

Proposed Amendment to the Council's Constitution (Contract Procedure Rules)

Report of the Portfolio Holder for Resources

Classification	This report is public
Report By	Jim Fieldsend Director of Governance and Legal Services & Monitoring Officer

PURPOSE/SUMMARY OF REPORT

- To propose a change to the Council's Contract Procurement Rules.
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REPORT DETAILS

1. Background

- 1.1 The Council's Contract Procurement Rules as contained in Part 4.8 of the Constitution provides a framework for the procurement of all goods services and works for the Council. All purchases are required to go through a set process depending on the value of the purchase.
- 1.2 Legal Services and Procurement Services have reviewed the Contract Procurement Rules set out in the Appendix and have proposed changes which are shown as tracked changes. Further, on 29th January 2024 Standard Committee considered the changes and has recommended that the Council accepts them.

2. Details of Proposal

- 2.1 The proposed changes can be categorised as follows:
- 2.1.1 Dragonfly Management (Bolsover) Limited is a company wholly owned and controlled by Bolsover District Council. It is also a company that provides over 80% of its services directly to the Council. Consequently, it is what is known as a Teckal company. This means the Council can make direct contractual awards to it without complying with the statutory requirements set out in The Public Contract Regulations 2015 ('the Regulations'). The changes to the Council's Contract Procurement Rules are required to enable the Council to make a direct award to Dragonfly Management (Bolsover) Limited in relation to all contracts

subject to it meeting the specific criteria as set out within Regulation 12 of the Regulations. The changes can be seen in part 4.8.4 at sections 4(i) and 4(ii)

2.1.2 Dragonfly Developments Limited is also a company wholly owned by the Council however it is not a Teckal company and therefore we can not directly award contracts over the Regulation's financial thresholds. Currently the threshold for public works contracts is £5,372,609. The Council can however award contracts below this threshold provided the Contract Procurement Rules provides for this. This is now proposed in part 4.8.4 at section (5).

2.1.3 The proposed changes clarify the position on signing / awarding contracts.

2.1.4 Removal of references to OJEU and replacing them with current provisions and other reference/job title updates.

2.1.5 Clarification to ensure contracts dealt with in service areas are confirmed to procurement for noting on the contracts register.

2.2 Standards Committee on 29th January 2024 considered the proposed changes and has recommend that the Council accepts them.

3. Reasons for Recommendation

To update the Contract Procurement Rules.

4 Alternative Options and Reasons for Rejection

Not to agree to the above amendments. The changes are proposed to reflect current practices and to improve staff understanding of the procurement requirements.

RECOMMENDATION(S)

That Council agrees to the changes to Contract Procurement Rules as set out in the report.

Approved by Councillor Clive Moesby, Portfolio Holder for Resources

IMPLICATIONS.

Finance and Risk: Yes No

Details: None arising out of this report.

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

The Council is required under the Localism Act 2011 to prepare and keep up to date a constitution that contains its standing orders, code of conduct, such other

information that the Secretary of State may direct and such other information that the authority considers appropriate.

On behalf of the Solicitor to the Council

Environment: Yes No

Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment. Please speak to the Climate Change lead officer for further advice.

Details: There are no environmental implications arising from this report.

Staffing: Yes No

Details: None arising out of this report.

On behalf of the Head of Paid Service

DECISION INFORMATION

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards, or which results in income or expenditure to the Council above the following thresholds:</p> <p>Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies.</i></p>	No
<p>Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i></p>	No

<p>District Wards Significantly Affected</p>	<p>(Please state which wards or state All if all wards are affected)</p>
<p>Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	<p>Details: Councillor Clive Moesby, Portfolio Holder for Resources</p>

<p>Links to Council Ambition: Customers, Economy and Environment.</p>
<p>Demonstrating good governance</p>

DOCUMENT INFORMATION	
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Appendix No	Title
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1	Contract Procurement Rules
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Background Papers

<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</i>
