

Chapter 18 – Rules on procurement

These rules, also known as the Procurement Standing Orders (SOs), set out how the Council procures goods, services and agency or consultancy staff, when required. The rules seek to ensure corporate compliance and that best value is achieved in the Council's commercial transactions with third parties.

SO 1 - Compliance

1.1 Every contract awarded by or on behalf of the Council in respect of:-

- a) Goods;
- b) Works; or
- c) Services

of any category or commodity, shall be procured and awarded, in accordance with:

- a) These Standing Orders
- b) The Public Contracts Regulations 2015
- c) [The Public Procurement \(Amendment Etc.\) \(EU Exit\) Regulations 2020](#) ~~EU directives and regulations~~ or other applicable statutory regulation being in force in the United Kingdom
- d) The Council's Financial Regulations and Standing Orders,
- e) Corporate Procurement Strategy and any Procurement Standard Operating Procedures issued under paragraph 1.2.

1.2 The Chief Executive, in consultation with the Leader of the Council, the Cabinet Member for Finance and the Chief Finance Officer, may issue, from time to time, Procurement Standard Operating Procedures setting out, in further detail, procedures to be followed when awarding contracts under these Contract Standing Orders, together with guidance on relevant best practice for procurement.

1.3 Compliance with the procedures set out in the Procurement Standard Operating Procedures is mandatory under these Standing Orders, together with the application of best practice. Application of the Procurement Standard Operating Procedures is to be consistent across all Council Departments, including all areas where the procurement function is delegated. It is the responsibility of the Approved Officers^s to ensure compliance with the procedures is maintained where procurement is delegated to an external supplier or organisation.

1.4 These Standing Orders shall be read together with the Procurement Standard Operating Procedures. The Procedures and Standing Orders carry equal weight, and therefore a breach of the Procedures will have the same effect as a breach of these Standing Orders.

1.5 Corporate & Executive Directors, Directors, Deputy Directors and Heads of Service shall ensure that all officers who procure goods, works or services comply with these Standing Orders and the Procurement Standard Operating Procedures. Only officers who are

deemed to be qualified and competent by the Head-Director of Procurement, in conjunction with the appropriate Corporate/ Executive Director, may procure goods, works or services. These officers are to be identified within each Department's individual Scheme of Delegations, and known as "Approved Officers". The Head of Procurement and each Corporate / Executive Director shall maintain a register of Approved Officers.

- 1.6 An Approved Officer shall be designated for all contracts, irrespective of value, and be competent in managing the supply of goods, works or services as appropriate. ~~For the avoidance of doubt, this does not mean sourcing and placement of contracts.~~
- 1.7 The Head-Director of Procurement shall be responsible for maintaining a register of all contracts where the total contract value is £~~50,000~~100,000 or greater.
- 1.8 No contract shall be procured unless written approval is obtained in accordance with the Scheme of Delegations. Such written approval will confirm there is adequate provision within the appropriate capital or revenue budgets or other financial provision, i.e. grant funding.
- 1.9 Pursuant to paragraph 1.8, before obtaining written approval, Approved Officers shall consult the Register of Contracts to ascertain if the Council has a contract for the goods, works or services required. If such a contract is in existence, the Approved Officer shall use the appropriate contract in force, and not procure another.
- 1.10 It shall be the duty of every officer of the Council placing contracts or committing expenditure to obtain and demonstrate value for money, and that the goods, works and services are fit for the intended purpose.
- 1.11 These Procurement Standing Orders (SOs) will remain in place as the Council transitions from the Public Procurement Regulations 2020 to the Procurement Act 2023. For all Procurement engagement completed or formally commenced prior to 27th October 2024, these Standing Orders will remain applicable for the period of those contracts or Frameworks. For all Procurement Engagement starting on or after 28th October '24 and to the extent that it is possible within the new regulations these Standing Orders will continue to apply. Where adherence to Standing Orders is not possible, owing to divergence from old to new Regulations, Officers will adhere to the guidance in place from Cabinet Office and take necessary advice from Procurement and Legal teams.

SO 2 - Ethics & Probity

- 2.1 Officers shall preserve the highest standards of honesty, integrity, impartiality and objectivity. This includes compliance with the Employees' Code of Conduct.
- 2.2 Pursuant to paragraph 2.1, breaches of compliance will be referred to the Chief Finance Officer and the Head of Procurement in the first instance, who in conjunction with the Head of Business Assurance, will authorise any investigation. The outcome of any investigation may be referred to the Head of Human Resources to determine if disciplinary action should be taken, in accordance with the Employee's Code of Conduct.

- 2.3 In accordance with Section 117 of the Local Government Act 1972, The Head of Legal Services shall maintain a record of any officer who has a pecuniary interest in a contract with the Council, and notify in writing their Head of Service where, in the course of their work, have a personal financial or non-financial interest.
- 2.4 Any officer procuring goods, works or services must declare gifts and hospitality received or offered, in accordance with the Employees' Code of Conduct.

S0 3 - Decision-making process

3.1 Member authority

The Council's executive decision-making process set out in Part 2, [Chapter 5](#) requires for more significant contract decisions to be determined by the Cabinet or a Cabinet Member(s) to provide for Member oversight and accountability when using public monies. It is the prerogative of the Cabinet or Cabinet Member to decide to accept - or not accept - any tender recommended by Officers.

Council sets the financial thresholds by which tenders shall be accepted by Members as set out in Standing Order 6.

