

Summary Sheet

Council Report

Council – 25 January 2017

Title

Proposed Constitutional Amendments - Financial Regulations and Contract Standing Orders

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Judith Badger – Strategic Director of Finance and Customer Services

Report Author(s)

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Ward(s) Affected

All

Executive Summary

A review of the Council's constitution is currently taking place and Council has already approved amendments to the constitution at its Annual meeting and at its meeting on 7 December. Financial Regulations and Contract Standing Orders are part of the constitution and are therefore also being reviewed and updated. These two components fall within the terms of reference of the Standards and Ethics Committee with the final decision on constitutional amendments being a matter for Full Council.

The attached report summarises the main changes proposed to be made. The Financial Regulations have been shortened and modernised and consequently been converted into more active language with more responsibility given to the Chief Finance Officer and Strategic Director to manage the Council's finances in line with the Council's policy framework and budget and to be accountable to Members in doing so.

The Contract Standing Orders have been updated to reflect the Public Contract Regulations 2015, the move to always using electronic tenders and the introduction of a procurement business case process for planning procurements along with a section on contract management.

Recommendations

1. That the constitutional amendments relating to the Financial Regulations and Contract Standing Orders set out in appendices 2 and 3 to this report be approved.
2. That the Financial Regulations be renamed Financial Procedure Rules and the Contract Standing Orders be renamed Contract Procedure Rules and that all relevant documents be amended to reflect this change in wording.
3. That, subject to the proposed amendments being approved, the relevant renumbering of the documents be undertaken.
4. That a review of the effectiveness of the changes be reported to the Standards and Ethics Committee by the end of the calendar year.

Background Papers

N/A

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Standards and Ethics Committee – 12 January 2017

Council Approval Required

Yes

Exempt from the Press and Public

No

Review of Financial Regulations and Contract Standing Orders

1. Recommendations

- 1.1 That the constitutional amendments relating to the Financial Regulations and Contract Standing Orders set out in appendices 2 and 3 to this report be approved.
- 1.2 That the Financial Regulations be renamed Financial Procedure Rules and the Contract Standing Orders be renamed Contract Procedure Rules and that all relevant documents be amended to reflect this change in wording.
- 1.3 That, subject to the proposed amendments being approved, the relevant renumbering of the documents be undertaken.
- 1.4 That a review of the effectiveness of the changes be reported to the Standards and Ethics Committee by the end of the calendar year.

2. Background

- 2.1 A review of the Council's constitution is currently taking place and Council has already approved previous amendments to the constitution at the Annual meeting of Council and at its meeting on 7 December. Financial Regulations and Contract Standing Orders are part of the constitution and are therefore also being reviewed and updated.
- 2.2 The review of the existing documents and preparation of the new ones was conducted by an independent consultant, who has formerly held the post of chief finance officer in a local authority. The review involved comparing the Council's existing arrangements with five other metropolitan councils to produce proposals that are up-to-date and practical.
- 2.3 The Standards and Ethics Committee considered the proposed amendments at its meeting on 12 January 2017. The Committee recommended a number of further amendments and these are detailed at Appendix 1. It also recommended that a review on the effectiveness of the changes, if agreed by Council, be considered by the Standards and Ethics Committee by the end of the calendar year. In addition to this, the Committee also recommended that a training plan be developed as part of the implementation of the proposed changes.
- 2.4 The proposed Financial Regulations are attached as appendix 2 and the proposed Contract Standing Orders are attached as appendix 3. The main changes to the Financial Regulations and Contract Standing Orders are set out in section 3.

3. **Main Changes**

Financial Regulations

- 3.1 The Financial Regulations have been reduced in length by half, mainly by removing duplication.
- 3.2 The main changes to the Financial Regulations are set out below, with references to the regulation number:
- Changing the status of guidance notes (reg 2.5) so that they can be issued by the Chief Finance Officer at any time, and officers and members must comply with them;
 - Using definitions (para 3.1) for roles so that it is easier to make changes to the regulations if job titles and management structures change;
 - A clear statement that members and officers should seek value for money (reg 4.5);
 - A duty for officers to consult the Chief Finance Officer about financial matters (reg 5);
 - The virement rules (reg 7) have been clarified;
 - The procurement of goods and services (reg 10) now lines up with the way the financial system works by placing the key controls on the authorisation of requisitions and certification of goods or services being received;
 - A new regulation 11 has been introduced to cover grants to voluntary and community sector organisations;
 - The writing-off of debts (reg 13.11) is to be done by the Chief Finance Officer, with arrangements for consultation on larger debts;
 - The general assumption about overspends and underspends is that they will not carry forward to the following year's budget (reg 19);
 - A new regulation 25 has been included about the settlement of claims against the Council;
 - The limits for the disposal of land and buildings without separate Member approval have been increased (reg 27.11);
 - Regulation 31 has been added to deal with petty cash imprests;
 - Regulation 34 has been added to deal with gifts, loans and sponsorships;
 - Regulation 37 has been added to deal with emergency situations.

