regulations or Regulation 43 of the Concession Contracts Regulations or where the value of a contract is below the applicable threshold pursuant to the Regulations the Council may agree to the novation or assignment of a contract.

11. Contract Termination

- 11.01. In the event of a supplier being declared bankrupt, going into administration, receivership or liquidation then a Director may terminate any associated contract(s) and initiate alternative arrangements as may be required taking into account CSO Contract Standing Order 10.03 in cases of novation or CSO Contract Standing Order 4.01 in cases that warrant the re-letting of the contract(s).
- 11.02. The decision to terminate a contract early in all other circumstances must be approved by a Director.
- 11.03. In all cases of contract termination for whatever reason where the awarded contract value was £500,000 (five hundred thousand pounds)

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or more a report must be presented at the earliest opportunity to Cabinet.

12. Schools

In accordance with the requirements of the Council's Scheme for Financing Schools, and the Financial Regulations for Schools, where a school acts as an agent for the Council, these Contract Standing Orders apply to all schools within the London Borough of Haringey with the exception of Academy and Trust Schools. A school's governing body shall have the powers and duties of the Cabinet specified in these Contract Standing Orders, except in relation to waivers (CSO 10.01).

13. Care Contracts for Individuals

Subject to Regulation 74 of the Public Contract Regulations and Regulation 19 of the Concession Regulations as applicable, Adults & Housing Services and the Children & Young People's Service care contracts may be 'block' contracts (where a number of beds, places or services are provided by the contractor at pre-agreed pricing schedules, to which the Council may refer users over the contract period) or 'spot' contracts (one-off contracts meeting an individual user's needs, or contracts where a number of beds, places or services are provided by the contractor without pre-agreed prices, such prices to be agreed upon each referral of a user over the contract period). The Directors of the Adult & Housing Services and the Children & Young People's Service will seek to optimise overall best value for the Council. The following provisions shall apply to the AdultAdults & Housing Services and the Children & Young People's Service care contracts:

- a) All Contract Standing Orders apply to block contracts;
- b) CSO 8.03 (in relation to quotation procedures) shall not apply to spot contracts;
- c) The Directors of the Adult & Housing Services and the Children & Young People's Service may award all spot contracts, which shall be reviewed at least annually as part of the review of whether the service provided continues to demonstrate value for money and meet the needs of the service user;
- b) Where a spot contract has an estimated value of less than £160,000 (one hundred and sixty thousand pounds), CSO 8.02 and CSO 8.03 shall not apply, and the relevant Director should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.

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- c) Where a spot contract has an estimated value of £160,000 (one hundred and sixty thousand pounds) or more, CSO 9.01 shall apply.

14. Alexandra Palace and Park

These Contract Standing Orders apply to the procurement of works, goods and services by or on behalf of Alexandra Palace and Park Charitable Trust on the following basis:

- a) The Chief Executive of APPCT shall have the powers and duties of a Director specified in Contract Standing Orders;
- b) The Alexandra Palace and Park Board and Panel shall have the powers and duties of the Cabinet and a Cabinet Member specified in these Contract Standing Orders;
- c) In the event of any conflict, the requirements of the Charities Act 1993, any regulations made under that Act or charity law in general shall prevail over the provisions of Contract Standing Orders.

15. Disposal of assets

- 15.01. Where Council assets (other than land & buildings) are to be disposed of because they are surplus to requirements, damaged or obsolete, reasonable endeavours must be undertaken to realise the residual value of the assets.
- 15.02. Assets having little or no realisable value may be disposed of as waste with the approval of the relevant Head of Business Unit, provided that the disposal shall be in favour of recycling wherever possible.
- 15.03. In respect of assets to be disposed of having an estimated value of less than £510,000 (fiveten thousand), the Director concerned should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.
- 15.04. Assets recommended for disposal with an estimated value of £510,000 (fiveten thousand pounds) or more, shall be disposed of in such a manner as to secure best value.
- 15.05. Disposal of assets valued at £250,000 (two hundred and fifty thousand pounds) or more must be reported to the Cabinet.

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- 15.06. Under no circumstances shall disposal of Council assets be made to employees or Members of the Council without the prior approval of the relevant Director.

16. Urgent Decisions/Decisions Required in-between Cabinet Meetings

- 16.01. These provisions apply where action needs to be taken between meetings of the Cabinet or in cases of urgency and that action would be outside the powers given to a Director under these Contract Standing Orders.

- 16.02. Decisions reserved to members under these Contract Standing Orders will ordinarily be taken at the Cabinet meeting. Notwithstanding this, the Leader may take any such decision between meetings of the Cabinet, including decisions that have become urgent, and the Leader may also allocate any such decision whether urgent or not to the Cabinet Member having the relevant portfolio responsibilities, or to a Committee of the Cabinet.

- 16.03. The provisions of the Access to Information Procedure Rules at Part 4 of this Constitution will apply. All key decisions should be listed on the forward plan accordingly. Where a decision is 'urgent', rules 16 and 17 within the Access to Information Procedure Rules will apply.

17. Application of CSOs to Grants

Approval for Receipt of Grants to by the Council from External Bodies

- 17.1. Where the Council receives a grant from an external body, the process for approving that or varying the agreement for the grant shall be the same as that set out in CSO 9.0607 (i.e. the Director may approve receipt of a grant valued less than £500,000. For approval of receipt of grants valued at £500,000 or more, a Cabinet decision is required).

- 17.2. The Council's requirements in respect of execution of contracts as deeds (CSO 9.0708.9) shall not apply in respect of grants which the Council receives, and subject to the requirements of the funder, they may be signed by the relevant Director and Head of the Business Unit or authenticated by Approved Electronic Means.

Approval for Payment of Grants from the Council to External Bodies

- 17.3. Where the Council awards a grant to an external body, the process for approving that or varying the agreement for the grant shall be the same

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as that set out in CSO 9.07 (i.e. the Director may approve awards of grants valued less than £500,000. For approval of award of grants valued at £500,000 or more, a Cabinet decision is required).

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is exempt

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