

BARNSELY METROPOLITAN BOROUGH COUNCIL

REPORT OF: DIRECTOR OF FINANCE, S151 OFFICER

TITLE: CONTRACT PROCEDURE RULE AMENDMENTS

| | |
|---------------------------------|------------------------|
| REPORT TO: | CABINET |
| Date of Meeting | 10 January 2024 |
| Cabinet Member Portfolio | Core Services |
| Key Decision | Yes |
| Public or Private | Public |

Purpose of report

- 1.1. To outline the proposed changes to the Contract Procedural Rules (CPR) which were unable to be completed in the last revision in 2019 and changes required to ensure compliance with Procurement Audit of 2020
- 1.2. To seek approval of the proposed recommendations and the implementation of the revised Contract Procedure Rules across the Council.
- 1.3. To update on the proposed changes to national procurement regulations and potential impact.

Council Plan priority

The proposed revisions to the Contract Procedure Rules are aimed to ensure the Council can fulfil its Enabling Barnsley commitments of being a modern, inclusive, efficient, productive and high performing Council.

Recommendations

That Cabinet recommend that Council:-

- 1. Approve the revisions to the Contract Procedure Rules detailed below for publication on the Council's website**
- 2. Acknowledge that further revisions will be required to the Contract Procedure Rules in 2024 once more information is known about the Procurement Bill (Transforming Public Procurement) and its implementation date.**

1. INTRODUCTION

- 1.1 The Contract Procedure Rules are established to provide Officers, Members and the public with an understanding of how the Council purchase and enters into contract for goods, works and services.
- 1.2 This would include maintained schools and circumstances when the Council is the Accountable Body, such as when purchased for Berneslai Homes. They aim to ensure a system of openness, fairness, and transparency and facilitate the Council achieving best value from its funding.
- 1.3 A proposal for revisions was taken to Audit Committee in January 2023, however, additional clarification was requested and therefore these were not progressed, and the Project Team took away actions to provide additional detail in the document to provide clarity.
- 1.4 A Project Team including senior officers from procurement, purchasing, contract management, finance, governance, audit and legal have progressed this comprehensive review.
- 1.5 The rules were last revised in July 2023, as an interim measure to revise the values for notice publication to reflect transparency requirements updated by Cabinet Office, more flexibility in the purchasing of goods, works and services up to £50,000, and an allowance for the appointment of agency staffing up to £70,000 to allow more efficient processes. These were implemented immediately whilst the full review of the rules was progressed.
- 1.6 Prior to that, the last revision made to CPRs was in 2019 that reflected changes due to the introduction of the Strategic Procurement and Contract Management Team.
- 1.7 The proposed amendments reflect the recommendations of the 2022 Arum review which was commissioned to support the zero-based review of the Strategic Procurement and Contract Management Team to inform a transformation action plan for the function to better support the Council and its strategies moving forwards.
- 1.8 The amendments also reflect on feedback from the Arum Review and the Council's Red Tape initiative to look at ways to ensure the rules are clear for all Council Officers, Members and the public to understand, reducing unnecessary bureaucracy in processes, but strengthening the focus on value for money to ensure best value is sought in all contracts through procurement and contract management.
- 1.9 The provision of clear policy, procedure and supporting documentation for all Officers involved in procurement and contract management will support robust and effective processes which will provide opportunity to plan properly and ensure responsible officers are able to accurately manage expenditure and budgets to align to their Council's medium term financial strategy.

- 1.10 These Rules should be read and acted upon in conjunction with the Council's Constitution and Financial Regulations, the Scheme for Financing Schools, the Codes of Conduct for Officers and Members, the Council's Commercial Strategy and the additional guidance provided by the Strategic Procurement and Contract Management Team.
- 1.11 These changes are being made in advance of the planned reforms to the UK procurement regulations, which are currently in the final stages of approval by Government and expected to be implemented in Autumn 2024. Every effort has been made to align these changes to current best practice promoted by the Cabinet Office to prepare for these changes, however it is expected further substantial changes will be required to these rules to align to the new regulations when implemented.
- 1.12 Minor amendments will be required 1st January 2024 to reflect the FTS threshold changes which will be updated from this date.

