

additional papers 1

Executive Committee

Wed 2 Dec
2009
7.00 pm

Committee Room 2
Town Hall
Redditch



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Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

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Do Not stop to collect personal belongings.

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Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



Executive

Committee

2nd December 2009

7.00 pm

Committee Room 2 Town Hall

<p>4. Neighbourhood Groups Task and Finish Group Recommendations</p> <p>(Pages 49 - 60)</p> <p>Neighbourhood Groups Task and Finish Group</p>	<p>To consider the recommendations put forward by the Neighbourhood Groups Task and Finish Group.</p> <p>(Report attached)</p> <p>All Wards</p>
<p>8. Procurement Strategy and Corporate Procedure Rules</p> <p>(Pages 61 - 100)</p> <p>Head of Legal, Democratic and Property Services, Head of Strategy and Partnerships</p>	<p>To consider the adoption of a revised Procurement Strategy and Contract Procedure Rules.</p> <p>(Report attached)</p> <p>(No Direct Ward Relevance)</p>

Executive Committee

All wards

2nd December 2009

4. NEIGHBOURHOOD GROUPS TASK AND FINISH GROUP – EXECUTIVE SUMMARY

(Report of Councillors Banks, Enderby, Pearce and Thomas)

1. Purpose of Report

The purpose of this report is to inform the Executive Committee of the final recommendations that have been made by the Neighbourhood Groups Task and Finish Group.

2. Recommendations

The Committee is asked to **RECOMMEND** that

- 1) the Neighbourhood Groups are not now fit for purpose and should be discontinued;
- 2) the Partners and Communities Together (PACT) group meetings should be re-launched and delivered as an equal partnership arrangement;
 - a) Redditch Borough Council should work with the Police and other local agencies participating in Partners and communities Together (PACT) to agree funding and administration for PACT meetings;
 - b) a protocol should be jointly developed outlining the roles and responsibilities of all agencies in the re-launched Partners and Communities Together Groups;
 - c) the Chairs of all Partners and Communities Together meetings should be independent members of the community;
 - d) promotion of the re-launched Partners and Communities Together (PACT) meetings should be appropriately targeted towards clarifying the meaning of the new arrangements for residents living in areas where PACT and Neighbourhood Group meetings currently only take place on the same night;
 - e) there should be small, local budgets for each of the re-launched Partners and Communities Together groups which could be spent at the discretion of the group;

- 3) the Neighbourhood Groups also be replaced with a further variety of methods that will enable Redditch Borough Council to inform and consult more effectively with local residents;

these alternative methods should include the following:

- a) the Council should publish quarterly editions of Redditch Matters during the year to inform residents about local public services, activities and Council business;
 - b) Redditch Borough Council should continue to host road shows throughout the Borough;
 - c) Redditch Borough Council should embrace the Worcestershire Viewpoint Citizens Panel and use every opportunity to work with the Panel to consult with residents over local issues;
 - d) the Council should promote web based systems, such as the Worcestershire Hub and FixMyStreet, that can be utilised to resolve residents' individual issues;
 - e) social networking should be used by the Council to inform and consult with residents in appropriate circumstances;
 - f) the use of Councillor Calls for Action be promoted in order to be used to resolve local neighbourhood issues;
 - g) more effort should be made by the Council to advertise the fact that residents should resolve individual issues through direct contact with Councillors, Officers and the One-Stop-Shops;
 - h) the Council should work in equal partnership with the Police and other local agencies to advertise Street Briefings and Environment Visual Audits to local residents;
- 4) Redditch Borough Council should continue to seek ways to better engage and consult with a more diverse range of residents;
- 5) the Council should have a robust monitoring system in place to assess the effectiveness of each of the mechanisms used to inform, engage and consult with local residents;

- 6) **the Community Forum and similar groups which engage and consult with local residents should report to the Executive Committee; and**
- 7) **the Council should have a central electronic database which would be used for the purposes of consultation with key partners in the Borough.**

3. Objectives of the Review

- 3.1 Our review was established in June 2009. The Group consisted of four Members: Councillor Banks who chaired the Group; and Councillors Enderby; Pearce; and Thomas.
- 3.2 We were commissioned to undertake this review of the Council's Neighbourhood Groups by the Overview and Scrutiny Committee. We were specifically tasked with reviewing how the Neighbourhood Groups were operating and whether this corresponded with their purpose; determining whether the Neighbourhood Groups represented value for money; and considering whether alternative consultation methods would be more effective.
- 3.3 The review was considered to be a timely exercise. Central government is increasingly encouraging local authorities to actively engage residents and other local stakeholders over developments in service delivery and local decision making. Indeed, Section 138 of the Local Government and Public Involvement in Health Act 2007 introduced a duty to involve, requiring local authorities to involve local representatives persons where appropriate. In this context, a review of the continuing viability of the Neighbourhood Groups as a local consultation mechanism was considered important.

4. Methods and Activities

- 4.1 We interviewed relevant Officers from Redditch Borough Council to develop an understanding of the existing Neighbourhood Groups process. We also interviewed the leaders of each of the political party groups represented on the Council to develop an understanding of the political perspectives towards the process and alternative consultation methods that could be utilised by local authorities.
- 4.2 At an early stage we sought to establish the purpose of the Neighbourhood Groups as we understood that this would help to inform our assessment of the ongoing viability of the process. In order to achieve this we questioned our interviewees about what they perceived to be the purpose of the Neighbourhood Groups. We also circulated a questionnaire amongst Borough Councillors, County Councillors, local Police Officers and relevant Council Officers which

asked recipients to outline their views of the purpose of the Neighbourhood Groups.

- 4.3 Based on the information gathered from these expert sources we concluded that the purpose of the Neighbourhood Groups was to provide a forum where the Council could: inform residents and other stakeholders about Council business, including policies and developments in service delivery; engage with residents and other stakeholders over the needs of local communities; and consult with residents and other stakeholders over policies, developments in service delivery and local decision making.
- 4.4 However, we concurred that unfortunately the Neighbourhood Groups were failing to meet this purpose. Evidence gathered during the course of our review indicated that a consistently low number of people attended Neighbourhood Group meetings. Moreover, the residents attending Neighbourhood Group meetings were overwhelmingly white and either middle-aged or elderly. (For further information please view Appendix E, pp 89-95, in the Neighbourhood Groups Task and Finish Group Final Report). Under these circumstances the Neighbourhood Groups failed to enable the Council to inform, engage or consult with a representative sample of local residents.
- 4.5 The evidence provided by expert witnesses indicated that there was a lot of duplication over the types of items that were considered at Neighbourhood Group meetings and at Partners and Communities Together (PACT) meetings, which are similar public meeting arrangements which take place in the Borough. Many respondents though considered the PACT meetings to be more effective than the Neighbourhood Group meetings: the items which were prioritised during PACT meetings were quickly listed on the West Mercia Police website alongside information about the action taken to resolve the issues.
- 4.6 We interviewed Inspector Ian Joseph, a senior representative of the West Mercia Police, to obtain an understanding of a key partner's view of the Neighbourhood Groups and opportunities to enhance the ability of local public service organisations to engage with residents through partnership working. It was during this meeting that the suggestion was made that the Partners and Communities Together meetings, by involving all partners working together to resolve issues of concern to the local population, could be re-launched as the primary local meeting arrangement. In this context the Neighbourhood Groups would no longer be required.
- 4.7 We also concluded that additional consultation mechanisms could be used by the Council to more effectively engage with residents. In particular, we felt that it was important for the Council, and the Council's partner organisation, to utilise a range of methods as this

could enable the Council to interact with a more diverse and representative sample of the local population.

- 4.8 As a group we recognised that our proposals would have significant implications for local residents, particularly for those residents who have regularly attended Neighbourhood Group meetings in previous years. We therefore consulted widely with residents over our initial proposals by circulating information about our review amongst residents for whom we had contact details and attending the October round of Neighbourhood Group meetings to present our proposals. The feedback provided by residents was largely supportive of our proposals and informed our final recommendations.

5. Recommendations – Further Details

- 5.1 More detailed information about each of the recommendations has been provided in the Neighbourhood Groups Task and Finish Group – Final Report. However, some brief details are also provided in this Executive Summary:

- 1) **The Neighbourhood Groups are not now fit for purpose and should be discontinued.** (For further information about recommendation 1 please refer to pp 28-29 of the Neighbourhood Groups Task and Finish Group Final Report).

- 5.1.1 During the course of our review we assessed the number of residents who had attended Neighbourhood Group meetings for which figures were available, from February 2007 – February 2009. Unfortunately this analysis revealed that less than 2 per cent of the population attended Neighbourhood Group meetings.
- 5.1.2 Many of the Councillors, Officers and residents who were consulted during the course of our review commented that the Neighbourhood Groups were not working effectively. Typically it was suggested that: few items were resolved following Neighbourhood Group meetings; often personal issues were raised which could have been resolved more quickly if they had been referred directly to relevant Officers or Councillors at an earlier stage; and many of the issues discussed were not within the remit of the Council to resolve or required work from more than one organisation.
- 5.1.3 Despite these problems Redditch Borough Council continued to invest £62,210 per year to support the three Neighbourhood Group meetings which took place in thirteen locations across the Borough. In particular, significant expenditure of £43,690 was allocated to central support

service costs, or the indirect costs involved in providing Officer support for the process.

- 5.1.4 We concluded that due to the small number of residents attending meetings the Neighbourhood Groups were not effectively meeting their purpose to inform, engage and consult with residents. Furthermore, we agreed that the continuing expenditure on the Neighbourhood Groups, when attended by so few residents, could not be justified as cost effective. We therefore believe that the Neighbourhood Groups should be discontinued.

2) The Partners and Communities Together (PACT) group meetings should be re-launched and delivered as an equal partnership arrangement. (For further information about recommendations 2-2e please refer to pp 30-45 of the Neighbourhood Groups Task and Finish Group Final Report).

