

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

**DIRECTORATE: Chief Executives
MEETING: Audit Committee
DATE: 30th June 2016
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 December 2015.
- 1.2 To inform the Audit Committee of the number of waivers 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 December 2015. This report covers the period November 2015 to May 2016.

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 The following table shows the requests for exemptions from CPRs since the revised CPRs were approved by Council.

| Period | | No' of exemption requests | Cumulative |
|--------------------------------|-------------------------------|---------------------------|------------|
| 1 st April 2009 | 31 st August 2010 | 41 | 41 |
| 1 st September 2010 | 31 st August 2011 | 19 | 60 |
| 1 st September 2011 | 31 st August 2012 | 32 | 92 |
| 1 st September 2012 | 31 st March 2013 | 10 | 102 |
| 1 st April 2013 | 31 st October 2013 | 16* | 117 |
| 1 st November 2013 | 31 st May 2014 | 15 | 132 |
| 1 st June 2014 | 31 st October 2014 | 9 | 141 |
| 1 st November 2014 | 31 st May 2015 | 33 | 174 |
| 1 st June 2015 | 31 st October 2015 | 5 | 179 |
| 1 st November 2015 | 31 st May 2016 | 15 | 194 |
| * (includes 111a) and 111b)) | | | |

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.

| Period | | No' of requests | Returned to IA | Correctly authorised | Not Required | Not Returned |
|---------------------------|-------------------------------|-----------------|----------------|----------------------|--------------|--------------|
| 1 st June 2014 | 31 st October 2014 | 9 | 6 | 6 | | 3 |

- 1 form was subsequently not required
- 2 forms were subsequently returned and were correctly authorised

| | | | | | | |
|-------------------------------|---------------------------|----|----|----|-----|----|
| 1 st November 2014 | 31 st May 2015 | 33 | 22 | 22 | N/A | 11 |
|-------------------------------|---------------------------|----|----|----|-----|----|

- 11 forms were subsequently not required

| | | | | | | |
|---------------------------|-------------------------------|---|---|---|---|---|
| 1 st June 2014 | 31 st October 2015 | 6 | 4 | 3 | 2 | 0 |
|---------------------------|-------------------------------|---|---|---|---|---|

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 – November 2015 to May 2016

6.1 Of the 15 requested exemptions, 4 have not been returned to Internal Audit.

6.2 All officers who request an exemption will be reminded to return the form to Internal Audit by the Chief Internal Auditor.

6.3 10 out of 11 returned forms had been appropriately authorised. This is reassuring in that the managers who are aware of the process are following the correct process. Exemption form 193 was requested and

approved by the same officer and was signed off and dated prior to the form being sent out by the Internal Audit team.

- 6.4 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. RESOURCE IMPLICATIONS

None.

8. CONSULTEES

Head of Finance

Results of Consultation:

9. BACKGROUND PAPERS

Report to Council 2nd April 2009 – Contract Procedure Rules

10. AUTHOR AND CONTACT DETAILS

Andrew Wathan, Chief Internal Auditor

Telephone: x.4243

Email: andrewwathan@monmouthshire.gov.uk

AUDIT COMMITTEE DECEMBER 2015

CONTRACT PROCEDURE RULES - EXEMPTIONS

APPENDIX 1

**Contract Procedure Rules
Exemption Forms Log**

| | | Period | Exemption Ref |
|-----------------|----------------------|--------------------------------------|------------------|
| Report 1 | Jan-11 | April 2009 to 31 Aug 2010 | 1 – 41 |
| Report 2 | Nov-12 | September 2010 to August 2011 | 42 – 60 |
| | | September 2011 to August 2012 | 61 – 92 |
| Report 3 | May -13 | September 2012 to March 2013 | 93 – 102 |
| Report 4 | December -13 | April 2013 to October 2013 | 103 - 117 |
| Report 5 | July 2014 | November 2103 to May 2014 | 118 - 132 |
| Report 6 | December 2014 | June 2014 to October 2014 | 133 - 141 |
| Report 7 | July 2015 | November 2014 to May 2015 | 142 - 174 |
| Report 8 | December 2015 | June 2015 to October 2015 | 174 - 179 |
| Report 9 | June 2016 | November 2015 to May 2016 | 180 - 194 |
| | | | |

