

## REPORT OF THE HEAD OF DEMOCRATIC SERVICES

*Reporting Officer: Head of Democratic Services*

### 1. URGENT IMPLEMENTATION OF DECISIONS

**RECOMMENDATION:** That the Urgency decisions detailed below be noted.

#### Information

1. The Constitution allows a Cabinet or Cabinet Member decision to be implemented before the expiry of the 5-day scrutiny call-in period, provided the decision is deemed urgent and agreement is given from the Chairman of the relevant Select Committee that the matter is urgent and to waive the scrutiny call-in period. All such decisions are to be reported for information only to the next full Council meeting.
2. Since last reported to Council, the following decisions have been made using urgency procedures:

Date of Decision	Nature of Decision	Reason for Urgency	Decision-Maker
14 February 2024	Minor property disposals of shops and commercial assets (1) 64-66 Byron Way, West Drayton (2) 28/28a & 29/29a High Road, Cowley and (3) 2a-2b High Street, Ruislip HA4 7AR (Special Urgency)	To meet the Council's Disposals Target for 2023-24 in support of the Council's budget strategy.	Leader of the Council, and on behalf of the Cabinet Member for Property, Highways and Transport
20 February 2024	In Sourcing of a Registered Care Home at Lowdell Close, Yiewsley to Adult Social Care – Direct Care Services (Special Urgency)	Due to the importance of securing continuity of care and the likelihood that the current provider would withdraw their service imminently.	Leader of the Council, and on behalf of the Cabinet Member for Health and Social Care and the Cabinet Member for Property, Highways and Transport
21 February 2024	Highways Structural Programme 2023-24 Allocation, Reallocation and Capital Release (Special Urgency)	To enable essential highways improvement works to be completed before the end of the financial year 2023/24 and to ensure the Council could maximise the budget it has to improve local roads.	Leader of the Council, and on behalf of the Cabinet Member for Finance and the Cabinet Member for Property, Highways and Transport
8 March 2024	Award of contract for Leasehold, Shared Ownership and Mortgaged Properties Buildings Insurance (Special Urgency)	Due to unprecedented market conditions, along with the unexpectedly protracted tendering and evaluation process as prospective insurers requested considerable information,	Deputy Leader of the Council (acting on behalf of the Leader of the Council), in conjunction with the Cabinet Member for Finance and the

Date of Decision	Nature of Decision	Reason for Urgency	Decision-Maker
		unforeseen to their normal requirements, in order to inform their submissions. This decision ensured the Council has complied with all statutory consultation requirements so residential assets were fully insured by 1 April 2024 and the Council could recoup the full cost of premiums from Leaseholders.	Cabinet Member for Residents' Services Transport
21 March 2024	Temporary Accommodation Leases – Longford (Special Urgency)	Due to the sharp increase in levels of homelessness and the imperative need to reduce the cost of temporary accommodation by securing more affordable, longer-term leased accommodation. This decision will support the Council in meeting its statutory responsibilities and mitigate the impact on the Council's budget.	Cabinet
28 March 2024	Voids Repair Service Contract Extension (Special Urgency)	Due to a legal challenge and the need to have compliant contractual arrangements in place through the temporary extension of existing arrangements. This decision provided continuity of service and ensured the number of void properties will be minimised, ensuring the availability of housing supply for residents.	Leader of the Council and Cabinet Member for Property, Highways and Transport
12 April 2024	Adaptions for Eden satellite of Moorcroft at Pinkwell – post 2024 (Special Urgency)	Due to delays in the Pinn River Free School project managed by the DfE, outside the Council's control. This required the release of funds to extend the satellite provision for Moorcroft Special School on the Pinkwell Primary School site by providing an additional 10 SEND secondary places. This decision will help ensure SEND provision can be provided in-Borough at the relevant time and mitigate need for more expensive out of Borough or independent provision.	Leader of the Council, in conjunction with the Cabinet Member for Children, Families and Education, and on behalf of the Cabinet Members for Finance and Property, Highways and Transport