2. PROPOSAL

2.1 To support the transformation recommendation of clear policy, procedure and supporting documentation the Contract Procedure Rules have been amendments and additions are proposed in the following areas;

- Value for money/Best value
- Contract management
- Roles and responsibilities and accountability
- Social Value
- Sustainability
- Thresholds
- Grants/Subsidy Control
- Approvals documents
- Exemptions
- Pre market Engagement/Market research/Market shaping
- Pipeline sharing
- Timelines for the procurement process

2.2 In the review of the Rules the following areas have been updated as well to support operational understanding as well;

- Updates to legislation
- Definitions on Concession Contracts
- Requirements of in-house Service Level Agreements
- Conflict of Interest signed by all procurement participants
- Rejection of late Standard Questionnaires, Quotations and Tenders
- Record of all procurement documentation
- Second Signature for contracts under £100K
- Waiver process

- Submission and Opening of Quotations and Tenders
- Exceptions to Requirements of Competition
- Electronic signatures.

2.3 Value for Money/Best Value

The definition of value for money has been added and will align to future updates of this in the Commercial Strategy, which is being updated in 2024 and the Financial Regulations which are also in the process of being updated.

The definition is taken from the Cabinet Office recommendations as securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods/ services bought. It is not about minimizing up-front costs but based on the four Es;

- economy – minimising the cost of resources for an activity ('doing things at a low price')
- efficiency – performing tasks with reasonable effort ('doing things the right way')
- effectiveness – the extent to which objectives are met ('doing the right things').
- equity - This reflects the extent to which services are available to, and reach, the people they are intended for, and whether the benefits from the services are distributed fairly.

When considering 'outlay', the key factor is whole life cost, not lowest purchase price. Whole life cost takes into account the total cost over the life of a contract, including capital, maintenance, management, operating and disposal costs, and can be very different from initial price.

The estimating contract value form has also been revised to better explain how procuring officers should look to estimate the potential value of a contract, in order to accurately define from the outset the budget required and validate bids received in a procurement or pricing process to align to this.

The changes to the CPR also introduce Best Value documents for single quote and multiple quote processes to ensure a record of the procuring officer's approach to ensuring best value on all contracts to support and encourage best practice.

For procurements which will be led by the Strategic Purchasing, Procurement and Contract Management Team the Procurement Event Approval Document will be used to confirm this, as is standard practice already.

The new forms and processes proposed as part of the CPR amendments are aimed to ensure that responsible officers have a clear understanding of the need to plan properly and ensure that contracts are delivering outcomes and outputs in line with expectations within their defined budget.

2.4 Contract Management

Further information has been added to the CPR to outline the approach to contract management which should be taken for all contracts.

The CPR now define the roles and responsibilities of those involved and how the procurement process should consider contract management requirements to include appropriate mechanisms which will ensure performance in line with requirements and value for money is achieved.

The methodology for contract management has been developed in accordance with Government guidance and toolkits including a version of the Contract Tiering Tool to assess all contracts on the basis of a score achieved across the following criteria;

- Value
- Risk
- Information security considerations
- Social value and sustainability considerations
- Complexity of the contract
- Complexity of the supply market.

The CPR now include a requirement to tier all projects at the procurement stage and develop a Contract Management Plan to define appropriate roles and responsibilities, support performance management and delivery of contract outputs and outcomes.

The defined roles include Contract Managers, Service Lead and Senior Responsible Officers (SRO).

A toolkit will be made available to officers to support the activity associated with contract management proportionate to each tier. This will include documentation to support monitoring and measuring performance of the contract as well as managing cash flow and the change control process to ensure alignment to budget allocated.

