

APPENDIX - Proposed Amendments to the Constitution

PART 3 - RESPONSIBILITY FOR FUNCTIONS

8. OFFICER DELEGATIONS

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- 8.6 The Chief Executive, Corporate Directors and Assistant Chief Executives shall have authority to incur revenue expenditure up to £500,000 on individual items and capital expenditure of up to £1 million on individual items and to incur expenditure in excess of these limits where specifically authorised to do so in the Financial Regulations or elsewhere in the Constitution.
- 8.7 The Chief Executive, Corporate Directors and Assistant Chief Executives shall also have authority to award contracts where the value of the contract is up to £2 million revenue expenditure or £5 million capital expenditure¹ and in the case of capital spend approved as part of the capital programme to award or vary contracts under a framework contract (itself awarded by the council on its own or in partnership with any other organisation) where the estimated value of the contract or variation is more than £5m.

PART 4 – PROCEDURE RULES

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OFFICER EMPLOYMENT PROCEDURE RULES

101. DISMISSAL OF CHIEF EXECUTIVE AND CHIEF OR DEPUTY CHIEF OFFICERS

- 101.1 No notice of dismissal shall be given to the Chief Executive, the Chief Finance Officer or the Monitoring Officer unless the Council has approved such a dismissal.
- 101.2 The process by which the Council would consider a proposal to dismiss the Chief Executive, the Chief Finance Officer or the Monitoring Officer will be subject to the procedures agreed by elected members of the Council.
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102. ADDITIONAL PROVISIONS IN RELATION TO THE CHIEF EXECUTIVE, MONITORING OFFICER AND SECTION 151 OFFICER

¹ These changes are recommended following the Scrutiny undertaken by the Policy and Performance Scrutiny Committee and the recent external end to end review of the council's procurement processes.

103.1 In this Rule:

- (a) “local government elector” means a person registered as a local government elector in the register of electors in the council’s area in accordance with the Representation of the People Acts;
- (b) “the Panel” means a committee appointed by the council under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (c) “relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer; and

103.2 The Chief Executive, Corporate Director of Finance and Resources and Assistant Chief Executive, Governance and HR, may not be dismissed by the council unless the procedure set out in this Rule has been complied with.

103.3. The council must invite relevant independent persons (that is persons appointed under section 28(7) of the Localism Act 2011 in respect of member conduct issues) to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

103.4. In Rule 103.3 “relevant independent person” means any independent person who has been appointed by the council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the council considers appropriate.

103.5. Subject to paragraph 103.6, the council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order—

- (a) a relevant independent person who has been appointed by the council and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the council;
- (c) a relevant independent person who has been appointed by another authority or authorities.

103.6. The council must appoint any Panel at least 20 working days before the relevant meeting.

103.7. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the council must take into account, in particular:

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

103.8 Any independent person appointed to the Panel shall be entitled to the same allowances and expenses as they are entitled to in respect of their role as independent person under the 2011 Act.

PART 6 – FINANCIAL REGULATIONS

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4. CAPITAL EXPENDITURE

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OTHER CHANGES TO THE CAPITAL BUDGET

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4.26 The allocation of monies paid or payable to the council **under the Community Infrastructure Levy Regulations 2010** or pursuant to agreements entered into under section 106 of the Town and Country Planning Act 1990 shall be recommended to the Executive where the particular allocation to a project of monies under a particular agreement or from a number of separate agreements exceeds £1m but shall otherwise be agreed by the Corporate Director for Environment and Regeneration in consultation with the Corporate Director of Finance and Resources.

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PART 6 – PROCUREMENT RULES

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A – FINANCIAL REGULATIONS

1. Introduction and Thresholds

- 1.1 These mandatory rules apply to all spend by officers or agents of the Council and partnerships for which the Council has responsibility, on goods, works and services, including when we are leading in a central purchasing body arrangement. References to the Council in these Procurement Rules should be substituted by any relevant or partnership as appropriate. The rules ensure we comply fully with our

obligations for Standing Orders under the Local Government Act 1972 Section 135. It is a disciplinary offence for officers/agents not to follow the Procurement Rules. These rules govern any purchase, lease, rental or combination but exclude employment arrangements or Council land arrangements.

- 1.2 Any explanation or clarification of these Procurement Rules should come exclusively from the Council's Strategic Procurement Team or Legal Services.
- 1.3 Where there is conflict between European Law, UK Law, or Council policy then European Law, UK Law then Council policy shall apply in that order of priority. No officer, member or the Executive has any authority to waive any matter which is required under the law.
- 1.4 These rules ensure competition, provide protection against inappropriate use of Council funds, look at full life costs of any purchase, assist legislative compliance and deliver best value by the Council supported by our policies and codes of practice.
- 1.5 The procedure to be followed is determined in Value Bands of whole life value (recurring procurements based on four years of value) across the entire Council. The calculation of the whole life value of a procurement shall be based on the total amount payable, net of VAT, as estimated by the Council including any potential renewals or contract extensions.² Spend must not be fragmented in any way to circumvent the appropriate procedure. The budget must be appropriately approved by the relevant officer of the Council prior to spending. Where an exact value is not known then the decision should be based on the estimated value.
- 1.6 The procedure is:
 - 1.6.1 Utilise an existing corporate contract wherever available (for more information refer to our website); or
 - 1.6.2 When no corporate contract is available, follow the procedure set out in Table 1.

