

# **Audit Committee – Supplementary agenda**

**A meeting of the Cabinet will be held on:**

**Date:** Tuesday, 28 September 2010

**Time:** 7.00pm

**Venue:** Meeting Room 2 - Level 3, Gun Wharf, Dock Road, Chatham ME4 4TR

## **Items**

**6. Woodlands School Extension**

**(Pages  
1 - 8)**

This report identifies potential procurement and other issues that have arisen from works carried out at Woodlands Primary School, Gillingham.

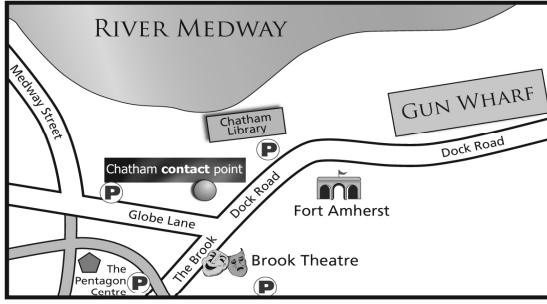
**7. Revision to Contract Procedure Rules**

**(Pages  
9 - 14)**

This report sets out proposed changes to the Contract Procedure Rules and the Council's procurement framework, to ensure that the processes are more streamlined, whilst remaining robust.

**For further information please contact Anthony Law on Telephone: 01634 332008  
or Email: [democratic.services@medway.gov.uk](mailto:democratic.services@medway.gov.uk)**

**Date: 28 September 2010**



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**CABINET  
AUDIT COMMITTEE  
28 SEPTEMBER 2010**

**WOODLANDS SCHOOL EXTENSION – ADDENDUM  
REPORT**

Portfolio Holder: Councillor Alan Jarrett, Finance  
Councillor Les Wicks, Children's Services

Report from: Deborah Upton, Monitoring Officer  
Mick Hayward, Chief Finance Officer

Author: Deborah Upton, Monitoring Officer

**Summary**

To provide Cabinet and Audit Committee with additional information on the Children and Adults Capital Programme approval process and also provides information on works already undertaken, and planned works, at the school.

**1. Children and Adults Capital Programme approval process**

- 1.1 The reports presented to both Cabinet and the Audit Committee highlight a number of failings in the Woodlands Primary School building project. In summary these were;
- the absence of a written record of the reason for the decision to approve costs,
  - the absence of a formal proposal,
  - the absence of a project plan,
  - the absence of a cost plan,
  - the failure to undertake a proper procurement process.
- 1.2 Table A sets out a proposed project approval process for all Children's Services Capital projects, which addresses these failings as follows;
- Cabinet and Full Council (if required under the constitution) would approve project costs in all cases. Virements, if required, would be formally requested in the capital monitoring reports,
  - Formal proposals for each project would be presented for approval as an outline business case. Cabinet would approve each outline business case for projects with a value in excess of £500,000,

- Detailed project and cost plans would be produced during the design development stage and presented for approval at Gateway 1.
- Procurement would be approved according to the council's existing procurement gateways (gateway 3). Sign off procedures for procurement gateways are described in more detail in the Council's Procurement procedures.
- All projects will follow RIBA (Royal Institute of British Architects) plan of work stages, which is a best practice approach to design and construction.

- 1.3 The level of approval would depend on the stage and value of the project although funding for all projects, regardless of value, would need to be approved by Cabinet as virement requests in the capital monitoring reports. Specific funding sources for each project would be identified and allocated when requesting the virement. This would include new developer contributions if appropriate.
- 1.4 Key project gateways are shaded in Table A. Children and Adults Overview and Scrutiny Committee would have the ability to request a paper on any project at any of these key project gateways.
- 1.5 Progress on all school projects is reported on a six weekly basis to the Education Programme Board, which is chaired by the Director of Children and Adults and whose membership includes senior council officers for finance, legal and procurement services and the Portfolio Holders for Children's Services and Finance.
- 1.6 It is also recognised that in recent years the Education capital programme has not been articulated in as much detail as it should have been, when both Cabinet and Full Council have been requested to approve the capital programme for the following year. Members have done little more than grant approval to the directorate to spend large capital allocations and exercise borrowing approvals, without a clear picture of how this funding would be spent. In presenting the 2011-12 capital programme to Members, it is the directorate's intention to present a much more detailed programme, comprising specific projects. There may also, however, be some broader allocations, like for example the primary strategy, which will be allocated out to specific projects during the year, or subsequent years, as the master plans for each school emerge, all of which will be approved by members as they arise.
- 1.7 In addition to this more detailed programme, Members will be provided with an analysis of how the programme will be funded, including any as yet unallocated amounts – developer contributions etc. – together with a more sophisticated attempt to profile expenditure over the medium term. This will permit more accurate cash flow projections and 'join up' the revenue and capital budgets.

