

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

14 SEPTEMBER 2021

REPORT OF THE CHIEF OFFICER – LEGAL, HR & REGULATORY SERVICES

REVISED CONTRACT PROCEDURE RULES

1. Purpose of report

1.1 The purpose of this report is to seek approval from Cabinet:

- for the revised Contract Procedure Rules to take effect from 1st October 2021;
- for the Council's Scheme of Delegation of Functions in relation to Executive Functions to be amended in accordance with paragraph 4.17 of this Report; and
- to note that a report will be taken to Council to amend the Constitution to incorporate the revised Contract Procedure Rules and amendments to the Scheme of Delegation of Functions in relation to Council functions.

2. Connection to corporate well-being objectives / other corporate priorities

2.1 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015**:-

Smarter use of resources – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

2.2 Contract Procedure Rules are the internal regulations which govern how contracts for goods, services and works are let. They offer standard procedures which aim to safeguard the Council in terms of risk and compliance with UK and European legislation. They contribute to delivering services more efficiently with a focus on collaboration and partnership working and maintain strong and sustainable financial performance.

3. Background

3.1 The Council is required to review the Contract Procedure Rules, which form part of the Council's Constitution, on a regular basis.

3.2 The Contract Procedure Rules contain the rules and guidelines for procuring goods, services and works. They are designed to ensure compliance with UK and European law, ensure best practice is followed and best value is achieved in the use of public funds.

4. Current situation/proposal

- 4.1 Following a review of the Contract Procedure Rules, a number of changes have been made to the existing Contract Procedure Rules to ensure the Council modernises the way it procures goods, services and works. A copy of the revised Contract Procedure Rules is attached to this report at **Appendix 1**.

Revised Contract Procedure Rules

The key changes are highlighted in paragraphs 4.2 to 4.16 below:

- 4.2 Change of titles of Chief Officers.
- 4.3 Amendment to some definitions for ease of understanding and consequential amendments to reflect legal changes following the expiry of the transition period of the UK leaving the EU .
- 4.4 Clarification on the need for a delegated power for all spend (Rule 4).
- 4.5 Included the requirement of conflict of interest and declaration of interest forms to be completed for every tender (Rule 5).
- 4.6 Slight change to the use of the Pre-tender Client Information Sheet so that it is now only required where Cabinet approval is not sought (Rule 1).
- 4.7 Updated the clauses required in every contract – these have been removed from the Contract Procedure Rules and instead template clauses will be made available on the procurement page of the Council’s intranet (Rule 6).
- 4.8 Included consideration for the UK Steel Charter, Code of Practice – Ethical Employment in the Supply Chain, Project Bank Accounts and the Well Being and Future Generations (Wales) Act 2015 (Rule 6).
- 4.9 Clarification on the use of electronic tendering only (Rule 12).
- 4.10 Contract management form required to be fully completed and availability of training from the procurement team (section 26).
- 4.11 A new Contract Procedure Rule 27.2 has been added and is as follows; “With the exception of Rule 23.1, “The Monitoring Officer shall have authority to make alterations of a minor nature or such as are required to be enacted immediately to ensure compliance with statutory obligations. Any minor changes will be reported to the next meeting of the Council”. This provision has been included to cover situations where there has been changes or updates to legislation that require immediate changes to be made to the Contract Procedure Rules.
- 4.12 Minor amendments have been made to the thresholds for goods, services and works to provide clarity (Rule 7).
- 4.13 Included reference to Social Value (Rule 6).
- 4.14 Additional provisions have been included relating to procurement planning (Rule 2).

- 4.15 Amendments to the requirements for the opening of electronic tenders. For those quotations or tenders with an estimated value between £5,000 to £100,000, they will be opened in the presence of one officer from the corporate procurement team instead. Tenders with an estimated value exceeding £1,000,000 can now be opened in the presence of three officers; the Monitoring Officer or their nominated representative and two further officers usually an officer from democratic services and an officer from the corporate procurement team (Rule 14).

Amendments to the Scheme of Delegation of Functions

- 4.16 The following amendments will be required to the Council’s Scheme of Delegation of Functions in relation to Executive Functions as set out below in tracked changes:

General Powers of Chief Officers

Paragraph 1.7 to be removed in its entirety: “accept the lowest tender received where payment is to be made by the Council and the highest tender received where payment is to be received by the Council in consultation with the Procurement Manager.”