Date of Decision	Nature of Decision	Reason for Urgency	Decision-Maker
12 April 2024	SEND Places Expansion - Wood End Park Academy (Special Urgency)	To provide the necessary funds to undertake the building works to provide the essential ASD / SEND places required and a tight construction programme to deliver this by the Wood End Park Academy. This will help ensure SEND provision can be provided in-Borough at the relevant time and mitigate need for more expensive out of Borough or independent provision.	Leader of the Council, in conjunction with the Cabinet Member for Children, Families and Education, and on behalf of the Cabinet Member for Finance and the Cabinet Member for Property, Highways and Transport
12 April 2024	Meadow High School Expansion (Two Sites) Project – Meadow High School (Northwood Road, Harefield) Re-Provision Delegated Award of Design and Build Contract with Capital Release (Special Urgency)	To be able to commence building works on the Harefield site in the 3rd week of April. This was to ensure the Meadow High School expansion project can be completed and provide SEND school places for the start of the relevant academic year. Any delays to the start will have an impact on the completion date and school places available. This decision will help ensure SEND provision can be provided in-Borough at the relevant time and mitigate need for more expensive out of Borough or independent provision.	Leader of the Council, in conjunction with the Cabinet Member for Children, Families and Education, and on behalf of the Cabinet Member for Finance and the Cabinet Member for Property, Highways and Transport
18 April 2024	Acquisition of Residential Accommodation in Hayes (Special Urgency)	Due to the sharp increase in levels of homelessness and the imperative need to reduce the cost of temporary accommodation by securing more affordable, longer-term leased accommodation. This opportunity to acquire a significant development will support the Council in meeting its statutory responsibilities and mitigate the impact on the Council's budget.	Cabinet
24 April 2024	HR Improvements Programme – HR, Payroll and Applicant Tracking System (Urgency)	To ensure the necessary contractual arrangements could be in place by end of April to avoid increased costs to the Council associated with the HR system product being purchased after this date.	Cabinet Member for Corporate Services and the Cabinet Member for Finance

Date of Decision	Nature of Decision	Reason for Urgency	Decision-Maker
21 May 2024	SPECIAL URGENCY - Platinum Jubilee Leisure Centre – Remaining Works to Completion (Special Urgency)	To minimise delay of the building works, as the programme already having been set back by the original contractor having gone into administration.	Leader of the Council, and on behalf of the Cabinet Member for Property, Highways and Transport and the Cabinet Member for Finance
23 May 2024 – Cabinet	New Pavement Licensing Regime 2024 (Special Urgency)	In order for the Council to enact the new legislation expediently and provide updated licence conditions.	Cabinet
23 May 2024 – Cabinet	Residential Property Acquisitions Programme 2024/25 (Special Urgency)	Due to the imperative need to secure affordable housing to appoint a partner organisation to accelerate the acquisition and refurbishment of housing and support the Council in meeting its statutory responsibilities and mitigate the impact on the Council's budget	Cabinet
25 June 2024	LTA Grant Funding & Award Acceptance - Tennis Courts Upgrade at Moorhall Recreation Ground, Harefield (Special Urgency)	The urgency arose out of the need to commence works by 26 June. The tennis court upgrades are fully funded by the Lawn Tennis Association following a grant to the Council.	Leader of the Council

Background Papers: Decision Notices

**ii) MOUNT VERNON CANCER CENTRE JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE (MVCC JHOSC) MEMBERSHIP**

**Background**

1. Council is asked to consider appointing a Member to the Joint Health Overview and Scrutiny Committee (JHOSC) being established in relation to the Mount Vernon Cancer Centre (MVCC).

**RECOMMENDATIONS:** That Council join the MVCC JHOSC, that the Chair of the Health and Social Care Select Committee be appointed as the London Borough of Hillingdon representative to the MVCC JHOSC, and the Head of Democratic Services, in consultation with the Chief Whip of the relevant party, be given delegated authority to appoint further Members and / or substitute Members to the Committee should they be requested by the JHOSC.

**Information**

2. It is widely accepted that there is an urgent need to re-provide Mount Vernon cancer services on an acute hospital site. This has been the preferred long-term option for some time and provides the best option for patient care.
3. The dedicated staff at the MVCC have been working extremely hard over many years to maintain services despite the challenges of poor buildings and a lack of other medical facilities on the same site which has meant patients can't always be treated at MVCC and staff have had to oversee their treatment across a number of different hospitals.
4. As time goes on, this becomes more challenging and staff and patients need some certainty about what the future is for their services (in 2023/24, 1,866 MVCC patients were Borough residents). It is important that any future plans have been thoroughly tested with patients and the public before being agreed by stakeholders. Consideration now needs to be given to the provision of an assurance process to approve the business case, consultation document and plan.
5. To ensure that local Health Scrutiny Committees in the areas affected have the opportunity to scrutinise the consultation, a JHOSC is being established. It is proposed that the JHOSC be led by Hertfordshire Health Overview and Scrutiny Committee (as Hertfordshire has the largest number of patients at MVCC, around 5,549 in 2023/24).
6. Membership of the JHOSC will further strengthen the Council's own sphere of influence in respect of health scrutiny. Members on the Health and Social Care Select Committee and the Cabinet Member for Health and Social Care will be kept abreast of developments by Democratic Services.
7. Should any additional representation be required from the London Borough of Hillingdon, Council is asked to delegate authority to the Head of Democratic Services to appoint further Members or substitute Members to the Committee as required.

### **Financial Implications**

There are no financial implications arising from this report.

### **Legal Implications**

Although there are no legal implications associated with the recommendations in this report, participation in the MVCC JHOSC would ensure that the Council has a voice in the discussion about the future of the MVCC.

