

Committee Report

ISLE OF WIGHT COUNCIL

Committee	AUDIT AND GOVERNANCE COMMITTEE
Date	11 DECEMBER 2023
Title	PROCUREMENT ACTIVITY REPORT FOR THE HALF YEAR 1 APRIL 2023 – 30 SEPTEMBER 2023 (Q1&2 2023/24)
Report of	CABINET MEMBER FOR CHILDREN'S SERVICES, EDUCATION AND CORPORATE SERVICES

1. Executive Summary

1.1 This report provides the committee with a high-level overview of the council's procurement and contract monitoring activity for the period 1 April 2023 to 30 September 2023 inclusive.

1.2 The committee is asked to note the report.

2. Recommendation(s)

2.1 The Audit and Governance Committee notes the Procurement Activity report.

3. Background

3.1 The Procurement and Contract Monitoring Teams (the PCMT) are 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.

3.2 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).

3.3 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 26 October 2023, the Procurement Bill received Royal Assent and now passed into law as the Procurement Act 2023. The PCMT will be identifying training and revisions to council process documentation to reflect the requirements of the new legislation ahead of full implementation in the Autumn of 2024.

4. Corporate Priorities and Strategic Context

Responding to the Climate change and enhancing the biosphere

- 4.1 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.
- 4.2 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. The Climate and Sustainable Development Impact Assessment Tool has now been linked into the procurement initiation form that commissioners complete at the outset of the procurement to ensure identification of the key environmental and sustainability requirements for each procurement.
- 4.3 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.

Economic Recovery and Reducing Poverty

- 4.4 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.
- 4.5 The council’s CSOs and Procurement Strategy promotes the use of social value criteria in our procurement processes.
- 4.6 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.
- 4.7 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.

- 4.8 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

- 4.9 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

- 4.10 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 [Corporate Plan 2021 - 2025](#).

5. OVERVIEW OF PROCUREMENT ACTIVITY FOR REPORTING PERIOD 1 APRIL 2023 – 30 SEPTEMBER 2023 (QUARTERS 1 AND 2 OF FINANCIAL YEAR 2023/24)

CONTRACTS AWARDED

- 5.1 During the reporting period a total of 33 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**.

5.2 **Table 1**

Directorate	Quantity Q1&2 2023/24	Quantity Q3&4 2022/23	Comparison data Q1&2 2022/23
Adult social care & community well-being	2	21	27
Children’s services	11	20	31
Corporate services	13	11	18
Financial management	-	2	0
Neighbourhoods	2	6	7
Public health	1	1	1
Regeneration	4	17	8
Strategy	-	7	7
TOTAL	33	85	99

5.3 The total whole life value of contracts awarded during the current reporting period is £18.4 million. A breakdown by directorate is provided at **Table 2**.

5.4 **Table 2**

Directorate	Quantity Q1&2 2023/24	Quantity Q3&4 2022/23	Comparison data 2022/23 Q1&2
	£000	£000	£000
Adult social care & community well-being	284	3,681	5,505
Children's services	3,289	2,651	6,502
Corporate services	3,236	1,480	3,636
Financial management	0	63	0
Neighbourhoods	370	1,167	1,086
Public health	1,788	25	158
Regeneration	9,457	4,682	1,476
Strategy	0	360	410
TOTAL	18,424	14,109	18,773

CONTRACT DATABASE

5.5 The Procurement and Contract Monitoring teams maintains a database of contracts with a whole life value of over £25,000. There are currently 387 entries with a whole life value totalling over £1.2 billion, broken down as follows:

Table 3

Directorate	Number of contracts	£m
Adult social care & community well-being	73	150
Children's services	89	46
Community Services	66	969
Corporate services	115	24
Finance	6	0.5
Public health	34	26
Strategy	4	17
TOTAL	387	1,233

WAIVERS OF CONTRACT STANDING ORDERS

- 5.6 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.
- 5.7 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.
- 5.8 During the period, 39 waivers were 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.

