

PART 3

STANDING ORDERS

CONTRACT STANDING ORDERS**82. Definitions**

The following definitions shall apply throughout these Contract Standing Orders (**in alphabetical order**):

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 (under which different thresholds apply for services / supplies and construction /

	works).
Low Value Contract	<p>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 £20,001 and up to the amount which is the current threshold for services and supplies contracts under the European Procurement Rules (which is currently £173,934).</p> <p>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 £20,001 up to £500,000, provided that the contract is classified as a contract for works and not services by the European Procurement Rules.</p>
Medium Value Contract	<p>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 £173,934) and £500,000.</p> <p>In the case of a contract for construction or works, a contract with an estimated value of between £500,000 and £1,000,000, provided that the contract is classified as a contract for works and not services by the European Procurement Rules.</p>
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.
Very Low Value Contract	A contract or commitment with a value from £0 to £20,000.

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 (**although it is mandatory to place such contracts through the Council's corporate agency staff arrangements, currently Comensura**);
- (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.
- (aa) No formal procurement procedures apply to Very Low Value Contracts apart from a requirement to secure best value. For Very Low Value Contracts, the best way to demonstrate best value is by the seeking of three quotes or using an Approved List (where one exists), however this is not mandatory and it is open to a duly authorised officer to approve another procurement route. As with all**

Council procurement there is a mandatory requirement to keep an auditable record to demonstrate compliance and value for money.

- (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 **£173,934**), 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 in 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.