Background Papers: None

### iii) PAVEMENT LICENSING

#### Background

1. Council is asked to consider an amendment to the Scheme of Delegations contained in Chapter 8 of the Council Constitution related to pavement licences.
2. The Constitution of the London Borough of Hillingdon sets out how the Council is governed and operates, the various roles of the elected Members, how decisions are made and the procedures which are followed to ensure that everything the Council does is efficient, transparent, accountable, done with integrity and engages residents in the way it does business.
3. Many of the Council's constitutional procedures are required by law, whilst others are a matter of local choice. Council regularly reviews the Constitution to ensure it meets local priorities and legislative changes.

**RECOMMENDATION: That Chapter 8 (Licensing Decisions) of the Council's Constitution be amended to provide delegated authority to the Corporate Director of Place to grant, refuse, revoke, consider an internal appeal and enforce all matters relating to pavement licenses.**

#### Information

4. The relevant provisions of the Levelling Up and Regeneration Act 2023 (LURA), which came into effect 31 March 2024, replace the pavement licensing provisions contained within the previous Business and Planning Act 2020 (BPA).
5. The BPA was initially brought in as an emergency piece of legislation in July 2020 in response to the COVID pandemic, and permitted a quicker, cheaper, and streamlined service for premises such as pubs, restaurants, and cafes to apply to place tables, chairs and other relevant furniture outside their premises on the pavement.
6. Full details about the new pavement licensing regime under the LURA were set out in the report to the Cabinet meeting on 23 May 2024. At this meeting, Cabinet also made it clear that the needs of non-smokers to be able to use the seating provided, without interference from smoke, would be prioritised over provision of space for smokers.
7. Interim delegations have been put in place to allow relevant officers to be able to discharge these new statutory responsibilities upon the new legislation coming into effect on 31 March. However, there is a requirement to make these delegations official and permanent, which is achieved through updating the necessary section of Council's Constitution relating to Licensing decisions (Chapter 8), and which is the purpose of this report.
8. The Corporate Director, who it is proposed be delegated the authority to make all the relevant decisions required, may then sub-delegate these functions, as appropriate, to authorised Licensing Officers in the Officer Scheme of

Delegations. Specific proposed changes to the text of the Constitution to be approved by Council, are shown in the Appendix, below.

### Financial Implications

There are no financial implications arising from this report.

### Legal Implications

Many of the Council's constitutional procedures are required by law, whilst others are a matter of local choice. Council regularly reviews the Constitution to ensure it meets local priorities and legislative changes. Changes to the Constitution require approval of full Council.

Background papers: ['New Pavement Licensing Regime' Cabinet Report, 23 May 2024](#)

## Appendix

### Chapter 8 – Licensing Decisions, Council Constitution

Street Trading functions			
	CABINET	SUB-COMMITTEE	OFFICER
<del>Under Part 1 of the Business and Planning Act – Coronavirus measures To grant or refuse an application for a Pavement Licence. Where a Licence is granted, this is to be for an initial period of 4 months. Subsequent extensions will also be for a 4 month period, with the maximum period of any initial licence and extensions being 12 months.</del>		Any decision to revoke a Pavement Licence is to be taken by officers acting in consultation with the Chair / Vice Chair of the Licensing Sub Committee.  Approved by Full Council 16 July 2020	✗
To grant, refuse, revoke, consider an internal appeal and enforce all matters relating to pavement licenses under the provisions in the Levelling-up and Regeneration Act 2023			✓

#### iv) CORPORATE RESOURCES AND INFRASTRUCTURE SELECT COMMITTEE TERMS OF REFERENCE - COMPLAINTS

##### Background

1. Council is asked to consider an amendment to the Terms of reference of the Corporate Resources and Infrastructure Select Committee with regard to responsibility for complaints.
2. The Constitution of the London Borough of Hillingdon sets out how the Council is governed and operates, the various roles of the elected Members, how decisions are made and the procedures which are followed to ensure that everything the Council does is efficient, transparent, accountable, done with integrity and engages residents in the way it does business.
3. Many of the Council's constitutional procedures are required by law, whilst others are a matter of local choice. Council regularly reviews the Constitution to ensure it meets local priorities and legislative changes.

**RECOMMENDATION: That the Terms of Reference of the Corporate Resources and Infrastructure Select Committee be updated to reflect its role as the "Member Responsible for Complaints".**

##### Background – Complaints Monitoring

4. In February 2024, the Local Government and Social Care Ombudsman and the Housing Ombudsman Service issued new and revised Complaint Handling Codes, requesting that all Local Authorities/social housing landlords begin to comply with them from 1 April 2024.
5. Cabinet at its meeting on 27 June 2024, considered the new Codes and agreed some minor changes to the Council's Corporate Complaints Policy to ensure compliance.
6. One change advised by the Ombudsman was to formally establish a "*Member Responsible for Complaints*". This role would formally undertake scrutiny and oversight of the handling of complaints at a senior Member/Board level.
7. As it is a well-established role for the Council's Select Committees to monitor and scrutinise the Council's complaints performance annually, Cabinet, agreed to recommended to Council updating the Terms of Reference of the Corporate Resources & Infrastructure Select Committee to designate it collectively as the "Member Responsible for Complaints". The Committee's Terms of Reference are set out in Chapter 6 of the Council's Constitution.

