

Current CPR	Keep / Lose / Change	Notes e.g. which Principle	Proposed new wording
COMPLIANCE			
Every Member of the Council and every officer and employee of the Council must comply with these Contract Procedure Rules	Change – to match financial regs		<p><i>Every Member, employee of the Council and anyone acting on the council's behalf must comply with these Contract Procedure Rules.</i></p> <p><i>Where work is carried out in partnership or collaboration then the CPRs of the 'lead' authority should be followed, unless it is agreed by all parties that the CPRs of one of the partners prevails.</i></p>
Any other person who is engaged in the letting, management or supervision of a contract on behalf of the Council must comply with these Rules as if s/he were an officer of the Council	Lose – now covered by rule 1		
These Rules apply to all procurement decisions, regardless of the source of funding, or the status of the contractor (i.e. they apply equally to selection of both main contractors and nominated sub-contractors or suppliers).	Keep part 1 Lose part 2	Contractors and sub-contractors are bound by the terms of the contract any way	<i>These Rules apply to all procurement decisions, regardless of the source of funding.</i>
Every contract must be let in compliance with all applicable European and domestic legal requirements	Change to make clear		<i>Every contract must be let in compliance with all applicable legal requirements</i>

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Failure to comply with these Rules is a breach of the Council's Disciplinary Code of Practice and will generally result in the application of the Council's disciplinary procedures	Keep		
These Rules are supplemented by and should be read in conjunction with the Council's Financial Regulations and the Procurement Thresholds and Sourcing Procedures.	Possibly lose	Aiming to merge these 3 documents into one.	
<p>A glossary of key types of contract referred to in these Rules is provided in Appendix 2:</p> <ul style="list-style-type: none"> • Concessions • Framework Agreement • Goods / Supplies • Services • Works 	Change	Purchase is to be the generic terms for buying things, entering into contracts and entering into income generating arrangements.	<p>Add definitions of:</p> <p><i>Call-off agreements</i></p> <p><i>Emergency - Threat to life, property, security and the environment.</i></p> <p><i>Purchase – arrangement with a supplier in which we pay them to provide goods, supplies, services or carry out works <u>or</u> they create income for FBC/other body</i></p>
EXEMPTIONS			
<p>The following contracts are exempt from the requirements of these Rules:</p> <ul style="list-style-type: none"> • Orders to be placed through a framework agreement¹ access to 	Change	<p>Should be expanded under procurement principle 3</p> <p>To review if need a new rule to cover this</p>	?

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<p>which is available to this Council;</p> <ul style="list-style-type: none"> • Orders placed through a central purchasing body within the meaning of the Public Contracts Regulations 2006; • Employment contracts; • Contracts for the disposal or acquisition of an interest in land; • Grants to external organisations. 			
CONTRACT VALUE			
All monetary values referred to in these Rules are total contract values, not annual values, and exclude VAT unless otherwise stated. They cover expenditure contracts and income generating contracts.	Change	Add definition for income generating contract as part of what a purchase is.	<i>All monetary values referred to in these Rules are total purchase value with a supplier (see definition), not annual values, and exclude VAT unless otherwise stated.</i> <i>Total value would typically cover 4 years.</i>
Appendix 1: These limits relate to expenditure or Income, excluding VAT.	Change	Refer to the relevant rule	
Appendix 1: The limits relate to the Contract Value defined as the whole life costs of the works ¹ , goods and services being procured. It is NOT the annual value.	Lose – cover by above		

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Guidance on valuing a contract will be maintained as part of the Procurement Thresholds and Sourcing Procedures.	Lose – cover by above		
Contracts must be packaged appropriately to achieve maximum value for the Council. They should not be split in order to avoid quotation or tendering limits in these Rules or EU procurement thresholds, or packaged in a way to reduce the potential for fair and open competition.	Lose	Covered by new justification rule about being clear about what you are purchasing and pulling in the experts	
CONTRACTS VALUED BELOW £20,000			
These Rules shall not apply to contracts with an estimated value of less than £20,000. These contracts are governed by the Council's Financial Regulations.	Lose	We want to merge these rules with Fin Reg 15	
CONTRACTS VALUED BETWEEN £20,000 - £50,000			
Where the estimated value of a contract is between £20,000 and £50,000 a minimum of three tenders must be invited for a works ¹ contract and a minimum of three written quotations must be invited for a contract for goods ¹ or services ¹ or		We want to move away from value driven rules and move to more general principles – see new rules below	

