

## Key differences between the proposed new Procurement Rules (PRs) and the current Contract Standing Orders (CSOs)

- All sections have been re-ordered into a more logical, chronological order.
- Duplicated and conflicting requirements that are currently in the CSOs have been removed.
- Instead of having different (large) sections of CSOs relating to different values of contracts, with largely duplicated text:
  - The PRs relate to all contracts and are only covered once; and
  - Appendix 1 provides, at a glance, the different arrangements that apply for different values of contracts.
- The thresholds for the nos. of tenders sought, who opens tenders and who accepts tenders have been reviewed/updated and are set out in Appendix 1. They also include the latest EU Thresholds (1<sup>st</sup> January 2016 – 31<sup>st</sup> December 2016) for reference.
- The introduction of Appendix 1 means that the thresholds and associated arrangements can simply be updated when required in the future, rather than having to amend the whole document.
- The PRs do not attempt to duplicate or cover the, separate, more complex arrangements that relate to regulated procurements for contracts with total contract values above the financial thresholds for works, goods, supplies and services set out in the Public Contracts Regulations – however, they do set out the Council’s own requirements for ensuring that officers comply with these arrangements, for example, through the completion of the required Procurement Process (“Regulation 84”) Report.
- Rather than having separate arrangements for the appointment of consultants (as in the current CSOs), all of the PRs now apply to the appointment of consultants too.
- The PRs now place responsibility on Spending Control Officers to ensure that they comply with the PRs, rather than Directors – thereby placing responsibility to comply with the PRs on the people actually undertaking and controlling the procurement process, rather than on those who do not have control over the day-to-day activities with individual procurements.
- The PRs provide Assistant Directors, who are responsible for the delivery of services, with the same authority as Directors for matters covered by the Procurement Rules
- Where other officers are required or offered to provide advice to Spending Control Officers, they refer to the specific post responsible for actually providing the advice (or their designated officer in their absence), rather than their Director – again providing clarity to readers and placing responsibility on the actual officers providing the advice.
- For tenders with contract values over a certain amount, the PRs now require Spending Control Officers to complete a Corporate Procurement Checklist throughout the procurement process, which must be maintained for at least three years after the contract has been let.
- The PRs set out clearer requirements for which people/bodies are authorised to waive compliance with parts of the PRs requirements for different Total Contract Values.
- The PRs take account of the latest Public Contracts Regulations 2015.
- The PRs provide Spending Control Officers with increased flexibility over which contractors are selected to submit competitive tenders, within a defined framework.
- Unless there are good reasons, the PRs now require officers to use in-house Council services to provide the required works, goods, supplies or services (such as the Council’s Reprographics and

Building Control Services) in preference to an external contractor, in order to keep their unit costs to a minimum and to save the Council money overall.

- The PRs require Spending Control Officers to comply with a new separate Council Procedure for Financial Checks on Contractors which, for the first time, sets out: what financial checks should be undertaken; for what values of contracts; at which point in the procurement process; and what action/recommendations should be taken/made as a result.
- For procurements requiring the use of quality assessments, to assess the most economically advantageous tender (MEAT), the PRs require officers to follow the Council's Corporate MEAT Assessment Methodology.
- The PRs now allow tender invitations to be sent electronically (which the current CSOs forbid) – which is a legal requirement for regulated procurements for contracts with values above the Public Contracts Regulations.
- The new PRs enable contractors to be able to return tenders electronically in the future, in accordance with a new Procedure (yet to be drafted) – which is a requirement of the Public Contract Regulations 2015 by 2018.
- The PRs refer to the new requirements within the Public Contract Regulations 2015 to also provide information of any advertisements for inclusion on select lists to the Government's Contract Finder website and to publish details of the outcome of all procurement exercises for contracts in excess of £25,000.
- The PRs amend the currently unworkable requirement within the CSOs to take account of all the anticipated spend by a directorate with an individual contractor over the following four years, when determining the numbers of tender to invite etc, to the following year only.
- The requirement to require contractors to have performance bonds in place for any contracts in excess of £2million has been changed to a requirement for works contracts only in excess of the current EU procurement thresholds (currently £4,104,394) and services contracts with values within Contract Category 4 (£1million) or above only.
- The arrangements for completing Final Accounts have been reviewed and updated.
- New arrangements are included within the PRs for reporting breaches of the PRs to the Corporate Governance Group, Audit and Governance Committee.
- The PRs include a new provision requiring Spending Control Officers, on receipt of a request from a contractor to assign all or part of a contract, to undertake the same checks as those undertaken for the current contractor before approving the assignment.
- The minimum cover for consultants' Professional Indemnity (PI) Insurance has been increased from £1million to £2million.
- The Section on disposals and property transactions within CSOs has been revised for the PRs to separate out those requirements relating to delegated authorities (which have been transferred to the Schedule of Delegation, elsewhere in the Constitution), to update the provision and to delete references to acquisitions – since they do not sit appropriately with the Procurement Rules and are better dealt with through reports to portfolio holders or Cabinet, as is now the case in practice.
- Unlike CSOs, the PRs provide a detailed Glossary and Definitions of Terms at Appendix 2. Terms referred to within PRs, that are covered by the Glossary, are denoted with Capitalised Initials.
- A list of documents that support the operation of the PRs, and are referred to within the PRs, are listed at the beginning of the document, together with hyperlinks to the documents held on the Council's Intranet.