

Title of report: Update to Finance and Contract Procedure Rules

Meeting: Audit and Governance Committee

Meeting date: Tuesday 30 January 2024

Report by: Head of Strategic Finance

Classification

Open

Decision type

This is not an executive decision

Wards affected

All Wards

Purpose

To review and approve the proposed updates to the Contract Procedure Rules, the Financial Procedure Rules and the Financial Procedure Rules Guidance Notes. To ensure council financial and contract procedure rules are up-to-date and provide clarity of roles, accountabilities and process in order to ensure transparency about how public resources are used and controlled to mitigate the potential for fraud and ensure compliance with relevant legislation.

Recommendations

That the committee review and approve the following updates as technical changes to the constitution:

- a) The Contract Procedure Rules at Appendix 1;**
- b) Financial Procedure Rules at Appendix 2**
- c) Financial Procedure Rules Guidance Notes at Appendix 3.**

Alternative options

1. The council could continue with its current financial and contract procedure rules. This is not recommended as this introduces the risk that they would not be fit-for-purpose and provide clarity of roles and processes for those charged with undertaking financial and procurement

activity. Further this would mean that the contract procedure rules were not in accordance with the revised procurement thresholds set out in PPN11/23.

Key considerations

2. The council's Contract Procedure Rules (CPRs) provide the policy for procurement activity across the council, setting out how contracts for goods, works, services and utilities should be put in place and managed, and detailing the record keeping and reporting requirements related to procurement activity.
3. The Financial Procedure Rules set out the framework which the council will use in managing its financial affairs. They set out levels of responsibility and give authority to the Cabinet Members and Officers and are intended to promote good practice in the use of public funds.
4. The Financial Procedures Rules give detailed guidance on how the overarching framework is implemented.
5. In line with good practice, a regular review of these rules is important to ensure that they remain up-to-date with any changes to the council's statutory responsibilities, relevant legislation, the council's constitution and/or how the council conducts its business.
6. Both the contract procedure rules and finance procedure rules were last reviewed, updated and approved by the Audit and Governance Committee on 25 July 2022.

Contract Procedure Rules

7. The 2024 updates to the CPRs are intended to provide clarity as to roles and processes and update to reflect current legislation.
8. The Local Government Act 1972 requires the Council to have standing orders governing how it enters into contracts. The CPRs satisfy this requirement. The Council is subject to UK law with regard to public procurement which requires all contract procedures to be open, fair and transparent. The CPRs provide a basis for fair competition, with clear and auditable procedures.
9. The CPRs ensure a clear and consistent approach to procurement, set the minimum standard of best practice and assurance of good contract management practice within the organisation. The amendments enable officers and members to demonstrate best value and best practice.
10. A final copy of the updated CPRs is attached at Appendix 1. Key Changes include:
 - a) The current CPRs and CPR guidance documents have been consolidated into one document namely the CPRs to simplify for officers and members. Further guidance on how to apply the CPRs is contained in the Contracting Toolkit on the intranet at [Commercial and procurement - The contracting toolkit](#)
 - b) The above threshold values for the Public Contract Regulations 2015 have been updated by government to take account of currency fluctuations, and to ensure the UK complies with its obligations under the World Trade Organisation's Agreement on Government Procurement (GPA). From 1 January 2024 the values have been increased slightly with the exception of Light Touch Regime which has remained the same. The below threshold competition requirements remain unchanged.
 - c) The requirement when purchasing from a compliantly let framework has changed. The rules currently state that a framework must have more than one supplier, but as

frameworks are procured in accordance with Public Contract Regulations 2015, this requirement has been removed.

- d) Enhanced clarity has been provided relating to information that should be included when tenders are advertised.
- e) Additional information has been provided on what services fall within the 'Light Touch Regime'
- f) Inclusion of the new competition requirements for Health Care Services in line with Health Care Services (Provider Selection Regime) Regulations 2023 which comes into force on 1 January 2024.
- g) Clarification on the competition requirements for Concessions Contracts in line with the Concessions Contract Regulations 2016
- h) A new section has been added detailing requirements on when a bond and/or parent company guarantees would be required in a contract.
- i) Update to the Modification of contracts section to align to the Public Contract Regulations 2015, The Health Care Services (Provider Selection Regime) Regulations 2023 and the Concessions Contract Regulations 2016.
- j) Update to Exemptions (Waivers) section to highlight that exemptions should only be used in exceptional circumstances and provide details of what those circumstances may be and the internal consultation process that should be followed.
- k) New sections on trading and disposal of property, Glossary of Terms and Officer Responsibilities. This information was previously contained with the CPR guidance document. These sections have been reviewed, updated and incorporated into the revised CPRs.

Financial Procedure Rules and Guidance Notes

- 11. A final copy of the latest proposed Financial Procedure Rules is attached at Appendix 2.
- 12. A final copy of the Financial Procedures Rules Guidance Notes is attached at Appendix 3. The key changes which have been made to both documents can be summarised as follows:
 - a) Addition of roles and responsibilities in respect of delivery of projects; and
 - b) Updates to procedures in respect of journal transactions.

Community impact

- 13. In accordance with the adopted code of corporate governance, the council must ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. Effective financial management, risk management and internal control are important components of this performance management system.
- 14. To ensure clear and transparent processes are in place to govern how resources of the council are effectively managed and supports the council's corporate plan objectives to manage finances effectively and to demonstrate one of the council's values, namely to be open, transparent and accountable.

Environmental Impact

15. The council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
16. Whilst this is a procedural update and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the council's Environmental Policy. For example both sets of procedure rules encourage the use of online facilities available rather than using a paper trail.

Equality duty

17. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
A public authority must, in the exercise of its functions, have due regard to the need to –
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
18. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this decision relates to improving internal processes, we do not believe that it will have an impact on our equality duty.

Resource implications

19. There are no specific resource implications from this report and the updating of the Council's rules.

Legal implications

20. The council must prepare and keep up to date a constitution in accordance with s37 of the Local Government Act 2000. The minimum requirements for the content are set out in The Local Government Act 2000 (Constitutions) (England) Direction 2000 which includes a description of the rules and procedures for the management of the council's financial affairs including: procedures for auditing and financial rules. The contract procedure rules and the finance procedure rules meet the requirements of the Local Government Act (Constitutions) (England) Direction 2000 and are the rules that officers follow in the day-to-day operation of the council as set out within this council's budget and statutory framework.

Risk management

21. The current rules require updating. In some places there was the potential for confusion, errors and misunderstandings. Updating the rules clarifies what is required and supports officers and members in dealing with these issues and ensure that the Council acts in a consistent manner

with regard to procurement. The consolidation of the contract procedure rules and guidance ensures ease of reference. Amendments have also been made to reflect current legislation.

Consultees

None.

Appendices

Appendix 1 Updated Contract Procedure Rules

Appendix 2 Updated Financial Procedure Rules

Appendix 3 Updated Financial Procedure Rules Guidance Notes

Background papers

None identified.