



## OFFICER REPORT TO COUNCIL

### PROPOSED AMENDMENTS TO PROCUREMENT AND CONTRACT STANDING ORDERS

#### **KEY ISSUE/DECISION:**

The current Procurement and Contract Standing Orders (PCSOs) require updating to reflect the impending legislative changes and improve the overall effectiveness of the PCSOs.

The PCSOs are part of the Constitution. Any changes to the PCSOs require Council to approve any amendments.

#### **BACKGROUND:**

The PCSOs set out how the Council authorises and manages expenditure and resulting commercial contracts with other organisations. New Procurement Legislation – the Procurement Act 2023 (PA23) and associated regulations – came into force on the 24 February 2025. The PCSOs are written into the Council's Constitution, and an update is therefore required to ensure our procurement and contracts activity remains compliant with all prevailing legislation.

#### **RECOMMENDATIONS:**

Council is asked to approve the proposed changes to the Council's Procurement and Contract Standing Orders attached in Annex 1 (and associated Appendices attached in Annex 2) which will form part of the Council's Constitution.

#### **BACKGROUND:**

#### **Introduction**

1. The Procurement Act 2023 (PA23) and associated regulations went live on 24 Feb 2025 and replaced the current Public Contracts Regulations 2015 (PCR 2015). For a transition period the PCR 2015 will remain applicable for managing, extending or modifying contracts awarded under it.

2. Separately, the legislation governing the procurement of certain health care services has also changed, with the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR) coming into force on 1 January 2024.
3. PCSOs are written into the Council's Constitution and an update is therefore required to ensure our procurement and contracts activity remains compliant with all prevailing legislation.
4. Highlights of the PA23 that will affect areas of the Council beyond procurement are:
  - **Transparency Notices:** There are 16 under the PA23 up from 4 under PCR 2015, noting not all are mandatory and/or applicable to all procurements.
  - **Contract Management:** Significantly increased focus on contract management, governance, and supplier performance. Notices and records are required in all these areas. This will impact services, finance and Contract Managers.
  - **Procedures:** There are 3 Procedures in the new regulations down from 7.
  - **Most Advantageous Tender:** PA23 changes Most Economically Advantageous Tender (M.E.A.T.) to Most Advantageous Tender (M.A.T.).

### Summary of Legislative Changes

5. Some of the legislative changes in the PA23 which require updates to the Council's PCSOs are:
  - Greater focus on opening up opportunities to small and medium enterprises (SMEs) and the voluntary, community and social enterprise sector (VCSEs);
  - Heightening the importance placed on contract management, given the significantly increased focus on contract management, governance, and supplier performance;
  - Embedding of transparency right through the contract lifecycle with a change in the number of procurement and contract management and performance transparency notices from six under the PCR 2015 to 16 under the PA23;
  - Change in the number and nature of procurement procedures or "routes to market" from seven in the PCR2015 to three in the PA23;
  - A requirement to publish a procurement pipeline of opportunities over £2M with a minimum of 18 months forward look; and

- Note the need for public bodies to have regard to the National Procurement Policy Statement.

### **Proposed PCSO Changes and Objectives**

6. The key proposed amendments to the PCSOs and the objectives of them can be summarised as follows:
  - Incorporate requirements of prevailing procurement legislation (PCR 2015, PA 2023 and the PSR);
  - Revision of thresholds to reflect legislative updates and the change to quote inclusive of VAT;
  - Minimise the requirements for future updates to go through Full Council approval in respect of legislative changes, threshold changes, job roles and title, i.e. elements where Council is not empowered to refuse such changes;
  - Reflect current local policies and procedures;
  - Removal of details of specific legislative requirements in the main body, instead referring to prevailing procurement legislation (moving any relevant specifics to a separate appendix) to account for a range of applicable legislation;
  - Provide flow charts to identify which piece of procurement legislation applies depending on nature of activity;
  - Simple reference to Procurement, not different teams within Procurement;
  - Refinement to the forward planning process to satisfy the new legal requirement to publish a pipeline;
  - Simplification of thresholds and approvals; and
  - Reflect current policies, procedures, job titles etc.

### **Implementation**

7. Following approval by full Council Procurement Officers will:
  - Arrange communications on the Council's intranet including key messages highlighting what Council Officers need to know.
  - Update and present content to Directorate Management Teams with options for them to subsequently:
    - Disseminate information provided through Directorates themselves; and/or

- Invite Procurement representation to existing forums to repeat the presentation of information.

#### **LEGAL IMPLICATIONS – MONITORING OFFICER:**

The new Procurement Act and associated Regulations, when in force, will substantially change the procurement processes and procedures which the Council must follow. The Council's own rules relating to the management of procurements and contracts must therefore be updated to reflect the new legislative framework. Full Council is the body with ultimate responsibility for approving the PCSOs.

The new PCSOs (which are made under S135 of the Local Government Act 1972) will replace the existing PCSOs which can be found in Part 5(4) of the Constitution.

Legal Services/Democratic Services recognise that there are areas of the Council's Constitution that will need to be updated and amended so a full review will be undertaken to ensure that the resultant changes required to the Constitution are made.

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**Sources/background papers:**

None

**Annexes:**

**Annex 1** - Surrey County Council – Proposed New PCSOs

**Annex 2** - Surrey County Council – Proposed New PCSOs - Appendices 1 and 2

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