


REPORT TO EMERGENCY COMMITTEE

24 June 2020

Subject:	Amendment to emergency changes to Financial Regulations and Procurement & Contract Procedure Rules
Director:	Rebecca Maher
Contribution towards Vision 2030:	
Contact Officer(s):	Rebecca Maher Acting S151 Officer Rebecca_Maher@sandwell.gov.uk

DECISION RECOMMENDATIONS

1. That the Committee approves that the following amendments, that were made to the Council's Financial Regulations and Procurement and Contract Procedure Rules (PCRs) in response to the Covid-19 crisis, are now revoked from **1 July 2020**: -
 - **Key Decision threshold/approval limit** – this should be revised back to £0.250m.
 - **Strategic Finance appraisals** – these should be reinstated.

2. That the Committee approves that the following amendments, that were made to the Council's Financial Regulations and Procurement and Contract Procedure Rules (PCRs) in response to the Covid-19 crisis, are now revoked from **1 August 2020**: -
 - **New contracts below PCR 2015 threshold (para 2.7 below)** – standard procurement processes should be reintroduced. It is important to note that the intention of this amendment was to reduce the workload for Chief Officers during the crisis response.
 - **New contracts above PCR 2015 threshold (para 2.8 below)** – standard procurement processes should be reintroduced. It is important to note that the intention of this amendment was to reduce the workload of Cabinet/Emergency Committee during the crisis response.
3. That a further report is presented to Emergency Committee or Cabinet regarding the remaining amendments when appropriate.

1 PURPOSE OF THE REPORT

- 1.1 To gain approval for some emergency amendments to the Council's Financial Regulations and Procurement and Contract Procedure Rules to be revoked.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 On 18 March 2020, Emergency Committee approved several amendments to the Council's Financial Regulations and PCRs in order to provide flexibility in responding to the Covid-19 crisis. These changes are outlined below.

Amendments to both Financial Regulations and PCRs

- 2.2 References to the following officers are expanded to also include officers nominated by those officers:
 - Chief Executive
 - Chief Finance Officer
 - Head of Paid Service
 - Chief Officer
 - Monitoring Officer
- 2.3 The key decision threshold/approval limit has been increased from £0.250m to £2.000m.

Amendments to Financial Regulations

2.4 The following requirements are suspended:

- To exercise budget management within annual cash limits.
- For a Strategic Finance appraisal to be undertaken when bidding for funding/undertaking capital schemes. This was replaced by approval from the relevant Chief Officer or nominated officer.

2.5 The Chief Finance Officer is able to bid for an unlimited level of external funding.

Amendments to Procurement & Contract Procedure Rules

2.6 Section 13 is suspended with regard to existing contracts that are due to expire during 2020. For these contracts, an extension period of up to 12 months may be applied, subject to agreement with the supplier and continued value for money.

2.7 For new contracts below the threshold for supplies and services set out in the Public Contracts Regulations 2015 (PCR 2015), a direct contract award may be made, provided that value for money can be demonstrated and subject to budget holder approval.

2.8 For contracts above the threshold for supplies and services set out in the PCR 2015, but below £2.000m, where there is an urgent requirement a direct contract award is permissible if this can be made in compliance with PCR 2015 and value for money can be demonstrated. The Procurement Service Manager must be consulted to confirm compliance with PCR 2015 and Chief Officer approval must be sought before proceeding. Contract award is subject to Chief Officer approval.

3 THE CURRENT POSITION

3.1 Since these flexibilities were introduced, a Statutory Officer's Group has been set up that includes the Chief Executive, Monitoring Officer and Acting S151 Officer. This group meets twice weekly and approves all significant decisions including: -

- Emergency Committee reports
- Cabinet reports
- Delegated decisions by Chief Officers or their nominated officers
- Emergency contract awards/extensions

- 3.2 This has ensured that the appropriate level of scrutiny and assurance has continued to take place and reduced the risk of fraud or irregularity occurring.
- 3.3 As the Council now begins to move from emergency response to reset and recovery, it is important that these flexibilities are reviewed, and a decision made about whether they should continue.
- 3.4 Remote meetings are now in place for Cabinet and urgency provisions still apply as they had done prior to the Covid-19 crisis. It is therefore deemed unnecessary to continue with some of the amended Financial Regulations and PCRs and it is recommended that the following amendments are revoked:
- **Key Decision threshold/approval limit** – this should be revised back to £0.250m from **1 July 2020**.
 - **Strategic Finance appraisals** – these should be reinstated from **1 July 2020**
 - **New contracts below PCR 2015 threshold (para 2.7 above)** – standard procurement processes should be reintroduced from **1 August 2020**. It is important to note that the intention of this amendment was to reduce the workload for Chief Officers during the crisis response.
 - **New contracts above PCR 2015 threshold (para 2.8 above)** – standard procurement processes should be reintroduced from **1 August 2020**. It is important to note that the intention of this amendment was to reduce the workload of Cabinet/Emergency Committee during the crisis response.
- 3.5 It is not currently considered appropriate to revoke the following amendments:
- **Ability for the officers outlined in para 2.2 to nominate officers** – it is important that these officers still have the ability to delegate responsibilities in order to maintain capacity.
 - **Suspension of the requirement to exercise budget management within annual cash limits** – whilst the budget position for the council is still uncertain and future emergency funding allocations not confirmed it is not possible to issue revised annual budgets for officers to operate within.
 - **CFO ability to apply for unlimited funding** – this is still considered necessary in order to assist with the range of financial pressures still being experienced as a result of Covid-19.

- **Contract extensions for 12 months** – in order to allow for extensions for suppliers that have not yet been able to respond, and because this clause is only limited to contracts expiring during 2020, it is deemed appropriate for this to continue.

3.6 A further report will be presented to Emergency Committee or Cabinet when it is considered possible to revoke or amend these flexibilities.

4 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

4.1 The Finance Management Team, Monitoring Officer and Chief Executive have been consulted on the proposals outlined in this report.

5 ALTERNATIVE OPTIONS

5.1 The alternative option is for all amendments to Financial Regulations and PCRs to continue. However, this would mean accepting that the increased level of risk would also continue. This does not seem justifiable now that the crisis response has eased and the Council is instead working on reset and recovery.

6 STRATEGIC RESOURCE IMPLICATIONS

6.1 The strategic resource implications are outlined in the main body of the report.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

7.1 Financial Regulations provide the framework for managing the authority's financial affairs. All elected members and officers of the council have a general responsibility for ensuring the use of financial resources is legal, properly authorised, provides value for money and achieves best value.

7.2 Procurement and Contract Procedure Rules offer a framework for the management of council resources.

7.3 The Financial Regulations and Procurement and Contract Procedure Rules are included in part 4 of the Council's Constitution and establish the individual and shared responsibilities of Members and Officers.

8 EQUALITY IMPACT ASSESSMENT

8.1 There are no equality implications as a result of the recommendations in this report.

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 There are no data protection implications as a result of the recommendations in this report.

10 CRIME AND DISORDER AND RISK ASSESSMENT

10.1 There are no crime and disorder risks arising from this report.

11 SUSTAINABILITY OF PROPOSALS

11.1 There are no sustainability issues associated with this report.

12 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

12.1 There are no health and wellbeing implications associated with this report.

13 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

13.1 There is no direct impact on any council managed property or land from this report.

14 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

14.1 The conclusion of this report is that some amendments to Financial Regulations and PCR's in response to the Covid-19 crisis are now revoked in order to minimise the risk of fraud and irregularity.

15 BACKGROUND PAPERS

Emergency Committee Report – 18 March 2020

16 APPENDICES:

N/a