

REPORT REFERENCE NO.	DSFRA/15/9
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (ANNUAL MEETING)
DATE OF MEETING	28 MAY 2015
SUBJECT OF REPORT	REVIEW OF CONSTITUTIONAL GOVERNANCE FRAMEWORK DOCUMENTS
LEAD OFFICER	Clerk to the Authority
RECOMMENDATIONS	<p>(a) <i>that the proposed revision to Standing Order 43 (Disciplinary Action), as set out at paragraph 3.5 of this report be approved;</i></p> <p>(b) <i>that, linked to (a), the proposed procedure for investigating allegations of misconduct by the Authority's Head of Paid Service (Chief Fire Officer), Monitoring Officer and Chief Finance Officer (Treasurer), as set out in Appendix A to this report, be approved;</i></p> <p>(c) <i>that the Contract Standing Orders attached as Appendix C to this report be approved (to replace the Contract and Procurement Regulations);</i></p> <p>(d) <i>that, subject to (a) to (c) above, the constitutional governance framework documents as identified at paragraph 1.1 of this report be endorsed.</i></p>
EXECUTIVE SUMMARY	This report sets out information on the most recent review of the Authority's constitutional governance framework documents (Standing Orders, Financial Regulations etc). which, while not a statutory requirement, is nonetheless undertaken at least annually as a matter of good practice.
RESOURCE IMPLICATIONS	Nil.
EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)	The contents of this report are considered compatible with existing human rights and equalities legislation.
APPENDICES	<p>A. Procedure for Investigating Allegations of Alleged Misconduct by the Authority's Head of Paid Service (Chief Fire Officer), Monitoring Officer and Chief Finance Officer (Treasurer).</p> <p>B. Comparison between 2007 Contract and Procurement Regulations and proposed 2015 Contract Standing Orders.</p> <p>C. Contract Standing Orders.</p>
LIST OF BACKGROUND PAPERS	Nil.

1. **BACKGROUND**

1.1 At its inaugural meeting on 11 April 2007 the Authority approved a number of “in-principle” decisions previously approved by the Shadow Authority, including its Constitutional Governance Framework documents (Minute DSFRA/5 refers). These documents now include, amongst other things:-

- The Accountabilities, Roles and Responsibilities of Members of the Devon & Somerset Fire & Rescue Authority
- Members’ Code of Conduct;
- Member/Officer Protocol;
- Policy on Gifts and Hospitality;
- Scheme of Members Allowances;
- Standing Orders;
- Financial Regulations;
- Procurement and Contract Regulations;
- Scheme of Delegations;
- Corporate Governance Code;
- Treasury Management Policy;
- Strategy on the Prevention and Detection of Fraud and Corruption; and
- “Whistleblowing” Code (Confidential Reporting Policy).

1.2 The Authority Constitutional Governance Framework documents may be viewed on the Authority’s website by following the link below.

www.dsfire.gov.uk/FireAuthority/ConstitutionalGovernance

The constitutional operation of the Authority also features a Committee structure (with associated terms of reference). This is addressed by a report elsewhere on the agenda for this meeting.

1.3 The documents referred to above were drafted by reference to a number of sources, some statutory; some based upon “models” issued either by central government or by professional bodies (e.g. the Chartered Institute for Public Finance Accountancy – CIPFA); and others best practice. While there is no legal requirement for the documents to be reviewed, it is nonetheless considered best practice to review the documents at least on an annual basis to ensure that they continue to be “fit for purpose”. This clearly does not preclude making revisions at any time to any of the documents where this might be required by changes in legislation or internal structure; or the approval of new documents to enhance the governance framework. Indeed, in practice the documents tend to be “dynamic” and are amended as and when the need arises.

1.4 When undertaking the annual review any of the Authority’s constitutional governance framework documents due regard is taken of:

- any current “best practice” models;
- any existing national guidance and model documents;
- similar documents in use by other combined fire and rescue authorities; and
- similar documents in use by constituent authorities.

2. OUTCOME OF MOST RECENT REVIEW

2.1 Each of the Authority's Constitutional Framework documents have again been subject to review over the last twelve months and will continue to be subject to ongoing review with any further proposed revisions submitted to future meetings of the Authority as required. The following changes or proposed changes are set out below.

