

TO: COUNCIL
27 APRIL 2016

RECOMMENDATION OF THE GOVERNANCE & AUDIT COMMITTEE
(Director of Corporate Services – Borough Solicitor)

1. PURPOSE OF REPORT

- 1.1 This report seeks Council endorsement to the recommendation of the Governance & Audit Committee agreed at its meeting on 30 March 2016 to amend the Contract Standing Orders set out in the Council's Constitution.

2. RECOMMENDATION

- 2.1 That the changes to the Constitution Part 4 Section 11 – Contract Standing Orders, set out in the Annex to this report be adopted.**

3. REASONS FOR RECOMMENDATION

- 3.1 To give effect to the recommendation of the Governance & Audit Committee.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5 SUPPORTING INFORMATION

5.1 Enactment of new legislation

- 5.1.1 The Public Contract Regulations 2015 abolished the classification of procurements as "Part B" services, which were exempt from specific regulation, and largely replaced it with a new classification of procurement - Social and Other Specific Services, in addition to the existing classifications - Services and Supplies, and Works. Each of these classifications has its own procurement threshold and its own procurement rules. It is important that the Council classifies procurements in a consistent and reasoned way which ensures minimum risk of challenge.

- 5.1.2 Since Contract Standing Orders dovetail with PCR 2015, these changes need to be reflected in Contract Standing Orders. In addition, the sterling values of the three thresholds were updated on 1st January 2016.

- 5.1.3 Changes are made to Contract Standing Orders (Definitions, Sections 3.1 and 4.3, Appendix 3) to reflect the new classification, the new threshold values and the need to classify procurements consistently.

5.2 Unnecessary sealing of contracts

- 5.2.1 Under current arrangements the Council's seal must be affixed to any contract with a total contract value of £400,000 or more (sections 2.3.11 and 6.8). It is proposed that this requirement is removed.

Unrestricted

Few documents need to be sealed to give them legal efficacy. Examples of such documents are Deeds, Agreements under Section 106 Town and Country Planning Act, documents creating or transferring significant interests in land and Byelaws. None of the contracts the Council enters into for the procurement of services, supplies or works require sealing, and may simply be signed by a responsible officer, normally a Director or someone to whom the function has been delegated.

- 5.2.2 It is proposed to remove the requirement for sealing contracts, except where required for legal efficacy as described in 2.1 above or to reflect established industry practice, so that time and administrative resources will be saved.

5.3 Clarifications

- 5.3.1 Contract Standing Orders deals with contract extensions. In their current form they are open to different interpretations and this could lead to confusion. Amendments are proposed to clarify section 8. Extensions specifically provided for in the contract must be approved by a Director. Extensions not specifically provided for in the contract must be approved by the Director for the first year, and by the Executive Member for subsequent years, with advice from the Borough Solicitor and Treasurer.
- 5.3.2 A recent audit of procurement highlighted a discrepancy in Appendix 1 (one of the “tick sheets”, which are used extensively by officers to easily understand the route their procurement must take). It appeared to require OJEU advertising above £100,000 rather than above the EU threshold, which is £164,176. This has been corrected.
- 5.3.3 Some minor changes have been made to wording in order to simplify and clarify.

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 There are no financial implications directly arising.

Equalities Impact Assessment

- 6.3 Not applicable.

Strategic Risk Management Issues

- 6.4 Not applicable.

7 CONSULTATION

Principal Groups Consulted

- 7.1 Not applicable

Method of Consultation

7.2 Not Applicable.

Representations Received

7.3 Not Applicable.

Background Papers

None.

Contact for Further Information

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