

COUNCIL 8 JANUARY 2007

Chair:
Councillor Eddie Griffith

Deputy Chair:
Councillor Charles Adje

INTRODUCTION

- 1.1 This report to full Council arises from two reports considered by the General Purposes Committee at our meeting on 18 December 2006. Both reports resulted in recommendations from the Committee to full Council. In one case full Council is asked to amend Contract Standing Orders which form part of the Council's Constitution. In the other full Council is asked to revise the Statement of Licensing Policy.
- 1.2 The proposed changes are needed immediately to ensure the proper and lawful operation of the Council's procurement procedures and its Statement of Licensing Policy. They are being recommended to Members now rather than after completion of the ongoing Review of the Council's Constitution.

**ITEMS FOR DECISION FROM THE MEETING OF THE
COMMITTEE ON 18 DECEMBER 2006**

2. AMENDMENTS TO CONTRACT STANDING ORDERS

- 2.1 We received a report on proposed amendments to Contract Standing Orders (CSOs). This report had been received and approved in principle by the Procurement Committee at its meeting on 7 December. We were advised that the changes were needed to secure compliance with European and UK legislation. They would also help to promote voluntary collaboration between local authorities in their efforts to achieve cost savings in procurement.
- 2.2 The full text changes are set out in Appendix 1 to this report and a more convenient comparison between the existing CSOs and the proposals is attached as Appendix 2.
- 2.3 The Head of Procurement when presenting the report withdrew the proposal that the contract value, where it was appropriate to require the sealing of a contract, should be increased from £150,000 to £250,000. We were advised that it would be appropriate to bring the revised CSOs into force with the new central procurement register on 5 February 2007.

- 2.4 We noted that the EU Consolidated Procurement Directive had been transposed into UK law by the Public Contracts Regulations 2006 which replaced all the Regulations previously referred to in CSO 8.01. To ensure compliance with the European Court of Justice decision in “Alcatel”, which requires a standstill period between notifying unsuccessful tenders and contract award, a 10 day period is to be inserted into CSO 8.02. In accordance with the 2006 Regulations, a new procurement procedure known as competitive dialogue is to be included in CSO 8.03(d) and provision is made for electronic tendering and auctions in CSOs 9.06 to 9.09.
- 2.5 We were asked to approve improvements to streamline contract management. In some cases the urgency of works requires the use of “Letters of Intent” which are now to be permitted subject to value limits of 10% of contract value for works and services and £50,000 for supply of goods as proposed in CSO 12.02. CSO 12.09 will make it the responsibility of the Director of Corporate Resources to decide whether a bond is needed for a works contract or whether a parent company guarantee either is needed in respect of contracts with subsidiary companies.
- 2.6 We noted that certain requirements would be strengthened. CSO 12.04(d) provided for compliance with the Council’s insurance requirements for all contract values and CSO 12.04(e) required compliance with the Council’s equalities policies. A new CSO 12.11 is proposed to ensure that the Council can meet its duties to secure CRB checks where services involve children or vulnerable adults.
- 2.7 The report before us recommended changes to clarify certain procedures or improve their logic. A new CSO 6.02 ensures that Contract Standing Orders apply to procurements funded by ring fenced income streams such as grants received by the Council. The wording of CSO 6.9 on Framework and Consortia Arrangements has been clarified. CSOs 11.02 and 11.03 have been amended to reflect the powers of Directors to novate and assign contracts. CSO 11.01(b) would now include “whole life costing methodologies” when assessing the most economically advantageous tender.
- 2.8 We were invited to approve two new procedures. CSO 15 sets out a proper procedure for the disposal of Council assets other than land which are surplus to requirements, damaged or obsolete. We considered that the proposals should be amended to require the approval of The Executive to disposals valued at over £150,000, rather than over £250,000. We agreed CSO 16 which will make express provision for taking genuinely urgent procurement decisions between meetings.

WE RECOMMEND

That Council adopt the changes to Contract Standing Orders set out in Appendix 1 to this report and that Part G.3 of the Council's Constitution be amended accordingly with effect from 5 February 2007.

3. REVISION OF THE STATEMENT OF LICENSING POLICY

- 3.1 We received a report on proposed amendments to the Council's Statement of Licensing Policy. This is a statutory policy under the Licensing Act 2003 which can only be formally adopted or revised by full Council. It is not part of the Council's Constitution.
- 3.2 Concerns have been expressed about the relationship between licensing decisions and Town Planning controls, especially where public houses, restaurants or night cafes applied for premises licences with hours outside those allowed by the planning permission.
- 3.3 Counsel's Opinion has been obtained which advises that the existing provision in paragraph 8.2 of the Statement of Licensing Policy is not sustainable. The paragraph states that any application for licensing hours will not be considered if the hours applied for exceeded those permitted by Planning controls. Counsel is very clear that the Licensing Committee and Sub-Committees cannot be tied in this way to Planning. Licensing bodies have a duty to reach their own conclusions about the hours and activities that are acceptable when determining contested cases. However, licensing bodies can give appropriate weight to related planning decisions when these are relevant to the licensing objectives.
- 3.4 We noted that applicants for premises licences would still be encouraged to obtain the necessary planning permission for their hours of opening. If they failed to do so they could be subject to Planning Enforcement action, if this was expedient.
- 3.5 Counsel also advises that paragraph 8.1 of the Statement of Licensing Policy requires amendment to reflect the fact that public houses and hot food take-aways are now in a separate Planning Use Class from restaurants and cafes. This is purely technical change to update the Policy.
- 3.6 We were advised that statutory consultation of stakeholders had taken place but no representations had been received in relation to the proposed changes to the Statement of Licensing Policy. We noted that

a report on this matter had been received approved in principle by the Licensing Committee at its meeting on 31 October.

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WE RECOMMEND

That Council adopt the amendments to the Statement of Licensing Policy set out in Appendix 3 to this report.