3. STANDING ORDERS – DISCIPLINARY ACTION

3.1 On 11 May 2015, the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force. The new Regulations remove the provisions in the previous (2001) Regulations relating to the "designated independent person" (DIP) required to be appointed by a local authority before it could dismiss or discipline its head of paid service, monitoring officer or chief finance officer in relation to misconduct.

3.2 The new Regulations set out a new procedure for local authorities to follow, in essence replacing the requirement to appoint a "designated independent person" with a requirement to establish a Panel to advise on matters relating to the dismissal of a relevant officer. This Panel must comprise a minimum of two members and must include "independent persons" appointed under Section 28(7) of the Localism Act 2011.

3.3 The 2015 and the 2001 Regulations only apply to principal local authorities i.e. county councils, district councils and unitary authorities, with the exception of the New Forest National Park Authority (see paragraph 3.4 below). Irrespective of this, however, given that this Authority is a body corporate in its own right, exercising functions of a public authority nature and with the same statutory officers, it would seem odd for it not to have in place an appropriate process relating to its head of paid service (Chief Fire Officer), Monitoring Officer and Chief Finance Officer (Treasurer).

3.4 By virtue of earlier (1993) Regulations, National Park Authorities are required to have in place "designated independent person" provisions only for the Head of Paid Service. Neither the 2001 nor the 2015 Regulations apply to National Park Authorities with the exception of the New Forest National Park Authority, to which the 2001 Regulation requirements for a "designated independent person" apply for the posts of Head of Paid Service, Monitoring Officer and Chief Finance Officer. The 2015 Regulations do not apply to the New Forest National Park Authority. There would seem, therefore, to be little consistency in the application of disciplinary action provisions to single-function authorities other than the "designated independent person" provisions, either under the 1993 Regulations or as extended (to Monitoring Officer and Chief Finance Officer) under the 2001 Regulations, perhaps being considered more appropriate and proportionate.

3.5 Section 5A of the Fire & Rescue Services Act 2004 (as inserted by the Localism Act 2011) empowers fire and rescue authorities to do anything (subject to there being no statutory prescription) considered appropriate either:

- for carrying out its functions; and/or
- for purposes either directly or indirectly incidental to functional purposes.

3.6 Research indicates that other combined fire and rescue authorities have relied on this power to put in place provisions similar to those in the 2001 Regulations for their each of their statutory officers (i.e. Head of Paid Service, Monitoring Officer and Chief Finance Officer).

- 3.7 Currently, the Authority's Standing Orders apply "designated independent person" provisions only to the Head of Paid Service (as per the 1993 Regulations). It is proposed, therefore:
- (a) that the current Standing Order 43(1) and (2) be replaced with the following wording (reflecting the provisions of the 2001 Regulations and extending the "designated independent person" provisions to the Monitoring Officer and Chief Finance Officer [Treasurer]);
 - (b) that the procedure as set out in Appendix A to this report be adopted as the "Authority's approved procedure", as referred to in [new] Standing Order 43(1). (**NOTE:** this procedure is also as set out in the former 2001 Regulations).

[Proposed] Standing Order 43 (Disciplinary Action – Head of Paid Service [Chief Fire Officer], Monitoring Officer and Chief Finance Officer [Treasurer])

- (1). No disciplinary action in respect of the head of the Authority's paid service (the Chief Fire Officer), its monitoring officer or its chief finance officer (the Treasurer), except action described in (2) below, may be taken by the Authority, or by a committee, a sub-committee, a joint committee on which the Authority is represented or any other person acting on behalf of the Authority, other than in accordance with a recommendation in a report made by a designated independent person under the Authority's approved procedure for investigating allegations of misconduct by these officers.
- (2). The action mentioned in paragraph (1) is suspension of the officer concerned for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

