

<b>Report to:</b>	Audit and Governance Committee	<b>Date of Meeting:</b>	27th June 2018
<b>Subject:</b>	Financial Procedure Rules and Contract Procedure Rules Update		
<b>Report of:</b>	Head of Corporate Resources and Head of Commissioning Support and Business Intelligence	<b>Wards Affected:</b>	All Wards
<b>Cabinet Portfolio:</b>	Regulatory, Compliance & Corporate Services		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

**Summary:**

This report seeks the Committee's approval for revisions to the Financial Procedure Rules and Contract Procedure Rules and referral of both to Council for Council approval.

**Recommendation(s):**

That the Committee:

- (1) Consider and approve the revision to the Financial Procedure Rules set out in Appendix 1 to this report.
- (2) Consider and approve the revision to the Contract Procedure Rules set out in Appendix 3 to this report.
- (3) Refer the duly amended Financial Procedure Rules and Contract Procedure Rules to Council for approval.

**Reasons for the Recommendation(s):**

To enable the Council to adopt the recommended revisions to Financial Procedure Rules and Contract Procedure Rules.

**Alternative Options Considered and Rejected:** (including any Risk Implications)

As part of the annual review of the Councils constitution, the Council's Financial Procedure Rules (FPR) and Contract Procedure Rules (CPR) have been the subject of review. This has resulted in a number of proposed revisions, which are now presented for consideration by Audit & Governance Committee and referral to Council for their consideration and approval. No alternative options have been considered.

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

There are no additional costs arising directly from this report.

**(B) Capital Costs**

N/A

**Implications of the Proposals:**

<p><b>Resource Implications (Financial, IT, Staffing and Assets):</b></p> <p>There are no additional resource implications associated with this report. Existing staffing resources will be involved in procurement, contract management and financial management and will be required to comply with the FPR and CPR.</p>
<p><b>Legal Implications:</b></p> <p>The revised contract procedure rules fully reflect the Public Contract Regulations 2015//102. Production of this report has also been considered in line with Sections 5 and 5A of the Local Government and Housing Act 1989 and Sections 114, 114A 115 and 115B of the Local Government Finance Act 1988.</p>
<p><b>Equality Implications:</b></p> <p>There are no equality implications.</p>

**Contribution to the Council's Core Purpose:**

<p>Protect the most vulnerable: The proposed amendment to the Contract Procedure Rules relating to Adult's or Children's Social Care support packages and placements enables the Council to protect the most vulnerable by timely approval of care support and treatment packages and placements whilst ensuring appropriate oversight.</p>
<p>Facilitate confident and resilient communities: Not applicable</p>

Commission, broker and provide core services: Effective, efficient and legally compliant financial management, procurement and contract management processes are key components of the effective commissioning, procurement and provision of services.
Place – leadership and influencer: Not applicable
Drivers of change and reform: Improved financial management and procurement processes, rules, and guidance are key enabling components of delivering change and reform.
Facilitate sustainable economic prosperity: Effective procurement of goods, works and services from the external market supports economic prosperity. Increased local supply chain development and social value from procurement will improve the contribution to local sustainable economic prosperity.
Greater income for social investment: Enabling efficient, effective and timely decision making in relation to identified Commercial Activities will support the operation of such activity and maximise financial performance.

## **What consultations have taken place on the proposals and when?**

### **(A) Internal Consultations**

The review of the Financial Procedure Rules has been led by a multi-disciplinary team including officers from financial management, internal audit and senior officers within the Council. The final document as included within this report has also been the subject of review and initial approval by the Council’s Monitoring Officer, prior to presentation to members.

The current CPR were similarly developed by a multi-disciplinary team that included officers from Procurement, Commissioning Support, Legal, Finance, Strategic Support and Learning & Development. Consultation was also undertaken across the Council, through the Strategic Leadership Board and nominated representatives of Heads of Service.

The majority of proposed amendments to CPR are relatively minor and intended to improve their effectiveness, in light of practical application in the past 12 months and revision of EU Spend Threshold values. The most significant changes relate to the raising of the threshold below which procurement can be undertaken on the basis of a minimum of two written quotations and there is no explicit requirement to involve the Corporate Procurement Team, and the implementation of specific provisions relating to defined “commercial activities”.

The Head of Corporate Resources (FD 5196/18) and Head of Regulation and Compliance (LD 4420/18) have been consulted and any comments have been incorporated into the report.

### **(B) External Consultations**

Not applicable.

### **Implementation Date for the Decision**

Immediately following the Committee meeting

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### **Appendices:**

The following appendices are attached to this report:

Appendix 1 – Revised Financial Procedure Rules

Appendix 2 - Summary of Proposed Revision to Contract Procedure Rules

Appendix 3 – Revised Contract Procedure Rules

### **Background Papers:**

There are no background papers available for inspection.

#### **Financial Procedure Rules**

1. As part of the annual review of the Councils constitution, the Council's Financial Procedure Rules have been the subject of review.
2. This review has been led by a multi-disciplinary team including officers from financial management, internal audit and senior officers within the Council. The final document as included within this report has also been the subject of review and initial approval by the Council's Monitoring Officer, prior to presentation to members.
3. As would be expected, large elements of the previous version of the Financial Procedure Rules remain as previously approved, however certain changes are proposed and are discussed below. These changes align with the Councils structure, Framework for Change programme and the aims of the Financial Procedure Rules that:-
  - They provide the framework for managing the financial affairs of the Council;
  - They define the roles and responsibilities of members and officers;
  - They facilitate the effective operation of council activity; and
  - They provide a framework for the delivery of an effective internal control environment.
4. Having reviewed the Financial Procedure Rules there are four areas that are reflected in the updated schedule

#### Changes as a result of Organisational redesign

5. The Financial Procedure Rules have been updated to take account of changes to roles and responsibilities and job titles within the Council

### Roles and Responsibilities (paragraphs 19-40)

6. The roles and responsibilities of statutory officers, the Senior Leadership Board and Heads of Service have been updated to provide clear guidance on their respective roles, further define accountability and also reflect best practice.

