

# **Report of the City Solicitor to the meeting of the Governance and Audit Committee to be held on 25 April 2017**

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**Subject:**

**AN**

**Amendments to the Constitution**

## **Summary statement:**

**This report provides members with details of the annual review of the Financial Regulations and Contracts Standing Orders Sections of the Council's Constitution and makes recommendations for their amendment.**

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**Portfolio:**

**Leader  
Overview & Scrutiny Area:**

**Corporate**



## **1. Summary**

- 1.1 This report provides members with details of the annual review of the Financial Regulations and Contracts Standing Orders Sections of the Council's Constitution and makes recommendations for their amendment.

## **2. Background**

- 2.1. During the municipal year 2016/17, Finance Officers have undertaken their annual review of Financial Regulations to ensure they properly reflect appropriate governance procedures for the Council. This report sets out the proposals for amendments to deliver those changes and improvements. The Committee is asked to consider the proposed amendments to the Constitution for recommendation to Council for formal approval on the 16 May 2017 and seeks delegated authority to the City Solicitor to implement the proposed amendments.

## **3. Amendments to the Financial Sections of the Constitution**

- 3.1 There are a number of changes to Financial Regulations. Below is a list of the main changes.

- a) The role of Section 151 Officer is now held by the Strategic Director of Corporate Services. These changes have already been reflected in Financial Regulations
- b) An Alternative Delivery Model Steering Group has been established within the Department of Corporate Services. This reviews the processes, arrangements and safeguards supporting the transfer of existing services from Council control. A new financial regulation has been prepared which requires the group to be consulted when there are proposals for transferring services.
- c) Financial Regulations now refer to the need for payments to staff to comply with IR35 to ensure appropriate reporting to the inland revenue occurs.
- d) The need for all officers to undertake Information Governance training annually is incorporated into the regulations
- e) As the use of cheques has reduced significantly the requirement for Financial Regulation 35 has diminished and has been removed entirely.

These have been annotated on Appendix 1, which highlights the changes to financial regulations.

- 3.2 Contract Standing Orders were substantially re-written in 2015 following the publication of new public contract regulations in February 2015. A relatively small number of amendments are now proposed to improve clarity on the policy and procedures for both procurement and contracting. Other than general formatting and simplifications below is a list of the main changes that are proposed:

- a) Within the definitions re-introduction of an 'Appropriate Officer' and removal of the 'Chief Officer' role; so that Contracts Standing Orders are consistent with the Council's Financial Regulations

- b) In line with the Council's senior management re-structure removal of references to the post Assistant Director of Commissioning and Procurement, replacing this with the Assistant Director of Finance and Procurement.
- c) Requiring that the use of any pre-qualification or selection criteria, used in short listing organisation eligible to bid for Council contracts follow mandatory guidance issued by the Secretary of State.
- d) Clarifying the choice between open tender adverts using Contracts Finder, or seeking quotes for contracts estimated to be valued between £25k and £100k.
- e) Requiring the use of an Exception to Competition Requirement to be undertaken by the Authorised Officer in consultation with the Assistant Director of Finance and Procurement.
- f) Requiring the Authorised Officer to follow an escalation process should outturn contractual costs exceed estimated costs by either less than 25%, 25% to 50%, or by more than 50%
- g) Including adherence to IR35 and CIS legislation for instances including; consultancy work, self employment, personal service companies, limited companies substantially owned by a Director and CIS register building contractors.

The aim is to improve overall control of procurement so that the law is followed, value for money obtained and exceptions are properly authorised. The effect of these on contract standing orders is shown as tracked changes in Appendix 2

#### **4. Financial and Resource Appraisal**

- 4.1 The resources required to amend the Constitution can be met from existing provision.

#### **5. Legal Appraisal**

- 5.1 Article 17 of the Constitution requires the Monitoring Officer to take steps to make himself/herself aware of the strengths and weaknesses of the Constitution and make recommendations for improvement.
- 5.2 The review and development of the Constitution is undertaken in compliance with the provisions of the Local Government Act 2000, regulations and guidance made and issued under the Act.

#### **6. Other implications**

- 6.1 There are no equal rights, sustainability, community safety, Human Rights Act or trade union implications of this report.

#### **7. Not for publication documents**

- 7.1 None

## **8. Recommendations**

- 8.1 That the Governance and Audit Committee consider the proposed amendments to the Constitution listed in Appendices 1 and 2 attached to this report and consider which, if any, should be recommended to Council for adoption and implementation.
- 8.2 That the City Solicitor reports any recommendations to Council and ensures the agreed amendments are implemented.
- 8.3 That the City Solicitor be granted delegated authority to make consequential amendments to the Constitution as a result of the recommendations approved by Full Council.

## **12. Appendices**

Appendix 1 - Draft amendments to Financial Regulations.

Appendix 2 - Draft amendments to Contract Standing Orders.