

# Report of the Strategic Director Corporate Resources to the meeting of the Council to be held on the 21<sup>st</sup> of May 2019.

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## **Subject:**

**Amendments to the Constitution – Contracts Standing Orders and Financial Regulations**

## **Summary statement:**

**This report provides members of the Council 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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**Overview & Scrutiny Area:**

**Corporate**

## 1. SUMMARY

- 1.1 This report provides members of the Council 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 2018/19 Officers have undertaken their annual review of Financial Regulations and Contracts Standing Orders 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.
- 2.2 The City Solicitor will implement any recommendations approved by Council and make consequential amendments to the Constitution.

## 3. OTHER CONSIDERATIONS

- 3.1 There are a number of proposed changes to Contracts Standing Orders, set out as 'track changes' in appendix 1, these are summarised with reasons for changes in the following table:

<b>Proposed Changes to Contracts Standing Orders</b>	
Section	Reason
	General revision; replacing references to the Assistant Director Finance and Procurement with Director of Finance.
Definitions	Removing the definition of 'Contractor' and then consistently using 'Supplier', previous versions of Contracts Standing Orders used both, with both terms having the same definition. Adding to the definition of 'Contract Value' consideration of concession contracts and other contracts with a high transactional value, but minimal or no fee to the Council Quotation and Tender revised to use consistent terminology
2.5	The Appropriate Officer is to submit a list of Authorised Officers at the commencement of each financial year to improve clarity and accountability.
2.6	Option for the Director of Finance to delegate some, or part of their Contracts Standing Orders responsibilities to Officers in their service area.
2.7	Improvements to the rules for the use of miscellaneous payments to support the correct use of the Council's payment systems.
4.1	Lifting the requirement for Authorised Officers to produce procurement forward plans to contracts with a value worth more than the threshold for supplies and services (£181k) to focus resources on higher value contracts.
4.4 / 4.5	Lifting the requirement for mandatory use of internal services to the EU threshold for supplies and services so that Council resources are used effectively.

4.7.3	Moving this part of Contracts Standing Orders from section 7.2 so that it sits with other pre-procurement requirements
4.7.6	Lifting the requirement for Authorised Officers to produce a risk assessment to contracts with a value worth more than the threshold for supplies and services (£181k) to focus resources on higher value contracts.
4.7.9	Moving this part of Contracts Standing Orders from section 14.1 so that it sits with other pre-procurement requirements
6	Lifting the options to seek quotes or open competition to run from £25k to the EU threshold for supplies and services (£181k); requiring 4 local quotes below £100k / 6 quotes (with 4 local) above £100k to increase opportunities for the Council to support the District's economy.
8.7	Requirement to consult the Director of Finance when procuring contracts under the Light Touch Regime to improve processes and compliance.
9.1	The Authorised Officer obtains the approval of the Director of Finance that a contract with a value of more than £25k can be awarded without competition, to improve decision making in the award of contracts.
9.3	Contracts with a value of more than £25k that are awarded without competition must be entered on the 'Exceptions to Competition Log' to improve compliance with legislation.
14.7 / 14.8	Amended rules for the reporting of contract variations (including works contracts subject to monthly valuation) to improve processes and decision making.
14.10	Requirement to consult the Director of Finance before seeking to terminate a contract for breach of contract to improve processes and decision making.
16.1	Approval of the Consultancy and Contractor Procurement Process must be obtained before seeking tenders or quotes for consultancy services to improve processes and compliance with Inland Revenue Legislation
16.2 / 16.3	Improvements to the rules for the application of IR35 and CIS to support the Council's correct payment of Suppliers and compliance with Inland Revenue legislation.
18	Contract Management, new rules to improve the quality of the Council's management and the value for money it receives from its suppliers
21.2	Purchasing Cards must be used in accordance with the Council's Purchasing Card Policy to support the correct use of the Council's payment systems.
Appendix 1	Revised as necessary to mirror the above changes and improve the understanding of the Council's Contracts Standing Orders.

3.2 There are a few proposed changes to Financial Regulations, set out as 'track changes' in Appendix 2, these are summarised with reasons for changes in the following table:

<b>Proposed Changes to Financial Regulations</b>	
Section	Reason

5.2/28.1/28.2/28.3	The responsibility for this role lies with the Strategic Director Corporate Resources not the Chief Financial Officer.
6.2	Added "Financial" to job title.
11.1	Added "and governance" to clarify.
11.2	Added "chaired by the Chief Financial Officer" to make it clear who runs the group.
15.2/15.3	2 new financial regulations added to strengthen spending controls.
18.3	Added "unless expressly agreed, in advance, by the Chief Financial Officer" to ensure that any use of self billing is authorised.
19.1	Maximum limit for cash payments reduced to €10,000 (£8,800).
30.2	Added "and PCI-DSS" to requirements.

#### **4. FINANCIAL & RESOURCE APPRAISAL**

4.1 There are no financial issues arising from this report.

#### **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

5.1 The proposed recommendations are offered to improve the Council's finance and procurement related processes and provide rules to limit risk to the Council.

#### **6. LEGAL APPRAISAL**

6.1 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.

6.2 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.

6.3 The review of the Council Standing Orders upholds the obligation placed on the Council by s135 of the Local Government Act 1972.

6.4 The Council will ensure that any updates to the Council Standing Orders shall be compliant with all procurement legislation including the Public Contract Regulations 2015.

#### **7. OTHER IMPLICATIONS**

7.1 There are no implications in relation to the following:

- Equality and Diversity
- Sustainability

- Greenhouse Gas Emissions
- Community Safety
- Human Rights Act
- Trade Unions
- Ward Implications
- Area Committee Action Plans
- Corporate Parenting
- Privacy Impact Assessments

## **8. NOT FOR PUBLICATION DOCUMENTS**

8.1 There are no 'not for publication' documents for this report.

## **9. OPTIONS**

9.1 The recommended option is for Members of the Council to accept the proposed changes to Contracts Standing Orders and Financial Regulations set out in this report to support improvements in the organisation's finance and procurement processes and procedures.

9.2 Member of the Council may wish to accept some of the proposed recommendations and, or make their own recommendations.

9.3 The 'do nothing' option is not recommended as the proposed changes have been put forwards to support improvements in the Council's finance and procurement processes and procedures.

## **10. RECOMMENDATIONS**

10.1 That option 1 be accepted and the proposed changes to Contracts Standing Orders and Financial Regulations are accepted to support improvements in the organisation's financial and procurement processes and procedures.

## **11. APPENDICES**

Appendix 1: Proposed Contracts Standing Orders 2019/20  
Appendix 2: Proposed Financial Regulations 2019/20

## **12. BACKGROUND DOCUMENTS**

There are no background documents to this report.