

WIRRAL COUNCIL

AUDIT AND RISK MANAGEMENT COMMITTEE

15 APRIL 2013

SUBJECT:	PROPOSED REVISED COUNCIL FINANCIAL REGULATIONS AND CONTRACT PROCEDURE RULES, DRAFT FOR CONSULTATION
WARD/S AFFECTED:	ALL
REPORT OF:	CHIEF EXECUTIVE
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

1.1 This report sets out proposed revised Contract Procedure Rules, in draft form, for consideration and comment by Audit and Risk Management Committee.

2.0 BACKGROUND AND KEY ISSUES

2.1 The council's current Contract Procedure Rules (CPR's) have been in place for some years and have been subject to periodic changes and additions at various times, predominantly in response to actions resulting from internal and external reviews.

2.2 Alongside proposals to revise the Council's Constitution as part of the council's Improvement Plan, proposals are also being developed to revise the council's Financial Regulations and Contract Procedure Rules. Appendix 1 of this report sets out initial draft proposed CPR's for comment. Draft revised Financial Regulations will follow for consideration and comment.

2.3 The proposals to revise the contract procedure rules are based on the following principles:

- i) respond in part to the overall commitment given to review the council's Constitution and Schemes of Delegation as part of the council's Improvement Plan and also to respond to recommendations of the recent Peer Challenge in respect of clarification of Member and Officer roles and responsibilities.
- ii) form part of the response to the HESPE report and the resultant Action Plan, both in terms of the CPR's themselves and also using any approved, revised rules and documentation as part of specific staff training on Procurement and Contract Procedures.
- iii) respond to a position where the existing CPR's require updating to take account of current and potential future developments, for example, joint commissioning with other authorities and organisations, shared services with other councils and the council's role as commissioner of services with a variety of private, voluntary, community and faith organisations.
- iv) the need to integrate existing functions with new functions and responsibilities in particular Health.

- 2.4 The review of the council's CPR's has to date involved a small group of key users from across the council comprising officer representation from those parts of the council who have greatest involvement in the letting of contracts. The group also includes input from Health, taking account of the council's new Health functions from 1.4.2013 and also input from Internal Audit.
- 2.5 In carrying out the review and producing the draft for comment at Appendix 1, early consideration was given whether to further modify the existing Wirral CPR's or to take as a starting point a successfully operating set of CPR's from another source and consider them in the Wirral context, to facilitate the wider debate on such issues as put forward by the Improvement Board. The decision was taken to use a set of CPR's from Cheshire West and Cheshire Council (with their permission) as the starting point for the review and as the basis for Wirral's proposed procedures. There are a number of perceived benefits from this approach:
- it forms part of the council looking beyond its boundaries at practice elsewhere more pro-actively than has been the case in the past.
 - it provides the starting point of a tried and tested process in a similar organisation which has already been the subject of internal and external scrutiny.
 - greater commonality between Wirral's CPR's and those of other authorities, particularly Cheshire West and Chester given the geographical adjacency, will make it more straightforward to build on the existing shared service relationships, and potential future opportunities for greater joint working.

The intention therefore has been to make minimum alterations to this starting point for review, to take account of any specific local structures and circumstances but to preserve as much of the commonality as possible. The intention is that, taking account of comments and responses to the draft, that the revised CPR's and Financial Regulations will support and integrate with agreed revisions to the council's Constitution.

- 2.6 The proposed revised CPR's seek to clarify the Member/Officer role in that decisions relating to the awards of contracts are defined as an officer responsibility, with Members holding officers to account, discussing and questioning decisions through the Scrutiny Committees.
- 2.7 The proposed revisions introduce a simplified procedure for individual items of expenditure below £500. This takes account of the disproportionate amount of time incurred by staff using the current procedure to achieve purchases of one off, specific goods/services of a value less than £500. The existing Wirral thresholds of up to £10,000 (3 quotes), £50,000 (5 quotes) and contracts and services in excess of £50,000 remain in place in the proposed procedure, with greater clarity and detail in respect of Goods and Services and works contracts up to OJEU Thresholds for both Goods and Services and Works.
- 2.8 The proposed revisions also seek to simplify and clarify officer roles in respect of contract variations and proposals. Relevant Heads of Service could agree contract variations over the value of the original contract by up to 20%, with values in excess of 20% requiring the approval of the Head of Procurement. This threshold could be lower in the final document and any decisions taken by Heads of Service would be subject to

the scrutiny process at 2.6 above. Contract awards would be reported to Members to allow the selection of contracts for additional scrutiny.

3.0 RELEVANT RISKS

3.1 There are serious financial, legal and reputational risks to the council when CPR's are not followed. The intention of this review and revised rules is to ensure that rules are more clearly defined and therefore accountability made clearer, that additional detail and guidance is available from the one source and that procedures are simplified and speeded up for the lowest value purchases.

