

Meeting:	Audit and governance committee
Meeting date:	Wednesday 28 November 2018
Title of report:	Update to financial procedure rules and contract procedure rules
Report by:	Chief Finance Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To approve the updated financial procedure rules attached at appendix 1 and contract procedure rules at appendix 3.

To ensure council financial and contract procedure rules are up to date and provide clarity of roles, accountabilities and process in order to ensure transparency about how public resources are used and to mitigate the potential for fraud.

Summary of financial procedure rules changes:-

- a. Approval for spend without an order must be obtained from either a deputy finance officer (if below £500,000) or the chief finance officer (where in excess of £500,000)
- b. Clarification on approval required for budget virements.
- c. Confirmation non-compliance may be a disciplinary matter.
- d. Confirmation that the council prohibits the use of electronic payment facilities such as PayPal (unless specific authority has been obtained).

Summary of contract procedure rules changes:

- e. To allow the process for obtaining quotations in some instances to be obtained without utilising the e-tendering portal.

Recommendation(s)

That:

- (a) The financial procedure rules attached at appendix 1 be approved; and
- (b) The contract procedure rules at appendix 3 be approved.

Alternative options

1. The council could continue with its current financial and contract procedure rules; however they would then not be up to date or provide clarity of roles and processes.

Key considerations

Financial procedure rules

2. The financial procedure rules, forming part of the council's constitution, were approved in May 2017.
3. The rules (at appendix 1) have been substantially changed having regard to the design principles for a refreshed constitution which were approved by council in December 2016, and which sought to ensure that:
 - a) Members and officers perform effectively in clearly defined functions and roles;
 - b) Member engagement and participation is maximised, including the involvement of all members in the development of key policies;
 - c) Decision making is informed, transparent and efficient; and
 - d) The council welcomes public engagement and makes accountability real.
4. The format has been revised to separate the rules from the accompanying guidance, as had already been the case with the contract procedure rules. The revisions and changes will enable officers to work effectively and efficiently and to ensure controls are in place against financial risk. The key changes proposed are summarised below:
 - a. Approval for spend without an order must be obtained from either a deputy finance officer (if below £500,000) or the chief finance officer (where in excess of £500,000)
 - b. Clarification on approval required for budget virements, shown below:-

Value	Approval required	Required to obtain consent from
Up to £100,000 – within a directorate	Spend Manager(s)	Finance Manager
Up to £100,000 – across directorates	Director / assistant director or head of service	Finance Manager
Between £100,001 & £250,000 – within a directorate	Budget holder	Chief finance officer
Between £100,001 & £250,000 – across a directorate	Director / assistant director or head of service	Chief finance officer and Portfolio holder
Between £250,001 & £500,000 – within a directorate	Director / assistant director or head of	Deputy S151

	service	
Between over £250,001 – across directorates	Director and Portfolio holder receiving budget	Chief finance officer, directors and Portfolio holders reducing budget
Over £500,001 – within a directorate	Director	Chief finance officer and Portfolio holder

- c. Treasury management section is a new section added, confirming requirements as defined in the Prudential Code and the responsibility of the chief finance officer.
 - d. Confirmation that non-compliance with the rules may be a disciplinary matter.
 - e. New reference to capital budget setting and control, in line with the existing capital guidance policy as approved by the Capital Strategy Project Board and issued in September 2018.
 - f. Confirmation that the council prohibits the use of electronic payment facilities such as PayPal (unless specific authority has been obtained).
 - g. A new section is included for earmarked reserves that confirms that the level of reserves for the next three years will be reviewed at least annually as part of the annual budget setting cycle.
5. The financial procedure rules will be published on the council website and intranet as part of the council's constitution.
 6. The finance procedure rules will be communicated as part of the induction programme and included in financial training provided. Compliance will be monitored and reported as part of the annual governance process.

Contract procedure rules

7. There are two amendments (attached at appendix 3) proposed to the contract procedure rules.
8. These are recommended to Clauses 4.6.11 and 4.6.23 of Section 6 of the Contract Procedure Rules, the detail is provided in the appendix and summarised below:-
 - a. To vary clause 4.6.11 to allow the process for obtaining quotations in some instances to be obtained without utilising the e-tendering portal subject to agreement by the relevant commercial team Category Managers. Current experience suggests that some quotation processes would be most efficiently delivered through a quotation process which does not utilise the council's e-tender portal. Examples include particularly specialist services, one off services or simple low value/low risk services where suppliers may not yet have joined the portal supplier database. By operating a simple quote process by email (or other form not currently identified) this will simplify the quotation process significantly. However this approach should be seen as the exception rather than the rule due to inherent risks of using email particularly as a mechanism to receive quotes hence approval to utilise these approaches should ultimately come from Category Managers. The recommended amendments ensure that design principles a) and c) are adhered to by making clear what process officers must comply with and ensuring that the process is efficient.

- b. To delete clause 4.6.23 (which currently states “Admissions agreements and TUPE. To be inserted.”). Compliance with admissions agreements and TUPE legislation is not a matter for the procedure rules but will be addressed within the guidance documentation when it is next updated.
9. The contract procedure rules will be communicated as part of the induction programme and included in procurement training provided by the Commercial Services team. Compliance will be monitored and reported as part of the annual governance process.

Community impact

10. In accordance with the adopted code of corporate governance, Herefordshire Council must ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. Effective financial management, risk management and internal control are important components of this performance management system.
11. To ensure clear and transparent processes are in place to govern how resources of the council are effectively managed supports the council’s corporate plan objectives to manage finances effectively and to demonstrate one of the council’s values, namely to be open, transparent and accountable.

Equality duty

12. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
13. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

14. The proposed revisions to the financial and contract procedure rules are designed to ensure that the council complies with all of the relevant financial regulations which govern the council’s financial conduct and ensures that the council follows effective processes.

Legal implications

15. The council must prepare and keep up to date a constitution in accordance with s37 of the Local Government Act 2000. The minimum requirements for the content are set out in The Local Government Act 2000 (constitutions) (England) Direction 2000 which includes a description of the rules and procedures for the management of the council's financial affairs including: procedures for auditing and financial rules. These are the rules that officers follow in the day to day operation of the council set within this council's budget and statutory framework of local government finance.
16. The committee's delegation of the approval of the finance and contract procedure rules within constitution was effective on 1 January 2017 following council's decision on 16 December 2016.

Risk management

17. The current regulations and standing orders are out of date, in some places, and this creates potential for confusion, errors and misunderstandings. Updating the rules will attempt to deal with these issues and problems and ensure that the council continues to have sound financial management policies in place.
18. There is a risk that officers may be unaware of the new rules, which will be mitigated by communication of the changes and a training programme for relevant officers.

Consultees

19. None

Appendices

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|------------|---------------------------------------------|
| Appendix 1 | Updated financial procedure rules |
| Appendix 2 | Financial procedure rule guidance notes |
| Appendix 3 | Tracked changes to contract procedure rules |

Background papers

None identified