

**To the Chair and Members of the**

**COUNCIL**

**MINOR AMENDMENTS TO COUNCIL CONTRACT PROCEDURE RULES AND  
FINANCIAL PROCEDURE RULES**

**EXECUTIVE SUMMARY**

1. This report outlines the proposed minor revisions to the:
  - a) Council's Contract Procedure Rules (CPRs), to bring them in line with the enactment of the Public Procurement Regulation 2015. The CPR's also contain the revised European Procurement thresholds as prescribed by the European Commission which reflect changes in the exchange rate for the Euro.
  - b) The Council's Financial Procedure Rules have been slightly updated to provide further clarification, in particular on the approval for capital projects and grants to voluntary organisations, to update the virement limits to include the Chief Financial Officer up to £100k, and other minor updates to reflect current practices and guidance e.g. approval of detailed fees and charges by Council.

**EXEMPT REPORT**

2. Not applicable

**RECOMMENDATIONS**

3. It is recommended that Council:
  - (i) Agree the proposed minor revisions to Contract Procedure Rules (CPR's) Appendix A.
  - (ii) Agree the proposed minor changes to Financial Procedure Rules (FPRs) Appendix B.

**WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

4. The proposed changes will reflect best practice and enable the Council to achieve better value for money for the citizens of Doncaster, through simplifying the procurement process and increasing competition within the supply chain.

## **BACKGROUND**

### **EU Procurement Directive**

5. In 2011, the European Commission initially made proposals to change the EU Public Procurement Directives. The new Directives were finally adopted by the European Commission in March 2014.
- 5.1 The UK Government were keen to transpose the new Directives into UK law and on 26th February 2015, the new statutory regulations (the Public Contracts Regulations (PCR's) 2015) came into force in the UK. Along with transposition of the directive into UK Law, the government also chose to incorporate many of the recommendation made by Lord Young in reforming public procurement and open up opportunities to Small and Medium sized enterprises.
- 5.2 As a consequence of the change to the legislation, it is necessary to update the Councils CPR's attached as Appendix A.
- 5.3 The key legislative changes to the PCR's are set out below. As we are legally required to comply with these legislative changes, these have been incorporated into the council's procurement practices to ensure we continue to comply with the law.
  - Abolition of pre -qualification questionnaires below £164,176
  - Statutory requirement to pay all undisputed invoices within 30 days.
  - Statutory requirement to advertise contract opportunities on contracts finder.
  - Statutory requirement to complete a tender evaluation report for all European Tenders.

### **Lord Young Reforms**

- 5.4 Lord Young's report "Growing Your Own Business", made a series of recommendations to government regarding how they could improve public procurement practice to increase opportunities for small to medium sized enterprises (SME's) through the removal of several barriers. These are namely;
  - The creation of a 'single market' by requiring public authorities to advertise their contract opportunities on the 'Contracts Finder' portal in addition to their own advertising portals.
  - To make the procurement process simpler and less bureaucratic ensuring business of all sizes have an equal opportunity to compete, though the abolition of pre-qualification questionnaires for below threshold (£164,176) procurements.
  - A requirement to pay all undisputed invoices within 30 days
  - A requirement to include within contracts prompt payment clauses to ensure that main contractors pay their subcontractors within 30 calendar days.
  - The introduction of a Mystery Shopper Scheme (as part of the Crown Commercial Service) who has more powers to enforce

good procurement practice.

### **Key Changes to CPRs**

- 5.5 The current CPR's were last amended in 2014, to provide opportunities for local business to quote for below EU threshold procurements.
- 5.6 Following the introduction of the new PCR's, it is proposed to update CPR's not only to reflect the legislative changes but also to ensure that our CPR's make the procurement process clearer, simpler and remove barriers to participation in the procurement process. Set out below are the proposed key changes to CPR's:-
- 5.6.1 The introduction of new threshold allowing the direct award of a contract up to £5,000 subject to value for money being addressed. Under this proposal officers will be required to obtain one quote (from a Doncaster based business where possible) and demonstrate that value for money has been achieved. The proposed changes have been recommended by the Audit Committee.
- 5.6.2 To reduce the current threshold for obtaining three **written** quotations from £30,000 - £172,514 to £25,000 - £164,176. The new lower threshold of £25,000 brings the Council in line with Part 4 of the PCR 2015 regarding the publication of contract opportunities on Contracts Finder. Together with the introduction of a revised threshold of £5,000 to £25,000 for obtaining three **verbal** quotations backed up as minimum with an email from the supplier.
- 5.6.3 To ensure that all contracts above £164,176 are tendered in line with the PCR's. This proposal brings clarity to the current rules which have been interpreted as allowing three written quotations up to the European Threshold for works currently £4.3m and aims to increase competition and value for money.
- 5.6.4 To ensure that a tender evaluation report is completed post procurement in accordance with the PCR's.
- 5.6.5 The introduction of a requirement for waiver requests for contracts related to Social, Health and Education Services as defined by the PCR's under the Light Touch Regime and are valued above £164,176 and below £589,148) to be jointly signed by the CFO (or representative) and the Chief Executive.

