

Contract Procedure Rules

Cabinet Member for Regulatory, Housing & Health

Cabinet Member for Finance, Procurement and Revenues & Benefits

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Agenda Item: 7

Contact Officer: Christie Tims / Anthony Thomas / Clair Johnson

Tel Number: 01543 308012 / 308026

Email: Christie.tims@lichfielddc.gov.uk

Anthony.thomas@lichfielddc.gov.uk

Clair.johnson@lichfielddc.gov.uk

Key Decision? No

Local Ward Full Council

Members



**Audit and
Member
Standards
Committee**

1. Executive Summary

- 1.1 Lichfield District Council's Contract Procedure Rules set out the contract and procurement governance arrangements for the Council. They contain the various activities needed in order to establish compliant contracting arrangements and articulate the increasing number of legal, regulatory and governance requirements in a single document to assist users.
- 1.2 The Contract Procedure Rules form part of the Council's Constitution. They apply to every Member and Officer of the Council, and to anyone acting on the Council's behalf.
- 1.3 The Contract Procedure Rules haven't been updated for a number of years ago and in the intervening years the Council has seen changes itself, there have been updates in relation to procurement and contracting regulations and an in-house Procurement Team has been established.
- 1.4 The Procurement Strategy was approved by Cabinet on 1 December 2020 and the primary focus is on sustainable procurement. The overarching aim is to deliver the Council's Strategic objectives and best value through a straightforward, professional and focussed approach to procurement.
- 1.5 The Procurement Strategy and its related Action Plan therefore included a task to ensure the procurement elements of the Contract Procedure Rules remain fit for purpose. It was therefore considered that now was an appropriate time for a thorough review of the Rules. A revised set of Contract Procedure Rules can be found at **Appendix A**.

2. Recommendations

2.1 The Committee:

- Notes the contents of this report.
- Provides views on the revised Contract Procedure Rules.
- Recommends (subject to the consideration of and views provided by the Committee) to Council to approve the revised Contract Procedure Rules.

3. Background

What are the Contract Procedure Rules and why are they important?

- 3.1. The Contract Procedure Rules (CPRs) form part of the governance arrangements of the Council and are the rules set by the Council to regulate its internal procedures for the conduct of procurement and contracting activities.
- 3.2. It is vital that procurement and contracting activities are undertaken to ensure that the Council is meeting its legislative obligations as well as delivery value for money outcomes. The purpose of the CPRs is to ensure that all procurement and contracting activities are undertaken in line with legislation and best practice.
- 3.3. The CPRs are in place to protect both the interests of the Council and all those who are involved with carrying out procurement and contracting administration.
- 3.4. The CPRs therefore set out the procedures for procurement and contracting activity within the Council. They include:
 - When they must be applied
 - Pre-Procurement activities
 - Procurement pathways
 - Contract award activities
 - Scheme of delegation
 - Public Contract Regulations 2015 compliance
- 3.5. The CPRs, attached at **Appendix A**, are based on a best practice version as suggested by Chartered Institute of Public Finance and Accountancy (CIPFA) which has then been reviewed and updated to reflect the needs of the Council and recent guidance from central government.
- 3.6. The CPRs should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in the Constitution. They will underpin and complement the directorate procedures.

Who do the Contract Procedure Rules apply to?

- 3.7. CPRs apply to everyone involved in undertaking procurement and contracting activities on behalf of the Council. This includes all employees who procure goods, services or works on behalf of the Council or other bodies where the Council is the lead or accountable body, including the Joint Waste Service with Tamworth Borough Council and the Southern Staffordshire Building Control Partnership whereby Lichfield acts as the lead council.
- 3.8. All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 3.9. The current CPRs fall under the responsibility of the Head of Governance and Performance (Monitoring Officer). With the presence of the in-house Procurement Team reporting into the Head of Finance & Procurement (S151 Officer), the new CRPs have been drafted to move this responsibility to the Head of Finance & Procurement (S151 Officer) to reflect these reporting lines.
- 3.10. The Head of Finance & Procurement (S151 Officer) will be responsible for reporting, where appropriate, any breaches of the new CPRs. Any ambiguity arising from the interpretation of these Rules shall be settled by the Head of Finance & Procurement (S151 Officer).
- 3.11. There is a waiver or exception process that can be followed where it is not practicable to adhere to CPRs. However, the waiver or exception cannot be applied to procurements likely to exceed the Public Contract Regulations 2015 thresholds or would place the Council in breach of the law with

