

Audit & Risk Committee Report

PROCUREMENT ANNUAL REPORT 2021/22

Lead director: **Kamal Adatia**

Useful information

- Ward(s) affected: **All**
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1. Summary

- 1.1 The Council's Contract Procedure Rules require an annual report after each financial year to the Executive and to the Audit & Risk Committee with certain information on the procurement processes undertaken in that financial year.
- 1.2 The purpose of this report is to inform the Committee of the activity of the procurement function of the council (which comprises three specialist procurement teams: Procurement Services, ICT Procurement and ASC Procurement) over the previous financial year and evidence compliance with the requirements of the Contract Procedure Rules.

2. Recommendations

- 2.1 The Committee is asked to note the contents of the report and make any comments to the City Barrister & Head of Standards.

3. Supporting information

Contract Procedure Rules

- 3.1 The Council approved revised Contract Procedure Rules on 19th March 2020.
- 3.2 For information, the Public Contracts Regulations (PCR) Thresholds were updated in December 2021 to come into force on 1 January 2022 for the next two years:

- Social & Other Specific Services £663,540
- All Other Goods & Services £213,477
- Works and Concessions £5,336,937

The thresholds are now shown including Vat.

Procurement Bill

- 3.3 There are no significant changes to procurement rules that will impact on procurement processes/plans in the short term. The Public Contracts Regulations 2015 (PCR) remain in force and are essentially the EU Rules adopted into English law as a result of Brexit. However, there is currently a Procurement Bill going through parliament, which once approved, will result in the publishing of the new procurement contract regulations, which are anticipated to have a notable impact.
- 3.4 This will see the combining of the current regulations, comprising:
- the Public Contracts Regulations 2015
 - the Utilities Contracts Regulations 2016
 - the Concession Contracts Regulations 2016
 - the Defence and Security Public Contracts Regulations 2011
- and a total re-write, into one set of combined regulations.
- 3.5 The approval of the Procurement Bill, will also act as approval for the National Procurement Policy Statement which was published as [PPN05/21](#) in June 2021. This requires contracting authorities to consider specific national priority outcomes alongside any additional local priorities in their procurement activities:
- creating new businesses, new jobs and new skills.
 - increasing opportunities for entrepreneurship and helping new and/or small businesses to grow, supporting higher economic growth and greater business creation.
 - increasing employment opportunities particularly for those who face high barriers to employment or who are located in disadvantaged areas.
 - extending training opportunities, particularly for people in industries with known skills shortages or in high growth sectors.
 - tackling climate change and reducing waste.
 - contributing to the UK Government's legally binding target to reduce greenhouse gas emissions to net zero by 2050.
 - reducing waste, improving resource efficiency and contributing to the move towards a circular economy.
 - identifying and prioritising opportunities in sustainable procurement to deliver additional environmental benefits, for example enhanced biodiversity, through the delivery of the contract.
 - improving supplier diversity, innovation and resilience
 - creating a more diverse supply chain to deliver the contract, which will better support start-ups, small and medium-sized businesses and VCSEs in doing business on public sector contracts.
 - increasing innovation and the use of disruptive technologies and business models throughout the supply chain, to deliver lower cost and/or higher quality goods and services and encourage the wider adoption of innovation.
 - contributing to the development of scalable and future-proofed new methods to modernise delivery and increase productivity.

3.6 There is greater emphasis being placed on transparency, with a proposed requirement to publish more information of the authority's contracts and contract management throughout the contract life, including spend and KPI's.

Procurement Processes Completed

3.7 During 2021/2022 the Council completed 169 procurements via procurement teams with a total value over the contract lifetimes of approximately £165 million. The table below shows these splits by the procurement teams and by the value banding as per the Contract Procedure Rules. The table includes contracts procured using any procurement process, including waivers/exemptions. Many additional Small contracts will have been procured by departments and not recorded centrally.

	Small	Medium	Large	PCR	Total
Adult Social Care	0	5	6	2	13
ICT	2	8	1	5	16
Procurement Services (Works)	0	43	22	11	76
Procurement Services (Goods/Services)	3	13	16	32	64
Total	5	69	45	50	169

3.8 Contracts awarded include:

- Integrated Community Equipment Loans Service
- St Margaret's Gateway Scheme
- Managed threat Detection (XDR) software
- Domestic Abuse Perpetrator Intervention Service
- Transforming Cities Fund - A6 Corridor

Procurement Plan for 2022/2023

3.9 As per the Council's Contract Procedure Rules, approved in 2020, the Procurement Plan is published on the Council's [Open Data website](#) for all to view and updated regularly rather than being published only annually. It is also wider in scope, including contracts from £20,000 upwards and looking two years ahead where possible.

