

Report

Council



Part 1

Date: 25 February 2025

Subject Amendments to Contract Standing Orders

Purpose To seek Council approval to revise Contract Standing Orders.

Author Head of Finance
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 existing three year review period, taking into account national/local developments, particularly around new UK and Welsh Procurement legislation changes and priorities which affect these. This proposal was agreed at the November 2024 Democratic Services Committee.

In particular, it makes recommendations to change the CSO's to ensure compliance with the new Procurement Legislation coming into force on 24th February 2025 both within Wales and the UK, which has been revised following the UK's exit from the EU. The revisions also strengthen transparency requirements as well as contracts management requirements, along with updates to social value delivery and procurement obligations around carbon reduction. The updates will ensure compliant, efficient and effective delivery of contract arrangements within the Council.

The revision of CSO's also links to the wider review of the full Council Constitution currently being undertaken, which includes the Financial Regulations of which the CSO's form part of.

Proposal To consider and approve updating Contract Standing Orders.

Action by Head of Finance / Service Manager Procurement & Payments

Timetable Immediate

This report was prepared after consultation with:

- The Cabinet Member for Regeneration & Democratic Services (with responsibility for Procurement)
- Democratic Services Committee
- Head of Finance
- Head of Law & Standards
- Chief Internal Auditor
- Senior Leadership Team

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 many 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 the new UK Procurement Act 2023 and the Social Partnership and Public Procurement (Wales) Act 2023. Upon leaving the EU, UK government have developed a new legislative framework around public sector procurement, most of which has been adopted by Welsh Government.

The new legislative framework will create simpler, more flexible and effective procurement. The Procurement Act will bring a range of benefits, including:

- creating a simpler and more flexible commercial system that better meets our country's needs, while remaining compliant with our international obligations.
- opening up public procurement to new entrants, such as small businesses and social enterprises, so that they can compete for and win more public contracts.
- taking tougher action on underperforming suppliers and excluding suppliers who pose unacceptable risks.
- embedding transparency throughout the commercial lifecycle so that the spending of taxpayers' money can be properly scrutinised.

Developments in procurement legislation and general best practice require that the CSO's should be reviewed and revised regularly, with the proposed revision requiring that CSO's are kept under constant review and are updated as required. 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 the Head of Law & Standards, Head of Finance, Chief Internal Auditor, as well as the Strategic Leadership Team.

The proposed CSO's, included in Appendix 1, introduce changes designed to improve the Council's procurement practices and to ensure the new UK and Welsh legislation around procurement, including other Council policy and local 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.

Numerous changes have been made to the CSO's, particularly in respect of the new procurement legislative framework requirements, including a full review of our internal procurement processes, and the key changes are summarised below:

Financial threshold for CSO's – this has been raised from £4,000.00 to £5,000.00 to consider inflation over the last nine years since the threshold was last revised.

Section 1.3 – Basic Principles – a new section defining key principles of all procurements, along with new responsibilities for Heads of Service, all of which have been incorporated from the model constitution.

Section 3 – Social Services – has been expanded to include education placements around additional learning needs to ensure service contracts for clients which may be awarded under a set of certain circumstances can apply both within social care and now education.

Section 16 – Contract Management – has been revised to incorporate reference to the Council's Contract & Partnerships Management Framework developed in 2023, along with additional contract management duties under the new legislative framework.

Section 24 – Socially Responsible Procurement Duty – a new section to cover off the requirements detailed within the Social Partnership & Public Procurement Act around our duty to ensure procurement seeks to improve the economic, social, environmental and cultural well-being of our area by carrying out public procurement in a socially responsible way. This also includes specific requirements around fair working practices in construction and outsourced contracts.

Section 25 – Transparency Notices – a new section to cover the enhanced transparency requirements detailed within the new Procurement Act, specifically around the publication of tender and contract notices.

Section 26 – Central Digital Platform – a new section providing detail around the central government's new digital platform and the requirements for all tenders to be registered in order to bid for NCC and other public sector contracts.

Section 27 – Conflicts of Interest – a new section providing detail around the new requirement to include and maintain a conflicts of interest assessment for all covered procurements under the new legislative framework. This is to ensure that anyone associated with the procurement declares any interest or potential interest that could put a supplier at unfair advantage or disadvantage in relation to the procurement exercise.

Section 28 – Social Value Measures – a new section specifying the use of social value measures (NCC TOMs) in defined procurement processes, as formally adopted by Cabinet in 2023.

Section 29 – Carbon Reduction - a new section specifying the consideration of carbon reduction measures in defined procurement processes, in line with the Council's Climate Action Plan 2022-27. This will ensure that carbon reduction options are considered for all procurements over £75k.

Section 30 – Corporate Safeguarding Responsibilities – a new section requiring officers to consider corporate safeguarding protocols in all procurement activities.

Section 31 – External Body Grant Funding – a new section taken from the model constitution defining how grant funded contracts must be tendered ensuring adherence to grant conditions, and how grant conditions must be considered alongside corporate CSO's.