On review of the current Council contracts the tiering shows the following split across Directorates and SROs;

| Directorate | Category | Gold | Silver | Bronze | Total | SRO's | Contract Managers |
|-----------------------------|----------------|-----------|-----------|------------|------------|-----------|-------------------|
| Childrens Service | Health & Care | 0 | 2 | 7 | 9 | - | 5 |
| | Corporate | 0 | 0 | 1 | 1 | - | 1 |
| | Totals | 0 | 2 | 8 | 10 | 1 | 6 |
| Core Services | Corporate | 1 | 5 | 19 | 25 | - | 19 |
| | H E&T | 0 | 1 | 2 | 3 | - | 1 |
| | IT | 8 | 18 | 111 | 137 | - | 3 |
| | Operational FM | 5 | 0 | 1 | 6 | - | 3 |
| | Totals | 14 | 24 | 133 | 171 | 4 | 26 |
| Growth & Sustainability | Capital | 0 | 1 | 20 | 21 | - | 20 |
| | Corporate | 0 | 3 | 31 | 34 | - | 16 |
| | H,E&T | 2 | 7 | 20 | 29 | - | 9 |
| | Operational FM | 3 | 5 | 20 | 28 | - | 12 |
| | Totals | 5 | 16 | 91 | 112 | 4 | 57 |
| Health & Adults Social Care | Health & Care | 1 | 2 | 1 | 4 | - | 3 |
| | Totals | 1 | 2 | 1 | 4 | 2 | 3 |
| Public Health & Communities | Corporate | 0 | 0 | 5 | 5 | - | 5 |
| | H,E&T | 0 | 3 | 0 | 3 | - | 3 |
| | Health & Care | 2 | 8 | 20 | 30 | - | 20 |
| | Totals | 2 | 11 | 25 | 38 | 5 | 28 |
| Overall | Totals | 22 | 55 | 258 | 335 | 16 | 109 |

2.5 Roles and Responsibilities

2.6 An Appendix A to the CPR has been developed to outline the core responsibilities of the key officers involved in the procurement and contract management process to ensure this is fully understood across the organisation and supports ownership and accountability and a strong culture associated with procurement and contract management to drive best practice across the organisation to deliver value for money and the opportunity to maximise the use of our funds.

2.7 Social Value

Social value outcomes are considered and embedded into Council contracts, by utilising the social value toolkit which helps us evaluate social value proposals and manage the providers performance in delivering the outcomes.

The toolkit also supports suppliers to develop action plans to enhance their social value capability. Contract procedure rules have been updated to mandate the consideration of social value within procurement activity.

The Procurement Bill requires that all contracting authorities have due regard to a set of national strategic priorities set out in a published National Procurement Policy Statement and actions for Social Value which emphasize;

- creating new businesses;
- new jobs and new skills;
- tackling climate change and reducing waste; and
- improving supplier diversity, innovation and resilience.

2.8 Sustainability

There are significant environmental financial, reputation, business and community risks associated with our work to ensure the Council achieves its ambition to be Zero Carbon by 2040 and that the Borough can be zero carbon by 2045. Present delivery performance trajectory means we will likely miss the targets without significant changes.

As a result, the CPRs have been updated to ensure that carbon reduction initiatives are considered in procurements aligned to the Council's ambition to achieve net zero carbon in its Sustainable Energy Action Plan.

Further work is being undertaken by the sustainability and procurement teams, alongside Enterprising Barnsley and external partners such as Go4Growth to look at development of suppliers to have an organizational Carbon Action Plan so that in future the procurement process can include a requirement for this to be submitted and part of the evaluation process. This cannot be implemented at this point as the supply chain is not developed enough in this matter but will continue to be monitored for a future iteration of these rules.

2.9 Thresholds

To streamline procurement processes and provide efficiencies for both the Council and suppliers the minimum value for undertaking a competitive procurement exercise through requesting at least 3 quotes will remain at £50,000 (As approved in July 2023 revision).

