

Report

Cabinet

Part 1

Date: 20 December 2019

Subject Amendments to Contract Standing Orders

Purpose To seek Cabinet feedback and gain approval to revised Contract Standing Orders to take to full Council.

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Procurement Manager

Ward All

Summary The report proposes updates to the Council's Contract Standing Orders (CSO's) which have been reviewed in accordance with the stipulated three year review period, taking into account national/local developments and priorities which affect these.

In particular, it makes recommendations to change the Council's Procurement Gateway Process which governs how the Council procures goods & services with a greater emphasis on providing greater opportunity to support Local Businesses whilst maintaining compliance with statutory Public Procurement rules, and ensuring efficient and effective delivery of contract arrangements within the Council.

Proposal To consider and approve updating Contract Standing Orders

Action by Head of Finance

Timetable Immediate

This report was prepared after consultation with:

- The Leader (covering portfolio of Cabinet Member for Assets and Member Development)
- Head of Finance
- Head of Law & Regulation
- Chief Internal Auditor
- Senior Leadership Team
- Corporate Management Team
- Key Stakeholders from Service Areas

Background

Under the Local Government Act 1972, the Council is required to publish a constitution, which will include rules for buying works, goods and services. Like most Councils, these detailed rules are known as Contract Standing Orders or CSO's in Newport City Council.

The CSO's supplement the legal requirements set out in European Public Sector Procurement Directive 2014/24 transposed into UK's Public Contract Regulations 2015. Developments in procurement legislation and general best practice require that the CSO's should be reviewed and revised regularly, at least every three years. One of the key objectives of this review, is to ensure that on-going robust, clear and accountable organisational processes are in place which link to any changes in working practices. A review and consultation has been undertaken on this proposed updated and revised version of the CSO's with key officers including Gareth Price – Law & Regulation, Meirion Rushworth – Finance and Andrew Wathan – Internal Audit, as well as the Strategic Leadership Team and Corporate Management Team.

The proposed CSO's, included in Appendix 1, introduce changes designed to improve the Council's procurement practices and ensure changing legislation, other Council Policy and procurement practices are adhered to. They will assist in embedding improved and modernised procurement practices across the Council and will be critical to ensuring the delivery of the Well Being of Future Generation (Wales) Act 2015, in particular a Prosperous Wales and a Resilient Wales.

Various changes have been made to the CSO's. The key changes are summarised below:

Section 1.5 – Compliance, a new section covering responsibilities around probity, standards, compliance with regulation and Codes of Conduct.

Section 3 – Social Services, a new section covering individual service contracts for clients which may be awarded under a set of certain circumstances within Social Care.

Section 6 – Procurement Tendering Process

The main focus of the amendments is around changes to the 'Procurement Gateway Process' which sets out the detailed requirements for how officers procure goods and services, in particular, the requirement for obtaining quotes and tenders for example and authorisations required.. In particular it is proposed to amend the process and financial limit for obtaining quotations through a low value tender process, without the necessity to undertake an 'Open' tender (an Open tender being where there are no restrictions on who can tender, and the opportunity is advertised throughout the UK) raising this from an upper threshold of £25,000 to £75,000. This will provide greater flexibility to, where appropriate, support opportunities for local and other Welsh businesses to bid for Council contracts, and supporting the drive to spend the Welsh pound with Welsh businesses. This revision will bring Newport City Council in line with many other Welsh local authorities, who have made similar revisions in relation to this value of spend. Attention is therefore directed to the Procurement Tendering Processes, see summary below;

Process One - remains unchanged for this financial threshold

Process Two – a new process up to £75k where suppliers can be selected, rather than opening up competition within the UK to any supplier who wishes to bid (similar to Process One). This is to encourage more opportunity for local suppliers.

Process Three - remains unchanged for this financial threshold

Process Four - remains unchanged for this financial threshold

Section 6.3 – Code of Practice, Ethical Employment in Supply Chains, a new section covering the Council's commitments to consider a range of actions to ensure our internal and external supply chains operate under legal and ethical employment practices.

Section 16 – Contract Management, a new section to cover off how contracts should be managed following award, to ensure the contract remains effective in delivering its required outputs for its full duration.

Section 25 – Waivers, a new section to ensure officers understand the process should it be deemed necessary to request that CSO's be set aside in certain circumstances.

Financial Summary

There are no direct financial impact of amending these CSO's though clearly, the adoption of appropriate CSO's is key to achieving Value for Money in spending on goods and services and in that respect, is a key document.