##### Financial Implications

There are no financial implications arising from this report.



## Legal Implications

Many of the Council's constitutional procedures are required by law, whilst others are a matter of local choice. Council regularly reviews the Constitution to ensure it meets local priorities and legislative changes. Changes to the Constitution require approval of full Council. There is a legal duty to comply with the new Codes from the Ombudsman.

Background papers: [Cabinet report/decision – 27 June 2024](#)

### v) LOCAL DEVELOPMENT SCHEME 2024

#### Background

1. Cabinet on 21 March 2024 resolved to recommend to Council the adoption of a revised Local Development Scheme (LDS) for the Council, which sets out timescales for the production of forthcoming Local Plan documents. The Cabinet report can be found at item 7 here: [London Borough of Hillingdon - Agenda for CABINET on Thursday, 21st March, 2024, 7.00 pm](#) or upon request to Democratic Services.

**RECOMMENDATION: That the revised draft Local Development Scheme be adopted.**

2. Cabinet also delegated authority to the Director of Planning, Regeneration and Environment, in consultation with the Cabinet Member for Residents' Services, to make any necessary editorial amendments and minor changes to the Local Development Scheme, prior to consideration by Full Council. However, no editorial amendments or minor changes have been necessary.

#### Information

3. The LDS is a project plan for the production of the Local Plan (the "Plan") and other planning policy documents. It sets out the documents that the Council intends to produce and the timescale for their production. In order to be considered legally compliant in accordance with the Planning and Compulsory Purchase Act 2004, the Council's Local Development Documents ("LDDs") should be in general conformity with the LDS. This means that they should be listed in the LDS and prepared in accordance with the timescales set out in the document.
4. The Council's current LDS was adopted in 2021 and is now considered to be out of date. Under the provisions of the Planning and Compulsory Purchase Act 2004 (as amended) the Council is required to publish an up-to-date LDS setting out the timetable for the production of LDDs. In the absence of evidence that the necessary steps are being taken to prepare an up-to-date version, there is a risk that the forthcoming Local Plan review, will not be found to be 'legally compliant' at examination. This could result in a suspension of the examination process and a delay in the adoption of the Plan.

## **Financial Implications**

5. There are no additional costs associated with the publication of the revised LDS for the Council. The Local Plan cost of £998k is funded via £200k from the existing base budget and £798k from Earmarked Reserves.

## **Legal Implications**

6. The Council is required to prepare a LDS in accordance with the requirements of section 15 of the Planning and Compulsory Purchase Act 2004 (as amended). Amongst other requirements the LDS must specify the LDDs which are to be Development Plan Documents (“DPDs”). The Planning and Compulsory Purchase Act 2004 (as amended) requires the LDS to be revised at such times as the Local Planning Authority considers appropriate.
7. Section 19 of the Planning and Compulsory Purchase Act 2004 (as amended) requires LDDs to be prepared in accordance with the LDS. As such it is vital that the LDS is updated to ensure the Council's Local Plan can be found legally compliant in accordance with the Planning and Compulsory Purchase Act 2004 (as amended) and relevant supporting legislation.
8. Section 24 of the Planning and Compulsory Purchase Act 2004 (as amended) requires all LDDs both at the stage of preparation and at adoption, to be in general conformity with The London Plan 2021.
9. Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended) requires a resolution of the Council resolving that the LDS is to have effect and must specify the date from which the LDS is to have effect.

Background Papers: None.

## **Appendix**

### **Local Development Scheme - Draft 2024**

#### **Introduction**

- 1.1 The planning system is plan-led whereby planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. A Local Planning Authorities’ Local Plan forms the key part of the Development Plan and sets policies for their area.
- 1.2 The Local Development Scheme sets out the documents that the Council intends to produce to form its Development Plan and a timetable for production. Local Planning Authorities must produce a Local Development Scheme under Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended).

## **Hillingdon's existing planning policy framework**

1.3 The adopted Development Plan for Hillingdon consists of the following documents:

- The Local Plan Part 1: Strategic Policies (November 2012)
- The Local Plan Part 2: Development Management Policies (January 2020)
- The Local Plan Part 2: Site Allocations (January 2020)
- The West London Waste Plan (July 2015)
- The London Plan (March 2021)

1.4 The Development Plan is supported by the following Supplementary Planning Documents (SPD):

- Planning Obligations SPD (July 2014)
- Accessible Hillingdon SPD (September 2017)
- RAF Uxbridge SPD (January 2009)

1.5 SPDs do not form part of the statutory Development Plan for Hillingdon. As such, the programme for future SPDs is not identified in this LDS.

