

## AGENDA

### GENERAL PURPOSES COMMITTEE MEETING

Date: Thursday, 29 September 2016

Time: 5.00 pm

Venue: Committee Room, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Mike Baldock, Bowles (Chairman), Mike Cosgrove, Adrian Crowther, Harrison, Alan Horton, Gerry Lewin (Vice-Chairman), David Simmons and Mike Whiting

Quorum = 3

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Pages

1. Emergency Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; and

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 2 March 2016 (Minute Nos. 538 - 543) as a correct record.

#### 4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

**Advice to Members:** If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

#### **PART A MINUTES FOR RECOMMENDATION TO COUNCIL**

- |    |  |        |
|----|--|--------|
| 5. | Review of Polling Districts and Places - Sheerness and Woodstock Wards | 1 - 6  |
| 6. | Constitution Review  | 7 - 46 |

#### **Issued on Wednesday, 21 September 2016**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of this Committee, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

<b>General Purposes Committee Meeting</b>		<b>Agenda Item:</b>
<b>Meeting Date</b>	29 September 2016	
<b>Report Title</b>	Review of Polling Districts and Places – Sheerness and Woodstock Wards	
<b>Portfolio Holder</b>	Leader	
<b>SMT Lead</b>	Abdool Kara	
<b>Head of Service</b>	Mark Radford	
<b>Lead Officer</b>	Katherine Bescoby	
<b>Key Decision</b>	<b>No</b>	
<b>Classification</b>	<b>Open</b>	
<b>Forward Plan</b>	<b>N/A</b>	
<b>Recommendations</b>	<p>The General Purposes Committee is asked to consider the proposals and recommend to Council that</p> <ol style="list-style-type: none"> <li>1. the proposed changes to polling districts and the polling place for the Sheerness ward be approved and</li> <li>2. the proposed change to the polling place for the Woodstock ward be approved.</li> </ol>	

## 1. Purpose of Report and Executive Summary

- 1.1 The Council is asked to consider proposals to change arrangements for voting in two wards, namely Sheerness and the Woodstock ward, in the light of experiences at recent elections.

## 2. Background

- 2.1 The Electoral Administration Act 2006 introduced a requirement for Councils to undertake a review of polling districts and places in 2007, and every four years thereafter. In practice, however, we monitor this more regularly and have, when necessary, made arrangements for alternative polling places/stations with the agreement of the Council/ Returning Officer.
- 2.2 The last full review was carried out in 2014, prior to the all-out Borough elections held in May 2015 (which were combined with the Parliamentary and Parish elections, using the new ward boundaries).
- 2.3 To clarify, the Council is responsible for setting the polling district (a geographical area of a ward) and polling places (a geographical area within a polling district that the polling station must be located within). The Returning Officer is responsible for locating the polling station, which must be within the polling place.

### **3. Proposal**

#### **Sheerness Ward**

- 3.1 During the review held in 2014, Members asked for an additional polling district to be created in the Sheerness ward, and for a polling station at Vincent Gardens. Unfortunately, it was not possible to use Vincent Gardens, and so arrangements were made for a mobile building to be located on hardstanding adjacent to Vincent Gardens.
- 3.2 However, feedback has been received about the way in which the electors are allocated to the station, in that some people walk past a different polling station to vote there. This does cause some confusion for electors, and so we have invited input from the ward members and have re-drawn the polling districts.
- 3.3 Whilst a portacabin is often seen as a solution for difficult locations, they do not come without their logistical problems, particularly where there is no obviously defined area for it. For example, in Throwley, there is a long history of the polling station being located on the green, and we have no problems with the location, for example, there is access to mains electricity. At the Sittingbourne Community College we have established a good working relationship with the school and have achieved a sensible solution to ensure the school does not need to close on polling day.
- 3.4 At Vincent Gardens, however, whilst on the day of the election the portacabin has worked reasonably well, it requires considerable prior work. It requires an assessment of residents' parking (with flyers being sent to them); and the need for someone to be on site to take delivery/oversee collection of the portacabin, ramp, generator and the portaloo (which may not arrive at the same time).
- 3.5 Facilities for the polling station team are also very basic with no access to a water supply. In addition the use of portacabin is very expensive in comparison with other venues, costing in the region of £5,000.
- 3.6 In view of the above, discussions are currently taking place with the Freedom Centre, and an update will be given at the meeting. It is therefore recommended that the polling place for this polling district is extended to cover the whole polling district, which will enable the Returning Officer to use the Freedom Centre should it be available, or to continue to use the portacabin at Vincent Gardens if it is not.

#### **Woodstock Ward**

- 3.7 It is proposed that Minterne School is no longer used as a polling station, and that the Sports Pavilion (UK Paper) is used instead.
- 3.8 Whilst Minterne School has been used for many years, it is becoming increasingly difficult for the school to accommodate us, and in recent years we have had problems regarding car parking and the size of the room allocated. In contrast, the arrangements worked well at the Sports Pavilion for the EU Referendum, which saw a high turnout without any difficulties on-site.

3.9 As an alternative venue is available nearby, and it is a suitable venue in terms of size, disabled access and car parking, it is recommended that the polling place is extended to include the Sports Pavilion, so that the Returning Officer may use this venue at future elections, but still has the option to use Minterne School if necessary.

#### **4. Alternative Options**

4.1 The Committee may make suggestions for alternative venues; however, consideration does need to be given to practical aspects in terms of the venues available within the wards, which will be used for the KCC elections in May 2017.

#### **5. Consultation Undertaken or Proposed**

5.3 Ward Members and Group Leaders have been asked for their views regarding the proposed changes. There will be a full polling station review in 2018, which will include full public consultation.

#### **6. Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	Localism
Financial, Resource and Property	We are seeking to retain the current number of polling stations (which must be located within the polling place); however, there may be some variations in price but this will be kept within existing budgets.
Legal and Statutory	The Council is required to take a full review in accordance with the Electoral Administration Act 2006, however, keeps polling stations under regular review.
Crime and Disorder	None identified at this time.
Sustainability	None identified at this stage
Health & Wellbeing	None identified at this stage
Risk Management and Health and Safety	The purpose of the review is to ensure that all voters have reasonable facilities for voting. It is important that venues meet health and safety requirements so as not to put voters at risk. Polling Station staff are encouraged to give feedback on venues and each station is visited by a Polling Station Inspector on election day.
Equality and Diversity	The purpose of the review is to ensure that all electors in the Borough have reasonable facilities for voting, and that as far as is reasonable and practicable, facilities for voting are accessible for disabled people.