3.2 Planning ahead

Before any invitation to tender, Corporate & Executive Directors and their officers shall plan ahead and build into their project timetable the necessary informal approvals, notifications (via the Forward Plan) and the period of the formal decision-making process. Sufficient time should be planned to consider all service provision issues, including alternative decisions by the Cabinet or Cabinet Member.

Corporate & Executive Directors should first seek the informal approval of their Cabinet Member to invite tenders. For tenders that have a corporate impact, the Leader of the Council should also be consulted beforehand. Cabinet Members will expect officers to have considered all alternative options before presenting them with a proposal to tender a contract.

The Corporate & Executive Directors shall then ensure that the Forward Plan is updated with regard to forthcoming tender decisions which require formal approval by the full Cabinet or a Cabinet Member. Advance notice of at least 3-4 months should be given on the Forward Plan.

3.3 Decision-making process and timings & transparency

Any tender decision identified on the Forward Plan shall require a formal tender summary report to be prepared providing full tender evaluation information, using the sign-off procedures and templates approved by Democratic Services. For tender decisions to a particular meeting of the full Cabinet, officers should adhere to the report deadlines set

out by Democratic Services. For tender decisions to a Cabinet Member(s), officers should ensure they are taken within the month notified.

From the time the report is ready, the formal decision-making process can take approximately 1 month before a decision is made. This time period is mainly for legal reasons, but also to ensure that Members have time to read the report. In addition, after any decision is made by the Cabinet or Cabinet Member, 5 days must expire for the 'scrutiny call-in' period before any decision can formally take effect and any contract can be signed, executed or sealed.

In exceptional circumstances to speed-up the democratic decision-making process, Special Urgency or Urgency procedures may be invoked to the relevant body authorised to make the decision (Leader of the Council/Cabinet Member or the Cabinet) but only with the prior agreement of the Leader of the Council via the relevant Corporate / Executive Director. Such procedures are set out in Chapter 17 - Rules on Access to Information. For transparency, ordinarily all Cabinet and Cabinet Member decisions to accept (or not accept) a particular tender are made public immediately following the decision, including the name of the successful tenderer / organisation and the value of the contract.

S0 4 - ~~Invitations to Tender~~ Minimum Tendering Requirements

- 4.1 a) Tenders or quotations shall be invited for all proposed ~~contracts~~expenditure with an estimated total contract value, equal to or exceeding the minimum thresholds as set out ~~in the Procurement Standard Operating Procedures. These thresholds are~~ as follows: -

Total Value	<u>Minimum Tendering Requirement</u> number of quotations or tenders	<u>Award criteria</u> <u>Authority to Commence & Evidence Required</u>	<u>Award Criteria / Method of Publication</u>
£0 - £ 299,999 5,000	3 <u>written quotations from viable suppliers or 'mini competition' from compliant Framework. Where possible at least two quotations should be sought from local suppliers.</u> <u>Quotations OR where a Direct Award this should be through a compliant</u>	<u>Most economically advantageous Budget Holder. Evidence of quotes should be retained for auditability and purpose of raising requisition. Screenshots of online prices will be considered for this value OR if Direct Award evidence should be presented with Purchase Requisition of why</u>	<u>Bids up to £24,999 may be sought on email with officers awarding to lowest cost unless there is a clear and unambiguous reason to select a higher priced quote.</u> <u>Bids between £25,000 and £99,999 must be sought on the Councils nominated eProcurement system with Officers awarding</u>

	<u>framework (see S04.1 c)</u>	<u>this represents appropriate route to award including Value for Money</u>	<u>to Most Advantageous Quote</u>
£25,000 ———— £100,000	5-Quotations	Most economically advantageous quotation	
£100,000 & above	<u>Formal tender process, compliant with all necessary regulations, thresholds and best practice OR where a Direct Award this should be through a compliant framework (see S04.1 c) 5-Tenders</u>	<u>Most economically advantageous tender Budget Holder, Head of Service & Director. Evidence of formal tender process including evaluation should be retained for purpose of audit and writing formal reports OR if Direct Award evidence should be included in formal report of why this represents appropriate route to award including Value for Money</u>	<u>Tender must be issued on the Councils nominated e-Procurement system with Officers evaluating as set out in the tender documents.</u>

Pursuant to paragraph 1.1, every invitation to tender shall comply with all regulations and directives in force at that time.

- b) Where the award criteria is based on Most economically advantageous tender, unless agreed by the Director of Procurement in consultation with in writing by Cabinet Member for Finance or the Leader of the Council, where appropriate. in conjunction with the Head of Procurement. ~~T~~there will be three tiers of weighting reflecting the varied nature of services the Council procures:
- i. Goods / works and services considered to be a commodity and / or ones that are not considered to impact the strategic outcomes of the Council shall be based on a minimum 80% weighting in favour in price.
 - ii. Goods / works and services where the quality of outcome is heavily influenced by the supplier selection (e.g. consultancy and professional services) shall be based on a maximum of 80% weighting in favour of quality.
 - iii. All other requirements, where price and quality are deemed to be of equal importance when considered in the context of the Council's operating and financial environment, should be undertaken on the basis of equal cost / quality split. It is expected that the majority of requirements will fall under this tier.

c) Frameworks (those established by Hillingdon, other public organisations or Public Sector Buying Organisations) represent a compliant method by which to award

contracts. Some Frameworks require completion of a 'further competition' and these should be completed in accordance with the terms of the framework and adherence to the requirements of S04.1. Other Frameworks permit Direct Awards to a specific supplier, often presenting an expedient and commercially attractive route to contract award. The approval process remains as per S06.3 but the use of the Direct Awards need to be justified in writing with supporting evidence to justify why and how the supplier meets LBH requirements and appropriate level of benchmarking to justify Value for Money in the proposed arrangements.

