

**SURREY COUNTY COUNCIL****CABINET****DATE: 27 SEPTEMBER 2022****REPORT OF CABINET MEMBER: AYESHA AZAD, CABINET MEMBER FOR FINANCE AND RESOURCES****LEAD OFFICER: LEIGH WHITEHOUSE, DEPUTY CHIEF EXECUTIVE AND EXECUTIVE DIRECTOR OF RESOURCES****SUBJECT: REVISION TO PROCUREMENT AND CONTRACT STANDING ORDERS****ORGANISATION STRATEGY PRIORITY AREA: GROWING A SUSTAINABLE ECONOMY SO EVERYONE CAN BENEFIT****Purpose of the Report:**

The Procurement and Contract Standing Orders (PCSO's) set out how the Council authorises and manages spending and contracts with other organisations. This ensures that prior to any significant expenditure there is proper consideration firstly, of whether there is a need to buy at all and service the need internally or, if external expenditure is required, that it is made in a fair, open and transparent way. Since the approval of the 2021 PCSO's revisions are now required due to changes in government legislation and internal practice.

**Recommendations:**

It is recommended that Cabinet:

1. Gives approval to amend summary table 2.7a in the 2021 PCSO's to update the current thresholds to ensure compliance with the World Trade Organisation (WTO) GPA (General Procurement Agreement).
2. Agrees to change the requirement for further approvals of contract awards over the regulated threshold to only being required when the budget is exceeded by +5%, removing further approval if the recommended contract price is below the allocated budget.
3. Agrees to utilise the flexibilities for sourcing the best route to market for below threshold Public Contracts Regulations (PCR) 2015 Light Touch Regime procurements (applicable to Health, Educational, Cultural and Social Care related service procurements).
4. Delegate authority to the Deputy Chief Executive and Executive Director of Resources for future changes to the regulatory thresholds specified in table 2.7a to be made in accordance with the WTO GPA thresholds without submitting to Cabinet / Council.
5. Agrees to the removal of the requirement to register and maintain contracts over £5k and to increase this to £25k. This specifically relates to the uploading of contracts onto the procurement contracts database. Procurement is responsible for sourcing

contracts over the value of £25K and therefore all contracts below this level are registered and maintained by the service. This amendment does not change any of the controls or the method/process of how we compliantly source the good/services.

#### **Reason for Recommendations:**

- Care related services falling below the Light Touch Regime threshold have greater flexibility in procurement delivery methods whilst still ensuring value for money is secured.
- Providing delegated authority to amend table 2.7a in line with regulatory thresholds will negate the need for Cabinet / Council approval whenever they are updated.
- The revisions will ensure that the Procurement and Contract Standing Orders (PCSO's) are current and in line with the latest government legislation and internal practice to enable procurement efficiency and compliance.

#### **Executive Summary:**

#### **Background**

1. The Procurement and Contract Standing Orders (PCSO's) form part of the Council's Constitution and set out how the Council authorises and manages spending and Contracts with other organisations and where external expenditure is required that this is made in an open, fair and transparent way. The most recent version of the PCSO's is March 2021, Issue 10.
2. Procurements above regulatory thresholds must be carried out in accordance with the Public Contracts Regulations (PCR) 2015 and the thresholds are provided by the World Trade Organisation (WTO) General Procurement Agreement and included in table 2.7a of the PCSO's. The thresholds are changed in January every 2 years and the most up to date thresholds became applicable as of 1st January 2022 and are now also inclusive of VAT.

#### **Amendments Requiring Approval**

3. Table 2.7a has been updated to reflect the current thresholds, calculated exclusive of VAT and explicitly states that "The values included in the table are exclusive of VAT. For details on which goods and services attract VAT, please speak to your Finance Business Partner".
4. As outlined above, the regulatory thresholds are amended at least every 2 years and are set by the WTO GPA. To reduce the requests for Cabinet / Council approval it is recommended that this regulatory amendment be delegated to the Deputy Chief Executive and Executive Director of Resources to authorise. The required amendments to table 2.7a can be made quickly and efficiently to ensure the information is maintained as up to date as possible. Removal of threshold values from table 2.7a and inserting a link to the most up to date values was considered as an alternative to requesting delegated authority. However, it was agreed that this would cause confusion and lead to possible errors interpreting the threshold requirements and VAT requirements.
5. The PCSO's also set out how the Council authorises and manages spending. Procurements that have been approved in the Annual Procurement Forward Plan (APFP) may proceed without the requirement for further Member/Cabinet approval provided the outcome is within a +/- 5% tolerance of the budget agreed with Finance

when each procurement begins. To support internal efficiencies, it is requested that the budget approval parameter of -5% be removed and only procurements that exceed +5% of the original budget agreed with Finance need to secure additional approvals before the contract can be awarded.

