

Review of Standing Orders and Scheme of Delegation to Officers

Report of the Clerk

For further information about this report please contact Jonathan Eatough, Clerk and Monitoring Officer, on 01952 380103, or Germaine Worker, Head of Human Resources and Administration, on 01743 260210.

1 Purpose of Report

This report reviews the Fire Authority's Standing Orders for the Regulation of Proceedings and Business, Standing Orders relating to Contracts and the Scheme of Delegation to Officers and asks Members to consider and decide upon the amendments proposed.

2 Recommendations

The Fire Authority is requested to consider and decide upon the amendments proposed to:

- Standing Orders for the Regulations of Proceedings and Business;
- Standing Orders relating to Contracts; and
- The Scheme of Delegation to Officers.

3 Background

As part of its constitution the Fire Authority has in place the following documents:

- Standing Orders for the Regulation of Proceedings and Business;
- Standing Orders relating to Contracts; and
- A Scheme of Delegation to Officers.

Although not a legal requirement, it is deemed good practice for local authorities to review the above documents annually.

4 Proposed Amendments

Following a review by Officers and the Legal Services Team at Telford & Wrekin Council, there are following amendments are proposed to the documents named on the previous page.

Standing Orders for the Regulation of Proceedings and Business

Standing Order No 5

Quorum

- 2 A quorum for a meeting of the Authority shall be one-third of the total number of Members of the Authority including at least one Member from each constituent Authority (in practice this shall be ~~6~~ **5** Members). The requirement for a quorum to include at least one Member from each constituent authority shall not apply to committees or sub-committees of the Authority.

This amendment reflects the reduction in the number of Fire Authority members from 17 to 15, as agreed by the Authority at its April 2019 meeting. This then reduces the quorum for Authority meetings.

Standing Order No 21

Interest of Members in Contracts and other matters

If any Member of the Authority has any pecuniary interest, that Member must declare that they have a pecuniary interest and must withdraw from the room unless the ~~Standards and Human Resources~~ **Standards, Audit and Performance** Committee grants a dispensation in favour of the Member/s concerned in accordance with the relevant Regulations.

This amendment is necessary due to the change in Committee structure which was agreed by the Fire Authority in April 2019. The Standards and Human Resources Committee has been removed from the Committee structure and the work undertaken by that Committee in relation to standards, including issuing dispensations, has been reallocated to the Standards, Audit and Performance Committee.

Standing Orders relating to Contracts

C Application

- C3** A business case detailing the procurement process to be used must be prepared and approved by the Authority for all contracts with an aggregated value of more than ~~£1,000,000~~ **£2,000,000**.

G When tenders are not required

- G2** The value of the contract is less than ~~£15,000~~ **£25,000** and contract failure would not create a serious risk to the Authority or service delivery.
- G4** The goods or services are supplied under national, **regional or other collaborative** procurement arrangements.

H Contract Values

H2 Where the contract is to **may** extend over a number of years, the contract value is the total value over the whole contract (assuming all extensions are utilised).

I Advertising

I1 Selective Tendering from Identified Contractors

Tenders may be invited from specialist contractors identified by the organisation. The number of contractors invited to tender shall be in accordance with clauses J2 (i) and (ii).

Explanatory Note

The Chief Fire Officer may maintain a list of 'approved' contractors including those who have previously provided, or been invited to provide, goods or services. Suppliers may also be identified through consultation with users of similar goods or services or through review of specialist press, those who have previously provided (or been invited to provide) goods or services, or on advice of any specialist supporting the contract (for example an architect or consultant).

L Acceptance of Tenders

L4 *There should normally be no post tender clarifications. Any significant clarifications should be made through the tender process. Clarifications should normally be issued and received in writing through the electronic tendering system*

It is recognised that in some circumstances, particularly complex tenders involving some element of contractors design, it may be necessary to carry out discussions with some or all of the tenderers in order to clarify some aspects of the bid. It may also be necessary to make minor variations during the contract as it is appreciated that some projects require iterations which may result in minor amendments to the contract. This is permitted but must be in accordance with the requirements of the EU regulations on amendments and must be minor in nature. It is important to ensure that the principles of fairness, equal treatment and transparency are still adhered to and that any discussions will not result in any breach of these principles or of the EU Regulations

Full records of all conversations and correspondence will be maintained, including details of suggested amendments from either party and the purpose, effect and justification for these proposals.

~~Post tender clarifications should normally only be carried out with an identified preferred tenderer (that identified as most economically advantageous).~~

~~However, in some circumstances, particularly complex tenders involving some element of contractor design, it may be necessary to carry out discussions with some or all of the tenderers in order to identify the preferred tenderer. In these cases, discussions may be carried out with any tenderer regarding any aspect of their tender, including cost, design and specification. *It is important to ensure that the principles of fairness, equal treatment and transparency are still adhered to and that any discussions will not result in any breach of these principles or of the EU Regulations*~~

~~All discussions will be conducted on an ethical basis; the principle being to improve the quality or value of the submission and with the contractor being clearly advised of the objectives to be achieved through negotiation.~~

~~Discussions will not be carried out competitively between tenderers and all tendered submissions will remain confidential.~~

~~Due to the high risk of suggestion of impropriety, discussions will normally be carried out by at least two officers, including at least one with specialist procurement training. Full records of all conversations and correspondence will be maintained, including details of suggested amendments from either party and the purpose, effect and justification for these proposals.~~

Explanatory Note

A compliant tender is one that meets the specification criteria in all important aspects, and is submitted in accordance with the tender arrangements. A tender which does not meet the specification criteria or which is not submitted in accordance with the tender arrangements may be rejected and not considered. The reasons for this rejection must be recorded.