4. CONTRACT STANDING ORDERS

- 4.1 The Authority's procurement activities are currently governed by a mixture of both Financial Regulations and more specifically Procurement and Contract Regulations.
- 4.2 Although the Procurement and Contract Regulations have served the Authority well since adoption, recent changes both externally in terms of procurement legislation and within the Service internally have prompted an extensive review of the Regulations to ensure they are fully fit for purpose. Specifically:
- new procurement legislation including new European Procurement Regulations which came into force on 26 February 2015;
 - the development of a new Corporate Procurement Strategy and framework for the Service; and
 - changes to responsibilities, working practices and systems which are now in place and stemming from the new Procurement Strategy.
- 4.3 A new document - Contract Standing Orders – has been developed to reflect all of these changes with Appendix B to this report setting out, for information, a high level comparison between the original 2007 Procurement and Contract Regulations and the proposed 2015 Contract Standing Orders. The proposed Contract Standing Orders are now attached at Appendix C and are commended to the Authority for adoption to replace the existing Procurement and Contract Regulations.

5. OTHER CONSTITUTIONAL GOVERNANCE FRAMEWORK DOCUMENTS

5.1 At this point in time, the other constitutional governance framework documents are considered fit for purpose and no additional amendments are proposed. They are, therefore, commended for endorsement.

5.2 As mentioned earlier, however, the review process is not solely annual but rather dynamic. Further changes will, therefore, be presented to the Authority as and when the need arises.

6. CONCLUSION

6.1 As indicated in this report, the Authority's constitutional documents have again been subject to review over the last twelve months with incidental changes highlighted and others identified for approval.

6.2 As previously reported, the Service has a commitment to continuous improvement to achieve and sustain its stated ambition of being an "excellent" organisation. As part of this, the Authority's constitutional governance framework documents will continue to be subject to ongoing review with any further proposals for amendments being submitted as and when required.

MIKE PEARSON
Clerk to the Authority

PROCEDURE FOR INVESTIGATING ALLEGATIONS OF MISCONDUCT BY THE HEAD OF PAID SERVICE (CHIEF FIRE OFFICER), MONITORING OFFICER AND CHIEF FINANCE OFFICER (TREASURER)

- (1). Where it appears to the Authority that an allegation of misconduct by:
 - (a) the head of the Authority's paid service (the Chief Fire Officer);
 - (b) its Monitoring Officer; or
 - (c) its Chief Finance Officer (Treasurer),as the case may be, requires to be investigated, the Authority must appoint a person ("the designated independent person") for the purposes of this Standing Order.
- (2). The designated independent person must be such person as may be agreed between the Authority and the relevant officer or, in default of such agreement, nominated by the Secretary of State.
- (3). The designated independent person:
 - (a) may direct:
 - i. that the Authority terminate any suspension of the relevant officer;
 - ii. that any such suspension must continue after the expiry of the period referred to in Standing Order 43(2);
 - iii. that the terms on which any such suspension has taken place must be varied in accordance with the direction; or
 - iv. that no steps (whether by the Authority or any committee, sub-committee or officer acting on behalf of the Authority) towards disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (d);
 - (b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Authority, or which the Authority has power to authorise him to inspect;
 - (c) may require any member of staff of the Authority to answer questions concerning the conduct of the relevant officer;
 - (d) must make a report to the Authority—
 - i. stating his opinion as to whether (and, if so, the extent to which) the evidence he has obtained supports any allegation of misconduct against the relevant officer; and
 - ii. recommending any disciplinary action which appears to him to be appropriate for the Authority to take against the relevant officer; and
 - iii. must no later than the time at which he makes his report under sub-paragraph (d), send a copy of the report to the relevant officer.
- (4). The Authority will pay reasonable remuneration to a designated independent person appointed by it and any costs incurred by him in, or in connection with, the discharge of his functions under this procedure.

