



## **NOTICE OF MEETING**

### **Governance & Audit Committee**

**Tuesday 23 November 2010, 7.30 pm**

**Council Chamber, Fourth Floor, Easthampstead House, Bracknell**

### **To: Governance & Audit Committee**

Councillor Ward (Chairman), Councillor Thompson (Vice-Chairman), Councillors Beadsley, Blatchford, Edger, Leake, McCracken, Mrs McCracken, Mr G S Anderson and Worrall

### **cc: Substitute Members of the Committee**

Councillors Mrs Ballin, Mrs Beadsley, Birch, Harrison, Mrs Hayes, Mrs Shillcock and Worrall

ALISON SANDERS  
Director of Corporate Services

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Telephone: (01344) 352281  
Email: [emma.silverton@bracknell-forest.gov.uk](mailto:emma.silverton@bracknell-forest.gov.uk)  
Published: 15 November 2010



**Governance & Audit Committee  
Tuesday 23 November 2010, 7.30 pm  
Council Chamber, Fourth Floor, Easthampstead House,  
Bracknell**

**AGENDA**

Page No

**1. Apologies for Absence**

To receive apologies for absence and to note the attendance of any substitute members.

**2. Declarations of Interest**

To receive any declarations of personal or prejudicial interests, and the nature of that interest, in respect of any matter to be considered at this meeting.

**3. Minutes - 21 September 2010**

To approve as a correct record the minutes of the meeting of the Committee held on 21 September 2010.

1 - 4

**4. Urgent Items of Business**

Any other items which, pursuant to Section 100B(4)(b) of the Local Government Act 1972, the Chairman decides are urgent.

**5. Contract Standing Orders**

To receive a report which gives details of proposed amendments to the Council's Contract Standing Orders and agree that amendments to the Council's Contract Standing Orders be recommended to Council.

5 - 26

**6. Amendment's to the Council's Constitution**

To receive a report which seeks approval to amendments to the Council's Constitution which are proposed as a result of recent experience and in consequence of legislation.

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**GOVERNANCE & AUDIT COMMITTEE  
21 SEPTEMBER 2010  
7.30 - 9.12 PM**

**Bracknell Forest Borough Council:**

Councillors Ward (Chairman), Blatchford, Edger, McCracken, Mrs McCracken, Birch (Substitute) and Worrall (Substitute)

**Apologies for absence were received from:**

Councillors Thompson, Beadsley and Leake and Mr G S Anderson

**12. Apologies for Absence and Substitute members**

The Committee noted the attendance of the following substitute Members:

Councillor Birch for Councillor Thompson  
Councillor Worrall for Councillor Leake.

**13. Declarations of Interest**

There were no declarations of interest.

**14. Minutes - 29 June 2010**

**RESOLVED** that the minutes of the meeting held on 29 June 2010 be approved as a correct record and signed by the Chairman.

**15. Property Management Delegations**

*The Committee noted that Councillor Ward did not participate during consideration of item 5, Property Management Delegations as property fell within the remit of his Executive portfolio.*

The Committee received a report from the Borough Solicitor on the provisions in the Council's Constitution relating to powers exercisable in relation to property management.

The Committee were advised that the current wording of the delegations to the Chief Officer: Property, were not as clear or comprehensive as they could be. The proposed clarified delegation set out a more coherent and rationalised framework for property management.

Under the amended property management powers the Chief Executive and Directors would be delegated power to submit or authorise the submission of planning applications to Council. It was noted that Directors would be able to delegate these powers onwards in writing.

It was noted that surplus property would need to be released by the relevant Executive Member to the Chief Officer: Property, before the powers to dispose of the

land were delegated to a single Executive Member in the event that the Leader and the Chief Executive certify the matter to be one of overriding urgency.

**RECOMMENDED** to Council that:

- i) The delegations to the Chief Officer: Property be as shown as Annexe A of the report
- ii) Section 5 Part 2 of the Constitution (Responsibility for Executive Functions) be amended to provide that:-
  - a. acquisition of land and buildings between £100,000 and £500,000 may be delegated to a single Executive Member,
  - b. acquisition of land and buildings over £500,000 require the approval of the full Executive, save that in the event of the Leader and the Chief Executive certifying the matter to be one of overriding urgency it may be delegated by the Leader to a single Executive Member,
  - c. the provision that disposal of land and buildings less than 0.5 hectares and not exceeding £500,000 require the approval of the Executive be deleted,
  - d. the disposal of land and buildings over 0.5 hectares or above £500,000 may be delegated by the Leader to a single Executive member in the event that the Leader and the Chief Executive certify the matter to be one of overriding urgency.
- iii) That the Chief Executive and all Directors be delegated power to submit or authorise the submission of planning applications to the Council.

