



Regulatory & Appeals Committee

Date: 24 July 2017
Time: 7.00 pm
Venue: Council Chamber
District Council Offices, Queen Victoria Road, High Wycombe Bucks

Membership

Chairman: Councillor J A Savage
Vice Chairman: Councillor Mrs L M Clarke OBE

Councillors: M Clarke, A D Collingwood, C Etholen, R Gaffney, M Hussain JP, D Knights, I L McEnnis, R Raja, D A C Shakespeare OBE and Ms J D Wassell

Standing Deputies

Councillors K Ahmed, Z Ahmed, A R Green and Mrs G A Jones

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Agenda

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|--|------|
| 1. APOLOGIES FOR ABSENCE
To receive any apologies for absence. | |
| 2. MINUTES
To confirm the minutes of the meeting held on 13 February 2017 | |
| 3. DECLARATIONS OF INTEREST
To receive any disclosure of disclosable pecuniary interests by Members relating to items on the agenda. If any Member is uncertain as to whether an interest should be disclosed, he or she is asked if possible to contact the District Solicitor prior to the meeting.

Members are reminded that if they are declaring an interest, they should state the nature of that interest whether or not they are required to withdraw from the meeting. | |

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4.	UPDATE ON CHANGES TO CONTRACT STANDING ORDERS	1 - 20
5.	AMENDMENTS TO THE CONSTITUTION	21 - 22
6.	VARIATIONS TO HACKNEY CARRIAGE AND PRIVATE HIRE POLICY	23 - 29
7.	ACTIONS TAKEN UNDER DELEGATED AUTHORITY Submission of the file on actions taken under delegated powers since the last meeting.	
8.	SUPPLEMENTARY ITEMS (IF ANY)	
9.	URGENT ITEMS(IF ANY)	

**For further information, please contact Iram Malik 01494 421204,
committeeservices@wycombe.gov.uk**

Agenda Item 4.

Update on changes to contract Standing Orders

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Wards affected: None

PROPOSED DECISION

Members are invited to note the updates within this paper and endorse the proposed next steps.

Corporate Implications

- 1 The Local Government Act 2000 requires all local authorities in England and Wales to have in place a Constitution which establishes the framework within which they operate and this must be regularly reviewed. Contract Standing Orders form part of WDC's Constitution. This report is submitted in response to a request from Regulatory and Appeals Committee for an update on changes to Contract Standing Orders which were authorised and applied during 2016 so, in the main, it has no new corporate implications however Appendix 2 does discuss process changes intended to improve efficiency and reduce risk and cost.
- 2 There are no direct financial or equalities implications arising from this report.

Executive Summary

- 3 During the latter half of 2015 and early 2016 a team of Officers led by the then Head of Finance and Commercial Services conducted a review of Contract Standing Orders and developed a series of recommended changes which were subsequently approved by Regulatory and Appeals Committee and later full Council. Regulatory and Appeals Committee have now requested an update on the agreed changes. Members are invited to note the updates within this paper and endorse the proposed next steps.

Sustainable Community Strategy/Council Priorities – Implications

- 4 This paper supports the Council's "Pounds" priority, in ensuring that the Contract Standing Orders and processes it discusses seek to maximise potential economic savings according to best value principles required by the various Local Government Acts.

Background and Issues

- 5 During the latter half of 2015 and early 2016 a team of Officers led by the Head of Finance and Commercial Services conducted a review of Contract Standing Orders and developed a series of recommended changes.

The changes were submitted to the Regulatory and Appeals Committee for consideration at the 2nd March 2016 committee meeting. Subsequently one revision to the proposed changes was agreed with Regulatory and Appeals Committee Members. The revised recommendations were submitted to full Council on 11 April 2016 and agreed. Following Council approval, the text of Contract Standing Orders was amended to reflect the changes. The Procurement Manager attended the Regulatory and Appeals Committee of 8th June 2016 to outline the agreed changes and afford Members the opportunity to ask any questions.

Regulatory and Appeals Committee have requested this update on the agreed changes. As a reminder the full list of changes is attached at Appendix 1 to this information paper. Members are invited to note the updates within this paper and endorse the proposed next steps.

Update on changes.

Change 1: Increased the limit at which competition is required from £250 to £500 with the intention of saving officer time, as any saving achieved was likely to be outweighed by the cost of achieving it. No further action is proposed.

Change 2: Recommended competitive award for requirements between £500 and £5,000 but acknowledged that it may be sufficient to obtain a single quote with written confirmation, in which case the Officer should retain written explanation of how value for money has been obtained. The number of orders below £,5000 looks to have remained constant between the 15/16 and 16/17 financial years suggesting that there has not been excessive use of the exemption, however Officers will be reminded of procurement process requirements.

Change 3: Increased the threshold at which a Head of Service should be present when a paper tender is opened, from £25,000 to £100,000. Usually tenders are received electronically, at the time of writing no paper tenders have fallen into this category since March 2016. No further action is proposed.

Change 4: Addresses a previous anomaly whereby Head of Service authorisation for paper legal commitments was lower than that of electronic legal commitments, £5,000 for the former and £ 25,000 for the latter. The level was aligned at £25,000. No further action is proposed.

Change 5: Removed the need for Officers to raise orders for individual purchases below £500.00. The Head of Finance and Commercial Services considered that the disadvantages of losing sight of accruals below this sum was counterbalanced by the saving in officer time. The number of orders created below £500 fell by around 45% in 2016/17 compared to 2015/16.

Change 6: Added a clarification that electronic purchase orders at WDC may have one or two functions: to enable payment, and possibly also to form a legal commitment.

Change 7: Was consequential to Change 2 above and increased the threshold at which authority for a non-competitive award is required to £5000.00.

Change 8: Clarified the wording of the circumstances under which non-competitive awards are permitted.

Change 9: Gave the Corporate Director authority to authorise a second repeat non-competitive award of previously competitively placed contract under item 3.5.1. Before the change the Chief Executive only, had this responsibility.

No further action is proposed for Changes 6 to 9.

