

RHONDDA CYNON TAFF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2014-2015

**COUNCIL
21st MAY 2014**

Agenda Item No. 7

**REPORT OF THE DIRECTOR OF
LEGAL AND DEMOCRATIC SERVICES**

**PROPOSED AMENDMENTS TO THE
CONSTITUTION**

Author: Andy Wilkins, Corporate and Democratic Services Solicitor

1. PURPOSE OF REPORT

To seek Council's approval of amendments to the Constitution.

2. RECOMMENDATIONS

Allocation of Notices of Motion

- 2.1 To allocate the 20 notices of motion as required by Council Procedure Rule 10(2)(a).

`Working Days` for Questions and Notices of Motions

- 2.2 To consider amending Council Procedure Rule 9.4(a) to read as follows: -

- (a) the question has been received by the Proper Officer not later than 5.00 p.m. at least eight clear working days (not including the date of the meeting) before the date of the meeting; or

- 2.3 To consider amending the final bullet point of Council Procedure Rule 10.1(b) to read as follows:-

- received by the Proper Officer not later than 5.00 p.m at least eight clear working days (not including the date of the meeting) before the date of the meeting or, in any case where the Mayor certifies that the subject matter is urgent and at the meeting gives reasons for its urgency, delivered to the Proper Officer before the start of the meeting.

Scrutiny Call-In

- 2.4 To seek instructions from Council on whether to amend Overview and Scrutiny Procedure Rule 17.1 in accordance with paragraph 6.5 of this report.

Remote Attendance

- 2.5 To amend the Council's Constitution and rules of procedure to prohibit remote attendance by Members at meetings of the Authority but that this position be reviewed at the next Annual Meeting.
- 2.6 In accordance with the requirements of the Local Government (Wales) Measure 2011 relating to remote attendance, to amend the Council's Constitution and rules of procedure to confirm that there is no quorum for a meeting of the authority at any time when the number of Members in actual attendance constitutes less than 30% of the total number of Members in attendance at the meeting.

Webcasting

- 2.7 To determine whether or not to:
- 2.7.1 continue the webcasting pilot; and
- 2.7.2 adopt a policy on the webcasting of Council meetings.

Corporate Governance and Constitution Committee

- 2.8 To note the work undertaken during the last municipal year by the Corporate Governance and Constitution Committee as set out in paragraph 9 of this report particularly in relation to the new Welsh Model Constitution.

The Council's Contract Procedure Rules

- 2.9 To adopt the Contract Procedure Rules as set out in Appendix 2 to this report.

Pre Scrutiny

- 2.10 To note the developments in relation to pre-scrutiny as set out in paragraph 11 of this report.

Freedom of the County Borough Working Group

- 2.11 To formally establish a Freedom of the County Borough Working Group, comprising the Mayor (Chair), the Leaders of each political group and the Cabinet Member for Council Business and Public Relations and agree that the recommendations of the Working Group presented to Council must be unanimous.

Nomination of deputy Section 151 Officer

- 2.12 To note that Chris Lee, Group Director - Corporate Services (in his capacity as Section 151 Officer) has nominated Barrie Davies, Director of Finance to act as deputy Section 151 Officer in his absence.

- 2.13 That the Director of Legal and Democratic Services amend the Council's Constitution to reflect the required amendments and make any consequential changes.

3. BACKGROUND

- 3.1 The Council's Constitution was adopted in May 2002 and sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that they are efficient, transparent and available to local people. The Constitution is a 'living document' in that it is constantly being updated and revised to reflect new Government legislation and improvements in procedures gained in light of experience.

4. ALLOCATION OF NOTICES OF MOTION

- 4.1 Council Procedure Rule 10.2(a) specifies that motions of which notice must be given be limited to a maximum of 20 in each municipal year and the allocation between political groups for the following municipal year shall be determined at the Annual Meeting.

- 4.2 For the last municipal year the Notices of Motion were allocated on the following basis:

Labour – 11
Plaid Cymru - 5
Independent Group – 2
Democratic Alliance Group - 1
Unallocated Member (1) - 1

- 4.3 The 20 motions need to be allocated for the municipal year 2014-2015.

5. AMENDMENT TO SUBMISSION DEADLINES FOR QUESTIONS ON NOTICE AND MOTIONS ON NOTICE

- 5.1 At present the deadlines for submitting questions on notice and motions on notice are calculated by reference to calendar days.

- 5.2 To regularise the current position with other deadlines set out in the Constitution Members are asked to consider amending the provisions relating to the submission deadlines of both questions on notice and motions on notice by reference to eight 'clear working' days in both cases.

Questions On Notice

- 5.3 To amend Council Procedure Rule 9.4(a) to read as follows: -

- (a) the question has been received by the Proper Officer not later than 5.00 p.m. at least eight clear working days before the date of the meeting; or

Motions On Notice

- 5.4 To amend the final bullet point of Council Procedure Rule 10.1(b) to read as follows:-
- received by the Proper Officer not later than 5.00 p.m at least eight clear working days before the date of the meeting or, in any case where the Mayor certifies that the subject matter is urgent and at the meeting gives reasons for its urgency, delivered to the Proper Officer before the start of the meeting.

6. SCRUTINY

CALL-IN OF DECISIONS

- 6.1 Members will recall at the last Annual Meeting they resolved to amend the Council's Overview & Scrutiny Procedure Rules. The rules were amended to enable any three Scrutiny Members to call-in a decision to the relevant Scrutiny Committee whilst retaining the requirement for a call-in to be by three Scrutiny Members from at least two political groups. Further, the time-limit on individual Scrutiny Members was changed from one call in per three month period to one call-in per two month period.
- 6.2 In the interests of openness and transparency and to aid the democratic process it is proposed that the rules be further amended to enable any three Non-Executive Members to call-in a decision to the relevant Scrutiny Committee. This would allow those Members not on any Scrutiny Committees the opportunity to call-in decisions (subject to meeting the remaining criteria).
- 6.3 The requirement for a call-in to be by three Scrutiny Members from at least two political groups will also be amended. It is proposed the requirement now stipulate that a call-in must be by any three Non-Executive Members from either (i) at least two political groups or (ii) in the case of an unallocated Member(s) that unallocated Member(s) and a Member(s) from a political group.
- 6.4 For the sake of clarity and transitional purposes the proposed amendment would apply to all Cabinet decisions made post 21st May 2014.
- 6.5 Members are therefore asked to consider amending paragraph 17.1 of the Overview and Scrutiny Procedure Rules to read as follows:-

For the benefit of Members changes are highlighted

17. Call-In

17.1 Rules

- (a) Where a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet or an Area Committee or under joint arrangements, the decision shall be published by the Proper Officer, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 clear working days of it being made. All Members of the Overview and Scrutiny Committee and Service Scrutiny Committees will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented, on the expiry of 5 clear working days after the publication of the decision, unless the Overview and Scrutiny Committee or Service Scrutiny Committees objects to it and calls it in for review.
- (c) During that period the Monitoring Officer shall call-in a decision for scrutiny by the Overview and Scrutiny Committee or Service Scrutiny Committees if so requested in the specified format by any 3 Scrutiny **Non-Executive** Members and, shall then notify the decision taker of the call-in. He/she shall convene a meeting of the Overview and Scrutiny Committee or relevant Service Scrutiny Committee on such a date as he/she may determine, where possible after consultation with the Chairman or Vice-Chairman of the Overview and Scrutiny Committee or relevant Service Scrutiny Committee, and in any case the meeting will be held within 5 clear working days of the decision to call-in (only in exceptional circumstances will the Chairman of the Overview and Scrutiny Committee or relevant Service Scrutiny Committee consider extending this time limit).
- (d) As soon as the Chair of the Overview and Scrutiny or Service Scrutiny Committee signs a call-in form he/she shall cease to be the Chair for all purposes for the duration of the call-in process. If this situation arises then for the purposes of these Overview and Scrutiny Procedure rules references to 'Chair' of the Overview and Scrutiny Committee or Service Scrutiny Committee should be read as a reference to the 'Vice-Chair' of that Overview and Scrutiny Committee or Service Scrutiny Committee.
- (e) If, having considered the decision, the Overview and Scrutiny Committee or relevant Service Scrutiny Committee is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the

	<p>nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 5 clear working days, amending the decision or not, before adopting a final decision.</p>
(f)	<p>If following an objection to the decision, the Overview and Scrutiny Committee or relevant Service Scrutiny Committee does not meet within the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee or relevant Service Scrutiny Committee meeting, or the expiry of that further 5 clear working day period, whichever is the earlier.</p>
(g)	<p>If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decisions to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole, or a Committee of it, a meeting will be convened to reconsider within 5 clear working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within 5 clear working days of the Council's request.</p>
(h)	<p>If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is earlier.</p>
(i)	<p>In order to ensure the call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:</p> <ul style="list-style-type: none"> (i) the Overview and Scrutiny Committee and each of the Service Scrutiny Committees may only call-in a total of 3 decisions per 2 month period; (ii) any 3 Scrutiny Non-Executive Members (from either (i) at least two political groups <u>or</u> (ii) in the case of an unallocated Member(s) – that unallocated Member(s) and a Member(s) from a political group) are needed for a decision to be called in; (iii) once a Member has signed a request for call-in under paragraph 17 (call-in) above, he/she may not do so again until the period of 2 months has expired. (iv) No Education Co-opted Members may report a decision

to be called in.

- (j) The Monitoring Officer may veto any request for call-in if it falls outside the remit of this scheme.
- (k) Save in exceptional circumstances all Members requesting a matter be called in must attend the meeting at which the matter is being considered.

