

AUDIT COMMITTEE	AGENDA ITEM No. 5
17 OCTOBER 2022	PUBLIC REPORT

Report of:	Cecilie Booth, Director of Resources and S.151 Officer	
Cabinet Member(s) responsible:	Councillor Andy Coles, Cabinet Member for Finance and Corporate Governance	
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PROCUREMENT ACTIVITY 2022

R E C O M M E N D A T I O N S	
FROM :	Deadline date : N / A
<p>It is recommended that Audit Committee:</p> <ol style="list-style-type: none"> Note the current legislation and arrangements for delivery of procurement across Peterborough and the current performance 	

1. ORIGIN OF REPORT

1.1 This report is submitted to Audit Committee as a scheduled report on the delivery of procurement services across Peterborough City Council. It is in line with the established Work Programme.

2. PURPOSE AND REASON FOR REPORT

2.1 Procurement supports the Council's corporate priorities through enabling officers to purchase goods, services and works in a way which is not just legally compliant, but which also secures value for money and considers opportunities to secure social value. This report provides an overview of the legislative environment and governance of the procurement function.

2.2 The Terms of Reference for the Audit Committee (agreed at Full Council) set out the key roles of the Committee including the following

2.2.1.18: To monitor the effective development and operation of risk management and corporate governance in the Council.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet	-
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4. LEGISLATION

- 4.1 Public procurement is the purchase of goods, services and works by public sector bodies. Prior to the end of the transition period at 11pm on 31 December 2020, public procurement was regulated through EU procurement rules implemented into UK legislation by the Public Contracts Regulations 2015 and the Concession Contract Regulations 2016. From 11pm on 31 December 2020, a number of amendments were made to the legislative framework to reflect the UK's departure from the EU and to implement the Withdrawal Agreement with the EU and other associated agreements.
- 4.2 The main change is that new UK procurement opportunities which previously would have been required to be advertised in the Official Journal of the European Union, now need to be publicised in a new UK e-notification service called 'Find a Tender Service' (FTS).
- 4.3 The regulations apply to their fullest extent to contracts which exceed a threshold value. That value is revised every two years. The current thresholds are set out below. Although they remain unchanged, they are now set by the World Trade Organisation under the UK's participation in the Government Procurement Agreement.

Contract Value in £	Supplies (Goods) Contracts	Service Contracts	Light Touch Regime Contracts	Works Contracts	Concession Contracts
1 Jan 2018 – 31 Dec 2019	181,302	181,302	615,278	4,551,413	4,551,413
1 Jan 2020 – 31 Dec 2022	189,330	189,330	663,540	4,733,252	4,733,252

- 4.4 On 15 December 2020, the government published its Green Paper: Transforming Public Procurement. The government's stated goal is to speed up and simplify procurement processes, place value for money at their heart, and unleash opportunities for small businesses, charities and social enterprises to innovate in public service delivery. The consultation closed 10 March 2021. In December 2021, the response to the consultation was published along with modified proposals, which took account of the feedback received during the consultation.
- 4.5 These modified proposals will form the basis of a Procurement Bill, expected to be introduced to Parliament during 2022. This will ultimately lead to a Procurement Act. At the time of this report, the Bill has passed through to the Committee stage. These new regulations will replace the existing four sets of public procurement regulations and will be expected to go live in 2023.

This is the most extensive change to Public Procurement Legislation in a generation and although the Bill has been classified as a "Bonfire of Red Tape", in reality this is likely not to be the case.

A helpful Essential Guide has been issued to the Council via Trowers and Hamilns Law Firm which will assist the process of updating the Council's Constitution, Standing Orders and internal Policies and Procedures to ensure compliance with the new Legislation. Please refer to Appendix 6 to access the guide.

5 PROCUREMENT POLICY AND CONTRACT RULES

- 5.1 The over-riding procurement policy requirement is that all public procurement must be based on value for money, defined as "the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought". This should be achieved through competition, unless there are compelling reasons to the contrary.

Public sector procurement is subject to a legal framework which encourages free and open

competition and value for money, in line with internationally and nationally agreed obligations and regulations.

