

Nottingham City Council

Standards and Governance Committee

Minutes of the meeting held at Loxley House on 22 June 2023 from 4.03 pm - 4.25 pm

Membership

Present

Councillor Kirsty L Jones (Chair)
Councillor Angela Kandola (Vice Chair)
Councillor Imran Jalil
Councillor Sulcan Mahmood
Councillor Sarita-Marie Rehman-Wall
Councillor Maria Watson

Absent

Councillor Saj Ahmad
Councillor Nayab Patel
Nigel Cullen – Independent Person

Colleagues, partners and others in attendance:

Dawn Cafferty - Commercial Systems and Strategy Manager
Malcolm Townroe - Director of Legal and Governance
Laura Wilson - Senior Governance Officer

1 Appointment of Vice Chair

Resolved to appoint Councillor Angela Kandola as Vice-Chair of this Committee for this municipal year (May 2023 to April 2024).

2 Apologies for absence

Councillor Saj Ahmad – unwell
Councillor Nayab Patel – personal

Nigel Cullen

3 Declarations of Interests

None.

4 Minutes

The Committee confirmed the minutes of the meeting held on 5 February 2021 as a correct record and they were signed by the Chair.

5 Amendments to the Constitution

Laura Wilson, Senior Governance Officer, introduced the report, outlining the following points:

- (a) The Committee is being asked to consider, and recommend to Council, proposed amendments to Article 15 – Councillor Code of Conduct and Article 18 – Contract Procedure Rules of the Constitution.

- (b) It is proposed to amend paragraph 15.42 Local Provisions of Article 15 so that it is the Chief Executive rather than the Corporate Director for People who can designate training as mandatory. This amendment is proposed because mandatory training could relate to any area of Council business and not just those relating to People Services.
- (c) Following the introduction of the Council's new operating model for Commercial, Procurement and Contract Management, several amendments to Contract Procedure Rules (Article 18) are proposed. These update terminology and responsibilities to reflect the new model, introduce a new oversight process and clarify some existing procedures.

Dawn Cafferty, Commercial Systems and Strategy Manager, highlighted the following substantial changes to the Contract Procedure Rules:

- (d) Inclusion of the Commercial Oversight Board approval route for high risk/value projects (18.11 & 18.53), for improved corporate oversight of commercial activity and management of risk.
- (e) Introduction of a rule specifying procedures for below-threshold concession contracts (18.20). This states turnover values above which a quotation or tender process is required. A competitive process improves value for money outcomes from these contracts.
- (f) Introduction of a rule covering below-threshold contracts meeting the 'Teckal' criteria (18.31). These are exempted from competitive procedures.
- (g) Amended terminology and additional detail on the Delivery Model Assessment (former 'make-or-buy') process (18.21-18.29). This introduces periodic review of services overseen by the Commercial Oversight function, and completion of a Delivery Model Assessment, before developing or extending in-house provision.
- (h) Introduction of processes for managing Accreditation Schemes/Any Qualified Provider Frameworks (18.36-40). Specific to the health and care sector, this specifies circumstances under which non-competitive accreditation schemes may be established. i.e.: where a) the Council has no choice/discretion over service provider, b) an external regulatory body determines qualification of providers and c) all qualified providers are admitted.
- (i) Addition of the Negotiated procedure as a recognised procurement route with appropriate authority for above-threshold contracts. Use of this procedure is to be recorded using the Exemptions process (18.65, 18.94, 18.95 and Exemptions form).
- (j) Addition of statement that where we are unable to estimate the value of a scheme we must assume that the relevant 'above-threshold' procedure applies (18.65) – reflects recent change to Central Government guidance.
- (k) In addition, there are minor amendments which clarify current practice, which include:

- updates to job titles and terminology to align to the new operating model;
- clarity of existing procedures/governance including requirement for formal approval to spend prior to procurement, responsibility for contract management, added references to Dynamic Purchasing Systems and the 'Light Touch' regime;
- removal of reference to 'Use of Consultants' Form which is no longer in use and now part of the delegated decision-making process; and
- addition to the section on extension and variation of contracts to refer to below-threshold arrangements, reflecting current practice.

During the subsequent discussion, the following points were raised:

- (l) 'Above-threshold' and 'below-threshold' refer to the relevant monetary thresholds above which procedures detailed in the Public Contracts Regulations 2015, Concession Contracts Regulations 2016 and Utilities Regulations 2016 apply.
- (m) The appropriate decision making route is followed dependent on the value of a decision – officer, Portfolio Holder or Executive Board/Committee.
- (n) The default position is to go out to tender/competition, dependent on the value of the contract, which details the requirements and tenders are assessed against those before a contract is awarded.

Resolved to recommend to Council that it

- (1) amends Article 15 – Councillor Code of Conduct of the Constitution to replace the Corporate Director for People with the Chief Executive as the individual who can designate training as mandatory;**
- (2) approves a revised Article 18 – Contract Procedure Rules of the Constitution, as set out in Appendix A of the report.**