

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	Executive and Council
Date:	Executive 16th March 2015 Council 14th May 2015
Subject:	New Contract Procedure Rules
Portfolio Holder(s):	Alwyn Rowlands
Head of Service:	Lynn Ball – Head of Function (Council Business) / Monitoring Officer
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Local Members:	N/A

A –Recommendation/s and reason/s
<p><u>RECOMMENDATION/S</u></p> <p>The Executive recommends to full Council that Council approve the new Contract Procedure Rules (as contained in Appendix 1 to this Report) and delegate authority to the Monitoring Officer to incorporate the new Contract Procedure Rules (“CPRs”) into the Constitution.</p> <p><u>REASONS</u></p> <p>The Council’s CPRs set out the framework under which all procurement activity is undertaken. In the event that statutory or other legal requirements even exceed the authority contained in the CPRs, then those requirements will take precedence over the CPRs.</p> <p>The current CPRs require updating because:-</p> <ul style="list-style-type: none"> (i) The current version is administratively burdensome and creates unnecessary “red tape”, making it inefficient; (ii) It is no longer in line with best practice and may cause complications in multi-authority contracts, and also for contractors who deal with multiple authorities; (iii) The North Wales Procurement Group made up of contract specialists in the region, have met on many occasions over the last few years to discuss the need for change in the CPRs used by most authorities. Appendix 1 has been designed to pick up on the key points from those discussions; (iv) The current contract values have been increased to authorise Officers to procure

smaller contracts more quickly and without having to jump through as many hoops. There will, however, be a requirement for Officers to keep a proportionate audit trail of the process followed and the reasons for their decision. These will be subject to internal audit and review;

- (v) To take into account the legislative requirements for e-tendering;
- (vi) To update the “exceptions” rules so that prior authorisation comes from Officers and not from the Executive. This is to speed up the process and bring the rules in line with the approach elsewhere.

In summary, the following have been taken into account in creating the new CPRs:-

1. Current best practice;
2. Emerging law on procurement;
3. Recommendations from the Council’s procuring officers.

A summary is attached in Appendix 2 which sets out the main changes proposed.

FINANCIAL IMPLICATIONS

There are no financial implications in updating the CPRs. However, the financial thresholds under the CPRs will change.

B – What other options did you consider and why did you reject them and/or opt for this option?

Maintaining the status quo would not be an option as changes are required for reasons of legal compliance. However, the changes to thresholds and authorisation for exceptions are not legal requirements; they are proposed to make the Council more business like and efficient and to support procuring officers to speed up implementation.

C – Why is this a decision for the Executive?

New CPRs involve constitutional changes which can only be approved by the full Council after consideration by the Executive.

CH – Is this decision consistent with policy approved by the full Council?

Any changes to the CPRs will require full Council approval

D – Is this decision within the budget approved by the Council?

Yes

DD – Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	Supportive of changes
2	Finance / Section 151 (mandatory)	I have no comment on this report
3	Legal / Monitoring Officer (mandatory)	Joint author of report so comments included
4	Human Resources (HR)	
5	Property	
6	Information Communication Technology (ICT)	
7	Scrutiny	
8	Local Members	
9	Any external bodies / other/s	

E – Risks and any mitigation (if relevant)		
1	Economic	
2	Anti-poverty	
3	Crime and Disorder	
4	Environmental	
5	Equalities	
6	Outcome Agreements	
7	Other	Rigour in letting of minor contracts mitigated by:- <ul style="list-style-type: none"> - Specialist designation - Training - Audit trail - Use of framework contracts - Testing by Internal Audit Review after 12 months with further recommendations and/or further review

F - Appendices:
1. Copy of the proposed new Contract Procedure Rules 2. Summary of key amendments / changes between the new CPR's and the current CPR's

FF - Background papers (please contact the author of the Report for any further information):

N/A

ATODIAD / APPENDIX

1

Constitution: 4.9 Contract Procedure Rules

4.9.1 General

4.9.1.1 These Rules are the Contract Procedure Rules of the Isle of Anglesey County Council ("The Council") written in accordance with the Public Contracts Regulations 2006 (2015) for procurement by contracting authorities