Table 1

Value Band	Estimated whole life value (excluding VAT)	Required Procedure
i)	£ 0 - £4,999	No formal written quotation required. Spend should be made by purchase card wherever possible.
ii)	£5,000 to £24,999 ³	One (1) written quotation from a suitable provider with a reason for

² This is a clarification

³ The Public Contracts Regulations 2015 do not require competition below £25,000 for sub-central authorities, which includes local authorities. This change aligns the council's thresholds with the figure to avoid the creation of a further category. This threshold has not been raised for a number of years.

		<p>decision based on value for money recorded in writing.</p> <p>All contracts within this value band must be notified by email to the Strategic Procurement Team to be recorded on the corporate contracts database register.</p>
iii)	£25,000 and the supplies/services threshold mentioned in 2.2. ⁴	<p>A minimum of three (3) competitive written quotations with justification on grounds of value for money for award recorded in writing.</p> <p>The three (3) quotations must include one (1) quotation from a local (Islington) supplier, as long as a suitable supplier is available.</p> <p>Where contracts within this Value Band are to be advertised, the agreement of the Head of Strategic Procurement is required. The Head of Strategic Procurement (or their nominated representative) will advise on the wording and content of the advertisement and must additionally arrange for the advertisement to be placed in Contracts Finder.⁵</p> <p>All contracts within this value band must be notified by email to the Strategic Procurement Team to be recorded on the corporate contracts database.</p>
iv)	The supplies/services threshold mentioned in 2.2.or above (Note: this applies for the procurement of works as well as supplies and services)	<p>Contact Strategic Procurement Team who will look at the availability of an existing suitable consortium or framework arrangement.</p> <p>If one is not available: a formal tender process with a minimum of five (5) written competitive tenders.</p> <p>Where five (5) written competitive tenders are not available or a lower</p>

⁴ As set out in the report, the change would align the council's threshold for formal tenders with the new Public Contracts Regulations 2015 supplies/services threshold of £172,514 as set out in Rule 2.2.

⁵ This change is proposed to comply with the new Public Contracts Regulations 2015

		<p>number is desired, the commissioning client officer shall follow the advice of the Head of Strategic Procurement (or their nominated representative).</p> <p>All contracts within this value band must be notified by email to the Strategic Procurement Team and subsequent guidance adopted.</p> <p>Note: European advertising requirements will have to be complied with for the procurement of most services in this category (see 2.2) in addition to the Council's portal and advertising in Contracts Finder⁶. European advertising requirements will only apply to the procurement of works contracts that have a value that is above the relevant EU threshold for works.</p>
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- 1.7 Engagement of consultants requires the completion of a business case in line with the online guidelines provided by the Strategic Procurement Team. The business case should be completed by the client commissioning officer. The client commissioning officer is the person in the Council responsible for identifying and specifying the need(s) for the contract. Initial approval of the business case is required from the client commissioning officer's Corporate Director or Assistant Chief Executive (or their nominated representative). A panel consisting of the Strategic Procurement Team, Finance and an independent departmental representative will assess the business case. The client commissioning officer will then be informed whether or not they can procure their consultant or whether more information is needed for a decision to be reached.
- 1.8 Concession agreements are agreements under which the consideration given by the council consists of or includes the grant of a right to exploit the work or services to be carried out under the contract. For the purposes of the Procurement Rules, the Value Bands requirements in Table 1 will apply based on the estimated value to be received over the whole life of the agreement⁷.

2. Value Based Procedures

- 2.1 All contracts with an estimated value in value band iv) must be advertised on the Islington Council website, the Council's online e-tendering portal and Contracts

⁶ This change is proposed to comply with the new Public Contracts Regulations 2015

⁷ This change is made to ensure appropriate competition in undertaken in respect of concession contracts.

Finder, unless otherwise agreed by the Head of Strategic Procurement. The advertisement must include unless otherwise authorised by the Head of Strategic Procurement (or their authorised representative):

- 2.1.1 the price/quality breakdown of award criteria;
- 2.1.2 the time by which an interested party must respond to be considered;
- 2.1.3 how, to whom and in which way to respond;
- 2.1.4 any other relevant requirements for participating in the procurement.

The price/quality breakdown of award criteria including any weighting cannot be amended during the tender process once published⁸.

- 2.2 The Public Contract Regulations 2015 (the Regulations) apply to all contracts although which specific rules apply will depend on the value and subject matter of the contract. Specific advertising and tender process requirements apply to the procurement of some contracts with a value estimated to exceed thresholds of **£172,514** whole life value for supplies/services and **£4,322,012** whole life value for works. In the case of services contracts, the Strategic Procurement Team shall determine whether the service is covered by the “light touch” regime under the Regulations.
- 2.3 Contracts exceeding £500,000 or where directed by the Assistant Chief Executive (Governance and HR), must be signed as a deed by Assistant Chief Executive (Governance and HR) or their authorised representative (contracts below this threshold where no alternative instruction has been provided shall be signed by two Authorised Officers of the Council). Contracts must be signed prior to works commencing, services starting or goods being delivered, unless otherwise agreed in writing by the Assistant Chief Executive (Governance and HR) and recorded in the contract file. The Legal Services Contracts Team will supply the wording for any Letter of Intent. Letters of intent represent a risk to the Council and should only be used where absolutely unavoidable.
- 2.4 Contracts exceeding £500,000 need to be approved in advance by any applicable board, as determined by the Head of Strategic Procurement (or their nominated representative).
- 2.5 In relation to contracts with an estimated value (to the Council) which exceeds the delegated authority of the Corporate Director and/or Assistant Chief Executive’s as set out in Procurement Rule 18 (as applicable for the type of spend in question), approval of the Procurement Strategy is required from the Executive. This is not required in the case of Capital Spend under contract for works approved as part of the capital programme which are to be provided under a framework agreement (established by the council on its own or in partnership with any other organisation). Revenue and Capital Spend are more particularly defined within the Financial Regulations.

