



Audit and Governance Committee

26 September 2024

Title:	Proposed changes to Constitution to meet the requirements of the Procurement Act 2023
Report of:	Matt Cumberbatch, Monitoring Officer
Lead Member:	Edna Murphy (Lead Member for Governance)
Public Report:	Yes
Key Decision:	No
Voting Arrangements:	N/A

Recommendations:

A	Recommend to the Combined Authority Board to approve the attached changes to the Contract procedure Rules (CPR's) within the constitution which is to be discussed and approved at Board on 16 th of October 2024 and will become effective when the new legislation is implemented.
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Strategic Objective(s):

The proposals within this report fit under the following strategic objective(s):

x	Achieving Best Value and High Performance
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1. Purpose

1.1	The Audit and Governance Committee is responsible for maintaining an overview of the Council's Constitution in respect of contract procedure rules and financial regulations and is empowered to make recommendations to the Combined Authority Board.
1.2	This report sets out proposed changes to the Combined Authority's CPR's in the constitution in line with the changes being brought into effect under the Procurement Act 2023. These proposed changes will be presented to Board on 16 th of October 2024.

2. Proposal

2.1	To implement the proposed changes to the CPR's within the constitution to ensure alignment to the new language and processes being brought into effect under the Procurement Act 2023.
2.2	The development of a procurement service with compliant policies etc will ensure effective delivery of services and help improve the quality of life of residents.

3. Background

3.1	<p>When the UK left the European Union in 2020, the UK Government indicated a desire to reform UK procurement law, wanting to create a simpler, more flexible commercial system that better met our country's need while remaining compliant with our international obligations. This has resulted in the development of The Procurement Act 2023, which achieved royal assent on the 26th of October 2023 and represents the biggest change to Procurement Law in England, Wales, and Northern Ireland since 2006.</p> <p>The Procurement Act 2023 was expected to go live on the 28th of October 2024, but has now been delayed to the 24th of February 2025 .</p> <p>The new law provides a number of benefits to suppliers and buyers, including:</p> <ul style="list-style-type: none"> • cutting red tape and supporting innovation • improving transparency by creating a fully open and transparent system, meaning everyone has access to public procurement data • faster competition processes for emergency buying, allowing buyers to meet urgent needs quickly and efficiently • simplifying the process of working with the public sector, supporting more SMEs to bid for contracts <p>An overview of these changes include:</p> <ul style="list-style-type: none"> • The consolidation of the Public Contracts, Concessions, Utilities and Defence rules into a single Act of Parliament. • A Shift from Principles to Objectives • Increased Flexibility around procedures • Increased Accountability and consequences as well as increased Transparency and information sharing with a change to the notice requirements with a requirement of numerous new notices, and a lot more information to be shared (KPIs, Payments, all modifications, terminations) • More and robust grounds for exclusion • New Language, most terminologies used now will change • Increased requirements around Conflicts of Interest • Increased Reporting Requirements after contract award, with significant new rules around contract management, including: <ul style="list-style-type: none"> • Publication of information throughout the life of the contract • Ongoing performance monitoring • Implied terms to deal with invoicing and payment issues • Implied term giving a right of termination
3.2	<p>The Procurement team currently has a project plan to ensure all updates have been made in time for the changes to come into effect. There is currently training being commissioned to roll out to the organisation on the changes from the Procurement Act 2023.</p>
3.3	<p>If the changes are not made, then the CPCA will not comply with the new legislation, and any procurements undertaken after the implementation date will not be in accordance with the law and open up the Authority to legal challenge. Whilst the Monitoring Officer has delegated powers to make changes to the Constitution to remain in compliance with changes in legislation, it is considered good practice here to provide all these changes to the Committee for review and further recommendation to the Combined Authority Board.</p>

4. Appendices

4.1	Contract Procedure Rules with tracked changes on the amendments
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5. Implications

Financial Implications	
5.1	There are no immediate direct financial implications to updating the contract procedure rules. The position will be kept under review.
Legal Implications	
6.1	Legal implications are set out in the main body of the report
Public Health Implications	
7.1	N/A
Environmental & Climate Change Implications	
8.1	N/A
Other Significant Implications	
9.1	N/A
Background Papers	
10.1	N/A