- 4.2 ~~EU directives and regulations~~ The Public Procurement Regulations 2020 shall apply to the procurement of contracts with an estimated aggregate value equal to or exceeding the ~~EU~~ thresholds listed below that are in force at the time of tender, ~~as set out in the Procurement Standard Operating Procedures~~ and pursuant to paragraph 4.3:-

Supply Type	Value		
Goods and services	£181,302 or greater	Minimum 5 Tenders to be sought	Most economically advantageous tender or lowest price
Works	£4,551,413 or greater	Minimum 5 Tenders to be sought	Most economically advantageous tender or lowest price

* The Head of Democratic Services may update the above ~~0JEU~~ figures in the Standing Orders, as and when prescribed from time to time.

- 4.3 Unless it is in the best interests of the Council, or forms part of a provision of duty of care, no requirement for goods, works or services may be sub-divided into smaller contracts with the intention of circumventing the requirements of paragraph 4.1, or 4.2. for the purpose of avoidance of EU statutory requirements, as stated in the Public Contracts Regulations 2015.

~~4.4 Pursuant to paragraph 4.1 and the requirement for obtaining best value and adequate competition, competitive tenders or quotations shall not be required if the Approved Officer is satisfied, and has obtained written agreement from the Head of Procurement and the Leader of the Council, that:~~

- ~~4.4 (i) it is not reasonably practicable or prudent in meeting the Council's objectives to obtain competitive tenders or quotations; or~~
~~(ii) there would be no effective or genuine competition; or~~
~~(iii) it is necessary to safeguard life or property; or~~
~~(iv) the works, services or goods will be obtained through an approved buying consortium, or from their nominated suppliers; or~~
~~(v) the works, services or goods will be obtained through a corporately tendered and managed contract that has been established for all officers of the Council to use, and~~
~~(vi) all such decisions are authorised by the Head of Procurement in writing.~~

- ~~4.5 Before proceeding in accordance with paragraph 4.1 in relation to any expenditure, the Approved Officer shall consult the Procurement Standard Operating Procedures, to confirm~~

and determine how the goods, works or services should be tendered. Appropriate guidance shall also be sought from the Procurement Team.

- 4.56 Tenders for all proposed contracts with an estimated total contract value greater than £510,000 shall be conducted following consultation with the by the Procurement Team, unless otherwise instructed by the Head Director of Procurement. ~~All such tenders shall be published on the appropriate eTendering portal as advised by the Procurement Team.~~

S0 5 - Custody, Receipt & Opening of Tenders

- 5.1 All tenders are managed through ~~capital e-sou~~ the Councils preferred eTendering Portal ~~ring~~ which will contain a record of all tenders received and opened and provides auditability of tender integrity. ~~If tenders are managed manually, then procedures below will apply.~~

- 5.2 ~~The Approved Officer shall ensure that custody, opening and acceptance of tenders is in accordance with the Procurement Standard Operating Procedures.~~

5.3 Receipt and custody of tenders

- (a) ~~Tenders shall be returned by the tenderer to the Civic Centre. Electronic tenders shall be returned to the email address specified in the tender instructions, or uploaded to the appropriate e-tendering portal as specified.~~
- (b) ~~On receipt by the Council, tenders shall be date and time stamped on their envelope or outer wrapper. Each electronic tender received shall be electronically date stamped.~~
- (c) ~~The Mail Room Supervisor, or equivalent officer responsible for receiving mail or online documents, shall:~~
- (i) ~~provide a receipt for tenders received, on request;~~
 - (ii) ~~keep a record of the number of tenders received;~~
 - (iii) ~~after the time and date specified for their return, hand all tenders received to the officer responsible for them, and obtain a receipt / signature.~~
- (d) ~~Tenders shall be kept in secure custody until they are opened. Electronic tenders shall be stored in a secure folder.~~

5.4 Register of tenders

~~A register of tenders received shall be maintained by each Corporate / Executive Director and updated by each Approved Officer as necessary. The register should contain details of each tender, the signatures of the officer opening the tenders and the witness and the signature of the officer to whom the tenders were passed for custody after opening. Where tenders are received electronically this register shall be maintained within the appropriate eTendering portal as advised by the Procurement team.~~

5.5 Tender opening

- ~~(a) Tenders shall be opened at one time and only in the presence of such officer or officers as the Head of Democratic Services and/or Approved Officer or the Corporate Procurement Unit may determine.~~
- ~~(b) An officer from the Corporate Procurement Unit or Democratic Services should be present when tenders are opened.~~
- ~~(c) The tenders shall be opened one at a time and the opening sequence recorded, together with any appropriate comments or notes.~~
- ~~(d) As each tender is opened the name of each tenderer and the amount of the tender must be recorded in the tender register.~~

