

<b>REPORT TO</b>	<b>DATE OF MEETING</b>
CONSTITUTION TASK GROUP GOVERNANCE COMMITTEE CABINET	24 March 2011 24 March 2011 30 March 2011

Report template revised June 2008



<b>SUBJECT</b>	<b>PORTFOLIO</b>	<b>AUTHOR</b>	<b>ITEM</b>
Review of Standing Orders for Contracts	NOT APPLICABLE	Janet Hinds	5

## SUMMARY AND LINK TO CORPORATE PRIORITIES

The purposes of this report are to:

- Review and update the Council’s Standing Orders for Contracts to ensure they remain relevant, effective and fit for purpose, providing best value, accountability and compliance in the procurement process
- Present members with a revised draft version for consideration and comment

The report links with all of the Council’s corporate priorities, in particular to be an ‘efficient, effective and exceptional Council’.

## RECOMMENDATIONS

1. That Cabinet recommend the Council to adopt the proposed revised draft version of Standing Orders for Contracts (Contract Procedure Rules), subject to any amendments agreed at this meeting
2. That the expenditure threshold which defines a Key Decision be increased from £50,000 to £75,000 in line with the existing Standing Order Tender Threshold
3. That the Monitoring Officer be authorised to update the Constitution to reflect the outcome from the above

## DETAILS AND REASONING

The Council’s Standing Orders for Contracts have been reviewed as part of a wider review of the Constitution, and also as a key task identified in the SRBC/CBC Joint Procurement Strategy. The purpose of the review is:

- To review and update the rules and address any gaps identified
- To ensure a logical flow of instructions with all relevant information included under appropriate paragraph headings
- To incorporate requirements for the new regional e-tendering system “The Chest” which is currently being piloted and implemented by the Shared Procurement Team
- To accommodate and take account of new arrangements and requirements as a result of the Shared Procurement Service and other re-structures
- To standardise and achieve commonality where ever possible across CBC/SRBC rules
- To consider approval processes at both authorities and ensure approval is maintained at an appropriate level but without incurring unnecessary delays in the procurement process
- To take account of internal audit recommendations

In carrying out the review, the Procurement & Partnerships Manager has considered Standing Orders from various other authorities in order to assess alternatives and establish best practice. Additionally, details of the review have been published on Connect, inviting officers across the council to feed in to the process.

A proposed revised draft has been produced, incorporating both officer consultation feedback, and practical issues identified by the procurement team in their experience of operating the rules since the commencement of the Shared Procurement Service. The proposed draft has been discussed and agreed with the Council's Legal Services Manager and has also been discussed at the Senior Officer Corporate Governance Steering Group and the Constitution Task Group.

The same template has also been used and agreed by Chorley Legal Services for a revision of Chorley Council's rules but incorporating Chorley's local procedures. The rationale for adopting a standard template across both authorities is to facilitate easier reading and promote familiarity and better understanding of the rules by officers involved in shared services who have to work within both sets of rules. A common, clear template will also make our processes simpler and more transparent to our suppliers.

The proposed draft includes a number of changes to the current document. Key areas for members' consideration are listed below:

1. The Constitution defines any expenditure incurred above a threshold of £50,000 as a Key Decision and states that such decisions may not be taken unless they have been published in a Forward Plan, thus providing transparency in the decision making process. Key Decisions are not referred to in the current Contract Standing Orders but by this definition are clearly a required step in the procurement process and have therefore been incorporated in to the proposed draft.
2. The £50,000 Key Decision threshold has not been updated for several years and is not consistent with the Council's existing tender threshold of £75,000. It is also low in comparison to the Chorley BC Key Decision threshold of £100,000. It is therefore proposed that the Key Decision threshold be increased to £75,000 in line with the existing Tender threshold.

For information, the council now publishes all procurement spend above £500 in line with the new transparency requirements and has contributed to recent local government consultation documents on the publishing of tenders and contracts. Final guidance has yet to be published, but the consultation documentation suggests that the requirement to advertise tenders and contracts will be in line with the Tender Threshold included in each Council's Standing Orders.

3. Cabinet approval is currently required for contract award decision for all procurements above £75,000. It is proposed in the revised draft that approval may be granted for procurements above £75,000 but below EU threshold (£156,442) by the relevant member of the Senior Management Team in consultation with the appropriate Cabinet Member. All above EU threshold contract award decisions and any which involve any potential transfer of the Council's employees are still proposed to be referred to Executive Cabinet. This proposal aims to remove any unnecessary and disproportionate delays and streamline the process whilst maintaining an appropriate level of accountability and control. To illustrate this example under the current arrangements a 4 year contract at £19,000 per year would require Cabinet approval.
4. Tenders above £75,000 are currently opened by Democratic Services and witnessed by a Council Member. At Chorley tenders are received and opened by the Shared Procurement Team and witnessed by a member of the Procuring department. This provides a quicker and more flexible approach. The new e-tendering system currently being implemented, will

incorporate additional controls in the procurement process, including a full e-audit trail and secure receipt of electronic tenders into a “locked box” which cannot be opened until after the closing date. In view of the increased controls and in order to streamline the process and take full advantage of the Shared Procurement Service, the revised draft version of Standing Orders allows for tenders to be received and opened by the Procurement Manager and witnessed by another officer from the department concerned, once the Chest has been implemented.

5. Standing Orders for Contracts are also commonly called “Contract Procedure Rules”. As the title “Standing Orders” is used for other documents throughout the Constitution, the proposed revised draft version has been called “Contract Procedure Rules” to avoid any potential confusion.

The review includes a number of other changes to address issues and gaps. These include the following:

1. A complete refresh to include a more logical flow of information with all relevant information included under appropriate paragraph headings.
2. Contradictory provisions around the exemption process have been removed and/or clarified.
3. Provision for the receipt of late bids with evidence of posting in good time for receipt by the due deadline in normal circumstances, provided that no bid may be considered if it is received after other bids have been opened.
4. A new section headed “Calculating the Contract Value” to clarify and address common issues around this area.
5. Clarification around when the Project Management framework should be followed.
6. Instructions regarding the issuing of tenders and quotes through the regional e-procurement portal “The Chest” once this has been fully implemented.
7. Clarification of the procedures for variations and extensions and an obligation included to obtain Cabinet or Portfolio Member approval for any extension exceeding £75,000 in value.
8. Clarification around the value and approval process for Joint Procurement arrangements.
9. Removal of the mandatory requirement to use approved framework agreements where they exist, but inclusion of a requirement to investigate whether framework agreements are relevant to individual procurement activities as these may offer better value.

## WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

<b>FINANCIAL</b>	This review has been carried out to ensure that relevant, optimum processes and controls are in place and maintained in order to achieve best value in the procurement process
<b>LEGAL</b>	Fit for purpose Standing Orders will help to ensure that the Council meets its legal obligations in the procurement process
<b>RISK</b>	There is significant risk around compliance and failure to achieve best value, if the Standing Orders for Contracts are not fit for purpose or fully understood and embedded across the Council. This review aims to ensure that Standing Orders are relevant, fit for purpose and follow a logical format for a user friendly approach.

<b>OTHER (see below)</b>			
<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

**BACKGROUND DOCUMENTS**

Standing Orders for Contracts – Current Version  
Proposed Draft Contract Procedure Rules