



The Contract Standing Orders (CSOs) appear as Article 34 of the Council's Constitution. There are several associated Articles: a Glossary of Terms at Article 35, a table of Procurement Authority Thresholds at Article 36 and an Exemption/Waiver Form at Article 37. Although more complete revision of the CSO's was originally contemplated, on 15 December 2020 the government published a green paper: 'Transforming Public Procurement' with the aim of speeding up and simplifying procurement processes, which will lead to revisions to the procurement legislation post-Brexit. It has thus been decided that the full revision of the CSOs will be deferred pending action from central government. However the Procurement Authority Thresholds currently set by the Constitution are restrictive to the extent that they impede transactions supporting basic operational functions, and the waiver/exemption procedure does not support current business needs. This report proposes updates to those sections to make the Council more agile in its procurement processes pending full review of the CSOs.

That Council:

1. approve and adopt updated Articles 34.10 and 36 as they appear within the body of this report; and
2. delegate authority to the Monitoring Officer to make any further consequential amendments to the Constitution, including updates to the Glossary of Terms at Art 35.

The Authority's Constitution incorporates Financial Procedure Rules, a Scheme of Delegations and Contract Standing Orders that together provide a framework for managing the Authority's financial affairs. They apply to every member and officer of the Authority and anyone acting on its behalf. The Contract Standing Orders define the steps to be followed when the Authority enters into any commercial arrangement and clear processes are essential in order to maintain accountability, transparency and fairness at all levels. The Contract Standing Orders set out the procedures for obtaining written quotations and competitive tenders from suppliers for the provision of Supplies, Services and Works.

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The key changes are:

2.1 The procurement authority thresholds at Article 36 are adjusted as follows:

NEW ARTICLE 36 PROCUREMENT AUTHORITY THRESHOLDS

36.1 The following table outlines the minimum selection procedure to be used where the procurement is within these Contract Standing Orders and a framework is not being used.

Minimum Contracts Procedures for Works, Supplies or Services:

Estimated Total Value	Selection procedure	Selection Decision by	Transparency Code Obligations
Less than £10,000	Single Quotation in writing including evidence of Value for Money, such as research into typical prices or rates	Officer	Publish details of all Contracts of £5,000 + on the Council's contract register
Up to £25,000	Single Quotation in writing including evidence of Value for Money, such as research into typical prices or rates	Head of Service	Publish details of all Contracts on the Council's contract register
From £25,001 to £75,000	At least three Quotations in writing, invited and returned using the e-procurement system and the opportunity should be published on Contracts Finder.	Officer with procurement team	Publish details of all Contracts on the Council's contract register. Contract award notices must be published on Contracts Finder for Contracts with a value of £25,000 or more.
Above £75,000 but below the Public Contract Regulations 2015 financial threshold	Invitation to Tender issued to a minimum of three Tenderers or an open tender. The Council's e-procurement system should be used and the opportunity published nationally using Contracts Finder with or without any other advertisement.	Head of Service with procurement team	Publish details of all Contracts on the Council's contract register. Contract award notices must be published on Contracts Finder.

At or above the Public Contract Regulations 2015 financial threshold	Advice must be sought from the procurement team and the legal service	Director with procurement team	Publish details of all Contracts on the Council's contract register. Contract award notices must be published on Contracts Finder.
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2.2 The section on exemptions is adjusted as follows:

NEW ARTICLE 34.10

34.10 EXEMPTION, WAIVER AND OPERATIONAL EMERGENCY

34.10.1 Exemption from or waivers of any of these Contract Standing Orders shall only be permitted in exceptional circumstances subject to compliance with the law. Exemptions or waivers may not be made retrospectively. The Monitoring Officer must be notified of any exemptions and waivers requested.

34.10.2 Operational emergency

Subject to the law, the Head of Paid Service, the s151 Officer, or a Strategic Director, having consulted the Monitoring Officer (or her nominated deputy), may approve an exemption to any part of these Contract Standing Orders that is necessary because of an Operational Emergency creating immediate risk to persons or property within the Borough or causing serious disruption to Council services (including any emergency or disruption under the Civil Contingencies Act 2004). An Operational Emergency is a situation that is the result of an unforeseen event over which the Council has no control. This procedure must not be used when a requirement has become late due to lack of planning on the part of the Council.

