

## CONTRACT RULES

### REVISED MARCH 2012

The majority of the Contract Rules remain unchanged. A lot of the detail has been removed and has been included in the Procurement Code.

Revised CR	Existing CR
<p>Exceptions to tender has been removed because the waiver provisions set out in paragraph 6.2 are sufficient.</p>	<p>The following section has been removed from the new version.</p> <p>7.2 'If a Strategic Director believes that by following one of the procurement options detailed in 3.7 above, the procurement process will not provide the most appropriate method of service delivery, the most competitive prices, allow for continuous improvements in service delivery, or stifle procurement innovation, then he/she may suggest alternative procurement strategies for approval by the Cabinet. Prior to proceeding with the procurement, the Strategic Director shall produce a written procurement strategy that shall be approved by the Chief Executive and the Cabinet.</p> <p>The requirement for Tenders shall not apply where the services comprise:-</p> <p>advice of Counsel; representation by Counsel; services of an expert witness;</p> <p>the engagement of temporary, locum or fixed term contract staff (contact HR for details of the Council current policy.)</p>

<p>The new waiver report value and requirements are:</p> <p>6.2</p> <p>These Contract Procedure Rules may be waived, subject to compliance with any relevant EU/UK legislation. Any such waiver must be agreed by:</p> <p>The Cabinet for contracts above £100,000 or the Chief Executive in consultation with the Leader of the Council if the matter requires an urgent decision and a meeting of the Cabinet cannot be called; or</p> <p>The Officer(s) authorised under Part 3 table 5 of the Constitution, in consultation with the Section 151 Officer and the Legal Advisor if the contract is £100,000 or less.</p>	<p>The current value for waiver reports are:</p> <p>9.1</p> <p>Any such waiver must be agreed by:</p> <p>i) The Cabinet for contracts over £50,000.00; or the Chief Executive in consultation with the Leader of the Council if the matter is urgent and a meeting of the Cabinet cannot be called; or</p> <p>ii) A Strategic Director, in consultation with the Chief Finance Officer and the Borough Solicitor and Monitoring Officer, if the contract value is £50,000.00 or less.</p> <p>iii) The Chief Executive activating the Council's 'Major Incident Plan' or a business recovery plan (as outlined in the business continuity management strategy).</p>
<p>11</p> <p>Consideration needs to be given to whether the receipt and opening of tenders is transferred from Procurement so that the responsibility remains with CBC. E.g. Democratic Services</p>	<p>11</p> <p>Currently tenders are received by the Procurement Manager</p>
<p>18</p> <p>All contracts above £10,000 shall be executed as a deed under seal by the Borough Solicitor unless the Borough Solicitor considers it more expedient to sign the contract. All other contracts may be signed by the Chief Executive, Executive Directors, Directors, Borough Solicitor and Monitoring Officer and Head of Legal Services unless the Borough Solicitor requires any such contract to be sealed</p>	<p>17.5</p> <p>All contracts under £10,000.00 shall either be signed by an Authorised Officer as defined in Appendix H or may be signed by the Borough Solicitor and Monitoring Officer or the Head of Legal Services. Alternatively, they may be sealed if required by the Borough Solicitor and Monitoring Officer or by the responsible Strategic Director.</p> <p>17.6 All written contracts over the value of £10,000.00 shall be signed by the Borough Solicitor and Monitoring Officer or the Head of Legal Services or may be sealed if required by the Borough Solicitor and Monitoring Officer or by the responsible Strategic Director.</p>

<p>17 and Appendix 1 and 2</p> <p>A new section on embedded leases and embedded derivatives is as follows  Prior to completion of a contract the Authorised Officer must complete the following questionnaires:</p> <ul style="list-style-type: none"> <li>• Identification of Embedded Leases questionnaire at appendix 1;</li> <li>• Identification of Embedded Derivatives questionnaire at appendix 2</li> </ul> <p>The Authorised Officer must complete the questionnaires referred to in the Contract Procedure Rule 17.1 referred to above in accordance with the instructions set out in the questionnaires.</p> <p>Upon completion of the questionnaire(s), if the Authorised Officer concludes that the contract contains an embedded lease or an embedded derivative then a copy of the contract must be referred to the s151 Officer for a full financial assessment.</p> <p>All completed questionnaires must be filed with the Tender documents and retained for audit purposes.</p>	
<p>More detail on embedded leases and embedded derivatives in the appendices</p>	<p>The appendices to the current rules are now in the code of practice</p>