

**AMENDMENTS TO THE CONTRACT PROCEDURE RULES CONTAINED IN THE
CONSTITUTION**

Report of the Assistant Director Legal and Democratic Governance

1. INTRODUCTION AND PURPOSE OF REPORT

- 1.1 The report provides an update on the revisions agreed by the Joint STAR Committee on 15 April 2024 to the council's Contract Procedure Rules to include current legislation for Health Care Services (Provider Selection Regime) Regulations 2023. The new CPRs are at Appendix 1 to this report and the additions are shown in tracked changes.
- 1.2 The Joint STAR Committee agreed to recommend the adoption of the revision to the current CPRs by each of the STAR Authorities.
- 1.3 The report outlines those revisions and proposes that they should progress through the council's governance process so that the Council Meeting on 11 July 2024 can approve that the amendments be made to the Constitution.

2. BACKGROUND

- 2.1 The CPRs are standing orders made pursuant to s135 of Local Government Act 1972. Where such standing orders are made, they shall include provision for securing and regulating competition for contracts entered into. They may also include exemptions to such provisions under certain thresholds specified within the CPRs.
- 2.2 Since the establishment of STAR Procurement, it has been considered essential that all partner authorities have a single set of CPRs in order to harmonise procurement processes and enable the shared service vehicle to deliver an effective and consistent procurement processes.
- 2.3 The Council's current CPRs have been harmonised and adopted into the Constitution of each of the other STAR Authorities namely Trafford, Tameside and Rochdale and there is a current process being undertaken for St Helens and Knowsley Council to adopt the STAR CPRs.
- 2.4 The new Health Care Services (Provider Selection Regime) (PSR) Regulations 2023 came into force on 1st January 2024. To ensure that the CPRs are up to date with current legislation the CPRs need to be revised to include these new Regulations.
- 2.5 The changes are minimal and are limited to the following sections only:
 - Clause 1.1. reference made to PSR legislation.

- Clause 1.2 – Knowsley and St Helens council included.
- After clause 5.5.5, Table 1 procurement activities: inserted the words:

When procuring Relevant Health Care Services, the procurement processes set out in The Health Care Services (Provider Selection Regime) Regulations 2023 shall take precedence over the table below. The Provider Selection Regime does not place any value limits on the contracts that can be awarded under the direct award processes or the most suitable provider process.

The values specified in the table below are exclusive of VAT and is intended for calculating the value of a contract that falls below the Regulations Threshold. Where the Regulations apply, VAT is to be included when calculating the total value of a Contract.

- 9.1.3 (c) added in: *This section 9.1.3(c) does not apply to Relevant Health Care Services. Where an award or modification for Relevant Health Care Services must be made urgently, Section 14 of The Health Care Services (Provider Selection Regime) Regulations 2023 should be followed.*
- 9.3.1 added in: *For Relevant Health Care Services, Section 13 of The Health Care Services (Provider Selection Regime) Regulations 2023 should be followed where a Contract or Framework Agreement is modified during its term.*
- Schedule 2 Definitions:
 - o Under the current definition of Regulations, added in "*and the Health Care Services (Provider Selection Regime) Regulations 2023*"
 - o Added in definition of Relevant Health Care Services "*means health care services which fall within one or more of the CPV codes specified in the table in Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023*".

- 2.3 All STAR Authority legal teams have been consulted on the update to CPRs.
- 2.4 Each STAR Authority is required to separately progress the proposed revision to the CPRs through their own governance arrangements with a view to securing the adoption of the revised CPRs.
- 2.5 The intention is for each of the STAR Authorities to simultaneously adopt the proposed new CPRs by July 2024. Until each Council has adopted the revised Rules, each STAR Authority and STAR Procurement will continue to operate on the existing CPRs.
- 2.6 STAR Procurement will undertake a programme of updating the Procurement Handbook to provide additional guidance as necessary.

3. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

3.1 There are none.

4. LEGAL CONSIDERATIONS

4.1 The amendments have been discussed and approved by the council's legal team. There will be further amendments required when the new Procurement Regulations come into force in October 2024. A further report will be brought thereafter.

5. HUMAN RESOURCES IMPACT

5.1 There is none.

6. EQUALITIES IMPACT

6.1 There is none.

7. ENVIRONMENTAL IMPACT

7.1 There is none.

8. CONCLUSIONS AND RECOMMENDATIONS

8.1 The Cabinet is requested to recommend that the Council Meeting give approval to the proposed amendments to the Council's Constitution, as detailed in the report.

BACKGROUND PAPERS

There are none

Anyone wishing to inspect the above background papers or requiring further information should contact Vicki Bates

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