



Classification	Item No.
Open	

<b>Meeting:</b>	Audit Committee
<b>Meeting date:</b>	25 <sup>th</sup> January 2021
<b>Title of report:</b>	Draft Contract Procedure Rules
<b>Report by:</b>	Lisa Kitto Interim Director of Financial Transformation
<b>Decision Type:</b>	Non Key
<b>Ward(s) to which report relates</b>	All

## Executive Summary

This report sets out proposals for new Contract Procedure Rules (CPR) that will form part of the Council Constitution. In November 2020, Council delegated authority to agree changes to both CPR and Financial Regulations to Audit Committee. As part of the process of developing and agreeing new CPRs, the audit committee is being consulted on the latest developments, including draft proposals. This report sets out the draft proposals together with the key changes for consideration and comment by the committee. Feedback from the committee will be reflected in final proposals that will be presented back to the Audit Committee in March for implementation from 1 April 2021.

Cipfa C.Co has supported the Council in the development of the proposed rules and a short presentation will be provided to the Audit Committee to provide further detail and information.

## Recommendation(s)

That:

- Members note the content of the report and provide feedback on the new draft Contract Procedure Rules;

- Note that a presentation from Cipfa C.Co will be provided at the meeting;
- Note that the final draft Contract Procedure Rules will be presented to Audit Committee in March 2021 for final approval prior to implementation from 1 April 2021.
- Note that an implementation plan for rolling out the processes aligned to the Contract Procedure Rules will be presented to the Audit Committee in March and that this will used to monitor progress for the 2021/22 financial year.

## Key considerations

### 1 BACKGROUND

- 1.1 Contract Procedure Rules (CPR) form part of the Council's Constitution and govern the way contracts for supplies, services and works are procured and awarded. As part of the agreed governance review it was agreed that a review of the Council's procurement processes and rules would be carried out with the intention of implementing new rules from 1 April 2021.
- 1.2 To inform this work, all managers that are currently engaged in procurement activity have been consulted. This has been carried out in two phases: an initial consultation questionnaire followed by stakeholder group meetings to feedback a number of key findings and to test some of the initial thinking. The outcome of these key pieces of work has been used to inform the draft CPRs.

### 2 RATIONALE AND SUMMARY OF PROPOSED CHANGES

- 2.1 Bury operates a mixed model of delivery with some procurement undertaken by services and the more complex, higher value procurement being undertaken by the central procurement team. In developing the new CPRs the following principles are proposed:
- **Make the procurement processes more efficient and proportionate to risk** through changing thresholds and simplifying processes;
  - **Enable services to lead on low value tenders** by simplifying tender processes and enabling procurement to support commercial and contract management activity and to work proactively with services;
  - **Bring CPR's in line with best practice across local government** and reducing complexity of processes without losing benefit of competitive tendering;
  - **Provide procurement visibility across activity and the opportunity to influence at the right time** including approval to start procurement, proactive engagement with services to develop plans and an up to corporate contracts register.
- 2.2 In order to support the implementation of the new rules, the Strategic Procurement Team will have a crucial role in building procurement skills and knowledge in line with the changes, alongside supporting officers in their decision-making across all service areas.

As part of the implementation there is a commitment to transforming the way procurement activity is undertaken and maximising the use of technology will be a key feature. It is however important to reflect on the fact that not all of this will be in place for 1 April 2021 and therefore an implementation plan will be developed against which progress can be monitored and reported to the Audit Committee.

2.3 The draft contract procedure rules are attached at Appendix 1 and the main changes are summarised as follows:

- The level at which 3 quotes are needed is proposed to increase from £1k to £10k and will reduce unnecessary bureaucracy and achieve better value for money overall for the council.
- It is proposed that the procurement service will adopt an advisory approach for low value tenders and that the work be undertaken by services. Low level tenders are anything with a value of up to £50k.
- Process for tenders up to £50k will be supported by a full procurement toolkit that will advise and support services through up to date guidance, standard templates and access to The Chest when needed.
- All tenders above £50k will be coordinated by the procurement service. This ensures professional expertise is targeted at higher risk/value contracts and used to inform the approach to market, including the appropriateness of openly advertising requirements or inviting selected bidders to tender for contracts up to Public Contracts Regulations thresholds. These are currently £189,330 for supplies and services, £663,540 for Light Touch Regime services and £4,733,252 for works and concessions. A minimum of 3 quotes will be required if an open procedure is not used.
- Specific rules relating to residential care and educational placements to reflect the legal requirement to consider individual choice. The requirement for legal to seal placement contracts is also removed.

2.4 A detailed technical document is currently being produced to support procurement and to provide advice and guidance. This will be made available to the Audit Committee in March.

### **3 CONCLUSION**

3.1 The current processes in Bury are out of date and over bureaucratic. The proposed approach will streamline processes whilst ensuring that specialist advice and support is provided by specialist staff for the highest value and highest risk tenders. The development of a toolkit will ensure that managers are fully supported and that consistent procedures are in place across the Council.

---

## Equality Impact and considerations:

24. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

*A public authority must, in the exercise of its functions, have due regard to the need to -*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*
25. *The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

---

## Assessment of Risk:

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
Revising CPR in this way represents a risk based approach to resource allocation. Limited professional procurement expertise will be focussed on the highest risk/highest value contracts.	Guidance and training will be put in place to ensure service based officers understand and can apply the rules appropriately. Governance controls will be strengthened through the new processes and templates to record and approve actions will be introduced. An annual review will be undertaken and findings reported to Audit Committee.

