

COUNCIL	DATE 21 July 2021	ITEM NO 13
TITLE: Proposed changes to Part 3 of the Constitution - Contract Standing Orders	WARD (S) Not applicable	
CHIEF OFFICER: Director of Legal Services/Monitoring Officer	CABINET MEMBER: Finance & Resources	
DECISION CLASSIFICATION: Non-exempt report Non-exempt appendices	IS THE FINAL DECISION ON THE RECOMMENDATIONS IN THIS REPORT TO BE MADE AT THIS MEETING? Yes	

1. **Decision required**

This report makes the following recommendation to the decision maker:

Council is requested to:

- 1.1 Approve the changes to Part 4 of the Constitution (Contract Standing Orders) set out in Appendix C.

2. **Links to the Royal Greenwich high level objectives**

- 2.1. This report relates to the delivery of all of the high-level objectives contained within the Royal Greenwich Strategy.

3. **Purpose of Report and Executive Summary**

- 3.1 The purpose of the report is to recommend changes to the Council's Contract Standing Orders in Part 4 of the Constitution. There are a number of important reasons for recommending these changes which are set out in paragraph 4.7 of the report.

4. **Introduction and Background**

- 4.1 The Monitoring Officer is responsible for maintaining an up-to-date version of the Constitution. Article 15.02(a) of the Council's Constitution states that Full Council may change the Constitution, but only after considering a proposal by the Monitoring Officer.

- 4.2 The Monitoring Officer has established a four year rolling review of the Constitution in order to ensure that the overall Constitution is kept up to date. Any changes which are required outside of the programme will be brought forward to Full Council separately.
- 4.3 A Constitution Review Working Group has been set up to provide a sounding board and discussion forum for the Monitoring Officer's proposed changes to the Constitution before they are submitted to Full Council. The Working Group is an advisory group with no formal decision making powers. It sits outside the Council's Constitution.
- 4.4 Following agreement with the Director of Finance, the Monitoring Officer is proposing changes to the Contract Standing Orders in Part 4 of the Constitution. The background and reasons for the proposed changes are set out below.
- 4.5 Contract Standing Orders are part of the Council's Constitution and govern all contracts for the supply of services, goods or materials or for the execution of works entered into by the Council. These Standing Orders apply to all types of Contracts except for the following: -
- Grants that the Council is applying for or issuing.
 - Contracts of employment which make an individual a direct employee of the Council.
 - Agreements directly associated with the acquisition, disposal, or transfer of assets or land (to which the Financial Regulations shall apply).
- 4.6 The Contract Standing Orders are designed to ensure:
- best value for the Council
 - non-discrimination and equal treatment
 - transparency and accountability
 - propriety
 - compliance with national (i.e. English) law
 - furtherance of the Council's corporate policies (including social value) and procurement strategy.
- 4.7 The Council's Contract Standing Orders are being updated to ensure that they reflect changes to legislation as well as ensuring that the Council retains appropriate levels of governance over all contracts. Following extensive consultation with officers across the Council the main changes to the Council's Contract Standing Orders are: -

- Reflecting Britain leaving the EU.
- Reflecting changes brought under the Public Contracts Regulations (PCR 2015)
- Promoting a think/buy local policy (CSO 13)
- Embedding the use of the e-procurement system
- Providing clarity around tender acceptance and reports approval in line with the Scheme of Management
- Strengthening Contract Management practices
- Introducing new sections on commercial tools such as Framework Agreements and Dynamic Purchasing Systems
- An improvement in governance processes including the requirement for strategic procurement comments on decision reports.
- A new requirement to secure and report social value (CSO 12).

4.8 A summary of the proposed changes to the Council's Contract Standing Orders can be found at Appendix A. The existing Contract Standing Orders are set out in Appendix B. The proposed Contract Standing Orders are set out in Appendix C.

4.9 In terms of the Think/Buy Local Policy changes at CSO 13 these are summarised as: -

- less than £15,000 - One firm - Invite from local firms in accordance with CSO 13.3
- £15,000 to £25,000 - Invite at least 2 firms - Invite two from local firms or from neighbouring boroughs
- 25,000 to below National threshold for services/supplies - Invite at least - Invite at least two from local firms. If you can't get all 2 suppliers from local firms, invite firms from neighbouring boroughs

CSO 13.3 states: -

The Chief Officer shall use the list of local firms which are onboarded on the Royal Borough's e-procurement portal to seek quotes for the provisions of the works, supplies and services sought. Where there are no appropriate local firms available then the, Chief Officers will seek quotations from firms which are competent and financially stable from neighbouring boroughs first before considering firms from other places.

4.10 For all contracts the relevant officer has a duty to ensure that Value for Money has been obtained. All Local Councils have a duty to achieve Best Value in accordance with the Local Government Act 1999 and this needs to be a key consideration in the procurement process for all contracts.

5. **Available Options**

5.1 Approve the changes to the Contract Standing Orders in Part 4 of the Constitution set out in Appendix C.

5.2 Make no changes to the Contract Standing Orders in Part 4 of the Constitution.

5.3 Ask the Monitoring Officer to consider alternative changes to the Contract Standing Orders in Part 4 of the Constitution.

6. **Preferred Option**

6.1 Approve the changes to the Contract Standing Orders in Part 4 of the Constitution set out in Appendix C.

7. **Reasons for Recommendations**

7.1 If the proposed changes are agreed, they will ensure that the Contract Standing Orders remain up to date and legally compliant. Approving the changes will also help to ensure that the principles of the Procurement and Social Value Strategies, approved by Cabinet in November 2019, are fully implemented.

8. **Consultation Results**

8.1 Consultation has taken place with the Constitution Review Working Group. The proposals incorporate the views of the Working Group.

9. **Cross-Cutting Issues and Implications**

Issue	Implications	Sign-off
Legal including Human Rights Act	Section 9P of the Local Government Act 2000 requires local authorities to prepare and keep up to date constitutions containing their standing orders, code of conduct for members, any other information they considered	John Scarborough, Director of Legal Services, 8 July 2021

	<p>appropriate and ‘such information as the Secretary of State may direct’.</p> <p>Given that this report recommends changes to the Constitution, it requires approval by Full Council.</p>	
Finance and other resources	There are no direct financial implication arising from this report.	<p>Michael Bate Assistant Director of Corporate Finance 8 July 2021</p>
Equalities	The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no apparent equality impact on end users.	<p>John Scarborough, Director of Legal Services, 8 July 2021</p>
Climate change	Even though the proposed changes have no specific Standing Order on Climate Change, where applicable, Greenwich Carbon Neutral Plan factors will be considered in the relevant procurement exercise.	<p>John Scarborough, Director of Legal Services, 8 July 2021</p>
Procurement & Social Value	The proposed Contract Standing Orders provide the rules and the expected conduct for officers to carry out a compliant process as well as to demonstrate best value when procuring goods, services and works. It also proposes a new requirement for economic, social and environmental benefits to the community to be incorporated or targeted in commissioning and procurement exercises.	<p>Michael Bate Assistant Director of Corporate Finance 8 July 2021</p>

10. **Report Appendices**

- 10.1 The following documents are to be published with and form part of the report:

- Appendix A: Summary of the proposed changes to Contract Standing Orders
- Appendix B: Existing text of Contract Standing Orders in Part 4 of the Constitution
- Appendix C: Proposed text of Contract Standing Orders in Part 4 of the Constitution

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