

Part Four, Section J

Contract Standing Orders

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GLOSSARY

In these Contract Standing Orders the following terms shall have the meanings set out below (as amended from time to time).

| Term | Meaning |
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| Approved Electronic Means | means such electronic means of authenticating the formation and sealing of a Contract, which may include the use of electronic seals and signatures, positive approval using check boxes or other similar means, as may be expressly approved by the Monitoring Officer from time to time or for a specific Contract. |
| Approved Form of Contract | means a Contract approved by the Monitoring Officer for use within procurement activity. |
| Best Value | means the duty, which Part 1 of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by Council. |
| Bid(s) | means Tenders of Quotations (as applicable). |
| Cabinet | means the Council's Executive committee comprising the Leader of the Council and up to 9 individual Cabinet members selected by the Leader. |
| Cabinet Member | means individual members (Councillor) of the Cabinet, selected by the Leader with a particular portfolio (area) of responsibility. |
| Central Digital Platform | means the online system referenced in the Procurement Act and Procurement Regulations where Notices, documents and other information required to be published/made available. |
| Chief Finance Officer | also known as the Section 151 Officer , the Council's most senior finance officer who has the responsibility under section 151 Local Government Act 1972 for the proper management of the Council's financial affairs and occupies the post of Director of Finance. |
| Chief Procurement Officer | means the Council's most senior procurement officer, as appointed from time to time. |
| Constitution | means the constitution of the Council which sets out; (i) how it operates; (ii) how it makes decisions; and (iii) the procedures which it must follow. |
| Concession Contract | means a Contract for the supply, for pecuniary interest, of works or services to the Council, where (i) at least part of the consideration for that supply is a right for the supplier |

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| | to exploit the works or services; and (ii) under the Contract the supplier is exposed to real operating risk. |
| Contract | means any Council Contract in writing and of monetary value for the execution of works or the supply of goods and the provision of services. For avoidance of doubt: <ul style="list-style-type: none"> (i) any contract of Services, Supply and/or Works; (ii) any Framework ; (iii) any Concession Contract; or (iv) any Utilities Contract but does not include in any circumstances <ul style="list-style-type: none"> (v) an employment contract; or (vi) a Grant agreement |
| Contract Standing Orders (CSO's) | means these Contract Standing Orders which provide the constitutional basis for the Council's procurement of works, goods and services. |
| Corporate Contracts Register | means the central register of Council Contracts as managed and maintained by the Chief Procurement Officer. |
| Corporate e-Sourcing System | means the following: <ul style="list-style-type: none"> (i) The designated corporate e-sourcing system, that manages the following activities; sourcing, Contract and performance management and management of commercial invoices, referred to in the Procurement Code of Practice; or (ii) Such other systems as may be approved by the Chief Procurement Officer from time to time |
| Council | means London Borough of Haringey Council, Alexandra House, 10 Station Road, Wood Green, N22 7TR |
| Director | means an employee of the Council holding a post designated as: <ul style="list-style-type: none"> (i) The Chief Executive; (ii) A member of the Strategic Leadership Team; or (iii) A Director or Assistant Director. |

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| Term | Meaning |
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| Dynamic Market | means a list of qualified suppliers who have met the conditions of membership of the dynamic market who are eligible to participate in future procurements as defined in the Procurement Act. |
| Dynamic Purchasing System (DPS) | means a completely electronic system which can be used for commonly used purchases of works, goods or services as defined in Regulations. |
| Extension | means an extension to an existing Contract as described in more detail in CSO 18.02.18.02 |
| Financial Regulations for Schools | means financial duties and procedures stated by the Council and all legislation relating to the financial management of schools. |
| Forward Plan | means the document that lists all decisions that the Cabinet will take together with all Key Decisions to be taken and by whom. |
| Framework | means a Contract between a contracting authority and one or more Suppliers that provides for the future award of Contracts by a contracting authority to a Supplier or Suppliers as more particularly described in the Regulations or Procurement Act (as applicable). |
| Grant(s) | means a payment to help the recipient (e.g. school, charity or voluntary organisation) to deliver an agreed outcome in return, the grant funder (e.g. the Council) gets no direct service delivery (“the Grant Agreement”). A grant is usually provided subject to conditions that state how the grant shall be used (for example to support the wider objectives of the Council in promoting the social, economic or environmental well-being within their communities). The Grant Agreement will normally set out general instructions as to how this is to be achieved, and any particular conditions in regard to claw-back if those wider objectives are not met. |
| Head of Audit & Risk Management | means the Councils most senior officer with responsibility for leading the Council’s audit and risk management function. |
| Key Decision | has the meaning attributed to it in the Access to Information Procedure Rules at Part 4 Section D of the Constitution. |
| London Living Wage | means as defined by the Living Wage Foundation (https://www.livingwage.org.uk/what-real-living-wage) |

