

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Corporate Services

Committee : Council 25 March 2009

Subject: Remit of the Tendering Committee

1. Purpose

- 1.1** This report deals with the remit of the Tendering Committee, the overlap between that committee's remit and the Service Committees, and seeks Councils' views on the appropriate committee to consider proposed contracts.

2. Background

- 2.1** The Tendering Committee of 18 February 2009 considered a report seeking approval to enter into negotiations with the Councils' current service provider to extend the existing contract for the supply, erection and dismantling of scaffold access equipment to allow the continuation of the repair and planned maintenance of Council property. Concerns were expressed that consideration of policy matters were outwith the committees remit and the report was remitted to Council on 25 February 2009. Council requested a further report detailing the remit of the Tendering Committee and Service Committees.

3. Main Issues

- 3.1** The concern expressed by Members at the Tendering Committee on 18 February 2009 was that policy issues should be dealt with the Services Committees and the Tendering Committee should deal with procurement issues. In other words the Service Committee would make the decision on whether the project would proceed. The Tendering Committee would make the decision on the method of procurement and choice of contractor.
- 3.2** The Standing Orders position regarding committees is as follows. Firstly, in terms of Standing Order 31 the Tendering Committee and Service Committees are full committees of the Council and are therefore of equal status. There is nothing in Standing Orders which provides that policy issues cannot be considered by the Tendering Committee. Both service committees and Tendering Committee have delegated powers.
- 3.3** The remit of the Tendering Committee is as follows:-

The remit of the Tendering Committee will be to consider and approve all tenders for work exceeding £30,000 in value in accordance with the rules and

procedures specified elsewhere in these Standing Orders. The tender for works for less than £30,000 in value may be submitted to the Tendering Committee for approval at the discretion of the relevant Executive Director.

- 3.4 The remit of the service committees is much wider. In addition to specific remits, a service committee such as Housing, Environment and Economic Development has a general remit to:-
- Direct and supervise the activities of the Council in its role as direct provider of housing, housing provision, roads, economic development etc.
 - Develop and monitor policy and service provision.
 - Recommend housing capital programmes and the housing revenue account to the Council.
 - Housing asset management and Council property maintenance.
- 3.5 There are potential overlaps between the remit of the Tendering Committee and service committees. Standing Order 29(i) recognise the potential for such overlaps and states that where an issue arises which is within the remit of more than one committee, the Conveners of the committees will determine which committee shall deal with the issue.
- 3.6 Strictly speaking, if there were concerns that the scaffolding contract was not within the remit of the Tendering Committee, then Standing Orders envisage that this would be resolved as follows. Firstly, advice would be given to the relevant Conveners (in this case the Conveners of Tendering and HEEDS) as to whether the matter fell within the remit of both committees. In the case of the scaffolding contract it did fall within the remit of both committees. Thereafter the two Conveners would agree which committee considered the matter. In terms of Standing Order 29(i) their decision would be final.
- 3.7 It is however open to Council to give general guidance to officers, Members and Conveners as to the division of work between the service committees and the Tendering Committee. Indeed it is felt that this would be helpful.
- 3.8 It is suggested that the appropriate division between the Tendering and service committees would be as follows:-
- The decision on whether a project proceeds would generally be one which would be made by Council, a Service Committee or Officers acting under delegated powers. For example Council might agree a project as part of the Capital Plan. Alternatively the expenditure may be contained in the existing revenue budget and were it not for the £30,000 tendering limit requiring a reference to the Tendering Committee, Officers would have delegated powers to proceed. The only exception to this would apply in cases of urgency. The Tendering Committee has more flexibility in meeting dates and on occasions the urgency of the proposal may require it to be remitted to the Tendering Committee, rather than a Service Committee or Council.

- If the only reason that a matter is going to committee is the fact that the tender is over £30,000 then it should go to the Tendering Committee rather than the Service Committee.
- The Tendering Committee should deal with issues relating to the type of procurement proposed.
- The Tendering Committee should deal with consideration and approval of tenders.

4. Personnel Issues

4.1 There are no personnel issues.

5. Financial Implications

5.1 There are no financial implications.

6. Risk Analysis

6.1 In terms of Standing Orders both Service Committees and the Tendering Committee have overlapping powers to deal with policy issues relating to contracts. The greatest risk is a delay in considering projects due to uncertainty as to which committee should deal with the matter. However Committee Convenors can deal with this under the existing Standing Orders.

7. Conclusions

7.1 Both the Tendering and Service Committees can deal with policy issues. If business falls within the remit of two committees then Standing Orders give the Convenors the powers to determine which committee will deal with the matter.

7.2 In relation to the Tendering Committee it is felt that it would be useful for the Council to provide guidance on the business that it would expect to go to Tendering and Service Committees. The suggestion is that except in cases of urgency the decision on whether a project should proceed should be one for Council, the Service Committee or delegated powers. In other words the Tendering Committee would not invite tenders or approve tenders unless there was previous authority to proceed with the project, which authority could derive from a Council decision (e.g. the Capital Plan), a Service Committee decision or delegated powers. Except in cases of urgency the Tendering Committees remit would be to determine the method of tendering and to consider and approve tenders.

8. Recommendations

8.1 Council is asked to note the existing powers of Committee Convenors to determine which committee shall deal with an issue which falls within the remit of more than one committee. In relation to the remit of the Tendering Committee it is recommended that Council provide clarification on overlaps between the remit of the Tendering Committee and Council or Service Committees. The recommended split is as follows:-

- (a) The decision on whether a project proceeds would generally be one which would be made by Council, a Service Committee or Officers acting under delegated powers. For example Council might agree a project as part of the Capital Plan. Alternatively the expenditure may be contained in the existing revenue budget and were it not for the £30,000 tendering limit requiring a reference to the Tendering Committee, Officers would have delegated powers to proceed. The only exception to this would apply in cases of urgency. The Tendering Committee has more flexibility in meeting dates and on occasions the urgency of the proposal may require it to be remitted to the Tendering Committee, rather than a Service Committee or Council.
- (b) If the only reason that a matter is going to committee is the fact that the tender is over £30,000 then it should go to the Tendering Committee rather than the Service Committee.
- (c) The Tendering Committee should deal with issues relating to the type of procurement proposed.
- (d) The Tendering Committee should deal with consideration and approval of tenders.

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Appendices: None

Background Papers: None

Wards Affected: All