## **7. Appendices**

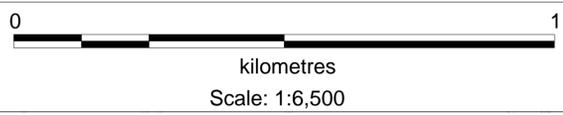
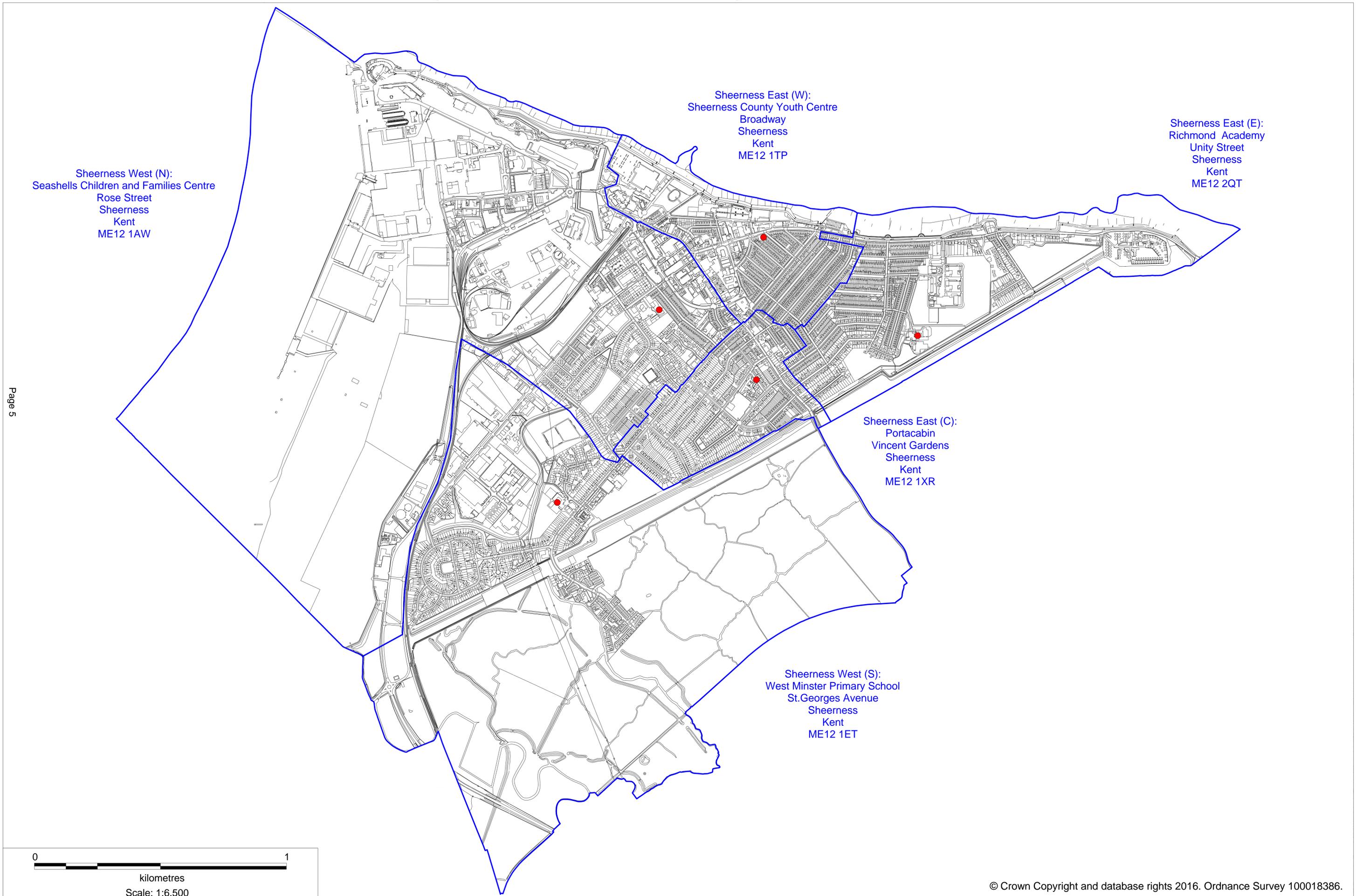
7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Map of Sheerness Ward with revised polling districts

## **8. Background Papers**

8.1 Previous reports and minutes are also available to view at: [www.swale.gov.uk](http://www.swale.gov.uk)

# Sheerness Ward Polling District / Polling Station Review



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<b>General Purposes Committee</b>		<b>Agenda Item: 6</b>
<b>Meeting Date</b>	29 September 2016	
<b>Report Title</b>	Constitution Review	
<b>Cabinet Member</b>	Cllr Andrew Bowles, Leader	
<b>SMT Lead</b>	Mark Radford, Director of Corporate Services and Monitoring Officer	
<b>Head of Service</b>		
<b>Lead Officer</b>	Katherine Bescoby, Democratic and Electoral Services Manager	
<b>Key Decision</b>	No	
<b>Classification</b>	Open	
<b>Forward Plan</b>	<b>Reference number:</b>	
<b>Recommendations</b>	1. That the Committee considers the report and the working papers and makes recommendations to Council. (Recommendations from this Committee will be presented to Council on 19 October 2016.)	

## 1 Purpose of Report and Executive Summary

1.1 Reviewing the constitution regularly ensures it is fit for purpose and maintains good governance and decision making arrangements. The review of the constitution is an on-going task and it is timely to look at the items presented in this report.

1.2 The report sets out the details of:

- The latest position in relation to Statutory Officer disciplinary procedures and suggests a delegation to allow for the finally agreed national procedures to be incorporated into the Constitution.
- Suggested changes to the Head of Planning Officer Delegation.
- Changes to the terms of reference of the Policy and Development Review Committee
- Review of speaking rights at planning Committee in the light of the Motions submitted to Council on 21 September 2016
- Proposed changes to Contract Standing Orders to reflect updated procedures to ensure that business is conducted effectively and efficiently.

1.3 (Whilst a review of all the procedure rules has been undertaken, it should be noted that regulations and the statutory Modular Constitution guidance means

that the review has concentrated on those areas where the Council has discretion.)

## **2 Background**

2.1 Working papers have been prepared to cover the matters set out in Para 1.2 above.

## **3 Proposals**

3.1 The Committee is asked to give a view and make recommendations to the Council regarding the points raised in the Working Papers in the report.

## **4 Alternative Options**

4.1 There is discretion on the proposals set out in the Working Papers; matters where there is no discretion in relation to law and statutory guidance do not form part of this report

## **5 Consultation Undertaken or Proposed**

5.1 The review of the Constitution is the role of this Committee. All members do receive all council agendas and reports and can attend the Committee. All recommendations from this Committee have to be agreed by Council.

## **6 Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	Having an up to date Constitution is important for good governance and decision making and is part of the Council to be proud of objective.
Financial, Resource and Property	None at this stage, it is anticipated that the work arising out of the review will be contained within existing resources. Legal
Legal and Statutory	Where there is a change as a result of legislation or regulation, or suggested on the basis of legal advice this is set out in the working papers.
Crime and Disorder	None identified at this stage
Sustainability	None identified at this stage
Health and Wellbeing	None identified at this stage

Risk Management and Health and Safety	None identified at this stage
Equality and Diversity	None identified at this stage

## **7 Appendices**

7.1 The following documents are to be published with this report and form part of the report:

- Working Papers

## **8 Background Papers**

None

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## **WORKING PAPER: General Purposes Committee**

**SUBJECT: Clarification of prescribed standing orders and procedures relating to the dismissal of statutory officers.**

### **BACKGROUND:**

1. On 17 June 2015 Council considered a report setting out the need to modify the Council's Prescribed Standing Orders and Standing Orders Relating to Staff as a result of changes required by Regulations.
2. The government made these legislative changes requiring the Council to amend its standing orders insofar as they relate to disciplinary action against, and the dismissal of, the Council's Head of Paid Service, Monitoring Officer and Chief Finance Officer.
3. Council approved the changes and recommendations and these were incorporated into the Constitution (Part 4.8) together with the report and appendices as the latter set out procedural considerations and model standing orders.
4. It was acknowledged within the legal and statutory implications of that report that ALACE, the group representing senior officers in local government, has serious reservations about the "lack of rigour in the thinking around the process and the inappropriateness of some of the specific requirements".
5. Since the original report was presented to Council the Joint Negotiating Committee for Chief Executives of Local Authorities (JNC) has been updating the Chief Executives' Handbook.
6. Attached is the original advice circular from the JNC from which it will be noted that having consulted the DCLG the JNC has accepted that it is possible that the Panel can comprise only independent persons provided that is what the authority resolves.
7. However, after subsequent negotiations between DCLG and JNC the latest position is as follows. There are no more outstanding points of principle between the two organisations and the details are being finalised. The main sticking point was the independent panel as ALACE's view was that the panel should be formed entirely of independent persons. It has now been agreed between both organisations that the new independent panel should consist of at least two independent persons.
8. LGA and ALACE are now waiting for a response from CLG about a potential conflict of wording between the Localism Act 2011 and the 2015 Regulations. The LGA have requested a very minor change to the appointment provisions in the Localism Act but CLG's line to date has been that it is for the Courts to provide clarity.
9. If CLG do not provide a formal response, I understand it is likely that the updated handbook will be issued in October. At this point, we will have a clear picture of the nationally agreed procedures.
10. Whilst it is down to individual authorities to agree the way forward it is recommended that the Council adopt the national model process.

**DECISION:** as the final details have yet to be circulated, Members are asked to give the Director of Corporate Services, in consultation with the Leader, the delegation to

incorporate the revised national model procedure into Part 4.8 of the Officer Employment Procedure Rules within the Constitution.

Mark Radford

Director of Corporate Service and Monitoring Officer

Appendix I:JNC letter dated 5 May 2016

**Joint Negotiating Committee**  
**for Chief Executives of Local Authorities**

**To: Chief Executives in England (copies for the Finance Director and HR Director) (Wales and N Ireland for information only)**

**Regional Directors**

**Members of the Joint Negotiating Committee**

5 May 2016

Dear Chief Executive,

**CHIEF EXECUTIVES' HANDBOOK**

You will be aware that The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 replaced the statutory Designated Independent Person (DIP) provisions with an Independent Panel process.

