

**Meeting:** Council  
**Date:** Wednesday 17 February 2016  
**Subject:** Contract rules and procurement  
**Report of:** Councillor Troy Tester on behalf of the Cabinet

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The Council is asked to consider the minute and resolution of the Cabinet meeting held on 9 December 2015 as set out below.

Further copies of the report to Cabinet are available on request – please see end of this report. A copy may be seen on the Council’s website by following the link below:

<http://democracy.eastbourne.gov.uk/ieDocHome.aspx?bcr=1>

The new contract procedure rules were originally circulated as an appendix to the Cabinet report. Since publication, a few typographical and drafting errors have been identified and an update to the EU thresholds announced as from 1 January. These changes will be incorporated into the rules when re-published within the Council’s Constitution along with notes to identify particular rules that apply only to either Eastbourne Borough Council (EBC) or Lewes District Council (LDC).

### **Contract procedure rules – key changes**

#### **At paragraph nos:-**

- 2.3.1 (f) (*contracts made to engage artists, orchestras, shows or similar events or attractions*) - Relates to EBC only.
- 14.3 (*contracts under seal*) - Threshold amended to £100,000 in line with threshold at paragraph 16.1 – corrects drafting error. It would not make sense to require a seal on an agreement at a lower level than the rules require an agreement to be in a form or writing approved by legal services.
- 18.1A (*sale or lease of land*) - Applies to LDC only.
- 22 (*definitions*) and final paragraph (*lots and small lots*) of annex 2 (*guidance*) - EU thresholds – these show a reduction in value to reflect change in exchange rate between sterling and euro currencies. These are reviewed every 2 years to convert the euro figures into sterling. Next review due on 1 January 2018.
- Annex 2 (*guidance*) – Term ‘organisation’ substituted for ‘council’ to reflect application to Eastbourne Homes as well as EBC and LDC.

A copy of the updated rules is appended.

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### **The Council is recommended to:-**

**Approve the new contract procedure rules, incorporating the corrections and updates as mentioned above.**

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**Minute Extract**  
**CABINET 9 December 2015**

**\*48 Contract rules and procurement**

48.1 Cabinet considered the report of the senior head of projects, performance and technology seeking approval of revised contract procedure rules and to agree approaches to two key procurements. Local authority procurement was an evolving area which was subject to scrutiny and challenge. The current rules were approved in 2009 and now needed to be fully revised to ensure they reflected current law, best practice and the environment in which the council was now operating.

48.2 The 3 key reasons for revising the rules were:

- To reflect the Public Contract Regulations 2015, in force earlier this year.
- To achieve a standard set of rules for Eastbourne Borough Council, Lewes District Council and Eastbourne Homes Ltd.
- To enable a modern and responsive approach to procuring works, supplies and services.

48.3 The full revised rules were appended to the report. Key changes included:

- Simplification and standardisation of the contract value thresholds that determined the approach taken to procurement; with a higher threshold for low value procurements for which no specified number of quotes was required and provisions to ensure accountability for any direct awards of lower value contracts.
- Updating the rules around advertising contracts to reflect the requirements of PCR 2015. These were outlined in section 7 of the rules.
- A 'digital by default' approach to tendering, meaning that tenders would be advertised online and responses would be submitted via an electronic tendering system, thus removing the outdated need for hard copies to be submitted and recorded in a tender opening book.
- Clear rules stating that disposal of land via sale or lease must only happen after auction, invitation of tenders or expressions of interest following public advertisement, in at least one newspaper circulating in the district, unless specifically authorised by cabinet.

The council's monitoring officer and the audit and governance committee (at their meeting on 2 December 2015) had both considered the revised rules and had recommended approval.

48.4 The report then considered the approach to two particular procurements. First, energy procurement, as existing gas and electricity contracts were due to end in 2016. A review had been undertaken which had recommended choosing East Sussex County Council (ESCC) for reasons of cost and the provision of additional useful services. The estimated total cost of the contract was £65,000, so it was comfortably

under the OJEU thresholds and therefore within cabinet's authority to authorise a direct appointment. Second, in respect of software to operate the community infrastructure levy (CIL) (which was a planning charge, introduced by the Planning Act 2008 as a tool for local authorities to help deliver infrastructure to support the development of their area). It was important that CIL funds were properly administered to ensure they were used for the agreed purpose and were clearly auditable. It was also proposed that this facility be shared with Lewes District Council who had already agreed to purchase CIL software linked to their existing planning case management system. Given the intention to enter into a shared service, and the lack of a product from the council's supplier, an exception to contract rules was recommended in order to appoint Exacom Systems to provide the council with CIL/s.106 software. The estimated contract value was £45,000 so it was comfortably under the OJEU thresholds and therefore within cabinet's authority to authorise a direct appointment.

**48.5 \* Resolved (budget and policy framework):** (1) That full council be recommended to approve the new contract procedure rules.

**48.6 Resolved (key decision):** (2) That an exception to the existing contract procedure rules be authorised in order to appoint East Sussex County Council directly to procure the council's energy supply and manage the council's energy services.

(3) That an exception to the existing contract procedure rules be authorised to procure the same software solution as Lewes District Council to manage community infrastructure levy payments as part of a shared service.

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For a copy of the report please contact Local Democracy at 1 Grove Road, Eastbourne, BN21 4TW. Tel. (01323) 415022 or 415021.  
E-mail: [localdemocracy@eastbourne.gov.uk](mailto:localdemocracy@eastbourne.gov.uk)

For further information please contact:  
Henry Branson, Senior Head of Projects, Performance and Technology  
Tel: 01323 415155  
Email: [henry.branson@eastbourne.gov.uk](mailto:henry.branson@eastbourne.gov.uk)

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