Contract Standing Orders

- 3.3 The Contract Standing Orders have been updated to reflect the Public Contract Regulations 2015, the move to always using electronic tenders and the introduction of a procurement business case process for planning procurements and a section on contract management.
- 3.4 For now they commence at number 32 but the numbering may change once they are slotted into their place in the revised constitution. That is why the cross-references in the draft Contract Standing Orders have not yet been completed.

3.5 The main changes to the Contract Standing Orders are set out below, with references to the standing order number:

- Using definitions (SO 32.5) for roles so that it is easier to make changes to the regulations if job titles and management structures change;
- The guiding principles (SO 33) have been extended;
- There is a requirement for Strategic Directors to prepare procurement business cases for each procurement (SO 37);
- The use of approved lists of contractors has been aligned with the Public Contract Regulations 2015;
- The tendering process (SO 42 to 46) reflects the Public Contract Regulations 2015;
- All tendering processes for £25,000 or more should be carried out using the YORTender system and advertised on Contracts Finder (SO 46);
- All tendering should be done electronically, using the security features and audit trail built into the YORTender system (SO 47.6);
- A new section (SO 52 to 54) has been added to set out what is expected from officers who are appointed as the contract manager for a contract.

4. Options considered and recommended proposal

4.1 Both the Financial Regulations and Contract Standing Orders were out of date and did not reflect the systems and practices being operated in the Council. The option of making no changes was, therefore, inappropriate.

5. Consultation

5.1 Consultation took place with a range of officers who are involved in financial management or procurement to identify what the issues and problem areas were. A sub-set of those officers were then consulted on the first and subsequent drafts of new Financial Regulations and Contract Standing Orders and invited to submit comments and improvements.

5.2 The Constitution Working Group was consulted on the proposed amendments on 10 January 2017 and provided feedback which was verbally reported to the Standards and Ethics Committee meeting on 12 January 2017. Both the working group and the committees were consulted and the views expressed have informed the proposals.

6. Timetable and Accountability for Implementing this Decision

6.1 The Strategic Director of Finance and Customer Services is responsible for ensuring implementation of the changes.

7. Financial and Procurement Implications

- 7.1 The revised Financial Regulations and Contract Standing Orders will enable quicker action and decision making whilst helping to strengthen record keeping and professional standards and also the requirement to seek advice and guidance from the Chief Finance Officer. They will assist the Council in functioning as a modern and efficient council in relation to financial and procurement matters and so help to meet one of the key Corporate Plan priorities.

8. Legal Implications

- 8.1 The revised regulations will be adopted into the Council's Constitution if approved.

9. Human Resources Implications

- 9.1 None arising from this report.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 None arising from this report.

11. Equalities and Human Rights Implications

- 11.1 None arising from this report.

12. Implications for Partners and Other Directorates

- 12.1 The proposed Financial Regulations and Contract Standing Orders will have an impact on the way that Strategic Directors carry out the day to day business of the Council. It is anticipated they will be able to do things more quickly and efficiently, but there will likely be some disruption as officers adapt to the changes.

13. Risks and Mitigation

- 13.1 The current regulations and standing orders are out of date, in some places, and this creates potential for confusion, errors and misunderstandings. Updating the documents will attempt to deal with these issues and problems but there are risks associated with making the change.

Risk	Mitigation
Officers may be unaware of the new rules	<p>Clear communication of the changes is needed</p> <p>Making them available on the intranet</p> <p>Develop a training programme to cover the main changes</p>
New rules may be unclear or have ambiguities	<p>Monitor the situation and keep notes of problem areas that arise</p> <p>The Chief Finance Officer to issue new/revised guidance notes to clarify the rules</p> <p>Review and revise the new rules within a year</p>
New rules may have gaps	<p>The Chief Finance Officer to issue a guidance note to fill the gap on an interim basis, until the next review can fill the gap permanently</p>
External changes (e.g. in laws)	<p>The Chief Finance Officer to issue new/revised guidance notes to clarify the rules in respect of the external change</p> <p>Review and revise the new rules within a year</p>

14. Accountable Officer(s)

Approvals Obtained from:-
Strategic Director of Finance and Customer Services, Judith Badger