The JNC has been working over recent months to update the Chief Executives' Handbook so that it reflects the new statutory process and we hope to issue the revised version in the coming weeks.

In the meantime, we wish to bring to your attention one key change that will be a feature of any joint agreement and therefore you should consider reflecting this in your Council's Standing Orders / Constitution (as appropriate). The Regulations provide that where there is a proposal to dismiss the Head of Paid Service, Monitoring Officer or Finance Officer the authority must appoint a Panel, and take into account any advice, views or recommendations of that Panel. The Panel should be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972 and should contain at least two independent persons appointed under s.28(7) of the Localism Act 2011.

There has been some uncertainty as to whether this requirement incorporated the need to maintain political balance in this committee, ie. that the requisite number of councillors should also be appointed. Having consulted DCLG the JNC has accepted that it is possible that the Panel can comprise only independent persons provided that is what the authority resolves and therefore in the national model process the Independent Panel shall comprise only independent persons (at least two) appointed under S28(7) of the Localism Act 2011. In other words, no elected members should sit on the Panel.

If, following a disciplinary investigation, there is a recommendation to dismiss the Chief Executive, the reports of the Investigating & Disciplinary Committee and the Independent Investigator should then be sent to the Independent Panel for its consideration prior to advising the Council.

We are aware that many councils will shortly be convening an Annual General Meeting of the full Council so you may wish to use that opportunity to update the

Council's Standing Orders / Constitution accordingly. However, should a disciplinary process be underway before then you should continue to use your current procedures.

Yours faithfully,

**Sarah Messenger Amar Dave**

**Joint Secretaries**

Employers' Secretary: Sarah Messenger Local Government Association Local Government House Smith Square London SW1P 3HZ info@local.gov.uk	Officers' Secretary: Amar Dave Hon Secretary ALACE  daveamar@aol.com
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## **General Purposes Committee**

**29 September 2016**

### **Working paper on proposed amendments to the constitution – Head of Planning delegations regarding S.106 Agreements**

1. As it stands all planning applications which require a S.106 Planning Obligations agreement are required to be presented to Planning Committee for approval.
2. In some instances, these planning applications are not controversial and have the general support of the local community and ward members.
3. It is therefore proposed that delegation should be given to the Head of Planning to determine those planning applications which require S.106 's in accordance with the existing delegation regarding member call-in' but with the added proviso that the ward councillors and the Planning Committee chair are consulted on the S.106 heads of terms and can request that the item is referred to the Planning Committee where their views are contrary to that of the Head of Planning.
4. Additionally, Planning Inspectors are increasingly requiring planning officers to present draft S.106 heads of terms and draft conditions at planning appeals to be taken into account should the planning inspector allow the appeal. This requirement does not provide an opportunity to officers to confer with the Planning Committee and therefore, delegation is required to enable planning officers to present draft heads of terms on S.106 agreements and draft conditions in accordance with Council Local Plan policies.
5. It is therefore **RECOMMENDED** that the constitution be amended in accordance with the proposals set out in paragraphs three and four and that delegation be given to the Director of Corporate Services to include detailed wording to that effect.

James Freeman

Head of Planning

September 2016

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## Working Paper – Policy Development and Review Committee Terms of Reference

1. The Committee previously considered the Terms of Reference of the Policy Development and Review Committee (PDRC) prior to its establishment and these were adopted by Council on 19 February 2014. The current Terms of Reference for the Policy Development and Review Committee are at Appendix I.
2. The main remit of the PDRC is to review new or amended Council policies, plans and strategies and it has been doing this successfully since it was established two years ago as reflected in annual reports it has made to Council.
3. The last item of the Committee's Terms of Reference:

*(v) provide pre-decision comment on policy decisions*

does not sit well with the Committee's overall remit of reviewing policies, plans and strategies and the Scrutiny Committee already has a similar remit provided for in the Overview and Scrutiny Procedure Rules as follows:

### *9. Policy review and development*

*The role of the Scrutiny Committee in relation to the development of the Council's budget and is set out in detail in the Budget and Policy Framework Procedure Rules.*

*In relation to the development of the Council's approach to other matters not forming part of its budget, the Scrutiny Committee may make reports and recommendations to the Cabinet.*

4. The provision to "provide pre-decision comment on policy decisions" has already created confusion and it is argued that this provision:
  - a) does not fit well with PDRC's overall remit; and
  - b) duplicates, and possibly conflicts with, provision already made in the Scrutiny Committee's Procedure Rules.
5. The Chairman and Vice Chairman of the Committee have been consulted and have confirmed they are content with the recommendation below.
6. **It is therefore proposed that it be recommended to Council that section (v) of the PDRC Terms of Reference be deleted.**

**Policy Development and Review Committee - Terms of reference (as agreed by Council on 19 February 2014)**

Within its terms of reference, the Committee will:

- (i) consider any built-in review of any existing policies, strategies or plans of the Council;
- (ii) consider existing policies in the light of changes to legislation or national guidance;
- (iii) consider other reviews of existing council policy referred by a Cabinet Member or by resolution of Cabinet, Scrutiny Committee or Full Council;
- (iv) consider proposals for new council policy referred by a Cabinet Member, Cabinet or Full Council;
- (v) provide pre-decision comment on policy decisions.

A policy shall not be re-considered by the committee within two years or before its built-in review period, unless by resolution of the full Council or Cabinet, or as required by a change in legislation or national guidance.

The chairman may invite Cabinet Members and officers of the council or other persons to attend committee meetings to answer questions pertinent to the business of the committee.

Having considered an item, the committee may make recommendations to the person or body that referred the item to it; Cabinet, Cabinet Member, Officer of the Council or the Full Council.

The Policy Development and Review Committee shall exercise overall responsibility for any finances made available to it.

Annual Report – the Policy Development and Review Committee must report annually to the Full Council on their work and make recommendations for amended working methods if appropriate.

## General Purposes Committee

29 September 2016

### Working paper on proposed amendments to the constitution regarding Public Speaking at planning committee

1. The following motions, proposed by Councillor Mike Baldock and seconded by Councillor Monique Bonney, was submitted to the Council on 21 September 2016:
  - a) This Council agrees that all Parish Councils that register to speak on a Planning Application should be allowed to speak on that Planning Application, regardless of whether the site in question falls within their boundary or not.
  - b) This Council agrees that any organisation that registers to speak on a Planning Application be allowed to speak, and not be counted as a Residents' spokesman – i.e. that residents are still allowed to speak on the application as well.
2. As per the Council's constitution, the motion was referred without discussion to this Committee so that a full report explaining the position and implications of the motion could be considered. This report explains the background to the current constitutional position and considers the pros and cons of the two motions.
3. The Constitution sets out the current position regarding public speaking at the Planning committee.

*Members of the public will have the opportunity to speak at meetings of the Planning Committee in accordance with the procedure set out below:*

- *Anyone wishing to present a petition (related to an item included on the agenda) or speak on an application or item which is due to be considered at a meeting of the Planning Committee, including deferred items, are required to register with Democratic Services by noon on the day before the meeting.*
- *In the case of the Planning Committee, only one person will be allowed to speak in each of the following categories. The right to speak will be allocated within the categories on a "first come first served" basis: -*
  - (a) Parish or Town Council representative*
  - (b) Supporter*
  - (c) Objector*
  - (d) Applicant*

*At the meeting, applications on which the public have registered to speak, will usually be moved forward in Agenda item order and considered before applications which do not have any registered speakers. Members of the public who have registered to speak will be invited to do so in the order set out above for each application, and will have a maximum of three minutes to make their statement. The right to speak does not give the opportunity to ask questions or participate in the Committee's decision and determination of an agenda item or Planning application.*

**PLEASE NOTE:** *There is no right to speak on applications that are being determined under the Minutes of the Planning Working Group, as members of the public will have had the opportunity to speak on these applications at a previous meeting of the Planning Committee and at the Planning Working Group meeting.*

4. Appendix I sets out a Practice Guidance Note 1 on Public Speaking in Planning Committees published by the Planning Officers Society and provides a useful overview and guide on best practice.