17.1A Reference to a 'clear working day' in these Overview and Scrutiny procedure rules is defined as the following: -

a complete period of 24 hours (excluding weekends and Bank Holidays), beginning and ending at midnight on the day in question.

Therefore, by way of example, for the purposes of these call-in rules it shall exclude the day on which the relevant Cabinet decision notice is published and the day on which the call-in meeting is held.

7. REMOTE ATTENDANCE AT COUNCIL MEETINGS

- 7.1 Section 4 of the Local Government (Wales) Measure 2011 (the 'Measure') allows elected members of a local authority to attend remotely (i.e. by an audio-visual link) a meeting of the authority. The objective being to make it easier for those who, for instance, may have to travel long distances, those with domestic responsibilities and those in employment to attend.
- 7.2 Members will recall that at the Council meeting held on the 24th July 2013, consideration was given to the Welsh Government's consultation document relating to remote attendance and the Council's response to that consultation was submitted by the deadline of the 21st August, 2013.
- 7.3 I can now confirm that the provisions relating to remote attendance contained in the Measure came into force on 28th February 2014. In April, the Welsh Government published the final Statutory Guidance to which the Council must have regard, in relation to meetings of an authority attended remotely in accordance with section 4 of the Measure. A copy of this guidance is annexed at Appendix 1 to this report. The Council will now need to take steps to take account of remote attendance and make amendments to the Constitution to reflect this.
- 7.4 Section 4 provides that attendance at a Council meeting is not limited to a meeting of persons who are all present in the same place. However, the section places certain limitations as to what constitutes remote attendance.

- 7.5 Any Member attending a meeting remotely (“remote attendee”) must, when they are speaking, be able to be seen and heard by the Members who are attending the meeting at the place where the meeting is held (“members in actual attendance”) and the remote attendee must, in turn, be able to see and hear those in actual attendance. In addition, a remote attendee must be able to be seen and heard by, and in turn see and hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting. If there is more than one remote location, all the Members attending remotely must be able to hear – but not necessarily see – the other remote attendees.
- 7.6 Meetings can only take place remotely if not prohibited by the Council’s rules of procedure. It is therefore up to Council to decide whether it wishes to make remote attendance available.
- 7.7 Paragraphs 7-18 of the guidance set out a range of issues that would need to be given consideration should Council consider supporting remote attendance.
- 7.8 In light of those issues I propose that the Council’s Constitution and rules of procedure be amended to prohibit remote attendance, at this stage, but that this position be reviewed at the next Annual Meeting. By this time Council will have the benefit of being able to receive feedback from other Local Authorities, who are trialling remote attendance, as to the success or otherwise of those trials and any issues that may arise from them.
- 7.9 However, in accordance with the requirements of the Measure, there is also a need to amend the Council’s rules of procedure to secure that any meeting with remote attendees is not quorate if there are less than 30% of those eligible to attend present at the main meeting place. Council may set a higher quota for attendance at the main meeting place if it so wishes.

8. WEBCASTING PILOT AND GRANT MONIES

- 8.1 At the Council meeting held on the 24th July, 2013, I advised Members of the changes to the grant conditions of funding for webcasting of meetings/remote attendance, when it was agreed that the grant monies be used to pilot remote attendance and webcasting of Cabinet and the results be reported back to the Council’s Annual Meeting to take an informed decision on whether to undertake remote attendance and live broadcasting.
- 8.2 As reported in paragraph 7 above, the final statutory guidance has been received from the Welsh Government in respect of Remote Attendance and whilst some meetings of the Cabinet have been webcast live, arrangements are being made for a remote attendance of a Cabinet meeting in the very near future, again using the grant monies. All local authorities in Wales have been advised that any

remaining monies from the grant funding can be carried over to the financial year 2014/15.

- 8.3 It is now for Council to determine what steps to take on the continuation of the pilot and the adoption of any policy with regard to webcasting.

9. CORPORATE GOVERNANCE AND CONSTITUTION COMMITTEE

- 9.1 Members will recall that at the last Annual Meeting they resolved to appoint a Corporate Governance and Constitution Committee.

- 9.2 I also confirmed to Members that a new 'Model Constitution' for local authorities in Wales was in development which presented an opportunity to improve the 'articles' format of the 2001 Wales Model Constitution (upon which the Council's current Constitution is based) and move towards a more simplified and 'user friendly' modular version.

- 9.3 The new Model Constitution itself was completed during the last municipal year and as part of the Corporate Governance and Constitution Committee's work-programme for this municipal year it will oversee the transfer of the Constitution into the new user-friendly format before presenting its recommendations as to its adoption to full Council. Initially, there will be no change in content but better clarity of presentation. It is expected this exercise will be completed by the end of the calendar year.

- 9.4 During the last municipal year the Corporate Governance and Constitution Committee met on 4 occasions as shown below:

- 10th October, 2013 – Received a presentation from Director, Legal and Democratic Services on the "All Wales Modular Constitution";
- 14th November, 2013 – Reviewed Sections 1-4 of the new Model Constitution through comparison with the Council's current Constitution – Part 1 Summary and Explanation, Part 3 Responsibility and Functions and Part 4 Rules of Procedure;
- 14th February, 2014 – Proposed amendments to the Constitution – 1) Family Absence for Members of Local Authorities (Wales) Regulations 2013 and 2) Terms of Reference of the Scrutiny Service Committees, which were approved at the Council meeting on the 26th February, 2014; and
- 2nd April, 2014 – 1) Presentation from Mr.V.Hanly, Service Director, Procurement in respect of the proposed amendments to be made to the Constitution in respect of Contract Procedure Rules and 2) Local Government (Wales) Measure 2011 (Commencement Order No.3) Order 2014 relating to Remote Attendance.

10. THE COUNCIL'S CONTRACT PROCEDURE RULES

- 10.1 The Council's Contract Procedure Rules must be kept under continuous review to ensure they reflect changes in contracting and best practice.
- 10.2 The WLGA model for Contract Procedure Rules was published in March 2013.
- 10.3 Senior Procurement Officers have since been working to update this Council's Contract Procedure Rules in line with the WLGA model and other guidelines.
- 10.4 A brief summary of main changes is as follows:-
- Changes in threshold values – updated in line with WLGA Model for Contract Procedure Rules (which were developed as a mechanism for standardising CPRs across Local Government in Wales and to remove barriers for SMEs accessing public contracts).
 - Sustainable Procurement – improved rules and guidance on social and environmental aspects, including community benefits guidance (requirement to consider social, economic & environmental issues and equality considerations / Welsh language obligations when making procurement decisions).
 - Contract Management System – Limit for recording contracts on the system changed to £25k (previously £50k) to increase transparency and to support strategic procurement.
 - Emphasis on making use of the Contract Management System to support e-Tendering processes - updated in line with Welsh Procurement Policy requirements and expected changes under the new EU Procurement Directives (system supports efficient procurement in a controlled and secure environment).
 - Revised approval procedures for exemption requests and other special circumstances.
- 10.5 As noted in paragraph 9 above the Corporate Governance and Constitution Committee considered the proposed amendments at its meeting on 2nd April 2014.
- 10.6 It is now for Council to consider whether it wishes to adopt the amended Contract Procedure Rules as set out in Appendix 2 to this report.

11. PRE-SCRUTINY

- 11.1 At the last Annual Meeting I reported to Members about the planned pre-scrutiny of the Council's Annual Delivery Report prior to it being presented to Council.
- 11.2 That exercise took place in October 2013 where meetings of the four Scrutiny Service Committees and the Overview and Scrutiny Committee were held in order to facilitate this process. A report was subsequently presented to Council on the 30th October 2013 for approval of the Annual Delivery Report to accord with the statutory deadline of 31st October 2013.
- 11.3 Following on from the success of this exercise a process of pre-scrutiny of the Council's Corporate Plan's WPI action plans has now been implemented with scrutiny working groups established to scrutinise each of the WPI action plans.
- 11.4 The Overview & Scrutiny Committee is scheduled to meet in early June to receive feedback from the working groups before presenting its findings to full Council prior to Council being asked to approve and endorse the Corporate Plan by 30th June.
- 11.5 If the proposed process proves to be successful for the WPI action plans contained in the Corporate Plan, then the same arrangements can be implemented for the scrutiny of plans contained in the Annual Delivery Report. This would be during Summer-Autumn of 2015, as Members will need to 'follow' these WPI plans through a full cycle of reporting before being able to scrutinise activity and performance.

12. FREEDOM OF THE COUNTY BOROUGH WORKING GROUP

- 12.1 The Freedom of the Borough is the highest accolade that the County Borough can bestow and is usually granted for outstanding service to, or achievement associated with, the County Borough of Rhondda Cynon Taf. It is generally considered that the number of people receiving this status should be few in number to maintain the importance of the accolade. To date, the Freedom of the County Borough of Rhondda Cynon Taf has been awarded to the Royal Welsh Regiment, Stuart Burrows, the Miners of South Wales, the Welsh Guards and Dr. Elaine Morgan OBE.
- 12.2 To clarify the existing process it is proposed that a Freedom of the County Borough Working Group be formally established, comprising the Mayor (Chair), the Leaders of each political group and the Cabinet Member for Council Business and Public Relations and that the recommendations of the Working Group presented to Council must be unanimous.

13. NOMINATION OF DEPUTY SECTION 151 OFFICER

- 13.1 Members will recall that at the Council meeting held on 27th November 2013 they resolved to designate Chris Lee, Group Director - Corporate Services as Section 151 Officer for this Council.
- 13.2 Members are asked to note that Barrie Davies, Director of Finance has been nominated by the Group Director – Corporate Services to act as deputy Section 151 officer in his absence.



