

<b>Contract Procedure Rules</b>
---------------------------------

Reference	CPR Jan 2018	Amendments	Change / Add
2.7.4	Refer to the section 151 Officer	Refer to Finance Procedure Rules – 4.62	Change
2.19		Where the Councils wholly or partly owned companies acts as agent for the Council then these Rules shall apply.	Add
2.22	(Members exercise their powers through Officers)	No Member may instruct Officers to act in a way that is inconsistent with these Rules.	Change
2.25	Prior to any procurement activity, the Commissioning Officer shall ascertain whether any Corporate Contract exists in relation to their requirements. Where such a Corporate Contract exists, it shall be best practice to utilise the Corporate Contracts.	Prior to any procurement activity, the Commissioning Officer shall ascertain whether any Corporate Contract exists in relation to their requirements. Where such a Corporate Contract exists, it is a requirement to utilise Corporate Contracts unless better value for money can be clearly evidenced.	Change
2.28	All Council employees (and third parties engaged on the Council's behalf) must take appropriate measures to effectively prevent, identify and remedy conflicts of interests. Any conflict of interest must be declared with the Officer Code of Conduct.	All Council Officers, Members (and third parties engaged on the Council's behalf) must take appropriate measures to effectively prevent, identify and remedy conflicts of interests. Any conflict of interest must be declared in accordance with the Officer Code of Conduct and the Members Code of Conduct.	Change
2.38		Copies of the contracts will be provided to Legal Services for retention.	Add
2.39	Expenditure Approval Process	All Officers requiring to commit expenditure in order to acquire goods, services or works on behalf of the Council must: <ul style="list-style-type: none"> <li>• Obtain the prior approval of the relevant decision maker who has authority to give such approval under the constitution. This approval is subject to having sufficient budgetary provision and being included in the Councils capital programme or revenue budget</li> <li>• Complete a business case and risk log for all</li> </ul>	Change

		<p>expenditure over £250k which is approved by the Commissioning and Procurement Board</p> <ul style="list-style-type: none"> <li>• Ensure that supplies of a similar type are procured together where it is practicable and cost effective to do so.</li> <li>• Consider the Social Value implications</li> <li>• Make sure that the appropriate authority is in place to start the process and spend the money in accordance with the appropriate local scheme of delegation;</li> <li>• Make sure that there is enough money in the budget to cover the total whole life financial commitment being made (including any consultants or other external charges or fees);</li> <li>• Make sure that the Forward Plan and publicity requirements have been followed where the purchase is a Key Decision.</li> <li>• Give regard to Best Value and the Public Sector Equality Duty and ensure consultations with the public have been carried out as required.</li> </ul>	
2.40		The Council endeavours to consider how it can help achieve sustainable development through its work by ensuring that there are good working conditions for our suppliers' employees, the products and services procured are sustainable and that social-economic issues, such as equality and poverty, are addressed.	Change
2.41		Remove "endeavour to"	Remove
3.5	When issuing Requests for Quotations for below EU Threshold Contracts, Officers should consider	When issuing Requests for Quotations for below EU Threshold Contracts, Officers should consider whether the Contract may be of	Change

	whether the Contract may be of interest to organisations / individuals in other EU Member States and explain any concerns to the Procurement Manager	interest to organisations / individuals in other EU Member States and takes advice from the CPU	
4.1	Should be	Must be	Change
5.12		The Director of Legal Services and the Section 151 Officer should be involved in any procurement exceeding £1m in value.  Members should not be involved in any Evaluation Panel.	Add
7	Whole waiver process	It is strongly expected that these Rules will be followed in all cases with very limited exceptions, however, in the event a Commissioning Officer believes a waiver to these Rules is essential to the efficient running of the Service they must seek a waiver by producing a report that must be approved by;  £10,000 - £25,000 - the Procurement Manager Above £25,000 - the S.151 Officer and the Director of Legal Services  The report must be in accordance with the prescribed format available from the CPU. The format of the report shall be determined by the Procurement Manager, and must be used in line with any associated guidance published:  (a) Advice and guidance must be sought from the Procurement Manager prior to submission of the waiver form to the S.151 Officer and Director of Legal Services. If approval is granted, it is still required that an appropriate contract be entered into prior to any requirements being provided by the provider.  (b) The waiver of these	Change

		<p>Rules and the reason(s) for waiver shall be clearly recorded and reported to the Commissioning and Procurement Board.</p> <p>Exemptions from the above requirements may be agreed for instances of</p> <ul style="list-style-type: none"> <li>• <b>extreme urgency</b>, where there is an <b>immediate</b> risk to <b>life, property</b> or an <b>individual's safety and wellbeing</b>, and any inaction by the Council (related to risks to safety and wellbeing) would be a breach of our statutory duty and obligations.</li> <li>• Significant reputational risk or where such an exemption is required to ensure continuity or to safeguard the Councils interests.</li> <li>• Where there is genuinely only one approved supplier, such as for works of art, copy right material, or unique technology, where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the procurement.</li> <li>• The selection of a supplier whose usage is a condition of a Grant funding approval.</li> <li>• The selection of a supplier on the instruction of a third party, providing the whole of the funding is met by the third party.</li> </ul> <p>The agreement of the Procurement Manager must be sought prior to any action being taken except where the nature of the urgency and risk renders this impractical. Such instances must be reported at the earliest opportunity, retrospectively, to the S.151 Officer and Director of</p>	
--	--	---	--

		Legal Services and the relevant Executive Director following the incident.	
7.4	No Officer or Member, may seek to actively avoid the application of these Rules.	without following the necessary waiver process outlined within these Rules - Remove	Remove
7.7	immediately to the Section 151 Officer	and the Director of Legal Services.	Add – after S151 Officer
7.9	Remove – appropriate	Replace - next	Change

## Key Decisions

All procurements with a contract value above £1m are a Key Decision and require Cabinet approval before a formal contract can be entered into. This is for all expenditure including operational expenditure.

Cheshire West and Chester have an exemption within their constitution for a Key Decision;

### Definition of Key Decision

4.1 A Key Decision is any Cabinet Decision (regardless of who takes it) which is likely to: -

(a) result in expenditure (except internal operational expenditure on things like advertising, locum staff, office cleaning services, library books, vehicles, consumables, utilities etc...) or savings of £1million or more; or,

(b) have a significant effect on communities living or working in an area comprising two or more wards.

This means that any operational expenditure that is already within approved budgets does not require a Cabinet decision.

An example of this is the Microsoft Desktop Licencing Agreement. This is £3.7m for 3 years. Under CEC constitution this requires Cabinet approval, however under CWaC this is classed as operational expenditure that has already been approved at Council and is within agreed budgets.

Other examples which fall into this are stationary, translation and interpretation and Energy.

It is proposed that Cheshire East have a similar exemption which allows the council to procure and enter contracts for operational expenditure which is already within council budgets. The authorisation as to whether the expenditure is operational or not should sit with the Commissioning and Procurement Board.