### **FINANCIAL PROCEDURE RULES (FPRs)**

- 5.7 The Council's Financial Procedure Rules (FPR's) also form part of the Council's Constitution. These require updating to add further clarification, amend the virement limits and other minor changes to reflect current practices and the latest terminology. The main changes to FPR's are detailed below:
- 5.7.2 The capital budget management and monitoring section has been updated to clarify the current approval routes for capital projects and when approval is required for increases to the approved capital budget.

5.7.3 Updating the virement levels to include Chief Financial Officer up to £100k and Chief Executive £100k to £250k; currently approval is Chief Executive up to £250k.

5.7.4 Updating rules for the approval of Grants to External Voluntary Organisations; specifically including exemptions for joint arrangements with health and passing on funding to academies and VA schools for capital projects.

**OPTIONS CONSIDERED**

6.  
a) Amend CPR's and FPR's as outlined within the body of the report (recommended option);

Or

b) Do not amend CPR's and FPR's which will mean that the Council's rules are not updated in accordance with legislative changes and general best practice.

**REASONS FOR RECOMMENDED OPTION**

7. The proposed changes will continue to ensure that
- The Council continues to comply with PCR's
  - Encourages greater efficiencies and value for money throughout the procurement cycle and increasing opportunity within the supply chain.
  - Promotes best practice

**IMPACT ON THE COUNCIL'S KEY OUTCOMES**

8.

	<b>Outcomes</b>	<b>Implications</b>
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Be a strong voice for our veterans</i></li> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>Increased opportunity for SME's to do business with the Council.</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>Good quality services can continue to be procured to protect the most vulnerable people in our society.</p>

	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>Increased opportunity for local business to do business with the Council.</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>Good financial and procurement governance arrangements will enable the Council to protect vital services.</p>
	<p>Council services are modern and value for money.</p>	<p>Streamlined procurement resulting in the removal of unnecessary bureaucracy.</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	<p>To ensure that we maximise collaborative opportunities to gain efficiencies where possible and practicable to do so.</p>

## **RISKS AND ASSUMPTIONS**

9. Failure to address the new PCR's could lead to potential legal challenge from Suppliers, Cabinet Office and/or the European commission. Failure to update FPR's will not reflect best practice and may lead to inefficiency.

## **LEGAL IMPLICATIONS**

10. The Council is required to follow European Procurement Regulations when purchasing works, goods and services. The most recent regulations have been adopted into English law. The amended CPR's incorporate the changes introduced by the PCR's. Section 151 of the Local Government Act 1972 provides that "every local authority shall make arrangements for the proper administration of their financial affairs", the publication of an appropriate set of Financial Procedural Regulations is consistent with that obligation.

## **FINANCIAL IMPLICATIONS**

11. The Council's CPR's and FPR's Procedure Rules form part of the Councils Constitution. Any changes to the Constitution must be approved by Council.

## **HUMAN RESOURCES IMPLICATIONS**

12. There are no specific HR implications contained within this report.

## **TECHNOLOGY IMPLICATIONS**

13. The requirement to consult with the Assistant Director – Customers, Digital & ICT prior to the commencement of any tendering activity in relation to ICT or ICT related contracts (i.e. by following the agreed ICT governance processes) is unaffected by the proposed revisions outlined in this report.

## **EQUALITY IMPLICATIONS**

14. The Equality Act 2010 has been given due regard and this proposal will not have an impact on Equality.

## **CONSULTATION**

15. Consultation with the Mayor, Audit Committee, Internal Audit and Directors has taken place through the revision of the Contract Procedure Rules.

## **BACKGROUND PAPERS**

16. Public Contract Regulation 2015

A brief guide to the EU Public contracts Directive (2014)

Cabinet office Letter on advertising Contracts £25,000 and above

Guidance on Advertising Contracts £25,000 and above

Mills & Reeve Briefing User guide to the public contracts regulations 2015

Lord Young (May 2013) Growing Your Business: A report on Growing Micro Businesses

Financial Procedure Rules

## **REPORT AUTHOR & CONTRIBUTORS**

Steve Mawson – Assistant Director of Finance and Performance  
01302 737650      [steve.mawson@doncaster.gov.uk](mailto:steve.mawson@doncaster.gov.uk)

**Simon Wiles**  
**Director of Finance and Corporate Services**