

CONTRACT PROCEDURE RULES (CPRs)

**Constitutional Review
Committee**

18 March 2025

By

Chris Blundell - (Director of Corporate Service - Section 151
Officer)

Cabinet Portfolio

Cllr Rob Yates, Portfolio Holder for Corporate Services

Key Decision

For Decision

Decision classification

Unrestricted

Ward:

All Wards

Purpose of the Report

The purpose of this report is to propose approval of the redrafted Contract Standing Orders (CSOs) to be formally known as Contract Procedure Rules (CPRs) going forward, following the implementation of the Procurement Act 2023 (the Act), to ensure the Council's Procurement Activity remains fully compliant with the Act, which was implemented on 24 February 2025.

Recommendation(s):

The Constitutional Review Committee is requested to consider the recommendation below that is being made to Full Council and make any appropriate recommendations:

It is recommended that Full Council:

1. Approve the new Contract Procedure Rules which are attached to this report at Annex 1

1. Summary of Reasons

- 1.1 A requirement of the existing CSOs is that they are reviewed and updated as necessary with any such recommendations made by the Procurement Manager being considered by the Constitutional Review Committee. Following which, they are to be presented to Full Council for adoption.
- 1.2 The Procurement Act 2023 (the Act) was implemented on 24 February 2025. It introduces a new statutory regime in relation to public procurement and replaces the Public Contract Regulations 2015 and Concession Contracts Regulations 2015. The

new Act was due to be implemented in October 2024, however, the implementation date was delayed to allow the Government time to publish guidance and for Councils to understand and incorporate the guidance.

- 1.3 Council officers have been working hard to fully understand the implications of the new statutory regime and to incorporate this into a revised set of CPRs. Officers had hoped to bring a report to Full Council seeking approval of the revised CPRs, prior to the implementation of the new act, however officers were also keen to ensure that the new set of rules received the necessary detailed consideration. Interim measures were recommended to Council on 27 February 2025 and approved for Council to note and agree that all new Procurement activity must be compliant with the Procurement Act and will be conducted in accordance with the Council's new CPRs until the new CPRs can be presented to Full Council for approval. As a result, the Constitutional Review Committee is now being asked to consider the recommendations set out above, which will then be presented to Full Council for approval in March 2025.
- 1.4 The CPRs have been rewritten to ensure that Officers work in partnership with the Procurement Service and Legal Services, which in essence maintains the arrangements where the services (e.g. front line services) commissioning the procurement activity are the delivery experts, whilst Procurement and Legal services oversee and guide procurement activity to ensure is effective, legal and not open to challenge, reducing and mitigating any potential risk to officers and the authority.
- 1.5 The quotation threshold was considered during the drafting of the CPRs and it is proposed to set a threshold of £25k to £139,999.00 for a 3 Quote process without advertisement. This recommendation has been put forward as it is considered the previous £49,999.99 quotation threshold without advertisement is too low when considering the increased amount of procurement activity that has been coming through the organisation over the last few years and the capacity of the Procurement Service and Legal Services to support the delivery of this sustained level of activity. The increase in procurement activity has been driven primarily by the successful award of additional funding for the delivery of key Regeneration and Housing projects and also services coming back in-house (e.g. Housing, HR, and ICT).
- 1.6 It is considered that an increase in the threshold for a 3 Quote process without advertisement, will continue to improve autonomy and timeliness of operational decisions. Internal Audit has been consulted for comment on the proposed threshold change and it was recommended that procurement activity within this threshold across the Council should be monitored to ensure compliance is being undertaken with the Council's CPRs (once approved), Financial Procedure Rules, and in accordance with the Procurement Act 2023 where applicable. It is proposed by the Procurement Manager and Section 151 Officer that this information will be compiled by the Procurement Service to present to the Directors and Section 151 Officer periodically over the next 6 months initially, for review and consideration of any subsequent recommendations. Additional resources have been put in place for both Legal and Procurement Services to increase support to the organisation and this is being monitored to ensure the needs of the organisation are being met. A Pipeline of Procurements is being compiled to support this, which will enable the organisation, Procurement Service, and Legal Services to undertake a more forward-looking and

proactive approach and understand the resources required to support future procurement activity across the Council.

2. Background

2.1 Section 135 of the Local Government Act 1972 requires Local Authorities “to make standing orders with respect to the making by them or on their behalf of contracts for the supply of goods or materials or for the execution of works”.

2.2 The existing CSOs, to be formally known as Contract Procedure Rules (CPRs) going forward, form part of and are included within the Council’s Constitution and set out the minimum obligations and minimum requirements to be followed by officers when making purchases.