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Statutory Guidance made under Section 4 of the Local Government (Wales) Measure 2011

Remote attendance at council meetings

REMOTE ATTENDANCE AT COUNCIL MEETINGS

Statutory Guidance made under Section 4 of the Local Government (Wales) Measure 2011

1. Part 1 of the Local Government (Wales) Measure 2011 (“the Measure”) was intended to strengthen local democracy by, in particular, introducing reforms which support councillors outside of the executive or executive members when acting in a non-executive capacity. One of these reforms, at section 4 of the Measure, was the introduction of the possibility of remote attendance at council meetings. This was intended to make it easier for those who, for instance, may have to travel long distances, those with domestic responsibilities and those in employment to attend.
2. This guidance is statutory guidance under section 4(6) of the Measure, to which a local authority must have regard, in relation to meetings of an authority attended remotely in accordance with section 4.

What section 4 of the Measure says

3. Section 4 provides that attendance at a council meeting is not limited to a meeting of persons who are all present in the same place. By “council meeting” we include any committee or sub-committee of the council as well as the full council itself. However, the section places certain limitations as to what constitutes remote attendance.
4. Any member attending a meeting remotely (“remote attendee”) must, when they are speaking, be able to be seen and heard by the members who are attending the meeting at the place where the meeting is held (“members in actual attendance”) and the remote attendee must, in turn, be able to see and hear those in actual attendance. In addition, a remote attendee must be able to be seen and heard by, and in turn see and hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting. If there is more than one remote location, all the members attending remotely must be able to hear – but not necessarily see – the other remote attendees.
5. Meetings can only take place remotely if not prohibited by the local authority’s standing orders/rules of procedure. It is therefore up to each local authority to decide whether it wishes to make remote attendance available. The standing orders/rules must also secure that any meeting with remote attendees is not quorate if there are less than 30% of those eligible to attend present at the main meeting place. Authorities may set a higher quota for attendance at the main meeting place if they wish.
6. Each local authority may make other standing orders/rules in relation to remote attendance at meetings and must have regard to any guidance

given by Welsh Ministers. Our intention is to publish this guidance at the same time as the section of the Measure is brought into force.

Supporting remote attendance

7. The Welsh Government accepts that there are technical and staffing implications connected with the introduction of remote attendance. Where a number of councillors are expected to attend remotely at the same location, probably though not necessarily in a different council office from the place where the meeting is held, there may be a need for an officer to be present, both to support the members attending remotely but also to ensure that the equipment needed for remote attendance to function is operating correctly.
8. Local authorities will need to decide whether or not they wish to permit members of the public to be able to be present at a remote location. If so, an officer presence may be required to make arrangements for them.
9. There will clearly be a need to provide appropriate training for officers who might become involved in remote attendance, both to familiarise them with the requirements of the legislation and to cover the practical issues involved. The WLGA should be able to assist in this process.
10. The need to recognise equality between the Welsh and English languages has great significance when considering remote attendance. Local authorities will have their own Welsh language schemes but it is likely that facilities will exist – or could be made available – to cater for members who are unable to understand Welsh. It will be for each authority to ensure that any use of remote attendance is in keeping with their Welsh Language Scheme
11. It is also important for authorities to ensure that the needs of any disabled members are taken into account when considering the practicality of a remotely attended meeting.
12. It is proposed that standing orders should contain a provision that members should, whenever possible, be able to participate at a remotely attended meeting in either Welsh or English. However, it is the Welsh Government's policy that remote attendance should not be permitted if, for technical or other reasons, it would not be possible to provide simultaneous interpretation for non-Welsh speakers attending a meeting where both Welsh and English will be used. As such, local authorities may wish to ask members to note their language preference (in terms of speaking at meetings) and whether or not they would require simultaneous interpretation should any other participant speak in Welsh.
13. The Welsh Government does not take for granted that local authorities will possess the equipment or technological know-how to make remote attendance work to suit everyone. Someone attending remotely at home or work may have bandwidth limitations which affect their ability to take

part fully. Local authorities will need to decide for themselves the extent to which they will invest or assist members to have the necessary facilities to attend remotely.

14. There are times when council meetings are not open to the public, when confidential, or “exempt” issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration. It would be important to ensure that there are no members of the public at remote locations able to hear or see the proceedings during such meetings. Any member in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would be in breach of their Code of Conduct responsibilities.
15. Local authority standing orders can determine which types of meetings can be attended remotely. In the first instance, practical issues might dictate that the number of meetings which could enjoy this facility would be quite limited, though over time it would be hoped that the number of meetings where remote attendance were possible would increase.
16. The Measure requires that, for a remotely attended meeting to be quorate, a certain proportion of councillors must be in actual attendance at the meeting. Should this be disturbed by members in actual attendance at the main meeting place leaving the meeting before it is finished, bringing about a higher than permitted proportion of councillors attending remotely, the chair would have no choice but to close the meeting.
17. Standing orders should also make provision about what should happen if a technical difficulty results in the breakdown of the communications facility. Such occurrences are not unknown in video conferenced meetings. If this occurred, it is the Welsh Government’s view that the chair should declare a recess while the fault is addressed. If necessary, the meeting would have to be abandoned and the meeting should not continue without the involvement of the remote members. Standing orders could, however, make different provision for different types of meetings etc, for example that a meeting taking an urgent decision or one which is time-limited, might either not be allowed to take place with remote attendees or that the meeting would proceed in the event of a communications failure, so that those attending remotely would be aware and accept that the meeting would continue and a vote would be taken without their attendance in the event of a communications failure.
18. Finally, there is the issue of voting. Local authorities will have to build into standing orders arrangements to provide for voting to take place simultaneously at the main and remote location(s). It may not always be possible for remotely attending members to vote electronically even if that is the norm in council meetings. Standing Orders will need to cover this issue so that chairs of meetings are aware of the correct procedure to follow.

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RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL



RHONDDA CYNON TAF

CONTRACT PROCEDURE RULES



CONTRACT PROCEDURE RULES

Date of release: May 2014

KEY MESSAGES:

- Any Officers delegated with responsibility for the procurement of goods, services (including contracts for consultancy) or works for or on behalf of the Council (in accordance with the Scheme of Delegation) are affected by these Rules.
- All procurement should be conducted in accordance with the principles of EU and Public Procurement Law namely, non-discrimination, transparency and fairness.
- Before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council, Officers shall make full use of Corporate Contracts and the Corporate Procurement Unit for other contracts (including Welsh Purchasing Consortium Contracts, established Framework Agreements or other legally available arrangements).
- Details of all Contracts available for use can be obtained from the Council's Procurement Intranet Site or from the Service Director of Procurement.

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SECTION 1	INTRODUCTION
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These Contract Procedure Rules should be read in conjunction with the Council's Financial Procedure Rules and Scheme of Delegation. Where there is a conflict between the Scheme of Delegation, Financial Procedure Rules and Contract Procedure Rules, the provisions of the Scheme of Delegation shall prevail and the determination of the Director of Legal and Democratic Services in consultation with the Group Director of Corporate Services upon such conflict shall be final.

A key requirement of these procedure rules is to ensure competitiveness and the primary method of achieving this is through a competitive process. These Rules set a framework for these processes and aim to strike the right balance between price and quality whilst keeping the cost of contracting to a minimum.

Scope

These Contract Procedure Rules:

- Are the Council's procedural rules for buying goods and services for the Council. They do not apply to internal purchases or service provision, but only to external suppliers and providers.
- Are applicable to the making by the Council of all Contracts, for the provision, supply, hire or disposal of goods, materials or intellectual products, and for the provision of services, the use of consultants and to Contracts for income.
- Are not applicable to Contracts of service (i.e. employment contracts). Please note however that the procurement of Agency Workers and Consultancy Services does fall within the scope of these Rules.

Functionality

These Contract Procedure Rules:

- Are applicable to the formation of Contracts and to any matters as may arise in the process of managing Contracts, which significantly change, vary or terminate any such Contract during its currency.
- Relate to the extension or renewal of Contracts beyond their initial term.
- Are without prejudice to the need for budget holders to ensure that budgets are not exceeded.
- Are without prejudice to the requirements of UK and EU Legislation governing any Contract in which case those requirements shall be followed (even if they conflict with these rules).

Aims

These Contract Procedure Rules:

- Aim to achieve value for money for the Council in the market by ensuring provision for securing competition at appropriate levels of expenditure whilst avoiding disproportionate or bureaucratic costs where levels of expenditure are less significant.
- Aim to achieve fullest accountability at all levels whilst ensuring an adequate audit trail by requiring the Directors to record who did what, how and when.
- Aim to ensure that Officers follow proper and fair procedures for the involvement and selection of Contractors.
- Aim to ensure compliance with EU Procurement Directives.
- Aim to ensure that proper Specification is made by Officers which reflect the appropriate and realistic quality requirements for any defined need, and that offers may be judged by objective criteria.
- Aim to ensure that levels of monitoring and training exist to ensure proper compliance and that these rules are regularly reviewed to take account of new circumstances.

Status

These Contract Procedure Rules:

- Are made under Section 135 of the Local Government Act 1972 and all other powers enabling the Council.
- Are applicable to all parts of the Council's activities.
- Are applicable where the Council is acting as agent for another body unless the principal directs otherwise.
- Must be adopted by any external contractors empowered to form Contracts on behalf of the Council and by any person who is not an Officer of the Council engaged to manage a Contract on behalf of the Council.
- Shall apply to the selection of nominated suppliers and nominated Sub-contractors for products covered by prime costs and provisional sums in a main contract.
- Shall be interpreted so far as possible to ensure the Aims set out in these rules are achieved.
- Are not applicable to expenditure between Service Areas, Groups or the use of the Council's trading organisations.

