

AUDIT COMMITTEE	AGENDA ITEM No. 7
9 SEPTEMBER 2024	PUBLIC REPORT

Report of:	Cecilie Booth, Executive Director of Corporate Services and Section 151 Officer	
Cabinet Member(s) responsible:	Councillor Mohammed Jamil, Deputy Leader and Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Richard McCarthy, Head of Commercial & Procurement	Tel. 01733 384606

UPDATE – COMMERCIAL & PROCUREMENT SERVICE

RECOMMENDATIONS	
FROM: Cecilie Booth, Executive Director of Corporate Services and Section 151 Officer	Deadline date: N/A
It is recommended that the Audit Committee receives the annual report for procurement activity and priorities.	

1. ORIGIN OF REPORT

1.1 This report is submitted to Audit Committee following a request from the Committee to provide an update on the Commercial & Procurement Service.

2. PURPOSE AND REASON FOR REPORT

2.1 The purpose of this report is to set out progress on procurement activity since October 2023.

2.2 This report is for the Audit Committee to consider under its Terms of Reference 4.6:

To review the Council's arrangements for corporate governance against the good governance framework, including the ethical framework and agree necessary actions to ensure compliance with best practice and consider the local code of governance.

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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4. BACKGROUND AND KEY ISSUES

4.1 This report will provide an update on key priorities for the Commercial & Procurement Team as follows:

- 4.1.1 Update regarding progress in embedding climate change and social value into procurements.
- 4.1.2 Progress regarding social value
- 4.1.3 Procurement Activity and Resource Management
- 4.1.4 Updated risk position on large value contracts

- 4.1.5 Compliance – Procurement Exemptions / No Po No Pay
- 4.1.6 The Procurement Act 2023
- 4.1.7 ERP Development

- 4.1.1 **Embedding Climate Change:** A detailed Project Plan for the implementation of the CCCA is in place with a target date for completion by October 2024, and managed by the Climate Change Manager.

PCC procurement continues to work with the climate change team to develop documents and tools to support suppliers to deliver the for CCCA, including training, access to information and tools. These will inform the proposed delivery and engagement model that will be presented to the Corporate Leadership Team (CLT) and then rolled out via a Soft Market Test and stakeholder engagement events with Opportunity Peterborough, Chamber of Commerce and PECT.

The outcome of these events and the SMT will enable us to refine the CCCA, where appropriate, and update the procurement documentation in full (ie tender, evaluation, contractual and contract management documents) for implementation by the target completion date.

- 4.1.2 **Social Value** – the team have been working with various organisations to develop a social value brokerage scheme that would match awarded suppliers to charitable organisations that deliver social value outcomes that would have a real-world effect in Peterborough and would have significantly more impact in terms of delivery and the significance of pledges made at the tender bid process would have a positive material effect on their bid score.

This is a departure from asking a standard social value question that often elicits details from suppliers that describe a general level of achievement of a range of activities delivered in the past and not specific to Peterborough.

This scheme would align to the Council's values and priorities and pledges made would be included in the contract award documents. A social value statement and policy is also being finalised that underpin the proposed scheme.

In terms of initial consultation, summaries have been shared via Change Champions, but plans are in place to update DMTs and Extended CLT with a view to getting formal sign off.

Once agreed engagement with Suppliers and if helpful Councillor Sessions.

We are also working closely with Growth & Regeneration colleagues to ensure that this links in with the Employment and Skills Strategy. This proposed Policy is due to go live in May 2025 and is being surfaced within the Council via the Change Champion Network and will be presented at DMTs and Extended CLT in the Autumn.

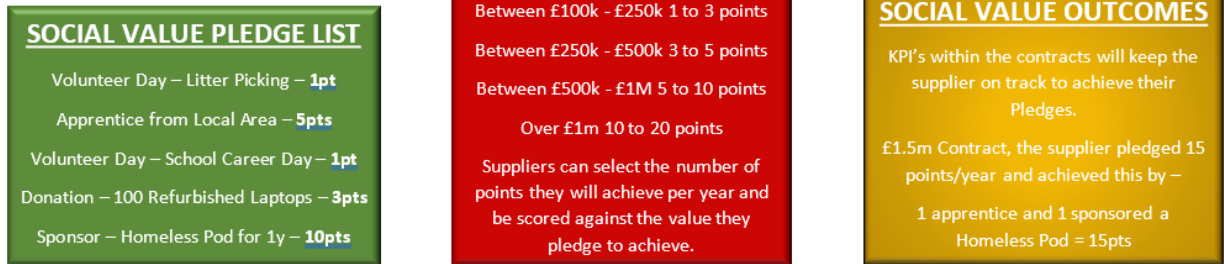
In short, the scheme would reference the Council's key priorities, Employment, Community, Education & Skills, Diversity & Inclusion, Health & Wellbeing and the Environment, and suppliers would be matched with local charities and organisations that are able to deliver real impacts within Peterborough.

The diagram below illustrates this

Overview



Example



4.1.3 **Resource Management** – The team continues to experience high demand for service driven in no small way by the decoupling of shared services with Cambridgeshire County Council including Social Care, the Management of the Schools Capital Programme and ICT services.