- 5.2.1 As a group we did recognise that local public meetings remained important to many people. Indeed, during our consultation process many residents commented that they appreciated local meetings because it provided them with an opportunity to meet with local officials face to face. However, we believed that this requirement could be met through the delivery of one rather than two local public meeting arrangements.
- 5.2.2 We believe that a re-launch of the Partners and Communities Together process would be appropriate because it would challenge unfortunate existing perceptions that this is a Police only process. The West Mercia Police have indicated that they are as keen as we are to ensure that all relevant stakeholders understand that Partners and Communities Together is designed to address local problems through partnership working.
- 5.2.3 The Council has signed up to the Redditch Sustainable Community Strategy. This strategy commits the Council to a vision for 'Redditch to be successful and vibrant with sustainable communities built on partnership and shared responsibility'. We believe that by committing to a re-launch of the Partners and Communities Together process the Council would demonstrate its commitment to partnership working.
- 5.2.4 However, we do not feel that the exact arrangements for delivering the re-launched Partners and Communities Together process can be specified by us as a Group. Instead, we feel that these arrangements would need to be the subject of more detailed negotiations between the relevant partners that would be represented on the re-launched process. We

have, however, made a number of suggestions for the consideration of those partners, which are detailed in our final report (pp 31-45).

5.2.5 We further believe that Council investment in the re-launched Partners and Communities Together process would represent greater value for money for the people of Redditch than investment in the Neighbourhood Groups. Indeed, following the discontinuation of the Neighbourhood Groups we would anticipate that the Council would make considerable savings even whilst investing in the re-launch of the Partners and Communities Together process. However, we do not feel that we can specify the extent of the financial savings that would be made or the amount that the Council would need to invest in the re-launched Partners and Communities Together process as this would be subject to the outcomes of negotiations between the relevant partner organisations.

3) The Neighbourhood Groups also be replaced with a further variety of methods that will enable Redditch Borough Council to inform and consult more effectively with local residents. (For further information about recommendations 3-3h please refer to pp 46-64 of the Neighbourhood Groups Task and Finish Group Final Report).

5.3.1 We believe that there are a variety of measures that can be used by the Council to more effectively inform, engage and consult with residents than the Neighbourhood Groups. Some of the activities which we think have the potential to be particularly effective are already implemented or must be made available by local authorities in accordance with legislative requirements. However, we are concerned that these measures, such as Councillor Calls for Action and Street Briefings, are not recognised by many people and therefore need to be more actively promoted.

5.3.2 We consulted with residents over many of the alternative mechanisms which we are proposing should be used by the Council. Significant support was expressed by residents for the following measures: Citizens Panels; Councillor Calls for Action; Environment Visual Audits; FixMyStreet; road shows and Street Briefings.

5.3.3 We also consulted with the Redditch Student Council to obtain further information about how younger people would prefer to communicate with the Council. They were unanimous in their view that the Council should utilise Facebook to engage with younger people.

5.3.4 We are aware that some concerns have been expressed by a number of residents that increasingly organisations are using IT methods to interact with the public, although not all residents have access to the internet. Whilst we are recommending that web based facilities, such as FixMyStreet, should be promoted by the Council and social networking should be undertaken by the Council to interact with residents, this only forms one part of our package of proposals. We feel that the opportunities provided through using IT facilities should be utilised alongside and not at the expense of face to face interaction and traditional forms of written communications.

4) Redditch Borough Council should continue to seek ways to better engage and consult with a more diverse range of residents. (For further information about recommendation 4 please refer to pp 65-66 of the Neighbourhood Groups Task and Finish Group Final Report).

5.4.1 During the course of our review it has become clear that consultation processes are constantly evolving. Measures which may have effectively enabled the Council to inform, engage and consult with residents at one time might no longer be effective a few years later.

5.4.2 We believe that increasingly developments in technology, particularly information technology, will enable people to develop new communications tools. This should facilitate more efficient and convenient forms of engagement for future years.

5.4.3 The Council needs to be able to respond to these changes so that it can make use of new opportunities as and when they arise. This will ensure that the Council continues to remain familiar with the needs of our communities and will enhance the local authority's ability to comply with the responsibilities set out in the duty to involve.

5) The Council should have a robust monitoring system in place to assess the effectiveness of each of the mechanisms used to inform, engage and consult with local residents. (For further information about recommendation 5 please refer to pp 67-68 of the Neighbourhood Groups Task and Finish Group Final Report).

5.5.1 In the current economic climate there are scarce resources available to local authorities and their partner organisations and this situation is set to continue for the foreseeable future. Public service organisations must ensure that public spending addresses local needs and leads to the best possible outcomes for local communities. In this context we believe that any mechanisms which are utilised by the Council to

inform, engage and consult with residents should be robustly monitored to ensure that they remain fit for purpose.

5.5.2 We are aware that there was no standard system in place to monitor the effectiveness of the Neighbourhood Groups. Instead, the impact of the groups on local communities was assessed on an ad hoc basis. We think that this prevented the Council from taking action to address the shortcomings of the Neighbourhood Groups at an earlier date.

5.5.3 The impact and implementation of our recommendations, if approved, will be monitored by the Overview and Scrutiny Committee in due course. However, the scrutiny monitoring process is limited to one or two meetings. We feel that robust, standard monitoring arrangements will also be required in the long-term to review the ongoing effectiveness of all the consultation measures utilised by the Council.

6) The Community Forum and similar groups which engage and consult with local residents should report to the Executive Committee. (For further information about recommendation 6 please refer to pp 69-70 of the Neighbourhood Groups Task and Finish Group Final Report).

5.6.1 The Community Forum was designed to act as a critical friend to Redditch Borough Council in relation to equalities issues. Members of the Community Forum are consulted over the equalities implications of local strategies and policy changes as a standard part of the Council's consultation process.

5.6.2 We believe that the Community Forum is an important initiative. Through interacting with members of the Forum the Council is able to engage with representatives of groups who have traditionally proved hard to reach.

5.6.3 However, we have some concerns about the current operation of the Community Forum. We feel that work needs to be undertaken to strengthen the Forum's governance arrangements so that there can be greater transparency in relation to the work of the Forum and the contribution that it makes to policy development and decision making at the Council.

5.6.4 We believe that the governance arrangements of the Redditch Community Forum should be organised so that it reports directly to the Council's Executive Committee. Meetings of the Executive Committee are open to public attendance and minutes of Executive Committee meetings are published on the Council's website. In this context, all interested parties could

view information about the contribution that has been made by the Forum to policy development and local decision making.

- 7) The Council should have a central electronic database which would be used for the purposes of consultation with key partners in the Borough.** (For further information about recommendation 7 please refer to pp 71-72 of the Neighbourhood Groups Task and Finish Group Final Report).

5.7.1 There is currently no central Redditch Borough Council database of contact details for residents which could be utilised for consultation purposes. Instead, there are a number of different contact lists which are used for specific purposes, such as the distribution list for the Neighbourhood Groups. Access to these distribution lists is not provided across the Council but rather to Officers working in specific service areas.

5.7.2 We feel that this situation is untenable in an environment where the duty to involve requires local authorities to actively engage with local representatives over Council business wherever appropriate. Moreover, we believe the number of residents who provided their contact details for use in future consultation processes during the course of the 2009 road shows clearly demonstrated that there was some willingness amongst residents to engage with the Council.

5.7.3 A central electronic database could amalgamate the contact details from the different distribution lists to create a larger distribution list. We recognise that if this action was to be approved permission would need to be obtained to do so and it would need to be undertaken in accordance with data protection rules set out in the Data Protection Act 1998.

5.7.5 We also recognise that any central database would need to be carefully managed. Contact details should only be accessed for the purposes which have been permitted by the resident or business contact. We believe that a similar method should be used to that which has been implemented to manage use of the contact details provided during the road show events. For that process a senior Officer, in consultation with the Leader of the Council, manages access to the data.

6. Conclusion

We believe that Redditch Borough Council must ensure that the methods it uses to inform, engage and consult with residents are fit for purpose both for the present and for the future. We have reached the conclusion that alternative mechanisms would enable the Council, together with the Council's partner organisations, to more effectively interact with residents than the Neighbourhood

Groups. Indeed, we believe that the alternative arrangements we have proposed will be more cost effective and widely appreciated by a more diverse section of the local community.

7. Background Papers

The Neighbourhood Groups Task and Finish Group Report. (A comprehensive Bibliography of the sources that were scrutinised during the course of the review have been provided in this document).

8. Consultation

There has been extensive consultation with representatives of external bodies and with the public. (For further information about the consultation that took place as part of this review please refer to pp 24-27 of the Neighbourhood Groups Task and Finish Group Final Report).

9. Author of Report

The authors of this report are the Chair of the Neighbourhood Groups Task and Finish Group, Councillor Kath Banks, and Councillors Enderby, Pearce and Thomas. Further information about this report can be obtained from Jess Bayley, (Overview and Scrutiny Support Officer) who can be contacted on extension 3268 or e.mail: jess.bayley@redditchbc.gov.uk .

Executive Committee

None Specific Ward Relevance

2nd December 2009

DRAFT REVISED PROCUREMENT STRATEGY AND CONTRACT PROCEDURE RULES

(Report of the Acting Deputy Chief Executive and the Head of Legal,
Democratic and Property Services.

1. Summary of Proposals

To seek the adoption of a revised Procurement Strategy and
Contract Procedure Rules.

2. Recommendations

The Committee is asked to **RECOMMEND** that

- 1) the draft Procurement Strategy for 2009-12 at Appendix 1 be adopted; and
- 2) the draft Contract Procedure Rules at Appendix 2 be adopted.

3. Financial, Legal, Policy, Risk and Sustainability Implications

Financial

- 3.1 The revised strategy will improve the way in which the Council acquires or commissions goods, services and works with resulting improved quality and revenue savings. Procurement is a key aspect of Value for Money and any savings achieved through effective procurement can count towards the Council's efficiency targets, our Use of Resources assessment and meeting National Indicator targets. National indicator 179 (NI 179) is defined as: the total net value of ongoing cash-releasing Value for Money gains that have impacted since the start of the 2008-09 Financial Year

Legal

- 3.2 The draft Procurement Strategy provides an overarching framework for the Council's approach to procurement, and takes into account the need to ensure value for money and compliance with legislation and guidance.

