

### 3.0 RECOMMENDED CHANGES TO CSOs

3.1 The key changes proposed within the review of the CSOs are summarised below:

#### a) Structure

The CSO's have been revised structurally to ensure they follow a logical path from the initial Pre-Procurement stages, through the required process and finally to contract management.

#### b) Application of the CSOs

The CSOs have been amended to reflect the PCR 2015, in particular to reflect those points set out at the Details section above.

#### c) Contracts Register

In line with the Local Government Transparency Code 2015, which sets out the minimum data that local authorities should be publishing, the frequency it should be published and how it should be published, the CSOs make it a requirement to enter all contracts of £5,000 or greater in value<sup>1</sup> on to the Central Contracts Register (i.e. including concession contracts).

#### d) Revising the current procurement thresholds

CURRENT POSITION		
Threshold	Process	Decision Making
< £10,000	<b>Best Value</b> 3 written quotations, however 1 may be acceptable as an exception providing it demonstrates value for money	Responsible Officer duly authorised under a Scheme of Management
£10,000 - £100,000	<b>Quotations</b> 3 written quotations	Head of Service duly authorised under a Scheme of Management
£100,000 - relevant EU Threshold	<b>Tenders</b> Officers to decide whether a one or two (with pre-qualification) stage process is used	<ul style="list-style-type: none"> <li>• Director duly authorised under a Scheme of Management where the value of contract is between £100,000 and £500,000</li> <li><b>OR</b></li> <li>• Director duly authorised under a Scheme of Management and Chief Executive where the value of contract is between £500,000 and £2,000,000</li> </ul>

<sup>1</sup> This is the total value of the contract and not necessarily the amount that Merton pays to the provider

CURRENT POSITION		
Threshold	Process	Decision Making
> Relevant EU Threshold	<b>Tenders</b> , following one of the following procedures; <ul style="list-style-type: none"> <li>• Open Procedure</li> <li>• Restricted Procedure</li> <li>• Competitive Dialogue Procedure</li> <li>• Call-Off from an Existing Framework Agreement</li> </ul>	<ul style="list-style-type: none"> <li>• Director duly authorised under a Scheme of Management and Chief Executive where the value of contract is between £500,000 and £2,000,000</li> </ul> <b>OR</b> <ul style="list-style-type: none"> <li>• Cabinet where value of the contract is £2,000,000 or greater</li> </ul>

PROPOSED REVISIONS		
<i>(Highlighted text denotes the changes)</i>		
Threshold	Process	Decision Making
Up to £5,000	<b>Best Value</b> 3 written quotations via the Council's e-Tendering Portal, unless the responsible officer is satisfied that a single quotation can be justified. Such reasoning to be kept in writing.	Responsible Officer duly authorised under a Scheme of Management
£5,001 - £25,000	<b>Best Value</b> 3 written quotations via the Council's e-Tendering Portal, unless the requirement is urgent or it can be demonstrated there is only one supplier capable of meeting the requirement	Responsible Officer duly authorised under a Scheme of Management
£25,000 - £100,000	<b>Quotations</b> 3 written quotations via the Council's e-Tendering Portal, although officers may choose to advertise If advertised, must also advertise on Contracts Finder also No pre-qualification stage permitted	Responsible Officer duly authorised under a Scheme of Management
£100,000 - relevant EU Threshold	<b>Advertised</b> Must advertise on Contracts Finder in all cases via the Council's e-Tendering Portal. No separate pre-qualification stage can be used	Responsible Officer duly authorised under a Scheme of Management <b>OR</b> <ul style="list-style-type: none"> <li>• Director duly authorised under a Scheme of Management and Chief Executive where the value of contract is between £500,000 and £2,000,000</li> </ul>
> Relevant EU Threshold	<b>Advertised using one of the following procedures;</b>	Responsible Officer duly authorised under a Scheme of Management

<b>PROPOSED REVISIONS</b> <i>(Highlighted text denotes the changes)</i>		
<b>Threshold</b>	<b>Process</b>	<b>Decision Making</b>
	<ul style="list-style-type: none"> <li>• Open Procedure</li> <li>• Restricted Procedure</li> <li>• Competition with Negotiation</li> <li>• Competitive Dialogue Procedure</li> <li>• Innovation Partnership</li> <li>• Call-Off from an Existing Framework Agreement</li> </ul> <p>Must advertise on Contracts Finder in all cases, via the Council's e-Tendering Portal</p>	<p><b>OR</b></p> <ul style="list-style-type: none"> <li>• Cabinet where value of the contract is £2,000,000 or greater</li> </ul>

**e) Advertising requirements**

Due to the new requirements in the Regulations regarding the advertising of contract opportunities and awards, clarification has been added within the CSO's to ensure that the circumstances for advertising opportunities is clear.

	<b>Contract opportunity</b>	<b>Contract Award</b>
<b>&lt; £25,000</b>	No requirement to advertise*	No requirement to advertise*
<b>£25,000 - £100,0000</b>	No requirement to advertise*	No requirement to advertise*
<b>£100,000 - relevant EU Threshold</b>	Contracts Finder	Contracts Finder
<b>&gt; Relevant EU Threshold</b>	Contracts Finder & OJEU notice or (in the case of restricted or competitive procedure with negotiation) a PIN	Contracts Finder & OJEU

*\* While there is no requirement to advertise the opportunity, Officers may due to the requirement of market conditions choose to do so. Where the opportunity is publically advertised, an advert and award notice must be placed on Contracts Finder where the contract opportunity is above £25,000*

All opportunities will need to be placed through the Council's e-tendering system, which has a direct feed to Contracts Finder and the OJEU, ensuring Officers can use one system to place all of the required advertisements where applicable.

**f) Framework Agreements**

Further clarification has been added regarding the process for dealing with Framework Agreements. Specifically, where the Council plans to procure a new Framework Agreement, then the procurement would be subject to the same requirements as any other contract based on its value. No further approvals will be required beyond setting up the Framework i.e. sign off will not be required to enter in to a call off contract from a Council Framework agreement.

Where the Council intends to enter into a Call-off Contract from an externally procured Framework Agreement, such as those operated by a Professional Buying Organisation (e.g. Crown Commercial Services and ESPO) or another public sector organisation, the Officer will require approval from the Director of Corporate Service (or their nominee) to use the Framework as well as the appropriate approval based on the value of the call off. Prior to seeking approval from the Director of Corporate Services (or their nominee), written confirmation must also be sought from both Commercial Services and Legal Services that it is lawful for the Council to access the said agreement.

**g) Reinforcing the use of the e-tendering system and record keeping**

We have taken the opportunity to reinforce the use of e-tendering across the Council for all contracts over £5,000, in order to satisfy the requirements of the legislation to “provide electronic access [to the procurement documents] from the date of the OJEU notice.

Furthermore, the electronic audit trail created by utilising the system will ensure Officers are able to easily create a conclusion report, with the supporting evidence readily available, as required by the new Regulation 84.

**h) Concessions Regulations 2015**

New regulations covering the procurement of Concessions contracts came into force in April 2016. This has provided the opportunity to reflect on the impact of the new requirements and strengthen our procurement governance when considering those projects with the potential to generate income for the Council.

**i) Recording of Declarations / Conflicts of Interest**

The current paper version of the form (attached for reference) is in the process of being updated and in future Declarations of Interest will be recorded electronically.

Revised at Council 22 November 2017