Who is affected by these Procedure Rules?

Any Officers delegated with responsibility for the procurement of goods, services (including contracts for consultancy) or works for or on behalf of the Council in accordance with the Scheme of Delegation.

Tendering, Ordering and Advertising

Before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council, Officers shall make full use of Corporate Contracts and the Corporate Procurement Unit for other contracts (including Welsh Purchasing Consortium Contracts, established Framework Agreements or other legally available arrangements).

Details of all Contracts available for use can be obtained from the Council's Procurement Intranet Site or from the Service Director of Procurement.

Aligned to the Council's continued modernisation agenda, the Corporate Procurement Unit has implemented a number of Electronic Procurement Systems that should be utilised as corporate solutions to support the cost efficient procurement of goods and services (streamlining the transaction process and reducing unnecessary administration overheads where possible). Please refer to Appendix 1 or the Council's Procurement intranet site for further information regarding the use of these systems.

In accordance with the principles of the Welsh Government "Opening Doors, The Charter for SME Friendly Procurement", contracts exceeding £25,000 shall be advertised on the Council's Contract Management System and or the Welsh National Procurement Website (Sell2Wales), where practical, and providing that it represents best value for the Council.

Service Director of Procurement

The Service Director of Procurement has a clear strategic role in the procurement of all services, supplies and works, and as such, it is vital that this expertise is employed and consulted upon for all contracts that are deemed as being high value (more than £75,000), complex or where they involve the transfer of staff. Furthermore, the Service Director of Procurement on behalf of the relevant Director shall place all EU notices of advertisement, and where this is the case, all such tender returns or expressions of interest are to be addressed to the Service Director of Procurement and returned to the Corporate Procurement Unit.

Legal Requirements

Formal procedures are required to be made by every Local Authority under Section 135 of the Local Government Act 1972. The Act refers to the supply of 'goods or materials and the execution of works'.

All Public Procurement in the UK is governed by the EU Treaty and the EU Procurement Directives and UK Procurement Regulations that implement the Directives. This legal framework helps to ensure that Public Procurement is conducted in a fair and open manner, both within the UK and across the EU.

Focus of these Rules

Section 135 of the 1972 Local Government Act does not set any particular format for Contract Procedure Rules nor does it prescribe the contents in any detail. In considering any specific set of circumstances however, it is expected that at all times, Officers will have in mind the objective implicit within section 135 of the Act, namely that contracting processes shall include '***provision for securing competition***'.

Procurement Planning

At the commencement of each financial year, Directors shall submit to the Service Director of Procurement a completed Contract Initiation Document (available through the Procurement Intranet site) detailing the planned procurement activities over £75,000. The Corporate Procurement Unit will use this information for procurement planning, to identify collaborative opportunities, to allocate appropriate resources and to ensure all relevant legislative requirements are observed.

EU Procurement Directives

The Council's Contract Procedure Rules require compliance in all cases to the EU Procurement Directives. In this regard all such notices are to be placed by the Service Director of Procurement.

Proprietary Products

The Contract Procedure Rules also recognise that some products and services may be unique and therefore are available from one source only, and that in such circumstances, competitive tendering may not always be appropriate. The procedures within these rules for the procurement of Proprietary Products set out the requirements to be followed in these situations.

The Framework of Rules

At the heart of these Contract Procedure Rules is a system of nominated Officers, which is intended to ensure proper separation of duties, to identify accountabilities and to encourage the best use of skills and knowledge. The framework includes for each contract:

- a Director
- a Contract Manager
- a Contracting Officer.

Due regard must be given to the responsibilities allocated to each under the Council's Scheme of Delegation.

Contract Management

In addition to the processes by which contracts are established, there is a need to ensure that contracts are properly managed during their life. These

Contract Procedure Rules therefore cover aspects of Contract Management, which relate to ongoing contract variation, price control or termination of contracts at any time during the contract period.

Variation to Contracts

These Contract Procedure Rules give powers to Directors (in consultation with the Group Director of Corporate Services and the Director of Legal and Democratic Services) to agree variations beyond the original contract terms. Other variations regarding the terms of the contract are to be dealt with by the Contract Manager in conjunction with the Corporate Procurement Unit. Please also refer to the requirements of the Financial Procedure Rules concerning variations.

Contract Management System

One significant purpose of these Contract Procedure Rules is to ensure transparency relating to decisions taken around the contracting process. These Contract Procedure Rules require the establishment of a Contract Management System, which shall be the primary place for recording details of all contracts awarded over the value of £25,000. Each Service Area shall ensure that contract details are notified to the Service Director of Procurement for inclusion on the Contract Management System (Alito). Contract details can be registered by completing a Contract Template Form (available through the Procurement Intranet Site). In such cases where access to this system has been granted, it is the responsibility of the Contract Officer to record details of contracts awarded on the system.

Directors shall ensure that detailed records of all contract correspondence and decisions taken are retained.

Whilst supporting a Divisional focus of responsibilities, the Contract Procedure Rules also recognise a corporate need to gather information and share contracting expertise and wisdom across the Council and with Members. The availability of information through the proper keeping of the Council's Contract Management System is vital in allowing this to take place.

Procurement by Consultants

Where the Council uses consultants as part of a procurement process, it should be ensured that consultants carry out any procurement in accordance with these Contract Procedure Rules. No consultant shall make any decision on whether to award a contract. All decisions must be made in accordance with the Council's Scheme of Delegation.

Sustainable Procurement

For all contracts exceeding £2,000,000 in value, the Council shall consider a social return on investment through the adoption of a community benefits approach. In developing a community benefits model, social issues that can be considered include:

- Core labour standards;

- Access for people with disabilities;
- Gender and race equality;
- Employment and training issues;
- Fair trade and support for SMEs;
- Black and ethnic minority enterprises;
- Businesses owned by women and disabled people.

These are examples taken from “Community Benefits: Delivering Maximum Value for the Welsh Pound” (Welsh Assembly Government), and are not exclusive.

For all contracts over £250,000 the Council shall take account of social, economic and environmental issues when making procurement decisions using the Sustainable Risk Assessment template (SRA), available for use via the National Procurement website (www.sell2wales.gov.uk).

Equal Opportunities

Public authorities must ensure that their procurement activities are operated in a way that meets their legal equality obligations. Addressing equality issues in procurement will help the Council provide public services that are tailored to the needs of diverse users and communities.

The Equality Act 2010

The Act includes a public sector equality duty (the ‘general duty’) that aims to ensure that equality considerations are built into the design of policies and the delivery of services. A public authority remains responsible for meeting the general duty even where relevant works or services are contracted out to an external supplier. It is important to build equality considerations into procurement processes.

The general duty applies to anyone who is carrying out a public function. Where an external body is being contracted to provide a relevant public service (including, in some cases, providing goods or works) it will be necessary to make them aware of the responsibilities that may arise under the public sector equality duty and to assist them appropriately.

Welsh Language

The Council must ensure that contractors delivering a public service on its behalf are able to deliver such a service in compliance with the requirements of Welsh Language legislation. In order to deliver effective, quality and equal public services within Wales, there is a requirement to consider language obligations from the outset of a tender process and in preparing contract specifications.

Where a contract relates to a 'public service contract' (as governed by the requirements of the Welsh Language Act 1993), a contractor may be required to demonstrate its ability to comply with the requirements of the Act. This may involve the ability of the contractor to deliver services in Welsh or English to service users on an equal basis and / or to be able to market and promote services bilingually.

The Sustainable Risk Assessment template (SRA) can be used to assess equality considerations. Information on this is available at the National Procurement website (www.sell2wales.gov.uk) or can be obtained from the Corporate Procurement Unit.

Reviewing the Procedure Rules

It is intended that these rules will be kept under continuous review so that they reflect changes in contracting and best practice. The reviews will be carried out by the Service Director of Procurement in conjunction with the Group Director of Corporate Services and the Director of Legal and Democratic Services.

Guidance

In order to ensure that Officers have access to advice and guidance, a support system, including assistance and advice from the Corporate Procurement Unit is available. Officers who have doubt or difficulties in any given situation relating to contracts should contact the Service Director of Procurement.

Corporate Procurement Unit contact details:

Tel: 01443 680681

Email: Purchasing@rctcbc.gov.uk

SECTION 2	CONTRACT PROCEDURE RULES
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Framework Agreements and Collaboration

- A.1 Where current and valid frameworks are available for use by the Council (as approved by the Service Director of Procurement), the framework must be used in accordance with the guidance provided by the Service Director of Procurement.
- A.2 Any joint procurement arrangements with other local authorities and/or public sector bodies including membership or use of any consortia must be approved by the Service Director of Procurement.
- A.3 Established framework and consortium arrangements endorsed by the Service Director of Procurement for use by the Council shall be mandatory.
- A.4 Where collaborative or Council frameworks are utilised, the number of tenderers and value of applicable thresholds should be in accordance with the terms of the individual framework.

Instances where there is no requirement for competition

- B.1 There is no requirement for competition for work placed with internal trading organisations. However, where the value of the contract is above £75,000, and another trading organisation is known to offer comparable services to those required, the Contracting Officer may seek competition. In these circumstances, the Contracting Officer must be able to demonstrate that competition is likely to lead to better value for money (taking account not only of price, but of the total cost to the Council of the competitive process, including any loss of revenue with the internal trading organisation).
- B.2 There is no requirement for competition for work placed with other Council departments that are not internal trading organisations.
- B.3 Any purchase made through the arrangements specified under M.4 will be deemed as having satisfied the competition requirements. Notwithstanding this, Contracting Officers shall satisfy themselves that a proper process has been followed in respect of EU Procurement Directives where the value of the contract is above the threshold.

