

Draft CONTRACT PROCUREMENT RULES (CPRs) – replacing Contract Standing Orders

Why do we need Contract Procurement Rules (CPRs)?

1. Councils are required by Section 135 of the Local Government Act 1972 to set clear rules for the procurement process to be followed for or on behalf of the Council, as well as for the disposal of land.
2. By following these rules, the Council can show it is delivering value for money and maximising public benefit, whilst acting transparently and with integrity.
3. Integrity sits at the heart of the procurement process. It means there must be good management, prevention of misconduct, and control in order to prevent fraud and corruption.
4. Most importantly, the rules are there to help guide and protect those undertaking procurement for Hart. Following these rules, means everyone involved can be confident that the process is being conducted safely, and in line with legislation and the principles set out here.

What do the rules apply to?

5. These CPRs apply to every Member, Officer, Consultant, or other external Agents appointed to act on behalf of the Council in procurement matters, collectively referred to as 'Person(s)' for the remainder of the CPRs, who shall assume they apply unless confirmed otherwise.
6. The CPRs are set within the context of UK legislation. Any contract let by or on behalf of the Council must also comply with the Financial Regulations and all other requirements of the Constitution.
7. The CPRs apply to the purchase (regardless of value), by or on behalf of the Council of:
 - 7.1. Works;
 - 7.2. Materials, supplies or goods;
 - 7.3. Services;
 - 7.4. As well as the granting of concessions.
8. These are collectively referred to as 'Contract(s)' for the remainder of the CPRs.
9. The CPRs do not apply to:

- 9.1. Employment contracts;
 - 9.2. Contracts relating solely to the purchase, hire or sale of interests in land - The disposal of land, property, or other assets (including surplus goods) is covered by Annex B - Land Disposals;
 - 9.3. Service level agreements setting out the conditions that the Council applies to its funding of particular voluntary sector bodies.
10. There will be circumstances in which the CPRs cannot be followed, specifically where:
 - 10.1. The Contract is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property. For example, in response to an emergency decision under special powers;
 - 10.2. There are justifiable technical, specialist, legal, overriding public interest, or supply market reasons that the Contract can only be obtained from one firm, and no reasonably satisfactory alternative is available;
 - 10.3. The Council is acting in partnership or other joint working arrangements, where the money, including external funding, does not pass through the Council's accounts;
 - 10.4. Relevant UK legislation, which takes precedence, or where conditions attached to the funds available mandates a different approach to procuring the Contract (For example Disabled Facilities Grants);
 - 10.5. In applying the CPRs, it would not be possible to satisfy the best interests of the Council or the public in terms of delivering social, economic or well-being benefits.
 11. The principles of these Rules should be followed as far as practicable. However, in such cases as listed above, approval for an exemption must be requested in advance from the Section 151 Officer, via completion of a form available on the Council's Procurement Guidance pages which will justify and record the reason for the exemption.
 12. The completed form will act as a record of the decision and be held for the duration of the contract.
 13. In all cases where an exemption is approved, the CPRs should still be followed as closely as feasibly can be.

Key principles of the rules to be aware of

14. All monetary values referred to in the CPRs exclude VAT unless otherwise stated. They cover expenditure contracts and income generating contracts.
15. The financial values stated throughout these CPRs represent the total value of the Contract over its whole life and are not, for example, the estimated annual value of the Contract. Where the duration of the contract is hard to define, the contract value should be the estimated value of the contract over a period of four years.

16. Where the Contract is for Supplies or Services, the value of the Contract shall include all options under the Contract. For example, if the Contract allows the Council to either purchase additional Supplies or Services, or to extend the Contract beyond its original term, the financial implications of these must be included in the value of the Contract, even if the likelihood of taking up these options is small.
17. The value of contracts must not be deliberately or artificially underestimated, split or disaggregated to avoid the application of the Thresholds in these CPRs or the Regulations.
18. The appropriate Procurement Route, as set out in Section 3 of these CPRs must be followed.
19. There must be funds available and all the necessary approvals in place prior to commencing a procurement procedure.
20. Contracts will typically be awarded on the 'Most Advantageous Tender' (MAT) basis, assuming all specified criteria are met. This means considering both value for money and other factors such as social value and performance.

What are the responsibilities on those procuring for Hart?