5.2 Late Tenders/Bids (Tenders & Quotations)

- (a) A ~~tender~~Bid received after the last date and time when ~~tenders~~bids should be received must be recorded as a late tender in the tender ~~register~~portal.
- (b) Such a late ~~tender~~bid shall only be opened and considered for acceptance in exceptional circumstances with supporting written evidence and on the authorisation of the Head~~Director~~ of Procurement ~~and/or~~ the Head of Democratic Services.
- ~~(c) The Head of Procurement and the Head of Democratic Services may consider that a tender received late should be considered for acceptance under the following circumstances:~~
 - ~~(i) there is a bona fide reason, recorded in writing, for the tender being late; and~~
 - ~~(ii) other tenders that have arrived on time have not been opened.~~
- ~~(d) Where a tender received late is for a contract greater than £50,000, the Head of Procurement and Head of Democratic Services shall in addition seek approval from the Head of Legal Services prior to considering it for acceptance.~~
- ~~(e) Where a tender received late is for a contract value of greater than £250,000, the Head of Procurement and Head of Democratic Services shall in addition seek approval from the Head of Legal Services prior to considering it for acceptance.~~
- ~~(f) In circumstances where the Head of Procurement and the Head of Democratic Services are uncertain whether a late tender should be opened and considered for acceptance, the matter should be referred to the Head of Legal Services for legal advice.~~

S0 6 - Acceptance of tenders and approval of them

6.1 General Rules

Where tenders or quotations have been received in accordance with the Procurement Standard Operating Procedures, they can only be accepted if the Approved Officer has satisfied themselves that: -

- a) All approvals required by Cabinet, Cabinet Member or Delegated Officers set out in these Standing Orders, the Council's Constitution and Financial Regulations have been obtained first;
- b) the tender is compliant;
- c) the tender offers best value in accordance with the Procurement Standard Operating Procedures.

- d) all appropriate risks have been assessed and mitigated, as required by Procurement Standard Operating Procedures.
- e) An assessment of the Contractors financial viability in accordance with Procurement Standard Operating Procedures must be carried out where the tender value exceeds £100,000 or at any value where payment is made in advance or risk of supplier failure would have detrimental impact on services to residents or the Finances of the Council
- f) That relevant and sufficient budgetary provision (whether capital or revenue) is available

6.2—Acceptance of tenders or quotations

~~A tender or quotation summary report recommending final contractor selection will be required prior to acceptance. This document will form the basis for decisions required as set out below.~~

- ~~(a) In the case of a tender or quotation which does not exceed £24,999 for which budgetary provision exists, the Approved Officer shall be authorised to accept the most satisfactory quote or tender using the designated financial system.~~
- ~~(b) In the case of a tender or quotation which is between £25,000 and £99,999 for which budgetary provision exists, the Approved Officer, with informal written acceptance provided by the relevant Cabinet Member portfolio holder and / or Leader of the Council shall be authorised to accept the most satisfactory tender.~~
- ~~(c) In the case of a tender which between £100,000 and £499,999 for which budgetary provision exists, the relevant Cabinet Member portfolio holder in conjunction with the Leader of the Council or Cabinet Member for Finance shall be authorised to accept the most satisfactory tender through the formal democratic process.~~
- ~~(d) In the case of a tender of £500,000 and above for which budgetary provision exists, the Cabinet shall be authorised to accept the most satisfactory tender through the formal democratic process.~~
- ~~(e) Additional authority may be provided for (or required) as set out in section 6.3 in order to accept tenders outside the ordinary thresholds above or for those significant in nature.~~
- ~~(e) A re-assessment of the Contractors financial stability shall be carried out where the tender value exceeds £100,000. This would normally be undertaken during the pre-qualification and/or at the tender submission stage of the process. This information should be presented in any report to the Cabinet or Cabinet Member.~~
- ~~(f) Tenders or quotations can only be accepted in accordance with the agreed award criteria i.e. most economically advantageous or lowest price.~~

~~In the case of decisions required by the Cabinet or Cabinet Member then the procedures in Standing Order 3.3 shall be followed.~~

6.3 Authority levels for tender or quotation acceptance

- (a) Council has agreed the following financial thresholds for authority to accept the outcome of a tender or quotation exercise:

<u>Total Value of Contract (including any contract extensions)</u>	<u>Approval Method</u>
£0 - £ 2499 ,999	Approved Officer using designated Financial System * <u>Corporate Director using Oracle Financials</u>
£25,000 - £99,999	Approved Officer with informal written acceptance from relevant Cabinet Member or Leader of the Council*
£100,000 - £ 499,999 <u>750,000</u>	Formal democratic decision by the relevant Cabinet Member and the Leader of the Council or Cabinet Member for Finance *
£ 50 <u>750,000</u> or greater	Formal democratic decision by the Cabinet */**

(b) Where a quotation or tender process has not been undertaken or extension is being requested beyond the scope or value of the original approval then authority levels are set out in Standing Order 11 – Exemptions and Waivers

(b)(c) * Any tender, at any value, if deemed a 'key decision', must be indicated on the Forward Plan in advance and determined formally

If any such decision on any tender is to have a significant impact upon communities, people or services within 2 or more wards and/or significantly outside the approved budget (by meeting the criteria for key decisions) then it must be taken by Leader & relevant Cabinet Member or the Cabinet, dependent on value as a formal democratic decision and prior details included within the Council's Forward Plan, except if taken under urgency rules. The Council's definition of a key decision is set out in Part 2, [Chapter 5](#) of this Constitution.

(e)(d) ** Tenders above £~~750500~~,000 in the absence of a regular Cabinet meeting and if decision deemed urgent by the Leader of the Council

Cabinet is the primary body where tenders over £~~75500~~k in value are considered in the ordinary course of events. In the absence of a Cabinet meeting where a decision is required that if not taken may prejudice service or project delivery or if a decision is deemed urgent by the Leader of the Council, then the Leader of the Council and relevant Cabinet Member may take a formal democratic decision on the matter, with it being reported to a subsequent Cabinet for ratification via a formal report.

