

**Report for:** Standards Committee

**Item number:** 8

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

**Report authorised by :** Taryn Eves, Director of Finance

**Lead Officer:** Barry Phelps, Chief Procurement Officer

**Ward(s) affected:** N/A

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

## **1. Describe the issue under consideration**

- 1.1. The Council's Constitution defines the Council decision making procedures. It is kept under review and when necessary, amendments are proposed to Standards Committee for consideration and recommendation on to full council.
- 1.2. The previous update to Part Four of the Constitution, Section J Contract Standing Orders was in March 2025 and intended to align with the new Procurement Act 2023 (PA23), which came into effect on 24 February 2025 and the centralisation of procurements above £25,000.
- 1.3. The proposed amendments to the Contract Standing Orders (CSO's) are intended to address:
  - 1.3.1. some minor omissions following the revised CSO's introduced in March 2025;
  - 1.3.2. address some audit recommendations;
- 1.4. Additional information on the proposed changes can be found in Appendix 2 – Summary of Proposed CSO Amendments Nov 2025 v1.1.

## **2. Cabinet Member Introduction**

N/A

## **3. Recommendations**

- 3.1. That Standards Committee recommends that the Council adopt the proposed revised Part Four of the Constitution, Section J Contract Standing Orders as attached at Appendix 1 – CSO Nov 2025 v1.1.
- 3.2. The Standards Committee notes the following key amendments:

- 3.2.1. Directors may approve extensions and variations of contracts with an aggregated value of less than £500,000;
- 3.2.2. Letters of Intent are restricted to 50% of the contract value, where the contract value is £100,000 or less.
- 3.2.3. Directors are to record decisions to novate contracts and notify the Chief Procurement Officer of such decisions.

#### **4. Reasons for decision**

- 4.1. The CSO's need updating to incorporate some drafting omissions from the previous version approved by Full Council in March 2025. The main omission being a clerical error to allow Directors not just to award contracts of less than £500,000, but to also be able to vary or extend a contract, where the aggregated value of the award, variation or extension is less than £500,000. This is consistent with Delegated powers afforded to Directors elsewhere in the Constitution.
- 4.2. Currently it is possible for Officers to issue a Letter of Intent up to the full contract value, where the contract value is less than £100,000. Legal services have recommended this are restrictions applied, as a Letter of Intent is not intended to replace a contract, which in effect is possible under the current drafting.
- 4.3. Audit have recommended that the Chief Procurement Officer is advised of all contract novation's, this is to ensure compliance with the Procurement Act 2023 and other relevant legislation.

#### **5. Alternative options considered**

##### **Do Nothing**

- 5.1. Without amending the CSO to state that Directors' are able to vary and extend contracts would conflict with other delegated provisions within the Constitution.
- 5.2. Officers would be able to issue Letters of Intent to cover the entire contract value up to £100,000 without having any contractual arrangements in place. This exposes both parties to risks around the service delivery, liabilities and commercial arrangements.
- 5.3. Novations could potentially be processed without having undertaken relevant compliance checks to ensure the new contractor meets requirements within the relevant legislative frameworks (i.e. Procurement Act 2023 and Public Contract Regulations 2015). If these were found to be in breach of legislation, it exposes the Council to the contract being ineffective and potentially other sanctions applied by the courts or the Procurement Review Unit.

#### **6. Background information**

- 6.1. In March 2025, Full Council approved the current version of Part Four of the Constitution, Section J Contract Standing Orders (CSOs) to comply with the Procurement Act 2023 and the centralisation of procurements above £25,000.
- 6.2. The Chief Procurement Officer has consulted with internal legal colleagues, the Leader of the Council, members of the Corporate Leadership Team and the Constitutional Working Group in developing the proposed amendments to the CSOs.
- 6.3. The current version of the CSOs only provide for Directors to award contracts up to a value of £500,000, there is no provision for Directors to vary or extend contracts. Therefore the additional provisions are required to ensure there is clarity that Directors can also vary and extend contracts up to an aggregated value of £500,000, which is consistent with other delegated powers within the constitution.
- 6.4. The proposed Constitutional amendments have been made to allow flexibility by removing the prohibitive references, allowing for the taking of key decisions by officers in these certain circumstances (i.e. in respect of awarding contracts only), and to add clarity more generally. Amendments have also been necessary to procedure rules to make changes to working practices such as the Forward Plan and the application of call-in to include officer key decisions.
- 6.5. Additional provisions have been included relating to letters of intent. This is to avoid any abuse of this provision (CSO 16.04), which could potentially allow officers to issue a letter of intent up to the value of the contract if it was £100,000 or less. The additional provisions cap the maximum amount permitted under a letter of intent to 50% of the contract value, where the contract is below £100,000.
- 6.6. An Audit in respect of Managing Contracts within Housing in 2025 recommended that CSO's were updated to require documentary evidence of decisions relating to novation of contracts and the Chief Procurement Officer is sent copies of these decisions to ensure compliance with the Procurement Act.

## **7. Contribution to strategic outcomes**

- 7.1. The recommendations in this report enable departments support the Councils Borough Plan and priorities through the commissioning and management of services compliantly, and to deliver best value.

## **8. Carbon and Climate Change**

- 8.1. Not applicable – The Procurement Act 2023 makes provisions for social value and environmental considerations, which is already embedded in our procurement activity

## **9. Statutory Officers comments (Chief Finance Officer (including procurement), Head of Legal & Governance (Monitoring Officer), Equalities)**

### **Finance**

- 9.1. The Director of Finance notes the contents of the report and confirms there are no financial implications directly arising from this report.

## **Procurement**

- 9.2. The Chief Procurement Officer has prepared this report following consultation on the proposed changes to the Constitution with senior officers within the Council, legal services, and members of the Constitutional Working Group.
- 9.3. The Chief Procurement Officer supports the Recommendations proposed in paragraph 3 of this report and confirms where Cabinet delegates decisions in relation to award of contracts, officers are still required to comply with transparency requirements relating to key decisions.

## **Legal**

- 9.4. The Director of Legal and Governance (Monitoring Officer) has been consulted in the preparation of this report.
- 9.5. Under section 135 Local Government Act 1972, local authorities may make standing orders with respect to the making of contracts by them or on their behalf and shall make standing orders with respect to the making by them or on their behalf of contracts for the supply of goods, materials or for the execution of works. Standing orders should include provisions for securing competition in the award of contracts and for regulating the way tenders are invited, as well as be in line with the provisions of relevant public procurement laws and regulations.
- 9.6. Officers are required to adhere to the standing orders when procuring, awarding and managing public contracts. This enables the Council to comply with its statutory duties when spending money, including relevant procurement legislation and the Best Value duty under the Local Government Act 1999.
- 9.7. Pursuant to Part 2, Article 9.03(l) of the Council's Constitution, the Standards Committee has power to consider amendments to the Council's Constitution and recommend proposals to full Council for approval.
- 9.8. The Director of Legal and Governance (Monitoring Officer) sees no legal reasons preventing Standards Committee from approving the recommendations in this report.

## **Equality - N/A**

## **10. Use of Appendices**

- 10.1. Appendix 1 – CSO Nov 2025 v1.1 (clean copy)
- 10.2. Appendix 2 – Summary of Proposed CSO Amendments Nov 2025 v1.1
- 10.3. Appendix 3 – CSO March 2025 vs Nov 2025 v1.1 Comparison

## **11. Local Government (Access to Information) Act 1985 - N/A**