

# **Tyne and Wear Fire and Rescue Authority**

## **Standing Orders**



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#### **A. Membership**

- A1. The Authority shall consist of 17 members, 16 of which shall be appointed by the Metropolitan District Councils within the County of Tyne and Wear in accordance with Schedule 10 of the Local Government Act 1985 and in each case from amongst the members of the Council concerned, together with the person who is for the time being the Police and Crime Commissioner for Northumbria.
- A2. Members appointed by a Constituent Council shall be appointed and continue in office in accordance with Sections 31-32 of the Local Government Act 1985 (as amended).
- A3. Where a vacancy occurs from amongst members appointed by a Constituent Council the provisions of Section 32 of the Local Government Act 1985, (as amended) shall apply.

#### **Chair and Vice Chair**

- A4. The Chair and Vice Chair shall be elected annually by the Authority from among its members and shall unless they resign, cease to be a member of the Authority or become disqualified, act until their successors become entitled to act as Chair or Vice Chair.
- A5. On a vacancy occurring in the office of Chair or Vice Chair, an appointment to fill the vacancy shall be made at the next ordinary meeting of the Authority.
- A6. The election of the Chair shall be the first business transacted at the Annual Meeting of the Authority.
- A7. Anything required to be done by, to or before the Chair may be done by, to or before the Vice-Chair.

#### **Sealing of Documents**

- A8. The Seal of the Authority shall be kept in the custody of the Clerk to the Authority or, with their agreement, the Deputy Clerk and the affixing of the Seal shall be attested by the Chair, the Clerk or the Deputy Clerk to the Authority or persons nominated by them in writing.
- A9. A decision of the Authority shall be sufficient authority for the sealing of any document necessary to give effect to the decision.
- A10. A record of every sealing of a document to which the Seal shall have been affixed shall be made and shall be signed by the person who has attested the Seal.

- A11. The Seal of the Authority shall be affixed to those documents which in the opinion of the Clerk to the Authority require to be sealed.

### **Appointment of Spokespersons**

- A12. The Authority shall, from among its members, appoint annually a spokesperson from each of the Constituent Councils for the purpose of enabling questions on the discharge of the functions of the Authority to be put during the proceedings of that Constituent Council. The Constituent Council may nominate a member to act as spokesperson for the purpose of this Standing Order.

### **Principles of Decision Making**

- A13. All decisions of the Authority will be made in accordance with the following principles:
- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
  - (b) due consultation and the taking of professional advice from officers;
  - (c) respect for human rights;
  - (d) a presumption in favour of openness; and
  - (e) clarity of aims and desired outcomes.

## **B. Meetings of the Authority**

### **Dates of Meetings**

- B1. In addition to the Annual Meeting and any meeting convened by the Chair or by members, meetings for the transaction of general business shall be held in each year at the times and on the dates fixed at the Annual Meeting.

### **Extraordinary Meetings**

- B2. An extraordinary meeting of the Authority may be called at any time by the Chair. If the Chair refuses to call an extraordinary meeting of the Authority after a requisition for that purpose, signed by three members of the Authority representing at least two of the constituent authorities has been presented to them, or if, without so refusing, the Chair does not call an extraordinary meeting within seven days after the requisition has been presented to them, then any three members of the Authority, on that refusal, or on the expiration of those seven days, as the case may be, may forthwith call an extraordinary meeting of the Authority.
- B3. No business shall be considered at any extraordinary meeting save such as is specified in any resolution of the Authority calling such meeting, or as the case may be in the requisition presented to the Chair by members.

## **Summons**

- B4. Five clear working days at least before a meeting of the Authority the Clerk shall cause a notice of the time and place of the intended meeting to be published at their office, such notice where the meeting is called by members of the Authority shall be signed by those members and shall specify the business proposed to be transacted thereat. A summons to attend the meeting specifying the business proposed to be transacted thereat and signed by the Clerk shall be left at, or sent by post to, the usual place of residence of every member of the Authority, or to such other place as may be requested by a member by no later than five working days before a meeting of the Authority.
- B5. Except in the case of business required by statute to be transacted at the annual meeting no business shall be transacted at a meeting other than that specified in the summons.

## **Quorum**

- B6. The quorum of the Authority, any of its Committees or Sub-Committees shall be one quarter of the total membership of the Authority, Committee or Sub-Committee as appropriate or at least two members whichever is the greater and no business shall be transacted at any meeting unless a quorum be present.
- B7. If during any meeting of the Authority the meeting becomes inquorate, the Chair shall declare that there is not a quorum present the meeting shall stand adjourned until the next ordinary meeting unless an extraordinary meeting is convened for the purpose of dealing with any unfinished business.
- B8. A quorum found to be present under Standing Order B6 at any meeting of the Authority shall be deemed to continue to be present at that meeting until found otherwise under Standing Order B7.

## **Adjournment**

- B9. At any meeting which has sat continuously for three hours the Chair shall have discretion to adjourn the meeting for a short period of time unless the majority of the members present, by vote, determine it shall stand adjourned to another day the date and time of which shall be determined by the members.

## **Chair of Meeting**

- B10. At a meeting of the Authority the Chair of the Authority shall preside. If the Chair is absent from the meeting the Vice Chair of the Authority, shall preside. If the Chair and Vice Chair are absent from the meeting, such member as the members present shall choose shall preside.
- B11. Any power or duty of the Chair in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

- B12. The ruling of the Chair as to the construction or application of these Standing Orders shall be final.

