

REPORT OF THE DEPUTY CHIEF EXECUTIVE

11 July 2025

PROCUREMENT EXEMPTION FOR CLACTON LEISURE CENTRE HEATING SYSTEM REPLACEMENT CONSULTANT SERVICES

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report seeks approval for an exemption from the standard procurement process for the appointment of Heaton Design and Engineering Ltd (HDE) to deliver the design, engineering, and project management services for the previously agreed Clacton Leisure Centre Heating System Replacement project.

EXECUTIVE SUMMARY

Tendring District Council (TDC) has secured a Salix grant of £1.2 million, with an additional Council contribution of £165,000, to replace the oil boiler at Clacton Leisure Centre with sustainable technologies. Due to strict grant timelines and the operational risk of relying on a single boiler, a time critical appointment of a consultant is required. Procurement options include direct award via frameworks, phased procurement, or exemption due to this project being time critical. Failure to act promptly may result in loss of funding and increased financial liability.

Background to decisions to date

The Salix grant was formally awarded to the Council on 16 March 2025, with Cabinet approval to accept the funding confirmed through a published report on 24 April 2025. A draft consultant specification was subsequently prepared in mid-May 2025 to support early mobilisation and ensure alignment with project objectives from the outset. Building upon this foundation, a sequence of critical procurement activities has been undertaken throughout the interim period. These initiatives have facilitated advancement to the present stage.

Following engagement with the Salix relationship manager, it has been confirmed that the full Year 1 allocation (£1,050,000) and Year 2 allocation (£154,481) must be drawn down within their respective financial years. Reprofiling between years is not permitted, and any underspend will be returned to the Treasury. The Council would be liable for any costs incurred outside of the defined grant periods. To maximise grant utilisation, the Council's contribution may be applied flexibly and is therefore prioritised for Year 2.

Given the operational risk of relying on a single, end-of-life boiler at Clacton Leisure Centre, the financial profiling submitted with the grant application was intentionally front-loaded to reflect the urgency of the works and to strengthen the competitiveness of the bid. It is also understood that this may be the final round of Salix funding, further emphasising the importance of delivering the project within the specified timeframe.

HDE has submitted a comprehensive and competitively structured proposal that aligns with the requirements of the Public Sector Decarbonisation Scheme (PSDS). Their scope of services includes:

- Full mechanical and electrical (M&E) design duties, including surveys, design drawings, specifications, and equipment schedules.
- Structural assessments for Solar PV and ASHP installations.
- Ground Penetrating Radar (GPRS) surveys and noise assessments.
- Asbestos R&D surveys.
- Project delivery support including tender assistance, site duties, CDM Principal Designer role, and contract administration.
- Distribution Network Operator (DNO) applications and liaison with suppliers and specialists.

The total proposed fee is £102,800.00 (excluding VAT), broken down across design, engineering, and project delivery components. HDE's proposal also includes clear terms for additional services, payment schedules, and insurance coverage up to £5 million in liability. Given the technical complexity, the need for continuity with PSDS funding requirements, and HDE's demonstrated expertise and readiness to deliver within the required timelines, it is recommended that an exemption from procurement be granted to directly appoint HDE under these terms.

The proposed consultancy appointment represents approximately 8.26% of the total project value, with the main installation contract to be procured through standard competitive processes in full compliance with the Council's procurement policy and Salix grant conditions. This approach ensures urgent design and specification work can begin immediately, while maintaining transparency and value for money in the delivery of the core infrastructure.

