



Havering
LONDON BOROUGH

GOVERNANCE COMMITTEE

Subject Heading:

Proposed Changes to Contract Procedure Rules (CPR)

SLT Lead:

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Policy context:

The proposed changes to the CPR will help the Council to achieve the following outcomes:

Opportunities:

- Delivering value for money
- Helping our businesses grow
- Helping people to succeed in life

Financial summary:

The report outlines proposed changes to the CPR and the envisaged improvements and benefits from those changes. There are no direct implications arising from these changes.

The subject matter of this report deals with the following Council Objectives

Communities making Havering
Places making Havering
Opportunities making Havering
Connections making Havering

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1. SUMMARY

- 1.1 The Councils Contract Procedure Rules (CPR), provide the governance structure for the procurement of all goods, works and services. They were last reviewed by the Council in 2016.
- 1.2 These rules are intended to ensure:
 - Certainty in contract terms;
 - Consistency in the application of the law and Council policy;
 - Probity;
 - Value for Money
- 1.3 It is considered that the current CPR (Appendix 2) can be simplified, improved and modernised as outlined below.
- 1.4. The proposed changes to the current CPR were considered by the Governance and Assurance Board at its meeting on the 15th of March 2021 and the Senior Leadership Team at its meeting on the 23rd of March 2021. Both the Governance and Assurance Board and the SLT supported the proposals.
- 1.5 The proposed changes to the current CPR were also considered by Themed Board at its meeting on the 2nd of June 2021. The Board supported the proposals and in addition recommended that:
 - i) The new risk and complexity assessment proposed by Procurement should be implemented for all procurement processes where the estimated total contract value is equal to or greater than £10,000. This will ensure all low-value procurement processes which potentially represent a high or medium risk to the Council are identified early and will receive an increased level of scrutiny and management.

2. RECOMMENDATIONS

- 2.1 That the Governance Committee:
 - 2.1.1 Note the key changes to the CPR as defined in Section 3 of the Report
 - 2.1.2 Recommend to Council the adoption of the new CPR (Appendix 1) and authorise the Chief Finance Officer to make any changes necessary to the Financial Regulations and the Monitoring Officer to update and make consequential amendments to the Constitution.

3. REPORT DETAIL

The following outlines the proposed changes to the CPR. These changes will help the Council to:

- Achieve better quality and value for money – through stimulating and maximising market competition
- Provide local and small suppliers with increased opportunities to work with the Council
- Better manage, monitor and control its exposure to risk

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- Make it easier and simpler for service areas to procure goods, works and services
- Deliver better outcomes for residents through involving Cabinet Members and Cabinet at the approval to procure stage

3.1 Roles & Responsibilities

3.1.1 Strategic Procurement Unit

Under the current CPR, all procurement processes undertaken by Officers where the estimated contract value is likely to be equal to or above £100k, must be done in conjunction with the Strategic Procurement Unit.

The proposed new CPR reflect the ambition to develop the Councils central procurement team into a more strategic function, focusing on those procurements of higher value, complexity and risk. To achieve this the Strategic Procurement Unit will become responsible for:

- Managing all procurement process where the estimated total contract value is likely to be equal to or greater than the following amounts:
 - Goods and Services: £189,330
 - Works: £500,000
- Managing all procurement processes where the estimated total contract value is likely to be between £10,000 up to £189,330 (Goods and Services) or £500,000 (Works) which are considered to be of high risk to the Council or of high complexity.
 - Under the current CPR Officers are required to complete a Procurement Initiation Form (PIF) prior to commencing any new procurement process where the estimated total contract value is likely to exceed £25,000. Under the proposed new CPR, this threshold will reduce to £10,000. The PIF will also be updated to include a new risk and complexity assessment of each procurement process which will ensure increased and early visibility over all low value procurement processes which potentially represent a high risk to the Council.

3.1.2 Officers

In order to encourage and support self-serve by Officers, for all procurement processes up to the value of £189,330 for Goods and Services and £500,000 for Works, the current procurement pages on the Council's intranet will be updated, in order to provide Officers with much simpler, clearer, and easier to follow guidance on how to undertake a CPR compliant procurement process.

