

Item No. 6.2	Classification: Open	Date: 11 July 2018	Meeting Name: Council Assembly
Report title:		Constitutional Changes 2018/19: Contract Standing Orders, appointment of a data protection officer and scrutiny arrangements	
Ward(s) or groups affected:		All	
From:		Constitutional Steering Panel	

RECOMMENDATIONS

1. That council assembly agree the proposed changes to the constitution as outlined in Appendices 1 to 4 of the report.
2. That council assembly note the addition to the proper officer list in the council's constitution to include a data protection officer.

BACKGROUND INFORMATION

3. This report outlines some constitutional changes. The constitutional steering panel has considered the suggested changes to the constitution and recommend them to council assembly.

Reasons for proposing a change to the contract standing orders

4. Under the Public Contracts Regulations 2015, electronic tendering will be compulsory from 18 October 2018. To ensure the council can comply with this requirement, it has implemented an e-procurement software system for use by legal services, procurement and all officers who manage procurement across the council.
5. All bar one of the proposed amendments to the contract standing orders (CSOs) relate to the requirement to use the council's e-procurement system, in line with legislative requirements. The other proposed change is designed to put more appropriate governance arrangements in place in respect of contracts affecting the budget of more than one department.
6. A summary of the changes is set out below:
 - A new CSO 2.5.2 to require records to be kept on the e-procurement system for all contracts with an estimated value of £25,000 or more
 - A new CSO 6.2.2 to require procurement concurrences in Gateway reports where it is not possible to undertake a procurement with an estimated value of £25,000 or more through the e-procurement system
 - Amendments to CSO 6.4.3c) and 6.5.2c) to allow relevant chief officers to agree that a contract decision to be taken by another chief officer but which affects the budget of more than one department does not have to be considered by their departmental contract review board (DCRB) as well as the DCRB of the decision taker

- Replacement of CSO 7 concerning the issue, return and opening of quotes and tenders, in line with the council's e-procurement system (with a definition of 'e-procurement system' being added to the Glossary).

Reasons for proposing a change to the proper officer list

7. The General Data Protection Regulation (GDPR) came into force on 25 May 2018. It imposes new requirements on data controllers in managing personal data and evidencing compliance. One of these is the appointment of a data protection officer (DPO). This role is a new one created under section 4 (articles 37-39) of the regulations.
8. The corporate governance panel recommended the Senior Information Risk Owner (SIRO) as the DPO. The SIRO is currently Duncan Whitfield, the strategic director of finance and governance. The Chief Executive has further to the recommendation made the appointment.
9. This appointment will need to be included in the proper officer list in the council's constitution. The addition will be made by the proper constitutional officer as a housekeeping change to the constitution.

Reasons for proposing scrutiny changes

10. Southwark, like all councils, wants to ensure that the arrangements supporting the effective overview and scrutiny of executive decision making is efficient, effective and transparent and done so to maintain relevance with the changing circumstances in which the council operates. To that end a change is proposed from previous sub-committee arrangements to "task and finish groups" for the constitutional year 2018-19. The reason being to focus the work of the groups over a time limited period, whilst ensuring the council's statutory scrutiny responsibilities and other such arrangements (e.g. call-in, cabinet member interview) are delivered through the overview and scrutiny committee. The essential constitutional changes required to affect this are set in appendices 3 to 4.
11. The constitutional amendments set out in this report are the procedural changes required to shift to a task and finish mode. Overview and scrutiny committee held a workshop session on 12 June 2018 to develop the committee's approach in more detail and worked through the cultural changes.
12. Arrangements will be monitored and kept under review to ensure continued fitness for purpose, with any relevant impacts of such a review on constitutional procedures reported back to CSP and council assembly as appropriate and in a timely manner.

KEY ISSUES FOR CONSIDERATION

13. The context for this report is the on-going review of efficient democracy and the current financial climate requiring savings to be identified.

Community impact statement

14. The proposal in this report provides additional benefits to the public and the local community and enhances the council's commitment to diversity and fairness.

Resource implications

15. The constitution is published on the council's website and is available for viewing online. Limited numbers of the constitution are produced in binder form with loose leaf pages and dividers. This means that any additional costs arising from the reproduction of small sections of the constitution are reduced compared to the reprinting of the whole constitution. It is anticipated that the cost can be contained within existing budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Constitution	160 Tooley Street London SE1 5LX	Constitutional Team 020 7525 7228

APPENDICES

No.	Title
Appendix 1	Schedule of constitutional changes
Appendix 2	Contract standing orders - draft
Appendix 3	Article 5 of the Constitution – Overview and scrutiny committee and sub-committees
Appendix 4	Overview and Scrutiny Procedure Rules – proposed amendments

AUDIT TRAIL

Lead Officers	Chidilim Agada, Head of Constitutional Services Jo Anson, Head of Financial and Information Governance Shelley Burke, Head of Overview and Scrutiny
Report Author	Virginia Wynn-Jones, Principal Constitutional Officer
Version	Final
Dated	27 June 2018
Key Decision?	No

CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER

Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes (Included in the body of the report)
Strategic Director of Finance and Governance	No	Not applicable
Date final report sent to Constitutional Team		27 June 2018