



<b>REPORT TO:</b>	CABINET BRIEFING
<b>DATE:</b>	5 <sup>TH</sup> JANUARY 2023
<b>SUBJECT:</b>	PROPOSED AMENDMENTS OF THE COUNCIL'S CONTRACT PROCEDURE RULES AND FINANCIAL PROCEDURE RULES
<b>PURPOSE:</b>	TO INTRODUCE A NEW UPDATED VERSION OF THE CONTRACT PROCEDURE RULES AND AN AMENDMENT TO THE FINANCIAL PROCEDURE RULES
<b>KEY DECISION:</b>	N/A
<b>PORTFOLIO HOLDER:</b>	COUNCILLOR NOBLE
<b>REPORT OF:</b>	SAMANTHA KNOWLES – ASSISTANT DIRECTOR FOR FINANCE AND DEPUTY S151 OFFICER AND JOHN MEDLER – ASSISTANT DIRECTOR FOR GOVERNANCE AND MONITORING OFFICER
<b>WARD(S) AFFECTED:</b>	ALL
<b>EXEMPT REPORT?</b>	NO

## SUMMARY

The purpose of this report is to present to the Cabinet a revised draft set of Contract Procedure Rules with appropriate delegations that provide additional clarity around the procedures to be followed and reflect the Council's management structure. There is also a recommended change to the Financial Procedure Rules which will allow alignment with the new finance system used across all 3 councils when authorising payments.

The Audit and Governance Committee considered the proposed amendments to the Contract Procedure Rules and Financial Procedure Rules at its meeting on 5<sup>th</sup> December 2022 with a view to making a recommendation to the Council for its consideration.

Whilst agreement of these constitutional changes is a Council function, decisions relating to the award of contracts are Cabinet decisions. Accordingly, the Cabinet is asked to consider and approve the Delegations to Officers, that set out the authorisation for decision making in relation to the proposed Contract Procedure Rules.

## RECOMMENDATIONS

That Cabinet:

1. Notes the draft revised Contract Procedure Rules at **Appendix 1** to this report;

2. Notes the revised financial procedure rule for Banking arrangement and cheques as detailed in Paragraph 1.12 of the report;
3. Approves the Delegations to Officers, that sets out the authorisation for decision making in relation to Contract Procedure Rules at **Appendix 2** to this report. This approval will be subject to a Council decision to amend the Council Procedure Rules.

#### **REASONS FOR RECOMMENDATIONS**

- To ensure that the Council has robust, up-to-date Contract Procedure Rules that provide clarity to officers, members, and potential contractors.
- In addition to the above, to ensure compliance with audit requirements as some of the Partner Councils have had audit recommendations to update their Contract Procedure Rules.
- To ensure a clear and consistent approach in the award of contracts and safeguard the public's trust and confidence and promote public accountability and good procurement practice.
- To help avoid governance failures in the Council's procurement activity.

#### **OTHER OPTIONS CONSIDERED**

To do nothing - which would result in the retention of the existing Contract Procedure Rules.

### **1. BACKGROUND**

- 1.1. In accordance with section 135 of the Local Government Act 1972 every local authority must adopt 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.
- 1.2. The basic principles in relation to public procurement require all procurement and disposal procedures must:
  - Achieve Best Value for public money spent
  - Be consistent with the highest standards of integrity
  - Ensure fairness in allocating public contracts
  - Comply with all legal requirements
  - Ensure that non-commercial considerations do not influence any contracting decision
  - Support the Council's corporate and departmental aims and policies with the Council's corporate Procurement Strategy and other relevant policies
- 1.3. The draft Contract Procedure Rules at **Appendix 1** to this report seek to ensure, as a minimum, the Council meets these basic principles.
- 1.4. The Council's current Contract Procedure Rules were approved by Council in May 2016. The Council's Contract Procedure Rules (CPR) form part of the Constitution and govern the way in which the Council procures goods, services, and works. The current CPR can be found here: <https://democracy.boston.gov.uk/documents/g1361/Public%20reports%20pack%2002nd-May-2019%20Constitution.pdf?T=10>

