

Report of the Director of Finance to the meeting of the Governance and Audit Committee to be held on the 21st of September 2023.

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Subject:

Amendments to the Constitution – Contract Standing Orders and Financial Regulations

Summary statement:

This report provides members of the Council with details of the annual review of the Contract Standing Orders and Financial Regulations 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 Governance and Audit Committee with details of the annual review of the Contract Standing Orders and Financial Regulations sections of the Council's Constitution and makes recommendations for their amendment.

2. BACKGROUND

- 2.1 The last update of Financial Regulations and Contract Standing Orders and Financial Regulations was approved by Council on 21 April 2022. Officers have undertaken their annual review of Contract Standing Orders and 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.
- 2.2 The Director of Legal and Governance will implement any recommendations approved by Council and make consequential amendments to the Constitution.

3. CHANGES TO CONTRACT STANDING ORDERS

- 3.1 There are no significant changes proposed to Contract Standing Orders until the next annual review in April for 2024/25. However, approval is being sought for some minor amendments:

A) To increase the current £25,000 (inclusive of VAT) threshold to £30,000 (inclusive of VAT).

- The current CSOs state £25,000 (inclusive of VAT) as the threshold to advertise and conduct a competitive process via the Council's e-tendering system (YORTender). However, this is not currently inline with government requirements, which means that more contracts are subject to the advertising regime and other procurement rules than is necessary.
- To ensure consistency and clarity in the CSOs for officers, it is also proposed to amend the threshold from £25,000 (inclusive of VAT) to £30,000 (inclusive of VAT) for Exceptions and Variations.
- This will require amendments to the following sections of the current CSOs:
 - o The definition of 'Exception Log' on page 2 of the CSOs
 - o Section 7.2
 - o Section 10
 - o Section 11
 - o Section 15.1
 - o Section 19.9
 - o Section 20.2, 20.3 and 20.5

- Section 21.7
- Table 1 – Value Band 1 and 2

B) To remove reference within section 10.3 and 19.9 of the CSOs for all contract awards above £5,000 to be recorded on the YORtender system.

- For contracts awards currently up to the value of £25,000 (inclusive of VAT) the authority for approval is within the service areas, therefore it is not straightforward to implement this requirement across the Council - more importantly there is not any material benefit or requirement to do so. Please note that contract awards of £25,000 and above (inclusive of VAT) (or £30,000 and above inclusive of VAT if the proposed recommendations are approved) will still be required to be recorded on the YORtender system.

3.2 The context for not making any significant changes and a proposed ‘position statement’ of intended considerations and amendments are summarised in Appendix 1 for noting and endorsement.

4. CHANGES TO FINANCIAL REGULATIONS

4.1 There are a number of proposed changes to Financial Regulations, these are summarised with reasons for changes in the following table and set out as ‘tracked changes’ at Appendix 2:

| Proposed Changes to Financial Regulations | |
|--|---|
| FR | Summary of Changes |
| 3 | <p>Audit Arrangements</p> <p>Details Change of name from Corporate Fraud Unit to Corporate Investigations Unit.</p> |
| 15 | <p>Procure to Pay</p> <p>This identifies the control required to check access to payment systems and has been amended to agree with Standing Orders for Contracts</p> |
| 19 | <p>Prevention of Money Laundering</p> <p>References the Council’s new Anti Money Laundering Policy</p> |
| 30 | <p>Information Management</p> <p>Changed title to Information and Records Management</p> <p>Requires all officers (not just appropriate officers) to comply with information security policies and related procedures</p> <p>30.3 All officers must comply with Councils Records Management Policy</p> <p>30.4 Update to the learning required to be completed by all officers</p> |

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|----|---|
| 34 | <p>Rules For Officers</p> <p>34.1 Reference to the Council’s newly approved anti bribery policy</p> <p>34.4 Refers to the Code of Practice in relation to employee conflicts of interest and registration of interests</p> <p>34.5 Reference to the Council’s new approved counter fraud policy and Counter Fraud Response Plan.</p> |
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5. FINANCIAL & RESOURCE APPRAISAL

5.1 There are no financial issues arising from this report.

6. RISK MANAGEMENT AND GOVERNANCE ISSUES

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

7. LEGAL APPRAISAL

7.1 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.

7.2 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.

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

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

8. OTHER IMPLICATIONS

8.1 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

9. NOT FOR PUBLICATION DOCUMENTS

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

10. OPTIONS

10.1 The recommended option is for Members of the Governance and Audit Committee to recommend the proposed changes to Contract Standing Orders and Financial Regulations set out in this report for approval to the Council to support improvements in the organisation's finance and procurement processes and procedures.

10.2 Member of the Governance and Audit Committee may wish to accept some of the proposed recommendations and, or make their own recommendations.

10.3 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.

11. RECOMMENDATIONS

11.1 That option 1 be accepted and the proposed 'Position Statement' to Contract Standing Orders and Financial Regulations be accepted and recommended to Council to support improvements in the organisation's procurement processes and procedures.

12. APPENDICES

Appendix 1: Proposed 'Position Statement' Contract Standing Orders 2023/2024
Appendix 2 Proposed Financial Regulations 2023/2024 with track changes

13 BACKGROUND DOCUMENTS

There are no background documents to this report.