### **Public**

- B13. The public shall be admitted to all the meetings of the Authority unless excluded by resolution in accordance with the provisions of the Local Government Act 1972 as amended.
- B14. No member of the public shall interrupt or take part in the proceedings at any meeting. If any member of the public interrupts or takes part in the proceedings at any meeting, the Chair shall warn them and if they continue the interruption the Chair shall order their removal.
- B15. The Chair may at any time, if they think it desirable in the interest of order, move that the meeting be adjourned or suspended, and if the motion is carried, the meeting shall be adjourned or suspended to a time to be determined by the Members.

### **Order of Business**

- B16. The Authority on motion duly seconded and carried without debate, or on motions by the Chair, which shall not require to be seconded, may vary the order of business as set forth on the agenda so as to give precedence to any business.

### **Minutes**

- B17. Minutes of the proceedings of a meeting of the Authority shall be printed and a copy of all such minutes as are unconfirmed shall be sent so as to reach each member of the Authority at least 5 working days before the meeting of the Authority at which such minutes are to be submitted for confirmation.
- B18. No discussion shall be allowed upon the minutes except as to their accuracy and any objection upon that ground shall be made by motion.
- B19. Immediately after confirmation the minutes shall be signed by the Chair.
- B20. Unless and until the contrary is proved, a meeting of the Authority, a minute of whose proceedings has been made and signed in accordance with Standing Order B19 above, shall be deemed to have been duly convened and held and all members present at the meeting shall be deemed to have been duly qualified.

### **Notices of Motion**

- B21. A Notice of Motion may be given in writing in accordance with Standing Order B22 to raise any matter relating to the functions of the Authority.
- B22. Notice of every motion other than a motion which under Standing Order B27 may be moved without notice, shall be signed by the members of the Authority giving the notice, of which there shall be at least two in number,

and delivered not later than 12 noon on the ninth working day before the next meeting of the Authority, at the office of the Clerk by whom it shall be dated, numbered in the order in which it is received and entered in a book which shall be open for inspection by every member of the Authority.

- B23. The Clerk shall set out in the summons for every meeting of the Authority all motions of which notice has been duly given in the order in which they have been received, unless the member giving such a notice intimated in writing, when giving it, that he proposed to move it at some later meeting, or has since withdrawn it in writing.
- B24. If a motion thus set out in the summons be not moved either by a member who gave notice thereof or by some other member on his behalf it shall, unless postponed by consent of the Authority, be treated as withdrawn and shall not be moved without fresh notice.
- B25. No motion to rescind any resolution passed within the preceding six months shall be proposed unless the notice thereof given in pursuance of these orders bears the names of at least nine of the members of the Authority. When any such motion has been disposed of by the Authority, it shall not be open to any member to propose a similar motion within a further period of six months.
- B26. No member shall have more than two notices of motion on the agenda at the same time.
- B27. The following motions and amendments may be moved without notice:-
1. Appointment of a Chair of the meeting at which the motion is made.
  2. Motions relating to the accuracy of the minutes, closure, adjournment, proceeding to next business, or the motion "That the question be now put".
  3. Variation of the order of business.
  4. Motion to exclude the press and public from a meeting in accordance with the Access to Information Rules.
  5. Appointment of a Committee or members thereof, occasioned by an item mentioned in the summons to the meeting.
  6. That permission be given to withdraw a motion.
  7. Extending the time limit for speeches.
  8. Amendment to a Motion.
  9. The exclusion of a member from the meeting while any contract, or other matter in which they have a disclosable pecuniary interest, direct or indirect, is under consideration.

10. Suspending standing orders, provided that a motion to suspend standing orders shall not be moved without notice unless there shall be present at least one half of the whole number of the members of the Authority.
11. That a member who fails to conduct themselves in accordance with order B37, be not further heard or do leave the meeting.

### **Amendment, Adjournment and Closure Motions**

- B28. When a motion is under debate, no further motion shall be received except the following:-
1. To amend the motion (in these orders called “an amendment”).
  2. That the meeting does now adjourn.
  3. That the debate be adjourned.
  4. That the question be now put.
  5. That the meeting proceeds to the next business.
- B29. No member shall move more than one amendment upon any motion and one amendment only shall be permitted at one and the same time upon any motion. Every amendment shall be relevant to the motion to which it is moved and shall be seconded and if so required by the Chair, shall be reduced to writing, signed by the mover and handed to the Chair. A member shall not address the Authority more than once on each amendment and the right of reply shall not extend to the mover of an amendment, which having been carried, has become the substantive motion.
- B30. Notwithstanding that a motion or a motion and an amendment shall be before the Chair and form the subject or subjects of debate at the time any member may at the conclusion of any speech move one of the following:-
1. That the meeting does now adjourn.
  2. That the debate be adjourned.
  3. That the question be now put.
  4. That the meeting proceeds to the next business.
- B31. Any motion under order B30, must be seconded but it need not be reduced to writing. The mover may speak upon it but the seconder shall not be permitted to speak beyond formally seconding it. Upon any such motion being made, the mover of the substantive motion under debate at the time such motion is made may (without prejudice to his ultimate right of reply if the motion be not carried) be heard in reply for a period not exceeding five minutes, immediately after which the question shall be put without further debate.

- B32. If the motion “that the meeting does now adjourn” is carried, the business on the agenda undisposed of shall be printed on the agenda of the next ordinary meeting or of such meeting as shall be specified by the adjournment motion.
- B33. If the motion “that the question be now put” is carried, the motion or amendment under debate shall, subject to the Chair permitting two further speakers and to the right of reply of the mover of an original motion, be forthwith put.
- B34. When a motion is carried “that the meeting proceeds to the next business” the question under discussion shall be considered as dropped.
- B35. A motion or an amendment may be withdrawn by the mover with the consent of their seconder and of the Authority, which consent shall be signified without debate and no member may speak upon it after the mover has asked permission for its withdrawal unless such permission shall have been refused.

