



Committee Report

Committee	AUDIT COMMITTEE
Date	31 JULY 2023
Title	PROCUREMENT ACTIVITY REPORT FOR THE HALF YEAR 1 OCTOBER 2022 – 31 MARCH 2023 (Q3&4 2022/23)
Report of	DIRECTOR OF CORPORATE SERVICES

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 2022 to 31 March 2023 inclusive.
2. The committee is asked to note the report.

RECOMMENDATION

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| 3. The Audit Committee notes the Procurement Activity report. |
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BACKGROUND

4. The Procurement and Contract Monitoring Team (the PCMT) 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. The PCMT is also responsible for drafting the council's contractual terms and conditions with its suppliers and for giving contract management advice and guidance.
5. A key role of the PCMT is to ensure compliance with the Public Contracts Regulations 2015 (PCR15). These regulations apply to the majority of procurements with a total value over a specified threshold. Procurements which are below threshold are not covered by the PCR15 but are still subject to the council's own contract standing orders (CSOs).
6. The UK's transition out of the European Union ended on the 31 December 2020. On the 15 December 2020, the Cabinet Office published a Green Paper putting forward proposals to transform public sector procurement post transition. The Cabinet Office has stated that the reform is an "*opportunity to leverage public procurement spend to deliver national and local government priorities to a greater*

extent than has previously been possible". On 11 May 2022, the Procurement Bill 2022 (the Bill) was introduced in the House of Lords to commence its passage through the legislative process. The progress of the Bill is being closely monitored by the PCMT and when the final proposals are known, work will commence to understand how these can be implemented locally. It is anticipated that the new regime will come into force at the end of 2023, at the earliest.

CORPORATE PRIORITIES AND STRATEGIC CONTEXT

7. The council has set a target to achieve net zero emissions:
 - in its business and delivery of services by 2030.
 - across the school estate by 2035; and
 - as an island by 2040.
8. Greenhouse gas emissions result from energy use in buildings, street lighting, fleet vehicles, business travel, water use, waste disposal, air conditioning, and contractor's services.
9. The application of environmental and sustainability requirements in contract performance monitoring/reporting, tender evaluation criteria and specifications must be relevant and proportionate to the subject matter of the contract. Where appropriate, this will be extended to evaluate environmental management through supply chains in relation to how the council's suppliers will encourage sustainability amongst its sub- contractors.
10. In order to minimise harm to the environment and to promote conservation of natural resources, commissioners are required to consider climate, environment and UNESCO biosphere impact in the pre procurement planning stages of their project and build appropriate criteria into their procurement documents. This will include greenhouse gas/carbon reporting.

Economic Recovery and Reducing Poverty

11. Progress towards economic recovery and the reduction of poverty is a key outcome for the council, and this is reflected in the Corporate Plan 2021-25.
12. The council's CSOs and Procurement Strategy promotes the use of social value criteria in our procurement processes.

The Public Services (Social Value) Act 2012 requires all service contracts governed by the Public Contracts Regulations 2015 to be subject to appropriate social value criteria. The Act requires that contracting authorities should consider not only how to improve the economic, social and environmental well-being of the local area served by them, but also how to undertake the process of procurement with a view to securing that improvement and measuring it during the life of the contract.

13. The Council has taken this a step further and has included within its CSOs the requirement to informally apply the Act to all contracts with a whole life value of over £25,000, where appropriate.
14. Social value cannot be used to discriminate on the basis of geography of a supplier, but they can identify local benefits that can be delivered through the contract being

delivered in a specific area for example targeted training and recruitment, local educational support initiatives, community and environmental initiatives, use of local supply chains.

Impact on Young People and Future Generations

15. Whilst this report has no direct impact on young people and future generations, commissioners are required to consider how their commissioning and procurement activity can contribute to this aim. Strategies to address this will be considered on a project-by-project basis and this could include consultation and coproduction of specifications with young people.

Corporate Aims

16. Through the procurement process, commissioners will be supported to consider how they can help to deliver the aspirations and priorities sets out in the Corporate Plan.

PROCUREMENT ACTIVITY 1 OCTOBER 2022 – 31 MARCH 2023 (Quarters 3 & 4 of financial year 2022/23)

CONTRACTS AWARDED

17. During the reporting period a total of 85 contracts were awarded. **Table 1** 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 1**.

Table 1

Directorate	Quantity Q3&4 2022/23	Comparison data Q1&2 2022/23	Comparison data Q3&4 2021/22
Adult social care & community well-being	21	27	29
Children's services	20	31	24
Corporate services	11	18	17
Financial management	2	0	0
Neighbourhoods	6	7	7
Public health	1	1	0
Regeneration	17	8	26
Strategy	7	7	0
TOTAL	85	99	103

18. The total whole life value of contracts awarded during the current reporting period is £14.1 million. A breakdown by directorate is provided at **Table 2**.

