

Summary of draft changes to the Contract Procedure Rules - 2018 – 2019

Updates are captured in this change document and highlighted in yellow on the Draft

For reference, current CPRs available at <https://sandwell.moderngov.co.uk/ecSDDisplay.aspx?NAME=SD304&ID=304&RPID=330485>

| Rule Number | Summary of Current Wording | Proposed Change | Comments |
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| Covid update 1-6 | A range of statutory relaxations to the procurement arrangements. | Deleted. | The temporary legislative change has now expired and will not be renewed. |
| 1 & 2 | Introductory section setting out the purpose and scope of Contract Procedure Rules (CPR). | Introduction expanded. Sets out key principles of good procurement practice, for example: <ul style="list-style-type: none"> • Achieves best value for money, including social value; • Furthers the Council's corporate objectives; • Purchases quality goods, services and works; • Safeguards the Council's reputation from any suggestion of dishonesty or corruption; • Incorporates principles of sustainability, efficiency, quality, social value, best value for money and whole life-cycle costing; • Summarises procurement compliance requirements across all areas of Council functions and activities, identifies when CPR doesn't apply; | Key principles and purpose of CPR now in line with benchmarked best practice. |

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| | | <ul style="list-style-type: none"> Added Contracts of Employment as omitted from scope. | |
| 1.8 | Added. | <p>The threshold values, at which public procurement is subject to the full suite of regulations governing public contracts, are revised every two years to take account of currency fluctuations and to ensure the UK complies with its obligations under the World Trade Organisation's Agreement on Government Procurement (GPA).</p> <p>New Appendix C sets out the threshold values for public contracts, utilities contracts, concession contracts and defence and security contracts from 1 January 2022, inclusive of VAT (where applicable).</p> | Not in the current version of CPR. The thresholds at which trigger the application of the PCR 2015 rules now added. |
| 1.9 | A glossary of terms is at the end of this document. | Appendix A contains a list of defined words and expressions. This has been expanded. | Added additional definitions to assist users of CPRs |
| 3 | The roles of officers, Members and the Cabinet. | <p>Responsibility for setting procurement framework policy is transferred from the Cabinet Member for Core Services to Cabinet;</p> <p>New confirmation added to clarify that Cabinet authorises the commencement of procurement at or above the Key Decision threshold.</p> | Principles in line with best practice and drawn from benchmarking. Change promotes whole Cabinet responsibility for setting Executive Policy. |
| Throughout | <p>References to the European Union (EU).</p> <p>OJEU.</p> | <p>Updated to refer to UK domestic law following the UK leaving the EU.</p> <p>Replaced with PCR 2015.</p> | Necessary to assist with statutory compliance and the interpretation of CPR. Most Councils have not yet made these changes in their CPRs. |

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| 3.2 | Addition. | Added ' <i>may require Cabinet member or Cabinet approval</i> '. | For clarification purposes to ensure appropriate approval is obtained. |
| 3.3 | Key Decision Threshold (KDT) £250,000; c) Cabinet awards all contracts with total value above KDT. | KDT throughout increased to £1million+; Cabinet authorises the commencement of procurement above the KDT £1million+ and delegates the <i>award</i> of all contracts at or above KDT to the relevant Chief Officer in consultation with the relevant Cabinet Member unless otherwise agreed by Cabinet. e) Individual Cabinet Members authorise the commencement of procurement as it relates to their portfolio for procurement between £500,001 and £1million and may delegate the <i>award</i> of all contracts to the relevant Chief Officer. f) Individual Cabinet Members approves exemption from any part of these rules for contracts with a total value between £500,001 and £1million as it relates to their portfolio. | More efficient/effective decision making for Cabinet Members whilst retaining full Cabinet oversight. Cabinet approves commencement of procurement and award is based on the agreed evaluation criteria with retained Chief Officer and Cabinet Member oversight. The division of procurement decision-making between Cabinet, Cabinet Members and Chief Officers is in line with best practice. |
| New | | | |
| New | | | |
| 3.3 Cabinet Member for Core Services | Cabinet Member for Core Services - Sets the procurement policy framework across the council. | Substituted: Cabinet approves and maintains the Council's Procurement Policy Framework. | Emphasis the role of the Cabinet as responsible for the setting of Executive Policy. |
| 3.3 Chief Executive | Approves/Endorses any exemption to these rules for contracts up to a total value of £250,000. | Increased to £500,000 | Threshold increased to complement increase in KDT. |