The Council is required by Section 135 of the Local Government Act 1972 to make Standing Orders with respect to how the Council contracts for goods, services or works. The Contract Procedure

Rules have to include provisions to ensure that there is competition for contracts and for regulating the way in which Quotations and Tenders are invited. They can make exemptions for contracts below European Union (EU) Thresholds and can authorise the Council to grant exemptions where it is satisfied that there are special circumstances

Policy

- 3.3 The Council's current Procurement Strategy was adopted on 7th August 2006. There is a need to revise and update the Strategy to ensure that it complies with current legislation and guidance and places the Council in the best position to carry out effective procurement.

Risk

- 3.4 The Council could be at risk of failing to carry out its procurement in an efficient manner if the revised Procurement Strategy is not adopted. There is also the risk that the Council would be acting unlawfully if it failed to have in place contract procedure rules that take into account current legislative requirements. Having a clear Procurement Strategy and Procedure Rules help to minimise the risk of Officer non-compliance and to clarify the Council's procurement strategy and processes for businesses and service providers who may bid for the Council's contracts

Sustainability / Environmental

- 3.5 Through the Council's clean and green corporate objective, the Council is committed to improving its sustainability performance and reducing its impact on the environment and climate change. The sustainability of our procurement process is key to achieving this aim and the Strategy will help to ensure that procurement is carried out in a sustainable way that helps to meet the Council's climate change objectives. For example, consideration will be given to reflecting the Council's sustainability objectives and requirements in the pre-qualification questionnaire and tender documents as appropriate, and encouraging suppliers to adopt sustainable practices.

Report

4. Background

- 4.1 The Council carries out a wide range of procurement and spends considerable sums of money procuring goods, works and services. In order to ensure that Officers carry out procurement in such a way

that it helps to meet the Council's objectives, there is a need to revise and update the Council's current Procurement Strategy.

- 4.2 The Council's Contract Procedure Rules sit alongside the Procurement Strategy. These set out in more detail how procurement should be carried out by Officers and form part of the Council's Constitution.

5. Key Issues

- 5.1 The Strategy aims to set a clear framework and way forward for procurement throughout the Council through the adoption of efficient and consistent procurement processes and improvement of the effectiveness of procurement by the Council. It reflects the Council's corporate Vision and Values and is supported by a number of documents including the Corporate Plan, the Contract Procedure Rules (previously SO46), Financial Regulations and Equality and Diversity policies.

- 5.2 The aim of the draft Procurement Strategy is -

"To achieve minimum cost for the goods, services and works we require, whilst maintaining or improving the quality of our services:

- a) by paying less for what we currently buy.
- b) through buying more for the same price or at a lower price and
- c) by improving procurement working practices across the Council".

- 5.3 In revising and updating the Procurement Strategy, your Officers also considered it to be appropriate to revise and update the Council's Contract Procedure Rules. The format of these has changed to try and encourage Officers to think differently about procurement, whilst ensuring that legislative and other requirements are met. As the format of the proposed Rules has changed substantially from the Council's current Contract Procedure Rules, it has not been possible to show the proposed amendments, as has been done with previous revisions to the Rules.

- 5.4 The draft Contract Procedure Rules have also been written in a more straightforward style to help ensure that they can be understood by Members, Officers, potential contractors and anyone else who may be interested in them.

- 5.5 The draft Procurement Strategy and Contract Procedure Rules help to support the Council's Vision and priorities and, in particular, the Enterprising Community priority. One of the key objectives of the

Executive Committee

2nd December 2009

strategy is to “*Engage more effectively with Small to Medium sized Enterprises (SME’s), social enterprises, ethnic minority businesses and the voluntary and community sectors*”.

- 5.6 As the Committee may be aware, local purchasing policies are unlawful as they are anti-competitive. However, this does not mean that local businesses cannot bid for and win Council contracts. Care is taken by Officers when procuring goods, works and services to package appropriate contracts in such a way as to enable bidding from smaller companies and enterprises as well as larger organisations and the use of appropriate evaluation criteria can help to create a more level playing field for all potential bidders.
- 5.7 Members may also be aware that the Council has run a number of supplier seminars to inform local suppliers about how the Council procures its goods, works and services and to ensure that they are aware of what is required when bidding for Council contracts. These seminars have been well attended and appreciated by local businesses. As a result of feedback from the seminars, Officers are looking at ways of reducing the volume of paperwork that needs to be completed by those bidding for Council contracts to ensure a more level playing field for smaller businesses.

6. Other Implications

- | | | |
|------------------|---|--|
| Asset Management | - | None. |
| Community Safety | - | None. |
| Human Resources | - | Procurement is carried out within existing resources |
| Social Exclusion | - | The Council can use its influence to promote a positive approach to equality and diversity and the Strategy will help to ensure that the Council’s contracts promote equality and diversity. |

7. Lessons Learnt

Procurement is a process which can be made to seem more complicated than it needs to be. Any procurement processes need to be straightforward and understandable by Officers, contractors and members of the public.

Executive

Committee

2nd December 2009

8. **Background Papers**

The Council's Contract Procedure Rules.

9. **Consultation**

This report has been prepared in consultation with the Member Procurement Steering Group and with relevant Borough Council Officers.

10. **Author of Report**

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11. **Appendices**

Appendix 1 - Draft Procurement Strategy.
Appendix 2 – Draft Contract Procedure Rules.



REDDITCH BOROUGH COUNCIL

REVISED CORPORATE PROCUREMENT STRATEGY

2009 - 2012

Redditch Borough Council

Redditch Borough Council is committed to achieving Value for Money from its annual influenceable procurement expenditure. This Procurement Strategy sets out how we intend to deliver this through more effective strategic procurement.

This Strategy underpins and supports the delivery of the Council's vision of "An enterprising community which is safe, clean and green"

Procurement has a key role to play in helping the Council to achieve its Vision for Redditch by ensuring that value and efficiency is delivered for every pound spent with its suppliers and contractors.

WHAT IS PROCUREMENT?

Procurement has many different meanings. Within the National Procurement Strategy it is defined as *"the process of acquiring goods, works and services, covering both acquisitions from third parties and from in-house providers. The process spans the whole cycle from identification of needs, through to the end of a services contract or the end of the useful life of an asset. It involves options appraisal and the critical "make or buy" decision which may result in the provision of services in-house in appropriate circumstances"*.

Procurement is not the same as purchasing. Purchasing is only one element of the process i.e. the basis of the acquisition stage in the procurement cycle. The procurement cycle starts with the identification of a need and moves through purchasing decisions to the end of a service or the end of the useful life of an asset.

PURPOSE OF THIS PROCUREMENT STRATEGY

The Strategy aims to set a clear framework and way forward for procurement throughout the authority through adopting efficient and consistent procurement processes and improving the effectiveness of procurement by the Council. It reflects the Council's corporate Vision and Values and is supported by a number of documents including:

- The Corporate Plan
- Contracts Procedure Rules (Previously SO46)
- Financial Regulations
- E-Government Strategy
- Sustainability & Environmental Strategy
- Equality and Diversity policies

The Strategy will communicate clearly to all Officers, Councillors and Suppliers in the private, public and voluntary sectors the council's vision for the way forward in its procurement of goods, works and services and will:

- support the Council's corporate Vision and Values
- focus on achieving Value for Money and efficiency savings
- support the local business and third sector communities
- profit from economies of scale and ensure our purchasing power is used intelligently
- ensure a consistent approach to procurement methods utilised by Officers
- monitor developments and make the best use of new technology in purchasing
- contribute to Environmental Procurement and Sustainability issues

Redditch Borough Council

- manage risks effectively
- encourage continuous review and improvement in procurement processes

THE AIMS OF THE STRATEGY

The aim of our procurement Strategy is -

“To achieve minimum cost for the goods, services and works we require, whilst maintaining or improving the quality of our services:

- by paying less for what we currently buy.
- through buying more for the same price or at a lower price and
- by improving procurement working practices across the Council”.

This will help to release resources for use elsewhere in the organisation and support the delivery of high quality services to the citizens of Redditch. A number of other criteria must also be considered such as sustainability, equalities and whole life costs.

THE SCOPE OF THE STRATEGY

This Strategy covers the next three years and is intended to:

- set out the principles and framework for the Council’s (and where relevant its partners’) approach to procurement.
- give guidance and direction to officers in fulfilling their stewardship and Value for Money obligations in regard to procurement.

The Strategy is underpinned by a Procurement Toolkit, comprising:

- The Councils Contract Procedure Rules. (previously known as Standing Order 46)
- A procurement good practice summary guide for officers.
- A guide for suppliers on how to do business with the Council
- Sustainable Purchasing Guidelines
- Equalities Guidelines
- a contracts register.
- A procurement website & intranet site
- Relevant training and development opportunities.

GOVERNANCE STRUCTURE

The Governance structure for our approach to Procurement is: -

- leadership through the Deputy Chief Executive
- The Corporate Management Team (CMT)
- The Executive Committee
- The Procurement Steering Committee.
- a Corporate Procurement Unit (CPU)

The Council has an established Corporate Procurement Unit which:

- develops Corporate Procurement policies and procedures;
- instigates the aggregation of goods, services and works in common use across the Council, undertakes the procurement process, develops agreements and contract manages such contracts for the benefit of all departments;
- provides a range of services, from advice to undertaking the full procurement process for departments on specific procurement projects;

Redditch Borough Council

- is involved in Service delivery options reviews
- liaises with Consortia;
- maintains a register of agreements with suppliers, identifies areas of spend and plans the tendering processes;
- develops and promotes appropriate contracting strategies relevant to the goods, services or works required;
- has, in association with Legal Services, developed various document templates for use in the tender/contracting process.

