

ROYAL BERKSHIRE FIRE AUTHORITY



COMMITTEE	AUDIT AND GOVERNANCE COMMITTEE
DATE OF MEETING	3 NOVEMBER 2020
SUBJECT	AMENDMENTS TO CONTRACT AND FINANCIAL REGULATIONS
LEAD OFFICER	CONOR BYRNE, HEAD OF FINANCE AND PROCUREMENT
LEAD MEMBER	CLLR GRAHAM HOWE, BUDGET AND INCOME GENERATION LEAD
EXEMPT INFORMATION	NONE
ACTION	FOR DECISION

1. **EXECUTIVE SUMMARY:**

1.1 This report sets out the proposed changes to the Contract and Financial Regulations. The proposed updates include compliance with legislative changes and sound governance in line with best practice.

2. **RECOMMENDATIONS:**

The Audit and Governance Committee:

2.1 **AGREE** the contents of the report; and

2.2 **RECOMMEND** to the Fire Authority:

2.2.1 the amended Contract Regulations as set out in Appendix A;

2.2.2 the amended Financial Regulations as set out in Appendix B and

2.2.3 the linked amendment to the Scheme of Delegation for the Chief Fire Officer / Chief Executive as set out in paragraph 3.16.

3. REPORT:

- 3.1 The current Contract and Financial Regulations were approved by Fire Authority in October 2017. It is good practice to review and update these Regulations on a regular basis.
- 3.2 The amendments set out in this report fall into two categories. Firstly, the Regulations have been updated to further improve the effectiveness of our internal controls. The second objective is to reduce the administrative burden of our control processes wherever possible.
- 3.3 The main changes that are proposed are set out below.

Contract Regulations

- 3.4 Several changes to the Contract Regulations are proposed to further improve their effectiveness.
- 3.5 One significant change relates to the authorisation of contracts above £1m. Currently, Management Committee needs to approve contracts over £1m with approval being sought once the outcome of the tendering process is known. This can lead to delays in awarding contracts and can prove problematic when the Authority enters into collaborative procurements. It also means that Management Committee is getting sight of these high-value procurements very late on in the process. In order to make the role of Management Committee more effective and improve the efficiency of the process it is proposed to change the process so that, "tenders for contracts over £1,000,000 require a business case to be approved by Management Committee before the tender process commences. A tender price up to 5% more than the business case can be accepted by officers if budget provision exists. If the final tender award is between 5% and 10% greater than the business case figure, agreement has to be sought from the Chairman of the Fire Authority before awarding. Any variance greater than 10% would need the approval of Management Committee."
- 3.6 Given that the Authority is about to embark on the sale of several properties, it is important that processes around such sales are robust and transparent. To this end, once the Management Committee has made a decision to sell property there is a new requirement for the three statutory officers to approve and oversee any process for its disposal. This requirement has been replicated in the Financial Regulations.
- 3.7 Over the last few years we have focused a lot of attention and effort on our procurement processes with the result that we can demonstrate that they deliver value for money. However, it is just as important that we manage the relationship with our suppliers for the duration of the contract. To this end, having a named contract manager with known responsibilities helps to ensure that the contact continues to deliver value for money. Currently our

Regulations state that all contracts over £50,000 have a named contract manager. It is proposed that this threshold should be reduced to £10,000 to embed contract management as a matter of course.

- 3.8 The other changes that are being proposed aim at streamlining processes and removing unnecessary administrative burdens.
- 3.9 In order to speed up the procurement process, contracts with values from £150,000 up to £999,999 can now be signed by any Director rather than just by the Chief or Deputy Chief Fire Officer.
- 3.10 The option to use Approved Supplier Lists for low value spend has been removed from the Regulations. Where these lists have been set up in the past, the limitations around expenditure thresholds has meant that in practice they have not proved to be an efficient way to procure goods and services. Furthermore, Approved Supplier Lists do not sit well within the overall framework of Public Contract Regulations.
- 3.11 The list of our contract clauses has been removed from the Regulations as these are available on Siren and are tailored to each procurement. The Procurement Team regularly reviews contract clauses, making additions and subtractions on a regular basis. Removing the list of contract clauses from the Contract Regulations simplifies the administration of this process.
- 3.12 The Procurement Team make use of the Procurement Launch Document (PLD) template prior to undertaking any procurement activity. This document is used to record the route to market, assess risks and compute timelines for any proposed procurement. The PLD is a detailed document and whilst it is essential for complex procurements it is recognised that it is too burdensome for more straightforward procurements. Therefore, the amended regulation requires a PLD for procurements over £50,000 rather than the current £10,000 threshold.
- 3.13 Finally, a couple of additional circumstances have been identified where waivers could be allowed. A waiver may be allowed if it is deemed necessary due to the requirements of operational alignment. Also, a waiver will be permissible if the market is such that effective competition does not exist and it can clearly be demonstrated that the proposed award represents best value for the Authority.