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| Monitoring Officer | means the most senior legal officer with responsibility for leading the Council's legal and governance function and with responsibility under section 5 Local Government and Housing Act 1989 for supporting and advising the Council in relation to the lawfulness and fairness of the decision-making of the Council, and has the title of Assistant Director for Legal & Governance. |
| Notice | means a notice any one of the various types of notices that is required to be published in accordance with the Procurement Act and the Regulations. |
| Officer(s) | means an Officer as employed by the Council with relevant and appropriate authority to act on behalf of the Council. |
| Pensions Committee | means the Council's committee exercising the functions of Administering Authority, being responsible for the management and monitoring of the Council's pension fund. |
| Procurement Act | means the Procurement Act 2023 which comes into force on 28 February 2025 and associated Procurement Regulations 2024 as may be amended from time to time. |
| Procurement Code of Practice | means the separate document referenced in these CSO's titled Procurement Code of Practice where more detailed information about the Council's procurement and contract procedures can be found. |
| Procurement Policy Notice (PPN) | means any relevant Procurement Policy Notice as issued by government (as may be updated and issued from time to time). PPN's can be found via – https://www.gov.uk/government/collections/procurement-policy-notes |
| Procurement Threshold | means the applicable financial thresholds at which the Procurement Act or Regulations (as applicable) applies with effect from 1 January 2024 (as may be updated from time to time). |
| Provider Selection Regime | means the Health Care Services (Provider Selection Regime) Regulations 2023 as may be amended from time to time. |
| Quotation | means an offer submitted in writing to the Council by a Supplier in response to a request for quotation (RFQ)) (without the formal commencement of a public procurement exercise). |

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| Regulations | means the: (i) the Public Contract Regulations 2015; (ii) Utilities Contract Regulations 2016; or (iii) Concession Contract Regulations 2016; as applicable |
| Scheme for Financing Schools | means the Council's published scheme of finance for schools as amended from time to time. |
| Scheme of Delegation | means the Council's scheme of delegation which can be found at Part 3 of the Constitution. |
| Social Value | means social, economic and environmental considerations aligned with the Council's priorities and policies, the Public Services (Social Value) Act 2012 and the National Procurement Policy Statement. |
| Strategic Procurement | means the Council's centralised procurement department managed by the Chief Procurement Officer. |
| Supplier | means any individual or organisation(s) invited to submit a quotation or Tender or where a Contract has been awarded a Contract, the counterparty to a Contract with the Council who is responsible for delivering goods, services or works in accordance with the terms and conditions of Contract. |
| Technical Guidance | means the Technical Guidance published by the Government Commercial Function in relation to the Procurement Act. Further details can be found at – https://www.gov.uk/government/collections/procurement-act-2023-guidance-documents |
| Tender | means a Supplier's proposal submitted in response to an invitation to tender as part of a competitive tendering exercise. |
| Utilities Contract | means a Contract for the supply of goods, services or works wholly or mainly for the purpose of utility activity. |
| Variation | means a modification to an existing Contract (such as additional services, exercising extension options, changes in price or a change in Supplier). |
| Waiver | means an exemption (i.e. "waiver") from the requirement to comply with all or part of these CSOs. |

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0. Statement of Principles

- 0.01. These CSO's provide the constitutional basis for the Council's procurement of works, goods and services. Following them will assist in ensuring statutory compliance, value for money, propriety and the proper spending of public money.
- 0.02. The Procurement Code of Practice provides more detail and shall govern Council procurement process and contract award procedures. The Chief Procurement Officer shall issue and maintain the Procurement Code of Practice. Any procurement activity shall proceed in accordance with these CSO's and the Procurement Code of Practice and all such other guidance issued by the Chief Procurement Officer.
- 0.03. The Chief Procurement Officer shall make the latest version of these CSO's and the Procurement Code of Practice available to every Director, Cabinet Member and Officer of the Council. Directors, or Officers acting on their behalf, shall apply the requirements of the CSO's and the Procurement Code of Practice when engaging in any procurement activity.
- 0.04. All Procurement activity shall be used (amongst other things) to achieve Best Value in accordance with the Council's statutory requirements 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 to the optimal combination of economy, efficiency and effectiveness.
- 0.05. 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 obligations or approved objectives and shall conform to all relevant laws of England and Wales.
- 0.06. All procurement activity constituting Key Decisions shall comply with the requirements of the Access to Information Procedure Rules set out in Part 4 and the Protocols for Key Decisions and for Decision Making set out in Part 5 of this Constitution.
- 0.07. 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.
- 0.08. Where in these CSOs a decision is required by the Cabinet, this may also be taken by the Leader or by a Cabinet Member with the Leader's agreement.
- 0.09. Directors must ensure that robust audit trails are in place for all procurement activity in accordance with the Procurement Code of Practice.

