

**COUNCIL
17 JANUARY 2019**

PUBLIC DOCUMENT

ITEM 6A

TITLE OF REPORT: UPDATED CONTRACT PROCUREMENT RULES FOR 2018/19

Extract from the draft Minutes of the Finance, Audit and Risk meeting held on 17 December 2018

51. UPDATED CONTRACT PROCUREMENT RULES FOR 2018/19

The Legal Commercial Team Manager presented a report of proposed changes to the Contract Procurement Rules which in summary suggested the following amendments:

- Updates to reflect the restructure within the Council and the corresponding changes required in the Constitution;
- To provide a reporting line for potential breaches to line managers/Senior Management Team;
- Introduction of a new subsection to Section 14 to allow for retrospective approval on Single Tenders following certain requirements being met;
- To ensure that Subcontractors are paid within 30 days payment terms;
- Update to Section 29 which provides Service Directors authority to extend contracts up to 12 months to a maximum value of £100,000;
- Provisions on the use of consultants updated in line with audit recommendations.
- Update to Section 22 to establish an approval process for waivers above the EU threshold and a new approval process for waivers below the OJEU threshold.

In considering the proposed amendments to the Contract Procedure Rules it was agreed that 2.4 of the Rules should provide a definitive interpretation of the consequences if an individual did not comply with the Procurement Rules. Although it was accepted that each case should be considered on its own merits there might be contributing factors as to why the breach occurred. Subsequently the Committee agreed to the following wording:

'2.4 Failure to comply with the Rules ~~may~~ will result in Officers conduct being examined and may be a breach under the Council's Managing Misconduct Policy....'

In addition the Committee requested that the Legal Commercial Team Manager consider the following comments and make the changes as considered necessary prior to the Procurement Rules being presented to Council for adoption:

- For ease of reference, that Paragraph 11 'Call-Off Further Competition under a Framework Agreement' and Paragraph 21 'Joining a Framework Agreement' should be amalgamated;
- Reference the proposed new Rules 14.3, 14.8 and 14.9 – suggested that these be located to a more appropriate section with a view that all Rules relating to non compliance could be viewed together;
- Paragraph 4.3 and the term 'appropriate officer' - further clarification of the definition was requested.
- That the views of the Council's Contract Procurement Group be sought regarding the 'Apply Go Local Policy' for contracts of up to £50k. Specifically, if there was a need to review the threshold for the Policy's application.

Having fully considered and debated at length the proposed changes to the Contract Procedure Rules, the Finance, Audit and Risk Committee,

RECOMMENDED TO COUNCIL: the adoption of the Contract Procedure Rules subject to the following amendment:

*'2.4 Failure to comply with the Rules ~~may~~ will result in Officers conduct being examined **and may be a breach** under the Council's Managing Misconduct Policy....'*

REASON FOR DECISION: That the Contract Procurement Rules are part of the Constitution (under Section 20) and are revised and updated periodically as part of the Council's governance and procurement review processes, contributing to effective organisational internal control.

In addition, the review and adoption of the Council's Contract Procurement Rules is a key action in the Council's Procurement Strategy.