RECOMMENDATION(S)

- (a) That the Leader of the Council and Portfolio Holder for Finance and Governance in consultation with the Section 151 Officer, agrees to an exemption to the Council's procurement rules for the appointment of Heaton Design and Engineering Ltd to commence work on the detailed specification, design, and preparation of tender documentation for the Clacton Leisure Centre Oil Boiler Replacement project, at a cost of £113,080.00 (from the total budget of £1,368,730, previously agreed by the Leader of the Council) due to the time critical nature of the project.**

REASON(S) FOR THE RECOMMENDATION(S)

The recommendation to proceed with a procurement exemption for the appointment of Heaton Design and Engineering Ltd is made in direct continuation of the decisions approved on 24 April 2025 by the Deputy Leader of the Council and Portfolio Holder for Economic Growth, Regeneration & Tourism; the Leader of the Council and Portfolio Holder for Corporate Finance & Governance; and the Portfolio Holder for Leisure and Public Realm. These decisions included the acceptance of £1,204,481 in Salix grant funding and the allocation of additional Council resources to support the replacement of the oil boiler system at Clacton Leisure Centre.

The exemption enables the Council to act swiftly in line with the Cabinet's agreed strategy to address the urgent boiler failure, as outlined in the Council's Sport and Activity Strategy. It also ensures the Council can meet the delivery milestones required by the Salix Funding Agreement, which binds the authority from the grant start date through to three years post-completion.

Heaton Design and Engineering Ltd were instrumental in supporting the original grant application and are uniquely positioned to deliver the detailed specification, design, and tender documentation within the required timeframe. Their immediate appointment will safeguard the Council's ability to draw down the full grant allocation and avoid delays that could otherwise result in the loss of funding.

Furthermore, the existing boiler system is at the end of its serviceable life, and failure to proceed would leave the Council exposed to significant financial and operational risks. Without the grant, the full cost of replacement would fall to the Council, and any interim failure could disrupt service delivery and damage the Council's reputation.

In this context, the exemption route represents the most pragmatic and value-for-money approach whilst balancing associated risks, that enables the Council to continue implementing the will of Cabinet and progressing a priority project that supports both community wellbeing and the Council's net zero ambitions.

ALTERNATIVE OPTIONS CONSIDERED

A range of procurement options have been explored in consultation with the Essex Procurement Partnership and ECC category specialists to determine the most appropriate route for appointing a consultant to deliver the Clacton Leisure Centre Oil Boiler Replacement project. The following options were considered:

1. Mini Competition via Framework (e.g. NEPRO3)

While this route allows for a direct appointment under call-off terms, it still requires a competitive tender process within the framework, including contractor selection and a minimum two-week tender window. Previous experience with NEPRO3 has highlighted delays in contract issuing and administrative inefficiencies. Additionally, this route would incur a 7.5% surcharge (£7,710), reducing value for money and increasing project costs. The estimated timeline of 8–10 weeks poses a significant risk to meeting Salix funding deadlines.

2. Design and Build Framework (e.g. ECF3)

This option offers integrated delivery and potential efficiencies but introduces risks around impartiality in design validation and contractor self-certification. The process would take up to three months and may not attract sufficient market interest within the required timeframe. While compliant, this route does not align with the timeline of the project. Additionally, an informal Expression of Interest (EOI) was completed, resulting in one contractor showing interest, two requesting a specification, and one declining interest, which presents a risk.

3. Phased Procurement Below RFQ Threshold

Splitting the consultancy scope into phases under the £50K threshold risks breaching procurement regulations due to perceived disaggregation. This approach also risks non-compliance with Salix grant conditions and could result in clawback of funding. It is not considered a viable or compliant option.

4. Do Not Proceed

Abandoning the project would result in the loss of the £1.2 million Salix grant and leave Clacton Leisure Centre reliant on a single, end-of-life oil boiler. This would expose the Council to significant financial risk, service disruption, and reputational damage. The full cost of system replacement would fall to the Council, with no external funding support.

5. Procurement Exemption (Recommended Option)

Given the time pressures of the project and the need to meet strict Salix funding milestones, a procurement exemption is recommended. This route enables the immediate appointment of Heaton Design and Engineering Ltd, who supported the original grant application and are uniquely positioned to deliver the required specification, design, and tender documentation within the available timeframe. This approach is considered compliant with both TDC's procurement policy and the Salix grant agreement (Section 16), subject to approval by the Portfolio Holder for Governance and Finance and the Section 151 Officer.

