

<b>Meeting:</b>	<b>Audit and governance committee</b>
<b>Meeting date:</b>	<b>Tuesday 28 January 2020</b>
<b>Title of report:</b>	<b>Contract and finance procedure rules update</b>
<b>Report by:</b>	<b>Chief finance officer</b>

## **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 5. The rules were last updated and approved by the committee in November 2018.

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.

## **Recommendation(s)**

**That:**

- (a) The financial procedure rules attached at appendix 1 be approved; and**
- (b) The contract procedure rules at appendix 5 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

### Finance procedure rules

2. The financial procedure rules attached at appendix 1 have been updated to:-
  - a) Provide different spend approvals for capital spend. The previous rules did not differentiate between capital and revenue spend. It is proposed that capital spend is approved by the corporate project manager responsible for the delivery of the capital project. This ensures one spend control point exists for each capital scheme.
  - b) That where a service area submits a bid for external funding they must have approval from management board and the relevant cabinet member prior to submission.
  - c) The rules also now state that where a service area submits a bid for external funding they must have approval from management board and the relevant cabinet member prior to submission. Directors can provide approval for bids for less than £5,000. In addition the Chief Finance Officer shall be consulted on, and certify if necessary, any application for grant or external funding.
  - d) The rules are being amended to enable the approval of capital spend ahead of receiving anticipated S106 income. The approval process for this is the same as any new capital scheme due to the need to find alternative funding sources if the S106 monies are never received.
  - e) The summary table has been updated to highlight existing rules for spending from reserves and when selling goods that are no longer required. Spending from reserves requires approval from the Chief Finance Officer and reporting to Cabinet. For the sale of goods, where the receipt is expected to be up to £2,000 then director or assistant director approval is required, if between £2,001 and £10,000 then deputy S151 officer approval is required and where over £10,001 then the chief finance officer's approval is required.
  - f) Other minor changes are to provide clarity that the budget virements rules apply to revenue budgets only and that all Chief Finance Officer direct reports can approve payments without an order up to £500,000 (previously this ability was restricted to Deputy S151s).
3. The changes are shown as tracked changes in appendix 2.
4. The financial procedure rules guidance notes, attached at appendix 3, with tracked changes at appendix 4, have been expanded to confirm the existing requirements of partnership arrangements. This is that partnerships must comply with the council's framework for partnership governance and a supporting assurance self-assessment process must be completed. The guidance note also now include reference to the existing requirement that all staff must have regard to the Council's Anti-Money Laundering Policy and Anti Bribery and Corruption Policy. The guidance also includes that the Chief Finance Officer shall be informed of the purpose and nature of all voluntary funds maintained or managed by any officer in the course of their duties with the Council. Voluntary funds are any fund which is held or controlled by the Council as trustee for the benefit of a third party and/or for a specified purpose. Such funds may be administered solely, or in part, by an officer by reason of his or her employment with the Council.
5. The most substantial change to the finance procedure rules is in respect of capital expenditure where the authority to approve spend is moving from budget holders to

corporate project managers. This rule will apply to all new capital projects immediately however for capital projects already underway the change will be phased as the approval authority is transitioned to the new corporate project manager. This process is expected to take approximately six months to complete. During this time mandatory training on capital projects will be cascaded throughout the organisation as appropriate. The update will also be communicated to all staff members via news core.

6. The council is responsible for obtaining value for money through the economic, efficient and effective use of its funds and assets. This duty is not included explicitly as a financial procedure rule due to its subjective nature and its requirement to be determined at the specific individual circumstance. It is therefore at the discretion of the chief finance officer to provide guidance on determining how the value for money assessment will be carried out and whether or not the council is required to commission an independent organisation to provide assurance.
7. The financial procedure rules will be published on the council website and intranet as part of the council's constitution. 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**

8. The contract procedure rules (CPRs) attached at appendix 5, with tracked changes at appendix 6, have been updated as follows:
  - a) EU Procurement thresholds updated to reflect national changes taking effect in January 2020.
  - b) Authority to award contracts now reserved for assistant director and above in line with chief executive's scheme of delegation.
  - c) The section addressing authority to conduct a procurement activity has been updated to include authority to terminate any contract during the contract period, to enable early contract terminations to be duly authorised.
  - d) To enable decision makers to have documented record of options considered, the rules have been clarified to such that officers appropriately document specifications and options considered including procurement options at the start of any procurement activity.
  - e) To minimise risk of procurement challenge, the rules are updated to indicate that officers leading procurement activities are appropriately trained or experienced in undertaking the task allocated.
  - f) Blanket waivers have been removed, as this is considered unnecessary due to being adequately covered by the main exemption clauses of the CPRs
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 and 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 decision is in regarding a procedural change to provide clarity of roles and processes, 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 current relevant financial regulations which govern the council's financial conduct in relation to procurement and ensures that the council follows effective local financial 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.

## **Risk management**

16. 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.
17. 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**

18. None

## **Appendices**

Appendix 1	Updated financial procedure rules
Appendix 2	Updated financial procedure rules with tracked changes
Appendix 3	Updated financial procedure rules guidance notes
Appendix 4	Updated financial procedure rules guidance notes with tracked changes
Appendix 5	Updated contract procedure rules
Appendix 6	Updated contract procedure rules with tracked changes

## **Background papers**

None identified