4.9.1.2 These Rules may only be amended by full Council, having considered any advice offered by the Head of Function (Resources)/S151 Officer and/or Head of Function (Council Business) / Monitoring Officer in respect of any proposed amendment

4.9.1.3 These Rules are to be read in conjunction with the Council's Financial Procedure Rules (4.8) and any procurement guidance or procedures issued by the Council, and any good practice guidance applicable to the type of relevant procurement

4.9.1.4 These Rules are to apply to all "relevant contracts" entered into by, or on behalf of, the Council, for the provision of works, supplies, goods, materials or services. These include arrangements for:-

4.9.1.4.1 the supply or disposal of goods or materials

4.9.1.4.2 the hire, rental or lease of goods or equipment

4.9.1.4.3 the execution of works

4.9.1.4.4 the delivery of services including (but not limited to) those related to

(a) the recruitment of staff

(b) land and property transactions

(c) financial and consultancy services

(d) the supply of staff supplied by employment agents, consortiums or other companies

(e) schools maintained by the Council, and their employees, except where amended by the Fair Funding Scheme applicable to schools

4.9.1.5 Relevant contracts do not include:-

4.9.1.5.1 contracts of employment which make an individual a direct employee of the Council

4.9.1.5.2 agreements regarding the acquisition, disposal, transfer of land (to which the Financial Procedure Rules apply)

4.9.1.5.3 the payment of grants to third parties (although consideration may need to be given to the State Aid Rules).

4.9.1.6 'Responsible Officer' (RO) within these Rules includes a Director or Head of Service or other such person who has been given authority under the Council's Delegation Scheme

4.9.1.7 'Approved Procuring Officer (APO)' within these Rules means an officer who is authorised to procure services/works on behalf of the Council. All such officers have a continuing obligation to demonstrate to their relevant Head of Service that they have received sufficient training to enable them to understand the procurement rules, including, where applicable, the Public Contracts Regulations 2006 (2015). Additionally, all RO's shall be jointly responsible with their APO's for ensuring that appropriate training is received, refreshed and updated in accordance with the obligation imposed under this paragraph.

4.9.1.8 These Rules set out the mandatory requirements. Failure to comply with these Rules, the Council's Constitution or UK and EU legal requirements may be brought to the attention of the Monitoring Officer, Internal Audit Manager or other relevant officer as appropriate and may result in disciplinary action being taken

4.9.1.9 In addition, employees should have regard to :-

4.9.1.9.1 any procurement guidance or procedures issued by the Council

4.9.1.9.2 any good practice guidance applicable to the relevant type of procurement

4.9.2 General Principles

4.9.2.1 All procurement procedures **MUST**:-

4.9.2.1.1 realise value for money by achieving optimum combination of price and quality

4.9.2.1.2 be consistent with the highest standards of integrity

4.9.2.1.3 operate in a transparent manner

4.9.2.1.4 ensure fairness in allocating public contracts

4.9.2.1.5 comply with all legal requirements, including the EU treaty principles

4.9.2.1.6 ensure that non-commercial considerations do not influence any contracting decisions

4.9.2.1.7 support all relevant Council priorities and policies

4.9.2.1.8 comply with commercial confidentiality requirements as well as relevant statutory requirements, including, but not limited, to FOIA 2000 and DPA 1998

NB These Rules shall be applied to contracting activities of any partnership for which the Council is the accountable body unless the Council expressly agrees otherwise

4.9.2.2 Joint procedures

4.9.2.2.1 The Council may entrust all or part of the tendering or quotations procedure to another authority or authorities acting jointly, or a similar body, which has procedures analogous to these procedures, designed to ensure compliance with the same objectives, subject to the following:-

(a) if the body to which the procedure is to be entrusted is a public sector body, the arrangements shall require prior notice to the Portfolio Holder for Finance and the Portfolio Holder for the relevant Service and the prior approval of the Head of Function (Finance)/S151 Officer or the Head of Function (Council Business) / Monitoring Officer who shall first consider a report detailing the analogous procedures adopted by that body

(b) otherwise, the arrangement shall require the prior approval of the Executive, as well as the Head of Function (Finance)/S151 Officer or the Head of Function (Council Business) / Monitoring Officer who shall first consider a report detailing the analogous procedures adopted by that body

