
Contract Procedure Rules

Chair of Committee: Cllr Ross Henley

Local Member(s) and Division(s) affected: None

Executive Director: Alyn Jones (Strategy, Workforce & Localities)

Executive Summary

Part I6 of the Constitution is the Contract Procedure Rules and Standing Orders. This covers how the Council procures goods, works and services. It also covers the contract signature and governs the full process to keep Council compliant with legislation and good practice.

Under LGR, the existing Somerset County Council rules were adopted due to the pending introduction of the Procurement Act 2023. These rules have been rewritten to reflect the recent legislative changes and improvements in processes.

Recommendations

It is recommended that the Constitution and Governance Committee endorse the revised Contract Procedure Rules and Standing Orders and recommend adoption of these to Full Council, and that these are recommended to come into effect from 28th October 2024.

Reasons for Proposals

The current Contract Procedure Rules and Standing Orders (CPR) are based on the requirements of the Public Contract Regulations 2015. These were based on EU legislation and since the exit of the UK from the European Union, the UK government has worked on redrafting these rules. The new Procurement Act 2023 comes into force on 28th October 2024. This covers all Public Sector procurements, from that date, except for services relating to Health.

On 1st January 2024 the Health and Care Act (Provider Selection Regime) 2024 also came into force. This covers procurement processes for specified health related services. Minor adjustments in these Rules to reflect the legislation relating to Health Services will follow as a separate document in due course.

There is very little commonality between these two pieces of legislation and as such the new CPR will include separate instructions for procurements covered by the Health Act. These are to follow at the next available meeting.

In addition to legislative changes, the order of the document has been changed to make it easier to follow. A summary of the main changes has been included as Appendix B and the existing rules are included as Appendix C.

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Main Report and Supporting Information



Background and Purpose of Report

1. The regulations governing public sector procurement are changing with effect from 28th October 2024. This will replace the current Public Contract Regulations 2015.

The new Procurement Act 2024 contains many differences in approach. The main principles of the Act are:

- a. Equal Treatment
- b. Deliver Value for Money
- c. Maximise Public Benefits
- d. Share information
- e. Act and be seen to act with integrity
- f. Have regard to SME's and VCSFE's

The Act will apply in full to procurements above the contract value thresholds contained within the Act. These are unchanged from the previous regulations and are reviewed by Cabinet office every two years. The current thresholds applicable to the Council are:

- Goods services and Works - £213,477 including VAT (£177,897 excl. VAT)
- Works - £5,336,937 including VAT (£4,447,447 excl. VAT)
- Concession contracts - £5,336,937 including VAT (£4,447,447 excl. VAT)
- Light Touch Contracts - £663,540 including VAT (£552,950 excl. VAT) (Light Touch generally refers to Social Care contracts)

It also covers some aspects for contracts below these levels.

Some of the main changes in the Act are:

- I. Changes of procurement processes -
The current regulations include 5 prescribed processes; this is changing to two. The Open tendering process is the same as it was previously, but the other process allows greater flexibility for a contracting authority to design a more bespoke process tailored to the requirements of that particular procurement.
- II. Increased transparency -
The contracting authority must publish a far greater number of transparency notices and information, including a forward pipeline of upcoming activity, redacted copies of contracts, details of initial soft market testing, and information on supplier performance. This will place greater administrative work on the procurement team.
- III. Definition of Procurement -
This has been extended to include contract management. In practice

for contracts over £5,000,000 we must have at least three performance indicators and performance against these must be published annually.

- IV. Central Digital Platform -
Supplier information which is common across procurements is to be held and centrally. This reduces the level of administration for suppliers.
- V. New Contract formats -
The ability to set up Framework agreements still exists but has been extended to a new Open Framework which has greater flexibility. All current Dynamic Purchasing Systems will end in 2028. A new Dynamics Market process is available as a similar replacement.
- VI. There are many other small changes to naming conventions and processes.

The recommendation is that these revised rules are adopted in time for the implementation of the Procurement Act on 28th October 2024. The Act will apply to all procurement activities that are placed with the market from this date. The Public Contract Regulations 2015 will apply to all work in train on that date and all existing contracts.

The rules will be reviewed 12 months after the effective date and annually thereafter.