## **Hillingdon's future planning policy framework**

1.6 Hillingdon's Local Plan currently comprises three separate documents:

- Local Plan Part 1: Strategic Policies (November 2012)
- Local Plan Part 2: Development Managements Policies (January 2020)
- Local Plan Part 2: Site Allocations and Designations (January 2020)

The Council proposes to update the Local Plan. The Local Plan applies to the whole of the London Borough of Hillingdon. The review of the Local Plan will combine the Strategic Policies and the Development Management Policies documents of the Local Plan into a single document and will produce a new Site Allocations document. All Local Plan document will be updated to reflect the most recent National Planning Policy Framework and the London Plan (2021).

1.7 The proposed Local Plan will comprise:

- Strategic and Development Management Policies
- Site Allocations

1.8 The review commenced in 2023 and is programmed to complete by mid-2026. The timetable is set out below.

## **The West London Waste Plan**

The West London Waste Plan (WLWP) was adopted in July 2015. The WLWP is a joint plan between six London boroughs (Brent, Ealing, Harrow, Hillingdon, Hounslow and Richmond upon Thames). The Old Oak and Park Royal Development Corporation (OPDC) was officially created in April 2015 and also adopted the WLWP.

The Council has signed a Memorandum of Understanding (MoU) which agrees between the West London Local Planning Authorities to co-operate in the effective

production of an updated West London Waste Plan. It also commits the basic level of resourcing to facilitate the start of this process. The Council is currently waiting for other members of the West London Local Planning Authorities to agree the MoU and allow work to commence, including appointing a technical consultant and formalising a timetable.

Indicatively, a baseline report is expected prior to the end of 2024, which would then be subject to a Regulation 18 Draft Consultation in 2025. Agreement from Cabinet would be required to undertake this consultation and represent the next formal stage of the process.

### Neighbourhood plans

1.9 There are no adopted Neighbourhood Plans or formally registered Neighbourhood Forums in Hillingdon.

### Monitoring and review

1.10 The Local Development Scheme will be monitored and updated as necessary, in accordance with the timescales set out in Hillingdon's Authority Monitoring Report.

### Indicative timetable for Local Plan documents currently being prepared for review.

Document	Evidence gathering & Preparation	Regulation 18 Consultation	Regulation 19 Consultation	Submission to the Secretary of State	Examination	Adoption
Hillingdon Local Plan	2023 to March 2024	April to June 2024	March to April 2025	May to June 2025	July 2025 to May 2026	July 2026
Strategic & Development Mgt Policies						
Site Allocations						

## vi) PROCUREMENT AND COMMISSIONING

### Background

1. Members are asked to consider some changes to the Contract & Procurement Standing Orders which have not been subject to any significant review since 2017. Whilst a series of smaller amendments have been made since that date, specifically to thresholds and approval processes, there was a need for a broader review to ensure they remain fit for purpose and support effective decision making across the Council.
2. The Constitution of the London Borough of Hillingdon sets out how the Council is governed and operates, the various roles of the elected Members, how decisions are made and the procedures which are followed to ensure that everything the Council does is efficient, transparent, accountable, done with integrity and engages residents in the way it does business.
3. Many of the Council's constitutional procedures are required by law, whilst others are a matter of local choice. Council regularly reviews the Constitution to ensure it meets local priorities and legislative changes.

### RECOMMENDATIONS: That:

**a) the changes to the Procurement Standing Orders (Chapter 18 of the Council Constitution) as set out in the body of this report, be approved.**

**b) the Cabinet Scheme of Delegations (Chapter 5) and Responsibilities and Delegations to Officers (Chapter 12) be updated to vary capital release approval to align with the changes to procurement changes, as set out in the report.**

### Procurement Standing Orders

4. This review, undertaken by the Director of Procurement in consultation with officers from Legal, Finance, Democratic Services and with regard to benchmarking against other boroughs, proposes changes which fall under several themes:
  - Clarity around officer obligations in Contract and Procurement procedures where there is considered to be existing ambiguity.
  - Updates that address some of the proposals in the 2023 Select Committee Review into Procurement.
  - Updates seeking to improve the efficiency and effectiveness of Councils processes and decision-making.
  - Technical updates owing to changes or future changes in legislation, technology and / or processes.

### Proposed Changes - In summary

5. The following summary sets out the proposed high-level changes. A further detailed description of changes is set out in Appendix A and a tracked version of changes in Appendix B.

