

Name of meeting: Corporate Governance and Audit Committee

Date: 12 May 2023

Title of report: Proposed Revisions to Contract Procedure Rules 2023

Purpose of report: To provide information on proposed changes to Contract Procedure Rules for the municipal year 2023/24

<p>Key Decision – A key decision is an executive decision to be made by Cabinet which is likely to result in Council spending or saving £250k or more per annum, or to have a significant positive or negative effect on communities living or working in an area compromising two or more electoral wards. Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.</p>	<p>Not Applicable</p>
<p>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?</p>	<p>Not Applicable</p>
<p>The Decision - Is it eligible for call in by Scrutiny?</p>	<p>Not Applicable</p>
<p>Date signed off by <u>Strategic Director</u> & name</p> <p>Is it also signed off by the Service Director for Finance?</p> <p>Is it also signed off by the Service Director for Legal Governance and Commissioning?</p>	<p>R Spencer-Henshall – Strategic Director – Corporate Strategy, Commissioning & Public Health</p> <p>E Croston Service Director – Finance</p> <p>J Muscroft Service Director - Legal Governance and Commissioning</p>
<p>Cabinet member portfolio</p>	<p>Not applicable</p>

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public or private: Public

Has GDPR been considered? Yes

1. Summary

- 1.1 This report sets out information on proposed changes to Contract Procedure Rules for the year 2023/24
- 1.2 The Contract Procedure Rules ensure that the Council is acting in line with current legislation and other developments in public law when conducting procurements.
- 1.3 A more fundamental review of the Contract Procedure Rules will be undertaken at the appropriate time in line with any legislative changes relating to the Procurement Bill.
- 1.4 The proposed changes relate to bonds and guarantees and some additions in relation to Rule 10 executing contracts.
- 1.5 Committee should note that some of the amendments suggested are also picked up in the report dealing with changes to other parts of the constitution which is also on this meetings agenda so that the amendments are consistent e.g. at Rule 10 where they are asterisked *.

2. Information required to take a decision

- 2.1 The detail relating to all proposed changes is contained in the table below;

Section of the Contract Procedure Rules	Proposed changes
Rule 2 Preparation and Process	<p>The section on Bonds to be updated to include Bonds and Guarantees. Recommended changes to bond levels are noted in this section. The rules would now make clearer the need to have a parent company guarantee with the new addition below;</p> <p>2.3.10 The council should always seek a parent company guarantee when such an option is available.</p> <p>Suggested changes to bond levels are noted at 2.3.11; The levels would be increased from £300,000 to £500,000 for supply contracts relating to;</p> <ol style="list-style-type: none">a. capital construction works in excess of £500,000b. any IT contracts that involve pre operational payments in excess of £500,000; <p>and a suggested increased from £3million to £5million for</p> <ol style="list-style-type: none">c. any contracts with a total consideration in excess of £5m
Rule 10 Executing contracts	<p>It is proposed that "Contract" be capitalised throughout where it relates to the defined definition.</p>
Rule 10* Executing contracts	<p>New additions proposed at 10.5 in relation to signing and signatures;</p> <ul style="list-style-type: none">• a document shall be properly signed where it is physically signed in hardcopy format, or it is electronically signed in an electronic format approved by the Solicitor the Council; <p>The Solicitor to the Council may authorise an external firm of lawyers to sign documents (and or initial and make amendments to documents) as agent on behalf of the Council.</p>
Rule 10 Executing contracts	<p>10.7 Reference be changed from 'EU supplies and services threshold' to 'UK Threshold for supplies and services.'</p>

Rule 10* Executing contracts	CPR 10.8-10.10 deals with land transactions, see below proposed new addition in relation to authorising third party auctioneers to sign on the councils behalf; 10.11 The Solicitor to the Council may authorise an external property auctioneer to sign as agent for the Council, a Sale Memorandum to record the property price and terms of conditions of sale.
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- 2.2 All text changes are marked in Appendix A by track changes.
- 2.3 A clean copy of the revised contract procedure rules with suggested amendments can be seen at Appendix B.

3. Implications for the Council

3.1 **Working with People** – None directly

3.2 **Working with Partners** - None directly

3.3 **Place Based Working** – None directly

3.4 **Climate Change and Air Quality**- None directly

3.5 **Improving outcomes for children**- None directly

3.6 **Financial Implications for the people living or working in Kirklees**

3.7 **Other (eg Integrated Impact Assessment/Legal/Financial or Human Resources)**

Although each of the sub categorisations above suggest no direct implications, these Contract Procedure Rules covers all aspects of the councils operations. These updated CPRs reflect good procurement practice which in turn supports the Council Plan by using procurement activity to help achieve the Council's wider objectives and outcomes. The legal obligation to have CPR's is to comply with Section 135 Local Government Act 1972 and the Public Contracts Regulations 2015

4. Consultation

Consultation has been carried out with the Head of Audit and Risk, Head of Corporate-Legal and officers in Procurement and Legal Services. All Heads of Service across the Council have had the opportunity to comment and feedback.

5. Next steps and timelines

This matter will go forward to Annual Council for consideration on 24 May 2023.

6. Officer recommendations and reasons

Members are asked to consider the proposed changes to Contract Procedure Rules and recommend them to Annual Council for approval.

7. Cabinet Portfolio Holder's recommendations

Not applicable.

8. Contact officer

Jane Lockwood, Head of Procurement (01484 221000, e-mail; JaneA.Lockwood@kirklees.gov.uk)

9. Background Papers and History of Decisions

The attached document includes track changes. The 2022 version of CPRs is available as a part of the council constitution.

10. Service Director responsible

Julie Muscroft, Service Director- Legal, Governance and Commissioning
Eamonn Croston, Service Director-Finance