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- 0.10. No Cabinet Member of the Council or Council Officer shall enter into any Contract on the Council's behalf.
- 0.11. No Cabinet Member or Officer of the Council shall be permitted to become security under any Contract.

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 is obtained when procuring works, goods and services. Efficient use of resources to achieve Best Value is therefore 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 these CSO's and the Procurement Code of Practice when the Council is procuring Contracts for works, good and services and raising orders with suppliers. This also includes situations where the Council procures works, goods and/or services for and on behalf of other public bodies.
- 1.03. Council employees have a duty to report breaches of these CSO's to an appropriate senior manager and the Head of Audit & Risk Management.
- 1.04. Unless otherwise provided within these CSO's or the Procurement Code of Practice or with the express approval of the Chief Procurement Officer, all procurement processes, regardless of value, should be conducted via the Corporate e-Sourcing System.
- 1.05. Reference should be made to the Procurement Code of Practice for more detailed information on procurement processes.
- 1.06. All Officers will need to familiarise themselves with and comply with these CSO's and any other policies (including the National Procurement Policy Statement) / guidance (including Technical Guidance) / Procurement Policy Notices¹, the Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024, Regulations and Procurement Act (as applicable).
- 1.07. Throughout these CSO's references are primarily made to the "Procurement Act".

¹ Where applicable

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However, there are also instances where references are made to the “Regulations” to capture instances where Contracts fall under an alternative procurement regime. The relevant procurement legislation that will be applicable to procurement activity should be considered on a case-by-case basis. As such, advice should therefore be sought from Strategic Procurement as to the applicable procurement regime a proposed public Contract may need to be awarded in accordance with.

- 1.08. In the event of any doubt as to the interpretation of these CSO’s or the Procurement Code of Practice, or as to the proper procedure to be followed, clarification should be sought from the Chief Procurement Officer.
- 1.09. Unless stated otherwise, all financial references to pounds sterling in these CSO’s are to be exclusive of VAT.
- 1.10. Subject to Regulations or Procurement Act (as applicable), all communication and information exchange in relation to procurement shall be performed using electronic means of communication.

2. Roles & Responsibilities

- 2.01. **The Cabinet** (and Pensions Committee where relevant) will:
 - a) hold Directors accountable for any decisions they make under their delegated authority or under these CSO’s;
 - b) approve commencing a procurement exercise for proposed Contracts valued at £500,000 or more;
 - c) approve awards of Contract valued at £500,000 or more;
 - d) approve any Variation or Extension with an aggregate value of £500,000 or more (see also CSO 18);
 - e) ensure that the award of any Contract and any Extension or Variation with an aggregated value at £500,000 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.
- 2.02. Where a Contract has previously been awarded under CSO 2.01c) and:
 - a) that Contract includes an Extension within its terms (see CSO 18); and/or
 - b) that Contract is to be subject to a Variation;

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following consultation with the Cabinet Member responsible for the relevant portfolio, a Director may approve any subsequent Contract Extension(s) and/or Variation(s) up to an aggregated value of £500,000.

2.03. Where the additional cumulative value of all Variations and Extensions of the original award is £500,000 or more, this will be treated as a 'Key Decision' and CSO 2.01e) will apply.

2.04. Where a Director undertakes a decision in relation to CSO 2.02, details of the Extension and/or Variation must be reported retrospectively via the quarterly financial update report to Cabinet.

2.05. **Directors**

2.05.1 Each Director has responsibility for all Contracts let under their control and is accountable to the Cabinet for the performance of their duties in relation to Contract letting and management, which are:

- a) to ensure compliance with the laws of England and Wales and the Council's Policies;
- b) to ensure value for money in all procurement processes;
- c) to ensure compliance with these CSO's 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 these CSO's and the Procurement Code of Practice and that they receive adequate training on their operation;
- f) to ensure compliance with any guidelines issued in respect of these CSO's;
- g) to ensure all relevant regulatory consultations have been considered and complied with, including but not limited to Local Government Act 1999 Section 3 Best Value Consultations, Landlords and Tenants Act 1985 Section 20 etc.
- h) to take immediate action in the event of a breach of these CSO's or the Procurement Code of Practice within their service;
- i) to submit to the Chief Procurement Officer a pipeline of proposed procurements where the anticipated Contract value will be £2,000,000 or more, no later than 31 March of each year. The pipeline is to include procurements due to

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commence within the following two financial years;

