

**To all Members of the County Council**

An ordinary meeting of the County Council will be held at **10.30 am** on **Friday, 16 February 2024** at **County Hall, Chichester PO19 1RQ**.

**Agenda**

1. **Apologies for Absence**

2. **Members' Interests**

Members are asked to disclose any pecuniary or personal interests in matters appearing on the agenda.

3. **Minutes** (Pages 3 - 24)

The Council is asked to confirm the minutes of the ordinary meeting of the County Council held on 15 December 2023.

4. **Appointments**

To consider any proposed changes to appointments. Any proposals will be circulated and changes will take effect from the end of the meeting.

5. **Address by a Cabinet Member**

At the discretion of the Chairman, to receive an address by a Cabinet Member on a matter of urgency and/or significant interest to the County Council and which relates to the powers and responsibilities of the County Council or which affects the Council.

6. **Regulation, Audit and Accounts Committee: Changes to Standing Orders on Procurement and Contracts** (Pages 25 - 64)

The Council is asked to consider minor changes to Standing Orders on Procurement and Contracts to enable the Council to utilise the processes as set out in the Provider Selection Regime when procuring contracts for health care services, in the light of a report by the Regulation, Audit and Accounts Committee.

7. **Council Plan and Draft Budget 2024/25**

The Council is asked to consider and approve the Council Plan and Budget for 2024/25, the Capital Strategy 2024-29 and the Treasury Management Strategy Statement 2024/25, in the light of a report pack by the Leader and Cabinet Member for Finance and Property which **is enclosed with the agenda and an addendum**

**which will be published and provided before the meeting.**

**Lunch (In the event that morning business is finished before lunch afternoon business will be brought forward.)**

**County Council concludes**

Items not commenced by 4.15 p.m. will be deferred to the following meeting.

Director of Law and Assurance  
7 February 2024

### **Webcasting**

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Generally the public gallery is not filmed. However, 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 for webcasting and/or training purposes.

## West Sussex County Council – Ordinary Meeting

**15 December 2023**

At the Ordinary Meeting of the County Council held at 10.30 am on Friday, 15 December 2023, at County Hall, Chichester PO19 1RQ, the members present being:

Cllr Bradbury (Chairman)

Cllr Wickremaratchi (Vice-Chairman)	Cllr Kenyon
Cllr Albury	Cllr Kerry-Bedell
Cllr Ali	Cllr Lanzer
Cllr Atkins, RD	Cllr Lord
Cllr Baldwin	Cllr Marshall
Cllr Baxter	Cllr McDonald
Cllr Boram	Cllr McGregor
Cllr Britton	Cllr Mercer
Cllr Burgess	Cllr Milne
Cllr Burrett	Cllr Montyn
Cllr Cherry	Cllr Nagel
Cllr Chowdhury	Cllr Oakley
Cllr Condie	Cllr O'Kelly
Cllr Cooper	Cllr Oppler
Cllr Cornell	Cllr Oxlade
Cllr Crow	Cllr Payne
Cllr Dabell	Cllr Pendleton
Cllr J Dennis	Cllr Pudaloff
Cllr N Dennis	Cllr Quinn
Cllr Duncton	Cllr Russell
Cllr Elkins	Cllr Smith
Cllr Gibson	Cllr Sparkes
Cllr Greenway	Cllr Turley
Cllr Hillier	Cllr Urquhart
Cllr Hunt	Cllr Waight
Cllr Johnson	Cllr Wall
Cllr Joy	Cllr Walsh, KStJ, RD
Cllr A Jupp	Cllr Wild
Cllr N Jupp	

### **41 Death of Mr Alan Chaplin**

41.1 The Chairman reported the death of a former member of the County Council, Mr Alan Chaplin, who had represented Chichester South from 2005 to 2009.

41.2 Members held a minute's silence.

### **42 Apologies for Absence**

42.1 Apologies were received from Cllr Bence, Cllr Dunn, Cllr Evans, Cllr Forbes, Cllr Hall, Cllr Linehan, Cllr McKnight, Cllr Mitchell, Cllr Patel, Cllr Richardson and Cllr Sharp.

42.2 Cllr Britton, Cllr Burgess and Cllr Joy arrived at 10.40 am.

42.3 Cllr Markwell was absent.

#### **43 Members' Interests**

43.1 Members declared interests as set out at Appendix 1.

#### **44 Minutes**

44.1 It was agreed that the minutes of the Ordinary Meeting of the County Council held on 13 October 2023 (pages 5 to 24) be approved as a correct record.

#### **45 Appointments**

45.1 The Council approved appointments as set out below.

<b>Committee</b>	<b>Change</b>
Communities, Highways and Environment Scrutiny Committee	Cllr N Jupp in place of Cllr Ali
Planning and Rights of Way Committee	Cllr N Jupp in place of Cllr Ali

#### **46 Governance Committee: Minor revisions to the Constitution**

46.1 The Council considered minor changes to the Constitution in relation to the approval, by the Regulation, Audit and Accounts Committee, of sections of the Constitution and an update to the procedure for the appointment of the Independent Chairman of the Pension Advisory Board, in the light of a report by the Governance Committee (pages 25 to 30).

46.2 Resolved

- (1) That changes to Parts 2 and 3 so that in future amendments to Part 4, Sections 2 to 4 be made by the County Council on the recommendation of the Regulation, Audit and Accounts Committee, be approved; and
- (2) That the change to the process for the appointment of the Independent Chairman of the Pension Advisory Board be approved, as out at Appendix 1.

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**47 Cllr Sarah Sharp**

- 47.1 The Council resolved that, in accordance with Section 85 of the Local Government Act 1972, Cllr Sharp's current circumstances should be approved as a reason for absence.

**48 Report of Urgent Action**

- 48.1 The report of urgent action taken under regulation 11 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (pages 31 and 32) was noted.

**49 Question Time**

- 49.1 Members asked questions of members of the Cabinet on matters relevant to their portfolios, as set out at Appendix 3. This included questions on those matters contained within the Cabinet report (pages 33 to 38) and a supplementary report (supplement page 7) and written questions and answers pursuant to Standing Order 2.38 (set out at Appendix 2).

**50 Motion on Funding**

- 50.1 The following motion was moved by Cllr Lord and seconded by Cllr O'Kelly.

'For 2024/25 and beyond, councils are experiencing budget pressures greater than those experienced at any time before. The Local Government Association (LGA) reports that councils have experienced a 27% real terms cut in core funding central government since 2010. Meanwhile, cost and demand pressures will have added 29% to the cost of delivering council services between 2021/22 and 2024/25.

Cost pressures are particularly acute in adult and children's services for all councils including West Sussex County Council. These include but are not limited to the cost of increasingly complex care alongside the increasing difficulty of finding appropriate provision within the care market, more requests for Special Education Needs (SEND) support than can be processed each month, and continually rising costs in home to school transport. Children's services accounts for £22.8m of WSCC's predicted £26.5m overspend this year.

Despite lobbying of government by the County Councils Network and the LGA and of our MPs by this Council, the Government provided no protection for councils from real terms cuts in the Autumn Statement and there was no increased funding in children's and adults' services.

Alongside other county councils, West Sussex County Council is in the invidious position of having to increase council tax by the

maximum available during a cost of living crisis whilst also having to find savings from the services it offers to residents. Even with this there is currently a predicted shortfall of £4.4 m in the council's budget for 2024/25 with a cumulative budget gap out to 2026/27 of £51.1m and of £91.8m out to 2028/29.

Therefore, this Council calls on the Leader to:

- (1) Call upon our MPs to make the cause of adequate funding for West Sussex County Council their top priority in the final year of this government;
- (2) (Call upon the Government to urgently address the acute financial challenges affecting councils in order to protect the local services our communities rely on;
- (3) Back the County Councils Network calls for emergency funding for children's services this year and next;
- (4) Back the LGA's calls for a long term plan for adequate council funding from government; and
- (5) Write to the Secretary of State and our MPs to lobby for an urgent injection of funding before our budget needs to be set in February 2024 and for the local government financial settlement to guarantee adequately increased funding out to at least 2026/27 to allow for certainty in planning.'

50.2 An amendment was proposed by Cllr Wall which was accepted by the proposer.

'For 2024/25 and beyond, councils are experiencing budget pressures greater than those experienced at any time before. The Local Government Association (LGA) reports that councils have experienced a 27% real terms cut in core funding **from** central government since 2010. Meanwhile, cost and demand pressures will have added 29% to the cost of delivering council services between 2021/22 and 2024/25.

Cost pressures are particularly acute in adult and children's services for all councils including West Sussex County Council. These include but are not limited to the cost of increasingly complex care alongside the increasing difficulty of finding appropriate provision within the care market, more requests for Special Educational Needs (SEND) support than can be processed each month, and continually rising costs in home to school transport. **It is currently projected that** Children's services **will** accounts for £22.8m of WSCC's predicted £26.5m overspend **on portfolio budgets** this year.

***This Council has consistently lobbied the Government for increased funding for all of the services referenced above, especially recognising the need for a considerable increase in***

**the funds needed to provide appropriate levels of services for vulnerable people, alongside adequate funding for those services used by all residents, such as Highways and Library services.**

Despite **In view of the challenges being faced and the continued** lobbying of government by the County Councils Network and the LGA and of our MPs by this Council, **the Council is disappointed that** the Government provided **little or no** protection for **council services** councils from real terms cuts in the Autumn Statement and there was no increased funding in children's and adults' services.

Alongside other county councils, West Sussex County Council **remains** is in the **likely** invidious position of having to **propose an** increase **in** council tax by the maximum available during a **difficult financial time for our residents** cost-of-living-crisis whilst also having to find savings **through efficiencies** from the services it offers to residents. Even with this there is currently a predicted shortfall of £4.4 m in the council's budget for 2024/25 with a cumulative budget gap ~~out~~ to 2026/27 of £51.1m and of £91.8m ~~out~~ to 2028/29.

Therefore, this Council **strongly supports** ~~calls on~~ the **efforts of the Leader and Cabinet** to:

- (1) **Continue to support** ~~Call upon~~ our MPs to make the cause of adequate funding for West Sussex County Council their top priority in the final year of this **Parliament** government;
- (2) **Continue to call** upon the Government to urgently address the acute financial challenges affecting councils in order to protect the local services our communities rely on;
- (3) **Continue to back** the County Councils Network calls for emergency funding for children's services this year and next;
- (4) **Continue to back** the LGA's calls for a long term plan for adequate council funding from government; and
- (5) Write once again to the Secretary of State and our MPs to lobby for an urgent injection of funding before our budget needs to be set in February 2024 and for the local government financial settlement to **set out** guarantee adequately increased funding ~~out~~ to at least 2026/27 to allow for certainty in planning.'

50.3 The amended motion, as set out below, was carried.

'For 2024/25 and beyond, councils are experiencing budget pressures greater than those experienced at any time before. The Local Government Association (LGA) reports that councils have experienced a 27% real terms cut in core funding from central

government since 2010. Meanwhile, cost and demand pressures will have added 29% to the cost of delivering council services between 2021/22 and 2024/25.

Cost pressures are particularly acute in adult and children's services for all councils including West Sussex County Council. These include but are not limited to the cost of increasingly complex care alongside the increasing difficulty of finding appropriate provision within the care market, more requests for Special Educational Needs (SEND) support than can be processed each month, and continually rising costs in home to school transport. It is currently projected that Children's services will account for £22.8m of WSCC's predicted £26.5m overspend on portfolio budgets this year.

This Council has consistently lobbied the Government for increased funding for all of the services referenced above, especially recognising the need for a considerable increase in the funds needed to provide appropriate levels of services for vulnerable people, alongside adequate funding for those services used by all residents, such as Highways and Library services.

In view of the challenges being faced and the continued lobbying of government by the County Councils Network and the LGA and of our MPs by this Council, the Council is disappointed that the Government provided little or no protection for council services in the Autumn Statement and there was no increased funding in children's and adults' services.

Alongside other county councils, West Sussex County Council remains in the likely position of having to propose an increase in council tax by the maximum available during a difficult financial time for our residents whilst also having to find savings through efficiencies from the services it offers to residents. Even with this there is currently a predicted shortfall of £4.4 m in the council's budget for 2024/25 with a cumulative budget gap to 2026/27 of £51.1m and of £91.8m to 2028/29.

Therefore, this Council strongly supports the efforts of the Leader and Cabinet to:

- (1) Continue to support our MPs to make the cause of adequate funding for West Sussex County Council their top priority in the final year of this Parliament;
- (2) Continue to call upon the Government to urgently address the acute financial challenges affecting councils in order to protect the local services our communities rely on;
- (3) Continue to back the County Councils Network calls for emergency funding for children's services this year and next;
- (4) Continue to back the LGA's calls for a long term plan for adequate council funding from government; and



- (5) Write once again to the Secretary of State and our MPs to lobby for an urgent injection of funding before our budget needs to be set in February 2024 and for the local government financial settlement to set out adequately increased funding to at least 2026/27 to allow for certainty in planning.'

## 51 Motion on Food Security

- 51.1 The following motion was moved by Cllr Duncton and seconded by Cllr Ali.

'This Council notes the importance of farming, growers, fisheries and agriculture to the West Sussex economy, and recognises that many West Sussex residents rely on these industries for their livelihoods.

The Council is concerned that initiatives to limit the availability of non-plant based foods, supported by other local authorities, would have a serious detrimental effect on the farming and fishing industries in West Sussex, and would impact on the livelihoods of our residents as a result, as well as limiting choice for those residents who eat meals at Council-run establishments.

The Council therefore resolves to ask the Leader and Cabinet to ensure that all commissioned meals served in West Sussex schools, care homes and other establishments where food is provided for users of our services continue to offer the full range of meat, fish, dairy, vegetarian and vegan options, so as to enable the full range of choice and balanced diets to be available to all those residents who use the Council's services.'

- 51.2 An amendment was proposed by Cllr Lord which was accepted by the proposer.

'This Council notes the importance of farming, growers, fisheries and agriculture to the West Sussex economy, and recognises that many West Sussex residents rely on these industries for their livelihoods.

The Council is concerned that initiatives to limit the availability of non-plant based foods, supported by **some** other local authorities, **could** ~~would~~ have a serious detrimental effect on **some parts of** the farming and fishing industries in West Sussex, and **may** ~~would~~ impact on the livelihoods of **some of** our residents as a result, as well as **potentially** limiting choice for ~~these~~ **some** residents who eat meals at Council-run establishments.

