

Committee: Standards Committee	Date: 10 May 2012	Classification: Unrestricted	Report No:	Agenda Item:
Report of: Corporate Director of Resources Originating officer(s) HUGH SHARKEY Service Head Procurement & Corporate Programmes		Title: Ethical Governance Protocol for Corporate Contracts Wards Affected: All		

1. SUMMARY

- 1.1 There have been reports submitted to the Standards Committee in October 2008, July 2009, and February 2010 on the introduction and adoption of the Council's Ethical Governance protocol (the protocol). This report provides information regarding the adoption of the protocol and observations that the Standards Committee are to note in improving visibility of the protocol being used by key suppliers of the Council.

2. RECOMMENDATIONS

- 2.1 Standards Committee is recommended to note the contents of this report.

3. BACKGROUND

- 3.1 The Council has operated its Ethical Governance protocol since Autumn 2008. The Council adopted an Ethical Governance protocol for its major contracts, these are for contracts that are above the European Union thresholds and require procurement competitions. The thresholds are £4,348,350 for Works and £173,934 for Supplies and Services. The thresholds apply between 01 January 2012 to 31 December 2013.
- 3.2 This protocol requires our suppliers and providers to demonstrate that they have in place a written policy for regulating:
- a) The conduct of their employees and directors,
 - b) The working relationships between their employees/directors and Council staff/elected Members,
 - c) Whistle blowing.

- 3.2 In its major contracts the Council uses a Pre-Qualification Questionnaire that requires companies that are bidding for a contract to read the protocol and confirm that they will comply with it if they are successful in being awarded a contract.
- 3.3 Following contract award the supplier may be registered on the Council's R2P system for payment purposes. At this point the supplier is required to acknowledge the Council's protocol and confirm that it will comply with it. A supplier is required to adopt the protocol regardless of the size of the organisation, the work to be performed and the value of the contract.

4. ADOPTION OF PROTOCOL

- 4.1 Surveys have been conducted on the adoption of the protocol in the past. The last survey was conducted in 2010 and this showed that 484 suppliers had confirmed their adoption of the protocol, and this represented approximately £227m of expenditure.
- 4.2 There was no survey conducted in 2011, this was due to a re-organisation of the Council and changes in staff to manage the Procurement services.
- 4.3 Whilst the Council would prefer that all its suppliers have their own ethical governance policies and agree to comply with our protocol it should be noted that the Council may need to re-assess when the protocol is mandatory and when it is voluntary.
- 4.4 The size and purpose of organisations that the Council does business with are factors to be considered when adjudicating on the need to adopt the ethical governance protocol. With the Council's promotion of doing business locally and creating opportunities for local micro, small and medium sized organisations the requirement to comply with the protocol may be perceived as being onerous for the associated contract. However, there may be the opportunity to draft a letter in the Form of Undertaking that covers the key issues without the need for a policy.
- 4.5 The focus on major contracts that is made at PQQ stage mentioned above is correct and could be improved. The adoption of the protocol should be flexible and proportionate to the size of the contract the Council has or intends to award and the organisations it is doing, or seeking to do business with.
- 4.6 There is a point to consider on what is the appropriate action to be taken when a supplier does not abide by the protocol. This point requires consideration because the Council is to introduce a new Tollgate, as part of the Procurement process. The new tollgate is for Contract Review and for the Council to consider the performance of a supplier. Its focus will be on major contracts and will seek to have assurance

from the contractor that the Council's policies are being implemented, the requirements of the contract are being delivered and for the contract price.

4.7 One Tower Hamlets has addressed that the protocol is to apply to key suppliers, see below. A definition of what is associated with being a key supplier should be made available to assist in applying the protocol.

4.8 For future monitoring of compliance with the protocol there needs to be further consideration of the responsibility for providing evidence. This is best managed by the contract user and by each directorate of the Council.

4.9 The Standards Committee would benefit from having information on who the key suppliers of the Council are in each directorate and use this in requesting further information on the adoption of the protocol.

5. RECOMMENDATIONS

5.1 Standards Committee is recommended to:-

- Note the contents of this report.

6. COMMENTS OF THE CHIEF FINANCIAL OFFICER

6.1 There are no financial implications.

7. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

7.1 There are no legal implications of this report.

8. ONE TOWER HAMLETS CONSIDERATIONS

8.1 The adoption of a standard ethical governance protocol by key suppliers is important in achieving a consistent, ethical approach in service delivery. As many of the Council's essential services are delivered by external suppliers, it is imperative that the suppliers maintain the same high standards required of the Council. Monitoring of compliance will be an ongoing activity.

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

9.1 There are no specific sustainability implications.

10. RISK MANAGEMENT IMPLICATIONS

10.1 The main risk management implications are in relation to reputational risk, in the event that a key supplier's ethical standards are found to be unsatisfactory.

Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report

None.