(c) if the body is a local authority or a group of local authorities, the arrangement may allow acceptance of the tender or quotation to be delegated to the body, if agreed at the time the arrangement is made

4.9.2.2.2 otherwise, the acceptance of tender or quotation may not be delegated outside of the Council

4.9.2.2.3 in ALL cases the arrangement must allow the Council and its auditors full access to the audit trail of decisions taken

4.9.2.3 Partnerships

4.9.2.3.1 Financial Procedure Rule 4.8.6.4 deals with partnership arrangements and places responsibility on the Executive for their approval. The terms of such approval may include procedures which may affect the way in which procurement is carried out by or on behalf of the Council or the partnership, where the contracting party is the partnership, the Executive's approval must include approval of the partnership's procurement procedures

4.9.3 Exceptions

4.9.3.1 Except where the Public Contract Regulations 2006 (2015) apply, the Executive has the power to waive or vary the requirements within these Rules

4.9.3.2 Additionally, these Rules may be waived or varied where the circumstances are certified by the Head of Function (Finance)/S151 or Head of Legal/Monitoring Officer as meeting any of the following criteria:-

4.9.3.2.1 for works, services and supplies which are either patented or of such special character that it is not possible to obtain competitive prices

4.9.3.2.2 for supplies purchased or sold in a public market or auction

4.9.3.2.3 for the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills

4.9.3.2.4 with an organisation that has won a contract for an earlier phase of work via a competitive process and where the works forms part of a serial programme and has previously been identified as such

4.9.3.2.5 for works, services or supplies which are only available from one organisation

4.9.3.2.6 involving such urgency that it is not possible to comply with these Rules.

4.9.3.2.7 for the purchase of an art or museum specimen or to meet the specific requirements of an art or cultural event which cannot be competitive due to the nature of the requirement

4.9.3.2.8 in relation to time, limited grant funding from an external body where the time limitations will not allow a competitive process to be completed **and** where the grant conditions allow this

4.9.3.2.9 for social care services under the National Health Services and Community Care Act 1990 or the Children's Act 1989, provided that where the contract is put out to tender, the tenders are invited or negotiated in accordance with Rule 4.9.4

4.9.4 Tendering and Quotations

4.9.4.1 Before conducting any procurement exercise the RO/APO will estimate the cost of such procurement, including any incidental or ancillary costs. They must satisfy themselves that the authority exists within the Council's approved budget for such expenditure, or will exist before expenditure is committed, and that they have the delegated authority to spend from such budgets

4.9.4.2 Before conducting any procurement exercise, the RO/APO shall make themselves aware of any relevant current contractual obligations and ensure that they are adhered to throughout the process

4.9.4.1.3 When estimating the cost of the procurement, the RO/APO shall include the anticipated value over the full term of the contract, including any extensions and / or renewals. If the full term of the contract is unknown, then the RO/APO may seek further guidance from the Procurement Service

4.9.4.1.4 The Public Contract Regulations contain the aggregation rules that should be applied when estimating the contract value

4.9.4.2 Competition can be carried out in two ways:-

4.9.4.2.1 documents sent out in conventional form either printed or on CD. Returns are in the same form; ideal where the market may not be familiar with on-line applications

4.9.4.2.2 everything available on-line. Often called e-tendering. The Council subscribes to an e-tendering solution. This saves time and cost of printing and is ideal for well developed IT literate markets

4.9.4.2.3 E-tendering **MUST** be used for all contracts over £25k in value

4.9.4.3 The RO/APO shall consult the Procurement Service prior to any tender at Large Contract value or above

4.9.4.4 The RO/APO must consult with the Insurance Officer prior to any procurement process commencing, for advice about insurance values

4.9.4.5 The Public Contract Regulations 2006 (2015) shall apply to all projects where the expected cost will exceed the EU threshold levels at the time the project is begun for the relevant goods works or services procured. The Legal Section shall be consulted in all such cases

4.9.4.6 The full tendering procedure outlined in Rule 4.9.7 shall apply where the expected cost is £30k up to EU threshold (**LARGE CONTRACTS**)

4.9.4.7 The quotations procedure outlined in Rule 4.9.6 shall apply where the expected cost is £10k up to £30k (**SMALL CONTRACTS**)

