



**ST HELENS**  
BOROUGH COUNCIL

# CABINET

**6 October 2021**

<b>Report Title:</b>	<b>Refresh of Contract Procedure Rules</b>
<b>Cabinet Portfolio</b>	Cabinet Member - Finance & Governance
<b>Cabinet Member</b>	Councillor Martin Bond
<b>Exempt Report</b>	No
<b>Reason for Exemption</b>	N/A
<b>Key Decision</b>	No
<b>Public Notice issued</b>	N/A
<b>Wards Affected</b>	All
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<b>Borough priorities</b>	Ensure children and young people have a positive start in life	
	Promote good health, independence, and care across our communities	
	Create safe and strong communities and neighbourhoods for all	
	Support a strong, thriving, inclusive and well-connected local economy	X
	Create green and vibrant places that reflect our heritage and culture	
	Be a responsible Council	X

## 1. Summary

- 1.1 Contract Procedure Rules (CPRs) form part of the Council's Constitution and provide the governance structure to commission or procure works, goods, and services in a way that is compliant with legislative and regulatory responsibilities. They clearly outline roles, responsibilities, and levels of authority, that ensure procurement practices are fair, transparent, and achieve value for money.
- 1.2 The current CPRs, have been amended periodically to respond to changes within the council, such as structure changes, as well as incorporate updates to legislation and regulations. This has led to them becoming lengthy and increasingly complex.
- 1.3 In line with good practice, a decision was made to undertake a holistic review of the CPRs to ensure they are; consistent and compliant, simple to understand, and easy to communicate, monitor, and administer.
- 1.4 The new CPRs have been made more concise to make it easier for users to use, with relevant detail being removed and incorporated into new guidance and training. The rules have also been reorganised to align with our procurement processes and practices, making it simpler for users to understand each stage of the process and the associated rules. In addition, some elements of the rules have been revised to incorporate best practice to reduce administration, retain assurance, and embed social value.

## 2. Recommendations for Decision

Cabinet is recommended to:

- i) **Approve the revised Contract Procedure Rules in Appendix 1 to this report;**
- ii) **Recommend to Council the revised Contract Procedure Rules for inclusion in Part 4 of the Constitution;**
- iii) **Delegate to the Executive Director, Corporate Services in consultation with the Portfolio Holder for Finance & Governance, to update the Contract Procedure Rules with any future regulatory or legislative changes.**

### 3. Purpose of this Report

3.1 To consider proposed changes to the Contract Procedure Rules.

### 4. Background /Reasons for the recommendations

4.1 In line with good practice, a decision was taken to undertake a holistic review of our Contract Procedure Rules (CPRs) and a working group created to review examples from across the country, along with legislative requirements and impending national procurement rule changes, to introduce best practice, ensure compliance with legislation, and align to the Council's Values and Borough Strategy.

#### 4.2 Reorganisation of the Rules

4.3 The new CPRs have been reorganised to align to our procurement process and practices, from pre-procurement through to contract management. Some stages were not previously included, leaving a lack of clarity on the rules, such as; amending, ending, and managing contracts.

4.4 A pre-procurement section has been introduced to clarify the need for approvals, consultation with relevant stakeholders, and potential market engagement, prior to beginning formal procurement activity. This will address risks associated with specification errors and promote cross-council collaboration which could remove the need, or reduce the costs, of procurement by reusing existing contracts or accessing existing agreements.

#### 4.5 Procurement Thresholds and Approvals

4.6 The procurement thresholds have been revised to simplify them, whilst ensuring they balance risk and assurance. The threshold changes are outlined below, with the new thresholds aligning neatly to changes in procurement processes and legislative requirements, thereby ensuring clarity and limiting the risk of non-compliance. For example, low value introduces a requirement to include contracts onto our contract register, intermediate introduces the need to advertise and publish contracts on the Government's e-Tender System (Contract Finder), and high contracts introduce the need to use FTS (the replacement for OJEU) procurement processes and systems.

4.7 Procurement Threshold Changes;

<b>Threshold</b>	<b>Existing</b>	<b>Proposed</b>
Very Low	N/A	Under £5,000
Low	Under £10,000	£5,000 - £24,999
Intermediate	£10,000 - £50,000	£25,000 – FTS*
High	Over £50,000	Over FTS*

\*This refers to the Find a Tender Service (FTS) threshold for supplies and services which are reviewed every two years and are currently £189,330.

4.8 Approvals have also been adjusted so that they are consistent with those outlined in the Financial Procedure Rules or elsewhere in the Constitution. This provides a more practical and pragmatic approach that empowers budget and middle managers while maintaining awareness and appropriate assurance.

