

**SUBJECT: INTERNAL AUDIT SECTION
CONTRACT PROCEDURE RULES -
EXEMPTIONS**

**DIRECTORATE: Chief Executives
MEETING: Audit Committee
DATE: 8th November 2018
DIVISION/WARDS AFFECTED: All**

1. PURPOSE

- 1.1 To consider the adequacy and appropriateness of the exemption process from the Authority's Contract Procedure Rules since the last report in November 2017.
- 1.2 To inform the Audit Committee of the number of exemptions requested by operational managers and to identify any non compliance with the process or adverse trends.

2. RECOMMENDATION(S)

- 2.1 That the Audit Committee accepts and acknowledges the justifications for the exemptions provided by operational officers.
- 2.2 If the justifications are not accepted, then consideration should be given to calling in the respective operational officer and their respective Head of Service to further account for the reasons why they could not comply with the Council's Contract Procedure Rules at the time of the procurement.
- 2.3 That the Audit Committee receive an updated report in 6 months time to include any further responses obtained by the Chief Internal Auditor.

3. KEY ISSUES

- 3.1 To ensure compliance with the Council's Contract Procedure Rules in the way goods, works and services are procured on behalf of the Authority.
- 3.2 Reassurance that the exemption process from Contract Procedure Rules is operating as intended by managers procuring goods, works or services on behalf of the Authority.

- 3.3 Some operational managers procuring goods, works and services on behalf of the Authority may not be as familiar with Contract Procedure Rules and the exemption process as they should be.

4. REASONS

- 4.1 Council approved the revised Contract Procedure Rules for Monmouthshire County Council in April 2009. This was as a result of a major update of the Council's former Contract Standing Orders which incorporated compliance with the Procurement Strategy.
- 4.2 The previous report was presented to Audit Committee in November 2017. This report covers the period June 2017 to October 2017 and the period November 2017 to May 2018. Following the previous report, two managers were invited to Audit Committee to explain to Members their reasons for seeking an exemption rather than complying with the Council's Contract Procedure Rules.

5. EXEMPTIONS - Background

- 5.1 Although the Contract Procedure Rules were written to ensure a consistent and fair approach to how officers procure works, goods and services on behalf of the Council, there will be occasions where full compliance may not be appropriate. Provided there is sufficient justification and appropriate approval for not following these rules then that is permissible within the agreed policy.
- 5.2 Management need to ensure that the use of exemptions is proper and they are not being used for convenience or to avoid following CPRs. Exemptions from CPRs are therefore administered by Internal Audit, although approvals are given by Heads of Service, Chief Officers and or Cabinet Members.
- 5.3 Since the revised CPRs were approved by Council, 259 exemptions have been requested (up to May 2018) as shown at Appendix 1.
- 5.4 The majority of exemption forms have been returned to Internal Audit although there are some which are still outstanding so it is not possible to determine whether or not the correct procedures have been followed in all cases.
- 5.5 This process will only capture the exemptions which have been requested via and returned to Internal Audit.
- 5.6 The process is as follows:
- Obtain a sequentially numbered exemption form from Internal Audit
 - Record the reason for requesting the exemption on the form

- Obtain the appropriate level of approval
- Return the fully signed off and approved form to Internal Audit

6. EXEMPTIONS – June 2017 to October 2017 [223 - 246] [Appendix 2]

- 6.1 Of the 24 requested exemptions, 13 were not returned to Internal Audit as required which means that it cannot be verified that they have been correctly authorised. 8 of the requested exemptions related to social services commissioning which were subsequently not required. All 11 returned forms were appropriately authorised.

EXEMPTIONS – November 2017 to May 2018 [247 - 259] [Appendix 2]

- 6.2 Of the 13 requested exemptions, 4 have not been returned to Internal Audit which means that it cannot be verified that they have been correctly authorised. This is concerning as the expected process is not being properly followed by all managers / Heads of Service. 1 exemption was no longer required.

7 GENERAL

- 7.1 All officers who request an exemption will be reminded to return the form to Internal Audit by the Chief Internal Auditor.
- 7.2 Some managers are still sending Exemption Forms to Internal Audit which have not been formally issued which indicates a weakness in the control environment as the correct process is not being followed.
- 7.3 Although Heads of Service and operational managers were made aware of the revised Contract Procedure Rules at the time, the main concern is that current operational managers may be non compliant because they are not seeking the appropriate exemptions.
- 7.4 A list of all requests for CPR exemptions which have not been returned to Internal Audit will be sent to Heads of Service to chase up a return to the Chief Internal Auditor who will then verify that they have been correctly authorised. The Chief Internal Auditor will then also remind all Heads of Service of the correct procedure to follow when seeking an exemption from the Council's procurement rules.

8. RESOURCE IMPLICATIONS

None.