- j) to submit to the Chief Procurement Officer a pipeline of proposed procurements where the anticipated Contract value will exceed £25,000 every three months. The pipeline is to include procurements due to commence within the following 12 months as a minimum;
- k) to seek Cabinet approval to commence a procurement process for proposed Contracts the value of which is above £500,000;
- l) to keep:
 - i. copies of all concluded Contracts as required by the Regulations or Procurement Act (as applicable), and ensure electronic copies of such Contracts are stored in the Corporate e-Sourcing System, 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 the Regulations or Procurement Act (as applicable);
- m) to keep records of Waivers of any provision of these CSO's and forward a copy of such signed records to Strategic Procurement;
- n) approve award of Contracts with a value up to £500,000;
- o) Where a Contract has previously been awarded under CSO 2.01c) and following consultation with the Cabinet Member responsible for the relevant portfolio, a Director may approve any subsequent Contract Extension(s) and/or Variation(s) up to an aggregated value of £500,000.
- p) 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 CSO's;
- q) to record all Contracts in the Corporate Contracts Register;
- r) to ensure effective management of all Contracts under their control, and to a level deemed appropriate in regard to risk or value of each Contract;
- s) to ensure that no Contract is let unless the expenditure involved has been fully considered and approved beforehand and sufficient money has been allocated in the relevant budget;

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- t) to record and report on decisions taken under the Officer Scheme of Delegation in accordance with Part Three Section E Section 1 - paragraphs 3.01 to 3.06 of the Councils Constitution;
- u) Approve the termination of any Contract having regard for CSO 19.

2.06. **Pensions Committee**

- 2.06.1 The Pensions Committee shall have the same powers and duties of the Cabinet specified in these CSO's but limited to its responsibilities for procurements relating to the Pension Fund.

2.07. **Alexandra Palace and Park**

- 2.07.1 These CSO's apply to the procurement of works, goods and services by or on behalf of the above Alexandra Palace and Park Charitable Trust and any on the following basis:
 - a) The Chief Executive of the relevant organisation shall have the powers of a Director specified in these CSO's;
 - b) The Executive Board shall have the powers of the Cabinet and a Cabinet Member specified in these CSO's;
 - c) In the event of any conflict, the requirements of the Charities Act 2011, any regulations made under that Act or charity law in general shall prevail over the provisions of these CSO's.

2.08. **Schools**

- 2.08.1 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 CSO's apply to all schools within the London Borough of Haringey except for academy and trust schools.
 - a) A school's governing body shall have the powers of the Cabinet specified in these CSO's, except in relation to Waivers (CSO 18).

2.09. **Other wholly owned subsidiaries/arms-length organisations owned by the Council**

- 2.09.1 These CSO's apply to the procurement of works, goods and services by wholly owned subsidiary or arms-length organisation owned by the Council where they are subject to the Regulations or Procurement Act on the following basis:

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- a) The Chief Executive of the relevant organisation shall have the powers and duties of a Director specified in these CSO's;
- b) The Board shall have the powers and duties of the Cabinet and a Cabinet Member specified in these CSO's.

3. Scope of the CSO's

3.01. These CSO's shall apply to all Contracts awarded by the Council for works, goods and services) unless otherwise expressly stated or these requirements are waived in accordance with CSO 1818.01.

3.02. Where the Council:

- a) secures funding from an external funding body; or
- b) is involved in joint working funded partly or entirely by external funding to the extent that the money passes through the Council's accounts; or
- c) intends to Grant funding to an external body;

for the purposes of securing the provision of works/ goods or services, these CSO's shall apply.

3.03. These CSO's shall **not apply** to Contracts falling within the specific exclusion provisions within the Regulations or in the case of the Procurement Act, exempted contracts as defined in Part 2 of Schedule 2 of the Procurement Act. 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), or other exclusions as amended from time to time.

4. Public Procurement Rules and Procedures

4.01. Where the Council wishes to award a Contract for the provision of works, goods or services it will need to do so in accordance with the Regulations or Procurement Act (as applicable).

Provider Selection Regime

4.02. The Council will need to procure in accordance with the Provider Selection Regime where it is seeking to procure relevant in scope health care services for the purpose of the health service in England, whether alone or as part of a mixed procurement.

4.03. Advice should be sought from the Strategic Procurement prior to seeking to award a contract under the Provider Selection Regime.

