

MAIDSTONE BOROUGH COUNCIL

GENERAL PURPOSES GROUP

**MINUTES OF THE MEETING HELD ON
8 APRIL 2009**

PRESENT: Councillors Mrs Hinder (Chairman), Batt, Blackmore, Butler, Field, Hotson, Paine, Sams and Mrs Wilson

REFERRED MATTER

52. **TRANSFER OF HEALTH AND SAFETY AT WORK ENFORCEMENT FUNCTION – THE HOP FARM, BELTRING**

The Group considered the Report of the Assistant Director of Environmental Services regarding transfer of health and safety at work enforcement function to Tonbridge and Malling Borough Council in relation to The Hop Farm, Beltring.

The Group were happy to proceed with the transfer having been reassured that the Council was being indemnified by Tonbridge and Malling against any potential claims and that the notice period had been shortened from 6 months to 3 months.

RECOMMENDED: That the Assistant Director of Environmental Services be given delegated authority to enter into a legal agreement with Tonbridge and Malling Borough Council and Tunbridge Wells Borough Council to transfer the health and safety at work enforcement function to Tonbridge and Malling Borough Council, in relation to The Hop Farm, Beltring.

53. **REVIEW OF CONTRACT STANDING ORDERS/PURCHASING GUIDE**

The Council's current contract procedure rules have been in place for several years and it has been acknowledged that they are in need of review. There have been a number of initiatives such as Gershon's 'Independent Review of Public Sector Efficiency,' which identified that substantial gains in public sector efficiency could be made through the rationalisation of services etc. The review specifically recognised that increased service efficiency could be achieved through the adoption of best practice and service quality enhanced, through the use of common infrastructure/processes.

The Local Government and Public Involvement in Health Act includes powers for Councils to create joint waste authorities, enabling councils to work with neighbouring authorities to create economies of scale in waste collection and disposal.

The Kent Commitment Statement of Intent from Kent's Local Government Leaders envisages a range of positive opportunities for the Kent Districts and the County to work together on shared services and that all councils should explore the potential to share services.

Section 135 of the Local Government Act 1972 places an obligation on councils To have Contract Standing Orders (CSO's) in place to govern their procurement decisions and although the goal is the same, there are currently 14 differing sets

of CSO's across the County of Kent. The difference in approach, through either style or content, creates a barrier to improved shared service delivery through two-tier, bi-lateral or geographically clustered working.

Most Kent local authorities endorse the view that in the climate of joint working/collaboration, there is a pressing need to ensure that the procurement process is efficient, consistent and compliant and, given the scope for interpreting the procurement rules in different ways, that the alignment of CSO's across Kent would improve efficiency and economies of scale in joint procurement initiatives. This is especially relevant given the Mid Kent Improvement Partnership line to pursue joint procurement opportunities.

The 'alignment of CSO's' project was launched by Kent Secretaries (a group of Kent-based Heads of Legal) and supported financially by the Kent Improvement and Efficiency Partnership and the drafting of the documentation undertaken by Messrs Bevan Brittan Solicitors. The review culminated with the production of a new set of CSO's and a Purchasing Guide cross referencing to the CSO's.

The new CSO's are a modern, short, focused set of core obligations which will address the commercial challenges in local government procurement.

The Purchasing Guide provides practical guidance to assist Officers in understanding how the CSO's apply to purchasing decisions and processes on a day to day basis. It explains some of the more technical and legal issues as well as exploring some concepts and providing examples of how these work in practice. Officers will be obliged to take the Purchasing Guide into account when they are engaged in purchasing on behalf of the Council. This is in addition to the obligation on them to follow the CSO's.

Procurement, Finance, Legal and Audit Officers have been consulted on the CSO's and the Purchasing Guide.

The CSO's and the Purchasing Guide will need to be kept under review as pursuing the shared services agenda and formalised collaborative working is presenting the Council with new challenges in how it contracts with suppliers and influences the markets in which it operates.

There are many differences between the current Contract Procedure Rules and these new CSO's. The most significant two relate to a delegation to whichever Director is appropriate and the change to the financial limits.

In these new rules the ability to waive the rules is delegated to the appropriate Director, though this has been changed to being in consultation with the appropriate Cabinet Member. In the Council's current contract procedure rules, suspension of the rules requires The approval of the Cabinet Member.

In relation to the changes to the financial limits, these have been amended to reflect the current EU requirements, which affect contracts over £139,893. Below that value the financial limits have been increased and the requirement to obtain five written tenders has been reduced to three.

The Audit Committee supported the new framework for Contract Standing Orders/Procedure Rules and the ancillary Purchasing Guide subject to an adjective being added before the word "quality" in paragraph 1.1.3 in the Contract Standing Orders. The Committee agreed and added the word "appropriate". In addition the committee also agreed to amend paragraph 13.3.3 by adding the words in italics in the amended paragraph below:-

"Subject to approval in advance by the appropriate Director who shall *consult*

the appropriate Cabinet Member and record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional.”

These amendments have been incorporated into the revised documents which are attached.

RECOMMENDED:

1. That the attached new framework for Contract Standing Orders and the ancillary Purchasing Guide be adopted
2. That the success of the new Standing Orders be reviewed one year following their adoption.
3. That all Officers involved in the procurement process be briefed on the new rules.
4. That the Financial Procedure Rules be amended as necessary to reflect the changes in the Contract Procedure Rules