



Macclesfield Town Council

Standing Orders for Contracts

Document Version Control

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Table 1 Document Version Control

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Table of Contents

1.	General	3
2.	Estimating Contract Value	3
3.	Delegated Authority to enter into contracts.....	4
4	Below Threshold Contracts (Procurement Act 2023)	4
5	Above Threshold Procurements (Procurement Act 2023)	4
6	Requirements for tender	5
7	Open competitive tenders.....	5
8	Ad hoc approved list	5
9	Standing approved list.....	5
10	Approved list of another authority	6
11	Established procurement specialists	6
12	Selection of tenderers or invitees	6
13	Form of invitation to tender and submission of tenders.....	6
14	Extension of time	7
15	Evaluation Criteria	7
16	Opening of tenders.....	7
17	Late tenders.....	8
18	Alterations to tenders	8
19	Acceptance of tenders.....	8
20	Post-Tender Requirements	8
21	Awarding of Contracts.....	9
22	Assignment.....	9
23	Liquidated damages	9
24	Performance bonds	10
25	Retention	10
26	Cancellation.....	Error! Bookmark not defined.
27	Nominated sub-contractors	10
28	Engagement of consultants	11

1. General

The following Standing Orders for Contracts set out the procedures by which the Council will enter into contracts for the provision of goods, services, materials and work. Every contract made by or on behalf of the Council shall comply with these procedure rules and no exception from any of the provisions shall be made otherwise than by direction of the Council or under Standing Order. These Standing Orders for Contracts should be read in conjunction with the Council's Financial Procedures and Standing Orders applying at the time

1.1 The Council must ensure that all procurement of goods, services and works achieves best value for money, is transparent, and complies with all relevant legislation, including the Procurement Act 2023 ("PA23").

1.2 Officers and Members must act with integrity, fairness and openness when dealing with suppliers and contractors.

1.3 No contract shall be artificially split to avoid compliance with these Standing Orders or with PA23 thresholds.

1.4 All contracts must be awarded in line with the Council's Financial Regulations and approved budgets.

1.5 The Orders do not apply to contracts for the sale or purchase of land or buildings other than as set out in this Order. Every contract relating to the sale or purchase of any land or buildings shall be in writing and be signed on behalf of the Council by the Proper Officer. Purchases of land should not be above the current market value as determined by the Council's appointed valuer and sales of land should not be below the current market value as determined by the Council's appointed valuer. Where this is not the case a report should be made to Council, setting out the reasons for such variation, which may take into account any community benefits or justification on the grounds that it helps fulfil a wider objective of the Council.

1.6 These Contract Procedure Rules shall not apply or may be varied where or to the extent that:

- The Council so resolves.
- Statute or subordinate legislation prescribes otherwise.

2. Estimating Contract Value

2.1 The total contract value must be calculated on the basis of the whole term of the contract (including extensions, renewals, and options), and must include VAT.

2.2 If there is any doubt, officers must assume the higher value applies and follow the corresponding procedure.

3. Delegated Authority to enter into contracts

3.1 The Proper Officer shall have power to accept tenders (where required) and to enter into contracts on behalf of the Council, when the decision and budget have been approved by Council.

3.2 The Proper Officer or Responsible Financial Officer (RFO), if different, have authority to issue official orders or letters for work, goods and services as set out in the Financial Regulations.

3.3 The council shall use the Most Advantageous Tender (MAT) in line with the Procurement Act 2023.

4 Below Threshold Contracts (Procurement Act 2023)

Three quotations need not be invited in circumstances set out in regulation 5.7 of the Financial Regulations, or in cases where genuine competition is not available because of the specialist nature of the work or goods, all subject to a resolution of Council which embodies the reason for not doing so.

5 Above Threshold Procurements (Procurement Act 2023)

5.1 Where the estimated contract value is equal to or above the thresholds in PA23, the full statutory procedures must be followed.

5.2 Current thresholds (inclusive of VAT) are:

- Goods & Services: £214,904
- Works / Construction: £5,372,609
- Light-Touch Services (e.g. health, social, cultural services): £663,540

5.3 Above-threshold procurements must be:

- Advertised on the UK Government's Central Digital Platform (Find a Tender service).
- Conducted using one of the regulated procedures (e.g. Open Procedure, Competitive Flexible Procedure).
- Fully transparent, with required notices published at pipeline, tender, and award stages.

- Awarded in compliance with PA23 principles: transparency, integrity, equal treatment, and value for money.

5.4 Legal or professional advice should be sought before commencing any above-threshold procurement.

6 Requirements for tender

6.1. Tenders need not be invited in circumstances set out in 5.7 of the Financial Regulations, subject to a resolution of Council which embodies the reason for not doing so.

