

PART 3

STANDING ORDERS

CONTRACT STANDING ORDERS**82. Definitions**

The following definitions shall apply throughout these Contract Standing Orders:

Approved List	A list of contractors that meet the Council's minimum financial and technical criteria for specified types of services, supplies or works contracts.
Chief Officer	The officers defined as such in Standing Order 7(c) being the Chief Executive, Service Area Directors and Corporate Directors.
Collaborative Procurement	Any arrangement between the Council and any other body under which the other body undertakes a procurement process with or on behalf of the Council.
Contract Register Officer	The officer appointed to maintain the contract register.
Contract Value or Estimated Value	The contract's value or estimated value for the contract term excluding VAT.
E-Auction Facility	A web-based facility which enables the electronic submission of prices for a Tender.
Electronic Tender Facility	A web-based facility which enables the electronic despatch and receipt of Tender documents.
Electronic Tender Time Box	The feature within an Electronic Tender Facility which stores received Tenders and prevents viewing of them until after the appointed closing date and time.
European Procurement Legislation	The relevant EU Directives and corresponding UK Regulations including the Public Contracts Regulations 2006 as amended or replaced from time to time.
Framework Agreement	An agreement for a specified term under which contracts for the provision of particular services, supplies or works can be entered into ("called off") on agreed terms.
High Value Contract	Any contract that exceeds the values stated for Medium Value Contracts

Low Value Contract	In the case of contracts for services and supplies and for civil engineering works, a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of up to the amount which is the current threshold for services and supplies contracts under the European Procurement Rules (which is currently £156,442). In the case of a contract for works (except civil engineering works), a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of up to £500,000, provided that the contract is classified as a contract for works and not services by the European Procurement Rules.
Medium Value Contract	In the case of contracts for services or supplies, a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between the amount which is the relevant threshold for services or supplies contracts under the European Procurement Legislation (which is currently £156,442) and £500,000. In the case of a contract for works, a contract with an estimated value of between £500,000 and £1,000,000.
Member	An elected member of Brent Council.
Monitoring Officer	The Director of Legal and Procurement.
Official Order	An order for services, supplies or works to the Council issued by an authorised officer using the Council's official order form.
OJEU	The Official Journal of the European Union.
Tender	An offer or bid or tender from a party to provide services, supplies or works to the Council including any offer, bid or tender which is subject to negotiation.
Tender Acceptance	An acceptance in writing of a Tender.

83. Contracts exempt from Contract Standing Orders

The following contracts are exempt from Contract Standing Orders:-

- (a) individual agency contracts for the provision of temporary staff;
- (b) employment contracts;

- (c) contracts relating to an interest in land.

84. General Requirements

- (a) Every contract entered into by the Council shall be entered into pursuant to or in connection with the Council's functions AND shall be procured in accordance with all relevant domestic and European legislation and unless for good operational and/or financial reasons the Executive (or, if appropriate, the General purposes Committee) agrees otherwise with these Contract Standing Orders and the Council's Financial Regulations.
- (b) In addition to the powers of the Executive in paragraph 84(a) to grant an exemption from the requirement to procure in accordance with these Contract Standing Orders, the Director of Finance and Corporate Services is also able to grant such exemptions:
 - (i) on grounds of extreme urgency
 - (ii) where the exemption sought is in relation to the requirement to obtain 3 written quotes under Standing Order 86(b).The Director of Finance and Corporate Services shall only exercise his / her authority under this paragraph (i) following legal advice that there is no breach of domestic or EU law or the Council's own procedures in the exercise of the authority (ii) where there are good operational and / or financial reasons for doing so.
- (c) Chief Officers shall ensure in undertaking any contract procurement that:-
 - (i) fair, transparent and auditable processes are followed at all stages;
 - (ii) tender exercises are conducted appropriate to the nature of the contract being procured;all tenderers are treated equally and fairly;
- (iv) these Contract Standing Orders are complied with; and
- (v) the Contract Database is kept updated at all times as set out in Standing Order 110.
- (d) Contract tendering procedures are contained in the Council's Contract Procurement and Management Guidelines which shall be updated and amended from time to time to comply with these Contract Standing Orders. Advice on any of the requirements of these Contract Standing Orders shall be sought from the Director of Legal and Procurement or Director of Finance and Corporate Services as appropriate.
- (e) For the avoidance of doubt these Contract Standing Orders apply to:-
 - (i) the appointment of consultants; and
 - (ii) the establishment of Framework Agreements.
- (f) Subject to paragraph (a) and (b) above and Standing Order 97 (Mandatory Approved List), all medium and high value contracts shall be entered into and procured in accordance with the formal tendering procedures set out in these Standing Orders.