Financial Regulations

- 3.14 Three main changes are being proposed to the Financial Regulations.
- 3.15 The first change relates to debt write-offs. The changes are twofold. Firstly, to strengthen the controls around write offs by requiring the three statutory officers to agree higher level write offs rather than just the Chief Fire Officer.

Having strengthened the controls around write offs, the new regulation provides for a bit more flexibility.

- 3.15.1 The current Regulation states: *“The Chief Finance Officer in conjunction with the Monitoring Officer has delegated authority to write off debts up to £5,000 where there is no prospect of recovery. Debt write-offs up to £10,000 can be authorised by the Chief Fire Officer.”*
- 3.15.2 It is proposed to change this to: *“The Chief Fire Officer / Chief Executive in consultation with the Chief Finance Officer has delegated authority to write off debts of up to 0.05% of the annual Authority revenue budget where there is no prospect of recovery. Debt write-offs of up to 0.1% of the budget can be authorised by the Chief Fire Officer / Chief Executive in consultation with the Chief Finance Officer and the Monitoring Officer. All write-offs must be logged and will be subject to scrutiny by both internal and external audit. Debt write-offs above these levels must be approved by Management Committee.”*
- 3.16 In order to maintain consistency with the Authority’s Approved Scheme of Delegation, ASD 20 has been amended to state that the Chief Fire Officer / Chief Executive has delegated authority to write off debts as set out in the Fire Authority’s Financial Regulations.
- 3.17 The second set of changes are in relation to section 5.8 of the Financial Regulations on Stocks, Stores and Inventories. The current wording is confusing as it refers to assets which are dealt with under a different section of the Regulations. In addition, the current Regulations make reference to an arbitrary cut off of £100 which in practice serves no purpose. It is proposed, therefore, to simplify the wording of this section to emphasise the responsibilities of both the relevant Head of Service in maintaining inventories as well as the overall responsibility of the Chief Finance Officer in ensuring controls are in place for stock items.
- 3.18 The final set of changes removes the terms of reference for the Fire Authority and its Committees and the responsibilities of Statutory Officers as these are already set out in the Authority’s Approved Scheme of Delegation. Instead, the Financial Regulations will provide hyperlinks to the relevant section in the Approved Scheme of Delegation in the Members handbook. This removes duplication and the possibility of inconsistencies arising as corporate documents are being updated on a rolling basis.

4. CONTRIBUTION TO STRATEGIC COMMITMENTS:

- 4.1 Commitment 5 – We will ensure that Royal Berkshire Fire and Rescue Service provides good value for money.

5. FINANCIAL IMPLICATIONS:

- 5.1 Both the Contract and Financial Regulations establish internal controls to ensure that all of the Authority's business is conducted in ways that ensure value for money.

6. LEGAL IMPLICATIONS:

- 6.1 The new Contract Regulations comply with all current legislation that affects Public Sector procurement.

7. EQUALITY AND DIVERSITY IMPLICATIONS:

- 7.1 The Contract Regulations comply with the UK Contract Regulations 2015. The three guiding principles of the regulations are equal treatment, transparency and proportionality.

8. RISK IMPLICATIONS:

- 8.1 Adherence to the Contract Regulations will reduce the financial and legal risk of incorrect award and ensure better management of contracts and suppliers.
- 8.2 Adherence to the Financial Regulations will reduce the risk of financial loss.

9. CONSISTENCY WITH DUTY TO COLLABORATE:

- 9.1 The new Contract Regulations now include a requirement for all suitable procurement activity to be carried out in conjunction with partners and actively work in support of national fire reform procurement programme.
- 9.2 The Thames Valley Fire and Rescue Services already operate a joint procurement work plan and work collaboratively with the national procurement programme. A review of the options to also work more collaboratively with Thames Valley Police is due to commence in September 2017.

10. PRINCIPAL CONSULTATION:

- 10.1 Officers consulted in the preparation of this report include the Chief Fire Officer and Monitoring Officer.

11. BACKGROUND PAPERS:

- 11.1 Current Contract and Financial Regulations, approved October 2017

11.2 Fire Authority Scheme of Delegation

12. APPENDICES:

12.1 Appendix A – Draft Contract Regulations

12.2 Appendix B – Draft Financial Regulations

13. CONTACT DETAILS:

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