

Report to Cabinet

Subject: Work for Third Parties – Delegations to Corporate Director

Date: 11 September 2014

Author: Chief Executive

Wards Affected

All

Purpose

To seek approval to establish a formal delegation to each Corporate Director to approve work carried out for third parties, including the fees and charges, up to a value of £20,000 per contract or type of work.

Key Decision

This is not a key decision.

Background

- 1.1 Whilst the Council is encouraging its staff to be more entrepreneurial internally and externally, any service provided for third parties must comply with the legal framework and constitutional requirements.
- 1.2 The Council can rely on certain specific statutory powers to provide services to third parties. A useful piece of legislation is the Local Authorities (Goods and Services) Act 1970 which enables the Council to provide to another 'public body' goods or materials or administrative, professional or technical services. The Act specifically enables the Council to enter into agreements on terms it deems appropriate, which includes setting the level of charges (which can result in surplus income).
- 1.3 Where there is no specific statutory power, the Council can rely on the general power of competence in the Localism Act 2011. The Act includes the power to charge, but the Council can only recover its costs and cannot make a surplus or trade. Section 93 Local Government Act 2003 also includes a power to charge for discretionary services. Again the Council can only recover its costs and cannot make a surplus or trade, unless it sets up a separate company.

1.4 Work may be carried out for:

- Residents of the Borough;
- Businesses within or outside the Borough; or
- Other public bodies.

1.5 The Financial Regulations, which are contained within the Constitution, set out the key controls which need to be complied with before the Council can offer to provide a discretionary service to third parties. The responsibilities of Corporate Directors are as follows:

- 5.26 To ensure that the approval of the executive is obtained before any negotiations are concluded to work for third parties.
- 5.27 To ensure that appropriate insurance arrangements are made in consultation with the Chief Financial Officer.
- 5.28 To ensure that the authority is not put at risk from any bad debts.
- 5.29 To ensure that no contract is subsidised by the authority.
- 5.30 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 5.31 To ensure that the department/unit has the appropriate expertise to undertake the contract.
- 5.32 To ensure that such contracts do not impact adversely upon the services provided for the authority.
- 5.33 To ensure that all contracts are properly documented.
- 5.34 To provide appropriate information to the Chief Financial Officer to enable a note to be entered into the statement of accounts.

1.6 Currently there are no established general delegations therefore on every occasion that a service wishes to enter into a third party contract of any size the approval of the executive is required.

Proposal

2.1 It is proposed that delegated power be given to the Corporate Directors to approve all work for third parties, including the fees and charges, up to the value of £20,000.00 per contract or type of work. The Corporate Director will continue to be responsible for ensuring compliance with the requirements in the Financial Regulations set out above and that the Council has the powers to provide the service requested.

2.2 The Portfolio Holder will continue to be consulted and take decisions on all work carried out for third parties in excess of £20,000.

Alternative Options

- 3.1 One option is to remain with the status quo as outlined with the current version of the Constitution and Financial Regulations. This is not favoured for the reasons previously outlined.
- 3.2 Another option would be to approve the delegation to the Corporate Director as outlined but reduce or alternatively increase the contract value figure. The £20,000.00 contract value has been determined as being the most appropriate value for the two levels of delegated approval.

Financial Implications

- 4.1 The Council's Financial Regulations require that work for a third party is not subsidised by the Council and therefore all fees and charges must ensure full costs recovery. A surplus may be generated where the Council is relying on the Local Authorities (Goods and Services) Act 1970 to carry out the works or other specific statutory power which allows this.

Appendices

- 5.1 None

Background Papers

- 6.1 None

Recommendations

THAT Corporate Directors be authorised to:

- a) approve all work for third parties up to the value of £20,000.00 per contract or type of work; and
- b) agree the fees and charges for such work which must, as a minimum, be on a full cost recovery basis.

Reasons for Recommendations

- 7.1 To ensure that the Council's Constitution and Financial Regulations are effectively upheld and adhered to and also ensure that delegated authorities from the Executive support the Councils desire to be more entrepreneurial.
- 7.2 To ensure efficient decision making by reducing the bureaucracy and timescales associated with approving low value work for third parties and preventing the Executive from being overwhelmed by a large number of day to day operational matters.