85. Partnership Arrangements and Collaborative Procurement

- (a) No Partnership Arrangements may be entered into unless they are approved by the Director of Finance and Corporate Services and a formal agreement covering the arrangements is signed by the parties.
- (b) Any Partnership Arrangement or Collaborative Procurement which includes delegation of powers shall be approved by the Executive (or where relevant Full Council).
- (c) Any Collaborative Procurement shall comply with these Standing Orders and Financial Regulations unless;
 - (i) agreed otherwise in writing by the Director of Finance and Corporate Services and the Director of Legal and Procurement; or
 - (ii) in the case of a High Value Contract the agreement of the Executive is obtained under Standing Order 84(a).

For the purposes of this Standing Order the contract value shall be calculated on the estimated value of the Council's part of the contract only.

- (d) Any agreement between the Council and one or more other body which includes any payment by the Council in respect of the costs of carrying out a Collaborative Procurement shall comply with these Standing Orders unless agreed otherwise in writing by the Director of Finance and Corporate Services and the Director of Legal and Procurement.

86. Contracts not subject to full tendering requirements

- (a) Certain contracts as set out in this Standing Order listed below, are not subject to the full tendering requirements of these Contract Standing Orders but are subject to any other relevant parts thereof.
- (b) No formal tendering procedures apply to Low Value Contracts (as defined in Standing Order 82 above with different thresholds applying for works contracts as opposed to supplies and services contracts) except that at least three written quotes must be sought and the quotes sought and/or obtained shall be recorded. Advice must be sought from the Council's procurement officers about how to select the three organisations to be invited to quote and how to structure the quotation process. In the case of Low Value Contracts for works which are valued at above the relevant threshold for supplies or services contracts under the European Procurement Rules (currently £156,442), approval of the Director of Legal and Procurement is required to use a quotation process in accordance with this Standing Order 86(b); if approval is not given then such a works contract requires the following of a tender process under Standing Order 96. Low Value Contracts do however require formal approval for award according to Standing Order 88(a) from a duly authorised officer within the relevant Council department.
- (c) Contracts which are procured using the corporate Approved List in accordance with the rules prescribed pursuant to Standing Order 97 are not subject to full tendering requirements.
- (d) Subject to the proviso below no formal tendering procedures apply where contracts are called off under:

- (i) a Framework Agreement established pursuant to these Standing Orders; or
- (ii) a Framework Agreement established by another contracting authority , where call off under the Framework Agreement is approved by the relevant Chief Officer to include confirmation that there is budgetary provision for the proposed call-off contract PROVIDED that the Director of Legal and Procurement has advised that participation in the Framework Agreement is legally permissible. Advice from the Director of Legal and Procurement must be obtained each and every time a call off under another contracting authority's Framework Agreement is recommended by the relevant Chief Officer.

SAVE THAT any high value contract may only be awarded on the approval of the Executive as required by paragraph 2.5 of Part 4 of the Constitution.

- (e) Subject to complying with any relevant parts of the European Procurement Legislation, Tenders need not be invited nor quotes sought:
 - (i) where for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the services, supplies or works may only be provided by a particular provider or where there is only one provider who would be able to provide the services, supplies or works required PROVIDED that advice is sought from the Director of Legal and Procurement and in the case of High Value Contracts approval is sought from the Executive (or, if appropriate, the General Purposes Committee); or
 - (ii) in cases of extreme urgency where there is an immediate danger to life or limb or property and only to the extent necessary to procure services, supplies or works necessary to deal with the immediate urgent situation PROVIDED that advice is sought from the Director of Legal and Procurement; or
 - (iii) for contracts providing individual personal services such as individual care arrangements or individual special educational needs provision and for the avoidance of doubt this exemption does not apply to any framework agreements or call off contracts that will facilitate the award of individual contracts providing such personal services.