21. Budget Holders are considered the Responsible Officer in regards to the procuring of a Contract by default.
22. The Financial Regulations sets a list of authorisation limits. This list specifies a maximum financial limit for each transaction for each Responsible Officer. These limits must not be exceeded without approval from the Section 151 Officer.
23. Responsible Officers must ensure that procurement activity is undertaken by Persons who can demonstrate knowledge and understanding of these CPRs and have the skills appropriate to the task. These Persons should already have authority under the list of authorisation limits and, if not, must be granted authority by the Responsible Officer or such person who has been delegated with the authority before undertaking any procurement. These limits are provided in the Constitution.
24. Any personal interest which may affect or be seen by others to affect a procurement process must be declared. It is expected that the highest standards of honesty, integrity, impartiality, and objectivity are maintained.
25. Compliance with the CPRs is mandatory. Failure to follow them and/or failure to enter a Contract in accordance with them, could lead to disciplinary actions.
26. The Contracts and Procurement Manager will maintain the Procurement Guidance pages, provide advice to Persons on CPR considerations and suggest best practice approaches to procurements, relative to the specific project being planned.

How to apply the rules

27. A review of the Procurement Guidance pages should be completed before embarking on a procurement process to ensure the most current forms, advice and requirements are applied.
28. All contracts spend above £250 must be published on the Council's website as part of the Councils commitment to the Local Government Transparency Code (2015).
29. In all cases Persons must be able to demonstrate and record that the contract is awarded in line these CPRs and any decision relating to the Procurement Route for a particular contract shall include a written risk assessment using the template provided on the Procurement Guidance pages.
30. If an existing Framework Agreement is to be used, for any value of Contract, subject to its specific terms, written bids must be obtained from capable suppliers, according to the arrangements provided for in the Framework Agreement.

What differs in the rules, depending on the value of spend?

31. The Procurement Route to be used will vary depending on the nature, complexity and cost of the contract. Persons must not disaggregate spend to avoid the requirements at higher Thresholds.
32. After considering the Thresholds set out below, the selection of a Procurement Route should be proportionate to the nature, complexity and cost, as well as any other considerations that would ensure the best interests of the Council or the public in terms of delivering social, economic or well-being benefits.
33. The following Thresholds must be considered before selecting a Procurement Route, where the value is:
 - 33.1. Up to £5,000
 - 33.2. Up to £25,000
 - 33.3. Up to £50,000
 - 33.4. Up to the UK legislative thresholds, as defined by the Governments published Procurement Policy Notes, inclusive of VAT
 - 33.5. Above the UK legislative thresholds, as defined by the Governments published Procurement Policy Notes, inclusive of VAT.

Up to £5,000

34. Three quotations should be sought if possible and a minimum of one written quote must be obtained.

Up to £25,000

35. All Contracts above £5,000 in value and/or exceeding 1 year in length, should be recorded on the Councils' Contracts Register. This applies to both expenditure by the Council and income received.
36. A Conflicts Assessment must be undertaken using the form provided on the Procurement Guidance pages before commencing any procurement above £5,000 and held as a record for the duration of the contract. This will include and identified potential conflicts and any adjustments the Council has put in place to mitigate the potential conflict.
37. At least three quotations must be sought, and if three written quotations cannot be obtained, Persons must request and exemption from the CPRs using the form provided on the Procurement Guidance pages.
38. If the procurement will involve expenditure or making savings which amount to either £30,000 or 25% (whichever is the larger) of the budget for the service or function, the requirements of a Key Decision as set out in the Constitution, need to be considered before commencing any procurement activity.

Up to £50,000

39. Contracts above £25,000 in value must be considered 'Regulated below-threshold contracts', unless otherwise required by UK legislation.
40. Such Contracts must be advertised for when a Below-threshold Competitive Quotation procedure is undertaken on Contracts Finder (or any subsequent platform required by Government).
41. The award of all Contracts above £25,000 in value (or £30,000 inclusive of VAT if rates change), regardless of Procurement Route must be published on Contracts Finder.

Up to UK legislative thresholds

42. For Contracts above £50,000 in value, or otherwise considered complex in nature, must first include consultation with the Council's Legal Service before commencing any procurement activity.
43. The CPRs require that consideration is given to carbon reduction factors at the pre-procurement stage of any procurement process.
44. Solicitation of three quotes is no longer allowed for by default. Persons must request and exemption from the CPRs using the form provided on the Procurement Guidance pages should this Procurement Route be sought.

Above the UK legislative thresholds

45. The UK legislative requirements should be followed and all Regulations Procurement Policy Notes relating to these, take precedence over these CPRs.
46. For all Contracts of this value the opportunity must also be published on Find a Tender (or any subsequent platform required by Government).

Procurement Routes

47. The Council should apply the most suitable procedure for the value and complexity of the procurement, that conforms to these CPRs and UK legislation as its Procurement Route.
48. Recommended Procurement Routes are detailed in the Procurement Guidance pages on the Councils' Intranet.

Is there any further information available?

49. These Contract Procurement Rules provide the overall framework to be followed when procuring on behalf of the Council. Full procedural details, further advice, forms and templates are all available on the Procurement Guidance pages on the Councils' Intranet (**Link**).