⁸ This change is proposed to comply with the new Public Contracts Regulations 2015

2.6 Where Procurement Strategy approval is required, a report (complying with the Access to Information Rules in Part 4 of the Constitution) must be provided to the Executive pre tender setting out the following relevant information:

2.6.1 Nature of the service;

2.6.2 Estimated value and volumes;

2.6.3 Timetable;

2.6.4 Options appraisal for tender procedure including consideration of collaboration opportunities;

2.6.5 Consideration of: social benefit clauses, London Living Wage, best value, TUPE, pensions and other staffing implications;

2.6.6 Award criteria;

2.6.7 Any business risks associated with entering the contract;

2.6.8 Any other relevant financial, legal or other considerations.

3. Exceptions to the Procurement Procedure

3.1 When procuring goods and services from an approved central purchasing body such as the London Contracts and Supplies Group (LCSG) or Crown Commercial Services (CCS) the financial thresholds in table 1 of the Procurement Rules do not apply. In these instances the procedures laid out in the existing contract or framework prevail which may require a mini competition (or quotation exercise) to be completed. The Council's rules in respect of Recordable and Key Decisions will always apply.

3.2 Exceptions to the Procurement Rules will only be considered on the basis of a written report ("waiver request") produced in advance of procurement activity. The waiver request should set out good operational and financial reasons and be based on value for money principles. Examples of exceptions, such as an emergency where serious financial loss or loss of life may be concerned, or when the goods, works or services are of an exclusive proprietary nature should be outlined in the waiver request.

3.3 The waiver request must include comments from the Legal Services Contracts Team, Strategic Procurement and Finance.

3.4 Corporate Directors (and Assistant Chief Executives, Service Directors and Heads of Service where appropriately authorised) can agree exceptions for Value Bands i), ii) and iii) contracts up to their delegated authority levels by approving a written waiver request.

3.5 Corporate Directors (and Assistant Chief Executives, Service Directors where appropriately authorised) can agree exceptions for Value Band iv) contracts up to their delegated authority levels by approving a written waiver request.

- 3.6 A Recordable Decision report must be completed where appropriate. Only the Executive can agree exemptions in the case of Value Band iv) contracts where the value exceeds the Corporate Director or Assistant Chief Executive's delegated authority and it will be necessary for a formal report to be submitted.
- 3.7 The Executive does not have authority to waive or override the requirements of European or national law.
- 3.8 Exceptions to the Procurement Rules, other than use of an approved central purchasing body, will only be approved under exceptional circumstances where there are significant reasons to justify the request..

4. Risk and Insurance Financial Management

- 4.1 All Value Band iv) procurements must have a risk assessment completed by the client commissioning officer in line with the Council's standard processes.
- 4.2 All Value Bands procurements should give consideration to financial and legal risks of the proposed procurement. For Value Band iv) this should be recorded in writing.
- 4.3 All contracts where there is direct advice and/or design services provided by a contractor, including all Consultancy arrangements, must include a requirement for Professional Indemnity Insurance.
- 4.4 For Value Band iii) procurements all contractors must have and maintain Public Liability insurance and Employers Liability insurance of £5,000,000 or more in addition to any other insurance recommended by the Insurance Section of the Council. Value Band iv) procurement insurance values should be checked with the Insurance Section. (Note: sole traders with no employees are excluded from Employers Liability.)
- 4.5 Corporate Directors, Assistant Chief Executives and (where they have appropriate authorisation) Service Directors and Heads of Service may agree an exception to insurance values for public liability and professional indemnity in respect of contracts up to Value Band iii). A Corporate Director, Assistant Chief Executive or authorised Service Director may agree a variation to an insurance value at Value Band iv). All variations to agreed insurance levels must be made in discussion with the Insurance Section and the Assistant Chief Executive (Governance and HR) (or their authorised representative). All variations must be recorded in writing in the contract file.
- 4.6 All potential Contractors to the Council shall have a financial appraisal undertaken prior to being awarded a Value Band iv) contract.
- 4.7 The Strategic Procurement Team shall procure independent financial appraisals as required unless otherwise agreed by the Head of Strategic Procurement (or their nominated representative).