The Council therefore resolves to ask the Leader and Cabinet to ensure that all commissioned meals served in West Sussex schools, care homes and other establishments where food is provided for users of our services continue to offer the full range of meat, fish,

dairy, vegetarian and vegan options, ***preferably using West Sussex produce***, so as to enable the full range of choice and balanced diets to be available to all those residents who use the Council's services.'

51.3 The amended motion, as set out below, was carried.

'This Council notes the importance of farming, growers, fisheries and agriculture to the West Sussex economy, and recognises that many West Sussex residents rely on these industries for their livelihoods.

The Council is concerned that initiatives to limit the availability of non-plant based foods, supported by some local authorities, could have a detrimental effect on some parts of the farming and fishing industries in West Sussex, and may impact on the livelihoods of some of our residents as a result, as well as potentially limiting choice for some residents who eat meals at Council-run establishments.

The Council therefore resolves to ask the Leader and Cabinet to ensure that all commissioned meals served in West Sussex schools, care homes and other establishments where food is provided for users of our services continue to offer the full range of meat, fish, dairy, vegetarian and vegan options, preferably using West Sussex produce, so as to enable the full range of choice and balanced diets to be available to all those residents who use the Council's services.'

Chairman

The Council rose at 3.23 pm

## Interests

Members declared interests as set out below. All the interests listed below were personal but not pecuniary or prejudicial unless indicated.

<b>Item</b>	<b>Member</b>	<b>Nature of Interest</b>
Chairman's introduction	Cllr Bradbury	Chairman of Building Heroes Education Foundation
6 – Governance Committee: Minor Revisions to the Constitution (Pension Advisory Board)	Cllr Burrett	Deferred member of the Local Government Pension Scheme
6 – Governance Committee: Minor Revisions to the Constitution (Pension Advisory Board)	Cllr Lanzer	Deferred member of the Local Government Pension Scheme
9 – Question Time	Cllr Ali	Member of Crawley Borough Council
9 – Question Time	Cllr Atkins	Member of Worthing Borough Council
9 – Question Time	Cllr Baxter	Member of Worthing Borough Council
9 – Question Time	Cllr Condie	Member of Burgess Hill Town Council
9 – Question Time	Cllr Cooper	Member of Arun District Council
9 – Question Time, Written Questions	Cllr Cornell	Governor at Manor Green College, Crawley
9 – Question Time	Cllr Gibson	Member of Mid Sussex District Council
9 – Question Time	Cllr Greenway	Member of Arun District Council
9 – Question Time	Cllr Mercer	Chair of Orchard Hill College Academy Trust and Member of Horsham District Council
9 – Question Time	Cllr Milne	Cabinet Member for Planning and Infrastructure at Horsham District Council
9 – Question Time	Cllr Montyn	Member of Chichester Harbour Conservancy

<b>Item</b>	<b>Member</b>	<b>Nature of Interest</b>
10(a) – Notice of Motion on Funding	Cllr Atkins	Member of Chartered Institute of Fundraising
10(a) – Notice of Motion on Funding	Cllr Turley	Member of Worthing Borough Council
10(b) – Notice of Motion on Food Security	Cllr Ali	Member of Crawley Borough Council
10(b) – Notice of Motion on Food Security	Cllr Atkins	Member of Trussell Trust UK Foodbanks
10(b) – Notice of Motion on Food Security	Cllr Duncton	Family are farmers
10(b) – Notice of Motion on Food Security	Cllr Turley	Member of Worthing Borough Council

**Written Questions: 15 December 2023**

1. Written question from **Cllr Cornell** for reply by **Cabinet Member for Children and Young People, Education and Skills**

**Question**

Given the rise in complexity and demand for Special Educational Needs and Disability (SEND) places for children in West Sussex (and nationally) and the current clear struggle to meet demand, can the Cabinet Member tell us:

- (a) How many SEND student places have been created each year in Local Authority Special Schools across West Sussex since 2018?
- (b) How many Education Health and Care Plans (EHCPs) have been awarded each year since 2018?
- (c) How closely have the former tracked the latter?

**Answer**

- (a) Special School Places 2018/19 to 2023/24:

School	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	
Cornfield	62	62	62	64	64	72	
Fordwater	121	130	130	136	136	144	
Hérons Dale Primary	99	99	125	131	130	130	
Littlegreen	75	75	75	80	80	81	
Brantridge	0	0	36	40	44	48	
Manor Green College	208	210	216	210	210	212	
Manor Green Primary	185	200	208	210	210	220	
Oak Grove College	260	256	256	263	264	274	
Palatine Primary	136	136	151	158	175	175	
QEII	100	105	105	110	120	120	
St Anthony's	206	213	213	222	225	235	
Woodlands Meed	268	259	259	259	259	259	
	<b>1720</b>	<b>1745</b>	<b>1836</b>	<b>1883</b>	<b>1917</b>	<b>1970</b>	
<b>Additional Places</b>		<b>25</b>	<b>91</b>	<b>47</b>	<b>34</b>	<b>53</b>	<b>Total 250</b>

- (b) Data taken from [Education, health and care plans, Reporting year 2023 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.explore-education-statistics.service.gov.uk)

Number of New Plans issued in West Sussex 2018 to 2022 (January to December of each year):

<b>Year</b>	<b>Number</b>
2018	615
2019	764
2020	649
2021	678
2022	695

- (c) There have been an additional 250 places created in our special school and an increase in the number of new plans issued each year from 615 in 2018 to 695 in 2022.

We are aware of an increasing demand for special school places over this period of time.

2. Written question from **Cllr Smith** for reply by **Cabinet Member for Children and Young People, Education and Skills**

### **Question**

Adur families applying for Year 7 places in September 2024 will undoubtedly welcome the announcement of 70 more places being made available at the Sir Robert Woodard Academy. However, as this is due to the current large Year 11 cohort leaving the school rather than West Sussex proactively increasing local provision in the area, could you please advise the following:

- (a) Based on the numbers of pupil places available (PAN) in the 2024 intake cohort, how many children will be offered a place at their first, second or third preferences next September in the two Adur High Schools, Sir Robert Woodard Academy and Shoreham Academy?
- (b) How many children will need to be placed at a school outside of Adur?
- (c) How are places now being actively planned for Year 7 applications for 2025 and beyond to avoid a repeat of 2023 allocations issues?

### **Answer**

- (a) The Admission Number for September 2024 entry to Shoreham Academy is 300 and 310 at Sir Robert Woodard Academy and we expect places to be offered up to those numbers. The information on how many children will be offered a place at their first, second or third preference school will not be available until all the places have been offered and decisions conveyed to parents on 1 March 2024.
- (b) We will not have that information until all the places have been offered and decisions conveyed to parents on 1 March 2024.
- (c) As both Shoreham Academy and Sir Robert Woodard Academy are their own admissions authority it is for them to confirm how many places they will offer. The County Council will continue to discuss the opportunity for both schools to

offer in excess of the Published Admission Numbers of 300 and 240 respectively for Year 7 in 2025 and beyond.

**3. Written question from Cllr Gibson for reply by Cabinet Member for Environment and Climate Change**

**Question**

Could the Cabinet Member please advise:

- (a) What evidence supports the proposed introduction of a booking system at the Billingshurst, Burgess Hill, East Grinstead, Midhurst, and Westhampnett Recycling Centres?
- (b) For each centre, in the last 12 months:
  - (i) How many residents using the centre have requested the introduction of a booking system?
  - (ii) How many users have been turned away due to exceeding the maximum number of visits allowed?
- (c) For recycling centres operating the booking system, what percentage of users reached the maximum number of visits allowed in the last 12 months?
- (d) Based on the latest 12 month figures, what are the recycling rates for recycling centres with and without booking systems?
- (e) How has the anticipated saving of £200,000 been calculated?
- (f) What is the expected cost of handling the increased number of telephone bookings?
- (g) What processes and agreements have been put in place to allow non-West Sussex residents to continue to use the East Grinstead centre?

**Answer**

The County Council does not hold information on the number of residents using the centres that have requested the introduction of a booking system nor on the number of users that have been turned away due to exceeding the maximum number of visits allowed. Similarly, the percentage of users that reached the maximum number of visits allowed in the last 12 months is unknown.

The booking system limits bookings to no more than five per month (but does not report on the number of attempted exceedances). Visits to Recycling Centres that do not have a booking system are currently unrestricted.

A breakdown of the recycling rate achieved for each Recycling Centre has been provided at the end of this answer.

Waste has reduced by just under 3% at Recycling Centres with booking requirements. The same level of waste reduction has been used to estimate the saving that would result from the introduction of booking at the remaining sites.

Agenda Item 3  
Appendix 2

There is not expected to be an increase in costs from the handling of telephone bookings. Over 98% of residents book online, so the increase in calls should be managed within existing resources.

Surrey County Council has an agreement with West Sussex to allow for residents living in certain Surrey postcodes (RH7 6, RH10 3, RH19 2, RH19 3, TN8 7, TN8 5 and TN8 6) access to the East Grinstead site. Residents in these postcodes will still be allowed access and can make a booking via the booking system.



## Breakdown of the recycling rate achieved for each Recycling Centre

### Including Green Waste 2022/23

With Green	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	
Billingshurst	68.50%	74.87%	73.43%	76.58%	73.55%	74.09%	74.96%	74.08%	70.15%	70.41%	70.91%	73.63%	72.93%
Bognor Regis	77.14%	78.23%	82.49%	74.31%	77.60%	76.83%	73.78%	73.54%	72.77%	68.98%	75.20%	75.52%	75.53%
Burgess Hill	79.97%	80.32%	78.34%	80.19%	76.17%	76.84%	80.33%	72.78%	76.51%	70.24%	73.14%	71.71%	76.38%
Crawley	74.16%	74.14%	81.15%	80.03%	74.98%	74.70%	79.37%	81.72%	65.81%	72.01%	71.72%	72.45%	75.19%
East Grin'd	84.56%	82.33%	84.88%	85.10%	79.09%	84.00%	83.64%	82.38%	76.40%	74.34%	79.42%	79.82%	81.33%
Horsham	72.62%	73.45%	77.28%	70.51%	70.90%	77.74%	76.94%	76.15%	61.77%	69.55%	70.68%	73.56%	72.60%
Littlehampton	74.87%	79.88%	82.10%	78.37%	79.52%	79.90%	79.53%	76.18%	70.54%	70.16%	76.73%	78.01%	77.15%
Midhurst	69.57%	70.56%	77.40%	70.03%	72.02%	73.11%	71.88%	75.31%	65.99%	67.27%	72.05%	72.20%	71.45%
Shoreham	58.90%*	78.11%	81.69%	78.88%	76.80%	75.27%	78.10%	75.35%	66.29%	70.45%	78.68%	72.56%	74.26%
Chichester	80.22%	82.95%	82.78%	83.15%	80.65%	81.10%	83.59%	78.22%	80.34%	73.97%	78.29%	80.19%	80.45%
Worthing	54.75%*	73.78%	73.68%	72.56%	71.85%	71.21%	72.59%	68.77%	61.47%	60.42%	71.59%	68.98%	68.47%

### Excluding Green Waste 2022/23

Excluding Green	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	
Billingshurst	62.32%	68.12%	73.43%	76.58%	73.55%	74.09%	74.96%	74.08%	70.15%	68.44%	64.20%	69.39%	70.78%
Bognor Regis	71.25%	71.27%	82.49%	74.31%	77.60%	76.83%	73.78%	73.54%	72.77%	68.98%	75.20%	72.81%	74.23%
Burgess Hill	80.10%	76.66%	78.34%	80.19%	76.17%	76.84%	80.33%	72.78%	76.51%	67.19%	69.03%	70.26%	75.37%
Crawley	70.39%	72.42%	81.15%	80.03%	74.98%	74.70%	79.37%	81.72%	65.81%	72.01%	68.81%	70.17%	74.30%
East Grin'd	79.95%	77.57%	86.71%	86.69%	80.82%	85.60%	85.55%	85.19%	79.28%	72.05%	75.96%	79.32%	81.22%
Horsham	70.19%	70.13%	77.28%	70.51%	70.90%	77.74%	76.94%	76.15%	61.77%	69.55%	70.68%	72.11%	71.99%
Littlehampton	69.53%	73.66%	82.10%	78.37%	79.52%	79.90%	79.53%	76.18%	70.54%	70.16%	72.39%	74.74%	75.55%
Midhurst	60.11%	58.27%	77.40%	70.03%	72.02%	73.11%	71.88%	75.31%	65.99%	67.27%	62.67%	66.06%	68.34%
Shoreham	51.74%*	74.36%	81.69%	78.88%	76.80%	75.27%	78.10%	75.35%	66.29%	70.45%	75.30%	70.28%	72.87%
Chichester	83.67%	85.95%	87.90%	87.84%	87.32%	83.85%	87.27%	82.62%	90.77%	81.11%	78.75%	81.37%	84.87%
Worthing	47.42%*	67.76%	73.68%	72.56%	71.85%	71.21%	72.59%	68.77%	61.47%	60.42%	68.88%	65.73%	66.86%

\* Adur and Worthing strike

**4. Written question from Cllr Kerry-Bedell for reply by Cabinet Member for Environment and Climate Change**

**Question**

The Energy Act 2023 has finally been enacted and promotes: (a) a net zero objective; (b) a security of supply objective; (c) an efficiency and economy objective. This Act allows for the development of local hydrogen generation and power as an alternative to hydrocarbon based fuels and electric power. The completion of Rampion 2 will create over 1GW of offshore wind power, but could also allow the county to develop an alternative future hydrogen fuel supply source that is less reliant on fossil fuels and is less constrained by the know limitation of the electricity power grid network.

Will the County embrace the opportunity to request the Government to look at all options to build a hydrogen plant offshore of the West Sussex coast where the Rampion 2 power line comes ashore?

**Answer**

Although the Act may allow for the development by third parties of hydrogen production and related initiatives, the Government itself is not looking at developing such schemes. Therefore, there is no reason to "request Government to look at all options to build a hydrogen plant offshore of the West Sussex coast".

Rampion 2, the extension to the existing Rampion Offshore Wind Farm, is a private development being taken forwarded for consent under the statutory Development Consent Order (DCO) process. The County Council is only a statutory consultee in the DCO process and is not the decision maker with regards to the development of the scheme. As with any planning application, the County Council cannot insist the applicant builds a substation at their cost where the cable comes ashore to facilitate a possible hydrogen plant, notwithstanding the fact that this area is at risk of flooding.