Change 10: Advertising - Before the introduction of these changes there had been no obligation to advertise beyond the requirements of the Public Contracts Regulations. These changes made advertising mandatory above £10,000 (at the least on the Council's web site) the change was intended to ensure that all potential suppliers including SMES and local businesses are able to see opportunities to sell to the Council. There has been no noticeable increase in number of local companies submitting tenders on the Council's eTendering system. In recent weeks the Council has introduced a facility through which interested parties can register to receive an email "eNewsletter" notification when a new opportunity is advertised. We have publicised the eNewsletter facility in the Talking Business pages of the Bucks Free Press. Officers will monitor interest and issue further publicity in the autumn if necessary.

Spend Analysis - An initial spend analysis conducted during the 16/17 financial year indicated that some Facilities Management works (repairs and maintenance to the Council's buildings and infrastructure), were being procured ad hoc. In parallel the incoming replacement Facilities Management Partner has identified possible improvements with the FM works procurement process. Attached at Appendix 2 is a proposal to address this matter.

Changes 11 and 12: Introduced a series changes to wording driven by the introduction of the Public Contract Regulations 2015 and the Construction (Design and Management) Regulations 2016, no further action is proposed.

Next Steps

- 6 Officer training on procurement processes will continue. Officers will monitor the number of registrations for the eNewsletter notification system and issue further publicity in the autumn if necessary. Officers will progress with the procurement activities discussed in Appendix 2

Background Papers

- 7 Regulatory and Appeals Committee, Public Document Pack, 2nd March 2016, Agenda item 5.

Regulatory and Appeals Committee, Public Document Pack, 8th June 2016, Agenda item 4.

Update to Regulatory and Appeals Committee on changes to Contract Standing Orders

Appendix 1 Summary of proposed changes to CSOs

June 2016 list of changes						May 2017 Update
Subject Area: At what value of purchase is competition mandatory?						
Item	Change	Current CSO value	Proposed CSO value	Reason		
1	<p>The value at which a single verbal quote is permitted with no recorded justification for the lack of competition.</p>	<p>Currently CSOs require some level of competition for all purchases above £ 250. Above that level the rigour of the competitive process increases with value.</p> <p>This Change 1 would increase the value at which competition is required, with no further justification, to £ 500</p> <p>Only Budget Holders and holders of procurement cards would be authorised to enable payment of such items</p>	£ 250	£ 500	<p>Cost of officer time in seeking competitive bid outweighs potential savings.</p>	<p>This change was implemented in the subsequent CSO redraft.</p> <p>No further action is proposed.</p>
2	<p>To permit non-competitive award up to a value of £5000, provided Officers retain a written record which demonstrates how value for money was achieved without a competitive process.</p> <p>Please see the revised Authorisation Table at Annex 1</p>	<p>As stated above, currently some level of competition is mandatory for purchases above £ 250.</p> <p>This £250 threshold would move to £500 if Change 1 above were authorised.</p> <p>Currently between this threshold and £5000 CSOs require Officers to obtain two verbal quotes with email confirmation.</p> <p>Any non-competitive award has to be justified using a single tender justification process which may only apply in a limited range of specific circumstances. See Annex 2.</p>	N/A	£ 5000	<p>The cost of preparing a written brief in sufficient detail that bidders can respond competitively can outweigh the saving achievable especially for one off items required by senior staff.</p> <p>An informal survey suggests that the £5000 threshold is at the lower end of similar threshold specified by other equivalent Local Authorities.</p>	<p>This change was implemented in the subsequent CSO redraft.</p> <p>Indicative comparisons suggest that the number of orders raised in 15/16 (before the change) and in 16/17 are reasonably constant and do not indicate excessive use of this clause however Officers will continue to monitor this issue and further training on procurement processes will be provided.</p>

		This proposed Change 2 is for purchases with values between £500 and £5000, competition is to be advisable but not mandatory. Officers must retain evidence of competition in the form of email, paper or any other written format, or retain a written explanation of how value for money was achieved without a competitive process.			The requirement to retain a justification would be tested through internal audits	
Subject Area: For paper tenders, at what value must a Head of Service be present at the opening						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
3	The value at which it is mandatory for a Head of Service to be present at the opening of a paper tender. Please see the revised Authorisation Table at Annex 1	It is proposed that the threshold at which it is mandatory for a Head of Service to be present at the opening of a paper tender be increased from £25,000 to £100,000. Below £100,000 the Ordering Officer must be present.	£25,000	£100,000	Reduce the administrative burden on Heads of Service.	This change was implemented in the subsequent CSO redraft. No further action is proposed.
Subject Area: At what value of purchase is Head of Service authority required to award a contract?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
4	The alignment of the value at which Head of Service authorisation for purchase orders is required, compared to the value of authorisation that is required for written contracts . Please see the revised Authorisation Table at Annex 1	Electronic purchase orders generated by the finance system, and written contracts which are generated by the legal team may both create a commitment between the Council and a supplier. Currently the value at which Head of Service authorisation is required differs between the two. Looking back, this is a long standing anomaly This proposed Change 4 would align the value at which authorisation by a Head of Service is required for electronic purchase	£ 5000	£ 25,000	Correct historical anomaly. The other hierarchical authorisation levels are already aligned.	This change was implemented in the subsequent CSO redraft. No further action is proposed.

