

Cabinet 3 rd November 2015	 TOWER HAMLETS
Report of: Zena Cooke – Corporate Director Resources	Classification: Unrestricted
Supply Chain Ethical Code of Conduct	

Lead Member	Councillor David Edgar, Cabinet Member for Resources
Originating Officer(s)	Zamil Ahmed – Head of Procurement
Wards affected	All wards
Community Plan Theme	One Tower Hamlets
Key Decision	Yes

EXECUTIVE SUMMARY

The Best Value Procurement Action Plan identified the need for a new Supply Chain Ethical Code of Conduct as part of a wider review of the Council’s Procurement Strategy and Vision. This report proposes a new Code that makes explicit the ethical standards to be adhered by suppliers delivering public services on behalf of the Local Authority.

This report summarises Council’s current position on Ethical Governance Protocols in Council contracts and proposes a new Supply Chain Code of Conduct.

DECISION REQUIRED:

Cabinet is recommended to:-

1. Note the contents of this report.
2. Consider and agree the proposed Supply Chain Code of Conduct in substitution of the current Ethical Governance Protocol and Supplier and Contractors Charter in order to achieve the milestone outlined in the Best Value Implementation Plan.

1 REASONS FOR THE DECISIONS

- 1.1 The new Supply Chain Ethical Code of Conduct signature will be a requirement for suppliers at different stages in the procurement process. The Code set out the principles and standards of delivery for our suppliers and contractors aiming to drive unethical practices from the supply chain.
- 1.2 The new Supply Chain Ethical Code achieves one of the milestones outlined in the Best Value Implementation Plan.

2. BACKGROUND

- 2.1 The Council adopted an Ethical Governance Protocol for Council Contracts in 2008 which was required to be adopted by all suppliers and contractors. The Protocol was further complemented by a Supplier and Contractors Charter introduced in 2010 and communicated to new and existing suppliers through 'meet the buyer' events as well through the Council's website.
- 2.2 Following the approval of the Procurement Policy Imperatives in January 2013, a number of projects were initiated to help transform existing procurement procedures and governance process to ensure clear expectations from Councils suppliers. Thus, Ethical Governance Protocol was incorporated at different stages of the procurement process:
 - All Invitation to Tenders for contracts above £25,000 now includes the Protocol. Suppliers are required to confirm their acceptance as a mandatory requirement.
 - In addition to the above, the supplier adoption process (R2P registration) requires all new suppliers to subscribe to the protocol prior to being set up onto the system.
- 2.3 The standard terms and conditions of contracts were also updated to incorporate all the elements of the Protocol: whistleblowing; anti-fraud and corruption; bribery and London Living Wage.
- 2.4 While the above steps have acted as powerful tool for ensuring supplier commitment to the protocol, it is also acknowledged through the review that a strong and consistent supplier and contract management is needed to monitor suppliers continued commitment to these protocols in particular on longer term contracts.
- 2.5 Work is currently underway to develop a new Supplier and Contract Management toolkit for officers across the organisation which will include reference to and guidance on monitoring suppliers' adherence to the new Supply Chain Code of Conduct.

3 ALTERNATIVE OPTIONS

- 3.1 The alternative option is to maintain the current Ethical Governance Protocol that does not clearly set out all Council's principles and standards with regards to business ethics.

4 CURRENT POSITION

- 4.1 Adoption to the protocol is adequately covered through the procurement process however; it is dispersed in different documents. It would be more beneficial to have a single source of standard expectations for all suppliers.
- 4.2 Current Ethical Governance Protocol (Appendix 1) focuses mainly in the principles of Business conduct and avoidance of conflict of interest and whistleblowing, but does not have any reference to working conditions, health and safety, environment or equality and diversity expectations. These areas are covered across different procurement documents.
- 4.3 The existence of both the Ethical Governance Protocol and Supplier and Contractors Chapter offer an unnecessary duplicity.

5. PROPOSED CODE AND RECOMMENDATIONS

- 5.1. The proposed code set out the principles and standards of delivery for our suppliers and contractors:
- Maintaining integrity in business relationships.
 - Rejecting improper business practice.
 - Declaring any potential personal or business conflicts of interest
 - Acquiring and maintaining latest standards of technical knowledge and ethical behaviour.
 - Optimising the use of resources.
 - Compliance with UK law, industry guidelines and contractual obligations
 - Fair, honest and respectable treatment of suppliers
 - Common courtesy at all times
 - Incorporating sustainable procurement aspects into procurement processes including human and employee rights and the environment.
- 5.2. It is recommended that the current Ethical Governance Protocol is replaced with the proposed Supply Chain Code of Conduct (Appendix 2) which includes wider set of principles applicable to ethical procurement and the Supplier and Contractor Chapter use is discontinued. This will simplify the processes and will provide ease of reference in tendering documentations.
- 5.3. The proposed Supply Chain Code of Conduct highlights the main social value principles and practices that should be expected from our suppliers when dealing with the Council.
- 5.4. Monitoring compliance to the proposed Supply Chain Code of Conduct is incorporated as part of the contract management and monitoring process.