## 16. **Audit and Risk Management Update**

The Committee received an update on progress made on risk management at the Council and on general internal audit matters from the Head of Audit and Risk Management.

It was reported that the Council had strengthened its risk management arrangements over the last two and a half years. A fundamental refresh of the risk register had been undertaken from March 2010. The Strategic Risk Register's format had been revised to include actions to address risks identified and a revised scoring risk methodology of 5 by 5 had been developed. It was noted that individual risks within the register were the responsibility of the relevant portfolio holder.

Directorate Risk Registers would be developed to ensure that Directors and Departmental Management Teams identified their major risks for all aspects of the service. It was intended that these would be reviewed and updated quarterly and would inform the Strategic Risk Register.

It was suggested that the financial implications of risks should be included in Directorate Risk Registers where appropriate.

The Committee considered the Risk Management Strategy 2010/11 and noted that the toolkit had been updated inline with the Strategy.

It was reported that the outstanding contracts identified from the internal audit report had been located and presented to Internal Audit for inspection.

The Committee's attention was drawn to a case of misuse of the Memorandum of Understanding with the Department for Works and Pensions by one member of staff accessing their own records. The situation had been fully investigated by Internal Audit and before completion of the investigation, the individual had resigned. The Department for Works and Pensions were happy with the way in which the Council had dealt with the matter and were taking no further action.

The Committee considered the Bracknell Forest Council Counter Fraud and Corruption Strategy which had been developed to draw together the framework for countering the risk of fraud and responding to cases of suspected fraud and irregularity. The Strategy set policy frameworks and the responsibilities of key officers and Members.

The Committee noted that school governors should be made aware of their legal duty to declare any interest likely to lead to questions of bias when considering any item of business, as set out in the Strategy.

**RESOLVED** that:

- i) the Risk Management Strategy for 2010/11 be agreed;
- ii) the developments on risk management be noted;
- iii) the update on internal audit be noted; and
- iv) the Counter Fraud and Corruption Strategy be agreed.

#### **17. External Audit: Annual Governance Report and Audit Commission Update**

The Chief Officer: Financial Services introduced the report of the Council's external auditor which summarised the work undertaken to discharge their statutory audit responsibilities.

Phil Sharman, the District Auditor presented the report which included financial statements, audit opinion and value for money conclusion and letter of representation. It was reported that the financial statements gave a true and fair view of the financial position and it was proposed that an unqualified opinion on the financial statements be issued.

It was reported that the audit had proceeded more smoothly than in 2008/09 with fewer audit adjustments required. Key officers in finance had co-operated fully and it was proposed that an unqualified conclusion on the Council's arrangements for securing economy, efficiency and effectiveness in the use of resources be issued.

Two issues were raised for schools. Firstly that part of the old Garth Hill College site is being decommissioned and should be written off in 2009/10 and 2010/11. Secondly that the Council held two sets of records measuring floor areas which had unexplained differences between them. Until the records were reconciled there remained a potential non-material misstatement in the reported value of fixed assets.

An error had been found during initial testing of 2009/10 Housing benefit claim. The estimated impact was not considered material therefore was not included within the adjusted errors. The Council had agreed to perform testing to ascertain the extent of the errors.

It was highlighted that there would be additional demands associated with reporting under international financial reporting standards in 2010/11. The Council would need to ensure that standards of financial reporting were maintained through IRFS transition.

The Committee received an update in respect of the proposed abolition of the Audit Commission. External audit would continue over the next two years leading up to the proposed abolition of the Audit Commission from 2012.

**RESOLVED** that:

- i) the financial statements be approved
- ii) the adjustments to the financial statements set out in the 2009/10 Annual Governance Report be noted
- iii) adjustments the identified errors in the financial statements be agreed and
- iv) the letter of representation on behalf of the Council be approved.

18. **Statement of Accounts 2009/10**

Chief Officer: Financial Services introduced the revised Statement of Accounts 2009/10 and the Draft Letter of Representation.