		orders generated by the finance system (£25,000) with that required for written contracts which are generated by the legal team (currently £5,000). It is proposed that the Head of Service authorisation value for written contracts be increased by £20,000.				
Subject Area: At what value does the Council require its Officers to raise a purchase order						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
5	Value at which a purchase order is required. Please see the revised Authorisation Table at Annex 1	The Council will no longer require its Officers to raise purchase orders for individual purchases below £ 500.00. The practice of reviewing and approving Suppliers before buying from them will continue.	£0.01	£ 500	There is a cost incurred in raising and processing purchase orders. Also, losing sight of the accrued value of orders of that value has no material affect on the Council's accounts.	This change was implemented in the subsequent CSO redraft. In the 16/17 financial year the number of orders placed with a value of less than £500 dropped by about 45% compared to 15/16.
What are Purchase Orders used for at WDC?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
6	Explanation of the uses of Purchase Orders at WDC	Electronic purchase orders may have one, or two separate purposes at WDC. 1) A legal function, to create a contractual commitment. 2) A financial function, to record a financial commitment and to initiate the invoice payment process. An electronic purchase order is not the only means of achieving purpose 1. They do however always have purpose 2. CSOs do not currently explain both of the Purchase Order purposes. Under this	N/A	N/A	CSOs do not currently explain both of the functions of a Purchase Order at WDC.	This change was implemented in the subsequent CSO redraft. No further action is proposed.

		proposed Change 6 an explanation is to be added. The explanation will recognise the obligation (already implicit in the Authorisation Table) that a formal contract prepared by the Legal Team is required for any legal commitment over £50,000.				
Subject Area: When is single bid authorisation required to justify the use of a non-competitive procurement process?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
7	The authorisation of non-competitive award: minimum threshold at which the "single tender" process applies. (Please see Annex 2 attached)	Any non-competitive award has to be justified using a "Single Tender" justification process which may permit such awards only in a limited range of specific circumstances. The process has no minimum value. Under this Change 7 the minimum value would be amended to £5000, to reflect Change 2 above, if that change were approved.	£0	£5000	Consequential change	This change was implemented in the subsequent CSO redraft. This change is a consequence of change 2 above. No further action is proposed.
8	The authorisation of non-competitive award: circumstances when non - competitive award is justified. (Please see Annex 2 attached)	Change 8 is a general clarification of the wording of the circumstance under which non competitive award may be permitted. The changes are grammatical.	N/A	N/A	Existing wording to be improved	This change was implemented in the subsequent CSO redraft. It was grammatical and had no material effect, no further action is proposed.
9	The authorisation of non-competitive award: Item 3.4.1(Please see Annex 2 attached)	The second repeat occasion of non-competitive award may be authorised by the Corporate Director as well as by the Chief Executive.	N/A	N/A	Improve flexibility and resilience of decision making.	This change was implemented in the subsequent CSO redraft.to increase agility. No further action is proposed
Subject Area: When and where does the Council advertise?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
10	Specify the minimum requirement when	[1] Currently Contract Standing Orders fall short of making advertising mandatory.			The Council is keen to encourage SMEs and	This change was implemented in the subsequent CSO redraft

	<p>and where Officers must advertise.</p> <p>Please see the revised Authorisation Table at Annex 1</p>	<p>[2] Under this Change 10 Officers would be required to advertise all opportunities over £10,000, as a minimum on the Council's website. Opportunities over £25,000 would as a minimum be advertised on Contracts Finder. Opportunities above the EU Thresholds would be advertised in OJEU and on Contracts Finder as required under the Public Contract Regulations 2015.</p> <p>[3] Advertising opportunities worth less than £10,000 would be optional.</p> <p>[4] Where opportunities are not advertised, in order to ensure that value for money is achieved, the requirement for competitive award will remain, also Officers will be required to ensure variety in the selection of bidders approached over time. In addition the Council will conduct a regular spend analysis to identify purchase patterns and opportunities to achieve additional savings.</p>			<p>Local Businesses. One way of doing this is to make them aware of opportunities as they arise.</p> <p>The Council's Procurement Strategy reads: We aspire to advertise all opportunities unless there is a good reason not to.</p> <p>Under the Public Contract Regulations 2015, for contracts over £25,000, where a contracting authority advertises a contract award opportunity, the contracting authority must publish information about the opportunity on Contracts Finder (the Governments website), regardless of what other means of advertising it uses.</p> <p>Currently Contract Standing Orders fall short of making advertising mandatory. Officers have requested clarity on this issue.</p>	<p>Regarding paragraph 2:</p> <p>This advertising has not resulted in a noticeable increase in the number of local tenderers.</p> <p>In recent weeks the Council has introduced a new electronic newsletter feature through which companies who register can receive an email notification when a new opportunity arises rather than having to look at the site.</p> <p>In an effort increase the levels of interest stimulated by our web advertisements we have publicised this new feature in the Talking Business insert to the Bucks Free Press</p> <p>Officers will monitor the number of registrations with a view to issuing a further reminder later in the year.</p> <p>We have also produced an information paper for Members to hand out at business meetings.</p> <p>Regarding paragraph 4:</p> <p>During the latter part of 2016 the Council did conduct an initial spend analysis of off contract spend. The analysis highlighted general lower value building works as an area of interest. These are the subject of a</p>
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						separate strategy which is discussed further in Appendix 2.
Subject Area: What changes are necessary to take account of the Public Contract Regulations 2015?						
	Item	Change	Current CSO value	Proposed CSO value	Reason	
11	<p>Changes to CSOs driven by changes to public procurement legislation.</p> <p>Please see the summary of key changes implemented by the Public Contract Regulations 2015 at Annex 3.</p>	<p>In 2013 when Contract Standing Orders were last reviewed the Council was subject to the Public Contract Regulations 2007, as amended in specific areas by associated legislation.</p> <p>In April 2015 much of the preceding legislation was replaced by the Public Contract Regulations 2015. These new regulations implemented significant changes; some of these are listed in Annex 3 below.</p> <p>CSOs will be amended to reflect these legislative changes.</p> <p>Officers have been operating in accordance with the new legislation, guidance was circulated under separate cover.</p>	N/A	N/A	See "Change"	<p>These changes were implemented in the subsequent CSO redraft.</p> <p>No further action is proposed.</p>
12	Changes to CSOs driven by changes to the Construction (Design & Management) Regulations	<p>CSOs carry advice to Officers specifically regarding construction (works) contracts and the associated CDM regulations.</p> <p>The Construction (Design & Management) Regulations 2015 implement changes that need to be reflected in CSOs.</p>			See "Change"	