Estimating the Contract Value

- B.4 The value of a contract means the estimated total monetary value over its full duration (not the annual value), including any extensions or other options. Where the duration of a contract is indeterminate or is longer than four years, this should be taken to be the estimated value of the contract over a period of four years. No procurement may be artificially split to avoid compliance with these Contract Procedure Rules and European Union procurement directives.
- B.5 Where the value is, or may be, equal to or greater than the relevant

OJEU threshold, due regard should be given to the valuation rules in regulation 8 (Thresholds) of the Public Contracts Regulations 2006. Guidance should be sought from the Corporate Procurement Unit where assistance is required in estimating contract values.

External Service Agreements

- B.6 A Service Level Agreement (SLA) is an agreement between a service provider and client that governs all aspects of their relationship. Where the Service Provider is a legal entity external to the client, the SLA will often be a formal contract.

It is important to document and agree any Service Level Agreement, including any commercial and exit arrangements of the participating organisations. This should include clear criteria for determining the ongoing viability of the arrangement and supported by agreed and measurable performance indicators with the service provider. In support of this, the standard Service Level Agreement Template available via the Council's Procurement intranet site or from the Service Director of Procurement should be used.

Bonds or Guarantees

- B.7 A risk assessment should be undertaken to determine whenever a performance bond or performance guarantee is required. Guidance relating to Bonds or Guarantees can be obtained from the Corporate Procurement Unit.

Private Interests

- B.8 No Member, employee or agent of the Council shall improperly use their position to obtain any personal or private benefit from any Contract entered into by the Council.
- B.9 Members and employees of the Council shall comply with the requirements of Section 117 of the Local Government Act 1972 and the employees Code of Conduct set out in the Constitution about the declaration of private interest in Contracts with the Council. Such interests must be declared to the Director of Legal and Democratic Services acting in his or her capacity as a Monitoring Officer for inclusion in the appropriate registers.

Assignments and Novations

- B.10 Any contracts subject to potential assignment and novation must be referred to the Service Director of Procurement at the earliest possible opportunity.

SECTION 3	PROCEDURES
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C.1. Deciding Which Value Threshold

The Contracting Officer shall determine in accordance with sections B.4 - B.5 the estimated value of the contract and thereby the thresholds to be used, which shall be as follows:

C2	Purchases below £25,000 (see pg. 16)
C3	Purchases between £25,000 and £75,000 (see pg. 17)
C4	Between £75,000 and below the EU Procurement Thresholds for Supplies and Services contracts (see pg. 18)
C5	Between £75,000 and below the EU Procurement Thresholds for Works contracts (see pg. 19)
C6	Above the EU Procurement Thresholds (see pg. 20)

The **EU Procurement (OJEU) Thresholds** effective from 1st January 2014 are:

Works	£4,322,012
Supplies	£172,514
Services	£172,514

Note:

- For term contracts, the estimated total value relates to the entire term or four years, whichever is the less.
- The OJEU thresholds are the financial values at which the EU Public Sector Procurement Directive 2004/18/EC and the Public Contracts Regulations 2006 (SI 2006/5, as amended) require tenders to be advertised in the Official Journal of the EU (“OJEU”).
- These thresholds vary from time to time and can be checked for accuracy on the OJEU website (www.ojec.com).

CONTRACT PROCEDURES – OVERVIEW:

	Estimated Contract Value				
	C2 Below £25,000	C3 £25,000 - £75,000	C4 £75,000 to EU Thresholds (Supplies & Services)	C5 £75,000 to EU Thresholds (Works)	C6 Above EU Thresholds
Key requirement	*Where possible, Utilise Corporate Contracts or other available contracts <u>before</u> placing order or undertaking tender process.	*Where possible, Utilise Corporate Contracts or other available contracts <u>before</u> placing order or undertaking tender process.	*Where possible, Utilise Corporate Contracts or other available contracts <u>before</u> placing order or undertaking tender process.	*Where possible, Utilise Corporate Contracts or other available contracts <u>before</u> placing order or undertaking tender process.	*Where possible, Utilise Corporate Contracts or other available contracts <u>before</u> placing order or undertaking tender process.
	<i>* Details of all Contracts available for use can be obtained from the Council's Procurement Intranet Site or from the Service Director of Procurement.</i>				
	Due regard for ensuring value for money is achieved.	Due regard for ensuring value for money is achieved.	Contracting Officer must arrange for a <u>Competitive Tender</u> to be undertaken.	Contracting Officer must arrange for a <u>Competitive Tender</u> to be undertaken.	Seek advice from Service Director of Procurement before commencing any tender process.
Quotations or Tenders?	Where Corporate Contract or other Contract <u>not</u> available for use: <ul style="list-style-type: none"> Ensure VFM is achieved. 2 written quotations (between £5k and £25k). 	Where Corporate Contract or other Contract <u>not</u> available for use: <ul style="list-style-type: none"> Ensure VFM is achieved & 3 written quotations (minimum) - documentary evidence retained. 	Where Corporate Contract or other Contract <u>not</u> available for use: <ul style="list-style-type: none"> 3 written tenders (minimum). 	Where Corporate Contract or other Contract <u>not</u> available for use: <ul style="list-style-type: none"> 3 written tenders (between £75k and £150k) 4 written tenders (between £150k and EU Threshold). 	Seek advice from Service Director of Procurement before commencing any tender process.
Framework Agreements	Where collaborative or Council frameworks are utilised, the number of tenderers and value of applicable thresholds should be in accordance with the terms of the individual framework.				
Advertising Requirements	<i>Refer to 'Tendering, Ordering and Advertising' Section (pg. 7, Para. 5).</i>				
Returned to:	Any Officer	Any Officer	**Any Officer	**Any Officer	**Service Director of Procurement
Opened by:	Any Officer	Any Officer	**Two Tender Opening Officers	**Two Tender Opening Officers	**Two Tender Opening Officers
	<i>**Refer to 'Receipt' section & 'Opening' section (pg. 21-23) – process differs if Electronic Tender System used.</i>				
Form of Contract:	Official order	Official order	Formal Contract	Formal Contract	Formal Contract
Contract Awarded by:	Contract Officer with delegated responsibility under the Council's Scheme of Delegation.	Contract Officer with delegated responsibility under the Council's Scheme of Delegation.	Contract Officer with delegated responsibility under the Council's Scheme of Delegation.	Contract Officer with delegated responsibility under the Council's Scheme of Delegation.	Contract Officer with delegated responsibility under the Council's Scheme of Delegation.
Completion of Contract	Retain evidence of all contract documentation (quotations etc).	Retain evidence of all contract documentation (quotations etc).	Provide contract details to Service Director of Procurement for inclusion on the Council's Contract Management System (Alito).	Provide contract details to Service Director of Procurement for inclusion on the Council's Contract Management System (Alito).	Provide contract details to Service Director of Procurement for inclusion on the Council's Contract Management System (Alito) and update the Buy4Wales site (create OJEU Award Notice).

C2	Purchases with an Estimated Total Value Below £25,000
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C.2.1 Before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council, Officers shall make full use of Corporate Contracts and the Corporate Procurement Unit for other contracts (including Welsh Purchasing Consortium Contracts, established Framework Agreements or other legally available arrangement) and observe the requirements of B.1.

Details of all Contracts available for use can be obtained from the Council's Procurement Intranet Site or from the Service Director of Procurement.

Where Framework Agreements are to be utilised, Contracting Officers must conform to the specific requirements of each Framework Agreement for the selection and letting of contracts.

Aligned to the Council's continued modernisation agenda, the Corporate Procurement Unit has implemented a number of Electronic Procurement Systems that should be utilised as corporate solutions to support the cost efficient procurement of goods and services (streamlining the transaction process and reducing unnecessary administration overheads where possible). Please refer to Appendix 1 or the Council's Procurement intranet site for further information regarding the use of these systems.

C.2.2 Where the requirements of C.2.1 cannot be met or where a Corporate Contract is not available for use, the Contracting Officer shall observe the following requirements:

- For contracts below £5,000 due regard must be given for ensuring value for money is achieved.
- For contracts between £5,000 and £25,000 a minimum of 2 written **quotations** should be requested and due regard must be given for ensuring value for money is achieved. Documentary evidence of the decision making process must be retained.

C.2.3 The Contracting Officer may only award a contract or enter into contractual arrangements providing that this responsibility has been properly authorised to them in accordance with the Council's Scheme of Delegation.

C.2.4 The Contracting Officer may utilise an Approved Vendors List (AVL) up to the European Thresholds (e.g. Constructionline), however prior approval of the Service Director of Procurement must be obtained.

Where an AVL is utilised to select potential Tenderers, the Contracting Officer should ensure that at least one third of the selected Tenderers are refreshed on each occasion from any previous selection list used.

C3	Purchases with an Estimated Total Value between £25,000 - £75,000
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- C.3.1 The contracting Officer shall observe the requirements of C.2.1 (where available, practical and appropriate to do so) before undertaking any quotation process or before placing any Official Orders on behalf of the Council.
- C.3.2 Where the requirements of C.2.1 cannot be met or where a Corporate Contract is not available for use, the Contracting Officer shall observe the following requirement:
- For contracts between £25,000 and £75,000 a minimum of 3 written **quotations** should be requested and due regard must be given for ensuring value for money is achieved. Documentary evidence of the decision making process must be retained.
- C.3.3 The Contracting Officer may only award a contract or enter into contractual arrangements providing that this responsibility has been properly authorised to them in accordance with the Council's Scheme of Delegation.
- C.3.4 The Contracting Officer may utilise an Approved Vendors List (AVL) up to the European Thresholds (e.g. Constructionline), however prior approval of the Service Director of Procurement must be obtained.