COMPARISON BETWEEN 2007 CONTRACT AND PROCUREMENT REGULATIONS AND PROPOSED 2015 CONTRACT STANDING ORDERS

General changes

1. Change of name from “Devon & Somerset Fire & Rescue Authority Procurement and Contract Regulations” to “Devon & Somerset Fire & Rescue Authority Contract Standing Orders” to reflect references used in the Local Government Act and to avoid confusion over the European Union (EU) Public Contract Regulations.
2. Remove references to regional procurement strategy and documentation and replaced with the Devon & Somerset Fire & Rescue Service (“the Service”) Procurement strategy and documentation. Update all internal reference changes that are no longer applicable (e.g. former Executive Management Board [EMB] and Senior Management Team [SMT]).
3. Remove detailed descriptions of procurement processes and changes regarding the EU Public Contracts Regulations. Due to change in delegated responsibilities from departments to a centralized procurement function. The Procurement Department has sole responsibility for implementation of any Official Journal of the European Union (OJEU) level procurements on behalf of the Authority and therefore the Regulations no longer act as an EU level guidance document for departments.
4. Removed the number and extent to which there were agreed exceptions to the Authority’s former Procurement and Contract Regulations. There is an emphasis on compliance with legislation but includes the exceptions which are already included and accounted for in legislation.
5. Specific references regarding the procurement procedures, thresholds and guidance relating to Works (Estates) is separate and contained in more detailed guidance and procedures for the department. (Estates Procurement Guidelines and Procedures v9).
6. Includes the essentials which are required to protect the interests of the Authority to ensure the Regulations are easy to read and understand for all levels of staff within the Service. Reducing the page count from 23 to 11. The following, additional guidance documentation, created to meet the specific needs of both the Service as a whole and individual departments, has been produced:
 - Procurement guidance;
 - contract and supplier relationship management guidance;
 - templates and terms and conditions.

These are readily available on the Service intranet and from the Service Procurement Team.

Procedural changes

7. Move away from the decentralized position for procurement and contracting responsibilities to a centralized function with designated officers within the procurement team. All procurements and contracts over a specific value (£20,000) must be managed through the procurement team. Previously departments had responsibility for all values of procurement and contract responsibilities.
8. Move away from the decentralized position for the signing of contracts (Executive Management Board [EMB] and Senior Management Team [SMT]) to a centralised function to designated officers within Corporate Services for all contracts with a value over £20,000 which enables more effective control over the responsibilities for contract creation, contract signature, contract storing and ongoing contract administration. Contracts over a certain value are now created, signed and held in a central location.

9. Move away from numerous prescriptive procurement procedures based on values alone (thresholds). Introduction of one threshold (£20,000) to determine the appropriate place in terms of responsibilities for management of the contract.
10. Irrespective of the value and where the responsibility for the procurement is (Service Procurement Team or within departments) (above or below £20,000), the procurement procedure (competitive process) and the resultant contract must take into account the complexity, risk, market and efficiency of process.
11. Change in emphasis from departments undertaking a prescriptive competitive process to having discretion up to a certain value (£20,000) in determining an appropriate competitive process based on the guidance and templates available.
12. Change in emphasis to ensure that there is an agreed contractual arrangement in place. The Authority's Standard Terms and Conditions (updated version) must be used in all cases. This is to remove or reduce the number of exceptions to undertaking a competitive process previously that resulted in a lack of contractual documents being created. Formal contract agreements must now be created.

Responsibility changes

13. Removing detailed descriptions regarding the remit for pre-procurement responsibilities, supplier and contract management responsibilities, focusing on the responsibilities the Authority has as a local authority body.
14. Moving responsibility for implementing legislation from departments to the procurement team.
15. Moving an activity responsibility from one specific area (Executive Management Board [EMB] and Senior Management Team [SMT], or named individuals in departments) to cross checking across other functions, Procurement, Finance, Democratic services.

DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY

CONTRACT STANDING ORDERS

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DEFINITIONS

Authority (the)	Means the independent body which ensures that the local fire and rescue services (the Service) performs efficiently and in the best interests of the public and the community it serves and is the legal entity for undertaking the procurement process and entering into the Contract.
Contracting Authority	Means the State, regional or local authorities, bodies governed by public law, associations formed by one or more such authorities or one or more such bodies governed by public law.
Contractor	Means an individual or organisation that contract with the Authority to provide goods or services or works.
Contract	Means a formal legal agreement between the Authority and any Contractor for the supply of works, goods or services but does not include any contract of employment or the acquisition, lease of land or real estate.
Corporate Contract Agreement	Means a contract agreed and let on behalf of the whole Service in the name of the Authority.
Disclosure Register	Means a register held by Democratic Services where contracts are let in the name of the Authority by the Service that do not comply with the Contract Standing Orders.
Executive Director	Means the Executive Directors which comprises of those four Service Directors who, together with the Treasurer to the Authority, set the strategic direction of the Devon & Somerset Fire & Rescue Service and provide the most senior officer level of decision making on strategic planning and policy to deliver the organisation's purpose and vision.
Framework Agreement	Means an existing agreement, which may have been let by a contracting authority other than the Devon and Somerset Fire and Rescue Authority, which enables the Authority to call-off from a Contractor to provide services, goods or works at agreed standards and prices. If the Authority calls off services, goods or works from the Contractor then a binding contract comes into place.
Heads of Service	Means members of the Service Leadership Team which comprises those uniformed Area Managers and non-uniformed Heads of Department responsible for the day-to-day running of the Service and making recommendations to the Executive Board on strategic change, based on service delivery and support experience and feedback.
Lead Organisation	Means a different Contracting Authority to the Devon and Somerset Fire and Rescue Authority acting on behalf of the Authority.
Service Officer	Means all persons in the appointment of either the Authority or the Devon & Somerset Fire & Rescue Service.

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Service (the)	Means Devon and Somerset Fire and Rescue Service as set up by the Authority to deliver its statutory functions.
Tender	Means a written offer to supply or purchase goods, execute works or provide services at a stated price.
Value for Money	Means the optimum combination of whole life costs, quality and benefits, including economic, environmental and social value to meet the customer's requirement.

1. GENERAL INTRODUCTION

- 1.1 The Devon and Somerset Fire and Rescue Authority (the Authority) is the independent body which ensures that the local fire and rescue services (discharged by Devon & Somerset Fire & Rescue Service (the Service)) performs efficiently and in the best interests of the public and the community it serves. This means that the Service is answerable for its actions and performance to the general public.
- 1.2 The Service spends approximately £16 million per annum on the procurement of goods, services and works. The Authority has a public duty to ensure this money is spent in the most effective way, delivers value for money and complies with its statutory duties. Accordingly, it is essential for the Service to have in place effective and efficient procurement processes and procedures, to secure competition and to regulate the manner in which tenders are invited for the supply of goods, services, materials or the execution of works. These Contract Standing Orders form part of the constitutional governance of the Authority.
- 1.3 The Contract Standing Orders must be considered in conjunction with other relevant documents regarding the constitutional governance of the Authority including but not limited to the Financial Regulations, Standing Orders, Whistleblowing Code and Strategy on the Prevention and Detection of Fraud and Corruption (Appendix A).
- 1.4 The Clerk is the custodian of the Contract Standing Orders on behalf of the Authority and the Head of Procurement is responsible for keeping them under review and effective. If any EU or UK Law (Directive or Regulation) is changed in a way that affects the Contract Standing Orders, then the applicable law must be observed until the Contract Standing Orders can be revised. If the Contract Standing Orders appear to conflict with other legislation, then the legislation takes precedence. As a minimum these Contract Standing Orders will be reviewed every year.
- 1.5 The rules within these Contract Standing Orders have four main purposes:
 - i. To comply with the laws and principles that govern the spending of public money
 - ii. To deliver value for money and best value services to the public through generating market competition and demonstrating a transparent and consistent way of working
 - iii. To ensure procurement practices and Contracts comply with all relevant legislation, regulations and duties including but not limited to Health and Safety, Equality and Diversity, Social Value, Data Transparency, Information Assurance, Economic and Environmental well-being.
 - iv. To protect individuals, the Service and the Authority from professional misconduct or misadministration

