

AUDIT AND GOVERNANCE COMMITTEE



Report subject	Financial Regulations - Annual evolution for the financial year 2024/25
Meeting date	7 March 2024
Status	Public Report
Executive summary	<p>Evolutionary changes to the Council's Financial Regulations are summarised in this report and shown in red text throughout the document at Appendix A and include:</p> <p>Key changes exist in Part G and include:</p> <p>Change 1 - Threshold adjustment Base change throughout from the £25,000 excluding VAT threshold to £30,000 inclusive of VAT to reflect the changes required by the Public Contracts Regulations which also includes the requirement to calculate the estimated value of the contract to be inclusive of VAT.</p> <p>Change 2 - Procurement & Contracts Board A new entry in regulation 3 – Standards, has been added to reflect the formation of a new Procurement & Contracts Board that will have oversight over all planned spend decisions across the entire Council and will have the authority to require any Officer to attend a meeting and provide information and/or explanation as required by The Board.</p> <p>Change 3 - Removal of waivers (of Financial Regulations) Reference to waivers throughout have been removed and replaced with the requirement for those decisions to be signed off as part of the existing Procurement Decision Records (PDRs) approval process in regulation 5 and soon to be required by legislation changes. This change has clarified any ambiguity and will remove duplication of processes. The existing reporting requirements to the Audit & Governance Committee will remain – the annual report that was Waivers and Breaches of Financial Regulations will now be PDR's and Breaches of Financial Regulations.</p> <p>Change 4 - Competition Requirements Reformatted and update to regulation 22 - Competition Requirements, which combines several previous regulations into one consistent regulation and clarifies the requirement at each threshold:</p> <ul style="list-style-type: none">• Under £5,000• £5,000 to £30,000• Over £30,000

	<p>Change 5 – Other minor editing and re-ordering</p> <p>Other minor changes throughout have been added for clarification and to address any previous ambiguities. Some reordering and aggregation of previous regulations have also taken place which makes direct comparison to previous versions more challenging. Such reordering and aggregation are not shown in red text because the regulation(s) has not been changed.</p> <p>Legislative changes resulting from the Procurement Act 2023 are explained and the likely resulting impact on Financial Regulations will be that there may be some in-year changes required to ensure alignment.</p>
Recommendations	<p>It is RECOMMENDED that Audit & Governance Committee:</p> <p>1. Approve the Financial Regulations as shown in Appendix A before referral to Council for adoption. The operational go live date will be 24 April 2024.</p> <p>2. Approve a delegation to the Chief Finance Officer and the Monitoring Officer to amend the Financial Regulations, in year, if the Procurement Act 2023 or the secondary legislation Public Procurement Regulations 24 (PCR24) require such an amendment. The Head of Audit & Management Assurance will report any necessary changes to the first available Audit & Governance Committee.</p>
Reason for recommendations	The Council's Financial Regulations are subject to annual evolution to align to the start of each financial year, or as close as is reasonably possible subject to how Council meetings fall.
Portfolio Holder(s):	Cllr Mike Cox, Portfolio Holder for Finance
Corporate Director	Graham Farrant, Chief Executive
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Wards	Council-wide
Classification	For Recommendation Approval

Background

1. BCP Council's Financial Regulations currently form Part 5 of The Constitution.
2. Council agreed that the Financial Regulations (the Regulations) will be subject to a business as usual 'annual evolution' so they remain up-to-date and receptive to the rapidly changing internal and external environment in which the Council operates. Such 'annual evolution' will be approved by Council.

3. As far as is practical, subject to when Council meetings fall, the evolution of the Regulations will align to as close to the start of the financial year as possible. For 2024/25 Council meets on 23 April 2024 so this evolution of Financial Regulations will be operationally live from 24 April 2024.
4. Evolutionary changes are shown in red text; this method transparently highlights the changes and negates the need for a page turn comparison to find out what has changed. Only the latest evolution is shown in red text, changes from previous year revert to standard black text.
5. BCP Council Colleagues are now generally well versed in the annual evolution of Financial Regulations. Nevertheless a communication, training and awareness process will take place to ensure all colleagues, and particularly new colleagues, are aware of the annual evolution.
6. The Chief Finance Officer (CFO) is responsible for maintaining and updating the Regulations and the Corporate Schedule of Financial Delegations, which is Appendix 1 of the Regulations. The CFO has delegated authority from Council to make in-year amendments and editing changes which may be occasionally necessary, such as in cases of new or revised legislation or UK law or to correct errors, ambiguity or where unintended interpretation matters arise. This delegation will also be used if any officer designations (job or role names) need changing, as a result of any restructuring for example, most likely within Appendix 1.
7. This annual evolution is formally known as BCP Financial Regulations EVO24.v1, where 24 stands for the financial year and v1 stands for the version agreed by Council. If the CFO makes any delegated amendments as per paragraph 5 above then this will be shown as v2, v3 and so on, as required.

