

<b>Report to:</b>	Audit Committee	<b>Date:</b> 01 December 2022
<b>Subject:</b>	Contract Procedure Rules	
<b>Report of</b>	Cabinet Member for Finance and Communities	

## Summary

This report sets out proposals for new Contract Procedure Rules (CPR) that will form part of the Council Constitution. As part of the process of developing and agreeing new CPRs, the audit committee was consulted on the draft proposals in January 2021. This report sets out the final draft proposal. Feedback from the Standards Committee and Audit committee will be reflected in final proposals that will be presented to Full Council on 7<sup>th</sup> December 2022 for implementation from 1 February 2023.

Cipfa C.Co drafted the proposed rules over two years ago, therefore these have been further developed and amended by STAR Procurement to reflect more recent changes and best practice.

## Recommendation(s)

- Note the content of the report and provide feedback on the final draft Contract Procedure Rules
- Note that the final draft Contract Procedure Rules will be presented to Full Council in December 2022 for final approval prior to implementation from 1 February 2023
- Note the draft implementation plan and provide feedback for rolling out the processes aligned to the Contract Procedure Rules
- Note and provide feedback on the draft Procurement Guide

## Reasons for recommendation(s)

Provides up to date and appropriate Contract Procedure Rules with associated Procurement Guide. The implementation plans will ensure effective implementation of the approach.

## Alternative options considered and rejected

The current Contract Procedure Rules are dated 2016 and require significant updating as they contain out-dated information including Regulations, Thresholds, and a combination of both rules and requirements as well as guidance and advice. They are over-bureaucratic with complex governance arrangements.

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 the Procurement Guide will ensure that managers are fully supported and that consistent procedures are in place across the Council.

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### 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.
- 1.2. To inform this work, all managers engaged in procurement activity have been consulted by Cipfa C.Co. This was 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.
- 1.3. As this work was undertaken over two years ago, a further update and review has been undertaken by STAR Procurement to ensure the Contract Procedure Rules are future-proofed for the upcoming Regulation changes, to provide flexibility in the way procurement is delivered operationally and to reflect best practice. The Procurement Guide and Implementation Plan have also been developed. Consultation has taken place with colleagues from Strategic Procurement, Finance, Legal and Audit.

### 2. **Key Changes**

- 2.1. The final draft Contract Procedure Rules are attached at Appendix 1 and the main changes are summarised as follows:
  - Focus on rules and requirements, with advice and guidance moved to Procurement Guide (See Appendix 2)
  - 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. This brings Bury in-line with other Greater Manchester Authorities
  - Specific requirements regarding the Contracts Register to reflect the findings of Contracts Register audit report.
  - It is proposed that the procurement service will continue their 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 Procurement Guide 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 regulation Threshold.

- 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.
- Future proofed the wording and terminology to reflect the proposed new Regulations and changes in Thresholds

### 3. Implementation Plan

- 3.1. This report sets out the final draft proposal. Feedback from the committee will be reflected in final proposals that will be presented to Full Council on 7<sup>th</sup> December 2022 for implementation from 1 February 2023.
- 3.2. A detailed implementation plan has been developed to support 1<sup>st</sup> February 2023 implementation date. The implementation plan includes approvals, development of new templates, training (including in-person and on-line), communications and development/update of linked documents.
- 3.3. In summary the implementation plan includes:

Theme	Task	Milestone
Approvals	Full Council meeting	Dec 2022
Templates	Procurement Guide	Dec 2022
	Starting a procurement form	
	Award Report	
	Declaration of Interest	
	Exemption/modification form	
	RFQ	
	ITT	
Training	The Chest work flows	Jan 2023
	In-person training	
	Training via TEAMS	
	Recording of training	
Communications	Manager Programme	Jan 2023
	Council website	
	Intranet pages	
Linked documents	Comms Plan	TBC
	Scheme of delegation	
	Financial Procedure Rules	
	Procurement of External Expertise	

### 4. Procurement Guide

- 4.1. The Procurement Guide provides advice and guidance for sub-Threshold procurements. This will ensure that managers are fully supported and that consistent procedures are in place across the Council. This will help to address previous issues highlighted by Internal Audit.
- 4.2. The Procurement Guide can be regularly updated by Strategic Procurement to reflect new Regulations, updated guidance provided by Government, and any

new best practice and/or lessons learnt. A copy of the draft Procurement Guide is included in Appendix 2.

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### **Links with the Corporate Priorities:**

5. The Let's Do It Strategy sets out the corporate priorities and the Contract Procedure Rules help to deliver the following outcomes:
- Delivering inclusive economic growth by continuing our commitment to Bury-based businesses and reducing the complexity and bureaucracy of our procurement approach
  - Delivering carbon neutrality by 2038, improved quality of life, improved educational attainment and increased adult skill levels and employability by including guidance on Social Value

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### **Equality Impact and Considerations:**

6. The proposed Contract Procedure Rules do not bring about any changes that would impact on one protected characteristic over and above another, it doesn't result in increased/decrease access to services or provision for any particular group of the population or cause any disadvantage to a community of interest. The approach is to ensure value for all contracts and thus strive to mitigate Council costs, which would benefit all residents

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### **Environmental Impact and Considerations:**

7. Environmental impact and considerations in procurement are addressed through Social Value. The Procurement Guide provides information on how this can be achieved and potential measures that can be included in contracts.

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### **Assessment and Mitigation of Risk:**

<b>Risk / opportunity</b>	<b>Mitigation</b>
Revising CPRs 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.	Procurement Guide 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 introduction of new processes and templates to record and approve actions

Implementation of revised rules across the Council in a short period of time	A detailed implementation plan has been developed, including mandatory training
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### Legal Implications:

The Council is required to have Contract Procedure Rules under section 135 of the Local Government Act 1972 and to review them periodically. The revised Rules have the support of Audit, Finance and Legal Services. The increase in the procurement thresholds involves greater devolved procurement to Council departments and consequently a degree of non-compliance risk attaches. However this is properly mitigated through the implementation plan which includes mandatory training, supplemented with a comprehensive procurement guide and model templates and processes. The revised Rules are recommended for adoption on that basis.

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### Financial Implications:

The implementation of strong and consistent Contract Procedures Rules and the roll out of an education and training programme for all who use them will help to ensure the Council achieves best value for money in all of its procurements.

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### Background papers:

*Appendix 1: Final Draft Contract Procedure Rules*

*Appendix 2: Final Draft Procurement Guide*

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

Term	Meaning
CPR	Contract Procedure Rules
Contracts Register	A database of all Council Contracts maintained by the Strategic Procurement Team
Procurement Guide	A document providing advice, guidance and policies regarding operational procurement at Bury Council. It supports the CPR's but does not form part of the constitution
Social Value	The concept of seeking to maximize the additional benefit that can be created by procuring or commissioning goods and services, above and beyond the benefit of merely the goods and services themselves

Threshold	The Threshold pertaining to the values of Supplies, Services or Works derived from Regulations
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