4.9.4.8 The single quotation procedure outlined in Rule 4.9.5 shall apply where the risk is small and the expected contract value is up to £10k (**MINOR CONTRACTS**)

4.9.5 Minor Contracts Quotations Procedure (up to £10k)

4.9.5.1 The RO/APO shall ascertain whether a corporate purchasing arrangement (such as National Procurement Service Framework) is in use for the particular requirement and, if so, an order shall be made under that arrangement

4.9.5.2 If no arrangement exists the RO/APO shall obtain, where practical, a minimum of one quotation which must be sourced from an approved list of suppliers, where such a list exists, or by a general list of registered suppliers

4.9.5.3 If none exist then the RO/APO shall assess which person or firm is competent for the purposes intended

4.9.5.4 An audit trail must be maintained to ensure that processes have been followed and justification shown for selection of a person or firm invited to quote

4.9.6 Small Contracts Quotation Procedure (£10k up to £30k)

4.9.6.1 The RO/APO shall check whether a corporate purchasing arrangement is in use for the particular requirement and, if so, an order shall be placed under that arrangement.

4.9.6.2 If no such arrangement is in place the RO/APO shall invite a minimum of three quotes for the work/services

4.9.6.3 All those invited to quote shall be given the same access to information concerning the proposed contract

4.9.6.4 All those invited to quote shall be given the same deadline for quotations and quotations will not be evaluated until after that deadline

4.9.6.5 An audit trail shall be maintained showing what quotations were invited, how, and the results of the exercise.

4.9.6.6 For any contract of £25k or more in value a public advertisement shall be placed through the sell2wales website at www.sell2wales.gov.uk. This may be supplemented by advertisement in trade journals etc at the discretion of the Service concerned

4.9.7 Tendering Procedure Large Contracts (£30k up to EU threshold)

4.9.7.1 The RO/APO shall check whether a corporate purchasing arrangement is in place for the particular requirement and, if so, an order shall be placed under the arrangement

4.9.7.2 If no such arrangement is in place and the RO/APO is satisfied that there is no interest to economic operators located in other member states they will place a public advertisement through the sell2wales website at www.sell2wales.gov.uk or any such website as directed under the Public Contract Regulations 2006 (2015) in order to comply with its purchasing obligations. This may be supplemented by advertisement in trade journals at the discretion of the Service concerned

4.9.7.3 In all other cases a public advertisement inviting expressions of interest must be published on sell2wales and also sufficiently accessible to open the award up to competition within the EU market (to the extent that, in all the circumstances of the case the contract might potentially be of interest to contractors in other member states)

4.9.7.4 The advertisement should specify the nature and purpose of the proposed contract and, where relevant, where further particulars can be obtained, invite tenders for its execution and specify the procedure for submission of tenders. At least 10 working days notice must be given

4.9.7.5 No tender shall be considered unless contained in a plain envelope addressed impersonally to the Head of Function (Council Business) / Monitoring Officer and shall be securely sealed and shall bear the word "Tender" followed by the subject to which the tender relates, but shall not bear any distinguishing mark or mark intended to indicate the identity of the sender and prospective tenderers shall be notified accordingly. On arrival, such envelopes shall be retained unopened in the Legal Section until the time appointed for their opening

4.9.7.6 Tenders shall be opened at one time, in the presence of at least two employees, including the Head of Function (Council Business) / Monitoring Officer or nominee and the RO/APO or their nominee. Details of each tender shall be recorded by a sequentially numbered list. Both the tenders and the list shall be signed by the parties present at the opening of such tenders

4.9.7.7 Any tender received after the specified time shall be returned promptly to the tenderer by the Head of Function (Council Business) / Monitoring Officer however if the Head of Function (Council Business) / Monitoring Officer is satisfied that there is evidence of posting in time for delivery by the specified time in the normal course of postal delivery and the other tenders have not been opened then they, at their absolute discretion, may allow the tender

4.9.7.8 Where examination of tenders reveals clerical or arithmetical errors or discrepancies which would affect the tender figure(s) the tenderer is to be given details of such errors or discrepancies in writing by the RO/APO and;

4.9.7.9 In the case of errors of transcription or computations manifest upon the face of the document then the tenderer shall be allowed the opportunity of correcting those errors and;