**RESOLVED** that:

- i) the statement of accounts 2009/10 be approved;
- ii) the Chairman of the meeting be authorised to sign and date the revised Statement of Accounts on behalf of the Committee; and
- iii) the Draft letter of Representation set out in Appendix 4 of the District Auditor's Annual Governance Report be approved.

**CHAIRMAN**

## GOVERNANCE AND AUDIT COMMITTEE 23 NOVEMBER 2010

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### CONTRACT STANDING ORDERS (Director of Corporate Services)

#### **1 PURPOSE OF DECISION**

- 1.1 To approve proposed amendments to the Council's Contract Standing Orders

#### **2 RECOMMENDATION**

- 2.1 **That the amendments to Contract Standing Orders summarised in this report and set out in the draft attached at Annex A are recommended for adoption by the Council**

#### **3 REASON FOR RECOMMENDATION**

- 3.1 To give effect to minor amendments to Contract Standing Orders.

#### **4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 None.

#### **5 SUPPORTING INFORMATION**

- 5.1 The current Contract Standing Orders were adopted by the Council in 2009. Experience of working with them has suggested a number of areas in which some alterations and improvements can be made.
- 5.2 In paragraph 1, it has been made clear that the Orders apply to the provision of services for adults and children's care services. Paragraph 2.3.15 introduces a new obligation for Directors to make arrangements for the publication on the Council's website of the required details of tenders and contracts awarded, in accordance with guidance to be issued by the Department for Communities and Local Government, which is awaited.
- 5.3 Paragraph 4.1 exempts procurements of residential placements for care, care and support for people in their homes or for SEN placements of young people from the requirements of the Orders. Procurement of these services has been problematic under the competition requirements of the Orders, preventing the procurement of services as speedily as can be necessary. The proposed amendment enables spot purchasing to be carried out in accordance with guidelines to be established by the relevant Director, with the approval of the Executive Member, and with the advice of the Borough Solicitor and the Head of Procurement. This will allow quicker placements to be made in cases of need, while still seeking value for money.
- 5.4 Amendments have been made to Paragraph 7 to ensure the advice of the Head of Procurement is given in addition to the existing requirement for advice from the Borough Solicitor when waivers of the Orders are sought. Further guidance will be

given in the Procurement Manual regarding the circumstances in which approval can be given for the variation of terms contained in a contract that has been let by the Council. Variations can be agreed if they do not amount in law to the award of a new contract, in breach of the Public Contracts Regulations. In Appendix 1, the threshold above which the advertisement of a requirement on the South East Business Portal has been reduced to £35000 for greater publicity of tenders and requests for quotations.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

6.1 The Borough Solicitor is the author of this report

### Borough Treasurer

6.2 No comments.

### Equalities Impact Assessment

6.3 The matters contained in this report are not considered to have any equalities impact.

### Strategic Risk Management Issues

6.4 The amendments proposed by this report are intended to improve the effectiveness of controls in place over the procurement system.

### Workforce Implications

6.5 None

## **7 CONSULTATION**

### Principal Groups Consulted

7.1 Strategic Procurement Team, Corporate Procurement team, Head of Audit and Risk Management.

### Method of Consultation

7.2 Meetings and Internal correspondence

### Representations Received

7.3 None.

### Background Papers

Contract Standing Orders 2010 (attached)

### Contact for further information

Simon Heard – 01344 353107

Simon.heard@bracknell-forest.gov.uk

Doc. Ref  
Contract Standing Orders 2010

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## CONTRACT STANDING ORDERS – 2010

These Contract Standing Orders are made under section 135 of the Local Government Act 1972.

Guidance regarding the use of these Standing Orders and further explanation as to how they operate can be found in the Procurement Manual.

### **DEFINITIONS**

In these Standing Orders, the following expressions have the following meanings:

"Corporate Contract"	A contract relating to the procurement of supplies, works or services that has been tendered and managed by the Council
"Corporate Finance System"	Agresso or it's replacement
"Director"	The Chief Executive or the most senior officer in a department of the Council or the Governing Body of a school with delegated responsibilities under the Local Management of Schools Regulations
"Executive Member"	Means the Member of the Executive with responsibility for the service for which a procurement is being carried out
"Executive"	Means a meeting to which the Leader and all those Members that are serving as Executive Members have been invited, or in the case of non-executive functions references to "the Executive" are deemed to be

	references to the Council or the committee or sub-committee to which the Council has delegated responsibility for that function
“Framework Agreement”	Means an agreement or other arrangement between one or more contracting authorities and one or more suppliers which establishes the terms (in particular as to price and, where appropriate, quantity) under which suppliers will enter into one or more contracts with the Council in the period during which the framework agreement applies
“Grant”	Means a grant as defined and described in paragraph 2.4 of these Contract Standing Orders
“Non Commercial Considerations”	<ol style="list-style-type: none"> <li>1. whether contractors employ self-employed individuals,</li> <li>2. any involvement of the business activities or interests of the contractor with irrelevant fields of Government policy,</li> <li>3. the conduct of the contractor in industrial disputes,</li> <li>4. the country of origin or location of suppliers,</li> <li>5. any political, industrial or sectarian interest of the contractor,</li> <li>6. financial support or lack of financial support by the contractor for any institution,</li> <li>7. use or non use by a contractor</li> </ol>

	of technical or professional services provided by the Council under the Building Act 1984.
“Procurement Plan“	Means the Procurement Plan available from the Procurement pages on the Council’s intranet
“Procurement Manual”	The manual containing guidance and mandatory rules on the procurement of all supplies services and works and any further matters referred to in these Contract Standing Orders
“Public Contracts Regulations”	The Public Contracts Regulations 2006 (SI 2006 No 5) as amended
“Responsible Officer”	The Director or a person to whom the Director has given clear written delegated responsibility to exercise a function which these Contract Standing Orders identify may be performed by a Responsible Officer to the extent of such delegation
“Supplies and Services Threshold”	£156,442, or any different figure that may be substituted by Statutory instrument from time to time
“Total Contract Value”	The whole of the estimated value net of value added tax which the Council expects to give under the contract, calculated according to the valuation rules set out in the Procurement Manual
“Threshold”	Means the Supplies and Services Threshold or the Works Threshold as the case may be
“Works Threshold”	£3,927,260 or any different figure that

	may be substituted by statutory instrument from time to time
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## 1. Introduction and application of Standing Orders

These Contract Standing Orders set out the framework for the procurement of supplies, works and services. They are an essential set of rules and compliance with them will ensure that officers both seek and obtain good value for money and that public money is properly spent and accounted for.

**These Standing Orders apply to all contracts for the procurement of supplies, the provision of services (Including adults and children's care services) or the execution of works by the Council or on its behalf.**

- 1.1 In any procurement where quotations or tenders are required no matter what the value may be, officers must always apply procedures that allow a fair and non-discriminatory competitive process, and equal treatment of all potential suppliers and contractors.
- 1.2 Contracts must not be artificially split to avoid the application of the key thresholds contained in these Standing Orders.
- 1.3 Officers dealing with the procurement of standard or repetitive supplies and services should always consider the use of Framework Agreements and corporate contracts and should seek guidance from the Head of Procurement or from the Borough Solicitor.
- 1.4 These Contract Standing Orders do not apply to the following:
  - A contract for service for the employment of staff by the Council
  - The engagement of Counsel
  - The acquisition disposal or transfer of land or an interest in land and property

- Hire of premises
- Grants made by the Council
- Direct payments to individuals for social care services or services brokered on behalf of individuals in receipt of an individual budget.

## **2. Roles and responsibilities**

- 2.1 Directors are responsible for ensuring that chief officers and all staff with procurement responsibilities within their directorates fully understand and comply with these Standing Orders.
- 2.2 Directors are responsible for all purchase orders and contracts tendered and let by their directorates, are accountable to the Executive for the performance of their duties in relation to contract letting and management and must ensure that all council officers comply with these Standing Orders. The duties set out in paragraph 2.3 also apply to a Responsible Officer (except for paragraphs 2.3.5, and paragraphs 2.3.13 to .15 which are duties to be complied with by a Director personally)
- 2.3 Their duties are as follows:
- 2.3.1 To seek and obtain value for money and secure continuous improvement in all procurements.
- 2.3.2 To ensure no contract is entered into by their Directorate without there being adequate and agreed budget provision.
- 2.3.3 To ensure compliance with all applicable UK and EU legislation, seeking advice from the Borough Solicitor or the Head of Procurement at an early stage in the process whenever appropriate.
- 2.3.4 To ensure that Non Commercial Considerations do not influence any decision to seek quotations or tenders or to enter into any contract.