The exemption route offers the best balance of value for money, risk mitigation, and delivery certainty. It avoids the delays and additional costs associated with framework procurement, ensures continuity with the original grant submission, and protects the Council's ability to draw down the full £1.2 million grant. Failure to proceed now would not only jeopardise the funding but also result in higher long-term costs to the Council due to the urgent need to replace the ageing boiler infrastructure.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Clacton Leisure Centre Oil Boiler Replacement project directly supports the Council's Corporate Plan 2024–28 by contributing to multiple cross-cutting priorities. By replacing outdated oil-fired systems with low-carbon technologies such as Air Source Heat Pumps and Solar PV, the project advances the Council's ambition to champion our local environment, reducing emissions and improving energy efficiency in a key community facility. It also enhances the comfort and usability of the centre, encouraging greater participation in sport and leisure activities, which aligns with the goal of raising aspirations and creating opportunities for residents to lead healthier, more active lives. The project is being delivered through external Salix funding, demonstrating financial sustainability and openness by maximising grant opportunities and ensuring value for money.

The use of a procurement exemption to meet the time critical delivery milestones reflects the Council's commitment to community leadership, enabling swift action on climate priorities while maintaining transparency and accountability. In doing so, the Council continues to listen to and deliver for our residents and businesses, ensuring that infrastructure investment supports both environmental goals and community wellbeing.

OUTCOME OF CONSULTATION AND ENGAGEMENT (including with the relevant Overview and Scrutiny Committee and other stakeholders where the item concerns proposals relating to the Budget and Policy Framework)

The Portfolio Holder for Leisure & Public Realm has been consulted on this proposal and agrees to the approach.

The Portfolio Holder for Regeneration & Tourism has been consulted on this proposal and agrees to this approach.

The Section 151 Officer and Monitoring Officer have been consulted on this report.

LEGAL REQUIREMENTS (including legislation & constitutional powers)			
Is the recommendation a Key Decision (see the criteria stated here)	Yes	If Yes, indicate which by which criteria it is a Key Decision	☐ Significant effect on two or more wards ☒ Involves £100,000 expenditure/income ☐ Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	N/A
The Council's constitution sets out that '<i>an exemption from Procurement Procedure Rules may be sought where a Head of Department can demonstrate that exemption is justified by special circumstances</i>'. Due to the need to expedite this project, to ensure the external funding is not lost at the end of the 2025/26 financial year, a case is made through this report to enact the agreed process. In relation to exemptions to procurement for a project of this value, the Council's Constitution states as follows: <i>Where the total value of the contract, or procurement, is estimated to be between £50,000 and £250,000 the Corporate Finance & Governance Portfolio Holder may, on the recommendation of the Chief Financial Officer, grant exemption. In such cases a formal Portfolio Holder decision must be made.</i> As such, this report is agreed through an Executive Decision made by the Leader of the Council and Portfolio Holder for Finance and Governance, in consultation with the Council's Section 151 Officer.			
☐	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:		
Nothing further to add to the content of the report, as previous points raised have been addressed through the drafting.			
FINANCE AND OTHER RESOURCE IMPLICATIONS			
The Clacton Leisure Centre Oil Boiler Replacement project is supported by a confirmed Salix grant of £1,204,481, which is subject to strict financial year-based drawdown conditions. The Council is required to submit monthly expenditure forecasts and project updates, with £1,050,000 to be spent in Year One and the remaining £154,481 in Year Two. Any expenditure falling outside these periods will not be eligible for reimbursement and would become a direct financial liability to the Council. Failure to progress the project at pace presents a significant financial risk. Delays could result in the loss of grant funding, placing the full cost of the project on the Council's capital			

programme. This would undermine the Council's financial planning and its commitment to carbon reduction. Additionally, should the project not proceed, the Council would need to develop and fully fund an alternative solution to replace the existing heating system, which is currently operating on a single, end-of-life oil boiler. This would likely incur substantial unbudgeted costs and compromise service continuity at a key community facility.