## **2. Works**

- 2.1 Appendix 1 sets out details of the works already undertaken at the school, and planned works.

### **3. Revised recommendations**

#### **Cabinet**

- 3.1 That Option D be agreed and that the Section 106 Contribution for Grange Farm be used to fund this work.
- 3.2 That Cabinet agrees the proposed project approval process outlined in the addendum report.
- 3.3 That the Audit Committee be asked to consider the control issues arising from this report noting that Cabinet has agreed the proposed project approval process outlined in the addendum report.

#### **Audit Committee**

- 3.4 That the Audit Committee considers the control issues arising from this report noting that Cabinet has agreed the proposed project approval process outlined in the addendum report.

#### **Lead officer contact:**

**Deborah Upton**

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Table A

No.	Project stage	Project value		
		Up to £100,000	Above £100,000 but below £500,000	Over £500,000
1	Council approves capital programme, which will in some cases include broad programmes, eg: Primary Strategy, SEN Strategy subject to subsequent member approval of the detailed content of these programmes. Subsequent allocation of funds to specific schemes will be through the virement mechanism but tied to the constitutional limits which at present provide directors with a limit of £250,000 and Cabinet with £1 million above which full Council approval is required.			
2	Children's and Adults services capital review group proposes design development to DMT for approval	Not required	DMT	DMT
3	Request virement to fund design development through Cabinet in capital monitoring report	Director Delegation	Cabinet	Cabinet
4	Progress of design development reported to Cabinet in capital monitoring report	Cabinet	Cabinet	Cabinet
5	Outline Business Case approval	DMT	DMT	Cabinet
6	Where approved and more resource required, request virement to fund design development through Cabinet in capital monitoring report	Director Delegation	Cabinet	Cabinet
7	Proceed to detailed design stage. Progress of design development continues to be reported in capital monitoring report	Cabinet	Cabinet	Cabinet
8	Gateway 1 paper for approval to go to tender based on detailed design	Invitation to quote with Assistant Director sign off	DMT/Procurement Board	Procurement Board/Cabinet
9	Gateway 2 tender document sign off		Procurement officer	Strategic Procurement Manager
10	Gateway 3 approval of contract award		DMT/Procurement Board	Procurement Board and Cabinet
11	Request virement, according to constitutional limits, for full project budget, agreed at Gateway 3 stage, in capital monitoring report	Cabinet	Cabinet	Cabinet/Council
12	Progress of project reported to Cabinet in capital monitoring report	Cabinet	Cabinet	Cabinet
13	Gateway 4 post project review	Not required	DMT/Procurement Board	Procurement Board/Cabinet





### **Summary of Woodlands building project**

#### **Summary of work completed to date**

- 2 additional classroom spaces have been created, through the conversion of space previously used for administration.
- Nursery relocated to a different part of the school, to bring it alongside community facilities, including the sure start children's centre.
- A new community entrance, including a cafeteria has been built, which serves the school's community facilities, sure start children's centre and nursery.
- Relocation of the main entrance to the school, along with the creation of new office and administrative accommodation.

#### **Work delivered to date, which requires some completion work as part of option D**

- New heating and cooling units installed throughout the school.
- External auditorium space has been built, although this is currently not in use.
- New lighting has been installed.
- New access control system and fire alarm system have been installed.

