

## **Contract Procurement Rules - Proposed amendments**

It is proposed to update the CPRs (current version 2.3) in the following five areas, as well as any ongoing administrative amendments (such as job titles).

- A.** Turnover sign off
- B.** Large contracts – stage / final payments
- C.** Contract sign off levels / sealing
- D.** Contract extensions
- E.** Waivers

### **A. Turnover sign off**

The Council conducts thorough financial checks on companies prior to awarding any contract in excess of £25,000. There is a requirement in the CPRs that no contract can be awarded if it will account for 50% of a supplier's turnover unless sign off has been given. It is proposed that this responsibility is delegated from Management Board to the S151 Officer; this will align with the desire to make Management Board more focused on strategic matters and sits very much in line with the statutory responsibilities of the S151 Officer.

#### **Section 4.9 - Current**

*4.9 With regards to non OJEU Tenders, no supplier may be awarded a Contract if this would result in 50% or more of that supplier's turnover being generated from the council's Contracts, unless the prior written approval of the Management Board has been obtained.*

#### **Section 4.9 - Proposed**

*4.9 With regards to non-OJEU Tenders, no supplier may be awarded a Contract if this would result in 50% or more of that supplier's turnover being generated from the Council's Contracts, unless the prior written approval of the S151 Officer has been obtained.*

### **B. To include the below as Section 23**

#### **23. *Contracts involving stage payments***

*Where any contract that falls into Threshold 4 (£100,000+) will involve stage payments a final account shall be prepared and presented for examination by the relevant Head of Service **before** final payment is made. The Financial Regulations should be consulted for more details on Final Payments and Retention monies.*

### **C. Contract sign off levels / sealing**

We are proposing to reduce the authority level required for a contract sign off to empower Heads of Services and reduce the requirement of sealing for high value contracts where it is not appropriate. Sections impacted – 4.4, 15.7, 15.8, table on Page 11, sections 19.1 and 21.3.

### Current

Threshold	Required Contract type	Who signs Contract/ approves order?
Threshold 3 - £25,000 - £99,999	Written, copy to be stored on the councils electronic procurement portal	Signed by S151 Officer or Deputy S151 Officer
Threshold 4 - £100,000+	Written - agreed by Legal Services & under seal, copy to be stored on the councils electronic procurement portal	Seal witnessed in accordance with Schedule of Authorisations to the Scheme of Delegation

### Proposed

Threshold	Required Contract type	Who signs Contract/ approves order?
Threshold 3 - £25,000 - £99,999	Written, copy to be stored on the councils electronic procurement portal	HoS or above
Threshold 4 - £100,000+	Written - agreed by Legal Services & under seal if required, copy to be stored on the councils electronic procurement portal	Legal Services to advise if a Seal is required. If Seal is required it must be witnessed in accordance with Schedule of Authorisations to the Scheme of Delegation.  Signed by S151 Officer or Deputy S151 Officer where Seal is not required.

## **D. Contract extensions**

The current requirements around contract extensions are disproportionate. It is proposed that the S151 Officer be given the powers to extend contracts which fall outside of the EU Directives but ensure that any contract which is in scope or by way of the extension will fall in scope of the Directives is approved by the Executive. Sections affected – 9.2.1, 20, 24.1. It is also proposed to remove section 20 in its entirety as this duplicates the wording in section 9.2.1 but does not have the same controls in place (S151 Officer sign off).

### **Section 9.2.1 - Current**

*9.1 The CPRs will not apply in the circumstances set out in CPRs 9.2 (Exceptions) 9.3 (Waivers), or 9.4 (Joint Commissioning) provided that the S151 Officer has given his prior approval to the exception, waiver or joint commissioning before the Contract is entered into.*

*9.2 Exceptions - there may be an exception to the CPRs where:*

*9.2.1 there is an extension to the duration and/or value of an existing Contract provided that the extension is (i) on the same terms as the original Contract, (ii) is for a maximum period of 2 years (iii) is less than 20% in value of the original Contract value, and (iv) adequate budgetary provision has been made. If the sum of the proposed extension and any previous extension(s) is more than 2 years or more than 20% in value of the original Contract value,*

- (a) For Contracts where the original Contract value was within Threshold 3 or below, the prior written approval of the S151 Officer is required to award the proposed extension; or
- (b) For Contracts where the original Contract value was within Threshold 4 or above, the prior written approval of the Executive is required to award the proposed extension.

### **Section 9.2.1 - Proposed**

9.1 The CPRs will not apply in the circumstances set out in CPRs 9.2 (Exceptions) 9.3 (Waivers), or 9.4 (Joint Commissioning) provided that the S151 Officer has given his prior approval to the exception, waiver or joint commissioning before the Contract is entered into.

9.2 Exceptions - there may be an exception to the CPRs where:

9.2.1 there is an extension to the duration and/or value of an existing Contract that does not contain a provision for extension provided that the extension is (i) on the same terms as the original Contract and (ii) adequate budgetary provision has been made. Where an extension concerns an OJEU contract or where an extension would lead to a contract falling within the relevant OJEU threshold the prior written approval of the Executive is required to award the proposed extension.

### **Section 20 – Current – to be removed**

#### **20. CONTRACT EXTENSIONS AND VARIATIONS**

20.1 Subject to the circumstances set out in CPR 20.2, a Contract may only be extended or varied (where no such terms currently exist in the Contract) as follows:

20.1.1 the extension is on the same terms and conditions as the original Contract;

20.1.2 the extension may only be for a maximum of 2 years;

20.1.3 there is adequate budgetary provision to meet the cost of the extension in any financial year covered by the extension; and

20.1.4 the prior written approval of the Executive has been obtained where the proposed extension and cumulatively with any previous extension(s) is more than 2 years or 20% in value of the original Contract value.

20.2 Any Contract awarded under 9.2 (Exceptions) or 9.3 (Waivers) may not be extended or varied without the prior written approval of the S151 Officer.

#### **E. Waivers**

It is proposed the wording in 9.3.3 be amended as it is currently confusing in its meaning. Section 9.3.2 states that the S151 officer can sign off on a waiver providing the value is sub-OJEU but section 9.3.3 states anything above Threshold 4. This is confusing as OJEU and Threshold 4 do not align.

### **Section 9.3.3 – Current**

3.1.1 if the estimated value of the Contract falls within Threshold 4 or above the S151 Officer has obtained the prior written approval of the Executive.

### **Section 9.3.3 – Proposed**

3.1.2 if the estimated value of the Contract falls within the relevant EU threshold the S151 Officer has obtained the prior written approval of the Executive.