#### Town / Parish Council Speaking at Planning Committee

5. Under the terms of the constitution, normally only the Town / Parish Council who's area encompasses the planning application site would automatically be given a right to speak at the Planning Committee. In the unusual circumstance that a planning application site straddles a parish boundary, the two Town / Parish Council's involved would be allowed to speak at the Committee.
6. It is acknowledged however, that an adjacent parish could potentially be directly affected by a planning application proposal not within their boundaries e.g. visual impact and/or traffic impacts generated by the new development. In these circumstances, it is considered appropriate to allow the adjacent Parish Council an opportunity to speak at the Committee. However, in allowing adjacent Parish Council's to speak, the constitution should make it clear that they should focus their comments purely on the direct or indirect impacts of a development on their parish area.
7. Whilst allowing the adjacent Parish Council to speak would inevitably lead to additional speaking time at a Planning Committee, it is considered that these situations do not arise so often as to have a significant regular impact on the duration of Planning Committee's. For the avoidance of doubt, should members be minded to accept an adjacent parish Council to speak, that this is only available to the nearest immediately located parish in terms of distance to the nearest boundary.

#### Organisations Speaking at Planning Committee

8. It should be noted that all the representations submitted with a planning application are available for the Planning Committee to view and that all the representations are summarised in the Officer report. These are available at least 5 days in advance of a Planning Committee, although late representations will be tabled or verbally presented by the planning officer at the meeting.
9. On many planning applications presented to the Planning Committee, there can be a demand for several speakers in objection (or less frequently in support) of a planning application. The constitution currently only allows one non parish council objector to speak at the Committee. The Council encourage the requesters for speaking to collaborate and agree a spokesperson to represent all their views as there are often common themes in their objections (or support).
10. One of the principles for determining a planning application is to ensure the process is fair and avoids any risk of bias by the decision making body. Authorities should ensure equal time to those speaking for or against a proposal to ensure fairness, noting that the number of representations for or against a proposal is not a material planning consideration. The basis for any decisions should be based purely on the material planning benefits or issues relating to the proposal. The current constitution allows for the applicant, the Town/Parish Council, an objector and a supporter. Whilst there is a recommendation above to allow nearest adjacent Parish Council's to speak, it remains the view that this procedure would be considered fair in enabling the opportunity for all the issues for and against to be expressed at the meeting.

11. Given the above, it is considered that any representative organisation, including resident or protest groups, can take on the mantle of representing the sector of the community that its views align to and request to speak as the objector (or supporter) to a planning application.
12. Should members be minded to allow an open opportunity for organisations to be able to speak, this could lead to a plethora of requests to speak and consequently, significantly lengthening the time that would be need to be dedicated to public speaking, particularly on significant 'major' planning applications. Currently, many Planning Committee meetings often extend well beyond a two hour duration where it could be argued that the focus, attention and efficiency of the Planning Committee members are inevitably going to wain. Allowing any organisation to speak at the Committee will further extend meetings and further add pressure on members attending and potentially lead to poor decision making. Additionally, such a move could give rise to additional meetings where it has not been possible to complete an agenda within on sitting. This adds to significant further costs to the Council and adds to additional diary pressures to Planning Committee members
13. It is therefore RECOMMENDED that the Committee:
  - I. Agree to amend the constitution to allow adjacent Parish/Town Council's to speak at Planning Committee on items within adjacent Parish/Town Council areas and to give delegated powers to the Director of Corporate Services to include detailed wording to that effect; and
  - II. Agree **not** to amend the constitution with regard to allowing additional speaking from any organisation that wishes to speak on a planning application presented to the Planning Committee.

James Freeman  
Head of Planning

September 2016

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## Practice Guidance Note 1

### Public Speaking in Planning Committees

*The POS Development Management Practice Project works with a group of local authorities to address issues in development management where there is a lack of published guidance. The group examines the range of approaches across the authorities to identify good practice, and this is drawn together as a practice guidance note.*

#### Introduction

- 1 It is generally considered good practice to provide the opportunity for objectors and supporters to address a Committee which is making decisions on controversial or important planning applications. It creates the opportunity for people to feel more involved in the decision making process by being able to articulate their concerns before a decision is taken.
- 2 Initial concerns that public speaking could lead to over lengthy meetings have not generally been borne out, particularly where authorities have high levels of officer delegation and limit the number of speakers. In these cases the time available to elected members to focus on major or controversial decisions is judged to have brought about better management of performance, and better public satisfaction.
- 3 Objectors are more likely to feel due weight is given to their views, and supporters or promoters are able to respond to issues raised, if “public speaking” is allowed. The planning authority shows itself open to listening to differing views before a decision is taken.
- 4 However the process has to be fair and avoid the risk of bias, and therefore procedural rules have to be established, publicly available and followed.
- 5 Many individual authorities have worked out detailed procedural schemes, but no general guidance has been published comparing schemes and advising authorities on establishing or reviewing “public speaking” arrangements. This guidance note has been drawn from discussions on best practice and is intended to provide such guidance.

#### Published procedures

- 6 The procedures to be followed need to be carefully worked out to ensure fairness and to avoid any risk of actual or perceived bias by the decision making body. The procedures should be freely available to all. Many authorities advise on their public speaking opportunities and procedures when consulting on or notifying planning applications. This demonstrates openness on the part of the authority and avoids last minute requests to speak. It also gives all parties time to consider if and how they might wish to participate in “public speaking”, well before a meeting.

#### Registration

- 7 Objectors or supporters (including applicants where relevant (see below)) must advise the authority in good time to allow appropriate administrative arrangements to be put in place to ensure all parties are aware of who is to speak. Authorities should require registration at the latest by noon on the working day prior to the Committee. Many require earlier registration which allows more time for those of opposing views to prepare to speak, especially if they had not anticipated speaking until becoming aware of the request from a speaker of the opposing view. It also allows the authority more time to contact all those wishing to speak for or against, and for those of the same viewpoint to

agree amongst themselves who will act as a spokesperson and avoid repetition or duplication.

### **Choice of speaker(s)**

- 8 Where there is a limit on the number of speakers, the authority should not choose those who will be allowed to speak. Adequate time between registration and Committee allows parties of a like mind time to compare views and decide who should represent views where it is not practical or desirable for all who might wish to speak. The authority should seek the agreement of anyone indicating they may wish to speak to share their contact details with others of the same general view to facilitate this. Where this is not acceptable or where the parties cannot reach agreement, speakers should be selected on a “first come first served” basis to avoid any risk of bias.

### **Number of speakers and time limits**

- 9 Authorities should ensure equal time to those wishing to speak for or against a proposal to ensure fairness. Most authorities limit the time available to speakers to ensure fairness for all, and to avoid excessively lengthy meetings running the risk of affecting the quality of decision making. Many use a timed automatic system. Whilst this may risk appearing unwelcoming, it does ensure fairness for opposing parties. A time limit of 3 or 5 minutes per speaker is common. Many authorities limit the number of speakers to one or two for and the same against a proposal. In some cases procedures allow Chairs the discretion to allow extended times or numbers speaking in respect of complex or major controversial applications. However extended times risk unfairness if not evenly applied and should be treated with care. When dealing with major complex proposals at the pre-application stage, it may be helpful to identify the likely level of public interest and to ask the developer to make arrangements for a public presentation or forum, which could be chaired by the Authority to reinforce its independent role, and allow a wide range of views to be heard at a formative stage. An example of such a process is Enquiry by Design promoted by the Princes Trust.

### **Purpose of speaking**

- 10 Most authorities only allow those who have made written representations or submitted the proposal to speak. Therefore the views of the parties and the material points arising are already available to the authority and included in the Committee report. It is helpful if the authority’s published advice to those contemplating public speaking makes this clear, and states that any previous representations will be available to the Committee. Published advice can helpfully explain that the purpose of the speaking opportunity is not to seek to explain all points expressed (as the authority is already aware of these), but to emphasise important points before a decision is taken. It is important to convey that public speaking is not an adversarial opportunity, and to explain the limited time available and how the public speaking opportunity relates to the Committee procedure and decision making process as a whole. It is also useful for published advice to explain that questions of other parties or the Council are not appropriate and clarifications should be sought of the officers or other parties prior to the meeting. Published advice should explain that after each party has spoken the Councillors may want to clarify any points raised, and then the Committee will proceed to determine the application without further public speaking opportunities.