6. BEST VALUE (BV) IMPLICATIONS

- 6.1. The Council is required to consider the value for money implications of its decisions and to secure best value in the provision of all its services. The Council procures annually some £350m of supplies and services with a current supplier base of approximately 3,500 suppliers. The governance arrangements undertaking such buying decisions are set out in the Council's Procurement Procedures, which form part of the Financial Regulations.

7. COMMENTS OF THE CHIEF FINANCE OFFICER

- 7.1. There are no financial implications arising from the recommendations in this report.

8. LEGAL COMMENTS

- 8.1. There is no single all-encompassing piece of legislation that dictates what is ethical in respect of the Council and its supplier's business transactions. However, it can be seen that various individual pieces of legislation not only dictate how the Council should run its own business (and in particular in respect of procurements) but also make the Council responsible for ensuring that its contractors behave in certain ways in respect of that piece of legislation.
- 8.2. Examples of where this can be seen are in the Bribery Act 2010 and the mandatory exclusions from tendering found under the Public Contracts Regulations 2015 barring the Council dealing with certain businesses that meet (or fail to meet) specific criteria set down in the legislation.
- 8.3. The Council's ethical governance protocol is designed to encompass these duties and enshrine good practice in its own and contractor's businesses. In order for the protocol to have effect on the Council's contractors, it must be implemented both as part of the tender process and as part of the final contract with the winning bidder, as many of the duties, in as far as they are set down in legislation, oblige the Council to ensure that they are implemented by its contractors also.

Appendix 1 – Current Ethical Governance Protocol

Ethical Governance Protocol for Council Contracts

1. Introduction

Ethical governance arrangements are essential to the operation and reputation of the Authority. The Council is therefore committed to maintaining the highest standards of ethical conduct.

This protocol has been developed as part of the Council's integrated approach to ethical governance and to ensure that external providers meet the Authority's requirements in relation to ethical standards.

The protocol forms part of the Council's pre-tender evaluation procedure and compliance with the protocol is mandatory for all external providers seeking to contract with the Council. The protocol applies to the private and voluntary sector, including grant funded organisations.

2. Requirements

External providers must demonstrate that they have in place a written policy for regulating:

- The conduct of their employees and directors.
- The working relationships between their employees/directors and Council staff/elected Members.
- Whistle blowing.

The policies must as a minimum specify systems and procedures to regulate standards of behaviour in the areas specified in section 3 below.

3. Minimum Standards

Employee and Director Conduct

External providers should have a written policy which governs standards of behaviour in at least the following areas:

- Delivering services in accordance with the Council's equalities statement and to meet the customer promise.
- Declaring interests which conflict with the impartial delivery of services for the Council or may place an employee under suspicion of improper behaviour.
- Dealing with confidential information and information which affects the Council's business interests.
- Registering, declaring and accepting gifts and hospitality offered in connection with the delivery of services for the Council.
- Dealing with the media in connection with the delivery of services for the Council.

Working Relationships with Council Staff and Elected Members

External providers should have a written policy which governs standards of behaviour for their employees and directors in at least the following areas:

- Declaring and registering any personal relationships with Council staff and elected Members.
- Dealing with allegations about misconduct by Council staff and elected Members in connection with the delivery of services for the Council and any other circumstances.
- Responding to Council staff, elected Members and party political groups in relation to requests for information in connection with the delivery of services for the Council.

Whistle Blowing

External providers should have a written policy for dealing with protected disclosures as defined by the Employment Rights Act 1996. The policy should cover at least the following areas:

- Guidance on what amounts to a protected disclosure, including regulatory and wider disclosures.
- An internal process for making a protected disclosure within the provider's organisation.
- An internal process for investigations.

4. Certification

This Protocol also requires external providers to certify in writing whether the Council's Planning and Licensing Codes of Conduct impact upon the manner in which they do business with the Council. Where they do, external providers must demonstrate that they have in place systems and procedures to bring the content of these Codes to the attention their employees. The Codes are available on the Council's website at www.towerhamlets.gov.uk.

SUPPLIER CHAIN ETHICAL CODE OF CONDUCT

London Borough of Tower Hamlets is fully aware of the responsibility we bear towards our customers employees and communities in which we work. We are committed to ensuring that the working conditions in the Council's supply chain are safe, that workers are treated with respect and dignity, and that manufacturing processes are environmentally responsible.