Table 2

Directorate	Quantity Q3&4 2022/23	Comparison data 2022/23 Q1&2	Comparison data 2021/22 Q3&4
	£000	£000	£000
Adult social care & community well-being	3,681	5,505	6,927
Children's services	2,651	6,502	3,494
Corporate services	1,480	3,636	1,079
Financial management	63	0	0
Neighbourhoods	1,167	1,086	375
Public health	25	158	0
Regeneration	4,682	1,476	5,193
Strategy	360	410	0
TOTAL	14,109	18,773	17,068

CONTRACT DATABASE

19. The PCMT maintains a database of contracts with a whole life value of over £25,000. There are currently 368 entries with a whole life value totalling over £1.2 billion, broken down as follows:

Directorate	Number of contracts	£m
Adult social care & community well-being	79	163
Children's services	75	42
Corporate services	103	24
Finance	8	1
Neighbourhoods	35	953
Public health	32	27
Regeneration	35	21
Strategy	1	0.01
TOTAL	368	1,231

WAIVERS OF CONTRACT STANDING ORDERS

20. 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 Contracts 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.
21. 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, pension fund manager and the strategic manager for legal services.
22. During the period, 48 waivers were approved. **Table 3** below sets out a high-level overview of the waivers with a comparison to the data collated for the previous two half yearly reports.

Table 3

Directorate	Quantity Q3&4 2022/23		Comparison data Q1&2 2022/23		Comparison data Q3&4 2021/22	
	Number	£000	Number	£000	Number	£000
Adult social care & community well-being	19	£3,472	25	£2,259	24	£1,992
Children's services	19	£2,356	24	£4,092	23	£3,371
Corporate services	2	£142	3	£185	7	£401
Financial management	1	£38	0	0	0	0
Neighbourhoods	1	£45	3	£188	5	£214
Public health	1	£25	1	£158	0	0
Regeneration	5	£271	2	£69	12	£975
Strategy	0	0	0	0	0	0
TOTAL	48	£6,349	58	£6,951	71	£9,954

23. The committee will note the continued high number of waivers from the adult social care & community well-being needs directorate, though, there has been a decrease to the numbers recorded. Through a piece of work between the adult social care & community well-being needs directorate and the PCMT, it was apparent that the waivers agreed by the Board didn't always result in a placement being made. The PCMT have therefore started to capture this and, because those waivers didn't result in a contract being awarded, have been removed from the data that forms part of this report as it was felt that this information was artificially elevating the figures. During this reporting period, this applied to one waiver.

24. It has been discovered that the same was happening in children's services and this applied to three waivers.
25. It should be noted that the waivers from adult social care are typically for placements where the placement is very urgent and often as a result of imminent hospital discharge for which the team receive minimal (or no) prior notice.
26. A detailed list of the waivers can be seen at **Appendix 2**.
27. PROCUREMENT STRATEGY 2022-2025
28. The new [Procurement Strategy](#) (the strategy) was approved by Cabinet at its meeting on the 13 October 2022.
29. The principal purpose of 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.
30. 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.
31. Through the delivery of the strategy the council will help local (including small) businesses and suppliers wherever and insofar as overriding rules allow, and particularly in a way that supports the delivery of the council's strategic priorities. This includes generating economic growth, helping our communities recover from the Covid-19 pandemic, and supporting the Biosphere and Mission Zero.
32. The Strategy is focused around four key themes:
 - Local community wealth building
 - Climate and environment
 - Commercial approach
 - Skills and capabilities
33. The strategy maps out planned activities for the three-year term in the form of an action plan linked to each of the four themes. A copy of the action plan and progress made against the strategy can be seen at **Appendix 3**.
34. Good progress has been made against the strategy actions with a number of actions being complete and now forming part of 'business as usual'.
35. Due to resource constraints and the Procurement and Contracts Manager leaving the council, some of the actions are awaiting revised deadlines. This will be updated when the replacement is in post.
36. The actions requiring progress predominantly relate to training and guidance for staff and suppliers in relation to delivering on the aspirations of the strategy, such as in relation to community wealth building and climate and environment.

