



**Full Council
2 March 2015**

Report from Chief Legal Officer

For Action

Wards Affected:
ALL

Updates to the Constitution

1.0 Summary

- 1.1 It is proposed that the Constitution be amended so as to reflect the senior manager restructuring agreed by the Cabinet, and to address changes in the law in relation to procurement. There is also a minor change in relation to meetings of Teachers' Joint Consultative Committee.

2.0 Recommendations

That Members:

- 2.1 agree the changes made to the Constitution as shown in **Appendix 1** in relation to the senior management restructure with effect from 1st April 2015.
- 2.2 delegate authority to the Chief Legal Officer to make such other incidental changes to the Constitution as are necessary in relation to the senior management restructure.
- 2.3 confirm that any previous delegations made by the Council, its committees, or the Cabinet, and its committees to post titles now deleted shall be regarded as delegations to those Chief Officers to whom that function is now transferred.
- 2.4 agree the changes to Contract Standing Orders as shown in **Appendix 2**.

- 2.5 agree that the frequency of meetings of the Teachers' Joint Consultative Committee be varied from at least once per every school term to ad hoc.

3.0 Detail

Changes to the senior management restructure

- 3.1 At the Cabinet meeting on 15th December 2014 members agreed changes to the senior management structure of the Council and as a consequence amendments to the Constitution are required to reflect the new post titles and delegation of functions. Attached as **Appendix 1** are extracts from the Constitution which show the new senior management arrangements and the transfer of various functions between posts. The main changes which affect the constitutional arrangements are the deletion of the posts of Strategic Director Environment and Neighbourhoods, Assistant Chief Executive and Director of Legal and Procurement, and the transfer of the functions to the Strategic Director Regeneration and Growth, the Chief Operating Officer and the Chief Legal Officer. There are other incidental references to these posts throughout the Constitution and it is proposed that the Chief Legal Officer be given delegated authority to make such changes as are necessary.

Changes to the Procurement Rules

- 3.2 The Public Contracts Regulations 2015 (the 2015 Regulations) came into force on 26th February 2015. The 2015 Regulations largely replace the Public Contracts Regulations 2006 and introduce a new regime for procurement in England. This has required a number of changes to the council's Contract Standing Orders as shown in Appendix 2. Major changes resulting from the 2015 Regulations include the disappearance of the distinction between Part A/Part B Services and its replacement of a new "light touch" regime for social and other specific services set out in Schedule 3 to the 2015 Regulations; the introduction of new procurement procedures including the "Competitive Procedure with Negotiation" and the "Innovative Partnership" procedure; the requirement for evaluation of bids to be on the basis of the most economically advantageous tender only; and the introduction of requirements to advertise contracts on "Contracts Finder".
- 3.3 Whilst the majority of the proposed changes to Contract Standing Orders are required to reflect the 2015 Regulations, a change to the definition of Very Low Value Contract and Low Value Contract is proposed for expediency. The 2015 Regulations have introduced new requirements for procurements below the relevant EU threshold figures but above £25,000. Where such contracts are advertised, there is a requirement for them additionally to be advertised on Contracts Finder. There is also a ban on using a separate Pre Qualification stage for such contracts. Given such requirements only apply to contracts valued at more than

£25,000, it is proposed to increase from £20,000 to £25,000 the division between Very Low Value Contracts and Low Value Contracts in order to mirror this new figure and ensure that the requirements of the 2015 Regulations apply consistently to Low Value Contracts.

Teachers Joint Consultative Committee

- 3.4 Part 2 Article 10 of the Constitution sets out the arrangements for Staff Fora. The Council has established an Employee Joint Consultative Committee and a Teachers Joint Consultative Committee. There is no provision in the Constitution for frequency of meetings in relation to the former, and this meets on an ad hoc basis as and when required. It is proposed that meetings for the Teachers Joint Consultative Committee be arranged on the same basis. The proposed changes are shown in **Appendix 3**.

4.0 Financial Implications

- 4.1 This report contains no specific financial implications.

5.0 Legal Implications

- 5.1 Any legal implications arising are addressed in the body of this report.

6.0 Diversity Implications

- 6.1 This report contains no specific diversity implications.

Background papers

Brent Council Constitution

Senior Manager Restructuring Proposals report to Cabinet 15th December 2014.

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
Chief Legal Officer