



Purpose: For Noting

Committee report

Committee	AUDIT COMMITTEE
Date	25 JULY 2022
Title	PROCUREMENT ACTIVITY REPORT FOR THE HALF YEAR 1 OCTOBER 2021 – 31 MARCH 2022 (Q3&4 2021/22)
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 2021 to 31 March 2022 inclusive.
2. The committee is asked to note the report.

RECOMMENDATION

3. The Audit Committee notes the Procurement Activity report.

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 consultation on the proposals ended on the 10 March 2021 and the Cabinet Office received over 600 responses. The Cabinet Office has concluded their analysis of the feedback on the proposals and are now in the process of finalising the new regime. The latest update given by the Cabinet Office in October 2021 states 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*”. The plans for reform shall be 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 in 2023 at the earliest.

CORPORATE PRIORITIES AND STRATEGIC CONTEXT

7. The council’s Procurement Strategy, CSOs and the activity of the PCMT and council commissioners supports the achievement of the council’s commitments and key priorities as identified within the Corporate Plan 2021-2025.

Provision of affordable housing for Island Residents

8. Whilst this report has no direct impact on the provision of housing for island residents any commissioning and procurement activity undertaken in this area will contribute towards the delivery of key activities concerned with that outcome.

Responding to climate change and enhancing the biosphere

9. 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.
10. 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.
11. 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.
12. 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

13. 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.
14. 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.

15. 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.
16. 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

17. 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

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

PROCUREMENT ACTIVITY 1 OCTOBER 2021 – 31 MARCH 2022 (Quarters 3 & 4 of financial year 2021/22)

PROJECTS INITIATED

19. During the period 1 October 2021 to 31 March 2022 a total of 134 procurement processes were initiated through the PCMT. This ranged from Invitation to Tenders (ITTs), above threshold ITTs (which are tenders that are run in accordance with the PCR15 where a contract notice must be published on Find a Tender), 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 2021/22	Comparison data Q1&2 2021/22	Comparison data Q3&4 2020/21
Adult social care & community well-being	28	18	14
Children's services	39	16	15
Corporate services	20	24	17
Financial management	-	3	2
Neighbourhoods	17	11	9
Public health	-	2	-
Regeneration	30	21	28
Strategy	-	2	-
TOTAL	134	97	85

CONTRACTS AWARDED

20. During the reporting period a total of 103 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 1**.

Table 2

Directorate	Quantity 2021/22 Q3&4	Comparison data 2021/22 Q1&2	Comparison data 2020/21 Q3&4
Adult social care & community well-being	29	9	22
Children's services	24	20	12
Corporate services	17	9	11
Financial management	-	1	1
Neighbourhoods	7	12	9
Public health	-	1	2
Regeneration	26	12	16
Strategy	-	1	-
TOTAL	103	65	73

21. The total whole life value of contracts awarded during the current reporting period is £17 million. A breakdown by directorate is provided at **Table 3**.

Table 3

Directorate	Category of spend	2021/22 Q3&4	Comparison data 2021/22 Q1&2	Comparison data 2020/21 Q3&4
			£000	£000
Adult social care & community well-being	Revenue	6,927	2,191	140,189
Children's services	Capital	172	1,716	-
	Revenue	3,322	1,371	8,799
Corporate services	Capital	118	127	160
	Revenue	961	648	588
Financial management	Revenue	-	25	75
Neighbourhoods	Capital	151	358	370
	Revenue	224	656	444
Public health	Revenue	-	326	1,178
Regeneration	Capital	4,355	1,751	2,809
	Revenue	838	1,188	1,143
	Capital and revenue	-	-	3,360
Strategy	Revenue	-	20	-
TOTAL		17,068	10,377	159,115

CONTRACT DATABASE

22. The PCMT maintains a database of contracts with a whole life value of over £25,000. There are currently 315 entries with a whole life value totalling over £1.2 billion, broken down as follows:

Directorate	Number of entries	£m
Adult social care & community well-being	80	158
Children's services	49	42
Corporate services	91	14
Finance	5	2
Neighbourhoods	35	952
Public health	25	26
Regeneration	29	12
Strategy	1	0.02
TOTAL	315	1,206

WAIVERS OF CONTRACT STANDING ORDERS

23. 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.