Ongoing Impact of Covid-19

3.10 During 2021/22, the Council's procurement function continued to play an important role in the response to the Covid-19 pandemic. The most significant part of this being in relation to procuring PPE to support in-house provision and act as a provider of last resort for the Council's social care providers and other care providers and similar organisations in the city. Given the urgency of requirements and instability of the supply market, the Council had to use Exemptions to procure on a spot-purchase basis outside of normal contracts. However, we have always been alerted to ensure the quality and compliance of items being purchased to

ensure they are suitable for use. Procurement Services has also supported the purchase of a range of items, including further PPE, cleaning supplies, and equipment to enable social distancing in offices and other Council buildings. A lot of this has also required exemptions under the provisions of the Contract Procedure Rules.

- 3.11 The Covid-19 outbreak also had impact on many ongoing procurement processes and some that were due to be commenced. Tender return deadlines were extended, and commissioning staff diverted away from procurement to other urgent activities. We have tried to tailor our approach to each contract taking into consideration the impact on service delivery and the market's ability to respond and implement a new contract. In many cases we have carried out some form of pre-market engagement to establish this. This meant that some contracts needed to be extended to ensure continuity of service provision until new contracts can be finalised and mobilised. Other contracts needed appropriate review and contract management to allow variations and relief to suppliers.
- 3.12 Internal audit had specifically reviewed this area to ensure that as we come out of Covid restrictions that this was no longer being used as an excuse for any relaxing of processes. Staff changes have made that a greater role of the weekly procurement panel meeting regarding the approval of any proposed exceptions to contract rules. The panel plays an important role in challenging this and in effect approving the rationale for any exceptions, which is an important defence to any potential procurement challenge. The pandemic is no longer considered to be an acceptable reason for 'relaxed' procurement activities.
- 3.13 The effects of Covid-19 continued to have an effect during this reporting period, and England returned to plan A on 27 January 2022.

New Capital Funding- Levelling-up

- 3.14 The national and local response to economic recovery has nevertheless presented a range of opportunities for the Council with new funding streams to support a wide range of capital projects, which often have to be got underway very quickly. The Council's procurement function is working with the City Development and Neighbourhoods department finding quick and efficient procurement options to enable delivery of these projects within very tight timescales with minimal time available for planning. This has required some use of waivers/exemptions and framework agreements, in place of full procurement processes which, in some situations, would have required unacceptably long timeframes and therefore jeopardised the delivery in line with funding requirements. One examples of such schemes are the Leicester Railway Station redevelopment. Whichever process is followed a robust approach to due diligence and compliance with the regulations are conducted and challenged when necessary.

Social Value and the Living Wage

- 3.15 The Council adopted its Social Value Charter in 2018 following work by the Economic Development, Tourism, and Transport (EDTT) Scrutiny Commission and implementation by the Assistant Mayor (Policy Development) and the Head of Procurement.

3.16 Social Value through procurement is becoming higher profile and will be the subject of work to embed further over the coming six months with increased focus, including a Social Value Portal to capture and put a value to the Social Value delivered.

3.17 The Council signed up to the Living Wage Foundation's Licence Agreement to become a Living Wage Employer. This means that the Council is implementing the Living Wage into all new procurement contracts which meet the criteria agreed with the LWF. This commitment is a key element of the Social Value Charter.

Waivers

3.18 The Contract Procedure Rules require the Head of Procurement to report a summary of waivers (not exemptions) of the Rules to the Executive and Audit & Risk Committee. The tables below show an analysis of the Waivers approved during the current and last financial years. This is shown by both department and a broad categorisation of the reason for the Waiver. The increase is largely Covid related, and to avoid delays to large programmes such as the SALIX Decarbonisation schemes account for over £21m, and the Social Housing Decarbonisation Fund (SHDF) Wave 1 project accounts for an additional £6m of the total figure.