- 4.8 In the event of any doubt as to the Contractor's financial viability, or any non-availability of an external report, the Commissioning officer's finance contact shall provide expert advice. Consideration may still be made of the Contractor if the risk is deemed acceptable by Corporate Directors and/or Assistant Chief Executive (or authorised Service Directors) and agreed with the Head of Strategic Procurement (or their nominated representative).
- 4.9 Financial appraisals are not required when contracting directly with other local authorities, the Police, Crown Prosecution Service, Greater London Authority, Clinical Commissioning Groups, National Health Service, Her Majesty's Prison Service, Fire Brigade or other public sector bodies as agreed by the Head of Strategic Procurement (or their European equivalents in all cases)⁹. Such organisations are underwritten by Central Government(s) and thus are deemed financially viable at all times.
- 4.10 Where there is doubt as to the financial viability of a contractor but the Council has either no acceptable alternative provider or has decided to accept the level of risk then additional form of security to a level determined between Legal Services Contracts Team and financial services shall be provided such as:
- 4.10.1 a Parent Company, Ultimate Holding Company or Holding Company guarantee where their finance prove acceptable;
 - 4.10.2 a Director's Guarantee or Personal Guarantee where their finances prove acceptable;
 - 4.10.3 a Performance Bond, retained funds or cash deposit;
 - 4.10.4 any other security as determined by finance and/or legal services.
- 4.11 A Corporate Director or Assistant Chief Executive can decide in the case of contracts with a total value up to £5,000,000, that the level of security specified by finance and/or Legal Services Contracts Team need not be provided by the tenderer. A written record by the Corporate Director or Assistant Chief Executive of this decision and the reason(s) for it must be kept in the contract file.
- 4.11 A contractor may need to provide security of performance.
- 4.12 Before a contract is awarded, the Executive must approve the award of a contract where the contractor cannot provide security of performance for contracts with a total contract value of more than £5,000,000. The report seeking approval of the Executive must set out the reason why it is proposed that the contract should be awarded despite the absence of security and what measures are to be taken to manage the risk.

5. E-Procurement

⁹ These are points of clarification

- 5.1 The Council recognises the following e-procurement activities, including sourcing, ordering, receiving goods and making payments to achieve best value in line with the Procurement Rules and Council policies:
 - 5.1.1 Corporate purchase cards;
 - 5.1.2 Electronic tendering;
 - 5.1.3 Electronic auctions;
 - 5.1.4 Purchase-to-pay systems;
 - 5.1.5 Consolidated and electronic invoicing.
- 5.2 Assistance for using e-auction may be obtained from the Strategic Procurement Team. All e-auctions require the authorisation of the Head of Strategic Procurement (or their nominated representative).
- 5.3 An electronic signature is acceptable to make a contract legally binding. However contracts must still be printed by the commissioning client officer and appropriately signed or sealed to comply with Council procedures.

B – POLICY, REGULATIONS, INDIRECT RULES

6. Resident Impact Assessment

- 6.1 It is mandatory to complete a Resident Impact Assessment (RIA) for all contracts in value band iv) prior to the specification being completed. RIAs have replaced Equality Impact Assessments (EIAs) in Islington. Although there is no legal requirement to carry out EIAs, public bodies still have to demonstrate that they are taking the Public Sector Equality Duty (PSED) into account when making decisions. Local authorities also have obligations in relation to safeguarding and human rights. The main focus of RIAs is on drawing out the equality impacts of proposals with additional sections for highlighting safeguarding risks and potential human rights breaches.
- 6.2 Contract clauses inserted in respect of a Protected Characteristic must be approved by the Legal Services Contracts Team.
- 6.3 Contractors may be encouraged to undertake appropriate equalities training.
- 6.4 Contractors will be required to sign the Fairness and Equality Charter in all procurement in value band iv),. Any exception must be approved by the Head of Strategic Procurement (or their authorised representative).

7. Corporate Priorities

- 7.1 All contracts shall support the priorities set out in the Corporate Plan and/or Strategy.
- 7.2 Corporate priorities may change from time to time. For further information refer to www.islington.gov.uk.

8. Responsible Procurement¹⁰

- 8.1 The Council has made a commitment to responsible procurement.
- 8.2 Officers shall consider the effect on the environment of their commissioning when procuring by:
 - 8.2.1 not specifying, purchasing or using products that damage the environment when a reasonable alternative is available to promote behaviour that causes the least damage to the environment;
 - 8.2.2 taking into account whole life costs such as energy, maintenance and end of life disposal costs where appropriate in tender evaluations;

¹⁰ Changes are made to this section to expand the range of responsible procurement considerations to include equalities issues, use of diverse suppliers such as staff mutual and social value.

- 8.2.3 recognising that sustainability and buying environmentally friendly goods and services is part of continuous improvement;
- 8.2.4 completing an environmental impact assessment on all value band iv) contracts.
- 8.3 Officers shall, consistently with the council's Best Value duty and so far as permitted by relevant procurement legislation, consider the effect on others of their commissioning when procuring by:
 - 8.3.1 ensuring that the council's Public Sector Equality Duty is complied with in all procurement activity;
 - 8.3.2 promoting fair employment practices (also see Rule: London Living Wage);
 - 8.3.3 encouraging a diverse supplier base in contract advertisements, welcoming applicants who meet the qualitative selection criteria from voluntary and community sector enterprises (VCSEs), social enterprises, staff mutuals, not for profit enterprises and small to medium enterprises;
 - 8.3.4 considering Social Value at each stage of the procurement (also see Rule: Public Services (Social Value) Act 2012) .

