



Full Council
19 January 2015

**Report from the Deputy
Monitoring Officer Legal and
Procurement**

For Action

Wards Affected:
ALL

Updates to the Constitution

1.0 Summary

1.1 Members periodically review the Codes and Protocols which form part of the Constitution and which set out standards of conduct for members and for the Council generally. The Protocol for Member/Office Relations and the Local Code of Corporate Governance have been reviewed and some amendments are proposed to those documents. This report also proposes some minor amendments in relation to Contract Standing Orders concerning the procurement of Low Value Contracts.

2.0 Recommendations

That Members

- 2.1 agree the changes made to the Protocol for Member/Officer relations attached as **Appendix 1**
- 2.2 agree the changes made to the Local Code of Corporate Governance attached as **Appendix 2**.
- 2.3 agree the changes to the Contract Standing Orders attached as **Appendix 3**

3.0 Detail

Protocol for Member/Office Relations

3.1 The Protocol for Member/Officer Relations sets out the separation of roles between members and officers. It forms part of the various Codes for members' conduct and failure to comply with the Protocol could

result in an allegation of breach of the Code of Conduct which may be investigated and reported to the Standards Committee. There is a similar Code of Conduct in relation to Officers which can result in disciplinary proceedings. The minor changes to the Protocol shown as track changes in **Appendix 1** are to clarify the status of the document and ensure that the Codes for officers and members are consistent and clear. The proposed changes to this Protocol were considered by the Standards Committee on 9th December 2014 when members of that committee discussed the Protocol and endorsed the changes proposed at that time. Since that meeting officers have further considered the wording at paragraph 10.2 bullet point two, and have made a subsequent suggested amendment. It is proposed that it reads 'staffing problems' rather than 'work problems' (as was the wording before the Standards Committee), so as to remove any ambiguity and provide greater clarity. It is proposed that the same change be made to the officer Code. The Protocol for Member/Office Relations forms part of the Council's Constitution and members are asked to agree the changes shown in **Appendix 1**.

Local Code of Corporate Governance

- 3.2 Councils must be able to demonstrate compliance with the principles of good governance. To assist in developing the approach to good governance, CIPFA/SOLACE issued *Delivering Good Governance in Local Government: Framework* and an accompanying guidance note in 2007. CIPFA/SOLACE has since issued an addendum and updating guidance. The 2012 guidance note provided

The overall aim is to ensure that resources are directed in accordance with agreed policy and according to priorities; that there is sound and inclusive decision making; and that there is clear accountability for the use of those resources, in order to achieve desired outcomes for service users and communities.

- 3.3 The Framework urges each local authority to test its approach by reviewing its governance arrangements, developing and maintaining an up to date local code of governance and reporting publically on compliance and any changes required.
- 3.4 The Audit Committee receives and considers the Council's Annual Governance Statement in which the Council reviews and publically reports on its compliance with the principles and requirements set out in the Code and identifies any areas for improvement. The Audit Committee considered the 2013/14 Annual Governance Statement at its meeting on 26th June 2014 where the Council's compliance was tested against the revised criteria set out in the updated CIPFA/SOLACE guidance.

- 3.5 It is proposed that the revised and updated Local Code of Corporate Governance attached as **Appendix 2**, which takes into account and reflects the principles and requirements set out in the more recent guidance, should replace the Code currently included in the Constitution which no longer represents the up to date position. The proposed changes to this Code were considered by the Standards Committee on 9th December 2014 when members of that committee discussed the Code and endorsed the changes shown in **Appendix 2**. The Code forms part of the Council's Constitution and members are asked to agree the changes.

Contract Standing Orders

- 3.6 This report proposes some minor amendments in relation to Contract Standing Orders concerning the procurement of Low Value Contracts as shown at **Appendix 3**.
- 3.7 Officers use the Council's Electronic Tender Facility (currently the Due North System) for tendering the vast majority of Medium Value and High Value Contracts. This facility has proved an efficient and effective way of procuring contracts. Once registered on the Council's Electronic Tender Facility, a provider is automatically alerted to any tender in a subject area that may be of interest, making it easier for small or medium enterprises to keep abreast of contractual opportunities. Such systems are widely used by local and central government and have been accepted by tenderers. In view of the benefits of using the Electronic Tender Facility, Officers have increasingly used the Electronic Tender Facility to seek quotes for Low Value Contracts without encountering any significant issues. It is considered that the use of the Electronic Tender Facility for seeking quotes for Low Value Contracts should therefore be mandatory save where the Council's Procurement Officers do not consider the use of the Electronic Tender Facility is necessary or appropriate. To this end an amendment to Contract Standing Order 86 (b) is proposed.
- 3.8 A further amendment to Contract Standing Order 86 (b) is proposed in relation to seeking quotes from local providers for Low Value Contracts. The majority of the Council's spend with third parties is in relation to Medium Value and High Value Contracts which in most cases are subject to the Public Contracts Regulations 2006 (as amended) and must be procured in accordance with such Regulations which require, amongst other matters, advertisement in the Official Journal of the European Union. For Low Value Contracts that are not subject to cross border interest however, the Council has the ability to select those providers it wishes to seek quotes from. When procuring a Low Value Contract Officers are required to seek at least 3 quotations. Officers consider that this provides an opportunity to give local individuals and organisations in Brent an opportunity to bid for Council

contracts and it is proposed to amend Contract Standing Order 86 (b) to require Officers to seek, at least one of those quotes, from a local provider when procuring Low Value Contracts except where the Council's Procurement Officers do not consider this to be necessary or appropriate. A definition of a "Local Brent Provider" is included in the definitions at Contract Standing Order 82 namely, "A party that provides services, supplies or works and that is based or has a local office situate in a postcode area falling within the London Borough of Brent."

4.0 Financial Implications

4.1 This report contains no specific financial implications.

5.0 Legal Implications

5.1 Regulation 4 of the Accounts and Audit Regulations 2011 requires the Council to review its system of internal control, to have those findings considered by the Council, or a committee of the Council (in Brent this function is delegated to the Audit Committee) and to publish an Annual Governance Statement to accompany the accounts.

6.0 Diversity Implications

6.1 This report contains no specific diversity implications.

7.0 Staffing Implications

7.1 This report contains no specific staffing implications.

Background papers

Brent Council Constitution

Should any person require any further information about the issues addressed in this report, please contact Kathy Robinson, Senior Corporate Solicitor, on telephone number 020 8937 1368.

Fiona Alderman
Principal Lawyer Social Services and Deputy Monitoring Officer
Legal and Procurement Department