87. Provision of goods, services and works by the Council

- (a) The Local Authorities (Goods and Services) Act 1970 ("the Act") provides that local authorities may enter into contracts to provide goods and services to public bodies defined as such by the Act. Section 96 of the Local Government Act 2003 provides that local authorities may do for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions provided this power is exercised through a company within the meaning of Part 5 of the Local Government Act 1989.
- (b) Before entering into arrangements under either of these provisions, officers must comply with the relevant requirements of Financial Regulation 6.3 of Part 6 of the Constitution.
- (c) Authority to enter into arrangements under either of these provisions must be agreed by the Executive (or if appropriate the General Purposes Committee) where:

- (i) the contract value would exceed £150,000 per annum; or
 - (ii) the gross cost to the Council of providing the relevant goods, services or works under the contract is estimated to exceed £150,000 per annum calculating the full costs over the term of the contract (including any period of extension(s) anticipated by the contract);
 - (iii) where a company is to be set up for the purposes of the arrangements.
- (d) In all cases advice shall be sought from the Director of Legal and Procurement and the Director of Finance and Corporate Services prior to entering into any such arrangement and/or prior to seeking approval by the Executive.

88. Authority to go out to tender and enter into contracts

- (a) Chief Officers have delegated to them power to invite expressions of interest, agree shortlists, invite Tenders, negotiate, award, and terminate contracts in accordance with paragraph 2.5, of Part 4 of this Constitution. No individual Member may enter into a contract on the Council's behalf.
- (b) Where approval to invite expressions of interest is required from the Executive (or if appropriate the General Purposes Committee or Pension Fund Sub-Committee) the Executive, the General Purposes Committee, or the Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out the pre-tender considerations specified in Standing Order 89 and shall give such approval or approvals as it considers necessary.
- (c) Where approval to award, or terminate a contract is required to be obtained or is in any event sought from the Executive (or the General Purposes Committee or Pension Fund Sub-Committee), the Executive, the General Purposes Committee or the Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out all relevant information necessary to enable it to give such approval or approvals as it considers necessary.
- (d) Chief Officers are responsible for ensuring that the relevant category manager in the Corporate Procurement Centre is notified of all proposed procurements exceeding £20,000 in value. The role of the category manager under this Standing Order 88 is to advise on appropriate procurement routes, ensuring that the service department takes legal advice as necessary.

89. Pre-Tender Considerations

In procuring any contract Chief Officers shall, where appropriate, consider the following matters prior to inviting Tenders:

- (i) the nature of the services, supplies or works contract to be tendered;
- (ii) the estimated value;
- (iii) the contract term and any period of extension(s) anticipated by the contract;
- (iv) the tender procedure to be adopted including whether any part the procedure will be conducted by electronic means and whether there will be an e-auction;
- (v) the procurement timetable;
- (vi) the evaluation criteria and process;
- (vii) any business risks associated with entering the contract;
- (viii) the Council's Best Value duties;
- (ix) any staffing implications including TUPE and pensions; and

- (x) the relevant financial, legal and other considerations.

90. Estimated contract value

Chief Officers shall ensure that an estimated contract value is prepared and recorded prior to commencement of a tender exercise. Such estimate shall be calculated on the basis of the value of the contract over the life of the contract including any period of extension(s) anticipated by the contract whether or not a one off service, supply or work. Where a contract has no fixed term the value of the contract shall be calculated as if the term of that contract was 48 months.

91. Small Lots

The estimated value of contracts split into lots shall be calculated using the total value of all lots. Contracts must not be split into lots to avoid competitive tendering.

92. Procurement by consultants

Where consultants are appointed to undertake tendering on the Council's behalf they shall be instructed to comply with Contract Standing Orders and to refer to the Contract Procurement and Management Guidelines as appropriate. No consultant shall make a decision as to whom to award a contract nor enter into contracts on the Council's behalf. Appropriate arrangements shall be implemented to monitor any procurement managed by consultants.