The requirement for preparing a business case in support of this has been removed, however a Best Value form is being implemented for all contracts at £5000 and above to capture information on how this can be demonstrated.

It is still a requirement of the Service commissioning goods, services or works below £50,000 to ensure they are complying with transparency requirement to publish contracts to the Contracts Register at £5,000 and above and contracts to Contracts Finder at £25,000 and above.

Analysis of the purchase order information for 21/22 and 22/23 show that approximately 80% of all spend is via purchase orders (In SAP SRM7) of £5000 or less, with an average of 95.5% of all works orders (In SAP EEC6) falling below this threshold as well.

Around 10% of all orders are between £5000 and £50,000 so these would now be subject to a best value form and confirmation by the Procuring Officer they have sought value for money.

The threshold at which the Strategic Procurement Team will be required to lead the procurement and the tender must be published to the open market has been increased back to £100,000 for goods and services. The value for works contracts has been increased to £250,000, based on the higher overall value of works in comparison with goods and services and the higher FTS threshold which applies.

The threshold for Area Council procurements and the exemption for specialist temporary skills from an agency sourced via an alternative to the corporate temporary recruitment contract have been uplifted to align to these values.

These revisions are aimed to;

- Give Services more flexibility in low value, routine purchases to invest their resources in ensuring value for money/best value
- To allow a more efficient and streamlined process for requesting quotes between £50,000 and £100,000 for both Council Officers undertaking the process and the providers who are being asked to price.
- Give an increased opportunity for local providers to price for contracts to a higher value before the procurement is subject to open market competition to support local spend and social value
- Reflect the impact of inflation and other market factors on the cost of the goods/services and works being procured since the thresholds were last changed.
- Reflect the planned approach to contract management and tiering of contracts and the principle of contracts up to £100,000 being categorized overall as bronze and therefore could be managed wholly in Service with limited risk to the Council.
- Allow the revised structure of the Strategic Purchasing, Procurement and Contract Management Team to focus on leading contracts where the tiering of contracts will be silver and gold so more specialist expertise can be used to ensure the correct procurement and contract management strategies are employed to ensure value for money/best value and mitigate risk to the Council.
- Align the Council to Cabinet Office recommendations in the Sourcing Strategy that procurement processes should be of proportionate duration and effort to the size and complexity of the contract opportunity. By making our procurement processes unnecessarily complicated or protracted, we risk minimising the pool of bidders and stifling competition.

It should be noted that it is often not the case that a contract will result in one purchase order, so with the current data it is challenging to understand what the level of contracted spend is but the Procurement Team is working on a revision to the SAP system to allow each procurement to generate a contract in the system which all purchase orders will then be linked to. This will allow a better understanding of contracted spend and the ability for the Procurement Team to focus on increasing the value and volume of spend which is part of a formal contract which is subject to contract management to ensure value for money is being assessed.

2.10 Grants / Subsidy Control

Grants have been incorporated with specific guidance relating to grants given by the Council to ensure its interests are protected.

Awareness of Subsidy Control rules (Which came into force in January 2023) and State Aid (For those grants issued before January 2023) have been

included as these are specific to grants and there are consequences for the Council if the rules are broken.

The new CPR's also link to a new Grants register detailing awards given by the Council.

2.11 Approvals Documents

The requirement for Officer Decision Records (ODR) for any procurement up to the current delegated Officer authority, which is £250,000, has been removed. This is to align to the Constitution where there is a mandatory requirement to publish decision of Cabinet and Spokesperson. The publication of the contract on the Contracts Register would ensure the Council is meeting its mandatory requirements to publish decisions.

The Procurement Event Approval Document (PEAD) used for all procurements which are led by Strategic Procurement will be used to capture the business case, approval of funding, procurement strategy and recommendation to award for each procurement to ensure the paperwork associated with each is consistent and not duplicated.