Annex 1 – Proposed Authorisation Table

Est. Value (excl. of VAT)	Advertise	Competition	No. Quotations/Tenders requested	Opening - Paper Tenders. (The record of Tenders which are submitted electronically, is signed by the Head of Financial and Commercial services only.)	Form of contract	Authority required to award contract/ place purchase order
<£500	Discretionary	Discretionary	Single verbal quote sufficient with email confirmation	N/A	Verbal	Budget Holder or Procurement Card Holder
£ 501 - £5,000	Discretionary	Discretionary	<p>Competition is advisable evidenced in the form of email, paper or any other written format.</p> <p>However a single verbal quote with email or any other written confirmation may be sufficient. In this case the ordering officer must retain a written explanation of how the procurement process followed achieved the best value for money for the Council.</p>	Ordering Officer	Purchase Order/MWO	Budget Holder

£ 5001 - £10,000	Discretionary	Mandatory	3 quotes which may be evidenced in the form of email, paper or any other written format .	Ordering Officer	Purchase Order/ MWO or Contract	
£ 10,001 – £25,000	Mandatory As a minimum on the Council's web site	Mandatory		Ordering Officer	Purchase Order/ MWO or Contract	
£25,001 - £50,000	Mandatory As a minimum on Contracts Finder and the Council's web site.	Mandatory	Min. 3 written quotes (each signed by a bidder employee) or tenders. The choice of quote or tender should be subject to consultation with Legal Services or Procurement Manager/Supervising Officer.	Ordering Officer	Purchase Order/ MWO or Contract	Head of Service (White Sheet)
£50,001- £100,000	Mandatory As a minimum on Contracts Finder and the Council's web site.	Mandatory	Min. 3 written tenders shall be invited and recorded	Ordering Officer	Contract document	
£100,001- £500,000 ⁵	Mandatory As a minimum on Contracts Finder and the Council's web site. Contracts above the	Mandatory	Min. 5 tenders shall be invited and recorded	Head of Service responsible for seeking tender in presence of independent witness.	Contract document	Head of Service in consultation with the appropriate Cabinet Member under delegated powers with report on action taken

	relevant EU Thresholds must be advertised in accordance with the EU Procurement Directives					(Green Sheet)
£500,001+		Mandatory	Min. 5 tenders shall be invited and recorded	Chairman or Vice-Chairman of Council or any other Member if both unavailable, Corporate Director or nominated representative, plus a nominated officer from the department seeking the tender.	Contract document	Corporate Director and then Cabinet or duly authorised Committee £500,000 to £2,000,000, or full Council over £2,000,000. Cabinet Report or Council Report

Annex 2 - Proposed changes to the Single Tender Process as track changes to the existing text.

3 Single tenders

3.1 Although you have an obligation to obtain competitive quotations for [Goods](#), [Services](#) and [Works](#) contracts, in certain limited circumstances, contracts can be awarded without competition. These are known as single tenders.

3.2 Even if it is not required below, you are advised to seek the advice of the District Solicitor or Procurement Manager before awarding a single tender contract.

3.3 Contracts under single tenders can only be awarded once you have completed the [relevant form](#) in full and obtained all the necessary signatures. You should give a copy of the form to the Procurement Manager with one working day of it being completed. The Procurement Manager must sign the form to acknowledge receipt.

3.4 You are required to seek single tender authorisation -for any non-competitive award worth more than £ 5000.00.

3.5 The **only** circumstances under which you can award a single tender are as follows:

	Qualifying circumstances	Authority required	Additional requirements
1	<p>For solutions other than provision of advice or project management</p> <p>You have an existing contract which was competitively tendered and all the following conditions apply:</p> <p>a) The relevant head of service in consultation with the District Solicitor reasonably considers that a new contract for the same solution on the same terms and conditions can be justified and the reasons for that opinion are noted on the single tender form</p> <p>b) The new contract is not likely to invalidate the original competitive tender in the opinion of the District Solicitor</p>	<p>HoS on first occasion. Chief Exec <u>or</u> Corporate Director on second occasion.</p>	<p>A maximum of two consecutive occasions of new award are permitted</p> <p><u>i.e. a maximum of three awards in total.</u></p> <p>Each new award may not exceed the original contract term or 12 months whichever is the shorter</p> <p>The total value of both new awards may not exceed £ 100,000 in total</p>
2	<p>For provision of advice or project management</p> <p>You have an existing contract which was competitively</p>	<p>HoS</p>	<p>The relevant competitive exercise has been conducted in the previous 12 months</p> <p>One new award is permitted.</p>

	Qualifying circumstances	Authority required	Additional requirements
	<p>tendered and all the following conditions apply:</p> <p>a) The relevant head of service in consultation with the District Solicitor reasonably considers that a new contract for the same solution on the same terms and conditions can be justified and the reasons for that opinion are noted on the single tender form</p> <p>b) The new contract is not likely to invalidate the original competitive tender in the opinion of the District Solicitor</p>		<p><u>i.e. a maximum of two awards in total.</u></p> <p>The total value of the new award may not exceed £ 50,000.</p>
3	<p>For <u>Goods, Works</u> or <u>Services</u> which were <u>not</u> competitively tendered:</p> <p>a) <u>None of the other Qualifying Circumstances as stated in the table apply, and;</u> a)–</p> <p>b) the relevant Head of Service in consultation with the District Solicitor reasonably considers that <u>a new contract for the same solution on the same terms and conditions- a non-competitive contract award</u> can be justified and the reasons for that opinion are noted on the single tender form.</p>	Decision of the Head of Service in consultation with the Cabinet Member for the relevant service the Cabinet member for Finance and the Head of Financial and Commercial Services	<p>One new award is permitted.</p> <p>The total value of the new award may not exceed £100,000</p>
4	<p>The <u>Goods, Services</u> or <u>Supplies</u> are <u>proprietary</u> articles, or are sold at a fixed price and no satisfactory alternative is available.</p> <p>The cost of the <u>Goods, Works</u> or <u>Services</u> do not exceed the European procurement threshold limits.</p>	HoS Up to £ 100,000	None
5	<p>The procedures relating to the Contract are controlled by Government requirements or the provision of any agency agreement.</p> <p>The cost of the <u>Goods, Works</u> or <u>Services</u> do not exceed the European procurement threshold limits.</p>	HoS Up to £ 100,000	None
6	There would be no genuine competition in the	HoS Up to	None