- 2.3.5 To ensure all staff (including any agents or consultants acting on their behalf) dealing with procurement for their directorate are fully aware of and comply with these Standing Orders and those parts of the Procurement Manual which are stated therein as compulsory in accordance with these Standing Orders and to arrange adequate training on their operation.
- 2.3.6 To declare to the council any pecuniary interest whether direct or indirect they personally have in any contract to be let, and to make that declaration in writing to the Borough Solicitor.
- 2.3.7 In the event of any breach of these Standing Orders to take immediate action and report it to the Borough Solicitor and/or the Borough Treasurer.
- 2.3.8 To ensure every contract over £100,000 has a named officer with responsibility for it.
- 2.3.9 To keep securely proper records of all purchase orders, signed contracts and copies of all relevant documentation so as to provide a full audit trail of actions taken.
- 2.3.10 To comply with the Council's arrangements for the obtaining and opening of quotations and tenders as set out in the Procurement Manual.
- 2.3.11 To ensure that the council's seal is affixed to any contract with a total contract value of £400,000 or more and to ensure that all other contracts are signed by a Director or by a person authorised under delegated powers to act on his or her behalf or placed through the Corporate Finance System.
- 2.3.12 To keep a record of any waivers of these Standing Orders.
- 2.3.13 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.

- 2.3.14 To ensure that records are kept in a manner that ensures reviews of contracts are undertaken in good time ideally at least one year in advance of termination dates and that appropriate action is taken.
- 2.3.15 To make arrangements for the publication of tenders and of contracts awarded as the Council may require from time to time.
- 2.4 These Standing Orders do not apply to grants awarded by the Council. A grant is an arrangement where money is given for the benefit of all or for a section of the local community for a stated purpose other than for the procurement of services whether the services are to be given to the council or to third parties. An arrangement where payments are made to secure the provision of services whether to the Council or to some third party is a contract for services to which these Contract Standing Orders apply.

### **3. Consultation and approvals prior to advertising a procurement**

- 3.1 **Officers must take advice from the Head of Procurement or the Borough Solicitor on the relevance of the Public Contract Regulations for any procurement where the Total Contract Value is estimated to be more than £100,000.**
- 3.2 When it can reasonably be anticipated that the Total Contract Value might exceed £100,000 the Director must ensure that an estimate of the anticipated Total Contract Value is prepared and recorded in writing. The estimate should not be more than twelve months old when tenders or quotations are invited and is to be exclusive of Value Added Tax.
- 3.3 For all procurements of supplies and services with an estimated Total Contract Value in excess of £100,000, a Procurement Plan in the form set out in the Procurement Manual and incorporating comments from the Borough Treasurer, Borough Solicitor and Head of Procurement, must be prepared for the approval of the Director and, if appropriate the Executive Member (see Appendix 1). In all cases the Procurement Plan must be

approved before the contract is advertised in accordance with paragraph 4.4 below.

#### **4. Obtaining quotations and tenders**

4.1 (a) Subject to paragraph 4.1(b) below, where any procurement of supplies or services has an estimated Total Contract Value of less than the Supplies and Services Threshold, the required number of quotations or tenders must be sought in accordance with the financial limits and procedures set out in Appendix 1. Where the estimated Total Contract Value of any procurement of supplies or services is for more than £100,000, invitations to tender must be issued in accordance with the procedures set out below and in the Procurement Manual.

(b) Procurements of residential care placements, care and or support provided in the person's home or for the special educational or other needs of younger people (including fostering) shall be carried out in accordance with procedures authorised by the relevant Director in consultation with the Executive Member with the advice of the Borough Treasurer, the Borough Solicitor and the Head of Procurement and published in the Procurement Manual

4.2 Where any works contract is to be let the required number of quotations or tenders must be sought in accordance with the financial limits and procedures set out in Appendix 2.

4.3 The Responsible Officer must ensure that the selection of suppliers from whom tenders or quotations are sought is carried out openly, fairly and transparently. The requirements for advertising, which are made to ensure compliance with legal requirements for transparency and freedom from discrimination, are set out in Appendix 1 and Appendix 2 and must always be followed.

**5. Contract documentation and standard contract conditions**

5.1 The provisions of any Statute, Regulation, Treaty or Directive of the European Union take precedence over anything said in these Standing Orders, and all contracts entered into by the Council must comply with all of those requirements.

