

Contract Procedure Rules – Part 4 Section 7 of the Constitution

Proposed changes to the Contract Procedure Rules

The Contract Procedure Rules have been completely re-written in order to ensure they reflect the rules on procurement rather than guidance on how to do procurement. The track changes function has not been used as text in the original document has been amended, moved around or deleted in such a way that tracking it would be impossible.

All detail on how to conduct a procurement has been deleted and replaced with a flow diagram. The re-write is a great improvement on the original as the document now flows logically, is concise, avoids duplication and includes hyperlinks to relevant pieces of guidance. The links are included in order to ensure that there is consistency throughout the Authority on the procurement process. The section has been reduced from 64 pages to 27 pages.

If Members would like the whole document, please contact the Corporate Procurement Unit on 83998.

Major changes or additions to the Contract Procedure Rules are detailed below:

Special Exemptions from the Contract Procedure Rules

Before
<i>(b) in the case of variations to the number of quotes or tenders agreed by the Head of Legal Services and Finance Manager for specialist work/contracts under the provisions of The Financial Regulations (Part 4 Section 6 Paragraph 11). However, please note that Level 3 and 4 contracts may be subject to the European Procurement Rules, and no exemption is allowed from them.</i>
After
<ul style="list-style-type: none"> • <i>in the case of variations to the number of quotes/tenders for contracts:</i> <p style="margin-left: 40px;"><i>Contracts between £5,000 and £50,000 – variations to the number of quotes sought must be agreed by the Head of Governance.</i></p> <p style="margin-left: 40px;"><i>Contracts above £50,000 - variations to the number of tenders sought must be agreed by the Head of Governance and Finance Manager. However, please note that Major contracts may be subject to the European Procurement Rules, and no exemption is allowed from them. In the case of variations to the number of quotes for contracts</i></p>

Consultants or Specialist Contractors Tendering/Quotation Procedure

Before
<p><i>J.1 In certain circumstances the type of service to be provided will be of such a specialist nature that the person letting the contract will know the market is limited and only certain contractors will be capable of providing the required service. There is still a requirement to obtain tenders but the following Standing Order provisions can be dispensed with:-</i></p>

(a)	<i>publication of invitation to tender</i>
(b)	<i>requirement for minimum number of tenderers/quotations dependent on contract value</i>
J.2	<i>The other provisions of the Full Tendering Procedure will continue to apply as appropriate i.e. receipt of tenders; opening of tenders; acceptance of tenders etc.</i>
J.3	<i>This tendering procedure can only be used with the prior approval of the appropriate Corporate Director for contracts not exceeding £15,000, or the Chairman or Vice-Chairman of the appropriate Board/Committee or the Leader or Deputy Leader as appropriate for contracts over £15,000.</i>
After	
<i>The above has been deleted completely as it conflicts with the waive in Special Exemptions. Please note all Waivers are now to be approved by Head of Governance rather than Members, in order to ensure Legal compliance.</i>	

Signing Contacts

Before	
Up to £5,000	<i>Head of service or designated officer</i>
Between £5,000 and £50,000	<i>HOS or authorised signatory One signature</i>
£50,000 and £156,442	<i>HOS or delegated officer 2 signatures</i>
£156,442 and £250,000	<i>HOS or delegated officer (no lower than Business Unit Manager) 2 signatures</i>
In excess of £250,000	<i>HOS (cannot be delegated) 2 signatures</i>
<i>In excess of £500,000</i>	<i>KEY Decision – Forward Plan/Cabinet/Council HOS 2 signatures</i>

After	
Contract Value	<i>Acceptance by</i>
Up to £156,442	<i>Appropriate Head of Service or designated Officer</i> <ul style="list-style-type: none"> • <i>One signature is required</i>
£156,442 to £500,000	<i>Appropriate Head of Service or Service Delivery Manager</i> <ul style="list-style-type: none"> • <i>Two signatures required</i> <p><i>(At least one of whom must be the Head of Service or Service Delivery Manager. The second signatory can be an officer designated by the HOS)</i></p>
<i>In excess of £500,000</i>	KEY Decision

	<i>Appropriate Head of Service and Service Delivery Manager</i> <ul style="list-style-type: none"> • <i>Two signatures required</i>
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Receipt and Opening of Tenders