The majority of purchasing is conducted independently by each Service and a variety of staff deal with a large number of suppliers. When making purchases on behalf of the Council, it is necessary that the responsible officer follows the correct procedures, which means that under the terms of the Council's Constitution every Council officer must operate in accordance with the Council's current Financial Regulations and Contracts Procedure Rules (previously SO46)

IMPLICATIONS OF THE COMPREHENSIVE SPENDING REVIEW OF 2007 (CSR07) FOR PROCUREMENT IN THE COUNCIL

The Government, as part of the Comprehensive Spending Review 2007 (CSR07), is due to allocate circa £150m towards "improvement" and "efficiency" in Local Government over the 3 years commencing April 2008.

In exchange the Government is expecting an annual 3% cashable efficiency or a 9.3% cashable gain by the end of the financial year 2010/11. Non-cashable gains will not count towards the efficiency target. The Government is expecting Procurement to make the most substantial contribution to the efficiencies required. Of the £4.9bn worth of efficiencies expected nationally £2.8bn (57%) is anticipated to be from smarter procurement practices.

The 3% annual efficiency target will be not be cascaded to each Council individually. Instead, each Council will be expected to devise its own strategies for contributing to the national target, and will be required to report the total value of net ongoing cash releasing savings from the financial year 08/09 onwards.

KEY OBJECTIVES

The key objectives of this Strategy are to;

1. Provide a clear implementation plan of how the objectives of the Strategy will be achieved. The plan for 2009/2010 is attached as Appendix A. This plan is a living document and is monitored and updated each quarter by the Corporate Procurement Team. A revised plan for 2010/2011 will be issued by the end of March 2010.
2. Support the Council's vision and Corporate Objectives as detailed in the Corporate Plan with particular reference to the delivery of quality services to the citizens of the Borough.
3. Contribute to the identification and delivery of procurement related savings by participating in value for money reviews.
4. Support the statutory duty the Council has to achieve Best Value for Money.
5. Encourage long-term thinking and commitment to strategic procurement including delivering best value, mitigating commercial risk and effectively managing suppliers/contractors

Redditch Borough Council

6. Promote the development of organisational capacity and capability to deliver successful procurement, commissioning and contract management.
7. Change the way the Council thinks about procurement and commissioning issues so that it is able to meet the challenges presented to it on a national, regional and local basis.
8. Provide a clear framework for procurement priorities throughout the Council, which ensures that all procurement decisions are made on a consistent and transparent basis.
9. Support the Council to deliver against statutory requirements, including European Union (EU) Procurement Regulations.
10. Enable procurement performance to be measured internally and externally by the use of procurement Value for Money indicators.
11. Provide a framework for delivering procurement policy with regard to addressing sustainable procurement and RBC's duties under the Crime and Disorder Act and the Equalities legislation.
12. Engage more effectively with Small to Medium sized Enterprises (SME's), social enterprises, ethnic minority businesses and the voluntary and community sectors.
13. Lead and support a shared procurement service for Worcestershire and contribute to regional collaborative opportunities to deliver savings.

MAKING PURCHASING MORE EFFICIENT

The Council can secure savings by reducing the administration of purchasing activities across the authority, for instance, by reducing the number of suppliers that we deal with and the number of transactions that we pay.

In addition we will seek areas in which we can collaborate with other Local Authorities to utilise combined buying power to reduce prices paid and administrative costs, thus not only bringing financial and efficiency savings, but also increasing our capacity to deliver.

We will also review other opportunities for making the procurement process more efficient and cost effective by

- utilising OGC or other suitable public sector consortia such as NHS PASA, ESPO and YPO for pre-tendered products and services. This eliminates the need to undertake a competitive process (e.g. tendering) and can offer competitive prices
- looking at how we organise purchasing within the Council
- increased use of centrally let Corporate Contracts
- utilising more Framework Contracts
- encouraging better planning of procurements particularly high cost/value procurements

The potential for making efficiency and cost savings by utilising electronic technology such as Reverse 'e' Auctions, Procurement Cards to name but two will be investigated and implemented as appropriate.

IDENTIFYING THE RIGHT PROCUREMENT OPTION

There are a range of methods that can be adopted in procuring and delivering services. The Council will review and market test its services in conjunction with the Procurement Unit.

Redditch Borough Council

The Council will look to:

- Justify the need for services
- Select services for appraisal
- Identify the drivers for change
- Complete an option appraisal for each service
- Select a preferred option for service delivery

The Council will identify the reasons (drivers) for changing or endorsing current delivery arrangements to deliver key outcomes. These could be based on the council wanting to:-

- Improve the service;
- Deliver growth/regeneration;
- Develop capacity/investment;
- Effect Community Involvement;
- Deliver Efficiency Savings.

The options that will be considered for service delivery at a strategic level include:

- Shared Services
- Partnership arrangements
- Purchasing through consortia

SUSTAINABILITY, THE ENVIRONMENT AND PROCUREMENT

Through the new clean and green corporate objective, the Council is committed to improving its sustainability performance and reducing its impact on the environment and climate change. In 2009, the Council was successful in gaining funding the Energy Saving Trust to reduce carbon emissions in Redditch which will provide a number of recommendations including improving the sustainability of our procurement process which is key to achieving this aim. In addition, our existing commitments made under the Worcestershire Climate Change Pledge (2% year on year CO2 emission reductions) and Nottingham Declaration oblige us to reduce our environmental impact (specifically in relation to energy sourcing and use, travel and transport, waste production and disposal and the purchasing of goods and services) and adopting a truly sustainable procurement policy will begin to embed this within the Council. From NI185 which requires us to reduce our CO2 emissions as an organisation (the draft minimum target proposed is 1% year on year reductions – equating to 364 tonnes of CO2 in 2009/10) through to our involvement in the Worcestershire Partnership and our LAA commitments, mitigating and adapting to climate change are key performance indicators which can be affected through procurement in addition to the desire to be a more sustainable Council overall.

Consideration will also be given to reflecting the Council's sustainability objectives and requirements in the pre-qualification questionnaire and tender documents as appropriate, and we will encourage suppliers to adopt sustainable practices.

EQUALITIES AND PROCUREMENT

We can use our influence to promote a positive approach to equality and diversity. In our procurement processes, we will make sure that we give our suppliers advice on equality issues and ensure that contracts promote equality and diversity.

Redditch Borough Council

The Council is committed to equal opportunities and expects its partners and suppliers to share this commitment. Procurement is one of the tools by which the Council can promote equality of opportunity and service delivery. The role of procurement in this context is to influence and promote good equalities practice in those organisations that supply goods and services to the Council or to the citizens of the Borough. Our tender documents already require prospective suppliers to abide by equal opportunities legislation (and to provide documentary evidence thereof), but our tendering procedures will be reviewed and amended to ensure compliance with a common standard. Consideration will also be given to sanctions that may be imposed by the Council should partners and suppliers subsequently fail to comply with Equalities legislation.

The Council will work alongside other Local Authorities within the West Midlands Forum to enforce the agreed Common Standard of commitment to Equalities and Diversity that businesses must adopt as directed by the Commission for Racial Equality.

WHOLE LIFE COSTS

For 2009/10 onwards, a whole life approach will be an integral part of the decision making process for all significant contracts and the new capital appraisal forms require this information as part of the capital scheme approval process. Before entering into any significant long-term agreement with a third party, the responsible manager will therefore need to undertake an appraisal of the whole life costs associated with a contract by taking into account

- acquisition costs.
- operating costs.
- disposal costs.

This process is key to demonstrating value for money.

ACTIONS

CONTRACT MANAGEMENT AND SUPPLIER RELATIONSHIPS

We will seek to develop relationships with suppliers and encourage them to conduct their business in an ethical manner. In particular we will encourage suppliers to adopt high standards of health and safety and to recognize the benefits of improved diversity.

We will not put companies at risk of being dependent upon the award of Council contracts. As a guideline we will limit the annual value of Council contracts for any company to no more than 50% of its annual turnover. Equally, we will not put the Council at risk of being dependent upon a single supplier and will vary companies invited to tender where this does not put Value for Money at risk.

Officers will be required to instigate and operate viable contract management for the life of any contract they let and manage we will not have a culture of "Let and Forget"

The Council supports the local business community and will encourage local suppliers to compete for opportunities to do business with the Council, keeping wealth and jobs within the borough, the County and the Region. We are committed to purchasing locally, where it is reasonable and legal to do so from local suppliers provided that this does not put Value for Money at risk.

The Council will also work with and seek ways in which to support Small to Medium Size enterprises (SME's) start-up ventures, ethnic minority businesses by making contract and other business opportunities accessible.

In addition we will work with local businesses to help them develop their health and safety, equalities and diversity policies & procedures.

Redditch Borough Council

The Council recognises the role that the Voluntary and Community sectors can play within the quality of life for local residents and in developing social cohesion throughout the community. Where it is reasonable and legal to do so, the Council will consider options for the Voluntary and Community sectors to supply goods, services or works to the Council

CONTRACT PROCEDURE RULES
(Previously SO46)

December 2009

1. Introduction – Purpose of the Contract Procedure Rules

Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Procedure Rules is to provide a structure within which procurement decisions are made and implemented and which ensure that the Council:

- Furthers its corporate objectives
- Uses its resources efficiently
- Procures quality goods, services and works
- Safeguards its reputation from any implication of dishonesty or corruption.

Compliance with Contract Procedure Rules is essential to demonstrate honesty in the procurement process. It is also important to deliver value for money through competition and to avoid practices that may restrict, distort or prevent competition. The most important principles contained in the Rules are transparency, openness and fair competition.

These Contract Procedure Rules set out the **minimum** standards that should be applied to all Council procurement.

