



CORPORATE GOVERNANCE COMMITTEE – 26th JANUARY 2024

CONTRACT PROCEDURE RULES UPDATE

JOINT REPORT OF THE DIRECTOR OF CORPORATE RESOURCES AND THE DIRECTOR OF LAW AND GOVERNANCE

Purpose of the Report

1. The purpose of this report is to:
 - a. report on the operation of the Contract Procedure Rules between 1st July 2022 and 30th September 2023.
 - b. propose that recommendations to the County Council are made to revise the Contract Procedure Rules.

Background

2. Rule 8 (Annual Reporting) of the Council's Contract Procedure Rules stipulates that the Director of Corporate Resources, in consultation with the Director of Law and Governance, shall at least once in each financial year submit a report to the Corporate Governance Committee in relation to the operation of these Rules. This includes (amongst other things) details of the approved exceptions to these Rules and approved extensions to a contract where this has not been provided for in the contract, and to set out any proposed revisions to the Rules and/or changes required to accommodate the requirements of UK and EU procurement law, as may be necessary from time to time.
3. Following consideration by the Committee, proposed revisions to the Contract Procedure Rules will be submitted to the County Council at its meeting for approval.

Approved Exceptions to the Rules

4. Between 1st July 2022 and 30th September 2023 one hundred and forty-one approved exceptions, which are allowed for under Rule 6 of the Contract Procedure Rules (CPRs) have been recorded in the Exceptions Logs maintained by the Council's Commissioning Support Unit and Chief Officers. Full details of these are set out in Appendix A attached to this report.
5. A comparative table of approved exceptions over the last 5 years is provided in Table 1 below.

Table 1: Comparison of Approved Exceptions			
Period	Number of Approved Exceptions	Total Value of Approved Exceptions	No. of Exceptions above relevant UK Threshold
1 July 2021 to 30 June 2022	81	£21.6m	7
1 July 2020 to 30 June 2021	33	£11.4m	5
1 July 2019 to 30 June 2020	20	£1.9m	2
1 July 2018 to 30 June 2019	13	£1.8m	3
1 July 2017 to 30 June 2018	18	£1.2m	None

6. From Table 1 in comparison to the previous year there has been a further increase in the number of exceptions granted, even with the extended reporting period. Eight of these were above the Public Contract Regulations (PCR) 2015 threshold which is comparable to last year. Of those eight, in line with the Contract Procedure Rules, three did not require approval by the Cabinet for the reasons outlined in Appendix A attached. The other five did require approval and were so approved. Links to the relevant Cabinet reports are provided within Appendix A.
7. The increase in exceptions is attributed to tighter controls being implemented by the Commissioning Support Unit with the purpose of increasing visibility and improving compliance particularly around under threshold spend. This has led to exceptions being used to allow time to procure a compliant solution. Departments are working closely with the Commissioning Support Unit to develop more detailed pipelines to increase accountability and early visibility.

Approved Contract Extensions and Modifications where no provision in the Contract

8. During the same reporting period, 1 July 2022 to 30th September 2023, in compliance with Rule 30(c), Rule 30(g) and Rule 30(h) of the CPRs there were thirty-eight approvals for contracts either where there was no provision within the original contract for an extension or where the proposed contract variation required such approval. Details of these are set out in Appendix A attached to this report.
9. In total fourteen of the contract extensions/modifications involved contracts whose value was above the relevant UK threshold. Eleven were for contract extensions and two were contract modifications as detailed in Appendix A attached to this report.

10. A comparative table of approved contract extensions and modifications over the last 5 years is provided in Table 2 below.

Table 2: Comparison of Approved Contract Extensions and Modifications			
Reporting Period	Number of Approved Extensions/Modifications	Total Value of Contracts (including value of approved extensions/modifications)	No of Extensions/Modifications above relevant UK Threshold
1 July 2021 to 30 June 2022	13	£26m*	6
1 July 2020 to 30 June 2021	7	£26.3m*	2
1 July 2019 to 30 June 2020	7	£160.8m*	1
1 July 2018 to 30 June 2019	7	£132.5m*	2

* Includes value of contracts not caught by the full Public Contracts Regulations regime.

11. Comparison over the last few years from 2018/2019 to 2021/2022 shows an increase in the number of contract extensions (without an extension provision) or contract variations being approved exceeding the UK Thresholds in the Public Contract Regulations (PCR) 2015.
12. Chief Officers continue to collectively review all contract exceptions, extensions and modifications on a quarterly basis, as part of corporate performance monitoring.

Proposed Revisions to the Contract Procedure Rules

13. It is proposed that a number of changes are made to the Council's Contract Procedure Rules. The proposed revisions to the Rules have been drafted and these are set out in Appendix B attached to this report. These include:
- a. Amendments to Rule 6 and Rule 30 for exceptions, extensions, and modifications– providing more clarity and increased authorisation.
 - b. Addition of the scheme of delegation for contract signing.
 - c. Addition of the Provider Selection Regime.
14. The revisions to the Rules are supported by the Director of Law and Governance and the Director of Corporate Resources and will be presented to the County Council on 21st February 2024 for approval, (subject to this

Committee's agreement).

15. Should the County Council approve the draft revised Contract Procedure Rules the new Rules will come into force immediately and will be published on the Council's internet and intranet sites and communicated to all relevant managers and staff within the Council as appropriate.
16. The Government has introduced new legislation in 2024 for the UK regarding procurement – Transforming Procurement which replaces the PCR 2015. A further report will be brought to the Committee with proposals to bring the Contract Procedure Rules in line with this legislation, this is likely to be May 2024.

Future reporting arrangements

17. For future reports on the operation of the Contract Procedure Rules the reporting period covered will be amended from 1st July to 30th June, to 1st April to 31st March (Q1 to Q4) to align with the financial year. The report to the Corporate Governance Committee will then be presented every May to allow for capture of annual changes to the Contract Procedure Rules.

Equality Implications

18. The Rules ensure that all potential suppliers and suppliers receive equal treatment when bidding for contracts.

Human Rights Implications

19. The Rules ensure that all procurements consider human right implications before commencing. There are no human rights implications for this report.

Recommendations

20. It is recommended that:
 - a. the contents of this report on the operation of the Contract Procedure Rules between 1 July 2022 and 30 September 2023 be noted along with the new proposed reporting dates.
 - b. that the County Council be recommended to approve the proposed amendments to the Contract Procedure Rules, as set out in Appendix B to this report.

Background Papers

The Constitution of Leicestershire County Council

<https://democracy.leics.gov.uk/ieListDocuments.aspx?CId=1187&MId=7661&Ver=4&Info=1>

Circulation under the Local Issues Alert Procedure

None

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Appendices

Appendix A - Details of approved Exceptions and Contract Extensions/ Modifications
(June 2022- September 2023)

Appendix B - Proposed changes to the Contract Procedure Rules

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