93. Appointment to the Evaluation Panel

For High Value Contracts the Director of Legal and Procurement and the Director of Finance and Corporate Services shall, if he/she considers it appropriate, be part of or appoint a representative to the evaluation panel or shall advise the panel as he/she sees fit.

94. Prior Information Notice

Chief Officers should ensure that a Prior Information Notice is published in OJEU as soon as possible after the commencement of each financial year detailing the intended total procurement for the year for services, supplies and works contracts to be tendered which are subject to European Procurement Legislation.

95. Inviting Tenders for Contracts Subject to Full EU Rules

Where a services (Part A services), supplies or works contract is above the EU threshold then Tenders shall be invited in accordance with European Procurement Legislation using the open, restricted, negotiated or competitive dialogue procedure by placing a notice in OJEU no later than any other advertisement placed in any other publication.

96. Contracts for Part B Services and Contracts not Subject to EU Rules

- (a) Where a contract is for a Part B service or is below the EU threshold then Tenders shall be invited in accordance with:-
- (i) any requirements in the European Procurement Legislation relating to Part B Services if appropriate;
 - (ii) these Contract Standing Orders; and

(iii) the requirements of either (b) or (c) below.

(b) Single Stage Tender

Tenders shall be invited by way of public notice published in at least one local newspaper and at least one relevant trade journal stating the nature of the contract being tendered and stating the last date when Tenders will be accepted which shall not normally be less than 21 days after the date that the notice was first published. The estimated value of the contract may also be included.

(c) Two-Stage Tender

(i) Expressions of interest shall be invited by public notice in at least one local newspaper and at least one relevant trade journal stating the nature of the contract being tendered stating the last date when expressions of interest will be accepted which shall not normally be less than 21 days after the date that the notice was first published.

(ii) Persons or bodies wishing to express an interest shall be sent a pre-qualification questionnaire to be completed and returned to the Council by the date specified in the notice.

(iii) The response to the pre-qualification questionnaire shall be used to evaluate whether the person or body meets the Council's minimum technical capacity and financial standing requirements and has relevant experience, and whether they should be included in a shortlist.

(iv) Tenders shall be invited from those persons or bodies who have been included in the shortlist.

97. Approved List

(a) The Council has agreed the use of a corporate Approved List. The Director of Legal and Procurement in consultation with the Director of Finance and Corporate Services may prescribe the rules on how the Corporate Approved List shall be compiled, used, monitored and reviewed and may amend such rules periodically.

(b) The use of the corporate Approved List shall be mandatory for all Low Value Contracts for services and supplies and for all Low and Medium Value contracts for works where a relevant corporate Approved List category exists, unless an exemption is granted pursuant to the rules prescribed under (a) above.

(c) The Council has agreed the use of a Small Works and Services Approved List. The Director of Legal and Procurement in consultation with the Director of Finance and Corporate Services may prescribe the rules on how the Small Works and Services Approved List shall be compiled, used, monitored and reviewed and may amend such rules periodically.

(d) The use of the Small Works and Services Approved List shall be mandatory for all Low Value Contracts for services supplies and works where a relevant Small Works and Services Approved List category exists, unless an exemption is granted pursuant to the rules prescribed under (c) above.

98. The Invitation to Tender

(a) The invitation to tender shall include the following details:-

- (i) a description of the services, supplies or works being procured;
 - (ii) whether the Council is of the view that TUPE will apply;
 - (iii) the tender timetable including the tender return date and time, which must allow a reasonable period for applicants to prepare their Tenders;
 - (iv) a specification and instructions on whether any variants are permissible;
 - (v) the Council's terms and conditions of contract;
 - (vi) the evaluation criteria including either weightings or the order of importance;
 - (vii) pricing schedules, if appropriate, and instructions for completion;
 - (viii) whether the tenderer is required to price separately if the tenderer were required to offer a comparable pension and/or parent company guarantee and/or a performance bond;
 - (ix) form and contents of method statements, if any, to be provided;
 - (x) whether or not Tenders are to be submitted electronically;
 - (xi) the rules and method for submitting Tenders;
 - (xii) where Tenders are to be received electronically via the Electronic Tender Facility a requirement that tenderers submit a signed hard copy of the form of tender, undertakings and any other original documentation upon request;
 - (xiii) whether or not an e-auction will be conducted; and
 - (xiv) any further information which will inform or assist applicants in preparing their Tenders.
- (b) Except in the case of electronic tendering the invitation to tender shall state that no Tender will be considered unless contained in a plain sealed envelope and endorsed "Tender" followed by the subject to which it relates. In all cases the invitation to tender shall specify whether and, if so, to what extent the terms of the contract or any part specified will be subject to negotiation between the parties.