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| 3.3 Chief Finance Officer | Act as a compulsory consultee on procurement activity above £100,000. Approve/Endorse any exemptions to these Rules for contracts up to a total value of £250,000. | Increased to £250,000 Increased to £500,000 | Threshold increased to complement increase in KDT. Thresholds increased to complement increase in KDT. |
| 3.3 Chief Officer | Approve the award of contracts relating to their service areas up to a total value of £100,000. | Increased to £500,000 | Thresholds increased to complement increase in KDT. |
| Comment (g) | Service Manager – Procurement. | Head of Procurement. | Corrected job title. |
| Comment (i) deleted | In conjunction with the Chief Finance Officer, approves the award of contracts relating to their services up to a total value of £250,000. | Deleted (i) as duplication. | Duplication. |
| 3.3 Director of Law & Governance / Monitoring Officer | Chief Legal Officer. Act as a compulsory consultee on procurement activity above £100,000. Endorses any exemptions to these rules for expenditure above £100,000 in value. | Replaced with Director of Law & Governance. Increased to £250,000 Increased to £250,000 | Corrected job title. Thresholds increased to complement increase in KDT Thresholds increased to complement increase in KDT |
| 3.3 Service Manager procurement | Service Manager – Procurement. Endorses any exemptions to these rules, other than those for Minimal Quotes/Tenders. | Head of Procurement. Endorses any exemptions to these rules prior to Chief Finance Officer/Monitoring Office, other than those for Minimal Quotes/Tenders. | Corrected job title. Clarified requirements. |

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| New | | e) Ensure the Procurement Team adhere to The Procurement Processes & Guidance Documents on The Sandwell Intranet Procurement Site. | To ensure the latest Procurement guidance is followed. |
| All officers of the Council | Added | The Procurement Processes & Guidance Documents on The Sandwell Intranet Procurement Site | Need to ensure anyone engaged in procurement only does so after they have undergone appropriate in-house training and follows the guidance on the Procurement intranet site. |
| 4.3 & 4.5 | Elected Member. | Member. | Minor amendment for consistency in the constitution. |
| 5.4 | As per the Financial Regulations. | As required by the Financial Regulations. | Amended wording. |
| 5.5 | Procurement Services Manager. | Head of Procurement. | Corrected job title. |
| 7.1.a New | For all requirements below £250 where there is no contract in place. | For all requirements where there is no contract in place with a maximum transaction value of £500 and no greater than £1,000 per month in aggregate. Any spend with a single supplier over £10,000 should follow the procurement process and be contracted. | Added how the card is intended to be used £500 per transaction / £1,000 per month /no greater than £10,000 with a single supplier. This is intended as a CPR anti-avoidance measure. |
| 7.2 | Appendix C PCard Policy. | Removed | Moved to Procurement Policy Framework Definition |
| 8.1 | The value will be net of VAT. | The value will be inclusive of VAT. | New rules state that the estimates should include VAT |

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| 8.6 | Should the lowest tender received be above £250,000 in total value then Cabinet approval will be required to award the contract after evaluation. | Changed to £1million | Consistent with increase in KDT. |
| 8.7 New | | All Contracts and spend with a Supplier in excess of £10,000 needs to be captured on the In-tend Portal. | Part of the automation and improved compliance / visibility of spend. |
| 8.8 from 8.7 Table 1 | <p>Threshold £250 - £5,000 Service Area.</p> <p>Threshold £5,000 - £50,000 Service Area.</p> <p>£50,001 - £100,000 3 quotes via procurement.</p> <p>£100,001 and above Procurement.</p> | <p>Threshold £250 - £5,000 Service Area.</p> <p>Threshold £5,000 - £50,000 Service Area.</p> <p>£50,001 - £100,000 3 quotes via procurement.</p> <p>£100,001* and above Procurement.</p> <p>*at least one supplier from Sandwell or if not available the West Midlands Combined Authority Area.</p> | Greater focus on “ <i>Spend Local</i> ”. |
| .8.8 | The thresholds set out in Table 1 apply to all activities carried out by Sandwell Council, including those for construction and works. | The thresholds set out in Table 1 apply to the procurement of all goods, services or works by the Council. | Expanded for clarity and consistency. |
| 8.10 | Contracts above £250,000. | Contracts above £1million. | Updated KDT. |
| 8.11 | If only one bid is received for requirements over £5,000, an exemption will be required to award the contract as per Rule 15. | If only one bid or quotation is received for requirements over £10,000, an exemption will be required to award the contract as per Rule 15. | Updated in line with the proposed increase in thresholds. |
| 9.1 | Unless making a call-off from a properly procured Framework Agreement to a single supplier or a direct award, all requirements above £5,000 in total | Unless making a call-off from a properly procured Framework Agreement to a single supplier or a direct award, all requirements | Changed to the PCR 2015 threshold of £25,000 |