24. 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.
25. During the period, 71 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	Q3&4 2021/22		Comparison data Q1&2 2021/22		Comparison data Q3&4 2020/21	
	Number	£000	Number	£000	Number	£000
Adult social care & community well-being	24	£1,992	8	£342	10	£567
Children's services	23	£3,371	15	£1,371	11	£2,105
Corporate services	7	£401	4	£139	2	£97
Financial management	-	-	-	-	1	£75
Neighbourhoods	5	£214	7	£545	1	£38
Public health	-	-	1	£326	-	-
Regeneration	12	£975	7	£444	8	£489
Strategy	-	-	-	-	-	-
TOTAL	71	£9,954	42	£3,167	33	£3,371

26. The committee will note the increase in waivers from the adult social care & community well-being directorate, from 8 in the previous reporting period to 24. 20 of these waivers related to mainland residential placements. This is representative of the significant winter pressures faced by the health and social care sector as a result of the pandemic and new variants which emerged during this time. It was necessary, in advance of the third wave of the pandemic, to take unprecedented action to support rapid discharge of a number of patients from St Marys Hospital and to create sufficient capacity to meet anticipated demand. This included supporting a number of people to move to short term residential placements pending assessment and to aid their recovery. Due to a lack of available capacity within the local care marketplace, the council had to look further afield and support people to be discharged, with their full consent, to care services off island. Due to the urgent need to take action there was not sufficient time to carry out a procurement process. It was necessary for the service area to identify care homes

that could meet the individual's specific needs and utilised the waiver route to enable the moves to happen quickly and efficiently.

27. In relation to the children's services placement waivers;
 - Four are SEN Education placements. These are predominately chosen by the parents/carers so the choice to purchase from the framework is limited for this reason. Additionally, the available framework hasn't grown in options as much as children's services had hoped.
 - Five are supported lodgings placements off island. Currently there is no framework available for the council to use. However, Bournemouth, Christchurch and Poole Council is submitting a proposal for the procurement of a 16+ framework to go live next year which the council will be part of. This will hopefully reduce the number of supported lodgings off framework placements.
 - A supplier who made up three of the waivers has now been appointed on to the council's local framework.
 - Four of the waivers were for one individual, with a constant search for a suitable placement for them.
 - The rest are made up of residential placements. Nationally there is a shortage of suppliers, the frameworks are close to capacity and some suppliers are less willing to join frameworks as the costs are pre-set. The lack of availability has meant we have had to look further afield for suitable placements which has resulted in additional waivers.
28. While the rise in number may seem high it is positive that these contracts are being documented in the right way and that there is an audit trail in place as CSOs requires.
29. The way in which we are required to calculate contract values for the purpose of determining which threshold applies and therefore which type of procurement process should be followed has changed. The Cabinet Office issued a mandatory policy note requiring all contracting authorities to calculate their contract values inclusive of VAT, effective from 1 January 2022. This has meant that a number of procurements and waivers that would not have previously come through to the PCMT are now being captured and has contributed towards the numbers included in this report.
30. A detailed list of the waivers can be seen at **Appendix 2**.
31. PROCUREMENT STRATEGY REVIEW
32. The principal 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.
33. 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.
34. The strategy has been redrafted and is currently being consulted on. The Procurement Strategy for 2022-2025 comprises four principal themes. Each theme

is a foundation of the considerations that need to underpin the procurement process and will be embedded in the way we procure our goods, services and works contracts to support the Council's aspirations as set out in its Corporate Plan. The themes are:

- Community wealth building
- Climate and environment
- Commercial approach
- Skills and capabilities

35. The strategy will map out planned activities for the three-year term in the form of an action plan.
36. It is intended that the new strategy is presented to Cabinet in September 2022.

CONTRACT MONITORING

37. The PCMT is eighteen months into the roll out of the new contract management framework and the accompanying systems and processes.
38. A toolkit has been created to assist officers in setting robust contract performance monitoring regimes, managing relationships with suppliers and provides a structure for recording contract compliance which can be reported to senior managers, councillors and other key stakeholders.
39. The monitoring system will be used to ensure 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.
40. 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.
41. There are currently 52 contracts loaded in the contract monitoring system with a combined total of 1,207 performance measures. Table 5 breaks this down by directorate.

42.

Table 5

Directorate	Number of contracts	Number of KPIs
Adult social care & community well-being	27	886
Children's services	9	228
Corporate services	7	33
Financial management	0	0
Neighbourhoods	7	27
Public health	0	0
Regeneration	2	33

Strategy	0	0
TOTAL	52	1,207

43. The roll out of the system is averaging around three new contracts being uploaded per month. An internal audit on contract management activity highlighted the slow pace of the roll out, however, it was acknowledged at the time that there would be no additional resource allocated to the project to increase the pace.
44. As well as monitoring contract performance against each key performance indicator, the system provides an overall RAG (red, amber, green) rating for each contract. Presently, all contracts being managed through the system are rated 'green' which means they are performing well.
45. 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

46. 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.
47. 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.
48. 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.
49. As standard, we have criteria built in to 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.
50. 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 in to 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.
51. 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

52. 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

53. 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 carrying out procurements, for example that relating to equality, modern slavery and social value.
54. 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.

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.

EQUALITY AND DIVERSITY

59. 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.
60. 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 in to their procurement documents.

APPENDICES ATTACHED

61. Appendix 1 - Contracts awarded in the period 1 October 2021 to 31 March 2022 (Q3 and 4 2021/22).
62. Appendix 2 – Details of waivers approved in the period 1 October 2021 to 31 March 2022 (Q3 and 4 2021/22).

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