99. Form of Tender

- (a) All Tenders shall be required to be submitted on the Council's form of tender which shall include the following details:
- (i) a statement that the Council will not be bound to accept any Tender;
 - (ii) a section where the tenderer shall state whether their Tender is priced on the basis of TUPE applying or not;
 - (iii) except in the case of the negotiated contracts, a statement that formal acceptance of the Tender by the Council will, until such time as a written contract can be executed, bind the parties into a contractual relationship; and

- (iv) except in the case of an e-auction, the price and whether this would be different if the tenderer were to offer a comparable pension and/or a parent company guarantee and/or a performance bond.
- (b) Except in the case of electronic tendering, no Tender shall be considered unless it is contained in a plain sealed envelope and endorsed "Tender" followed by the subject to which it relates. In the case of electronic tendering, Tenders must be submitted and opened in accordance with the requirements of Standing Order 101.

100. Receipt and Opening of Tenders

Except in the case of electronic tendering via an Electronic Tendering Facility for which the rules in Standing Order 101 shall apply, the receipt and openings of Tenders shall be conducted as follows:

- (a) All High Value Contract Tenders shall be addressed to the Council's Democratic Services Manager and the Tender shall remain in the custody of the Democratic Services Manager until the time appointed for its opening.
- (b) High Value Contract Tenders shall be opened and Tender details recorded by an authorised representative of the Democratic Services Manager and at least one other officer.
- (c) Medium Value Contract Tenders shall be addressed to the relevant Chief Officer and the Tender shall remain in the custody of the Chief Officer until the time appointed for its opening.
- (d) Chief Officers and the Democratic Services Manager shall make appropriate arrangements for the receipt, storage and opening of Tenders by an officer of appropriate seniority which ensures that each tenderer is treated fairly and equally and ensures probity.

101. E-Tendering and E-Auctions

The following rules apply to the use of an Electronic Tender Facility and/or an E-Auction Facility regardless of the value of the contract being procured:

- (a) Invitations to tender may be despatched and Tenders received by electronic means via an Electronic Tender Facility. Except in the case of e-auctions no other form of electronic tendering shall be permissible. All e-tendering must comply with European Procurement Legislation where applicable.
- (b) Tenders received electronically via the Electronic Tender Facility must be held in an Electronic Tender Time-Box until after the appointed closing date and time.
- (c) Tenders held in an Electronic Tender Time Box must all be opened at the same time by an authorised officer in Procurement Strategy and Risk Management after the appointed closing date and time for the Electronic Tender Time Box has passed and the Tender details recorded.
- (d) Where any original Tender documentation is to be submitted in hard copy instead of electronically as part of the tender process using an Electronic Tender Facility, such documentation shall be addressed to the Head of

Procurement Strategy and Risk Management and the Tender documentation shall remain in the custody of the Head of Procurement Strategy and Risk Management until the time appointed for its opening. At the time appointed for the opening of Tenders held in the Electronic Tender Time Box, the hard copy Tender documentation shall be opened and the details recorded by an authorised representative of the Head of Procurement Strategy and Risk Management and at least one other officer.

- (e) In appropriate cases the submission of prices or values of quantifiable elements for a Tender may be conducted by e-auction using an E-Auction Facility.
- (f) Tenders conducted by e-auction must comply with any specific European Procurement Legislation where applicable and must follow the usual process for the invitation, submission and evaluation of Tenders (including Standing Order 100 except that the submission of prices and/or values may occur via an online auction.
- (g) Except with the prior written approval of the Director of Finance and Corporate Services, electronic tendering may only be undertaken using the Council's Electronic Tender Facility or E-Auction Facility operated by Procurement Strategy and Risk Management.
- (h) Where tendering has been conducted by electronic means, Chief Officers shall ensure that signed hard copies of the form of tender, parent company guarantee undertakings and performance bond undertakings are obtained from the successful tenderer prior to award of contract.