2. STATUS OF CONTRACT STANDING ORDERS

- 2.1 These Contract Standing Orders provide delegated authority to those Service Officers with procurement and contract responsibilities to conduct procurement activity and enter into Contracts on behalf and in the name of the Authority. All invitations to tender and contract documentation must be in the name of the Devon and Somerset Fire and Rescue Authority (the Authority) as the Authority, not the Service, is the legal entity.
- 2.2 The Contract Standing Orders set out the minimum rules. All Service Officers with procurement and contract responsibilities shall maintain awareness and follow guidance relating to the Contract Standing Orders, procurement strategy, procurement and contract documentation, processes and systems implemented by the following departments:
- Democratic Services;
 - Procurement Department; and
 - Finance Department.
- 2.3 The Contract Standing Orders apply to all spend with external Contractors irrespective of the source of funding or types of purchase, and include but are not limited to:
- Revenue;
 - Capital;
 - Grants;
 - ring-fenced government money; and or
 - third party funding, leasing or hire.
- 2.4 The Contract Standing Orders are mandatory for all Service Officers and contravention or breach is a serious matter that may result in disciplinary action. A breach of the Contract Standing Orders will be reported to the Clerk, who will take any further action required including investigation and/or disciplinary action.
- 2.5 In accordance with the Strategy on the Prevention and Detection of Fraud and Corruption; Service Officers must declare any direct or indirect pecuniary interests they may have in procurement or contracts activity within the Authority.

3. EXCEPTIONS TO CONTRACT STANDING ORDERS

- 3.1 The following contracts are not within the scope of the EU Public Contracts Regulations and therefore Contracts may be entered into on behalf of the Authority other than in accordance with the Contract Standing Orders in the following circumstances :
- a. Contracts for the acquisition or lease of land and/or real estate
 - b. Contracts of employment

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- c. A declared emergency as defined by the Civil Contingencies Act 2004 where the works, supplies or services are necessary and proportionate for the protection of life, property or the environment, or to maintain the functioning of the local fire and rescue services for which the Authority is responsible.
- 3.2 Where a contract is entered into on behalf of the Authority in the circumstances of a declared emergency as in (c) above, whether orally or in writing, this shall then be reported to a member of the Executive Board at the earliest opportunity and recorded in the Disclosure Register held by Democratic Services. The following details must be recorded in the Register:
- a. the name and location of the Officer who authorised the Contract
 - b. the value and description of the Contract
 - c. the rationale under which the Contract has been entered

4. EU PROCUREMENT LEGISLATION

- 4.1 Public procurement in the UK and the rest of the European Union (EU) is governed by a number of Directives and Regulations which are then implemented in national legislation known as the EU Procurement Regulations; The Public Contracts Regulations 2015.
- 4.2 The award of Public Contracts irrespective of the contract value entered into on behalf of the Authority must comply with the principles of the EU Procurement Regulations regarding the free movement of goods, equal treatment, non-discrimination, mutual recognition, proportionality and transparency.
- 4.3 The Authority must act in a transparent and proportionate manner undertaking procurements and shall treat Contractors equally and without discrimination. The design of the procurement shall not be made with the intention of excluding it from the scope of the Directives or these Contract Standing Orders or of artificially narrowing competition. Competition shall be considered to be artificially narrowed where the design of the procurement was made with the intention of unduly favouring or disadvantaging certain Contractors.
- 4.4 For public Contracts above the EU Thresholds procedural rules are drawn up to give the principles practical effect and ensure public procurement is opened up to competition. The requirements of the relevant Directive, Regulations or legislation must be complied with in all respects before the contract is entered into.
- 4.5 These Contract Standing Orders detail internal financial thresholds together with the roles and responsibilities of all Service Officers in relation to those thresholds. The thresholds uphold the Authority's responsibilities regarding the procedural rules and principles of the EU Procurement Regulations and other related legislation, regulations and duties.

5. CORPORATE CONTRACT AGREEMENTS

- 5.1 Corporate Contract Agreements for supplies, services and works where the Authority has made a contractual arrangement with a Contractor(s) on behalf of the Service must be used where they exist.
- 5.2 Details of Corporate Contract Agreements will be made available from the Procurement Department on the agreed service systems and Contracts database www.blpd.gov.uk. Any specific processes and practices for using the Corporate Contract Agreements must be followed.
- 5.3 Alternative arrangements to Corporate Contract Agreements must not be used or established without prior agreement from the Procurement Department.

6. COLLABORATIVE PROCUREMENT

- 6.1 Any collaborative procurement arrangements where the Service is not acting as Lead Authority shall still comply with the necessary legal requirements and ensure that the procedures adopted by the Contracting Authority or Lead Organisation or relevant partnership body comply with the necessary legal requirements.
- 6.2 The Procurement Department shall be responsible for agreeing to the use of collaborative procurement arrangements prior to ordering goods, services or works to ensure the interests of the Authority are appropriately protected.
- 6.3 No other public or private body, organisation or authority is entitled to issue invitations to tender or receive tenders in the name of the Authority without the prior written consent of the Procurement Department.

