

REPORT TO	ON
Governance Committee	13 September 2017

Jan 2017



TITLE	AUTHOR
Review of Constitution - Contract Procedure Rules & Key Decisions	Interim Monitoring Officer

1. PURPOSE OF THE REPORT

1.1 At their meeting on the 1 February 2017 the Governance Committee resolved to review the Council's Constitution.

1.2 This report provides Members the opportunity to comment on the proposals to amend the Council's Contract Procedure Rules, together with the financial threshold for key decisions undertaken by the Cabinet, prior to their submission to the Council for approval at the meeting in September 2017.

2. RECOMMENDATIONS

2.1 That Members:

- (a) Consider and amend as appropriate the draft Contract Procedure Rules at Appendix A
- (b) Consider the proposed increase of the current financial threshold to £100,000 for key decisions undertaken by the Cabinet

2.2 Note that any recommendations will need full Council approval in September 2017

3. CORPORATE PRIORITIES

The report relates to the following corporate priorities

Clean, green and safe		Strong and healthy communities	
Strong South Ribble in the heart of prosperous Lancashire		Efficient, effective and exceptional council	√

4. BACKGROUND TO THE REPORT

4.1 All Councils are required to have a written Constitution which sets out the Council's internal governance arrangements, approved procedures and protocols. As part of the Corporate Governance Action Plan 2016/17 Members of the Governance Committee agreed to carry out a thorough review of the Constitution in order to ensure that the Constitution is as clear as possible, completely up to date and fit for purpose.

4.2 The Council's Contract Procedure Rules are a key part of the Council's Constitution and deal with the rules, processes and procedures for the procurement of contracts on behalf of the Council with a diverse range of suppliers and contractors. The rules are designed to protect the public purse by demonstrating value for money together with appropriate safeguards to ensure objectivity in the award of contracts and compliance with any EU procurement requirements. A copy of the proposed amended rules is to be found in appendix A and the existing rules are to be found in Appendix B.

4.3 Generally, this has been a light touch review since the Rules were reviewed and updated only 2 years ago and are essentially robust and fit for purpose. Some of the changes are minor and ancillary and in part are designed to pick up on some recent changes made to Chorley's CPRs – as we have a shared procurement team it is helpful to keep the two documents as similar as possible.

4.4 The main changes are set out in the table below but members are asked to note in particular the proposed change to the procurement thresholds. The current thresholds are as follows:

- Less than £10,000 – low value procurement
- Between £10,000 to £75,000 – intermediate value
- Over £75,000 – high value

4.5 Where a proposed procurement/contract fits in on the above scale has implications for what sort of procurement exercise is required and also who would be authorised to make the contract award decision. For example, under the current CPRs all contract awards for high value procurement must be made by Cabinet.

4.6 The threshold figures have not changed for a number of years and it is considered that they should now be reviewed. It should be pointed out that Chorley have recently increased their high value threshold to £100,000. A number of other nearby local authorities (e.g. Lancaster, Wyre and Fylde) also have a similar high value threshold.

4.7 Accordingly the proposed amendments to the threshold values are:

- Less than £20,000 – low value procurement
- £20,000 to £100,000 – intermediate value
- Over £100,000 – high value

4.8 However, there are some complications with changing these thresholds (particularly with increasing the high value figure). At the moment the Council's key decision financial threshold for cabinet decisions is £75,000. It would make sense if members did increase the high value threshold that the Council also changed the definition of what constitutes a key decision in the light of this. Also it may be desirable/necessary to make some ancillary changes to Financial Regulations (these regulations are also in the process of being amended). There is a need to be consistent throughout or the figures and varying threshold amounts could cause some confusion.

4.9 To reflect this need for consistency the proposed change to the definition of "Key Decision" is set out at paragraph 6 of the report.

