

# Committee report

Committee	<b>AUDIT COMMITTEE</b>
Date	<b>27 July 2020</b>
Title	<b>PROCUREMENT ACTIVITY REPORT FOR THE HALF YEAR 1 OCTOBER 2019 – 31 MARCH 2020 (Q3&amp;4 2019/20)</b>
Report Author	<b>DIRECTOR OF CORPORATE SERVICES</b>

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## EXECUTIVE SUMMARY

1. This report provides the committee with a high level overview of the council's procurement and contract monitoring activity for the period 1 October 2019 to 31 March 2020 inclusive.
2. The committee is asked to note the report.

## BACKGROUND

3. The Procurement and Contract Monitoring Team (the team) is a central resource, providing advice and guidance to all council departments on procurement and contract monitoring related matters primarily where the contract value is over £25,000, although the team will be involved in procurements below this threshold where appropriate. The team is also responsible for drafting the council's contractual terms and conditions with its suppliers and for giving contract management advice and guidance.
4. A key role of the team is to ensure compliance with the Public Contract Regulations 2015 that implement the EU procurement directives. While the UK has left the EU, it is bound by the terms of the Withdrawal Agreement which requires it to adhere to EU rules until the transition period ends. Even after the transition period ends, EU rules, which have been transposed into UK law, will still be in force until the government decides to change them. These apply to the majority of procurements with a total value over a specified threshold. Procurements which are below threshold are not covered by the UK regulations, but are still subject to EU Treaty principles and the council's own contract standing orders (CSOs).

## STRATEGIC CONTEXT

5. The council's Procurement Strategy, CSOs and the activity of the team support the achievement of the council's commitments and four core values as identified within the Corporate Plan 2019 – 2022.

## PROCUREMENT ACTIVITY 1 OCTOBER 2019 – 31 MARCH 2020 (Q3&4 2019/20)

### PROJECTS INITIATED

6. During the period 1 October 2019 to 31 March 2020 (Q3 and 4 2019/20) a total of 81 procurement processes were initiated through the team. This ranged from Invitation to Tenders (ITTs), Official Journal of the European Union (OJEU) ITTs (which are tenders that are run in accordance with the Public Contract Regulations 2015 where a contract notice must be published in the OJEU), Request for Quotations (RFQs), call offs and direct awards on public sector framework agreements and waivers to CSOs. **Table 1** shows a breakdown of the procurement procedures initiated in the reported period, by directorate. A comparison to the previously reported data has also been provided.

**Table 1**

Directorate	Quantity Q3&4 2019/20	Quantity Q1&2 2019/20	Comparison data Q3&4 2018/19
Adult social care & housing needs	11	17	15
Children's services	15	13	12
Corporate services	21	20	12
Fire and rescue service	1	2	2
Financial management	1	1	2
Neighbourhoods	19	13	16
Public health	4	3	0
Regeneration	8	12	11
Strategy	1	2	1
<b>TOTAL</b>	<b>81</b>	<b>83</b>	<b>71</b>

### CONTRACTS AWARDED

7. During the reporting period a total of 57 contracts were awarded. **Table 2** below shows a comparison, by directorate, of the number of contracts awarded in the previous two reporting periods. A detailed breakdown of the contracts awarded can be seen at **Appendix A**.

**Table 2**

Directorate	Quantity 2019/20 Q3&4	Comparison data 2019/20 Q1&2	Comparison data 2018/19 Q3&4
Adult social care & housing needs	9	9	10
Children's services	13	13	8
Corporate services	17	16	9

Financial management	-	2	0
Fire and rescue service	1	1	1
Neighbourhoods	10	12	9
Public health	2	-	1
Regeneration	4	7	4
Strategy	1	-	1
<b>TOTAL</b>	<b>57</b>	<b>60</b>	<b>43</b>

8. The total whole life value of contracts awarded during the current reporting period is £19.5 million. A breakdown by directorate is provided at **Table 3**.

**Table 3**

Directorate	Category of spend	2019/20 Q3&4	2019/20 Q1&2	2018/19 Q3&4
		£000	£000	£000
Adult social care & housing needs	Revenue	821	755	1,770
Children's services	Capital	3,946	3,299	2,344
	Revenue	2,302		
Corporate services	Capital	327	3,023	1,211
	Revenue	1,830		
	Capital and revenue	100		
Financial management	-	-	158	-
Fire and rescue service	Capital	66	25	280
Neighbourhoods	Capital	14	1,205	898
	Revenue	6,694		
	Capital and revenue	64		
	Income	50		
Public health	Revenue	2,737	-	79
Regeneration	Revenue	478	555	168
	Capital and revenue	63		
Strategy	Revenue	47	-	20
<b>TOTAL</b>		<b>19,546</b>	<b>9,020</b>	<b>6,770</b>

