

Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: 27 February 2013

Report of: Assistant to the Chief Executive

Subject: Annual Review of Contract Standing Orders

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Recommendations:

- (1) That, as agreed at the last Annual Review of Contract Standing Orders, the maximum period for renewing contracts under CSO C4(1)(g) of 2 years be re-affirmed on a permanent basis;
- (2) That the delegation to Chief Officers (as defined in Contract Standing Orders) relating to the approval of ad hoc tendering lists after public notice under CSO C7(6)(a) be re-affirmed on a permanent basis;
- (3) That Contract Standing Orders CSO (1) be amended by the addition of reference to the Public Services (Social Value) Act 2013.

Report:

Introduction

1. Each year the Scrutiny Panel reviews Contract Standing Orders in the light of changes in legislation and in order to address any operational problems which have been experienced. A review of Contract Standing Orders is due in the current year, being conducted every two years.

Ad Hoc Tender Lists

2. CSO C7(6)(a) relates to approval of ad hoc tendering lists after a public notice has been given. Last year, the Panel recommended that this CSO should be amended so as to delegate the approval of such lists to Chief Officers. Previous practice had been for this to be undertaken by Portfolio Holders in relation to contracts above £50,000 in estimated value but below the limit prescribed by EU legislation.
3. The reason for making this change was to avoid premature disclosure of the list of competitors via the Portfolio Holder decision process, which is open to public scrutiny and via any possible call-ins.

4. The Council asked that this new arrangement should operate for 1 year on a trial basis and then reviewed. The Officer Working Party which looks at these matters has considered whether it has caused any difficulties over that 12 month period and the conclusion is that the new arrangement has worked well. The Panel is asked to agree that this as a permanent arrangement.

Contract Renewal Periods

5. Last year, the maximum period for renewing contracts under CSO C4(1)(g) was reduced to 2 years from 4 years. This change was made in order to ensure that the Council achieve value for money through more frequent re-tendering of contracts. The Council asked for this to be reviewed after the first year of operation to establish whether any operational difficulties had been caused. The Officer Working Party has looked at the issue and has found no evidence of difficulties and the Panel has asked therefore to agree that this arrangement be affirmed on a permanent basis.

Public Services Social Value Act 2012

6. This Act came into force in January 2013. It requires that those bodies commissioning contracts for services to which EU thresholds apply to consider how what is to be procured may improve the social environmental and economic wellbeing of the relevant area, how they might secure any such improvements and the need to consult.
7. The Act applies to the pre-procurement stage of contracts for services because that is where social value can be considered to greatest effect. Commissioning agencies should consider social value before the procurement starts because that can inform the whole shape of the procurement approach and the design of the services required. The Act applies to EU contracts above the EU thresholds for advertisement.
8. Contract Standing Orders C1 specifies various rules and legislation with which the letting of contracts by the Council must comply. It is recommended that this new legislation should be added to the list. A copy of C1 (1) is attached and it is suggested that the new entry should be cross referenced with CSO34 (EU Procurement Thresholds as shown).

Next Steps

9. The changes proposed to Contract Standing Orders require the approval of the Overview and Scrutiny Committee and the Council before the Constitution may be amended.