We require from our suppliers and companies who do business with us and their own supply chain to operate in full compliance with the laws, rules, and regulations of the countries in which they operate.

Law and Ethical Standards

The supplier shall comply with all laws applicable to its business. The supplier should support the principles of the United Nations Global Compact, the UN Universal Declaration of Human Rights as well as the 1998 International Labour organisation Declaration on Fundamental Principles and Rights at Work, in accordance with national law and practice.

Antidiscrimination

Suppliers shall not discriminate against any worker based on race, colour, age, gender, sexual orientation, ethnicity, disability, religion, political affiliation, union membership, national origin, or marital status. This applies in the areas of hiring and employment practices such as applications for employment, promotions, rewards, access to training, job assignments, wages, benefits, discipline, and termination although this list is not exhaustive.

Equality Duty

All suppliers are expected to be committed to eliminating discrimination, promoting equality of opportunity and fostering good relations between persons with protected characteristics and those who don't within their own and their own supply chains working and employment practices

Fair Treatment

Suppliers shall not threaten workers with or subject them to harsh or inhumane treatment, including sexual harassment, sexual abuse, corporal punishment, mental coercion, physical coercion, verbal abuse or unreasonable restrictions on entering or exiting company provided facilities. Suppliers shall prohibit harassment and unlawful discrimination in the workplace.

Prevention of Involuntary Labour

Suppliers shall not use any form of forced, bonded, indentured, or compulsory labour. All work must be voluntary and workers shall be free to leave work or terminate their employment with reasonable notice.

Prevention of Underage Labour

The supplier shall not employ children under the age of 15. If national laws or regulations allow children between the ages of 13 and 15 to perform light work, such work is not permitted under any circumstances if it would hinder a minor from the completion of compulsory schooling or training, or if the employment would be harmful to their health development (International Labour Organisation Minimum Age Convention 138)

Wages and Benefits

The supplier shall comply with the respective national laws and regulations regarding working hours, wages and benefits. Suppliers shall pay all workers at least the minimum wage required by applicable laws and regulations and provide all legally mandated

benefits. In addition to their compensation for regular hours of work, workers shall be compensated for overtime hours at the premium rate required by applicable laws and regulations. Suppliers shall not use deductions from wages as a disciplinary measure. Suppliers shall offer vacation time, leave periods, and holidays consistent with applicable laws and regulations.

Health and Safety

We expect our suppliers to strive to implement the standards of occupational health and safety at a high level. The supplier is expected to comply with applicable occupational health and safety regulations and provide a work environment that is safe and conducive to good health, in order to preserve the health of employees and prevent accidents, injuries and work related illnesses.

Environment

The supplier shall comply with all applicable environmental laws, regulations and standards as well as implement an effective system to identify and eliminate potential hazards to the environment.

We expect our suppliers to take climate protection appropriately into account in their own operations.

Business Integrity

Suppliers must be committed to the highest standards of ethical conduct when dealing with workers, suppliers, and customers. Corruption, extortion, and fraud, in any form, are strictly prohibited. The suppliers shall comply with international anti-bribery standards as stated in the United Nations' Global compact and local anti-corruption and bribery laws including The Bribery act 2010.

In particular, the supplier and its supply chain may not offer services, gifts or benefits to Council employees, including Councillors and agents in order to influence any part of the Council's business. Suppliers and their supply chain must also declare any interest that compromises the impartial delivery of the service to the Council.

Whistleblower Protection and Anonymous Complaints

Suppliers shall effect a whistleblowing policy to allow complaints to be raised outside the usual management structure. Suppliers will also be expected to ensure the protection of confidentiality of workers who whistleblow and prohibit retaliation against workers who participate in such programs in good faith. Suppliers shall provide an anonymous complaint mechanism for workers to report workplace grievances in accordance with local laws and regulations.

Blacklisting Databases

We expect our suppliers to prohibit the systematic compilation of information on trade unionists and its use to discriminate against those individuals because of their trade union membership or because of their involvement in trade union activity.

Business Partner Approach

The suppliers shall communicate the principles stated in this Supplier Chain Ethical Code of Conduct to all its subcontractors and other business partners who are involved in supplying products and services subscribed in the main contract. The suppliers shall ensure such parties adhere to these standards.

Compliance with the Supplier Code of Conduct

The Council contract management teams may visit (and/or appoint external partners to visit) the Supplier's facilities (or those of the Supplier's subcontractors and or agents), with or without notice, to assess compliance with this Code. In particular but not exhaustively the purpose of the visit may be to audit the Supplier's management information to verify wage, hour, payroll, and other worker records and practices. Violations of this Code may result in immediate termination as the Authority's Supplier and in legal action, where appropriate.