102. Late Tenders

- (i) Late Tenders shall not be considered except in special circumstances and only then if no other Tenders have been opened and only with the prior written approval of the Chief Executive or the Monitoring Officer on receipt of a written request specifying the special circumstances and why acceptance of a late Tender is justified. Any written approval shall be kept with the record of Tenders received. Except in these cases, any envelope containing a late Tender will be opened for the sole purpose of identifying the applicant and will be returned to them immediately.
- (ii) If Tenders are to be received electronically via an Electronic Tender Facility or by an E-Auction Facility, late Tenders will not be accepted after the appointed closing date and time for the submission of Tenders via the Electronic Tender Time Box or the submission of Tender prices via the E-Auction Facility. If original hard copy Tender documentation (per Standing Order 101(d)) is submitted late, the Tender shall be regarded as a late Tender and Standing Order 102(i) will apply.

103. Record of Tenders and Contracts

- (a) The relevant Service Area Director shall maintain a record of all Tenders invited and received by them, of all contracts entered into and Framework Agreements concluded on behalf of the Council and shall record the reasons for awarding the contract to or concluding a Framework Agreement with a tenderer and the reasons for non-acceptance of a Tender or the rejection of a contractor who has not been included in a Tender short list or Approved List.

- (b) For contract award procedures conducted by electronic means, appropriate information shall be kept to document the progress of the procedure.

104. Tender Evaluation

- (a) Tenders subject to European Procurement Legislation shall be evaluated in accordance with the relevant regulations and the instructions to tender. All other Tenders shall be evaluated in accordance with the criteria and procedures set out in the invitation to tender. In both cases Tenders shall be evaluated in accordance with these Standing Orders save where there is a conflict with any European Procurement Legislation in which case that legislation shall prevail.
- (b) Tenders for all contracts (except works or energy supply contracts where lowest price was pre-determined to be the appropriate criteria) shall be evaluated and awarded on the basis of the most economically advantageous offer to the Council.

105. Departure from Tender Documents

- (a) Subject to paragraph (b) below where the Council has included non-negotiable terms and conditions with its instructions to tenderers then Tenders may only be accepted on those terms unless any revisions are notified to all tenderers prior to the tender return date.
- (b) Where contract terms and conditions are non-negotiable then no variations to them may be made after Tenders are received without the prior written approval of the Director of Legal and Procurement.
- (c) Post-tender negotiations are only permissible where the instructions to tender specified the areas to be subject to negotiation and in the case of contracts which are subject to European Procurement Legislation only where the contract was advertised pursuant to the EU negotiated procedure. In all other cases only clarification points or ambiguities may be raised with tenderers.

106. Bonds and Guarantees

Chief Officers shall ensure that sufficient security for the due performance of High Value Contracts is taken and for other contracts where such security is considered be in the best interests of the Council.

107. Notification of Tender Decision, Standstill Period, Debriefing and Acceptance

- (a) Subject to the specific exceptions in the European Procurement Legislation, where the Contract is subject to the full application of the European Procurement Legislation (being a Part A Services contract, public works contract, public supplies contract or Framework Agreement above the relevant EU threshold) a mandatory standstill period of at least 10 calendar days must be observed between notifying all tenderers in writing of the award decision and the actual award of contract. The standstill period shall commence on the day after the written award notification is sent to all tenderers and the written notification must comply with the requirements of the European Procurement Legislation. If an unsuccessful tenderer requests further information, such information must be provided in accordance with the European Procurement Legislation.
- (b) If a legal challenge to the procurement process or award decision is brought during a mandatory standstill period the contract must not be awarded and tender

acceptance must not be communicated to the successful tenderer without the prior written approval of the Director of Legal and Procurement.