7. ROLES AND RESPONSIBILITIES

- 7.1 The Procurement Department shall ensure:
 - a. implementation and awareness of related procurement legislation
 - b. appropriate guidance and training is provided to Service Officers
 - c. documentation is appropriate to the needs of the Authority and Service
 - d. compliance with these Contract Standing Orders
- 7.2 Executive Directors and the Heads of Service shall ensure, where there is inclusion of items in approved revenue budgets or capital programmes which constitutes authority for the delegated budget holders to incur expenditure and procure goods, works and services, that this is conducted:
 - a. in accordance with these Contract Standing Orders and any other related guidance, documentation, processes and systems
 - b. by Service Officers with the appropriate authorisation and responsibilities

8. FINANCIAL THRESHOLDS

- 8.1 The Authority has agreed two thresholds 'Low Value' and 'High Value' ([Appendix B](#)) that have procedural responsibilities associated with them.
- 8.2 The thresholds will be reviewed by the Clerk and Head of Procurement on behalf of the Service on an annual basis with any subsequent proposal to increase a threshold to be agreed by the Authority at the earliest available opportunity.

9. LOW VALUE PROCUREMENT (LESS THAN £20,000)

- 9.1 Budget holders and Service Officers have delegated responsibility for the management of the procurement process and the award and agreement of Contracts under the 'Low Value' threshold in the following manner:
- a. use of the Authority documentation and guidance provided which is available on the Intranet and from the Service Procurement Team
 - b. use the Authority Standard Terms and Conditions for the award of Contracts included on Purchase orders or available from the intranet and Service Procurement Team
 - c. use the Authority approved financial systems (Government Procurement Cards and E-Series requisitioning) for the purchase of the goods, service or works
 - d. be satisfied about the technical capability of any proposed Contractor
 - e. estimate the value of the procurement by the total aggregated value over a three to four year period, where there is an on-going requirement (considering the whole life costs of the procurement (purchase, maintenance and disposal as applicable))
 - f. use their professional judgement to determine the most appropriate, auditable competitive process based on value, risk and market conditions
 - g. retain a written record of actions taken and the reasons
 - h. seek advice from the procurement department and obtain company financial checks as required
- 9.2 All Service Officers need to be able to demonstrate value for money on behalf of the Authority. The most effective way to do this is to conduct a transparent and competitive process using agreed documentation, systems and processes. Advice in all circumstances can be sought from the Procurement Department, Finance Department or Democratic Services (Authority Solicitor).
- 9.3 Contracts of 'Low Value' can be signed by an authorised budget holder and Service Officers on behalf of the Authority. Where a contract is required it should be agreed and signed by both parties (The Authority and the Contractor) prior to the authorisation of any transactions (purchase orders) relating to the contract.

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9.4 The budget holder is then responsible for ensuring appropriate levels of authorisation of the transactions including any staged payments (purchase orders) of the contract on the Authority approved systems. All orders for works, goods or services must be placed using the Authority approved systems in advance of the invoice being received and coded to the appropriate account codes. Further guidance on raising and authorising Purchase Orders is available on the E-series requisitioning system.

10. HIGH VALUE PROCUREMENT (£20,000 AND ABOVE)

10.1 Management of the procurement process and the agreement of Contracts on behalf of the Authority for 'High Value' procurements is the responsibility of the Procurement Department which will agree with the budget holder and Service Officers the most appropriate approach to the competitive process and contractual documentation to be used.

10.2 The procurement approach will take into account a number of factors to determine the most cost effective and efficient process to achieve value for money including but not limited to;

- a. contract value and application of the EU thresholds and procedures
- b. other legislative requirements
- c. market conditions and competition
- d. collaborative opportunity
- e. availability of Contracts and Framework Agreements
- f. supply risks

10.3 The procedural rules associated with the Public Contracts Regulations 2015 shall be followed in all instances where applicable.