Full documentation must be completed regardless of the urgency of the requirement and a full audit trail must be made throughout the procurement process. Where the value of the Contract is over £250,000 a report supporting the use of this power must be taken to Policy & Resources Committee at the first available opportunity.

34.10.3 Exemption

Exemptions apply in certain specific circumstances and/or to certain types of Contract. Exemption to these Contract Standing Orders is subject to the law and may only be applied provided the value does not exceed the Public Contracts Regulations 2015 financial thresholds. Exemptions apply in the following circumstances:

- a) for supplies or services available only as proprietary or patented articles or which are sold by one manufacturer only at a fixed price;
- b) when using framework agreements or collaborative procurements made by a body legally able to let public contracts, e.g. Crown Commercial Services, provided that the Council is clearly identified as able to use the framework and procedures under such frameworks comply with any legislation;
- c) where the purchase of supplies, services or works from a different organisation would result in incompatibility with existing goods, services or assets or would

result in disproportionate technical difficulties or disproportionate financial disbenefit;

- d) when best value for money can be achieved by the purchase of used or pre-owned vehicles, plant, equipment or materials;
- e) the purchase of supplies or materials at an auction sale; or
- f) in exceptional circumstances; where the work to be done or the goods to be supplied constitute a valid extension to an existing contract and it is in the Council's best interest to negotiate with the existing contractor/supplier.

34.10.4 Waiver

In exceptional circumstances and subject to the law when there are justifiable technical, specialist or supply market reasons and insufficient suppliers are available from the market to enable competitive offers to be obtained, any requirement to seek more than one tender or quotation may be waived, subject to authorisation in advance by the s151 Officer and the Monitoring Officer (or their nominated deputies). The decision to waive any Contract Standing Order must take into account value for money, probity and fairness. A single tender must still be obtained and the procuring officer must consult the Council's procurement team to verify that no other option is available. Any waiver of these Contract Standing Orders may only be made provided the value does not exceed the Public Contracts Regulations 2015 financial thresholds.

34.10.5 Exemption and Waiver Procedure

Request for exemption or waiver must be submitted by the relevant Head of Service on the form provided at Article 37 of the Constitution and all associated documentation must be retained in accordance with the Council's Document Retention policy when an exemption or waiver is authorised.

3. Financial Implications

There are no direct financial implications to this report.

4. Risk Implications

Failure to adapt Standard Orders to reasonable business needs increases the risk of breach.

5. Legal Implications

Contract procedure rules are a legal requirement and constitute standing orders for the purpose of s135 of the Local Government Act 1972. The Standing Orders must have regard to relevant legislation and guidance, such as the Public Contract Regulations 2015, the Concession Contracts Regulations 2016, The Local Government (Transparency Requirements) (England) Regulations 2015 and the Transparency Code 2015.

6. Conclusions

The updates to the Procurement Authority Thresholds increase scope for procuring from a single tender which streamlines, simplifies and speeds up procurement at lower value levels. Over the range of financial limits, agility is balanced against the need to comply with legislation and guidance and the procurement principles of transparency, proportionality

and fairness. With regard to the Exemption and Waiver, again scope to apply these procedures is broadened while at the same time necessary checks and balances are put in place to ensure legal compliance and adherence to good practice.

7. Background Papers

Current Great Yarmouth Borough Council Constitution Articles 34.10, and 36.

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Area for consideration	Comment
Monitoring Officer Consultation:	n/a
Section 151 Officer Consultation:	At ELT
Existing Council Policies:	Contract Standing Orders within the Constitution and associated articles (34 – 37)
Financial Implications (including VAT and tax):	None
Legal Implications (including human rights):	Addressed within the report
Risk Implications:	Addressed within the report
Equality Issues/EQIA assessment:	No
Crime & Disorder:	No
Every Child Matters:	No