Changes in BCP Financial Regulations EVO24.v1 - PART G PROCUREMENT & CONTRACT PROCEDURES

8. It has been necessary to update Part G of the Financial Regulations for 24/25 to reflect changes in procurement language, internal procedures and legislation.
9. Key changes are summarised below:

Change 1 - Threshold adjustment

Base change throughout from the £25,000 excluding VAT threshold to £30,000 inclusive of VAT to reflect the changes required by the Public Contracts Regulations which also includes the requirement to calculate the estimated value of the contract to be inclusive of VAT.

Change 2 - Procurement & Contracts Board

A new entry in regulation 3 – Standards, has been added to reflect the formation of a new Procurement & Contracts Board that will have oversight over all planned spend decisions across the entire Council and will have the authority to require any Officer to attend a meeting and provide information and/or explanation as required by The Board.

Change 3 - Removal of waivers (of Financial Regulations)

Reference to waivers throughout have been removed and replaced with the requirement for those decisions to be signed off as part of the existing Procurement Decision Records (PDRs) approval process in regulation 5 (soon to be required by legislation changes). This change has clarified any ambiguity and will remove duplication of processes. The existing reporting requirements to the Audit & Governance Committee will remain – the annual report that was Waivers and Breaches of Financial Regulations will now be PDR's and Breaches of Financial Regulations.

Change 4 - Competition Requirements

Reformatted and update to regulation 22 - Competition Requirements, which combines several previous regulations into one consistent regulation and clarifies the requirement at each threshold:

- Under £5,000
- £5,000 to £30,000
- Over £30,000

Change 5 – Other minor editing and re-ordering

Other minor changes throughout have been added for clarification and to address any previous ambiguities. Some reordering and aggregation of previous regulations have also taken place which makes direct comparison to previous versions more challenging. Such reordering and aggregation are not shown in red text because the regulation(s) has not been changed.

Public Procurement Regulations Reform

9. In October 2023 the Procurement Act 2023 received Royal Assent but does not become enforceable until October 2024. The reforms within will place value for money, public benefit, transparency and integrity at the heart of our procurement and contract management operating framework; they will modernise and unify our systems and processes.
10. The Act will introduce a new regime that is based on value for money, competition and objective criteria in decision-making. It will create a simpler and more flexible, commercial system that better meets our country's needs. It will more effectively open up public procurement to new entrants such as small businesses and social enterprises so that they can compete for and win more public contracts.
11. Secondary legislation (statutory instrument) will also be laid by the end of March 2024, subject to parliamentary timescales, that sits under the Procurement Act 2023 and will be called the Procurement Regulations 2024 (PCR24).

The Act - summary of Provisions

12. This is a large and technical Act. It includes a number of regulation-making powers which are necessary to ensure that the legislation will facilitate a modern procurement structure.

Coverage:

- The Act sets out which authorities and contracts the Act applies to. It covers contracts awarded by most central government departments, their arm's length bodies and the wider public sector including local government and health authorities.
- It also sets out a small number of simpler rules which apply to lower value contracts, and the Act makes provision to carve out those procurements regulated by the Health and Care Act, to ensure clarity about which regime applies.

Principles and objectives:

- The Act is focussed on the principles and objectives that must underlie the awarding of a public contract.
- Contracting authorities must have regard to delivering value for money, maximising public benefit, transparency and acting with integrity.

- Integrity must sit at the heart of the process. It means there must be good management, prevention of misconduct, and control in order to prevent fraud and corruption.
- The Act also includes a duty on contracting authorities to have regard to the particular barriers facing SMEs, and to consider what can be done to overcome them.

Undertaking a procurement:

- The Act sets out how a contracting authority can undertake a procurement and award a contract. Competition is at the heart of the regime.
- The Act introduces new procedures for running competitive tendering processes – the competitive flexible procedure - ensuring for the very first time that contracting authorities can design a competition to best suit the particular needs of their contract and market.
- There will continue to be a special regime for certain social, health and education services, specifically identified by secondary legislation, which may be procured as ‘Light Touch Contracts’ or the separate ‘Provider Selection Regime’ legislation reserved for Public Health Services, leaving room for authorities to design procurement procedures that are more appropriate for these types of services. These Light Touch Contracts are still subject to the necessary safeguarding requirements.
- There are a limited number of circumstances in which it may be necessary to award a contract without competition. The Act sets these out including new rules governing the award of contracts to protect life and public order.