respect to procurement. The Head of Finance & Procurement (\$151 Officer) will report on waivers granted under the new CPRs on an annual basis.

Contract Procedure Rules Review Process

3.12. The Procurement Strategy was approved by Cabinet on 1 December 2020 and the primary focus is on sustainable procurement. The overarching aim is to deliver the Council's Strategic objectives and best value through a straightforward, professional and focussed approach to procurement:

- **Straightforward:** to eliminate unnecessary burdens arising from the procurement and to make procurement and payment processes more effective through e-procurement;
- **Professional:** to ensure procurement and contract management skills are well embedded and distributed across the Council.
- **Focused:** to use sound procurement practices and innovative procurement solutions to promote sustainability and best practice, in particular supporting the best use of resources agenda and making use of collaboration and partnership opportunities.

3.13. The Procurement Strategy and its related Action Plan therefore included a task to ensure the procurement elements of the Contract Procedure Rules remain fit for purpose.

3.14. The timing is also significant in that the Finance Procedure Rules have also recently undergone a thorough review.

3.15. For the review of the Contract Procure Rules the following process took place:

- An update of any administrative changes, for instance removal of references to Directors
- Consultation with officers:
 - Monitoring Officer
 - Leadership Team
 - Principal Auditor
 - Governance Manager
 - Governance Officer
 - Insurance Manager
 - Health & Safety Manager
 - Selection of Officers who have been involved in procurement activities in the past 6 months

Summary of Changes

3.16. **Thresholds** - the new CPRs change the thresholds at which different procurement activities are undertaken as well as the inclusion of additional objectives which need to be considered. These changes in particular support the aim of eliminating unnecessary burdens as well as using sound procurement practices.

3.17. Analysis from spend data in 2019/2020 shows that 91% of purchase orders raised were for below £10,000 which represented 23% of total spend. By amending the minimum procurement activity to be undertaken at this level we will reduce the burden on Officers whilst still achieving value for money purchases. **Appendix B** details this analysis further.

3.18. A summary is provided below:

Current CPRs		New Proposed CPRs	
Under £1,000	Use FWA or Best Value	Under £1,000	Seek Value for Money
£1,000 - £75,000	Use FWA or 3 quotations	£1,000 - £9,999	2 quotations or use of other approaches as listed
£1,000 - £75,000	Use FWA or 3 quotations	£10,000 - £74,999	Corporate Contact > FWA/DPS > RFQ Process
£75,000 – PCR2015 Thresholds	Use FWA or 3 Tenders	£75,000 – PCR2015 Thresholds	Corporate Contact > FWA/DPS > ITT Process
Above PCR2015 Thresholds	PCR2015 Procedures	Above PCR2015 Thresholds	Corporate Contact > FWA/DPS > PCR2015 Procedures

Key:

FWA – Framework Agreement (an overarching contractual arrangement established by a third-party such as Crown Commercial Services or Eastern Shires Purchasing Organisation that can be used by the Council to establish its own contract.

DPS – Dynamic Purchasing System (similar to a FWA but new suppliers can join the DPS during its term)

3.19. **Advertising** – the new CPRs include the move towards advertising opportunities where we are running our own procurement activity (such as an RFQ of ITT process). This will open up opportunities to a wider supplier base – including locally based suppliers in line with our Procurement Strategy aim of improving *“the visibility of procurement opportunities and improve engagement with local suppliers”*.