Before	
Up to £50,000	<i>Appropriate Head of Service</i>
In excess of £50,000	<i>Head of Governance or their designated Officer</i> <i>Relevant Head of service or their designated officer</i>
<i>In excess of £156,442</i>	<i>Head of Governance or their designated Officer</i> <i>Relevant Head of Service or their designated Officer</i> <i>Cabinet Member</i> <i>For Council functions, the Chairman of the Board or Committee</i>

After	
Up to £50,000	<i>Appropriate Head of Service</i>
In excess of £50,000	<i>Head of Governance or their designated Officer</i>
<i>In excess of £156,442</i>	<i>Head of Governance or their designated Officer</i>

Additions to the Contract Procedure Rules:

The Service area, Early Intervention Children & Young People have not previously had a section in the Contract Procedure Rules so in order to ensure the rules are followed and there is consistency the following has been inserted into the re-write.

Procedure for arranging Education, Care and Support contracts for Children & Young People

Introduction

The Council's Standing Orders allow for standing exemption from usual tendering procedures for contracts relating to the purchase of care and support services for ***children and young people***. This has been agreed so that the provision of residential schools, fostering, other residential provision including short breaks, supported lodgings, parent(s) and baby placements, parenting assessments both community and supported housing based, and other specialist therapeutic provisions for children and young people do not become delayed due to the procedures that would normally apply, and therefore allow service delivery units to discharge its obligations in a timely manner.

This procedure does **not** apply to block contracting arrangements, where it is deemed more appropriate to tender out the service in the normal manner. There is an exception for preferred partners arrangements with voluntary, charitable and not for profit organisations, where the council can clearly demonstrate value for money and that the relevant head of service can confirm that there is no market available to seek to tender out the service, or the transactional costs of tendering would be detrimental to the council. This may also be in relation to, where non full cost recovery can be clearly demonstrated and evidenced.

Some services are multi faceted; mainly social care and education based but include an intrinsic element of commercial services. (For example care based residential provision which includes housing management services/residential school). All service delivery units must have in place a protocol that demonstrates why it is not feasible to separate the commercial element out of these contracts in order to tender it. Where no competitive market exists for these consolidated contracts, and a successful review has been undertaken, then there will be a standing exemption from the requirement to tender these contracts.

Education and Social Care or Specialist Assessment for Children and Young People

Purchase of education, social care and support services should only occur following an assessment of individual care needs, in accordance with the Children Act 1989.

Assessment of individual care needs may result in a requirement to purchase one or more of the following services: -

- Schools – residential, or specialist
- fostering
- all residential provision including short breaks
- supported lodgings
- parent(s) and baby placements
- parenting assessments both community and supported housing based, other specialist therapeutic provisions

Purchasing individual Children and Young People services

All individual placements will be sourced internally and externally to ensure an appropriate matching and that the outcomes for children and Young People can be fully met. External placements will be initially sourced using the West Midlands database. Any individual placements made will be completed using the West Midlands Child Care Consortium standard Pre-Placement Agreement (PPA) and Individual Placement Agreement/Frameworks (IPA/F).

All Pre-Placement and Individual Placement Agreements are held by the Placement's Team.

Where there is a need to modify the Pre-Placement and / or Individual Agreement or a placement provider will not sign the standard Agreement, advice must be sought from

the Joint Commissioning Team for Children and Young People and if necessary legal advice sought.

Children & Young People Contracts for services

When purchasing services for a group of individuals this must be supported by the Borough of Telford & Wrekin Children & Young People's Standard Contract Terms or a local, regional, or national framework agreement.

This will include:

- schools
- all residential provision including short breaks
- supported lodgings
- parent(s) and baby placements
- parenting assessments both community and supported housing based and other specialist therapeutic provisions

Where there is a need to modify the Standard Contract or a provider will not sign the contract without amendment, advice must be sought from the Joint Commissioning Team for Children and Young People before agreeing to any changes and if necessary legal advice sought.

Services Purchased Under Preferred Partner Arrangements via a Service Agreement for Specialist Education, Care & Support Arrangements

An exemption to standing orders is in place for the purchase of specialist services which historically would have been made under grant arrangements. This exemption may only be applied, with the approval of the relevant Head of Service, where it would not be in best interest of the Council to tender out the service because there is not a viable competitive market, and where the Council can clearly demonstrate that Best Value will be achieved. A formal service agreement must be drawn up, supported by a detailed service specification. The total value for the term of the service agreement must not exceed £250,000.

N.B. EU procurement regulations will apply to all contracts exceeding £156,442; this is a legal requirement which cannot be waived.