



**ARTICLE NO: 1C**

**COPRPORATE OVERVIEW &  
SCRUTINY COMMITTEE**

**MEMBERS UPDATE 2010/11**

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**Article of: Council Secretary and Solicitor**

**Issue: 4 February**

**Relevant Portfolio Holder: Councillor A Fowler**

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**SUBJECT: CONTRACT PROCEDURE RULES – TENDERS FOR OUTDOOR PLAY  
EQUIPMENT**

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## **1.0 PURPOSE OF ARTICLE**

- 1.1 To advise members of an exception to Contract Procedure Rules in relation to the opening of tenders for the provision of Outdoor play equipment.

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## **2.0 BACKGROUND**

- 2.1 The Council's Contract Procedure Rules specify arrangements for all aspects of the tendering process leading to the award of a contract by the Council for goods or services.
- 2.2 Contract Procedure Rule 4 provides that in cases where the Chief Executive is satisfied that there are special circumstances, he may waive any of the provisions in the Contract Procedure Rules, subject to the circumstances being reported via a Members' Update item.

## **3.0 ISSUES**

- 3.1 The Executive Manager Community Services has recently undertaken an exercise leading to the submission of tenders from companies interested in providing and installing outdoor play equipment.
- 3.2 Contract Procedure Rules provide for tenders for any particular contract to be opened together. As tenders are received at the Council offices, they are stored in a locked cupboard until it is time to open them. In this case the tender documents were submitted to the Council in a range of differently sized envelopes, packets

and containers (due to the fact that some of them contained large-scale plans etc) and, accordingly were not all capable of being stored in the usual place prior to opening. Arising from this, not all of the valid tenders were taken to be opened in the presence of Members, as required by the Contract Procedure Rules.

3.3 In the circumstances, it was felt that the tenders not opened on the first occasion should be opened, provided the Chief Executive was prepared to waive the appropriate Contract Procedure Rule in accordance with Rule 4(1). Had these tenders been disregarded and had it subsequently emerged that one of these was at a lower price, the company in question could have challenged the Council and, in addition, the Council could have been in a less favourable position. It was, therefore, in the interests of both the Council and the remaining suppliers for the remaining tenders to be opened at a later time by the same members involved in opening the first set of tenders. By this, it was possible for all tenders to be considered together. After considering the circumstances the Chief Executive agreed to waive Rule 12(i) and the remaining tenders were subsequently opened.

3.4 This Update has been prepared in accordance with Contract Procedure Rule 4(ii), which requires that Members be advised of the Chief Executive's action under Rule 4(i).

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### **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

### **Equality Impact Assessment**

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

### **Appendices**

None