---

## Consultation:

Public consultation is not required

---

## Legal Implications:

The Council's new Constitution was approved in November 2020 and came into effect in January, albeit that certain parts including the Contract Procedure Rules were not amended at that time. The Council therefore delegated authority to agree changes to the Contract Procedure Rules to Audit Committee. This report sets out the draft proposals, together with the key changes for consideration and comment by the committee, which take into account legislative and other changes including the effects so far known of the UK's exit from the EU.

---

## Financial Implications:

No direct financial implications. Better value for money should be delivered by focussing professional procurement resources on the most significant contracts.

---

## Report Author and Contact Details:

**Sarah Janusz**

Head of Strategic Procurement

[s.e.janusz@bury.gov.uk](mailto:s.e.janusz@bury.gov.uk)

0161 253 6147

---

## Background papers:

Appendix 1 - Draft proposed CPR

**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Term	Meaning
CPR	<b>Contract Procedure Rules</b>
CIPFA	<b>Chartered Institute of Public Finance and Accountancy</b>
The Chest	The system used by the Council (in common with all GM authorities) to advertise contract opportunities and electronically manage requests for quotation and invitations to tender.

Anticipated contract value (excluding VAT)	Procurement Route	Advertising	Evaluation	Approval	Authority to Sign Contract
Below £10,000	<p>Obtain at least one written Quotation. Where the value is less than £1,000 this can be evidenced by price list or website information.</p> <p>Managed by Service team. Advice available from Procurement.</p>	Not required.	Lowest price.	In accordance with the Scheme of Delegation within Financial Procedure Rules.	<p>Use Purchasing Card or raise a Purchase order.</p> <p>No requirement for a signed contract.</p>
£10,001 to £50,000	<p>Request for Quotation (RFQ). Obtain at least three written quotations.</p> <p>Managed by Service team.</p> <p>Advice available from Procurement.</p>	<p>Not required</p> <p>(If three providers cannot be identified, openly advertise. If openly advertised then contact Procurement to advertise on The Chest and on Contracts Finder website.</p> <p>Bury suppliers to be invited where available. Check the Bury Business Database for information.</p>	Lowest price or by exception most economically advantageous based on criteria published with the request for quotation.	<p>Complete Operational Decision form and attach copies of the quotations. Where the decision is not based on lowest price, include the evaluation model which has determined the winning bidder</p> <p>If this is a new Supplier request a New Supplier Set up form is completed and submitted to Accounts Payable. Confirm Operational Decision providing "Authorisation to Award" is in place and new supplier set up has been approved by Strategic Procurement. Retain OD with quotes Approval in accordance with Scheme of Delegation as detailed in Financial Procedure Rules</p>	<p>Purchase Order via Unit4</p> <p>and</p> <p>If the Council's Standard Contract is used then an Officer in accordance with the Scheme of Delegation</p> <p>or</p> <p>If a bespoke contract then Legal Services Authorised Signatory</p>

Anticipated contract value (excluding VAT)	Procurement Route	Advertising	Evaluation	Approval	Authority to Sign Contract
<p>£50k to PCR2015 Thresholds</p>	<p>Invitation to Tender (ITT) Obtain a minimum of 3 tender responses.</p> <p>Advice must be sought from Procurement before commencing and a "Starting a Procurement" form completed.</p> <p>Tender process using The Chest.</p> <p>A single stage ITT must be used for all contracts up to the Goods and Services threshold.</p> <p><b>Managed by Procurement</b></p>	<p>If openly advertised use The Chest system and</p> <p>Contracts Finder</p>		<p>An Operational Decision authorising the award of contract must be completed.</p> <p>then If this is a new Supplier request a New Supplier Set up form is completed and submitted to Accounts Payable. Confirm Operational Decision providing "Authorisation to Award" is in place and new supplier set up has been approved by Strategic Procurement. Retain OD with quotes Approval in accordance with Scheme of Delegation</p>	<p>Purchase Order via Unit4 and</p> <p>If the contract value is less than £100,000 and the Council's relevant Standard Conditions of Contract is used then an Officer in accordance with Scheme of Delegation</p> <p>or if the contract value is more than £100,000 or</p> <p>if a bespoke contract is used then Legal Services Authorised Signatory</p> <p>Legal proforma – instruction to award to be completed</p>
<p>Over OJEU threshold</p>	<p>Advice must be sought from Procurement before commencing and a "Starting a Procurement" form completed.</p> <p>Tender process using the Council's e-tendering system – The Chest</p> <p>An Open procedure single stage ITT to be used or by exception an alternative procedure as stated in the Public Contracts Regulations with a justification approved by the Head of Strategic Procurement</p> <p><b>Managed by Procurement.</b></p>	<p>Council's e-tendering system – The Chest</p> <p>Contracts Finder Website</p> <p>and</p> <p>Find a Tender Service</p>		<p>Contracts below £500k in value that are non-key decisions can be approved by the relevant Executive Director.</p> <p>Contracts above £500k are key decisions and delegated authority should be sought from [Cabinet] to award the contract when the evaluation is completed.</p>	<p>Legal proforma – instruction to award to be completed</p> <p>Purchase Order via Unit4</p>