### **Suspension of Standing Orders**

- B36. Subject to order B27.10 any standing order may be suspended so far as regards any business at the meeting where its suspension is moved, seconded and carried.

### **Rules of Debate**

- B37. The following rules shall apply to the conduct of debate at meetings of the Authority:-
1. No speech shall exceed ten minutes in case of a mover of a motion or five minutes in any other case except by consent of the Chair.
  2. A member who speaks shall direct their remarks strictly to the motion under discussion or to a personal explanation or a question of order. A point of order shall relate only to an alleged breach of a standing order or statutory provision and on rising the member shall immediately specify the standing order or statutory provision and the way it has been broken.
  3. The ruling of the Chair on a point of order or the admissibility of a personal explanation shall be final and shall not be open to discussion.
  4. A member shall not address the meeting more than once on the same motion or amendment, except upon a point of order or to offer a personal explanation. The mover of an original motion may however, reply, but they shall strictly confine themselves to answering points raised by previous speakers and shall not introduce new matter into the debate. After the reply, the question shall be put forthwith.
  5. Whenever the Chair rises (whether physically or by announcement to that effect) all members shall resume their seats and remain silent so

that the Chair shall be heard without interruption.

6. The Chair shall call the attention of the Meeting to continued irrelevance, tedious repetition, unbecoming language or any breach of order on the part of a member, and may direct such a member, if speaking, to discontinue their speech, or in the event of disregard of the authority of the Chair, to retire for the remainder of the meeting.

### **Voting**

- B38.
1. Where the appropriate number of members so require before a vote is taken with respect to a matter falling to be decided at a meeting of a Committee or Sub-Committee of the Authority, the minutes of the proceedings of that meeting shall show whether each person present cast their vote for the question or against the question or whether they have abstained from voting.
  2. Where any member of a body mentioned in standing orders B38.1 above so requires in relation to a vote or any question at the conclusion of a meeting of that body, the minutes of the proceedings of that meeting shall show whether that person cast their vote for the question or against the question or whether they abstained from voting.
  3. For the purposes of standing order B38.1 above the appropriate number is the number equal to the majority of members of that Committee or Sub-Committee as the case may be.
  4. In the case of equality of votes the Chair shall have a second or casting vote.
- B39. Where there are more than two persons nominated for any position to be filled by the Authority and of the votes given there is not a majority in favour of one person, the name of the person having the least numbers of votes shall be struck off the list and a fresh vote shall be taken and so on until a majority of votes is given in favour of one person.

### **Members' Rights**

- B40. Unless specifically authorised to do so by the Authority a member of the Authority shall not issue any order respecting any works which are being carried out by or on behalf of the Authority or claim by virtue of his membership of the Authority any right to inspect or to enter upon any lands or premises which the Authority has the power or duty to inspect or enter.

### **Staff (Matters Affecting)**

- B41. If any question arises at a meeting of the Authority to which the public (including the press) are admitted as to exempt information as defined in the Local Government Act 1972 (as amended), such question shall not be the subject of discussion until the Authority has decided whether or not the public (including the press) shall be excluded pursuant to Section 100A (4) of the Local Government Act 1972.

### **Members' Interests**

- B42. A member must withdraw from the meeting room during the whole of the consideration of any item of business in which they have a Disclosable Pecuniary Interest, except where permitted to remain as a result of a dispensation.
- B43. The Clerk shall record in a book to be kept for the purpose particulars of any disclosure made under Standing Order B42, and of any dispensations, and the book shall be open at all reasonable hours to the inspection of any member of the Authority.

### **Officers' Interests**

- B44. If it comes to the knowledge of an officer employed, whether under the Local Government Act 1972 or any other enactment that a contract in which they have a pecuniary interest, whether direct or indirect (not being a contract to which they themselves are a party) has been, or is proposed to be, entered into by the Authority or any Committee thereof, they shall as soon as practicable give notice in writing to the Clerk of the fact that they are interested therein.
- B45. (i) With the exception of unsolicited gratuities received in accordance with Standing Order B45(ii) an Officer of the Authority shall not, under cover of their office or employment accept any fee or reward whatsoever other than their proper remuneration.
- (ii) An Officer of the Authority may accept unsolicited gratuities offered to them during the normal course of their employment provided that such gratuities are disposed of for charitable purposes to a charity to be determined by the appropriate Chief Officer who shall maintain a written record of all such donations.

## **C. Committees**

### **Appointment of Committees and Sub-Committees**

- C1. The Authority shall at the Annual Meeting appoint such Committees and Sub-Committees as are required to be appointed by or under any statute and may at any time appoint such other Committees as are necessary to carry out the work of the Authority but, subject to any statutory provision in that behalf, may at any time dissolve a Committee or alter its membership. The seats on each Committee or Sub-Committee shall be allocated to each political group represented on the Authority in accordance with the Local Government (Committees and Political Groups) Regulations 1990 (as amended) or as otherwise agreed under the said Regulations.
- C2. Except as otherwise may be provided by the Authority, no Committee or Sub-Committee shall continue in office longer than the next Annual Meeting of the Authority.

- C3. Every vacancy on a Committee or Sub-Committee shall be reported by the Clerk at the first meeting of the Authority after the vacancy has arisen and the Authority may thereupon proceed to fill the vacancy.
- C4. A vacancy on any outside body whose activities are within the purview of the Authority shall be reported to, and filled by, the Authority after the vacancy has arisen and the Authority may thereupon proceed to fill the vacancy.

