

CHESHIRE EAST COUNCIL

AUDIT AND GOVERNANCE COMMITTEE

Date of Meeting: 27th March 2014
Report of: Chief Operating Officer
Title: Contract Procedure Rules - Waivers
Portfolio Holder: Councillor Peter Raynes

1.0 Report Summary

1.1 The purpose of the report is, as required by the Constitution, to update the Committee on Contract Procedure Rules (CPRs) Waivers.

2.0 Recommendation

2.1 To note:

- i) the update on Waivers of CPRs since September 2013.
- ii) that procedures have been revised in this area since the last report to Committee in September 2013.
- iii) that Finance and Contract Procedure Rules are currently being reviewed as part of a wider review of the Constitution.

3.0 Reasons for Recommendation

3.1 The Audit and Governance Committee has a key role in overseeing governance arrangements and ensuring the Council has appropriate policies and mechanisms to safeguard resources in place.

3.2 Contract Procedure Rule E11 currently states that *“a report will be made to the Audit and Governance Committee, at least on a half yearly basis, setting out the number of non-compliance instances in the previous period, broken down by Service, and a description of exceptional circumstances”*.

4.0 Wards Affected

4.1 All wards.

5.0 Local Wards Affected

5.1 Not applicable.

6.0 Policy Implications

- 6.1 Any changes to the Constitution, including Finance and Contract Procedure Rules, arising from the current review are required to be approved by the Constitution Committee and full Council.

7.0 Financial Implications

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

8.0 Legal Implications

- 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. This report sets out compliance with CPR E11.

9.0 Risk Assessment

- 9.1 There is a requirement within the Council's Constitution that a report will be made to Audit and Governance Committee on a half yearly basis on this matter. Failure to submit the report would be a breach of the Constitution.

10.0 Background and Options

- 10.1 During 2011/12, a number of concerns were raised regarding the content and timeliness of Delegated Decisions to waive Finance & Contract Procedure Rules. As a result a revised procedure was adopted in May 2012. There were subsequently two further changes to the process, in January 2013 and May 2013. An internal audit review of the operation and use of Delegated Decisions was undertaken in summer 2013; the findings and recommended actions from which, were reported back to this Committee in September 2013.

Summary (July – December 2013)

- 10.2 A summary of the waivers for the period under review, against the previous figures reported to Committee in September 2013, is set out below:

Directorate*	July – December 2013		September 2012 – June 2013	
	No.	%	No.	%
Children, Families & Adults	16	36%	26	36%
Corporate	14	31%	16	22%
Places & Organisational Capacity	15	33%	30	42%
Total	45	100%	72	100%

*Note: The previous management structure has been used to enable a comparison.

10.3 During the six month period to December 2013:

- § All recommendations from the internal audit report in September 2013 have been implemented or are in progress. Those in progress are dependent on the ongoing review of Finance & Contract Procedure Rules.
- § Analysis of the requests for waiver show that 67% (up from 60% in the previous period) of the value involved is less than £75,000 i.e. below the level where a formal tendering process is required.
- § The largest single reason for request for waivers is that of urgency/efficiency of the service. The majority of these relate to instances of additional work e.g. where consultants have been appointed and additional work has been identified following completion of the original engagement, where going through a further tendering process may delay the allocation of funds or lose vital knowledge. The engagement of interim officers falls into this category.
- § Other significant areas include situations where there is a sole provider e.g. maintenance and support to legacy ICT systems. There are also a number of cases where there are issues of client welfare, in provision of social care or educational services, which influence the decision making process.

Update (January 2014 to date)

- 10.4 A revised procedure has been introduced to simplify the process further and make it more efficient and appropriate, whilst still in line with the Constitution. This now means that the three forms previously used have been consolidated into one new form. The new approach increases the rigour of the process, encouraging greater compliance going forward, whilst also reducing the number of waiver forms.

11.0 Access to information

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

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