Contract management:

- The important work on procurement does not stop once a contract has been awarded. The Act sets out steps that must be taken to manage a contract. This includes the strengthening of rules ensuring that suppliers are paid on time and new requirements to assess and publish information about how suppliers are performing.

Transparency notices:

- Running throughout the Act are requirements to publish notices and decisions (PDRs). These are the foundations for the new standards of transparency which will play such a crucial role in the new regime. The ambitions are high, and we want to ensure that procurement information is publicly available not only to support effective competition, but to provide the public with insight into how their money is being spent.

Provider Selection Regime (PSR)

13. The Provider Selection Regime (PSR) came into force on 1 January 2024 and is separate legislation for procuring health and care services. The PSR was introduced by The Health Care Services (Provider Selection Regime) Regulations 2023 made under the Health and Care Act 2022.
14. In keeping with the intent of the Act, the PSR has been designed to:
 - introduce a flexible and proportionate process for deciding who should provide health care services;
 - provide a framework that allows collaboration to flourish across systems;
 - ensure that all decisions are made in the best interest of patients and service users.
15. The PSR does **not** apply to the procurement of goods or non-health care services (unless as part of a mixed procurement) by health or care bodies.

Getting ready for the new Procurement Act and PCR24

16. The Procurement Act will introduce significant changes to the way the Council buy goods, services, works and concessions. These changes will not come into force until October 2024 at the earliest with a six-month advance preparation period.
17. The Council has started planning now to ensure we are ready to take advantage of the new regime and this evolution of Financial Regulations has been aligned to the new Procurement Act wherever possible based on what we already know.
18. The Act and PCR24 will however likely mean that Financial Regulations, and part G in particular, may need to be changed in year to align exactly with legislation. A delegation to the Chief Finance Officer and Monitoring Officer to make any necessary adjustments is sought. The Head of Audit & Management Assurance will report any such changes to the Audit and Governance Committee.

Changes in BCP Financial Regulations EVO24.v1 – Other changes

19. No material changes have been made to other sections of Financial Regulations. Very minor changes have been made to Appendix 1 Corporate Schedule of Financial Delegations, to align with changes mentioned above at paragraph 8 above, or to recognise the roles and responsibilities changes of certain officers following restructuring.

BCP Debt Management Policy

20. The Financial Regulations, Part F, Financial Systems and Procedures, Income, provides the strategic framework for debt collection and debt management within BCP Council. The BCP Debt Management Policy contains the operational detail and procedures to supplement the Regulations.
21. This detailed operational policy is also subject to annual evolution to ensure it remains up-to-date and is approved by the Corporate Management Board for the 2024/25 financial year. Some very minor operational changes have been made.

Options Appraisal

22. The Council could choose to update, refresh, evolve the Financial Regulations on a less frequent basis than annually. There is an inherent and obvious risk with such an approach that the Financial Regulations could become out of date and fail to keep pace with the rapidly changing internal and external environment in which the Council operates.

Summary of financial implications

23. The Financial Regulations provide the governance framework for managing the Council's financial affairs. 'How to' guidance and procedures are in place to compliment the specific requirements of the Regulations.

Summary of legal implications

24. The Financial Regulations are Part 5 of the Council's Constitution and apply to every councillor and officer acting behalf of the Council.
25. The Local Government Act 1972 (Section 151) makes the Chief Finance Officer responsible for the proper administration of the Council's financial affairs. The Regulations are issued pursuant to these responsibilities.

Summary of human resources implications

26. The Financial Regulations apply to every councillor and officer acting behalf of the Council.

Summary of sustainability impact

27. Part G of the Financial Regulations includes requirements for commissioning officers and the Strategic Procurement Team (SPT) to follow to ensure the Council considers environmental sustainability when procuring works, goods and services.
28. A requirement to obtain local supplier quotes (BH, DT and SO postcodes) is included for purchases which are less than £30,000.

Summary of public health implications

29. There are no direct public health implications from this report.

Summary of equality implications

30. There are no direct equality implications from this report.

Summary of risk assessment

31. Lack of compliance and awareness is the most significant and impactful risk in a Financial Regulations context. A continuous and evolving training, supporting and promoting programme exist utilising a range of activities including formal training, one-off bespoke awareness sessions, blogs and staff communications.

Background papers

None

Appendices

Appendix A - BCP Financial Regulations EVO24.v1