A prioritisation mechanism is in place to align resources to those procurements which support the Council's regeneration agenda, bring income into the Council, support savings initiatives or deliver statutory services.

114 procurements have been completed by the Team in the last 12 months to a value of £1.1BN and currently undertaking 60 live procurements and 62 more planned for later this year and a further 33 on hold.

There are 336 days or 1.5 FTEs concerned with administering systems and processes within procurement such as management of PCARDS, the governance process for contracts awarded below £500k and on-boarding and amending supplier details including bank details. The team is working through a number of proposals to reduce the resource load on this area of work not directly relating the procurement of goods and services.

There will be a particular demand on resources following the implementation of the Procurement Act 2023 and the conclusion of the development of the ERP system which is referenced in more detail Section 4.1.5.

4.1.4 **Large Contracts Analysis** - In reviewing large value contracts, the attached list at Appendix B

“Large Contracts” for this analysis is any known contract that has a duration of more than one year and a value of £2m and above.

There are 21 contracts in all listed in Appendix B and have a collective value of £1.5BN.

Two contracts are due to end in 2024 but a tender is underway, and the Council is still able to access services compliantly via a shared DPS run by Cambridgeshire. Two significant contracts not listed have ended, the arrangements with Serco and with NPS Property Management as both

have been brought in house significantly lowering risk and providing flexibility to deploy resources where most needed.

Details of the scheduled end dates are as follows:

Year	Value	Number
2024	£170,170,000	2
2025	£14,913,477	3
2026	£31,072,834	3
2027	£10,775,624	2
2028	£835,543,735	6
2029	£10,289,938	1
2031	£9,000,000	1
2032	£59,091,500	1
2035	£284,283,870	1
2045	£75,000,000	1
Grand Total	£1,500,140,978	21

In terms of status, contracts are either live – tender underway, planned with a date to look at procurement options or start a tender process, terminate – will come to an end, too early, too early to procure but planned deep dive into KPIs performance and any service credit opportunities or potential opportunities to reduce specifications and costs. Summary listed below.

Directorate / Status	Number	Value
Corporate Services	8	£130,747,150
Planned	2	£6,513,477
Too Early	6	£124,233,673
People and Community	8	£850,618,204
Planned	3	£37,072,834
Terminate	1	£300,000,000
Too Early	2	£343,375,370
Live	2	£170,170,000
Place and Economy	5	£518,775,624
Planned	1	£2,400,000
Too Early	4	£516,375,624
Grand Total	21	£1,500,140,978

4.6 Compliance – Exemptions and No PO No Pay

In the last 12 months the Council has processed 18,681* invoices to a value of £167m*
 In the same period the number of invoices requested to be paid without a purchase order is 581 and a value of £4.1m.

Overall compliance is 97.54% in value
 96.89% by number of invoices

Compliance – Retrospective Exemptions

There were only four retrospective exemptions out of a total of 46 exemptions. These noncompliant incidents will be reported to CLT for follow up with the relevant Executive Director.

4.7 The Procurement Act 2023

The new Act is the most significant enactment of Legislation for Procurement in a generation. The Act has ramifications for all areas of the Council and several areas of the legislation will materially affect the way in which contracts are procured, awarded and managed from their start date through to termination of re-procurement.

The Act will come into force on 28th October 2024 and will apply to all procurements that commence after this date, set out below are some key details from the guidance received so far.

➤ Central Data Repository

- All suppliers, e-senders (companies that manage e-procurement systems – in the Council's case this is Proactis using Pro Contract to advertise and award tenders) and buyers must register on the Central Data Repository which is where all information must be logged and indeed it is the buyer's responsibility to ensure all suppliers are registered before awarding any contract. In addition, it will be the Buyer's responsibility to seek any standard information regarding Financial Standing for example from public sources before requesting this from them directly.
- Debarment – The National Security Unit and the Procurement Review Unit may investigate suppliers that are subsequently debarred from entering into Public Contracts for either mandatory exclusion grounds (financial, environmental etc) or on grounds of a threat to National Security. Suppliers are granted leave to appeal but once the decision has been made to debar a supplier this will be recorded on the Central Data Repository and Buyers must not evaluate bids or award contracts to such suppliers.

➤ Contract Management

- A much greater emphasis is placed on the whole commercial lifecycle of contracts under the Procurement Act. Official notices must be published to award contracts, and for contracts above £5m, the top KPIs must be published as well as the copy of the contract awarded. In addition, any poor performance and resulting termination of contract must be accompanied by official notices. This applies to KPI performance and contract additions and extensions. Even where a contract reaches its natural end date a notice must be published to confirm this.

➤ Pre-Market Engagement

- This activity is normal for the Council's Commercial & Procurement Team, however the difference under the Act is that instead of only needing to publish formerly early engagement notices for above procurement threshold procurements, all procurements above £30k must have a notice published to initiate early engagement. If an authority does not do this, it must have a very good reason for not doing this and keep records to be audited.