1.1 Statutory basis

The Council is required by Section 135 of the Local Government Act 1972 to make Standing Orders with respect to how the Council contracts for goods, services or works. The Contract Procedure Rules have to include provisions to ensure that there is competition for contracts and for regulating the way in which Quotations and Tenders are invited. They can make exemptions for contracts below European Unions (EU) Thresholds and can authorise the Council to grant exemptions where it is satisfied that there are special circumstances. which gives the option, if approved, not to compete a particular requirement to the full extent of these Contracts Procedure Rules but this is only with the agreement and approval of a Corporate Director or the Chief Executive as appropriate.

1.2 Annual Review

These Contract Procedure Rules are reviewed annually, usually in March/April. Any requests for changes at other times of the year should be made to the Monitoring Officer.

1.3 Application of the Rules

- (a) The Rules apply to any contract that results in payment being made by the Council as well as to any contract which results in an income being generated for the Council. They also apply to the disposal of surplus goods and to Concession

Redditch Borough Council

Contracts. (A Concession Contract is used where the Council wishes to engage a contractor to provide a service within the Council's area in return for which the contractor ("concessionaire") is given a right to charge the public for the services being provided).

- (b) The Rules do not apply to grants which the Council may receive or make or to the sale or purchase of land or property.
- (c) The Rules should be read alongside the Council's Procurement Strategy, Procurement Guidance and Financial Regulations.
- (d) If you are buying higher value supplies, works or services, the Rules will be more strict than for lower value contracts. This is to ensure that the benefits of good procurement are not outweighed by the cost of procuring the supplies, works or services.
- (e) For any procurements for goods and services which exceeds £139,893 or works exceeding £3,497,313 the Council has to follow full EU Public Procurement Directives which contain additional procedures. In these cases, you must consult with the Procurement Unit before beginning the procurement process.
- (f) Directors Heads of Service and Service Managers are responsible for ensuring that there is compliance with any relevant legal requirements, that proper procedures are observed and that all relevant records are kept and maintained. Directors, Heads of Service and Service Managers are also responsible for ensuring that any external consultant or agent required to procure or supervise a contract on the Council's behalf complies with these Rules as if they were an Officer of the Council.

If you are in any doubt about whether the Rules apply, you must seek advice from the Procurement Unit, Internal Audit, Legal Services or the Head of Legal, Democratic & Property Services.

- (g) Failure to comply with the Rules may leave the Council open to the risk of legal challenge. It is also a disciplinary offence for Officers.

1.4 Electronic procurement and purchasing

- (a) Electronic procurement (e-procurement) systems are more cost efficient and should always be used when available. Please note however that the normal rules still apply (e.g. three quotations or whatever is appropriate to the amount being spent in total)
- (b) An approved Purchasing Card (e-purchasing) should always be used in preference to paper Purchase Orders wherever appropriate.

1.5 E Auctions

- (a) 'Reverse' auctions are where suppliers bid decreasing prices for a contract offered by a customer the process is conducted online using specialised software and is time limited. They are normally conducted by organisations such as the Office of Government Commerce and cover the whole public sector.
- (b) Redditch Borough Council would not attempt to organise or run such a specialised process unless it was in collaboration with other major public sector procurement organisations.

- (c) Sellers progressively reduce their prices in response to competitors' bids during the process and only the buyer can see who is offering each price. The specialised software is able to combine qualitative scores and pricing instantly to measure overall competitiveness of each bid.
- (d) The successful supplier is the one bidding lowest the auction when it closes
- (e) If properly implemented, they consistently deliver significant savings and improve quality. Other inherent benefits include:
 - The process is legally compliant;
 - It is transparent to all parties;
 - It provides suppliers with clear visibility of selection criteria;
 - Highly competitive pricing levels;
 - It supports high quality procurement execution; and
 - It has the potential to condition and shape the marketplace

1.6 Contract Values & Aggregation

- (a) The contract values contained in these Rules refer to the known or estimated monetary value of the contract over its full duration exclusive of VAT, including any extension options – **not the annual value**. Where the duration of a contract is indeterminate, the value of the contract should be arrived at by using the value per annum multiplied by 4 years.
- (b) No contract should be subdivided or intentionally split into smaller contracts so as to avoid complying with these Rules. Wherever possible, the Council should procure in the form of a single large value contract in preference to a series of smaller value contracts in order to obtain the maximum benefit in terms of the prices/costs obtained.
- (c) No contract should be entered into unless there is sufficient budget available to cover the estimated cost of the proposed contract.

1.7 Equality and Diversity

- (a) The Council provides a wide range of services to the community and business within the Borough. In some cases, these are provided directly by the Council. In other cases, these are provided on the Council's behalf by its contractors and partners.
- (b) In providing its services, the Council has a statutory duty to ensure that public money is spent in a way that ensures Value For Money and does not lead to unfair discrimination and/or social exclusion.
- (c) The promotion of equality in procurement will help the Council to:
 - Improve the overall value for money for the Council in terms of the supplies, works and services it purchase;
 - Improve the quality, responseiveness and appropriateness of its services;
 - Ensure that public money is not spent on practices which lead to unfair discrimination to sections of the Borough;
 - Deliver more responsive and flexible services in combatting social exclusion and building stronger and more cohesive communities;
 - Encourage the Council's suppliers and contractors to promote and practice the Council's policies on equality

- (d) Guidance for Officers and Suppliers/Contractors are available on the Intranet under 'Procurement'

1.8 Local Supplier policies

- (a) Whilst current EU procurement directives make it illegal for Councils to favour local suppliers, there may be instances where a local supplier is more suitable to provide the materials or service.
- (b) As an example if all other factors are equal (price, quality, service etc), a local supplier may be chosen over a remote supplier as the reduced level of transport represents a positive environmental benefit.
- (c) As with all purchases, however, decisions must be made in accordance with the Council's Contract Procedure Rules and relevant EU procurement directives. Advice on these is available from the Corporate Procurement Unit.
- (d) Through its Best Value consultation processes, an authority can seek the input of local Small to Medium Enterprises (SME's) on the provision of services to find the value that can be added by those SME's to the services required. A dialogue with SME's is encouraged at this stage to help an authority to find the link between the services needed by the community and the services that can be supplied locally. Authorities can develop their market intelligence and appraisal skills to identify the capabilities of potential local SME suppliers and to design a business case for local SME's.
- (e) The Council may design its specification and award criteria according to the value that local SME's can add to the service required, for example, sustainability, quality, fuel efficiency, replacement cycles, benefits to local people, community safety, diversity, good workforce management.

1.9 Whistleblowing

- (a) The Council is committed to ensuring that the culture and tone of the Council is one of honesty and opposition to all forms of wrongdoing. The Council's contractors can help to achieve this aim and are positively encouraged to raise any concerns that they may have in relation to possible wrongdoing by Council Officers or by work colleagues engaged in performing works or services for the Council.
- (b) Wrongdoing could include:
- fraudulent or corrupt behaviour;
 - breaches of agreed procedures and practices;
 - discrimination on the grounds of race, religion, disability, age, gender or sexual orientation; or
 - endangering others or their own health and safety.
 - unlawful behaviour
 - unsafe working practices
 - harassment or victimisation
- (c) The Council's standard Conditions of Contract provide further information on the Council's Whistleblowing Policy and procedures and require all contractors to make their staff aware of the policy and procedures.

1.10 Who can carry out procurement on the Council's behalf?

Redditch Borough Council

- (a) Compulsory Procurement Training for Officers – No Officer will be allowed to be involved in procurement on behalf of the Council unless they have undergone this training
- (b) Officers who are Authorised signatories (within their individual specified limits)
- (c) Consultants where duly authorised by the Council but they still must operate with the Councils Contracts Proceedure Rules
- (d) Another public authority where they are acting as the lead Authority in a collaborative procurement
- (e) Public Sector Buying Consortia

2. Summary of Procurement Stages

- 2.1 Identify the **need** for the supplies, works or services, **establish the approximate value** of the proposed contract and draw up the **Specification**. Challenge the perceived need for what is to be purchased (e.g. could the existing equipment be refurbished, could it be provided as a shared service)
- 2.2 Consider the **options** set out in the Procurement Strategy;
- 2.3 Estimate the **value** of the proposed contract and **Invite quotations/tenders** in accordance with the relevant part of the Rules;
- 2.4 **Receive quotations/tenders** in accordance with the relevant part of the Rules;
- 2.5 **Evaluate quotations/tenders** in accordance with the relevant part of the Rules;
- 2.6 **Award** the contract and ensure that all contract documents are **signed**;
- 2.7 **Monitor and manage** the contract.

2.1 Need, Specification & Budget

- (a) As a minimum, you must clearly and carefully specify the supplies, works or services to be supplied, the programme for their delivery and the terms for payment together with all other relevant terms and conditions. Specifications should be output or performance based, for example it is not acceptable to specify brand names without adding the words "or equivalent". However wherever possible the Specification should be generic without using 'brand' names.
- (b) This means that you must decide in advance of the competitive process the size, scope and specification for the supplies, works or services required. If you are buying with other organisations, the scope must be agreed with all the other buying partners first.
- (c) When preparing the Specification for a contract, it is important to ensure that consideration is given to what performance information will be required from the supplier in order to measure whether the supplier is meeting the service levels and targets specified in the contract.
- (d) In addition, it may be necessary for the supplier to provide performance information to enable the Council to meet statutory requirements, such as the need to provide information to the Audit Commission each year for the National Performance Indicators.
- (e) The Specification should set out not only what is required but also the frequency and timescales within which performance information is required. In the Quotation or Tender response, tenderers should be invited to demonstrate how they will ensure that the performance data they supply is of adequate quality, such as information about quality processes and procedures used and quality standards achieved.
- (f) The criteria for evaluating Quotations or Tenders (the Scoring Matrix), including any weighting, must be submitted in writing to the Procurement Unit in advance of Quotations or Tenders being invited.
- (g) If in doubt, or it is a high risk or complex contract process you must check with the Procurement Unit and/or Finance and/or Legal Services.
- (h) You must ensure that the required budget is in place before inviting quotations/tenders

- (i) You must also allow sufficient time in your procurement timetable for any Executive Committee or Council approvals that may be required and for contractors to respond to and answer any supplementary questions.