~~These thresholds and authority requirements shall also apply to single tender actions, contract extensions and variations.~~

(d)(e) In the case of a formal democratic decision required by the Leader of the Council / Cabinet Member or the Cabinet then the procedures in Standing Order 3.3 shall be followed.

6.4 Agency / Temporary Workers and Consultants

~~(a) (a) Council has agreed different financial thresholds for authority for appointing individual temporary workers and accepting tenders for appointment of consultants as follows:~~

- ~~(a) (b)~~–Where there is a requirement to recruit an Individual Temporary Worker (within 'IR35 - off payroll working') as an additional resource or to fill a vacant post this ~~should~~ be appointed through the Councils nominated and approved temporary agency provider. Any such requests should be progressed with the HR Team and in accordance with HR policies & procedures.
- ~~(b) (e)~~Where there is a requirement to recruit an Individual Temporary Worker (within 'IR35 - off payroll working') as an additional resource or to fill a vacant post and this cannot be fulfilled through the Councils nominated and approved temporary agency provider, any request to use an alternative recruitment agency must be treated as new services provision and is subject to the full Standing Orders, including but not limited to, S04.1 and S06.3.
- ~~d)~~ Where there is a requirement to recruit a 'consultant' (appointed outside of 'IR35 - off payroll working' legislation) who, after appropriate due diligence is deemed by the commissioning manager, to be outside of IR35 this should be treated as a new service provision (whether through a recruitment agent or direct engagement) and is subject to the full Standing Orders, including but not limited to S04.1 and S06.3.
- ~~e)~~ Any ambiguity as to whether roles are deemed inside or outside of IR35 should in the first instance refer to internal guidance on such matters before being referred for external opinion.
- ~~f)~~ A summary of all consultant engagements and/or outside of IR35 activity will be reported to Cabinet quarterly for noting only

Acceptance of tender for appointment of consultants*	Any value if within establishment and budget	Corporate / Executive Director	In writing
	Any value outside establishment or budget	Chief Executive with sign-off by the Leader of the Council	In writing
Approval of individual temporary workers*	Any value if within establishment and budget	Corporate / Executive Director	In writing
	Any value outside establishment or budget	Chief Executive with sign-off by the Leader of the Council	In writing

*NB: If the value is £50,000 or greater these shall be reported to Cabinet for noting only.

Reference to 'consultants' within Standing Order 6.4 means small practice consultants of fewer than 3 people who are engaged by the Council against a specific brief but are assessed to fall outside of IR35 intermediaries Legislation. For engagement of larger consultancy contracts, these should be tendered in accordance with Standing Order 4 and approved in accordance with Standing Order 6. In circumstance where there is uncertainty around which process to follow further guidance should be sought from the Head of Procurement.

In the case of decisions required by the Cabinet or Cabinet Member then the procedures in Standing Order 3.3 shall be followed.

~~6.5 Where individual orders for goods, works or services are placed with a single contractor independently of each other and the cumulative value over the period of a financial year moves between the authorisation levels in Standing Orders 6.3, officers should seek the necessary approval in accordance with the total cumulative value.~~

S0 7 - Execution of Contracts

7.1 Every contract that is entered into by the Council shall be ~~in writing and~~ executed in accordance with the following:-

£10,000 - £ 4999 ,999	Signed by, the Head of Procurement in writing <u>Approved officer -OR,</u> <u>where appropriate, through the raising of a Purchase Order on the</u> <u>Councils Finance system</u> As set out in 9.2 for purchases below £10,000 where no formal contract is in place, purchase orders shall be considered as a form of contract.
£50,000 - £99,999	Signed by the Chief Finance Officer in writing
£100,000 or greater	Sealed with the Common Seal of the Council and attested by a Member of the Council and the Head of Legal Services or any other officer authorised by the Head of Legal Services and the Leader of the Council in writing.

7.2 Pursuant to Standing Order 1, a record of each contract executed in accordance with paragraph 7.1, shall be entered on a Register of Contracts maintained for that purpose by the ~~Head~~Director of Procurement.

7.3 No Council officer may call off a contract for goods, works or services unless that contract is ~~in writing and~~ executed in accordance with paragraph 7.1.

~~7.4 Legal Services shall be responsible for ensuring that all contract executions are managed correctly, in accordance with paragraph 7.1. Sufficient copies of each contract shall be signed, and an electronic version will be passed to the Procurement Team, whereupon this will be stored in the Contracts Library.~~

7.4 All contracts, whether executed in writing or through the raising of a requisition on the Councils Finance System must be appropriate to the nature of the services, supplies or works to be provided and contain provisions to protect the Councils overall commercial, legal and reputational risk. Council Standard Terms and Conditions should be used as a matter of course but where a requirement to diverge from this applies, the following conditions apply:

(a) Use of Supplier Contracts – Any requirement for Officers to contract on third party supplier terms and conditions must only be done with the specific written approval of Legal Services

(b) Use of Public Sector Framework Contracts (CCS / YPO / ESPO etc) – Officer may use Framework contracts with written approval of Procurement Team

(c)(e) Use of Industry Standard templates (JCT / NEC etc) – Offices may use Industry Standard Templates with the written approval of Legal Services.