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concessions ¹ .		<p>However, we don't want a complete free for all so are see the following thresholds as indicative of when behaviour might change:</p> <p>£20 k – call in the experts to decide route to market</p> <p>£75k – likely to need to tender – limit for HOS approval of order</p> <p>EU procurement limits</p> <p>However, these limits don't mean you HAVE to do this if you can justify a different course of action.</p>	
CONTRACTS WITH A VALUE IN EXCESS OF £50,000 BUT NOT EXCEEDING the EU PUBLIC PROCUREMENT THRESHOLDS			
Where the estimated contract value exceeds £50,000 but does not exceed the relevant EU public procurement			

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threshold (or does not fall within a category subject to the EU public procurement rules) a minimum of three tenders must be invited.			
TRANSPARENCY			
All contract opportunities with an estimated value of £20,000 or more must be advertised on the Council's Business Portal (the South East Business Portal) to seek expressions of interest from suitably qualified suppliers.			
SELECTION OF PERSONS TO BE INVITED TO TENDER OR QUOTE			
Except where the estimated contract value exceeds the relevant EU public procurement threshold, tenders or quotations should be sought from an appropriate number of suitably qualified suppliers who have achieved a business accreditation standard recognised by the Council.			
Suppliers will be considered as accredited to a recognised standard if they are accredited by EXOR for all contracts, Constructionline for works ¹ contracts, by BiP Select Accredited for contracts for goods ¹ or services ¹ or			

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accreditations with a similar status.			
CONTRACTS WITH A VALUE IN EXCESS OF THE EU PUBLIC PROCUREMENT THRESHOLDS			
Where the estimated contract value exceeds the relevant EU public procurement threshold any contract must be let in compliance with the relevant legal requirements, in particular the Public Contracts Regulations 2006 (as amended) and these Rules.			
Where there is a conflict between legislation and these Rules the legislation will prevail.			
INVITATIONS TO TENDER OR SUBMIT QUOTATIONS			
<p>An invitation to tender or submit a quotation shall include:</p> <ul style="list-style-type: none"> • A description of the works¹, goods¹ or services¹ being procured. • A specification indicating whether variants are permissible. • The Council's terms and conditions of contract. • The evaluation criteria including any weightings. 			

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<ul style="list-style-type: none"> The pricing mechanism and instructions for completing the tender sum. Where there is a potential transfer of employees, the Council's view on whether TUPE will apply. The form and content of method statements to be provided. 			
Invitations to tender or quote shall be sent electronically and tenders and quotations shall be received electronically unless the relevant Director agrees otherwise.			
COLLABORATIVE PROCUREMENT			
Where procurement is undertaken in collaboration with one or more other public authorities the Contract Procedure Rules of one of the other authorities may be used in place of these Rules.	Lose – merge with rule 1		
An invitation to tender or to submit quotations may be made for supply to other authorities in addition to Fareham Borough Council on similar terms.			
BUDGETARY PROVISION			

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No order shall be placed or quotation or tender invited unless there is sufficient budgetary provision	Lose – merge with new rule		
SUBMISSION AND OPENING OF TENDERS & QUOTATIONS			
All invitations to tender or submit a quotation must specify requirements for their submission. Such requirements shall include a time by which tenders or quotations must be received by the Council.			
TENDERS OPENING & AWARD OF CONTRACTS			
All tenders with an estimated value in excess of £50,000 must be opened by a Democratic Services Officer in the presence of a Corporate Procurement Officer. .			
All contracts must be awarded by officers and members in accordance with the thresholds set out in Appendix 1 :			
<u>Notes</u> The authorisation rules in relation to approving orders or signing invoices are laid out in Financial Regulation 4.			

