

Contract Procedure Rules – Legislation Update

SUMMARY

- 1.1 The European Union (EU) Procurement Directive came into force in April 2014. Member states have had two years to implement them at National Level. The UK's implementation of the directive, the [Public Contracts Regulations 2015](#) (Regulations) were laid in Parliament on 5 February 2015 and took effect from 26 February 2015.
- 1.2 These Regulations govern public procurement for any goods, services or works over specified thresholds and incorporate the Lord Young Reforms to provide access to Small and Medium Enterprises (SME's).
- 1.3 The Council's Contract Procedure Rules (CPR's) provide procurement guidance to officers to ensure compliance with these Regulations. The CPR's also set rules determined by the Council for under the EU threshold procurements and detail the required approval processes to reduce risk to the Council and officers.
- 1.4 In light of the implementation of the Regulations, the Council has updated the current CPR's to reflect the changes. Approval is being sought for these amendments to be implemented throughout the Council.

RECOMMENDATION

- 2.1 To recommend Council to approve the changes in the CPR's outlined in Appendix 2 and paragraph 4.1 of the report.

REASONS FOR RECOMMENDATION

- 3.1 The amendments to the CPR's to reflect the new Regulations will ensure:
 - the Council is adhering to the Regulations and reduce the risk of legal challenges against the Council for ineffectiveness, which could lead to claims/awards for damages.
 - Fewer issues are highlighted by the Crown Commercial Services (CCS) 'Mystery Shopper Scheme.'
 - Tightening of the waiver process and control of non-compliance.

SUPPORTING INFORMATION

4.1 The amended CPR's are attached (See Appendix 2). The main changes are:

Reference	Description
7.2, 15.3 and Threshold references throughout	Amended - The threshold for requirement for tendering from £30,000 to £25,000 to reflect the requirements of the Regulations and make contracts more accessible to SME's. Amended - The thresholds for EU procurements.
14.3 and 19.1	Addition - The requirement to publish contracts on Contracts Finder (government contracts website).
17.2	Addition - The Public Services (Social Value) Act 2012
18.3, 21 and 22	Amended – Pre-qualification questionnaires are not permitted under EU thresholds. New rules govern their use and format. Sections have been updated to comply with these changes.
18.7	Addition – The Regulations now allow for a new procedure 'Light Touch Regime' detail of when this applies has been incorporated.
41	Addition – New section to give clarity on the requirements of Contract Management to start to engrain good practice within the Council.
44	Addition – The Regulations provide specific grounds for Contract Modifications which have been stipulated for clarity.
50	Addition – Section added to provide guidance on compliance with Economic Regeneration Development Fund (ERDF) procurements as there is financial risk to the Council if not adhered to.
51	Addition – Section added to incorporate the requirements for approval of any property related goods and services.
57	Amended – Process for waivers has been tightened and clarified. The message that waivers are not an alternative to procurement is re-enforced.

OTHER OPTIONS CONSIDERED

- 5.1 Not updating the CPR's and carrying on with their current format. This would pose huge legal and financial risk to the Council and officers.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Emily Feenan Martyn Marples Richard Boneham, Ann Webster
For more information contact: Background papers: List of appendices:	Linda Spiby 01332 643271 Linda.Spiby@derby.gov.uk None Appendix 2 – Contract Procedure Rules Amended 2015

IMPLICATIONS

Financial and Value for Money

- 1.1 Ensure value for money through competition of contracts.
- 1.2 Provide reduced financial risk through compliance to Regulations and ERDF requirements.

Legal

- 2.1 Provide reduced risk of challenge or litigation as the CPR's will tighten control.
- 2.2 Consideration of permissible exemptions under reference 5.
- 2.3 Compliance with The Public Contract Regulations 2015. Other documentation and guidance may need to be updated following approval of the updated CPR's.

Personnel

- 3.1 None arising from this report

IT

- 4.1 None arising from this report

Equalities Impact

- 5.1 None arising from this report

Health and Safety

- 6.1 None arising from this report

Environmental Sustainability

- 7.1 None arising from this report

Property and Asset Management

8.1 None arising from this report

Risk Management

9.1 There is a risk of non-compliance with CPRs. This will be monitored and instances of non-compliance will be reported to Chief Officer Group and, depending on the nature of it, to Audit and Accounts Committee.

Corporate objectives and priorities for change

10.1 A strong community where residents feel empowered and businesses are supported to grow. CPR's will provide more accessibility and competition to SME's and local businesses.

10.2 A resilient Council, focusing on how we as a Council can deliver our services going forward. Contribute by the requirement to consider Social Value and through competition, obtain value for money and potential cost savings.