

WORCESTERSHIRE COUNTY ASSOCIATION OF LOCAL COUNCILS

GUIDANCE NOTE: CONTRACTS & CONTRACTORS

CONTRACTS & CONTRACTORS

With the increased influence expected of the first tier through Quality Parish Status and the Parish Charter, the number and scope of contracts handled by Parish Councils are likely to increase.

A What is a contract?

1. There is nothing magical or mysterious about a contract. It is simply an agreement between Person A and Person B to do X in return for Y.
2. A statutory body, such as a Parish Council, should always ensure that contracts are in writing.

B The key issues

1. Proper decision making
2. Achieving value of money – spirit of Best Value should apply – the 4 Cs – Challenge, Compare, Consult & Competition. The 5th C - Collaboration – reminds you that joint working with other Councils may be a solution. (See CALC BPG Spirit of Best Value).
3. Clarity – making sure it does not go wrong and that the Parish Council gets what it wants by recording all arrangements and transactions.
4. Accountability & Transparency – satisfying the auditor.

C The Decision Making Process

1. Accepting quotes/tenders may be delegated to a Committee of at least 3 Councillors or the Clerk but not an individual Councillor.
2. The Clerk must be involved in all matters concerning contractors, including recording of all negotiations. (See CALC BPG Decision Making.)

D Achieving Value for Money

1. Under Section 135 LGA 1972, Parish Councils are required to have standing orders for dealing with contracts (sometimes known as financial regulations) which contain the thresholds for written quotes and tenders.
2. NALC Model Financial Regulations are available from CALC and all Parish Councils are recommended to adopt these.

E Choosing a contractor

1. You do not have to accept the lowest tender but you should ensure that you record the reasons.
2. The size and capacity of the firm should be appropriate for the scale of the job.
3. Consider using questionnaires and seek references from other Parish and Principal Councils.

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F Insurance

1. The contractor should have public / third party liability cover appropriate to the contract, ie at least £5 million.
2. Check the contractor's insurance certificate for name, amount of cover and expiry date.
3. However, insurance is not a warranty of contractor's workmanship.
4. The Parish Council should have public liability cover and buildings insurance where appropriate.

G Health & Safety

1. You must ensure that you discuss the issue with the contractor including any special local circumstances pertaining to the work/site.
2. The contractor should undertake a risk assessment and make the necessary risk management arrangements. Include this in the contract.

H The contract

1. Should contain what the contractor has to do, how much it will cost the Parish Council and any specific requirements.
2. Be explicit about what is meant.
3. The level of detail is dependent upon the nature of the contract. Confirm any changes or instructions in writing.

I Transparency

1. The auditor or an elector may request sight of your financial records.
2. The Clerk should ensure that each contract has a distinct file containing contract and correspondence.
3. Payments must be minuted.
4. In the accounts, payments should be referenced with cheque number and minute.
5. Stage payments may have been agreed and should be stipulated in the contract.

J Managing Risk

1. Ask the What if? question.
2. Consider the consequences of certain things happening/not happening. Specify these in the contract.
3. Everything should go through the Clerk. Individual Councillors should not give instructions to contractors.
4. Larger contracts mean greater risk and hence greater formality, so take professional advice.

If in doubt, seek advice!

County and District Council Officers are usually willing to provide advice.

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