

REPORT TO: EXECUTIVE and COUNCIL

Date of Meeting: 10 July 2018, 24 July 2018

Report of: Steve Sandercock
Corporate Manager – Commercial and Procurement

Title: Updating the Council’s Procurement and Contract Procedures (July) 2018

Is this a Key Decision? No

Is this an Executive or Council Function? Council

1. What is the report about?

This report provides an update on the review of the current “Procurement and Contracts Regulations (May 2017), which sets out how the Council’s undertakes its procurement activities and contracts with third party suppliers, and proposed new procedures titled “Procurement and Contract Procedures (July 2018)” for Members to approve.

Members are reminded that as part of a recent external Annual Audit letters there have been highlighted concerns in whether the Council is *“securing value for money in procuring supplies and services effectively to support delivery of strategic priorities”* and whilst more recent Audit’s acknowledges progress it also notes that *“the Council has further progress to make to fully embed the new process into the culture of the Council”*.

The implementation of new Procedures is a major step on that journey towards making the necessary improvements.

However it is important to recognise that the implementation of these updated Procedures is just one part of the further progress required. Further activity will be necessary to help embed the positive change in how the Council undertakes procurement which would include transforming supporting processes and systems as well as strengthening the resource capacity to support effective procurement across the Council.

It is proposed to provide Members with a further update on progress on the wider associated activities in the next 6 months.

2. Recommendations:

That Executive endorse to Full Council substituting the current “Contracts and Procedures Regulations – May 2017” with the new “Procurement and Contract Procedures (July 2018) and supporting Procedural Notes.

Executive further endorse that whilst the Procedures (July 2018) as set out be adopted with immediate effect from Full Council approval, where necessary the current “Regulations” (May 2017) may where necessary apply until 1 June 2019 to afford the necessary time to fully transition to the new Procedures.

Furthermore, authority be granted to Section 151 Officer to sign off any final amendments (e.g. Procedural Note for Evaluation) in conjunction with Portfolio Holder for Support Services. Any updates to be reported back to Members as part of the wider update on progress.

3. Reasons for the recommendation:

As a public sector organisation Members will be aware that as part of the wide constitutional governance the need to have clear rules around carrying out procurement arrangements and entering into third party contracts is essential. This both helps ensure probity and transparency in how the Council undertakes such activities but also ensuring legislative compliance, in particular with the Public Contracts Regulations 2015.

This review of the Procedures is the first comprehensive overhaul undertaken by Council especially since the introduction of the Public Contracts Regulations 2015. The new Procedures provide a suitable governance framework which is both compliance with the legislative framework as well as provides the right proportional balance and safeguards for how the Council undertakes future procurement and resulting contract arrangements.

Whilst an important governance tool for the Council to operate under it also seeks to provide public transparency around the Council's approach especially to external organisations and suppliers who are interested in seeking opportunities to contract with the Council.

4. What are the resource implications including non financial resources.

As with any form of governance framework, there is a balance to be had around the administration to implement it and ensuring that the approaches put forward are proportional to the needs and the associated risks. The new Procedures look to proportionately strike this balance.

The main resource implications relate more to what the Council will need to do in order to embed the required changes, which would likely include:

- Training, guidance and awareness for key stakeholders, both Officers and Members;
- Updating of processes and supporting key information sources (Intranet / Intranet);
- System enhancement (e.g. electronic Tendering System).

This is in addition to recruiting additional procurement resources to enhance the capacity to deliver the required transformation.

5. Section 151 Officer comments:

The updated procedures form an essential step towards compliance for the City Council. The procedures will provide clarity for services of their responsibilities and will provide a clear audit trail for procurements moving forward.

6. What are the legal aspects?

The two key legal aspects around this report and the consideration for approval of the Procurement and Contract Procedures (July 2018) are:

- Ensuring that the approved Procedures form part of the Council's ongoing Constitution;
- They are aligned in respect of the expectations of the Public Contracts Regulations 2015.

The adoption of the procedures will further support and strengthen the Councils position in regards to both of the above.

7. Monitoring Officer's comments:

A revision to the Council's Procurement and Contract Procedures is much needed and welcomed.

The Council's in house legal team has already done much of the work to produce standard forms of contract in order to provide clarity of contract terms and to speed up the process and at the same time enhancing the Council's negotiating position.

It is anticipated that the new procurement team when finally in place will increase the work load for the in house Legal Team.

Finally, the Monitoring Officer suggests that these procurement rules should be reviewed regularly and amended where necessary and certainly no less than annually.