#### **Work proposed in option D**

- Additional nursery accommodation, including toilet provision.
- Nurture room for children with social and emotional needs.
- Classroom accommodation for reception children.
- Family room and training room, which is part of the sure start children's centre.
- SEN hub for children with Special Learning and Achievement Needs.
- Any outstanding works to ensure school is fully compliant with all current legislation, i.e. building regulations.

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## AUDIT COMMITTEE

28 SEPTEMBER 2010

### REVISIONS TO CONTRACT PROCEDURE RULES

Report from: Deborah Upton, Monitoring Officer

Author: Deborah Upton, Monitoring Officer

#### Summary

This addendum report sets out a number of proposed amendments to the contract procedures rules set out in the appendix attached to the main report.

#### 1. Proposed Amendments

Proposed Amendments to papers before submission to Council	Reason
1. Throughout report clarify officer delegations and in particular that Strategic Procurement Board (SPB) is advisory	To avoid ambiguity and ensure it is clear that the SPB is advisory. Delegations need to be to a named officer and it needs to be clear whether they derive from the Leader/Cabinet or Council.
2. At end of para 4.5 of covering report – and end of para 2.3.4 in contract procedure rules add sentence at end:  (Note: In determining the level at which procurement decisions are taken regard will be had to requirements relating to key decisions as set out in Article 12 and the Leader and Cabinet rules in Chapter 4 of the Council's Constitution.)	Important to acknowledge that some procurement decisions, although medium risk, may be caught by definition of a key decision. Key decisions have to be taken by Cabinet
3. Para 5.1.3 of covering report – section on Cabinet role:  Rewrite to clarify that the Monitoring Officer (MO) in consultation with SPB will refer all High Risk procurement projects to Cabinet for Gateway stage approval and contract award thereby making the process risk based rather than value based, subject to rules on	Current paragraph implies SPB will have authority to award contracts – this is not the case. It is important to make clear Cabinet will deal with all key decisions and/or high risk procurement decisions.

key decisions	
<p>4. Para 5.1.3 of covering report and para 1.3.2 of Contract procedure rules (sections on review and amendment of contract procedure rules):</p> <p>Remove references to delegation to MO to make amendments to the contract procedure rules</p>	<p>This is because once the rules become part of the constitution they are covered by the general delegation to the MO as set out in Article 14 of the Constitution – this gives the MO delegated authority to make minor changes to the constitution with notification to Group Leaders and Whips. More significant changes remain a matter for full Council.</p>
<p>5. Para 5.1.3 of covering report and para 1.5.1.4 in contract procedure rules (sections on exemptions to contract rules):</p> <p>Clarify that all procurement exemption decisions taken by MO will be reported to Council (not Cabinet)</p>	<p>This is because section 135 of the Local Government Act 1972 provides for exemptions to be made to contract rules and that this must be a council-side function. Therefore the MO derives her authority to make exemptions to contract rules from Council.</p>
<p>6. Para 9 of covering report – add recommendation 9.2:</p> <p>That Council agrees to authorise the MO, in consultation with the Leader, to make consequential changes to the constitution to reflect the new contract procedure rules noting that the Leader will be requested to agree appropriate executive delegations.</p>	<p>The MO has delegated authority to make minor changes but needs authority from Council to make more significant changes. Also only the Leader can agree any new executive side delegations and must authorise these personally.</p>
<p>7. Para 1.5.1 of contract procedure rules:</p> <p>Minor redraft to clarify advisory status of SPB as Cabinet Advisory Group.</p>	<p>Rules, as drafted say SPB has delegated authority from Cabinet. This is incorrect.</p>
<p>8. Para 1.5.2.1 of contract procedure rules:</p> <p>Fifth bullet point should refer to Financial Limits for acquisition and disposal of land set out within part 5 of chapter 3 of the Constitution</p>	<p>Current version of rules is not clear on this point.</p>
<p>9. Para 2.3.9 of contract procedure rules – section on upscaling Category A Procurements to Category B Procurements:</p> <p>Clarify that the Strategic Procurement Team will upscale from category A to B and that any challenge to this decision will be reviewed by the MO in consultation with the SPB.</p>	<p>The rules currently say the MO will decide with SPT when to upscale from Category A to B and then provides for MO to review this decision. MO should not be involved in reviewing her own decision.</p>