5.2 The Council's standard conditions of contract shall always be employed unless,

(1)

(a) Leasing arrangements are involved, or

(b) the requirement is particularly complex and the use of the standard conditions is inappropriate

AND in each such case the formal advice of the Borough Solicitor has been given, or

(2) the supplier requires the Council to contract on terms supplied by it, and the total value is no more than £35,000.

In all cases where the Total Contract Value is expected to exceed the Threshold, the advice of the Borough Solicitor must be sought on any appropriate additions to the Council's standard terms.

**6. Approval and acceptance of quotations and tenders**

6.1 All requests for quotations and tenders for works, services or supplies must be carried out according to the procedures set out in the Procurement Manual .

6.2 The evaluation of written quotations and tenders and any pre-qualification of bidders must be carried out according to the procedures set out in the Procurement Manual, clearly documented and, if above the Threshold, advice must be sought from the Head of Procurement.

- 6.3 Where the estimated Total Contract Value is more than £100,000 and only one tender is received the Director must take advice from the Head of Procurement and the Borough Solicitor on the appropriate action.
- 6.4 The Responsible Officer may accept a tender or quotation for **works, supplies** or **services** where the Total Contract Value is not more than £400,000. Where the tender is above £100,000, a report should be submitted by officers to the Director, but if a Director has not delegated power to a Responsible Officer to accept a quotation the Director must prepare a report on the acceptance of the tender or quotation and keep it available for auditing.
- 6.5 The Director shall not accept tenders for supplies, services or works where the Total Contract Value is more than £400,000 and less than £1,000,000 without securing the written agreement of the Executive Member.
- 6.6 For all contracts where the Total Contract Value is greater than £1,000,000, acceptance of the tender must be approved by the Executive upon a report by the Director.
- 6.7 Where the Director wishes to accept a tender other than the lowest acceptable tender, full supporting documentation must be kept to evidence why the lowest acceptable tender was not accepted. If the tender is one to which paragraphs 6.5 or 6.6 applies, the Director shall report the values of all tenders received and the reasons for selecting the preferred tender.
- 6.8 All contracts entered into by the Council shall be completed (subject to delegated financial limits) in accordance with the following requirements.

<b>Total Value</b>	<b>Method of Completion</b>	<b>Signed By</b>
Up to and including £5,000	Council's official written order	Responsible Officer
£5,000 to £100,000	Acceptance Letter or	Responsible Officer

	Council's official order	
£100,000 – Threshold (currently £156,442)	Signed contract	Responsible Officer
Threshold - £400,000	Signed Contract or Deed as advised by the Borough Solicitor	Responsible Officer or in accordance with the requirements for sealing of contracts
Over £400,000	Execution under seal	Borough Solicitor and Mayor

6.9 All contracts must be signed or sealed before the supply, service or construction work begins.

## 7. Waiver of Contract Standing Orders

7.1 If there are special circumstances to waive or suspend any section or sections of Contract Standing Orders, the following approvals must be obtained depending on contract value:

1. for all contracts up to £35000, the Director may approve.
2. for contracts in excess of £35,000 but less than £400,000 the Borough Solicitor and the Chief Executive (taking advice from the Head of Procurement) may approve.
3. for contracts over £400,000 a report must be made to the Executive, incorporating advice from the Head of Procurement, for approval save that where the Borough Solicitor and Chief Executive have confirmed that there is genuine urgency and it is not possible to obtain approval from the Executive in time, the Leader may approve, but shall report his decision to the next meeting of the Executive for information

7.2 The standard Waiver form is to be used and the approval must be retained by the Director.

7.3 The Director must ensure that a record of all cases where Contract Standing Orders have been waived is sent to the Head of Procurement, including those authorised under the Director's own delegated powers, recording the reasons for waiver and the approvals obtained. The Head of Procurement shall maintain a full record, sequentially numbered, of all Waivers granted.

**8. Contract extensions**

8.1 Where a contract, which was not required to be advertised by the Public Contracts Regulations or any preceding Regulations, does not have any provision for an extension, one extension, where similar terms and conditions will apply, may be agreed for a maximum period of one year, but the written approval of the Director, who must consult with the Borough Solicitor and the Treasurer, must be given.

8.2 Where a contract does provide for an extension, the extension may be implemented, subject to the prior written approval of the Director being given.