Where an AVL is utilised to select potential Tenderers, the Contracting Officer should ensure that at least one third of the selected Tenderers are refreshed on each occasion from any previous selection list used.

C4	Supplies and Services Contracts with a value between £75,000 and below the EU Procurement Thresholds
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C.4.1 The contracting Officer shall observe the requirements of C.2.1 (where available, practical and appropriate to do so) before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council.

C.4.2 Where the requirements of C.2.1 cannot be met or where a Corporate Contract is not available for use, the Contracting Officer shall arrange for a Competitive Tender to be undertaken and shall arrange for the following number of tenders to be obtained and evidenced (these are minimum requirements and Contracting Officers may deem it appropriate to seek more to ensure a competitive process):

- For contracts between £75,000 and the European Thresholds at least 3 written **tenders** for Supplies and Services contracts.

Due regard must be given for ensuring value for money is achieved. In such cases where the minimum amount of tenders cannot be obtained, the Contracting Officer shall refer to C.7.4.

C.4.3 The Contracting Officer must decide and record:

- The form in which Tenderers shall be invited to tender.
- The criteria to be used to select the successful Contractor or Supplier from among those tendering.
- The criteria to determine whether the chosen Contractor performs satisfactorily.

C.4.4 The Contracting Officer may only award a contract or enter into contractual arrangements providing that this responsibility has been properly authorised to them in accordance with the Council's Scheme of Delegation.

C.4.5 The Contracting Officer may utilise an Approved Vendors List (AVL) up to the European Thresholds (e.g. Constructionline), however prior approval of the Service Director of Procurement must be obtained.

Where an AVL is utilised to select potential Tenderers, the Contracting Officer should ensure that at least one third of the selected Tenderers are refreshed on each occasion from any previous selection list used.

C5	Works Contracts with a value between £75,000 and below the EU Procurement Thresholds
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C.5.1 The contracting Officer shall observe the requirements of C.2.1 (where available, practical and appropriate to do so) before undertaking any competitive tendering process or before placing any Official Orders on behalf of the Council.

C.5.2 Where the requirements of C.2.1 cannot be met or where a Corporate Contract is not available for use, the Contracting Officer shall arrange for a Competitive Tender to be undertaken and shall arrange for the following number of tenders to be obtained and evidenced (these are minimum requirements and Contracting Officers may deem it appropriate to seek more to ensure a competitive process):

- For contracts between £75,000 and £150,000 at least 3 written **tenders** for Works contracts.
- For contracts between £150,000 and the European Thresholds at least 4 written **tenders** for Works contracts.

Due regard must be given for ensuring value for money is achieved. In such cases where the minimum amount of tenders cannot be obtained, the Contracting Officer shall refer to C.7.4.

C.5.3 The Contracting Officer must decide and record:

- The form in which Tenderers shall be invited to tender.
- The criteria to be used to select the successful Contractor from among those tendering.
- The criteria to determine whether the chosen Contractor performs satisfactorily.

C.5.4 The Contracting Officer may only award a contract or enter into contractual arrangements providing that this responsibility has been properly authorised to them in accordance with the Council's Scheme of Delegation.

C.5.5 The Contracting Officer may utilise an Approved Vendors List (AVL) up to the European Thresholds (e.g. Constructionline), however prior approval of the Service Director of Procurement must be obtained.

Where an AVL is utilised to select potential Tenderers, the Contracting Officer should ensure that at least one third of the selected Tenderers are refreshed on each occasion from any previous selection list used.

C6	Contracts with a total value in excess of the EU Procurement Thresholds
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- C.6.1 The Contracting Officer shall follow rules C.2.1 – C.5.5 except where they conflict with EU Procurement Directives (see pg. 14).
- C.6.2 The Contracting Officer shall seek advice from the Service Director of Procurement before commencing the process to ensure full compliance with EU Procurement Directives and to decide the procedure to be used.
- C.6.3 The Service Director of Procurement shall place all Contract Notices in accordance with the requirements of the EU Procurement Directives.
- C.6.4 The Contracting Officer shall ensure compliance with the procedure set out in the relevant Directives.
- C.6.5 The Contracting Officer shall provide details of all Contracts subject to EU Directives, including details of Contract Award, so that the Service Director of Procurement can publish a Contract Award Notice in accordance with the requirements of the EU Directives.
- C.6.6 The Contracting Officer may only award a contract or enter into contractual arrangements providing that this responsibility has been properly authorised to them in accordance with the Council's Scheme of Delegation.

Single Tenders

C.7.1 A single tender may only be invited when:

- by reason of regulation or legislation only one supplier of the product or service exists;
- the value of the contract is below £75,000 and the costs of complying with a tender procedure outweighs the likely benefits;
- only a Propriety Product is suitable or acceptable to customers or the Product consists of repairs or works to an existing Propriety Product (although some propriety products may be available through existing framework arrangements. Where available, the requirements of A.1 shall be observed);
- in exceptional cases of such extreme emergency that a tender process cannot be undertaken. In these cases the reason for the urgency shall not be within the control of the Director or Contracting Officer.

C.7.2 In all such cases, the Director and Contracting Officer must certify the reason why, sign and date the certification and maintain a record.

C.7.3 In all such cases above, the Contracting Officer must ensure:

- that the product is specified in writing;
- where only one tenderer is identified, ensure that the best price and conditions are negotiated and that these are recorded;
- that provisions for the adjustment in price, volumes or other variable factors have been agreed and recorded in writing.

Contracts where there are less than the required minimum Tenders Invited

C.7.4 In such cases where the Contracting Officer wishes to proceed with less than the required number of tenders specified in these Contract Procedure Rules, the Director and Contracting Officer must certify the reasons why, sign and date and maintain records for future use and inform the Service Director of Procurement.

D. Terms and Conditions

D.1 Where available, practical and appropriate to do so, the Council's adopted Standard Terms and Conditions shall be specified as a minimum requirement for entering into contracts for Supplies, Works or Services. Any doubt as to the applicability of these conditions or any clauses contained therein should be referred to the Director of Legal and Democratic Services or Service Director of Procurement for consultation.

E. Approved Lists

E.1 Approved Lists cannot be used for the exclusive selection of Tenderers for any Contract above the value thresholds set in European Procurement Directives as detailed at C.1 of these rules (other than Contracts designated as Part B services under the EU Services Directive).

E.2 Contracting Officers shall also observe the requirements of C.2.4 before utilising an Approved Vendors List (AVL).

F. Processing Of Tenders

A key function of these Procedure Rules is to set down a framework, which can demonstrate that the requirements of public accountability and transparency are extant. To achieve this, the following shall apply:

Electronic Tenders and Electronic Auctions

F.1 Tenders should normally be processed using the Council's approved Electronic Tendering and or Electronic Auction elements of the Council's Contract Management System (Alito). This system facilitates a controlled and secure environment for the issue, receipt, opening and evaluation of tenders and also captures a complete audit trail of tender processes conducted. This system should be used in

accordance with appropriate guidance, user documentation and procedures.

Further information regarding the use of the Council's Contract Management System (Alito) may be obtained via the Corporate Procurement Unit or via the Corporate Procurement Unit Intranet site.

- F.2 Where an externally hosted extranet is to be used to support the tendering process prior approval of the Service Director of Procurement must be obtained.

Receipt

- F.3 Where tenders are to be returned electronically, the Contracting Officer must ensure:
- All potential tenderers have been appropriately registered on the Council's Contract Management System (Alito).
 - All tender documentation is made visible to tenderers.
 - The exact time and date of the receipt of tenders is clearly recorded.
 - A Tender Opening Officer is assigned to open the tenders on the time and date allocated for opening.

Opening

- F.4 Tenders that are subject to EU Procurement Directives (see pg. 14) shall be opened and recorded by the Service Director of Procurement.
- F.5 Where tenders are to be opened electronically via the Alito System, the Contracting Officer must ensure prior to opening tender documents submitted through the system:
- The 'Content Type' appears in the correct format.
 - The document size does not appear as zero. In the event that the document size appears as zero, the requirements of F.14 shall be observed.
- F.6 Tenders shall be opened on the time and date allocated for opening by the assigned Tender Opening Officer (note: the Alito system will not allow tenderers to submit bids after the time and date allocated for opening).
- F.7 There is no requirement to maintain a written Tender Opening Register where Tenders are receipted and opened via the Council's Contract Management System (Alito). Contracting Officers shall observe the requirements of F.2 – F.7 where an externally hosted extranet is used to support the tendering process.

Tenders completed outside of the Contract Management System

Where the Council's Contract Management System (Alito) is not available for use to support the receipting and opening process, the following shall apply:

Receipt

F.8 The Contracting Officer must ensure:

- Returned Tenders are contained in a plain envelope or package with no identifying markings.
- The envelope or package is securely sealed and bear the words "Tender for....." followed by the Product, Work or Service(s) to which it relates.
- Envelopes or packages shall be addressed impersonally to the Director, (or for values above EU thresholds, the Service Director of Procurement), who shall date stamp them and keep them unopened in safe custody until the time appointed for opening. Envelopes or packages that do not comply with this Regulation shall be opened as part of the formal opening procedures and recorded as non-compliant.

Opening

- F.9 Tenders that are subject to EU Procurement Directives (see pg. 14) shall be opened and recorded by the Service Director of Procurement.
- F.10 Tenders shall be opened and details recorded at one time by not less than two Tender Opening Officers (at which time either the Contracting Officer or the Contract Manager for the Contract may be present).
- F.11 No Tender received after the other Tenders have been opened shall be considered.
- F.12 A Tender received after the time fixed for receipt but before the other Tenders have been opened may be considered, provided there is evidence that it was posted or dispatched early enough to be received in due time by the normal course of post or dispatch.
- F.13 Bona fide tenders opened shall be recorded in a Tender Opening Register and should include the name of all contractors or suppliers submitted. The Tender Opening Register should also be signed and dated by the Tender Opening Officers.