## **2. Revised Recommendations:**

- 2.1 That the Audit Committee recommends that full Council adopt the Contract Procedure Rules as set out in the Appendix attached to the main report subject to the amendments set out above.
- 2.2 That the Audit Committee recommends that full Council agrees to authorise the Monitoring Officer, in consultation with the Leader, to make consequential changes to the Constitution to reflect the new contract procedure rules noting that the Leader will be requested to agree appropriate executive delegations.

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# REVISED PROCUREMENT GATEWAY PROCESS v0.4

OFFICERS MUST CONSULT IN LINE WITH THEIR SCHEME OF DELEGATION AS PRESCRIBED BY THEIR ASSISTANT DIRECTOR AND/ OR DMT BEFORE UNDERTAKING EITHER A CATEGORY A OR CATEGORY B PROCUREMENT PROCESS

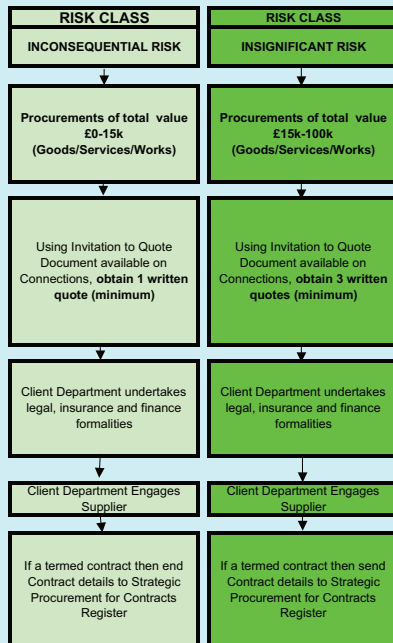
DMT CAN MAKE A RECOMMENDATION TO STRATEGIC PROCUREMENT TO UPSCALE A CLASS 3 LOW RISK PROCUREMENT TO EITHER A CLASS 4 MEDIUM RISK OR A CLASS 5 HIGH RISK PROCUREMENT WHERE IT IS FELT THAT DESPITE BEING LOW VALUE, THE PROJECT SHOULD BE BROUGHT TO THE ATTENTION OF EITHER THE PROCUREMENT BOARD AND / OR CABINET

DMT CAN MAKE A RECOMMENDATION TO THE PROCUREMENT BOARD TO DESCAL A CLASS 4 MEDIUM RISK PROCUREMENT TO A CLASS 3 LOW RISK PROCUREMENT EITHER AS A WHOLE OR AT A SPECIFIC STAGE, WHERE IT IS FELT THAT THERE ARE NO MAJOR RISKS OTHER THAN PROCUREMENT VALUE

PROCUREMENT BOARD AND / OR CABINET WILL, WITH GUIDANCE FROM STRATEGIC PROCUREMENT, REVIEW DMT RECOMMENDATIONS AND WILL MAKE THE FINAL DECISION IN RELATION TO RISK CATEGORISATION. ANY SUCH FINAL DECISION BY THE PROCUREMENT BOARD AND / OR CABINET WILL BE FINAL AND BINDING, UPON OFFICERS AND THEIR CONTRACTS/PROJECTS

