

Appendix 1 – Procurement Threshold Changes

Part 2 – Procedural Rules

STANDING ORDERS

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15. Questions from members of the public

- (a) Subject to para (b) members of the public or those employed by or owning a business based in Brent may ask a member of the Cabinet questions on any matter in relation to which the Council has powers or duties of affects the borough.
- (b) Questions shall be submitted fifteen clear working days in advance to the Head of Member and Executive Services and written copies of questions will be provided at meetings.
- (c) The time set aside for questions shall be 20 minutes.
- (d) At the Ordinary meeting following the Annual Meeting and at alternate Ordinary meetings for the rest of the municipal year, an additional 20 minutes shall be set aside for questions from members of the Youth Parliament.

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CONTRACT STANDING ORDERS

82. Definitions

[Extract from table]

EU Thresholds	The current EU thresholds under European Procurement Legislation for the following types of contracts are: <ul style="list-style-type: none">• in the case of contracts for public works, £4,551,413<u>4104,394</u>• in the case of contracts for services or supplies, £181,302<u>64,176</u>• in the case of contracts for Schedule 3 Services, £615,278<u>589,148</u>• in the case of contracts for public works or services concession contracts, £4,551,413<u>4104,394</u>
Low Value Contract	In the case of contracts for services (including Schedule 3 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 £25,000 and up to the amount which is the current EU Threshold for services and supplies contracts (which is currently £ 181,302 <u>64,176</u>).

	In the case of a contract for construction or works: a contract with an estimated value over the life of the contract (including any period of extension(s) anticipated by the contract) of between £25,000 and up to £250,000, provided that the contract is classified as a contract for works and not services by the European Procurement Legislation.
Medium Value Contract	<p>In the case of contracts for services (including Schedule 3 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 EU Threshold for services or supplies contracts (which is currently £164,176) and £2m,000.</p> <p>In the case of a contract for construction or works, a contract with an estimated value of between £250,000 and £5m500,000, provided that the contract is classified as a contract for works and not services by European Procurement Legislation.</p>

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

- (a) The Local Authorities (Goods and Services) Act 1970 (“the 1970 Act”) provides that local authorities may enter into contracts to provide goods and services to public bodies defined as such by the 1970 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. The general power of competence in the Localism Act 2011 may also authorise the provision of goods, works and services by the Council.
- (b) Before entering into arrangements under any of these provisions, officers must comply with the relevant requirements of Financial Regulation in Part 2 of the Constitution.
- (c) Authority to enter into arrangements under any of these provisions must be agreed by the Cabinet (or if appropriate the General Purposes Committee) where:
- (i) the contract value would exceed **£150,000** million 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** million 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 Chief Legal Officer and the Chief Finance Officer prior to entering into any such arrangement and/or prior to seeking approval by the Cabinet.

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 9.5, of Part 3 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 Cabinet (or if appropriate the General Purposes Committee or Pension Fund Sub-Committee) the Cabinet, 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 Cabinet (or the General Purposes Committee or Pension Fund Sub-Committee), the Cabinet, 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 of or exceeding £25,000 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.

Part 3 – Responsibility for Functions

[Extract from officers delegated powers table.]

Power	Exception, restriction or limitation
<p>3(a) to invite expressions of interest, agree shortlists, invite tenders, negotiate, award, enter into and terminate contracts, agreements, deeds or other transactions; to purchase supplies and services; to appoint external consultants; to make minor or consequential changes to any of the documents mentioned above which were previously agreed by the Cabinet or the Council or their committees or sub-</p>	<p>Provided that:</p> <p>(a) In the case of a contract, agreement, deed or transaction where the Council would be in receipt of works, services or supplies (other than the supply of energy through the Local Authority Energy Buying Group administered by Kent County Council (“Laser”)) if the value of the contract, agreement, deed, transaction, supply, service, work or consultancy would or would be likely or is estimated at the commencement of any procurement process to exceed <u>£2 million</u> in respect of services, supplies or <u>£5 million in respect of</u> works, such value to be aggregated over the life of the contract (including any possible extension) then:-</p> <p>(i) no expressions of interest shall be invited without the prior approval of the Cabinet (or</p>