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| | value must be advertised on the Council's agreed portal. | above £25,000 in total value must be advertised on the Council's agreed portal. | |
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| 9.5 | Where the OJEU procedure is to be followed, there are prescribed timescales that must be adhered to. | Changed to The Public Contracts Regulations 2015. | Reflects compliance with UK law after BREXIT. |
| 10.1a | While procurement has been traditionally used as a mechanism to achieve desired outcomes, this may not be the most advantageous route to achieve the ambitions of Vision 2030. | Removed | Removed as wording lacks substantive meaning. |
| 10.1b | An options appraisal should be undertaken by the relevant Service Manager to ascertain what is the most appropriate route to achieving the desired outcomes of the service or project. The appraisal must be approved by the Chief Officer responsible for the service in consultation with the Chief Finance and Monitoring Officer (Cabinet approval is required for requirements above £250k). | Cabinet approval is required for procurement above £1million, Individual Cabinet Member approval is required for procurement between £500,001 and £1million). | Approval track reminder updated in line with KDT |
| 10.3 | Added. | Commensurate with risk. | Strengthened. |
| 10.4b | '...especially where the contract value is above the OJEU Threshold'. | Removed. | OJEU no longer applicable. |
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| 10.11 | New. | UK. | Referenced UK Law after BREXIT. |
| 11.1a | OJEU Threshold for supplies and services. | Changed to: The applicable Public Contracts Regulations 2015 Threshold | OJEU no longer applicable. |
| 12.1 | OJEU. | applicable Public Contracts Regulations 2015. | OJEU no longer applicable. |

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| 13.1d | Removed EU Procurement Regulations. | Changed to Relevant Procurement Regulations. | EU Procurement Regulations no longer applicable. |
| 13.2 (was 13.3) | If provision to extend the contract was not included in the original advertisement and documentation, and the extension to the contract means that the total contract value is over £250,000, then Cabinet authority is required to extend the contract. | If provision to extend the contract was not included in the original advertisement and documentation, and the extension to the contract means that the total contract value is over £1million, then Cabinet authority is required to extend the contract and individual cabinet members at or above £500,001 | Updated with proposed revised thresholds and greater clarity on the approvals. |
| 14.6 was 14.7 | Where a variation to a contract increases the total value to £250,000 or above, Cabinet approval is required. | Where a variation to a contract increases the total value to £1million+, Cabinet approval is required and between £500,0001 and £1million individual Cabinet Member approval is required. | Reference to proposed revised thresholds. |
| 15.2 | New. | Labelled as Table 2. | To help with understanding. |
| 15 | Above £250,000 Cabinet. | Added Cabinet member £500,000 - £1million Increased to £1million+ | inserts delegations to the relevant Cabinet Member that would otherwise go the Cabinet. This is in line with best practice & benchmarking. |
| 15.8 (new) | Added. | 15.8 The use of properly procured Framework Agreements meeting the conditions listed in 8.12 and 11.2a. | Strengthened wording around Frameworks. |
| 16.1 | This may be formal authority granted by the Cabinet or other delegated authority given to Chief Officers as set out in the Scheme of Delegations to Officers. | This may be a direct authority in the form of a Cabinet decision, or a delegated authority given to a Chief Officer as set out in the Scheme of Delegation. | Improved clarity. |
| Table 2 | | Now Table 3. | Renumbering. |