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5. Contract Value and Aggregation

- 5.01. Directors must ensure that a pre-tender estimate of the total Contract value is prepared and recorded in writing and is an accurate reflection of the expected Contract value (to the extent of the information available to Directors at the time), to determine whether it falls within the scope of the Regulations or Procurement Act.
- 5.02. Total Contract value or an estimated total Contract value in these CSO's means the aggregate value payable in pounds sterling exclusive of Value Added Tax, over the entire Contract period, including any extension periods in the proposed Contract. Procurements falling within the scope of the Procurement Act will need to have their estimated value calculated in accordance with Section 4 of the Procurement Act.
- 5.03. A Contract's value must not be artificially under or overestimated or divided into two or more separate Contracts with the intention of avoiding the application of these CSO's, the Regulations or the Procurement Act.

6. Social Value

- 6.01. The Council is committed to fulfilling its obligations under The Public Services (Social Value) Act 2012 and the National Procurement Policy Statement. Officers shall maximise the potential to generate social value outcomes from procurement activity.
- 6.02. Contracts valued at £500,000 or more must include Social Value as part of the evaluation criteria. Such consideration should be proportionate and appropriate to the size and nature of the Contract. Officers must follow guidance as stated in the Code of Practice.
- 6.03. For Contracts valued over £500,000 Social Value is to be included as part of the evaluation criteria. The Social Value weighting must be between 10% and 25% of the total award criteria.
- 6.04. Unless otherwise agreed with Chief Procurement Officer in writing, the Social Value Portal is to be used to record, manage and monitor these contractual Social Value commitments.
- 6.05. Social Value must be considered for Contracts valued below £500,000 where appropriate. However, such considerations should be proportionate and appropriate to the size and nature of the Contract. Officers must follow guidance as stated in the Code of Practice.
- 6.06. Any Social Value commitments made as part of a Tender submission must form part of the contractual obligations to be delivered by the Supplier under the Contract.

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7. Frameworks

- 7.01. The Council may establish Frameworks for its own use or use by other contracting authorities.
- 7.02. The Council may access and call-off from Frameworks established by other public sector organisations where it is deemed suitable and appropriate to do so. However, consideration should first be given to the use of the Council's own established Frameworks, including those operated by the London Construction Program (LCP). Where the Council operates such Frameworks and are deemed suitable for the requirements being sought, use of these Frameworks shall take precedence over the use of any other third-party Framework, unless otherwise agreed by the Chief Procurement Officer.
- 7.03. Where an accessible Framework exists in respect of the subject matter, and there is an absence of compliant objective criteria to directly award, or prices have yet to be determined, then a mini competition is to be undertaken in accordance with the terms of the Framework. The Council will also need to act in accordance with Regulations or Procurement Act (as appropriate) alongside any terms stated in the use of such Frameworks.
- 7.04. The Council's decision to enter into a Contract with the recommended Supplier under a Framework must be made in accordance with CSO 16.

8. Dynamic Purchasing Systems

- 8.01. Where the Council operates its own DPS (including the LCP) for a works, goods, or service category, suitable for its requirement this must be used to carry out the procurements related to those categories; or
- 8.02. The Council may access and call-off from a DPS established by other public sector organisations that has been established in accordance with the Regulations, where it is deemed suitable and appropriate to do so. However, consideration should first be given to the use of the Council's own established DPS, including those operated by the LCP. Where the Council operates a DPS and is deemed suitable for the requirements being sought, use of the Council DPS shall take precedence over the use of any other third-party DPS, unless otherwise agreed by the Chief Procurement Officer.

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- 8.03. Electronic formation of individual Contracts within a DPS is permitted, subject to CSO 17.

9. Dynamic Markets

- 9.01. The Council may establish Dynamic Markets for its own use or use by other contracting authorities.
- 9.02. The Council, acting in accordance with Procurement Act can establish Dynamic Markets for the purposes of awarding Contracts by reference to Suppliers' participation in those arrangements which must remain open for new Suppliers to join at any time.
- 9.03. Where the Council operates its own Dynamic Market (including the LCP) for a works, goods, or service category, that is deemed suitable for its requirement this must be used to carry out the procurements related to those categories;
- 9.04. The Council may access and call-off from a Dynamic Market established by other public sector organisations and that has been established in accordance with the Procurement Act, where it is deemed suitable and appropriate to do so. However, consideration should first be given to the use of the Council's own established Dynamic Market, including those operated by the LCP. Where the Council operates a Dynamic Market and is deemed suitable for the requirements being sought, use of the Council Dynamic Market shall take precedence over the use of any other third-party Dynamic Market, unless otherwise agreed by the Chief Procurement Officer.
- 9.05. Electronic formation of individual Contracts within a Dynamic Market is permitted, subject to CSO 17.

10. Direct Awards

- 10.01. The Council can directly award a public Contract to a supplier without undertaking a competitive procurement process in accordance with the limited situations described in the Regulations, sections 41-44 and Schedule 5 of the Procurement Act or in accordance with the Provider Selection Regime (as applicable).
- 10.02. Prior to seeking to rely on this CSO 10 to award a public Contract, advice should be sought from the Chief Procurement Officer.