## CONTRACT DATABASE

9. The team maintains a database of contracts with a whole life value of over £25,000. There are currently 265 (202 reported during Q1&2 2019/20) entries with a whole life value totalling over £1.052 billion, broken down as follows:

Directorate	Number of entries	£m
Adult social care & housing needs	46	18
Children's services	29	47
Corporate services	120	20
Financial management	7	2
Fire and rescue service	3	0.6
Neighbourhoods	35	952
Public health	5	7
Regeneration	17	5
Strategy	3	0.3
<b>TOTAL</b>	<b>265</b>	<b>1,052</b>

## WAIVERS OF CONTRACT STANDING ORDERS

10. Service areas have the ability to request a waiver of the CSOs. Waivers may be sought in unforeseen or exceptional circumstances but must not be sought for reasons of poor planning nor as a means to by-pass the CSOs. Waivers cannot be given if they would contravene the Public Contract Regulations 2015 or any other applicable legislation. Waivers may be utilised where it can be demonstrated that the ability to act quickly to engage a single supplier would make economic sense and fit with service requirements, in circumstances where there is no more effective way to secure the capacity.
11. For waivers and contract price variations, the Procurement Board will consider the request. The membership of the board comprises the director of corporate services, procurement and contracts manager, technical finance manager and the strategic manager for legal services.
12. During the period, 19 waivers were submitted and approved. **Table 4** below sets out a high level overview of the waivers with a comparison to the data collated for the previous two half yearly reports. A detailed list can be seen at **Appendix B** which sets out the details of each waiver along with the action plan of how the team and relevant service area propose to prevent waivers of a similar nature in the future, where applicable.

**Table 4**

Directorate	Q3&4 2019/20		Q1&2 2019/20		Q3&4 2018/19	
	Number	£000	Number	£000	Number	£000
Adult social care & housing needs	6	£672	9	£754	6	£541
Children's services	7	£1,777	1	£150	2	£70
Corporate services	2	£134	2	£190	3	£185
Financial management	-	-	1	£33	-	-
Fire and rescue	-	-	1	£25	-	-
Neighbourhoods	3	£152	3	£93	3	£236

Regeneration	-	-	1	£100	1	£53
Strategy	1	£47	-	-	-	-
<b>TOTAL</b>	<b>19</b>	<b>£2,782</b>	<b>18</b>	<b>£1,345</b>	<b>15</b>	<b>£1,085</b>

## PROCUREMENT STRATEGY 2019-2022

13. The principle purpose of the Procurement Strategy (the strategy) is to set the overall context for procurement and contract management in the council. The strategy builds on existing good practice and maps the future developments and likely improvements in the way the council approaches its procurement and contract management activities.
14. It is increasingly important that the council ensures value for money and identifies the full potential of procurement and contract management as a tool for delivering the council's long-term goals set out in the Corporate Plan. The strategy sets out how it is proposed procurement and contract management will support the achievement of our objectives over a three year period.
15. The new strategy was approved by Cabinet in November 2019 and is based around four key themes– *“Leadership, Behaving Commercially, Local Community and Economy and Environmental Considerations”*.
16. The strategy maps out planned activity for the three-year term in the form of an action plan. The action plan can be seen at **Appendix C** and progress made against the initiatives and objectives will be reported to the committee.

## CONTRACT MONITORING

17. The team is continuing to make progress with the roll out of a new contract management framework and the accompanying systems and processes.
18. The previous report highlighted some limitations with the contract monitoring system within the council's existing e-tendering system and work was being undertaken with the system provider to see how these limitations could be overcome. It has since become apparent that the system would require additional expenditure to enable the functionality needed. The costs to improve the functionality were not value for money so an alternative has been explored. A new system has been identified and tested and is a much better fit for the council's requirements, at better value.
19. Due to Covid19, the progress of seeking approval to purchase and implement this system has been delayed and the team is now working to a September 'go live' date.
20. Despite the delays with the contract monitoring system, a significant amount of work to develop contract management processes has already been undertaken by the team including the following:
  - (a) Populating the contract database with historic contracts and checking the accuracy of the records held. The number of contracts registered centrally has increased from 206 to 265 during the reporting period;
  - (b) Locating copies of signed contracts and scanning and storing them in the contract database;

- (c) Taken a lead on creating KPI and contract performance monitoring regimes to ensure a consistent, proportionate approach is being undertaken across the council;
- (d) Developed the contract database to email reminders to service areas and procurement officers when key dates are approaching (contract reviews, notice periods etc, commencement of procurement process etc.);
- (e) Contract management training being delivered to council officers as part of a four day procurement training programme.