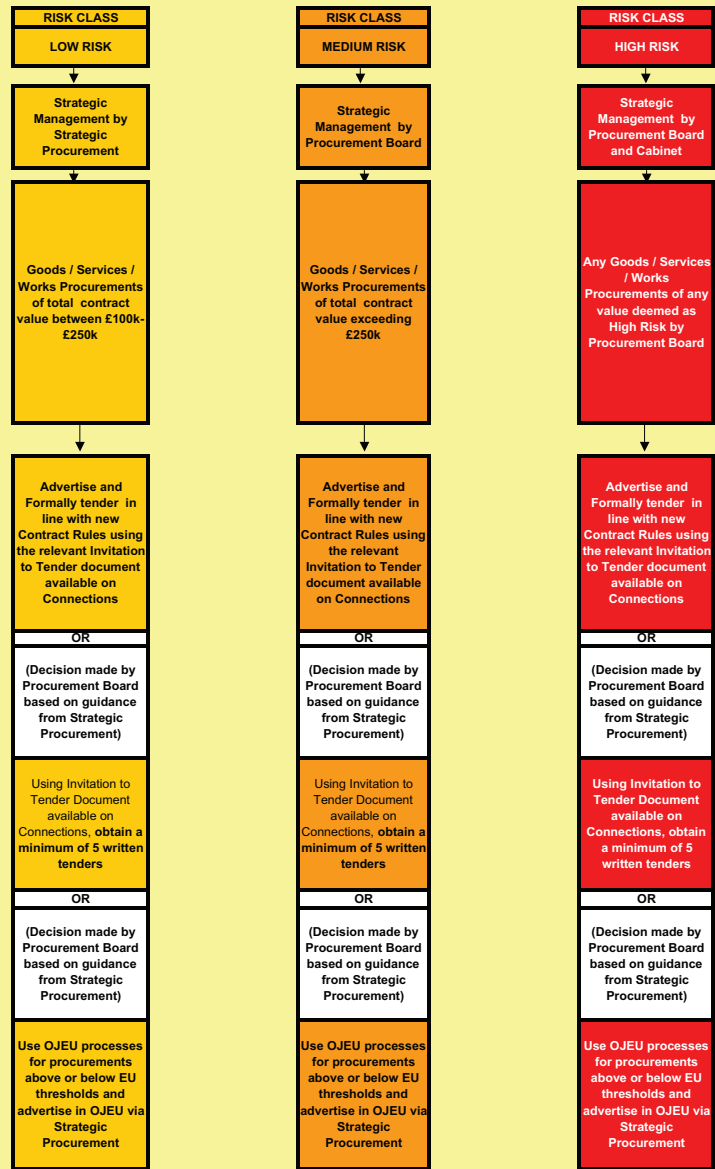
## CATEGORY A PROCUREMENTS BELOW £100K (GOODS / SERVICES / WORKS)

Managed by Client Department based upon Strategic Procurement's guidance and Contract Procedure Rules

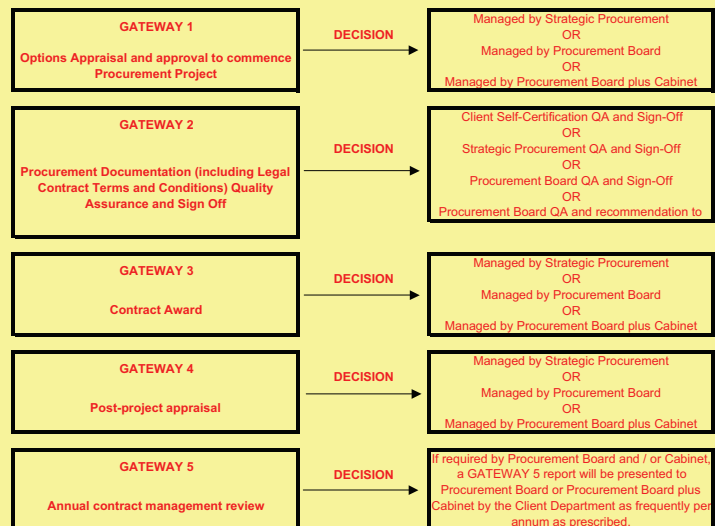


## CATEGORY B PROCUREMENTS ABOVE £100K (GOODS/SERVICES/WORKS) - OFFICERS MUST SUBJECT CONTRACTS/PROJECTS TO THE PROCUREMENT GATEWAY PROCESS

Strategic Management by Strategic Procurement, Procurement Board and Cabinet and Operational Management by Client Department



### Procurement Board / Cabinet Decision Point for each stage of the GATEWAY process



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