Amendment to Tenders, Errors and Omissions

- F.14 As a general rule no adjustment or qualification to any tender(s) is permitted. Errors found during the examination of tenders shall be dealt with in one of the following ways:
- If the error is not arithmetical the tenderer shall be given details of

the error(s) and shall be given the opportunity of confirming without amendment or withdrawing the tender; or

- If an arithmetical error is found, the responsible officer shall correct the error(s) provided that, apart from the genuine arithmetic error(s), no other adjustment revision or qualification is permitted.

F.15 A Contracting Officer may seek clarification of the information provided (or not provided) by a Tenderer only where this is necessary to aid understanding.

Assessment of Tenders (Tender Evaluation)

F.16 Tenders should be assessed in accordance with the predetermined evaluation criteria set out in the Tender documentation (and published EU notice, where appropriate) and identify tenders that best meet the criteria, including value for money.

F.17 In respect of all tenders, where the main tender criterion is the most economically advantageous tender, the evaluation criteria or sub-criteria shall, as a minimum, be listed in the Invitation To Tender (ITT) documentation in order of importance. Any particular scoring or weighting attributable to any criteria or sub criteria must be clearly stated. In addition, the criteria shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure (other than where permitted under EU Procurement Directives).

F.18 It should be noted that prior disclosure of and adherence to award criteria and weightings is a fundamental requirement of the core principle of transparency. The core procurement principles (transparency, equal treatment, non-discrimination) apply even to sub-OJEU threshold procurements.

Acceptance of Tenders

The Director:

F.19 Shall accept the highest Tender where payment is to be received by the Council unless a decision is taken not to proceed with the Contract.

F.20 Shall accept the lowest or the most economically advantageous tender for all contracts where payment is to be made by the Council unless a decision is taken not to proceed with the Contract. Guidance and approval should be sought from the Service Director of Procurement where tenders are to be evaluated on a quality or price basis.

F.21 May accept a Tender not complying with the above only if the Director in consultation with the Group Director of Corporate Services and the Service Director of Procurement certify why it is in the Council's best interest to do so.

F.22 Shall, where appropriate, sign the Contract documents or place them before the Director of Legal and Democratic Services for signature or seal, with such explanations as he or she may require.

Non-concluded Terms and Conditions

- F.23 Contracting Officers should always ensure (so far as possible) that terms and conditions are fully agreed, by including them in the tender documents and requiring tenderers to accept them as part of the tender. Not doing so exposes the Council to:
- Serious risk of being unable to ensure delivery to required standards;
 - Risk of procurement claims and challenges if terms are negotiated post-tender; and
 - Risk of audit criticism.
- F.24 Where (exceptionally) the terms and conditions of contract are not fully agreed, no contractor shall be allowed to commence delivery of goods, works or services until all terms and conditions have been agreed and signature or written agreement of both parties obtained.
- F.25 Contracts should not be entered into on the basis of the contractors own standard terms and conditions, or terms negotiated which are significantly different to those included or referred to at tender stage, since this carries a high risk of procurement challenges. However, in exceptional circumstances, there may be a requirement to agree or negotiate alternative terms and conditions in which to contract. Where this is the case, prior approval must be sought from the Service Director of Procurement.

H. Completion of Contracts

- H.1 The Contract Officer should arrange for contracts to be attested either Under Hand by the Director or Under Seal. The Director of Legal and Democratic Services shall be consulted if a Contract is to be attested Under Seal.
- H.2 The Director shall consider (in consultation with the Director of Legal and Democratic Services) whether, having regard to the need for extension of the period of limitations, a Contract should be attested Under Seal.
- H.3 The Common Seal shall be attested by the Director of Legal and Democratic Services or a signatory authorised by him and an entry of every sealing shall be made, consecutively numbered and shall be signed by the person who has attested the seal. The seal shall not be affixed without the authority of Council, Cabinet, Committee or under delegated powers.
- H.4 Following the award of the contract (and where the contract value exceeds £25,000), the Contract Officer must ensure that the contract details are notified to the Service Director of Procurement for inclusion on the Council's Contract Management System (Alito). In such cases where access to this system has been granted, it is the responsibility of

the Contract Officer to record details of contracts awarded on the system.

I. Contract Management

- I.1 A Director must appoint a Contract Manager to manage the performance of a contract throughout its term. The duties of the Contract Manager shall begin when the contract is awarded and shall cease when it is completed or terminated.
- I.2 The Contract Manager should ensure that management and monitoring arrangements for the contract have been established and recorded (including the methods for reporting and monitoring performance, costs and service delivery against the agreed Contract Specification and Terms and Conditions).
- I.3 The Contract Manager will also be responsible for:
- The management of the relationship between the Council and the supplier (ensuring effective lines of communication are in existence between client representatives, stakeholders and service providers).
 - The identification, allocation and management of the risks associated with the performance of the contract.

J. Termination Procedures

- J.1 Where consideration is being given to terminating any contract arrangements, reference should be made to the Service Director of Procurement and or the Director of Legal and Democratic Services.

K. Contract Variations – basic principles

- K.1 Variation refers to a change to the contract terms that the parties had agreed and accepted when the contract was signed. This requires a clear and documented process, with clear references to the relevant clause(s) of the original terms and conditions of contract.
- Variations are consensual and most commonly about change in contract scope. Typically these occur as a result of changes to methodology, design, timing, order or sequence of provision.
- K.2 Contract variations which change any significant term of the contract (particularly as to price, quality or balance of risk) have the potential to amount to a new contract, and thus can constitute a single tender award without advertisement. Variations should therefore only be considered where:
- The proposed variation is within the scope of the original tender (including any possible extensions or options which were included in the contract notice, advertisement or tender documents);

- The proposed variation does not significantly exceed the value of the original tender (including any possible extensions or options which were included in the contract notice, advertisement or tender documents);
 - Variations of the type proposed were contemplated at the time the original procurement exercise was carried out; or
 - The variation is permitted under the terms and conditions of the contract (provided that those terms and conditions were known to tenderers at the time of the original tender).
- K.3 However, variations which alter the balance of risk in favour of the Council may in certain circumstances be judged not to be anti-competitive and thus may be permissible. Permission of the Service Director of Procurement must always be sought to any significant variation.
- K.4 Please also refer to the requirements of the Financial Procedure Rules concerning variations (Section 7.2.C).

L. Extensions

- L.1 Extensions of contracts should be included as a term, where appropriate, in the contract concluded following procurement.
- L.2 The decision to extend the contract period (term) may only be made before the original expiry date, where it is in accordance with the terms and conditions of the original contract.
- L.3 The Service Director of Procurement must take all such decisions to extend framework arrangements in agreement with the relevant Director.
- L.4 Where the terms of the contract and or original procurement exercise do not expressly provide for extension then such contracts may only be extended in exceptional circumstances, where legislation permits and value for money issues have been addressed. Such decisions shall be made by the relevant responsible officer in consultation with their Group Director and Service Director of Procurement. The responsible officer shall ensure that detailed records of all decisions taken are retained.

M. Exceptions

- M.1 These contract procedure rules do not apply to the acquisition or disposal of land, unless it involves the appointment of a development partner.
- M.2 Where goods, services and works are procured by another public body on behalf of the council or through collaborative arrangements awarded via the Welsh Purchasing Consortium or by the Council through a contract properly let by another such organisation, then those organisations procurement contract rules will apply subject to

compliance with European Union, United Kingdom and Welsh Procurement Law.

- M.3 Under established collaborative arrangements, any subsequent mini-tender must be treated on the terms of the original collaborative arrangement and the rules applied by the lead organisation that undertook the collaborative arrangement.
- M.4 Purchasing arrangements made for the Council by the Service Director of Procurement do not constitute exceptions as they are made under the full provisions of these rules. Correct use of these arrangements, as advised by the Service Director of Procurement, will however be sufficient to ensure officers meet their responsibilities for compliance.

Such arrangements include:

- Purchasing Frameworks endorsed for use by the Council;
- Collaborative procurement arrangements undertaken by, or in consultation with the Service Director of Procurement;
- The Council's Call-off Contracts;
- Electronic systems and catalogues endorsed for use by the Council;
- National Procurement Service for Wales collaborative arrangements;
- Welsh Purchasing Consortium collaborative arrangements;
- Government Procurement Service (formerly OGC) collaborative arrangements;
- Any joint purchasing and supply arrangements organised by another local authority, public body or a Central Government supply organisation.

N. Exemptions and Special Circumstances

- N.1 These Contract Procedure Rules are applicable to all parts of the Council's activities and areas of expenditure (including Social Care expenditure). This section prescribes a framework for circumstances when exemptions from the Rules may be obtained.
- N.2 Schools with delegated budgets who have their regulations under the scheme for financing schools are exempt from these Contract Procedure Rules; however it is recommended that schools follow these Rules in all purchasing, tendering and contracting activities.

O. Approval to proceed in Special Circumstances

- O.1 Approval may be required to proceed in special circumstances to enable a particular course of action. This course of action may be applied where the estimated contract value over the life of the contract is above £75k for Supplies & Services contracts or above £150k for

Works contracts, but **below** the EU Procurement Thresholds, and may be granted in the following circumstances or for the following reasons:

The contract involved is purely for the purpose of research, experiment, study or development under the conditions stated in European directive 2004/18/ec.

O.1.1 The works, goods or services can be provided only by a particular tenderer for reasons that are technical, artistic, or connected with the protection of exclusive rights.