11. Procedure for Contracts below £25,000

- 11.01. All Contracts with an estimated value below £25,000 must be procured in accordance

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with the Code of Practice via the Corporate e-Sourcing System, except where an alternate e-sourcing system is mandated by a Framework, a DPS or an alternative e-sourcing system has been pre-approved in writing by the Chief Procurement Officer.

- 11.02. Where a Contract has an estimated value of less than £25,000, the relevant Director should act in the manner most expedient to the efficient management of the service, having regard for CSOs 7.01, 8 and 9 and retaining a record of the procurement activity and related approval.

12. Procedure for Contracts valued above £25,000

- 12.01. All Contracts let with a value of £25,000 or more must be undertaken in accordance with the Code of Practice having regard for CSOs 7.01, 8 and 9 in the first instance.
- 12.02. Except as otherwise expressly permitted by or under these CSO's, for all Contracts with an estimated value of £25,000 or more but less than £500,000, and where the value of the Contract does not exceed the relevant Procurement Threshold requiring a Contract to be advertised, at least three competitive Quotations should be sought via the Corporate e-Sourcing Solution, without the need for an advertisement (unless required to do so by the Procurement Act), or to follow the competitive tender procedure. Where the intention is to advertise the opportunity, the relevant Notices must be published in accordance with the Procurement Act. This activity will be managed by the Chief Procurement Officer, unless agreed otherwise by the Chief Procurement Officer.
- 12.03. Except as otherwise expressly permitted by or under these CSO's, all Contracts that exceed the relevant Procurement Threshold requiring a Contract to be advertised, or which have an estimated value of £500,000 or more must be let following publication of an appropriate advertisement (Tender) in accordance with the Regulations or Procurement Act (as applicable). This activity will be managed by the Chief Procurement Officer.
- 12.04. Where Tenders are to be invited, the regulatory procedure to be followed, shall be determined prior to advertising and be managed by the Chief Procurement Officer and shall comply with the Regulations or Procurement Act and the Procurement Code of Practice.
- 12.05. The Chief Procurement Officer may decide that processes in this CSO 12 are not appropriate in order to secure value for money for the Council and to ensure general procurement law principles are complied with. If that is the case, he/she may determine another process of selecting a Supplier, which will meet best value criteria and/or ensure compliance with procurement law. The decision and process must be properly documented.

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- 12.06. All Contracts let require the publication of relevant Notices in compliance with the Regulations or the Procurement Act (as applicable).

13. Electronic communications, procurement documents, receipt and opening of Bids

- 13.01. Subject to the terms of Regulations and Procurement Act, 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.
- 13.02. Electronic Bids received securely may be opened at the appointed date and time by a Council Officer or the Council's appointed consultant.
- 13.03. Records of any non-compliant Bids and of the date and time of receipt of any late Tenders must be kept by Officers.
- 13.04. Late Bids may only be accepted in exceptional circumstances and with the written authorisation of the Chief Procurement Officer.

14. Abnormally Low Bids

- 14.01. Abnormally low bids should be dealt with in accordance with the Regulations or Procurement Act (as applicable).

15. Post Tender Clarifications/Confirmations

- 15.01. Negotiation after receipt of formal bids and before the award of contract is only permitted:
- a) as part of a tender process allowed for by the Regulations or Procurement Act;
 - b) in circumstances which do not breach the Regulations/Procurement Act or put other Suppliers at a disadvantage, distort competition or adversely affect trust in the competitive process, and
 - c) if the prior authority of the Chief Procurement Officer has been obtained.
- 15.02. Tender clarifications are permitted in circumstances which do not breach the Regulations/Procurement Act or put other Suppliers at a disadvantage, distort competition or adversely affect trust in the competitive process
- 15.03. All communication with Suppliers during a formal procurement shall be performed

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using electronic means in accordance with the Regulations or Procurement Act (as applicable).

16. Bid Acceptance

- 16.01. Bids are to be accepted on the basis that the award is compliant with the Regulations or Procurement Act (where applicable) and as determined by the application of the published award criteria.
- 16.02. Where a Contract has been awarded the Council is required to published Notices in accordance with the Regulations or Procurement Act (as applicable).
- 16.03. Where a purchasing card is used to procure goods, works or services it cannot be used to circumvent these CSO's. The relevant approvals in accordance with these CSO's must be in place prior to procuring the goods, works or services.
- 16.04. 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 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.