The proposed exemption to procurement falls below the £214,904 threshold for services, meaning there is no requirement to issue a tender notice or undertake a full tender process. However, a contract award notice will be required and published. The exemption is considered compliant with both the Council's procurement policy and the Salix grant conditions, which require the Council to follow its own procurement rules. The allocated budget of £113,080.00, comprising the quoted fee of £102,800.00 (excluding VAT) and a 10% contingency of £10,280.00, which is to be funded from the Salix grant.

The proposed fee from Heatons represents value for money when considered against the breadth and depth of services included. The scope covers not only mechanical and electrical design, but also structural assessments, ground-penetrating radar surveys, noise and asbestos assessments, and full project delivery support including tender assistance, site duties, CDM compliance, and contract administration. These services are typically procured separately, yet are consolidated here under a single provider, offering both cost efficiency and streamlined project management. The fixed lump sum pricing structure provides financial certainty, while the consultant's competitive hourly rate of £95 for any additional services ensures transparency and control over potential variations. Furthermore, the inclusion of professional indemnity insurance up to £5 million and the consultant's commitment to CDM 2015 regulations reinforce the robustness and reliability of the offer.

Additionally, it is worth noting that TDC has previously had positive experiences working with these consultants. Their involvement in securing the Salix funding demonstrates a strong understanding of the project's requirements and funding criteria. Furthermore, they hold detailed knowledge of the information submitted as part of the funding application, which places them in an advantageous position to support the design and specification stages effectively.

It is also important to note that the Salix grant agreement includes an abandonment clause. If the project becomes unviable due to cost increases, feasibility issues, or programme delays—and cannot be resolved through scope reduction or increased Council contribution—it must be formally abandoned. In such a case, a letter from the Council's authorising official would be required, and Salix would review any incurred costs on a case-by-case basis to determine whether they are eligible for reimbursement.

In summary, the financial and resource implications strongly support the need for swift action. Proceeding with the recommended exemption will protect the Council's access to external funding, avoid significant unbudgeted costs, and ensure the timely delivery of a critical infrastructure project.

☐	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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There are no further comments over and above those set out within the report and in recognising the time critical issues associated with the project and grant funding, the proposed pragmatic procurement exemption is supported that seeks to balance risk and value for money.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	By securing £1.2 million in Salix grant funding for the Clacton Leisure Centre project, the Council avoids significant capital expenditure while implementing infrastructure upgrades. The project is monitored through monthly reporting and expenditure forecasts to ensure compliance and value for money. A procurement exemption protects the funding and prevents future unbudgeted costs, supporting the Council's ability to continue delivering services. Additionally, the main framework of work will be obtained through a competitive process.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks.	The decision to seek a procurement exemption has undergone internal consultation and is backed by documentation, risk assessment, and financial controls. Reporting to Salix and internal monitoring mechanisms ensure transparency, accountability, and adherence to delivery milestones.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	By aligning the Clacton Leisure Centre project with Salix funding, the Council is maximising external investment to deliver infrastructure improvements at minimal cost to the authority. The project is structured around clear milestones, regular reporting, and financial controls, ensuring efficient use of resources and effective delivery within budget and time constraints.

MILESTONES AND DELIVERY

The Clacton Leisure Centre Oil Boiler Replacement project is structured around key milestones that are aligned with the drawdown schedule of the Salix grant. The timeline includes strategic planning and contingency allowances to ensure timely delivery and compliance with funding conditions.

The project must follow the given timeline under the Salix grant:

Year 1 grant (£1,050,000) must be spent by 31 March 2026.

Year 2 grant (£154,481) must be spent between 1 April 2026 and 31 March 2027.