## **4.9 Risk Management and Sealing Contracts**

- 4.10 A new approach to risk management has been introduced whereby the current threshold of £100,000 has been removed and replaced with a risk assessment. This means that all contracts will need to assess the risk related to the contract, for example; ease of replication or replacement, risk to data and information, reputational risk, impact on end-users etc. Risk management arrangements will then be introduced for all high-risk contracts.
- 4.11 In addition, a similar revision is being proposed to contract under seal. This is where a contract is signed by the parties, witnessed, and most importantly made clear that it is executed as a deed, providing an additional limitation period. Once again it is proposed that the current level of £100,000 is replaced with a more dynamic approach, whereby this is changed to all contracts over £1m, and where it is either legally required, or advised, to seal the contract e.g., construction works.
- 4.12 The outcome of these changes will mean that less time and effort will be needed for contracts that are mid to high-value and low-risk, but that low-value and high-risk contracts are identified and appropriately managed.

## **4.13 Scope and Exemptions**

- 4.14 The scope and exemptions section of the CPRs now pulls together from various parts of the original document, all information relating to contracts included or excluded, along with clarity on qualified and absolute exemptions.
- 4.15 The information relating to care contracts has been updated to reflect good practice and delete detailed information that more appropriately sits within associated guidance or processes.

## **4.16 Social Value**

- 4.17 A specific section has been introduced to clarify the Council's ambition regarding social value, making it more prominent prior to procurement activity taking place, and expecting all relevant contracts to include an element of social value in the specification, as well as within the assessment criteria. Social value will consider economic, environmental, and social impact, meaning it will support a number of priorities, including addressing the climate emergency. The procurement service will begin to implement checks to ensure this is being applied where appropriate.
- 4.18 Within the social value section is a reference to the economy, and there will be a piece of work undertaken to see how we can introduce more local procurement. This will help increase local spend, support local economic growth, and create more local suppliers and supply chains. The procurement service will support officers to identify opportunities where this may be appropriate.

## **4.19 Information and Records Management**

- 4.20 A new section has been introduced to clarify the requirements relating to the management of procurement information and records. New processes and practices will also be introduced to ensure effective records management and compliance with best practice and legislation.

## **4.21 Next Steps**

- 4.22 Once agreed, the changes to the CPRs will be communicated across the council, and new training and guidance created to embed them in all procurement practices. In addition, as part of the procurement improvement plan, new templates and processes will be introduced to instil best practice, ensure compliance, reduce costs, create social value, and support local economic growth.

## **5. Community Impact Assessment**

The Community Impact Assessment identified the following key implications

- 5.1 The suggested amendments will support our objectives in terms of social value and economic growth.

## **6. Consideration of Alternatives**

- 6.1 The CPRs could have been updated rather than reviewed, but this would have retained some of the confusion relating to the structure and flow of the diagram as well as duplication.
- 6.2 The CPRs could have been reduced to a minimum, to meet only legislative requirements, however, this would not provide sufficient guidance for officers to ensure good practice. It may also have impacted on value for money and compliance and would not incorporate the specific ambitions of the Council in relation to local spend and social value.
- 6.3 The Council could adopt CPRs from another local authority, however, this would not reflect the individual nature, challenges, and ambitions of the council and its local communities.

## **7. Conclusions**

- 7.1 The proposed CPRs bring significant improvements and incorporate best value, while enshrining social value and local procurement within them, leading to improved compliance, increased value for money, along with better outcomes for the local economy, communities, and residents.

## **8. Implications**

### 8.1 Legal Implications

- 8.1.1 The changes are consistent with best practice and all relevant legislation and regulation. Consultation has been undertaken across the Council including with relevant legal officers.

### 8.2 Community Impact Assessment (CIA) Implications

#### 8.2.1 Social Value

- 8.2.1.1 The proposals place a commitment to increase social value through its inclusion in relevant procurement activity. Social value will consider economic, environmental and social impact, meaning it will support a number of priorities, including prioritising local spend to further support the local economy, while assisting our commitment to address the climate emergency.

#### 8.2.2 Sustainability and Environment

- 8.2.2.1 It will promote more local spend and support local supply chains, thereby potentially reducing environmental impacts such as transportation or people and goods etc.

### 8.2.3 Health and Wellbeing

8.2.3.1 None.

### 8.2.4 Equality and Human Rights

8.2.4.1 This has been enhanced through the introduction of a Modern Slavery element to the CPRs.

### 8.3 Customers and Resident

8.3.1 None.

### 8.4 Asset and Property

8.4.1 None.

### 8.5 Staffing and Human Resource

8.5.1 None.

### 8.6 Risks

8.6.1 The risks are unchanged and relate to non-compliance with legislation and regulation, with the changes proposed being focused on reducing these risks.

### 8.7 Finance

8.7.1 None.

### 8.8 Policy Framework Implications

8.8.1 There is alignment with the Borough Strategy, Values, Policies, and other elements of the Constitution.

## **9. Background papers**

9.1 [Contract Procedure Rules \(July 2020\)](#)

## **10. Appendices**

10.1 Contract Procedure Rules v1.1 19082021