2.2 Procurement Options

- (a) You must always consider the Council's Procurement Strategy and Procurement Guidance, together with any other applicable Council policies when you buy.
- (b) Once the need has been determined, you must determine the way in which the supplies, works or services will be procured. This means assessing all the options, particularly when the need is for the provision of services.
- (c) Under the Council's Procurement Strategy, you must consider the following options for the delivery of supplies, works or services:
 - challenge the need
 - is there an existing external compliant contract/framework that you could utilise that would offer savings and efficiencies for the Council
 - could the requirement be delivered in collaboration with other authorities in Worcestershire?
- (d) You must consider whether a "call-off" or "Framework" contract is available for the supplies, works or services you wish to procure as you could get better value for the Council by using an existing Framework agreement (known as 'piggy'backing').
- (e) If there isn't a Framework Agreement already in place then you **must** consider whether it would be better value to set one up. This is likely to be of use where you are going to need to buy the same or similar things again in the future. Guidance on how to set up a framework is contained in the Procurement Guidance. You must also liaise with the Procurement Unit.
- (f) If, following consideration of the options, a joint procurement or other form of collaborative procurement is to be used with another public authority, the conduct of the procurement should be on terms no less rigorous than the requirements of these Rules.

2.3 Contract Estimated Values and Inviting Quotations/Tenders

- (a) Before any prospective contractors can be invited to submit a Quotation or Tender for the supply of supplies, works or services, the relevant Officer must identify the purpose, scope and type of the proposed contract and estimate, on the basis of all relevant, available information, the approximate total value of the proposed contract. The estimated value and the calculations forming part of the estimate must be recorded in the relevant working papers.
- (b) There is no authority for any Officer to proceed any further with the procurement process unless the estimated value of the contract has been approved by the Council or is already within budgets approved and allocated by the Council.
- (c) All Quotations and Tenders must be invited on the basis that the Council will not be bound to accept any Quotation or Tender.

Low value Procurements - For contracts up to the value of £4,999

- (d) You must undertake competitive enquiries and record and retain details of your final selection criteria on file, unless you buy from an existing Corporate Contract (see current list at Appendix A).

Intermediate value Procurements - For contract values between £5,000 and £49,999

- (e) You must obtain at least three written quotations from suppliers before a purchase order is issued, specifying the supplies, works or services to be provided and setting out all terms and conditions, including price and terms of payment. E-mailed quotations are acceptable, but copies must be retained on the relevant file.
- (f) If fewer than three quotations are received, you **must** seek additional quotations or obtain an exemption from the Rules in accordance with Rule 4.1 (Form of Exemption) of these Contracts Procedure Rules.

High value Procurements/Contracts - For contract values between £50,000 and £139,000

- (g) A full and formal Tender process must be conducted. The standard documents to be used, including the relevant Terms and Conditions are available on the Intranet.
- (h) The minimum number of Tenders to be invited will depend upon the type of contract to be let. The Procurement Unit will provide advice on this.

Advice from the Procurement Unit must be sought before engaging in any procurement above the EU thresholds.

For contract values above the EU thresholds

- (i) The values above which the procurement procedures are governed by EU Directives are currently (as from 1 January 2008):

For goods, services or works(including goods and consultancy services)	£139,893
For works	£3,497,313

N.B. These thresholds are amended approximately every 2 years and Officers should check current thresholds with the Procurement Unit.

- (j) If your contract has a value above these thresholds, you must procure in accordance with the Public Contracts Regulations 2006 or subsequent relevant Regulations. Your contract must therefore be tendered under the Open, Restricted, Competitive Dialogue (for particularly complex contracts) or, in exceptional circumstances, the Negotiated Procedure.
- (k) For each contract above the EU thresholds, a Contract Notice must be published in the Supplement to the Official Journal of the European Union (OJEU). Other advertisements published in relation to any contract above the EU thresholds:
- Must not appear in any form before a Contract Notice is transmitted to OJEU; and

Redditch Borough Council

- Must not contain any information above that contained in the Contract Notice in OJEU.
- (l) The procedure to be followed must be determined prior to advertising and must be one of the following:
- **Open procedure** – all interested contractors submit a Tender in response to an advertisement. The Tender is open to anyone who expresses an interest;
 - **Restricted procedure** – expressions of interest are sought from interested contractors in response to an advertisement. A number of contractors are selected from those expressing an interest and are invited to submit a Tender. All those who express an interest will be required to complete a Pre-Qualification Questionnaire (PQQ). The PQQs will be evaluated and a shortlist of suitable persons will then be invited to Tender;
 - **Competitive Dialogue Procedure** – interested contractors are invited to complete a PQQ and a Tender, both of which must be submitted before the deadline;
 - **Negotiated procedure** - expressions of interest are sought from interested contractors in response to an advertisement. A number of contractors are selected from those expressing an interest and are invited to negotiate;
 - **Framework agreement** – Tenders are invited from contractors in accordance with the relevant Framework agreement.
- (m) The minimum number of Tenders to be invited will depend upon the type of contract to be let. The Procurement Unit will provide advice on this.
- (n) Invitations to submit Quotations or Tenders must state that no Quotation or Tender will be accepted unless contained in a plain, sealed envelope, bearing the word “Quotation” or “Tender” followed by the subject to which it relates. Every envelope must bear no name or mark indicating the person, company or firm submitting the Quotation or Tender. The envelope or package in which the Quotation or Tender is submitted must not be capable of being sealed more than once.
- (o) Every Quotation shall be addressed to the relevant Head of Service and every Tender shall be addressed to the Head of Legal, Democratic & Property Services. Every Quotation or Tender shall remain in the relevant Officer’s custody until the appointed time for their opening.

Some useful definitions

- (p) A **public supply contract** is a contract for:
- The purchase of ‘goods’ (does not include land or the product of an activity); or
 - The hire of ‘goods’ with or without the siting or installation of those goods.
- (q) A **public works contract** is a contract for the carrying out of a ‘work’ or ‘works’ under which the Council engages a person to procure a work ‘by any means’. (see below for definition)
- (r) A “**work**” is defined as including:
- Building and civil engineering work;
 - Construction of office blocks, hospitals or other buildings;
 - Civil engineering, construction of roads, bridges and railways;

Redditch Borough Council

- Installation of work (e.g heating and electrical equipment);
- Completion of work such as tiling and papering;
- Maintenance of buildings.

(s) The following activities may also be regarded as a **works contract**:

- A contract where the Council engages a contractor to act as agent for the Council in letting contracts;
- An agreement where a developer constructs a building on its own land (according to the Council's needs) and undertakes to transfer the land and structure to the Council upon completion or at a later date.

(t) A **public services contract** is one under which the Council engages a person to provide services. The Public Contracts Regulations divide services into two categories: "Part A Services" and "Part B Services".

(u) Part A Services are listed in Part A of Schedule I to the Regulations. Contracts for Part A Services are subject to the Regulations, including tendering procedure rules, specifications, pre-qualification etc.

(v) Part B Services are subject only to limited provisions, including rules on technical specifications, contract award notices and the submission of statistical reports. Part B Services are all those services set out in Part B of Schedule I to the Regulations. In addition, they include all those services that fall outside Part A.

(w) Where a contract involves both Part A and Part B services, the contract classification is determined by the service that forms the greatest proportion of the total value of the contract.

Contract Notices must only be placed by the Council's Procurement Unit.

(x) Minimum timescales relating to tender procedures governed by the EU Directives are shown in the Guidance and these must always be followed.

2.4 Receiving and Opening Quotations and Tenders

Quotations – Opening of Quotations between £5,000 and £49,999

(a) All Quotations for a contract shall be opened in the presence of the relevant Head of Service (or in the case of absence another Head of Service) and at least one other Officer by arrangement and all pages containing price or cost details must be initialled and endorsed with the date and time of opening by both Officers and listed in the "Quotations Received" register maintained by the relevant Service Team.

(b) The register must record the following particulars:

- (i) a description of the goods, materials, works or services concerned;
- (ii) the date and time when the Quotations were opened;
- (iii) the name of the person, company or firm submitting the Quotation and the amount of the Quotation;
- (iv) the names and signatures of all persons present at the opening of the Quotations;

Confidentiality/Collusion

- (c) No Officer present at the opening of a Quotation shall discuss or communicate the amount of a Quotation to any person other than relevant Council Officers or Members
- (d) Where three Quotations are not received owing to a lack of suitable potential suppliers/providers, or for any other reason, then the relevant Officer shall, in consultation with their Director, certify the reason for not obtaining three Quotations in the Quotations Register and then consider those Quotations which have been received.

Tenders - Opening of Tenders between £50,000 and £139,000

- (e) All Tenders for a contract shall be opened at a predetermined time in an area clear of other distractions. The opening shall be in the presence of the relevant Head of Service or an appropriate Officer of the Council designated by him/her.
- (f) The Democratic Services Team will maintain a register of Tenders received and record in the register the following :
 - (i) the last date and time for the receipt of Tenders;
 - (ii) the date and time when the Tender was actually received;
 - (iii) the name of the Tenderer and the amount of the Tender;
 - (iv) the date and time when upon the Tenders were opened;
 - (v) the signature of the Officer to whom the Tenders were handed after opening;
 - (vi) the names of all persons present at the opening of the Tenders;
 - (vii) any nil responses by a Tenderer;
 - (viii) in respect of 'Schedule of Rates' contracts, any rates left blank in the Tender Schedule should be noted at the time of opening by the Member or Officer present entering their initials in place of any blank response; and
 - (ix) in respect of any Tender, any figure left blank in the Tender documents should be noted at the time of opening by the Member or Officer present entering their initials in place of any blank response.
- (g) All persons required by (a) above to be present at the opening of Tenders shall immediately sign against the relevant particulars in the register as evidence of such Tenders having been opened by them or in their presence. Tender documents should be initialled and dated by the Officers immediately after they are opened.