Milestone	Target Completion Date	Contingency (Days)	Associated Grant Value
Awarded Grant	16 March 2025	—	—
Cabinet Report Published	24 April 2025	—	—

Consultant Appointed	13 July 2025	—	—
Project Approval	01 July 2025	—	—
Designs Initiated	01 August 2025	—	—
Detailed Designs Complete	01 October 2025	15	£75,000
Out to Tender	13 October 2025	—	—
Tenders Complete	21 November 2025	—	—
Orders Placed	15 December 2025	—	£775,000
Works in Progress on Site	19 January 2026	—	£200,000
Complete on Site	16 October 2026	—	£100,000
Final Commissioning	23 October 2026	110	£54,481
Completion Date	30 October 2026	125	£1,204,481

This timeline ensures that each phase of the project is delivered in accordance with Salix funding requirements, with built-in contingency to manage risks and maintain momentum. The early submission of the UK Power Networks application and timely appointment of the consultant are critical to maintaining this schedule.

The appointment of a consultant by 13th July 2025 is critical to maintaining the project timeline and meeting the delivery milestones set out in the Salix funding agreement. Specifically, the consultant must be in place to initiate design work by 1st August 2025 and complete detailed designs by 1st October 2025. Without this appointment, the Council will be unable to progress the design phase in time, placing the project and the associated £1.2 million grant funding at significant risk.

ASSOCIATED RISKS AND MITIGATION

The Clacton Leisure Centre Oil Boiler Replacement project is subject to several delivery, financial, and programme-related risks, particularly due to the time-sensitive nature of the Salix funding and the condition of the existing infrastructure. The following outlines the key risks and how they are being mitigated:

There is a significant risk that delays in appointing a consultant could result in the Council failing to meet the strict delivery milestones required by the £1.2 million Salix grant. This would lead to a loss of external funding and require the Council to bear the full cost of replacing the heating system. To mitigate this, a procurement exemption is recommended to enable the immediate appointment of Heaton Design and Engineering Ltd, who supported the original grant application and are ready to begin work on the detailed specification, design, and tender documentation.

Alternative procurement routes, such as using frameworks like NEPRO3 or ECF3, were considered but present challenges in terms of extended timelines, additional costs (e.g. a 7.5% surcharge under NEPRO3), and administrative inefficiencies. These options would likely delay the project by 8–12 weeks, increasing the risk of missing key funding deadlines. Splitting the consultancy scope into phases under the RFQ threshold was also explored but is likely to be viewed as disaggregation, risking non-compliance with procurement regulations and Salix conditions.

Operationally, the Leisure Centre is currently reliant on a single oil boiler that is at the end of its serviceable life. Failure to proceed with the project would expose the Council to the risk of

heating failure, service disruption, and reputational damage. The cost of emergency replacement without grant support would be significantly higher and would not contribute to the Council's net zero objectives.

Programme risks also include the potential for delays in design completion, tendering, and contractor mobilisation. These are being mitigated through a clearly defined delivery timeline with built-in contingency periods, and by appointing a consultant with prior knowledge of the project and funding requirements. The exemption route ensures continuity, accelerates mobilisation, and protects the Council's ability to draw down the full grant allocation.

EQUALITY IMPLICATIONS

There are no direct negative equality implications arising from this decision. The proposed works at Clacton Leisure Centre are intended to improve the facility's infrastructure and environmental performance, which will benefit all users regardless of age, disability, gender, race, religion, or socioeconomic background.

The exemption from the standard procurement process is proposed, based upon the time critical period and technical suitability, and not in a way that discriminates against or excludes potential suppliers based on protected characteristics. The exemption process itself is subject to internal governance and oversight by the Portfolio Holder for Governance and Finance and the Section 151 Officer, ensuring transparency, fairness, and accountability.

To mitigate any perceived disadvantage or lack of competition, the appointed consultant—Heaton Design and Engineering Ltd—has been selected based on their proven expertise, prior engagement with the project scope, and ability to meet the tight delivery timelines required by the funding conditions. This approach ensures that the Council continues to uphold its Public Sector Equality Duty while progressing essential decarbonisation works.

SOCIAL VALUE CONSIDERATIONS

The proposed engagement of Heaton Design and Engineering Ltd to deliver the Clacton Leisure Centre Oil Boiler Replacement project offers several opportunities to generate social value in alignment with the Council's broader community and sustainability objectives.