4.0 OTHER OPTIONS CONSIDERED

4.1 Using the existing Wirral CPR's as a starting point was considered but it was felt that there were advantages in using a tried and tested set of CPR's had advantages, both in terms of the wider council Improvement Plan and also the more practical, operational reasons set out in this report.

5.0 CONSULTATION

5.1 This report is brought to the Audit and Risk Management Committee as a draft revised set of CPR's for consideration and comment.

6.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

6.1 None in the overall council CPR's. A further report will provide more detail on the specific HESPE Action Plan.

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

7.1 The revised, proposed CPR's are intended to provide clear processes, with relevant procedures set out, which are intended to support a clear and transparent contracting process, including with the Voluntary, Community and Faith sector.

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

8.1 None arising directly from this report.

9.0 LEGAL IMPLICATIONS

9.1 The revised CPR's are intended to ensure that the council's procurement processes are legal, and therefore reduce the risk of challenge.

10.0 EQUALITIES IMPLICATIONS

10.1 There are no specific relevant equality factors resulting from this report.

11.0 CARBON REDUCTION IMPLICATIONS

11.1 None.

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

12.1 None.

13.0 RECOMMENDATION/S

- 13.1 - That the principle of revising the council's CPR's be agreed, using the methodology set out in this report.
- That the detailed working draft at Appendix 1 be considered and the Committee give its comments and views.

14.0 REASON/S FOR RECOMMENDATION/S

14.1 Eventual adoption of revised procedures.

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APPENDICES

Appendix 1 – Working Draft

REFERENCE MATERIAL

- Existing Wirral CPR's
- Cheshire West and Chester Council CPR's
- Working group notes and drafts
- Improvement Plan
- HESPE Action Plan

Briefing notes – nil

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet Meeting	22 September 2011
Cabinet Meeting	21 July 2011
Cabinet Meeting	23 June 2011

Equality Impact Assessment Toolkit (from May 2012)

Section 1: Your details

EIA lead Officer: David Armstrong
Email address: davidarmstrong@wirral.gov.uk
Head of Section: David Armstrong
Chief Officer: Julia Hassall
Department: Children and Young People's Department
Date: 5 April 2013

Section 2: What Council proposal is being assessed?

Contract Procedure Rules

Section 2b: Will this EIA be submitted to a Cabinet or Overview & Scrutiny Committee?

Yes If 'yes' please state which meeting and what date

Audit & Risk Management Committee 15.4.13

<http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010/children-young-people>

Section 3: Does the proposal have the potential to affect..... (please tick relevant boxes)

- Services**
- The workforce**
- Communities**
- Other** (please state eg: Partners, Private Sector, Voluntary & Community Sector)

If you have ticked one or more of above, please go to section 4.

- None** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 4: Does the proposal have the potential to maintain or enhance the way the Council (please tick relevant boxes)

- Eliminates unlawful discrimination, harassment and victimisation
- Advances equality of opportunity
- Fosters good relations between groups of people

If you have ticked one or more of above, please go to section 5.

- No** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 5:

Could the proposal have a positive or negative impact on any of the protected groups (race, gender, disability, gender reassignment, age, pregnancy and maternity, religion and belief, sexual orientation, marriage and civil partnership)?

You may also want to consider socio-economic status of individuals.

Please list in the table below and include actions required to mitigate any potential negative impact.

Which group(s) of people could be affected	Potential positive or negative impact	Action required to mitigate any potential negative impact	Lead person	Timescale	Resource implications
Providers of services to the council/ organisations bidding for contracts	Positive impact re greater clarity and additional detail.	None	D Armstrong	Dependent upon Committee's views	Nil

Section 5a: Where and how will the above actions be monitored?

Report to the Audit & Risk Management Committee

Section 5b: If you think there is no negative impact, what is your reasoning behind this?

The subject of the report - Contract Procedure Rules is intending to replace an existing set of rules with a clearer system and more detailed documentation.

Section 6: What research / data / information have you used in support of this process?

New procedures based upon existing tried and tested documentation in another authority.

Section 7: Are you intending to carry out any consultation with regard to this Council proposal?

Yes– (please delete as appropriate)

If 'yes' please continue to section 8.

If 'no' please state your reason(s) why:

(please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 8: How will consultation take place and by when?

Consultation with internal user groups in the council and with Audit and Risk Management Committee.

Before you complete your consultation, please email your preliminary EIA to equalitywatch@wirral.gov.uk via your Chief Officer in order for the Council to ensure it is meeting it's legal requirements. The EIA will be published with a note saying we are awaiting outcomes from a consultation exercise.

Once you have completed your consultation, please review your actions in section 5. Then email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for re-publishing.

Section 9: Have you remembered to:

- a) **Include any potential positive impacts as well as negative impacts? (section 5)**
- b) **Send this EIA to your Head of Service for approval.**
- c) **Review section 5 once consultation has taken place and sent your completed EIA to your Head of Service for approval then to your Chief Officer for re-publishing?**