

**Agenda Item No: 6**

**Report No: 15/16**

**Report Title: Contract Procedure Rules**

**Report To: Audit & Standards  
Committee**

**Date: 25 January 2016**

**Cabinet Member:**

**Ward(s) Affected: All**

**Report By: Director of Corporate Services**

**Contact Officer(s)-**

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**Purpose of Report:**

To consider a revised set of contract procedure rules, and recommend them to full Council for approval.

**Officers' Recommendation(s):**

- 1 To consider the revised contract procedure rules set out in full at Appendix 1.
- 2 To recommend that full Council approve the revised rules as drafted.

**Reasons for Recommendations**

- 1 The contract procedure rules (CPRs) form part of the council's constitution and determine how officers contract with external bodies. The CPRs ensure lawfulness and best practice in terms of the procurement of services, supplies or works. Clear and up-to-date CPRs play a key role in ensuring that best value is achieved for the authority and that the council is not exposed to risk.
- 2 Local authority procurement is an evolving area which is subject to scrutiny and challenge. The current CPRs were approved in 2009 and need to be fully revised now to ensure they reflect current law, best practice and the environment in which the council is now operating.

## Information

### 3. Reasons for revisions

There are three key reasons for revising the CPRs at this time:

- (i) To reflect the Public Contract Regulations 2015.
- (ii) To achieve a standard set of CPRs for Eastbourne Borough Council, Lewes District Council and Eastbourne Homes Ltd.
- (iii) To enable a modern and responsive approach to procuring works, supplies and services.

### 4. Public Contract Regulations 2015

The Public Contracts Regulations 2015 (PCR 2015) implement the 2014 EU Public Sector Procurement Directive and a range of other reforms. They largely apply to public contracts that exceed certain value thresholds. PCR 2015 came into force earlier this year.

The PCR 2015 outline a number of standard procurement procedures for public bodies to follow. They also mandate the use of Government portals such as Contracts Finder for the advertising of certain contracts and place greater emphasis on electronic availability of procurement documents.

As is the case with previous PCRs, there are a number of exemptions and exceptions defined within the regulations which contracting authorities may choose to exercise, with appropriate care and legal advice.

The revised CPRs reflect the important changes contained with the PCR 2015.

### 5. Standardisation of CPRs

Lewes District Council (LDC) is already sharing a range of services with Eastbourne Borough Council (EBC), in addition to shared senior management roles, and in October 2015 both EBC and LDC Cabinets approved the outline business case for wider integration of services and workforces.

It is clear that the future will entail staff working across multiple organisations to deliver shared and closely integrated services. It is therefore important that staff can work to a set of common policies, rules and procedures in key areas, and therefore the revised CPRs will be put forward for adoption by both LDC and EBC.

An equivalent report to this one was considered by EBC Audit & Governance Committee on 2 December 2015; by their Cabinet on 9 December 2015; and by LDC's Cabinet on 7 January 2016. All three bodies resolved to recommend the revised CPRs, as drafted in Appendix 1 of this report (with the exception of rule 18.1A, which applies solely to LDC), for approval by the respective full Council.

## 6. Modernisation of CPRs

In order to respond effectively to the economic constraints facing local authorities, and continue to deliver the wide range of statutory and non-statutory services we do, EBC has needed to become more modern, agile and entrepreneurial, as well as working more effectively in partnership.

Our CPRs are a key enabler of this modern approach, and aspects of the current rules are now out of step with the way we need to do business. The PCR 2015 encourage a more electronic approach to procurement and this, amongst other changes, is reflected in the revised rules.

## 7. Summary of revisions

The full revised CPRs are attached as Appendix 1. The most significant changes are summarised in the table below.

<b>Current CPRs</b>	<b>New CPRs</b>	<b>Reason for Change</b>	<b>Controls</b>
Different rules for EBC and LDC	One set of rules for all three organisations.	Makes compliance easier for staff working across all three organisations	Staff from all three organisations have been consulted and have agreed on the changes.
No discretion to appoint contractors direct, even for lower value procurements – three quotes always required.	Officer discretion to make direct award under £25k.	A blanket requirement for three quotes is inflexible and often inefficient, for the council and for contractors. It is appropriate to allow a level of discretion to appoint specialist or trusted contractors for lower value work. Most councils will have such a provision.	Any direct awards (i.e. without competitive quotes) must be agreed with the Accountable Officer, usually a member of the Corporate Management Team.  Regular reviews of spend against aggregation rules will prevent this from being used year on year to award work to the same contractor.
Requires that contract opportunities over £50,000 are advertised.	Services and Supplies: Requires that contract opportunities over £100,000 are advertised.	An unlimited number of suppliers can respond to advertised opportunities,	At least three quotes must be sought to demonstrate best value.  For works contracts

	<p>Works: Requires contract opportunities over £1,000,000 are advertised</p> <p>In all cases the advert must appear on the Government portal Contracts Finder.</p>	<p>which can create significant extra work and delays in appointing contractors.</p> <p>The PCR 2015 require the use of Government portal for contracts advertised where the value is above £25,000.</p>	<p>below £1,000,000 the parties invited to quote must be selected from Constructionline which is a Government endorsed register for pre-qualified local and national contractors.</p> <p>Officers may still choose to advertise lower value contracts.</p>
<p>All tenders must be submitted in hard copy to the Town Hall, recorded in a tender opening book and opened with a councillor present.</p>	<p>Tenders can be submitted electronically via an e-tendering system</p>	<p>To reflect the modern, agile and electronic approach to working adopted by EBC and LDC</p>	<p>The e-tendering system will provide a rigorous audit trail for every procurement and prevent tenders from being opened before the closing date</p>
<p>No mention of disposal of land</p>	<p>Clear rules stating that disposal of land via sale or lease must only happen after auction, invitation of tenders or expressions of interest following public advertisement, in at least one newspaper circulating in the District, unless specifically authorised by Cabinet</p>	<p>There is an obligation to demonstrate best value in respect of land disposals and this isn't addressed in the current rules.</p>	<p>This offers greater clarity and control than the current rules.</p>

## **Financial Appraisal**

8. The recommendation made in this report has no direct financial implications for the Council. The revised CPRs will modernise the Council's procedures for procuring goods and services and disposing of assets, while continuing to ensure that value for money is achieved.

## **Legal Implications**

9. The Council's legal team has drafted the new CPRs to ensure they comply with EU law and the PCR 2015.

The CPRs form an important part of the council's constitution. Changes of substance to the constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer and, where appropriate, the Audit and Standards Committee.

Members of the Audit and Standards Committee are therefore asked to consider the revisions and recommend the draft new CPRs for approval by full Council.

## **Risk Management Implications**

10. Up to date and robust contract procedure rules are an important element of council governance against a background of compliance with European procurement rules and achieving value for money in all contracts let.

## **Equality Screening**

11. There are no equality implications associated with this report.

## **Background Papers**

12. Public Contract Regulations 2015

## **Appendices**

13. Appendix 1: Revised Contract Procedure Rules