

REPORT OF **Interim Section 151 Officer**
To: **Audit & Governance Committee**
Subject: **Revision to Financial Procedures**
Date: **28th July 2020**

Reference:

PURPOSE OF REPORT:

To report on proposed changes to the Council's Financial and Contract Procedure rules.

1. INTRODUCTION

The Council's Financial and Contract Procedure rules were last amended and approved by Full Council on the 1st August 2016. The Council aims to update its Financial and Contract Procedure rules every three years; however the update was delayed to coincide with the refresh of the Council's Constitution. The full revised Financial and Contract procedures rules are detailed in Appendix 1 & Appendix 2.

2. REPORT

The majority of the revisions are housing keeping in nature, e.g.

- remove references to cash receipting reflecting the fact that the Council no longer accepts cash payments
- Daily banking change to weekly reflecting the reduced volumes of Cheques /Cash received in the post
- updating description of posts
- update references to GDPR regulations
- engagement of agency staff reflecting current framework agreement with Commensura and IR35 regulation
- Update reflecting changes to the Council's Treasury Management Policy previously approved by Full Council.

The Council is currently implementing a new HR and Payroll system; consequently, the Financial Procedures will need further revision once the new system is in place. The changes will need to be updated to reflect on-line authorisation of mileage & expenses, timesheets etc and a move away from paper based claims.

The following are suggested changes for consideration by members.

Current Wording

- 1.8 The *Section 151 Officer* is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the Council for approval. The Financial Procedure Rules are reviewed annually by the Section 151 Officer) in consultation with other Operational Managers and members of the Senior Management Team prior to referral to the Audit & Governance Committee to recommend approval by Council.



Suggested Wording

- 1.8 The Section 151 Officer is responsible for maintaining a continuous review of the Financial Procedure Rules. Any changes to the financial procedures rules which change the delegated powers of officers will be submitted to the Audit & Governance Committee for consideration with formal approval at Full Council. The Section 151 officer will have delegated powers to amend the financial procedures for “general housekeeping purposes”; e.g. HMRC guidance regarding the consideration of IR35 status, post descriptions, etc.

Rationale

It would appear to be onerous to have Audit and Governance Committee and then Full Council consider “minor housekeeping” changes to the Financial Procedures which don’t involve changes to the delegated powers of officers.

Current Wording

Section 3 - Authorisation of payments (Page 9)

Any payment greater than £30,000 must be electronically authorised by the Section 151 Officer, Chief Executive, or Monitoring Officer. There are two exceptions to this: Treasury Management payments, which are bound by Financial Procedure Rule 7.3 and monthly payments for longer term contracts such as leisure and grounds maintenance provision where the limit is increased up to £70,000 for nominated responsible officers.

Suggested Wording

Any payment greater than £30,000 must be electronically authorised by the Section 151 Officer, Chief Executive, or Monitoring Officer. There is one exception to this; namely Treasury Management payments which are bound by Financial Procedure Rule 7.3.

Rationale

The previous wording reflected a time when the Council’s Refuse Recycling was outsourced and consequently regular monthly payments up to £70,000 were processed. With this service being brought in house, this separate authorisation category is no longer required.

Current Wording

- 5.1.1 *No expenditure shall be authorised or incurred unless the cost is covered by the approved annual budgets, supplementary budgets, virements, or is rechargeable*

Suggested Wording

- 5.1.1 Expenditure should only be authorised where the costs fall within the budget managers’ overall approved annual budgets unless:
- It is in connection with meeting statutory demand led pressures; e.g. additional temporary accommodation costs arising from increased number of people presenting themselves as homeless.
 - It relates to Health & Safety
 - The Council is legally obliged to make the payment
 - The costs are to be recharged to a third party



- The additional expenditure has been previously approved by Community and Resources Committee

Any overspends in excess of £2,000 will be reported to Internal Overview and Scrutiny as part the Quarterly Budgeting Reporting process.

Rationale

The financial procedures need to reflect that there will be occasions where it is not possible for a budget manager to stay within their approved budget limit due to factors outside of their control.

The Council has certain statutory and legal obligations which must be met, for example there may be a requirement to undertake remedial works to a property where the failure to do so could result in potential injury to members of the public or/and damage to adjoining properties.

Current Wording

5.2.19 The maximum value of a single purchase is £1,500, except for the *four* nominated officers¹ who may in exceptional circumstances purchase up to the value of £5,000

¹ The four nominated officers are the Property and Procurement Manager (up to £5,000), the Customer Support Manager (up to £3,500) and the two Vehicle Fitters (up to £2,000)

Suggested Wording

5.2.19 The maximum value of a single purchase is £1,500, except for six nominated officers who may in exceptional circumstances purchase up to the value of £5,000

The six nominated officers are the Property and Procurement Manager (up to £5,000), the Customer Support Manager (up to £3,500), two ICT support officers (up to £3,500) and two Vehicle Fitters (up to £2,000)

Rationale

ICT often purchase software and equipment via the internet; it is sometimes not possible to set up accounts with the suppliers who may be based outside of the UK. The current limits for the two ICT support officers were too restrictive to allow them to perform their duties satisfactorily.

