

Changes to the Contract Procedure Rules and Standing Orders

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1. Summary

- 1.1. The purpose of this report is to highlight an amendment to Section 43 Approval to Award, in light of the introduction of Somerset County Council's 10 Point Plan. In addition, the report details a number of minor amendments to ensure that the Contract Procedure Rules and Standing Orders (The Rules) remain current and meet our business needs.

2. Recommendations

2.1. That the Constitution and Standards Committee agree to;

- a) endorse the proposed amendment to the 2017 Contract Standing Orders to ensure consistency of policy and procedure in respect of Officer thresholds for approval to award a Contract, Framework Agreement or Dynamic Purchasing System;
- b) amend references throughout The Rules to the Director of Commercial and Business Services and replace them with the Director of Corporate Affairs to reflect organisation change;
- c) update The Rules in line with the General Data Protection Regulations;
- d) extend the requirement for publishing Tenders and Contracts to Grants in line with the Local Government Transparency Code 2015;
- e) require all breaches of The Rules to be reported to Governance Board to provide oversight and transparency of associated risks that the Council may be exposed to prior and during a procurement procedure and in to contract delivery.

2.2. Give delegated authority to the Monitoring Officer to make any changes necessary to the Contract Procedure Rules and Standing Orders as a result of the recommended amendments that are outlined in this report.

2.3. Formally adopt the amended Rules in to the Constitution.

3. Background

- 3.1. Following a comprehensive review of Somerset County Council's Contract Standing Orders (The "Rules") it was agreed by Full Council to update them and incorporate the updated changes in to the Council's Constitution on 05 May 2017 as the Contract Procedure Rules and Standing Orders. The Rules were further amended and approved via the Council's Constitution and Standards Committee to reflect the Council's aspiration to pre-determine the evaluation criteria for its procurement activities on 06 October 2017.

- 3.2.** The Rules are subsequently reviewed on an annual basis to ensure they continue to fully reflect Somerset County Council's approach to the Supply of Goods, Provision of Services and Execution of Works.
- 3.3.** As a result of the annual review undertaken in December 2018 by the Commercial and Procurement Team, a number of amendments have been identified.
- 3.4.** Most notable is the need to amend to Section 43 Approval to Award, considering the introduction of Somerset County Council's 10 Point Plan, introduced in June 2018.
- 3.5.** The 10 Point Plan noted at that time that the funding challenge at Somerset County Council remained critical. With the funding available, the 10 Point Plan identified that the Council could not afford to do everything it had previously and must look at ways to bring spending down. As part of these measures a Spending Freeze was introduced;
- 'Any spending decision over £10,000 must be reviewed with your director will be signed-off by the Director of Finance and Director of Corporate Affairs. Any spend that is non-statutory should be questioned; matters of safety will be prioritised. All staff who have responsibility for recommending and/or agreeing expenditure must consider whether the spend is necessary and, if so, what alternatives there might be.'
- 3.6.** This control of spending has been in place since for some time and has contributed to an improvement in the Council's current financial position and this control remains in place.
- 3.7.** In view of it is recommended that Section 43 of The Rules is amended, which details Officer thresholds for awarding a Contract, Framework Agreement or Dynamic Purchasing;

Approval to award

'43.1. Approval to award a Contract, Framework Agreement or Dynamic Purchasing System can only be given as follows:

Total Contract Value	Approval to award	Key Decision/Non Key Decision
At and above £5,000,000	Cabinet or, in case of urgent business need, the Leader	Key Decision
Over £500,000 but less than £5,000,000	Relevant SLT officer(s) or Cabinet Member(s)	Key Decision
Over £250,000 but less than £500,000	Officer scale 6 or above	Non-Key Decision
Over £25,000 but less than £250,000	Officer scale 8 or above	Non-Key Decision
Up to and including £25,000	Officer scale 13 or above	Non-Key Decision

43.2. Where approval is sought to award a Framework Agreement or Dynamic Purchasing System, approval may also be sought to award the subsequent Call-off Contracts as part of the same decision report. Where this is not observed Officers must seek approval to award Call-off Contracts exceeding the EU.'

- 3.8. Considering the 10 Point Plan, all Officer threshold values in The Rules need to be reduced to £10,000. The requirement for a Key/Non-Key Decision remains the same. This would mean the following revision to section 43:

Total Contract Value	Approval to award	Key Decision/Non Key Decision
At and above £5,000,000	Cabinet or, in case of urgent business need, the Leader	Key Decision
Over £500,000 but less than £5,000,000	Relevant SLT officer(s) or Cabinet Member(s)	Key Decision
Over £10,000 but less than £500,000	Relevant SLT officer(s)	Non-Key Decision
Up to and including £10,000	Officer scale 13 or above	Non-Key Decision

- 3.9. The review of The Rules also highlighted the need for a number of minor amendments, as follows;

- a) to amend references throughout The Rules to the Director of Commercial and Business Services and replace them with the Director of Corporate Affairs to reflect organisation change;
- b) to update The Rules in line with the General Data Protection Regulations;
- c) to extend the requirement for publishing Tenders and Contracts to Grants in line with the Local Government Transparency Code 2015;
- d) to require all breaches of The Rules to be reported to Governance Board to provide oversight and transparency of associated risks that the Council may be exposed to prior and during a procurement procedure and in to contract delivery.

4. Consultations undertaken

- 4.1. Governance Board considered and endorsed the proposed changes as detailed in 3.9 above at its meeting on 9 January 2019. The Board also added the requirement to ensure The Rules aligned with the 10 Point Plan, as per 3.7 above.

5. Implications

- 5.1. Legal & Risk: the Contract Procedure Rules and Standing Orders set out the legal and procedural framework within which the Council manages its third party spend through the procurement of goods, services and works. It must be kept up to date and compliant with the relevant legislation and is an important part of the Council's Constitution.

- 5.2. Impact Assessment: the Council's duty under Section 149 of the Equality Act 2010 is to have "due regard" to the matters set out in relation to equalities when considering and making decisions on the provision of services. There are no direct impacts on equalities, sustainability, health and safety, or community safety as a result of this report.
- 5.3. Financial: SCC has a statutory duty to ensure that it operates under the principle of Best Value.
- 5.4. HR: none.

6. Background papers

- 6.1. Appendix One – 10 Point Plan

Appendix Two - Contract Procedure Rules and Standing Orders for the Supply of Goods, Provision of Services and Execution of Works