

## REPORT 2

### HARBOROUGH DISTRICT COUNCIL

### REPORT TO THE CONSTITUTIONAL REVIEW COMMITTEE OF 11<sup>th</sup> March 2020

**PUBLIC REPORT: Y**

**EXEMPT REPORT: N**

<b>Report Title</b>	Review of the Constitution – Statement of Required Practice for Procurement ('The SORP')
<b>Report Author</b>	Jonathan Ward-Langman - Service Manager, Commissioning and Lifeline
<b>Purpose of Report</b>	To review and revised the Council's procurement rules and approve revision of the Council's Contract Procedure Rules.
<b>Reason for Decision</b>	<p>The Council's procurement rules require revision from time to time to reflect changes in legislation and to improve procurement practice. The Council's Procurement SORP which sets out these rules was adopted in 2013 and subsequently revised; further revision is now required to ensure efficiency and compliance. The findings of audits of procurement have been considered and have prompted clarification of some sections of the SORP.</p> <p>The Council's Contract Procedure Rules require revision to ensure consistency and efficiency: this can be more effectively achieved as a separate exercise once the Procurement SORP is approved.</p>
<b>Portfolio (holder)</b>	This is a matter for this Committee and Council. The portfolio holder is Councillor James Hallam.
<b>Corporate Priorities</b>	Your Council: The Council's procurement must ensure legal compliance; efficient member decision-making and oversight; management ability to encourage creativity and efficiency.
<b>Financial Implications</b>	There are no financial implications directly resulting from this report.
<b>Risk Management Implications</b>	The Procurement SORP as revised allows management freedom to ensure efficiency and effectiveness whilst incorporating safeguards including reporting to Cabinet to secure good governance and oversight.
<b>Environmental Implications</b>	There are no environmental implications directly resulting from this report.
<b>Legal Implications</b>	The Council has a duty to ensure that its procurement complies with UK legislation.
<b>Equality Implications</b>	There are no equality implications directly resulting from this report.

## REPORT 2

<b>Data Protection Implications</b>	There are no data protection implications directly resulting from this report than exist already.
<b>Consultation</b>	The revised Procurement SORP has been referred to Corporate Management Team. The revisions have been informed by audit findings and operational discussions with officers across the Council.
<b>Options</b>	To retain the existing Procurement SORP without amendments.
<b>Background Papers</b>	The Council's current Procurement SORP (Appendix A Procurement SORP 26022018).
<b>Appendices</b>	Appendix A Procurement SORP 26022018 Appendix B Procurement SORP 110320 Draft Tracked Appendix C Procurement SORP 110320 Draft
<b>Recommendation</b>	<ol style="list-style-type: none"><li>1. To consider the proposed revised Procurement SORP set out in Appendix C and make such recommendation to Council for approval and adoption.</li><li>2. To agree that revision of the Council's Contract Procedure Rules to ensure consistency with the Procurement SORP and Financial Procedure Rules is considered at the next meeting of the Committee in November 2020.</li></ol>

### 1. Introduction

- 1.1. The Procurement SORP forms part of the Council's Constitution and needs to be reviewed regularly to ensure legal compliance and the efficient operation of the Council.
- 1.2. The Procurement SORP was last reviewed in 2017 and is now overdue for review.
- 1.3. The Procurement SORP needs to ensure efficiency and effectiveness in the Council's procurement activity and to provide safeguards to secure good governance and oversight. The revised Procurement SORP seeks to achieve this balance.
- 1.4. The proposed Procurement SORP is contained in Appendix C; Appendix B is the same document with changes tracked for clarity; the current Procurement SORP is included as Appendix A for reference.

### 2. Key Facts

- 2.1. The proposed Procurement SORP applies to all Members and Officers and is for their protection and that of the Council.
- 2.2. A summary of the contents and changes to the Procurement SORP included in Appendix A is as follows:

- 2.2.1. Several changes have been made to update nomenclature to reflect changes since the Procurement SORP was last reviewed: for example, substitution of 'Cabinet' for 'Executive' and changes to the titles of Council posts.
- 2.2.2. (Procurement SORP 7.2.1). It is proposed to allow Portfolio Holders to agree exemption from the Procurement SORP rules in an emergency without reporting to Cabinet. This could be limited to procurement of contracts of less than £10,000 in value. There have been several occasions when the current requirement has proved unduly onerous, especially where expenditure has been of relatively small sums and/or the procurement decision is clearly unarguable.
- 2.2.3. (Procurement SORP 7.4.2). An amendment has been made to clarify calculation of contract value.
- 2.2.4. (Procurement SORP 7.4.6). An amendment has been made to refer to the relevant section of the Public Contract Regulations (PCR) 2015.
- 2.2.5. (Procurement SORP 8). It is proposed to remove the requirement to report exemptions to relatively low value (less than £10,000) contracts should be reported to the Portfolio Holder. The current provision is felt to be unduly onerous.
- 2.2.6. (Procurement SORP 15.2). An amendment has been made to clarify assessment of procurements that include combinations of goods, works and services.
- 2.2.7. (Procurement SORP 16.2.3 and 16.3). It is proposed to remove the requirement to seek written quotations where the value of the procurement is £2,000 or less. The current provision is felt to be unduly onerous and theoretically requires competitive quotation processes for every item of Council expenditure. The combined effect of these proposed amendments is to introduce a (low) 'de minimis' limit to the requirement for competitive procurement.
- 2.2.8. (Procurement SORP 17.1). Amended for consistency with revised Financial Procedure Rules to be considered at this committee.
- 2.2.9. (Procurement SORP 17.3). Amended to confirm and clarify current practice regarding insurance provisions in the procurement of contracts.
- 2.2.10. (Procurement SORP 17.4). Amended to confirm and clarify current practice regarding the terms and conditions of contracts.
- 2.2.11. (Procurement SORP 24.2). Note that there may be changes to Procurement Law as a result of the United Kingdom's departure from the European Union but these will apply after the completion of the relevant transition period. Any changes will be kept under review.
- 2.2.12. (Procurement SORP 27.6). It is proposed to amend the current rule as it would require a report to Cabinet if tenders exceeded the original estimate by a relatively small sum.
- 2.2.13. (Procurement SORP 33). Amended to reflect the proposed change at 16.2.3 and 16.3 referenced above.

2.2.14. (Procurement SORP 34.3). Amended to reflect the proposed change at 16.2.3 and 16.3 referenced above.

2.2.15. (Procurement SORP 55). Amended to reflect the Council's commitment to address the 'Climate Emergency'.

2.3. It is recommended that following review of the Council's Financial Procedure Rules by the Constitutional Review Committee, both the Procurement SORP and the Council's Contract Procedure Rules are reviewed again to ensure consistency. The revised Contract Procedure Rules and any amendments to the Procurement SORP would then be presented to a meeting of the Committee later in 2020 for approval.