

CONSTITUTION AND ETHICS COMMITTEE	AGENDA ITEM No. 8
6 OCTOBER 2022	PUBLIC REPORT

Report of:	Fiona McMillan, Director of Law and Governance	
Cabinet Member(s) responsible:	Councillor Andy Coles, Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Cecilie Booth, Corporate Director Resources, s151 Officer Patricia Phillipson, Deputy s151 Officer	Tel. 452520 Patricia.Phillipson@peterborough.gov.uk

AMENDMENTS TO THE CONTRACT RULES

RECOMMENDATIONS	
FROM: Fiona McMillan, Director of Law and Governance	Deadline date:
<p>It is recommended that Constitution and Ethics Committee:</p> <p>APPROVES the amendments to the Contract Rules as set out in Appendix A of this report and RECOMMENDS to Council for approval.</p>	

1. ORIGIN OF REPORT

1.1 This report is submitted to Constitution and Ethics Committee following referral from the Monitoring Officer, the Director of Law and Governance.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to provide the Constitution and Ethics Committee the opportunity to review and approve amendments to the Contract Rules set out in Part 4, Section 10 of the Council's constitution, under the Committee's Terms of Reference at paragraph 2.7.2.1 of Part 3, Section 2 of the constitution.

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/a.
Date for relevant Council meeting	7 December 2022	Date for submission to Government Dept. <i>(Please specify which Government Dept.)</i>	N/a.

4. BACKGROUND AND KEY ISSUES

4.1 Currently, the Council's Contract Rules require that, for contracts and procurements with a value of £5,000 or over, officers must carry out a form of competitive process by obtaining quotes from

potential suppliers. The precise competitive process required depends on the value involved. In circumstances where it is not possible to carry out a competitive process, the officer must obtain an exemption from this process and submit an exemption report for approval by the Corporate Director Resources in that regard.

- 4.2 The exemption report process involves the officer writing the report, obtaining approval from finance, legal and procurement and eventually from the Corporate Director Resources, and is therefore quite labour intensive, involving time spent by various officers. This process takes time and can create delays in putting the relevant contracts in place, and additionally removes responsibility and accountability away from budget holders, effectively transferring budgetary control to the Corporate Director Resources.
- 4.3 It is proposed that the Contract Rules be amended to change the £5,000 figure to £25,000, so that a competitive process is required for contracts and procurements with an estimated value of £25,000 or more, and those below that value can be awarded by obtaining just one quote. This change was proposed by the Corporate Director Resources and is supported by the Director of Law and Governance.
- 4.4 It is envisaged that this change will reduce the number of exemption reports and will also give budget holders more responsibility and ownership over the budgets they manage.
- 4.5 In addition to the proposed change detailed above, it is also proposed to delete some out of date contact details within the Contract Rules and make the following minor updates and changes simultaneously:
- a) Note that the valuation of contracts and procurements must now be inclusive of any VAT to reflect recent changes in law in this regard;
 - b) To update the EU thresholds stated in the Contract Rules to reflect the new levels contained within legislation;
 - c) To clarify that the exemption grounds for contract extensions also apply to contract renewals;
 - d) To delete the flowchart at the end of the Contract Rules which refers to out of date terminology and practices.
- 4.6 It is intended that, in due course, a full review and update of the Contract Rules will be carried out to coincide with the new procurement legislation that is expected to come into force in 2023. The current changes requested streamline the Council's processes for low value contracts in the interim, to seek to ensure efficiency.

5. CONSULTATION

- 5.1 There are no consultation requirements as the proposals are to make amendments to the Contract Rules.

6. ANTICIPATED OUTCOMES OR IMPACT

- 6.1 Following approval by the Constitution and Ethics Committee and subsequent approval by full Council on 7 December 2022, the Contract Rules will be amended, forming part of the Council's Constitution.

7. REASON FOR THE RECOMMENDATION

- 7.1 The reason for the changes is to ensure that budget holders take responsibility and manage their budgets. This will assist in the process when goods, services or works are purchased and avoid unnecessary delays and excessive officer time being spent in relation to reasonably low value contracts.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 Do Nothing/The Contract Rules are not amended: This was rejected, as the existing control process in authorising contract awards by exemption is not effective and requires changes for the reasons detailed above. The cost of purchases has increased in value over this period and there is a need to make amendments.

9. IMPLICATIONS

Financial Implications

- 9.1 None.

Legal Implications

- 9.2 Section 135 of the Local Government Act 1972 requires a local authority to make standing orders setting out its rules in relation to contracts made by it for the supply of goods or materials or for the execution of works, including securing competition in relation such contracts and regulating the manner in which tenders are to be invited.

- 9.3 Section 135 permits a local authority to specify that contracts below a price detailed in its standing orders, do not need to meet the requirement for competition. The proposed change to the Contract Rules will be altering the Council's price specified in this regard from £5,000 to £25,000.

Equalities Implications

- 9.4 None.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Contract Rules, Part 4, Section 10 of the Constitution.

11. APPENDICES

- 11.1 Appendix A – Revised Contract Rules, Clean copy
Appendix B – Revised Contract Rules with Tracked Changes

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