

MERSEYSIDE FIRE AND RESCUE AUTHORITY			
MEETING OF THE:	BUDGET AUTHORITY		
DATE:	27 FEBRUARY 2025	REPORT NO:	CFO/87/25
PRESENTING OFFICER	MONITORING OFFICER, RIA GROVES		
RESPONSIBLE OFFICER:	DIRECTOR OF FINANCE AND PROCUREMENT, MIKE REA	REPORT AUTHOR:	HEAD OF PROCUREMENT, HYWYN PRITCHARD
OFFICERS CONSULTED:	CHIEF FIRE OFFICER PHIL GARRIGAN STRATEGIC LEADERSHIP TEAM		
TITLE OF REPORT:	REVISION OF CONTRACT STANDING ORDERS		

APPENDICES:	APPENDIX A: UPDATED CONTRACT STANDING ORDERS APPENDIX B: CONSTITUTION
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Purpose of Report

1. To inform Members that new procurement legislation namely the Procurement Act 2023 (the Act), comes into effect on the 24th of February 2025, that requires amendment to the Authority's constitution within the Contract Standing Orders (CSOs).

Recommendations

2. It is recommended that:
 - a. Members note the enactment of the new legislation, the Procurement Act 2023 has come into force and;
 - b. approve the amendments to the constitution incorporating the proposed Contract Standing Orders in appendix A

Introduction and Background

3. The Authority must have a written document to reflect the agreed standing orders detailing the procedures of how the Authority governs and operates. The Authority has a constitution which includes the procedural rules for governance, Scheme of Delegation, Financial Regulations and Contract Standing Orders. The constitution is a living document that will be amended as necessary in order for the Authority to continue to govern in a transparent, legally compliant and accountable manner.
4. At the AGM on the 13th June 2024 Members approved the constitution as contained in Appendix B which included the Contract Standing Order's including

the procuring of goods, services and or works which reflected the legal requirements of the Procurement Contracts Regulations 2015.

5. Previously the legislation in respect of public procurement within the UK was largely underpinned from EU directives, including the Procurement Contracts Regulations 2015. As a result of the UK's exit from Europe, following the EU referendum, the Government believed it was an opportunity to streamline the process for public procurement.
6. Therefore, the Procurement Act 2023 was drafted to reinvigorate the process of public procurement including the addition of procurement objectives, conflicts of interest and transitional requirements. The Procurement Act is to take effect from the 24th February 2025.
7. Public procurement must promote good governance, sound management of public money, and a professional relationship between contracting authority and supplier, by for example managing conflicts of interest.
8. The procurement objectives under the Procurement Act 2023 are to deliver value for money, maximise public benefit, share information for the purpose of allowing suppliers to understand the authority's procurement policies and decisions and act and be seen to act with integrity. The Authority should have regard to the importance of adhering to the objectives when undertaking its procurement activities.
9. The new legislation also allows for greater transparency to the public with the Authority expected to publish more notices throughout the lifespan of a procurement process and throughout the lifecycle of a contract. The publishing of notices will be issued via a new user friendly central digital platform which will have greater accessibility for both contracting authorities and suppliers.
10. The Procurement Act 2023 and relevant regulations to be made under the Act strengthens the ability to exclude suppliers from procurements who are unfit to deliver public contracts, for example because of past misconduct, corruption or poor performance. This will provide greater protection for the Authority from suppliers who pose a risk to contract delivery.
11. The Procurement Act 2023 and relevant regulations to be made under the Act offer greater freedoms and flexibilities to design procurement processes which allows contracting authorities to undertake procurement activities that are fit for purpose to meet organisational needs, as well as local and national objectives.
12. The Authority is under an express duty to take reasonable steps to identify, and keep under review, any actual or potential conflicts of interest and to mitigate the effect of a conflict of interest by taking reasonable steps to avoid putting a supplier at an unfair advantage or disadvantage.
13. Where a conflict of interest puts a supplier at an unfair advantage in relation to the award and either this cannot be avoided or the supplier refuses to take steps

necessary to avoid the advantage, the Authority has the power to (and must act accordingly) to treat the supplier as an excluded supplier.

