

REPORT TO: Business Efficiency Board

DATE: 24 March 2021

REPORTING OFFICER: Strategic Director – Enterprise, Community & Resources

SUBJECT: Procurement – Update Report

PORTFOLIO: Resources

WARD(S): Borough-wide

1.0 PURPOSE OF REPORT

The Business Efficiency Board is responsible for overseeing the Council's procurement arrangements. This report provides members with an update on:

- Procurement activity in 2020/21;
- Brexit and its impact on the Council's procurement arrangements
- The progress achieved in delivering the Council's Procurement Strategy 2020-2023

2.0 RECOMMENDATION:

That the report be noted.

3.0 SUPPORTING INFORMATION

Procurement Activity in 2020/21

- 3.1 Procurement activity during 2020/21 has inevitably been impacted significantly as a result of COVID-19. This situation is likely to continue in the short to medium term as the Council, and the wider economy, starts to move from the response phase of the pandemic to the recovery phase.
- 3.2 The pandemic has presented a number of new challenges for the Council and its suppliers. From a procurement perspective, the impact has been managed by the Procurement Team working closely with service areas in order to support them through a very difficult period.
- 3.3 The Procurement Team maintains a detailed work plan that identifies all existing contracts and when they are due for renewal. It also takes account of new planned procurements. This insight has allowed a proactive approach in terms of the support provided to service areas and in helping to identify solutions to ensure continuity of supply of key services and products during the crisis.
- 3.4 Key actions taken during the year include:
- Essential procurements that supported the delivery of key services were identified and prioritised for completion. One particular example at the

onset of the pandemic was the support provided to source personal protective equipment for employees. At that time, demand outstripped supply and a significant amount of resource was spent sourcing new suppliers and undertaking appropriate due diligence in order to ensure sufficiency and quality of supply.

- All tenders at the evaluation stage at the start of the pandemic were reviewed. Discussions took place with service areas to determine whether to make an award or to pause the process after taking account of COVID-19 considerations.
- Tenders in progress at the start of the pandemic were reviewed in conjunction with service areas and tender periods extended where necessary with arrangements made to address any additional COVID-19 related requirements.
- Support has been provided to service areas to address any particular areas of concern with key suppliers in regard to the fulfilment of contractual commitments;
- Tenders due to be published were reviewed and support was provided to service areas to consider the urgency of the requirement and whether the supply market was in a position to respond;
- Guidance and advice was provided to relevant staff in service areas on the procurement options in light of COVID-19 taking account of related Government guidance;
- Arrangements were put in place at the early stage of the pandemic to ensure that all suppliers were put on immediate payments terms rather than the standard 30 days terms. Normal payment terms resumed at the end of July for all suppliers with the exception of adult social care providers who continue to be paid immediately.

3.5 In order to respond to the emergency situation the Council has made use of flexibilities provided by Regulation 32 of the Public Contract Regulations, which makes specific provisions for public authorities to procure urgent goods, services and works in exceptional circumstances. These provisions have proved helpful in that they have allowed the Council to respond quickly and make direct awards due to the extreme urgency of the situation. The regulation has also allowed the Council to extend or modify existing contracts to prevent the need to go to market at a time when the Council was unlikely to obtain best value.

3.6 Where the Council has made use of specific provisions under Regulation 32 a detailed record of decisions and actions has been maintained. This will allow the Council to justify its actions if necessary in the event of a legal challenge. The records set out the reason for the decision, alternative options considered and rejected, background documents and any consultation undertaken. All such emergency decisions have also been reported retrospectively to the Executive Board and published on the Council's website.

3.7 Inevitably the period has also seen an increase in the numbers of waivers of Procurement Standing Orders being sought in order to extend or vary existing

contracts which were due to expire. These waiver requests have followed the regular procedures set out in Procurement Standing Orders and have been subject to the usual robust scrutiny to provide assurance that the waiver is in the Council's best interests and helps to secure value for money. Waiver requests up to a value of £100k can be approved by the Head of Procurement. Requests above that figure require Executive Board approval.

- 3.8 The impact of COVID-19 on the Council's procurement activities is likely to continue to be significant during 2021/22. An ongoing challenge in some areas of the Council relates to the capacity of staff to commit time to a tender process, given the impact of the pandemic, and the need to focus on other more urgent COVID-19 related activities. The Procurement Team will however continue to operate in accordance with the Council's Procurement Strategy and support all Council departments in their procurement activity and help ensure continuity of key services.

