

Guildford & Waverley Borough Councils

Report to: GBC Corporate Governance & Standards Committee /

WBC Standards & General Purposes Committee

Date: 1 July 2024

Ward(s) affected: All

Report of Strategic Director: Legal & Democratic Services

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Report status: Open

Proposed Changes to the Contract Procedure Rules

1.1 Executive Summary

- 1.1 It is good practice to keep the Contract Procedure Rules¹ under review, as they form part of the Constitution of the Council(s).
- 1.2 The review of the Contract Procedure Rules has been undertaken by the Joint Constitutions Review Group (JCRG), at its meeting held on 20 June 2024.
- 1.3 The JCRG agreed to recommend approval of the revised Contract Procedure Rules, as set out in Appendix 1 to this report, to both the Corporate Governance & Standards Committee and to Waverley's Standards & General Purposes Committee at their special meetings to be held simultaneously on Monday 1 July 2024, with a further recommendation that each Committee recommends the adoption of

¹ Referred to currently as Procurement Procedure Rules in the GBC Constitution and Contract Procurement Rules in the WBC Constitution

the revised Contract Procedure Rules to their respective full Council meetings².

2. Recommendation to Committee

- 2.1 The Corporate Governance and Standards Committee (Guildford) and the Standards and General Purposes Committee (Waverley) are asked to recommend to their respective full Council meetings that the revised Contract Procedure Rules, as set out in Appendix 1 to this report, be adopted into their respective Constitutions.
- 2.2 The Standards and General Purposes Committee is also recommended to consider whether a Modern Slavery Charter, to include reporting requirements, should be adopted.

3. Reasons for Recommendation:

- 3.1 Contract Procedure Rules which are materially the same for both Councils, whilst being owned by each Council in respect of their services, will help to promote more efficient joint working and will support the transformation programme by aligning officer decision making across both Councils.
- 3.2 The recommended changes will improve the governance procedures for each Council and will ensure that there is greater clarity and oversight over procurements.
- 3.3 The reductions in Contract limits will ensure that key decisions are made by the Executive, thereby promoting accountability and transparency.
- 3.4 Aligning both Councils' Contract Procedure Rules supports the Councils' Collaborative and Transformation programme and provides clarity for all officers who provide support for procurement, as well as for those postholders who are joint officer appointments. The rules will replace the existing Procurement Procedure Rules (Guildford) and the Contract Procurement Rules (Waverley).

² Ordinary council meetings scheduled for 16 July (Waverley), and 23 July (Guildford)

- 3.5 The recommended changes will also implement changes as a result of the Procurement Act 2023 which come in to force on 28 October 2024. This will allow time for changes to be embedded by both Councils and appropriate resource provided and identified.
- 3.6 At Waverley Borough Council the Modern Day Slavery Statement sits within the Council's Safeguarding Policy for Adults and Children as the impact of Modern Day Slavery cuts across many council services. The statement does not include any specific reporting requirements and the Joint Constitutions Review Group has recommended that this is given further consideration.

4. Purpose of Report

- 4.1 This report is presenting, for members' consideration, the proposed draft Contract Procedure Rules, which are set out in Appendix 1.
- 4.2 The purpose of the revised Contract Procedure Rules is to align contract limits and procedures across the two Councils where possible and implement the Procurement Act 2023.

5. Strategic Priorities

- 5.1 This report will assist in the delivery of the councils' corporate priorities and collaborative working agenda.

6. Background

- 6.1 To conduct its business effectively, a Council needs to ensure that it has procurement policies in place which are strictly adhered to. It is a legal requirement under s135(2) of the Local Government Act 1972 that the Council maintains a set of standing orders in relation to contracts for the supply of services, goods and execution of works. Part of good financial management is having an established set of Contract Procedure Rules which set out the policies of the Council. They provide the rules for the Council to follow to protect public money and give clarity to members and officers regarding responsibility for procurement.

- 6.2 Contract Procedure Rules apply to every councillor and employee of the Council. Both Councils currently each have a different set of Contract Procedure Rules and Contract limits. This means that officers must refer in detail to each set of Rules to check them before making a decision. This leads to a lack of clarity for members of the Joint Management Team, as they work across both Councils but with differing decision levels across their services, as well as staff within their teams who support the procurement process.
- 6.3 The Contract Procedure Rules should be read in conjunction with the Scheme of Delegation and Financial Procedure Rules, set out elsewhere on this agenda.
- 6.4 A guide to the key changes is set out at Appendix 2.

7. Consultation

- 7.1 These revised Contract Procedure Rules have been designed with support from the Procurement and Finance teams, so that they form part of a set of constitutional amendments. The Joint Management Team have been made aware of the proposals and asked for any comments which will be reported verbally.
- 7.2 The Contract Procedure Rules have a significant impact across the organisation, and it is recommended that all services are engaged and consulted prior to a final draft being approved. It is also necessary to ensure that they are understandable and accessible to all councillors and officers.

8. Key Risks

- 8.1 There is a risk of poor decision making and a lack of accountability where procurement limits and rules are unclear. This can be mitigated by having a clearly expressed set of Contract Procedure Rules which is the same for both Councils, and training officers as necessary.

8.2 There is a risk that by reducing the contract limits, the Executive, whilst having greater oversight, has a busier agenda at its meetings. This can be mitigated by ensuring that Executive decision making provides suitable delegations to officers, thereby ensuring that the Executive have retained overall control and made decisions for officers to implement. It could be further mitigated by the Executive considering greater use of delegated authority to Individual Portfolio Holders where appropriate.

9. Finance Implications

9.1 There are no direct finance implications resulting from this report.

9.2 The indirect finance implication is that officer spending limits will be reduced to key decision levels, and that additional resource will be needed to support the increased procurement and legal oversight.

10. Legal Implications

10.1 Councils have a responsibility to keep their Constitution up to date, under Section 9P Local Government Act 2000 and to maintain a set of standing orders in relation to contracts for the supply of goods, services or execution of works. The Contract Procedure Rules form part of the Constitution of the Council.

11. Human Resource Implications

11.1 There are no direct HR implications although there will need to be consideration given to the resourcing of the requirements.

12. Equality and Diversity Implications

12.1 There are no equality and diversity implications arising from this report. This report has given due regard to the requirements of the Public Sector Equality Duty (Equality Act 2010) when making any recommendations concerning constitutional arrangements.

13. Climate Change/Sustainability Implications

13.1 There are no climate change or sustainability implications.

14. Summary of Options

14.1 The Committee is asked to consider the proposed revised Contract Procedure Rules attached as Appendix 1 to this report, which have been recommended for approval by the Joint Constitutions Review Group.

14.2 The Committee may:

- (a) accept the draft revised Contract Procedure Rules and agree to recommend them to Council for formal adoption, or
- (b) suggest amendments to any part of the draft revised Contract Procedure Rules, or
- (c) choose not to recommend that the revised Contract Procedure Rules are adopted.

15. Background Papers

- [Contract Procedure Rules – Waverley Borough Council](#)
- [Procurement Procedure Rules – Guildford Borough Council](#)

16. Appendices

Appendix 1: Proposed draft Contract Procedure Rules

Appendix 2: Areas of Key Changes