The business case was considered a duplication of business planning and budget management activity conducted by Services and the PEAD Stage 1 has been removed as well.

The removal of the duplicated documents from the process should provide efficiencies for Services which will allow additional time to focus on other elements of the process to procure and contract manage.

2.12 Exemptions

In order to provide a direct route to appoint, where there is no opportunity to procure via a competition the following exemptions have been added to the CPR;

- Mandatory works by statutory undertakers, such as utility companies
- External or grant funding to be allocated in accordance to set terms, for example use of specified contractors for works being funded by the grant
- The creation or acquisition of a unique work of art or artistic performance
- Renewals where the supply is restricted to the original supplier.

This will reduce the number of waivers which are progressed as an exception to competition which are unavoidable and provide efficiencies for Services and those who had been required to approve these.

2.13 Exceptions to Competition/Waivers

The waiver process has been amended to change the stage at which this is completed and also who is required to approve.

The CPR have been amended to have the waiver process agreed before the agreement of the requirement with the proposed provider to ensure that only exceptions to competition which have been approved have the relevant documentation developed, to save Officer time on potentially abortive work.

For waivers up to £100,000 for services and £250,000 for works the accountable Service Director and Executive Director will be the only signatures and they will be responsible for ensuring level of check and challenge is used to assess the rationale for the waiver.

For waivers above £100,000 for services and £250,000 for works the approval will be provided by;

- Accountable Service Director
- Accountable Executive Director
- Service Director – Law & Governance
- Director of Finance (S151 Officer).

Whilst the Head of Service for Procurement and Contract Management has been removed from the authorising signatures, where the reason for a waiver is strategic or tactical the Procurement Team must be consulted to provide check and challenge to the rationale before signatures are sought, regardless of value.

These aim is to ensure this reason is being used appropriately and that any requirement for a future procurement is captured on the forward plan of procurement activity to avoid any future waivers.

For waivers over £100,000 for goods and services and £250,000 for works the Procurement Team would continue to lead the procurement and would be responsible for ensuring a contract is put in place and all notices published in line with transparency requirements.

The Procurement Team will continue to log and monitor waivers and undertake dip sampling to ensure they are being completed for the appropriate reasons to allow reporting back to the Senior Management Team to ensure visibility of their use and any associated risks.

A review of waivers year on year shows that these have been declining in number in the up to £50,000 bracket, as is the case with those which are £50,000 - £70,000 however the volume of £100,000 and over continues to increase;

| Waiver Value (£) | 16/17 | 17/18 | 18/19 | 19/20 | 20/21 | 21/22 | 22/23 | 23/24 YTD |
|------------------|------------|------------|------------|------------|-----------|------------|------------|-----------|
| 0 | 10 | 1 | 0 | 2 | 0 | 0 | 1 | 0 |
| 1 to 9,999 | 51 | 86 | 112 | 18 | 4 | 1 | 1 | 0 |
| up to 50,000 | 101 | 179 | 222 | 95 | 55 | 79 | 55 | 14 |
| 50,001 to 70,000 | 7 | 15 | 15 | 18 | 11 | 14 | 11 | 8 |
| 70,001 to 99,999 | 14 | 9 | 10 | 6 | 5 | 16 | 9 | 7 |
| 100,000+ | 15 | 16 | 19 | 20 | 14 | 25 | 31 | 15 |
| Total | 140 | 219 | 266 | 139 | 86 | 135 | 107 | 44 |

The change in the thresholds from £70,000 to £100,000 should allow scrutiny to be more focused on these waivers and their root cause and allow a more strategic approach to looking at ways to procure competitively for future requirements.

2.14 Pre-Market Research/ Market Engagement

The need to consider the market and the suppliers in the market is now included in the CPRs to ensure procurements are developed to deliver a better outcome whilst maximising competition and improved supply chains for the Council.