Brexit

- 3.9 The Brexit transition period ended on 31 December 2020. As such, from 1 January 2021 there have been some relatively minor changes to above-threshold regulated procurement.
- 3.10 The most significant change is the introduction of the new e-tender service 'Find a Tender'. This is the new UK e-notification service where notices for new high value procurements are required to be published in place of the Official Journal of the European Union's Tenders Electronic Daily (OJEU/TED).
- 3.11 This change basically just means that from 1 January 2021 the Council's above threshold tender opportunities will be published on a different web-portal. Any procurements on OJEU that were commenced prior to the end of the Transition Period must be concluded on OJEU.
- 3.12 There are no changes to the Public Procurement Thresholds for 2021 and all existing UK procurement portals, i.e. Contracts Finder, Public Contracts Scotland, Sell2Wales, eTenders NI, MOD Defence Contracts Online etc. remain in place without any changes. For information, the Public Procurement Thresholds that apply to the Council are set out below:
- Public works contracts - £4,733,252
 - Public supply contracts and public services contracts - £189,330
 - Public service contracts for social and other specific services - £663,540
- 3.13 The Council will continue to publish all of its tender opportunities on The Chest procurement portal. Functionality exists for above threshold opportunities to be posted automatically from The Chest to the Find a Tender service.
- 3.14 The Government has stated that there will be no immediate changes to procurement policies for 2021. The UK is now an independent signatory to the WTO Agreement on Government Procurement (the "GPA") and any new legislation will be based on GPA principles. However, the EU procurement laws, on which the UK rules are based, are already largely reflective of the GPA provisions and thresholds.

3.15 The Government has however published a green paper on Transforming Public procurement in December 2020, which sets out proposals for reform of the public procurement system in England. The proposals were subject to a 12 week consultation period ending on 10 March 2021. The Green Paper can be accessed via the following link:

<https://www.gov.uk/government/consultations/green-paper-transforming-public-procurement>.

3.16 The Green Paper is a lengthy and complex document and its proposals seek to introduce greater flexibility for contracting authorities. Key elements from the paper include:

- The new legislation will be underpinned by seven core principles relating to public procurement:
 - public good
 - value for money
 - transparency
 - integrity
 - efficiency
 - fair treatment of suppliers and
 - non-discrimination
- Proposals to streamline the existing recognised procurement procedures,
- An increased focus on transparent and open contracting,
- The creation of a new body to oversee public procurement, and
- Proposals to speed up the process relating to procurement challenges.

3.17 The Council has responded to the consultation and a copy of the Council's response is attached at Appendix A.

Procurement Strategy

3.18 The Council's current Procurement Strategy covers the period 2020-2023. The strategy contains objectives and local goals and builds upon the progress made with the delivery of the previous strategies. Delivery of the strategy supports the continuous improvement and development of the Council's procurement function and therefore assists the achievement of the Council's corporate goals and objectives.

3.19 The strategy was developed with reference to The National Procurement Strategy for Local Government in England 2018, and is focused around four key themes:

- Showing leadership
- Behaving commercially
- Achieving community benefits
- Governance

- 3.20 Appendix B provides an update on progress against planned actions in the strategy. As referred to earlier in the report, COVID-19 has had a significant impact on the work of the Procurement Team over the past year. However, progress has continued to be made across all four themes of the strategy.
- 3.21 It is important to note that many of the planned actions in the strategy are ongoing activities. As such they are part of the Procurement team's standard working practices and are employed on an everyday basis in terms of providing support to client departments.
- 3.22 Understandably, some of the development activities within the strategy have not progressed as much as planned due to the impact of COVID-19. For instance, whilst there have been notable successes in terms of Social Value outcomes over the past year, delivery of some Social Value commitments has not been possible. However, the anticipated easing of lockdown restrictions in the coming months should allow further progress in this area in 2021/22.
- 3.23 The immediate priority for the Procurement team however continues to be supporting the Council's response to the pandemic from a procurement perspective and ensuring continuity in terms of the delivery of key services.

4.0 POLICY, FINANCIAL AND OTHER IMPLICATIONS

- 4.1 Effective procurement practice helps to reduce the costs associated with undertaking procurement. It can also help to realise financial savings from more robust procurement activity. As such, effective procurement forms a key element of the Council's Medium Term Financial Strategy.
- 4.2 There are no other financial or policy implications arising directly from this report.

5.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

5.1 Children and Young People in Halton

Effective procurement practice helps to realise cashable savings from the Council's spending. This contributes to a better use of resources and thereby contributes to the delivery of all the Council's priorities.

5.2 Employment, Learning and Skills in Halton

See 5.1 above

5.3 A Healthy Halton

See 5.1 above

5.4 A Safer Halton

See 5.1 above

5.5 Halton's Urban Renewal

See 5.1 above

6.0 RISK ANALYSIS

6.1 There are no risks resulting directly from this report. However, the adoption of robust procurement practice protects the Council from challenges to its procurement activities and helps to secure value for money.

7.0 EQUALITY AND DIVERSITY ISSUES

7.1 None

8.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

There are no background papers under the meaning of the Act.