The County Council does not have the resources, capacity, or capability to develop commercial hydrogen projects and as such is supporting [Shoreham Harbour's aspirations](#) in this area.

**5. Written question from Cllr Kerry-Bedell for reply by Cabinet Member for Environment and Climate Change**

**Question**

A Liberal Democrat motion on setting up a water quality group was proposed in October. The Chairman of the County Council declined to include it on the agenda for debate, stating that it is already setting up a similarly focused Water Summit. Despite this Summit being announced to in the members' Bulletin on 11 October there have been no further details forthcoming. The questions are:

- (a) When will the first Water Summit be held?
- (b) Will members of all parties be invited to attend?
- (c) Will the Water Summit cover all seven of the key elements of water quality, supply and impact?

- Water supply and management
- Water neutrality
- Nitrate neutrality
- Sewage capacity
- Storm sewage overflows
- Flooding driven by climate change

### **Answer**

- (a) Positive discussions have taken place with the Environment Agency (EA) about holding the first Water Summit in the first quarter of 2024 (given the EA's need to prioritise operational matters at this time). The County Council is also in contact with Water Resource South East (comprising the six water companies in the region) and has yet to receive a response from Southern Water.
- (b) The intention is that the Water Summit provides a forum for high-level dialogue between senior members/representatives of each organisation. Therefore, it is proposed that the Leader and Deputy Leader/Cabinet Member for Environment and Climate Change attend on the County Council's behalf and a Leader and Chief Executive of one of the coastal district/borough councils will be invited to attend.
- (c) The proposal is that the Summit builds on the spirit of co-operation demonstrated at the Member Development Session in September 2023 and seeks to develop agreed actions for each organisation and embed a shared understanding of who is doing what, under the three themes in the Department for the Environment, Food and Rural Affairs' 'Our integrated plan for delivering clean and plentiful water':
- Transforming management of the whole water system: to address flood risk and related matters, such as land-use planning and nature recovery.
  - Deliver a clean water environment for nature and people: to address water quality, pollution prevention, storm overflows and nutrient neutrality.
  - Secure a plentiful supply of water: to address resilience to drought, managing demand and disruption, improving efficiency, reducing leakage and water neutrality.

### **6. Written question from **CLlr Wild** for reply by **Cabinet Member for Environment and Climate Change****

#### **Question**

#### **Flooding in Bognor Regis**

In 2014, the Aldingbourne Rife reached a record height of 1.14 metres. But on 3 November 2023 it reached a new record of 1.69 metres. The Environment Agency tell me that the Aldingbourne Rife pumps supplement the natural outflow of water at low tide, and over the past weeks the capacity for the catchment to drain via the gravity outfall has been reduced due to high neap tides.

Given the latest evidence shows an underestimate of future sea level rises, can the County Council, as the flood authority, influence and persuade Arun District Council as

to the severity of the flood risks within the Aldingbourne Rife flood plain, given there is an application for 480 houses on the Bognor golf course, and the Arun local plan has made provision for north/south road next to the Aldingbourne Rife and light industrial units on land adjacent to the former Lec Airfield?

**Answer**

The County Council, as Lead Local Flood Authority, is only a statutory consultee for major planning applications in relation to potential flood risk to new development from surface water and groundwater.

The Environment Agency (EA) is responsible for flood risk from rivers, which includes the Aldingbourne Rife. The EA is a statutory consultee for development in Flood Zones 2 and 3, which (respectively) have medium and high probabilities of flooding from rivers and the sea.

Bognor Golf Course and adjoining land is within Flood Zone 3. Therefore, the planning application should be accompanied by a Flood Risk Assessment (FRA), which should include an assessment of all sources of flooding (including from the Rife) and take account of climate change allowances.

The EA's consultation response should address the veracity of the submitted FRA, including whether it has taken full account of the impacts of climate change on the Rife and on sea levels.

With regard to potential risks to new development from flooding, Arun District Council, as the Local Planning Authority, has a duty to take account of all material considerations, which includes consultation responses from statutory consultees.

**7. Written question from Cllr Wild for reply by Cabinet Member for Highways and Transport**

**Question**

I have received a massive number of complaints regarding flooding on the roads in various areas of Felpham, and probably other councillors have as well in their areas. This flooding always seems to exist in the same areas and I would like to know:

- (a) What historical records you keep of continual flooding?
- (b) Why, because of this history, haven't the problems been solved over time?

**Answer**

- (a) All reported highway flooding is recorded, so flooding hot spots can be identified and this informs the drainage maintenance programme.
- (b) The Council, as Local Highway Authority (LHA), ensures that highway drainage infrastructure is well-maintained and effective. However, there will always be occasions when factors outside the LHA's control result in highway flooding. When this happens, officers ensure locations are safe by erecting flood signs, implementing traffic management, or (as a last resort) closing the road.

Regarding Felpham, the Bognor area received significantly higher rainfall in October; 274mm compared to the average of 62mm.

Most highway water runs into surrounding watercourses and, in many cases, directly into the sea. The recent heavy rainfall quickly overwhelmed local watercourses even where they are well-maintained. In this case, water can no longer drain away, and it floods the highway.

Furthermore, outlets into the sea are protected with tidal flaps that close when the tide is in (to prevent tidal water travelling the wrong way). When the flaps are closed and there is very heavy rainfall, the system fills with water resulting in highway flooding until the tide recedes, and the flaps open.

In addition, we have seen the impacts of main river flooding (the Aldingbourne Rife), which is the responsibility of the Environment Agency. Many highway drains outlet into the Rife; this is not possible when in flood and leads to flooding on the highway. The direct impact of the Rife bursting its banks was flooding on the highway and adjacent property, including the Council's offices at Durban House.

The County Council, as Lead Local Flood Authority, will continue to work with key partners, including the Environment Agency, district and borough councils and water companies to understand the causes of flooding and to identify potential solutions. The review of the Local Flood Risk Management Strategy will set out a plan to address flood risk in the county over the longer-term, as well as identifying specific actions to be delivered in the short-term by the responsible bodies.

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### **Question Time: 15 December 2023**

Members asked questions of members of the Cabinet. In instances where a Cabinet Member or the Leader undertook to take follow-up action, this is noted.

#### **Leader**

The Leader answered questions on the following matters:

Publication of responses from the Government to letters sent as a result of motions agreed at full Council, from Cllr Oxlade.

In response to a request for the responses to be made publicly available via the website, the Leader said he would arrange for that to be done.

Visitor economy, from Cllr N Dennis, Cllr Lord and Cllr Payne.

Water Summit, from Cllr Kerry-Bedell, Cllr Montyn and Cllr Walsh.

#### **Cabinet Member for Adults Services**

The Cabinet Member answered questions on the following matters:

Social care workers from overseas, from Cllr O'Kelly.

Temporary closure of Zachery Merton Hospital, Rustington, from Cllr Cooper and Cllr Walsh.

In response to a question from Cllr Cooper the Cabinet Member agreed to let her know when further information is available.

#### **Cabinet Member for Children and Young People, Learning and Skills**

The Cabinet Member answered questions on the following matters:

Schools in Burgess Hill, from Cllr Cherry, Cllr Condie and Cllr Lord.

Insourcing of Child and Adolescent Multi-Disciplinary Service, from Cllr Burgess and Cllr Mercer.

Sir Robert Woodard Academy additional places, from Cllr Boram and Cllr McGregor.

#### **Cabinet Member for Community Support, Fire and Rescue**

The Cabinet Member answered questions on the following matters:

Community Hub, from Cllr Greenway and Cllr Johnson.

Trading Standards and Public Health initiative to combat the sale of illegal vapes and tobacco products, from Cllr Ali, Cllr Britton, Cllr Greenway and Cllr Lord.

In response to a comment from Cllr Ali that the Trading Standards online reporting tool is not very user friendly, the Cabinet Member agreed to have a look at the tool and provide feedback.

Household Support Fund, from Cllr Baxter.

### **Cabinet Member for Environment and Climate Change**

The Cabinet Member answered questions on the following matters:

Flooding, from Cllr Greenway.

Motion for the ocean, from Cllr Condie, Cllr Kerry-Bedell and Cllr Lord.

### **Cabinet Member for Finance and Property**

The Cabinet Member answered questions on Durban House and the impact of flooding, from Cllr Oppler.

### **Cabinet Member for Highways and Transport**

The Cabinet Member answered questions on the following matters:

Flooding, from Cllr Greenway.

Bus Service Improvement Programme, from Cllr Ali, Cllr Duncton, Cllr Kerry-Bedell and Cllr Oakley.

### **Cabinet Member for Public Health and Wellbeing**

The Cabinet Member answered questions the government consultation on a smokefree generation, from Cllr Ali and Cllr Lord

In response to a request from Cllr Ali the Cabinet Member agreed to circulate to all members a summary of the Council's consultation response.

### **Cabinet Member for Support Services and Economic Development**

The Cabinet Member answered questions about the Smartcore programme, from Cllr Kerry-Bedell and Cllr Sparkes.



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## Regulation, Audit and Accounts Committee: Standing Order amendments – Provider Selection Regime

### Background and context

- 1 The Council enters into many contracts for health care services each year, largely in the areas where services for adults and young people overlap with those of Health and in Public Health. The procedures for ensuring these are entered into properly are the Council's Standing Orders on Procurement and Contracts.
- 2 On 1 January 2024, the Provider Selection Regime (PSR) came into force. The PSR is a new set of rules for procuring health care services in England by organisations including local authorities. The PSR has been designed to:
  - introduce a flexible and proportionate process for selecting providers;
  - provide a framework that encourages collaboration across systems; and
  - ensure decisions are made in the best interest of patients and service users.
- 3 This means that the Council will no longer have to procure health care services in accordance with the Public Contracts Regulations. The relevant legislation is the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR) and it applies to the commissioning of NHS and public health services provided to individuals in England as part of the health service.
- 4 The regime must be applied when contracts for health care services (whether procured directly by the Council or jointly with the NHS) are coming to an end, changing considerably, or being awarded for the first time.
- 5 The PSR provides three provider selection processes that councils can follow:
  - (a) **Direct award (A, B, and C):** These involve awarding contracts to providers when there is limited or no reason to seek to change from the existing provider or to assess providers against one another, because:
    - i. The existing provider is the only provider that can deliver the services (process A);
    - ii. patients have a choice of provider and the number of providers is not restricted by the relevant authority (process B); or
    - iii. the existing provider is satisfying its existing contract, will likely satisfy the new contract to a sufficient standard, and the proposed contracting arrangements are not changing considerably (process C).
  - (b) **Most suitable provider:** This involves awarding a contract to providers without running a competitive process, because the relevant authority can identify the most suitable provider without a competitive process.
  - (c) **Competitive:** This involves running a competitive process to award a contract in accordance with the Council's standard procurement routes and in compliance with the Public Contracts Regulations 2015.
- 6 The Council will need to evidence the decision-making, including record keeping and the publication of transparency notices.

- 7** Procurements for all other services shall continue to be procured in the usual way i.e. in accordance with current Standing Orders and the PCR 2015.

### **Proposal details**

- 8** Standing Orders need to be updated to reflect the Health Care Services (Provider Selection Regime) Regulations 2023. The proposed amendments **are set out at Appendix 1** and have been endorsed by the Committee. These have been slightly updated since the Committee's approval to take account of some drafting errors in the version presented to the Committee.
- 9** It is also proposed that further changes, as advised by the Director of Law and Assurance, be made to those parts of the Standing Orders on Contracts and Procurement which require amendment to deal with internal changes to Council governance and officer roles. Those are also shown in Appendix 1.
- 10** To ensure that Council officers are awarding contracts in accordance with the new legislation, the Procurement Support Team and the Commercial Legal Team will provide support on the decision routes taken, the internal governance required and to ensure the Council is complying with the transparency obligations.

### **Recommended**

That the proposed changes to Standing Orders on Procurement and Contracts, as set out at Appendix 1, be approved to enable the Council to utilise the processes as set out in the PSR when procuring contracts for health care services and to ensure they are up to date in relation to Council governance.

### **Stuart Condie**

Chairman, Regulation, Audit and Accounts Committee

**Contact Officer:** Tony Kershaw, Director of Law and Assurance,  
tony.kershaw@westsussex.gov.uk

### **Appendices**

- Appendix 1 – Proposed amendments to Standing Orders on Procurement and Contracts in relation to the Provider Selection Regime

### **Background papers**

None

## **Changes to Standing Orders on Procurement and Contracts**

(changes shown in bold, italic text with deletions struck through)

### **Section 1: Authority to Contract and Responsibilities of Key Officers**

#### **1. Scope of Standing Orders**

- 1.1 These Standing Orders apply to all spend with external suppliers regardless of the source of funding (for example, revenue, capital, grants, ring-fenced government money and/or any third party funding). They apply to contracts let by the Council on its own behalf and when it is acting as a purchasing authority on behalf of others.
- 1.2 The purpose of these Standing Orders ~~and the supporting Guide to Standing Orders~~ is to set out and explain the Council's minimum requirements when contracting for goods, services and works. They are designed to:
- (a) make sure we spend public money **legally** and avoid undue criticism or allegation of wrongdoing;
  - (b) secure Value for Money;
  - (c) generate market competition (***where applicable***) through transparent, fair and consistent ways of working; and
  - (d) support supplier diversity, sustainability objectives, and equality of treatment.
- 1.3 *These Standing Orders also set out and explain that, when procuring health care services, the Council must act with a view to:***
- (a) securing the needs of the people who use the services;***
  - (b) improving the quality of the services;***
  - (c) improving efficiency in the provision of the services; and***
  - (d) acting transparently, fairly and proportionately.***
- ~~1.4~~ **1.3** These Standing Orders do not apply to the following instances, which are managed by separate policies and guidelines:
- (a) contracts for the acquisition or lease of land and/or real estate;
  - (b) contracts for permanent or fixed term employment (but note rules on consultants' contracts);
  - (c) works or orders placed with utility companies (for example, re-routing gas pipe work);
  - (d) services to be delivered by a local authority's in-house service;
  - (e) grants, however, contracts must not be artificially described as a grant to avoid the application of these Standing Orders or the PCR 2015;

- (f) placement of a child with Special Educational, Health or Social Care Needs where already directed following statutory assessment (Education and Health Care Plan) or where such assessment has identified the placement as the only provision reasonably capable of meeting the child's needs (relevant law/policy: s.37 Children and Families Act 2014 and ESFA guidance 2019-20 para 86). This includes services or interventions specifically named in an ECHP. Director approval is required for placements/services that fall under this exemption **unless the placement/services are valued at over £500,000, in which case a Key Decision will be required;**
- (g) direct payments to customers following care assessment, for example, payments provided under Self Directed Support, individual budgets, **direct payments or individual service funds;** and
- (h) non-trade payments to third parties, such as insurance claims, pension payments, statutory payments to public bodies.