The Council Contract Rules do not direct Commissioners to the Procurement Team when undertaking procurements and so it is still possible for individual departments or Commissioning Colleagues to either run informal quotations or pursue approval for exemptions from the contract rules without prior clearance from the Procurement Team separately.

Any contract to be awarded to a supplier or suppliers above £5,000 must have either an approved exemption from procurement rules or Directors Contract Award following a procurement process and three written quotes is required to be evaluated before an award is made. At £25,000 an advert is required to be placed in HM Govt.'s Contracts Finder Service. At £50,000 a full tender process must be undertaken with a minimum of 6 bidders evaluated.

The Procurement Team must be contacted for procurements in excess of OJEU limits.

Commissioners do contact the Team in most cases via a Procurement Requirement Form. There is no upper limit imposed for procurements so the Team will undertake procurements for a few thousand pounds up to multi million pound pieces.

Please refer to the Council's Contract Rules Part 10 of the Constitution – page 243 of the Contract Rules provides an easy reference table relating to procurement and contract awards. [https://democracy.peterborough.gov.uk/documents/s45871/Part 4 Section 10 - Contract Rules Version 007.pdf](https://democracy.peterborough.gov.uk/documents/s45871/Part_4_Section_10_-_Contract_Rules_Version_007.pdf)

- 5.2 The Contract Procurement Rules (the Rules) provide a structure for the procurement of works, goods and services. Following them will ensure value for money, propriety and the proper expenditure of public funds. Officers must remember that their budgets are made up of public money and must ensure that they are spent correctly, fairly and transparently. The current Public Procurement Regulations 2015, on which the Council's Contract Rules are based, has the 4 guiding principles derived from the original European Directives of Fairness, Openness, Transparency and Non-Discrimination. Principles the Council has a duty to uphold when procuring goods, services and works.

6 PROVISION OF PROCUREMENT

- 6.1 Procurement Services are provided by Serco to the City Council through the Peterborough Serco Strategic Partnership (PSSP) and also covers those services which are provided by Aragon Direct Services. Overall, it manages the Councils spend on goods and services which equates to approximately £194m.

The team currently consists of 13 staff and as part of the service that they provide to PCC they are also responsible for:

Producing 3rd party spend and GPC card spend reports;

Management and implementation of the e-sourcing system, Developing Power BI to enhance reporting and the Development of ERP Systems;

Partnering with other organisations where Serco provides Procurement Services for 3rd Party Spend.

Contract Management of the Highways contract for Client supplier assurance
Client Training and Advice on Procurement

Producing and Updating Procurement Operations, Policies and Procedures,
Practice and Standards;

Verifying and On-Boarding supplier details for new set ups and changes
Client Contracts Register, Client PCard System, Client Reporting

Management of Client Governance Process

Working to an Annual Work Plan of approx. 70 Procurements

Tactical Buying

Management of the Buying Support In Box

Management of Exemptions and the Management of Procurement Requirements Forms

Member of the Procurement Board and Joint Commissioning Board

Fostering closer links with Cambridgeshire County Council

6.2 The current procurement service doesn't include contract management services other than for the Highways Infrastructure Service, as the responsibility lies with Commissioners.

6.3 The Procurement Board is the central decision making and front line governance body responsible for products/services procured across the Council. It will ensure a collaborative approach across all aspects of procuring goods and services. It will establish robust procedures for procuring products which will include: change processes' savings evaluations and continuous improvement. The Procurement Board is accountable to the Corporate Leadership Team.

7 PROCUREMENT ACTIVITY 2022

7.1 The Procurement Team, in agreement with the Council, moved away from the previous Sourcing System – Sourcedogg and replaced it with Pro Contract in April 2021, This not only saved £5k per Year on the cost of the system but greatly improved the link between completed procurements and initiating a contract record in the system. Currently the contracts register does not automatically link with supplier verification, on boarding and spend, and the ability to stop any spend taking place for goods and services not linked to a current contract is extremely limited.

Through the use of work flows and specialist buyer functions we will be able to control spend better and ensure more spend is effected under management. This will also help to direct commissioners to Procurement where insufficient Governance is in place

7.2 Key highlights for exemptions (waivers) may be derived from the available data held on Governance Logs below for the period April 1st 2021 to date for Exemptions either completed and approved or in progress.