- **Environmental Impact:** The project supports the transition to low-carbon technologies, including Air Source Heat Pumps and Solar PV, which will reduce emissions and improve energy efficiency at a key community facility.
- **Health and Wellbeing:** By modernising the heating and ventilation systems, the project will enhance the comfort and usability of the leisure centre, encouraging greater participation in physical activity and supporting public health outcomes.
- **Community Confidence:** Visible investment in public infrastructure demonstrates the Council's commitment to improving local services and acting on climate change, reinforcing trust and engagement with residents.

Heaton Design and Engineering Ltd, as part of their engagement, has developed a comprehensive social value plan that aligns with Economic, Environmental, and Social Value (EPP) measures.

1. Supporting Local Employment and SMEs (EPP11/EPP12)

Heaton Design and Engineering Ltd is committed to employing local companies for all subcontracted works, including asbestos removal and structural engineering. This approach will boost local employment, support small and medium-sized enterprises (SMEs), and reduce emissions associated with travel by sourcing services locally.

2. Volunteering with Local VCSEs (EPP30 & EPP33)

The company will donate a total of 24 hours of staff time to support local Voluntary, Community, and Social Enterprises (VCSEs) and community projects. Activities will include mentoring, administrative support, and participation in local improvement initiatives such as environmental clean-ups and skills workshops, helping to strengthen community ties and wellbeing.

3. Business Support for Local Organisations (EPP39)

Edward Heaton, Director of the company, will provide 8 hours of expert business advice to local VCSEs and SMEs. This will include pro bono consultancy on business planning, compliance, and technical matters, helping to build capacity and resilience within the local voluntary and business sectors.

4. Environmental Commitment (EPP21)

To reduce the project's carbon footprint, Heaton will use a fleet of electric vehicles for all project-related travel. This commitment to low-emission transport supports the Council's sustainability goals and demonstrates leadership in green practices.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO

The proposed appointment of Heaton Design and Engineering Ltd to deliver the design, specification, and project management for the Clacton Leisure Centre Oil Boiler Replacement directly supports the Council's strategic objective to achieve net zero carbon emissions. The scope of work includes the integration of low-carbon technologies such as ASHPs and PV, replacing legacy fossil fuel systems with sustainable alternatives.

The project aligns with the principles of the PSDS, ensuring that the design and delivery phases are underpinned by energy efficiency, carbon reduction, and long-term environmental performance. Structural assessments, electrical upgrades, and mechanical design are all tailored to enable the transition to renewable energy sources, contributing to a measurable reduction in the Council's operational carbon footprint.

By progressing this project without delay, the Council demonstrates its commitment to climate leadership and accelerates the decarbonisation of its leisure estate—an essential step in meeting its net zero targets.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder

There are no direct implications for crime and disorder arising from this decision. However, improvements to the Clacton Leisure Centre's

	infrastructure may contribute to increased community use and positive engagement, which can have indirect benefits in terms of community cohesion and safety.
Health Inequalities	The proposed works will enhance the comfort, accessibility, and environmental performance of a key public facility. By improving heating and ventilation systems, the project supports a healthier indoor environment, encouraging greater participation in physical activity across all demographics, including vulnerable and disadvantaged groups. This contributes positively to reducing health inequalities in the district.
Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)	The proposed exemption and direct award to Heaton Design and Engineering Ltd has been considered in the context of the Subsidy Control Act 2022 and associated statutory guidance. The appointment is being made in response to urgent delivery requirements linked to time-limited Salix funding and is not expected to confer an undue economic advantage or distort competition. The exemption process is subject to internal governance and oversight, ensuring compliance with the principles of transparency, proportionality, and necessity.
Area or Ward affected	St Pauls
Local Government Reorganisation and Devolution	This project will support the longevity of the facility with the upgrade of key mechanical plant supporting the service. Following LGR, this will 'de-risk' the potential of a further failure for a new Unitary Authority.

Previous decisions.

April 2025

<https://tdcdemocracy.tendringdc.gov.uk/ieDecisionDetails.aspx?id=13498&LLL=0>

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