



## **CORPORATE GOVERNANCE COMMITTEE – 27<sup>th</sup> JANUARY 2023**

### **CONTRACT EXCEPTIONS**

### **JOINT REPORT OF THE DIRECTOR OF CORPORATE RESOURCES AND THE DIRECTOR OF LAW AND GOVERNANCE**

#### **Purpose of the Report**

1. The purpose of this report is to:
  - a. provide the Corporate Governance Committee with details of the current approval routes for contract exceptions; and
  - b. provide the Committee with the details of the exceptions that required Cabinet approval during the period 1st July 2021 and 30th June 2022.

#### **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 procurement law, as may be necessary from time to time.
3. Following consideration at its meeting on 21<sup>st</sup> November 2022, of the usual annual update on the Council's Contract Procedure Rules, the Committee requested that the Director of Corporate Resources and the Director of Law and Governance present a further, more detailed report on the processes adopted for approving and recording contract exceptions and extensions to provide more detail on those exceptions which required approval by the Cabinet.

#### **Current approval routes for exceptions.**

4. Within the Contract Procedure Rules there are 5 exception scenarios under Rule 6 that require approval as set out below:

**Rule 6**

- I. proprietary and/or patented articles, services or works from one contractor or supplier – where there is no competition in the market (Rule 6 (a)(i)).

Value of award below £177,897:

CSU Support\* ———> Legal Support\* ———> Chief Officer Approval

Value of award above £177,897:

CSU Support\* ———> Legal Support\* ———> Chief Officer Approval

A copy of the note and reasons must be provided to Director of Corporate Resources Approval & Director of Law and Governance.

- II. works of art/ museum pieces (Rule 6 (a)(ii)).

No approval required in the current rules.

- III. unforeseen emergencies - for statutory obligations under the Civil Contingencies Act 2004 – where going out for competition is against welfare due to the emergency (Rule 6 (a)(v)).

CSU Support\* ———> Legal Support\* ———> Chief Officer Approval

- IV. Social Care Services (residential placements, supported living, social care packages, shared lives scheme) that do not exceed light touch regime (Rule 6 (a)(iv))

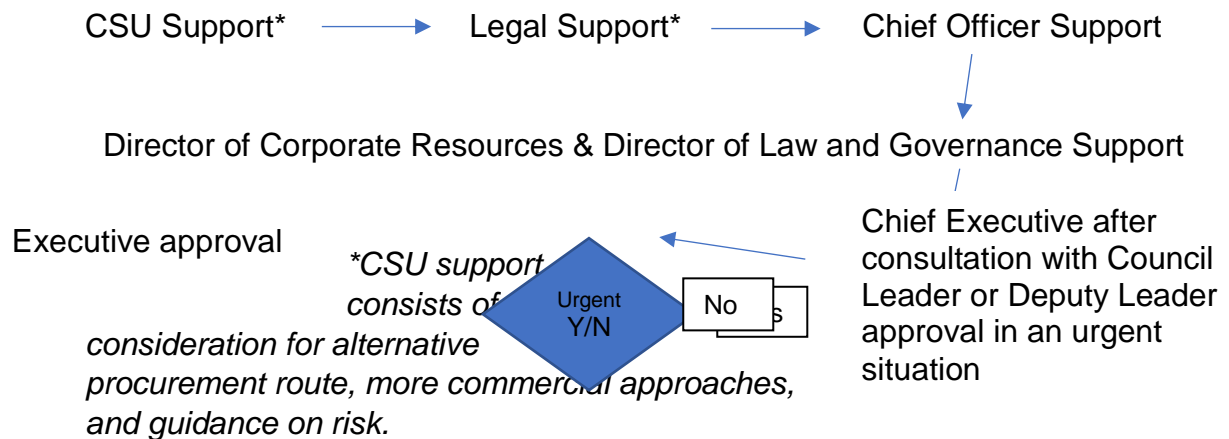
Chief Officer Approval only.

- V. Direct award to a provider with no competition and does not fall into the other 4 categories for direct award (Rule 6 (b))

Value of award below £177,897

CSU Support\* ———> Legal Support\* ———> Chief Officer Approval

Value of award above £177,897.