4.9.7.10 In all other cases afforded the opportunity of confirming or withdrawing the offer in writing to the RO/APO. If that tenderer withdraws, the next tenderer in competitive order (as assessed by the assessment method adopted) is to be examined and dealt with in the same way

4.9.7.11 A change to this procedure may be made where the exercise follows national or recognised good practice guidelines which specify an alternative procedure and all tenderers are notified in advance of the procedure to be followed

4.9.7.12 Any other exception to this procedure may be authorised only by or on behalf of the Head of Function (Finance)/S151 Officer or Head of Function (Council Business)/Monitoring Officer after consideration of a report from the RO/APO

4.9.8 Output Specification, Evaluation and Acceptance

4.9.8.1 In any procurement exercise the following information shall be provided to firms wishing to tender or quote:-

4.9.8.1.1 a description of the goods required or specification of work or services required. This shall include the Council's terms and conditions and a Data Processing Agreement if applicable

4.9.8.1.2 whether and, if so, how firms are to be assessed on the basis of their technical capability

4.9.8.1.3 whether and, if so, how firms are to be assessed on their financial and economic standing

4.9.8.1.4 whether the assessment is to be on the basis of price only or most economically advantageous tender / quote. If it is the latter, details of any scoring scheme to be used for the evaluation should also be supplied, including any sub-criteria

4.9.8.1.5 all tenders over the Large Contracts threshold must be evaluated on the basis of most economically advantageous tender

4.9.8.1.6 that the Council is not bound to accept the lowest or any tender / quote

4.9.8.1.7 if variant tenders are accepted, a statement to that effect, and details of how they will be assessed

4.9.8.1.8 a statement that the Freedom of Information Act 2000 applies to the Council and that any information that the tenderer considers to be confidential or would be likely to

prejudice their commercial interests should be separately identified, with reasons, in the tender or quotation

4.9.8.2 The acceptance of a quote may be authorised by an employee of the Council provided that :-

4.9.8.2.1 they have the authority to do so under the Scheme of Delegation and authority to commit a Council budget which is adequate for the proposed contract and;

4.9.8.2.2 the tender / quote has been evaluated in accordance with the information provided and either:-

(a) if the contract is to be awarded on price, the quote is the lowest price or

(b) if the tender is to be awarded on most economically advantageous tender or quotation and the scoring scheme has been provided to the firm and the contract is to be awarded in accordance with that scoring scheme

4.9.8.2.3 The RO/APO shall notify all tenderers of the result of the tendering exercise and the date on which the standstill period ends (if applicable)

4.9.8.2.4 The award decision letter to unsuccessful tenderers must include the following:-

(a) the award criteria

(b) the reason for the decision, including the characteristics and relative advantages of the successful tenderer

(c) the scores obtained by the unsuccessful tenderer (a full breakdown of scores against each criteria and sub-criteria supported with a brief narrative)

(d) the successful tenderers name

(e) a precise statement of when the standstill period is to end (if applicable)

4.9.8.2.5 All applicants excluded from being invited to tender shall be notified of the rejection of their application and the reasons for it

4.9.8.3 Variations to the acceptance procedure may be approved in any of the following:-

4.9.8.3.1 services provided directly to users – where the payment is made in respect of services provided directly to members of the public and the Council is required by the relevant social services legislation to take account of the wishes of the service users;

4.9.8.3.2 contracts made as agents – where the tender is being invited as agent for another personal body which has overriding requirements set aside in writing;

4.9.8.3.3 promotion of competition – where the Head of Function (Finance)/S151 Officer or Head of Function (Council Business) / Monitoring Officer approves an alternative method for a specific procurement exercise with the objective of promoting, maintaining or improving competition in market

4.9.9 Terms to be specified in tenders, quotations and contracts

4.9.9.1 The description of goods required or works or services required in any invitation to tender or quote shall include the following:-

4.9.9.1.1 any applicable standards issued by the International Standards Institute or other recognised standard including Health and Safety requirement and CDM Regulations

4.9.9.1.2 where relevant any provisions of the Council's Language Scheme

4.9.9.1.3 for every contract or order, proof of adequate insurance cover shall be required to the satisfaction of the Head of Function (Finance)/S151 Officer including public liability employer's liability and professional indemnity if required