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AWARD CONTRACT			
<u>Covers</u> Choose supplier with whom orders can be placed (in accordance with procurement rules). Select the winning tender from a procurement exercise.			
<u>Thresholds</u> HOS - £20k Member of CXMT = £50k Executive Portfolio Holder = £150k Tenders over £150,000 must be awarded by the Executive or appropriate Committee.			
<u>Additional Rules</u> All tenders awarded for £50,000 or more must be included in the 6 monthly reports to the Executive.			
FORM and CONTENTS OF CONTRACTS			
For contracts with a value of £20,000 or more: a) where it is of a lower value and/or lower risk it will be signed under hand by			

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<p>a relevant authorised officer as per paragraph 15.5;</p> <p>b) where it is of a higher value and/or higher risk it will be executed as a deed and sealed, thus giving the Council greater protection.</p>			
<p>The question whether the contract should be a deed and sealed or simply signed under hand in accordance with Rule 15.1 above, should be decided at the start of the process when legal advice should also be sort as to the terms and conditions to be included.</p>			
<p>The following types of contract must be entered into as a deed:</p> <p>a) Any contract which relates to the acquisition, disposal, or lease of land and property.</p> <p>b) Any contract for works¹ of a value of £20,000 or more.</p> <p>c) Any contracts for works¹ which relate to the structural alteration of a property irrespective of the value, on advice of legal services.</p> <p>d) Any contract for goods¹ or services¹</p>			

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of a value of £50,000 or more.			
Contracts not listed in Rule 15.3 do not need to be entered into as a deed, unless there is an appropriate reason to do so.			
SIGN CONTRACT			
Contracts to be signed under hand should be signed by an officer nominated with that level of responsibility as set out in Appendix 1 . No officer below the level of Head of Service can sign contracts on behalf of the Council.			
<u>Notes</u> A manual signature must be provided for all post holders who are nominated to be able to sign an agreement.			
<u>Covers</u> Sign under hand a contract awarded under a request for quotes, tenders or sealed bids process. Sign up to an agreement which ties the council into expenditure (e.g. maintenance agreement). Sign up to an agreement which ties the council into a set of terms and conditions			

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(e.g. grant agreement, IT facility agreement).			
<u>Thresholds</u> HOS - £20k Member of CXMT = £50k Executive Portfolio Holder = not permitted			
ATTEST SEAL ON A DEED			
Any contract to be entered into as a deed should be sealed. The officers authorised to attest the seal are identified in part 1 Chapter 13 of the constitution. In exceptional circumstances where the seal is not available the deed can be signed by 2 officers who are authorised to attest the seal.			
<u>Covers</u> Signing the seal affixed to a document or deed. Execute a deed if the seal is not available			
<u>Thresholds</u> This authority is set out In Part 1 Chapter 13.8 of the Constitution. As at August 2011 this permits the following persons to attest the seal: Chief			

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<p>Executive Officer; the Solicitor to the Council; the Director of Finance and Resources; the Director of Regulatory and Democratic Services.</p> <p>In exceptional circumstances where the seal is not available the deed can be signed by 2 of the officers who are authorised to attest the seal.</p>			
MAINTENANCE OF THE CONTRACT REGISTER			
The Council must maintain a Central Register of all contracts that it has entered into.			
All original and signed copies of a contract, must be held centrally in a secure location for the term of the contract (including any agreed extension periods), plus the statutory limitation period (6 years for contracts under hand, 12 years for deeds) plus two years. They must be referenced back to the Central Register.			
<p>Heads of Service are responsible for ensuring that:</p> <ul style="list-style-type: none"> summary details of any contract that has been entered into, that binds 		New rule ? You must be aware of what contracts you have in place	

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<p>the Council to the terms and conditions of the contract, have been entered on the Central Register;</p> <ul style="list-style-type: none"> the original signed/sealed copies of the contract and any subsequent signed variations, have been stored in the central secure location; an electronic copy of the contract and any subsequent variations to the contract that are entered into during its lifetime are stored in their service filing areas. 		<p>and where the documentation is held.</p>	
CONFLICTS OF INTEREST, BRIBERY AND CORRUPTION			
<p>All officers involved with the award of contracts must comply with the Council's Anti-Fraud and Corruption Policy, Anti-Bribery Policy, Guidelines on Gifts and Hospitality and Guidelines on Registering Interests.</p>			
<p>In addition the following rules apply:</p> <ul style="list-style-type: none"> No gifts or hospitality, other than simple refreshments, shall be accepted by Officers or members from any bidders to any contract being let by the Council until the time that the contract has been awarded. 			