9. CONSULTEES

Chief Officer Resources

Results of Consultation:

10. BACKGROUND PAPERS

Report to Council 2nd April 2009 – Contract Procedure Rules

11. AUTHOR AND CONTACT DETAILS

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AUDIT COMMITTEE NOVEMBER 2018

CONTRACT PROCEDURE RULES - EXEMPTIONS

APPENDIX 1

**Contract Procedure Rules
Exemption Forms Log**

		Period	Exemption Ref	No' of exemption requests	Cumulative
Report 1	January 2011	April 2009 to 31 Aug 2010	1 – 41	41	41
Report 2	November 2012	September 2010 to August 2011	42 – 60	19	60
		September 2011 to August 2012	61 – 92	32	92
Report 3	May 2013	September 2012 to March 2013	93 – 102	10	102
Report 4	December 2013	April 2013 to October 2013	103 - 117	16	117
Report 5	July 2014	November 2103 to May 2014	118 - 132	15	132
Report 6	December 2014	June 2014 to October 2014	133 - 141	9	141
Report 7	July 2015	November 2014 to May 2015	142 - 174	33	174
Report 8	December 2015	June 2015 to October 2015	174 - 179	5	179
Report 9	June 2016	November 2015 to May 2016	180 - 194	15	194
Report 10	December 2016	June 2016 to October 2016	195 - 207	13	207
Report 11	November 2017	November 2016 to May 2017	208 - 222	15	222
Report 12	November 2018	June 2017 to October 2017	223 - 246	24	246
		November 2017 to May 2018	247 - 259	15	259

APPENDIX 2

June 2017 to October 2017 [Exemptions 223 – 246]

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
223	Andrew Wathan Chief Internal Auditor	To engage with a very experienced Audit Manager as an additional resource to undertake a specific special investigation	6,000	Resources	13/06/2017	Y	15/06/2017	Specialist provider
224	Becky Pritchard	Contractor for home to school transport went into liquidation overnight, leaving 29 contracts undelivered. PTU looking to award these contracts on emergency basis for 6 weeks until end of school year to temporary providers, with a view to formal re-tendering over the summer school holiday period.	tbc	Operations	14/06/2017			Unforeseeable emergency causing serious disruption to Council services
225	Rachel Jowitt Waste Strategy & Resources Manager	Specialist legal advice re development of tender for large OJEU contract for operation of HWRC	22,000	Operations	25/07/2017	Y	28/07/2017	Specialist provider
226	Owen Wilce	Volunteer Management System – needs to be bilingual. Company they were working with has fallen through	approx 6000	Volunteering	28/07/2017	Y	15/08/2017	Specialist provider

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
227	Nicola Needle	Relating to WG Intermediate Care Funding, the team need to provide proof of concept to WG prior to taking this to Market	120,000 - 130,000	Adult Services	31/07/2017			Specialist provider
228	Debbie Jackson	3 x specialist adapted used cars (wheelchair hoists, storage etc.) to be procured by Transport from Gowrings (mobility specialists) for Social Services (Severn View Day Centre and 2 x My Day My Life team)	42,985	Operations	18/08/2017	Y	22/08/2017	Specialist provider
229	Sandra Travers	Commissioning for adult services	Over £25k	Adult Services	21/08/2017			Extension of existing contract, specialist provider
230	Sandra Travers	Commissioning for adult services	Over £25k	Adult Services	21/08/2017			Extension of existing contract, specialist provider
231	Sandra Travers	Commissioning for adult services	Over £25k	Adult Services	21/08/2017			Extension of existing contract, specialist provider
232	Sandra Travers	Commissioning for adult services	Over £25k	Adult Services	21/08/2017			Extension of existing contract, specialist provider

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
234	Sandra Travers	Commissioning for adult services	Over £25k	Adult Services	21/08/2017			Extension of existing contract, specialist provider
235	Sandra Travers	Commissioning for adult services	Over £25k	Adult Services	21/08/2017			Extension of existing contract, specialist provider
236	Sandra Travers	Commissioning for adult services	Over £25k	Adult Services	21/08/2017			Extension of existing contract, specialist provider
237	Craig Williams	To provide further support to deliver and implement the Continuing Care Referral, Assessment and Decision Making Framework across the Greater Gwent Region	9,800	SCH	14/09/2017	Y	19/09/2017	Extension of existing contract, specialist provider
238	Rob O Dwyer	£600k of fire protection works, paid for by MCC on behalf of CSC Foundry Limited	600,000	RER	14/09/2017			Avoid future delays and cost increase, refurb of LG site
239	Matthew Lewis	Supply of electronic people counters (HLF grant funded) for Living Landscapes programme	14,859	ENT	19/09/2017	Y	04/10/2017	Specialist provider (compatibility with hardware and software purchased following competition from same supplier previously)

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
240	Craig Williams	Further extension of Backbone & Heart consultancy for 1 month for handover period for new Service Manager (see also 192, 209 & 215)	tbc	SCH	22/09/2017	Y	29/09/2017	Specialist provider
241	Richard Cope - PTU	Looking to award a di-minimus bus service contract which we are not required to tender but does require an exemption form be signed	tbc	OPS	27/09/2017			Exempt contract under the de minimus provisions of the Transport Act 1985
242	Victoria Camp	Extension of current contract for 2 years pending review of Waste Strategy due in 2019	40,000	OPS	27/09/2017	Y	15/11/2017	Specialist provider
243	Paul Keeble	Develop plans for an active travel crossing over River Usk between Llanfoist & Abergavenny - to appoint directly to WSP (previously Parsond & Brinkerhoff)	299,000	OPS	05/10/2017			WSP's experience & unique knowledge of the site; previously undertaken significant work at the site.
244	Craig Williams	Commission Institute of Public Care (IPC) to undertake further work in support of development of Excellent Practice in Children's Services (years 2 & 3 of implementation).	35,500	SCH	19/10/2017	Y	15/01/2018	Specialist provider - grounds for the exemption sought are in relation to IPC being re-commissioned on an urgent basis as a 'specialist provider' who will offer business continuity because of their previous involvement in the initial set up, and interim review of the change programme

