

CONTRACT PROCEDURE RULES (CPRs) – Executive Summary 2020

The need for Contract Procedure Rules (section 1)

CPRs exist to ensure the Council complies with the law, for example, European Union directives and regulations.

CPRs also provide guidance on compliance with the Council's own internal procedural requirements, such as Financial Procedure Rules and the Scheme of Delegation for decision making.

CPRs are there to protect the Council by providing a consistent approach towards procurement and commissioning that accords with a set of public sector values and behaviours including restricting corruptive practice, transparency of process, fairness, according with Officer and Member codes of practice and equality.

Commissioning and Procurement (section 2)

Each Senior Officer must produce a list of forthcoming contractual intentions for each new municipal year and share this with the Scrutiny, Procurement and Partnership Manager. This will form the basis of the Council's overall Contract Register which will be publically disclosed on the website and shared with a range of partners. This will ensure transparency of opportunity and alert the market to future contracting opportunities thus allowing time for the market to anticipate preparing bids for Council business.

Exempt types Contracts not covered by CPRs (section 4)

CPRs do not apply to employment contracts; disposal or acquisition of land; arbitration or conciliation services; central bank services; contracts covered under Regulation 12 of the Public Contract Regulations 2015 (Central Government contracts).

Social Value (section 6)

Social Value should be considered in ALL procurement exercises, not just in relation to the minimum legal requirements of services above the EU threshold. All queries on the application of Social Value should be referred to the Scrutiny, Procurement and Partnership Manager as the lead advisor for the Council.

Using Procurement IT systems (section 7)

All procurement / contractual commitments should be recorded on the "Request for Quotation – Access site". This will enable continuous maintenance of the Council's Contract Register.

Rules for different values of Contracts (Low – Intermediate – High)

Low value = less than £0.005m (excluding day to day consumable purchases) (section 9)

Senior Officers can authorise a **minimum of two quotes** to be sought from the market place (in writing or electronic form) with **no requirement to consult with the Procurement Team**; it is recommended that more than two quotes are sought and that advice should be sought from the Procurement Team although this is not compulsory; **Officers should seek to buy locally (Knowsley first, then Liverpool City Region) to maximise the benefit to the local economy.**

Intermediate value- = £0.005m to the EU threshold (goods and services) **OR** £0.010m to £2m (works) **(sections 10.1 / 10.2)**

The EU threshold is currently £181,302 for **goods and services** and £4,551,413 for **works** and £615,278 for **light touch** eligible business which refer to services less likely to be on offer outside the UK); the £2m threshold for the upper limit on works is a locally determined figure.

A **minimum of three quotes** to be sought from the market place, with a **compulsory requirement to conduct the process via the Procurement Team and use of the Chest**; it is strongly recommended that more than three quotes are obtained to enhance competition; forward planning and engagement with the market place will help to ensure maximum competitiveness.

Not using advertising? - where intermediate value procurements are not to be advertised, first consideration should always be to use local suppliers within Knowsley; if the Knowsley market cannot meet the needs, this should then be extended to quotes from around the Liverpool City Region;

Using advertising? - Where intermediate value procurements are to be advertised, quotes should be sought from across the Liverpool City Region in the first instance.

High value = greater than EU threshold (goods and services) **OR** greater than £2m (works) **(section 10.3)**

For **goods and services above the EU threshold**, a full EU tender process must be operated via the Procurement Team.

A local process requiring a full EU tender process **for works in excess of £2m** is required to be conducted via the Procurement Team (the EU threshold for works is currently £4,104,394).

Contract Terms and Conditions (section 12)

Contracts should contain details on the following:

- Goods, services, works to be provided;
- Prices / discounts;
- Timescales;
- Health and safety;
- Termination conditions and recovery of losses;
- Freedom of Information compliance;
- Social Value to be delivered;
- Performance expectations;
- Payment within 30 days of invoicing or a shorter period in Agreement by the Supplier in accordance with the Early Payment Service;
- Compliance with British Standards Specifications.

EU Contracts (section 14)

EU Contracts should follow the processes below via the Procurement Team:

- Consult with the Procurement Team to plan early and consider the best procurement route / options (see Appendix to Contract Procedure Rules);
- A Senior Officer to advertise in the Official Journal of the European Union (OJEU);
- Align with EU timescales;
- Seek legal advice regarding concessions for works / goods / services;
- Place an advert if required on "Contracts Finder", the Government Portal;

- Allow unrestricted electronic access to documents by suppliers.

Tender Opening (section 17)

The Scrutiny, Procurement and Partnership Manager (or a deputy representative) shall attend the electronic opening of tenders. This may occur on Friday mornings at 9.30am in line with past practice, but this is no longer an essential requirement (the day and time can differ if required).

Contract Extensions (section 26)

In line with audit recommendations, any contracts with terms containing extensions shall:

- Require a written report from a Senior Officer following consultation with the Scrutiny, Procurement and Partnership Manager justifying the reason(s) for the extension;
- Be notified via the above report to the Scrutiny, Procurement and Partnership Manager with at least three months' notice.