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| <p>Table 3 'Contract award thresholds'</p> | <p>Under £50,000 – Chief Officer or delegated budget holder.</p> <p>£50,000 - £100,000 – Chief Officer or delegated budget holder.</p> <p>£100,000 - £250,000 - Chief Officer, in consultation with the Chief Finance Officer.</p> <p>Above £250,000 Key Decision.</p> | <p>Increased to £100,000</p> <p>Banding removed as incorporated above.</p> <p>Increased to £500,000</p> <p>Added Cabinet Member £500,000 to £1million</p> <p>£1million + Cabinet/delegation by Cabinet to Chief Officer/Cabinet Member.</p> | <p>Proposed revised thresholds below and over new KDT.</p> <p>Cabinet approves the commencement of Procurement (above) and delegates authority to <i>award</i> unless otherwise agreed.</p> |
| <p>16.2</p> | <p>Contracts up to the value of £100,000 can be signed by the appropriate Chief Officer.</p> | <p>Increased to £250,000</p> | <p>Increased the levels for contracts signing to £250k and kept the contracts over £100K to be signed by the Monitoring Officer and a Legal Services Manager.</p> |
| <p>16.4</p> | <p>OJEU thresholds.</p> | <p>Changed to: the applicable Public Contracts Regulations 2015 Threshold.</p> | <p>Removal of EU Procurements references.</p> |
| <p>17.1</p> | <p>Chief Legal Officer.</p> | <p>Legal Services.</p> | <p>Corrected to reflect practice.</p> |
| <p>17.4i</p> | <p>Compliance with Data Protection Act, Freedom of Information Act, Modern Slavery Act and General Data Protection Regulations.</p> | <p>Compliance with the Data Protection Act 2018, Freedom of Information Act 2000, Modern Slavery Act 2015 and UK General Data Protection Regulations.</p> | <p>Corrected references to UK Statute.</p> |

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| 18.3 | Details of all contracts awarded over £5,000 | Details of all contracts awarded over £10,000 | To match proposed revised thresholds. |
| 18.4 | All contracts over £5,000 | All contracts awarded over £10,000 | To match proposed revised thresholds. |
| 19.4 | Approval of temporary or agency worker engagements, or extensions / redeployments of existing workers, by the appropriate Executive Director | Delegation to the relevant Service Manager or above. | Ability to make temporary changes in a more agile way. |
| 19.5 | References to named officers. | Removed officers names and phone numbers. | Names/numbers are soon out of date. |
| 20.2 | OJEU Notice (or a PIN) must be published. | Changed to : A Notice must be published on <i>Find a Tender</i> . | Removal of EU Procurement references. |
| 21 | New Social Value Commitment. | <p>21.1 The Council is committed to supporting the local economy by ensuring all tendering opportunities are accessible and tenderer friendly.</p> <p>21.2 Where practical and relevant, tenders should also address the following local social benefits, (as part of the supply chain) through the use of tender quality assessments and method statements.</p> <ul style="list-style-type: none"> • employment; • supply chain; • apprenticeships; • community benefit schemes; • any other benefit that supports the local economy and well-being of Sandwell and the West Midlands Combined Authority Area residents and businesses. | |

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| | | 21.4 The Council commits to work with local enterprises through supplier events to offer support and guidance around bidding and working for the Council. | |
| Appendix A | Table of definitions (below). | Expanded to include explanations of words and expressions. | To assist with the interpretation of CPR. |
| Added | <ul style="list-style-type: none"> • Award a contract - to accept an offer by a supplier; • Cabinet - the Leader of the Council and the other members of the Council's Cabinet; • Chief Finance Officer - the officer designated under section 151 of the Local Government Act 1972; • Contracts Finder – the web-based portal provided by or on behalf of the Cabinet Office for the publication of information about contracts awarded (https://www.contractsfinder.service.gov.uk) • Chief Financial Officer – an officer of the Council appointed as the section 151 Officer officer The Director of Finance is the Chief Financial Officer; • Concession Contract - a works or services contract for pecuniary interest concluded in writing by means of which one or more contracting authorities entrust the execution of works or the provision and the management of services (other than the execution of works) to one or more economic operators, the consideration for which consists either solely in the right to exploit the works or the services that are the subject of the contract or in that right | | Improved definitions to aid understanding. |