3.20. **Administration** – the new CPRs introduce clear administrative pathways including a Procurement Initial Plan (used at pre-procurement stage) and detailed approval pathways (used at pre-procurement and contract award stages) to ensure that all relevant aspects of the CPRs and Procurement Strategy are being met. The Procurement Strategy Action Plan includes the development and publication of a fully populated forward looking procurement plan.

Future Policies

3.21. In line with the Procurement Strategy Action Plan task to recognised and embed social value and developing environmental sustainability criteria, the new CPRs include references to a number of policies that have yet to be completed:

- Social Value Policy – including training, skills, education, local supply chains etc.
- Sustainable Procurement Policy – including climate change and environmentally responsible sourcing
- Think Local Policy – including encouraging locally based suppliers to engage in procurement activities

These will be part of the work carried out by the Member Task Group in Winter 2021. Once they have been approved, the CPRs will be updated and communications shared with Officers.

Training & Communication

3.22. In line with the Procurement Strategy Action Plan task of enhancing procurement knowledge across the Council, a training and communication plan will be developed in order to ensure that when the new CPRs come into force, Officers are best placed to understand and work in accordance with them and the Procurement Team.

Date for Incorporation into the Constitution

3.23. To enable the above training and communication work to be undertaken it is planned that the new CPRs will come into force no earlier than 1st December 2021.

Alternative Options	Maintain the current version of the Contract Procedures Rules – this would leave the Council at risk of non-compliance to regulations and best practice updates
Consultation	Consultation has taken place with appropriate Officers within the Council and feedback taken into consideration in the final draft CPRs.
Financial Implications	The updated Contract Procedure Rules include a number of updates that will help support the letting of contracts that meet value for money objectives as well as other priorities such as social value, sustainability and using local suppliers. The move towards a planned procurement approach will enable opportunities to obtain cashable and non-cashable savings.
Approved by Section 151 Officer	Yes
Legal Implications	The new Contract Procedure Rules will enable the Council to act in line with current legislation and best practice.
Approved by Monitoring Officer	Yes
Contribution to the Delivery of the Strategic Plan	An up to date set of Contract Procedure Rules will enable us to target our resources to the priorities set out in the Strategic Plan 2020-24.
Equality, Diversity and Human Rights Implications	The new Contract Procedure Rules include reference to the Council's Modern Slavery and Human Trafficking Statement as well as how to ensure our suppliers are working in line with the Modern Slavery Act.
Crime & Safety Issues	There are no Crime and Community Safety Issues.
Environmental Impact	The new Contract Procedure Rules include reference to the Council's future Sustainable Procurement Policy.
GDPR/Privacy Impact Assessment	There are no specific implications.

	Risk Description & Risk Owner	Original Score (RYG)	How We Manage It	Current Score (RYG)
A	<p>The Council does not have in place an approved set of Contract Procedure Rules that have been created in line with best practice or updated to reflect legislative changes.</p> <p>Head of Finance & Procurement (S151 Officer)</p>	<p>Likelihood: Red Impact: Yellow Severity: Red</p>	<p>The Procurement Manger has produced a set of Contract Procedure Rules based on best practice and these form part of the Council's Constitution. These have been reviewed and updated to reflect current needs of Governance and Internal Control Processes, for approval by this Committee and then by Full Council.</p>	<p>Likelihood: Green Impact: Green Severity: Green</p>
B	<p>The Council is at risk of legal challenge relating to procurement and contracting activity.</p> <p>Head of Finance & Procurement (S151 Officer)</p>	<p>Likelihood: Yellow Impact: Red Severity: Red</p>	<p>The Procurement Manger has produced a set of Contract Procedure Rules based on best practice and these form part of the Council's Constitution. These have been reviewed and updated to reflect current needs of Governance and Internal Control Processes, for approval by this Committee and then by Full Council.</p>	<p>Likelihood: Green Impact: Red Severity: Yellow</p>

Background documents	Contract Procedure Rules (current version)
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Relevant web links	
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