

Report to Council

Revision to the Contract Procedure Rules

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Reason for Decision

A review of the Contract Procedure Rules (CPRs) has been undertaken to ensure the Rules are up to date and fit for purpose. The consequent revised CPRs are therefore presented for consideration.

Also, as a consequence of the review of the CPRs, a revision to Article 15.4.2 of Part 2 of the Constitution is proposed to align Article 15.4.2 with the revised CPRs.

Executive Summary

A comprehensive review of the CPRs has been undertaken by officers from Legal Services, the Commercial Procurement Unit, Finance and Internal Audit. This has resulted in a range of proposed changes to improve the CPRs so that they reflect updated legislation, the current operating arrangements of the Council and current best practice.

The document at Appendix 1 highlights the changes and the document at Appendix 2 is that recommended for approval. The summary of changes is extensive; many of the amendments are minor and relate to the use of terminology or are proposed for administrative reasons. Others have been made to reflect the ever-changing commercial market and amendments to the Council's structure and operating procedures.

It is, essential that the Council's CPRs are regularly maintained and that they are up to date, accurate, fit for purpose and that they reflect best practice.

Recommendations

It is recommended that Council agree to the proposed revisions to Article 15.4.2 of Part 2 of the Constitution and to the Contract Procedure Rules in Part 4G of the Constitution.

1 Background

- 1.1 A review of the Contract Procedure Rules (CPRs) has been undertaken to ensure the Rules are up to date and fit for purpose. The consequent revised CPRs are therefore presented for consideration.
- 1.2 Attached as an Appendix 1 is a document that shows proposed changes to the CPRs and Appendix 2 is an updated version of CPRs for the consideration of Group Leaders.

2 Current Position

- 2.1 A comprehensive review of the Contract Procedure Rules (CPRs) has been undertaken by officers from Legal Services, the Commercial Procurement Unit, Finance and Internal Audit. This has resulted in a range of proposed changes to improve the CPRs so that they reflect updated legislation, the current operating arrangements of the Council and current best practice.
- 2.2 The document at Appendix 1 to this report highlights the proposed changes to CPRs and the document at Appendix 2 is that recommended for approval. The summary of changes is extensive; many of the amendments are minor and relate to the use of terminology or are proposed for administrative reasons. Others have been made to reflect the ever-changing commercial market and amendments to the Council's structure and operating procedures.
- 2.3 Article 15.4.2 of Part 2 of the Constitution requires two signatories under a Contract or Call Off Contract (which is not sealed). It is proposed to amend 15.4.2 to permit one authorised signature under the departmental scheme of delegation where a contract is not under seal in order to be consistent with the CPRs
- 2.4 The changes to the CPRs that are shown in Appendix 1 and have been incorporated at Appendix 2 and recommended for approval can be summarised as follows:

Rule	Change(s)	Reason for Change
N/A	Note added at commencement of CPRs to accommodate changes to roles	Roles and job titles are periodically changed so the inclusion of this note allows for such changes to take place without impacting on the validity of the CPRs
1	<ul style="list-style-type: none"> • Provision is made for Call-Off Contracts where orders are placed under Framework Agreements • Reference is now made to Council companies and local authority/NHS partnering arrangements • Numbering updated • Changes made to reflect the UK's departure from the EU and the consequential legislative changes 	<ul style="list-style-type: none"> • Call-Offs are now referenced to show the distinction between an order and a Contract • CPRs apply to Council companies and where the Council is acting as host or lead under partnering arrangements. This is clarified by the inserted wording. • Numbering is an admin change.