- Approval thresholds (for contract award, contract variation and waivers) have been updated as follows, removing the '*informal written cabinet member approval*' for £25k – £100k that previously was provided through Expenditure Approval Form:

£0 –£99,999	Corporate Director using designated Financial System
£100,000 - £749,999	Formal democratic decision by the relevant Cabinet Member and the Leader of the Council or Cabinet Member for Finance
£750,000 or greater	Formal democratic decision by the Cabinet

- Provision has been made for the implementation of The Procurement Act 2023 when it goes live on 28th October 2024. This will allow officers to better understand implications of the Act prior to making further detailed and relevant changes in 2025.
- Minimum Tendering Requirement have been updated making them more proportionate, providing reference to frameworks, allowing evidence of quotes via screen shot and enabling lower value quotations to be received on email as follows:

Total Value	Minimum Tendering Requirement	Authority to Commence & Evidence Required	Award Criteria / Method of Publication
£0 – £99,999	3 written quotations from viable suppliers or 'mini competition' from compliant Framework. Where possible at least two quotations should be sought from local suppliers. OR where a Direct Award this should be through a compliant framework (see SO4.1c)	Budget Holder. Evidence of quotes should be retained for auditability and purpose of raising requisition. Screenshots of online prices will be considered for this value OR if Direct Award evidence should be presented with Purchase Requisition of why this represents appropriate route to award including Value for Money	Bids up to £24,999 may be sought on email with officers awarding to lowest cost unless there is a clear and unambiguous reason to select a higher priced quote.  Bids between £25,000 and £99,999 must be sought on the Councils nominated eProcurement system with Officers awarding to Most Advantageous Quote
£100,000 & above	Formal tender process, compliant with all necessary regulations, thresholds and best practice OR where a Direct Award this should be through a compliant framework (see SO4.1c)	Budget Holder, Head of Service & Director. Evidence of formal tender process including evaluation should be retained for purpose of audit and writing formal reports OR if Direct Award evidence should be included in formal report of why this represents appropriate route to award including Value for Money	Tender must be issued on the Councils nominated e-Procurement system with Officers evaluating as set out in the tender documents.

- The route for approval of agency and / or temporary workers has been clarified so that when officers use a recruitment agent, other than the councils

nominated supplier, they will be treated as any other service provision and require a quotation / tender process.

- The element of Standing Orders relating to schools has been updated to reflect their autonomy but also reflecting the ultimate financial and legal liability to the council, specifically for higher value spend.
- Those allowed to sign contracts up to £100k has been extended to include other Approved officers as this is currently completed by Director of Procurement and Corporate Director of Finance. Further detail is provided around all aspects of contracting to improve control and management of the Councils commercial, legal and reputational risk. This includes use of non-standard terms and conditions and minimum requirements for what should be included in a contract
- Clarity is offered on contract extensions and how the step change from one approval band to another should be managed. This has historically, been a point of ambiguity.
- New sections have been added for Concession Contracts and Contract Management. The previous set of Standing Orders were silent on both of these.
- More clarity has been included on Exemptions and Waivers to Standing Orders

### Implementation

6. If these recommended changes are approved and to the extent it is possible, changes will be implemented immediately following approval. Where that is not possible, due to processes already being under way, it is expected that full migration to the updated Standing Orders will be completed within 12 weeks of approval.

### Future Changes

7. Although these changes represent a much-needed update to Standing Orders, the implementation of the Procurement Act on October 28<sup>th</sup> this year will result in significant changes to ways of working and obligations on the Council. Some councils are proposing to make updates in advance of go live but with significant level of information awaited on how the new act will operate in practice the Director of Procurement does not believe that is feasible at this time. Therefore, it is proposed to further update Standing Orders in February and July 2025 to reflect the incremental development and understand of the new regs.

### **Capital release monies approval.**

8. The proposed constitutional changes on procurement would permit Corporate Directors to accept tenders up to £99,999. The payment for these services or works will be through either revenue or capital expenditure.
9. Currently, Corporate Directors can authorise revenue expenditure within an approved contract and budget at any value, but they cannot release capital expenditure without additional formal democratic approval. It is, therefore, proposed to align contract and expenditure authorisations at the Corporate

Director level by allowing them to release capital expenditure between £0 - £99,999 within an approved contract or budget. The delegation of capital release authority will only be exercised by Corporate Directors in respect of self-contained projects or initiatives between £0 - £99,999, rather than stages or elements of larger projects. Capital expenditure £100k + would still require existing Cabinet Member or Cabinet democratic approval. This change to capital release procedures will streamline internal processes and ensure procurement approvals are in full alignment with all expenditure approvals. Minor wording changes to both the Cabinet Scheme of Delegations and Officer Delegations in the Constitution will be required as proposed in Appendix B.

### **Financial Implications**

- 10 There are no direct financial implications arising from the recommended changes to the Council Constitution. All decisions to incur new expenditure whether exercised through democratic approvals or delegated officer authority are subject to the requirement to secure Value for Money in working towards the Council's objectives and obligations.
- 11 The Council's Oracle Cloud platform provides the primary control mechanism through which appropriate officers are required to review and approve / reject request for new expenditure prior to any commitments being entered into. All expenditure incurred by the Council is subject to retrospective review and scrutiny through budget monitoring processes which complement transactional controls within the Oracle Cloud platform.