#### **D. Matters Affecting Individual Meetings**

##### **Attendance**

- D1. 1. The Clerk shall provide a book to record the attendance of each member at each meeting of the Authority; its committees or sub-committees and it shall be the responsibility of each member individually to sign such book or cause their name to be recorded therein by the Clerk before the meeting ends.
2. The provisions of Standing Order D1.1 shall not prejudice the right of a member to ask that the record be corrected at the next meeting.

##### **Failure to Attend Meetings**

- D2. Subject to the exceptions prescribed by statute, if a member of the Authority fails throughout a period of six consecutive months to attend any meeting of the Authority, committee or sub-committee, they shall, unless the failure was due to a reason approved by the Authority, cease to be a member of the Authority. (For the purpose of this provision the period of failure to attend shall date from the first meeting which the member could have attended as a member).

##### **Resignation**

- D3. 1. A person appointed to the Office of Chair, Vice-Chair or (subject to D3.3 below) member of the Authority may at any time resign their office by a notice of resignation in writing signed by them and delivered to the Clerk.
2. The resignation shall take effect upon receipt by the Clerk of the notice of resignation.
3. The member who is for the time being the Police and Crime Commissioner for Northumbria may agree with the Authority that they shall cease to be a member whereupon their membership shall cease on the date agreed between the Commissioner and the Authority as the date on which the Commissioner's membership should cease.

##### **Appointment**

- D4. A person shall, so long as they are and for twelve months after they cease to be, a member of the Authority, be disqualified from being appointed by the Authority to any paid office.

- D5. A member shall not solicit for any person any appointment under the Authority or recommend any person for such appointment or for promotion, but this Order shall not preclude a member from giving a written testimonial of a candidate's ability, experience or character for submission to the Authority with an application for appointment.
- D6. Notice of the preclusion of canvassing of members or officers directly or indirectly for any appointment under the Authority shall be included in every invitation of applications or in the form of application.

## **E. Contracts Rules**

### **E1. Contracts to comply with Standing Orders**

- E1.1 (a) Every contract entered into by the Authority shall comply with any requirement of the UK Public Contract Regulations having legal effect in the United Kingdom and with these Standing Orders.
- (b) Every contract made by or on behalf of the Authority shall comply with these Standing Orders, unless the Authority or the Committee having charge of the matter which the contract relates to, directs that an exception be made (within legislative boundaries).
- (c) Every such exception and the reason for it shall be recorded in the Minutes of the Authority or the Committee concerned.
- (d) Where procurement exceeds the UK Public Contract Regulations thresholds the exemptions set out in (b) may not be permitted. Advice must be sought from the Monitoring Officer.
- (e) In the Standing Orders relating to Contracts numbered E2 to E6 references to "the Authority" shall (when the context so permits) include any Committee to which or any officer to whom has been delegated the power to enter into any contract on behalf of the Authority.
- (f) Chief Officers and managers are responsible for ensuring that employees comply with these Contracts Rules and for ensuring that appropriate contractual provisions are in place for securing compliance by agency workers, interim post-holders, consultants and agents.

### **E2. Exempt Contracts**

- E2.1 The following contracts are exempt from the requirements of these Contracts Rules:
- a) employment contracts (but not agency/interim/self-employed workers);

- b) contracts relating solely to disposal or acquisition of an interest in land or property;
- c) contracts for specialist legal advice or representation or medical advice, or other expert advice in the context of actual or potential litigation or otherwise which the Monitoring Officer considers it necessary to obtain;

### **E3. Exceptions to Standing Orders**

- E3.1 No exception from any of the rules E4-E6 shall be made unless listed in paragraph E3.4 below and approved in accordance with rule E3.2 or specifically authorised by the Authority.
- E3.2 Where a Chief Officer wishes to apply any exception to these Contracts Rules they must first seek the approval of the Monitoring Officer.
- E3.3 Where procurement exceeds the UK Public Contract Regulations thresholds, the exceptions set out in E3.4 may not be permitted. Advice must be sought from the Monitoring Officer.
- E3.4 Subject to the obtaining of all necessary approvals rules E4-E6 need not be applied to the following categories of procurement, provided that where the procurement is equal to or exceeds £500,000 in value the prior approval of the Authority is obtained:
  - (a) Procurement by auction;
  - (b) Procurement when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract can only be awarded to a particular third party;
  - (c) The execution of mandatory works by statutory undertakers;
  - (d) The execution of services or works in which the personal skill or knowledge of the person carrying out the works is of primary importance;
  - (e) Call-offs via a framework agreement previously awarded by the Authority or under which the Authority has a right to participate which offers value for money and provided the Authority follows the framework's call-off procedures;
  - (f) Contracting via a contract awarded by a third party under which the Authority has a right to participate and offers value for money, and provided the Authority follows the terms and conditions of the contract;
  - (g) Urgency, when (but only if it is strictly necessary) the time required to fully comply with these Contract Rules would be prejudicial to the Authority's interests or its ability to discharge

its statutory duties. In these cases, consideration should still be given to those parts of the Rules that could still be followed particularly the need for competition. Where the value of the procurement is equal to or over £75,000 a report shall be submitted to the next meeting of the Authority with an explanation of the circumstances giving rise to the need for the exemption and detailing the procurement process actually followed. The requirements of the Public Contracts Regulations 2015 must still be followed;

- (h) Procurement of works, supplies or services below the applicable UK Public Contract Regulations thresholds ) to meet the requirements of principal contracts that have been awarded in-house as a result of a competitive tendering process. Where the principal contract has not been awarded via competition then this exception shall not apply. Further, this exception is restricted to those elements of these Rules that cannot reasonably be followed.

