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**PROCUREMENT - INTERIM ARRANGEMENTS**

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**Responsible Cabinet Member – Councillor Steve Harker, Resources Portfolio**

**Responsible Director – Lorraine O’Donnell, Assistant Chief Executive**

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**Purpose of Report**

1. The purpose of this report is to make recommendations on the implementation of the Contract Procedure Rules agreed by Council at the end of February.

**Information and Analysis**

2. The Council’s revised Contract Procedure Rules were approved by Cabinet on 12<sup>th</sup> February 2008 and adopted by Council on 28<sup>th</sup> February 2008. The rules were revised to enhance members’ role in procurement and to enhance efficiency.
3. The new rules come into force on 1<sup>st</sup> May 2008. The main responsibilities under the new rules are:
  - (a) Council’s role is to agree the rules and any subsequent revisions of these;
  - (b) Cabinet’s role is to agree the annual Procurement Plan which will identify the route that contracts will take i.e. Cabinet decisions for all strategic procurement activity and officer decisions for routine procurement;
  - (c) Each Strategic Procurement exercise will have a procurement strategy which will identify how the procurement activity will be carried out, including the identification of the criteria that will be used to appraise competing tenders. Appropriate consultation will also be described;
  - (d) Strategic Procurement Decisions will be taken by Cabinet;
  - (e) Resources Scrutiny has a critical role in monitoring the effectiveness of procurement decisions.
4. In the new arrangements an annual Procurement Plan will be produced listing details of all existing and new contracts that are above £75,000 and which require a tender process. It will detail the existing contracts that are due to expire in the next 12 months as well as any new contracts we know are going to be tendered in the same time period.
5. The purpose of this plan is for members to decide, in advance based on pre-determined criteria, the route contracts will take: Cabinet decisions for all strategic procurement exercises or officer decisions for routine procurement. For those contracts designated strategic, a procurement strategy must be produced, the implementation of which would be monitored by Resources Scrutiny. The final contract award decision will be a Cabinet decision. As set out in the Contract Procedure Rules the contract award decision for those contracts not considered strategic will be through delegation to officers.

6. The first annual Procurement Plan will be presented to Cabinet 8<sup>th</sup> July 2008. The criteria for deciding whether a contract decision should be classed as strategic will be agreed following consultation with members and officers. In the interim there is a need to agree a transitional arrangement for those procurement activities that will take place before that date. As there are no criteria currently in place we have based our assessment of whether a contract is strategic or not on the following: -
  - (a) value of the contract;
  - (b) whether the contract is of significant public interest;
  - (c) whether the contract is a regular occurrence to support the day-to-day activity of the council or is it a one-off project.
7. The list of contracts is attached in **Appendix A**. The list is divided into two parts, those officers consider to be non-strategic and the two construction projects that officers consider to be strategic. The contracts considered non-strategic are not of a high value and represent in the main contracts that support ongoing service delivery.
8. As an authority we under take in the region of 200 – 300 separate procurement exercises per year. It would not represent good value for money if every one of these contracts was brought to Cabinet for a contract award decision. Therefore it makes sense to devolve routine, operational procurement decisions to officers.
9. As mentioned those contracts considered non-strategic are contracts for goods and services that support the routine activity of the authority. Contracts for the delivery of these goods and services have been in place for a number of years and are tested on a regular basis for value for money. The tender specifications will be developed using European, British and Industry quality standards and best practice. Officers will look at available frameworks and assess their suitability prior to carrying out a tender exercise. If a tender is required it will be fully advertised and evaluated against cost and quality criteria to ensure we get optimum value for money.
10. The future role of Scrutiny will be to look at all procurement activity, both strategic and non-strategic, and test the VFM of contracts through the monitoring of contracts once they have been let. Resources Scrutiny has a critical role in monitoring the effectiveness of procurement decisions.
11. **Appendix A** contains two construction projects that, due to the value and nature of the contracts it is proposed would be considered strategic under the new arrangements.
  - (a) Depot Construction - The contract for the construction of the new depot is currently valued at £8,000,000. The construction of the depot was the subject of a previous Cabinet report which required a detailed report on the proposed procurement contract be brought back to Cabinet.
  - (b) North Road Primary – The contract for the construction of North Road Primary School is currently valued at £5,500,000.

12. The current stage of each of these contracts is contained within **Appendix A**. The anticipated dates for contract award are August for North Road Primary School and October for the Depot construction. The procurement for North Road School has been running for a number of months, a strategy and plan are already in place therefore a report will be brought to Cabinet for the contract award decision. Reports are already planned to be brought to Cabinet for the procurement contract and the contract award decision for the Depot.

### **Outcome of Consultation**

13. Consultation has been undertaken with Departments on the contracts to be included in the report. The outcome of the consultation is the list of contracts attached as **Appendix A**.

### **Legal Implications**

14. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

### **Section 17 of the Crime and Disorder Act 1998**

15. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

### **Council Policy Framework**

16. The issues contained within this report do not represent change to Council policy or the Council's policy framework.

### **Decision Deadline**

17. For the purpose of the 'call-in' procedure this does not represent an urgent matter.

### **Key Decisions**

18. This report does not represent a key decision.

### **Recommendation**

19. It is recommended that:
  - (a) the contract award decisions for the North Road Primary School be made by Cabinet.
  - (b) the procurement plan for the construction of the depot be brought to Cabinet for approval in advance of the tenders being issued and that the contract award decision be made by Cabinet.

- (c) the contract award decisions for the remainder of the contracts in **Appendix A** be delegated to the relevant officers as set out in the Contract Procedure Rules.

### **Reasons**

20. The recommendations are supported by the following reasons :-

- (a) The contract is high value, a one off procurement and of significant public interest.
- (b) The contract is very high value and a one off procurement.
- (c) The implementation of the new Contract Procedure Rules requires interim arrangements to be put in place for the delegation of routine decisions to officers, prior to the approval of the first annual Procurement Plan. These contracts are not considered to be so significant in terms of the value, the nature of the contract or the public interest to be classed as strategic, requiring a Cabinet decision to award the contract.

**Lorraine O'Donnell**  
**Assistant Chief Executive**

### **Background Papers**

None

Susan White: Extension 2019