3.2 Systems

3.2.1 E-Procurement System

Under the current CPR, Officers are currently required to use the Councils electronic procurement system for undertaking all procurement processes where the estimated total contract value is likely to be equal to or greater than £25,000. Under the proposed new CPR, this threshold will be lowered to £10,000.

3.2.2 Intranet

In order to ensure a smooth transition to the new CPR, the procurement pages on the Councils intranet will be updated. As part of this update, Officers will be provided with access to a step-by-step guide which will provide simple, clear instructions on how to undertake either a Route 1, 2 or 3

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procurement process. All procurements will be classified into 1 of 3 routes based on the estimated value of the procurement process:

- Route 1: Up to £10,000
- Route 2: Between £10,000 up to the EU Threshold (£189,330 Goods and Services), (£4,733,252 Works)
- Route 3: Above EU Threshold

The Strategic Procurement Unit will also provide Officers with regular access to training.

3.3 Approval to Procure

3.3.1 Procurements between £0 up to £50,000

Service areas have stated that the current CPR do not make it clear what approval must be sought by Officers, prior to commencing any procurement process where the estimated contract value is likely to fall between £0 up to £50,000.

This has been addressed and made clearer within the new CPR. Officers will be required to obtain the approval of at least a Level 3 Officer prior to commencing any new procurement process between £0 up to £50,000.

3.3.2 Cabinet Member & Cabinet Involvement

Under the proposed new CPR, Officers will be required to obtain the approval of either their Cabinet Member or Cabinet, prior to commencing any procurement process where the estimated total contract value falls within the following amounts:

1. Cabinet Member: Between £2,000,001 up to £10,000,000 - Goods and Services
Between £5,000,001 up to £10,000,000 - Works
2. Cabinet: Above £10,000,001 – Goods and Services and Works

Under the current CPR, there is no requirement for Officers to seek the approval of Cabinet Members or Cabinet prior to commencing a procurement process.

This proposed change will provide both Cabinet Members and Cabinet with greater visibility over all procurement processes and the opportunity to help shape future procurement outcomes at the very earliest opportunity i.e. at approval to procure stage as opposed to contract award stage.

3.3.3 Price/Quality Evaluation

The current CPR mandate a 70% / 30% split in favour of price over quality. It is considered this split is not always appropriate for all procurement processes for example, better value for money could be attained through a higher price weighting.

Under the new CPR, a Price/Quality Evaluation Guidance document will be produced that will help Officers determine the appropriate price/quality weighting which should be applied to their procurement process.

4. Annual Procurement Plan

Under the new CPR, procurement are proposing to introduce a new Annual Procurement Plan (APP). The APP will provide forward visibility over all procurement processes which need to be undertaken by the Council over the coming 12-18 months, where the estimated contract value will be equal to or greater than:

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- Goods and Services: £189,330
- Works: £500,000

The APP will be approved by both SLT and Cabinet each year, and will be reviewed bi-annually.

All procurements listed on the APP will include a risk and complexity rating. The criteria used for assessing risk and complexity will be the same criteria outlined in Section 3.1.1 above.

Where a procurement process has previously been reported to SLT and Cabinet as part of the APP process, it is proposed Officers will not have to obtain the approval of the appropriate Decision Maker prior to commencing their procurement process – except where SLT has confirmed (when they are approving the APP) this approval must still be obtained by Officers.

The introduction of the new APP will:

1. Encourage and promote increased and earlier engagement between service areas and the Strategic Procurement Unit
2. Simplify and shorten the approval to procure process, for procurements listed on the APP.
3. Provide SLT and Cabinet with increased visibility over all planned procurement processes over £189,330 for Goods and Services and £500,000 for Works over the coming 12-18 months, and the earliest opportunity to shape future procurement outcomes

5. Competition

5.1 Minimum threshold for obtaining at least three quotations from suppliers

Under the current CPR, Officers are required to obtain at least three quotations from suppliers for all procurement processes where the estimated total contract value is likely to be equal to or greater than £25,000.

In order to help the local economy start to recover post COVID-19, through promoting increased business opportunities for local and small suppliers, under the new CPR, the minimum threshold for obtaining at least three quotations from suppliers will be lowered to £10,000.