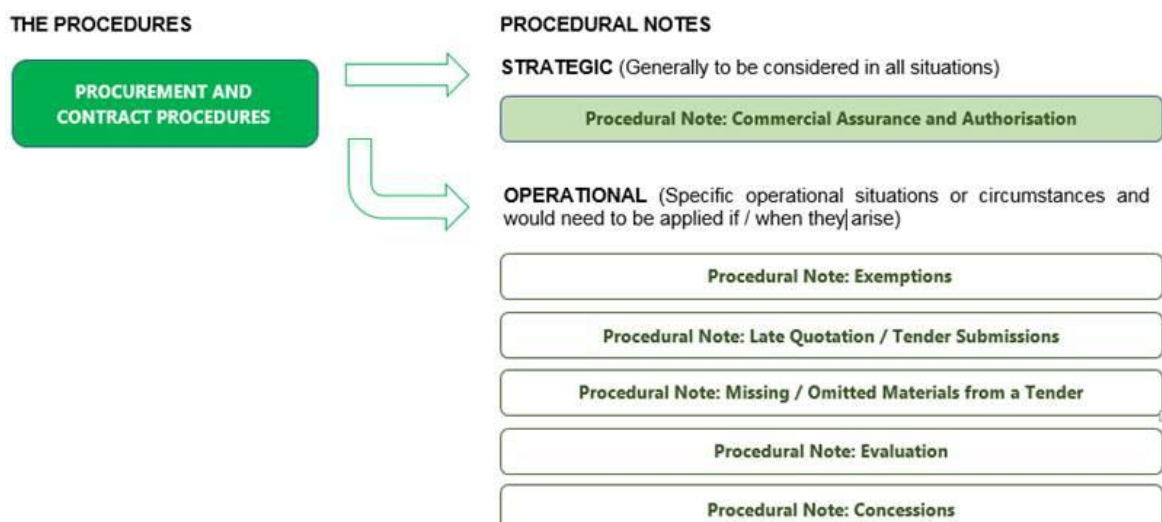
8. Report details:

This report sets out proposed changes around the Councils Procurement and Contracts Procedures based on a comprehensive review of the current out of date "Procurement and Contract Regulations – May 2017" with the key aims of:

- Supporting the required changes to overall transformation of procurement
- Improving the contribution towards wider value for money delivery;
- Enabling compliance to the wider Legislative framework and expectations around external Audit considerations;
- Providing proportional processes to support effective supplier engagement.

The Procedures establish the overall governance framework for future procurement and contract engagement. There will be further supporting work to ensure that the intentions as outlined in the Procedures become embedded in actual business as usual activities of the Council.

The Procedures and supporting Procedural Notes are detailed in the accompanying appendices and are set out in the following format:



9. How does the decision contribute to the Council's Corporate Plan?

By putting in place robust governance and ensuring that it is embedded in how the Council operates will have a significant positive contribution on several elements to the Council's Corporate Plan, in particular the Corporate Transformation Programme (2018 – 2021), this would include; reduction on operating costs, supporting economic growth, efficient services and supported communities.

10. What risks are there and how can they be reduced?

In adopting the changes the fundamental risk will be ensuring that the changes become embedded and that compliance to the Procedures is adhered to. Means of mitigation will be to support both Officers and Members in this transformation by improved guidance, support and training, as well as monitoring performance in line with the intentions of the new Procedures.

The key risks relate more to not adopting the changes than adopting them, for example, the Council not being compliant with the Public Contract Regulations 2015, not being able to support the transformation to improve value for money in line with the Audit recommendations, plus operating under current arrangements that are no longer fit for purpose.

Having ineffective or out of date procedural arrangements places the Council at greater risk of errors, mistakes, fraud or corruption, in procurement and contracting arrangements, as well as reputational risks, lack of financial controls, ineffective contracts and risk of formal legal challenge.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

The main implications relate more to individual procurement and contracts as opposed to anything specific to the nature of the proposed approach as set out in the procedures themselves. Overall it is considered that the Procedures set out a sound framework to ensure the relevant and proportionate due diligence is covered specific to the subject matter of the procurement itself.

12. Are there any other options?

Overall the Council must have a suitable governance framework in place as part of the wider Constitution, although invariably what is covered within any Procurement and Contract Procedures will be open to discretion. The Procedures as set out in this report are deemed fit for purpose and appropriate for the Council's needs.

David Hodgson – Chief Finance Officer (Section 151)

Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:-

Appendices:

Appendix 1 Procurement and Contract Procedures (July 2018)

Supporting papers – Available electronically

Strategic Procedural Note: Commercial Assurance and Authorisation

Procedural Note: Exemptions

Procedural Note: Late Quotation / Tender submissions

Procedural Note: Missing / Omitted material

Procedural Note: Concessions

Contact for enquires:

Democratic Services (Committees)

Room 2.3

01392 265275