**Changes from v1 shaded blue**

**Background**

In response to the current outbreak of COVID-19 coronavirus, the Cabinet Office has issued a Procurement Policy Note on supplier relief (PPN 02/20) to ensure service continuity during and after the outbreak.

The PPN focuses on ways to help suppliers through payment terms and contractual relief. Any contractual relief agreed would be subject to:

* sharing financial information on an “open book” basis,
* demonstrating that they have secured all financial support available from Central Government and
* confirming that they will continue to pay employees and subcontractors.

After discussion and consideration, any agreed contract relief must be captured in a contract variation or change note, making clear that the changes relate only to the COVID-19 situation. BFC have prepared a template to be used.

It is expected that any temporary changes to contracts would not increase the contract value unless the term is extended or normal income is interrupted (e.g. car parks, leisure, school meals). Regulation 72(1) of the Public Contract Regulations sets out the following:

*Contracts … may be modified without a new procurement procedure … in any of the following cases:*

*(c) where all of the following conditions are fulfilled:*

*(i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;*

*(ii) the modification does not alter the overall nature of the contract;*

*(iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.*

Section 8 of the BFC Contract Standing Orders (CSO) is applicable to schools and currently states:

*8. Contract extensions and variations*

*8.1 Where an extension or variation is not clearly provided for in the original contract and, once the extension or variation is included, the contract has a total contract value which exceeds the relevant Threshold, advice must be taken from the Borough Solicitor.*

*Subject to the above, any contract may be extended or varied by the prior written approval of the Director.*

The relevant Thresholds from January 2020 are:

* Social and other specific services (Light Touch Regime) - £663,540
* Goods and remaining services - £189,330
* Works and Concession contracts - £4,733,252

A “Director” is the Governing Body of a school.

And a “Responsible Officer” is person to whom the “Director” has given clear written delegated responsibility.

And the “relevant Assistant Director” is Assistant Director: Education and Learning.

The “Director” is required to keep a written record of any delegations they make of their powers under these Standing Orders and ensure these are published on the Council’s Intranet.

The “Responsible Officer” can sign the contract and contract changes.

**Issues**

The issue is whether the appropriate Registers of Delegated Contract Authority, are in place and whether they need to be temporarily amended to allow for prompt action during this current outbreak and to free up “Director” time.

A secondary issue is whether a waiver would normally be required as detailed in section 7 of the Council’s Contract Standing Orders.

**BFC Approved Approach**

1. Contracts can be extended by up to 12 months to provide service continuity for a limited time period whilst there remains significant national disruption due to COVID-19 related actions.
2. The requirement for CSO Waivers below the relevant threshold is suspended to 30 June 2020. For waivers where the revised total contract value would exceed the relevant threshold  a CSO Waiver is still required with approval by a Director and the Borough Solicitor.