	<ul style="list-style-type: none"> • Rule 1.5 and Rule 1.6 have been updated to link to the Scheme of Delegation, under which officers are afforded delegated powers to take specified action • The amendments at Rule 1.8 details those circumstances in which the CPRs do not apply. This list should be regularly reviewed to ensure it remains accurate and that it complies with any overarching legislation. • Rules 1.9, 1.10 and 1.13 updated to reference the correct officers 	<ul style="list-style-type: none"> • Legislation was updated when the UK left the EU. The CPRs must align with current legislation. • Authorisations stem from the Scheme of Delegation and this is clarified by the amendments to Rule 1.5 and to Rule 1.6 • Amendments to Rule 1.8 made to clarify the circumstances in which the CPRs will not apply and to keep Rule 1.8 fit for purpose • Roles updated in Rules 1.9, 1.10 and 1.13 to reflect current and up to date procedures.
2	<ul style="list-style-type: none"> • Rule 2.1 updated in line to reflect current forward Plan procedures • Rule 2.2, Rule 2.3 and Rule 2.7 – terminology updated • Rule 2.4 and Rule 2.5 and Rule 2.6 amended to reflect the UK's departure from the EU and the ensuing changes to data protection legislation and procurement legislation • Rule 2.8 inserted to reflect current arrangements regarding the commissioning cycle and the required involvement of the Commercial Procurement Unit 	<ul style="list-style-type: none"> • Rule 2.1 updated in line with current procedures. • Amendments to Rule 2.2, 2.3 and Rule 2.7 made for admin reasons • Rule 2.4 and Rule 2.5 and Rule 2.6 – legislation updates • Rule 2.8 inserted to reflect current practices and procedures and to protect the Council when commissioning and contracting
3	Wording updated and reference is made to amended procurement legislation	Changes made to clarify Rule 3 and to reflect the changes in legislation following the UK's departure from the EU
4	<ul style="list-style-type: none"> • Rules 4.1 – 4.3 – terminology amended. • Procedure table updated to clarify procedures and to increase the quotation threshold for Supplies and Services Contracts from £49,999 - £99,999. • References to the EU Treaty removed. 	<ul style="list-style-type: none"> • Rules 4.1 – 4.3 – updates to terminology ensure the rules are up to date and fit for purpose and that defined terms and successfully used. • Procedure table updated to ensure procedures are as clear as possible and to align the quotation threshold for Supplies and Services with the threshold for Works. • References to EU Treaty no longer required following the UK's departure from the EU; a

		call all term (Procurement Regulations) is now used.
5	Wording updated in line with defined terms and wording clarified in relation to the quotation process	Changes made to more clearly describe the quotation processes which must be followed and to ensure defined terms are used, where relevant.
6	Terminology updates	Changes made in line with defined terms and for clarification purposes
7	Terminology updates and updated legislation references made.	Changes made to reflect that the UK has left the EU and there have been consequential legislative changes
8	Terminology updates, but also procedures clarified in terms of the actions which must be completed prior to utilising a third party's framework agreement.	Legislation and terminology updated for clarification purposes and processes clarified to ensure the Council's compliance with legislation.
9	Clarifications inserted in respect of tender documentation and wording amended to exclude commissioning activity in accordance with a third party's framework agreement	Clarifications made to ensure that processes are up to date, clear and concise, references to legislation updated and wording clarified so Rule 9 does not capture Call-Off Contracts under a third party's Framework Agreement.
10	Contract terms and conditions clarified along with the role of the Commercial Procurement Unit and Legal Services in the process. Specific reference to minimum insurance requirements included.	Changes made to ensure Contract and Call Off Contract terms are fit for purpose and that all required officers are involved in the development of the terms and conditions. The changes have been made to protect the Council's position.
11	Procedures re electronic tenders updated	For clarification purposes.
12	Tender clarification process extended	For clarification purposes
13	Tender evaluation wording extended and procedures clarified.	For clarification purposes and to ensure compliance with legislation and protect the Council's position.
14	<ul style="list-style-type: none"> • Table at Rule 14.1 updated in line with changes to Rule 4. • Rule 14.2 - £50,000 reduced to £25,000 in terms of authorisation for spend. • Rule 14.3 – terminology. • Rule 14.4 and 14.5 moved. • Rules 14.6 – 14.7 – legislation updated and amended to more clearly explain the processes. 	<ul style="list-style-type: none"> • Rule 14.1 updates to mirror Rule 4 in terms of the increase in the quotation threshold for Supplies and Services • Rule 14.2 amended in line with legislative requirements. • Rule 14.3 – for clarification purposes. • Rules 14.4 and 14.4 elevated to a higher position in the process for clarification purposes.