Table 4

Directorate	Quantity Q1&2 2023/24		Quantity Q3&4 2022/23		Comparison data Q1&2 2022/23	
	Number	£000	Number	£000	Number	£000
Adult social care & community well-being	5	£727	19	£3,472	25	£2,259
Children's services	21	£3,212	19	£2,356	24	£4,092
Corporate services	6	£239	2	£142	3	£185
Financial management	1	£40	1	£38	0	0
Neighbourhoods	3	£138	1	£45	3	£188
Public health	1	£234	1	£25	1	£158
Regeneration	2	£267	5	£271	2	£69
Strategy	0	0	0	0	0	0
TOTAL	39	£4,857	48	£6,349	58	£6,951

- 5.9 The committee will note the much-reduced number of waivers from the adult social care & community well-being needs directorate although Children's Services continues to show a high number.
- 5.10 It should be noted that the waivers from adult social care and children's services are typically for placements where the placement is very urgent or as a result of imminent hospital discharge, or the care setting is determined by service user specific needs, family consideration or court order decisions.
- 5.11 A detailed list of the waivers can be seen at **Appendix 2**.

6. PROCUREMENT STRATEGY 2022-2025

- 6.1 The Procurement Strategy (the strategy) was approved by Cabinet at its meeting on the 13 October 2022. 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. 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.
- 6.2 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.
- 6.3 The Strategy is focused around four key themes:
- Local community wealth building
 - Climate and environment
 - Commercial approach
 - Skills and capabilities
- 6.4 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**.
- 6.5 In the first year of the strategy, good progress has been made against the strategy actions with several actions being complete and now forming part of 'business as usual'.
- 6.6 Due to team capacity over the reporting period and the recent appointment of the new permanent Procurement team leader, a review of the target dates will be undertaken during Q3 and Q4 of financial year 2023/24.
- 6.7 One area that has been progressed during the reporting period covered by this report is the link of the council's Climate and Sustainable Development Impact Assessment Tool with the Procurement Initiation form to provide guidance and assistance to service areas on how to consider the impact from the proposed procurement.

7. CONTRACT MONITORING

- 7.1 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.
- 7.2 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.

- 7.3 There are currently 90 contracts loaded in the contract monitoring system with a combined total of 2,186 performance measures. **Table 5** breaks this down by directorate.

Table 5

Directorate	Number of contracts	Number of KPIs
Adult social care & community well-being	30	1,060
Children's services	35	722
Corporate services	8	119
Financial management	0	0
Public health	2	53
Community Services	15	232
Strategy	0	0
TOTAL	90	2,186

- 7.4 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, there were 7 red KPIs and 4 amber KPIs across all contracts, two within the adult social care & community well-being directorate, seven in Children's Services and 2 in Community Services. 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.
- 7.5 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 as evidence.
8. Consultation And Engagement
- 8.1 This report is for information purposes regarding the council's procurement activity and does not require consultation to have been undertaken.
9. Financial / Budget Implications
- 9.1 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.

10. Legal Implications

- 10.1 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.

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.

11. Equality And Diversity

- 11.1 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.

- 11.2 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.

12. Property Implications

- 12.1 There are no property implications arising from this report. Any considerations would be made as part of individual procurements and commissioners are required to consider these in the pre procurement planning stages of their project and seek appropriate specialist advice.

13. Risk Management

- 13.1 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.

- 13.2 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.

- 13.3 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.

- 13.4 In Q4, 2023/24, a refresh and re-commencement of in-house training programme for commissioners and service managers is planned. This programme is designed to build understanding of the need to comply with to the council's CSOs and also the Public Contracts Regulations 2015.
14. Evaluation
- 14.1 No options are being proposed as part of this report which is for information only.
15. Appendices Attached
- 15.1 Appendix 1 - Contracts awarded in the period 1 April 2023 to 30 September 2023 (Q1 and Q2 2023/24).
- 15.2 Appendix 2 – Details of waivers approved in the period 1 April 2023 to 30 September 2023 (Q1 and Q2 2023/24).
- 15.3 Appendix 3 – Procurement strategy action plan update

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