Current Wording

5.4.1 *Banking arrangements shall be tendered for a period of five years, with the option to extend contracts to a maximum of ten years where appropriate. The officers included as bank signatories in the bank mandate shall be reviewed at least annually. Any changes to the bank signatories will be approved by the Community & Resources Committee.*

Suggested Wording

5.4.1 Banking arrangements shall be tendered for a period of five years, with the option to extend contracts to a maximum of ten years where appropriate. The officers included as bank signatories in the bank mandate shall be reviewed at least annually. Bank signatories will be assigned to the posts of Head of Paid Service and Section 151 Officer.



Rationale

The current bank signatories are the Chief Executive and the Section 151 Officer. In the event of a post holder leaving one of the two aforementioned roles, it would appear sensible that the bank signatory is automatically applied to the new post holder rather than risk delay caused by the committee timetables. For information the two bank signatories are required for administration of the Council's bank account; e.g. their signatories are required before a new bank user can be set up, or an expired bank smart card can be re-ordered, etc.

Current Wording

Section 5 - Page 35 third bullet point, last sentence

"Any under or over-banking of more than £5 shall be reported to the Section 151 Officer".

Suggested Wording

Any under or over banking or more than £20 shall be reported to the Planning and Economy Manager.

Rationale

The only location at which the Council currently accepts cash payments is the Burrows. under / (over Banking) can occur variety of reasons. For example, cash can be taken from a member of the public but the gate officer neglects to record the issuing of a ticket, resulting in an over banking; incorrect change could be also be issued, payments are accepted with foreign currency etc.

It appears burdensome to report these relatively minor discrepancies to the Section 151 Officer, when the Section 151 Officer is not directly responsible for the management of this service. It consequently proposed to increase the threshold for further investigation to £20 and have this responsibility pass to the Planning and Economy Manager who is ultimately responsible for this service.

Revision of Contract Procedures Rules

Current Wording

22.7 **Overspends** – in monitoring expenditure on a project, the Officer / Project Manager shall notify the Section 151 Officer, Senior Management Team and Members at the earliest opportunity where the approved expenditure appearing in the capital programme is likely to be exceeded. Authorisations for additional spend should be requested in accordance with the Financial Procedure Rules (Virement Rules).

Suggested Wording

22.7 Overspends of greater than 10% against of the original capital project budget and which are **also** in excess of £10k shall be reported to Community and Resources Committee. Additionally, **all overspends of greater than £30k** will be reported to Community & Resources.

Rationale

The virement rules within the Financial Procedures only refer to amounts greater than £30,000 being reported to Community and Resources.

An overspend of £15,000 against an initial budget of £25,000 would appear of sufficient significant to report to members. Whereas an overspend of £15,000 against an initial budget of £2m (less than 1%) would not warrant reporting to Community and Resources.



For information Capital expenditure is reported quarterly to the Internal & Overview Scrutiny Committee.

Climate Change

The Council's current Contract procedure rules make only partial reference to Climate Change / Environmental Sustainability. Members have previously declared a Climate Emergency; it would therefore appear to be appropriate to determine how the Contract Procedures rules of the Council could be utilised to procure goods and services in a more sustainable manner.

Devon Districts Procurement Strategy 2019-2022 – see Appendix 3

Torridge along with the other Devon Districts has signed up to the Devon Districts Procurement Strategy. The strategy 2019-22 is currently in draft form, it recognises that the Devon Districts should **“make consideration of social value and substantiality in all tender processes, which will be defined by the corporate priorities of each District Authority”**

The draft strategy proposes that all tenders include a *minimum* of 5% weighting on sustainability.

It also proposes a *minimum 5% weighting for social value*. Social Value covers a variety of factors, buying local, being a good employer (e.g. Supplier paying the living wage), paying suppliers in a timely manner.

Members may wish to consider how Torridge should include any sustainability criteria within its contract procurement procedures. The factors to be considered being:

- Should there be a minimum weighting assigned to sustainability when procuring goods and services.
- If so what weighting percentage should be assigned?
- What forms of procurement should the sustainability weighting be used for? Construction, Services (e.g. Grounds Maintenance, Management of Leisure Centres), Purchase of Vehicles and Plant, Purchase of Goods, Insurance, Banking etc
- Should there be a minimum contract value below which the sustainability weighting should not be applied in order not to deter Small and Medium Sized Enterprises from tendering.

3. IMPLICATIONS

Legal Implications

Financial Implications

The financial implications are detailed within the report

Human Resources Implications

None

Sustainability/Biodiversity Implications

None

Equality/Diversity

None



Risk Management

None

Compliance with Policies and Strategies

The report is written with reference to the Council's requirement to update its procedure rules on a regular basis.

Data Protection (GDPR) Implications

None

Lead Member Views

Date of Consultation –17/07/2020

The proposed revisions to the Financial and Contract procedure rules, previously approved by the Council's Constitutional Working Group are a sensible update, striking the correct balance between control and operational efficiency.

Councillor Philip Hackett, Chair of Audit & Governance.