7.5 It is the requisitioners responsibility to ensure that any contract (formal written contract or Purchase Order) contains or reference **as a minimum:**

(a) a specification of requirements or required outcomes

(b) the agreed costs of the services to be delivered

(c) start and finish date of the requirements

(d) Compliance requirements (GDPR, H&S, Insurance etc)

7.6 The Councils preference is for all contracts to be issued for signature using an electronic signature software. Reference to signing or signature in S07 should be taken to mean either a physical /wet copy signature OR with reference to the use of the electronic system.

S08 – Permitted Contract Extensions and Variations

8.0 Before approval is granted to extend or vary contracts, Corporate & Executive Directors and their officers shall give due consideration to all potential options that may exist to repackage goods, works and services. An appraisal of such options shall be produced and provided to the appropriate Cabinet Member for review in accordance with the provisions of Standing Order 3. Only where the Cabinet Member approves the option that a contract shall be extended or varied shall such approval be sought.

8.1 Contracts may only be extended where the express provision in the agreement exists to do so, it is compliant with the requirements of Public Contract Regulations and the appropriate approval to extend has been provided. Where no provision to extend exists this cannot be considered an extension and should be managed as an Exemption or waiver under S011. This approval shall be sought in accordance with the levels of tender acceptance contained in Standing Order 6.3.

8.2 Approval to extend shall be sought in accordance with the following approval levels OR in accordance with any extension provision agreed at the time of the initial contract award,

<u>Value of Extension exceeds</u>	<u>Approval Method</u>
<u>£0 - £99,999</u>	<u>Corporate Director</u>
£100,000 - <u>£499,999</u> <u>£750,000</u>	Formal democratic decision by the relevant Cabinet Member and the Leader of the Council or Cabinet Member for Finance *
£500 <u>£750</u> ,000 or greater	Formal democratic decision by the Cabinet */** <u>or to the relevant Cabinet Members where so delegated by the Cabinet</u>

8.3 Any requests to vary a contract that does not have a financial implication but is considered a 'key decision' should be taken in consultation with the relevant Corporate Director and Cabinet Member in accordance with the principles established in SO3

8.4 Where contract spend is likely to exceed the originally approved value, in response to increased time period, scope or use, it is the Officers obligation at the earliest opportunity (and in advance of reaching that limit) to submit a report, in accordance with the values set out in SO's. Any such report should set out the reasons for the additional spend and expectations on likely future spend. For the avoidance of doubt, where an approval is initially within one band (ie a contract originally approved for £95k) and approval is sought to vary by a value of a further £50k, this should be submitted according to the total value - ie £145k and required Cabinet Member approval. Where an approval is initially for £200k but an extension of £95k is required, this can be through Corporate Director. If the extension was for £110k, it should go to Cabinet Member

8.5 All contracts with an average spend of £200k per annum or above must have formal approval from Cabinet to continue for greater than 10 years regardless of previous delegations provided

~~Contracts may only be varied where the express provision in the agreement exists to do so and the appropriate approval to vary the contract has been provided. This approval shall be based upon the approval required to execute the contract as contained in Standing Order 7.1.~~

~~8.1 Where any single proposed contract variation or cumulative value of agreed contract variations is likely to exceed the value originally approved then Officers should, at the earliest opportunity, seek approval to exceed the value from the relevant Cabinet Member and the Leader of the Council. If this exceeds 15% or more of the total contract value originally approved, a summary report shall be made to the Head of Procurement. Approval of the proposed contract variation shall be in accordance with Standing Order 8.2 and therefore may require either approved officer approval with informal written acceptance by the Cabinet Member, a formal Cabinet Member or Cabinet decision.~~

SO 9 - Purchase Orders, Contract Purchase Agreements & Government Procurement Cards

9.1 Where Officers wish to commit spending on behalf of the Council, formal contractual arrangement are in place, Purchase orders shall be considered as the method of commitment with a supplier and shall be required for all goods, works and services, irrespective of value. Any Purchase Order must be raised against a Contract Purchase

Agreement (CPA) to allow accurate reporting of spend against approval. Processes for raising requisitions and CPA's are set out in, and raised in accordance with Procurement Standard Operating Procedures, pursuant to paragraph 1.1.

9.2 No goods, works or services shall be procured without the prior establishment of a legitimate purchase order, duly approved in accordance with the Council's Financial Regulations and the Scheme of Delegations. Exemptions to this shall be approved in writing by the Chief Finance Officer ~~and Head of Procurement as appropriate.~~

9.3 Non-Invoice payments for one off payments such as grants or refunds can be made using Oracle Cloud's One Time Payment function. The function must not be used for purchasing goods or services where an invoices should always be provided. Non-Invoice payments must not be subject to VAT. One Time Payments will utilise the cost centre hierarchy for their expenditure approval.

~~9.2~~ ~~For purchases below £10,000 where no formal contract is in place, purchase orders shall be considered as a form of contract and shall be required for all goods, works and services, and raised in accordance with Procurement Standard Operating Procedures, pursuant to paragraph 1.1. No goods, works or services shall be procured without the prior establishment of a legitimate purchase order, duly approved in accordance with the Council's Financial regulations and the Scheme of Delegations.~~

~~Exemptions to this shall be approved in writing by the Chief Finance Officer and Head of Procurement as appropriate.~~

~~9.4~~ The Council recognises the need to ensure efficient processes are used to procure lower value goods, works and services. Therefore ~~Government~~ Procurement Cards (P-Cards) may be used to procure goods, works and services as in any of the following situations:-

- a) Purchases less than £500
- b) Single purchases where the supplier will not be used again
- c) Urgent or emergency purchases where it is not possible to raise a purchase order, pursuant to paragraph 9.2

~~Exemptions to this shall be approved in writing by the Chief Finance Officer and~~ Head Director of Procurement as appropriate.