This is aligned to government guidance shared by the Cabinet Office in the Sourcing Playbook (June 2023) and the Construction Playbook (Sept 2022) which encourage all potential outsourcing projects to include an assessment of the market early on during the preparation and planning stage and preliminary market engagement should actively seek out suppliers that can help to improve service delivery, including Small and medium-sized enterprises (SMEs) and Voluntary, Community and Social Enterprises (VCSEs) who are experts in their specific field and widely involved in the delivery of public services across the country.

This is an important exercise to support ensuring an accurate estimate of the potential value of the contract to ensure that value for money can be accurately assessed at the evaluation stage.

This process will also ensure that Providers are made aware at the earliest opportunity what the Council is planning from its procurements and contracts and has sufficient time to prepare and should stimulate the supplier market, including small and medium-sized enterprises (SMEs) and voluntary, community and social enterprises (VCSEs), to make it aware of future opportunities, ensuring a competitive market exists.

2.15 Timelines for the Procurement

The need for Services to provide information to the Strategic Procurement and Contract Management Team of potential contracts over £100,000 at the earliest known point has been added, to enable a more accurate commercial

pipeline being collated by the Strategic Purchasing, Procurement and Contract Management Team.

At present the Council publishes its forward procurement pipeline every six months to provide the supply market with insights into expected opportunities.

This aligns to the current Cabinet Office recommendations for all Contracting Authorities to have a commercial pipeline, which is published to the market.

Whilst this is not mandatory it is considered best practice and will prepare the Council for the requirements of the national procurement reforms.

The Procurement Bill once introduced will require publication of procurement pipelines by all government bodies who expect to spend over £100million in a financial year for all contracts (exemptions apply, such private utilities and national security contracts) over £2million within 56 days of the start of the relevant financial year. It is envisaged that this information will be provided on a pipeline notice and be available on the single, central platform.

References to a minimum timeline for the tender period have been amended to make it clear this should be maximised to allow bidders sufficient time to collate a comprehensive response. This should help to provide efficiencies in relation to the evaluation process, but also reflect feedback from key stakeholders in the voluntary sector that more time is needed for smaller organisations who don't have any dedicated resource to complete tender documents.

2.16 Operational Amendments - Updates to Legislation

Following the UK exit from the EU the rules have been updated to remove references to EU related documentation, such as OJEU publication, which has been replaced by FTS.

The references to the EU GDPR Regulations have also been removed.

The definition of regulations in the CPR has also been updated to include the Provider Selection Regime (PSR) which relates to additional provisions planned for implementation by the Government in January 2024 to allow healthcare related services to be contracted for without the need for a competitive procurement exercise. It will still be necessary for those commissioning services of this nature to consider value for money and the appropriate form of contract or service level agreement (If being commissioned from another public sector organisation) to ensure the contract manager for the agreement has the ability to manage the agreement proactively against defined performance measures and budget.

2.17 Concession Contracts

The Council awards a number of concession contracts which are income earning contracts to the Council. The new CPRs recognise this type of contract which is currently used and provide clarity on the rules relating to their use.

2.18 In-house Service Level Agreements

The revised rules contain guidance on essential elements that should be included in any SLA to ensure this is robust and allows effective management during the term, in line with a contract approach.

The rules have also been updated to reflect changes as a result of insourcing construction related activity and the ending of the NPS Barnsley relationship in April 2021.

2.19 Conflict of Interest

All participants within a procurement process should sign a conflict of interest form to ensure any conflicting interests are declared to maintain the integrity of the procurement process.

2.20 Rejection of late Standard Questionnaires, Quotations and Tenders

Revision to CPRs ensures wording covers all stages of the procurement process are treated the same if submitted after stated deadlines.

2.21 Record of all procurement documentation

CPRs require that all documentation from the procurement process should be recorded and stored within the e-tendering system for audit purposes and on SharePoint to ensure they would remain available if the Council was to reprocur its e-tendering system.