10.4 All Contracts of 'High Value' must be signed by an Authorised Officer as designated by the Clerk to the Authority and Director of Corporate Services. Contracts must be agreed and signed by both parties (The Authority and the Contractor) prior to the authorisation of any subsequent transactions (purchase orders) relating to the contract. Any deviation from this will be construed as a breach of the Contract Standing Orders unless agreed in advance in writing by the Procurement Department.

10.5 The budget holder is then responsible for ensuring appropriate authorisation of the transactions and any staged payments (purchase orders) of the Contract on the Authority approved systems. All orders for works, goods or services must be placed using the Authority approved systems and coded to the appropriate account codes in advance of the invoice being received. Further guidance on raising and authorising Purchase Orders is available on the e-series requisitioning system.

11. ADVERTISED TENDERING

11.1 All Advertised Tendering Opportunities will be undertaken by the Procurement Department or agreed Service Officers on the Authority agreed e-tendering solution in compliance with [Appendix C](#).

Original Approval Date:

11.2 Any alternative process to using the agreed e-tendering portal must be agreed in writing by the Procurement Department.

12. CONTACT DETAILS

Procurement: Procurement@dsfire.gov.uk

Democratic Services: Democraticservices@dsfire.gov.uk

Finance: Finance@dsfire.gov.uk

APPENDIX A – FIRE AUTHORITY CONSTITUTIONAL GOVERNANCE

Copies of the Authority's constitutional governance framework documents can be found through the following links:

- Roles and Responsibilities
- Standing Orders
- Financial Regulations
- Treasury Management Policy
- Contract Standing Orders
- Scheme of Delegations
- Members Code of Conduct
- Protocol for Member/Officer Relations
- Policy on Gifts and Hospitality
- Scheme of Members Allowances
- Corporate Governance Code
- 'Whistleblowing Code' (Confidential Reporting Policy)
- Strategy on the Prevention and Detection of Fraud and Corruption
- Code of Recommended Practice on Local Authority Publicity

APPENDIX B – EU AND DSFRS FINANCIAL THRESHOLDS

EU Procurement Thresholds from 1 January 2015 (net of VAT)

Supplies and Services	Works
£172,514 (€207,000)	£4,322,012 ³ (€5,186,000)

The Authority Thresholds from 1 January 2015

The Total Value shall be a calculation of the estimated value of a procurement based on the total amount payable, net of VAT, including any form of option and any renewals of the contracts:

- (1). Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period including potential renewals e.g.: Software license agreement and any annual maintenance agreements which may be required for the life of the software including consultancy or training days.
- (2). Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those items over a 3 to 4 year period e.g.: Stationery, Computer Consumables, PPE items should be based on the total value over to be paid over a 3 to 4 year period.

A procurement shall not be subdivided with the effect of preventing it from falling within the scope of the EU or Service thresholds, unless able to be justified by objective reasons.

Supplies and Services

1. Low Value means less than £20,000
2. High Value means £20,000 and above

Works contracts

1. Low Value means less than £150,000
2. High Value means £150,000 and above

Works contracts and procurements associated with the Estates Department are subject to the DSFRS Estates Procurement Guidelines and Procedures document.

APPENDIX C – ADVERTISED TENDERING

Advertised Tendering opportunities must only be undertaken through the Authorities agreed e-tendering portal

[Bluelight Emergency Services E-Sourcing Suite](#)

The agreed e-tendering portal will be the basis through which the Authority advertises the tendering opportunity and seeks expressions of interest and access to documentation.

If deemed appropriate or required through legislation, opportunities will also be advertised elsewhere.

SUBMITTING AND OPENING TENDERS

Every Invitation to Tender will state that a tender will only be considered if it is received by the due date and time. The e-tendering solution will automatically reject tenders received after the due date and time.

Tenders not sent and received through the e-tendering solution are subject to special controls, and advice from the Procurement Department to ensure an auditable and secure process for receipt of tenders must be in place and followed.

ACCEPTING TENDERS

All contract awards should be based on obtaining best value for money for the Authority. This award decision must be on the basis of the whole life costs and the award criteria which must be clearly documented in the invitation to tender or quote and in line with the related legislation.