

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Full Council

Date: 11 October 2022

Reporting officer: Bhupinder Gill, Monitoring Officer
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Subject: Contract Procedure Rules

Purpose and summary of report:

To set out the proposed revisions to Annex 2.7, Contract Procedure Rules, of the Constitution.

Recommendations:

1. That Full Council adopt the proposed revisions to Annex 2.7 Contract Procedure Rules of the Constitution as set out within this report as agreed by Cabinet on 3 October 2022.

Key Implications:	
Item	Implications
Legal	<p>The proposed revisions are intended to ensure that the council continues to comply with the law in force in England that governs the procurement of goods, services and works.</p> <p>The law governing the award of public contracts and concessions by public bodies to third parties is broadly based on European Union (EU) law. Following the UK's withdrawal from the EU legislation in England and Wales was implemented which in practice substantially passported those principles into national law.</p> <p>Contract Procedure Rules are made under Section 135 of the Local Government Act 1972. They include provision for competition and regulate the manner in which procurement and tendering take place within the Council.</p>
Finance and Value for Money	<p>Effective procurement arrangements will assist in ensuring that the Council complies with the law in force in England that governs the procurement of goods, services and works and obtains best value for money in its procurement activity.</p>

Corporate Plan	#3 Progress: an entrepreneurial authority; commercial in outlook and committed to continuous service improvement, underpinned by a skilled workforce and strong governance environment.
Climate Change	The council's Climate Change Strategy and Delivery Plan include the specific intention to review council procurement policies and practice to help mitigate Climate Change. The amendments proposed incorporate a specific section on sustainability considerations in council procurement activity.

1. Introduction

- 1.1 The purpose of the Contract Procedure Rules (CPRs) is to ensure proportionate, genuine competition for procurements exceeding pre-defined thresholds and to document the framework that officers will follow to ensure compliance with internal governance arrangements.
- 1.2 The Council spends approximately £36 million per annum on supplies and works contracts each year across its General Fund and Housing Revenue Account services. Effective procurement is intended to ensure that value for money is achieved from this spending and investment.
- 1.3 The CPR were last endorsed by Full Council on 27 April 2010. The revisions proposed are intended to ensure that the CPRs remain reflective of current legislative requirements and the council's governance arrangements. The main revisions proposed are outlined in Section Two of this report for Members information. The draft revised Contract Procedure Rules are presented at Appendix One to this report.

2. Main revisions proposed to the Contract Procedure Rules

2.1 Specific inclusion of the requirements of the Public Contract Regulations (PCR) 2015

- 2.1.1 Whilst complied with in practice, the CPRs have been updated to bring them in line with the requirements of the Public Contract Regulations 2015 and reference in particular public procurement thresholds, the need to operate electronic tendering processes and comply with particular requirements around advertising of procurement opportunities based on estimated contract value.

2.2 Updating of Financial Thresholds

- 2.2.1 The financial thresholds for procurement which determine the procedures to be followed have been reviewed to reflect the devolved nature of procurement that is operated by the council and the resources available to manage procurement activity, whilst recognising the nature of procurement activity undertaken and the risk appetite of the council.

2.3 Reflecting the UK exit from the European Union (EU)

- 2.3.1 The current CPRs makes reference to EU rules and process which no longer apply following the UK exit from the EU.

2.4 Expanding references to Corporate Social Responsibility

- 2.4.1 The CPRs have been enhanced to specifically reference how the council will seek to ensure corporate social responsibility in its procurement activity through actions such as considering the carbon footprint and employment policies of organisations in its supply chain, alongside ensure social value contributions from contractors are maximised.

2.5 Providing tools to assist in implementing the CPRs

- 2.5.1 The language and structure of the CPRs have been reviewed to assist officers in interpreting and understanding the council's procurement framework and ensuring this is applied correctly. In addition, the CPRs will be supported by a flowchart setting out the steps to be followed in procurement activity based upon the nature and value of the procurement. This flowchart is provided at Appendix Three for Member information.

3. Next Steps

- 3.1 Subject to Cabinet decision, the revised Contract Procedure Rules will be presented to Full Council for consideration and adoption.

4. Appendices

- 4.1 Appendix One – Draft revised Contract Procedure Rules
4.2 Appendix Two – Procurement workflow flowchart

5. Background Documents

- 5.1 Public Contract Regulations 2015 – [The Public Contracts Regulations 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

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Secondary Implications	
Risk Assessment	<p>Failing to correctly act in compliance with procurement legislation exposes the council to the risk of legal challenge.</p> <p>Having clear procedures for procurement in place acts to safeguard Members and Officers of the Council from any allegation of dishonesty or corruption and ensure that any risks associated with commencing procurement processes and subsequently entering into contracts are assessed at an early stage.</p>
Data Protection Impact Assessment	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner's Office website via the above links. No</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. N/A</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No - Equality impacts will be assessed as required based on the nature and purpose of the procurement activity being undertaken.</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. N/A</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Crime and Disorder	No direct implications from the decision being recommended in this report.
Digital and website implications	The revisions to the CPRs are intended to formalise and document arrangements regarding how procurement opportunities with the council are digitally advertised and managed.
Safeguarding children and vulnerable adults	The revisions to the CPRs are intended to formalise and document arrangements to ensure safeguarding considerations are taken into account as far as is reasonably possible in the supply chain of the council.