

Areas of Key Change

It is recognised at this point that the rules still require some refinement to ensure that they are accessible to all Officers. It should be noted that there has been only limited consultation with services at this point and these draft rules may need alteration following consultation. There is also a resourcing issue, particularly for WBC, given the new statutory requirements.

The rules have been drafted to allow some flexibility for both Councils during a period of adaptation so whilst the rules set the principles, they do not set out the specific process. This allows each Council to draft their current documentation to provide the information during a transitional period. It is hoped that in time it will be possible to develop aligned processes and agreed templates meeting the needs of both Councils.

The revisions not only align both authorities but take account of the requirements which come into force on 28 October 2024 under the Procurement Act 2023.

1. Introduction

This is updated reflecting both authorities' previous positions and there is no material change.

2. Key Principles

This is an update to the previous Key Principles to reflect the changes in the Procurement Act 2023 and the Government policy.

3. Statutory Requirements

This is updated to reflect the current thresholds and the implementation of the Procurement Act 2023 but there is no material change.

4. Compliance

This has been updated to reflect the implementation of the Procurement Act 2023. There is a material change in creating a provision allowing the JSD Legal and Democratic Services and JSD Finance to terminate a procurement procedure if it is considered that the contracts have been disaggregated to avoid the procurement thresholds. This provides additional protection for the council and assists the Statutory Officers to undertake their duties.

5. Scope

This has been significantly updated for both councils and sets out circumstances where:

- (a) there is no requirement to comply with Part 3 of the rules; and
- (b) circumstances where there is no requirement to comply, provided they are under the procurement threshold.

The distinction between (a) and (b) is that those requirements within (a) are entirely excluded from the procurement legislation and are therefore a statutory exclusion, whereas those in (b) are not excluded and therefore compliance is still required with the legislation for above threshold procurements.

Another significant change is that previously both councils excluded the entirety of the rules whereas the exclusion now is limited to Part 3 which is the procurement process. This means that all other statutory requirements, payment provisions, best value are still applicable and provides additional security for both councils.

For procurements being carried out by another authority leading (e.g. by Surrey CC on behalf of all the districts and boroughs or Guildford on behalf of Waverley) then there is a new requirement for a conflict assessment to be undertaken.

For both councils the awarding of a contract through a Framework has been removed from exclusions as this does not provide for adequate protection for the councils and it is dealt with elsewhere.

A limit has been placed on excluding contracts because they are 'urgent' so that this can only be used in critical situations by the Chief Executive.

An additional exclusion in (b) has been added for the Returning Officer.

WBC – Contracts with agencies for supply of staff have been removed from the exclusions as this is not compliant with the legislation

6. Roles and responsibilities

GBC – there is very little change.

WBC – there is a shift for WBC to a centralised procurement model.

Part 2 – PROCESS

This part has substantial changes for both councils to provide for implementation of the Procurement Act 2023. Fundamental changes have been made to levels and involvement of Procurement.

A new threshold has been introduced for £5,000 - £24,999 still providing quite a light touch but the involvement of procurement. For all contracts over £25,000 it is now expected that Procurement will lead, this is a change for both councils. There is more flexibility for both councils in this threshold allowing there to be a focus on the above threshold procurements which are likely to increase.

GBC – The threshold for involving Procurement has risen to £5,000 which should allow more flexibility and should release some capacity in Procurement to focus on the higher value work. There is a requirement at this level to obtain two quotes.

WBC – The requirement for officers has been increased to be two quotes to ensure that there is always a level of competition.

23. Land and other Council assets

GBC – At GBC this is already dealt with under separate policies.

WBC – This was covered in some detail in the previous rules, and it is recommended that WBC adopt a policy to deal with asset disposal. This should not form part of the Contract Procedure Rules.

26. Conflicts of interests

This is substantially updated for both authorities to comply with the new statutory requirements and where not a legal requirement because it reflects good practice, openness and transparency.

28. Modern Slavery

GBC – There is no change for GBC

WBC – Has not adopted a Modern Slavery motion or Charter and has no obligation so there is a slight variation in the drafting.

39. Contract Management

There are new requirements in relation to contract management which are reflected in these provisions.