

GOVERNANCE COMMITTEE

Agenda Item 29

Brighton & Hove City Council

Subject:	Amendments to Contract Standing Orders		
Date of Meeting:	20 September 2011	Governance Committee	
	20 October 2011	Council	
Report of:	Monitoring Officer		
Contact Officer:	Name:	Abraham Ghebre-Ghiorghis	Tel: 29-1500
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report proposes some technical modifications to Contract Standing Orders to address practical issues around authorisation of officers, keeping of registers and extension of contracts.

2. RECOMMENDATIONS:

- 2.1 That the Governance Committee recommends to Council that the amendments set out in paragraphs 3.2 to 3.7 of the report and more particularly indicated in the appendix be approved and that they come into force with immediate effect.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Monitoring Officer is required to keep the operation of the Constitution under review and bring any proposed modifications to Members' attention. The Council's Contract Standing Orders were last amended in October 2010. Since then, some issues have arisen around the detailed practical operation of Contract Standing Orders that require addressing, which are set out in the following paragraphs.
- 3.2 Before Officers can enter into contracts on behalf of the Council, they need to be one of the Senior Officers (Chief Executive, Strategic Director, Lead Commissioner, Heads of Delivery Units or Head of a Resource Units) or a "contract Officer" specifically authorised by a Strategic Officer. Contracts are not always of significant value and could include, for example, the purchase of a pencil. Strategic Directors are required to keep a register of all contract officers. In practice, given the size of the organisation, this does not happen and it has been a problem since its introduction some 8 years ago. It is therefore proposed to amend contract standing order 3.1 to remove the requirement for a register of contract officers and extend the power to authorise Officers to enter into contracts to Senior Officers (Senior Officers is defined as Lead Commissioners, Heads of Delivery Units and Heads of Resource Units.)

- 3.3 Unlike the position with the scheme of delegations, there is no mechanism for other officers to exercise the powers of a Strategic Director when he/she is unavailable or otherwise unable to act. In line with the practice relating to Officer delegations, it is proposed to amend Contract Standing Orders so that, in such cases, the relevant Senior Officer can exercise the functions of the Strategic Director regarding contracts.
- 3.4. There is a requirement for Strategic Directors and Senior Officers to keep a register of declarations of interests relating to contracts. Rather than having to keep a separate register for contracts only, it is proposed to allow them to combine this with other registers of declarations of interest that they are required to keep under the constitution.
- 3.5 Contract Standing Order 14 requires all “renewable” contracts above £75K in value to be entered into an electronic register. However, the term “renewable” is not defined. It is therefore proposed to include a definition of renewable contracts as contacts giving either party the right to extend the contract for a period beyond the normal expiry date.
- 3.6 There are occasions when a contract is about to come to an end and there is insufficient time to go through the normal procurement process risking a service interruption. Standing Order 16.3 allows the Strategic Director to extend such contacts providing the total value (including the extension) does not exceed the EU threshold (£156,442 for service contracts and £3,927,260 for works contracts.) There is no mechanism under the current standing orders to extend contracts above the threshold. In the light of experience, it is proposed that Strategic Directors be given the power to extend such contacts in exceptional circumstances to preserve continuity of service by amending Contract Standing Order 18.6 to enabling them to grant a waiver.
- 3.7 There are other minor typographical and definitional amendments which are shown in the appendix.
- 3.8 Under the constitution, amendments to contract standing orders require the approval of full Council. Governance Committee is therefore being recommended to agree the proposals and recommend them to Council.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 The Leaders Group, the Strategic Leadership Board and the Procurement Strategy Manger were consulted and their views incorporated into the report.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no financial implications arising from this report.

Finance Officer Consulted: Anne Silley

Date: 19/08/11

Legal Implications:

5.2 There are no legal implications arising from this report.

Lawyer Consulted: Abraham Ghebre-Ghiorghis
Equalities Implications:

Date: 19/08/11

5.3 There are no adverse equalities implications arising from this report.

Sustainability Implications:

5.4 The proposals introduce some technical amendments to Council procedures that are unlikely to have sustainability implications.

Crime & Disorder Implications:

5.5 None.

Risk and Opportunity Management Implications:

5.6 The revised Contract Standing Orders will minimise the risk of non-compliance by removing some of the restrictions to bring them in line with good practice.

Public Health Implications:

5.7 There are no public health implications arising from this report.

SUPPORTING DOCUMENTATION

Appendices:

1. Revised Contract Standing Orders

