

## Tender Exception Request Form

Under the circumstances outlined in Appendix A of the Council's Contract Procedure Rules: the Group Manager Procurement and the Head of Service (under which the request is made) have the discretion to waive the need for Officers to tender for required supplies, works or services.

This type of request is reserved for special circumstances and can only be granted where good reasons can be sufficiently evidenced in conjunction with the clauses of Appendix A.

A Tender Exception Request must be made via [eprocurement@southend.gov.uk](mailto:eprocurement@southend.gov.uk) by using and completing this form to set out why an exception sought. The email with the form attached should also include any supporting documentation.

Please note:

- Lack of planning or convenience will not be acceptable as grounds for requesting an exception to tender.
- Any Tender Exception Request made against any of the Council's rules must be sought in advance of any contractual agreement.
- Tender Exception requests cannot be made or granted retrospectively.
- It is not lawful for Officers or members to waive compliance with the EU Procurement Regulations. Therefore, approval of any Exception Request equal to or over the relevant EU Threshold is not permitted.
- No request must be made by an Officer that may result in a conflict of interest should the request be Approved.

If the Group Manager Procurement believes the request to be significant or sensitive then the relevant Member with Portfolio should be consulted as to whether the exception request should be referred to Cabinet.

Corporate Procurement Unit will hold a complete record of all Tender Request Forms.

Please provide all the information that you can in relation to the questions asked below: as this will increase the likely hood of your exception being granted and ensure the efficient processing of your form.

1	Name of the Officer Making the Request:	Glyn Halksworth		
	Department	Adult Services and Housing		
	Directorate	People		
2	Department & Directorate that the Request is in relation to (If different from above)			
3	Title of Original Contracts if applicable	Southend Drug and Alcohol Treatment and Recovery Service		
4	Type of Original Contract (delete as applicable)	Works	Supply	Service
5	Length and value of Original Contract not including VAT (If Applicable)	<b>Southend Treatment and Recovery Service (STARS; Provider - Change, Grow, Live (CGL)) Contract: 1.5.14-31.3.17 @ £5.267m total (Rate for 16/17 has been reduced from £1.9m to £1.625m)</b>		
6	When was the Original contract let (If Applicable)	The <b>STARS</b> contract was first let, as a pilot arrangement, in May 2014. This succeeded prior contracts with CRI and SEPT, the new contract arrangement effecting a prime contractor arrangement with CRI (which SEPT departed from on 31.12.16). The original contracts with SEPT were part of the block Mental Health Contract from the South East Essex PCT, as well as directly from SBC (1.10.10 – 31.3.12 & 1.4.12 – 31.3.13 + extensions whilst renegotiations ongoing). SBC first let contracts with CRI in January 2008 and April 2008, with subsequent contracts also being awarded. Since this time no contracts have been competitively tendered, with extensions being granted.		
7	Has the Original Contract previously been extended	Existing <b>STARS</b> contract has not been extended.		
8	Has the Original Contract had previous PRG exemptions or Tender Exceptions approved against it. If yes please confirm the value of these and the date that they were approved.	Some antecedent contracts have been (e.g. SEPT, March 2009; for SBC component of prescribing services, £200k); Other extensions have been agreed with procurement staff in consultation with Head of Procurement, but not all via PRG.		

9	Length and Value of your Exception Request Contract (not including VAT)	STARS – 4 months (up to 31.7.17) - £541,667		
10	Contract Type of the Exception (delete as applicable)	<del>Works</del>	<del>Supply</del>	Service
11	Please confirm from what budget will the exception be funded and that the use of these funds has been approved	<p>Drug and Alcohol Commissioning Team.</p> <p>This extension request was fully endorsed by the Southend Community Safety Partnership (28 July 2016), including representation by Executive Councillor Mark Flewitt and chaired by Rob Tinlin. The endorsement was made on the following premise:</p> <ul style="list-style-type: none"> <li>- <i>In order to better develop the capacity of the local voluntary and community sector (VCS) to engage in competitive tender processes.</i></li> <li>- <i>In order enhance capacity for System change / redesign</i></li> <li>- <i>And to Minimize the impact of change</i></li> </ul> <p>The extension is also supported by Sharon Houlden, Head of Service for Adult Services and Housing.</p>		
12	Clause in Appendix A to be applied to this request (1, 2, 3, 4, or 5)	2		