Risks

Without concise, clear and relevant Contract Standing Orders, Officers and Members may contravene legislation and place the organisation at risk. This risk may take the form of legal challenges, which could result in compensation being paid by the Council. There is also a greater risk of fraud, and poor value for money by not making the best use of it resources.

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Non-compliance with CSO's and Public Procurement Rules	M	L	Training provided to officers to understand Rules and monitoring of the Procurement Gateway Process within Strategic Procurement.	Head of Finance
Council Expenditure for Goods, Services and Works is uncontrolled and unregulated	H	L	Internal training for compliance with CSO's is regularly undertaken. The Council has a defined Procurement Gateway Process which is continually monitored within strategic Procurement for compliance.	Head of Finance

Links to Council Policies and Priorities

CSO's form part of the Council Financial Regulations, which in turn form part of the Council Constitution. CSO's and procurement processes must adhere to adopted working practices in relation to the Welsh Government Code of Practice for Ethical Employment in Supply Chains as well as embedding, where appropriate the principles of the Well Being of Future Generations (Wales) Act 2015.

Options Available and considered

Newport City Council has the option to either accept the revised CSO's or to keep them the same as current.

Preferred Option and Why

The preferred option is to approve the revised CSO's. This will give greater flexibility to support local businesses both within Newport and the Wider Welsh supply base. In addition, the revised CSO's place greater requirements to consider and comply with other recently adopted Council policies and revised working practices.

Comments of Chief Financial Officer

There are no direct financial impacts of updating these CSO's though clearly, the adoption of appropriate and fit for purpose CSO's is key to achieving value for money in the Council's purchasing of goods and services.

The changes here update the CSO's for latest developments in wider public sector procurement such as the adoption of ethical employment in supply chains as well as local priorities such as making it easier for smaller, local businesses to be considered in the Council's decisions when procuring goods/services.

Fundamentally, they maintain the core ability of the Council to achieve value for money in its procurement of goods and services and interaction with suppliers.

Comments of Monitoring Officer

In accordance with Section 135 of the Local Government Act 1972, the Council is required to make Standing Orders to regulate the award and form of contracts for the supply of goods and services and the execution of work. The Contracts Standing Orders must make provision for fair competition in the tendering and award of Council contracts, to secure best value, and to ensure that any direct awards are justified in an open and transparent manner. The tendering and procurement process must comply with the requirements of the EU Procurement Directives and the Public Contracts Regulations 2015. The proposed revisions update the existing Contract Standing Orders to reflect changes in legislation and procurement practices and strengthen internal governance procedures. Financial thresholds for the various levels of procurement and for contract formalities have also been updated. Because the revised Contract Standing Orders will form part of the Council's published Constitution, in accordance with the Local Government Act 2000, then the amended version, as approved by Cabinet, will need to be reported to full Council in due course.

Comments of Head of People and Business Change

There are no direct HR implications associated with the report.

The report proposes to update the Council's Contract Standing Orders in line with local and national developments. The new processes will have a greater emphasis on opportunities to support local businesses and ensure value for money in spending on goods and services. The report has considered the requirements of the Well-being of Future Generations Act and by modernising procurement practices across the Council, will contribute towards the well-being goals of a Prosperous Wales and a Resilient Wales.

Comments of Cabinet Member

Comments of the previous Leader, Cllr Debbie Wilcox - Having been briefed on the amendments to the current CSO's, I am happy to support the preferred option above and to revise the CSO's. In particular, it is a welcome inclusion to the various Procurement Processes that CSO's now allow greater scope to support local businesses here in Newport, as well as the wider Welsh supply base.

Local issues

Not applicable

Scrutiny Committees

Not applicable

Equalities Impact Assessment and the Equalities Act 2010

A Fairness & Equalities Impact Assessment has been undertaken and is available to view.

Children and Families (Wales) Measure

No consultation was needed for this report.

Wellbeing of Future Generations (Wales) Act 2015

The current Corporate Plan – Building on Success, Building a Better Newport, includes the Newport City Council Well-being Statement and Objectives. NCC Well-being Objective 2 is ‘To promote economic growth and regeneration whilst protecting the environment’ These revised CSO’s give greater flexibility for officers to consider local supply chains, without necessarily opening up wider competition from outside of the area.

Crime and Disorder Act 1998

Not applicable

Consultation

Not applicable

Background Papers

None

Dated: 23rd October 2019