CONTRACT MONITORING

37. The council's contract monitoring system is used to ensure that suppliers to the council are fulfilling their contractual obligations and will highlight where contracts are not performing. This will allow early intervention to remedy issues and will automatically flag to senior management where a supplier's performance is falling below an acceptable level.
38. The monitoring system also trigger alerts for reviews, it asks contract managers to confirm that they have received their supplier monitoring reports and it is a central location for contract data to be stored.
39. There are currently 79 contracts loaded in the contract monitoring system with a combined total of 1,737 performance measures. **Table 4** breaks this down by directorate.

Table 4

Directorate	Number of contracts	Number of KPIs
Adult social care & community well-being	31	1,088
Children's services	28	508
Corporate services	6	31
Financial management	0	0
Neighbourhoods	12	75
Public health	0	0
Regeneration	2	35
Strategy	0	0
TOTAL	79	1,737

40. As well as monitoring contract performance against each key performance indicator, the system provides an overall RAG (red, amber, green) rating for each contract. During the reporting period, five contracts have shown performance issues, four within the adult social care & community well-being needs directorate, and one in neighbourhoods. The system clearly shows where the issues are occurring and allows for early intervention to work with the suppliers to remedy the issues in accordance with the contract.
41. The contract performance issue in neighbourhoods was remedied by the supplier as soon as the issue was highlighted in the monitoring system.

42. Adult social care & community well-being needs commissioners are working with the PCMT and the suppliers to address the performance issues on their four contracts.
43. Contracts that are not yet loaded into the contract monitoring system are being managed by each service and each contract manager is responsible for ensuring the contract is performing as it should and that appropriate records are being kept to evidence this.

MODERN SLAVERY

44. Modern slavery is often a hidden crime involving one person denying another person his or her freedom. It includes slavery, servitude, forced and compulsory labour and human trafficking.
45. To tackle these crimes, the Modern Slavery Act 2015 (the Act) was introduced. The Act consolidates and clarifies modern slavery offences; toughens penalties and prosecution; and introduces greater support and protection for victims.
46. The prevention, detection and reporting of modern slavery in any part of the council's business or supply chains is the responsibility of all those working for the council. It is important that we consider modern slavery when we are letting and managing our contracts and the mitigation of modern slavery risks should be considered throughout the procurement process.
47. As standard, we have criteria built into our procurement documents where we can exclude suppliers from our procurement processes where they have committed offences under the Act. We also ask all suppliers with a turnover of £36 million+ to confirm that they are meeting their obligations to publish statements about what they are doing to prevent modern slavery in their supply chains, however, some contracts may require us to go further than that.
48. Some contracts will carry a higher risk in terms of where modern slavery can present itself. Additional evaluation and contract monitoring criteria can be built into the procurement process to enable a proper and thorough assessment of suppliers to ensure they are compliant with the Act and that they are monitoring their supply chains as well.
49. Section 54 of the Modern Slavery Act 2015 requires large employers to produce a modern slavery statement each financial year. The council's modern slavery statement can be viewed [here](#).

FINANCIAL / BUDGET IMPLICATIONS

50. 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.

LEGAL IMPLICATIONS

51. Procurement by public bodies is subject to a rigorous regulation principally via the Public Contracts Regulations 2015 (which came into force on 26 February 2015). In addition, the council has its own contract standing orders. The council is also required to comply with other legislation when conducting procurements, for example that relating to equality, modern slavery and social value.
52. All procurements with a whole life value over £25,000 are overseen by the PCMT ensuring robust governance of the council's procurement activity in accordance with our contract standing order requirements.

EQUALITY AND DIVERSITY

53. 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.
54. There are no direct equality and diversity implications arising from this report. However, commissioners are required to consider equality and diversity matters in the pre procurement planning stages of their project and build appropriate and proportionate criteria into their procurement documents.

RISK MANAGEMENT

55. 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 financial penalties and the potential for negative publicity together with the risk that a contract could be deemed to be void.
56. These risks are mitigated with the involvement of the PCMT in all procurements valued over £25,000. The risks are considered higher at this value as this is the trigger for advertised open market competition where the risk of challenge is greater.
57. Commissioners are offered a four day, in house, training programme to ensure they understand how to conduct a procurement process and adhere to the council's CSOs and Public Contracts Regulations 2015.
58. Any purchase order valued over £20,000 is sent to the PCMT. This is an additional approval step prior to financial approval where the PCMT will check that the spend complies with the relevant procurement rules and regulations.

APPENDICES ATTACHED

Appendix 1 - Contracts awarded in the period 1 October 2022 to 31 March 2023 (Q3 and 4 2022/23).

Appendix 2 – Details of waivers approved in the period 1 October 2022 to 31 March 2023 (Q3 and 4 2022/23).

Appendix 3 – Procurement strategy action plan update.

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