9. Freedom of Information Act 2000

- 9.1 The Freedom of Information Act 2000 gives people the right to see information that is held by any public organisation. It is intended to make public authorities more open and responsible for their actions. The Act recognises that there are some valid reasons for withholding information. Contractors must be asked to complete a Freedom of Information Schedule (or equivalent named schedule) identifying any confidential or commercially sensitive information in their tender response.

10. Conduct

- 10.1 Officers shall conduct themselves in line with the Employee Code of Conduct available on the Council's internet pages. Officers must not accept any gift or reward before, during or after a tender process beyond nominal value. Officers must declare any personal interest(s) in a contract prior to any involvement in a contract the Council is/are considering or a contract that has already commenced.

11. Transfer of Undertakings (Protection of Employment) Regulations (TUPE)

- 11.1 Whenever a new contractor is appointed to take over an existing service, the employees of the original contractor (or the Council, if the service was previously provided in-house) may be affected by transferring the services to another provider. If so, you must make sure TUPE issues are considered. You must get legal advice from the Legal Services before asking for tenders or quotations. This may also

apply where a service is being re-configured and will in future be covered by a number of providers.

12. London Living Wage

- 12.1 As a matter of policy, London Living Wage (LLW) must be considered on all contracts where the Citizen's UK accreditation criteria for contracts apply. LLW consideration is encouraged on all contracts and shall be considered on all Value Band ii) contracts and above. LLW shall be adopted on all contracts insofar as this is permitted by law. A report shall be produced setting out all relevant considerations. The consideration report must be included within the contract file. The report must be approved by the relevant Director, Head of Strategic Procurement and/or appropriate person under delegated authority.

13. Public Services (Social Value) Act 2012

- 13.1 The Public Services (Social Value) Act 2012 came into force in January 2013. It covers services contracts that are covered by the Regulations but the principles can be applied to other contracts. In planning and conducting a Value Band iv procurement you must consider, and record within the contract file, how the procurement and contract shall:

- 13.1.1 consult and improve the economic, social and environmental well being of the borough and relevant partners;
- 13.1.2 secure and achieve any noted economic, social and environmental improvement.

Consideration shall be proportionate, reasonable, relevant and non discriminatory to the procurement and subsequent contract.

C – RESPONSIBILITIES

14. Commissioning and Procurement Board Responsibilities

- 14.1 The Commissioning and Procurement Board shall provide leadership and governance to:
- 14.1.1 challenge the approach and strategy of commissioning officers across the Council for the purposes of improving efficiency including category management and collaboration to ensure proposals are robust and sustainable;
 - 14.1.2 help the Council to challenge costs, then identify and capture savings opportunities;
 - 14.1.3 review third party spend, risk/opportunities, performance and transparency information for the purposes of embedding compliance;
 - 14.1.4 appraise the Council’s approach to the Community Right to Challenge and make any initial assessment and comments on expressions of interest prior to Executive decision;
 - 14.1.5 improve the quality of business cases and reports, guiding commissioners on corporate and organisational objectives;
 - 14.1.6 promote social, environmental and economic considerations – social value;
 - 14.1.7 encourage opportunities to help local employment and local economies;
 - 14.1.8 improve organisational knowledge in regard to third party spend and encourage a commercial approach that still focuses on the service user;
 - 14.1.9 modernise the approach to commissioning, procurement and contract management in service delivery;
 - 14.1.10 critically assess changes in the wider environment such as new developments in legislation or technology where additional guidance or support may be required.
- 14.2 The Commissioning and Procurement Board shall provide direction on the best approaches towards commissioning, procurement and contract management including appropriate supply chain related issues.
- 14.3 The Commissioning and Procurement Board will record minutes of their activities and these shall be made available upon request.

15. Supply Chain Practitioners Group Responsibilities

- 15.1 The Supply Chain Practitioners Group shall:

- 15.1.1 keep an awareness of what supply chain activity is happening within departments;
- 15.1.2 act as a conduit of best practice for supply chain;
- 15.1.3 provide information for reports and input for newsletters;
- 15.1.4 maintain or liaise with the departmental person(s) responsible for maintaining the procurement forward plans for respective departments;
- 15.1.5 provide a first line information source on where to find supply chain information.

16. The Executive Responsibilities

16.1 The Executive shall:

- 16.1.1 approve the award or variation of contracts where the value of the contract or variation (to the Council) is estimated to exceed officers delegated authority (in the case of Revenue Spend or Capital Spend) unless, in the case of Capital Spend the contract is for works approved as part of the capital programme which are to be provided under a framework agreement (established by the council on its own or in partnership with any other organisation) in which case, Corporate Directors and Assistant Chief Executives may approve such award. Revenue and Capital Spend are more particularly defined within the main Financial Regulations.
- 16.1.2 approve awards without performance security where the contract exceeds £5,000,000.