Where tenders are required, one of the following methods shall be used:

- Open competitive tender (Rule 7)
- Ad hoc approved list (Rule 8)
- Standing approved list (Rule 9)
- Approved list of another Council (Rule 10)
- Established procurement specialist (Rule 11)

7 Open competitive tenders

7.1 Tenders shall be invited after giving at least 14 days public notice in at least one local newspaper circulating in the area of the Authority, on the Council's website, in such trade journals as the Proper Officer has considered appropriate and the Government's Central Digital Platform, stating the nature and purpose of the contract, inviting tenders and stating the last date when tenders will be accepted. Any notice issued shall contain a Statement of the effect of Standing Orders Nos. 34.1 and 34.2.

8 Ad hoc approved list

8.1 Tenders shall be invited after giving notice in the manner set out in Rule 7 seeking applications to be placed on a list from which selected contractors will be invited to submit tenders.

9 Standing approved list

9.1 Tenders shall be invited from persons included in a list approved by the Council for the supply of goods or materials of specified categories, values or amounts or for the carrying out of specified categories of work

9.2 The list shall be compiled in the following manner:

- Notices inviting applications for inclusion in the list shall be published not less than 28 days before the list is compiled in at least one local newspaper, on the Council's website and where appropriate, one trade journal.
- No person shall be included in the list unless, at the time of compilation of the list, the Responsible Financial Officer is satisfied as to his or her financial status and suitability.
- The approved list may be amended as required from time to time by the Council and shall be reviewed at intervals not exceeding two years.

10 Approved list of another authority

10.1 Tenders shall be invited from persons included in a list approved by Cheshire East Council for the supply of goods or materials of specified categories, values or amounts or for the carrying out of specified categories of work

11 Established procurement specialists

11.1 Where large, high value tender exercises take place, in areas in which the Council have limited expertise, it may be necessary to engage the use of established procurement specialists. These specialists will undertake the tender process on behalf of the Council, subject to compliance with Financial Regulations for the opening of tenders.

12 Selection of tenderers or invitees

12.1 The selection of persons from whom tenders shall be invited is to be agreed by the relevant committee or delegated to the Proper Officer in consultation with the Chair of Finance

12.2 In inviting applications for inclusion in a list of approved tenderers or in selecting persons from whom tenders are to be invited, steps shall be taken to ensure fair competition. It may be necessary to supplement approved lists in cases where the specialist nature of the work or goods indicates that competition will be limited, subject to a resolution of Council which embodies the reason for doing so.

12.3 Where a contract will involve a design element, or in the case of other construction works, the chosen process may be varied minimally to ensure that the quality of the design is properly taken into account. Construction processes which are taking forward the Government Construction Strategy may also be used.

13 Form of invitation to tender and submission of tenders

13.1 All tenders shall be required to be submitted on a Form of Tender approved by the Proper Officer. This Form shall include a statement that the Council will not be

bound to accept any tender and reserves the right to accept a tender other than the one which is the lowest price or not to accept any tender at all.

13.2 The invitations to tender shall state that no tender will be considered unless contained in an unmarked plain sealed envelope and endorsed "Tender" followed by the subject to which it relates.

13.3 Every tender shall be addressed to the Town Clerk (Proper Officer) and the tender shall remain in his/her custody, or that of their nominated representative, until the time appointed for its opening.

14 Extension of time

14.1 Where the Proper Officer considers it to be in the best interests of the Council the time within which tenders must be received may be extended after giving notice of such extension of time in the following manner: -

- **Open competitive tenders** - in accordance with Rule 6.
- **Ad hoc approved list / Established procurement specialist** - by giving 14 days written notice to each of the selected contractors.
- **Standing approved list** - by giving 14 days written notice to each of the relevant persons on the list.

15 Evaluation Criteria

15.1 All tender evaluations must be:

- Proportionate to the contract
- Relevant to the subject matter
- Clear and measurable
- Published with explanations of weightings
- Documented with decision rationales

16 Opening of tenders

16.1 All tenders for a contract shall be opened at the same time and as soon as possible after the closing time for the acceptance of tenders. The tenders will be opened by the Proper Officer.

16.2 The Proper Officer shall prepare and maintain a register of tenders received and shall record in that register the following particulars:

- The last date and time for the receipt of tenders.
- The date and time the tender was actually received.
- The name of the tenderer and the amount of the tender.
- The date and time they were opened and by whom.

- The signature of the officer to whom the tenders were handed after opening.

16.3 All persons required to be present at the opening of tenders shall immediately sign against the relevant particulars in the register and shall also sign each page of the tender as evidence of such tenders having been opened by them or in their presence.

16.4 Following the opening of tenders invited, the Proper Officer shall write to all persons who were invited to tender but who failed to tender to ascertain the reasons for that failure.