2.22 Second Signature for contracts under £100,000

The revised CPRs have clarified who the second signature should be for signing contracts under £1000,000, The signatory should be a person with delegated authority and who has responsibility for the contract procured and its ongoing management.

2.23 PEADs for Contract Variation/ Novation/Extensions

The revised CPRs require a new set of documents to be completed on all contracts with a value of over £100,000 to ensure all the correct contractual, governance and processes are performed before any variation is enacted, extension to a contract is authorised or contract novated to a new contractor.

CPRs have also been updated to contain the requirement to publish a Modification Notice where the Regulations apply and there has been a variation to a contract.

2.24 Estimating Contract Values

Guidance has been developed to clarify how contract values are estimated prior to a procurement process which is aimed to provide Services with information to fully understand what should be included in relation to the term

of the agreement and what elements of costs should be considered, linked to whole life cost assessments.

It is encouraged in this document that Services engage with potential providers to inform this estimate to ensure value for money is properly understood.

2.25 Submission and Opening of Quotations and Tenders

The requirement for 2 independent verifiers has been removed as there is a full audit trail in the e-tendering system.

2.26 Exceptions to Requirements of Competition

The revised CPRs have been updated to contain the requirement to publish a Voluntary ex ante Transparency (VEAT) notice where the Regulations apply, and a procurement exercise is not undertaken.

2.27 Revised Thresholds

As the thresholds for FTS are subject to a bi-annual review the specific references to values have been removed from the Rules to prevent additional changes solely for this purchase and the Aide Memoire updated as a reference guide which can be changed more easily. Since the last revision of the contract procedural rules, the FTS thresholds have been revised along with the requirement to value contracts inclusive of VAT, which has been highlighted in the Rules and the supplementary guidance documents.

This will need to be amended again on 1st January 2024 when the new thresholds come into place.

2.28 Change in value when publishing Contracts Finder Notices

The thresholds for publication were updated in the July 2023 amendments but noted here for reference.

2.29 Electronic signatures

The CPRs have been amended to state that electronic signatures should be used where possible. This is already something which is supported for contracts which are executed under hand and the process for executing contracts under deed electronically is also under consideration by Legal Services.

This process provides significant efficiencies as it allows contracts to be issued and approved in a much shorter timeline and removes supplier and officer time in printing, posting, scanning and storing physical documents and provides an accessible electronic record for future reference.

The Procurement Team are also looking to implement the use of electronic signatures and a workflow approach for the other documents associated with

the CPR, such as the PEAD, waiver, best value forms to allow efficiencies to be realised in these processes as well.

3. IMPLICATIONS OF THE DECISION

3.1 Financial and Risk

There is no financial ask associated with this report and the recommendations.

The clear definitions on roles and responsibilities for Officers should provide a clear structure to mitigate risk associated with the procurement and contract management process.

3.2 Legal

Legal Services have been part of the working group to progress and agree amendments to the Rules and legal implications to the changes to the Contract Procedure Rules are explained within the report.

3.3 Equality

Equality Impact Assessment (EIA) Pre-screening completed determining full EIA not required, however the CPR do include the requirement for the Lead Officer to consider completion of EIA to ensure application of our due regard to the Public Sector Equality Duty.

3.4 Sustainability

Decision-making wheel not completed as this report is recommending a change to Council rules rather than purchase or other matter, however given the importance of the climate emergency and Barnsley Council's organisational and borough-wide commitments, it has been included in the document subject to the level of the contract, all procurement should consider the relevant high-level environmental, social, economic and governance aspects pertaining to sustainability and climate change.

3.5 Employee

The amendments to the rules will require a programme of communication to ensure all officers are made aware of the changes and the impact to their current and future procurement and contract management activity.