### **Legal Implications**

- 12 Legal Services confirm that there are no specific legal implications arising from this report and that further legal advice will be given, as necessary, as the Procurement Act 2023 is brought into force.

Background Papers: None.



## Appendix A - Detailed changes

### SO1 – Compliance

- 1.1 - UK's exit from the EU there has been changes to the Public Procurement regulations and this is captured in this change. Further similar changes are mirrored across the document to reflect the updates to the law.
- 1.6 – Removal of the wording “*For the avoidance of doubt, this does not mean sourcing and placement of contracts*” has been removed and reflects the need for service areas, on occasion and at lower values and risk, to lead their own sourcing activity.
- 1.7 - The update from £50,000 to £100,000 now aligns with thresholds in the new Oracle Financial system which requires democratic approval to establish Contract Purchase Order on the system. Officers will not be able to raise PO's above a total value of £100k without a specific CPA. This increase in threshold also reflects the capacity of team to manage a contract register for spend between £50k and £100k.
- 1.11 - New legislation referred to as “The Procurement Act”, which governs Public Sector procurement will come into force on 28<sup>th</sup> October '24. This will represent a significant and material change to how Procurement is undertaken across the Public Sector. The inclusion of this section offers some future proofing of the Standing Orders so that learning can taken place during the first 6-12 months of legislation before a formal update is made to Standing Orders. Procurement will updated Standard Operating Procedures during that time to reflect changes that cease to be covered by this version of Standing Orders.

### SO4 – Minimum Tendering Requirements

#### 4.1a

- *Total Value* – Value bands have been increased to produce a more proportionate level of tendering requirement. Previously it was 5 written quotes which was creating more work than value created. This has now been reduced so “£0-£99,999” requires 3 written quotations.
- *Minimum Tendering Requirement* – As per the above, this is more proportionate and now builds in a requirement to seek quotations from local suppliers where possible, contributing to the Select Committee aspirations on engaging with local business. Values above £100k continues to require a full tender process.
- *Authority to Commence and Evidence required* – This is an addition to Standing Orders and has been included to ensure that approval is in place to proceed with a quotation / tender and thus avoiding abortive work. It also sets out expectations of evidence required of having completed the process including the addition of accepting screenshots of online pricing for lower level spend.
- *Award Criteria / Method of Publication* – A new addition to Standing Orders, this sets out the method by which quotes should be sought and way in which bids should be evaluated. Quotes at £0-£24,999 can now be sought by email

but should be awarded to lowest cost unless “clear and unambiguous” reason to select higher price. In order to retain appropriate governance, quotes between £25,000 and £99,999 should be sought on Council e-Procurement system and awarded to ‘most advantageous quote’ where this is a mix of cost and quality. For tender above £100k this is through the Council e-Procurement system and evaluated as per the stipulations of the tender documents.

- 4.1b A minor change to reflect the delegation of approval to Director of Procurement, reflecting the relatively minor point in question and limited effect on value and overall outcomes.
- 4.1c Direct Awards from compliant frameworks are used widely in the public sector and represent a compliant, pragmatic and prudent way of awarding contracts. Previously, the governance has been unclear so this now strengthens and makes clear the obligations on officers and approval process.
- 4.4 Moved to new section (SO11), specifically setting out conditions for a waiver
- 4.5 Increase to £100k (from £50k) level reflects the point at which Procurement should be ‘consulted’ on tender process. Previously this said Procurement should run all procedures above £50k which is not possible on existing resource. Other elements removed due to repetition.

#### SO5 – Custody, Receipt & Opening of Tenders

The changes and deletion to the section reflect the fact that tenders are now run very differently than when these procedure rules were initially put in place. The mandated use of electronic tendering mean there is no longer any paper copies submitted and when bids are submitted electronically they are fully auditable with respect to submission times and opening records.

The only element to be retained with some changes reflects the fact that late bids are still occasionally submitted. For reasons of expediency, acceptance of late quotation and tenders will now be subject to approval of the Director of Procurement but only in ‘exceptional circumstances with supporting written evidence’.

#### SO6 – Acceptance of tender and approval of them

- 6.1 Two items have been included. Firstly the requirement to review financial viability of suppliers before contracting. This is similar to one removed in item 6.2. And secondly a requirement to ensure sufficient budget exists for the approval that is being requested.
- 6.2 With the exception of Repetition of 6.2 (e) which is now included in 6.1, this is a repetition of 6.3 and therefore has been deleted.
- 6.3 This change reflects the alignment of council process to the new Oracle Financial system. In the past, Officers had an ‘Expenditure Approval Form’ with multiple levels of Officer approvals before proceeding informally to Members for sign off. This was a time consuming manual process with no alignment to the finance system. The new approach will see Officers approve up to £100k

in accordance with the Scheme of Delegations. All spend above £100k will continue to progress through Democratic Services for formal approval but the level at which Members can sign off those formal reports will increase to £750,000.

