

**CORPORATE GOVERNANCE COMMITTEE – 4 JUNE 2021****JOINT REPORT OF THE DIRECTOR OF CORPORATE RESOURCES
AND THE DIRECTOR OF LAW AND GOVERNANCE****PROPOSED CHANGES TO THE CONTRACT PROCEDURE RULES****Purpose of the Report**

1. The purpose of this report is to:
 - a. report on the operation of the Contract Procedure Rules between 1 July 2020 and 31 March 2021;
 - b. propose that recommendations to the County Council are made to revise the Contract Procedure Rules.

Background

2. Rule 8 (Annual Reporting) of the Council's Contract Procedure Rules stipulates that the Director of Corporate Resources, in consultation with the Director of Law and Governance, shall at least once in each financial year submit a report to the Corporate Governance Committee in relation to the operation of these Rules. This includes (amongst other things) details of the approved exceptions to these Rules and approved extensions to a contract where this has not been provided for in the contract, and to set out any proposed revisions to the Rules and/or changes required to accommodate the requirements of UK and EU procurement law, as may be necessary from time to time.
3. Following consideration by the Committee, the proposed revisions to the Contract Procedure Rules will be submitted to the County Council at its meeting in July 2021 for approval. It was announced in the Queens Speech that the government is bringing forward new legislation for the UK regarding procurement and the Council's Commissioning Support Unit has commented on the relevant Green Paper – Transforming Procurement. A further report will be brought to the Committee with proposals to bring the Contract Procedure Rules in line with future legislation at the appropriate time.

Approved Exceptions to the Rules

4. Between 1 July 2020 and 31 March 2021 thirty three approved exceptions, which are allowed for under Rule 6 of the Contract Procedure Rules have been recorded in the Exceptions Logs maintained by the Council's Commissioning Support Unit and Chief Officers, the thirty three also includes contracts awarded

using regulation 32(c)(c) of the Public Contract Regulations 2015 in line with the PPN01/20 – responding to COVID. These have been consolidated and are detailed in Appendix A attached to this report.

5. The reasons for the sixteen approved exceptions included:
 - a. the specialist nature of the requirements.
 - b. COVID -19 exceptional circumstances.
6. A comparative table of approved exceptions over the last 5 years is provided in Table 1 below.

Period	Number of Approved Exceptions	Total Value of Approved Exceptions	No. of Exceptions above relevant EU Threshold
1 July 2019 to 30 June 2020	20	£1.9m	2
1 July 2018 to 30 June 2019	13	£1.8m	3
1 July 2017 to 30 June 2018	18	£1.2m	None
1 July 2016 to 30 June 2017	22	£2.5m	1
1 July 2015 to 30 June 2016	25	£1.7m	None

7. From Table 1 it can be seen that in comparison to the previous year there has been an upward trend in the number of exceptions granted, two of which were above the Public Contract Regulations (PCR) 2015 threshold which is a decrease on the previous year.

Approved Contract Extensions and Modifications where no provision in the Contract

8. During the same reporting period, 1 June 2020 to 31st March 2021, in compliance with Rule 30(c), Rule 30(g) and Rule 30(h) there were seven approvals for contracts either where there was no provision within the original contract for an extension or where the proposed contract variation required such approval this also includes regulation 72(1) of the Public Contract Regulations 2015 in line with the PPN01/20 – responding to COVID. (see Appendix A attached).
9. The main reasons for these contract extensions and variations included:

- a. the need to review, consult on and, reconfigure services before re-tendering of that service.
 - b. continued delivery of critical services.
 - c. changes to meet cost pressures.
10. Two of the contract extensions/variations involved contracts whose value was above the relevant EU threshold. These are detailed in Appendix A attached to this report.
11. A comparative table of approved contract extensions and modifications over the last 5 years is provided in Table 2 below.

Table 2: Comparison of Approved Contract Extensions and Modifications			
Reporting Period	Number of Approved Extensions/Modifications	Total Value of Contracts (including value of approved extensions/modifications)	No of Extensions above relevant EU Threshold
1 July 2019 to 30 June 2020	7	£160.8m	1
1 July 2018 to 30 June 2019	7	£132.5m	2
1 July 2017 to 30 June 2018	7	£156.3m	3
1 July 2016 to 30 June 2017	10	£135.2m	2
1 July 2015 to 30 June 2016	14	£87m	3

* Includes value of contracts not caught by the full Public Contracts Regulations regime.

12. Comparison over the last few years from 2015/16 to 2019/20 shows a static trend in the number of contract extensions (without an extension provision) or contract variations being approved.
13. The Corporate Management Team continues to review, on a quarterly basis, approved exceptions as part of corporate performance monitoring.

Proposed Revisions to the Rules

14. Changes to the Rules are proposed for the following reasons:

- a. to clarify their meaning further;
- b. to update with current systems and legislation post Brexit;

15. The proposed revisions to the Rules have been drafted and these are set out in Appendix B attached to this report. The revisions to the Rules are supported by the Director of Law and Governance and the Director of Corporate Resources and will be presented to the County Council in July 2021 for approval, (subject to this Committee's agreement).
16. Should the County Council approve the draft revised Contract Procedure Rules the new Rules will come into force on 30 July 2021 and will be published on the Council's internet and intranet sites, and communicated to all relevant managers and staff within the Council, including via newsletters and presentations.

Equality and Human Rights Implications

17. The Rules ensure that all potential suppliers and suppliers receive equal treatment when bidding for contracts.

Recommendations

18. It is recommended that:
 - a. the contents of this report on the operation of the Contract Procedure Rules between 1 July 2020 and 31 March 2021 be noted;
 - b. the County Council be recommended to approve the proposed amendments to the Contract Procedure Rules, as set out in Appendix B attached to this report.

Background Papers

The Constitution of Leicestershire County Council.

Circulation under the Local Issues Alert Procedure

None

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Appendices

- Appendix A - Contract Procedure Rules Approved Exceptions and Contract Extensions (July 2020 - March 2021)
- Appendix B - Proposed Amendments to Part 4 G - Contract Procedure Rules

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