4.9.9.1.4 a right of access to relevant documentation and records of the contractor for monitoring and audit purposes and requirements of the Data Protection Act 1998

4.9.9.1.5 the works, materials, matters, services or things to be furnished and applied or done (including technical specifications)

4.9.9.1.6 the price to be paid with the statement of discounts or other deductions

4.9.9.1.7 the time or times within which the contract is to be performed

4.9.9.2 In every written contract over the Small Contract threshold the following provisions must be included within the proposed terms of contract:-

4.9.9.2.1 the termination of the contract and the recovery of any sums paid where there has been evidence of bribery or corruption

4.9.9.2.2 entitling the Council to terminate part or all of the contract or to obtain substituted provision of the supplies, services and works to be supplied under the contract in the event of a breach of contract by, or insolvency of, the contractor

4.9.9.2.3 the price and or any mechanism by which the price, any additional price, or discounts, are to be ascertained

4.9.9.2.4 prohibiting the contractor from sub-contracting, assigning or otherwise transferring the contract without the prior written consent of the Council and providing that the contractor shall remain liable to the Council for any part of the contract that may be sub-contracted

4.9.9.2.5 the compliance by the contractor with legislative requirements in respect of

(a) health and safety, including the setting up of appropriate systems and procedures for the supply of services and works procured including the CDM Regulations

(b) the prevention of inequality and promotion of equality

(c) the observance of human rights in the performance of functional activity under the contract (as if the contractor were a public body)

(d) freedom of information and requiring the contractor to co-operate with the Council in dealing with requests, the contractor accepting that information will be liable to disclosure and following the requirements as to local transparency on contracts and tenders

(e) data protection

(f) workforce transfer legislation where appropriate including associated codes of practice

(g) any other legal obligation

4.9.9.2.6 compliance with the Council's sustainability policies

4.9.9.2.7 indemnities for any claim in respect of employers liability or public liability arising from the contract, including if appropriate infringement of intellectual property rights and appropriate insurance requirements of the contractor

4.9.9.2.8 indemnities in respect of claims made against the Council in respect of contractors' activities and the provision of satisfactory insurance against such claims

4.9.9.2.9 in cases where the contractors' activities are of a type that can normally be so insured the provision to the Council of evidence of satisfactory indemnity insurance held by the contractor

4.9.9.2.10 for contracts above the Large Contract threshold involving the carrying out of works or the provision of services the provision of adequate security in respect of completion by the contractor either by means of retention of sums due or an obligation to pay liquidated damages or substituted performance or (where appropriate) the provision of a performance bond or parent company guarantee

4.9.9.2.11 the provision to the Council of adequate intellectual property protection with an indemnity protection where appropriate

4.9.9.2.12 the provision to the Council of adequate warranties from manufacturers of mechanical and engineering supplies or for supplies of other products where the Council's requirements have prescribed or prohibited materials or where a duty of skill and care is appropriate to the manufacture of the product in contracts for the purchase of supplies

4.9.9.2.13 if necessary, provisions to ensure that appropriate vetting and barring is undertaken to ensure safety of vulnerable groups

4.9.9.2.14 the Council's entitlement to undertake monitoring and compliance procedures

4.9.9.2.15 the provision to the Council of adequate confidentiality obligations together with appropriate indemnities

4.9.9.3 Every contract which exceeds £50,000 in value:-

4.9.9.3.1 be made under the Council's seal and be attested by at least one officer of the Council, or

4.9.9.3.2 be signed by at least two officers of the Council and that one of the two officers shall be the Head of Function (Council Business) / Monitoring Officer or their nominee.

