

Report of	Meeting	Date
Director of Governance (introduced by the Chair of Governance)	Council	Tuesday 28 th January 2025

Review of Contract Procedure Rules

Is this report confidential?	No
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Is this decision key?	No
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Purpose of the Report

- Members are requested to consider the amended Contract Procedure Rules (CPR's) for recommendation to Full Council for adoption, to ensure compliance with the Procurement Act 2023.

Recommendations

- That Council adopt the Contract Procedure Rules (Appendix 1 attached), to be implemented on the same date that the Procurement Act 2023 goes live.
- That Council grants delegated authority to the Director of Governance/Head of Legal & Procurement to update any minor changes to the Contract Procedure Rules, if any subsequent changes are identified.

Reasons for recommendations

- Amendments to the Contract Procedure Rules are required, due to the changes in legislation. Governance Committee members have reviewed the amended Contract Procedure Rules and have approved for recommendation to Full Council for adoption.

Other options considered and rejected

- To not update the Contract Procedure Rules is not an option, as the Council must be compliant with the changes made by the Procurement Act 2023, ahead of the implementation date of 24 February 2025.

Corporate priorities

- The report relates to the following corporate priorities:

Housing where residents can live well	A green and sustainable borough
An enterprising economy with vibrant local centres in urban and rural areas	Healthy, safe and engaged communities

Background to the report

7. The Procurement Act 2023 stated aims are to reduce red tape and to support British business by simplifying public sector procurement, achieving value for money, encouraging innovation and improving transparency. The new Act will create simpler more flexible and effective public procurement. The changes will enable small businesses and social enterprises to compete and win more public contracts whilst embedding transparency ensuring that the expenditure of taxpayers' money can be properly scrutinised.
8. The Act is due to be adopted into law on 24 February 2025, following the publication of a new national procurement policy statement. Procurements that commence after the Procurement Act 2023 go live date must be conducted under the new Act. Procurements that start prior to the go live date will continue to be dealt with under the current rules- Public Contracts Regulations 2015.

Changes to the Contract Procedure Rules

9. The proposed Contract Procedure Rules have been considered by Governance Committee at the meeting on 27 November 2024. At that time the Rules were tested and committee members had the opportunity to ask questions on the content and implications of the changes.
10. To assist Council a copy of the Contract Procedure Rules with tracked changes are contained within the background papers to this report.
11. The main changes to the Contract Procedure Rules are as follows:-
 - a) **Routes to market** -This relates to statutory procurement processes specifically covered by the legislation as opposed to the local procurement routes which are agreed to contracts which fall below the financial threshold in the legislation. The number of routes to market for such covered procurements has been reduced from six to two to simplify the procurement process. For high value procurements (above financial threshold) you can now do an open procedure similar to that which existed previously, or a competitive flexible procedure which enables authorities to design and undertake a bespoke process.
 - b) **Financial Thresholds** – Currently, the value of a contract does not include the VAT element. However, the changes imposed by the Act, will mean that the contract price will be inclusive of VAT. Consequently, the financial threshold for the advertising of contracts on the government's "Contract Finder" website has been increased from £25,000 to £30,000 to allow for the inclusion of the VAT figure.

The Act also recognises that greater expenditure should require greater regulation and has set financial thresholds to reflect this. These can be found at Appendix 1 for information. These thresholds will be reviewed every 2 years with the first review taking place on 1 January 2026.

- c) **Evaluation** –The term 'Most Economically Advantageous Tender' (MEAT) is replaced with 'Most Advantageous Tender' (MAT). The explicit removal of 'economic' makes it clear that the focus for awarding contracts does not have to be the lowest price or that price/cost must always be weighted higher than non-price factors. Price will still be a relevant factor, however, there will be a requirement for consideration of a broader range of factors such as maximising public benefit, which would encapsulate environmental and social objectives. There is also greater scope to enable negotiation in the procurement process.
 - d) **Increased transparency requirements** -The Act now requires contracting authorities to publish an more notices during the procurement exercise right from planning through to contract termination. This allows for greater transparency of public spending, contract performance and decision-making processes.
 - e) **New Digital Platform** – Linked to the increase in transparency requirements, a central digital platform will be created by government for suppliers to register and store their details and for authorities to publish notices and other information on this platform.
 - f) **Central Debarment List** - This list will be managed by central government. The aim is to prevent public funds being paid to suppliers who have acted in a way that is unacceptable. Examples of likely grounds for inclusion on the list are tax evasion, fraud, bribery, blackmail, money laundering, modern slavery and terrorism. Suppliers performing badly on contracts and don't rectify will be at risk of exclusion from future procurements.
12. Members will also note amendments in respect of approvals. It is proposed that all procurements with a value above £100,000 be considered by Cabinet when either the evaluation award and weighting criteria are agreed or on contract award.
 13. Additionally, it is proposed that all waivers are considered by the executive. This reflects current delegated authorities in the constitution, but it should be noted that it is intended to review these authorities and it is likely that as a consequence the waiver procedure will also be amended.
 14. As part of the review in bringing these amendments forward, consultation has been undertaken with the teams involved in procuring goods and services, to ensure that they are aware of the forthcoming changes. A programme of external training is planned for officers across the council to ensure compliance with the new rules. The Procurement Team have substantially completed the Government's learning and development programme, which is run by the Government's Commercial Function, comprising of free on demand knowledge drops and self-guided e-learning courses and virtual deep dive courses into the Act and its themes.

Climate change and air quality

15. The work noted in this report does not impact the climate change and sustainability targets of the Councils Green Agenda and all environmental considerations are in place.

Equality and diversity

16. An equality impact assessment has not been completed, as there should be no inclusivity consequences of the proposed changes. There are no equality or diversity issues identified.

Risk

17. By updating the Contract Procedure Rules in line with the changes to the PA 2023, the Council will remain compliant with current legislation.

Comments of the Statutory Finance Officer

18. The Contract Procedure Rules sit alongside the recently reviewed Financial Procedure Rules in providing guidance and controls in these important areas.

Comments of the Monitoring Officer

19. Whilst the Contract Procedure Rules are a Council document, they must comply with legislation. The proposed amendments ensure that the Rules enable the delivery of procurement exercises by the Council to be lawful and reflect the requirements set down by the Act.

Background documents

Link to agendas and minutes of the Governance Committee on 27th November 2024
[Agenda for Governance Committee on Wednesday, 27th November 2024, 2.30 pm](#)

Appendices

Appendix 1 - Draft proposed CPR's

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