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| | <p>together with payment; and that meets the requirements of 3(4) of the Concession Contracts Regulations 2016 (CCR 2016). Regulation 3(4) of the CCR 2016 further defines the necessary characteristics of the arrangement for the purposes of the regime, which are:</p> <p>(a) the award of the contract must transfer to the contractor the operating risk in exploiting the works or services encompassing demand or supply risk or both; and</p> <p>(b) the part of the risk transferred to the concessionaire involves real exposure to the vagaries of the market, such that any potential estimated loss incurred by the concessionaire is not merely nominal or negligible.</p> <ul style="list-style-type: none"> • Dynamic Purchasing System (DPS) - the system referred to in regulation 34 of the Public Contracts Regulations 2015. A DPS is a procedure available for contracts for works, services and goods commonly available on the market. As a procurement tool, it has some aspects that are similar to an electronic framework agreement, but where new suppliers can join at any time; • Financial Regulations - the Council's financial regulations which contain all financial accountabilities in relation to the running of the Council, including the Council budget and Council policy framework; • Key Decision - an executive decision which must be made by the Cabinet which is likely: | | |
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| | <p>(a) to result in the Council incurring expenditure which exceeds that included in any approved revenue or capital budget or the limits set out within an approved borrowing or investment strategy and was not the subject of specific grant; or</p> <p>(b) to result in the Council incurring expenditure, the making of savings or the generation of income amounting to:</p> <ul style="list-style-type: none"> - £250,000 or more where the service area budget exceeds £10m; - £100,000 or more where the service area budget is less than £10m; or <p>(c) to be significant in terms of its effect on communities living or working in an area comprising two or more wards of the Borough.</p> <ul style="list-style-type: none"> • Light Touch - the rules and procedures for the Light Touch Regime Services set out in Chapter 3 of the Public Contracts Regulations 2015 (as amended); • Monitoring Officer - the officer designated under section 5 of the Local Government and Housing Act 1989 to monitor the Council's compliance with the law and rules of administration. The Director of Law & Governance is the Monitoring Officer; • Signing of Contracts – The execution of a contract by authorised parties by Hand, Deed or e-signature. • Social Value - activities, approaches and services that help to deliver measurable benefits to local communities' safety, health, prosperity and quality of life, particularly: | | |
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| | <ul style="list-style-type: none"> ○ Sustainability – environmental impact; ○ Local economy; ○ Support of corporate objectives; ○ Beneficial impact on local communities – including furthering equalities and community cohesion; | | |
| Appendix C | Added and referenced in 1.8 | <p>Appendix C – Summary of Threshold Levels from 1 January 2022</p> <p>The Public Contracts Regulations</p> <p><u>Supplies & Services</u> (except subsidised services contracts)</p> <p>£213,477</p> <p><u>Subsidised services contracts</u></p> <p>All bodies £213,477</p> <p><u>Works</u> (including subsidised works contracts)</p> <p>All bodies £5,336,937</p> <p><u>Light Touch Regime for Services</u></p> <p>All bodies £663,540</p> <p><u>Small lots</u></p> <p>Supplies and services £70,778</p> <p>Works £884,720</p> <p>The Utilities Contracts Regulations</p> | Update thresholds from PCR 2015 regulations. |

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| | | <p><u>Supplies and Services</u></p> <p>All sectors £426,955</p> <p><u>Works</u></p> <p>All sectors £5,336,937</p> <p><u>Small lots</u></p> <p>Supplies and Services £70,778</p> <p>Works £884,720</p> <p>The Concession Contracts Regulations</p> <p>Concession contracts £5,336,937</p> <p>The Defence and Security Public Contracts Regulations</p> <p><u>Supplies and Services</u></p> <p>All sectors £426,955</p> <p><u>Works</u></p> <p>All sectors £5,336,937</p> <p>Small lots</p> <p>Supplies and Services £70,778</p> <p>Works £884,720</p> | |
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