## **E4. Thresholds**

### **E4.1 Procurements below £20,000**

- E4.1.1 The Chief Fire Officer may procure works, supplies or services (that are not already covered by an existing Authority contract or a contract on which the Authority has committed to participate) up to a value of less than £20,000 provided that he can objectively demonstrate value for money, has considered obtaining quotes and the use of local suppliers. The Chief Fire Officer shall keep records in a form agreed by the Finance Officer showing how value for money has been achieved.

### **E4.2 Procurements between £20,000 and such level as equates to the applicable UK Public Contract Regulations Thresholds for supplies and services..**

(For the avoidance of doubt, Rule E4.2 applies to all contracts for supplies, services and works)

- E4.2.1 All proposals for procurement at or above £20,000 (excluding routine call-offs from existing frameworks) must be notified to Procurement Services at the earliest opportunity. Procurement Services shall then determine, in consultation with the Chief Fire Officer, the most appropriate procurement strategy.

#### **E4.2.2 Quotes**

Where a quotation process is deemed by Procurement Services to be appropriate, at least three written relevant

quotations shall be requested and considered from suitable third parties. In addition, where available, any in-house provider must also be asked to provide a quotation. Where a corporate electronic quotation system is provided this is to be used.

Where it is not reasonably practicable to obtain three quotations the Finance Officer and the Chief Fire Officer may agree to reduce the number of quotations required to be obtained provided the reasons for this are documented before the purchase is made or the contract is let.

#### E4.2.3 Tenders

Where a tender process is deemed by Procurement Services to be appropriate, the contract shall be awarded after following one of the procurement procedures below (subject to legislative changes to procedures), specifics for each procedure are detailed at E6.2:

- a) the Open Procedure;
- b) the Restricted Procedure;
- c) Standing Lists
- d) framework agreements let by Authority;
- e) the Competitive Dialogue Procedure;
- f) the Negotiated Procedure without prior Publication Procedure;
- g) Competitive Procedure with Negotiation;
- h) the Innovation Partnership;
- i) Frameworks from other Public Sector Organisations
- j) the Dynamic Purchasing System Procedure;

A tender process must be followed for contracts over the UK Public Contract Regulations Threshold for supplies, services and works.

Where UK Public Contract Regulation procedures are changed they will also be considered.

#### E4.3 Contracts with a value equivalent to or exceeding the relevant UK Public Contract Regulations Thresholds

- E4.3.1. These procurements must be undertaken in accordance with one of the procedures set out in the Public Contracts Regulations 2015 (as amended). These thresholds are subject to variation by legislation from time to time.

#### E4.4 Estimating Contract Values/Aggregation

- E4.4.1 Where there is a reference to the value of any contract, framework agreement or transaction, it shall mean its total estimated value net of VAT over the entire term of the contract or framework (as the case may be), including all options, permitted extensions and variations. Where a contract does not include a total price the estimated value will be the amount of the consideration payable each month multiplied by 48 (i.e. 4 years).
- E4.4.2 Procurement Services and the Chief Fire Officer shall have regard to the optimum packaging of works, supplies or services, particularly works, supplies or services of a similar nature, which are likely to be carried out in connection with a particular project in order to achieve the best value for money, including social value. A proposed contract must not be divided into separate lower value contracts simply to avoid the full application of these Rules. This does not however affect the determination of the number and size of lots within an opportunity and breaking into smaller lots where possible must be considered and reasons not to break into lots should be recorded.

### **E5. Approvals**

#### E5.1. General Procurements

- E5.1.1 Procurement Services must agree the procurement process for all procurements with a value equal to or over £20,000.
- E5.1.2 In all cases the Chief Fire Officer must consider the level of engagement needed with Members and service users.

#### E5.2. Consultancy Services

- E5.2.1 Any proposals to use external consultants should in the first instance be approved by the Chief Fire Officer. Once approved and where the estimated cost is likely to exceed £50,000 it shall also be agreed in advance with the Finance Officer and Monitoring Officer. Where the cost is estimated to be equal to or exceed £100,000 the prior approval of the Authority is required before advertising, except in urgent cases where approval is required before

award. In the case of external consultants, Procurement Services and the Chief Fire Officer must also comply with the additional requirements set out in the Appendix to these Rules.

## **E6. Procurement Process**

### **E6.1. Advertising Contracting Opportunities**

- E6.1.1 Where the value of the proposed contract is on or above the applicable UK Public Contract Regulations threshold, a Contract Notice must first be published on Find a Tender Service (FTS) in the form prescribed. Procurement opportunities with a value of £25,000 or above are required to also be advertised on Contracts Finder.
- E6.1.2 For tender opportunities, Procurement Services, in consultation with the Chief Fire Officer, shall consider the most appropriate and cost effective form of publicity for the particular opportunity including considering the use of local media/ newspapers/ trade journals/ online channels.
- E6.1.3 All procurement opportunities (regardless of value) should be considered as to whether their advertising would be beneficial in order to encourage competition.

### **E6.2. Tender Procedures**

#### **E6.2.1 Open Procedure**

- E6.2.1.1 The Open Procedure means a tender procedure leading to the award of a contract/framework agreement whereby all interested parties may tender.
- E6.1.1.2 Tender documentation shall be made available to all who apply prior to the document download date.

#### **E6.2.2 Restricted Procedure**

- E6.2.2.1 The Restricted Procedure means a tender procedure leading to the award of a contract whereby only parties providing information for qualitative selection as highlighted by the Authority are invited to participate. The Restricted Procedure must only be used for procurements over the Procurement Threshold with the Open Procedure being mandatory for sub-Procurement Threshold values.

E6.2.2.2 For tenders over the UK Public Contract Regulations threshold, Officers should select not less than five companies or individuals to be invited to tender, the procurement may only proceed with the prior written agreement of the Finance Officer and the Monitoring Officer.