**1.51.4** Where the proposed contract falls within the Public Contracts Regulations 2015 (PCR 2015), ~~or~~ Concession Contracts Regulations 2016 (CCR 2016), **or Health Care Services (Provider Selection Regime) Regulations 2023 (PSR 2023) the relevant** these regulations **shall be complied with** apply in addition to these Standing Orders. ~~In the event of a conflict, the PCR 2015 or CCR 2016 (as applicable) take precedence.~~

**1.61.5** The award of a grant is not subject to these Standing Orders. Officers must follow all internal guidance for grant making and take into account legal requirements concerning **Subsidy Control State Aid**. Any grant agreement must be in a form approved by Legal Services. Award decisions must be in accordance with the Scheme of Delegation.

## **2. Principles of procurement contracting**

2.1 The Council and its officers must adhere to the following principles in carrying out all procurement activity:

- (a) procurement procedures shall be fair, transparent, and properly planned;
- (b) all bidders and prospective bidders shall be treated equally;
- (c) the objective of all procurement shall be to achieve Value for Money;
- (d) officers shall seek and comply with any advice from Legal Services and Procurement and Contract Services; and
- (e) officers shall keep appropriate records of all decisions taken and communications between the Council and bidders or prospective bidders.

2.2 It is a disciplinary offence to fail to adhere to these Standing Orders.

## **3. Authority to contract**

3.1 All directors and assistant directors are responsible for ensuring these Standing Orders are applied and understood across their directorates.

- 3.2 Directors and assistant directors must not commence or permit the commencement of a procurement process (including any variation or extension to a contract) without specific delegated authority to act under the Scheme of Delegation, or from the relevant cabinet member, through a published decision or other authorised decision in accordance with the Council's Constitution.

#### 4. Key responsibilities

- 4.1 Directors and/or assistant directors (as applicable under the Scheme of Delegation) shall:
- (a) be responsible and provide strategic direction for all procurement undertaken in their directorate;
  - (b) ensure all procurement and delegated decision-making adheres to the Scheme of Delegation;
  - (c) obtain cabinet member approval where required to do so by the Council's Scheme of Delegation before undertaking any procurement activity;
  - (d) comply with the Financial Regulations, especially with regard to the adoption of vendors and creation of a valid purchase order;
  - (e) engage with Procurement and Contract Services and Legal Services (Commercial Legal Team) and ensure they are both notified and instructed, in advance, for all proposed contracts with an estimated value of **£25,000** ~~£100,000~~ or more (including any variations to the contract terms and conditions and/or price of existing contracts where the original contract and/or the proposed variation itself has a value of **£25,000** ~~£100,000~~ or more);
  - (f) comply with the Public Contracts Regulations 2015, ~~or~~ Concession Contracts Regulations 2016 **or Health Care Services (Provider Selection Regime) Regulations 2023** (as applicable) and these Standing Orders for all procurement and contract activity undertaken by their directorate;
  - (g) nominate appropriately skilled and qualified Responsible Officers to undertake procurement activity;
  - (h) ensure all sourcing decisions represent Value for Money and are within approved budgetary limits;
  - (i) ensure Responsible Officers engage with Procurement and Contracts Services before procuring any contract with a value of **£25,000** or more in order for Procurement and Contracts Services to provide advice on the most appropriate sourcing route where required;
  - (j) provide for appropriate and effective contract and supplier relationship management for all contracts under their responsibility; and
  - (k) ensure sufficient funds are available for relevant procurement and contracting activity and allocate appropriate funds in their budget.

4.2 **Responsible Officers** shall:

- (a) manage the procurement process in compliance with these Standing Orders, the PCR 2015, ~~or the CCR 2016~~ **or the PSR 2023** (as applicable) and the Council's internal systems, policies and processes for commissioning and procurement, including any **electronic tendering systems or contract management processes** ~~sourcing processes~~ as advised by and available from Procurement and Contracts Services. **If the Responsible Officer wishes to use a method other than the advised process, approval should be obtained from the Director of Law and Assurance and the Director of Finance and Support Services;**
- (b) follow internal governance processes, including engagement with legal financial and procurement advisers as required and advised by Procurement and Contracts Services or as described in these Standing Orders;
- (c) ensure they have adequate information to support and justify all commissioning and procurement activity **and that this information is saved in a shared electronic folder;**
- (d) seek appropriate advice and support from their director and/or assistant director and Procurement and Contract Services, Financial Services and Legal Services and shall engage with these departments in respect of all contracts with a value of £100,000 or more prior to commencement of any procurement activity;
- (e) conduct all tendering activity in a fair, transparent and non-discriminatory manner;
- (f) devise a procurement plan that is efficient and suitable for the purchase and the market concerned, considering any other relevant sourcing options, such as the use of existing contracts and frameworks, taking into account any advice from Procurement and Contracts Services and Legal Services as necessary;
- (g) plan an appropriate and proportionate timetable for any procurement exercise in consultation with Procurement and Contracts Services and Legal Services, where the proposed contract has an estimated value of £100,000 or more, further guidance on timescales can be found in the Guide to Standing Orders;
- (h) ensure the award criteria for any procurement exercise adheres to the Council's internal guidance or is within the award criteria ranges set out in the Council's standard invitation to tender/request for quote template (available from Procurement and Contracts Services) and any deviations to this must be approved in advance by the Head of Procurement and Contracts Services in consultation with Legal Services and Finance as necessary;
- (i) maintain a full record and audit trail of all procurement activity (the 'Procurement File'), including decisions made and communications with suppliers; ~~and~~

- (j) ensure all contracts with a value of £25,000 or more are recorded on the Council's corporate contracts register, maintained by Procurement and Contracts Services, in compliance with the Local Government Transparency Code 2015; **and**
- (k) ***follow the guidance and procedures set out in the Council's Contract Management Framework, according to the value, risk and complexity of the contract.***

4.3 The **Responsible Officer** shall take advice from **Procurement and Contract Services** on the following aspects of public procurement:

***Pre-procurement Pre-procurement - options appraisal, market engagement and procurement strategy***

- (a) help in consideration of all sourcing options available and documenting ***an*** options appraisal;
- (b) ***producing public sector market insight reports;***
- (c) devising a suitable market engagement plan, ensuring the engagement process is properly planned, fair and transparent and captures meaningful feedback from the market that can be considered in preparation of the Procurement Documents;
- (d) advising and preparing an appropriate procurement strategy, including how this will ensure and promote a level playing field between potential Candidates;

**Strategic sourcing**

- (a) help in shaping commissioning outcomes and decisions, whether or not these result in procurement activities;
- (b) category management principles and strategic sourcing;

***Contract Management Supplier-relationship-management***

- (a) spend and supplier intelligence;
- (b) contract assurance and performance quality assurance services of strategic contracts (but not operational contract management); **and**
- (c) development and management of opportunities for innovation in supply chain;
- (d) ***all contracts must be managed in accordance with the Contract Management Framework; and***
- (e) ***all identified strategic and business critical contracts must have a written business continuity plan, to be held on the contract management system.***

**Procurement operations**

- (a) ***strategic and business critical contracts;***

- (b) transactional, operational and administrative procurement activity; and
  - (c) the use and operation of an electronic tendering system.
- 4.4 The **Responsible Officer** shall take advice from **the Director of Law and Assurance or officer acting with delegated authority from that Assistant Director**:
- (a) on all legal, regulatory and constitutional aspects of the procurement process; and
  - (b) concerning the content and form of any contract before it is made available to bidders (whether a competitive tender process, three quotes or single tender process is being carried out) and/or to be entered into on behalf of the Council.

## **Section 2: Pre-procurement Activity**

### **5. Options appraisal**

- 5.1 The Responsible Officer shall ensure that the appropriate sourcing approach is adopted in each case taking into account the budget allocation, the needs of the Council and its services users and residents, the nature of the market, **the appropriate legislation (i.e. PCR or PSR)** and other commercial considerations.
- 5.2 In considering a sourcing approach for services **and works** contracts, the Responsible Officer shall consider and record on the Procurement File how the sourcing approach might improve the economic, social and environmental well-being of West Sussex in accordance with the Council's [Social Value Framework](#), as may be updated or amended from time to time and available on the Council's website.
- 5.3 The Responsible Officer shall ensure a report on the sourcing decision is included in the Procurement File and clearly referenced in any decision to approve commencement of the procurement.

### **6. Market testing and engagement**

- 6.1 The Responsible Officer shall determine the sourcing approach based on:
- (a) any available views from service users and other stakeholders;
  - (b) consultation or testing with the relevant market;
  - (c) **producing public sector market insight reports;**
  - (d) current performance and future objectives for the product or service;
  - (e) budgetary limits;
  - (f) the existence of other public contracts, Framework Agreements or Dynamic Purchasing Systems which might be suitable for the Council to use; and
  - (g) advice from Procurement and Contracts Services



6.2 The Council's Procurement and Contract Services function shall advise on and provide professional support in carrying out all market engagement exercises and the Responsible Officer shall comply at all times with such guidance.

**Section 3: Procurement Procedures, Provider Selection Regime, Advertising and Publication of Award Notices**

**7. Summary of requirements as to advertising, use of procedures and award notices**

7.1 The Council must advertise contract opportunities and publish details of contracts awarded in accordance with the PCR 2015, ~~or~~ CCR 2016 **or PSR 2023** (as applicable).

7.2 The PCR 2015 require the Council to:

- (a) advertise all contracts at or above the relevant Threshold on the UK e-notification service, Find a Tender Service ("FTS")<sup>1</sup>, and Contracts Finder;
- (b) advertise all contracts of £25,000 on Contracts Finder (see Guide to Standing Orders), where the Council has advertised them elsewhere.

7.3 The PCR 2015 also set out the procedures which must be used to award specific types of contract. They are:

<b>Procedures</b>	<b>Goods, services contracts and works contracts at or above the Threshold</b>	<b>Schedule 3 (Light Touch) contracts at or above the Threshold</b>	<b>All other contracts valued between £25,000 and the Threshold</b>
<b>Advertising</b>	Mandatory - on FTS and Contracts Finder.	Mandatory - on FTS and Contracts Finder.	If the Council has advertised the contract elsewhere, it must also advertise on Contracts Finder.
<b>Award notice</b>	Mandatory - on <del>OJEU</del> <del>or</del> FTS (as applicable) <sup>2</sup> and Contracts Finder	Mandatory - on <del>OJEU</del> <del>or</del> FTS (as applicable) and Contracts Finder	Mandatory - on Contracts Finder
<b>Procedures</b>	One of the procedures mandated by PCR 2015.	Procedure devised by the Director of Law and Assurance and the Head of Procurement and Contract Services in compliance with regulation 76 of PCR 2015 and detailed in the	Procedure devised by the Director of Law and Assurance and the Head of Procurement and Contract Services in compliance with Part 4, Chapter 8 of the PCR 2015, the principles of transparency and equal

<sup>1</sup> ~~Effective from after 23:00 on 31<sup>st</sup> December 2020~~

<sup>2</sup> ~~Procurements advertised on OJEU that were commenced prior to the end of the transition period (23:00 on 31.12.20) must be concluded on OJEU.~~

Procedures	Goods, services contracts and works contracts at or above the Threshold	Schedule 3 (Light Touch) contracts at or above the Threshold	All other contracts valued between £25,000 and the Threshold
		Guide to Standing Orders.	treatment and these Standing Orders as further detailed in the Guide to Standing Orders.

- 7.4 Concession contracts with a total estimated value at or above the concession Threshold shall be advertised in accordance with the CCR 2016. Below Threshold concession contracts shall be advertised in accordance with these Standing Orders or as otherwise advised by Procurement and Contracts Services. The procurement procedure for any concession contract shall be as devised by the Director of Law and Assurance and the Head of Procurement and Contract Services taking into consideration the principles of transparency, equal treatment and best value.
- 7.5 If during the course of a procurement an issue arises upon which these SOPC are silent or incomplete, the Responsible Officer shall refer the matter to the Director of Law and Assurance for determination.