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<ul style="list-style-type: none"> No contract can be wholly awarded or managed by an officer or member who has other interests in the arrangement. 			
If it comes to the knowledge of a member or an officer of the Council that a contract in which s/he has a pecuniary interest has been or is proposed to be entered into by the Council, s/he shall immediately inform the Monitoring Officer (in the case of members) or their director (in the case of officers).			
Each contract which the Council enters into shall include a provision which entitles the Council to terminate the contract and recover losses from the contractor resulting from such termination if the contractor or anyone acting on the contractor's behalf has committed or attempts to commit an offence under the Bribery Act 2010, the Local Government Act 1972 or any other relevant prevention of corruption legislation.			
WAIVERS OF CONTRACTS PROCEDURES RULES		Move to the introductory sections	
Where a contract has an estimated value of £50,000 or more, the Executive, relevant Executive Member or Committee		May still need if have a monetary value	

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as appropriate may agree to waive the provisions of these Rules provided that no such waiver shall permit a breach of any relevant domestic or European legislation.			
Where a contract has an estimated value of less than £50,000, a waiver of the provisions of these Rules may be agreed by the Director of Finance and Resources in consultation with the Monitoring Officer.	Keep some sort of waiver	To decide what this should be At low level should be director or CX Add in requirement to record the relevant rationale for the request	<i>Where a contract has an estimated value of less than £50,000, a waiver of the provisions of these Rules may be agreed by a Director or the CX.</i> <i>Any requests to waive CPRs should be documented and include the rationale for the request and the decision.</i>
EMERGENCIES		Move to the introductory sections	
In an unforeseen situation where a Director considers that it would not be in the Council's interests to apply the provisions of these Rules the Chief Executive Officer or in his absence another Director may authorise such a course of action in respect of a procurement which would protect the Council's interests in relation to that emergency. Any action taken under this provision must be reported to the next meeting of the Executive or appropriate Committee. Nothing in this provision authorises the breach of any legal	Change	Need a definition for an emergency in the glossary Threat to life, property, security and the environment. Only applies to waiver above the director level above.	?

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requirements.			
EXTRA RULES WE NEED TO ADD TO COMPLY WITH THE PROCUREMENT PRINCIPLES			
	New	<p>Finance should be providing HOS with reports detailing spend with suppliers over 4 years. HOS pass this down to their relevant buyers</p> <p>Some work to do to identify in the report what spend comes from their service</p>	Heads of Service must be aware of what suppliers their service uses and the level of spend with them, and should pass this information down to the relevant buyers in the service.
	New	Add in definition in the glossary of what we mean by a purchase	<p>Buyers must act in the best interest of the Council at all times when making purchases. They should therefore be able to justify that:</p> <p>a) There is a valid reason for making the purchase</p> <p>b) The purchase is affordable and use of a budget for this purpose will be approved</p> <p>c) The purchase meets the needs of the customer/service and is fit for purpose</p> <p>d) The purchase meets the due</p>

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			<p>diligence requirements of the council</p> <p>e) Value for money is achieved at the point of purchase</p> <p>f) Consideration is given to the whole life costs of the purchase.</p>
		See definition of what a purchase is, above	<p>Early conversations should be held to confirm justification of purchase and the appropriate route to market, when planning a purchase especially if that purchase is new to the service, of a technical nature, of a significant value or anything else where support is needed.</p> <p>These should involve the relevant stakeholder, the procurement team, the relevant finance business partner, and other relevant experts.</p> <p>A significant value would be a purchase value of over £20,000. (see definition)</p>