- 1.5. The Rules were reviewed in May 2019, but procurement best practice has developed significantly since that time along with updated legislation (particularly since the United Kingdom left the European). In addition, the Council is utilising Public Sector Partnership Services (PSPS) new Procurement & Contracts Service, thereby recognising the importance of procurement.
- 1.6. The intention is to seek adoption of the amended CPR (shown at **Appendix 1**) and the Delegations to Officers across the three Councils that make up the South & East Lincolnshire Councils Partnership (S&ELCP) so collaboration and shared working on procurement activities can be maximised (such as all the partners adopting the same procurement thresholds). The adoption of the proposed Rules ensure the Council has Rules that reflect the current procurement legislation, providing clarity to procurement officers and ensuring there is consistency across service areas. The CPR also set out clarity of the appropriate authority aligned to the value of the contract and are reflected in the Delegated Decisions (shown at **Appendix 2**).
- 1.7. These decision-making proposals provide greater clarity and transparency and will ensure those strategic procurement decisions are taken at the appropriate level of management within the Council. The recent Peer Review also highlighted the importance of robust procurement practices, and these changes help to address this across the Partnership.
- 1.8. The key changes being proposed are explained fully at **Appendix 3** of this report.
- 1.9. In addition to the above, the council's financial procedure rules have the following rules regarding banking arrangements and cheques, Section 34 of the Financial Procedure Rules, concerning banking arrangements and cheques:
- Payments in excess of £30,000 shall be countersigned by two designated signatories and authorised by the Section 151 Officer/Deputy S151 Officer.
- 1.10. In July 2022, the Council implemented a new finance system known as Unit 4, which is uses an automated workflow system for the raising and authorisation of orders and invoices. Within Unit4 there are 2 ways an invoice can be paid:
- Purchase orders are raised by a requisitioner and approved by the relevant approver in Unit4 in line with the approved scheme of delegation. Where an invoice is matched to the purchase order, along with the appropriate Goods Receipt Note (GRN), the invoice is processed for payment.
  - Where a purchase order is not applicable, the invoice is approved in Unit4 in line with the approved scheme of delegation.
- 1.11. The automation and workflow controls within the new unit 4 system provides the assurance that purchase orders and invoices are appropriately approved, before payment is made. This has led to us considering the purpose and practical application of the current financial procedure rule requirement for payments in excess of the limits for each council.
- 1.12. Following a review of the system controls of Unit 4, the current rule for Banking arrangements and cheques has been considered and the following amendment is proposed:

- Supplier payments in excess of £100,000 shall be countersigned by 2 approved bank signatories. Prime documents must be produced for checking at the time of countersigning.

## **EXPECTED BENEFITS TO THE PARTNERSHIP**

As alluded to above with the proposed adoption across the S&ELCP, it will provide greater flexibility and greater collaboration across the partnership, with the potential for increased economies of scale, for greater efficiencies and value of money in its procurement activity.

## **IMPLICATIONS**

### **SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP**

The opportunity to work more collaboratively across the Partnership and realise increased opportunities to achieve best value in its procurement activity.

### **CORPORATE PRIORITIES**

Contract and Financial Procedure Rules are essential components of the Council's governance framework which underpins delivery of its corporate strategy priorities.

### **STAFFING**

None

### **CONSTITUTIONAL AND LEGAL IMPLICATIONS**

By virtue of section 135 of the Local Government Act 1972 every local authority must adopt 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.

It is vital that the CPR are kept under review and reflect current legal requirements, and clear delegations are provided in the exercise of the powers set out in the CPR.

### **DATA PROTECTION**

No direct data protection issues associated with this report.

### **FINANCIAL**

The financial implications and specifically the procurement financial thresholds are referenced throughout the draft Contract Procedure Rules, and the Delegations to Officers.

### **RISK MANAGEMENT**

By reviewing current CPR and updating them to reflect current best practice, the Council can seek to mitigate against the risk of acting unlawfully in respect of its procurement activity.

### **STAKEHOLDER / CONSULTATION / TIMESCALES**

None

### **REPUTATION**

Improper procurement activity can have a direct impact on the reputation of the Council, officers, and Members. It is important therefore, that the Council adopts up to date, robust CPR, to mitigate against this potential for adverse reputational impact.

## CONTRACTS

None

## CRIME AND DISORDER

None

## EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

The Equality Act 2010 introduced the Public Sector Equality Duty. This duty applies to the exercise of all public functions. The duty applies to all of the decisions made in the course of exercising public functions, not just to policy development and high-level decision-making. Those who exercise its functions must be aware of the general equality duty's requirements.

## HEALTH AND WELL BEING

None

## CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

None

## ACRONYMS

CPR – Contract Procedure Rules

### APPENDICES

Appendices are listed below and attached to the back of the report: -

APPENDIX 1A	Revised Contract Procedure Rules
APPENDIX 1B	Exemption Form for S&ELCP
APPENDIX 1C	Above PCR CCR Regulation Thresholds
APPENDIX 2	Delegations to Officers in relation to contracts
APPENDIX 3	Key changes document

### BACKGROUND PAPERS

No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

### CHRONOLOGICAL HISTORY OF THIS REPORT

This report has been previously considered by the following bodies:

Name of body	Date
Audit & Governance	5 December 2022

**REPORT APPROVAL**

Report author:	John Medler, Assistant Director – Governance and Monitoring Officer  Samantha Knowles, Assistant Director for Finance and Deputy Section 151 Officer
Signed off by:	Christine Marshall, Deputy Chief Executive – Corporate Governance