### **Order of speaking**

- 11 Most authorities regard the public speaking as part of the Committee meeting, and have standing orders allowing public speaking immediately before the Committee debates a particular application. Once the planning officer has set the scene and updated the meeting on any late matters not dealt with in the published report, in most cases

objectors are invited to speak first, followed by the applicant or supporters. The officer's introduction needs to be brief, but is found helpful to objectors and supporters giving them any update before they speak. (Officers do not need to balance material considerations or explain the published recommendation at this point. Their comments on material considerations or recommendations can be made at the appropriate point in the Committee's subsequent deliberations.)

- 12 Some authorities only allow applicants or supporters to address a committee if objectors have requested to speak, or if the officer recommendation is one of refusal. However this needs careful consideration as it may risk being unfair to a party wishing to speak. Parish Councils have no rights to address a Committee as a consultee, but where an authority wishes to allow a Parish Council representative to speak this should be subject to the same procedural rules as for other parties, and be heard during the public speaking process. Ward Councillors (not members of the decision making committee) are either heard as part of the public speaking, or as part of the subsequent committee debate, depending on the authority's standing orders.

#### **Late plans, photos, or circulation of further written submissions**

- 13 The circulation of materials should not normally be accepted during the meeting. The public speaking opportunity is an opportunity to highlight important points already made in representations. One party submitting late material may be unfair to other parties who have not had a chance to peruse that material or comment on inaccurate or misleading information. It will often not be reasonable for such late submissions to be read by decision makers. The risk of unnecessary deferral may therefore arise. However, if new or further material is to be allowed by public speakers, depending on the method of projecting or circulating information to the Committee, it is desirable to require any further submissions such as photos, plans, models, or written materials to have been received far enough in advance of the meeting to be circulated to members by the set date, and to specify the number of copies required. Speakers should be advised that a copy of any such material will need to be kept by the authority, for the record.
- 14 Some authorities have discretion for the chair or a senior officer to allow such submissions only if they are requested and provided prior to the committee and are necessary to update the representations made. This allows consideration of any fresh material considerations raised late by objectors or supporters/agents to be considered and decisions taken on whether they are of such significance that deferral needs to be considered, and to ensure members have all the necessary information to determine the application at the meeting. It is helpful if published advice explains this and any procedures to ensure fairness in circulating late information from objectors or supporters.

#### **Conduct of Committee meetings**

- 15 Speakers should not be allowed to engage in discussion with members of the Committee during public speaking or the Committee deliberations, to avoid any risk of accusation of bias or personal interest.

#### **Public Speaking & Delegated Applications**

- 16 Most authorities do not have public speaking opportunities on delegated applications, for good reason. In most cases public speaking opportunities are only available on applications which are not delegated to the officers. Some authorities only allow public speaking on major applications. Other authorities, which have delegation schemes allowing members to request minor applications to be referred to a Committee if judged controversial, provide for public speaking on such cases. A request for public speaking from an objector should not transfer a delegated application to a Committee item. It is

helpful for delegation schemes and published advice on public speaking to explain how delegated applications will be handled.

### ***The project***

*The Development Management Practice Project is sponsored by the Planning Officers Society, and is run on its behalf by POS Enterprises and Trevor Roberts Associates. . The local authorities involved in the project are Arun, Ashford, Barnsley, Bournemouth, Broadland, Caradon, Chiltern, Hambleton, Hampshire, Lichfield, Portsmouth, Redcar & Cleveland, Richmond, Suffolk, Swindon, Vale Royal and Wycombe. The project will run for a year in the first instance, from April 2007 to March 2008. Finalised guidance is published on the POS web site and circulated direct to Society members.*

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**Working Paper: General Purposes Committee 29 September 2016: Proposed changes to Contract Standing Orders.**

1. As part of the review of the Constitution it is necessary to consider whether it is appropriate to amend Contract Standing Orders (CSO) to ensure the content reflects current legislation and requirements. In this case amendments are also proposed to assist local Small, Medium enterprises (SME's) in procuring lower value opportunities between £0 - £25,000.
2. This report provides information with regard to the proposed amendments that are contained within Appendix I of the report. It sets out in Appendix I the detailed changes to CSO together with the rationale for such changes as the basis for consideration by the Committee of any changes to be recommended to Council for approval
3. Purchasing decisions and processes are important because the money involved is public money. The purpose of Contract Standing Orders is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council furthers its corporate objectives. One such objective is Social Value and the amendments proposed will further assist local SME's in successfully procuring council services while keeping in line with the principles of the EU Treaties.
4. Even when a tender process is not required under the Directives, for example because the estimated value of a contract falls below the relevant threshold, EU Treaty-based principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality apply and some degree of advertising, appropriate to the scale of the contract, is likely to be necessary to demonstrate transparency. This is in line with the UK objective of achieving value for money in all public procurement, not just that which is covered by the procurement Directives. The proposed amendments recognise and comply with the principles of the EU Treaties.
5. Members are asked to refer to Appendix I for detail of the proposed amendments. The proposals contained in Appendix I are intended to provide a 'lighter touch' for the benefit of local SME's while maintaining the principles of the EU Directive and are generally aimed at lifting the lower financial threshold to enable a smoother and more simplified process to lower value procurements.
6. Consultation with the Procurement Group in July 2016 followed by Legal and Finance has been undertaken and agreement reached that amendments contained in Appendix I of this report be recommended and approved.

**RECOMMENDATION:** It is proposed that the amendments are made to CSO as set out in Appendix I are recommended to Council

Alan Marolia – Contracts and Procurement Support manager – 7437 – Rm. 137

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## ANNEX I - Proposed revisions

Clause	Current wording	Proposed wording	Rationale
1.4	These Contract Standing Orders do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines are set out in the Council's Purchasing Guide, Procurement Strategy, Code of Conduct, Safety Policy, Equal Opportunities Policy, Protected Disclosure Policy (Whistleblowing) and Data Quality Standard'.	These Contract Standing Orders do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines are set out in the Council's Purchasing Guide, Procurement Strategy, Code of Conduct, Safety Policy, Equal Opportunities Policy, Local First Policy, Safeguarding Policy, Commissioning Framework, Protected Disclosure Policy (Whistleblowing) and Data Quality Standard'.	Added the Commissioning Framework and Local First policy to this clause.
2.3.5	Contractual arrangements with other local authority's or similar body's where the Council is not the lead authority in which case the lead authority's Standing Orders shall prevail'.	Contractual arrangements with other local authority's or similar body's where the Council is not the lead authority in which case the lead authority's Standing Orders shall prevail. Contracts involving shared services, the CSO of the lead authority in the partnership shall apply even if different from the Council's'.	Contracts involving shared services, the CSO of the lead authority in the partnership shall apply even if different from the Council's.
2.3.6	New clause	"Framework Agreements providing that the Head of Finance has agreed the terms of the Framework Agreement".	Ensure that the Head of Finance is satisfied with the T&Cs the Council are signing up to.
3.1	All purchases however small shall be in writing and on an official order or appropriate contract document approved by the Head of Finance. The price to be paid must be specified together with a statement as to the amount of any discount(s) or other deduction(s). All committed expenditure must be entered by the relevant Service Unit onto the Council's accounting system including, at the commencement of each financial year the estimated annual contract sums for on-going contracts'.	All orders used in connection with Contracts shall be on the Council's official order template	Streamlined this clause in conjunction with Council's current financial system.