16.2 The Executive may delegate its responsibilities under this Rule 16 to Corporate Directors and Assistant Chief Executives

17. Chief Executive Responsibilities

- 17.1 The Chief Executive is responsible for making sure that Corporate Directors and Assistant Chief Executives carry out their responsibilities under these rules and for acting or appropriately delegating where a Corporate Director and Assistant Chief Executives is not able to carry out these responsibilities.
- 17.2 The Chief Executive has all the powers of the Corporate Director and Assistant Chief Executives' set out immediately below.¹¹

18. Corporate Director and Assistant Chief Executives' Responsibilities

¹¹ This clarifies the existing position

- 18.1 A Corporate Director or Assistant Chief Executive has responsibility for all contracts awarded by their department. His/her responsibilities include:
- 18.1.1 making sure that the Procurement Rules, Key Decision procedures and Access to Information rules are followed;
 - 18.1.2 awarding contracts paid for using revenue money of up to £2,000,000 of Islington Council spend and contracts paid for using capital money of up to £5,000,000 of Islington Council spend¹²;
 - 18.1.4 agreeing an amendment to a contract where the value of the amendment is up to £2,000,000 in the case of a revenue contract or £5,000,000 in the case of capital expenditure ~~or where it is under 10% of the original contract value (whichever is the higher);~~
 - 18.1.5 awarding contracts paid for using revenue money over £2,000,000 of Islington Council spend where authorised to do so under the constitution or by a specific Executive decision
 - 18.1.6 awarding contracts paid for using capital money over £5,000,000 of Islington Council spend where authorised to do so under the constitution or by a specific Executive decision;
 - 18.1.7 awarding contracts under a framework agreement using capital money where the spend is part of the approved capital programme;
 - 18.1.8 making sure the Council achieves value for money;
 - 18.1.9 taking immediate action if someone breaks the Procurement Rules;
 - 18.1.10 making sure proper and detailed records of all contracts are kept;
 - 18.1.11 making sure a record is kept when it is decided that these Procurement Rules do not have to be followed;
 - 18.1.12 making sure arrangements are in place for opening tenders (where not conducted through the Council's e-tendering portal under the responsibility of the Head of Strategic Procurement) and keeping departmental copies of tenders (in electronic soft copy or physical hard copy) safe;
 - 18.1.13 making sure that the Council's corporate seal is placed on any document that needs to be 'sealed and executed' as a deed, and that where a document does not need to be sealed, it is signed by two authorised officers;
 - 18.1.14 agreeing to waive security of performance on a contract up to £5,000,000 of Islington Council spend;
 - 18.1.15 deciding to accept a contract with lower levels of insurance cover and to accept a contract without professional indemnity insurance;

¹² These threshold increases are recommended following the Scrutiny undertaken by the Policy and Performance Scrutiny Committee and the recent external end to end review of the council's procurement processes.

- 18.1.16 deciding, with advice from the Head of Strategic Procurement (or their nominated representative) and the Legal Services Contracts Team (subject to rule 28.6) on whether to apply a competitive procedure with negotiation or a competitive dialogue where in response to an open or a restricted procedure only irregular or unacceptable tenders are submitted
- 18.1.17 in cases where the Public Contract Regulations do not require a specified process to be followed in respect of the procurement, agreeing to negotiate a contract direct with a completed waiver form; and
- 18.1.18 keeping a register of all contracts for their service and having all contracts duplicated on the corporate contracts database register with an official number.

19. Finance Responsibilities

19.1 The finance department shall:

- 19.1.1 provide guidance to client commissioning officers on procurement implications to associated budgets where multiple departments could be affected;
- 19.1.2 commit the budget to being available for any procurement activity; and
- 19.1.3 comment on all reports for the Corporate Management Board, Joint Board or Executive Reports.

20. Legal Services Contracts Team Responsibilities

20.1 The Legal Services Contracts Team shall:

- 20.1.1 provide advice on the Public Contract Regulations, the Procurement Rules and responsibilities to client commissioning officers;
- 20.1.2 prepare conditions of contract and associated documents to include in the tender documents in a timely manner;
- 20.1.3 advise on any legal issues arising in relation to the contract and the procurement process;
- 20.1.4 review any proposed Contractor terms and conditions at the request of the commissioning officer;
- 20.1.5 advise on and where required negotiate on behalf of the commissioning officer, amendments to the conditions of contract.

21. Commissioning officer Responsibilities

21.1 Commissioning officers (officers leading on procurement) shall:

- 21.1.1 follow the Procurement Rules, decision making procedures and Access to Information rules;
- 21.1.2 in planning and conducting a Value Band iv) procurement consider, and record within the contract file, how the procurement and contract will:
 - 21.1.2.1 consult on and improve the economic, social and environmental well being of the borough and relevant partners;
 - 21.1.2.2 secure and achieve any noted economic, social and environmental improvement.
- 21.1.3 complete an Health and Safety Impact Assessment, and London Living Wage consideration report for a Value Band ii) contract or above;
- 21.1.4 complete an Environmental Impact Assessment, and Risk Assessment for a Value Band iv) contract;
- 21.1.5 get a corporate contract database register number from the Strategic Procurement Team for all Value Band ii) contract or above;
- 21.1.6 instruct the Legal Services Contracts Team in good time to prepare, or give advice on, all terms and conditions;
- 21.1.7 notify Democratic Services and write appropriate reports needed by the Executive and to submit these in time to meet deadlines in both the committee schedules and procurement timetable;
- 21.1.8 ensure resources are in place to manage the let contract;
- 21.1.9 ensure there is sufficient budget for the contract;
- 21.1.10 seek legal advice when terminating a contract and/or withholding payments; and
- 21.1.11 ensure a minimum of one contract review per annum. This is to ensure the quality of the service and to promote continuous improvement.