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
245	Jill Edge	To appoint Beaufort Research to undertake 2017 retail footfall survey in Monmouthshire town centres.	5,795	ENT	20/10/2017	Y	26/10/2017	Specialist provider
246	Steve Lane	urgent purchase of a Salt spreader and 9CuM hopper.	<£25k	Operations	30/10/2017	Y	02/11/2017	specialist provider; current contractor can't meet demand

November 2017 to May 2018 [Exemptions 247 - 259]

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
247	Huw Jones Senior Passenger Transport Unit officer	Contract for maintenance of PTU fleet (larger vehicles & those that cannot be serviced by Transport Unit)	tbc	Operations	18/12/2017			
248	Chris Price, Highways	Extension of up to 6 months of current contract for Highways waste disposal pending re-tender	£80k	Operations	21/12/2017			
249	Chris Price, Highways	Extension of up to 6 months of current contract for safety fencing for SWTRA agency, pending re-tender	£125k	Operations	21/12/2017			

Number	Requester	Details / comment	Estimated Contract Value £	Direct-orate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
250	Colin Richings, Abergavenny Integrated Services	Detailed design for new Care Home	<£25k	SCH	04/01/2018			Specialist providers
251	Hywel Price Assistant Engineer	We require a specialist contractor to carry out some works for us on Skenfrith Bridge. The works are creating a Dam to allow us to access the structure to carry out some repairs to our structure. These works will cost in the region of £12,000. The works will be carried out by Onsite a specialist company, the repairs being carried out by our own workforce.	12,000	Operations	24/01/2018	Y	09/02/2018	The works will be carried out by Onsite a specialist company
252	Ian Hardman, Emergency Planning Manager	Purchase of specialist equipment on behalf of Gwent Local Resilience Forum. Equipment will be WAG funded and once delivered will be passed to Police for usage. Has to go through MCC as LRF not set up as an organisation that WAG can pay grants to. Equipment is for secure storage & transport of dead bodies in the event of 'mass fatality incident'.	16,646	Resources	09/02/2018	Y	22/02/2018	Specialist provider.

Number	Requester	Details / comment	Estimated Contract Value £	Direct-orate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
253	Mark Holley, Insurance & Risk	Insurance brokers (AON) renewal to keep them in line with the tender. Value approx £9k tops per year. Possible 3 year extension onto previous extension/tender	£9k per year	CEO	13/02/2018	-	-	Specialist provider.
254	Debbie Jackson	Purchase on behalf of SCH of 2 Skoda Yeti cars. These vehicles are currently leased to SCH, with leases due to expire next month. As this model is no longer in production, like for like replacements are not available, the Service has requested to take the option to buy these vehicles from the lessor using prudential borrowing. Cost based on prudential borrowing quote for 2 x £8500 vehicles for 5 years with nil residual value	17,400	Operations/SCH	27/02/2018	Y	05/04/2018	Specialist provider

Number	Requester	Details / comment	Estimated Contract Value £	Direct-orate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
255	Matthew Lewis	Summer Holiday Playscheme 2018 provision	55,000	ENT	01/03/2018	Y	08/03/2018	Specialist provider
256	Ian Bakewell	Management of Housing Register	45,000 p.a x 3 yrs [135,000]	ENT	13/03/2018	Y	27/04/2018	Specialist Provider - must be familiar with relevant legislation, local stock & geography and have established relationships with key stakeholders.
257	Nikki Wellington	Engagement of Consultant to carry out Health & Safety investigation following incident at Caldicot School	5,000	CYP	09/04/2018	Y	09/04/2018	Specialist provider available at short notice and with experience of carrying out investigation in accordance with HSE requirements and knowledge of building regulations

Number	Requester	Details / comment	Estimated Contract Value £	Direct-orate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
258	Steve Lane	looking to purchase a secondhand gritter lorry and need to exempt based on specialism and type approval please. The purchase will be through Transport on Highway's behalf	£43500 +VAT		08/05/2018	Y	15/05/2018	looking to purchase a secondhand gritter lorry and need to exempt based on specialism and type approval please. The purchase will be through Transport on Highway's behalf
259	Andrew Wathan Chief Internal Auditor	Following discussions with Chief Officers it was agreed to bring in an additional internal audit resource with significant investigation experience to support the IA team with an immediate special investigation. The request for exemption is retrospective as the investigation started on the 18-4-18	approx £10,000	Resources	31/05/2018	Y	04/06/2018	The individual has the required experience, knowledge and could start with immediate effect. Specialist knowledge /provider