- 2. As regards the Health & Care Act (provider Selection Regime), this applies only to health services and the main impact to the Council relates to Public Health services, but it may also impact some work within Adults' and Children's Services.

The main implications of the Health Act are:

- I. No threshold applies to the value of spend covered.
- II. The Health Act allows for the re-award of an existing contract without the need to reapproach the market. This is provided the existing contract is performing satisfactorily.
- III. The Health Act allows for award of a new contract to a supplier who has been identified as the most suitable provider without going through a competitive exercise

Links to Council Plan and Medium-Term Financial Plan

- 3. These rules are to ensure compliance with statute and to ensure due process in the procurement of Goods, Services and Works. This will then provide better financial control.

Other options considered

4. None

Key considerations for the Council

Scrutiny comments / recommendations:

5. The proposed decision has not been considered by a Scrutiny committee.

Consultation and feedback

6. None

Financial and Risk Implications

7. Non-adoption of the proposed policy would leave the Council at risk of challenge from suppliers or chastisement from the Cabinet Office.

8. The main risk is whether the change of process for procurements between £50,000 and £100,000 from a Procurement Led Quick quote to a three-quote process conducted within the service

- achieves best value
- does not expose the council to the potential for poor practice, fraud or corruption

Best Value:

- I) Many authorities have already adopted Procurement team involvement at £100k for goods and services and others only conduct procurements through their Purchasing team at the Act thresholds. This allows the team to concentrate on the higher value/higher complexity contracts. The Act also places greater levels of mandatory transparency notices on the procurement team and the impact on resource needs to be considered.
- II) The three quote process for lower value procurements have been in place for many years as it is considered a proportionate approach regarding costs/time and value.
- III) Setting works threshold for procurement involvement at £500k reduces administration of what is considered lower value contracts as Works contracts are naturally at higher value. The number of works contracts below this level are few and the team usually commissioning these are well versed in the use of low value framework arrangements.
- IV) The proposed rules allow commissioners to consult with the Procurement and Legal teams for advice and guidance. If it is considered that the particular procurement exercise is high complexity or risk, then Procurement can conduct the process.

Process, Fraud and Corruption

- I) The policy is part of the Constitution and officers are obliged to conduct procurements in accordance with these rules.
- II) The Procurement and Legal teams are on hand to offer advice and guidance.
- III) The transactional procurement team check all purchase orders raised over £5000 to ensure the correct number of quotes have been obtained. In addition to this the current Commercial & Procurement Board – put in place during the current financial emergency – will check procurements to ascertain whether the procurement is needed and that the correct approach has been taken.
- IV) There is a greater focus on non-adherence to the rules through the waivers and breaches process. The Statutory Officers Board review these and can determine whether further action is taken.

Current Risk Score:

Likelihood	N/A	Impact	N/A	Risk Score	N/A
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Projected risk score if recommended actions are agreed and delivered:

Likelihood	3- Possible	Impact	2 - Minor	Risk Score	6 - Minimal risk
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Legal and Procurement Implications

- 9. The revised policy has been developed jointly between Legal and Procurement. It is designed to reflect the latest legislation covering public procurement. In addition, it covers the approach to contract signing and internal processes.

HR / Workforce Implications

- 10. The increase in the threshold where Procurement must be involved will pass some activity back to the Service Areas. We do not see this as a large impact as they would have been involved in any processes that previously went through procurement. In most cases it will speed up the process.

Equalities Implications

- 11. The decision has no direct impact on equality, diversity and inclusion. We do recognise that how we go about purchasing services can have an impact on people and we will make sure due regard is threaded through how we procure services and products, supported, where appropriate, by the Councils Equality Impact Assessment process.

Community Safety Implications

12. None

Climate Change and Sustainability Implications

13. None

Health and Safety Implications

14. None

Health and Wellbeing Implications

15. None

Social Value

16. The change in the levels at which Procurement are involved will retain the current application of Social Value in tender submissions.

Background Papers

17. [Procurement Act 2023](#)

Appendices

- Appendix A – Current Contract Procedure Rules and Standing Orders
- Appendix B – Proposed Contract Procedure Rules and Standing Orders
- Appendix C – Main changes