<p>committees.</p>	<p>in the appropriate cases the General Purposes Committee);</p> <p>(ii) no contract, agreement, deed or transaction shall be awarded, entered into or terminated without the prior approval of the Cabinet (or in appropriate cases the General Purposes Committee); and</p> <p>(iii) shortlists may only be drawn up and tenders may only be evaluated in accordance with the basis of the evaluation criteria approved by the Cabinet (or in appropriate cases the General Purposes Committee) in accordance with Standing Orders 88(b) and 89(vi).</p> <p>(b) in the case of an agreement where the Council is a service provider to another organisation, the contract value or cost to the Council in providing the service is less than £150,000 <u>1 million</u> per year; otherwise Cabinet approval must be sought in accordance with Standing Order 87(c).</p> <p>(c) In the case of a contract or agreement that does not fall within (a) or (b) above, such as a funding or settlement agreement, the total value passing from the Council to another organisation does not exceed £1 million <u>250,000</u>.</p> <p>(d) the award of contract or approval of the agreement would not place the Council in breach of European procurement legislation.</p> <p>(e) there is sufficient budgetary provision</p> <p>(f) admission agreements in respect of the pension fund may only be agreed by the Chief Finance Officer and in accordance with criteria adopted by the General Purposes Committee or the Pension Fund Sub-Committee.</p> <p>(g) contracts in respect of the supply of energy through LASER may only be awarded by the Chief Finance Officer</p>
<p>3(b) to extend, vary, renegotiate, novate or assign contracts, agreements, deeds or other transactions.</p>	<p>(a) provided that the extension, variation, renegotiation, novation or assignment would not be in breach of the European Procurement Legislation.</p> <p>(b) provided that the extension, variation, renegotiation, novation or assignment does not substantially alter the terms and conditions of the contract.</p>

	<p>(c) provided that there is sufficient existing budgetary provision.</p> <p>(d) if the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:</p> <p style="padding-left: 40px;">(i) in the case of any contract, agreement, deed or other transaction with a life of not more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of six months; or</p> <p style="padding-left: 40px;">(ii) in the case of any contract, agreement, deed or other transaction with a life of more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of one year.</p> <p>(e) provided that in the case of any variation (other than an extension):</p> <p style="padding-left: 40px;">(i) the total value of the variation is less than £250k<u>1m</u>; and</p> <p style="padding-left: 40px;">(ii) if the total value of the variation is more than £50k it is not more than 50<u>520</u>% of the original contract value (calculated over the life of the contract contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).</p> <p>(f) provided that in the case of any novation or assignment that the relevant Director is satisfied that the contractor to which the contract, agreement, deed or other transaction is to be novated or assigned meets the Council's requirements for financial standing, health and safety standards and technical expertise.</p>
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10. Exemptions, Restrictions and Limitations on Powers Delegated to Officers

10.1 Chief Officers exercising delegated authority shall take all reasonable steps (including the taking of financial, legal and other similar advice) to ensure that no function is exercised or decision taken if, in their reasonable opinion:-

(k) **Transfer or redundancy:**

The exercise of that function or the making of that decision would or would be likely in the opinion of the relevant Strategic Director or the Chief Executive to

result in ~~transfers of staff to or from the Council of more than 20 people or redundancies of more than 20 people~~ a very significant change in the model of service delivery.

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TABLE 5

PROPER AND STATUTORY OFFICER PROVISIONS

The following definitions are used in this Table:-

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GDPR 2016 = General Data Protection Regulations 2016

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The following officers and their deputies or person nominated by them for the purpose shall be the proper officer for the purpose specified:- [extract]

<i>(1) statutory provision</i>	<i>(2) Function</i>	<i>(3) Proper Officer</i>
National Health Service Act 2006 S73A	Director of Public Health	Director of Public Health
<u>GDPR 2016 Art 37</u>	<u>Data Protection Officer</u>	<u>Information Governance Manager</u>
Generally *	Any other proper officer function not otherwise designated.	Chief Executive