8.3 If a contract has already been extended under a provision for extension it contains, it may not be extended further under 8.1 above.

8.4 If a contract has been extended in accordance with 8.1 or 8.2 above any further request for an extension must be approved by the Executive Member on a written report.

**Contract variations**

8.5 A contract variation can be only be approved where the proposed variation does not materially alter the terms of the contract. Guidance on what constitutes a material alteration is given in the Procurement manual. The Director must obtain advice from the Borough Solicitor before proceeding to agree to a variation and must ensure there is an adequate budget for the variation.

**9. Framework Agreements**

- 9.1 Framework Agreements let by other contracting authorities may only be used in accordance with the requirements set out in the Procurement Manual.

APPENDIX 1  
SUPPLIES AND SERVICES

## Minimum Requirements

✓ = Mandatory

	Total Contract Value	Up to £5k	>£5k to £10k	>£10k to £35k	>£35k to £100k	>£100k to £400k	>£400k to £1m	>£1m
Procurement Plan	Director* to approve, with advice from Head of Procurement				Optional	✓	✓	✓
	Executive Member to approve						✓	✓
Format	Request for Quotation (RFQ)	✓ oral	✓	✓	✓			
	Invitation to Tender (ITT)				Optional	✓	✓	✓
Specification		✓ oral	✓ outline	✓ outline	✓	✓	✓	✓
Terms	BFC terms and conditions	Preferred	Preferred	Preferred	✓			
	Special terms - contact Legal Services				Optional	✓	✓	✓
Competition	Minimum 1 quote	✓ oral	✓					
	Minimum 3 quotes			✓	✓			
	Formal Tender min 5					✓	✓	✓
	Order under a Framework Agreement	mini competition of all suppliers able to meet the requirement- or otherwise as defined in the Framework Agreement						
Advertise	SE Business Portal			Optional	✓	✓	✓	✓
	European website (TED)					✓	✓	✓
Contract SO Waiver	Director to record reasons on file	✓	✓	✓				
	Chief Executive and Borough Solicitor to approve				✓	✓		
	Executive to approve						✓	✓
Contract Award	Director*	✓	✓	✓	✓			
	Report to Director* for approval				Optional	✓		
	Report to Director and Executive Member for approval						✓	
	Report to the Executive for approval							✓

**ANNEX A**

<b>Contract Award Notice</b>	Regional website (SECE)			Optional	✓	✓	✓	✓
	European website (TED)					✓	✓	✓
<b>Form of Contract</b>	Purchase Order	✓ oral	✓	✓	✓			
	Contract signed by Responsible Officer*				Where used	✓		
	Deed signed under seal by Mayor and Borough Solicitor						✓	✓

\* Or Responsible Officer with formal written delegation of these powers from the Director

APPENDIX 2  
WORKS

Minimum Requirements

✓ = Mandatory

	Total Contract Value	Up to £5k	>£5k to £10k	>£10k to £35k	>£35k to £100k	>£100k to £400k	>£400k to £1m	>£1m
Procurement Plan	Director* to approve, with advice from Head of Procurement				Optional	✓	✓	✓
	Executive Member to approve						✓	✓
Format	Request for Quotation (RFQ)	✓ oral	✓	✓	✓			
	Invitation to Tender (ITT)				Optional	✓	✓	✓
Specification		✓ oral	✓ outline	✓ outline	✓	✓	✓	✓
Terms	BFC terms and conditions	Preferred	Preferred	Preferred	✓			
	Special terms - contact Legal Services				Optional	✓	✓	✓
Competition	Minimum 1 quote	✓ oral	✓					
	Minimum 3 quotes			✓	✓			
	Formal Tender min 5					✓	✓	✓
	Order under a Framework Agreement	mini competition of all suppliers able to meet the requirement- or otherwise as defined in the Framework Agreement						
Advertising	SE Business Portal			Optional	✓	✓	✓	✓
	European website (TED)							Optional below Threshold: mandatory above
Contract SO Waiver	Director to record reasons on file	✓	✓	✓				
	Chief Executive and Borough Solicitor to approve				✓	✓		
	The Executive to approve						✓	✓
Contract Award	Director*	✓	✓	✓	✓			
	Report to Director* for approval				Optional	✓		
	Report to Director and Executive Member for approval						✓	
	Report to the Executive for approval							✓