5.2 Works Procurements: Constructionline

Under the current CPR, all Works procurement processes require Officers to use Constructionline in order to draw up their select tender list of organisations. Whilst Constructionline is considered an appropriate route to market for Works' procurements, under the proposed new CPR, Officers will be able to utilise a framework or undertake their own tender exercise where it can be demonstrated this will offer better value for money for the Council.

6. Contract Award

6.1 Procurements between £189,330 up to £500,000

Under the current CPR, Officers are required to obtain the approval of a member of SLT prior to awarding any contract where the estimated total contract value is between £189,330 up to £5,000,000. This threshold is considerably lower than the thresholds operated by other local authorities, and is not aligned to the current Key Decision threshold operated by the Council – which states any expenditure over £500,000 will require the approval of a member of SLT.

Under the new CPR, it is proposed for all procurements between £189,330 up to £500,000 Officers will be required to obtain the approval of a Level 2 Officer (Assistant Director) prior to awarding any contract to a supplier.

7. Social Value

The current CPR provides limited reference to Social Value. The proposed new CPR will expand the Councils commitment to delivering Social Value in a number of ways:

1. All procurement processes where the estimated total contract value is likely to be equal to or greater than £189,330 for Goods and Services and £500,000 for Works will be required to proceed through the Gateway process. As part of this process, Officers will be required to outline within the report they submit to the Gateway Review Panel how they intend to address social value as part of the procurement process, measure its impact and capture this as part of the tender response.
2. Under the new CPR, for all procurement processes above £10,000, and where practicable below £10,000, Officers will be required to seek at least one quotation from a local supplier, where such a supplier exists.

8. Waivers

Under the current CPR, any request made by Officers to waive any or all parts of the CPR requires the approval of a Cabinet Member (except in an emergency).

It is proposed under the new CPR, that the approval of waivers is aligned to reflect the approval thresholds for awarding contracts under the CPR. However, any request to waive any or all parts of the CPR where the estimated total contract value of the procurement process falls below £5,000,000 will require the approval of a member of SLT.

Total Contract Value	Type	Decision Maker
Between £0 - £5,000,000	Goods and Services and Works	SLT Member
Between £5,000,001 - £10,000,000	Goods and Services and Works	Cabinet Member
Above £10,000,001	Goods and Services and Works	Cabinet

4. IMPLICATIONS AND RISKS

Financial implications and risks:

There are no direct financial implications associated with the proposed changes to the CPRs. No additional funding is required to implement the new CPRs or Procurement Strategy as there are no additional associated costs to either the Strategic Procurement Unit or to those who procure in the service areas

The changes to the use of the procurement systems, the improved clarity on the approval routes to procurement and the roles of the key parties involved should simplify the processes and enhance the control framework, therefore improving the outcomes from the procurements and supporting increased compliance.

Improving the understanding of procurement risk and the production of an annual procurement plan should enable better strategic planning of major procurements, streamline the processes and ensure the best outcomes and value for money for the council. Linked to the work on the contract register it

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will give clarity of the upcoming procurements and allow for timely engagement and improved outcomes.

The introduction of Price/Quality Evaluation Guidance will allow Officers to determine the appropriate price/quality weighting which should be applied to their procurement process, therefore ensuring the correct balance between value for money and quality within the procurement.

The changes should also enable the better identification of benefits and savings from future procurements. The inclusion of social value in the CPRs will embed the identification of these opportunities into the procurement and should improve the realisation of wider benefits for the borough.

Legal implications and risks:

The Council may arrange these procedure rules under section 135 Local Government Act 1972 to set the framework in which the Council spends public monies. The rules detail the relevant laws currently applicable to the Councils' procurement activities.

The suggested framework meets the requirement of the Public Contracts Regulations 2015 (as amended).

To the extent that the changes relate to the discharge of executive functions, Cabinet will need to agree the new rules and amendments to the Scheme of Delegation.

Human Resources implications and risks:

It is considered there are no Human Resources implications and risks associated with the proposed changes to the CPR.

This is because as outlined within Section 3.2.2, in order to ensure a smooth transition to the new CPR, all current procurement pages on the Councils intranet will be updated in order to provide Officers with much simpler, clearer guidance on how to undertake a CPR compliant procurement process. The procurement team in addition to updating the intranet, will provide Officers with access to regular procurement training.

Equalities implications and risks:

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving

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the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.