**Provider Selection Regime**

- 7.6 The Health Care Services (Provider Selection Regime) Regulations 2023 (PSR) apply to the commissioning of NHS and public health services provided to individuals in England as part of the health service. They must be followed when the Council is commissioning healthcare services for the purposes of the health service.**
- 7.7 When exercising functions to comply with the PSR, relevant authorities must continue to comply with other legal obligations. These include the NHS Act 2006 and the Local Government and Public Involvement in Health Act 2007.**
- 7.8 The 'health service' is defined as in section 1(1) of the National Health Service Act 2006 (NHS Act 2006):**
- 'comprehensive health service designed to secure improvement in the physical and mental health of the people of England, and in the prevention, diagnosis and treatment of physical and mental illness'.**
- 7.9 'Health Care Services' are defined in Schedule 1 of The Health Care Services (Provider Selection Regime) Regulations 2023 as well as the National Health Service Act 2006.**
- 7.10 The PSR allows relevant authorities to arrange a contract comprising a mixture of in-scope health care services and out of scope services or goods when the main subject matter of the procurement is health care service (>50% by lifetime value) and the relevant authority is of the view that the other goods or services could not reasonably be supplied under a separate contract. Before considering a Mixed Procurement,**

***the Senior Responsible Officer must seek the advice of Procurement and Contract Services.***

***7.11 The regime must be applied as part of the commissioning and procurement process whenever contracts for health care services are coming to an end, changing considerably, or being awarded for the first time. The Council can follow one of provider selection processes set out below to award contracts for health care services under the PSR (Direct Award Processes, Most Suitable Provider Process or the Competitive Process).***

***7.12 Responsible Officers who consider that the Provider Selection Regime may apply to a contract should consult Procurement and Contract Services and the Commercial Legal team before proceeding with a process decision or communicating any decision to a Service Provider.***

***Process 1: The Direct Award Processes***

***7.13 These processes apply when there is limited or no reason to seek to change from the existing provider; or to assess providers against one another, because:***

- (a) the existing Service Provider is the only provider that can deliver the health care services and there is no realistic alternative to the existing provider due to the nature of the health care services. This process cannot be used to award a contract for a newly established service and cannot be used to establish a framework agreement. (Direct Award Process A);***
- (b) patients have a choice of providers and the number of providers is not restricted by the Council and shall be used only to award contracts for existing and newly established services which meet these criteria (Direct Award Process B); or***
- (c) the existing Service Provider is satisfying its existing contract specification and KPI targets, will likely satisfy the new contract to a sufficient standard, and the proposed contracting arrangements are not changing considerably. This process cannot be used to award a contract for a newly established service and cannot be used to establish a framework agreement (Direct Award Process C).***

***Process 2: The Most Suitable Provider Process***

***7.14 This process involves awarding a contract for new or considerably changed services to a Service Provider without running a competitive process because the relevant authority can identify the most suitable provider.***

***7.15 This Most Suitable Provider process may be used when all of the following apply:***

- (a) the Council is not required to follow direct award processes A or B;***

- (b) the Council cannot or does not wish to follow direct award process C; or**
- (c) the Council is of the view, taking into account likely providers and all relevant information available at the time, that it is likely to be able to identify the most suitable provider without running a competitive process.**

**7.16 This process cannot be used to establish a framework agreement.**

**7.15 This process cannot be used until Procurement and Contract Services have approved the market research and soft market testing undertaken to evidence and justify the use of this process.**

### **Process 3: The Competitive Process**

**7.17 This process is for situations where officers cannot identify a single Service Provider or group of Service Providers that are most suitable without running a competitive process or identify a need to test the market. The Competitive Process should be carried out in accordance with these Standing Orders and PCR 2015 (if above Threshold).**

**7.18 The competitive process must be used if the intention is to establish a framework agreement.**

### **Governance**

**7.19 Once the Responsible Officer has identified which of these processes applies, they will then need to follow the decision-making approach relevant to that process, and to adhere to the requirements around transparency and scrutiny for each process. For Direct award process C, the Most Suitable Provider Process and the Competitive Process the Responsible Officer must decide the weighting of the 5 key criteria in advance of the procurement process and observe a standstill period.**

**7.20 For all contracts valued above £500,000 and up to £5 million, the Responsible Officer will be required to obtain the advice of the Commercial Panel. For contracts valued above £5 million, the Responsible Officer will be required to obtain the advice of both Commercial Panel and Procurement Board.**

**7.21 Responsible Officers should adhere to the internal governance requirements for each process as follows:**

- (a) Direct Award Processes and Most Suitable Provider Process:**
  - i. Contracts valued at over £500,000, the Key Decision process should be followed.**
  - ii. For contracts between £25,000 and £499,999, with the prior written approval of the relevant Director or Assistant Director (as applicable per the Scheme of Delegation) and agreed with Procurement and Contracts Services and the Commercial Legal team to ensure that the use of this Process is appropriate.**

**(b) Competitive Process**

- i. Contracts valued at over £500,000, the Key Decision process should be followed alongside Section 4 of these Standing Orders.**
- ii. Contracts above £25,000 and the Thresholds set out in PCR 2015, one of the procurement routes set out in Standing Order 13 should be followed (save for the use of Dynamic Purchasing System).**
- iii. Above Threshold procurements should be conducted in accordance with Section 4 of these Standing Orders.**

**Urgent Circumstances**

**7.22 In urgent situations, but only as advised by the Directors of Law and Assurance and of Finance and Support Services, the Council may make the following decisions without following the steps normally required under PSR:**

- (a) Re-award contracts with existing providers;**
- (b) Award contracts for new services;**
- (c) Award contracts for considerably changed services; or**
- (d) Make contract modifications (without limitation).**

**7.23 Responsible Officers seeking to use the Urgent circumstance provision must obtain advice from Procurement and Contracts Services and the Commercial Legal team in advance of seeking approval to ensure that the use of this provision is appropriate.**

**7.24 The Provider Selection Regime does not apply in the following circumstances:**

- (a) public health services not arranged by NHS bodies or local authorities;**
- (b) social care services when not procured alongside healthcare services in a single contract;**
- (c) essential and advanced pharmaceutical services arranged under the terms of the community pharmacy contract framework (CPCF);**
- (d) procurement of goods or medicines; or**
- (e) non-healthcare services (for example, business consultancy, catering, hospital bedding services, public health marketing campaigns).**

**7.25 Responsible Officers wishing to modify a contract let under PSR must consult Procurement and Contract Services and the Commercial Legal**

***team before proceeding with a modification or entering into discussion with a provider to modify a contract.***

***7.26 Contracts that fall within the Provider Selection Regime must be compliant with 'Section 10: Form of Contract, Mandatory Clauses and Formalities' of these Standing Orders and in a form approved by the Commercial Legal team.***

***7.27 The Council must maintain a full record and audit trail of all procurement activity on the Procurement File, including decisions made and communications with suppliers. Should a Responsible Officer receive notice of a challenge from an aggrieved provider or potential supplier they must contact the Commercial Legal Team and Procurement and Contract Services immediately.***

#### **Section 4: Procurements at or above the Thresholds**

##### **8. Requirement to advertise**

***8.1 A Key Decision must be obtained for all Procurements that exceed £500,000.***

***8.2 For all contracts valued above £500,000 and up to £5 million, the Responsible Officer must obtain the advice of the Commercial Panel. For contracts valued above £5 million, the Responsible Officer must obtain the advice of both Commercial Panel and Procurement Board.***

8.3 Contracts which exceed the Thresholds set out in the PCR 2015 or CCR 2016 must be advertised on FTS by publishing a Contract Notice or, where advised by Procurement and Contracts Services, a Prior Information Notice (PIN) as a call for competition.

8.4 The Responsible Officer must take advice from Procurement and Contract Services before publishing any document on FTS.

8.5 All contracts which are advertised on FTS must also be advertised on Contracts Finder within 24 hours of the time the Council becomes entitled to post it, that is after either:

(a) it appears on FTS;

(b) it has not appeared but 48 hours have elapsed from the time the FTS has confirmed receipt of the notice to the Council.

8.6 All Procurement Documentation must be available from the time the Contract Notice is published on FTS. Therefore, no advertisement should be placed until the Procurement Documentation is complete. The Responsible Officer must ensure the Contract Notice includes a specified location where interested parties can electronically access all Procurement Documentation.

8.7 The Council may use a Prior Information Notice (PIN) as a call for competition when using the restricted or competitive procedure with negotiation (see Guide to Standing Orders).

8.8 The Responsible Officer or Procurement and Contracts Services, as the case may be, is responsible for ensuring all Contract Notices and publications on Contracts Finder are published in accordance with these rules.

## **9. Procurement procedures**

9.1 For public contracts equal to or greater than the relevant Threshold, the Council shall:

- (a) advertise the contract on FTS using one of the procurement routes mandated by the PCR 2015 or CCR 2016 (as applicable); or
- (b) where appropriate and lawful, use an existing contract, Framework Agreement or Dynamic Purchasing System which was procured in compliance with the PCR 2015 or CCR 2016 (as applicable).

## **10. Contracts subject to the 'light touch regime'**

10.1 Social care, education services and other services which are listed in Schedule 3 to the PCR 2015 are subject to the PCR 2015. However, the Council is not obliged to use one of the procedures listed in the PCR 2015 to award these contracts. Instead, the procurement procedure must comply with the principles of regulation 76 of the PCR 2015 (commonly referred to as the 'light touch regime' – see Guide to Standing Orders). The Responsible Officer shall take advice from Procurement and Contracts Services on the most appropriate approach.

10.2 Services listed in Schedule 3 to the PCR 2015 and which are at or above the concession Threshold are subject to the CCR 2016. The CCR 2016 does not mandate a specific procedure to award such contracts however regulation 19 of the CCR 2016 applies. The Responsible Officer shall take advice from Procurement and Contracts Services on the most appropriate approach.

## **11. Contracts Subject to the Provider Selection Regime (PSR)**

**11.1 Contracts that are subject to the PSR are not governed by PCR 2015.**

**11.2 Detailed information about application of the PSR is set out in 'Section 3: Procurement Procedures, Provider Selection Regime, Advertising and Publication of Award Notices' above. The Responsible Officer shall take advice from Procurement and Contract Services and the Commercial Legal Team on the most appropriate approach.**

## **12.11. Reserved Contracts**

**12.1** The Responsible Officer may reserve participation in procurement processes for limited types of services contracts to certain qualifying organisations from the employee ownership and voluntary sectors. The maximum duration of contracts awarded under this power is three years (see Guide to Standing Orders).

**12.2** The Responsible Officer may, for below Threshold contracts only, reserve the procurement:

- (a) by supplier location - this means being able to run a competition and specify that only suppliers located in a geographical area can bid; and/or

- (b) for Small and Medium sized Enterprises (SMEs)/Voluntary, Community and Social Enterprises (VCSEs) - this means being able to run a competition and specify that only SMEs and VCSEs can bid, taking advice from Procurement and Contracts Services, prior to commencing the procurement and providing that such reservation would elicit bids representing Value for Money.

**12.3** The Responsible Officer must obtain written approval from the Head of Procurement and Contracts Services before commencing a procurement in reliance on this Standing Order.

**13.12-Use of negotiated procedure without prior publication of an FTS notice for above Threshold contracts**

In the limited circumstances listed in regulation 32 of the PCR 2015 or regulation 31(6) of the CCR 2016 (see Guide to Standing Orders), the Council may dispense with a Contract Notice and engage in negotiations with a single supplier under the negotiated procedure. The Responsible Officer must receive written authorisation from the Director of Law and Assurance before using this procedure. ***A Responsible Officer's failure to engage in a timely procurement exercise does not constitute grounds to support the use of this provision.***

**Section 5: Contracts below the Thresholds**

**14.13-Contracts valued between £100,000 and the Thresholds**

**14.1** The Responsible Officer shall use one of the following procurement routes to award a contract valued between £100,000 and the appropriate Threshold:

- (a) competitive procurement process advertised on FTS and Contracts Finder, and the Council's own website;
- ~~(b) competitive procurement process advertised on Contracts Finder and the Council's own website;~~
- ~~(b)~~(c) use of a contract, Framework Agreement or Dynamic Purchasing System procured by another contracting authority in compliance with the PCR 2015, CCR 2016 **or PSR 2023** (as applicable); or
- ~~(c)~~(d) only if all other routes at 14.1 (a) **and (b)** to ~~(c)~~ above are unavailable, without advertising the opportunity, obtain a minimum of three quotations from suppliers, where the Responsible Officer has sufficient knowledge of the market to be reasonably certain such an approach would elicit bids representing Value for Money and can evidence this.

**14.2** The Responsible Officer must devise a fair and transparent sourcing route based on sound commercial principles and designed to achieve Value for Money, taking advice from Procurement and Contract Services. The Responsible Officer shall ensure that any decision relating to the sourcing route for a particular contract or service shall include an assessment of risk attaching to that decision and that analysis shall be recorded in writing and stored on the Procurement File (see Guide to Standing Orders).



**~~15.14~~ Contracts with a value between £25,000 ~~£5,000~~ and £99,999**

**15.1** When awarding a contract valued between **£25,000** ~~£5,000~~ and £99,999 the Responsible Officer must:

- (a) use one of the procurement routes set out in Standing Order **14**, having obtained initial advice from Procurement and Contracts Services; or
- (b) with the prior written approval of the relevant director or assistant director (as applicable per the Scheme of Delegation) and agreed with Procurement and Contracts Services, obtain a single tender or quote from reputable supplier where the Responsible Officer has sufficient knowledge of the market to be reasonably certain such an approach would elicit a quote representing Value for Money and can, if required, provide evidence this. The format for such request and written approval shall be in the Council's standard form available from Procurement and Contracts Services.

**15.2** The Responsible Officer must devise a fair and transparent sourcing route based on sound commercial principles and designed to achieve Value for Money, taking advice from Procurement and Contract Services where appropriate. The Responsible Officer shall ensure that any decision relating to the sourcing route for a particular contract or service shall include an assessment of risk attaching to that decision and that analysis shall be recorded in writing and stored on the Procurement File (see Guide to Standing Orders).

**Section 6: Contracts with a value of less than £25,000 ~~£5,000~~**

**~~16.15~~ Contracts with a value of less than £25,000 ~~£5,000~~<sup>3</sup>**

**16.1** The Responsible Officer must, in relation to any contract with a value of less than **£25,000** ~~£5,000~~, demonstrate and record on the Procurement File that the contract represents Value for Money.

**16.2** The Responsible Officer shall ensure that any decision relating to the sourcing route for a particular contract shall include an assessment of risk attaching to that decision and that analysis shall be recorded in writing and stored on the Procurement File or other retrievable storage location (see Guide to Standing Orders).

**16.3** The form of contract shall comply with Standing Order **31.1**.

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<sup>3</sup> Up to £25,000 - £24,999.99 and below

## **Section 7: Consultancy Contracts, Framework Agreements and Assessing Value**

### **17.16-Consultancy Contracts**

- 17.1** Before engaging a Consultant or other specialist professional, the Responsible Officer must refer to, and ensure compliance with, the Council's Procurement Policy on Buying Consultancy Services and the related documents: Guide to Buying Consultancy and the HR Policy on the Use of Self-Employed Consultants.
- 17.2** All such engagements of an aggregate value of £50,000 or more must be competitively tendered. Where any corporate contract or arrangement is approved and established for the buying of consultancy or specialist professional services, these must be used for sourcing all such contracts whatever the aggregate value of the contract.
- 17.3** Contracts for all other interim staff covering existing staff positions and all temporary or agency staff must be sourced through the Council's corporate temporary staffing contract, unless permitted otherwise in writing by the Director of Finance and Support Services and the Director of Law and Assurance.

### **18.17-Framework Agreements and Dynamic Purchasing Systems**

- 18.1** All Framework Agreements and Dynamic Purchasing Systems (**'DPS'**) for contracts with a value above relevant Thresholds set out in the PCR 2015 or CCR 2016 (as applicable) shall be awarded in accordance with the PCR 2015 or CCR 2016 (as applicable).
- 18.2** Framework Agreements and Dynamic Purchasing Systems valued at below the relevant Threshold shall be awarded in accordance with these Standing Orders.
- 18.3** ***There is no specific maximum duration of a DPS. The period of validity of a DPS must be stated on the original FTS notice but the period can be later amended (extended, shortened, terminated) subject to notification on FTS. Responsible Officers should consult Procurement and Contract Services and the Commercial Legal team if they wish to amend the period of validity of a DPS who will advise on the internal governance required.*** Responsible Officers must consult Procurement and Contract Services before using a Framework Agreement or Dynamic Purchasing System set up by another contracting authority and the validity of the Framework or Dynamic Purchasing System and its contractual terms must be approved by the Director of Law and Assurance in advance of the Council carrying out any "call-off" procedure or awarding any contract under such Framework Agreement or Dynamic Purchasing System.

