

Rother District Council

Report to: Audit and Standards Committee

Date: 28 February 2024

Title: Amendment to the Constitution – Procurement and virement thresholds

Report of: Interim Deputy Chief Executive

Purpose of Report: To present an amendment to the Constitution for approval and adoption.

Officer

Recommendation(s): **Recommendation to COUNCIL:** That:

- 1) the procurement thresholds as outlined within paragraphs 6 and 7 be approved;
 - 2) delegated authority is provided to the Deputy Chief Executive (s151) in consultation with the Portfolio holder for Finance and Governance to ensure that any further changes to reflect the recommendations made in (1) above can be progressed; and
 - 3) the virement thresholds as outlined within paragraph 15 be approved.
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Introduction

1. As Members are aware, the responsibility for considering and recommending changes to the Constitution now sits with the Audit and Standards Committee (A&SC), as set out in Article 15 of the Constitution.
2. Following a review of the procurement thresholds and the virement limits by the Interim Deputy Chief Executive (s151), this report contains recommendations to improve the efficiency and speed of decision making.

Changes to the Constitution

Procurement thresholds

3. The procurement thresholds are covered within the Constitution under part 4-7 Procurement Procedure Rules. Paragraph 4.2.1 identifies four different contract types according to the contract value (total value payable over the period of the contract). Sections 4.7 – 4.10 then identify the procurement process to be followed for each.
4. It is officers' view that the current thresholds are too low and should be raised to both increase the speed at which contracts can be secured and commenced and to also reduced the administrative burden required in terms of quotation and tender exercises for what are comparatively low contract values. These changes would also reduce the need for procurement exemptions which also add to the administrative burden.

5. The changes would also bring our thresholds into line with the local government reporting requirements for Contracts Finder, the central Government procurement portal.
6. The table below summarises the current position and the proposed changes for ease of reference. The process for the four contract types would be the same, the recommendation would just be adjusting the threshold at which the different processes become relevant. It is also proposed that the new thresholds include VAT.

Type	A	B	C	D
Value	< £5,000	£5,000 - £49,999	£50,000 to < UK threshold for goods and services	UK threshold for goods and services
Process	1 quote	3 quotes	Full tender	Full UK compliant tender
Proposed changes (all now including VAT)				
Value	< £25,000	£25,000 - £99,999	£100,000 to < UK threshold for goods and services	UK threshold for goods and services
Process	1 quote	3 quotes	Full tender	Full UK compliant tender

7. As part of these changes it is also recommended that we introduce the ability for the Chief Executive Officer, in consultation with the Leader of the Council, to be given authority to sign off concession and construction contracts under £200k.
8. Following the end of the Brexit Transition Period, the EU procurement regulations were amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 SI 1319 ("PPAR 2020") to address deficiencies arising from the UK's withdrawal from the EU. The current thresholds applicable to local authorities are outlined below (due to be updated from January 2024) and now include VAT whereas previously they did not;
 - Works contracts £5,336,937
 - Services and supplies contracts £213,477
9. New updated legislation is expected to be brought into force during the current calendar year and the Procurement Hub are looking to provide a further more detailed update to the Procurement Procedure Rules in the autumn.
10. The changes outlined above capture the fundamental recommendations; there is still a requirement to ensure that there is no further knock on impact of the changes in terms of the overall procurement advice and guidance. It is therefore recommended that delegated authority is provided to the Deputy Chief Executive (s151) in consultation with the Portfolio holder for Finance and Governance to ensure that any further changes to reflect the recommendations made above can be progressed.

Virement limits

11. The Council's budget virement limits are covered within the Constitution under part 4-6 Financial Procedure Rules (section B, page 90). Paragraph B3 identifies the current virement limits Cabinet, B4 covers the Chief Finance Officer (CFO), B5 covers reporting requirements and B6 provides the authorisation limits for other officers.
12. The table below summarises the current position and the proposed changes for ease of reference.

	Cabinet (B3)	Full Council (B3)	CFO (B4)	Other officers (B6)
Current threshold	£250,000	>£250,000	£50,000	£10k - £25k
Proposed threshold	£500,000	>£500,000	£100,000	£20k - £50k

13. The proposals effectively double the current virement limits which, given the Council has a gross service budget of c.£44m, do not seem unreasonable and would provide officers with additional flexibility in terms of operational budget decisions without having the need to revert to Committee.
14. It should be noted that these changes relate to virements which are movements within the agreed budget and reserve policy framework. This would not allow officers to make changes outside of the framework.
15. It is therefore recommended to make the following adjustments to the sections identified above;

4-6 Financial Procedure Rules (B3 – B6)

Responsibilities of Cabinet

B.3 Cabinet may vire to other purposes amounts provided within the approved annual revenue estimates, except that where the amount of any single diversion exceeds ~~£250,000~~ **£500,000**, the approval of Council is required.

Responsibilities of the Chief Finance Officer

B.4 To have authority to vire to other purposes amounts provided within the approved annual revenue estimates provided that the amount of any single virement shall not exceed ~~£50,000~~ **£100,000**.

B.5 To make regular reports to Cabinet detailing all virements exceeding ~~£25,000~~ **£50,000**.

Responsibilities of Chief Executive, Deputy Chief Executive, Director – Place and Climate Change and Heads of Service

B.6 Chief Executive, Deputy Chief Executive, Director - Place and Climate Change to have authority, within the approved revenue estimates coming under their responsibility, to vire up to ~~£25,000~~ **£50,000** for any single diversion. Heads of Service to have authority, within the approved revenue estimates coming under their responsibility, to vire up to ~~£10,000~~ **£20,000** for any single diversion. All virements subsequently must be notified to the Chief Finance Officer. All requests for virements over ~~£50,000~~ **£100,000** must be submitted to the Chief Finance Officer for Cabinet and/or Council approval.

Consultation

16. The changes proposed within this report have been discussed and agreed with the following key stakeholders;

- Internal audit;
- East Sussex Procurement Hub;
- Democratic Services Manager;
- Senior Leadership Team;
- Corporate Management Team;
- Finance team; and
- Monitoring Officer.

Conclusion

17. The proposed changes will help to streamline and improve the efficiency and speed of decision making in respect of both procurement and budget virements.

18. Members are asked to recommend the necessary amendment to Council.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Risk Management	Yes	Exempt from publication	No

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Appendices:	None.
Relevant previous Minutes:	