Confidentiality/Collusion

- (h) No Member or Officer present at the opening of a Tender shall discuss a Tender or communicate the amount of a Tender to any person other than relevant Officers, Members, the Executive Committee or the Council

Opening of Tenders over the EU Thresholds

- (j) **In addition to the procedure specified for Tenders up to the EU Thresholds all EU related Tenders will be opened by the Chair or Vice Chair of the Overview and Scrutiny Committee**

Late Tenders

- (k) Any Tender submitted or received after the specified closing date and time (deadline) shall be promptly returned to the Tenderer by the Head of Legal, Democratic and Property Services or an appropriate Officer of the Council. The Tender may be opened to ascertain the name and address of the Tenderer BUT NO DETAILS of the Tender shall be discussed internally or externally.

2.5 Evaluating Quotations/Tenders

Quotations

- (a) Where written quotations are invited for purchases between **£5,000 and £49,999** then the supplier or contractor submitting the lowest priced compliant quotations must awarded the contract.

Tenders

- (b) For contracts valued over **£50,000** and for all contracts governed by EU Directives, a more complex tender evaluation procedure based on the identification of the 'Most Economically Advantageous Tender' ("MEAT") should be used. However, there are some situations where MEAT will not be an appropriate method of evaluation (e.g. where the only distinguishing factor will be that of price). In all cases, an appropriate method of evaluation must be used.
- (c) Care and consideration should be taken to ensure that the weighting method employed does not distort the scoring method in a way that the results are not aligned with the objectives of the procurement exercise. Consult the Procurement unit if in any doubt.
- (d) The evaluation of tenders involves the objective scoring of bids by a panel of stakeholders/officers and/or independent experts using criteria which must:
- (i) Be predetermined and listed in the Invitation to Tender ("ITT") documentation in order of importance;
 - (ii) Be based on an offer made against either a performance or output based specification of the goods or services required
 - (iii) Be strictly observed at all times throughout the tender process;
 - (iv) Reflect the principles of Value for Money;
 - (v) Include price;
 - (vi) Consider whole-life costing, particularly in the case of capital equipment where the full cost of maintenance, decommissioning and disposal should be taken into account;

- (vii) Be capable of objective assessment;
 - (viii) Be weighted according to their respective importance;
 - (ix) Include, where applicable, the quality of the tenderer's proposals to accept a transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE); and
 - (x) Avoid discrimination or perceived discrimination in accordance with the Council's policies.
- (e) Where this evaluation methodology is used, any resulting contract **must** be awarded to the Tenderer who submits the most economically advantageous tender (i.e. the tender that achieves the highest score in the objective assessment). This protects the Council from any 'challenges' which could potentially result in prosecution or fines.

2.6 Award of Contract and Execution of Contract Documents

Contract Award

- (a) For all contracts under the EU Directive Thresholds, the relevant Officer must award the contract to the most economically advantageous complaint Quotation or Tender.
- (b) For all contracts tendered over the EU Directive Thresholds, a mandatory 10 day 'standstill period' must be observed between the decision to award the contract and the completion of the contract documents (the Council actually requires a 15 day 'standstill' period). Once the decision to award a contract has been made, each tendere must be notified in wiring of the outcome of the tender process. The Procurement Unit can provide you with template letters for this process.
- (c) This notification must include:
 - (i) details of the contract award criteria;
 - (ii) where practicable, the score the tenderer obtained against those award criteria;
 - (iii) where practicable, the score the winning tenderer obtained; and
 - (iv) the name of the winning tenderer.
- (d) There must be a minimum of 15 calendar days between the despatch of this notification and the conclusion of the contract documents. Special rules apply where a tenderer requests a de-brief on the tender process. Even if a tenderer asks for a de-brief outside the standstill period, we are still obliged to provide this.
- (e) All contracts awarded under EU Directives must be announced by means of a Contract Award Notice in OJEU transmitted no later than 48 calendar days after the date of the contract award.

Final Contract Award Notices which need to be placed in the Official Journal of the European Union (OJEU) must only be placed by the Council's Procurement Unit.

Execution of Contract Documents

Redditch Borough Council

- (f) It is important to contract only under the Council's relevant Conditions of Contract, unless you receive permission not to do so from the Head of Legal, Democratic & Property Services. Officers must use an appropriate model form of contract approved by the Procurement Unit and the Head of Legal, Democratic & Property Services, which are available on the Intranet.
- (g) Your Purchase Order **must** contain the standard form of terms and conditions of contract between the Council and the supplier. A quotation and a purchase order will create a legally binding document. The Purchase Order is used to formalise the terms of the contract.
- (h) For all contracts for services where the services are of an unusual or complex nature, the Head of Legal, Democratic & Property Services must be consulted to produce a suitable set of conditions for the contract before inviting tenders.

Signature of Contracts

- (i) Every contract under the EU threshold must be writing in a form approved by the HLDPS and may be signed by a Director or Head of Service. (Standard form contracts approved by HLDPS, covering goods, services and works are available on the Intranet).
- (j) Every contract over the EU thresholds must be drawn up in consultation with and approved by the HLDPS and must be signed by the Chief Executive or the HLDPS.
- (k) A copy of every contract over £49,999 shall be forwarded to Legal Services.
- (l) Contracts let by Official Orders must include the Council's standard Terms and Conditions.

2.7 Contract Management and Monitoring

- (a) It is essential to good contract management that a realistic set of Key Performance Indicators (KPIs) is built into the Specification upon which the contract is to be let. This allows Officers to hold regular meetings with contractors throughout the life of the contract to monitor and manage the supplier/contractor against the KPIs to ensure that they consistently deliver what the Council has contracted for in terms of quality, cost and benefit. Letting the contract is just the first step.
- (b) All Quotation or Tender documentation must be retained by the relevant Service Team for the duration of the contract, including any maintenance period and a further period of six years (if the contract was signed) or twelve years (if the contract was sealed).

3. Specific types of contracts and procedures

3.1 Contracts

Framework Agreements

- (a) These are agreements with suppliers for the provision of supplies, works or services on agreed terms for a specific period for estimated quantities against which orders may be placed if and when required during the contract period. They offer benefits of bulk-buying, improved service and reduced administration costs over the period of the agreement.
- (b) A framework agreement may allow you to hold a “mini-competition” with all the suppliers in the framework, other features and benefits include:
- Removes the requirement to go out for Quotations - less time consuming
 - Because no business is guaranteed to any contractor/supplier as a result of being appointed to the Framework Agreement it keeps cost and quality of service higher on the contractor/suppliers agenda as they want to win as large a share of possible of the business the Council has to place.
 - Increased contractor/supplier capacity
 - Can be utilised to assist small businesses or start up businesses
- (c) Corporate Framework agreements for goods, services or works should be used where they exist for procurements up to the EU thresholds

Concession contracts

- (d) A Concession Contract is used where the Council wishes to engage a contractor to provide a service within the Council's area in return for which the contractor (“concessionaire”) is given a right to charge the public for the services being provided.
- (e) The EU procurement rules do not apply to public works concessions where the estimated value is below the relevant EU threshold. Where the concessionaire intends to sub-contract the performance of the services, the concessionaire may fall within the scope of the EU procurement rules. In all cases where the concessionaire is procuring supplies and/or services as part of the concession contract, the procurement should be carried out in accordance with these Rules.

Advice from the Procurement Unit must be sought before engaging in any procurement relating to a concession contract.

3.2 Procedures

Restricted Procedure

- (f) This is the procedure most utilised by the Council under which a selection is made utilising a Pre Qualification Questionnaire (PQQ) of those who respond to the advertisement and only they are invited to submit a tender for the contract. This allows the Council to avoid having to deal with an overwhelmingly large number of tenders;

Open Procedure

- (g) Under which all those interested may respond to the advertisement in the OJEU by tendering for the contract. This Procedure should not be used without seeking advice from the Corporate Procurement Unit or the Legal Department as it can consume vast amounts

Redditch Borough Council

of Officer time and effort as the potential levels of response can be huge as there is no PQQ (or filter) mechanism

Competitive Dialogue Procedure

(h) Under EU Directives, the Competitive Dialogue Procedure may be used for contracts valued at or above the EU thresholds in certain circumstances where:

- ❑ The Council wishes to award a particularly complex contract and believes that the use of the Open or Restricted procedures will not allow the award of that contract; or
- ❑ The contract is for a service and the precise nature of the service required cannot be clearly specified or accurately priced (e.g. bespoke software application, insurance services, artistic services)

This is a complex potentially costly process with high risk and advice from the Procurement Unit and Legal Services must be sought before engaging in any Competitive Dialogue Procedure.

Negotiated Procedure

(i) This procedure should not now be used, except in very specific circumstances, for the procurement of particularly complex projects.

If in doubt, you must contact the Procurement Unit, Legal Services or the Head of Legal, Democratic & Property Services.

