



Audit & Governance Committee		Agenda Item
7th July 2023		7
Title:	Proposed changes to Constitution following Procurement Review	
Report of:	Chantel Allott, Procurement and Contracts Manager	
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) in within the constitution which is to be discussed and approved at Board on 26 July 2023.
B	Recommend to the Combined Authority Board to approve the attached procurement Strategy and policy document which is to be discussed and approved at Board on 26 July 2023.

Strategic Objective(s):

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

5	Achieving Best Value and High Performance
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1. Purpose

1.1	The Audit and Governance Committee is responsible for keeping under review the governance arrangements, such as policies and the constitution, of the Combined Authority 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 as well as the procurement strategy and policy document in line with the recommendations set out within the PwC report brought to A&G in June, following the procurement review. These proposed changes will be presented to Board on 26 July 2023.

2. Proposal

2.1	To implement the proposed changes to the CPR's within the constitution, which would not require any major changes once new legislation comes into effect. This would then enable the procurement service to make the necessary updates and changes without having to bring the CPR's back to the A&G committee each and every time. The updates and changes would be done within the Procurement Strategy and Policy document, as the purpose of setting up the CPR's in this manner is that we have covered our statutory requirements and are legally covered in the current legislation but also the new upcoming legislation.
2.2	The development of a procurement service fully resourced with personnel, policies etc will ensure effective delivery of services and help improve the quality of life of residents.

3. Background

3.1	The CPCA received a best value notice dated 24/01/2023 following concerns raised within the Authority in respect of procurement of services by the Authority. The CPCA commissioned PwC to undertake an external review of the procurement service. PwC were asked to comment on the Combined Authority's Procurement strategy, policies, operations and compliance and how this reflected best practice and Best Value and to provide recommendations for improvement to the Combined Authority, taking into account the likely requirements of the Procurement Bill currently passing through Parliament. This report was taken to A&G in June to recommend to the CA to approve the implementation of the high-level action plan.
3.2	TLT were commissioned to review the CPR's within the constitution to simplify this and set out our legal obligations under the current legislation as well as the impending Procurement Bill currently passing through Parliament. They were also asked to review our currently Procurement Policy for practicality and usability, as well as incorporate procurements strategic objectives following the procurement review.
3.3	Alternative options considered <ol style="list-style-type: none">1. Do nothing – this would not be in the best interest of the CPCA and does not foster good governance and best value.2. Attempt to action and commission this piece of work internally – the internal resource is not available to undertake this piece of work and the other requirements stemming from the PwC review, which would create a high risk that any improvements in this area would be both slow to deliver and not fully effective.

4. Appendices

4.1	<p>Appendix 1 – New version - Constitution CPR's - June 2023</p> <p>Appendix 2 – Current version - Constitution CPR's</p> <p>Appendix 3 – PwC Procurement Review report</p> <p>Appendix 4 – CPCA Procurement Strategy</p> <p>Appendix 5 - CPCA Procurement Policy</p> <p><i>Note: A tracked changed version of the CPR's has not been appended alongside the current constitution's chapter as the nature of the changes is it has been a complete rewrite.</i></p>
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5. Implications

Financial Implications

5.1	<p>The approval of the Procurement Strategy, Procurement Policy and Contract Procedure Rules will not in itself have any direct financial implications, however the wider response to the Procurement review, considered by this committee at its meeting on 9th June, will have ongoing financial consequences which were contained within that report. It should be noted that a clear Procurement strategy, policy and Contract Procedure Rules are likely to foster improved value for money and Best Value in the Authority's procurement activities and are therefore likely to provide a positive financial benefit over the medium term.</p>
Legal Implications	
6.1	<p>The Local Government Act 1972 requires the Combined Authority to have rules in place about "the manner in which the Combined Authority buys goods or materials, services and works" which shall include "provision for securing competition".</p> <p>As a 'Best Value' authority, the Combined Authority "must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness" (Local Government Act 1999)</p> <p>As a "Contracting Authority" for the purpose of the Public Contracts Regulations 2015 ("PCR 2015"), the Combined Authority must procure goods, works and services in compliance with those rules.</p> <p>The CPRs meet the legislative requirement under the LGA 1972 and should enable the Combined Authority to meet its best value obligations and procure lawfully.</p> <p>In parallel with this process the Legal Services Team reviews any proposed legislation which is likely to require amendments to the Constitution.</p>
Public Health Implications	
7.1	None directly
Environmental & Climate Change Implications	
8.1	None directly
Other Significant Implications	
9.1	None directly
Background Papers	
10.1	<ol style="list-style-type: none"> 1. Action Log from June's A&G committee 2. High level Action plan