3.2	'Standard contract clauses shall be used in all contracts of a value of £15,000 or more. The standard contract clauses are issued by Legal Services and can be found on the intranet'	Standard contract clauses shall be used in all contracts of a value of £25,000 or more. The standard contract clauses are issued by Legal Services and can be found on the intranet'	The threshold has been raised to meet the same advertising and threshold we are obliged to follow by Crown Commercial Services for Local Authorities.
3.3	As a minimum, all contracts of a value of £15,000 or more shall include clauses which set out'	As a minimum, all contracts of a value of £25,000 or more shall include clauses which set out'	New PCRs require LG contracts over £25k to be published on Contracts Finder
3.5	All contracts shall include relevant specifications and / or briefs / technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council's Purchasing Guide'	All contracts shall include relevant specifications and / or briefs / technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council's Purchasing Guide. All procurement documentation including specifications and / or briefs / technical requirements and relevant contractual documentation need to be advertised all at the same time regardless of the procurement procedure'	PCR2015 Requirement where we must advertise all documentation to help SMEs'
3.6	All contracts of a value of £15,000 or more or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file'	All contracts of a value of £25,000 or more or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file'	To meet the Council's new proposed tender threshold.
4.1.2	The relevant rules and EU treaties principles which are defined in the Council's Purchasing Guide'	Delete	repeated in 4.2 of the Council's CSO's) – 4.1.3 and 4.1.4 have been renumbered to 4.1.2 and 4.1.3.
4.2	In the event of conflict between the above, the E.U. Rules will take precedence, followed by UK legislation, then the Council's Constitution, the	In the event of conflict in legislation, E.U. Rules will take precedence, followed by UK legislation, then the Council's Constitution, the Council's	Steam lined the clause

	Council's Purchasing Guide and guidelines, policies and procedures'	Purchasing Guide the Council's and guidelines, policies and procedures'	
5.3.6	that all contracts of a value of £15,000 or more are included on the Council's Contract Register'	that all contracts of a value of £5,000 or more are included on the Council's Contract Register'	This will ensure that we meet and remain compliant with the transparency code, that we are able to ensure that appropriate contractual arrangements are in place and to assist with commissioning and category management.
5.3.8	New clause	All Contracts over £25,000 will be: in the form approved by Legal Services; executed; a minimum of three copies of this contract are required; one to be stored in the Council's strong room; the second to the winning bidder/s and a copy for the lead officer or their staff. An electronic copy of the signed / sealed contract is to be emailed to procurement.	Raising to the new proposed threshold from £15k to £25k. To build resilience and auditability, Procurement will store the contract on their e-procurement system. This clause will ensure that all stakeholders are working to the same information.
5.3.10 (was 5.3.9)	consideration is given to providing adequate and appropriate security (such as a bond or guarantee) to protect the Council in the event of non-performance	that a risk assessment is carried for the approval of the Head of Finance out to ascertain whether a bond or guarantee is required to protect the Council in the event of non-performance.	To ensure this risk is considered prior to the procurement stage.
7.1	The table below sets out the general rules applying to the choice of purchasing procedure for contracts at the stated threshold values.	The table below sets out the general rules applying to the choice of purchasing procedure for contracts at the stated threshold values. All Figures quoted in this documents are exclusive of VAT.	To make clear these CSOs relate to net values
7.3	The public notice referred to at 7.2 may take the form of a notice or advertisement in an	The public notice referred to at 7.2 may take the form of a notice or advertisement in	Increasing the advertising threshold to a

	<p>electronic or paper format, on an easily accessible website or other electronic media and / or in the press, trade journals or Official Journal of the European Union (“OJEU”) (as appropriate). The Responsible / Lead Officer may choose to place one or more public notices in different media. Any tender as a minimum between £5,001 &amp; £14,999 will be advertised on Swale.gov.uk. As a minimum any tender valued at £15,000 or above will be advertised on www.swale.gov.uk and the Kent Portal. Tenders valued at £25,000 or more will also need to be published on Contracts Finder’</p>	<p>an electronic or paper format, on an easily accessible website or other electronic media and / or in the press, trade journals or Official Journal of the European Union (“OJEU”) (as appropriate). The Responsible / Lead Officer may choose to place one or more public notices in different media. As a minimum any tender valued at £25,000 or above will be advertised on www.swale.gov.uk and the Kent Portal. Tenders valued at £25,000 or more will also need to be published on Contracts Finder’</p>	<p>proposed £25,000 in line with the new proposed tender threshold. CCS insist that all local authority opportunities over £25k are advertised. The Council will use the Council’s e-procurement system to find SMEs in the ME9 to ME13 Postcodes for works, good and services below £25,000 to obtain ITQs for works, goods and services. The Council will publicise this in the business bulletin, on our website, Inside Swale and any organisations contacting the Authority offering their works, goods or services.</p>
7.4	See Annex II	See Annex II	<p>Proposed changes in the advertising threshold as mentioned above to £25,000 Adopting the principles of e-procurement that become mandatory in September 2018 for local authorities. The introduction of a new light touch regime threshold has been incorporated in line with</p>

			the PCR 2015. Legal services to be present at tender opening. Cabinet Member not to be present at tender openings to prevent any unnecessary exposure. Change advertising threshold to £25k and to use the suppliers list on the e-procurement system to find SMEs in the ME9 to ME13 postcodes to undertake and RFQ.
7.6	Financial appraisals shall be carried out by Financial Services on all Contractors tendering for contracts of £75,000 and above, prior to invitation to tender. For contracts above £30,000 but not exceeding £74,999, prior to award of contract the proposed successful contractor shall be subject to financial appraisal by Financial Services'	Financial appraisals shall be carried out by Financial Services on all Contractors submitting a bid of £75,000 and above, this will be undertaken at the PQQ or suitability assessment stage. For contracts above £30,000 but not exceeding £74,999, prior to award of contract the proposed successful contractor shall be subject to financial appraisal by Financial Services	To fit in with the PCR 2015 - open procedure procurements between £25,000 and the OJEU threshold for goods and services will have a suitability assessment. Procurement below £25k or above the OJEU for goods and services may have a PQQ.
8.3	All contracts valued at £75,000 or above must be reported to the Cabinet for approval and shall be executed as a deed. All other contracts may be signed by officers with appropriate delegated authority. £15,000 shall be the threshold for the purposes of Regulation 8 of the Local Authority (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001'.	All contracts valued at £75,000 or above must be reported to the Cabinet for approval and shall be executed as a deed, there is a 5 calendar day call in period post Cabinet, Once the Minutes have been published, usually the following Monday) All other contracts may be signed by officers with appropriate delegated authority. £74,999 shall be the threshold for the purposes of Regulation 8 of the Local Authority	Added in the 5 calendar day call in period as per the Council's Constitution

		(Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001'	
9.2	There shall be no artificial splitting of a contract to avoid the application of the provisions of the EU Rules and / or these Contract Standing Orders'	Contracts may be split into lots where it is practical to do so. However the aggregated cost of the lots shall determine the contract's whole of life value and the procurement process to be followed. Artificial splitting of a contract to avoid the application of the procurement rules or these CSOs is not permitted.	Breaking contracts down into smaller lots is a PCR 2015 requirement and should also help SMEs to bid for works, goods and services.
9.3	The EU Rules can cover contracts which are below the stated EU threshold where they constitute repeat purchases and / or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice on the application of the E.U. Rules where they envisage that they may require repeat purchases and / or purchases of a similar type	The EU Rules cover contracts which are below the stated EU threshold where they constitute repeat purchases and / or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice on the application of the E.U. Rules where they envisage that they may require repeat purchases and / or purchases of a similar type.	Removed the word, "can"
11.1	An Invitation to Tender shall be issued by the Council for all contracts over £15,000 and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.	An Invitation to Tender shall be issued by the Council for all contracts over £25,000 using the Council's e-procurement system and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.	Increased tender threshold to £25k and to use the Council's e-procurement system where practicable.
11.5	All tenders of £15,000 and above to be opened <u>by the Democratic and Electoral Services Manager (or nominee)</u> , in the presence of the Responsible / Lead Officer (or nominee) and an independent senior officer. And also where required or requested in the presence of the Cabinet portfolio holder (or nominee). An immediate record to be made of the tenders received including names and addresses and the date and time of opening. The record to be retained by the Democratic and Electoral Services Manager.	All tenders of £25,000 and above are to be opened <u>in the presence of the Democratic and Electoral Services Manager (or nominee)</u> , in the presence of the Responsible / Lead Officer (or nominee) and an independent senior officer. An immediate record to be made of the tenders received including names and addresses and the date and time of opening. The record to be retained by the Democratic and Electoral Services Manager and Procurement.	Increase tender threshold to £25k, tender memorandum to be kept by procurement too for audit and monitoring purposes. Members excluded from tender opening to prevent any conflict of interest.

