



FULL COUNCIL REPORT

Date Written	20 th May 2021
Report Author	Paul Davies
Service Area	Procurement
Exempt/Non Exempt	Non-Exempt
Committee Date	16 th June 2021

To: Mayor, Ladies and Gentlemen

Procurement Rules

1.0 SUMMARY OF THE REPORT

- 1.1 The existing procurement rules were approved by Council on 26th July 2017.
- 1.2 There is a 3 year cycle that is applied to update the rules.
- 1.3 This cycle was delayed due to the pandemic and the UK exit from Europe.
- 1.4 The procurement rules have now been revised.

2.0 RECOMMENDATIONS that

- 2.1 The revised Procurement Rules to come into effect on 1st July 2021 be approved.

3.0 INTRODUCTION AND BACKGROUND

- 3.1 Procurement Rules (standing orders) are made under section 135 of the Local Government Act 1972.
- 3.2 Procurement rules govern tendering and contract processes that the Council employs when buying goods, services and works.
- 3.3 They set out a series of rules and guidance to ensure that buyers across the council procure effectively and meet the basic requirements of proportionality, equality & transparency.

- 3.4 This updated version of the rules contains a number of minor changes and a small number of important changes.
- 3.5 The updated rules are contained in Appendix 1.

4.0 OVERVIEW OF CHANGES

- 4.1 References to EU/OJEU have been removed from the procurement rules throughout the document.
- 4.2 Key Messages - Confirmed procurement spend as commercial activity. Included the duty that procurement planning should include Wellbeing objectives.
- 4.3 Section 1 Exempt Contracts - Disposal of land includes reference to Case Law in respect of the 'Faraday Case' (when disposal of property/land assets must be subject to Procurement Rules).
- 4.4 Section 2 Excepted Contracts - Changed 'exemption' process to 'exception' process to avoid conflict with exempt contracts.
- 4.5 Section 4 Procurement Board - Minor changes to Procurement Board section.
- 4.6 Section 6 Thresholds for Procurement - Tendering thresholds and processes, now includes the term 'ring fenced'. Whereas the rules previously required a minimum 3 quotes or tenders, this now includes the opportunity to invite local companies where possible to help stimulate local opportunities.
- 4.7 Section 6 Thresholds for Procurement - The old Welsh Government sustainability risk assessment has been removed.
- 4.8 Section 6 Thresholds for Procurement – The previous lower limit of £5K to demonstrate best value only is now raised to £15K to help stimulate local spend.
- 4.9 Section 9 Framework Agreements - Minor change on the use of frameworks to ensure accessing frameworks are in accordance with framework rules.
- 4.10 Section 11 Insurance - Created a new dedicated insurance section.
- 4.11 Section 12 Supplier Selection – Now includes a requirement to check Cyber Essentials.
- 4.12 Section 14 Bonds and Securities - Bonds and securities now require a risk assessment to be undertaken.
- 4.13 Section 17 Electronic Tendering - Manual tendering removed from rules and states that manual processes are only to be used in the event of a long term system outage.
- 4.14 Section 19 Tender Process - All tenders conducted on our approved e-tendering system will be opened by procurement staff only, further supporting agile working. The system records all opening details.

- 4.15 Section 24 Contract Award - Contract Award section refers to the binding statement in the form of tender (Unless and until a formal agreement is prepared and executed to which I/We undertake to execute, this tender together with your acceptance thereof in writing, shall constitute a binding contract between us).
- 4.16 Section 26 Contract Management - Contract Management section now includes a non-exhaustive list of topics that should be monitored.
- 4.17 Section 28 Extensions - Included a new paragraph to illustrate permissible extensions of contracts.
- 4.18 Appendix A - The main change in the rules is highlighted in Appendix A. To date, all high level procurement activity has been reported to Cabinet for decision. The revised rules now seek to implement Chief Officer, Chief Finance Officer and Portfolio Member sign off as default. This is primarily to improve the time taken to award contracts and help officers in delivering an agile procurement process. The rules are clear that whilst the default is for officer/member signoff, any high value procurement project can be submitted to cabinet for a decision if it is deemed a requirement. In addition, all officer/member high value contract awards will be followed up with an information report.
- 4.19 Constructionline has been removed from the rules as it is not a mandatory requirement (pre-qualification tool).
- 4.20 Appendix M - To ensure a more holistic view of awards, a low value contract award report is now included in the rules. Low value (quotes) contracts will need to be reported to the Procurement Manager.
- 4.21 Appendix N - Variations to Contracts has been revised to remove Legal from the variations and extensions where there are no changes to terms and conditions ensuring that the right officers are signing off any changes.
- 4.22 Appendix P - Finally, the annual canvas of upcoming potential contracts has been simplified to maximise completion by departments.

5.0 FINANCIAL IMPLICATION(S)

- 5.1 There are no financial implications associated with the approval of the amended Procurement Rules.

6.0 INTEGRATED IMPACT ASSESSMENT

	Positive Impacts	Negative Impacts	Neutral/Not Applicable
1. Merthyr Tydfil Well-being Objectives	3 of 4	0 of 4	1 of 4
2. Sustainable Development Principles - How have you considered the five ways of working?	5 of 5	0 of 5	0 of 5

<ul style="list-style-type: none"> • Long term • Prevention • Integration • Collaboration • Involvement 			
3. Protected Characteristics (including Welsh Language)	0 of 10	0 of 10	10 of 10
4. Socio-economic Disadvantage	0 of 6	0 of 6	6 of 6
5. Consultation and Engagement	Undertaken	Due to be Undertaken	Not Required
	0 of 1	0 of 1	1 of 1
6. Data and Evidence to inform the proposal	Yes		No
	0 of 1		1 of 1
7. Biodiversity and the resilience of Ecosystems	Maintained	Enhanced	Reduced
	0 of 1	0 of 1	0 of 1
Summary			
The main positive impacts are:	Procurement Rules contain a duty to incorporate Wellbeing Objectives into procurement planning		
The main negative impacts are:	None		

ELLIS COOPER
CHIEF EXECUTIVE

COUNCILLOR ANDREW BARRY
CABINET MEMBER FOR GOVERNANCE
AND CORPORATE SERVICES

BACKGROUND PAPERS		
Title of Document(s)	Document(s) Date	Document Location
Does the report contain any issue that may impact the Council's Constitution?		YES

Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.