November 2015 to May 2016 [Exemptions 180 - 194]

| Number | Requester | Details / comment | Estimated Contract Value £ | Directorate | Date | Correctly authorised | Date Returned to Internal Audit | Reason for exemption |
|--------|------------------------------|---|----------------------------|-------------|------------|----------------------|---------------------------------|--|
| 179 | Debbie Jackson | Purchase of used 17 seater minibus for Gwent Outdoor Centres | 17,500 | Operations | 19/10/2015 | Y | 29/10/2015 | Awarded directly to the supplier for the provision of service on the basis of extreme urgency. |
| 180 | Damien Weeks | De minimis bus service contract | 29,000 pa | Operations | 15/12/2015 | Y | 14/03/2016 | Exempt contract under the de minimis provisions of the Transport Act 1985 |
| 181 | Steve Lane (via Chris Price) | Purchase of specialist recycling machine | 43,000 | Operations | 29/01/2016 | Y | 16/02/2016 | Specialist provider |
| 182 | Matthew Lewis | Procurement of litter champions (Keep Wales Tidy) for NRW grant scheme (Monmouthshire Coast Care) | 10,000 | ENT | 29/01/2016 | Y | 08/02/2016 | Specialist provider - KWT provide specialist knowledge, volunteers and training for long term community and voluntary involvement. |
| 183 | Damien Weeks | De minimis bus service contract to replace 74D/M/01/11 | 25,000 pa | Operations | 03/02/2016 | Y | 14/03/2016 | Exempt contract under the de minimis provisions of the Transport Act 1985 |

| Number | Requester | Details / comment | Estimated Contract Value £ | Directorate | Date | Correctly authorised | Date Returned to Internal Audit | Reason for exemption |
|--------|-------------|--|----------------------------|-----------------------|------------|----------------------|---------------------------------|---|
| 184 | Will McLean | Chair of a formal Domestic Homicide Review – discussed this at Public Service Board and agreed to use somebody who was local and understood the public service model in Monmouthshire. Our preferred appointment has extensive experience and has agreed to undertake the role for a very fair rate of £250 per day. I have discussed her experience with the external Home Office QA team and they were supportive. | 10,000 | Policy & Partnerships | 16/02/2016 | | | specific person for a specific role |
| 185 | Abby Barton | Website updates | 8,500 | CE - | 16/02/2016 | Y | 23/02/2016 | continuity of supplier; use of the same supplier who undertook the original work. |

| Number | Requester | Details / comment | Estimated Contract Value £ | Directorate | Date | Correctly authorised | Date Returned to Internal Audit | Reason for exemption |
|--------|-------------------------|--|---|-----------------------|------------|----------------------|---------------------------------|--|
| 186 | Will McLean | procurement of Displaced People in Action (DPIA) who have supported the integration services for the afghan interpreters | 46,500 | Policy & Partnerships | 22/02/2016 | | | only specialist provider at the time |
| 187 | Sian Hayward | First year of Abavus CRM system - will go out to test the market in next 12 months | 24,700 (Licenses 21,200 & implementation 3,500) | Operations | 23/02/2016 | Y | 23/02/2016 | Specialist provider - as part of policy looking to standardise SRS, TCBC and MCC systems |
| 188 | Clare Morgan | Specialist care package for service user | 4,000 per week | SCH | 08/03/2016 | | | Exceptional case due to risks posed by the service user |
| 189 | Chris Price / Rhys Paul | Emergency repairs to bridge over M4 motorway (SWTRA work) | 10,720 | Operations | 15/03/2016 | | | 3.3 Work required to be completed urgently due to risk to public, vehicles and serious disruption to traffic |
| 190 | Mark Holley | Insurance brokerage service | 15,000 | CEO | 01/04/2016 | Y | 18/04/2016 | Continue with AON to extend on previous 4 years. AON also provide management services in addition to brokerage, therefore even in MCC sought alternative brokerage then would still be tied into AON |