5. CONTRACT PROCEDURE RULES

5.1 The amended **Contract Procedure Rules at Appendix A** now provide as set out in the table below. Please note that we have not included in the table below every instance where the changes to the threshold figures are included as that would become very repetitive – all other proposed changes though are referred to in the table below:

New Rule	Content	Former Rule & Justification
5.2 Revenue Expenditure	Some ancillary changes to wording following on from the proposed increase in the high value threshold	Updates current wording
5.3 Capital Expenditure	Some ancillary changes to wording following on from the proposed increase in the high value threshold	Updates current wording
5.4 – new para to be inserted	New wording regarding what constitutes a Key Decision	New wording inserted for clarification purposes
6 Exempt Contracts 6.1 d	A proposed additional exemption for the procurement of specified legal wording	Additional wording proposed. The value of legal services procured can be difficult to estimate at the outset as you never know whether the matter will settle quickly or may drag on. Further legal services as a matter of course procure legal services through the North West Consortium – that is a way of accessing high quality advice at a rate significantly below the market rate. The North West Consortium is a collaboration of 25 approx. councils in the north west of England.

7.2 Pre- Procurement Procedure	A small change in wording to refer to an officer consulting with their SMT member. The current wording at the moment refers to a job title that no longer exists (Policy and Performance Advisor).	Amended wording inserted for clarification purposes
8.2 Calculating the Contract Value	The proposed new wording is primarily designed to bring greater clarity.	New wording inserted for clarification purposes
9.1 Low Value Procurement	Some changes to wording consequential on the proposed increase in the low value threshold to £20,000. This is the last sentence in the paragraph.	Amended wording designed to deal with the consequences of increasing the low value threshold and to strengthen the arrangements
14 (g) Invitation to Tender	A deletion of three words (" <i>as considered appropriate</i> ") which are considered unnecessary – this reflects what Chorley have recently agreed to.	Removal of unnecessary wording
17.3 Evaluation	Additional wording to reflect some changes to Chorley's wording. This wording is added to the second bullet point.	Additional wording designed to strengthen existing arrangements
18.3 Tender/Quotation Clarification	A minor change of wording to refer to "Authorised Officer" which is the correct terminology	A minor change to wording which is more accurate
27 Execution of Contracts	A deletion of unnecessary wording – the second sentence of 27(1) of the current rules.	The change is for the purposes of greater clarity .
40 Non-Compliance	A change of wording to reflect a change of job titles and to cover a situation which is not currently catered for in the rules – i.e. the potential situation of where there is a discrepancy between the Contract Award and the amount actually paid out	Amended wording to bring greater clarity and strengthen existing arrangements.

41 Change of Authorised Officer	This is entirely a new clause designed to cover the situation of where there is a change in the leading officer during the lifetime of a contract	This is intended to strengthen our current arrangements

6. KEY DECISIONS

6.1 A key decision is defined as any decision relating to a Cabinet function which is either:

(a) Significant in terms of expenditure or savings. The financial threshold above which a matter becomes “significant” has been set a £75000 and this figure is applicable to both revenue and capital budgets

OR

(b) Significant in terms of its effect on the communities living in an area comprising two or more Council wards. “Significant” in this context means important or far reaching.

6.2 The financial threshold for key decisions has not been reviewed for some time and a review is therefore timely. It is for individual authorities to set the relevant financial thresholds having regard to their budget and to local circumstances. The original statutory guidance also urged local authorities to check that there is consistency between neighbouring authorities at the same tier.

6.3 A comparison of neighbouring authorities within Central Lancashire is as follows:

Authority	Financial Threshold
Preston	£100,000
West Lancashire	£100,000
Chorley	£100,000

6.4 It is therefore suggested that the financial threshold within the definition of a Key Decision is raised to £100,000 to align with neighbouring Councils and to align with the proposed increase of thresholds in the Contract Procedure Rules for high value procurements.

7. WIDER IMPLICATIONS AND BACKGROUND DOCUMENTATION

7.1 Comments of the Statutory Finance Officer

The Section 151 officer has been involved in the discussions relating to the proposed changes to the threshold figures. Further the Principal Procurement Officer was one of the team of officers involved in the review of the CPRs.

7.2 Comments of the Monitoring Officer

All local authorities are required to have a written Constitution which must be kept under regular review and publicised. Any amendments to the constitution require the approval of full Council.

Other implications:	
Risk	There are no specific risk implications arising from this report
Equality	There are no specific equality implications arising from this report
HR	There are no specific HR implications arising from this report

8. BACKGROUND DOCUMENTS

South Ribble Constitution

Appendix A – Proposed new Contract Procedure Rules

Appendix B – Existing Contract Procedure Rules

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