22. Strategic Procurement Team Responsibilities

22.1 The Strategic Procurement Team shall:

- 22.1.1 review the Procurement Rules and associated policies and documentation;
- 22.1.2 maintain a repository of skills and expertise to provide procurement advice;
- 22.1.3 support commissioning officers when going out to tender with an appropriate level of advisory support, examining options available to the commissioning officer in light of procurement best practice and legislation and to advise

commissioning officers to liaise with Democratic Services regarding the council's decision making processes;

22.1.4 liaise with the Legal Services Contracts Team to assist in ensuring that all the advice provided and procedures being followed are legally compliant;

22.1.5 provide procurement and spend information for statistical purposes and return for the governmental organisations.

D – Procurement Administrative Process

23. Quotations

- 23.1 All quotations for Value Band ii) and iii) must be received in a written format of formal letter quotation, facsimile, email or catalogue and based on a written statement of needs and have a written justification under value for money for selection of provider;
- 23.2 All quotations for Value Band ii) and above should have formal terms and conditions as prepared or agreed by the Legal Services Contracts Team, unless the Legal Services Contracts Team provides exemption to those conditions.

24. Selection Criteria

- 24.1 In accordance with the Regulations and with guidance from the Strategic Procurement Team, selection criteria may only relate to:
- 24.1.1 Exclusion grounds;
 - 24.1.2 Suitability to pursue a professional activity;
 - 24.1.3 economic and financial standing;
 - 24.1.4 technical and professional ability.
- 24.2 The Council operates a pre qualification questionnaire to ensure contractors meet these conditions where permitted by the Public Contract Regulations.
- 24.3 Any deviation from the council's standard pre qualification questionnaire must be reported to the Head of Strategic Procurement for approval and subsequent reporting by the Head of Strategic Procurement to the Crown Commercial Service.¹³
- 24.4 Organisations found guilty of conducting fraud, such as 'cover pricing', will not normally be considered. Organisations shall be required to make declarations in regards to professional and business conduct, including Blacklisting, to the satisfaction of the Council before being invited to tender or tenders assessed.

25. Award Criteria

- 25.1 All award criteria must be linked to the subject matter of the contract, ensure the possibility of effective competition and be accompanied by specifications. The award conditions should be documented in the procurement documents including any weighting to be applied. Contractors assessed against these criteria are entitled to have access to their results and feedback, records must be kept of these results in line with retention procedures held by Strategic Procurement for matters in relations to procurement.

¹³ This is a new legal requirement

- 25.2 Tenders can only be awarded against the following criteria: most economically advantageous tender, in accordance with the Public Contract Regulations.
- 25.3 All award criteria should be published in the tender advert, unless otherwise specifically agreed by the Head of Strategic Procurement. In all cases the award criteria shall be included within the procurement documents in accordance with the Regulations.

26. Invitations to Tender

26.1 All invitations to tender must include:

- 26.1.1 a description of the requirements with enough detail to allow the tenderer to make a competitive offer (a specification or term brief);
- 26.1.2 a requirement for tenderers to declare that they have not given the tender content and price to any other organisation (unless if necessary in confidence, such as the tenders' subcontractors, with prior authorisation);
- 26.1.3 a requirement for tenderers to fill in fully and sign all tender documents (electronically signed by return for e-tenders);
- 26.1.4 a statement that tenders are put forward at the tenderer's expense;
- 26.1.5 a list of the award criteria and the scoring/weighting system;
- 26.1.6 if the tender is being returned by post this must be agreed by the Head of Strategic Procurement and a statement that no tender will be considered unless it is enclosed in a sealed envelope or container which has the word 'tender' followed by the contract name, but no other name or mark showing who sent it;
- 26.1.7 a statement that tenders sent by post, fax or e-mail will only be considered and accepted by the Council with the authority of the Head of Strategic Procurement (or their representative);
- 26.1.8 how any pricing mistakes discovered in the tender will be dealt with;
- 26.1.9 statement that the Council can recover costs from the cancellation of any contract in the event the Contractor should offer, agree to offer or provide an officer, member or person associated with the Council, partner or its agent an inducement or reward in respect of a contract;
- 26.1.10 a statement that we do not have to accept the lowest tender, or indeed any tender.

27. Putting Tenders Forward

- 27.1 Officers should sufficiently prepare in advance for procurement processes to allow for European Directive and council Key Decision or other decision making timescales.
- 27.2 Tenders should normally be received through the Council's e-tendering portal. Posted, emailed and fax tenders may only be used with the express consent of the Head of Strategic Procurement (or their representative).
- 27.3 All intentions to seek tenders must be notified to the Strategic Procurement Team in writing including title, estimated annual value, contract length and commissioning officer (or responsible officer if different).
- 27.4 Mini-competitions from framework agreements are not tenders, but should be notified to Strategic Procurement whenever these are value band iv).
- 27.5 Mini-competitions in value band iv) from framework agreements should be conducted through the Council's e-tendering portal unless otherwise agreed by the Head of Strategic Procurement (or their nominated representative).
- 27.6 All procurement activity where a third party provider is running the process, regardless of value, should be notified to the Head of Strategic Procurement (or their nominated representative) to determine the appropriateness of the procurement process.
- 27.6 All mini-competitions from framework agreements where a third party provider is running the quotation process, regardless of value, should be notified to the Head of Strategic Procurement (or their nominated representative) to determine the appropriateness of the procurement process.
- 27.7 Copies of the assessment will be required to be supplied to the Council whenever a third party has conducted procurement on the Council's behalf.

