

Appendix 2 RIPI 2 Action Plan Spreadsheet

Recommendation R2.1: Additional Information

Progress

A review has been undertaken, the details of which are set out below. The proposals arising from the review is to be implemented by March 2024.

Current protections/ processes

Contracts falling within the Tenders and Contracts Regulations (TCRs)

There are currently protections with the TCRs for procured contracts as follows:

4. Officer Responsibilities

4.1 Officers involved in the commissioning and procurement process must comply with:

These Regulations;

- All UK and European Union binding legal requirements;

4.2 Officers must:

- a. Have proper regard for all necessary legal, financial and professional advice;
- o. Enter all purchase order information onto the Council's financial system prior to any goods or services being provided. Raising purchase orders, and any permitted exceptions, must be conducted in accordance with the Council's P2P Guidance documentation;
- q. The contract manager should ensure the safe keeping of contract documentation in line with Croydon's document retention policy and uploaded onto the Council's contract management system;

5. Director Responsibilities

5.1 Directors must:

- a. Ensure that these Regulations are followed and enforced within their areas of responsibility;
- b. Make the staff aware of the requirements of these regulations;
- g. Monitor compliance and investigate any non-compliance with the regulations and report any findings to the Director of Commercial Investment as Chair of the Contracts and Commissioning Board;
- j. Ensure their contract managers have kept contract documentation in line with Croydon's document retention policy and uploaded onto the Council's contract management system.

29. Contract Pre-conditions and Preliminaries

29.1 A Director must not authorise or permit a contractor to enter on any land or buildings belonging to the Council or to proceed with the Contract or start work on site until a written order to proceed with the Contract has been issued and the following actions are completed:

- a. the contractor has provided proof of insurance;
- b. the contractor has completed and returned to the Council the contract documents unless the Director can satisfy the Director of Legal Services and the Chair of CCB

that the Council's position is otherwise adequately secured;
c. where appropriate the performance bond is duly completed;
d. all procedures have been completed to the satisfaction of the Director of Legal Services.

33. Contract Storage

33.1 The Director responsible for the service area must ensure that all signed/ sealed Contracts established in accordance with these Regulations are scanned and the scanned copy or a true electronic copy (with signature/ sealed pages scanned accompanying it) is stored on the Council's Contract Management system and that the original copy of the contract has been received by the Deeds team in Croydon Legal Services.

Although these protections are in the constitution, there is the need to ensure they are complied with. In relation to any non-compliance, Contracts & Commissioning Board /Procurement Board are implementing a log which will be reviewed on a regular basis and escalated, where needed.

Other types of contracts/ agreements:

The provisions regarding other contracts/ agreements are covered to some extent in the Financial Regulations. The practice and advice from Legal Services to date is to follow the principle of the TCRs that, where a contract has a value of over £100k, it needs approval by Legal and needs to be signed by and authorised signatory in Legal.

There are likely many agreements entered into that do not come to Legal Services for consideration. There is no centralised data available to review the number of matters this might currently apply to.

Process for signing documents by Legal Services:

- Legal review undertaken
- Final agreement engrossed (not always internally)
- Authority provided
- Signing/sealing form completed, including relevant authority
- Record in the relevant register
- Signed contract scanned, sent to client officer and saved on Visual Files
- Where relevant, hard copy retained, and archive requested

There are currently four registers – Sealing register, Miscellaneous register, Electronic signing register and Browne Jacobson's POA register. The Electronic register and POA register were brought about due to the Pandemic.

Overall, the process works, however issues can arise at some stages for example, lack of appropriate authority to enter into the agreement.

Proposals

1. Training for staff to ensure they understand and follow processes e.g., under the TCRs.
2. To implement any relevant provisions into the Financial Regulations for 'other' agreements (e.g. for Capital Projects), similar to assurances in the TCRs. For

example, agreements with a value of over 100k should be signed off by Legal.

3. To implement a 'non-compliance' reporting/ escalation system with appropriate oversight (already underway for procured contracts).

4. Clarify who are Authorised Signatories. Please note, the Intranet is confusing at present, as it refers to Authorised Signatories in the context of those authorised under the financial regulations to approve requisitions up to a certain value – please see here. This needs to be clarified (e.g. re-title to 'Authorised Approvers'?).

5. For procured contracts, Scott Funnell to provide a central email address for copies of signed contracts to be sent to in order to be centrally stored.

6. Use of electronic signing/sealing platform e.g. DocuSign. This will automate the process, reduce delay, simplify the registering system and storage system. Business case needed regarding cost and confirmation whether the Council can seal deeds electronically (it'll only cost effective if this is possible).

The Monitoring Officer is working with the Director of Commercial Investment & Capital to take forward the above proposals. The process is in place for the signing of contracts in accordance with the Constitution Tenders and Contracts Regulations and which also accords with R2. Legal Services has in place a process for signing and storing contracts on matters they are dealing with. Electronic copies are stored on Legal Services System (Visual Files Records). Hard copies are stored in the Deeds Room. Strategic Procurement are looking at a central repository of all Council contracts. This forms part of the Strategic Procurement and Contract Plan.