

Annual review of the Council's Contract Procedure Rules

Date: 9th August 2022

Report of: Head of Procurement and Commercial Services

Report to: Chief Officer Finance

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

- The council's contract procedure rules (CPRs) were last updated in November 2021 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 September 2022.

What is this report about?

- 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 (with track changes) are attached at Appendix 2

What impact will this proposal have?

- 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.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing Inclusive Growth Zero Carbon

- 4 These updated CPRs reflect good procurement practice which in turn supports the Best City Ambition 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.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted? Yes No

- 5 The following have been consulted on the contents of these CPRs:
 - (i) Category teams within Procurement and Commercial Services;
 - (ii) The Commercial team within Procurement and Commercial Services
 - (iii) Procurement/Commissioning officers within Directorates;
 - (iv) Corporate Governance;
 - (v) Internal audit
 - (vi) The Council's Corporate Procurement Group; and
 - (vii) The Director of Resources
- 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 key risks and how are they being managed?

- 8 The new CPRs will improve the Council's risk management when conducting procurements.
- 9 There is a potential risk that the relevant threshold for application of the Public Contracts Regulations 2015 may be breached in relation to individual goods bought for re-sale. In order to mitigate this the relevant Directorate must provide PACS with an annual declaration (or

equivalent) confirming that an internal review of expenditure made under the exemption has been undertaken and a non-contract option called “Goods for Resale” has been created in FMS so that spend can be tracked also. Where significant spend is identified by PACS (80% of the relevant threshold set out at CPR 10.4) against an individual good bought for re-sale a full procurement exercise will be undertaken to ensure compliance with the Public Contracts Regulations 2015.

- 10 There is a potential risk that Officers may seek to use new CPR 25.2 where it is not a genuine emergency. In order to mitigate this risk Appendix 3 to CPRs will make it clear that the rule is for emergencies only and any attempt to use it for other purposes may lead to disciplinary action. Further, emergency spend will be tracked by PACS through setting up a ‘dummy contract number’ for use in FMS. Where significant spend is identified by PACS (80% of the relevant threshold set out at CPR 10.4) a full procurement exercise will be undertaken to ensure compliance with the Public Contracts Regulations 2015.

What are the legal implications?

- 11 The new CPRs ensure that the Council is acting in line with current legislation and other developments in public law when conducting procurements.
- 12 There are no restrictions on access to information associated with this report.
- 13 This report is recommending a Significant Operational Decision and therefore is not subject to call-in.
- 14 The Chief Officer – Financial Services is authorised to take this decision pursuant to the sub-delegation scheme of the Director of Resources. Article 15 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 at Article 15 which gives the Chief Officer – Financial Services delegated authority to “amend and review” Contract Procedure Rules.
- 15 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.

Options, timescales and measuring success

What other options were considered?

- 16 No other options were considered

How will success be measured?

- 17 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 and who will be responsible for implementation?

- 18 The revised CPRs are to come into effect from the 1st September 2022.

Appendices

- Appendix 1 – Summary of amendments made to CPRs
- Appendix 2 – Draft Contract Procedure Rules
- Appendix 3 - Equality, Diversity, Cohesion and Integration Screening Document

Background papers

- None