13	<p>Please provide significant detail into why this Exception from Tendering is being sought (At the the very least this should include information on: Key Stakeholders, Contract Value, Contract Dates, why the approval of this request represents best value for the council and evidence to confirm that value has been sought)</p>
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The below applies to **STARS** and **YPDAT** contracts.

The current contract is due to expire on 31<sup>st</sup> March 2017, and due to the high value of the contract, a 4 month extension is sought for the following reasons:

- Service user and carer consultation:* It is imperative that the opportunity to contract new prevention, treatment and recovery services for is well founded on both need and the aspirations of local communities. Needs are relatively well-understood and there is a significant body of data in place to assist in this respect. However, it is also important to complement this with the voice of potential and current service users, those who care for and live with them, and those who work in their support. In keeping with the recent Ofsted inspection of SBC Children Services, it is essential that we better engage with service users and actively see their voice and include their views when redesigning services. In order to be effective in these creative approaches will need to be developed and deployed, such as peer research, in order to gain as wide a perspective as possible and through which to optimally inform new approaches to service design (below). It is expected that this work will take place between August – November 2016 ;
- System change / redesign:* the current Southend treatment system model is very similar to most others nationally, and it is believed that there will be benefits achieved in redesigning this. Based on discussions with some stakeholders, we feel that offering contracts with specific specialisms as “lots” under the main contract (e.g. targeted criminal justice interventions, preventive education services) rather than generic ‘one size fits all’ services will benefit the community of Southend and the broader partnerships. Additional time is required to understand how best to break up existing models (including the voice of service users etc., above), to develop effective service specifications (including consultation with peer services, other professional stakeholders) and to agree contract prices for each lot to be tendered. This work is underway and is anticipated to conclude by December 2016;
- In order to better develop the capacity of the local voluntary and community sector (VCS) to engage in competitive tender processes.* Amongst the key components of effective recovery is engagement within communities and a sense of belonging which we feel can be facilitated by the local VCS. Currently the drug and alcohol treatment sector is dominated by large national organisations and some of the benefits of ‘localism’ may be lost. Working with SAVS and Corporate Procurement we wish to grow local capacity to compete alongside these and increase their capacity to win contracts or work collaboratively with larger organisations. This work will involve further consultation and capacity building. It is anticipated that this work will take place between September 2016 and January 2017;

- *Minimize the impact of change*: it has been noted in many areas of the country, that when drug and alcohol treatment service contracts change hands, performance dips notably. We are therefore keen to make changes at a point when performance is substantially improved, in order to dampen any such impact. Additionally, we are keen to ensure sufficient attention is given to the implementation of contracts, in order that communications with clients and delivery partners are effective and distress kept to a minimum. It would be anticipated that a minimum of 2 months is spent on implementing new contracts, building on the preceding 10 months of engagement and consultation work.

In summary, it is argued that what is required is an extension in order to facilitate better value for the council and local residents, and to deliver better compliance with the Duty of Best Value and National Compact requirements.

As noted in Section 11 above, this course of action is wholly supported by Southend Community Safety Priority Leadership Group (Community Safety Partnership Board), which discussed this at its meeting of 28 July 2016. It endorsed the extension request on the above grounds.