#### SAVINGS/COSTS UNDER BUDGET

21. A summary of savings achieved during the reporting period is set out below.

Details	Contract value	Spend category	Saving/cost under budget
Grounds maintenance	£4,552,000 over eight years for core services	Revenue	£416,000 over eight years  A further 30% saving has been made on non-core services
Cloud hybrid security	£110,858 over two years	Capital	£123,427 over two years
Secure email gateway	£99,880 over four years	Capital	£84,000 over four years
Wroxall primary school works	£2,700,000	Capital	£326,205 under pre tender estimate
IBM controllers and maintenance	£61,321 over three years	Revenue	£63,000 over three years
Attivo deception technology	£99,650 over five years	Capital and revenue	£10,350 over five years

#### RESPONSE TO COVID-19

- 22. To enable the council to respond to the COVID-19 crisis, the council was able to utilise flexibilities available within procurement regulations to procure goods, services or works urgently.
- 23. A briefing note was written by the procurement and contracts manager and disseminated to council officers setting out the processes available. This briefing can be seen at **Appendix D**.
- 24. The table below sets out the different procedures utilised since the start of the outbreak.

Procedure	Number of occurrences
Extended procurement timetable	2
Extended current contract	3
Emergency waiver	7

- 25. In response to the COVID-19 pandemic, Crown Commercial Services issued a Procurement Policy Note (PPN) which provided information and guidance for public bodies on continued payment of their suppliers to ensure service continuity during and after the current COVID-19 outbreak.

26. Where goods and services have been either reduced or paused temporarily, the council was required to consider where the council will need to support at risk suppliers so they are able to cope with the current crises and be in a position to resume normal service delivery and fulfil their contractual obligations when the outbreak is over.
27. The procurement and contracts manager drafted a briefing in conjunction with finance and the payments team to create a process to consider where continued payment may be required. This briefing can be seen at Appendix E.
28. Since the start of the outbreak 8 continued supplier payment requests have been approved.

#### FINANCIAL / BUDGET IMPLICATIONS

29. There are no direct financial or budgetary implications arising from this report although all procurement decisions directly contribute to the council's total expenditure and therefore any reduction in the amount of spend as a result has a direct beneficial impact on the council's budget position.

#### CARBON EMISSIONS

30. There are no direct implications relating to carbon emissions arising from this report, however, officers will be required when carrying out procurements and awarding contracts to have due regard to the Procurement Strategy in relation to sustainability which covers carbon emissions.
31. The council's Carbon Management Plan 2015-20 ("CMP") states that carbon emissions data will be collated for outsourced services where the administrative burden of collecting the emissions data can be justified. The team is working with the sustainability team to review the requirement of the CMP and put in place a process for collecting carbon emissions data from suppliers of services which are expected to produce in excess of one per cent of the council's footprint (circa 85tCO<sub>2</sub> per year).

#### LEGAL IMPLICATIONS

32. Procurement by public bodies is subject to a rigorous regulation principally via The Public Contract Regulations 2015 (which came into force on 26 February 2015) and the relevant EU directives. In addition to the legislation the council has its own contract standing orders. The council is also required to comply with other legislation when carrying out procurements, for example that relating to equality and social value.
33. All procurements with a whole life value over £25,000 are overseen by the team ensuring robust governance of the council's procurement activity in accordance with our contract standing order requirements.
34. The team is continuing to monitor the impacts of Brexit on the public procurement landscape. While the UK has left the EU, it is bound by the terms of the Withdrawal Agreement which requires it to adhere to EU rules until the transition period ends. Even after the transition period ends, EU rules, which have been transposed into UK law, will still be in force until the government decides to change them.

## RISK MANAGEMENT

35. Failure to observe the relevant legislation and the council's contract standing orders has the potential to pose a significant threat to the council's financial health and reputation. Such risk could take many forms including the risk of legal challenge resulting in significant financial penalties and the potential for negative publicity together with the risk that a contract could be deemed to be void.

## EQUALITY AND DIVERSITY

36. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
37. There are no direct equality and diversity implications arising from this report. However, officers will be required when carrying out procurements and awarding contracts to have due regard to the Procurement Strategy in relation to equality and diversity objectives.

## RECOMMENDATION

38. The committee is asked to note the report.

## APPENDICES ATTACHED

[Appendix A](#) – Contracts awarded in the period 1 October 2019 to 31 March 2020 (Q3 and 4 2019/20).

[Appendix B](#) – Details of waivers approved in the period 1 October 2019 to 31 March 2020 (Q3 and 4 2019/20).

[Appendix C](#) – Procurement strategy action plan.

[Appendix D](#) – Procurement and contracts COVID-19 briefing.

[Appendix E](#) – Supplier payments briefing.

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