

CHESHIRE EAST COUNCIL

Audit and Governance Committee

Date of meeting: 27th September 2012
Report of: Corporate Governance Group
Title: Compliance with Contract Procedure Rules

1.0 Report Summary

- 1.1 The purpose of the report, as requested by Members, is to provide the Committee with details of the operation of the recently introduced revised procedure for Delegated Decisions to waive Contract Procedure Rules and Non-Compliances with Contract Procedure Rules and an update of those decisions, in order to see whether procedures are being complied with.

2.0 Recommendations

- 2.1 To note the revised procedure and update on Delegated Decisions and Non-Compliances.
- 2.2 To note that further reports on the process, and its robustness, will be brought to the Committee as part of the regular monitoring of the Annual Governance Statement Action Plan.

3.0 Reasons for Recommendation

- 3.1 The Audit and Governance Committee has a key role in overseeing governance arrangements and ensuring that the Council has appropriate policies and mechanisms in place to safeguard resources.
- 3.2 The issue of an effective and consistent approach to dealing with Delegated Decisions to waive Contract Procedure Rules and Non-Compliances with Contract Procedure Rules has been highlighted by Officers, and by the recent Lyme Green investigation, as well as being included in the Council's Annual Governance Statement for 2011/12.

4.0 Wards Affected

- 4.1 All wards.

5.0 Local Wards Affected

- 5.1 Not applicable.

6.0 Policy Implications

- 6.1 A task and finish group has been established by the Constitution Committee to review Contract Procedure Rules, including the Delegated Decisions process. Subsequent changes to those Rules would result in changes to the Constitution, to be approved by full Council.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 There are no direct financial implications associated with the decisions requested.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 All employees must ensure that they use any Council or other public funds entrusted to them through their job role in a responsible and lawful manner.
- 8.2 Employees must also seek to ensure value for money and take care to avoid the risk of legal challenge to the Council in relation to the use of its financial resources. The Council's Officer Delegations, Finance and Contract Procedure Rules and Operating Procedures must, therefore, be followed at all times.

9.0 Risk Assessment

- 9.1 Laws and regulations, policies and procedures have been implemented to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of public resources and that assets and interests are safeguarded. The controls these put in place are designed to provide reasonable assurance rather than absolute certainty, because systems are susceptible to human error and poor judgement, and controls can be deliberately circumvented or overridden.
- 9.2 An important way for the Council to assess the efficacy of, and provide assurance on, its risk management, internal control and governance arrangements is to monitor and identify adverse incidents that it has had to deal with, and provide public assurance that appropriate action has been taken to ensure that any shortcomings are rectified promptly, and are less likely to be repeated in future. Often, it is sufficient to draw attention to the

proper requirements and the likelihood of sanctions for non-compliance with them, supported by guidance and, where necessary, training.

10.0 Background and Options

- 10.1 As reported in the Council's Annual Governance Statement, *"during 2011-12 concerns were voiced by Officers regarding the content and timeliness of a number of Delegated Decisions to waive Finance and Contract Procedure Rules. A revised procedure whereby all such Delegated Decisions would go to Corporate Management Team for approval was subsequently introduced in May 2012"*.
- 10.2 'Awareness and compliance with Council processes/procedures' has been included as a 'significant governance issue' within the Annual Governance Statement Action Plan, as well as the Lyme Green Action Plan, and reports of the monitoring of these Action Plans will be brought to future Committee meetings.
- 10.3 As a result, new systems and procedures are being put in place across the Council, new guidance for staff is being developed and issued, and these are being supported by an extensive programme of staff training.
- 10.4 From 29 May 2012, a new procedure was introduced, whereby the signing of Delegated Decision and Non Compliance forms is a standing item on the weekly Corporate Management Team agenda. Decision authors attend, together with those support staff who signed off the report, to explain the necessity for any waiver of the rules.
- 10.5 All forms are signed off by Legal, Procurement and Finance Officers, as well as the decision taking Officer along with the relevant Head of Service and Portfolio Holder.

10.6 Delegated Decisions

From 29th May to 4th September this year there have been 13 Delegated Decision forms considered by Corporate Management Team, of which 12 have been approved and only 1 rejected.

The Delegated Decisions considered cover a wide range of services and also a number of different circumstances. Reasons include:

- Insufficient time to tender – where delays would cause operational difficulties for two local schools.
- Continuity of personal service provision, which was not the cheapest option but was considered to be in the best interest of a child with severe learning disabilities.

Non-Compliances

From 29th May to 4th September there have been 10 Non-Compliance forms considered by Corporate Management Team, of which 9 have been approved and only 1 rejected.

The decisions considered cover a wide range of services and also a number of different circumstances. Reasons include:

- Legacy issues - where a contract has been rolled forward a number of years
- Continued support for a current operational system, whilst an alternative is developed and implemented.

- 10.7 Waivers to Contract Procedure Rules should be seen as the exception rather than the norm and lessons need to be learnt within Services if a waiver is requested because due process has not been followed. As part of the new process for all Non-Compliances, Corporate Management Team will ensure that appropriate intervention is made and action taken to avoid recurrence. Together with the implementation of the new arrangements outlined in 10.3 above, this will change the previous organisational 'culture' in which insufficient attention and rigour was given to ensuring proper compliance.

11.0 Access to information

The background papers relating to this report can be inspected by contacting:

Name: Lisa Quinn

Designation: Director of Finance and Business Services

Tel No: 01270 686628

Email: lisa.quinn@cheshireeast.gov.uk