SO 10 - Local Authority Maintained School Procurement

10.1 Delegated Authority to procure goods, works or services ~~is may be~~ awarded to Local Authority maintained schools only where they abide by the Councils Standing Orders with respect to all Procurement and contracting activity. only with the written approval of the Chief Executive, Chief Finance Officer and the Head of Procurement, and only when the application for Delegated Authority is supported by a detailed business case prepared in accordance with the Procurement Standard Operating Procedures. Breaches of compliance will result in the removal of Delegated Authority and possible disciplinary action may also be initiated.

~~10.2 Departments, Service Areas or Officers Schools~~ who have been awarded Delegated Authority shall comply with these standing orders and all relevant best practice and specifically "DFE Buying for Schools Guidance"the Procurement Standard Operating Procedures at all times. It is the Head teacher and Governing bodies responsibility to ensure that any Schools officer involved in placing contracts is suitably experienced and qualified to do so. Breaches of compliance will result in the removal of Delegated Authority, as required by the Head of Procurement, and possible disciplinary action may also be initiated.

10.3 Local authority maintained schools are required to abide by the Council's Standing Orders with respect to purchasing, tendering and contracting. Governing Bodies are also empowered under paragraph 3 of schedule 1 to the Education Act 2002 to enter into contracts, and in most cases they do so on behalf of the Local Authority as maintainer of the school. The Council has ~~therefore~~ set the following delegated authority and criteria for the acceptance, consistent with the Financing Scheme for Schools approved by Cabinet:

Value Range	Process to follow	Description	Approval
Up to £3,000	Best Value	Officers to demonstrate best value has been achieved	Headteacher
£3,001 - £10,000	Quotes	Three <u>Two</u> written quotes required*	Headteacher
£10,001 - £50,000	Quotes	Minimum of 5 <u>3</u> written quotes*	Governing Body
£50,001 - £100,000	Tenders <u>Quotes</u>	Minimum of 5 <u>3</u> <u>written</u> <u>quotes</u> tenders	Governing Body
£100,000 and above	Tender	Minimum of 5 tenders	Governing Body and Local Authority
£181,302 <u>£180,000</u> and above *	Tender / OJEU notice <u>FTS Notice</u>	European tender (goods/services)	Governing Body and Local Authority

**Quotes should be invited from viable suppliers or use a 'mini competition' from compliant Framework. Where possible at least two quotations should be sought from local suppliers. Where a direct award via a compliant framework is proposed this should be undertaken with reference to Standing Order 4.1 c*

10.4 Governing Bodies are required to obtain approval from the Local Authority at the outset of any procurement where the contract value is greater than £180,000 so the local authority can seek assurance on how value for money will be achieved through a compliant tender approach.

10.5 Governing Bodies are required to obtain ~~counter-signature on contracts with the Local~~

~~Authority where the value of the contract exceeds £10080,000 except where the process has been undertaken by experienced professional specialist support or has used a compliant Framework. - The only exceptions to this are:~~

- ~~a) — contracts of employment entered into by aided or foundation schools;~~
- ~~a) — contracts for the works or fees associated with building projects at aided schools where the project is the governors' liability;~~
- ~~b) — contracts for the works or fees associated with building projects at foundation schools where the funding (including DfE funding) provided via the Local Authority is less than £100,000 (i.e. in practice this exemption is likely to occur only where a foundation school has generated the funding for the project itself through land disposal, sponsorship or other fund-raising).~~

The Local Authority counter-signatory for the London Borough of Hillingdon will be the Corporate Director of Finance or as sub-delegated by the Corporate Director in the Directorate's Scheme of Delegations.

** The Head of Democratic Services may update the above OJEU figures in the Standing Orders, as and when prescribed from time to time.*

S0 11 - Concession Contracts

11.1 Concessions are broadly similar to "normal" contracts between contracting authorities/entities and suppliers, but with one key difference: the consideration in a concession contract consists in the right to exploit the work, or services, that are the subject of the contract, or that right to exploit together with a payment. Examples of concessions might include street furniture contracts whereby the provider has the right to use the Hillingdon land (highways and footways) to generate advertising income for themselves in return for a payment to LBH.

11.2 The transfer to the concessionaire (ie provider) of the right to exploit the works or services shall always imply an operating risk of economic nature involving the possibility that it will not recoup the investments made and the costs incurred in operating those works or services. This means that under the contract, the concessionaire should not enjoy a guarantee of breaking even on investments and costs incurred.

11.3 Concession contracts should be treated in accordance with the general principles of these Standing Orders and in particular the principles of openness, transparency, equal treatment and proportionality should apply.

11.4 The value of a concession contract is to be calculated on the basis of the total turnover of the concessionaire generated over the duration of the contract, net of VAT. Thresholds are agreed as follows:

<u>Initial Value of Concession</u>	<u>Approval Method</u>
<u>£0 -£250,000</u>	<u>Corporate Director</u>
<u>£250,000 - £750,000</u>	<u>Formal democratic decision by the relevant Cabinet Member and the Leader of the Council or Cabinet Member for Finance.*</u>

£750,000 or greater

Formal democratic decision by the Cabinet */**

S0 12 – Contract Management

- 12.1 Contract management is a critical part of the Procurement lifecycle to ensure value in contracts is protected and enhanced over its life. It is the Head of Service (or above) responsibility to appoint a nominated person responsible for contract management duties for all contracts in excess of £100k spend per annum.
- 12.2 Contract management duties include: checks that charging is in accordance with pricing schedules, contracts outputs and outcomes are meeting the specification, performance reporting is in place and being monitored, delivery of obligations under social value are being met, assurance to the business on compliance of suppliers with legal responsibilities including data protection, insurances and health and safety, escalating key issues of concern to relevant Head of Service and / or Director.
- 12.3 Contract Managers will be responsible for leading and collating responses to Freedom of Information requests relating to the suppliers they manage.