Number of Exemptions	211	£15,530,339
Number of Exemptions > £10k	188	£15,362,790
Number of Retrospective Exemptions	106	£7,256,884
Number of Exemptions that are fully externally funded	31	£2,243,888
Most common reason for Exemptions – Compliant Procurement Routes Exhausted	55	£4,961,976
Most common category of Exemption – Care Placements	50	£4,752,116
Number of Exemptions relating to lack of planning	48	£3,450,041

7.3 A more detailed breakdown of the summary numbers in Section 7.2 may be found in the following Appendices.

Appendix 1 – Shows the following

The number and value of Exemptions over £10,000 by Directorate

The number and value of Retrospective Exemptions by Directorate

A table showing the Primary Reason for Exemptions (*for example where Compliant Procurement Routes are Exhausted due to the need to assess and deliver services to people who use care services not being able to be effected by suppliers currently awarded places on the Dynamic Purchasing System for Children's Residential Services of a Framework in place for Care at Home Services.*)

Appendix 2 – Shows the "Category" of Exemption such as Agency Staff or Exemptions for Placements for people in care services by number and Value

Appendix 3 – Full Data Table for Exemptions April 1st 2021 to date either In Progress or Completed and Approved

7.4 In terms of Contracts there are 287 active contracts listed on Pro Contract with an approximate annual value of £127m which represents a 66% of spend under management. Work is on-going to find missing contracts and make annual spend figures more in line with actual spend from the Unit 4 Agresso system.

7.5 There are 16 contracts awarded via Frameworks and Dynamic Purchasing System Contracts with an annual value of approximately £18m.

7.6 Appendix 4 provides the data table for current contract information.

The Procurement Team have detailed processes for undertaking procurements and are scalable depending on their value and complexity, However all procurements include the following key stages.

- Budget Confirmation
- Market and Supplier Engagement
- Sourcing Plan (Mainly for over £50k pieces)
- Bid Evaluation
- Evaluator Score Moderation
- Award – either via Director's Contract Award Report or Cabinet Member Decision Notice.
- External Award and Opportunity Notices via Find a Tender and Contracts Finder for all procurements of £25k and above.
- Legal sign off for ITT documents and award letters
- Stand still period
- Contract Information Record completed once Award process complete

7.7 **Current and Future Improvements**

Data records are held in a number of sources. The Procurement, Supplier Spend and Contracts Processes are all separately undertaken. This means that it is a difficult and time consuming process to keep the contracts register up to date.

Currently the Procurement Team has just finished overhauling the Governance system to allow better data capture and analysis and to be able to capture contracts awarded via Exemption, and where a procurement process did not take place, to be added to the register. However there is a back log that need to be added to the register which is also being addressed.

In addition all historic and recent Contract Award Governance References are being linked

to the contracts register which is on-going.

Some scoping has taken place to set up a fully integrated ERP system that would link all three of these processes together, would improve data capture and analysis of off contract spend and force any non-compliance to the surface via mandatory system workflows and processes maximising spend under management linked to a formal contract. An Options Paper for this is being developed by ICT and Procurement colleagues which discusses what the parameters and options for implementation might be.

Future proposals are to provide an annual report to Audit Committee which might set out:
(List not exhaustive)

- No of extensions to a current contract (and if so how many times extended...)
- Reduction in cost (through entry into / re-procuring term contracts)
Spend against framework agreements

8. CONSULTATION

This report has been issued to the Corporate Director of Resources for consideration.

9. ANTICIPATED OUTCOMES OR IMPACT

That the Audit Committee is informed of the changing arrangements for procurement and the measures taken to ensure that the Council complies and delivers value for money.

10. REASON FOR THE RECOMMENDATION

For Audit Committee to understand the levels and complexities of the procurement process and to monitor that the Council complies with all aspects. Where gaps are identified in the process, Audit Committee can further examine those contracts.

11. ALTERNATIVE OPTIONS CONSIDERED

None. It is seen as good governance to inform members as to the processes and practices used to deliver on procurement.

12. IMPLICATIONS

Financial Implications

There are no direct financial implications as a result of this report, all associated costs relate to the delivery of each contract.

13. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

None

14. APPENDICES

Appendix 1, 2, 3 – Exemptions Analysis and Data