

DECISION ITEM



| REPORT OF | MEETING | DATE | ITEM NO |
|---------------------------------|-------------------------------|-------------------|---------|
| HEAD OF GOVERNANCE | AUDIT AND STANDARDS COMMITTEE | 22 SEPTEMBER 2016 | 4 |
| CONTRACT PROCEDURE RULES | | | |

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

An internal audit report has recommended that changes be made to the council's contract procedure rules. This report sets out the detailed changes proposed in response to the audit recommendations and asks the committee to recommend them for adoption by the council.

RECOMMENDATION

1. Recommend that the Council adopt the changes to its contract procedure rules set out in paragraphs 3 and 4 of the report.

| CORPORATE PRIORITIES | |
|---|---|
| Spending your money in the most efficient way to achieve excellent services (Value for Money) | √ |
| Delivering the services that customers expect of an excellent council (Clean and Green) | |
| Working with all partners (Vibrant Economy) | |
| To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live) | |
| Promoting Fylde as a great destination to visit (A Great Place to Visit) | |

REPORT

1. The contract procedure rules form part of the council's constitution and govern the procurement and administration of contracts for the provision of works, goods and services to the council.
2. A recent internal audit report¹ highlighted some areas where changes to contract procedure rules would improve their clarity and effectiveness. This report sets out amendments to the rules proposed in response to the audit report. Only the full council can make changes to the constitution (apart from administrative changes). The committee is asked to recommend the changes for adoption by the council.

¹ Procurement Services, March 2016

3. The table below sets out the audit observations and agreed actions and recommendations and the changes proposed in response.

| Audit Observation | Agreed Action | Proposed change to Rules |
|--|--|--|
| Whilst there is a 'Guide to Buying for the Council' which supplements the Council's Contract Procedure Rules, such guidance was not referred to in the rules stating that these provisions must also be complied with when purchasing goods, works or services | An administrative amendment to the Contract Procedure Rules will be made to reference the 'Guide to Buying for the Council'. | Insert the following as paragraph 1.3 of the rules: <i>'Buyers should also refer to the "Guide to Buying for the Council", which is available on the council's intranet'.</i> |
| The existing Contract Procedure Rules imply that using framework agreements is acceptable but outside the CPRs themselves. Using a framework agreement should be encompassed within the Council's rules and procedures | An administrative amendment to the Contract Procedure Rules will be made to encompass the use of framework agreements within the rules and procedures. | Delete 1.2(5), which excludes framework agreements from the application of the rules. In the table in paragraph 2, Include "Framework agreement" as one of the available options for each of the following categories of contract: small contract, mid-range contract, large contract. Insert a new row at the bottom of the table in paragraph 3 (description of procedures) as follows: <i>"Framework agreement</i> <i>The procedure is that the relevant director must satisfy himself that the framework agreement has been let in compliance with all relevant legislation and can lawfully be accessed by the council.</i> <i>Goods, services or works supplied through a framework agreement must be ordered in compliance with the specific rules and procedures for accessing that framework."</i> |
| The Council's Contract Procedure Rules do not apply where a contract has been let by another public authority, as long as that authority had obeyed its own rules. However, no assurance concerning this was obtained or held by Fylde. | An administrative amendment to the Contract Procedure Rules will be made to include the requirement that written assurance must be obtained and held, where a contract has been let by another public authority, to confirm that authority has obeyed its own rules. | In paragraph 1.2(v) (renumbered from paragraph 1.2(vi)), insert the following at the end: <i>"and the relevant director holds written confirmation of such compliance"</i> |

4. A further amendment, set out below, is also proposed to clarify that it is the responsibility of the relevant director, not the Chief Financial Officer, to satisfy himself that budgetary provision exists to cover any new contract.

In paragraph 2.4, replace “*obtain written confirmation from the Chief Financial Officer that budgetary provision exists to cover the*” with “*determine a realistic pre-estimate of the anticipated*” and add at the end of the paragraph: “*,and satisfy himself that budgetary provision exists to cover them*”.

5. A copy of the rules, showing the changes proposed, is attached to the report.

| IMPLICATIONS | |
|---|---|
| Finance | Appropriate contract procedure rules are an important part of the Council’s overall financial management framework and contribute to good governance arrangements. There are no direct budgetary implications arising from this report. |
| Legal | The contract procedure rules govern the letting of contracts |
| Community Safety | No specific implications |
| Human Rights and Equalities | No specific implications |
| Sustainability and Environmental Impact | No specific implications |
| Health & Safety and Risk Management | No specific implications |

| LEAD AUTHOR | TEL | DATE | DOC ID |
|-------------|--------------|------------------|--------|
| Ian Curtis | 01253 658506 | 6 September 2016 | |

| LIST OF BACKGROUND PAPERS | | |
|--|--------------|--|
| Name of document | Date | Where available for inspection |
| Internal Audit report: Procurement Services | March 2016 | Town Hall, Lytham St Annes |
| Contract Procedure Rules | January 2015 | https://fylde.cmis.uk.com/fylde/DocumentsandInformation.aspx or Town Hall, Lytham St Annes |

Attached documents

1. Part 4b – Contract Procedure Rules