

Report of	Meeting	Date
Director of Governance and Policy	Council	11 April 2016

CONTRACT PROCEDURE RULES PROPOSED AMENDMENTS

PURPOSE OF REPORT

- To inform members of and seek approval for changes to the Council's Contract Procedure Rules

RECOMMENDATION(S)

- That the Contract Procedure Rules be amended to require all High Value Procurements to have Executive Cabinet approval to proceed and Executive approval to award the contract.
- That the thresholds for Intermediate and High Value Procurements be amended to
 - Intermediate Value - £10,000 - £100,000
 - High Value - above £100,000

EXECUTIVE SUMMARY OF REPORT

- In April last year Council agreed to amend the Contract Procedure Rules to reflect legislative and EU threshold changes and to make some practical updates.
- The practical updates included a change to the requirement to get Executive Member approval prior to inviting tenders, of the procurement procedure to be adopted, including the evaluation criteria and weightings to be applied for High Value Procurements, with the threshold for member pre-procurement approval being brought into line with the EU threshold for supplies and services (approx. £164k). This threshold for the purposes of Executive Approval would also apply to works contracts. Only the award of the contract would require Executive approval.
- Whilst there have been relatively few contracts of this type 2 concerns have been raised over these changes since implementation.
 - This may inhibit the transparency of decision making in that the requirement to get member approval increases awareness of the procurement process; and
 - There is still a requirement for key decisions to be made in accordance with the Council's constitution. By having a slightly different process this could lead to confusion.
- The proposal therefore is to require all High Value Procurements to have Executive approval to commence and Executive approval to award the contract.
- By aligning the High Value Procurement threshold with the key decision level (currently £100,000) will provide a consistency in the decision making.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	X

BACKGROUND

10. As part of the continuous review of the Council's Contract Procedure Rules a report was brought to Council in April last year seeking approval of amendments as a result of legislative changes and practical alterations to the procedure.
11. The practical changes were proposed after a consideration of practices at other authorities and were an effort to streamline the decision making process enabling contracts to be let quicker.
12. To be clear the changes made provided a lawful process.

EXECUTIVE MEMBER INVOLVEMENT

13. One of the changes made was to reduce the level of Executive Member approval required at pre-tender stage for the procurement procedure to be adopted, including the evaluation criteria and weightings to be applied for High Value Procurements. The threshold for member pre-procurement approval was increased to be in line with the EU services contract threshold of £164k. This was to apply to all contracts. The change would mean that fewer contracts would require Executive pre-tender approval and therefore there would be fewer delays. The approval requirements for the award decision post tender remained unchanged, with all high value contract award decisions still requiring Executive Cabinet approval.
14. This has led to a small reduction in the number of procurements receiving member pre-tender consideration, and in relation to those contracts it has allowed the process to progress more quickly.
15. However, on review 2 areas of concern have arisen. Firstly, the requirement to get Executive Approval pre-tender increases the transparency of the decision making process. An initial approval to proceed with the procurement process means that all members are made aware of the letting of the contract, not just the Executive and the publication of any report or decision ensures that residents are similarly kept informed. The threshold applied was felt to be too high and it was felt there would be a wider interest in the award of contracts below this level.
16. Secondly, the application of the threshold at EU levels introduced an additional step which could lead to confusion as it was above key decision level. The constitution requires Executive approval of key decisions (although this can be exercised by officers it should still be recorded in writing and published). The amendments led to a situation where there were 2 requirements in the constitution, relating to the same situation which were not exactly the same. The question arose which was the key decision the decision to proceed or the award of the contract.

RESOLUTION OF ISSUES

17. Both the issues above are proposed to be addressed by aligning the High Value Procurement with the key decision level and by requiring all High Value Procurements to obtain Executive Approval to Proceed and Executive Approval to award the contract.
18. The preferred process will be a report to Executive Cabinet seeking approval to proceed with a proposed procurement process and a delegation to the relevant Executive Member to award the contract in compliance with that process.
19. However, to recognise there is an occasional need to move with urgency, there will be the option for the initial Executive approval to be by Executive Member Decision only rather than by Cabinet.

IMPLICATIONS OF REPORT

20. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

21. The proposed changes do not have any financial implications for the council but rather amend the procedure to be followed on getting Executive approval to progress the letting and award of a contract. The proposals provide a more robust and transparent procedure.

COMMENTS OF THE MONITORING OFFICER

22. The Council's Contract Procedure Rules are a council owned document and therefore it is within the Council's power to amend them. The proposals go further than is required to be legally compliant but will ensure greater transparency in decision making.
23. The key decision level is similarly capable of being defined locally.

CHRIS SINNOTT
DIRECTOR OF GOVERNANCE AND POLICY

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Chris Moister	5160	31 March 2017	***