

**Executive – 8th October 2009**

## **EXEMPTIONS TO STANDING ORDERS RELATING TO CONTRACTS AND FINANCIAL INSTRUCTIONS**

### **Report of the Strategic Director (Resources)**

**Statutory Powers:** s.135(3) Local Government Act 1972.

**Financial Implications:** This report details exemptions to the Standing Orders Relating to Contracts and Financial Instructions, the financial details of which are set out in the Appendices.

### **Purpose**

The purpose of this report is to inform members of the exemption(s) to the Standing Orders Relating to Contracts and Financial Instructions since the previous Executive meeting, in accordance with the procedure approved by the Council: Minute references 70/07 and 49/07 refers.

**Link to Council's Priorities** – CP6 Improving core service performance in a cost effective way.

### **RECOMMENDATION**

**That the Executive RESOLVES to note the exemptions to the Standing Orders Relating to Contracts and Financial Instructions attached at Appendix A and B.**

### **Background**

1. The Council and its Executive have power to authorise exemptions from the requirement to adhere to the Standing Orders Relating to Contracts and Financial Instructions approved by the Council in December 2007 (Minute references 70/07 and 49/07).
2. These documents state that in certain circumstances, with approval, an officer may seek an exemption from the need to invite tenders or quotations for the purchase of goods, works, or services without a detailed written report to members.
3. The intention is to make the Exemption process more flexible and less time consuming than that requiring a full report to the Executive in all cases.

### **Exemptions to Standing Orders Relating to Contracts – Appendix A (Amounts between £30,000 and the relevant EU Limit)**

4. Appendix A summarises the applications for exemption to Standing Orders Relating to Contracts approved through the exemption process since the last Executive meeting.

## Exemptions to Standing Orders Relating to Contracts – Appendix B (Amounts between £3,000 and £30,000)

5. Appendix B summarises the applications for exemption to Financial Instructions approved through the exemption process since the last Executive meeting.

### Risk Assessment

6. The following are the significant risks and opportunities identified:

| Opportunity                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Issues / Obstacles                                                                                                                                                                                                                                                                                   | Benefits                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The process for providing officers with approval for exemptions to the Standing Orders Relating to Contracts and Financial Instructions, in certain circumstances, provides more flexibility and the ability to react promptly to situations that arise. This less bureaucratic approach, compared with a formal report to members in all cases, saves time for both members and officers. It retains the control elements needed within a procurement process.</p> | <p>There is a risk that controls within the procurement procedures are undermined if the process is inflexible, bureaucratic, and time consuming. If the above situation was allowed to persist, the Council may not achieve best value for money in the purchase of goods, works, and services.</p> | <p>The key benefits of the process are:<br/> <i>Greater flexibility:</i> managers are able to react quickly to procure services etc. that may reduce the risk of harm to the public or staff, save time, money, and/or embarrassment.<br/> <i>Increased openness:</i> a less bureaucratic approach, in certain circumstances, will encourage managers not to 'take a chance' and ignore procurement rules in high pressure situations.</p> |

### Conclusion

7. The process for providing officers with approval for exemptions to the Standing Orders Relating to Contracts and Financial Instructions, in certain circumstances, provides more flexibility and the ability to react promptly to situations that arise. It is also a more efficient and less bureaucratic approach than that previously in place.

Allan Goodman  
Internal Audit Manager

Executive  
 8th October 2009

Mark Seymour  
Strategic Director (Resources)

List of Appendices:

Appendix A: Summary of Exemptions to Standing Orders Relating to Contracts

Appendix B: Summary of Exemptions to Financial Instructions

### Background Documents:

Signed exemption application pro-formas are available to view upon request from Member Support Services.