Renumbering of current paragraphs 1.8 to 1.13 of General Powers of Chief Officers to paragraphs 1.17 to 1.12 of General Powers of Chief Officers.

Scheme A (functions allocated to each Cabinet Member)

Amendment to paragraph 1.2 as shown via tracked changes:

1.2	<p>In accordance with the values set out in the Council’s Contract Procedure Rules respect of any contract having an estimated value exceeding £1,000,000 but not exceeding £5,000,000:</p> <p>(a) To authorise the invitation of tenders; and (b) To accept the mMost eEconomically aAdvantageous tTender received and enter into a Contract (form of tender), or the highest tender received where payment is to be received by the Council and enter into a Contract.— and any further deeds and documents which are supplemental to the Contract. (c) To authorise invitation of tenders, to accept a tender or enter into a Contract in accordance with any exemption under the Council’s Contract Procedure Rules. (c) To authorise invitation of tenders, to accept a tender or To enter into a Contract <i>and/or</i> any further deeds and documents which are supplemental to the Contract in accordance with any permitted waiver under the Council’s Contract Procedure Rules.</p>
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Scheme B2 functions allocated to each Chief Officer

Amendment to paragraph 1.3 as shown via tracked changes:

1.3	<p>In accordance with the values set out in the Council's Contract Procedure Rules: respect of any contract having an estimated value not exceeding £1,000,000.00:</p> <p>a) To authorise the invitation of tenders;</p> <p>(b) To accept the mMost eEconomically aAdvantageous tTender received and enter into a Contract (form of tender), or the highest tender received where payment is to be received by the Council and enter into a Contract.— and any further deeds and documents which are supplemental to the Contract.</p> <p>(c) To authorise invitation of tenders, to accept a tender or enter into a Contract in accordance with any exemption under the Council's Contract Procedure Rules.</p> <p>(d) To authorise invitation of tenders, to accept a tender or enter into a Contract <i>and/or</i> any further deeds and documents which are supplemental to the Contract in accordance with any permitted waiver under the Council's Contract Procedure Rules.</p>
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Insert an additional function at Scheme B2 as a function allocated to each Chief Officer

1.4	To approve a modification to an existing Contract or Framework Agreement in accordance with the Council's Contract Procedure Rules and the values set out in the Council's Contract Procedure Rules to enter into any deed or documents which is required to give effect to such modification.
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Renumbering of current paragraphs 1.4 to 1.6 of Scheme B2 to paragraphs 1.5 to 1.7 of Scheme B2.

Insert an additional function at Scheme B2 as a function allocated to the Monitoring Officer

3.42	To approve and enter into any further deeds and documents which are ancillary to any existing agreement approved by or on behalf of the Council / Cabinet in consultation with the Section 151 Officer and relevant Corporate Director.
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Renumbering of current paragraphs 3.42 to 3.56 of Scheme B2 to paragraphs 3.43 to 3.57 of Scheme B2.

- 4.17 A report shall be taken to Council to amend the Scheme of Delegation of Functions in relation to Council functions and to amend the Constitution to incorporate the revisions to the Contract Procedure Rules.

5. Effect upon policy framework and procedure rules

- 5.1 The revised Contract Procedure Rules are mandatory for all commissioning/procurement staff to comply with. The Contract Procedure Rules are a fundamental part of the Council's Constitution.

5.2 The Scheme of Delegation of Functions will require amendment as detailed at paragraph 4.17 of the report.

6. Equality Act 2010 implications

6.1 Although there are no direct implications, the Constitution as the key governance framework document for the Authority is critical in demonstrating commitment to the Authority's duties under the Equality Act 2010.

7. Well-being of Future Generations (Wales) Act 2015 implications

7.1 The well-being goals identified in the Act were considered in the preparation of this report. It is considered that there will be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of this report.

8. Financial implications

8.1 There are no financial implications regarding this report.

9. Recommendations

9.1 It is recommended that Cabinet:

- (i) approve the revised Contract Procedure Rules attached at **Appendix 1** to this report to take effect from 1st October 2021;
- (ii) approve the amendments to the Scheme of Delegation of Functions in relation to Executive functions as set out in paragraph 4.17 of this report;
- (iii) Note that a report will be taken to Council to amend the Scheme of Delegation of Functions in relation to Council functions and to amend the Constitution to incorporate the revisions to the Contract Procedure Rules.

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23rd August 2021

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Background documents: None