	Qualifying circumstances	Authority required	Additional requirements
	<p>reasonable opinion of the relevant Head of Service and the reasons for that opinion is noted on the single tender form with evidence proportionate to the value.</p> <p>The cost of the Goods, Works or Services does not exceed the European procurement threshold limits.</p>	£ 100,000	
7	<p>The Goods to be purchased are required as a partial replacement for, or in addition to, existing goods or installations, and obtaining these goods from another supplier would mean acquiring goods with different technical characteristics which would result in the following;</p> <p>(i) incompatibility between existing and acquired goods or</p> <p>(ii) disproportionate technical difficulties in the operation and maintenance of the existing goods or installations</p> <p>(iii) the cost of the goods or installation do not exceed the European procurement threshold limits.</p>	HoS Up to £ 100,000	None

Note: Heads of Service are not permitted to delegate authority for Single Tenders

Annex 3 – Key changes resulting from PCR 2015.

- Timescales for the existing specified EU Procurement processes have been changed.
- New EU Procurement processes have been added.
- We can no longer use pre-qualification questionnaires on contracts valued between £ 25,000 and £164,176 (the EU Services threshold).
- We must pay all correctly submitted invoices within 30 days and must pass that obligation on to the main contractor and all their sub-contractors.
- Procurement documents must be available on the internet at the time we advertise (we can no longer prepare our Tender documents during the PQQ stage, if there is one)
- From April 1st 2015, if we advertise any contract worth more than £25,000 but less than the the EU Thresholds then we must also advertise it on the Government's website "Contracts Finder".
- From April 1st 2015 the award of any contract worth more than £ 25,000 but less than the EU Thresholds must be published on Contracts Finder whether or not the opportunity itself was advertised.
- From April 1st 2015 any opportunity advertised in the Official Journal of the European Union must also be advertised on Contracts Finder.
- From April 1st 2015 any contract award published in the Official Journal must also be published on Contracts Finder.
- The old EU "Part B" services which were largely exempt from the legislation are no longer recognised, there is a shorter list of services to which a new Light Touch regime applies above £ £589,148.

Agenda Item 4.

Update to Regulatory and Appeals Committee on changes to Contract Standing Orders

Appendix 2

Facilities Management Procurement Strategy for Building Services

Introduction

The Council's Facilities Management Team are responsible for the maintenance and repair of the Council's property portfolio. FM already have a series of contracts through which specific maintenance services are acquired. However there are a number of services which FM need but for which they do not have formal long term contractual arrangements. The services required include:

Table 1

Maintenance and renewal works		Consultancy Services
Tarmac, Paving, external works	Painting & decorating	Building Surveying/Project Management
Electrical services	Plumbers	Structural Engineering
Mechanical services	Drainage clearing & repairs	Highway & Civils
HVAC Services	Glazing	Electrical
General building	Joinery	Mechanical
Roofing	Locksmiths	HVAC
Fencing		Asbestos
		Fire risk assessment
		Water Hygiene

Often these services are required urgently and the FM Team do not have the time or resource to award contracts on each occasion as a standalone procurement within the standard 4 – 7 week timescale.

The current approach requires open, specific procurements, neither the number of bidders nor their quality can be predicted. Furthermore an audit conducted in 2016 identified that the Council's contracting arrangements did not adequately address contractor health and safety.

Officers are therefore seeking to improve the quality of bids and to reduce the time between work identification and satisfaction.

The maintenance and renewal works are subdivided into two categories: Reactive Repairs and Renewals for instance repairing a leaking pipe, and Planned Works such as redecorating the exterior of a building.

Reactive Repairs & Renewals

The objectives of the review of process for procuring Reactive Repairs and Renewals (defined by value as between £1 - £25,000) are to achieve the service level demands of the Council and to ensure:

- Competitive procurement – regardless of price.
- Works are of the right quality – by definable standards.
- The process is responsive to timescales which meet operational requirements – measureable performance.
- Statutorily compliance (Health & Safety).
- Transparency – for audit and accountability.
- Efficiency – minimal overhead costs and bureaucracy.
- Compliance with Council’s Contract Standing Orders.

Achieving the above objectives is proving difficult using the standard case by case, advertised tender process for a number of reasons, these are : -

- Reactive repairs requiring rapid response (2 hours – 28 days) cannot be delivered by competitive quotation due to the time required to obtain quotations.
- Ad hoc enquiries for numerous low value quotes without any guarantee of work do not offer an attractive business proposition and the market is unresponsive.
- Under the standard advertised tender process neither the number of bidders nor their quality can be predicted.
- For extra low value works for which the standard tender process is neither necessary nor appropriate (less than £500) the need to achieve the right quality has led to the over use of a limited number of contractors and resulted in the inadvertent exclusion of other businesses and a concern that we cannot demonstrate value for money.
- Where we appoint new Contractors for works up to £25,000 we do not have the resources to ensure with confidence that they are capable of delivering the services we require in a safe manner in compliance with the Construction Design & Management Regulations 2015.

Planned works

Works & services relating to larger scale projects exceeding £25,000 present different problems.

The objectives remain the same as previously defined for reactive repairs and renewals but difficulties have been encountered with the market place and the standard, advertised, case by case procurement process as follows: -

- Open tendering via the web is sometimes ineffective. We have no control as to whom responds, their number or quality. This has on occasion resulted in

poor tender response which has caused substantial delays as we have sought to resolve issues with contractors after tenders have been received.