Contract Modifications (inc. extensions not contained in contract conditions) (section 27)

In such instances:

- A report is required from the relevant Senior Officer to the Executive Director (Resources) for approval;
- This report must be received at least three months before the extension is due to occur;
- Discussions with the supplier about the Availability of the Councils Early Payment Scheme should take place prior to Approval.

A contract cannot be extended once it has already expired.

Appointment and Role of Consultants (section 33)

Appointments of Consultants require the approval of a relevant Senior Officer in consultation with the Scrutiny, Procurement and Partnership Manager, who, where appropriate, will refer the matter to the Executive Director (Resources). A business case must be completed and submitted to the Scrutiny, Procurement and Partnership Manager who will monitor and report on expenditure for the Council.

Waivers (in exceptional circumstances & no retrospective processes allowable) (section 37)

The relevant Senior Officer must report in writing justifying any waiver to Contract Procedure Rules to the Executive Director (Resources).

Key Stages in the Procurement Cycle – see relevant sections in CPRs

Who can carry out procurement? Section 3	Officers with delegated authority (under scheme of delegation) who can sub-delegate to appropriately skilled officers; notification of authorised offices should be given to the Scrutiny, Procurement and Partnership Manager.
Pre-procurement procedures Section 5	Identify NEED, options, must use existing frameworks if in place (ask Procurement Team), ensure the budget is available to cover the cost.
Estimating contract value Section 8	Aggregation of goods. Services / works should always be done as opposed to “splitting” up procurements to lower the cost of each purchase.
Joint Procurement Section 11	Joint procurements should be subject to these Contract Procedure rules e.g. partnership purchases; differing practices can be applied as agreed by any such consortia which will include mitigation of risk for the Council.
Bonds. Guarantees, and Insurance Section 13	Consult with the Scrutiny, Procurement and Partnership Manager on high value contracts to determine the appropriate levels of security.
Pre-qualification Section 15	Check on criminal offences / blacklisting / professional background / finances / technical ability (all reasons for discretionary exclusion of a bidder).
Invitation tender, participate or negotiate Section 16	Description of what is to be procured / timetable / specification / variants / terms & conditions / evaluation criteria / pricing mechanism and guidance / any TUPE information / method statements / qualifications required.
Electronic tendering and quotations Section 18	Use the Chest system / only open quotes or tenders after the deadline.
Tender evaluation and the use of electronic auctions Section 19	Use the Chest system / same as paper process but done electronically.
Post tender negotiation (must seek Procurement advice and guidance) Section 20	Negotiation <u>can apply</u> with <i>competitive process with negotiation / competitive dialogue, innovation partnership / negotiated procedure without prior publication</i> . Negotiation <u>cannot apply</u> with <i>open or restricted procedures</i> .
Evaluation team Section 21	Manage conflicts of interest / right skills, experience and abilities. Maintain clear and accurate written records to justify all scores awarded.
Awarding contracts Section 22	Accept most economically advantageous offer / if £0.050m or 5% above budget (whichever is lower), report required from relevant Senior Officer to Executive Director (Resources) for approval / report errors such as arithmetic to Senior Officer /

Notification of contract award and debriefing Section 23	seek explanations from bidders to clarify financial queries / beware of abnormally low submissions. Procurement Team to communicate to bidders (winners and losers) / feedback in writing on scores relative to others will be provided / adhere to Alcatel 10 day standstill period for challenges before commencing the contract / debrief meetings could be done by Procurement Team.
Contract award notice Section 24	Procurement Team to publish in the OJEU within 30 days of award / for non-EU awards, Procurement Team to publish on the Council's website (update the Contract Register) and Contract Finder government portal. For non-EU contracts above £0.025m, the Procurement Team will publish details on Contract Finder and the Council's Contract Register on the Council's website
Execution of contracts Section 25	Council seal for greater than EU threshold by Head of Legal
Termination of contract Section 28	Report to Exec Director (Resources) / seek Legal advice.
Records of tenders and contracts Section 29	Procurement Team to maintain a register.
Nominated and named sub-contractors Section 30	Seek details from main contractor if required.
Framework agreements and dynamic purchasing systems Section 31	Method to avoid a new procurement process / streamline etc / possible use of mini competitions / use of other large public collaborative contracts / 4 year duration period / Dynamic Purchasing Systems
Letters of intent (to award contract) Section 32	Exceptional power to allow a supplier to supply goods / services / works without the contract being fully in place.
Statistical returns Section 34	In relation to EU Regulations
Damage to Council property Section 35	After advice from a loss adjustor, the relevant Executive Director in consultation with the Executive Director (Resources) can execute necessary (repair) works to meet any contractual service delivery issues under a contract, including the use of emergency procedures (section 34 and see item directly below).
Emergency procedures Section 36	Senior Officer plus Exec Director (resources) up to £0.250m limit.
Waivers of CPRs Section 37	Exceptional circumstances / Senior Officer report to Exec Director (Resources) for agreement / uniqueness of provision / should not be last minute as a result of lack of planning and market engagement.

Non-compliance and ratification
Section 38

Notify Exec Director (Resources) / report to ratify.