## ANNEX A

<b>Contract Award Notice</b>	Regional website (SECE)			Optional	✓	✓	✓	✓
	European website (TED)					✓	✓	✓
<b>Form of Contract</b>	Purchase Order	✓ oral	✓	✓	✓			
	Contract signed by Responsible Officer*				Where used	✓		
	Deed signed under seal by Mayor and Borough Solicitor						✓	✓

\* Or Responsible Officer with formal written delegation of these powers from the Director

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## GOVERNANCE AND AUDIT COMMITTEE 23 NOVEMBER 2010

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### AMENDMENT'S TO THE COUNCIL'S CONSTITUTION (Director of Corporate Services – Legal)

#### 1 PURPOSE OF DECISION

- 1.1 This report seeks approval to amendments to the Council's Constitution which are proposed as a result of recent experience and in consequence of legislation.

#### 2 RECOMMENDATION

- 2.1 **That Part 2 Section 3 of the Council's Constitution be amended as proposed by paragraph 4.3 of this report.**
- 2.2 **That Part 4 Section 8 of the Council's Constitution be amended as proposed by paragraph 4.5 of this report.**

#### 3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

##### Borough Solicitor

- 3.1 The Borough Solicitor is the author of this report.

##### Borough Treasurer

- 3.2 There are no financial implications directly arising.

##### Equalities Impact Assessment

- 3.3 Not relevant.

##### Strategic Risk Management Issues

- 3.4 Not relevant.

#### 4 SUPPORTING INFORMATION

- 4.1 Regulations made under the Local Government Act 2000 determine which functions are matters for the Executive and those which are matters for full Council/Committees. The regulations prescribe that certain plan/policies must be approved by full Council. They also permit the Council to designate other plans or strategies which are to require the approval of Council.
- 4.2 The list of plans comprising the Policy Framework and requiring the approval of full Council are set out at Part 2 Section 3 of the Council's Constitution. The current list comprises the following:-

- Adult Learning Plan
- Children & Young Peoples Plan

- Sustainable Community Plan
- Corporate Plan
- Food Law Enforcement Plan
- Housing Strategy
- the Development Plan
- Local Transport Plan
- Safer Communities Strategy
- Youth Justice Plan
- such other plans or strategies as may be specified by the Council as part of the Policy Framework from time to time.

- 4.3 The “Corporate Plan” was formerly the “Annual Plan” which in turn was formerly the “Best Value Performance Plan”. Since 1<sup>st</sup> April 2008 the pleasure of being required to produce such a plan has been confined to local authorities in Wales and it is therefore proposed to delete the Corporate Plan from the list of policies. The Licensing Authority Policy Statement is required to be part of the Policy Framework and should therefore be included. Although not previously formerly designated as part of the Policy Framework, the Council’s Pay and Workforce Strategy is of such fundamental importance to the business of the Council, particularly given the potential implications of public expenditure cuts, that Corporate Management Team recommends that it be designated as part of the Policy Framework.

#### Overview and Scrutiny – Call In

- 4.4 The Council’s Overview and Scrutiny Procedure Rules are set out in Part 4 Section 8 of the Council’s Constitution. Those rules provide that Executive decisions made by Members or Key Decisions may be “called-in” for consideration by the Overview and Scrutiny Commission before they are implemented. The Commission cannot require the Executive to take a different decision but can ask the Executive to re-consider or alternatively the Commission can refer the matter to full Council which in turn can ask the Executive to re-consider.
- 4.5 Under the procedure rules a call-in is triggered if within five working days of publication of the Executive decision either:-
- (a) the Chairman and two Members of the Overview and Scrutiny Commission request a call-in;
  - (b) any five Members of the Council so request.
- 4.6 The first call-in for many years recently occurred in relation to the Site Allocations Policy Development Plan Document. As a result of the experience of that call-in it is considered that it would be of benefit to both Members and officers if those Members requesting the call-in gave a brief summary of their reasons for the request and the proposed decision which they desire the Commission to take. It is recommended that the Overview and Scrutiny Procedure Rules be amended accordingly.

#### Background Papers

None.

Contact For Further Information

Alex Jack, Borough Solicitor (01344) 355679  
[alex.jack@bracknell-forest.gov.uk](mailto:alex.jack@bracknell-forest.gov.uk)

Doc Ref:

AIJ/f/reports/Governance and Audit Committee  
23<sup>rd</sup> November 2010 – Amendments to Council's Constitution

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