~~Clarification may be used to improve offers received, particularly through incorporation of a contractor's alternative proposals or suggestions; however it is not appropriate for all contracts. In many cases, particularly fixed priced tenders, it may be more appropriate to accept or decline offers on the basis of information provided.~~

When carrying out clarification Officers must be aware of the risk of misinterpretation of their actions and ensure that sufficient records are maintained to demonstrate probity.

No substantive alteration or amendment to any tender shall be permitted. ~~except as part of a formal clarification process.~~

Particular note should be taken of the clause L4 above. Clarification is, and must be seen to only be, a process for improving the quality or value of submissions, not a process **clarifying aspects of a tender – it is not to negotiate or** to enable appointment of a contractor other than the initially successful tenderer.

~~The use of 'normally' in clause L5 is to enable clarification to take place by telephone. Discussion regarding of potentially contentious areas should be conducted in meetings with at least 2 officers present.~~

The Chief Fire Officer may accept lowest cost tenders where expenditure is included in approved estimates. Where other than lowest cost tender is accepted in compliance with these Standing Orders, reasons must be recorded in the Register and reported to a meeting of the Authority or relevant committee.

M Tenders to be bona fide

M1 The following expressions in Standing Orders ~~NM2~~ and ~~NM3~~ below shall have the following meanings assigned to them:

O The Contract

O1 Form of Contract

Every contract for the execution of work or the supply of goods or services exceeding ~~£2,500~~ **£5,000** shall be in writing and signed by a person duly authorised by these Standing Orders. Verbal agreements or agreements made by the use of purchase cards are required to comply with the spirit of these Standing Orders.

O2 Every contract in writing shall specify:

- (i) The work, materials, matters or things to be furnished, had or done.
- (ii) Where appropriate, the price to be paid, with a statement of discounts or other deductions.
- (iii) Where appropriate, the time or times within which the contract is to be performed.

(iv) Reference to the Authority's terms and conditions of contract.

Annexe 1 The Approved List Tendering Procedure

This Annexe has been deleted from the document.

The amendments to the Standing Orders relating to Contracts, as outlined above cover increases to limits relating to contracts and points of clarification.

The changes to the section on post tender clarification and the removal of reference to an approved list tendering process have been made to ensure that the Authority is acting in a clear and transparent manner with regard to contracts.

The Scheme of Delegation to Officers

2.1 General

2.1.1 To make a formal response on behalf of the Authority to any White Paper, Green Paper, Government Consultation Paper or draft European Union Directive without reference first to the Authority when the timescale does not allow, after consultation with the Chair and Vice-Chair of the Authority and Chairs of the ~~three main committees— Strategy and Resources, Audit and Performance Management and Standards and Human Resources (if relevant)~~ **two main committees (Strategy and Resources and Standards, Audit and Performance)**

This amendment reflects the changes to the Committee structure as agreed by the Fire Authority at its April 2019 meeting.

2.3 Personnel

As the Head of Paid Service, the Chief Fire Officer has delegated authority:

2.3.6 To hear appeals of uniformed and non-uniformed staff up to (but not including) posts designated Assistant Chief Officer. This includes the following functions:

- a) To consider and determine appeals against grading and market factor supplement decisions***
- b) To consider and determine grievances in accordance with the Grievance Procedure***
- c) To consider and determine appeals against the application or interpretation of conditions of service***
- d) To consider and determine any appeal against a decision of a Brigade Manager / Brigade Managers relating to individual cases of long-term sickness and pay***
- e) To consider and determine any appeal against a decision of a Brigade Manager / Brigade Managers relating to the ill-health retirement or dismissal for health-related reasons of any employee***
- f) To consider and determine appeals against dismissal under the disciplinary process***

The amendment to section 2.3.6 of the Scheme is necessary following the decision of the Fire Authority at its April 2019 meeting to delegate hearings related to employee appeals and grievances to the Chief Fire Officer as the Head of Paid Service. The Hearings Panel has retained the hearing of appeals related to firefighter pension schemes and the hearing of complaints against the Chief Fire Officer and Members.

The relevant documents have not been attached to this report in order to save paper and postage.

The current versions can, however, be viewed on the Fire Authority's website via the link below with proposed amendments being shown in bold italics and deletions struck through.

<https://www.shropshirefire.gov.uk/meeting/26-june-2019>

Hard copies of the documents are available to Members upon request.

5 Financial Implications

There are no financial implications arising from this report.

6 Legal Comment

The proposed changes to Standing Orders, Financial Regulations and the Scheme of Delegation to Officers are lawful and the Fire Authority has the power to act as proposed in this report.

7 Appendices

The Appendices to the report can be accessed via the following link:

<https://www.shropshirefire.gov.uk/meeting/26-june-2019>

Appendix A

Standing Orders relating to Proceedings and Business

Appendix B

Standing Orders relating to Contracts

Appendix C

Scheme of Delegation to Officers

8 Background Papers

There are no background papers associated with this report.