

Committee: COUNCIL

Date: 19 November 2014

Wards: All

Subject: Review of Part 4F of the Constitution - Financial Regulations

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Recommendations

1. That Council agrees the revised Financial Regulations for the Authority. This document will replace Part 4F of the Council's Constitution.
2. That Council approve the changes in respect of Contract Standing Order Number 6 and Appendices 2 and 4 of Contract Standing Orders.

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1 This report summarises the main changes to the Financial Regulations of the Authority. These regulations form Part 4F of the Council's Constitution.

2. DETAILS

2.1 Review of Financial Regulations

2.1.1 Financial Regulations form part 4F of the Constitution and should be revised periodically to ensure they reflect best practice.

2.1.2 The main changes made to the document are as follows:

- a) Updating reference documentation
- b) Clarifying the wording for virement arrangements (and increasing limits for capital virements)

- c) Removing reference to the Audit Committee as functions are now undertaken by General Purposes Committee

2.1.3 Attached as Appendix A are the revised Financial Regulations changes are shown in **bold underlined**.

2.2 Review of Exemptions to Standing Orders

2.2.1 Exemptions to the Contract Standing Orders (CSOs) – Current Position

2.2.2 Currently, the CSO's allows Officers to seek exemptions to the CSOs by completing a Form of Exemption Report which is then submitting to the Director of Corporate Services for approval.

2.2.3 The Form of Exemption Report requires Officers to provide:

1. Executive summary and purpose of report
2. Details
3. Alternative options
4. Financial implications
5. Procurement implications
6. Legal implications and statutory provision
7. Human rights and equalities implications
8. Consultation undertaken

2.2.4 No exemption may be granted in specified cases and in particular if to do so would result in a breach of European or U.K. law

2.2.5 Review of the Exemption Process

2.2.6 A review of the exemptions process has been undertaken to determine how robust the current process is and also to identify opportunities for improvement.

2.2.7 The review confirmed that the policy and procedure followed by Merton is broadly consistent with that used by other local authorities and in summary, resulted in a number of proposed revisions which are as follows:

1. The Process for Exemptions

The process as set out in the CSO's is consistent with other authorities and no changes are recommended at this stage.

2. Details of the Exemption Process and Non-Exhaustive List Justifications for Exemptions

The list is broadly comparable with other authorities, however, a number of revisions are recommended. The revisions will tighten the criteria for exemption, emphasise that the procedure can only be used in exceptional circumstances, ensure clarity and also that procurement is operating in line with the Treaty principles of being open, fair and transparent.

3. The form completed by Officers requesting exemptions.

The form is designed to provide all the relevant information in order to assess the justification for exemption. However, in its current form, it does not provide specific guidance to Officers on the type and level of information required within each section. In order to rectify this, proposed guidance has been produced for each section, which will ensure a consistent and robust approach when completing the form. Further amendments to the form require Officers to consult with and obtain a recommendation from the Commercial Services team prior to formal submission.

- 2.2.8 Attached as Appendix B are the revised Contract Standing Order 6 with the revised Appendices 2 and 4 from Contract Standing Orders – all amendments are shown in **bold underlined**.

3. CONSULTATION UNDERTAKEN OR PROPOSED

- 3.1 The proposed revisions to the Financial Regulations were reported to the Standards Committee on 23 October 2014 and the General Purposes Committee on 6 November 2014.
- 3.2 The proposed revisions to Contract Standing Orders flow from the recommendations made to General Purposes Committee on 26 June 2014 requiring the Authority's Constitution to be amended to ensure that both the Head of Commercial Services and the Director of Corporate Services sign off exemptions to standing orders and that documentation is amended to clarify that exemptions to standing orders will only be granted in exceptional circumstances.

4. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 5.1 There are no specific financial, resource or property implications from this report

5. LEGAL AND STATUTORY IMPLICATIONS

- 5.1 Section 37 of the Local Government Act 2000 requires authorities to adopt constitutions containing their standing orders, code of conduct for members, any other information they considered appropriate and 'such information as the Secretary of State may direct'. Financial Regulations form part of this constitution.

6. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 6.1 There are no specific human rights, equalities or community cohesion implications.

7. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 7.1 There are no specific risk management or health and safety implications in this report.

8. **APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

8.1 Appendix A: Financial Regulations

Appendix B: Contract Standing Orders (CSO)

CSO 6 – Exemptions from Contract Standing Orders

CSO Appendix 2 – Exemptions from Contract Standing Orders

CSO Appendix 4 - Form of Exemption Report

9. **BACKGROUND PAPERS – THE FOLLOWING DOCUMENTS HAVE BEEN RELIED ON IN DRAWING UP THIS REPORT BUT DO NOT FORM PART OF THE REPORT**

Relevant Chartered Institute of Public Finance and Accountancy (CIPFA) Guidance etc., Best Practice, Regulation and Legislation