- Despite our efforts to reduce the burden, the documentation required to help us assess the quality aspect of contractors, for instance their health and safety record, or relevant experience, may be seen as bureaucratic and off putting to prospective suppliers.
- The open nature of the standard tendering process reduces the opportunity for repeat business for contractors and we may be losing commercial leverage.
- Our potential contracts are often of a relatively low value, below £100,000, and in a buoyant market, as currently exists, a more strategic approach is required to attract good contractors and assure good quality works

Proposals

Officers are therefore proposing changes in how we procure the services we require, achieving the objectives more effectively and raise the quality of the services provided.

It is proposed that the Council establish two routes to market: -

A measured term contract for lower value opportunities and a select list system for higher value work.

1) Measured Term Contract

Measured Term Contracts (MTC) are based on a schedule of rates fixed for a set period.

For works up to £25 000 the Council proposes to establish a zero commitment, measured term contract for General Building Reactive Repairs and Renewals.

- For works up to £500 the Contractor will be required to visit the site, perform the works and charge against the contracted hourly rates.
- For works between £500 and £25,000 the Contractor will be required to submit fixed price estimates against which purchase orders can be raised in advance, once again the pricing should extend from pre agreed rates.

It is envisaged that the MTC will have a two year term with the possibility of a one year extension. The contract has an estimated projected value of £300,000 per annum but this will be dependent on the demands the Council make of it.

The MTC will be awarded under a competitive tender exercise advertised on the Council's web site and Contract Finder – The Government's nationwide public sector contract portal. Officers will conduct a communication exercise to ensure that known, reliable businesses are made aware of the advertisement. If this arrangement proves

successful and the opportunity to work with Buckinghamshire County Council discussed below proves fruitless, further similar procurements may follow.

2) Select Lists

For planned works contracts in excess of £25,000 Officers believe that competition is required on a project by project basis to achieve value for money, however there is still a need for speedy contract award. It is therefore proposed that the Council identify a select list of qualified contractors amongst whom we can conduct tender exercises. The skills and services required are those listed in Table 1 above but this will vary depending on the service demands of the Council.

It is initially proposed that a select list be established for maintenance and renewal works listed in Table 1, it is estimated that these works could have a value of £500K per annum. A select list for consultancy services would follow.

It is further proposed that the select list opportunity be advertised on Contracts Finder and the Council's web site, seeking applicants for each skill. The advertisement will list anticipated works required by the Council in the next 12 months. Candidates will face an initial light touch qualification from a health and safety and due diligence perspective based on the nationally recognised PAS 91 pre-qualification questionnaire. All the candidates who qualify will be on the list. Officers will conduct a communication exercise to ensure that known reliable businesses are made aware of the advertisement.

Once the list is established, as and when specific works requirements arise, Officers will conduct detailed project by project due diligence and tender exercises amongst those on the select list with the appropriate skills, seeking fixed price tenders for the works.

Where the number of suitable suppliers for tendering on the list exceeds the number of tenders required an unbiased tenderer selection process will be established (in that case, to reduce the administrative burden on suppliers, only those selected to receive an ITT will be asked to complete the more detailed due diligence). If there are insufficient Tenderers in the pool we will refer to 'Constructionline', a nationally recognised construction industry database.

3) Buckinghamshire County Council

Note the Council is also considering whether and how we can use contracts established by Buckinghamshire County Council which may also provide speedy access to the required skills and services.

Agenda Item 5.

REVISIONS TO THE CONSTITUTION

Officer contact: Catherine Whitehead

Ext No 3980 Email Catherine_whitehead@wycombe.gov.uk

PROPOSED DECISION: That

- (i) a review of the Constitution be conducted to ensure that it continues to be compliant with current law and to ensure that the document remains clear.
- (ii) the results of the review be reported to a future meeting of the Committee, with any recommendations referred to Full Council for consideration.

Corporate Implications

This report has been prepared in consultation with the District Solicitor and Head of Finance and Commercial Services to ensure that the proposed amendments support the overall governance of the organisation and do not fall foul of relevant law and guidance.

Executive Summary

1. This report proposes that a review of the Constitution should be conducted to ensure that it continues to be compliant with current law and to ensure that the document remains clear.

Sustainable Community Strategy/Council Priorities - Implications

2. The constitution is a governance document which is designed to ensure that the Council's decision making processes are sound and decisions are not vulnerable to challenge.

Background and Issues

3. The Constitution was last reviewed in 2014 and at that stage a number of changes were made to bring it up to date. It is necessary that the Constitution is reviewed regularly to ensure that it remains current. There are national legislative changes and guidance which change the context in which the Constitution is written. It is also necessary to make amendments to the wording of sections from time to time to ensure the meaning is clear and without ambiguity.
4. The proposal is that the amendments will not change the meaning of the Constitution. Where it is necessary to make changes to the Constitution which do affect the meaning or distribution or allocation of responsibilities these will be specifically highlighted in a separate report and a rationale provided for any changes to explain why they are needed and what improvements they are designed to achieve. In this review there are likely to be some proposals for changes to the procedure rules which fall into this category which are being introduced by the officers with responsibility for

procurement and finance who have identified that the current rules require improvement.

5. The Constitution although a statement of rules for the Council is also designed to be an outward facing document which is a public statement of how the Council operates in order that the aim of transparency is met. It is therefore proposed that some improvements will be designed to improve the accessibility of the document and ease of use.
6. Putting together these changes it is proposed that the Head of Democratic, Legal and Policy Services carry out a review of the Constitution which can be referred to a future meeting of the Regulatory and Appeals Committee before referring any recommendations to Full Council.

Consultation

7. Consultation will take place with officers across the Council. The result will be presented to Regulatory and Appeals Committee for consultation with Members before being referred to Council for consideration and approval.

Conclusions

8. Members are requested to note and endorse the proposed review.

Next Steps

The results of the review to be presented to a future meeting of the Committee, with any recommendations then being made to the Full Council for consideration and approval.

Background Papers

The Council's Constitution

Agenda Item 6.

VARIATIONS TO HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

Officer contact: Caroline Steven

DDI: 01494 - 421222

Email: caroline_steven@wycombe.gov.uk

Wards Affected: All

PROPOSED DECISION

That the current policy requiring that all wheelchair accessible hackney carriage vehicles are side loading is maintained.