As part of the transformation of the purchasing, procurement and contract management team there will be a programme of engagement with services all at strategic and operational level to ensure the rules are understood and officers are clear on their roles and responsibilities and what has changed and the reasons for it. This employee engagement will tie in strongly with the emphasis of the medium term financial strategy (MTFS) and commercial strategy to ensure that all employees understand it is part of everyone's role

to ensure value for money from our expenditure.

This engagement will involve members of the purchasing, procurement and contract management team attending directorate management team meetings and then heads of service forums and operational team meetings where required.

There will also be a requirement for elements of skills development for officers who are responsible for procurement which will also be addressed as part of the new training materials and guidance which is being developed currently.

As a more formalised approach to contract management is a fundamental change to current approach there will be a phased roll out of the contract management toolkit, including the contract management action plan to ensure this is properly embedded and lessons are learnt to inform the wider roll out.

The phased roll out will focus initially on the Gold Tier contracts and the contract management team will run specific training sessions for SROs and Contract Managers to support the development of the contract management plans for each agreement (If not already in place) and then the skills development required to ensure they can effectively deliver their responsibilities in these roles.

3.6 Communications

If approved the Strategic Procurement Team will implement a programme of communications for the amendments to the CPR to ensure all Council Officers and Berneslai Homes Officers are aware of the changes and will update its training materials and template documentation to include the revisions.

The CPR will also be shared on the internet and the Council information on how procurement and contract management is undertaken will be shared to ensure the public and suppliers are also able to access this information.

4. CONSULTATION

- 4.1 The working group for the proposed changes has included Strategic Procurement, Contract Management, Purchasing, Legal Services, Governance, Audit and Finance.

As part of the development and implementation of the support documentation, training and guidance the strategic procurement and contract management team will be looking to engage with key stakeholders in services to ensure that information prepared to support the understanding of the CPR and the changes is fit for purpose and can be accessed in the right way by anyone who has a role in procuring or contract managing.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 Do nothing – To leave the rules as they are currently stated. This was not

agreed as this would not allow the matters raised by Audit Committee in January or changes required as a result of legislative changes to be incorporated which would mean the rules lack clarity and may result in non-compliance in their application.

6. REASONS FOR RECOMMENDATIONS

- 6.1 Progression of the changes will provide further clarity for all on the roles and responsibilities of Officers in ensuring a robust approach to procurement and contract management and accountable for their actions in relation to this.
- 6.2 The changes will align the Council as a Contracting Authority to best practice in public sector procurement and prepare it where possible for the implementation of the procurement rules reform which is expected to be implemented in 2024.
- 6.3 The changes will allow the Strategic Procurement and Contract Management function to update its training and guidance documentation to better support Officers in achieving value for money from all external expenditure.
- 6.4 The changes look to make efficiencies in processes and documentation to allow more focus on an assessment of value for money and a robust process to procure and manage this.
- 6.5 The changes will allow the Council to take a proportionate approach to both procurement and contract management to ensure time and resource is invested effectively in the areas which offer most benefit and opportunity to reduce risk.

7. GLOSSARY

CPR – Contract Procedure Rules

EIA – Equality Impact Assessment

PCR – Public Contract Regulation 2015

PSR – Provider Selection Regime

SRO – Senior Responsible Officer

8. LIST OF APPENDICES

Appendix 1: Contract Procedure Rules

Appendix A to CPR: Roles and Responsibilities

Appendix 2: Best Value Form (Single Quote)

Appendix 3: Best Value Form (Quotes)

Appendix 4: Waiver Form

Appendix 5: Aide Memoire

Appendix 6: Contract Estimating Guidance

9. BACKGROUND PAPERS

If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made.

10. REPORT SIGN OFF

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|--|--------------------------------|
| Financial consultation & sign off | Neil Copley – 15 October 2023 |
| Legal consultation & sign off | Kate Gothard – 11 October 2023 |

**Report Author: Jenny Lockwood –
Post: Interim Head of Procurement and Contract Management**

Date: September 2023