- (c) Tender acceptance must not be communicated to the successful tenderer until after the expiry of any mandatory standstill period. Where Standing Order 107(a) does not apply, tender acceptance shall be communicated to the successful tenderer as soon as possible and where possible within 5 working days of the decision being made. Tender acceptance must be in writing and as a minimum must detail the date of the decision and the decision-maker.

108. Contract Award Notice

Chief Officers shall ensure that a contract award notice is published in OJEU within 48 days of the award of any contract where required by European Procurement Legislation.

109. Letters of Intent

Letters of intent shall only be used as follows:

- (a) where the Council's form of tender has not included a statement that until such time as a formal contract is executed the Council's written acceptance of a Tender shall bind the parties into a contractual relationship; or
- (b) exceptionally where a contractor is required to provide services, supplies or works prior to written acceptance by the Council and only then with the prior written approval of the Monitoring Officer.

110. Contracts Register

- (a) A register of all contracts placed by the Council to the value of £20,000 or more over the term of the contract shall be maintained by the Contract Database Officer within the Corporate Procurement Centre. Such register shall for each contract specify the name of the relevant Council's Service Unit, the contractor, the services, supplies or works to be provided, the contract value and contract term and where relevant any provisions for extension. Details of all such contracts awarded must be reported to the Contract Database Officer within two weeks of award and in the required format.
- (b) Chief Officers shall also ensure that for all contracts on the database, all contract extensions and variations, early terminations, assignments and novations are notified to the Contract Database Officer and to the relevant category manager in the Corporate Procurement Centre.

111. Contract Terms and Conditions

Chief Officers shall ensure that contracts are drafted as appropriate to the nature of the services, supplies or works to be provided and contain provisions to protect the Council's overall interest. Advice shall be sought from the Director of Legal and Procurement as appropriate.

112. Extension and Variation of Contract

- (a) Contracts subject to European Procurement Legislation may be extended in compliance with relevant legislative provisions. Contracts may be extended in accordance with the provisions for extension contained in the contract if the parties agree and if the relevant Chief Officer is satisfied that the extension will

achieve best value and is reasonable in all the circumstances. Any such extension that will last for more than one year shall be notified to the Director of Legal and Procurement and the Director of Finance and Corporate Services. All extensions (of any duration) shall be notified to the Contracts Register Officer.

- (b) Retendering of contracts shall be timetabled to ensure handovers can be effected at the end of the contract term. Where any retendering is delayed or is unsuccessful then temporary arrangements may be agreed by the relevant Chief Officer.
- (c) Any temporary contractual arrangements necessary to cover periods between a contract expiring and a new contract commencing shall be kept to a minimum term possible and retendering shall be commenced or re-commenced as soon as is reasonably possible.
- (d) Chief Officers have delegated to them power to extend, vary or renegotiate contracts in accordance with paragraph 2.5 of Part 4 of this Constitution. Where approval to extend, vary or renegotiate a contract is required to be obtained or is in any event sought from the Executive (or the General Purposes Committee or Pension Fund Sub-Committee) the Executive, the General Purposes Committee or the Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out all relevant information necessary to give such approval or approvals as it considers necessary.

113. Early Termination of Contract

High Value Contracts may only be terminated by the Executive, the General Purposes Committee or the Pension Fund Sub-Committee as appropriate. Medium Value Contracts may only be terminated:

- (a) by agreement between the Council and the Contractor; or
- (b) in accordance with the termination conditions of the contract

and provided that in either case the financial and legal implications or other relevant circumstances have been taken into account.

114 Assignment and Novation of Contract

- (a) Contracts may be novated or assigned provided that the novation or assignment would not breach European Procurement Legislation. Chief Officers have delegated to them the power to novate or assign contracts pursuant paragraph 2.5, of Part 4 of this Constitution provided that the novation or assignment does not substantially alter the terms and conditions of the contract and provided that the relevant Chief Officer is satisfied that the new contractor meets certain standards
- (b) Where approval to novate or assign a contract is required to be obtained or is in any event sought from the Executive (or the General Purposes Committee or Pension Fund Sub-Committee) the Executive, the General Purposes Committee or Pension Fund Sub-Committee as the case may be shall receive and consider a report setting out all relevant information necessary to give such approval or approvals as it considers necessary.