

## **REPORT TO EXECUTIVE**

Date of Meeting: 4<sup>th</sup> April 2023

## **REPORT TO COUNCIL**

Date of Meeting: 18<sup>th</sup> April 2023

Report of: Director Finance

Title: Amendment to the Financial Regulations and Procurement Contract Procedure Rules

### **Is this a Key Decision?**

No

### **Is this an Executive or Council Function?**

Council

### **1. What is the report about?**

To approve the updates to the financial regulations at appendix A and the procurement and contract procedures at appendix B. The financial regulation changes reflect the recent introduction of the Council's ordering system, eProcurement and the procurement and contract procedures changes reflect the change of the spend threshold at which Officers are required to go out to tender as per the recommendation in the Procurement Service Review November 2022.

### **2. Recommendations:**

That Executive recommend to Council:

- (i) That the revised Financial Regulations at appendix A are approved;
- (ii) That the spend threshold at which Officers are required to obtain three quotes is increased from £10,000 to £25,000;
- (iii) That the spend threshold at which Officers are required to go out to tender is increased from £50,000 to £100,000
- (iv) That the revised Procurement and Contract Procedures at appendix B are approved.

### **3. Reasons for the recommendation:**

This update to Financial Regulations reflect minor changes to the ordering process, which have occurred with the implementation of the eProcurement system. This system enables a corporate approach to purchase ordering, something that has been required by the regulations for some time but historically has not always been followed.

The increase in the tender threshold was identified as an efficiency measure for the Procurement team in the 2022 service review. It will reduce the volume of tendering work going via the team and therefore enable the efforts and expertise of the team to be spent more appropriately on contracts of a higher value.

The increase will also bring us in line with neighbouring local authorities

#### **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 Procedures look to proportionately strike this balance and enable the skillsets of the team to be better applied where they are most needed.

#### **5. Section 151 Officer comments:**

The proposals in the resport will align our Financial Regulations with the procedures now implemented to manage Purchase Ordering. In respect of the Contract thresholds, the proposals will bring the Council more into line with many of our neighbouring authorities and similar City Councils and will enable the specialist resource to focus on higher value and more complex procurements.

#### **6. What are the legal aspects?**

The Council must prepare and keep up to date a constitution in accordance with s37 of the Local Government Act 2000. The minimum requirements for the content are set out in The Local Government Act 2000 (constitutions) (England) Direction 2000 which includes a description of the rules and procedures for the management of the Council's financial affairs including: procedures for auditing and financial rules. These are the rules that officers follow in the day to day operation of the Council set within this council's budget and statutory framework of local government finance.

The changes to Appendix B take account of the recent Procurement Policy Note (PPN01/23) issued by Government which has increase the threshold at which organisations are required to advertise on Contracts Finder from £25,000 to £30,000.

The proposed changes to the Council's Procurement and Contract Procedures at Appendix B relate to below threshold procurement. The full public procurement regime under the Pubic Contracts Regulations 2015 does not apply to below threshold procurement. Below threshold procurements must still be conducted in accordance with the fundamental principles of equal treatment, transparency and non-discrimination.

The requirement to publish below threshold contract awards and opportunities on Contracts Finder only applies to contract opportunities advertised by the Council in accordance with its own procedures. Increasing the threshold in the Council's Procurement and Contract procedures from £50,000 to £100,000 will result in fewer publications of contract opportunities and awards on Contracts Finder.

The Council is bound under the Local Government Transparency Code 2015 to publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5000. This requirement

is outside of the scope of Contracts Finder but the Code recommends that the Council publish all awarded contracts on Contracts Finder where the value exceeds £5000.

## **7. Monitoring Officer's comments:**

Members' attention is drawn to the legal implications set out in paragraph 6 above. On the basis that the council will adhere to the new financial thresholds proposed, the content of this report raises no issues of concern to the Monitoring officer.

## **8. Report details:**

Key considerations Financial Regulations.

The updated Financial Regulations, attached with tracked changes at appendix B, have been updated specifically as follows:

- a) eProcurement system is now specified as the required purchase ordering system
- b) Reflection of the three-way matching process for invoice payment
- c) Clarification of tolerances which are applicable within the system
- d) The process required for order approvals and amendments

Key considerations Procurement and Contract procedures.

The updated PCPs, attached with tracked changes at appendix B, have been updated specifically as follows:

- a) Increase of value Thresholds for New Procurement Arrangements at figure 1
- b) Amendment to requirements within the Authorisation Levels table 1 and Contract Signatures table 2.
- c) Increase the associated requirements relating to exemptions.
- d) Inclusion of the latest Procurement Policy Note (PPN) 01/23, increasing the threshold for advertising in contracts finder from £25k to £30k.

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

The proposed revisions to the contract procedure rules are designed to ensure that the council complies with all of the current relevant financial regulations which govern the council's financial conduct in relation to procurement and ensures that the council follows effective local financial processes which includes delivering value for money and supporting spending resources locally. In doing so it supports the corporate priorities of 'providing value for money services' and 'leading a well-run council'

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

The increase of threshold will mean that less procurement support will be provided for the contracts which fall below the new threshold.

This will be managed by a new process which is being developed for contracts of this value to ensure that the Councils continue to get good quality getting value for money contracts and where applicable statutory advertising and notices are still being published.

A toolkit to support Officers will be available on the intranet.

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because: because the public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this decision relates to improving internal processes, we do not believe that it will have an impact on our equality duty..

## **12. Carbon Footprint (Environmental) Implications:**

12.1 The council provides and purchases a wide range of services for the people of Exeter. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Exeter's outstanding natural environment. Whilst this is a procedural update and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the council's environmental aspirations. For example, both procedure rules encourage the use of online facilities available rather than using a paper trail.

### **13. Are there any other options?**

The council could continue with its current thresholds and not take advantage of the opportunity to streamline and focus procurement expertise on higher value contracts.

**Director Finance, David Hodgson**

Author: Chanelle Busby

### **Local Government (Access to Information) Act 1972 (as amended)**

#### **Appendices:**

Appendix A – Financial Regulations track changes

Appendix B – Procurement and Contract Procedures track changes

Background papers used in compiling this report:-

None

Contact for enquires:  
Democratic Services (Committees)  
Room 4.36  
01392 265275