14. A conflict of interest exists if either a person acting for or on behalf of the contracting authority acting in relation to a procurement, or a relevant Minister acting in relation to the procurement, has a conflict of interest. An interest may be a personal, professional or financial interest and may be direct or indirect.
15. Before publishing a tender notice or transparency notice (or establishing a dynamic market), the Authority must prepare a conflicts assessment. This must include details of:
 - Conflicts or potential conflicts of interest identified.
 - Any steps the authority has taken or will take to mitigate such conflicts.
16. The additional requirements of the Authority in managing conflicts of interest compliment the requirements already expected of Authority staff in compliance with the Declarations of Interests Service Instruction.
17. There is an introduction of a new statutory requirement for contracting authorities to "have regard" to any published national procurement policy statement which reflects the ongoing commitment to any changes the Authority may need to make and the fact the constitution will remain a living document.
18. It needs to be borne in mind that the changes are not wholesale in as much as the previous regulations remain in effect for existing contracts. Also, any new call-off contracts that are procured under any framework agreement concluded prior to the 23rd of February are not in scope of the Procurement Act 2023.
19. There will also be a greater emphasis on contract performance under the legislation with all contract authorities to set and publicly report on a minimum of three KPIs for larger contracts valued at over £5million.
20. There has also been a change in thresholds previously applied which are detailed below and within the Contract Standing Orders in Appendix A.

21. Current Thresholds

Contract Value Band	Requirement
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Goods, Services and Works

Under £11,999	Works, Goods and Services (with the exception of public utility services i.e. gas, electric and periodical payments) maybe procured using an official order. Officers are responsible for ensuring that value for money is achieved.
£12,000 - £49,999	At least two identifiable quotes must be obtained either in written or electronic

Goods & Services

£50,000 - £177,897	Procurement involvement is required, and a tendering procedure must be followed.
Over £177,897	Compliant with Procurement Regulations. (See Procurement Policy Note 10/21)

For Works

£50,000 - £4,447,447	Procurement involvement is required, and a tendering procedure must be followed.
Over £4,447,447	Compliant with Procurement Regulations. (See Procurement Policy Note 10/21)

22. New Thresholds

Contract Value Band	Requirement	Procurement Type	Method to communicate the opportunity
£1 - £24,999.99	Minimum one written quote	Unregulated	No requirement to use the Procurement Portal
£25,000 - £74,999.99	Minimum three quotes	Regulated Below threshold	Procurement Portal and Find a Tender Service
£75,000 - the PA Threshold 177,897.50	Open Tender	Regulated Below threshold	Procurement Portal and Find a Tender Service
Above the PA Threshold	Open Procedure or the Competitive Flexible Procedure	Regulated Procurement	Procurement Portal and Find a Tender Service

23. Following the enactment of the Procurement Act 2023 the Authority's own Contract Standing Orders, contained within the Authority's Constitution have been amended to comply with the legislation. It is proposed the Contract Standing Orders are amended in full as detailed in Appendix A.
24. The proposed Contract Standing Orders in Appendix A are to be included and replace the current version of the Contract Standing Orders within the Authority's constitution as contained in Appendix B.

Equality and Diversity Implications

25. No EIA has been completed as the paper describes a change in legislation. However as there is a far greater requirement to publish notices there will inherently be greater transparency and consequently more accountability under new legislation.
26. The Procurement Act 2023 makes reference to equal treatment of suppliers in section 12 of Part 2, Principles and Objectives.

Staff Implications

27. As referenced within the main body of the report there will be an increased workload for the Procurement Team in respect of publishing notices.
28. Awareness of pre-procurement activity by officers will be raised as to the amendments of the Contract Standing orders to avoid potential challenges to any future competitive exercise including additional scrutiny as to the process in engaging and evaluating quotations.

Legal Implications

29. Having Contract Standing Orders (is a requirement of the Local Government Act 1972. Revising theses CSOs aligns the Authority with current legislation.
30. Procurements (and resulting contracts) started on or after 24 February 2025 must comply with the procurement Act 2023 and therefore the new contract standing orders, except for the provisions relating to publication of payments compliance notices and other payments and contract performance information which will be brought into force at a later date.
31. Procurements (and resulting contracts) started before 24 February 2025 (including resulting contracts and modifications to those contracts) continue to be regulated by the previous procurement regime.

Financial Implications & Value for Money

32. Value for Money would be delivered by maintaining legislative compliance i.e. the Authority conducts its procurement activity in a regular and timely manner.

Risk Management and Health & Safety Implications

33. Adopting the updated constitution and the following the new Procurement Regulations would be risk mitigating actions.

Environmental Implications

34. The legislation contains a discretionary exclusion ground for any supplier or convicted of an offence that has caused significant harm to the environment.

Contribution to Our Vision: *To be the best Fire & Rescue Service in the UK.*

Our Purpose: *Here to serve, Here to protect, Here to keep you safe.*

35. The completion of robust CSOs shows the Authority to be diligent and conscientious contract authority.
36. The reputation of the Authority is maintained as a trusted partner in our Community and by our stakeholders and partners including those such as the Home Office in particular with our links to National Resilience.

BACKGROUND PAPERS

Constitution 2024/25

GLOSSARY OF TERMS

MFRA **Merseyside Fire and Rescue Authority**

MFRS **Merseyside Fire and Rescue Service**

CSO **Contract Standing Order**