12.1	<u>All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes / tenderers.</u>	<u>All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes / tenderers. Evaluations shall be undertaken in accordance with the Council's evaluation procedure, P.16.</u>	Due to recent case law we have created a procedure to ensure that at least a minimum of three evaluators made up of either Officers, consultants or stakeholder is undertaken separately prior to collaboration.
12.3	<u>Save in exceptional circumstances approved in advance by the relevant Director all contracts shall be awarded on the basis of the quote or tender which represents best value for money to the Council and not on the basis of lowest price.</u>	<u>Save in exceptional circumstances approved in advance by the relevant Director all contracts shall be awarded on the basis of the quote or tender which represents the Most Economical and Advantageous Tender to the Council and not on the basis of lowest price.</u>	Changed to meet cost quality split, removing best value for money to the most economical and advantageous Tender.
13.1.4	at the discretion of the relevant Director, who may for contracts exceeding £15,000 but not exceeding £74,999 proceed in a manner most expedient to the efficient management of the service / Council with reasons recorded in writing.	at the discretion of the relevant Director, who may for contracts exceeding £25,000 but not exceeding £74,999 proceed in a manner most expedient to the efficient management of the service / Council with reasons recorded in writing.	Changed from £15,000 to the new proposed threshold of £25,000.
13.3.2	Subject to a written report in an approved format. For contracts not exceeding £74,999 the report shall be submitted in advance to the Head of Commissioning and Customer Contact and include the reasons why the waiver is genuinely required. For contracts of £75,000 and above the report shall be submitted to the Cabinet;	Subject to a written report in an approved format. For contracts not exceeding £74,999 the report shall be submitted in advance to Procurement and include the reasons why the waiver is genuinely required. For contracts of £75,000 and above the report shall be submitted to the Cabinet;	Waivers to go to Procurement first.
13.3.3	Subject to approval in advance by the Head of Commissioning and Customer Contact, in consultation with the Heads of Legal and Audit Services as appropriate, who shall, for contracts exceeding £15,000 but not exceeding £74,999,	Subject to agreement in advance by the Head of Commissioning and Customer Contact and in consultation with the Heads of Mid Kent Legal Services and Finance as appropriate, who shall, for contracts exceeding £25,000 but	Waivers over £25,000 will no longer go to Audit but go to Legal and finance plus the Head of Commissioning and

	<p>record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional. Waiver from competitive purchasing process for contracts of £75,000 and above must be approved in advance by the Cabinet. In the report to Cabinet a recommendation; "Cabinet agree to the waiver requested in relation to the [works, goods / services] contract and that the Head of Commissioning and Customer Services be authorised to complete the necessary documentation". Prior to Cabinet, the waiver should still be considered by the heads of Legal and Internal Audit Services;</p>	<p>not exceeding £74,999, record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver. The Contracts and Procurement Manager and Contracts and Procurement Support Manager have the delegated authority to consider and approve Waivers valued between £5,000 to £24,999 and record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional. Waiver from competitive purchasing process for contracts of £75,000 and above must be approved in advance by the Cabinet. In the report to Cabinet a recommendation; "Cabinet agree to the waiver requested in relation to the [works, goods / services] contract and that the Head of Commissioning and Customer Services be authorised to complete the necessary documentation". Prior to Cabinet, the waiver should still be considered by the heads of Mid Kent Legal Services and Finance. In the absence of the Head of Commissioning and Customer Contact, the Contracts and Procurement Manager has the delegated authority to record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver and sign off over waivers over £25,000 in consultation with the Heads of Mid-Kent Legal Services and Finance, waivers above £75,000 subject to Cabinet approval;</p>	<p>Customer Contact. Procurement team are able to approve waivers up to £25,000 from £15,000. In the absence of the Head of Commissioning and customer contact the Contracts and Procurement Manager can sign off waivers &gt;£25,000. All waivers over £75,000 will need to be approved by the Cabinet.</p>
13.3.4	Subject to approval in advance by the Head of Commissioning and Customer Contact, or	Subject to approval in advance by the Head of Commissioning and Customer Contact, or	Increased threshold from £15,000 to £25,000.

	representative in consultation with the Procurement Team or the Heads of Legal and Audit Services as appropriate for contracts exceeding £5,001 but not exceeding £15,000. For contracts exceeding £15,000 refer to 13.3.3.	representative in consultation with the Procurement Team or the Heads of Legal and Finance Services as appropriate for contracts exceeding £5,001 but not exceeding £25,000. For contracts exceeding £25,000 refer to 13.3.3.	Adding in Finance and omitting audit for considering waivers.
13.7	New clause	A wavier may only apply to the omission/s of certain item/s therefore, the Responsible / Lead Officer will be required to follow all other criteria in CSOs other than what has been approved and agreed in the submitted waiver	To enforce the fact that a waiver does not mean waiving all of Council's CSOs - only the parts illustrated in the waiver submitted and approved.
14.1	Where extensions to existing contracts are made the extensions must be determined in accordance with the contract terms, for a specified period and made in accordance with the principles set out in the Council's Purchasing Guide.	Where extensions to existing contracts are made the extensions must be determined in accordance with the advertisement / contract terms, for a specified period and made in accordance with the principles set out in the Council's Purchasing Guide.	Added the word advertisement.
14.2.2	Subject to a written report in an approved format. For contracts not exceeding £74,999 the report shall be submitted in advance to the relevant Director and include the reasons why the extension is required and is genuinely exceptional. For contracts of £75,000 and above the report shall be submitted to the Cabinet;	Subject to a written report in an approved format, form <a href="#">P.24</a> . For contracts not exceeding £74,999 the report shall be submitted in advance to the relevant Director and include the reasons why the extension is required For contracts where the extension value is £75,000 and above the report shall be submitted to the Cabinet;	Added P24 to officially log an extension to contract
14.2.3	Subject to approval in advance by the relevant Director who shall, for contracts not exceeding £74,999, record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are genuinely exceptional. Extensions for contracts of £75,000 and above must be approved in advance by the Cabinet.	Subject to approval in advance by the relevant Director who shall, for contracts not exceeding £74,999, record that they have considered the reasons for the extension and that they are satisfied that the circumstances justifying the extension are genuinely exceptional. Extensions for contracts where the extension value is £75,000 and above must be approved in advance by the Cabinet.	Contracts where just the extension period is less than £75,000 will not need to go to Cabinet for approval thus saving value time and resource.

15.5	New clause	Where appropriate, prior to using any purchasing scheme / framework, the Responsible Officer / Lead Officer should check with Economic Development to ensure that the works, good or services required are unable to be procured locally.	To ensure that any local companies that could provide the works goods or services are not excluded by using a framework.
16.1	These Contract Standing Orders shall be reviewed and updated on a regular basis. Save in the case of revisions to the EU Thresholds amended Contract Standing Orders shall be agreed and adopted by the Council. Revisions to the EU Thresholds shall be dealt with in accordance with the Constitution - Scheme of Delegation to the Head of Legal Partnership.	These Contract Standing Orders shall be reviewed and updated on a regular basis. Save in the case of revisions to the EU Thresholds amended Contract Standing Orders shall be agreed and adopted by the Council. Revisions to the EU Thresholds shall be dealt with in accordance with the Constitution - Scheme of Delegation to the Head of Legal Partnership. Any other modifications to CSOs outside of the scope above will need to be presented to SMT, General Purposes Committee and then to Full Council for approval. Any changes in legislation CSOs will be updated automatically however these CSOs will be reviewed every three years to ensure that these CSOs evolve with the Council's requirements.	Advising on how CSO are to be updated in the future.