*\*Legal support consists of further guidance on risk and legislation if CSU are unable to advise or advice is challenged by exception requestor.*

5. Exceptions once signed by the necessary approvers are stored by each department's secretariat. On a quarterly basis the Commissioning Support Unit collate all exceptions, extensions, and variations for reporting to the Corporate Management Team. This data is then reported annually to the Corporate Governance Committee.
6. The Commissioning Support Unit are currently working with ICT for an electronic workflow for exceptions, notifying approvers by email to log in and review/comment/approve. This will enable a more effective way of reporting rather than manual data collection.

### **Exceptions that required Cabinet approval**

7. In the previous report to the Committee, it was stated that seven exceptions during the period 1st July 2021 to 30th June 2022 were above the threshold values at which public procurement opportunities are subject to the full suite of regulations governing public contracts as set out in Rule 6 explained above.
8. Full details of these seven contracts are set out in the table below. Unfortunately, the previous report was incorrect in that only four of those seven were approved by the Cabinet. Two exceptions did not require Cabinet approval as these were extensions to existing contracts. Leaving one exception that was not approved due to minor adaptations exception being incorrectly classed as an exception under social care services.

<b>Quarter</b>	<b>Department</b>	<b>Category</b>	<b>Contract Title</b>	<b>Value</b>	<b>Approvers</b>
Q2	Environment & Transport & Chief Execs	Highways Network Management	Publishment of Legal Traffic Orders in Local Press.	£500,000	Cabinet (following review & advice by Director of Law and Governance and Director of Corporate Resources)
Q4	Environment & Transport	Support Systems	Highway Management System.	£245,000	Cabinet (following review and advice by Director of Environment & Transport, Director of Law and Governance and Director of Corporate Resources)
Q4	Children's & Family Services	Agency Staff	Agency staff outside of Corporate Contract.	£1,600,000	Cabinet (following review and advice by Director of Children's & Families, Director of Law and Governance Director of Corporate Resources)
Q4	Environment & Transport	Safe and Sustainable Travel	Local Bus Services	£13,864,064	Cabinet (following review and advice by Director of Environment & Transport, Director of Law and Governance Director of Corporate Resources)
Q1	Adults & Communities	Adaptations Team	Minor Adaptations Works	£266,500	Director of Adults and Communities
Q1	Environment & Transport	Waste	Extensions of hire charge	£391,837	Director of Environment and Transport Director of Law and Governance Director of Corporate Resources as a contract extension which is not required to go to Cabinet.
Q2	Environment & Transport	Public Rights of Way Team	Extension to Public Rights of Way Contract	£192,000	Director of Environment and Transport Director of Law and Governance Director of Corporate Resources as a contract extension which is not required to go to Cabinet.

9. The Director of Law and Governance and the Director of Corporate Resources are not referred to in Rule 6 (b) detailed above as being required to provide approval in such circumstances. However, they have been consulted as an

additional layer of governance above the statutory requirements, and so they have been referenced in the table above.

10. The following are all the Exceptions, Variations and Modifications reported annually to the Corporate Governance Committee:

- All Rule 6 Exceptions (i.e. the 5 scenarios listed in paragraph 4 above) except for the Social Care Services exceptions.
- Rule 30 (c) Contract Modifications where the modification exceeds 10% of the original contract value and is above the UK procurement threshold (£177,897 for goods/ services, £4,447,447 for works, £552,950 for Light Touch all before VAT).
- Rule 30 (g) Contract extensions where the initial procurement did not allow for an extension and the extension is less than 10% (for services and supply) and less than 15% for works of the original contract value and below the UK procurement threshold.
- Rule 30 (h) Contract extensions where the initial procurement did not allow for an extension, the extension value does exceed 10% and / or the original contract value exceeds the UK procurement threshold.

11. In the next annual report, as requested by the Committee at its last meeting, the individual exceptions, modifications and extensions will be presented in more detail and a table specifying the department, category, contract name, rule applied, value and approval process followed will be included.

### **Recommendation**

The Committee is asked to note the contents of this report.

### **Background Papers**

The Constitution of Leicestershire County Council.

Report to the Corporate Governance Committee 21 November 2022 – Contract Procedure Rules Annual Update 2021/22

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=434&MId=6846&Ver=4>

### **Circulation under the Local Issues Alert Procedure**

None

### **Equality Implications**

There are no equality implications arising from the recommendations in this report.

### **Human Rights Implications**

There are no human rights implications arising from the recommendations in this report.

### **Officers to Contact**

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