

<p>Non-Executive Report of the:</p> <p>Council</p> <p>Wednesday, 20 November 2024</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Julie Lorraine, Corporate Director, Resources and Linda Walker, Director of Legal and Monitoring Officer</p>	<p>Classification: Open (Unrestricted)</p>
<p>Constitution Update - Construction Procurement</p>	

Originating Officer(s)	Andy Grant, (Interim Programme Director of Procurement) Matthew Mannion, (Head of Democratic Services)
Wards affected	(All Wards);

Executive Summary

The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of the processes are required by law, whilst others are a matter for the Council to determine.

Council has overall responsibility for maintaining and agreeing the Constitution, although day-to-day responsibility has been delegated to the General Purposes Committee.

This report requests a small update to the Council's Procurement Rules in Part C of the Constitution due to the introduction of a new online procurement process. A change of this type would normally be presented to General Purposes Committee first but, due to its urgency, Council is being asked directly to approve that change so that it can be implemented straight away.

Recommendations:

The Council is recommended to:

1. To agree the additional paragraph to be added to the Contract Procurement Rules in Part C of the Constitution as set out in Paragraph 3.6 of this report.

1. REASONS FOR THE DECISIONS

- 1.1 A small addition is requested to the Contract Procurement Rules to enable the Council to take advantage of a new online procurement system.

2. ALTERNATIVE OPTIONS

- 2.1 Council could decide not to agree the change although this is not recommended as it would hamper the Council's ability to seek the best results from its construction related procurement exercises.

3. DETAILS OF THE REPORT

- 3.1 The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of the processes are required by law, whilst others are a matter for the Council to determine.
- 3.2 Part C, Section 37 sets out the Council's Contracts and Procurement Rules.
- 3.3 The Council is currently introducing a new procurement route in respect of Construction and Facilities Management related contracts. This will be through use of a new online facility called 'Constructionline'.
- 3.4 Tower Hamlets adopting the Constructionline (CL) initiative will improve procurement efficiency, avoid duplication and reduce cost through the supplier prequalification process. This is through supply chain risk management as CL manage all necessary Company Watch checks, Selection Questionnaire (SQ) verification and providing up to date view of supplier credentials in an easy to filter format. Sourcing new suppliers through the platform allows buyers to access a verified pool of suppliers based on the criteria that are most important to the council, whether it's related to compliance, geography or business size. Legislative compliance through the changing regulatory environment has an impact on buying practices. CL keep ahead of those regulatory changes, managing validation meaning the council are working with approved and accredited partners.
- 3.5 For the Tower Hamlets procurement team this maximises buyer resources in the knowledge CL will streamline pre-qualification checks of its construction contracts with ease and confidence. The CL platform procurement solutions will enable the council to choose the construction suppliers that best suit the authority's needs. This will be through detailed information on all CL registered construction suppliers to identify those that meet the criteria swiftly. By simplifying the councils supply chain management process, it will reduce the time and cost involved in maintaining supplier data in-house and free up the procurement team to focus on added value tasks.
- 3.6 It has been identified that a small addition to the Constitution is required as a result of this change as it impacts on Paragraphs 44 of the Procurement

Rules as the Standard Questionnaire (SQ) will not routinely be used in these cases. A new paragraph 44.4 is therefore set out below (red and underlined).

Constitution Part C, Section 37 Contract and Procurement Procedure Rules

44. Supplier Selection Criteria

44.1. Selection Criteria (through the Standard Questionnaire – the SQ) are used to assess a bidder's ability to perform the proposed contract. Selection Criteria can apply at pre-tender stage in order to short-list bidders or, as part of the Open Procedure, to determine which bidders' tender submissions can be considered. Where a SQ evaluation is required, the statutory Selection Questionnaire published by Crown Commercial Services must be used.

44.2. There is statutory guidance on the use of the SQ and Corporate Procurement and Legal advice must be sought before the SQ is used. There are very limited criteria under which potential suppliers may be ruled out at the SQ stage.

44.3. Where a SQ evaluation is required, the SQ will be issued and returned electronically via the Council's e-procurement systems with appropriate access given to officers to evaluate online. The tender documentation must clearly state the minimum requirements and how they will be assessed.

44.4 For the Construction & FM category the Council has adopted the Constructionline (CL) initiative to streamline the supplier SQ vetting process. Organisations wishing to bid for Council tender opportunities in this work category who are registered on CL and meet a selection criteria assessed against 'categories of work' and 'category values' will bypass the SQ standard question sets. None CL registered applicants need to demonstrate the same eligibility through the completion of the full SQ, which for the Construction & FM category will align with CL and follow the 'Common Assessment Standard' question set as referred to in Procurement Policy Note 03/24 and upon which CL vetting is based. Financial vetting of suppliers will adopt the Risk Radar application within the CL portal.

3.7 The Monitoring Officer has considered agreeing this change under delegated powers to update factual matters but has determined that it should instead be presented to Members for agreement.

3.8 Further to the above, the Directorate have requested that the change be agreed as soon as possible as there are a number of procurement processes ready to launch and they do not want to delay it any further than necessary.

3.9 The Constitution Working Group and the Chair of the General Purposes Committee have been consulted and this report has been prepared to enable Council to consider the matter.

3.10 Should Council agree the change it will be implemented immediately.

4. EQUALITIES IMPLICATIONS

4.1 None specific to this report.

5. OTHER STATUTORY IMPLICATIONS

5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

5.2 No implications direct to this report although failure to gain the best results from procurement exercises could impact the Council's Best Value obligations.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 The introduction of a new vetting process for construction procurements is intended to streamline and speed up procurement. There are no direct financial implications of agreeing the addition of the paragraph to the Constitution other than allowing the process to be adopted.

7. COMMENTS OF LEGAL SERVICES

7.1 The Council has the legal power to operate in the manner detailed in the constitutional amendment,

7.2 Procurement Policy Note 03/24 is central government guidance which strongly advises Council's to use the Common Assessment Standard for the selection part of the tender process. Therefore, using the Common Assessment standard represents best practice in procurement.

7.3 Construction Line is a tool which will streamline the Common Assessment Standard selection process although the Council is not mandating that registration with Construction Line is essential to winning Council work as the Council will also issue the CAS questionnaire to anyone who is not pre-

registered. The streamlining occurs with the Council only having to individually assess those organisations who are not already registered on Construction Line on a particular tender.

- 7.4 This report is being brought to full Council as General Purposes Committee has the delegated authority to make only non-material changes to the Constitution.

Linked Reports, Appendices and Background Documents

Linked Report

- None.

Appendices

- None.

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- None.

Officer contact details for documents:

N/A