O.1.2 Extreme urgency brought about by events unforeseeable by the contracting authority and in accordance with the strict conditions stated in European directive 2004/18/ec.

O.1.3 Additional works, deliveries or services are ordered under the strict conditions stated in European directive 2004/18/ec.

O.1.4 New works or services, constituting a repetition of existing works or services and ordered in accordance with the strict conditions stated in European directive 2004/18/ec.

O.1.5 Service contract awarded to the successful candidate or one of them after a design contest.

O.1.6 For supplies quoted and purchased on a commodity market.

O.1.7 For the purchase of supplies on particularly advantageous terms from a supplier which is definitely winding up its business activities, or from the receivers or liquidators of a bankruptcy, an arrangement with creditors or a similar procedure.

O.1.8 All tenders or quotes submitted were irregular or unacceptable. Only those tenderers who satisfied the qualitative selection criteria were included in the negotiations.

O.1.9 For contracts to be awarded on the basis of a framework agreement in conformity with European directive 2004/18/ec.

- O.2 In all circumstances identified above, the contracting officer must provide a report to the Service Director of Procurement setting out the circumstances or reasons. The necessary course of action will be clearly documented and approved by the Service Director of Procurement. The contracting officer and Service Director of Procurement will keep detailed records of the decision taken and evidence of the approval to proceed.

P. Exemption Requests

- P.1 In exceptional circumstances, Exemptions may be required from the normal application of the Contract Procedure Rules. An Exemption must be sought either:

- Where none of the special circumstances procedures specified under O.1 - O.2 can be met; or
- Where the estimated contract value over the life of the contract is **above** the EU Procurement Thresholds.

In all such circumstances, a **formal exemption** is required to document any contravention of the Council's normal legal obligations and to provide evidence to support a particular course of action.

P.2 Other exemptions from these rules may only be granted:

- By the Group Director of Corporate Services in consultation with the Director of Legal and Democratic Services and the Service Director of Procurement.
- In an emergency, threatening injury or damage to persons or property, when a Director can take any necessary action. This action must then be reported to the Group Director of Corporate Services or Director of Legal and Democratic Services as soon as practicable after the event.

P.3 For any exemption, a formal request must be made by the relevant Director to the Service Director of Procurement.

In all cases, an Exemption Proforma must be completed and should be supported by evidence of formal approval by the relevant Director. The completed Proforma should be submitted (by email) to the Service Director of Procurement for consideration and approval.

P.4 The Director must ensure that details relating to the exemption are reported to the Service Director of Procurement who will be responsible for maintaining an Exemptions Register. This Register will be provided to the Group Director of Corporate Services on a quarterly basis for review.

Q. Retention of Documents

Q.1 Contract documentation should be retained securely, in an appropriate format and in accordance with the Council's Document Retention Policy.

Q.2 Where tender or contract documentation is transferred between Council premises, appropriate records should be maintained recording the date of transfer and the location where the documentation will be available or stored.

Q.3 Where consultancy services are utilised in progressing any procurement, it should be ensured that copies of all documentation are retained on behalf of the Council.

R. Compliance

- R.1 Every contract entered into by the Council shall be entered into pursuant to or in connection with the Council's functions and shall comply with:
- All relevant statutory provisions;
 - Insofar as they apply, the relevant European Procurement Rules (i.e. The EC treaty, the general principles of EC law and the EC public procurement directives as given effect to in England and Wales);
 - The Council's Constitution including:
 - these Contract Procedure Rules;
 - the Council's Financial Procedure Rules;
 - Schemes of Delegation;
 - the Council's Strategic Objectives;
 - Procurement Strategy; and
 - relevant Council Policies.
- R.2 Failure by officers to comply with any of the provisions of these Contract Procedure Rules or associated guidance adopted by the Council may result in disciplinary action.
- R.3 Correct use of the arrangements specified under section M.4, as advised by the Service Director of Procurement, is sufficient to ensure officers meet their responsibilities for compliance.
- R.4 Any procurement carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority to carry out such tasks (as set out in the Council's Scheme of Delegation contained within the Council's Constitution).

S. Guidance and Support

In the use of these Procedure Rules:

- S.1 Should there be any doubt or lack of clarity as to the meaning or application, Officers must seek advice from the Group Director of Corporate Services, Director of Legal and Democratic Services or Service Director of Procurement. Guidance may also be obtained via the Procurement Intranet site.

DEFINITIONS

“Approved List” means a list of Tenderers, established in accordance with Sections 17 – 22 of the Local Government Act 1988, who have met the Council’s predetermined criteria and who are willing and able to supply Products of a particular type or description. This includes the use of Constructionline, or a similar organisation, and such lists will need to be administered in accordance with guidance, agreed with the Group Director of Corporate Services and approved by the Service Director of Procurement before being utilised.

“Common Use” means any Product purchased by the Council, which are required for use by more than one Service Area or Section of the Council or in schools.

“Contract Manager” means a person authorised under the Council’s Scheme of Delegation to manage the performance of a contract throughout its term. The duties of a Contract Manager shall begin when the contract is awarded and shall cease when it is completed or terminated.

“Contract” means the agreement between the Council and the Contractor comprising the conditions of contract, Specification and any defined schedules and all matters referred to in the Invitation To Tender and the Contractors response thereto, together with acceptance by the Council.

“Contracting Officer” means a person authorised under the Council’s Scheme of Delegation for the purpose of carrying out the appropriate duties set out in these Contract Procedure Rules. A Contracting Officer may be appointed specifically for the purpose of a single contract or for a range of contract requirements but may not also be the Director for any contract for which he or she is the Contracting Officer.

“Contractor” means any person contracted to sell or buy a Product. This term applies after a contract is formed.

“Group Director of Corporate Services and Director of Legal and Democratic Services” include Officers specifically authorised by them.

“Corporate Contract” means any contract for Products in Common Use and applies particularly to contracts where exclusive use by the Council is a term of the Contract. Details of these contracts can be obtained directly from the Council’s Procurement Intranet Site or from the Service Director of Procurement.

“Council’s Contract Management System” means the electronic Alito system in use by the Council for managing its procurement activities, part of which includes an electronic contract register. The system also includes facilities for supplier registration and management as well as E-tendering.

“Director” means the Chief Executive, any Chief Officer as defined in Article 12 of the Council’s Constitution or any officer authorised by them under the

Council's Scheme of Delegation in the same or another Group or Service Area to act for them under these rules. Such authorisation shall be in writing, shall include any limitations to the authorisation and shall be recorded. Officers may not act in the capacity of Contracting Officer and Director for any single contract.

The Service Director of Procurement (or persons within the Procurement Unit) may be authorised under the Council's Scheme of Delegation to act as Director, Contract Manager and or Contracting Officer. The Service Director of Procurement will ensure in these cases the required separation of duties as defined in these rules.

“Executive” means the Leader and Cabinet of the Authority.

“Service Director of Procurement” means the Service Director of Procurement or Head of Operational Procurement.

“Partnering Agreement” means an agreement between the Council and a Contractor, which is intended to govern the way in which both parties work together in the management and delivery of the Contract. The basis of the agreement would normally imply a long-term relationship based on trust and on clear mutually agreed objectives. The Partnering Agreement is not a substitute or addendum to the formal Contract.

“Product” includes any goods, equipment, material, works, service or benefit.

“Proprietary Product” means a product which has unique characteristics which alone meet the required realistic performance specification and is either sold only at fixed rates or sold by more than one source but may be purchased from the prime source at clearly better terms.

“Specification” means a clear statement of the Product in sufficient detail:

- to enable the contractor to submit a competitive price.
- to ensure that a Product supplied will meet the requirement of the Council.
- to define the precise output required.

“Tender Opening Officer” means any person authorised under the Council's Scheme of Delegation to carry out tender opening procedures set out in these Contract Procedure Rules.

“Tender” means an offer to sell or buy made by a Tenderer.

“Tenderer” means any person offering to sell or buy a Product. This term applies before a contract is formed and includes unsuccessful bidders.

“To Tender” means to make an offer to sell or buy.

“Under Hand” means under the signatures of authorised Officers.

“Under Seal” means under the common seal of the Council attested by the Director of Legal and Democratic Services or officers authorised by him or her.

The application of the common seal to a Contract will increase the period of limitations (for legal remedy) from 6 years to 12 years.

Appendix 1	Electronic Procurement Systems
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E trading

- **E Purchasing System** – an electronic ordering system that interfaces with the Council’s Financial Ledger applications and generates electronic orders to suppliers from centrally maintained catalogue information.

This system has been implemented to replace the hardcopy order book function and should be utilised and adopted as the corporate system for electronic purchasing of goods and services.

- **Purchasing Cards** – should be used throughout the Council to support a wide range of purchasing requirements that cannot be supported via the Council’s Purchasing System. These requirements must be identified as necessary for the enhanced provision of service delivery or as adding value to the cost efficiency of the transaction process.

Requests for a Purchasing Card must be submitted to the Corporate Procurement Unit via email and supported by a business case aligned to the above requirements (with each request being managed on its own specific criteria).

E – Sourcing

- **Contract Management System** - the electronic Alito system or other available systems in use by the Council for managing its procurement activities, part of which includes an electronic contract register. The system also includes facilities for supplier registration and management as well as E-tendering.

Further information regarding the use of any of the above Electronic Procurement Systems is available via the Council’s Procurement intranet site or from the Service Director of Procurement.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

COUNCIL

21 MAY 2014

REPORT OF THE DIRECTOR, LEGAL & DEMOCRATIC SERVICES

Background Papers

PROPOSED AMENDMENTS TO THE CONSTITUTION

Freestanding Matter