



Report to Council

Subject: Amendments to the Contract Standing Orders relating to Prevention of Corruption

Date: 21 December 2011

Author: Helen Barrington – Council Solicitor and Monitoring Officer

1. Purpose of the Report

To seek approval for amendments to the Contract Standing Orders following the revocation of the Prevention of Corruption Acts 1889 to 1916 and introduction of the Bribery Act 2010.

2. Background

2.1 Members will recall that the attached report was presented to the Council meeting on 5 October 2011 recommending a minor change to the Contract Standing Orders. In view of the operation of Standing Order 29, consideration of the report was adjourned without further discussion.

3. Recommendation

3.1 That the amendment to the Contract Standing Orders outlined in the attached report is approved.

3.2 That the Council Solicitor and Monitoring Officer be authorised to make the appropriate change to the Constitution to incorporate the amendment.



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3. Purpose of the Report

To seek approval for amendments to the Contract Standing Orders following the revocation of the Prevention of Corruption Acts 1889 to 1916 and introduction of the Bribery Act 2010.

4. Background

2.1 Contract Standing Order 24 currently states:

“Cancellations

There shall be inserted in every written Contract a clause empowering the Council to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation, if the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to be done or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other Contract with the Council, or for execution of the Contract or any other Contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the Contractor), or if in relation to any Contract with the Council the Contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.”

2.2 The Standing Order needs to be amended to reflect the revocation of the Prevention of Corruption Acts 1889 to 1916 and introduction of the Bribery Act 2010.

- 2.3 It is proposed that Contract Standing Order 24 is replaced with the following wording:

“24. Cancellations

There shall be inserted in every written Contract a clause empowering the Council to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation:-

24.1 If the Contractor shall have offered, promised or given a financial or other advantage to another person; and either

24.1.1 the Contractor intends the advantage to induce a person to perform improperly, or reward a person for the improper performance of, a relevant function or activity in relation to the obtaining or execution of the Contract or any other contract with the Council; or

24.1.2 the Contractor knows or believes that the acceptance of the advantage would itself constitute the improper performance of the relevant function or activity in relation to the obtaining or execution of the Contract or any other contract with the Council; or

24.2 If the like acts shall have been done by any person associated with the Contractor or acting on his behalf (whether with or without the knowledge of the Contractor); or

24.3 If in relation to any Contract with the Council the Contractor or any person associated with him or acting on his behalf shall have committed any offence under the Bribery Act 2010, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.”

- 2.5 The proposed change falls within Standing Order 29 which states:

“29. Variation and Revocation of the Constitution

Any motion to add to, vary or revoke the Articles of the Constitution, Procedural Standing Orders, Standing Orders relating to Contracts, Standing Orders dealing with Land and Standing Orders relating to staff except for the amendment of financial limits and other amendments appropriate to give effect to changes in officers’ duties, responsibilities and titles, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.”

Consequently, this change cannot be agreed straightaway.

3. **Recommendation**

- 3.1 That the amendment to the Contract Standing Orders outlined in the report are approved.
- 3.2 That the Council Solicitor and Monitoring Officer be authorised to make the appropriate amendments to the Constitution to incorporate the amendments.