17. Conditions Applying to All Contracts:

- 17.01. The procurement documents in respect of every Contract to which the Regulations or Procurement Act apply, shall provide for the Contract to include provisions enabling the Council to terminate the Contract in each of the circumstances as set out in Regulations or the Procurement Act.
- 17.02. The procurement documents in respect of every Contract to which the Procurement Act or Regulations apply shall include a requirement that the Council may require the successful Supplier to enter into a collateral Contract in a form approved by the Monitoring Officer which provides for the allocation of risks between the Parties where the Contract has been declared ineffective by a court.
- 17.03. 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 Monitoring Officer or an Officer acting under their delegated authority.

Contracts valued £25,000 or more

- 17.04. All Contracts valued at £25,000 or more must be in writing by way of a document prepared, or on a basis approved, by the Monitoring Officer.

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- 17.05. Every Contract valued at £25,000 or more must be an Approved Form of Contract unless otherwise agreed by the Monitoring Officer
- 17.06. All Contracts for the provision of services which may entail 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 to undertake in respect of each staff member the appropriate level of Disclosure and Barring Service (DBS) check for which their role is eligible prior to provision of the services being carried out by the relevant staff member and at appropriate intervals thereafter.
- 17.07. All computer software Contracts shall contain a clause to the effect that use of the software by the Council's Suppliers shall not amount to use by a third party for which an additional software license might otherwise be required.
- 17.08. All Contracts for works and services must include provisions for the payment of London Living Wage.
- 17.09. The approval of contract awards, Variations and Extensions may be evidenced within the Corporate e-Procurement Systems by electronic copies of signatures or through positive acceptance (i.e. tick box, yes /no indicator or other similar means of approval).
- 17.10. A Contract valued at less than £250,000 does not require sealing and should either be signed or electronically approved on behalf of the Council by the relevant Director, Assistant Director, or the Head of the relevant business unit, where permitted to do so under the Scheme of Delegation. Where the nature of the works, goods or services is such so as to pose a high risk of significant latent defects, then the Chief Procurement Officer may decide to have the Contract with a value of less than £250,000 executed under seal as a deed.

Contracts Valued £250,000 or more

- 17.11. In addition to the provisions above regarding Contracts valued over £25,000 the following requirements apply to Contracts exceeding £250,000.
- 17.12. A Contract valued at £250,000 or more must be executed on behalf of the Council under seal as a deed, and to ensure original sealed Contract documents are held by the Monitoring Officer for safekeeping. Where appropriate, electronic sealing of Contracts is permitted.
- 17.13. Every Contract valued at £250,000 or more must contain clauses to cover the following:

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- a) if it is a Contract for works, that the Council may require the Supplier to provide security for completing the Contract in the form of a bond;
 - b) that, where the Supplier is a subsidiary or group company, the Supplier may be required to provide a parent or group company guarantee;
 - c) or other means of surety as agreed by the Chief Finance Officer or an Officer acting under their delegated authority.
- 17.14. 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 their delegated authority.

18. Waivers, Extensions, Variations and Novations

18.01. Waivers

18.01.1 Any Waiver relating to these CSO's must be agreed by the Chief Procurement Officer prior to engaging with any Supplier to provide goods, services or works in accordance with this CSO 18.

18.01.2 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 the Regulations or Procurement Act (as applicable); or
- b) the Contract is one that the Council is permitted to reserve for certain economic operators in circumstances permitted by the Regulations or Procurement Act (as applicable); or
- c) the circumstances of the proposed contract award are covered by a relevant legislative exemption (under the law of England and Wales); or
- d) the value of the Contract is below the applicable Procurement Threshold pursuant to the Regulations or Procurement Act (as applicable) and:
 - (i) complies with below threshold provisions within the Regulations or Procurement Act (as applicable);
 - (ii) 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 these CSO's is justifiable;

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- (iii) it is in the Council's overall interest; or
 - (iv) there are other circumstances which are genuinely exceptional.
- 18.01.3 All Waiver requests must be approved before any related Contract award and/or Variation occurs.
- 18.01.4 CSO's other than CSO 4 (which relates to the Regulations and the Procurement Act) may be waived on the basis set out in this CSO 18 by:
 - a) the Cabinet where the Waiver concerns a Contract with a value of £500,000 or more; or
 - b) a Director where the Waiver concerns a Contract with a value of less than £500,000 (save that the Director shall not have authority to waive CSO 17).
- 18.01.5 Any waiver valued at £100,000 or above relating to these CSO's must be agreed by the Chief Procurement Officer prior to engaging the supply chain.
- 18.01.6 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 Chief Procurement Officer.
- 18.01.7 Where an additional Waiver of these CSO's is sought in relation to the same individual Contract, whereby the aggregated value of the Contract increases to £500,000 or more, the Waiver must be agreed by the Cabinet.
- 18.02. **Contract Variations and Extensions**
 - 18.02.1 A Contract may be extended before its expiry provided that the Extension is provided for in the original Contract terms or is permitted by the Regulations or Procurement Act (as applicable)
 - 18.02.2 Contract Extensions shall be approved in accordance with CSO 2.
 - 18.02.3 All Variations and Extensions must be recorded in writing and an electronic copy retained in the Corporate e-Sourcing System.
- 18.03. **Contract Variations**
 - 18.03.1 Prior to seeking to vary an existing Contract, appropriate advice should be sought from Strategic Procurement on a case-by-case basis as to whether the Variation needs to be considered in accordance with the Regulations or Procurement Act (as applicable).

