

FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Tuesday, 1 March 2016
Report Subject	Contracts Requiring Sealing
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

Certain contracts are required by contract procedure rules to be “under seal”. That is to say, to have the Council’s official seal attached rather than being signed by a manager. One such category is contracts worth more than £250,000. Section 12.10 of the Constitution requires all contracts over £50,000 to be in writing and either signed by two officers or sealed. For the sake of clarity there should only be one set of rules.

The report was considered by the Constitution Committee on 27 January 2016 and resolved that Section 12.10 be amended.

RECOMMENDATIONS

- 1 That Section 12.10 of the Constitution be amended by deleting the words struck out as follows

“Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Officer, Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite Authority to some other person. ~~Notwithstanding any arrangements set out within the Contract Procedure Rules which may require particular forms of contract for contracts of a lesser value, the Council expressly resolves that any contract with a value exceeding £50,000 entered into on behalf of the local Authority in the course of the discharge of a Executive Function shall be made in writing. Such contracts must either be signed by at least two officers of the Authority or made under the common seal of the Council attested by at least one officer.”~~

REPORT DETAILS

1.00	CONTRACT PROCEDURE RULES
1.01	<p>The Council's Contract Procedure Rules (CPRs) are a comprehensive set of requirements for entering into contracts. They require all contracts to be in writing. They also require the following contracts to be under seal (CPR 35.1).</p> <p>"The following contracts shall be in writing and executed under seal:</p> <ul style="list-style-type: none">(a) if the Council wishes to enforce the contract for more than six years after its end;(b) where the price paid or received under contract is a nominal price or there is no consideration and does not reflect the value of the works goods or services;(c) where there is any doubt about the authority of the person signing for the other contracting party;(d) where it is required by law; or(e) where the total value of the Contract exceeds £250,000. <p>The seal must not be affixed without the authority of Cabinet or of a Cabinet Member or Chief Officer acting under delegated powers. All contracts under seal will also require an official Purchase Order to be created on the Purchase-to-Pay solution (where available)."</p>
1.02	<p>Section 12.10 of the Constitution provides:</p> <p><u>"Authentication of Documents</u></p> <p>Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Officer, Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite Authority to some other person. Notwithstanding any arrangements set out within the Contract Procedure Rules which may require particular forms of contract for contracts of a lesser value, the Council expressly resolves that any contract with a value exceeding £50,000 entered into on behalf of the local Authority in the course of the discharge of a Executive Function shall be made in writing. Such contracts must either be signed by at least two officers of the Authority or made under the common seal of the Council attested by at least one officer."</p> <p>Clearly, these requirements are similar to but not entirely consistent with the Contract Procedure Rules. It would be preferable for them to be entirely consistent.</p>

1.03	Given that CPR's are comprehensive it would be better for all the rules to be in the same location. It is therefore recommended that the part of 12.10 that duplicates CPR's should be deleted.
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2.00	RESOURCE IMPLICATIONS
2.01	None

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	The CPR's were considered by the Audit Committee, Constitution Committee and Council.
3.02	The report was considered and recommended at Constitution Committee on 27 January 2016.

4.00	RISK MANAGEMENT
4.01	There are no risks associated with the proposed change.

5.00	APPENDICES
5.01	None

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None Contact Officer: Gareth Owens, Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Contract Procedure Rules – a comprehensive set of rules that everyone must follow when entering into contracts on behalf of the Council.
7.02	Council Seal – a means of showing that a document has been authorised by the Council. It consists of a red wafer seal attached to a document and stamped with the Council's coat of arms. The seal is signed by the Chair of the Council and one of a limited number of other signatories.