2.3 The CPRs have undergone several minor changes over time, and procurement has changed significantly since the Public Contracts Regulations 2015 were implemented.

2.4 The new CPRs have been redrafted primarily to reflect the requirements of the Procurement Act 2023 and also the following wider key considerations:

- Recommendation from CIPFA, one of the Council’s Standard Setting Bodies, to rewrite the CPRs to reflect the transformational impact of the Act,
- The new notice transparency notice requirements and incorporation of the transitional arrangements
- An independent internal procurement review was undertaken of the Council’s procurement process, in consultation with the Procurement Service and officers across the organisation who are involved in undertaking Procurements.
- The recommendations of that review included a desire for roles and responsibilities and process to be clearly defined. The CPRs that Council are being asked to consider have sought to incorporate those recommendations.

2.5 On 24 February 2025, the new Procurement Act was implemented. This represents a very significant change to public procurement. The Legislation is a direct response to the withdrawal of the United Kingdom from Europe and therefore has more focus on alignment with national UK policy. Key objectives or changes of the Act include:

- The Act embeds transparency throughout the procurement and contract lifecycle, with an objective of opening up public procurement to new entrants such as small/medium business and social enterprise.
- There is a greater focus on Preliminary Market Engagement, which is now a regulated process. Conflicts of Interest and Assessments are new formal requirements.
- The Act brings a significant increase in the number of procurement notices contracting authorities must publish compared to the old regulations – 17 in total (compared to 4 under the old regulations). Notices cover every stage of procurement, including sensitive issues such as payments, contract modifications and supplier performance. This will enable transparency for contracts to be

tracked throughout their lifecycle from the planning stage (Pre-procurement) to contract award, any modifications, quality of delivery, and expiry/termination.

- The Act also provides new rules on Below Threshold Procurements, which impact the greatest portion of the Council's Procurement Activity.

2.6 As indicated above, officers have been working hard to draft a new set of CPRs that properly embody the new legislation. These are now in final draft form and have been approved by both the Council's Legal and Procurement Services and the Corporate Management Team.

3. Relevant Issues

3.1 These are set out in the background section above.

4. Alternative Options

4.1 The Council could reject the proposed CPRs, making recommendations for further review and determining that all procurement activity will continue under the interim measures approved by Council on 27 February 2025, until it has approved the new CPRs.

4.2 The preferred option is as set out in the recommendations section of this report, that is to say to approve the CPRs as they are drafted in Annex 1 of this report. These are compliant with the Procurement Act and will support staff to navigate its requirements. It is intended that these will be subject to further review in 6-9 months time when their efficacy in terms of working under the new legislation can be properly assessed.

5. Consultation

5.1 There is no formal legal duty to consult in relation to this decision.

6. Corporate Implications

6.1 Finance and Resources

6.1.1 There are no direct budgetary or financial implications arising from the decision sought in this report. However, the approval of the CPRs ensures the council has the necessary defined procurement rules, processes and responsibilities to deliver value for money from its purchasing activities.

6.2 Legal and Constitutional

6.2.1 The attached contract procedure rules have been drafted and prepared to ensure compliance with the Procurement Act 2023.

6.2.2 The Local Government Act 2000 requires the Council to periodically review and update its constitution. The amendments proposed in this report will ensure that the Council is compliant with current legislation. In accordance with the provisions of the Council's constitution it is for Full Council to agree any amendments to the same.

6.3 Council Policies and Priorities

6.3.1 This report relates to the following corporate priorities:



6.4 Risk

6.4.1 In the event that the Council fails to record executive non- key decisions, it will not be compliant with regulations and there is a risk that it will be found failing in this regard.

6.5 Climate Change and Biodiversity

6.5.1 This decision will not have any impact on climate change or biodiversity, either positively or negatively.

7. Equality, Equity and Diversity Implications

7.1 An equalities screening tool has been completed. This demonstrates that there are no particular equalities implications arising from the decision sought in this report.

8. Crime and Disorder Implications and Community impact

8.1 There are no crime and disorder implications arising from this report and the decision, if approved, will not have a significant impact on the community.

9.0 Subject History

9.1 N/A

Annexes

Annex 1 - Contract Procedure Rules (CPRs) - March 2025

Background Papers

None

Report Author(s) Contact: Gemma Paul, Procurement Manager
telephone:

email: gemma.paul@thanet.gov.uk

Report Sign Off / Signed off by / Date sent / Date signed off / Initials

Legal Ingrid Brown - Head of Legal and Democracy and Monitoring Officer

Finance Chris Blundell - Director of Corporate Services - Section 151 Officer