Reason for Waiver	2020/21		2021/22	
	Qty	Value	Qty	Value
Continuity of Provision	5	£2,326,910	29	£3,294,483
Urgency	7	£579,575	26	£34,159,769
Other	33	£8,127,314	7	£1,412,876
	45	£11,033,799	62	£38,867,128

Department	2020/21		2021/22	
	Qty	Value	Qty	Value
City Development & Neighbourhoods	35	£10,515,883	44	£32,714,976
Social Care & Education	5	£316,500	5	£1,334,760
Public Health	1	£10,000	8	£508,890
Corporate Resources & Support	4	£191,416	5	£4,308,502
	45	£11,033,799	62	£38,867,128

4. Financial, legal and other implications

Financial implications

- 4.1 There are no significant financial implications arising from this report. Robust procurement procedures should however help to secure value for money, minimise fraud and reduce the likelihood of any successful challenges to awards.

Colin Sharpe
Deputy Director of Finance
Ext 37 4081

Legal implications

- 4.2 There are no legal implications arising directly from the report as it is just for noting. Legal Services will continue to work collaboratively alongside the procurement teams, including with regards to preparations for the introduction of the forthcoming procurement legislation

Kevin Carter
Head of Law (Commercial, Property & Planning)

Climate Change and Carbon Reduction implications

- 4.3 Whilst figures are not available, it is highly likely that procurement is Leicester City Council's largest source of carbon emissions, due to the embodied and outsourced emissions of the wide range goods and services it procures. Following the council's declaration of a climate emergency in 2019 and ambition to achieve carbon neutrality by 2030 it is therefore vital that action is taken to reduce these emissions wherever possible.

The council's Sustainable Procurement Guidance provide information on limiting negative environmental impacts from procurement activity. This guidance should continue to be applied to procurement activities, by including sustainability requirements in specifications for goods, works and services and through specific sustainability-related questions within the quality/method statement evaluation process of procurement exercises wherever relevant. This will help ensure that procurement decisions support the achievement of the council's climate change related targets. The council's Social Value Charter also provides guidance on securing environmental sustainability-related benefits from procurements, in areas including carbon emissions, air quality, green space, waste and use of natural resources.

As noted in the report, the upcoming changes coming as part of the Procurement Bill and approval of the National Procurement Policy Statement will also specifically set out

the need for Local Authorities to consider tackling climate change and waste as part of their procurement work. As noted, this includes the need to reduce carbon emissions as part of national Government's own target to achieve net zero by 2050.

Aidan Davis
Sustainability Officer
Ext 37 2284

Equalities Implications

4.5 The Equality Act 2010 sets out anti-discrimination law and the requirements of the public sector equality duty (PSED). The PSED requires public authorities to have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

Advance equality of opportunity between people who share a protected characteristic and those who do not and foster good relations between people who share a protected characteristic and those who do not.

To have 'due regard' means that when making decisions (and in its other day-to-day activities) the council must consciously consider the need to: eliminate discrimination, advance equality of opportunity, and foster good relations. This includes when it plans and makes decisions about its procurement.

Compliance with the PSED should help public authorities ensure that the goods and services they procure are fit for purpose thus ensuring they meet the needs of their users. As such it should also be seen as an effective tool for improving economy, efficiency and effectiveness and therefore value for money. The purpose of the procedure rules is to ensure that any procurement process for services, works or goods achieves best value and is transparent, open and fair making it possible for all decisions to be audited satisfactorily.

Social Value is defined through the Public Services (Social Value) Act 2012 (Act) which came into force in January 2013 and requires all public sector organisations (and their suppliers) to look beyond the financial cost of a contract and consider how the services they commission and procure might improve the economic, social and environmental well-being of an area.

Benefits can include increases in opportunities for disadvantaged people which can promote social mobility and help build stronger more resilient communities. The Living Wage has an obvious benefit for workers in that they are in receipt of enhanced wages and potentially therefore have greater spending power and a better quality of life, with subsequent knock-on effects for their families.

Leaving the EU has provided the UK with the opportunity to overhaul the public procurement regulations. The reforms proposed within the Procurement Bill aim to update procurement systems, so that every pound goes further for our communities and public services.

Surinder Singh

Equalities Officer
Ext. 37 41418

5. Background information and other papers:

5.1 None.

6. Summary of appendices:

6.1 None.

7 Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

7.1 No.

8. Is this a “key decision”?

8.1 No