

Waverley Borough Council

Report to: Audit & Risk Committee

Date: 8th July 2024

Ward(s) affected: All

Report of Director: Susan Sale, Strategic Director – Legal & Democratic Services

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Executive Portfolio Holder/ Lead Councillor responsible: Councillor Paul Follows, Leader of the Council and Councillor Victoria Kiehl, Portfolio Holder for Organisational Development and Governance

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Report Status: Open

Key Decision: No

Proposed Changes to the Contract Procedure Rules

1. Executive Summary

- 1.1 This report presents the proposed Contract Procedure Rules as part of the review of the Constitution of the Council. It is good practice to keep the Contract Procedure Rules under review.
- 1.2 The review of the Contract Procedure Rules has been undertaken by the Joint Constitutions Review Group (JCRG), at their meeting held on 20 June 2024.

- 1.3 At its meeting on 20 June 2024, 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 the revised Contract Procedure Rules to their respective full Council meetings¹.

2. Recommendation

- 2.1 The Audit & Risk Committee is asked to recommend to full Council that the revised Contract Procedure Rules, as set out in Appendix 1 to this report, be adopted into the Waverley Borough Council Constitution.

3. Reason(s) 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 over financial decision making and oversight over procurement.
- 3.3 The reductions in Contract limits will ensure that key decisions are made by the Executive, thereby promoting accountability and transparency. Aligning both Councils' Contract Procedure Rules supports the Councils Collaborative and Transformation programme

¹ Ordinary council meetings scheduled for 16 July (Waverley), and 23 July (Guildford)

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 Procurement Procedure Rules (Guildford) and the Contract Procurement Rules (Waverley).

- 3.4 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.
- 3.5 Contract Procedure Rules at Waverley Borough Council should be recommended to Council via the Audit & Risk Committee.

4. Exemption from publication

- 4.1 No part of this report is exempt from publication.

5. Purpose of Report

- 5.1 This report is presenting the proposed revised Contract Procedure Rules, set out in the Appendix 1, for members to consider.
- 5.2 The purpose of the revised Contract Procedure Rules is to align financial limits and procedures across the two Councils where possible, and implement the Procurement Act 2023.

6. Strategic Priorities

- 6.1 This report will assist in the delivery of the Council's Corporate Plan priorities and collaborative working agenda.

7. Background

- 7.1 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.
- 7.2 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.
- 7.3 A guide to the key changes is set out at Appendix 2.

8. Consultation

- 8.1 The Joint Management Team have been made aware of the proposals and have provided comments which have been incorporated.
- 8.2 They have also been considered by members at the Joint Constitution Working Group and will be considered by the Standards & General Purposes Committee on 1st July. Any changes recommended by the Standards & General Purposes Committee will be reported verbally to this meeting.

9. Key Risks

- 9.1 There is a risk of poor decision making and a lack of accountability where financial controls 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.
- 9.2 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.

10. Financial Implications

- 10.1 There are no direct financial implications resulting from this report.
- 10.2 The indirect financial 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.

11. Legal Implications

- 11.1 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.

12. Human Resource Implications

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

13. Equality and Diversity Implications

- 13.1 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.

14. Climate Change/Sustainability Implications

- 14.1 There are no climate change or sustainability implications.

15. Conclusion

- 15.1 The Audit & Risk Committee are asked to consider the proposed revised Contract Procedure Rules attached as Appendix 1 to this report.

The Committee may:

(a) accept the draft revised Contract Procedure Rules and agree to recommend them to full Council for formal adoption, or

(b) suggest amendments to any part of the draft Contract Procedure Rules; or

(c) choose not to recommend that the draft revised Contract Procedure Rules are adopted.

16. Background Papers

- 16.1 Existing Contract Procurement Rules – Waverley Borough Council Constitution

17. Background Papers

- 17.1 Appendix 1 – Contract Procedure Rules

17.2 Appendix 2 – Changes to Contract Procedure Rules

Please ensure the following service areas have signed off your report.

Please complete this box, and do not delete.

Service	Sign off date
Finance / S.151 Officer	26.6.24
Legal / Governance	26.6.24
HR	27.6.24
Equalities	-
Lead Councillor	-
CMB	N/A
Executive Briefing/Liaison	N/A
Committee Services	27.6.24