

| Policy and Resources Committee Meeting | |
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| Meeting Date | 27 November 2024 |
| Report Title | Update of the Commissioning and Procurement Policy |
| EMT Lead | Lisa Fillery, Director of Resources |
| Head of Service | Claire Stanbury, Head of Finance and Procurement |
| Lead Officer | Charlotte Knowles, Commissioning Manager |
| Classification | Open |
| Recommendations | <ol style="list-style-type: none"> 1. To adopt the updated Commissioning and Procurement Policy on 24 February 2025. 2. To delegate authority for the approval of any future legislative and / or governance updates to the Monitoring Officer in consultation with the Leader. |

1 Purpose of Report and Executive Summary

- 1.1 The intention is to adopt the updated Commissioning and Procurement Policy on 24th February to take account of the changes being implemented by the new Procurement Act.

2 Background

- 2.1 The current Commissioning and Procurement Policy was implemented in December 2021. The policy includes the Council's principles on commissioning decisions and the procurement processes for buying goods, works and services, ensuring they meet the Coalition's priorities. It sits alongside the technical 'Contract Standing Orders' (CSO's) for Swale that are contained within the Constitution and set our procedural rules.
- 2.2 Following the exit from the EU, the government released the green paper 'Transforming Public Procurement' in 2020. The government's goal was to speed up and simplify our procurement processes, place value for money at their heart, and unleash opportunities for small businesses, charities and social enterprises to innovate in public service delivery. Multiple consultations were carried out on the proposals and The Procurement Act 2023, which will reform the existing Procurement Rules, received Royal Assent on 26th October 2023 and will come into force on 24th February 2025. The Act was due to come into force on the 28th October but has been delayed. The Procurement Regulations 2024 will underpin and provide further detail on the Act.
- 2.3 The current regime, the Public Contract Regulations 2015, will continue to apply to the management of contracts that were procured prior to 24th February.

2.4 CSOs will be updated under the delegations of the Monitoring Officer and all procurement templates will be updated by the Commissioning Manager and Commissioning Support Officer to comply with the new regime.

3 Proposals

3.1 The following paragraphs set out the proposed changes to the policy.

3.2 There is an updated National Procurement Policy Statement so paragraph 1 of the policy has been updated to reflect this.

3.3 Paragraph 3 of the policy has been updated to reflect the new Corporate Plan.

3.4 Paragraphs 10, 14 and 53 have been updated to reference the Procurement Act 2023 and other relevant legislation.

3.5 Paragraphs 15, 23, 32, 44, 61 and 73 have been updated to comply with the requirement to include VAT in contract estimates.

3.6 Paragraphs 19 and 56 have been updated to comply with the Procurement Act move from awarding a public contract to the supplier that submits the Most Economically Advantageous Tender (MEAT) in a competitive tendering procedure to the Most Advantageous Tender (MAT). This is to provide greater reassurance to contracting authorities that it is possible to take a broader view of what can be included in the evaluation of tenders in assessing value for money.

3.7 Paragraphs 20, 21 and 22 have been updated to reflect the move to a committee system.

4 Alternative Options Considered and Rejected

4.1 Do nothing and keep the existing policy. This option is not recommended as the policy will be out of date following the implementation of the Procurement Act.

5 Consultation Undertaken or Proposed

5.1 Mid Kent Legal Services have been consulted on the proposals.

6 Implications

| Issue | Implications |
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| Corporate Plan | The policy supports the priority: Running the Council - Working within our resources to proactively engage with communities and outside bodies to deliver in a transparent and efficient way. |
| Financial, Resource and Property | There are no direct financial implications of amending the Commissioning & Procurement Policy. The Council will make decisions about the purchasing or delivery of services on the basis of value for money. As such each commissioning process should look at the requirements of the service and business case into each of the options. |
| Legal, Statutory and Procurement | The Procurement Act 2023 and the Procurement Regulations 2024 will apply from 24 th February 2025. The Public Contracts Regulations 2015 will continue to apply to contracts procured prior to this. |
| Crime and Disorder | None identified at this stage. |
| Environment and Climate/Ecological Emergency | The policy contains a section on sustainable procurement and references the Climate and Ecological Emergency Action Plan. |
| Health and Wellbeing | The draft policy contains a section on Social Value. |
| Safeguarding of Children, Young People and Vulnerable Adults | The policy has a specific section on Safeguarding. The council sets different requirements for Safeguarding depending upon the contract type. There are strict criteria of what contractors are required to demonstrate for each level. |
| Risk Management and Health and Safety | The policy requires officers and Members to assess the risk of each commissioning process. |
| Equality and Diversity | There are no differential equality issues raised by the proposals in this report. |
| Privacy and Data Protection | The standard terms and conditions that are used for contracts include privacy and data protection clauses. |

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Commissioning & Procurement Policy

8 Background Papers

None.