28. Receiving and Opening tenders

- 28.1 Each tender received must be:
 - 28.1.1 recorded with the date and time it was received;
 - 28.1.2 kept in a safe place; and
 - 28.1.3 reported to the Strategic Procurement Team.
- 28.2 All tenders not conducted through the Council's e-tendering portal must be by agreement of the Head of Strategic Procurement and be opened in the presence of a Tender Opening Panel (TOP). The TOP must be made up of at least two officers, one of whom should be the commissioning client officer.
- 28.3 Contracts estimated over the thresholds mentioned in 2.2 must have a member of the Strategic Procurement Team on the TOP.

- 28.4 Tenders should be through the electronic e-tendering portal managed by Strategic Procurement when/wherever possible. When opening electronic tenders, all tenders must be opened at the same time.
- 28.5 Tenders received after the set time for receiving them, but before the TOP has begun opening them, may be opened and then considered only if agreed by the Head of Strategic Procurement (or his nominated representative) agree that it is appropriate to do so.
- 28.6 Tenders received after the TOP has begun opening tenders “late tenders” will not be considered unless specifically agreed by the Head of Strategic Procurement (or his representative) or are for land/building property purchases. This applies equally to tenders received through the Council’s e-tendering portal. Tenders received late and not to be considered will be returned or the relevant bidder written to as indicated by the Head of Strategic Procurement (or his representative).
- 28.7 All tenders opened by the TOP will be evaluated in a timely manner against the advertised award conditions.
- 28.8 All extensions to tender return dates must be authorised by the Head of Strategic Procurement (or his representative).
- 28.9 Errors or matters of ambiguity in tenders should be highlighted to the Head of Strategic Procurement (or his representative) to decide whether an extension is appropriate for satisfactory return of bids.

29. Negotiation

- 29.1 The negotiated procedure, either with or without competition, may be used in accordance with the provisions of the Regulations and only where agreed by the Head of Strategic Procurement (or their representative) and Legal Services Contracts Team to ensure compliance with the Regulations.
- 29.2 A Corporate Director or Assistant Chief Executive can decide in consultation with the Head of Strategic Procurement (or their nominated representative) that a contract should be awarded by post-tender negotiation (discussions after tenders have been received), subject to the Regulations.
- 29.3 Negotiations must be carried out by at least two (2) senior officers, at least one of whom is a Corporate Director or Assistant Chief Executive’s nominated representative. Corporate Directors and Assistant Chief Executive are responsible for the actions of the people they have nominated.
- 29.4 Negotiations must be fully minuted and the actions agreed by both parties.

30. Awarding Tenders

- 30.1 The commissioning officer must prepare a contract award report for any every contract which is in value band ii) or above and keep that report on the contract file.

More guidance is available from Strategic Procurement but the report must normally include:

- 30.1.1 an introduction and summary of the requirement;
 - 30.1.2 outcomes, efficiencies and savings as a consequence of award;
 - 30.1.3 chosen procurement route and justified options discounted;
 - 30.1.4 length of arrangement including any extension options;
 - 30.1.5 criteria against which the contractor was selected and subsequently awarded;
 - 30.1.6 the make up of the project team, noting any Member involvement;
 - 30.1.7 the estimated value/actual value for the life of the contract;
 - 30.1.8 dates and information regarding previous tendering in the case of a recurring procurement;
 - 30.1.9 pre tender assessment information;
 - 30.1.10 copies of any documentation required under Commissioning Officer Responsibilities within these Procurement Rules.
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- 30.2 The Commissioning officer must write to the successful bidder telling them that the Council has accepted their offer and to the unsuccessful bidders telling them that the Council has not accepted their offers including in both cases their evaluation scores and the score of the winning tender(s) at the same time, published through the Council's e-tendering portal unless agreed by the Head of Strategic Procurement;
 - 30.3 Tenders awarded in line with the Regulations must be notified that the Council will accept the successful tender as long as no objections are raised by any of the unsuccessful bidders during the ten (10) day appeal period where applicable;
 - 30.4 The Contract must not be signed until the ten (10) day standstill period has passed without objection where applicable;
 - 30.5 The successful Contractor must not commence work until the contract has been signed in line with Section A above.

31. Keeping records

- 31.1 The Commissioning officer's department must keep:
 - 31.1.1 successful contract files for twelve (12) years after the end of the contract for all sealed contracts;

¹⁵ This is deleted as it is covered elsewhere in the rules

31.1.2 successful contract files for six (6) years after the end of the contract for all other contracts;

31.1.3 unsuccessful contract files for two (2) years.

32. Contract Management

32.1 A record of all contract amendments and variation orders (orders to amend contracts) must be issued in writing and sent electronically to Strategic Procurement;

32.2 Commissioning officers must file a copy of every variation order in the contract file highlighting any risk to their relevant manager and any other affected department.

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APPENDICES

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APPENDIX 3

Additional Delegations to Officers

The post holders specified in column B below may exercise the Council's power to issue Community Protection Notices under the Anti-social Behaviour, Crime and Policing Act 2014 if authorised by the Service Director –Housing Operations to do so:

A – Specified team	B – Specified post-holders
Tenancy Management Advisers	Housing Operations.