6. Health, Educational, Cultural and Social care related services that fall below the Light Touch Regime (LTR) threshold have greater flexibility in procurement delivery methods. An additional sentence relating to below LTR threshold procurements has been inserted into table 2.7a to clarify that these remain subject to a value for money justification.
7. The amendment to section 6.3 which is to increase the £5k threshold to £25k is proposed to more accurately reflect current procurement practice in line with the requirements of the PCSO thresholds and the uploading of contracts onto the procurement contracts database. Procurement is responsible for sourcing contracts over the value of £25K and therefore all contracts below this level are registered and maintained by the service. This amendment does not change any of the controls or the method/process of how we compliantly source the good/services.
8. The revisions requested within this report will ensure that the Procurement and Contract Standing Orders (PCSO's) are current and in line with the latest government legislation and internal practice to enable procurement efficiency and compliance.

#### **Consultation:**

9. Consultation has taken place with:
  - Leigh Whitehouse - Deputy Chief Executive and Executive Director of Resources
  - Darron Cox, Director – Director of Procurement.
  - Simone Morgan-Barnes – Principal Solicitor
  - Councillor Becky Rush

#### **Risk Management and Implications:**

10. If the Council does not approve the regulatory threshold changes it could lead to non-compliant procurement processes and challenges from suppliers which would have a detrimental impact on award of Contracts and delivery of goods and services, which could lead to reputational damage and service delivery issues.
11. The revisions will ensure that the Procurement and Contract Standing Orders (PCSO's) are current and in line with the latest government legislation and internal practice to enable procurement efficiency and compliance.

#### **Financial and Value for Money Implications:**

12. There are unlikely to be any direct financial implications of these proposed changes to Procurement and Contract Standing Orders. Procurements will continue to be dealt with as per usual governance and budget processes.

#### **Section 151 Officer Commentary:**

13. Although significant progress has been made to improve the Council's financial position, the financial environment remains challenging. The UK is experiencing the highest levels of inflation for decades, putting significant pressure on the cost of delivering our services. Coupled with continued increasing demand and fixed Government funding this requires an increased focus on financial management to

ensure we can continue to deliver services within available funding. In addition to these immediate challenges, the medium-term financial outlook beyond 2022/23 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term.

14. There are unlikely to be any direct financial implications of these proposed changes to Procurement and Contract Standing Orders. Procurements will continue to be dealt with as per usual governance and budget processes. As such, the Section 151 Officer supports the recommendations.

#### **Legal Implications – Monitoring Officer:**

15. The proposal sets out the amendments to the current Procurement and Contract Standing Orders which aligns to the latest government legislation and internal practice to enable procurement efficiency and compliance. The amendments allow for the County Council to comply with Public Procurement Regulations 2015 thresholds.
16. The streamline of processes allows functions to navigate the contracting and procurement processes in a more efficient manner and removes duplications and unnecessary delays.
17. The recommendations highlighted within the report do not pose any legal risk to the Council.

#### **Equalities and Diversity:**

18. There are no Equalities and Diversities Implications.

#### **Other Implications:**

19. There are no significant implications upon key council priorities and policy areas.

#### **What Happens Next:**

20. Table 2.7a in the PCSO's will be updated immediately

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#### **Consulted:**

Finance, Legal, Orbis Procurement

#### **Annexes:**

Annex 1 – Part 5(4) SCC Procurement and Contract Standing Orders March 2021 with amendments

**Sources/background papers:**

Procurement and Contract Standing Orders 2021

[Thresholds in National Currencies \(wto.org\)](#)

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