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18.03.2 Prior to and following the Variation of a Contract subject to the Procurement Act, the Council may be required to publish a Notice(s) in accordance with section 75 of the Procurement Act.

18.03.3 Contract Variations shall be approved in accordance with CSO 2.

18.04. **Novations (Transfers)**

18.04.1 In circumstances permitted in the Regulations or Procurement Act, or where the value of a Contract is below the applicable Procurement Threshold pursuant to the Regulations or Procurement Act, the Council may agree to the novation or assignment of a Contract.

18.04.2 A Director may approve the assignment or novation of a Contract where the value of the remaining term including any Extension is less than £500,000.

18.04.3 The Cabinet will approve the assignment or novation of a Contract where the value of the remaining term including any Extension is £500,000 or more.

19. **Contract Termination**

19.01. 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 considering CSO 18.04 in cases of novation or CSO 3.01 in cases that warrant the re-letting of a Contract(s).

19.02. Subject to CSO 19.01 (above) prior to deciding to terminate a Contract early, approval must be sought from a Director and reported to the Chief Procurement Officer.

19.03. In all cases of Contract termination for whatever reason where the awarded Contract value was £500,000 or more, a report must be presented at the earliest opportunity to Cabinet.

19.04. Where a Contract is terminated and the Procurement Act applies the Council is also required to publish a Notice in accordance with section 80 of the Procurement Act.

20. **Contract Management**

20.01. It is the responsibility of the Director to ensure effective contract management is undertaken for Contracts under their control and management.

20.02. Directors must assign a contract owner for all Contracts above £25,000 and record this information in the Corporate e-Sourcing System.

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- 20.03. It is the responsibility of the Director to ensure all contract owners manage Contracts under their control, to ensure the Supplier delivers their contractual commitments, and where required, record the performance of the Supplier in the Corporate e-Sourcing System.
- 20.04. Contract Managers must follow any guidance issued by the Chief Procurement Officer and stated in the Procurement Code of Practice regarding contract and performance management.
- 20.05. Where a Supplier fails to deliver its contractual commitments to the extent it results in a breach of contract, this must be referred to Chief Procurement Officer and considered in accordance with the Procurement Act (where applicable).
- 20.06. Contract performance monitoring must be in accordance with the Procurement Act and any relevant Notices published as required.

21. Application of CSOs to Grants

Approval for Receipt of Grants by the Council from External Bodies

- 21.01. Where the Council receives a Grant from an external body, the process for approving or varying the agreement for the Grant shall be the same as that set out in CSO 2 (i.e. the Director may approve receipt of a Grant valued at less than £500,000. For approval of receipt of Grants valued at £500,000 or more, a Cabinet decision is required).
- 21.02. The Council's requirements in respect of execution of Contracts as deeds (CSO 17.12) 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.

Expenditure of Grant funding

- 21.03. Where a below threshold public Contract is to be funded by a Grant, Officers must seek the advice of the Chief Procurement Officer in respect of requirements to advertise to ensure transparency of the procedure and compliance with funding requirements.
- 21.04. Where an above threshold public Contract is to be funded by a Grant, that Contract should be awarded in accordance with the Regulations or Procurement Act (as applicable) and these CSO's.
- 21.05. Where the conditions of Grant funding agreements and/or applicable guidance documents conflict with these CSOs, the provisions of the Grant/funding agreements

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and/or guidance documents shall prevail.

Approval for Payment of Grants from the Council to External Bodies

- 21.06. Where the Council awards a Grant to an external body, the process for approving or varying the agreement for the Grant shall be the same as that set out in CSO 2.05.1n) and CSO 2.05.1o) (i.e. the Director may approve awards/Variations of Grants valued less than £500,000. For approval of award/Variation of Grants valued at £500,000 or more, a Cabinet decision is required in accordance with CSO 2.01c) or CSO 2.01d).

22. Subsidy Control

- 22.01. The Council will ensure that all projects and procurements comply with the UK Subsidy Control Regime (formerly “State Aid”).