	<ul style="list-style-type: none"> • Rule 14.8 – update to sealing requirements for contracts with a value of £100,000 and over (previously £50,000). Call-Off Contracts for personal social or health care or educational need where the overarching Framework Agreement has been sealed are excluded from this requirement. • Rule 14.9 – inserted to clarify the process for Contracts and Call-Off Contracts with a value below £100,000. • Rule 14.10 prevents delivery of a Supplies, Services or Works under a Contract or Call Off Contract until the same is in place. • Rule 14.12 makes provision for the execution of Contracts and Call Off Contracts by electronic means. 	<ul style="list-style-type: none"> • Rules 14.6 – 14.8 amended for clarification purposes and to align with legislation. • Rule 14.8 has been amended to a more realistic figure in the current market and has been clarified. Call-Off Contracts for personal social or health care or educational need where the overarching Framework Agreement has been sealed have been excluded because placement agreements etc must be made on an urgent basis and are often raised electronically. • Rule 14.9 inserted for clarificatory purposes and to inform officers of the signing requirements. • Rule 14.10 protects the Council. • Rule 14.12 enables electronic signatures to be used in limited circumstances to provide flexibility to the Council.
15	Clarificatory amendments	Wording updated for clarificatory purposes
16	Clarificatory amendments	Wording updated for clarificatory purposes
17	Changes made to clarify the wording and align the use of terminology and defined terms. A new Rule 17.2(f) has been added for low value modifications.	Use of terminology and defined terms and to make provision for low value modifications.
18	Clarificatory amendments	Wording updated for clarificatory purposes
19	Updates to terminology and to officers responsible for managing claims.	Updates are for clarificatory purposes and changes to officers made to align with the current Council structure.
20	Changes made to clarify the wording and align the use of terminology and defined terms.	Use of terminology and defined terms and to clarify procedures and ensure the involvement of the Commercial Procurement Unit in contract management.
21	Changes made to clarify the wording and align the use of terminology and defined terms. Additional detail also added into Rule 21. The procedures in Rule 21.4 refined to avoid repetition of actions. Rule 21.8 inserted to	Use of terminology and defined terms and to both clarify and simplify procedures. Rule 21.8 inserted to ensure that a suitable contract is put in place following an exemption to CPRs.

	make reference to contracting arrangements.	
22	One term altered	To align with terminology used in other rules.
23	Definitions updated and new definitions inserted, where needed.	To ensure all terms used in the CPRs are accurate and sufficiently defined.

2.5 Whilst it may seem an extensive list of changes, the CPRs have been subject to a comprehensive review and some of the revisions are comparatively minor but provide improved clarity of purpose. It is important that the Council's CPRs reflect best practice and are updated to reflect recent local and national changes.

3 Options/Alternatives

3.1 There are three options as follows:

- (a) Accept the proposed changes to Article 15.4.2 of Part 2 of the Constitution and the CPRs at Part 4G of the Constitution.
- (b) Reject some or all of the changes to Article 15.4.2 of Part 2 of the Constitution and the CPRs at Part 4G of the Constitution.
- (c) Propose alternative revisions to Article 15.4.2 of Part 2 of the Constitution and the CPRs at Part 4G of the Constitution.

4 Preferred Option

4.1 Option (a) at 3.1 is the preferred option, that the proposed changes are accepted.

5 Consultation

5.1 There has been internal Council consultation on the revision to CPRs with officers from Legal Services, Commercial Procurement, Finance and Internal Audit.

6 Financial Implications

6.1 There are no specific financial implications arising from this report.

7 Legal Services Comments

7.1 There are no direct legal implications arising from the report.

8 Co-operative Agenda

8.1 The updated rules have been prepared to support the Council in its delivery of the cooperative agenda.

9 Human Resources Comments

9.1 There are no specific human resources implications.

10 Risk Assessments

10.1 Reviews of the Constitution are regularly undertaken to ensure that the Council is complying with up to date legislation and rules, current best practice and revised working

arrangements within the Council. The proposed changes remove the risk that any activities undertaken will rely on outdated procedures and practices.

11 IT Implications

11.1 There are no specific IT implications.

12 Property Implications

12.1 There are no specific property implications.

13 Procurement Implications

13.1 There are no specific procurement implications.

14 Environmental and Health & Safety Implications

14.1 There are no specific Environmental and Health & Safety Implications.

15 Equality, community cohesion and crime implications

15.1 There are no specific equality, community cohesion and crime implications.

16 Equality Impact Assessment Completed

16.1 Not Applicable.

17 Key Decision

17.1 No.

18 Key Decision Reference

18.1 N/A

19 Background Papers

19.1 Background papers are shown in the Appendices

20 Appendices

20.1 Appendix 1: Contract Procedure Rules – Proposed Changes
Appendix 2: Contract Procedure Rules – Revised Version