17 Late tenders

17.1 Any tender received late will be returned promptly to the tenderer by the Proper Officer. A late tender which has been received may be opened in the presence of the two Members to ascertain the name and address of the tenderer but no details of the tender shall be disclosed.

18 Alterations to tenders

18.1 Where the tender reveals errors or discrepancies, which would affect the tender figure in an otherwise successful tender, the tenderer shall be told of the errors and discrepancies and given an opportunity of confirming, correcting or withdrawing the offer.

19 Acceptance of tenders

19.1 In accepting a tender, consideration will be given to price and quality. A suitable pre-determined price-quality model (Evaluation Model) will be devised by the Proper Officer or representative in accordance with the Council's Procurement Policy. Selection of the best tender will be based on this evaluation.

19.2 If no tenders are received or if all tenders are identical, the Council may make such arrangements for procuring the goods or materials or executing the works as it thinks fit.

20 Post-Tender Requirements

20.1 Once tenders are received and scored the Council will:

- Select the most advantageous tender (best overall for public benefit)
- Provide bidders with an assessment summary
- Publish a Contract Award Notice (if value over £30000) on the Government's, Central Digital Platform

- Observe an 8-working-day standstill period
- Publish a Contract Details Notice within 30 days
- For contracts over £5 million, publish the full contract, on the Government's, Central Digital Platform (currently Find a Tender)

21 Awarding of Contracts

21.1 Every contract which exceeds £3000 shall be in writing in a form approved by the Proper Officer.

21.2 Every contract shall specify, amongst other things:

- The goods, materials, works, matters, or things, to be furnished, supplied or done (including any appropriate technical specifications).
- The price to be paid with a statement of discount or other deductions.
- where applicable, the time or times that the contract is to be performed
- How the contractor will be accountable for performance, and any information or reports that he will be required to submit.

21.3 The Proper Officer shall sign or witness every contract not required to be made under seal on behalf of the Council.

21.4 Every contract for which provision has been made in the approved annual estimates and/or approved by the appropriate committee or sub-committee of the Council pursuant to Standing Orders and being in value of amount less than £3,000 shall be entered into on behalf of the Council by the Proper Officer by issuing an official order only.

22 Assignment

22.1 In every written contract for the execution of work or the supply of goods or materials, the following clause shall be inserted:

“The contractor shall be prohibited from transferring or assigning directly or indirectly, to any person or persons whatever, any portion of the contract without the written permission of the Council. Sub-letting of any part(s) of the work, except to the extent permitted in writing by the officer concerned, shall be prohibited”

23 Liquidated damages

23.1 Every contract that exceeds £50,000 shall, where considered appropriate by the Proper Officer, provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.

24 Performance bonds

24.1 Where a contract is estimated to exceed £150,000 in value and is for the execution of the works, or for the supply of goods or materials by a particular date or series of dates, the Finance Committee shall consider whether the Council should require security for its due performance and shall either certify that no such security is necessary or shall specify in the conditions of tender the nature and amount of any security to be given. In the latter event, the Council shall require and will take a bond or other sufficient security for the due performance of the contract.

25 Retention

25.1 Works contracts, which are estimated to exceed £50,000 in value but not exclusively, will be subject to a defects period. The Council will retain a percentage of the monies due to the contractor for a period that the Proper Officer deems appropriate, having regard to the current practice in the relevant industry and to the circumstances of the contract.

26 Termination of Contracts

26.1 The Council reserves the right to terminate contracts in cases of poor performance or material breach, including repeated failure to meet agreed standards, failure to remedy notified deficiencies, or statutory or regulatory non-compliance, and may also terminate for convenience where it is in the Council's best interests (for example, due to changes in budget or service requirements). All such decisions will be taken in accordance with the Council's Standing Orders, Financial Regulations and in compliance with relevant procurement law, with reasonable steps taken to ensure service continuity and proper documentation of the decision.

26.2 Every contract will include a clause allowing the Council to cancel the contract and to recover costs if the contractor has offered, or given, any gift or consideration whatsoever as an inducement or reward to obtain the contract, or any other contract with the Council.

27 Nominated sub-contractors

27.1 Where a sub-contractor or supplier is to be nominated to a main contractor the following provisions shall have effect.

27.2 Where the estimated amount of a sub-contract exceeds £25,000 then, unless the Proper Officer certifies that it is not reasonably practicable to obtain competitive tenders, tenders for the nomination shall be invited and dealt with in accordance with these Contract Procedure Rules as if they were for a contract with the Council.

27.3 A nominated sub-contractor must be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his own obligations under the main contract in relation to the work or goods included in the sub-contract.

28 Engagement of consultants

28.1 In the event of the Council engaging the services of consultants, these Contract Procedure Rules will apply where relevant, and subject to approved exemptions set out in the Financial Regulations.