### **19.18-Assessing value for the purpose of these rules**

- 19.1** The value or estimated value of all contracts to be procured must be properly assessed to determine whether or not they meet particular thresholds set out in these Standing Orders and under the PCR 2015 or CCR 2016.

- 19.2** The value of all contracts which may have a value which meets or exceeds the relevant Threshold shall be assessed in accordance with the PCR 2015 or CCR 2016 (as applicable) ~~(see Guide to Standing Orders for details)~~.
- 19.3** The value of a concession contract shall be the total turnover of the supplier (referred to as a "concessionaire") to be generated over the duration of the contract, net of value added tax, as estimated by the Council using an objective methodology, in consideration for the works and services which are the object of the concession contract and for the supplies incidental to such works and services, in accordance with regulation 9 of the CCR 2016.
- 19.4** The value of all other contracts shall be the value:
- 19.4.1** *inclusive* ~~net~~ of VAT;
  - 19.4.2** including the maximum possible extensions and renewals;
  - 19.4.3** in the case of a framework agreement or dynamic purchasing system, the maximum estimated value of all the contracts to be awarded during the total term of the framework agreement or the dynamic purchasing system; and
  - 19.4.4** inclusive of any potential spend through the contract concerned by other contracting authorities.
- 19.5** The value of a contract shall not be subdivided with the effect of preventing it from falling within the scope of these Standing Orders, the PCR 2015 or CCR 2016.
- 19.6** *The Responsible Officer is under a duty to aggregate and in the case of public contracts without a fixed term, or public contracts where the term of which cannot be defined, the Key Decision value is the known monthly value multiplied by 48.*
- 19.7** Where a supply or service contract is regular in nature or is intended to be renewed or re-procured on or shortly after its expiry, the calculation of the contract value shall be based on the total value of the successive contracts being planned **to include** ~~including~~ those of the same type awarded during the preceding 12 months or previous financial year. ***In the case of public contracts without a fixed term, or public contracts where the term of which cannot be defined, the contract value is the known monthly value multiplied by 48.*** The Responsible Officer shall follow advice from Procurement and Contracts Services.

## **20.19: Lots**

- 20.1** For every procurement relating to a contract which exceeds the Threshold, the Responsible Officer must, in consultation with Procurement and Contracts Services:
- 20.1.1** consider whether the contract should be sub-divided into and procured in **Lots** ~~lots~~;
  - 20.1.2** provide reasons for any decision not to subdivide into **Lots** ~~lots~~, which shall be included in the Procurement Report; and

**20.1.3** comply with the PCR 2015 in the manner in which it requires Tenderers to bid for **Lots** lots (see Guide to Standing Orders for full details).

## **Section 8: Standing Orders in relation to Contract and Award Criteria**

### **21.20-Use of Selection Questionnaires (SQs)**

- 21.1** The Responsible Officer shall apply minimum standards of experience, reputation and economic standing to suppliers to test their suitability to bid for a Council contract. For contracts above the Thresholds suitability is usually tested by means of a SQ.
- 21.2** All the methods and criteria used for assessing the suitability of suppliers shall be transparent, objective and non-discriminatory.
- 21.3** The Responsible Officer must use the [Crown Commercial Services standard SQ](#) and adhere to its statutory guidance for all procurements of contracts above the relevant Threshold.
- 21.4** The Responsible Officer shall not use a SQ or pre-qualification stage for any contract with a value that is below the Threshold for supplies or services (currently this is £189,330).
- 21.5** The following table provides a summary of the rules on the use of SQs:

<b>Contract type and value</b>	<b>Rules on use of SQ</b>
Contracts up to £25,000	SQs must not be used
Contracts valued between £25,000 and the supplies and services Threshold whether for goods, services or works	Use of SQ prohibited. The Council may only ask Candidates suitability assessment questions which are relevant to the subject-matter of the procurement and proportionate having regard to any guidance issued by the Cabinet Office. For works contracts valued between the supplies and services threshold and the works threshold the Council may use the PAS91 questionnaire.
Contracts at or above the supplies and services Threshold for goods and services, or the Threshold for works	The Council must adhere to the guidance issued by the Cabinet Office on qualitative selection (see Guide to Standing Orders). The Council shall adopt the standard SQ without deviation.
Contracts above the Threshold for goods and services but: For Schedule 3 services, below the relevant Threshold. For works contracts, below the Threshold for works contracts	Responsible Officers shall either use the Standard SQ or an alternative means of assessing Tenderers' suitability which has been agreed by Procurement & Contract Services.
Contracts for Schedule 3 services contracts at or above the Threshold for Schedule 3 contracts	The Council must use the standard SQ, adhere to the government guidance to the extent that it is relevant to the procedure which the Responsible Officer has chosen to run in compliance with regulation 76.

**21.6** The Responsible Officer shall ensure the necessary self-declarations are received as part of the selection stage evaluation and shall not accept any tender where the Candidate has not completed Part 1 and Part 2 of the SQ (***unless the contract is below the relevant Threshold***) declaring that they have not breached any of the exclusion grounds of PCR 2015 or CCR 2016 (as applicable).

### **~~22.21~~ Eligibility to bid**

**22.1** Suppliers who fail to meet all of the Council's minimum standards of reputation, technical ability, experience or economic and financial standing as specified in the SQ and accompanying documents shall be excluded from the procurement process.

**22.2** Where the supplier is being excluded because one of the exclusion grounds in regulation 57 of the PCR 2015 or regulation 38 of the CCR 2016 (as applicable) applies (see Guide to Standing Orders), but provides evidence in support of its reliability despite the existence of a relevant ground of exclusion, the Responsible Officer must consider that evidence and determine whether to exclude that supplier.

**22.3** The Responsible Officer shall consult with the Director of Law and Assurance before reaching any decision under Standing Order **22.2**.

### **~~23.22~~ Assessing past experience and financial standing**

**23.1** The Responsible Officer shall ensure suppliers' past experience and technical ability are assessed, for all contracts.

**23.2** When assessing the suppliers' financial standing, the Responsible Officer shall not require prospective tenderers to have an annual turnover of more than twice the estimated contract value, unless otherwise agreed with the Director of Law and Assurance.

**23.3** Only those suppliers who meet the Council's minimum requirements of economic and financial standing and technical and professional ability shall be invited to participate in a tender process or awarded the contract.

**23.4** All assessment of supplier's financial standing must be conducted by the Council's Commercial Finance team (or such other service unit designated from time to time to undertake this activity).

### **~~24.23~~ Award criteria**

**24.1** The Responsible Officer shall adopt award criteria which are fair, transparent, proportionate and appropriate to the subject matter of the contract (see Guide to Standing Orders).

**24.2** The Responsible Officer must follow the Council's internal guidance and policies (as advised by and available from Procurement and Contracts Services) on award criteria for all contracts, irrespective of value, unless otherwise approved in writing by Head of Procurement and Contracts Services.

**24.3** For all contracts with a value of £100,000 or above, the Responsible Officer must follow advice from Procurement and Contracts Services, Commercial

Finance and the Commercial Legal Team on appropriate award criteria for the contract.

- 24.4** The award criteria for any contract with a value at or above the relevant Threshold shall be in compliance with Reg. 67 of the PCR 2015, save for any contract to which Reg. 74 applies ("light touch services") in which case the award of the contract shall be in compliance with Reg. 76 of PCR 2015.
- 24.5** The Responsible Officer shall award the contract to the most economically advantageous tender, being the tender that represents best Value for Money applying the award criteria.
- 24.6** The Responsible Officer shall adopt evaluation methodologies that are robust, have been tested to ensure they are appropriate for the procurement in question, and transparent (see Guide to Standing Orders).
- 24.7** *The use of Relative scoring is only permitted when approved by the Senior Responsible Officer and the Commercial Panel or Procurement Board. Responsible Officers should seek the advice of Procurement and Contract Services in relation to using sequential, straight line and price per quality point evaluation methodologies.*
- 24.8** *When tendering a contract with a lifetime value of £5m or more a "Should cost" model must be developed for the purpose of assessing value for money and determining straight line evaluation scales.*

## **Section 9: Tendering Procedure**

### **25.24-Opening tenders**

- 25.1** All tenders undertaken must be conducted through the Council's mandated e-tendering portal except as permitted in these Standing Orders or with the prior written approval of the Head of Procurement and Contract Services.
- 25.2** Tenders for contracts valued at less than £100,000 may be conducted outside the Council's e-tendering portal. Where the Responsible Officer invites tenders in hard copy, the Responsible Officer must ensure that all the tenders received are opened:
- 24.2.1 after the deadline for receipt of tenders has expired; and
  - 24.2.2 at the same time by two members of staff: one from the directorate seeking the tenders and one on behalf of the Director of Finance and Support Services;
  - 24.2.3 after they are opened, the tenders must be listed in the tender register and the list must be signed by both persons who witnessed the opening of the tenders.

### **26.25-Contract award**

- 26.1** All contracts shall be awarded in accordance with the criteria set out in the Procurement Documents.

**26.2** For contracts with a value at or above the Thresholds, the Responsible Officer shall adhere to the contract award procedures set out in the PCR 2015, ~~or CCR 2016~~ **or PSR 2023** (as applicable) and observe a standstill period before entering into the contract. The standstill period will normally end at midnight at the end of the tenth day after the date the Council sends notice to the Tenderers, electronically ~~or by fax~~, that it has made an award decision (**unless the relevant legislation states otherwise** ~~see Guide to Standing Orders~~).

### **27.26-Correction of errors and late tenders**

**27.1** All tenders must comply with the conditions set out in the Procurement Documents. Tenderers should be advised that any failure to adhere to the specific rules applicable to the tender in question could result in their tender being rejected.

**27.2** The Responsible Officer may reserve the right in the Procurement Documents to accept late submissions or documents forming part of the tender at the Council's discretion, for example, where:

**27.2.1** the delay was caused by a mistake or failure of the Council; or

**27.2.2** the document or submission in question clearly pre-dated the deadline for receipt of tenders and the decision not to exclude the tenderer would not unduly favour any or disadvantage the other Candidates.

**27.3** In all cases, the Council shall adhere to the rules it established in the Procurement Documents and document any decision to permit a late or corrected tender.

**27.4** The following authorisation must be obtained before a Responsible Officer can accept a late or corrected tender:

**27.4.1** for contracts valued at £100,000 or less: the director or assistant director (as per the Scheme of Delegation); and

**27.4.2** for contracts valued at £100,000 or more, the Head of Procurement and Contract Services as well as the director or assistant director (as per the Scheme of Delegation).

### **28.27-Clarifications raised by suppliers**

**28.1** The Responsible Officer shall maintain a clarification log containing a list of questions raised by suppliers during the course of a procurement process, with the Council's responses, to which all Candidates or Tenderers shall have unrestricted access (a "Clarification Log"). Where Procurement and Contract Services is involved with the conduct of a particular procurement process, it may maintain the Clarification Log itself and will notify the Responsible Officer of that approach.

**28.2** Where a clarification raises an issue which leads to the amendment of one of the Procurement Documents, the Council shall consider whether the deadline for submission of tender responses should be extended, or the procurement process otherwise revised to ensure equal treatment of suppliers, and take action accordingly.

### **29.28-Evaluation**

**29.1** The director or assistant director (as per the Scheme of Delegation) shall appoint evaluators who have the necessary skills, expertise and experience to undertake the role.

**29.2** Procurement and Contract Services shall provide appropriate guidance, advice and support on all aspects of tender evaluation and the Responsible Officer shall have regard to all such guidance.

### **30.29-Conflicts of interest**

**30.1** All directors shall ensure that officers involved in procurement processes in their directorates are familiar with the Guidance on Propriety and Official Conduct for Officers in the HR Zone on the intranet.

**30.2** Any officer involved in a procurement shall:

**30.1.1** comply with the Guidance on Propriety and Official Conduct for Officers (the Council's Code of Conduct for Employees); and

**30.1.2** disclose in writing to their director or the Director of Law and Assurance any direct or indirect, financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of a procurement procedure.

**30.3** Where an officer discloses such a conflict of interest the director shall, in consultation with the Director of Law and Assurance, make arrangements to allocate the role to another person and shall consider whether any changes to the procurement process should be made to address any issues arising from the conflict.

**30.4** Any officer involved in a procurement shall take appropriate measures to ensure competition is not distorted where a Candidate or Tenderer, or an undertaking related to that Candidate or Tenderer, has advised the Council on the procurement in question or been involved in the preparation of the procurement.

**30.5** Where the Responsible Officer engages any external party to evaluate any tenders on behalf of the Council, the Responsible Officer shall ensure:

(a) compliance with this Standing Order;

(b) the party has received appropriate training and guidance, following advice from Procurement and Contracts Services;

(c) the invitation to tender includes relevant details of the party who will be involved in evaluation of tenders; **and**

(d) the external party is required to sign a confidentiality/non-disclosure agreement and declaration confirming they do not have any conflict of interest and will notify the Council immediately should a potential or actual conflict arise at any time during the procurement process.