Section 32 – TUPE (Transfer of Undertakings, Protection of Employment) – a new section specifying that for any service type contracts undertaken by the Council, that TUPE issues are considered and advice sought from Legal and HR as required, prior to commencement of the procurement exercise.

Financial Summary

There is 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, works and services and in that respect, is a key document.

Risks

Without concise, clear, relevant and up to date 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 its 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. This update and revision of CSO's forms part of the wider update of the Council Constitution currently being undertaken by the Head of Law & Standards. CSO's and procurement processes must adhere to adopted working practices in relation to the Corporate Plan, Welsh Procurement Policy Statement, 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 further amend the revised CSO's. In either case, it is necessary to revise and update the CSO's to ensure our procurement rules align with the new legislative framework for procurement in Wales.

Preferred Option and Why

The preferred option is to approve the revised CSO's. The revised CSO's have been redrafted to ensure they comply with the new legislative framework for procurement both in Wales and the wider UK, and they strengthen our commitment to greater contract management, delivery of social value and carbon reduction, as well as continuing to ensure our spend is accessible as possible to local businesses.

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, in particular the new procurement legislation recently introduced on 24th February. It retains and builds on the current CSO's priorities such as the adoption of ethical employment in supply chains, local priorities such as making it easier for smaller, local businesses to be considered in the

Council's decisions when procuring goods/services, carbon reduction and maximising social value in the Council's procurement activities.

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

Section 135 of the Local Government Act 1972 requires the Council to adopt Contract Standing Orders (CSOs) to regulate the award and form of contracts for the supply of goods and services and the execution of work. These Standing Orders form part of the Council's Constitution. The current CSOs were adopted some years ago and require updating to reflect legislative changes, resulting from the disapplication of EU legislation and the implementation of new UK Government legislation. The draft CSOs proposed for adoption have been considered in detail by the Service Manager (Procurement and Payments), the Head of Finance and the Head of Law and Standards, who are all of the view that the changes are necessary and that the new document is satisfactory having regard to the new legislative regime. The Democratic Services Committee has also been consulted on the proposed changes. Since the document forms part of the Council's Constitution, the agreement of Full Council is required in order to adopt it.

It is the recommendation of the Monitoring Officer that the draft CSOs appended to this report are adopted, in order to ensure that the Council's contract award procedures are lawful and reflect current legislation.

Comments of Head of People, Policy and Transformation

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.

There are no direct HR implications associated with the report.

Local issues

Not applicable

Scrutiny Committees

Not applicable

Equalities Impact Assessment and the Equalities Act 2010

A full Fairness and Equality Impact Assessment (FEIA) was undertaken on this proposal and published on the Council's website (available in Welsh [here](#) and English [here](#)).

This FEIA considers our legislative responsibilities under the Equality Act (2010), including the Socio-economic Duty, the Wellbeing of Future Generations (Wales) Act (2015) and the Welsh Language (Wales) Measure (2011).

Children and Families (Wales) Measure

No consultation was needed for this report.

Wellbeing of Future Generations (Wales) Act 2015

The current Corporate Plan – An ambitious, fairer, greener Newport for everyone, includes the Newport City Council Well-being Statement and Objectives. NCC Well-being Objective 4 is 'An

Inclusive, Fair and Sustainable Council' and states we will "Generate opportunities to build wealth across Newport's communities through progressive procurement of goods and services". These revised CSO's ensure officers can consider local supply chains, without necessarily opening up wider competition from outside of the area, as well as being in social value benefits for our communities.

The Five Ways of Working

Long Term - The CSO's include requirements on Sustainability and Procurement including our commitment to carbon management and reduction. This sets out how the Council will procure goods, works and services in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment.

Prevention - The CSO's include requirements on our procurements delivering social value and community benefits. Tenderers are required to demonstrate how they will deliver these additional benefits, contributing to preventing problems and benefiting the local community and economy. Integration - Our CSO's are designed to help support the provision of the best possible services, ensure value for money and delivering for future generations in Newport and Wales.

Whilst there are strict guidelines and legal requirements set out by Westminster & Welsh Government in the way the providers of goods, services and works to Newport City Council are chosen, we are still able to procure in a way that has benefits to our local suppliers and the foundational economy of Newport. The CSO's set out how we can deliver effective procurement during these challenging times, and bring added value to the Council through the procurement function.

Collaboration - An overarching principle of effective procurement is to consider how we can collaborate with our neighbouring LA's and the wider Welsh public sector to reduce costs and streamline procurement activity. Our CSO's support this approach and place no barriers to achieve effective collaboration. As one of ten Councils in the South East Wales Regional Procurement Delivery Group we will contribute to the development and establishment of regional contracts and frameworks, ensuring economies of scale and streamlined procurement deliver tangible benefits to all participants.

Involvement - The CSO's dictate how strategic oversight and the Councils Procurement Gateway Process align, detailing how engagement with colleagues in service areas will feed into procurement planning and review by the Gateway Board and Heads of Service. Seeking the views and strategic direction of senior managers will ensure procurement activity positively supports the wider goals of the Council.

Consultation

Not applicable

Background Papers

None

Dated: 18 February 2025

APPENDIX 1



CSO's 2025 Final.doc