**ANNEX II**

**CLAUSE 7.4 - Current form**

Total value	Type of contract	Procedure to be used
0 - 1000	works, supplies and services	<p>a) At least one quotation in advance</p> <p>b) All purchases however small to be in writing, on an official order</p> <p>c) Approved by the relevant Head of Service or authorised officer.</p> <p>d) Officer should be able to provide a rationale for why they selected the provider used.</p>
<p>Procedure to be used</p> <p>1001 to 5000</p>	works, supplies and services	<p>a) At least two quotes in advance</p> <p>b) All purchases however small to be in writing, on an official order</p> <p>c) Consideration given to Purchasing Scheme's e.g. to provide better V.F.M.</p> <p>d) Approved by the relevant Head of Service or authorised officer</p> <p>e) Records maintained to demonstrate probity and V.F.M. obtained</p>

<p>Procedure to be used</p> <p>5001 to 15,000</p>	<p>works, supplies and services</p>	<ul style="list-style-type: none"> <li>a) At least two quotes in advance</li> <li>b) As a minimum to be advertised on <a href="http://www.swale.gov.uk">www.swale.gov.uk</a></li> <li>c) All purchases however small to be in writing, on an official order</li> <li>d) Consideration given to Purchasing Scheme's e.g. to provide better V.F.M.</li> <li>e) Approved by the relevant Head of Service or authorised officer</li> <li>f) Records maintained to demonstrate probity and VFM obtained</li> <li>g) Record to be entered on the Council s Contract Register</li> </ul>
<p>15,000 to 74,999</p>	<p>works, supplies and services</p>	<ul style="list-style-type: none"> <li>a) At least three written tenders in advance</li> <li>b) As a minimum to be advertised on <a href="http://www.swale.gov.uk">www.swale.gov.uk</a> and the <a href="#">Kent Business Portal</a>, tenders over £25,000 will also need to be advertised on <a href="#">Contract Finder</a>.</li> <li>c) Tenders opened at the same time by the Democratic and Electoral Services Manager (or nominee), in the presence of the Responsible Officer (or nominee) and an independent senior officer and also where required or requested in the presence of the cabinet portfolio holder (or nominee)</li> <li>d) Record to be entered on the Council s Contract Register</li> <li>e) Contracts in writing using the standard clauses and to include the core clauses as set out within the CSOs document</li> <li>f) Award of contract approved by the Responsible Officer plus signed by another officer</li> <li>g) Risk assessment conducted (in writing) and kept on the file</li> </ul>

<p>75,000 to 164,176**</p>	<p>works, supplies and services</p>	<p>a) At least three written tenders in advance.</p> <p>b) As a minimum to be advertised <a href="http://www.swale.gov.uk">www.swale.gov.uk</a> the <a href="#">Kent and Business Portal</a> plus <a href="#">Contract Finder</a>.</p> <p>c) List of contractors invited to tender approved by the Responsible Officer.</p> <p>d) Tenders opened at the same time by the Democratic and Electoral Services Manager (or nominee), in the presence of the Responsible Officer (or nominee) and an independent senior officer and also where required or requested in the presence of the cabinet portfolio holder (or nominee).</p> <p>e) Tenderers subjected to Financial Appraisal prior to invitation to tender.</p> <p>f) Approval required from the Cabinet for award of contract, waiver from CSOs and extensions to contracts.</p> <p>g) Contract executed as a deed.</p> <p>h) Record of the contract entered on the Councils Contract Register</p> <p>i) Standard contract clauses to be used and to include the core clauses as set out within the CSOs document.</p> <p>j) Risk assessment conducted (in writing) and kept on the file.</p>
<p>164,176** plus  **EU Threshold</p>	<p>Supplies and services</p>	<p>a) EU Rules apply – full competitive process with tenders following advertisement in the O.J.E.U. for supplies and Part A* services. For Part B* services reduced requirements apply but there is a presumption in favour of advertising and a competitive process. This will also be advertised on the Swale website the Kent and the South East Business Portals and Contract Finder.</p> <p>b) Points a; c; d; e; f; g; h; I and j as above for works, supplies and services for  £75,000 to £173,934**</p>
<p>164,176 to 4,104,394**</p>	<p>Works</p>	<p>a) Points a – j as above for works, supplies and services for £75,000 to £164,176**</p>

4,104,394**	Works	a) EU Rules apply – full competitive process with tenders following advertisement in the O.J.E.U.
plus		b) Points a; c; d; e; f; g; h; l and j as above for works, supplies and services for £75,000 to £164,176**
**EU Threshold		

## CLAUSE 7.4 – Proposed form

Total value	Type of contract	Procedure to be used
£0 - £999	works, supplies and services	<ul style="list-style-type: none"> <li>a) At least one quotation in advance;</li> <li>b) All purchases however small to be in writing, on an official order;</li> <li>c) Approved by the relevant Head of Service or authorised officer;</li> <li>d) Officer should be able to provide a rationale for why they selected the provider used.</li> </ul>
Procedure to be used  £1,000 to  £4,999	works, supplies and services	<ul style="list-style-type: none"> <li>a) At least two quotes in advance;</li> <li>b) All purchases however small to be in writing, on an official order;</li> <li>c) Consideration given to Purchasing Scheme's e.g. to provide better V.F.M.;</li> <li>d) Approved by the relevant Head of Service or authorised officer;</li> <li>e) Records maintained to demonstrate probity and V.F.M. obtained;</li> </ul>
Procedure to be used  £5,000 to  £24,999	works, supplies and services	<ul style="list-style-type: none"> <li>a) At least three quotes in advance;</li> <li>b) Contracts &amp; Procurement need to be made aware of any procurement where the whole life value is &gt;£5,000.</li> <li>c) All purchases however small to be in writing, on an official order</li> <li>d) Consideration given to Purchasing Scheme's e.g. to provide better VFM;</li> <li>e) Approved by the relevant Head of Service or authorised officer;</li> <li>f) Records maintained to demonstrate probity and VFM obtained;</li> <li>g) Record to be entered on the Council s Contract Register;</li> </ul>

<p>Procedure to be used</p> <p>£25,000 to 74,999</p>	<p>works, supplies and services</p>	<ul style="list-style-type: none"> <li>a) At least three electronic tenders in advance</li> <li>b) As a minimum to be advertised on <a href="http://www.swale.gov.uk">www.swale.gov.uk</a>, the Council's E-procurement System plus <a href="#">Contract Finder</a>;</li> <li>c) Tenders opened at the same time by the Democratic and Electoral Services Manager (or nominee), in the presence of the Responsible Officer (or nominee) and a suitable person from Legal Service (or Nominee);</li> <li>d) Record to be entered on the Council s Contract Register;</li> <li>e) Contracts in writing using the standard clauses and to include the core clauses as set out within the CSOs document;</li> <li>f) Award of contract approved by the Responsible Officer plus signed by another officer;</li> </ul>
<p>Procedure to be used</p> <p>£75,000 to £164,176**</p>	<p>works, supplies and services</p>	<ul style="list-style-type: none"> <li>a) At least three written tenders in advance;</li> <li>b) As a minimum to be advertised <a href="http://www.swale.gov.uk">www.swale.gov.uk</a> the <a href="#">Kent and Business Portal</a> plus <a href="#">Contract Finder</a>;</li> <li>c) List of contractors invited to tender approved by the Responsible Officer;</li> <li>d) Tenders opened at the same time by the Democratic and Electoral Services Manager (or nominee), in the presence of the Responsible Officer (or nominee) and a suitable person from Legal Service (or Nominee);</li> <li>e) Tenderers subjected to Financial Appraisal prior to award of tender;</li> <li>f) Approval required from the Cabinet for award of contract, waiver from CSOs and extensions to contracts;</li> <li>g) Contract executed as a deed;</li> <li>h) Record of the contract entered on the Councils Contract Register;</li> <li>i) Standard contract clauses to be used and to include the core clauses as set out within the CSOs document;</li> <li>j) Risk assessment conducted (in writing) and kept on the file.</li> </ul>

<p>Procedure to be used</p> <p>£164,176**</p> <p>plus</p> <p>**EU</p>	<p>Supplies and services</p>	<p>a) EU Rules apply – full competitive process with tenders following advertisement in the O.J.E.U. for supplies and services, there is a presumption in favour of advertising and a competitive process. This will also be advertised on the Swale website, Kent Business Portals and Contract Finder.</p> <p>b) Points a; c; d; e; f; g; h; I and j as above for works, supplies and services for £75,000 to £173,934**</p>
<p>Procedure to be used</p> <p>164,176 to</p>	<p>Works</p>	<p>a) Points a – j as above for works, supplies and services for £75,000 to £164,176**</p>
<p>Procedure to be used</p> <p>£589,148** Plus</p> <p>**EU Threshold</p>	<p>Light Touch Regime Services</p>	<p>a) Points a – j as above for works, supplies and services for £75,000 to £589,148**</p>
<p>Procedure to be used</p> <p>£4,104,394**</p> <p>plus</p>	<p>Works</p>	<p>a) EU Rules apply – full competitive process with tenders following advertisement in the O.J.E.U.</p> <p>b) Points a; c; d; e; f; g; h; I and j as above for works, supplies and services for £75,000 to £164,176**</p>

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