4. Exemptions and other issues**4.1 Exemptions**

- (a) Any exemptions from these Rules must be obtained **in advance** using a completed 'Form of Waiver' in accordance with the following procedure. **Waivers can only be signed by a Corporate Director or the Chief Executive.**
- (b) The Contract Procedure Rules may be waived in the following circumstances:
- (i) Where the supply is proposed under special arrangements negotiated by the Office of Government Commerce (OGC) or OGC Buying Solutions (OGCbs) in which event the special arrangements must be complied with;
 - (ii) The timescale for procurement of the supplies, works or services genuinely precludes competitive tendering. Failure to plan the procurement properly is not a justification for inviting a single quotation or tender;
 - (iii) Specialist expertise is required that is only available from one source;
 - (iv) The task is essential to complete a project and arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
 - (v) There is clear benefit to be gained from maintaining continuity with an earlier project. However, in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering;
 - (vi) There is a recognised purchasing consortium in place (e.g. OGC Buying Solutions, Eastern Shires Purchasing Organisation ("ESPO"), Yorkshire Purchasing Organisation ("YPO")) whereby members of the consortium may utilise the consortium's purchasing arrangements in order to procure supplies and/or services. The Council must be a member of the relevant consortium or otherwise eligible to access the consortium's purchasing arrangements for this exemption to be applicable and only the goods and/or services that are the subject matter of the consortium arrangements may be procured. Where the goods and/or services are outside the scope of the consortium arrangements, you must use another method of procurement in accordance with these Rules.
 - (vii) the contract is for the purchase of goods/materials which are sold only at fixed prices or where prices are controlled by a trade organisation and there would therefore be no genuine competition.
- (c) The limited application of the single tender rules should not be used to avoid competition, for administrative convenience or to award further work to a contractor originally appointed through a competitive procedure.
- (d) Where it is approved that the Contract Procedure Rules should be waived in relation to a particular procurement, a copy of the signed Form of Waiver must be sent electronically to be added to the Contracts Register which is held and maintained by the Corporate Procurement Unit or the "Quotations Received" register maintained by the relevant Service Team (according to the relevant value of the procurement)

N.B. The Form of Waiver is set out in Appendix B to these Rules and can be downloaded from the Intranet (see under 'Contracts Home')

Exemptions **cannot** be given for procurement within the EU Directives.

4.2 Other issues

Conflicts of Interest

- (a) Any interest an Officer has which may affect the award of a contract under these Rules must be declared. Every Officer entitled to buy supplies, services or works on behalf of the Council must declare their interest in writing to the Audit Services Manager and update their declaration as soon as any interest changes arise.

Contracts procured under EU Directives must not be extended or varied without consulting the Procurement Unit.

Consultants

Procurement of consultancy services

- (b) It is important to ensure when engaging any Consultatns or Consultancies that the Council retains the Intellectual Property Rights (IPR) to the product of their work for the Council. There may be a commercial value that the Council can exploit or the Council may at some future date wish to utilise the product of the Conculatnts work as the basis of a further study/piece of work, in this instance If the Council retain the IPR they can use any Consultancy they wish
- (c) There may be instances where use of these Rules would be inappropriate (e.g in the case of engaging a barrister or other consultant where the quality of performance or the interpersonal skills of the contractor are more important than the price). In such cases, consultants will be engaged according to the following:
- i) Low value: at the discretion of the Head of Service;
 - ii) Intermediate value : subject to consideration and selection by the Head of Service in consultation with the relevant Director;
 - iii) High value : subject to consideration and selection by a panel comprising the Head of Service, relevant Director and at least three elected Members

Procurement by consultants on the Council's behalf.

- (d) Any consultant who is to be responsible for supervising any stage of the procurement process on behalf of the Council will:
- (i) Comply in all respects with these Rules and the Council's Financial Regulations;
 - (ii) Hold, where appropriate, an adequate level of Professional Indmnty insurance to cover any potential loss that may arise;
 - (iii) Produce all records maintained by him relating to the contract to the appropriate Head of Service or his representative whenever requested during the life of the contract; and
 - (iv) Pass all relevant records to the Head of Service on completion of the contract.

Information to be provided to consultants

- (e) Information has to be relevant and specific to the work they will be required to do and would include;

Redditch Borough Council

- i) A comprehensive brief of the outcomes/results sought
- ii) A time frame within which the work is to be completed
- iii) Payment schedules

Parent company guarantees and bonds

- (f) Any Officer procuring a contract for supplies, works or services which is over £1 Million must consult the Head of Financial, Revenues and Benefits Services and the Head of Legal, Democratic & Property Services to determine whether a bond, parent company guarantee or other form of security is required.

Subcontractors

- (g) The use of Subcontractors by Suppliers or Main Contractors to the Council must be approved by the Officer letting or responsible for managing the contract. It is not an automatic right.

Collusion/Corruption

- (h) In all their dealings, Officers of the Council shall preserve the highest standards of honesty, integrity, impartiality and objectivity and shall comply with the Employee Code of Conduct.
- (i) Council Officers and Members must not benefit personally from dealings with current or prospective contractors or suppliers.
- (j) Hospitality, gifts, prizes or commission offered by contractors or suppliers should not normally be accepted. Minor promotional gifts distributed as part of a contract or supplier's general advertising may be retained for use within the Council.

If in any doubt, please seek further advice from the Monitoring Officer or from Internal Audit.

Anti-collusion certificates

- (k) For contracts let over £50,000 all Bidders will be required to sign and return a Certificate of Non-Collusion with their Tender submission - the format and content as per the following;

ANTI COLLUSION / BONA FIDE TENDER CERTIFICATE

“I declare that this is a bona fide Tender, intended to be competitive, and that I have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person. I also declare that I have not and I undertake that I will not before the award of any contract for the work:

- (a) disclose the tender price or any other figures or other information in connection with the tender to any other party (including any other company or part of a company forming part of a group of companies of which I am a part) nor to any sub-contractor (whether nominated or domestic) nor supplier (whether nominated or domestic) or any other person to whom such disclosure could have the effect of preventing or restricting full competition in this tendering exercise.

- (b) enter into any agreement or arrangement with any person that they shall refrain from tendering, that they shall withdraw any tender once offered or vary the amount of any tender to be submitted;
- (c) otherwise collude with any person with the intent of preventing or restricting full competition;
- (d) pay, give or offer to pay or give any sum of money or other valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the work any act or thing of the sort described at (a), (b) or (c) above.

I further declare that I have no knowledge either of the sum quoted or of any other particulars of any other tender for this contract by any other party.

I further declare that the principles described above have been, or will be, brought to the attention of all sub-contractors, suppliers and associated companies providing services or materials connected with the tender and any contract entered into with such sub-contractors, suppliers or associated companies will be made on the basis of compliance with the above principles by all parties.

I acknowledge that any breach of the foregoing provisions shall lead automatically to this tender being disqualified and may lead to criminal or civil proceedings.

The company/organisation acknowledges that the Council shall treat any tender received in confidence but reserves the right to make the same available to any person in compliance with its statutory duty including Trading Standards Departments, the Office of Fair Trading, and/or any other statutory regulatory authority either having jurisdiction over the works or who may now or at any time in the future have statutory power to require disclosure of this tender.

I am authorised by the Tenderer to sign this Certificate, and to submit the accompanying bid, on behalf of the Tenderer.

Each person whose signature appears on the accompanying tender has been authorised by the Tenderer to determine the terms of, and to sign, the tender, on behalf of the Tenderer".

- (l) Amongst other advantages this will help to discourage collusion and ultimately give the Council the legal right to terminate contracts where collusion is proven post any contract award

Register of contracts

- (m) Originals of all contracts let must be lodged with Legal Services and electronic copies with the Corporate Procurement Unit

Appendix 'A'**CORPORATE CONTRACTS**

Goods or Services Provided	Supplier/Contractor	Date Let	Date of Expiry
Stationery	Office Depot	Merseryside Contract	
Temporary Staff	Comensura	Wyre Forest/ Malvern Hills & Bromsgrove Contract	

APPENDIX B

REDDITCH BOROUGH COUNCIL

Contract ref (if any):

PRO-FORMA REQUEST FOR THE WAIVER OF TENDERING/QUOTATION PROCEDURES

In accordance with the Redditch Borough Council (RBC) Contracts Procedure Rules (formerly SO46) tendering/quotation procedures may be waived when the goods, services or works are required urgently or other special circumstances as described in Schedule A (below) are applicable and may only be actioned on the written authority of a Corporate Director or the Chief Executive Officer.

THIS FORM CANNOT BE USED TO AVOID EU PROCUREMENT REGULATIONS

SECTION A - TO BE COMPLETED BY THE PERSON MAKING THE REQUEST:

Directorate/Service:

Item of Goods, Services or Works:

Estimated/Actual Cost (including delivery, maintenance, training, etc. if applicable):

Please indicate in the space provided below why you do not consider that it is appropriate to follow the Councils procurement process for the goods, services or works and identify which exemption within the Rules you believe applies;

If it is essential that the goods, services or works be purchased from the Supplier nominated above rather than as the result of competitive tendering or any existing approved source please give reasons: (Refer to Schedule A stating the reason which best describes your course of action):

Signed

Designation

Date.....

IN SIGNING THIS FORM I DECLARE THAT I DO NOT HAVE A FINANCIAL OR OTHER INTEREST IN THE COMPANY INVOLVED IN THE SUPPLY OF THE GOODS, SERVICES OR WORKS LISTED ABOVE.

SECTION B - TO BE COMPLETED BY THE APPROVING OFFICER

REQUEST *ACCEPTABLE/UNACCEPTABLE (*delete as appropriate)

COMMENTS (if any)

.....
.....
.....

Signed

Designation

Date

IF ACCEPTABLE PLEASE FORWARD IMMEDIATELY TO REQUISITIONER FOR ACTION

IF UNACCEPTABLE PLEASE RETURN TO THE ORIGINATOR OF THIS REQUEST WITH COMMENTS AS APPROPRIATE.

N.B. In Both cases a copy MUST be sent to the Corporate Procurement Unit

SCHEDULE A

Formal tendering/quotation procedures may only be waived by Directors or the Chief Executive where:

- 1) the supply is proposed under special arrangements negotiated by the OGC/OGCs in which event the said special arrangements must be complied with;
- 2) the timescale genuinely precludes competitive tendering. Failure to plan the work properly is not a justification for a single tender;
- 3) specialist expertise is required and such expertise is available from only one source;
- 4) the task is essential to complete a project, arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
- 5) there is clear benefit to be gained from maintaining continuity with an earlier project . However, in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering;
- 6) it is proposed to procure goods, services or works from an existing pre-tendered Public Sector Consortia contract arrangement let by a Public Sector Consortia such as Eastern Shires Purchasing Organisation (ESPO), or any other PRO5 Consortia OGC, NHS Purchasing & Supplies Organisation
- 7) The contract is for the purchase of supplies, works or services which are sold only at fixed prices or where prices are controlled by a trade organization and there would be no genuine competition.

The limited application of the single tender rules should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.