Members are also asked to note the update on progress by the sub-group dealing with commercial advertising and to determine the best way forward in this respect.

Executive Summary

Members will recall that various amendments to the Hackney Carriage and Private Hire Policy were considered at their last meeting in February this year and that an amended policy was approved. Two matters remained undetermined at the conclusion of this meeting, however, and it was agreed that these would be reconsidered at the next meeting of the committee. These matters relate to commercial advertising on licensed vehicles and the loading point of wheelchair accessible hackney carriage vehicles.

Corporate Implications

The Council is required by law to license the operation of taxis and private hire vehicles. The paramount consideration in this respect is the safety and convenience of those travelling in licensed vehicles. The Local Government (Miscellaneous Provisions) Act 1976 permits local authorities to place conditions on licensed private hire and hackney carriage drivers and vehicles. Conditions should be aimed at improving service and protecting the users of licensed vehicles.

Policy/Community Plan Implications

The amendments suggested would contribute to all of the objectives set out in the Corporate Plan.

Detailed Report

Rear Loading Wheelchair Accessible Vehicles

1. The draft revised policy included a proposal to permit rear loading wheelchair accessible vehicles. This type of vehicle has not previously been authorised as a hackney carriage. Several comments were received from individuals in support of this proposal, which was also generally supported by the private hire trade. A large section of the hackney carriage trade, however, is opposed to this proposal on the grounds of public safety.
2. Following the last committee meeting, the High Street rank was inspected by the Division's Health and Safety Officer and the use of rear loading vehicles (one of which had been provided for this purpose by a private hire operator) was considered.
3. It was the opinion of the health and safety officer that it would not be possible to load a wheelchair user from the kerb into this type of vehicle and this would

therefore necessitate loading the wheelchair user from the highway. In order to achieve this the wheelchair would need to be lowered into the highway from a high kerb. This could prove to be dangerous for the wheelchair user and would not be possible in the case of power chairs, which would need to enter the highway at a point where the kerb was level with the highway and which may be at some distance from the rank.

4. The possibility of loading wheelchair users from the nearby loading and disabled bays in the High Street was discussed, although there is no guarantee that any of these bays would be available at any given time. Other ranks within the town centre also do not have this option available in that there is no alternative loading area nearby.
5. There has been a suggestion from some trade members that passengers should be offered the option of using rear loading hackney carriages when they are pre-booking a vehicle to be collected from home or another location where it would be possible to safely load the user.
6. This is not considered to be a viable option, however, given that hackney carriages predominantly work from the town centre ranks where it is not deemed to be safe to load or unload wheelchair users. Private hire vehicles are capable of being pre-booked and are permitted to be rear loading in line with the Council's current policy.
7. The issue of the rank kerb height has been raised over several years with Bucks County Council Highways and has again been raised with them recently. Confirmation has been received that the design of the ranks does take other matters into account such as the camber of the road and drainage requirements. There are no plans for any amendments to the town centre ranks and this is issue not within the county council's current priorities, although the design of some of the ranks may be reconsidered as part of the possible future Oxford Road changes. Confirmation has also been received that the high kerb at the High Street rank is necessary to prevent rain water run-off flooding the pavement. The officer also noted that planning permission is required to drop any kerb.
8. As a result of the above, it is considered that rear loading hackney carriage vehicles are not suitable or safe to be used as a result of the design of the town centre ranks. It is suggested that the issue should be reconsidered if the design of the ranks changes in the future.
9. Three e-mails have been received from wheelchair users in support of rear loading wheelchair accessible hackney carriage vehicles and these are at appendices A-C

Advertising

10. The private hire trade have requested that commercial advertising is permitted on private hire vehicles. This subject was discussed at the committee meeting in February and it was decided that a sub-group be set up to consider the issue further.
11. Benchmarking was carried out nationally which resulted in sample advertising policies / conditions being received for the sub-group's consideration. It was also confirmed that a large majority of local authorities throughout England and Wales do not permit commercial advertising on licensed vehicles.

12. The sub-group were due to meet on the 22nd June but unfortunately this meeting had to be cancelled due to the unexpected absence of one of the Members. Another of the Members who had been included in this sub-group is no longer sitting on this committee and so only two Members were present. As a result, the Chairman proposed that this issue should be brought back before the committee for further consideration at this meeting.

Background Papers

Files in Environmental Services

Caroline Steven

From: [REDACTED]
Sent: 26 June 2017 01:03
To: Caroline Steven; Lesley Clarke; John A. Savage
Subject: Fw: Disabled Access Taxi

Hi all,

I am forwarding you the email attached below from a wheelchair user.

Kind Regards,

M Isaq

From: [REDACTED]
Sent: 30 May 2017 11:15
To: [REDACTED]
Subject: Disabled Access Taxi

Dear Isaq,

Thank you so much again for taking great care of my disabled mother in driving her to and from our pub lunch the other week.

As we discussed, whilst you were very attentive and caring to mum, I really feel that the car you drive could be set up better to add to the experience of any disabled passengers:

1. I have seen "Rear Access" cars that allow the wheelchair to be wheeled straight into the car without need for edging back and forward to position the chair once in the taxi.
2. Rear Access would also enable my mother and other passengers to sit facing forward. Whilst my mother cant walk any more, her eyesight is very good and she enjoys seeing where she is going and take great interest in the environment around her. Travelling backwards really restricts what she can see and makes her feel somewhat disorientated.

Please let me know if there is any way that the 2 points above could be incorporated in your next taxi as this would make a major difference to both my mum and other disabled passengers.

Best Regards, Andrew

Andrew Webb
[REDACTED]

Click [here](#) to report this email as spam.

Caroline Steven

From: Neil Jowitt [REDACTED]
Sent: 26 June 2017 13:30
To: Caroline Steven; John A. Savage; Lesley Clarke
Cc: [REDACTED]
Subject: Accessible taxis

Dear Sir/Madam

I recently used a disabled accessible taxi driven by Mohammed Isaq (copied into this email) who mentioned you were reviewing the use of rear access taxis. I understand that you are reviewing the situation regarding allowing such rear entry disabled taxis in the High Wycombe area.

