

**MAIDSTONE BOROUGH COUNCIL**

**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

**30 JULY 2018**

**REFERENCE FROM DEMOCRACY COMMITTEE**

**CHANGES TO FINANCIAL AND CONTRACT PROCEDURE RULES**

The Democracy Committee, at its meeting held on 2 July 2018, considered a report by the Head of Commissioning and Business Improvement recommending changes to simplify the Contract Procedure Rules in the Council's Constitution improve compliance and manage procurement risk. It was noted that:

- The simplification of the Contract Procedure Rules was proposed following a recent review of procurement by Internal Audit which identified some compliance issues and problems with services not always following the correct procurement processes. As part of the management response to the Internal Audit report, the Council commissioned a Procurement Consultant to review the Contract Procedure Rules.
- It was recognised, as part of this review, that the current regulations and processes were more complicated than necessary and that poor compliance was mainly due to lack of awareness rather than malicious avoidance. It became clear that the parts of the Constitution relating to procurement and contracts ought to be easier to understand, so a number of changes were proposed, including replacing some wording with flowcharts and removing any duplication. The changes also gave rise to a small number of changes to the Financial Procedure Rules.
- Simplification of the Contract Procedure Rules was just one of the measures being taken to improve compliance with the Council's procurement processes. For example, an easy to follow Purchasing Guide had been prepared by the Procurement Consultant and the Procurement Team to help Officers understand the correct processes and key Officers had been trained on this.
- Whilst the majority of the proposed changes were to simplify the wording of the Contract Procedure Rules, a few additional changes to the Constitution were proposed as follows:

Changing the levels at which contracts are required to be sealed;

Increasing the emphasis on the need for contracts to be signed or sealed before commencement of works/services;

Removing the need for a risk assessment for all procurements over £10k; and

Removing reference to the submission and opening of paper tenders.

- In addition to the training already provided for key purchasing Officers, there would be an ongoing programme of procurement training to ensure that all appropriate Officers understood and complied with the required processes and guidance would be added to the Purchasing Guide. Meetings would be held

with the Procurement Team to ensure continuation of the training programme going forward. Involvement of the Team as a whole would build resilience.

During the discussion, it was suggested and agreed that the Audit, Governance and Standards Committee, which has an ongoing interest in procurement and contract management, be asked to make provision in its work programme to monitor training on and compliance with the revised Financial and Contract Procedure Rules, including the Purchasing Guide.

The Committee agreed:

1. That the revised wording and incorporation of flow charts into the Financial and Contract Procedure Rules of the Constitution, as detailed in Appendices 1 and 2 to the report of the Head of Commissioning and Business Improvement, be accepted.
2. That the level for sealing of contracts for non-construction projects be increased to £1m unless the Head of Mid-Kent Legal Services deems that a non-construction contract for a lower amount requires execution under seal.
3. That the requirement for a procurement risk assessment at £10k be removed.
4. That the increased emphasis on contract formulation and signing before commencement of service be agreed.
5. That delegated authority be given to the Head of Mid-Kent Legal Services to review the proposed revisions and incorporate appropriate changes to the Constitution to ensure that works, goods and services are appropriately commissioned and to undertake a cross-referencing exercise with other sections of the document, including the Scheme of Delegations, to ensure compliance with legislative requirements and consistency, prior to Council approval.
6. That the Audit, Governance and Standards Committee be asked to make provision in its work programme to monitor training on and compliance with the revised Financial and Contract Procedure Rules, including the Purchasing Guide.

The review and cross referencing exercise referred to in paragraph 5 above did not give rise to further changes and the Council, at its meeting held on 18 July 2018, agreed the proposed changes to the Financial and Contract Procedure Rules.

**RECOMMENDED:** That the Audit, Governance and Standards Committee consider making provision in its work programme to monitor training on and compliance with the revised Financial and Contract Procedure Rules, including the Purchasing Guide.