14	Are there any significant risks that the Council will take on should your exception be approved.	None known.
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15	Please detail and evidence the consequences / risks should your request be rejected	
<p>It is believed that if this is rejected that procurement activity would need to commence without having realised the fullest benefits of service user / carer consultation, that any disaggregation of existing contracts undertaken would not be fully informed, and that potentially there would be tacit continuation of existing delivery models, and thus that we would not be offering the local VCS the opportunity to compete on equal terms with larger national organisations. It is likely that the sooner the existing contract is terminated, the lower the starting point will be for any subsequent performance reduction associated with the procurement activity / contract transfer. This is a well known phenomena in many drug and alcohol procurements (as evidenced via Public Health England / National Treatment Agency for Substance Misuse data). Following concerning levels of performance in Southend for the last few of years, and with improvement actions now taking effect and performance lifting beyond the requirements of local KPIs, it is hoped that performance can be raised to the highest possible level in order to mitigate any such effects.</p>		

16	I confirm that the information set out in this form and the supporting documentation is correct (You can either type this in or add your signature )	<p>Name <b>Glyn Halksworth</b></p> <p>Signature <i>Glyn Halksworth</i></p> <p>Post / Title <b>Strategy Manager, Drug &amp; Alcohol Commissioning Team</b></p> <p>Date 1<sup>st</sup> August 2016</p>
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**To be completed by Corporate Procurement**

Confirmation of Decision in relation to Tender Exemption Request Form

Approved by Group Manager of Procurement	Name <b>Mark Atkins</b>  Signature   Post / Title <b>Group Manager of Procurement</b>  Date 8 <sup>th</sup> August 2016
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Approved by Head of Service	Name <b>Sharon Houlden</b>  Signature <i>Sharon Houlden</i> (approved via email 8.8.16)  Post / Title <b>Head of Adult Services and Learning</b>  Date 8 <sup>th</sup> August 2016
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# APPENDIX A

## Exceptions from Tendering Requirements in Contract Procedure Rules

The following exceptions from tendering requirements may be applied following the prior approval Tender Exception Request Form.

The Exceptions from having to Tender are:

- 1) For the purchase of supplies, works or services which is prevented by Legislation.
- 2) If the supply of goods or materials to be acquired constitutes an extension of an existing supply contract. The extension can only be granted if all four of the following criteria are met:
  - The increase to the quantity of goods and materials was not envisaged at the time the original contract was awarded
  - The extension is based upon comparable terms and conditions as the original contract
  - The extension has a value less than 50% total value than the original contract requirement
  - The extension does not breach the threshold of the EU Regulations.
- 3) For the execution of works or provision of services where the proposed contract outlined in the Exception Request is required due to unforeseen technical or economic reasons and is directly linked to the continuation and success of an existing contract. The existing contract itself must have been awarded competitively in accordance with Council's Contract Procedure Rules.
  - If the proposed contract is to be undertaken by the Contractor named in the existing contract, terms of the proposed contract must be negotiated on the basis of the rates and prices contained in the existing contract, **Or**
  - If a new Contractor has been sought then the Exemption Request must be accompanied with evidence outlining the steps taken to ensure best value for the Council.

This exemption does not cover works and services carried out under annual contracts or values for proposed contracts that are greater than the relevant EU Threshold.

- 4) Where it is considered the execution of work or the supply of either goods or services is required so urgently so as not to permit the invitation of tenders. Any request for an exemption under this clause must be based upon circumstances brought about by circumstances that could not have been reasonably foreseen. Exceptions cannot be granted under this clause where a lack of foresight has given rise to difficulties.
- 5) In circumstances where a contract does not contain an option for an extension: but where an extension is required to facilitate full and compliant tender exercise for operational reasons. An extension can only be granted under this clause if:

- The initial contract itself was awarded as part of a competitive procurement process under the Contract Procedure Rules
- The terms under which the extension is agreed must be equal to the existing contract in relation to the Scope, the Pricing and the Terms and Conditions.

The actual length of any extension granted under this clause is at the discretion of the Head of Procurement: but cannot be more than 12 months in duration and cannot be longer than the initial contract itself. Only in circumstances where delays in publicised changes to legislation would make procurement impractical can multiple extensions be granted in relation to a single contract. In all other cases this exemption may only be used once per contract.