

Governance and Audit Committee Report

PROCUREMENT ANNUAL REPORT 2023/24

Lead director: **Amy Oliver**

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 Governance and Audit & 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, DDaT 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 Director of Finance.

3. Supporting information

Contract Procedure Rules

3.1 The Council approved revised Contract Procedure Rules (CPR) on 19th March 2020.

3.2 January 1st, 2024, saw the introduction of new legislation for the procurement of contracts for Health Care Services Provider Selection Regime Regulations 2023(PSR). Under this new legislation there are further grounds for compliant direct award to health care suppliers under certain conditions. For example, Rehabilitation services, Geriatric services, Family planning services and other health care services. This will be captured through our exemptions and waivers process as an exemption.

3.3 For information, the Public Contracts Regulations (PCR) thresholds were updated in December 2023 by the Cabinet Office by the issuing of a Procurement Policy Notice, and to come into force on 1 January 2024 for the next two years:

- Social & Other Specific Services £663,540
- All Other Goods & Services £214,904
- Works and Concessions £5,372,609

The thresholds are now shown including Vat and are used as thresholds for the regulations with the PCR and the CPR.

For information, the CPR thresholds are now:

	Goods & Services	Schedule 3*	Works & Concessions	PSR
Small Contract	£0-£29,999.99	£0-£29,999.99	£0-£29,999.99	N/A
Medium Contract	£30,000-£100,000	£30,000-£100,000	£30,000-£250,000	£0 - £100,000.00
Large Contract	£100,000.01-PCR Threshold	£100,000.01-PCR Threshold	£250,000.01-PCR Threshold	£100,000.01 – £499,999.99
PCR Contract	Over PCR Threshold	Over PCR Threshold	Over PCR Threshold	£500,000.00 and over

*Schedule 3 services are Social and other specific services as specified in schedule 3 of the PCR, and mainly relates to adults and children's services.

Procurement Act

3.4 The Public Contracts Regulations 2015 (PCR) remain in force and are the EU Rules that have been adopted into English law following Brexit. The PCR are the legislation for public bodies and sets the rules as to how procurements are to be

conducted. Over the last two years the Cabinet Office has completely re-written the legislation, and was referred to as the Procurement Bill, as it passed through the scrutiny of the House of Lords and the House of Commons.

Further to reporting last year, the Procurement Bill has progressed through Parliament, and has been given Royal assent. It is now referred to as the Procurement Act 2023, and includes the secondary legislation referred to as the Procurement Regulations 2024.

The procurement Act puts a greater emphasis on transparency, Contract Management, meeting our procurement objectives, identifying, and mitigating the risk of conflicts of interest, and further guidance for below threshold procurements. Below threshold procurements are what we categorise as small, medium, and large.

3.5 The latest update from the cabinet office, states the legislation will start to go live on 24th February 2025. This is likely to be phased over the following nine months as various external e-platforms become fully available.

3.6 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.

3.7 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.

3.8 This will also require an extensive re-write of the Contract Procedure Rules, covering the Councils approach to procurement and contract modifications under the Procurement Act 2023, Provider Selection Regime 2023, and existing contractual arrangements under the Public Contracts Regulations 2015.

Procurement Processes Completed

3.9 During 2023/2024 the Council completed 154 procurements via procurement teams with a total value over the contract lifetimes of approximately £98 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	4	3	3	2	12
DDaT	4	6	2	4	16
Corporate	10	39	18	21	88
Total	20	51	46	37	154

Procurement Plan for 2023/2024

3.10 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. It must, including contracts from £5,000 upwards and looking two years ahead where possible.

When the Procurement Act 2023 takes effect, there will be a legal obligation to published annually a pipeline of all projects of £2m. The publication of our pipeline information on a central digital platform must be prior to being advertised on any other platform.

Waivers

3.11 The Contract Procedure Rules require the Head of Procurement to report a summary of waivers (not exemptions) of the Rules to Governance and Audit 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 more robust challenge to all waivers and exemptions submitted has continued however there has been an increase in waivers in some areas, on the grounds of Urgency of the projects. As more robust financial scrutiny has been taken place as part of the broader spend controls, some instances of non-compliance have been uncovered and resulted in Retrospective waivers been submitted to capture and learn from the instances.

Reason for Waiver	2022/23		2023/24	
	Qty	Value	Qty	Value
Continuity of Provision	19	£2,730,801	14	£2,328,201.90
Urgency	17	£2,727,380	7	£9,312,491.10
Other	4	£730,179	9	£761,285.00
Retrospective	-	-	2	£216,744.00
	40	£6,188,360	32	£12,618,722

Department	2022/23		2023/24	
	Qty	Value	Qty	Value
City Development & Neighbourhoods	26	£5,072,770	21	£11,478,732.46
Social Care & Education	5	£643,600	5	£597,760.00
Public Health	1	£21,326	0	£0.00
Corporate Resources & Support	8	£450,664	6	£542,229.54
	40	£6,188,360	32	£12,618,722



- 3.12** During 2023/2024 work has begun in the following areas to look for efficiencies:
- Introduction of the Strategic Procurement Board, to scrutinise procurement requests and approve business needs across the three teams.
 - Introduction of spend controls with Finance to better examine spend requests over £5000, and ensure they are aligning with contractual arrangements.
 - The Head of Procurement and corporate procurement team has transferred to the finance division, under the Chief Finance Officer to scrutinise spend.

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.

Amy Oliver
Director of Finance

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 preparing for the changes being introduced by the Procurement Act 2023 and secondary legislation. Kevin Carter Head of Law (Commercial, Property & Planning)

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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 of goods and services it procures. Following the council's declaration of a climate emergency in 2019 and ambition to achieve net zero carbon emissions 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 implementation of the Procurement Act is expected to have various impacts on the council's procurements, including around the need for Local Authorities to consider tackling climate change and waste within procurements.

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. The purpose of this report is to inform the Committee of the activity of the procurement function of the council.

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.

Equalities Officer, Surinder Singh, Ext. 37 4148

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