**E6.2.3 Standing Lists**

E6.2.3.1 Any Standing Lists will be maintained by the Chief Fire Officer.

**E6.2.4 Framework Agreements let by the Authority**

E6.2.4.1 Where required, the Chief Fire Officer or their nominated officers will maintain Framework Agreements with a range of third parties for works, goods or services.

E6.2.4.2 Any Framework Agreement shall be awarded in accordance with these Rules. For the avoidance of doubt, the procurement of a Framework Agreement for consultancy services shall also comply with the requirements set out in Rule E.5.2 (Additional Requirements on the Use of Consultants).

E6.2.4.3 Any call-off contract awarded pursuant to a Framework Agreement shall be undertaken in accordance with the procedures set out in the relevant Framework Agreement.

**E6.2.5 Competitive Dialogue Procedure**

E6.2.5.1 Competitive Dialogue Procedure means a procedure in which any third party may make a request to participate, and whereby the Authority conducts a dialogue with the third party admitted to that procedure with the aim of developing one or more suitable alternative solutions capable of meeting its requirements and on the basis of which the third parties chosen by the Authority are invited to tender.

E6.2.5.2 The Competitive Dialogue Procedure may only be used in the award of contracts which are, in the opinion of the Finance Officer and the Monitoring Officer, complex contracts and where there is a need for the Authority to discuss all aspects of the proposed contract with candidates. Such dialogue is not permitted

under open and restricted procedures.

## **E6.2.6 Negotiated Procedure without Prior Publication**

E6.2.6.1 Negotiated Procedure without Prior Publication where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted in response to an open or restricted procedure.

E6.2.6.2 This procedure may only be used where the works, supplies or services can only be provided by a particular economic operator for any of the following reasons:

- The aim of the procurement is the creation or acquisition of a unique work of art or artistic performance;
- Competition is absent for technical reasons;
- The protection of exclusive rights, including intellectual property rights where no reasonable alternative or substitute exists; or
- Insofar as is strictly necessary where for reasons of extreme urgency brought about by events unforeseeable by the contracting Authority, the time limits for the open and restricted procedures or competitive procedures with negotiation cannot be complied with and with the prior agreement of the Finance Officer and the Monitoring Officer.

## **E6.2.7 Competitive Procedure with Negotiation**

E6.2.7.1 Competitive Procedure with Negotiation means any economic operator may submit a request to participate in response to a call for competition by providing the information for qualitative selection that is requested by the contracting Authority.

E6.2.7.2 After the evaluation of initial tenders, the Authority may decide to award the contract to one of the bidders, or may negotiate on an equal treatment basis with the bidders.

E6.2.7.3 A reduction of economic operators via negotiations is undertaken which results in a preferred bidder being selected.

## **E6.2.8 Innovation Partnership**

E6.2.8.1 Innovation Partnership Procedure to undertake research and development activities for innovative product, service or works.

E6.2.8.2 The contracting Authority may decide after qualitative selection to set up with one or more partners conducting separate research and development activities.

E6.2.8.3 The contracts shall be awarded on the sole basis of the award criterion of the best price-quality ratio and structured in successive phases.

## **E6.2.9 Frameworks**

E6.2.9.1 Framework agreement means an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

## **E6.2.10 Dynamic Purchasing System**

E6.2.10.1 The dynamic purchasing system follows the rules of the restricted procedure for commonly used purchases which are generally available on the market and meet requirements.

E6.2.10.2 This system shall be operated as a completely electronic process and shall be open throughout the period of validity on the purchasing system to any economic operator that satisfies the selection criteria.

## **E6.3. Invitation to Tender**

E6.3.1 The Invitation to Tender (or Participate in Dialogue or Negotiate) shall include details of the Authority's requirements for the particular contract including but not limited to:

- a) a description of the works, supplies or services (this should be outcome bases where appropriate);

- b) the rules and instructions for submitting of tenders including the tender return date and time;
- c) a specification containing the Authority's requirements;
- d) a statement as to whether any variants to the specification are permissible;
- e) the Authority's terms and conditions applicable to the contract;
- f) the tender evaluation criteria including applicable weightings;
- g) pricing schedule and instructions for completion;
- h) a statement as to whether in the Authority's view TUPE may apply;
- i) instructions for the completion and content of any method statement;
- j) the period which the Authority requires that the tender offer shall remain open;
- k) a statement that the Authority does not bind itself to accept the lowest or any tender;
- l) the Authority's requirements in respect of any bond, parent company guarantee or liquated damages; and
- m) the Authority's requirements in respect of insurance and indemnity.

#### E6.4. Submission of Tenders

E6.4.1 Tenders shall comply with and be submitted in accordance with the rules and instructions set out in the invitation to tender.

E6.4.2 Tenders will be submitted through a secure electronic system whereby they are not 'opened' until the deadline has passed for receipt of tenders.

#### E6.5. Opening of Electronic Tenders

E6.5.1 Tenders for a particular contract are opened at one time and, in the case of procurements over £50,000, only in the presence of an officer not party to the procurement and designated by the Chief Fire Officer. The electronic portal

keeps an electronic record of Tenders opened. The electronic audit trail includes the names, addresses, value and the date and time of opening.

E6.6. Amending Tenders, Bids or Quotations and Tender Errors

E6.6.1 Where a tenderer identifies an error in their tender after submission but before the closing date for receipt of tenders, they may submit a correction in accordance with the rules applicable to the submission of tenders generally.

E6.6.2 Genuine arithmetical error(s) may be amended with the consent of the tenderer.

