

REVIEW OF CPR EXEMPTIONS

AGRED BY PROGRAMME BOARD 15TH FEBRUARY 2016

INTRODUCTION

Exemptions cannot be applied to procurements subject to the EU Procedure and are only relevant under the OJEU limit prevailing at the time.

A procurement will be considered compliant where another authority/public body is acting as 'lead buyer' and provided that the person(s) awarding the contract can demonstrate the arrangements comply with the requirements of Best Value and other applicable legislation including, where relevant, the EU Procurement Directives - . This includes recognised wider public sector arrangements, including for example those let by the Crown Commercial Service or successor organisations, etc. A Head of Service will be required to approve such a procurement.

EXEMPTIONS

1. For procurements valued below the relevant EU Threshold, officers with approval from the Solicitor to the Council and the Head of Central Services may grant formal exemptions which fulfil **one or more of the following criteria:**
 - **Sole source of supply:** where suitable supplies or services are genuinely only available from one supplier (e.g. if a patent, copyright or other exclusive design right exists). Similarly, for any highly specialised/niche supplies or services, where for all practical purposes no realistic alternative source of supply exists. Exemption requests made on this basis will be tested by Solicitor to the Council and Head of Central Services.
 - **Reasons of compatibility:** if compatibility with existing supplies, equipment or services is essential and where those supplies, equipment or services cannot be sourced from another supplier (e.g. spare parts/components for existing equipment) or where additional units are being purchased to match existing equipment and there is an overwhelming case for matching the existing items on the grounds of functionality, aesthetics etc.
 - **Genuine emergencies:** critical preventative remedial work where there is real and imminent risk to the safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents such as fire, bombing, flood, major landslide etc. as long as any expenditure in excess of £25,000 is first approved by the Chief Executive, Strategic Director or Head of Regulatory Services. Any contract entered into by the Council under this Exemption must not be for a term of more than 6 months.

- **Urgent situations not of the Council's own making:** the urgency must have been reasonably unforeseeable (e.g. an existing supplier going into liquidation, urgently imposed statutory changes etc.) and genuinely be a case of 'time is of the essence'. However, urgency arising through problems of the Council's own making (whatever the cause and regardless of whether it involved previous delays or shortage of resources etc.) shall not in itself justify exemption.
2. Procurements which have been registered as Partnerships or Grants.
 3. Works orders placed with Utility companies, e.g. for re-routing cables or pipework. The term 'Utilities' does not include telecommunications
 4. Low value purchases made by a *Purchasing Card* that are subject to guidelines issued on the use of *Purchasing Cards*
 5. Contracts for the use of barristers
 6. *Call Off* or orders placed against *Framework Agreements* where the procedures defined in the contract for *Call Off* are followed
 7. Most contracts for the acquisition and disposal of land, property or assets that are covered by separate policies and procedures

EXEMPTION PROCEDURE

Exemption requests made under the provisions above must be submitted to the Solicitor to the Council and the Head of Central Services Finance for review and approval. Wherever possible completed Exemption Request forms should be submitted by email and should be retained by the requestor on file.

An exemption will either:

- Be approved by Solicitor to the Council and Head of Central Services and confirmed with the requesting Officer; or
- Held pending a request for further information; or
- Rejected stating the reasons; or
- Referred to relevant committee for determination if in the opinion of the Solicitor to the Council and Head of Central Services this is required.