

Audit and Governance Committee

30 August 2023



Reading
Borough Council
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Title	Review of Constitution: Contract Procedure Rules
Purpose of the report	To make a recommendation to Council
Report status	Public report
Report author	Jonathan Hopkins
Lead Councillor	Cllr Liz Terry
Corporate priority	Our Foundations
Recommendations	<ol style="list-style-type: none">1. That Audit & Governance Committee consider the proposed updates to the Council's Contract Procedure Rules2. That Audit & Governance Committee recommendations to Council on 17 October 2023 that the proposal be considered for adoption.3. To support the further development and implementation of a Procurement Manual for staff, containing the procedural and practical details and guidance to support the processes outlined within these Contract Procedure Rules.4. To endorse that the Assistant Director of Procurement and Contracts, in consultation with the Chief Executive/Executive Director of Resources, can make appropriate amendments to ensure that the proposed Contract Procedure Rules align with terminology included within the new Procurement Bill when it is introduced in autumn 2024.

1. Executive Summary

- 1.1. This report outlines the need to make some key adjustments to the Contract Procedure Rules (CPRs) to secure better governance, to ensure compliance with UK and English Law, that best practice is followed, and that best value for money is achieved in the use of public funds.
- 1.2. The purpose of this report is to request that Audit & Governance Committee consider the proposed adjustments to the Council's CPRs, set out in Appendix 1 of this report, and make recommendations to full Council on 17 October 2023, on their adoption.

2. Policy Context

- 2.1. The Constitution is reviewed regularly to ensure that it is fit for purpose. As part of this ongoing review senior officers are consulted to see if they consider any changes are needed.
- 2.2. The CPRs contain the rules and guidelines for procuring goods, services and works. They are designed to ensure compliance with UK and European Law (the Regulations), ensure best practice is followed and best value is achieved in the use of public funds.

- 2.3. The Assistant Director of Procurement and Contracts requested a refresh of the CPRs in the Council's Constitution to improve the Council's commercial governance framework. As a result, they have been working alongside legal officers and other key internal stakeholders within the organisation, to review this part of the Constitution.
- 2.4. The CPRs as adjusted, are designed to support and deliver a true "procurement and commissioning cycle approach" to buying goods, services and works at the Council.

3. The Proposal

- 3.1. The CPRs are mandatory for all service areas and procurement staff, and form a fundamental part of the Council's Constitution.
- 3.2. As a result of the refresh, some adjustments have been proposed to the existing CPRs to ensure the Council modernises the way it procures goods, services, and works, and that correct due diligence is in place to ensure that value for money is achieved. A copy of the proposed CPRs is attached to this report at Appendix 1.

The main adjustments are highlighted here in paragraphs 3.3 to 3.8 below:

- 3.3. The CPRs have been simplified in terms of language, accessibility, and consistency of terminology, and has been restructured into an intuitive format that follows the basic logical steps of a procurement. A web-based supplementary Procurement Manual for staff containing procedural and practical details to support the processes will be produced to supplement the CPRs once agreed, and will be further supported by an Awareness Programme.
- 3.4. The CPRs clearly set out the obligations on the Council by way of the UK Legislation (the Regulations) and Public Policy that all Executive, Deputy and Assistant Directors and their officers must adhere to for the procurement and commissioning of goods, services and works for RBC. For clarity, this applicable Legislation and Policy includes:
 - (i) The Public Contracts Regulations (Utilities, Contract Regulations and Concessions Contract Regulations) that are currently enacted
 - (ii) The Public Services (Social Value) Act 2012
 - (iii) The Modern Slavery Act 2015
 - (iv) The UK National Procurement Policy Statement (NPPS);
- 3.5. With the pending implementation of the Procurement Bill (the UK Legislation that, since the UK's departure from the European Union, will replace the former European Public Procurement Legislation), the terminology within the proposed CPR's has been set out in such way to limit the need for major revision in line with new legislation.
- 3.6. The proposal now clearly defines officers' practical obligations in establishing a contract, the procedural steps for undertaking a procurement and the required content of contracts. It also increases focus on the practicalities of ensuring that the Contracts Register is updated and maintained as a live document to facilitate better planning and earlier and proactive engagement with the supply market.
- 3.7. The proposed CPRs clearly set out that a written contract is required for all goods, materials, equipment, and vehicles or for the execution of works or services (including placements), regardless of whether a formal tender or a quotation was or should have been obtained. The written contract may take the form of a Purchase Order.
- 3.8. The proposed CPRs now clearly define the Exceptions to the Requirements for Competition, in that exceptions to the requirements of competition shall only be granted in exceptional circumstances, where permitted by the Regulations, and generally for only such time as may be required to instigate a fully compliant solution; in such cases, the relevant section of the Regulations must be expressly referenced, and all such applications shall be recorded and logged.

- 3.9. It should be noted that each Directorate, by means of the Procurement Spokes and Assistant Directors, were consulted during the refresh of the CPRs, and that all feedback received was welcomed, considered, and incorporated into the new document
- 3.10. In consideration of the above, it is recommended that the proposed changes to the Contract Procedure Rules, as set out in Appendix 1 of this report, be adopted by Council at its meeting on 17 October 2023.

4. Contribution to Strategic Aims

- 4.1. This report insofar as it relates to procurement and contracts practice relates to the Foundations part of the Corporate Plan.
- 4.2. Improvements proposed will ensure best practice is followed and best value is achieved in the use of public funds when procuring goods, services and works.

5. Environmental and Climate Implications

- 5.1. The Council declared a Climate Emergency at its meeting on 26 February 2019 (Minute 48 refers).
- 5.2. There are no direct environmental or climate implications arising from report, but the refreshed format, directly aligned to the National Procurement Policy Statement, is intended to better enable the delivery of sustainable procurement outcomes.

6. Community Engagement

- 6.1. No community engagement has taken place in the preparing this report.

7. Equality Implications

- 7.1. Although there are no direct implications, the Constitution as the key governance framework document for the Authority is critical in demonstrating commitment to the Authority's duties under the Equality Act 2010.

8. Other Relevant Considerations

- 8.1. Not applicable.

9. Legal Implications

- 9.1. The proposed new Contract Procedure Rules fully reflect the Council's obligations in law.

10. Financial Implications

- 10.1. There are no direct financial implications arising from report, but their implementation will strengthen the council's financial governance framework.

11. Timetable for Implementation

- 11.1. It is anticipated that, if adopted, the Contract Procedure Rules will come into immediate effect.
- 11.2. It is envisioned that the Procurement Manual will be implemented by December 2023.

12. Background Papers

- 12.1. There are none.

Appendices:

1. **Contract Procedure Rules Aug 2023 revision**