E6.6.3 Correction of any other tender error(s) shall be made at the discretion of the Chief Fire Officer in consultation with the Finance Officer and the Monitoring Officer.

E6.7. Evaluation of, Tenders or Quotations

E6.7.1 Evaluation criteria (including any and all sub-criteria) shall be determined in advance of the procurement and set out in descending order of importance in the Invitation to Tender documentation.

E6.7.2 The evaluation criteria, including the weighting between quality and cost, for all procurements where the tender process applies shall be agreed with Procurement Services.

E6.8. Negotiations

E6.8.1 In open and restricted procedures all negotiations with candidates or bidders on fundamental aspects of contracts or variations, which are likely to distort competition (in particular on prices), are not permitted.

E6.8.2 Negotiations following receipt of tenders or quotations may only take place with the approval of the Monitoring Officer to the Authority.

E6.9. Acceptance of Quotations and Tenders

E6.9.1 Where the value of a tender exceeds £500,000 the approval of the Authority must be obtained to its acceptance.

E6.9.2 The Chief Fire Officer may accept a tender or quotation below £500,000 where it is the most economically advantageous provided it is also the lowest.

E6.9.3 Where the Chief Fire Officer wishes to accept a tender or quotation below £500,000 which he considers to be the most economically advantageous but which is not also the lowest, he shall do so only after obtaining the written agreement of the Finance Officer and the reasons shall be documented.

E6.9.4 Where the value of a tender is between £250,000 and £500,000, the Chief Fire Officer will notify the Authority of the acceptance of the tender at the next available meeting.

#### E6.10. Standstill Period

E6.10.1 In respect of a contract which exceeds the UK Public Contract Regulations thresholds, as soon as possible after the decision has been made to award a contract, Procurement Services shall give notice to any third party which submitted an offer or applied to tender, of the decision to award, in line with the Public Contracts Regulations.

E6.10.2 In respect of a contract below the UK Public Contract Regulations thresholds, as soon as possible after the decision has been made to award a contract, Procurement Services may give a voluntary notice to any third party which submitted an offer or applied to tender, of the decision to award, in line with Procurement best practice.

E6.10.3 A period of at least 10 days to elapse between the date of despatch of the notice referred to in rule E6.10.1 and E6.10.2 and the date on which the Authority proposes to enter into the contract during which time an unsuccessful third party may raise challenges to the intended award.

#### E6.11. Award Notice

E6.11.1 In respect of a contract which exceeds the relevant UK Public Contract Regulations threshold, an Award Notice shall be published by Procurement Services no later than 48 days after the date of award of the contract.

E6.11.2 In respect of contract awards that exceed £25,000 these will be published on Contracts Finder and where over UK Public Contract Regulations threshold on the Find a Tender Service (FTS) website.

#### E6.12. Contract Terms and Conditions

E6.12.1 All contracts and orders shall be in electronic format.

The following areas must be adequately covered within the terms and conditions:

- The Contract Period (including any extensions)
- The Contract Price
- The Authority's requirements (i.e. specification and performance requirements)
- Termination

Express provision dealing with the following areas must also be included in the terms and conditions, where appropriate:

- Insurance and Liability
- Bribery and Corruption
- Prohibition against Assignment/Novation (without agreement of the Authority)
- Liquidated Damages and Guarantees
- Safeguarding Authority Registration
- Dispute Resolution
- TUPE
- Contract Variations
- Data Protection (GDPR)
- Freedom of Information
- Law and Jurisdiction
- Audit access rights
- Equality and diversity
- Social value
- Modern Slavery

#### E6.13. Nominated Contractors and Sub-Contractors

- E6.13.1 In exceptional circumstances where there is a case for nominating sub-contractors to main contractors the

provisions of these Rules shall apply in relation to the selection of the nominated sub-contractor.

**E6.14. Authorised Payments and certificates for variations incurring extras**

- E6.14.1 All contract variations shall be consistent with the scope and terms of the existing contract and proportionate in value to the total value of the contract when originally awarded.
- E6.14.2 Any variation or series of variations incurring extras shall be authorised prior to the work being undertaken, as follows:
- a) where the net cumulative value of variations does not exceed £50,000 or 20% of the value of the contract, whichever is the lower, by the Chief Fire Officer provided payment can be contained within the relevant budget provision, if not, written authorisation must be provided by Finance Officer;
  - b) where the net cumulative value of variations exceeds £50,000 and does not equal or exceed £250,000 or at least 20% of the value of the contract, whichever is the lower, by the Chief Fire Officer having obtained prior written agreement of the Finance Officer, provided payment can be contained within the relevant budget provision. If not, prior authorisation must be obtained from the Authority;
  - c) where the net cumulative value of variations is equal to or exceeds £250,000, Authority approval must be sought regardless of whether this can be contained within the budget for the contract;
  - d) where the net cumulative value of variations in respect of a contract is estimated to equal or exceed 50% of the original contract value, the Chief Fire Officer may only authorise the variation or series of variations after consultation with the Finance Officer as to application of the Public Contract Regulations.
- E6.14.3 Once duly authorised, approved variations must be ordered in writing and payments made in accordance with the terms of the contract.
- E6.14.4 The Chief Fire Officer shall issue separate certificates, showing all extras less deductions presented to the Authority for payment, stating the amounts of extras ordered to date and the amount certified for payment.

E6.14.5 Where the Authority has entered into a standard form contract in a form prepared on behalf of a professional organisation, which has been approved by the Monitoring Officer, this Rule shall not prevent the discharge of the Authority's obligations in connection with the granting of variations incurring extras or compensation events which arise or become due under the terms of the contract provided that records are kept in a form acceptable to the Finance Officer.