4.9.10 Post contract management

4.9.10.1 The contract management arrangements shall be set out in the invitation to tender and subsequent contract. These shall ensure timely reporting of performance, quality, customer satisfaction and management information in relation to service priorities and objectives

4.9.10.2 A contract may not be varied without the consent of the Head of Function (Finance)/S151 Officer or the Head of Function (Council Business)/Monitoring Officer or under his or her specific delegation to other officer/s

4.9.10.3 No contract exceeding EU threshold may be extended by duration or value unless:-

4.9.10.3.1 such extension was included in the original Contract Notice and contract documentation or such extension is in accordance with the provisions detailed in the Public Contract Regulations and alternative options have been considered by way of an options appraisal and the RO/APO is satisfied that the extension demonstrates value for money and is in the best interests of the Council in the light of the contractor's performance

4.9.10.4 Contracts below EU threshold may be extended by duration or value if:-

4.9.10.4.1 such extension would not mean that had it been included in the original contract the overall value would have exceeded the EU threshold and alternative options have been considered by way of options appraisal and the RO/APO is satisfied that the extension demonstrates value for money and is in the best interests of the Council in the light of the contractor's performance and the combined value of this and other contracts of similar characteristics regardless of supplier remain below the EU threshold

4.9.11 Variations

4.9.11.1. Any proposed variation/s at any point which exceed/s 10% of the value of a contract shall first be assessed to ensure that it does not breach legislation or policy. The reason/s for the variation must be explicitly documented. Variations shall not be used to mask poor performance or underlying problems and the effect on original timeframes, deliverables and value for money must form part of the assessment. If the effects are significant, or in excess of 10% of the value of the contract, the relevant RO must be consulted together with any stakeholders and advice must be sought from the Procurement Section.

ATODIAD / APPENDIX
2

SUMMARY OF PROPOSED CHANGES TO THE CONTRACT PROCEDURE RULES

1. We have tried to keep the layout broadly the same, with only some minor amendments to the layout, to bring it in line with the formats used in other Councils. This is to ensure that those who rely on these Rules in their day to day work are able to adapt to this new model with ease. It is also intended to help providers, particularly those in Anglesey and North Wales, compare the arrangements in place for each Council. We think this simplifies the process for them and encourages and supports more local businesses to tender or quote for works and services.
2. The Rules now include a new requirement for Officers to check whether there is already an in-house, or approved, arrangement. This is to encourage the use of frameworks, including any local buying consortium, and to support collaboration frameworks. This is intended to save time and money and may encourage the use of local suppliers who are identified under any relevant framework.
3. The contract values have been changed as follows:-
 - **£1 → £10,000 (Minor Contracts)**

This allows the Responsible Officer to assess the competent suppliers and request a minimum of one written quote. It is suggested that this be increased from the current ceiling of £3,000, to allow for a quicker, smoother and less bureaucratic process. There is, though, a quid pro quo. That is, an explicit requirement (it is already implicit) for a full audit trail to be retained by the Responsible Officer, on file, to justify the decisions made. The general principles of procurement, as provided for in the Rules, are devised to ensure transparency, a fair allocation of work, and value for money for the Council.
 - **£10,000 → £30,000 (Small Contracts)**

In this case the Responsible Officer is still to obtain three written quotations. The suggested value remains at the current ceiling of £30,000.
 - **£30,000 up to EU threshold (Large Contracts)**

Requires that the full tender procedure be used. This has not changed. However, there is also a new legal requirement for the Council to consider any cross-border interest which may apply to the specific contract. If one is likely to exist, then there is a requirement for any advertisement placed to extend to the European market. If it is likely that no interest will apply, then a national advertisement is required.
4. There is a new requirement to use e-tendering for all procurements over the EU threshold. This has changed to reflect recent changes in legislation.
5. There is a current requirement to seek authority to use e-tendering, below the EU threshold. It has now become a discretion of the Responsible Officer.
6. The exceptions in the rules have changed too, in that prior authorisation will come from (it is proposed) Officers and not from the Executive. Anything outside the exceptions, though, will still require Executive approval (i.e. Executive or Portfolio Holder). This is intended to speed up the process of taking and implementing decisions and to remove

the delay involved in taking an Executive decision. The Officers still have the option of an Executive decision if the matter is controversial. An Executive decision will still be mandatory if a budget is required.

7. The output, specification and terms to be specified have changed to include relevant legislative requirements, such as the use of the Data Processing Agreement and the Welsh Language Scheme.
8. There is also an extension to the requirement to include evaluation criteria and sub-criteria as well as contract award rules, which will ensure compliance with EU legislation.
9. There are some amendments to the post contract management requirements such as variation/extension rules which will further ensure EU compliance.