

Guildford Borough Council

Report to: Council

Date: 23 July 2024

Ward(s) affected: All

Report of Strategic Director: Legal & Democratic Services

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Report status: Open

Proposed Revised Contract Procedure Rules

1. Executive Summary

- 1.1 It is good practice to keep the Contract Procedure Rules¹ under review, as they form part of the Constitution of the Council.
- 1.2 A review of the Contract Procedure Rules has been undertaken by the Joint Constitutions Review Group (JCRG), at its meeting held on 20 June 2024 and the Corporate Governance & Standards Committee on 1 July 2024. The Corporate Governance & Standards Committee has recommended that the Council approve the revised Contract Procedure Rules.
- 1.3 The Contract Procedure Rules will also be presented to Waverley Borough Council's meeting on 16 July 2024, with the intention that both Councils' adopt the same revised set of Rules.

¹ Referred to currently as Contract Procurement Rules in the WBC Constitution

2. Recommendation to Council

- 2.1 That the revised Contract Procedure Rules, as set out in Appendix 1 to this report, be adopted into the Constitution and replace the existing Procurement Procedure Rules.

3. Reasons for Recommendation:

- 3.1 Contract Procedure Rules which are materially the same for both Councils, whilst being owned by each Council in respect of their services, will help to promote more efficient joint working and will support the transformation programme by aligning officer decision making across both Councils.
- 3.2 The recommended changes will improve the governance procedures for each Council and will ensure that there is greater clarity and oversight over procurements.
- 3.3 The reductions in Contract limits will ensure that key decisions are made by the Executive, thereby promoting accountability and transparency.
- 3.4 Aligning both Councils' Contract Procedure Rules supports the Councils' Collaborative and Transformation programme and provides clarity for all officers who provide support for procurement, as well as for those postholders who are joint officer appointments. The revised rules will replace the existing Procurement Procedure Rules.
- 3.5 The recommended changes will also implement changes as a result of the Procurement Act 2023 which come into force on 28 October 2024. This will allow time for changes to be embedded by both Councils and appropriate resource provided and identified.

4. Purpose of Report

- 4.1 The purpose of the revised Contract Procedure Rules is to align contract limits and procedures across the two Councils where possible and implement the changes required under the Procurement Act 2023.

5. Strategic Priorities

- 5.1 This report will assist in the delivery of the Councils' corporate priorities and collaborative working agenda.

6. Background

- 6.1 To conduct its business effectively, a Council needs to ensure that it has procurement policies in place which are strictly adhered to. It is a legal requirement under s135(2) of the Local Government Act 1972 that the Council maintains a set of standing orders in relation to contracts for the supply of services, goods, and execution of works. Part of good financial management is having an established set of Contract Procedure Rules which set out the policies of the Council. They provide rules for the Council to follow to protect public money and give clarity to members and officers regarding responsibility for procurement.
- 6.2 Contract Procedure Rules apply to every councillor and employee of the Council. Both Councils currently each have a different set of Contract Procedure Rules and Contract limits. This means that officers must refer in detail to each set of Rules to check them before making a decision. This leads to a lack of clarity for members of the Joint Management Team, as they work across both Councils but with differing decision levels across their services, as well as staff within their teams who support the procurement process.
- 6.3 The Contract Procedure Rules should be read in conjunction with the revised Scheme of Delegation and new Financial Procedure Rules, set out elsewhere on this agenda.
- 6.4 A guide to the key changes is set out at Appendix 2.

7. Consultation

- 7.1 These revised Contract Procedure Rules have been designed with support from the Procurement and Finance teams, so that they form part of a set of constitutional amendments. The Joint Management Team are supportive of the proposals.

7.2 The Joint Constitution Working Group reviewed the Contract Procedure Rules at its meeting on 20 June, and recommended to the Corporate Governance & Standards Committee that it should formally recommend their adoption by full Council. At its meeting on 1 July, the Corporate Governance & Standards Committee considered this report and supported the recommendation referred to in paragraph 2.1 above. At that meeting, the following responses were made to comments made by the Committee during the debate:

- In response to a suggestion that, in relation to procurement below £5,000, there should actually be a requirement to verify that local suppliers have been given an opportunity to quote, and to establish the reasons for not being able to quote, officers indicated that it would be very difficult within the proposed rules to set up a separate system of monitoring of such procurement, particularly given that the Procurement Act would provide greater accessibility for small and medium enterprises into local authority procurement. The purpose of the requirements regarding procurement below £5,000 was about making sure that officers remember to obtain quotes from local suppliers where possible with a view to dealing with such matters promptly to ensure that there was greater focus on the more regulated higher value contracts.
- In response to a suggestion that processes for potential local suppliers for lower value procurements should be a great deal simpler and straightforward than those for more complex higher value procurements, officers reiterated that one of the key principles of the new legislation was to require councils to consider how accessible their procurement processes were for small and medium enterprises.
- In terms of presentation, officers confirmed that when this matter was referred to the full Council meetings of both authorities, “clean” versions of the proposed Contract Procedure Rules would be provided (i.e., a version tailored for each Council to approve).

8. Key Risks

- 8.1 There is a risk of poor decision making and a lack of accountability where procurement limits and rules are unclear. This can be mitigated by having a clearly expressed set of Contract Procedure Rules which is the same for both Councils, and training officers as necessary.
- 8.2 There is a risk that by reducing the contract limits, the Executive, whilst having greater oversight, has a busier agenda at its meetings. This can be mitigated by ensuring that Executive decision making provides suitable delegations to officers, thereby ensuring that the Executive have retained overall control and made decisions for officers to implement. It could be further mitigated by the Executive considering greater use of delegated authority to Individual Portfolio Holders where appropriate.

9. Finance Implications

- 9.1 There are no direct finance implications resulting from this report.
- 9.2 The indirect finance implication is that officer spending limits will be reduced to key decision levels, and that additional resource will be needed to support the increased procurement and legal oversight.

10. Legal Implications

- 10.1 Councils have a responsibility to keep their Constitution up to date, under Section 9P Local Government Act 2000 and to maintain a set of standing orders in relation to contracts for the supply of goods, services or execution of works. The Contract Procedure Rules form part of the Constitution of the Council.

11. Human Resource Implications

- 11.1 There are no direct HR implications although there will need to be consideration given to the resourcing of the requirements.

12. Equality and Diversity Implications

12.1 There are no equality and diversity implications arising from this report. This report has given due regard to the requirements of the Public Sector Equality Duty (Equality Act 2010) when making any recommendations concerning constitutional arrangements.

13. Climate Change/Sustainability Implications

13.1 There are no climate change or sustainability implications.

14. Summary of Options

14.1 The Council is asked to consider the proposed revised Contract Procedure Rules attached as Appendix 1 to this report, which have been recommended for approval by the Corporate Governance & Standards Committee.

14.2 The Council may:

- (a) agree the draft revised Contract Procedure Rules and adopt them into the Constitution, or
- (b) suggest amendments to any part of the draft revised Contract Procedure Rules, or
- (c) choose not to recommend that the revised Contract Procedure Rules are adopted.

15. Background Papers

[Constitution - Guildford Borough Council](#)

16. Appendices

Appendix 1: Proposed draft Contract Procedure Rules

Appendix 2: Areas of Key Changes