

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

**DIRECTORATE: Chief Executives  
MEETING: Audit Committee  
DATE: 15<sup>th</sup> December 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 June 2016.
- 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 June 2016. This report covers the period June 2016 to October 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 <sup>st</sup> April 2009	31 <sup>st</sup> August 2010	41	41
1 <sup>st</sup> September 2010	31 <sup>st</sup> August 2011	19	60
1 <sup>st</sup> September 2011	31 <sup>st</sup> August 2012	32	92
1 <sup>st</sup> September 2012	31 <sup>st</sup> March 2013	10	102
1 <sup>st</sup> April 2013	31 <sup>st</sup> October 2013	16*	117
1 <sup>st</sup> November 2013	31 <sup>st</sup> May 2014	15	132
1 <sup>st</sup> June 2014	31 <sup>st</sup> October 2014	9	141
1 <sup>st</sup> November 2014	31 <sup>st</sup> May 2015	33	174
1 <sup>st</sup> June 2015	31 <sup>st</sup> October 2015	5	179
1 <sup>st</sup> November 2015	31 <sup>st</sup> May 2016	15	194
1 <sup>st</sup> June 2016	31 <sup>st</sup> October 2016	13	207

* (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.
- 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 2016 to October 2016**

- 6.1 Of the 13 requested exemptions, 5 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 8 out of 8 returned forms had been appropriately authorised. This is reassuring in that the managers who are aware of the process are following the correct process.
- 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 2<sup>nd</sup> April 2009 – Contract Procedure Rules

**10. AUTHOR AND CONTACT DETAILS**

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**AUDIT COMMITTEE DECEMBER 2016**

**CONTRACT PROCEDURE RULES - EXEMPTIONS**

**APPENDIX 1**

**Contract Procedure Rules  
Exemption Forms Log**

		Period	Exemption Ref
<b>Report 1</b>	Jan-11	April 2009 to 31 Aug 2010	1 – 41
<b>Report 2</b>	Nov-12	September 2010 to August 2011	42 – 60
		September 2011 to August 2012	61 – 92
<b>Report 3</b>	May -13	September 2012 to March 2013	93 – 102
<b>Report 4</b>	December -13	April 2013 to October 2013	103 - 117
<b>Report 5</b>	July 2014	November 2103 to May 2014	118 - 132
<b>Report 6</b>	December 2014	June 2014 to October 2014	133 - 141
<b>Report 7</b>	July 2015	November 2014 to May 2015	142 - 174
<b>Report 8</b>	December 2015	June 2015 to October 2015	174 - 179
<b>Report 9</b>	June 2016	November 2015 to May 2016	180 - 194
<b>Report 10</b>	December 2016	June 2016 to October 2016	195 - 207

## June 2016 to October 2016 [Exemptions 195 - 207]

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
195	Mark Holley	Passing immobile property recovery work to third party (OPUS), who are no win no fee. OPUS are existing supplier. Existing arrangement is invoicing in house (Highways undertake work and invoice).	10% of whatever spend (Highways Repairs - OPUS to retain 10% "no win no fee"	CEO	06/07/2016			
196	Mark Hand	Update key elements of the Monmouthshire Retail & leisure Study. Provider has specialist and extensive knowledge of the area and compiled the 2010 report.	14,150	I&E	15/07/2016	Y	19-8-16	
197	Craig Williams	Specialist provider developing long term, practice led improvement in Children's Social Services	£7,584	SCH	02/08/2016	Y	10/08/2016	Re-commissioning of IPC to extend recent contract work to further develop statement of intent for children's social services and model of social work practice. Use of specialist existing supplier IPC would enable urgent completion of work without disruption to services.

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
198	Ian Hoccom	Access to compliant dynamic purchasing system for construction, operation & maintenance of solar farms	£25,000	Resources	22/08/2016	Y	24/08/2016	Public Power Solutions service chosen for reasons of specialism, cost, exposure to market and experience of delivering within tight timescales.
199	Jane Rodgers	Member of staff deliver business case aims with regards to fostering	£39,000	SCH	Not known	Y	16/09/2016	Due to member of staff being commissioned on an urgent basis as a 'specialist provider'.
200	Rachel Jowitt Waste Strategy & Resources Manager	to procure My Council Services module to support garden waste	£23,000	Regen & Culture	27/09/2016			
201	Steve Lane	to procure second hand Unimog vehicle to replace one which is uneconomical to repair	c. £40,000	CEO	28/09/2016	Signed by R Hoggins	03/10/2016	Specialist provider (rare vehicle specification, unlikely to have opportunity to buy >1 of similar age/condition/mileage).
202	Steve Lane	Trial of Archway Roadmaster, a one man pothole repair system	c. £13,000	CEO	17/10/2016	Yes	20/10/2016	Specialist provider (only known provider of this system)

Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
203	Matthew Lewis	Services of biodiversity consultant for temp period to supplement internal resources	£9,972	ENT	17/10/2016	Y	28/10/2016	Specialist provider (expert knowledge & short term contract)
204	Will McLean	additional resource to review, redesign and re-provide our Additional Learning Needs services. The market in Wales is exceptionally limited and the policy divergence with England has further reduced the available pool of expertise.	O/S	CYP	21/10/2016			
205	Nicola Edwards	Commissioning of a web developer to upgrade the visitmonmouthshire.com website to a fully responsive template with funding secured from Welsh Government. There is a need to commission the existing supplier so we can continue to access / update the Wales Tourism Product Database for which we're a data steward	£32,500 (over 3 yrs)	ENT				



Number	Requester	Details / comment	Estimated Contract Value £	Directorate	Date	Correctly authorised	Date Returned to Internal Audit	Reason for exemption
206	Jane Rodgers	Specialist fostering consultant for Children's Services. The grounds for the exemption sought are in relation to The Pollen Shop being commissioned on an urgent basis as a 'specialist provider'. The Pollen Shop are being asked to provide 'urgent' additional support, to increase the pool of specialist foster carers in Monmouthshire and to ensure that the full financial and operational benefits of the project are achieved in a timely manner.	£10,560	SCH	28/10/2016	Y	01/11/2016	Specialist Provider and urgent
207	Damien Weeks	Looking to award a di-Minimis bus service contract which we are not required to tender but does require an exemption form be signed	tbc	CEO	31/10/2016			