



Policy & Resources : Tuesday 19th
November 2024

Council: Wednesday 11th December
2024

Report of: Director of Finance & Resources

Relevant Lead Member: Councillor M Anderson Lead Member for Finance

**Contact for further information: Catherine Kirwan, Procurement Manager
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SUBJECT: CONTRACT PROCEDURE RULES

Wards affected: (All Wards);

1.0 PURPOSE OF THE REPORT

1.1 To advise Members on the new requirements of the Procurement Act 2023 and seek approval to agree and implement the new Contract Procedure Rules.

2.0 RECOMMENDATIONS TO POLICY AND RESOURCES COMMITTEE

2.1 That the report and proposed new Contract Procedure Rules at appendix 1 be noted and any agreed comments be referred to full Council for consideration.

3.0 RECOMMENDATIONS TO COUNCIL

3.1 That the Contract Procedure Rules attached at Appendix (1) be approved.

3.2 That following the commencement of the Procurement Act 2023 the Director of Finance and Resources be given delegated authority to amend the Constitution as follows:

- a. To replace the Contract Procedure Rules with those set out at Appendix 1
- b. To insert the following delegation:
Part 2.3C Delegations to the Deputy Chief Executive; Director of Finance & Resources; and Chief Legal & Democratic Services Officer -

5. To take all necessary steps to ensure lawful delivery of contract and procurement practices by the Council including but not limited to administering the relevant provisions, giving authorisations, directions, serving notices, taking enforcement action, raise and recover charges and any other steps deemed appropriate.

3.3 That delegated authority be granted to Director of Finance and Resources to make any further amendments to the Constitution, including the Contract Procedure Rules and associated guidance arising from changes in legislation, regulation and/or the National Procurement Policy Statement.

4.0 BACKGROUND

4.1 In response to Britain leaving the EU the legislation governing public procurement has been updated.

4.2 The Procurement Act 2023 received royal assent in October 2023. The commencement date of the act, and supporting secondary legislation (Procurement Regulations 2024), was initially anticipated to be the 28th October 2024 but following the May elections this has been extended to the 24th February 2025.

4.3 The transformation of public procurement represents a big change for all public bodies, which between them spend £300bn per year. It will create simpler, more flexible, and effective procurement. The Procurement Act brings a range of benefits, including:

- a simpler and more flexible commercial system;
- opening up public procurement to new entrants such as small businesses and social enterprises;
- taking tougher action on underperforming suppliers and excluding suppliers who pose unacceptable risks;
- embedding transparency throughout the commercial lifecycle so that the spending of taxpayers' money can be properly scrutinised.

5.0 CURRENT POSITION

5.1 The commencement of the Procurement Act 2023 has meant the existing Council Contract Procedure Rules are no longer fit for purpose.

5.2 The updated Contract Procedure Rules are drafted to reflect and enable the Council to take advantage of the benefits as stated at 4.3 of this report.

5.3 The Procurement Act 2023 details the circumstances that would deem a public contract 'Exempt' from the obligations of the legislation. To mitigate any confusion, the previous 'Exemption Procedure' will be referred to as 'Waiver of CPRs' to make it clear that, when a 'Waiver' is authorised, the Council has agreed to deviate from the provisions of the Contract Procedure Rules.

5.4 All Waivers to the Contract Procedure Rules and Direct Award Reports will continue to be reported to Audit and Governance Committee on a quarterly basis, replacing the current Exemption Report.

5.5 The Contract Procedure Rules in Appendix (1) will be supplemented with supporting guidance, process maps and training to all relevant officers to enable the Council to carry out its procurement activity.

5.6 It is uncertain at this stage whether the commencement date for the new provisions may change again. In addition, there may be further amendments to the legislation, regulations and/or National Procurement Policy Statement. The Council must have the new provisions in place and be able to quickly change the provisions to remain lawful. The aforementioned delegations are sought to ensure that the Council is protected both at the commencement of the new legislation and thereafter.

6.0 SUSTAINABILITY IMPLICATIONS

6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There are no significant financial or resource implications arising from this report.

8.0 RISK ASSESSMENT

8.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

9.0 HEALTH AND WELLBEING IMPLICATIONS

9.1 There are no health and wellbeing implications arising from this report.

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

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

1. Contract Procedure Rules
2. Minute of Policy & Resources – 19th November 2024 (Council only)