S0 13 – Exemptions and Waivers from these Rules

- ~~11.1 In any circumstances not provided for by the preceding Standing Orders, an Approved Officer will consult with the Chief Finance Officer and the Head of Procurement, in the first instance, where an exemption is required.~~
- 13.12 These Standing Orders shall not apply to the following services or actions that are managed by separate policies and guidelines. The following will be considered exemptions:
1. Contracts for the acquisition, ~~or~~ lease or disposal of land and/or real estate (note: the exemption does not include the services to complete those transactions).
 2. Contracts which make an individual a ~~for~~ permanent or fixed term employee of the Council.
 3. Specific payment and / or directions as instructed by Courts or Tribunals.
 4. Levys, payments or taxes to public sector organisations that are required on a statutory rather than contractual basis.
 5. Any decisions relating to the management and procurement activity of the Pension Fund which will be managed according to the mandate of the Pension Committees.
 - ~~2. Any wholly owned subsidiary of the Council (Eg. Hillingdon First)~~
 - 6.
 7. Direct Payments to ~~citizens~~ residents following care assessment. ~~F,~~ for example, payments provided under Self Directed Support or individual budgets.
 - ~~3-8.~~ Residential placements sought for an individual with a registered care provider of their choice.

~~4.~~ When the Chief Executive's Emergency Contract Delegation Protocol is invoked, with the agreement of the Leader of the Council (see Annex A below for protocol). Such decisions will be reported to Cabinet for ratification.

~~9.~~
~~5-10.~~ When the Leader of the Council deems a decision urgent under their Emergency Powers delegation. Such decisions will be reported to Cabinet for ratification.

~~13.1.23~~ Where these Standing Orders may conflict with any separate rules or guidance, and the Procurement Standard Operating Procedures, the ~~Head-Director~~ of Procurement, the Cabinet Member for Finance and the Head of Legal Services will determine which takes precedence.

~~13.3~~ Circumstances may arise where permission is required to waive one or more of the Contract Standing Orders. Waivers are reserved for exceptional circumstances and will only be approved where good and sufficient evidence has been provided. Circumstances under which a waiver may be considered are:

- ~~(i) it is not reasonably practicable or prudent in meeting the Council's objectives to obtain competitive tenders or quotations; or~~
- ~~(ii) there would be no effective or genuine competition and the proposed supplier is the only genuine provider of the goods / works or services~~
- ~~(iii) it is necessary to safeguard health, life, property or environment~~

~~13.4~~ A Waiver will not simply be granted on the grounds of convenience or because of inadequate forward planning. Any request for a waiver must be supported by sufficient level of information setting out the reason for the request, why it has arisen, the impact of not proceeding with the waiver and how any risks (financial, legal, operational or reputational) are being mitigated.

~~13.5~~ The Council can only waive the rules as established by the Council. The Council cannot waive statutory requirements and specifically the Public Contract Regulations that are not permitted within the legislation itself. A waiver to any of the Councils Standing Orders must be sought in advance of any informal agreements, contractual agreement or order placement.

~~13.6~~ Waivers will be approved as follows:

<u>Value of waiver (in the aggregate including any existing spend)</u>	<u>Approval Method</u>
<u>£0 -£99,999</u>	<u>Corporate Director using designated Financial System * with justification attached to requisition</u>
<u>£100,000 - £749,999</u>	<u>Formal democratic decision by the relevant Cabinet Member and the Leader of the Council or Cabinet Member for Finance *</u>
<u>£750,000 or greater</u>	<u>Formal democratic decision by the Cabinet */**</u>

ANNEX A

Emergency Contract Delegation

This power is delegated to the Chief Executive with the agreement of the Leader of the Council.

In respect of a Council capital project or revenue service, where an emergency or exceptionally urgent situation arises in relation to a commercial contract where:

- a) The Leader and Chief Executive agree the urgency;
- b) There is no Cabinet meeting imminent;
- c) Any delay would seriously jeopardise the Council's finances or its ability to deliver services and;
- d) A previous executive decision has been made or proposed in respect of the capital project or service provision concerned,

authority is granted to the Chief Executive, subject to the written agreement of the Leader of the Council, to incur expenditure and make any new and necessary contractual decisions in order to secure the successful delivery of the project or service.

In such instances, these Standing Orders can be waived. Any decisions taken must be reported to a subsequent Cabinet meeting for formal ratification.

Chapter 5 – Executive decision-making

Amended delegation to the Cabinet Member for Finance

3. Capital release - jointly with the relevant portfolio Cabinet Member to make decisions on the release of monies for capital projects at and exceeding £100,000 or refer such decisions to Cabinet if required for efficient project delivery.

Chapter 12 – Responsibilities and Delegations to Officers

New General Delegation to Chief Executive and Corporate / Executive Directors

17. Capital release – to authorise the release of monies for capital projects up to £99,999.

