

CONSTITUTION COMMITTEE

Date of Meeting	Wednesday, 5 October 2016
Report Subject	Contract Procedure Rules
Cabinet Member	Cabinet Member for Corporate Management
Report Author	Chief Officer (Governance)
Type of Report	Strategic

EXECUTIVE SUMMARY

In 2015/16 the Council spent £150m procuring goods and services. Contract Procedure Rules (CPRs) set out how officers must advertise and award contracts, to ensure that they are let in a lawful, fair and open manner. The Council last revised its CPRs in September 2013. It is appropriate to review them again in light of changes in European procurement law, the introduction of the Well Being of Future Generations Act, the move to electronic procurement and the introduction of the new welsh language standards.

The Council shares its procurement service with Denbighshire County Council. The service has drafted revised CPRs which Denbighshire have already adopted. Ideally our rules would be the same or similar as those in Denbighshire to create consistency for suppliers and the service itself.

The proposed CPRs:

- update the rules to reflect the changes above
- present the rules more clearly to aid understanding and compliance
- increase member oversight of the procurement process; and
- encourage clear planning and upfront approval of the contracting process

RECOMMENDATIONS

1	That Constitution Committee recommends Council: <ul style="list-style-type: none"> • adopts the proposed CPRs • harmonises delegated authority levels for spending decisions within the Constitution with effect from 1 November 2016
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REPORT DETAILS

1.00	EXPLAINING THE PROPOSED NEW CONTRACT PROCEDURE RULES
1.01	<p>The Council spent in the region of £150 million in 2015/16 on the goods and services needed to deliver public services. With this level of spend it needs to:</p> <ul style="list-style-type: none"> • Achieve value for money for residents and businesses through properly planned and executed procurements, and • Understand and improve the impact which procurement spend has on the local economy
1.02	<p>CPRs set out the processes that officers must follow when advertising and awarding contracts. They ensure that contracts are procured in an open and consistent manner with controls on key decisions during the process, and proper records. The level of oversight rises with the contract value so that the level of formality is appropriate and not overly burdensome.</p>
1.03	<p>The current CPRs were adopted by the Council in September 2013. Since that time a number of key changes which need to be reflected in our processes have taken place:</p> <ul style="list-style-type: none"> • The EU procurement rules have changed • The Wellbeing of Future Generations (Wales) Act 2015 • New Welsh Language Standards have been introduced • The Council has software that can manage the procurement process from finding and selecting a supplier through to placing orders and pay invoices
1.04	<p>The proposed new CPRs are quite different in style and layout. As can be seen from the section headings below they are written in a logical order that flows a step by step from the considerations necessary before placing a contract, through sourcing of suppliers to award of contract and contract management. They put greater focus on planning the procurement route and early approval/authorisation which is an area of weakness at present.</p> <ul style="list-style-type: none"> • General Arrangements • Procurement Planning • Document preparation • Offer to Market • Evaluation & Contract Award • Contract Management
1.05	<p>The proposed CPRs use consistent thresholds based on the contract value to determine who will make key decisions such as:</p> <ul style="list-style-type: none"> • The method of procurement used • Authority to enter into the contract • Exemptions to some of the requirements of CPRs • Approval of any contract variation or early termination
1.06	<p>The values are listed below and the level at which the relevant decision must be taken is also shown. These levels increase the degree of oversight for</p>

	members because under current CPRs member involvement is only required above £2m. Whilst in practice member approval is sought at lower values based on the perceived importance or significance of the contract the proposed CPRs formalise that requirement.										
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1.07	<p>Another of the key changes in the proposed CPRs is an up-front authorisation process, where the procurement strategy is approved prior to going to the market, rather than retrospectively based on the quotations/tenders received. The intention of this change is to:</p> <ul style="list-style-type: none"> • Encourage more thorough and rigorous planning of the procurement • Enable better resource planning to ensure that sufficient capacity is allocated to the procurement exercise • Place more emphasis on services to think through the requirement • Speed up the process at the critical quotation/tender receipt stage <p>The proposed CPRs introduce a “commissioning form” – basically a business case and forward plan which outlines matters such as the options considered, budget, proposed route to market, and award criteria.</p>										
1.08	<p>Community benefits are additional services or investment made by contractors in addition to the goods and services they are contracted to provide. Examples of community benefits already delivered in Flintshire include:</p> <ul style="list-style-type: none"> • An apprenticeship scheme as part of SHARP • The community benefit investment fund as part of the residual waste treatment project • Support for community groups through WHQS contracts <p>The threshold for mandatory inclusion of community benefits has dropped from £2 million to £1 million. This is not only in line with Welsh Government’s Procurement Policy Guidance, but also reflects the Council’s Improvement Plan where the aspiration is to include community benefit clauses in every contract.</p> <p>Work is being undertaken to:</p> <ul style="list-style-type: none"> • Develop a clearer strategy for the council’s requirements from community benefits; • Develop and implement a robust process for ensuring that community benefits are built-in from the outset, and the system for collecting evidence of delivery is robust; • Provide training and guidance for officers managing contracts delivering community benefits; • Creating a centralised “depository” of community benefits delivered 										

1.09	<p>The CPRs form part of the Constitution and it is important that the document as a whole is consistent. Delegated authority levels for spending decisions feature in the scheme of delegation for officers and the financial procedure rules. It is proposed that these are also brought into line with the above table in so far as is possible and practical (for example, the power to authorise payment of invoices over £1m will remain delegated to officers).</p> <p>There are other financial delegations within the Constitution (such as virements), and these will remain unchanged.</p>
1.10	Cabinet and Audit Committee have both endorsed the proposed CPRs.

2.00	RESOURCE IMPLICATIONS
2.01	There are no financial implication arising directly out of this report.
2.02	Following approval of the proposed CPRs there will be a programme of training for officers. This will commence with awareness sessions at portfolio DMTs with longer sessions for those actually undertaking day to day procurement.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	The proposed CPRs have been considered by a cross portfolio working group of officers from Audit, Finance, Housing, Legal, Properties & Valuations, and Streetscene.
3.02	The CPR's will be considered by Full Council (19 October 2016).

4.00	RISK MANAGEMENT
4.01	The proposed CPRs include a requirement as part of the procurement planning process to consider the Council's obligations under the Well Being of Future Generations (wales) Act 2015 as well as the public sector equality duty under the Equality Act 2010.

5.00	APPENDICES
5.01	Appendix 1 – proposed Contract Procedure Rules

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>Current Contract Procedure Rules http://infonet.flintshire.gov.uk/en/Document-Repository/Governance/Democratic-Services/Constitution.pdf</p> <p>Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: Gareth.legal@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	Delegated authority – the financial levels below which decisions can be made by officers without needing further formal approval from councillors.