New wording added at 6.3 (b) to reflect new section on waivers and extensions and similar removed from 6.3 (e). This will contribute to the outcomes of the Select Committee review which had concerns over the 'roll over' of contracts beyond term.

- 6.4 The updates to this section reflect the challenges of governance surrounding the recruitment and commissioning of interim resource – both 'individual temporary workers' and those who are considered 'consultants'. As there are no simple or common definitions of each, these changes reflect the impact of IR35 Intermediaries legislation, the existing contractual provision in place through HR teams and the broader principles of the Standing Order in terms of evidencing value and providing visibility to Members.

The additions provide three routes for officers:

- 1) Use of existing the Councils nominated and approved agency provider to recruit.
- 2) Use of a non contracted recruitment agency – which should be subject to the requirements to tender OR seek waiver.
- 3) Appointment of consultants outside of IR35 legislation – which should be subject to the requirements to tender OR seek waiver.

The principle contained within existing SO's of a report to cabinet is also carried forward but required monthly and only for consultants and / or those outside of IR35

### SO7 – Execution of Contracts

- 7.1 The requirement for a signed contract above £10k and up to £100k is proposed to be supplemented with an option to utilise Standard Purchase Order terms through the new Oracle Finance system. This is a more pragmatic way of managing contracting at lower levels of spend. Given contracts will now be tendered and completed by service areas the contract signing has also been delegated to Approved officers. There is no proposed changes for contracts above £100k.
- 7.4 Confirmation of which terms and conditions should be used and contents of a contract are now set out in 7.4 with approvals required for use of Supplier Terms or Framework Terms. The preference remains to utilise LBH standard terms and as such Standing Orders make these easiest to contract against.
- 7.5 This ensures that Officers who are contracting on behalf of the Council and often where Procurement are not directly involved understand as a minimum what the contract should contain. This plugs a gap in existing SO's.
- 7.6 The change here reflects the Council preference to use e-signature system for signing but wet signatures remain a common industry standard and therefore remains an option to officers.

## S08 – Permitted Contract Extensions and Variations

- 8.1 Extensions can only be extended where the express provision exists to do so. If that provision does not exist a request to extend should be managed through the waiver process (SO13).
- 8.2 Extensions now align with the approval process for original contract award decisions, simplifying the process and moving away from Expenditure Approval Forms which have previously been used for the decisions.
- 8.4 This addition sets out the parameters and requirement to utilise a contract variation clause clearing up previous ambiguity on the step change in approvals required between each threshold.
- 8.5 One of the themes emerging from Select Committee review of Procurement was the governance and value for money concerns materialising from very long-standing supplier relationships. The inclusion of this clause makes it explicit to officers that any contract over 10 years must go to Cabinet for approval, regardless of previous delegations.

## S09 – Purchase Order, Contract Purchase Agreement & Procurement Card

These represent small technical changes based on the implementation of the new Oracle Finance system

## S010 – Local Authority Maintained School Procurement

Under the proposed changes to this section delegated authority still sits with schools to undertake Procurement as required but it strengthens the obligations on them to run compliantly and in compliance with “all relevant best practice”. Previously, the Council would counter-sign procurements over £100k but this has now been extended to £180k “except where the process has been undertaken by experience professional specialist support OR has used a compliant framework.” Moving forward the Council will require upfront visibility on how these higher threshold projects will be delivered to offer assurance on value for money and compliance.

## S011 – Concession Contracts

This section is a new addition to the Standing Orders and is included based on the ongoing need for governance surrounding concession contracts. Previously there has been no mention of concession contracts despite them being in use across the council (e.g. annual panto at The Compass, Street Furniture contract with JC Decaux etc) In short the new SO sets out what a concession contract is, how they should be managed by Officers and the approval process for their acceptance.

## S012 – Concession Contracts

Contract Management has previously not been covered in Standing Order and this update sets out the requirement to have a named officer responsible for contract management above £100k and the extent of contract management duties.

## S013 – Exemptions and waivers

- 13.1 This section adds to the previous list of exemptions and clarifies others. Exemptions now include levys, payments and taxes that are required on a statutory basis. Any spend connected with pensions or wholly owned subsidiaries of the Council (e.g. Hillingdon First). Exemptions are also in place for specific payments directed by courts or tribunal services or where there is an exemption based on other statute (e.g. self-directed support and individual budgets)
- 13.3 The updates to this section draw together elements from across the original standing orders to offer clarity on situations when a waiver can be provided although it is not intended to be complete.
- 13.4 The inclusion of new wording in this section ensures that officers understand the significance of a waiver and their responsibilities in justifying why it should be agreed.
- 13.5 Importantly this section now offer clarity on the fact that waivers can only be provided for rules established by the Council. The Council (Members or Officers) do not have the authority to waive statutory requirements under the Public Contract regulations unless the rules themselves allow for a waiver.
- 13.6 The approval thresholds are set out to mirror the approval levels for contract award and contract variations.