

Report to Council

Subject: Amendment to Contract Standing Orders

Date: 16 September 2015

Author: Council Solicitor and Monitoring Officer

1. Purpose

To seek approval for amendments to the Contract Standing Orders in the Constitution.

2. Background

2.1 The existing Contract Standing Orders (CSOs) were originally drafted many years ago but have been amended on a piecemeal basis over the years. This has led to some inconsistencies in terminology and difficulties in interpretation. As a result, it was considered appropriate to carry out a thorough review to ensure that they were fit for purpose in the current climate and reflected current legislation.

2.2 Officers across the Council regularly involved in procurement were consulted and asked to identify any inconsistencies in terminology and any issues they faced when conducting a procurement exercise under the current CSOs. As a result of this, Officers requested that the following provisions be included in any revised version:

- an ability to use framework agreements for all contracts,
- flexibility around where tenders need to be advertised,
- clarity around the contracts the CSOs apply to,
- allowing most economically advantageous tender (MEAT) as a criteria for selecting the successful bidder rather than restricting it to price alone,
- the ability for the Corporate Director to approve the use of certain types of tender processes without the need for Member approval,
- provisions enabling the Council accept tenders electronically instead of being restricted to hard copy submission alone.

2.3 As part of the review, Standing Orders have also been added to address issues which have arisen over the last few years or are simply not covered in the current version as follows:

- an exemption from the requirement to tender if the Council receives grant funding which needs to be spent quickly,
- an exemption from the requirement to tender if the Council is procuring services, supplies or works from another local authority, and
- an exemption from the requirement to tender if the Council is procuring services, supplies or works from a company wholly owned by the Council.

2.4 During the course of the review, the Public Contracts Regulations 2015 came into force and therefore provisions have been included to reflect the requirements of and provisions in those Regulations, as follows:

- If the value of the contract exceeds £25,000 and is advertised, the Regulations require the advertisement to be placed on Contracts Finder.
- The Regulations prohibit the use of a pre-qualification stage in a procurement of supplies and services. A pre-qualification stage can only be used for works contracts of a certain value.
- If the value of the contract exceeds £25,000, the Regulations require the award of the contract to be published on Contracts Finder.
- If the value of the contract exceeds £25,000, the Regulations require the contract to include provisions relating to the payment of undisputed invoices within 30 days.

2.5 The views of a cross party working group of members on the revised CSOs have been sought and a final version, incorporating their comments, prepared (Appendix 1).

3. Proposal

3.1 It is proposed that the revised Contract Standing Orders attached as Appendix 1 to the report reflecting the above amendments, be approved.

3.2 Once the new Contract Standing Orders are approved, it is proposed that training will be delivered to key Officers.

3.3 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 for Dealings 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, the changes to the Standing Orders cannot be agreed straightaway.

4. Financial Implications

4.1 None arising from this report.

5. Appendices

5.1 Appendix 1 – Revised Contract Standing Orders.

6. Background Papers

6.1 None identified.

7. Recommendations

It is recommended that:

7.1 the Council approves the revised Contract Standing Orders attached as Appendix 1 to the report; and

7.2 the Council Solicitor and Monitoring Officer is authorised to make the appropriate amendments to the Constitution to incorporate the Standing Orders.