

AUDIT COMMITTEE

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REVISIONS TO CONTRACT PROCEDURE RULES

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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.