## **Section 10: Form of Contract, Mandatory Clauses and Formalities**

### **31.30-Form of contract**

- 31.1** For contracts valued at less than £25,000, the relevant director or assistant director (as per the Scheme of Delegation) can choose to accept the supplier's standard terms, provided that such terms are fair and reasonable in the circumstances and provide Value for Money. The form of contract must be recorded in its final agreed form and shall contain, as a minimum the items required by **Standing Orders 32.1, 34.1.1, 34.1.2 and 34.1.3**.
- 31.2** The Director of Law and Assurance is responsible for providing or approving all forms of contract with a value at or exceeding £25,000. The Responsible Officer shall follow any advice or guidance from the Commercial Legal Team on the appropriate form of contract.
- 31.3** All contracts with a value at or exceeding £25,000 must be written or in an electronic form capable of providing a permanent record of the intentions of the parties to the contract. Where the Council has an applicable standard form template contract, as advised by the Commercial Legal Team, the Responsible Officer shall use that standard form template contract, without amendment, unless otherwise advised by the Commercial Legal Team.
- 31.4** Where contract terms are to be published by the Council in connection with any competitive tender or single tender process, the Responsible Officer must ensure that the proposed form of contract has been approved by the Commercial Legal Team before it is made accessible to Tenderers or any other external interested party.
- 31.5** The Responsible Officer shall ensure there is a record of the contract kept in accordance with Standing Order **51.5**.
- 31.6** The director or assistant director (as per the Scheme of Delegation) must require the completion of a performance bond or parent company guarantee for all works contracts in excess of £250,000 in value or such other limit as may be specified by the Director of Law and Assurance in relation to a particular procurement.
- 31.7** With regard to the need for a performance bond for a contract which is not a works contract or for a works contract below the threshold of £250,000, the director or assistant director (as per the Scheme of Delegation) in consultation with the Director of Law and Assurance and the Director of Finance and Support Services shall determine, on a case by case basis, whether a performance bond shall be required.

### **32.31-Specifications**

- 32.1** The Responsible Officer shall ensure the specification for the contract:
- 32.1.1** clearly and effectively sets out the obligations on the supplier to deliver to the Council's requirements;
  - 32.1.2** contains suitable and appropriate service levels and/or key performance indicators;

**32.1.3** complies with the requirements of the PCR 2015 in respect of technical specifications and any internal guidance or Council policies; and

**32.1.4** is legally enforceable, taking advice from Legal Services where necessary.

### **33.32: Mandatory clauses**

The Responsible Officer shall be responsible for ensuring that every contract awarded by the Council with a value at or above £25,000 includes the mandatory requirements set out in this section 10.

### **34.33: General clauses**

**34.1** Every contract must clearly specify:

**34.1.1** the services, goods or works to be provided together with applicable standards and performance level;

**34.1.2** the price to be paid, with a statement of discounts and other deductions, including any Value Added Tax payable and any provisions for price variations, whether by indexation or other means;

**34.1.3** the duration of the contract including any specific dates by which any aspects are to be performed, together with any possible extensions of the contract term. Contracts should not normally exceed five years, or seven years with extensions, but contracts may be set for longer periods where the relevant industry practice, or partnership arrangements to be entered into, make it in the interests of the Council to do so. Contracts should not be for an ongoing rolling period. The Head of Procurement and Contract Services must be consulted on any business case for proposing a contract term longer than 7 years and the reasons for doing so must be recorded in the Procurement Document; and

**34.1.4** in the case of all building and engineering contracts exceeding £100,000 in value, the liquidated damages to be paid by the contractor if the contract is not completed on a specified date. A provision for liquidated damages may be included in contracts valued at £100,000 or less.

### **35.34: Insurance levels**

**35.1** *Subject to Standing Order 35.3*, every contract must clearly specify that the supplier shall hold and maintain for the duration of the term of the contract where the relevant type of cover is applicable the following levels of insurance cover for each single incident:

<b>Type of insurance cover</b>	<b>Minimum insured for each</b>
Public liability	£10 million
Employer's liability	£5 million
Product liability	£2 million

Type of insurance cover	Minimum insured for each
Professional indemnity	£2 million

**35.2** The Director of Law and Assurance may specify higher levels of insurance cover as he deems fit for particular contracts or types of contracts and may also agree to lower levels of insurance cover provided the Responsible Officer provides an account of the reasons for the lower level of cover and includes an assessment of risks associated with the contract.

**35.3** *Where the Responsible Officer agrees with the Head of IT Services (subject to any decision made in accordance with Standing Order 35.2), Public Liability insurance at a minimum level of £1 million shall be acceptable in relation to an IT/Software as a Services contract where the risk has been assessed and this level is considered appropriate in relation to the value of the contract and potential risk to third parties.*

**~~36.35~~ Prevention of bribery and exclusion grounds arising during the term of the contract**

**36.1** Every contract shall include provision for termination if the supplier, their employees or anyone acting on the supplier's behalf:

**36.1.1** corruptly offers, gives or agrees to give anyone an inducement or reward in respect of any contract with the Council;

**36.1.2** commits an offence under the Bribery Act 2010; or

**36.1.3** commits any of the offences listed in regulation 57(1) of the PCR 2015 or regulation 38(8) of CCR 2016 (as applicable).

**~~37.36~~ Termination for breach of regulation 73**

**37.1** For contracts above the Threshold, the contract shall provide that the Council shall have the right to terminate the contract if any of the provisions of regulation 73(1) of the PCR 2015 or regulation 44 of the CCR 2016 (as applicable) apply. These are where:

**37.1.1** the contract has been subject to a substantial modification which required a new procurement procedure to be started;

**37.1.2** at the time of contract award, one of the mandatory exclusion criteria in regulation 57 PCR 2015 or regulation 38(8) of CCR 2016 (as applicable) applied and the supplier should therefore have been excluded from the procurement procedure; or

**37.1.3** any competent court has held that the contract should not have been awarded to the contractor in view of a serious infringement of the obligations under the PCR 2015 and any retained EC Treaty.

**~~38.37~~ Prevent and Anti- Slavery**

**38.1** The contract shall make appropriate provision for information sharing between the supplier and the Council, and/or such other measures as are appropriate, such as staff training, to support the Council in meeting its duty

under section 26 of the Counterterrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism (see Council's Prevent Policy).

**38.2** Where relevant, the contract shall make appropriate provision for compliance by the supplier in respect of the Modern Slavery Act 2015, including requirement for the supplier to have in place suitable anti-slavery and human trafficking policy or to comply with the Council's relevant policy and information sharing between the supplier and the Council to support the Council in meeting its duties under the Act.

### **~~39.38~~-Payment terms**

**39.1** Every contract shall provide that the Council shall pay its supplier, in arrears of the services/works/supplies being delivered to the Council, 30 days from receipt of a valid and undisputed invoice. Where the supplier is a [Small and Medium Enterprise](#), the Council may make payment to the supplier within 20 days of receipt of a valid and undisputed invoice.

**39.2** Every contract shall provide that the supplier shall be required to prepare and submit an electronic invoice to the Council for services/works/supplies delivered, in accordance with the Council's [purchase order and invoicing procedures](#) which can be found on the Council's website.

**39.3** The Responsible Officer must ensure that any purchase order raised makes reference to the specific and relevant Council contract (signed by the parties) that the purchase order relates to and that the purchase order clearly states that the terms and conditions in the contract take precedence/priority over any other terms and conditions stated on the purchase order and/or which the supplier may include on their invoice.

**39.4** The contract shall also provide that the Council's suppliers shall pay their sub-contractors within a maximum of 30 days of receipt of an undisputed invoice.

**39.5** The Responsible Officer must obtain the agreement of the Head of Procurement and Contract Services and the Director of Finance and Support Services for any deviation from the standard payment terms set out in this Standing Order **39**, such agreement to be recorded in writing as a "Payment Exception" and a copy provided to Procurement and Contracts Services and the Commercial Legal Team. ***A payment exception is not required for IT/software contracts valued at under £100,000 where the Council is required to pay annually in advance for a subscription or software licence. All such IT purchases shall be approved and/ or processed by IT Services.***

### **~~40.39~~-Execution of the contract**

**40.1** All contracts shall be signed but not sealed unless they must be signed under seal in accordance with this Standing Order **40**.

**40.2** The following contracts shall be signed under seal:

**40.2.1** certain contracts involving land transactions;

**40.2.2** contracts with a value of £500,000 or more; and

**40.2.3** any contract as advised by the Commercial Legal Team.

**40.3** The relevant director or assistant director (as per the Scheme of Delegation) shall be permitted to sign all contracts not required to be sealed.

**40.4** The Director of Law and Assurance shall execute all contracts which are required to be executed by the Council as a deed under seal and may execute all simple contracts not required to be sealed.

**40.5** The use or acceptance of any electronic or digital signatures shall be as determined by the Director of Law and Assurance. The Responsible Officer shall seek and follow advice from Legal Services in respect of acceptable and valid methods for signing and execution of contracts and contractual documents (e.g. variations or extensions) irrespective of value.

#### **~~41.40~~-Certification of the contract**

The Director of Law and Assurance shall be responsible for determining whether any contract should be certified under the Local Government (Contracts) Act 1997. This Act empowers local authorities to agree terms that will survive the main contract being set aside in the event of a finding that the Council has exceeded its statutory powers in entering into the contract. In these circumstances, the certification process ensures that the private sector party is compensated. All such certificates shall be in a form approved by and executed by the Director of Law and Assurance.

#### **~~42.41~~-Contract and supplier relationship management**

**42.1** The director or assistant director (as per the Scheme of Delegation) shall ensure that there are in place arrangements that will monitor and actively address any concerns with:

**42.1.1** the performance of the contract against the specification and any key performance indicators or other performance monitoring regime;

**42.1.2** costs and Value for Money; and

**42.1.3** service user or end user satisfaction.

**42.2** Where a contract is to be extended or re-tendered, the director or assistant director (as per the Scheme of Delegation) shall ensure that a report on the performance of the contract is prepared to inform any decision regarding the extension or re-tendering.

**42.3** The director or assistant director (as per the Scheme of Delegation) shall ensure Responsible Officers comply with guidance issued by the Council, including from Procurement and Contracts Services, from time to time on effective contract and supplier relationship management.

**42.4 All contracts must be managed in accordance with the Contract Management Framework with Heads of Service responsible for the performance of contracts in their area in line with the Contract Management Framework. All Contract Management activities are to be delivered either by a dedicated contract manager or by someone with that responsibility as part of a wider role. The contract segmentation tool will help identify the complexity of the contract and the risks and opportunities involved by segmenting the contract as either Strategic, Business Critical, Operational; and Transactional, which in turn will indicate the resources required to manage a contract of that nature. Segmentation is dynamic and may change during the lifetime of the Contract. Procurement will provide support, training and guidance in line with the segmentation model.**

**42.5 All identified strategic and business critical contracts must have a written business continuity plan, to be held on the contract management system.**

## **Section 11: Varying and Extending Contracts**

### **43.42-Variations permitted by law**

**43.1** Contracts which are subject to the PCR 2015, ~~or~~ CCR 2016 **or PSR 2023** shall not be varied other than in accordance with the provisions of the PCR 2015 ~~or~~ CCR 2016, **legislation** (as applicable). The Responsible Officer shall request advice from **Procurement and Contract Services and Legal Services** (~~the Commercial Legal Team~~) in relation to any variation which is subject to the PCR 2015, ~~or~~ CCR 2016 **or PSR 2023**.

**43.2** All other proposals to vary contracts not subject to the PCR 2015, ~~or~~ CCR 2016 **or PSR 2023** shall be considered by the director or assistant director (as per the Scheme of Delegation) on a **case-by-case** ~~case-by-case~~ basis in accordance with the terms of the contract and the obligation to ensure Value for Money.

**43.3** The Responsible Officer must engage with Procurement and Contracts Services and Legal Services (Commercial Legal Team) for any variation to an existing contract that has a value of **£25,000** ~~£100,000~~ or more.

**43.4** Legal Services (Commercial Legal Team) shall, upon request, advise any officer as to whether a particular variation is subject to the PCR 2015, ~~or~~ CCR 2016 **or PSR 2023** and guidance is available in the Guide to Standing Orders.

### **44.43-Authority to vary or extend a contract**

Subject to Standing Orders **43 and 45**, all contract variations and any contract extension (including where such extension is permitted by the contract) must be approved in accordance with Standing Order 3 (Authority to Contract).

### **45.44-Extensions and renewals**

**45.1** Contracts subject to the PCR 2015, ~~or~~ CCR 2016 **or PSR 2023** can only be extended where expressly provided for in their terms, or as otherwise permitted by the PCR 2015, ~~or~~ CCR 2016 **or PSR 2023** (as applicable).

**45.2** Contracts with a value below the Threshold can be extended only where expressly provided for in their terms.

**45.3** All contract extensions or renewals must be approved as follows:

**45.3.1** if the value of the extension is less than £100,000, by the director or assistant director (as per the Scheme of Delegation); ~~or~~

**45.3.2** if the value of the extension is £100,000 **to £499,999** ~~or more~~, by the Director of Law and Assurance and the Director of Finance and Support Services; **or**

**45.3.3** **Contract extensions valued at £500,000 and above will require a Key Decision.**

**45.4** In determining how a contract extension or renewal shall be approved in accordance with Standing Order **45.3**, the Responsible Officer shall not disaggregate or otherwise sub-divide any known spend during the period of any such extension or renewal with a view to avoiding obtaining the approvals referred to in Standing Order **45.3.2**.

## **Section 12: Disclosure, Transparency and Record Keeping**

### **~~46.45~~ Electronic availability of documents**

The Responsible Officer shall ensure that all Procurement Documents for contracts that are at or above the Thresholds are available online free of charge without restriction from the time the FTS Notice is published (or an ITCI is sent when a PIN is used as a call for competition).

### **~~47.46~~ Duty of confidentiality owed to suppliers**

The Responsible Officer shall not disclose information which has been forwarded by a supplier and designated by that supplier as confidential or commercially sensitive, including technical or trade secrets and the confidential aspects of tenders, without express authorisation from the Director of Law and Assurance who shall balance the duty of confidentiality owed to suppliers against the Council's obligations under FOIA and any other disclosure obligations. The Procurement Documents should inform interested parties of the Council's duties of disclosure and invite Tenderers to designate information as confidential or commercially sensitive. However, the Council cannot guarantee that all information so designated will be withheld.

### **~~48.47~~ Publication of contract award notices on the ~~Official Journal~~ or Find a Tender Service**

**48.1** The Responsible Officer shall ensure that a Contract Award Notice is published, in accordance with the PCR 2015, ~~or~~ CCR 2016, **PSR 2023** (as applicable) **on FTS (and subsequently Contracts Finder)**, ~~and~~:

~~48.1.1~~ where the procurement was launched before 23:00 on 31 December 2020 but not yet concluded at this date, on OJEU and FTS (such notice must be published first to OJEU before FTS and subsequently Contracts Finder);

~~48.1.2~~ where the procurement is launched on or after 23:00 on 31 December 2020, on FTS (and subsequently Contracts Finder);

where the notice is in respect of a contract let under a framework agreement or dynamic purchasing system **on FTS (and subsequently Contracts Finder)**.

