

Approve the revised Contract Procedure Rules (CPRs)

Date: 13th October 2021

Report of: Legal Manager, Procurement and Commercial Services

Report to: Chief Officer-Financial Services

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- The council's contract procedure rules (CPRs) were last updated in October 2020 and have now been revised following their annual review by Procurement and Commercial Services.
- These updated CPRs reflect good procurement practice which in turn supports the Best Council Plan 2020/25 by using procurement activity to help achieve the Council's wider objectives of tackling poverty, improving health and wellbeing, boosting housing growth and regeneration, increasing productivity and enhancing transport and infrastructure etc.

Recommendations

- a) The Chief Officer – Financial Services is recommended to approve the revised CPRs and approve that they will come into effect on 1st November 2021.

Why is the proposal being put forward?

- 1 This proposal is being put forward as it is a requirement of CPR 4.8 that the rules are annually reviewed in consultation with Chief Officers. That review is now complete and CPRs have been updated to reflect the consultation undertaken.
- 2 The attached Appendix 1 provides a summary of the amendments made and the draft revised Contract Procedure Rules are attached at Appendix 2.

What impact will this proposal have?

Wards affected:

Have ward members been consulted? Yes No

- 3 The revised CPRs continue to ensure that they reflect current legislation, best practice and Council policy without putting an unreasonable and disproportionate burden on council resources.

What consultation and engagement has taken place?

- 4 The following have been consulted on the contents of these CPRs:
 - Category teams within Procurement and Commercial Services;
 - The Commercial team within Procurement and Commercial Services
 - Procurement/Commissioning officers within Directorates;
 - Corporate Governance; and
 - Internal audit
- 5 Due to the effects of COVID-19 it has not been possible to consult with the Corporate Procurement Group as a body. However, the individual officers who sit on the Corporate Procurement Group have been consulted via the second bullet point above.
- 6 Responses to the consultation were considered by the Legal Manager and amendments have been made to the CPRs accordingly. A draft of the revised CPRs has been shared with Internal Audit and their feedback has been taken into account when drafting the amendments.

What are the resource implications?

- 7 These updated CPRs continue to introduce positive change and complying with good procurement practice ensures the council is spending money wisely and achieving value for money.

What are the legal implications?

- 8 The new CPRs ensure that the Council is acting in line with current legislation and other developments in public law when conducting procurements.
- 9 There are no restrictions on access to information associated with this report.
- 10 This report is recommending a Significant Operational Decision and therefore is not subject to call-in.
- 11 The Chief Officer – Financial Services is authorised to take this decision pursuant to the sub-delegation scheme of the Director of Resources. Article 12 of the Council's constitution gives the Director of Resources powers to amend the CPRs, this is reflected in the sub-delegations to officers and within the sub-delegation scheme of the Director of Resources as "To make decisions in relation to commissioning and procurement activity."
- 12 These CPRs fulfil the council's obligation to put standing orders for purchase in place in accordance with s135 of the Local Government Act 1972.

What are the key risks and how are they being managed?

- 13 The new CPRs will improve the Council's risk management when conducting procurements

Does this proposal support the council's three Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

- 14 These updated CPRs reflect good procurement practice which in turn supports the Best Council Plan 2020/25 by using procurement activity to help achieve the Council's wider objectives of tackling poverty and climate change, improving health and wellbeing, boosting housing growth and regeneration, increasing productivity and enhancing transport and infrastructure etc.

Options, timescales and measuring success

What other options were considered?

15 No other options were considered

How will success be measured?

16 The rules have been drafted to promote good purchasing practice, provide public accountability and deter corruption. They lay down minimum requirements which, if followed by Officers, will provide the best defence against allegations that a procurement exercise has been carried out incorrectly or fraudulently. As such, success will be achieved if no or minimal challenges to the procurement process are received. Monitoring of compliance with CPRs is continuously undertaken, with quarterly reports to Category Managers and services, and annual reports to the Corporate Governance and Audit Committee.

What is the timetable for implementation?

17 The revised CPRs are to come into effect from the 1st November 2021

Appendices

18 Appendix 1 – Summary of amendments made to CPRs

19 Appendix 2 – Draft Contract Procedure Rules

20 Appendix 3 - Equality, Diversity, Cohesion and Integration Screening Document

Background papers

21 None

Summary of amendments to CPRs

The main amendments made to CPRs are –

CPR 3.1.17 – Now includes a footnote highlighting the need for effective contract management;

CPR 4.7 – New – The Chief Officer – Financial Services will maintain a record of decisions made to waive CPRs

CPR 6.1 – Now includes a footnote advising officers to consider including a contingency when estimating contract values so that it is clear to decision makers that estimated contract values can go up or down.

CPR 7.2 – Now includes a footnote clarifying the term “direct appointment” and which officers have authority to decide this course of action.

CPR 7.3, 8.4 and 9.6 – Have been expanded to ensure social value is considered when procuring goods, works and services regardless of contract value.

CPR15.1 - Now includes a footnote highlighting the requirement to allocate a minimum 10% of quality scores available to Social Value where appropriate.

CPR 18.2 has been clarified to make it clear an award report needs to contain details of the price we are paying for the increased quality received where the winning bidder has not submitted the lowest price. The Chief Officer Financial Services must be informed.

CPR 20.1 has been updated to ensure Contract Management Plan is used in accordance with CPR 3.1.17

CPR 21.11 has been clarified to make it clear that the decision to transfer, assign or novate a contract can be made on a Delegated Decision Notice alone without the need for a supporting report.

CPR 24.1 – Now includes a footnote reminding officers of the need to comply with the IR35 legislation where personal service companies or self-employed individuals are being awarded a contract.

CPR 27.1 has been amended to require a report seeking a waiver to evidence that waiving the particular rule(s) represents value for money or is in the Council's/public's best interests