**SUMMARY OF EXEMPTIONS TO STANDING ORDERS RELATING TO CONTRACTS  
(AMOUNTS BETWEEN £30,000 and the EU LIMIT), APPROVED SINCE THE LAST EXECUTIVE**

**Appendix A**

| Lead Officer                                                       | Summary of the Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Reason for the Exemption                                                                                                                                                                                                                                                                                                                                                          | Value and Budget                               |
|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| <p>Head of Property Services<br/>Head of Landscape and Leisure</p> | <p><b>Replacement Pool Air Handling Unit at QLC</b><br/>The pool air handling unit at Quayside Leisure Centre (QLC), Kingsbridge is coming to the end of its operational life. under the split of responsibility with Tone Leisure it is the Council's responsibility to replace the unit.<br/>The project would initially be funded from our capital budget and the expenditure would be reclaimed from the £15,000 - £20,000 savings in the annual energy costs. Subject to agreement with Tone Leisure.<br/>Tone Leisure has used our joint energy consultant Lean Energy to identify a replacement unit from a supplier, ESG. They supply and install.<br/>It is not possible to get an estimate from any other company for an ESG unit. The Building Services Manager has obtained 3 excellent references from other Leisure Centres who have ESG units installed. ESG estimate £40,000 with an option to have temporary air handling unit during the works for £10,000 (to be agreed)<br/>The last air handling unit installed by SHDC was at South Dartmoor Leisure Centre and cost £65,000 (2000).<br/>Using the ESG option saves the Council employing consultants to prepare specifications and also avoids tendering costs. There could also be complications if the Council choose a different supplier and the unit proves to be unreliable, as Tone Leisure pay for the day to day R &amp; M.</p> | <p><b>Limited Markets, plus Increased Cost</b> possible brought about by having to employ consultants to draw up a specification and through the potential complications of buying a unit not supported by Tone Leisure.<br/><b>Life or Death and/or Embarrassment</b> brought about by pool closure to avoid structural damage or even disease brought about by condensation</p> | <p>Estimated at £40,000<br/>Capital Budget</p> |

**SUMMARY OF EXEMPTIONS TO FINANCIAL INSTRUCTIONS  
(AMOUNTS BETWEEN £3,000 and £30,000), APPROVED SINCE THE LAST EXECUTIVE**

**Appendix B**

| Lead Officer                                                       | Summary of the Application                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Reason for the Exemption                                                                                                                 | Value and Budget                                                                                                                                                                                                                                                                                                  |
|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Head of Property Services<br/>Head of Landscape and Leisure</p> | <p><b>Squash Court Wall Refurbishment at QLC</b><br/>There is a limited market for specialist squash court contractors, but one with an international reputation is based in the South Hams at Thurlestone.<br/>The squash court walls at Quayside Leisure Centre (QLC), Kingsbridge require refurbishment and Tone Leisure have delayed resurfacing the squash court floors until the work on the walls has been completed.<br/>The Head of Landscape and Leisure and Tone Leisure require the work to be completed by the end of September 2009, and there is a risk of a claim for loss of earnings if the project is delayed.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p><b>Limited Markets</b>, plus:<br/>Potential for <b>Embarrassment and Increased Costs</b> if work not completed on a timely basis.</p> | <p>Estimated cost<br/>£10,200<br/>Budget:<br/>Capital Programme<br/>£20,000</p>                                                                                                                                                                                                                                   |
| <p>Head of Property Services</p>                                   | <p><b>Consultants Fees for Ford Leat, Dartmouth</b><br/>Ford Leat is an elevated structure that was built in the early 19<sup>th</sup> century and there is now a risk of imminent failure. It carries water past 18 properties, and there is a risk that if the leat fails, 6 properties would risk flooding and 12 others would have flooded gardens.<br/>The formal ownership of the leat is unknown. The Property Services team have consulted with several other agencies and as the Council has cleared and maintained the leat, the works will have to be done by the Council. Funding from other external sources is still being actively pursued.<br/>In September 2007 the Council employed Scott Wilson (SW) to carry out option appraisals.<br/>Property Services now want to appoint SW for the next stage, to prepare specifications and contract documents to put new drainage pipes under Victoria Road.<br/>Employing another consultant at this stage would significantly increase the officer time and protract complex negotiations that are already in progress.</p> | <p><b>Increased Costs</b> if another consultant appointed at this stage.</p>                                                             | <p>Fee proposed is<br/>£14,295, but allow<br/>£20,000 with<br/>additional costs.<br/>Due to the complexity of the negotiations to get approvals for this work from several bodies, the additional time spent by SW is unknown and will be charged at hourly rates.<br/>Budget: Capital Programme<br/>£100,000</p> |