Unfortunately I suffer from Primary Progressive Multiple Sclerosis and I am confined to a wheelchair. I live in Hughenden Valley and I try to socialise with friends and family in High Wycombe when I get the chance.

It is often very difficult to find a taxi that can genuinely accommodate me in a wheelchair. I am just over six feet tall and the only taxis I can find are ones that load me via the side door. The ramps used are extremely steep and I am not able to wheel myself into the taxi.

My wife is also not strong enough on her own (always need the assistance of the driver) so I do find the whole experience pretty degrading.

The other problem I have is the height of the door and I always have to bend significantly forward to avoid banging my head.

Occasionally I have travelled on my own but this is almost impossible.

I live in Warrendene Road which is described as a semi-rural location. The houses are set back from the road and are all named rather than numbered. Consequently it is very difficult for drivers to find my house without directions.

There are no street lights so taxi drivers always require me to give them detailed directions to find my house as they drive if it is dark.

The fact that I am facing sideways means it is extremely difficult for me to twist and see where we are going so inevitably we miss my house and again the whole experience is quite distressing.

I have used rear loading taxis before and they are significantly easier for me.

The loading ramps are much less steep and because I am facing the direction of travel it is much easier to direct the driver.

I hope you find my thoughts of some benefit to you as you consider the implications for disabled people.

If I can be of any further help or if you have any questions then please do not hesitate to contact me.

I am happy to speak on the phone, meet in person or respond to emails.

Kind regards

Neil



Agenda Item 6. APPENDIX C

Caroline Steven

From: Junaid Hussain [REDACTED]
Sent: 07 July 2017 11:45
To: Caroline Steven
Cc: John A. Savage; Lesley Clarke; Mohammed_isaq@hotmail.co.uk
Subject: Rear/Side Loading Taxi Vehicles Choice

To Whom It May Concern,

I would like to express my support for wheelchair users to be given the choice of using rear loading taxi vehicles or side loading taxi vehicles. It needs to be a choice because that is the only way we wheelchair users will benefit.

My father, who is diagnosed with Vascular Parkinsonism, is an occasional wheelchair user. He attends hospital appointments by requesting the hospital to arrange an ambulance vehicle which is notably automated rear loading. For all other occasions, I have to arrange for a hackney taxi vehicle with side wheelchair access to pick my dad up from home. Some of our main concerns with these are as follows:

- **Safety** - We do not go to taxi ranks especially bus station and high street taxi ranks because we feel these are not safe. Even if the High Street rank is unsafe for rear loading vehicles, it is unsafe for side accessible vehicles too. Side loading vehicles have been around for 8 years and they have still managed to get by through moving around in locations where they can load up a wheelchair safely and that is the reason I feel a choice of rear accessible vehicles would benefit wheelchair users.
- **Costs** - Private hire companies price you out of the market and because hackney taxis are metered they are reasonably priced. One of the reasons why I'm putting my support forward for rear loading vehicles is because I rang a private hire company for a rear loading taxi, and was quoted £40 return from Shelburne Road to Castlefield Community Centre.
- **Efficiency** – Further from the previous point, the private hire company weren't even sure if they could supply one and told me it might be about an hour waiting time. Therefore, I drove down to High Street rank and asked one of the wheelchair accessible vehicle drivers to come to my house and he was there in ten minutes. If there were side and rear loading vehicles available I would have definitely chosen a rear loading vehicle but I was restricted with my option to just side loading vehicles. The metered fare was also £6 one way which is a significant difference.

The problems and concerns that I have with these side loading vehicles are:

- **Steep incline** – The ramps used with side loading taxi vehicles have a very steep incline which makes it very dangerous and difficult to operate a wheelchair. My father is a big man and I don't expect most of the taxi drivers to be able to manually push him into the vehicle (especially in the high street taxi rank) and when a driver can, the head always hits the roof of the vehicle unless my dad drops it down or we tilt the wheelchair (which is not safe). Whereas a rear accessible vehicle has a lowered floor making it a low incline and in a rear accessible vehicle you have an electronic winch which pulls the wheelchair of any size straight into the taxi with no height problem and actually takes it inside the vehicle with a remote and the driver has to only clamp it in. Once the wheelchair has been

clamped in, whether you're turning left or right, it won't tilt either way. However, with the side access when you're manoeuvring left or right it sometimes tilts which can be dangerous.

- **Rank with footpath limitation** – At locations where the footpath is narrow, i.e. bus station, once the ramps are pulled out from the side loading vehicle, there is no room to manoeuvre the wheelchair to push into the vehicle so what we need to do is pull the vehicle a metre or so away from the kerb in order to manoeuvre and push the wheelchair on to the ramp and then into the vehicle. This makes it dangerous because then the road becomes narrow for vehicles to pass through. This is obviously not an issue for rear loading vehicles.

- **BCC versus WDC** – Bucks County Council provides rear accessible vehicles and Wycombe District Council should provide rear accessible for wheelchair users as well.

- **Dignity** – With side loading vehicles, I often find that the wheelchair is left with the passenger facing the vehicle side window because you cannot turn the wheelchair facing the rear due to shortage of space in some vehicles. Facing the side window or rear is an undignified way of sitting for the wheelchair user especially when they want to face the front. The wheelchair user when facing the front, would be able to see an oncoming hazard or a potential accident. Further to this, while facing the front, the wheelchair user could take great interest in the environment instead of facing backwards which restricts what you can see and makes you feel disorientated.

Based on the reasons provided above, I would like to support a choice of rear loading taxi vehicles to be made available and that is the only way wheelchair users will benefit if the provider has a choice. There are plenty of day centres for disabled people but we just don't have the choice of wheelchair accessible vehicles.

Sincerely,

Junaid Hussain,

A large black rectangular redaction box covering the signature area of the email.

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