#### E6.15. Contract Extensions

E6.15.1 A contract may be extended before the expiry date where the extension is in accordance with its original terms, can be shown to offer value for money and with the approval of the Chief Fire Officer, the Finance Officer and the Monitoring Officer.

E6.15.2 Where the contract terms do not provide expressly for an extension:

- a) contracts subject to the UK Public Contract Regulations may be extended only in limited circumstances and on the written approval of the Chief Fire Officer and the Monitoring Officer.
- b) contracts not subject to the UK Public Contract Regulations may only be extended by formal written variation where the extension to a contract can be shown to offer value for money and is reasonable in all the relevant circumstances on the written approval of the Chief Fire Officer, the Finance Officer and the Monitoring Officer.

In addition, where the contract does not include an express right of extension, any proposed extension will also constitute a contract variation for the purpose of Paragraph E6.14 above and therefore the provisions of that Paragraph will also need to be followed.

E6.15.3 After the expiry of the term of a contract it may not be extended or varied.

#### E6.16. Assignment and Novation

E6.16.1 The Chief Fire Officer, in consultation with the Finance Officer and the Monitoring Officer, shall have authority to determine whether permission to assign or novate a contract is given on behalf of the Authority.

**E6.17. Termination**

**E6.17.1** Where the Chief Fire Officer wishes to terminate a contract early he may do so only after consulting with Procurement Services, Finance Officer and the Monitoring Officer as to the financial and legal impact of the termination.

## **Appendix - Guidelines on the Appointment and use of Consultants**

### **1. Application**

- 1.1 These guidelines govern the selection and use of consultants in all departments and business units of the Authority. Where consultancy services can be provided in-house, their use should be considered first, and discussed with the relevant service area before seeking external consultants.
- 1.2 The term “consultants” is intended to extend to all persons, firms or organisations who market their services as a consultancy service for whatever purpose, whether management, technical (including engineering, surveying and architectural services), financial, I.T., marketing, personnel etc., and are generally understood to come within the term “consultants”. This does not include staff employed via job agencies or other organisations that carry out day-to-day work on the Authority’s behalf.
- 1.3 For the avoidance of doubt these guidelines will not apply to the engagement of individual professional witnesses or representatives.
- 1.4 These guidelines are intended to supplement the main requirements of the Contracts Rules, not replace them.
- 1.5 Any queries on the application or interpretation of these guidelines shall be referred to the Monitoring Officer to the Authority.

### **2. Identification of Need**

- 2.1 The objectives of the work and what the recommendations arising from the work are to achieve or change need to be clearly identified in a Project Brief.
- 2.2 Any project brief must be submitted initially to the Chief Fire Officer for consideration as to whether the capability and/or capacity exists to undertake the project in-house.
- 2.3 Any proposals to use external consultants where the estimated cost is likely to exceed £50,000 shall be agreed in writing in advance with the Finance Officer and Monitoring Officer. In other cases the Finance Officer will be informed of the use of consultants. Where the cost is estimated to be equal to or exceed £100,000, the prior approval of the Authority is required.
- 2.4 A budget for the exercise must be identified.

### **3. Preparation of a Project Brief**

- 3.1 A project brief shall be prepared by the Head of Department in all cases.

- 3.2 Standard terms should be used to ensure comparability of consultants' submissions.
- 3.3 Terms of Reference should include a number of standard features to ensure that the consultants have sufficient information to make informed and feasible proposals. These should include:-
- the objectives of the project;
  - what resources the Authority will provide, e.g. staff, data;
  - how the results are to be reported and presented;
  - the time scale;
  - how the project is to be monitored;
  - an outline of the suggested approach;
  - the basis upon which tenders are sought (fixed fee inclusive of expenses is to be preferred over daily rate) and personnel to be used); and
  - provision for any bonuses or deductions.

#### **4. Invitation to Tender**

- 4.1 External consultants should normally be selected on the basis of competitive tender unless satisfactory reasons to the contrary exist.
- 4.2 Heads of Department shall have regard to the likelihood of multi-stage consultancy and shall, wherever possible, consider all stages of work when assessing the overall value of the consultancy exercise and for obtaining quotes or tenders. Tenders/quotations should identify all potential stages of the work.
- 4.3 In selecting suitable consultants from whom to invite quotations or tenders, regard shall be had to firms who have worked for the Authority previously and to any assessment of their past performance.
- 4.4 All tenderers and those submitting quotations shall be asked to provide the names of at least two customers for reference purposes, at least one of whom shall be a recent customer.
- 4.5 Contact must be made with referees to ascertain the consultants' suitability. At least one contact should be by telephone.
- 4.6 In the following circumstances, the requirement to seek written quotations or tenders may be dispensed with where:-
- the value of the project is less than £10,000 (although regard

must still be had to achieving value for money)

- the firm it is proposed to use has developed a detailed knowledge of the particular project through past work with the Authority; or
- the skills of a particular individual are demonstrably required.

4.7 The reasons for not seeking written quotations or tenders shall be documented.

## **5. Monitoring Progress**

5.1 The Chief Fire Officer is to nominate a named officer (the Project Officer) to be responsible for monitoring progress of the consultant.

5.2 The Project Officer should:

- a. Monitor progress by the consultants against set targets;
- b. Monitor costs;
- c. Arrange regular progress meetings;
- d. Request detailed invoices and scrutinise them; and
- e. Link payments to progress.

## **6. Evaluating Performance**

6.1 The implementation of consultants' agreed recommendations should be reviewed no later than 12 months following their acceptance.

6.2 Where appropriate the review should establish whether any savings identified have been achieved and if not, the reasons for this.

6.3 The performance of the consultants chosen should be evaluated for each significant project.