~~48.3.1.1~~ if the procurement procedure for the framework agreement or dynamic purchasing system was launched and concluded or was launched but not yet concluded by 23:00 on 31 December 2020, on OJEU and FTS (such notice must be published first to OJEU before FTS and subsequently Contracts Finder); or

~~48.3.2.1~~ if the procurement procedure commences after 23:00 on 31 December 2020, on FTS (and subsequently Contracts Finder).

#### **49.48:Publication of contract award notices on Contracts Finder**

**49.1** The Responsible Officer shall ensure that a Contract Award Notice is published on Contracts Finder for all contracts with a value of £25,000 or more.

**49.2** Where a Contract Award Notice is required to be published ~~on OJEU and/or FTS (as applicable)~~, such notice must be published on OJEU and/or FTS before appearing elsewhere. OJEU/FTS notices must be published on Contracts Finder within 24 hours of them appearing **on** ~~in~~ OJEU/FTS.

**49.3** This Standing Order **49** applies to all contracts including contracts let under Framework Agreements, whether or not that Framework Agreement was itself advertised on Contracts Finder or anywhere else. In respect of contracts let under a DPS which have a value of £25,000 or more, publication of a Contract Award Notice on Contracts Finder shall be within no more than 90 days.

#### **50.49:Debriefing Tenderers**

For contracts valued at or above the Threshold, the Responsible Officer shall ensure that all Candidates and Tenderers are offered debrief information during the procurement process, in accordance with regulation 55 of the PCR 2015 or regulation 40 of CCR 2016 **or Schedule 9 of the PSR 2023** (as applicable), and at contract award, in accordance with regulation 86 of PCR 2015 or regulation 47 of CCR 2016 **or Schedules 2, 3, 4, 6, 7, 10 and 13 of PSR 2023** (as applicable).

#### **51.50:Procurement Report**

**51.1** The Responsible Officer shall keep a copy of all Procurement Documents in accordance with the Council's records retention policy.



**51.2** The Responsible Officer shall prepare a written report in relation to each procurement with a value at or above the relevant Threshold containing the following information (unless such information is contained in the Contract Award Notice):

**51.2.1** the subject-matter and value of the contract, Framework Agreement or Dynamic Purchasing System;

**51.2.2** where applicable, the results of the qualitative selection and reduction of numbers under regulations 65 and 66 of PCR 2015<sup>4</sup>, namely:

- (a) the names of the selected Candidates or Tenderers and the reasons for their selection;
- (b) the names of the rejected Candidates or Tenderers and the reasons for their rejection;
- (c) the reasons for the rejection of tenders found to be abnormally low;
- (d) the name of the successful Tenderer and the reasons why its tender was selected and, where known the share (if any) of the contract or Framework Agreement which the successful Tenderer intends to subcontract to third parties, and the names of the main contractor's subcontractors (if any);
- (e) for competitive procedures with negotiation and competitive dialogues, the circumstances as laid down in regulation 26 of PCR 2015 which justify the use of those procedures;
- (f) for negotiated procedures without prior publication, the circumstances referred to in regulation 32 of PCR 2015 or regulation 31(6) of CCR 2016 (as applicable) which justify the use of this procedure;
- (g) where applicable, the reasons why the Council has decided not to award a contract or Framework Agreement or to establish a Dynamic Purchasing System;
- (h) where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders; and
- (i) where applicable, conflicts of interests detected and subsequent measures taken.

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<sup>4</sup> There are no specific equivalent provisions in CCR 2016 regarding the reduction of Candidates or Tenderers during the procedure, this will be as determined by the Council and set out in the Procurement Documents and comply with Reg. 8 of CCR 2016.

**51.3** The Responsible Officer shall maintain a Procurement File containing sufficient information to justify decisions taken at all stages of the procurement such as documentation on:

**51.3.1** communications with suppliers and internal deliberations;

**51.3.2** preparation of the procurement documents;

**51.3.3** dialogue or negotiations, if any; and

**51.3.4** selection and award of the contract.

**51.4** The Procurement File shall be kept for a period of at least three years from the date of award of the contract.

**51.5** The Responsible Officer shall prepare a report containing such information as the Cabinet Office may request in respect of procurements at or above the relevant Threshold.

### **~~52.51~~ Contracts Register and storage of original contract documents**

**52.1** The Responsible Officer shall ensure that an electronic copy of every concluded contract is provided to Procurement and Contracts Services for entry onto the Council's Contract Register in order to ensure compliance with the Local Government Transparency Code 2015.

**52.2** The Responsible Officer shall be responsible for ensuring appropriate arrangements are made for the safe storage of the original contract documents with the Council's Modern Records team. The Responsible Officer may seek advice from Legal Services on the storage of original contract documents if required.

### **Section 13: Waiver of Standing Orders**

#### **~~53.52~~ Authority to waive Standing Orders**

**53.1** The Director of Law and Assurance and Director of Finance and Support Services shall, jointly, be responsible for determining any requests to waive these Standing Orders.

**53.2** Any request to waive Standing Orders shall be set out in writing with clear reasons why the waiver is necessary and proportionate. The format for the Responsible Officer's request for a waiver shall be in the standard form, as may be amended from time to time, as available **on the Commercial Legal Team intranet pages** from Procurement and Contracts Services.

**53.3** No waiver of Standing Orders can be made if it would contravene the PCR 2015, **the PSR 2023**, the CCR 2016 or any other applicable legislation.

**53.4** No waiver of the Standing Orders can be granted retrospectively.

**53.5** All waivers to these Standing Orders must be reported in writing to Procurement and Contract Services for logging in the register maintained for this purpose and available on the Procurement Services SharePoint site. Procurement and Contracts Services shall provide quarterly summary reports

of all requested waivers to these Standing Orders, whether approved or not, to all directors and assistant directors of the Council.

## Annex A: Glossary

Candidate	means an economic operator that has sought an invitation or has been invited to take part in a restricted procedure, a competitive procedure with negotiation, a negotiated procedure without prior publication, a competitive dialogue or an innovation partnership.
CCR 2016	means the Concession Contracts Regulations 2016 as amended and in force from time to time.
Clarification Log	means the record of questions and answers between Candidates and the Council in respect of a procurement exercise as described in Standing Order <b>28.1</b> .
<b>Commercial Panel</b>	<b>means the Council's officer panel that advises on and approves the proposed procurement route for contracts valued over £500,000 up to £5 million.</b>
Constitution	means the Council's rules and processes on how it will operate and make decisions and can be found on the Council's <a href="#">Constitution library</a> on the website.
Consultant	means an individual or company commissioned to do a short term, and clearly defined piece of specialised work, with clear outcomes where the work is project based, outside business as usual and there is a defined end point for the Consultant's involvement.
Contract Award Notice	means a notice containing the information set out in regulation 86 of the PCR 2015, for above Threshold contracts, and regulation 112 for below Threshold contracts or regulation 47 of CCR 2016.
<b>Contract Management Framework</b>	<b>means the framework that outlines the activities a head of service must consider when planning and delivering contract management. The council's Contract Management Framework segments contracts into Strategic, Business Critical, Operational and Transactional<sup>5 6</sup>.</b>
Contract Notice	means a notice advertising a public contract on OJEU or FTS as applicable.
Contracts Finder	means a government website on which all public contracts over a minimum threshold must be advertised, found at: <a href="https://www.gov.uk/contracts-finder">https://www.gov.uk/contracts-finder</a> .
Dynamic Purchasing System/DPS	means a system referred to in Regulation 34 of PCR 2015 and can be described as an electronic system which allows pre-qualified suppliers to participate in mini competitions for in scope services, similar to a framework agreement except that suppliers can join the DPS at any time and it is to be run as a completely electronic process.

<sup>5</sup> [Good practice contract management framework - National Audit Office \(NAO\) insight](#)

<sup>6</sup>

See internal guide to Categorisation of projects or contracts in Atamis

Financial Regulations	means those financial rules of the Council as contained in Part 4, Section 3 of the Council's Constitution in the <a href="#">Constitution library</a> on the website.
Find a Tender Service/FTS	means the new UK e-notification service, Find a Tender (FTS): <a href="https://www.find-tender.service.gov.uk">https://www.find-tender.service.gov.uk</a> where notices for new procurements (for contracts valued at or above the Threshold) <del>launched after 23:00 on 31 December 2020</del> are required to be published. <del>in place of the Official Journal of the European Union's Tenders Electronic Daily (OJEU/TED);</del>
Framework Agreement	means an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded in a given period, in particular with regard to price and, where appropriate, the quality envisaged (regulation 33(2), PCR 2015).
FOIA	means the Freedom of Information Act 2000.
ITCI	means an invitation to confirm interest.
Key Decision	<p>means an executive decision, which is likely:</p> <ul style="list-style-type: none"> <li>to result in the Council incurring expenditure which is greater than £500,000 or which is otherwise significant having regard to the Council's budget for the service or function to which the decision relates; or</li> <li>to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in West Sussex.</li> </ul> <p>Key Decisions may be taken by either the relevant cabinet member or an officer depending on the functions delegated to the officer in the Scheme of Delegation.</p>
OJEU	<del>means the Official Journal of the European Union, where prior to 23:00 on 31 December 2020 all public contracts which exceed the EU Thresholds were required to be advertised and where a procurement has been launched but not yet concluded at this time, the Contract Award Notice is to be published</del>
PCR 2015	means the Public Contract Regulations 2015 as amended and in force from time to time.
<b>PSR 2023</b>	<b>means The Health Care Services (Provider Selection Regime) Regulations 2023.</b>
<b>Procurement Board</b>	<b>means the Council's internal officer board that (following Commercial Panel) advises on and approves the proposed procurement route for contracts valued over £5 million.</b>

Procurement Documents	<p>means any document produced or referred to by the Council to describe or determine elements of the procurement or the procedure, including the:</p> <ul style="list-style-type: none"> <li>• Contract Notice (or PIN where it has been used as a call for competition)</li> <li>• Technical specifications</li> <li>• Descriptive document</li> <li>• Proposed conditions of contract</li> <li>• Formats for the presentation of documents by Candidates and Tenderers</li> <li>• Information on generally applicable obligations</li> <li>• Any additional documents.</li> </ul>
Procurement File	<p>means the record of each procurement that the Council must maintain in accordance with regulation 84(7)-(9) of the PCR 2015 <b>also known as the Commercial Stage Gate Record</b></p>
Procurement Report	<p>means the report that the Council is obliged to maintain in respect of each procurement of a contract valued at or above the relevant Threshold under regulation 84(1) of the PCR 2015 (see Standing Order <b>50.5</b>).</p>
Responsible Officer	<p>means the person or persons charged by the director or assistant director to conduct a procurement process, or to participate in or lead a team of officers assembled for that purpose or dealing with a variation to a contract as the context requires.</p>
Scheme of Delegation	<p>means the Council's formal written scheme of delegation in force and as amended from time to time and can be found in Part 3 of the Council's constitution in the <a href="#">Constitution library</a> on the website.</p>
Small and Medium Enterprise or "SME"	<p>means, as set out on the Council's website: companies that fulfil two of the following criteria:</p> <ul style="list-style-type: none"> <li>• a turnover of not more than £11.2 million</li> <li>• a balance sheet total of no more than £5.6 million</li> <li>• no more than 250 employees.</li> </ul>
SQ	<p>means a selection questionnaire.</p>
Tenderer	<p>means an economic operator that has submitted a tender to the Council.</p>
Threshold	<p>means the total estimated financial value of a contract which determines which rules of PCR 2015 or CCR 2016 apply to the procurement of the contract, as is provided for in the PCR 2015 or CCR 2016 and set by the Cabinet Office.</p> <p>The Thresholds (<b>inclusive</b> net of VAT) applicable from 1 January <del>2020</del> <b>2024</b> to 31 December 2021:</p> <p>PCR 2015  Services/supplies - <del>£189,330</del> <b>£214,904</b>  Light touch services - £663,540  Works - <del>£4,733,252</del> <b>£5,372,609</b></p> <p>CCR 2016  Concession contracts - <del>£4,733,252</del> <b>£5,372,609</b></p>

Value for Money	means the optimal use of resources to achieve the intended outcomes taking into account: (a) Economy: minimising the cost of resources used or required (inputs), i.e. spending less; (b) Efficiency: the relationship between the output from goods or services and the resources to produce them, i.e. spending well; and (c) Effectiveness: the relationship between the intended and actual results of public spending (outcomes), i.e. spending wisely.
Voluntary, Community and Social Enterprises (VCSEs):	means, as defined by the Cabinet Office in "Procurement Policy Note 11/20: Reserving below threshold procurements" as any organization (incorporated or not) working with a social purpose. This ranges from small community-based groups / schemes, through to larger registered charities and social enterprises, public service mutuels and cooperatives that operate locally, regionally and nationally. This term is often interchangeable with the terms 'third sector' or 'civil society' organisations.

**Annex B: Standing Orders at a Glance**

**Contract Value/Type — ~~new procurements after 23:00 on 31/12/20~~**

<b>Process</b>	<b>Contracts at or above the Threshold</b>	<b>Schedule 3 Light Touch services contract at or above the Threshold of £663,540</b>	<b>Contracts valued between £100,000 and the Threshold</b>	<b>Contracts with a value between £25,000 and £99,999</b>
<b>Advertising requirements/sourcing route</b>	FTS and Contracts Finder	FTS and Contracts Finder	Either of: Advert on FTS/Contracts Finder. Advert on Contracts Finder/WSCC site. Call off from framework. Three quotes*	Either of: Advert on Contracts Finder/WSCC site. Three quotes*. Call off from framework or DPS. One quote*
<b>Procedures</b>	In accordance with PCR 2015	In accordance with regulation 76, PCR 2015	Fair and transparent process representing Best Value	Fair and transparent process representing Best Value
<b>Contract Award Notice</b>	Mandatory on FTS and Contracts Finder**	Mandatory on FTS and Contracts Finder**	Mandatory on Contracts Finder	Mandatory on Contracts Finder
<b>Use of SQ</b>	Use of Government standard SQ mandatory	Use of Government standard SQ mandatory	Prohibited up to EU supplies/services Threshold	Prohibited

\* All consultancy contracts with a value of £50,000 or more must be competitively tendered.

\*\* ~~if the procurement was launched prior to 23:00 on 31 December 2020 the Contract Award Notice must be published in OJEU and is recommended it is also published in FTS. If the contract is a call off under a framework agreement or dynamic purchasing system that was launched and concluded or was launched but is not yet finalised before 23:00 on 31 December 2020 the same rules apply.~~

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