➤ Direct Award

- Unlike VEAT (Voluntary Ex Ante Transparency) notices, a transparency notice must be published (in almost all cases) before awarding a contract using the direct award procedure. Direct Awards respecting service user choice are exempt from requiring such a notice. (Care Homes, Domiciliary Care and so on)
 - Direct Award of a contract is allowable in special cases as follows:
 - Prototypes and development
 - Single suppliers¹
 - Additional or repeat goods, services or works
 - Commodities
 - Advantageous terms on insolvency
 - Urgency
 - User choice contracts (supplied for the benefit of a particular individual, care homes etc)
 - Defence and security

- Currently under the Act exemptions are permitted to the procurement rules listed
 - But only apply to below threshold procurements and therefore consideration needs to be given to update the Constitution to include the grounds for Direct Award exemptions all tenders at all values.
 - It will be advised that any procurements to be approved as Direct Award are agreed in advance with the Commercial & Procurement Team and or Legal Team.
- **National Procurement Strategy**
- Before all procurements, the National Procurement Strategy must be considered by commissioners and the Procurement Lead before this takes place and build in the aims and objectives of the Strategy to the procurement in question.
 - The National Procurement Strategy sets out local government's ambitions and priorities for the next four years, focusing on the three core themes: leadership, behaving commercially and achieving community benefits. All procurements need to be viewed through this lens.
- **Transparency Notices**
- As briefly referenced above please refer to the full list of procurement notices in Appendix A.
- **MAT not MEAT**
- The Procurement Act 2023 moves away from the existing requirement to award contracts to the 'Most Economically Advantageous Tender' ("MEAT") by instead requiring contracts to be awarded to the 'Most Advantageous Tender' ("MAT"), being the tender that a contracting authority considers both: satisfies its requirements; and best satisfies the award criteria, which can (as previously) include both price and quality evaluation.
 - The transition from MEAT to MAT is therefore introduced to provide greater reassurance to contracting authorities that they can take a broader view of what can be included in the evaluation of tenders in assessing value for money.
 - There are two points which need to be considered, the change in tone and the underlying explanation is a signal that Government expects authorities (and the courts) to be more open minded about overall advantage during design and award of procurements. Focusing purely on economic value will not be supported.
 - Secondly, the addition of a requirement for the winning tender to "satisfy the authority's requirements" as well as being "most advantageous", is new. It is unlikely that awarding on MAT will not satisfy the Authority's requirements, but procurement awards will need to articulate the connection.

4.8 **ERP Development** – UAT testing has been exhaustive, and some final bugs and minor issues being ironed out currently. One error in particular is concerning whereby a PO value is not reduced by the matched invoice in the test system. This has been with the developers for some time and senior leaders are meeting to resolve this issue. In most other respects the Source to Contract System which will hold contract and supplier data is linking well with Unit 4 (finance system) and evidenced POs and invoices being assigned to contracts in the test system. Workflows have been written to ensure any requisition above £5k is challenged to have the correct Governance and or awarded contract in place. If not, the requisition is halted, and the Procurement Team alerted to address this. The API process is working and accurate data appearing in both systems. Next Steps are as follows:

- Training for Payments Team to manage supplier details in Source to Contract is planned for when the testing and when all the required bug fixes are completed.
- Creation of Product Codes to ensure a link between the correct budget area and the correct contract to track spend against contracts.
- Training for Contract Managers for large value contracts to deliver Procurement Act requirements.
 - Rationalisation of Requisitioners – we need to ensure only experienced requisitioners that undertake this task on a regular basis are involved in this activity and

ensure that each Directorate has an appropriate level of requisitioners to ensure no disruption to business occurs.

5. CORPORATE PRIORITIES

- 5.1
1. The Economy & Inclusive Growth
 - Environment
 - Homes and Workplaces
 - Jobs and Money
 2. Sustainable Future City Council
 - How we Work
 - How we Serve
 - How we Enable

Further information on the Council's Priorities can be found here - [Link to Corporate Strategy and Priorities Webpage](#)

6. CONSULTATION

- 6.1 The Commercial & Procurement Team has been communicating with DMTs, Extended CLT and via various Boards regarding Procurement Activity and future changes to Procurement Practice and Legislation.

7. ANTICIPATED OUTCOMES OR IMPACT

- 7.1 It is anticipated that this report will enable the committee to understand the procurement activity and key implications regarding new systems, process and Legislation impacting not just the Procurement Team but the wider Council and to provide feedback and comment to influence those key priorities.

8. REASON FOR THE RECOMMENDATION

- 8.1 The Audit Committee are keen to understand the level of compliance with the Constitution regarding Procurement and Control Rules and to inform and update the Committee on the impact particularly of Legislation but also practice and systems required to enable local implementation of those Legislative changes.

9. ALTERNATIVE OPTIONS CONSIDERED

- 9.1 None.

10. IMPLICATIONS

Financial Implications

- 10.1 None.

Legal Implications

- 10.2 The Council's Contract Rules will require amendments to align with provisions of the Procurement Act 2023.

Equalities Implications

- 10.3 None.

10.4 Resource Implications

None.

11. BACKGROUND DOCUMENTS

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

11.1 None.

12. APPENDICES

12.1 Appendix A – Procurement Notices
Appendix B – Large Value Contracts