### Management of Income and Expenditure (paragraphs 49-55)

7. The request for, or commitment of additional Council resources to either the revenue budget or capital programme are at present and will remain the responsibility of Council.
8. There are occasions however when the Council receives external income or other financial contributions to support specific council activity that do not commit the council's own resources. Revised delegations to support these 'supplementary revenue and capital estimates' are included at paragraphs 49-55 and are shown below. It should be noted that those externally funded proposals that are more significant in financial value will still require Cabinet and Council approval. This will support the control and risk in this area.

### Supplementary Revenue Estimate

Supplementary Revenue Estimate Amount	Approval Level
Up to and including £100,000	The relevant Head of Service
In excess of £100,000 up to and including £250,000	The relevant Head of Service in consultation with the Cabinet Member and the Section 151 Officer
In excess of £250,000 up to and including £500,000	The relevant Cabinet Member in consultation with Cabinet Member for Regulatory, Compliance and Corporate Service (or the Leader of the Council if the matter concerns the Cabinet Member Regulatory, Compliance and Corporate Services) and the Section 151 Officer
In excess of £500,000 up to and including £1,000,000	Cabinet
Over £1,000,000	Council with recommendation from Cabinet

## Supplementary Capital Estimate

Supplementary Capital Estimate Amount	Approval Level
Up to and including £100,000	Section 151 Officer in consultation with the Chief Executive
In excess of £100,000 up to and including £250,000	Section 151 Officer in consultation with Cabinet Member for Regulatory Compliance and Corporate Services
In excess of £250,000 up to and £1,000,000	Cabinet
Over £1,000,000	Council with recommendation from Cabinet

### Commercial Activity (paragraphs 100-102)

9. Within the Council's Framework for Change programme the Council has a stated objective to develop its commercial activity. As part of this programme there will be specific business plans that are developed and approved by Members that provide the strategic direction and financial parameters within which these activities will operate.
10. As would be expected with such activities, there is a need for decisions to be made in an efficient, effective and timely manner in order to support the operation of the activity and maximise financial performance.
11. For such activities, Cabinet have approved the implementation of an Investment Board to provide operational management and guidance to these activities. This Board includes the Chief Executive, Executive Director, Head of Commercial Development and Head of Corporate Resources (s151 Officer).
12. This Board provides Business Plans to Cabinet on Commercial Activity that set out income and expenditure assumptions and impact on the Councils overall financial performance. Reporting against business plan is included within the council's outturn process alongside all traditional service expenditure and income.
13. As a result of this, a section has been included within the Financial Procedure Rules to reflect this, to clearly define the role of Members in developing and approving the strategic direction and financial assumptions for such activity and receiving appropriate information on which to evaluate financial performance and also the role of the Investment Board and Officers in delivering the objectives of such business plans.

### **Contract Procedure Rules**

14. On 28th June 2017, Audit and Governance Committee considered and approved updated Contract Procedure Rules (CPR), developed as part of a corporate review of procurement processes, rules and guidance, and referred them for Council approval. The report to the Committee also noted that the CPR would be subject to regular review with any subsequent amendments being brought back to Audit and Governance Committee for consideration in due course. The CPR were subsequently approved by Council on 13<sup>th</sup> July 2017 and duly implemented.

15. The recommended amendments to CPR, together with an explanation for those amendments are presented at Appendix 1.
16. The majority of proposed amendments to CPR are relatively minor and intended to improve their effectiveness, in light of practical application in the past 12 months and revision of EU Spend Threshold values.
17. The most significant changes relate to:
  - Raising the threshold below which procurement can be undertaken on the basis of a minimum of two written quotations, without explicit requirement to involve the Corporate Procurement Team, from £5,000 to £20,000; and
  - Introduction of specific provisions relating to defined “commercial activities”.

Both changes are intended to ensure that procurement processes are as streamlined as possible, whilst ensuring an appropriate level of control and oversight. These changes do not prevent the involvement of the Procurement Team or the deployment of a more substantial procurement process where that is appropriate and is felt most likely to secure best value. In line with national transparency requirements, the requirement to include resultant contracts above £5,000 on the Council’s Contract Register and the requirement to advertise all openly published procurement opportunities values at £25000, or more, on the national Contracts Finder portal will continue to apply.

18. The raising of the threshold in relation to general Council procurement delivers on an intention previously expressed and follows the successful implementation of improved processes and compulsory staff training over the past 18 months, both verified by internal and external audit activity.
19. The introduction of specific provisions relating to “commercial activities” is in support of the Council’s stated objective to develop its commercial activity and recognises the particular need for decisions to be made in an efficient, effective and timely manner in order to support the operation of such activity and maximise financial performance. It relates solely to “commercial activities” as defined in the Financial Procedure Rules, i.e. specific business plans that are developed and approved by Cabinet and then overseen by the Council’s Investment Board, which includes the Chief Executive, Executive Director, Head of Commercial Development and Head of Corporate Resources (s151 Officer).
20. The Council’s Constitution delegates to Audit and Governance Committee the responsibility to “*maintain an overview of the Council’s constitution of contract procedure rules, financial regulations and codes of conduct and behaviour*” (Chapter 7, paragraph 84). The Constitution further requires that “*Contract Procedure Rules shall be reviewed and updated as appropriate in line with review of the Constitution and shall be presented to Council, at least annually, for approval*” (Chapter 11, paragraph 131). It is therefore timely for the amended CPR to be presented to Council for formal approval and the Committee is requested to agree this.