

**REPORT TO:** Audit and Governance Board  
**DATE:** 22 November 2023  
**REPORTING OFFICER:** Operational Director - Finance  
**PORTFOLIO:** Corporate Services  
**SUBJECT:** Procurement Update Report  
**WARD(S)** Borough-wide

## 1.0 PURPOSE OF THE REPORT

1.1 The Audit and Governance Board is responsible for overseeing the Council's procurement arrangements. This report provides members with:

- An overview of procurement activity in 2022/23
- An update on the Council's Procurement Strategy and associated action plan
- Details of developments regarding the Procurement Act 2023

## 2.0 RECOMMENDATION:

**That the Board:**

- **Notes the update on procurement activity and progress against the Procurement Strategy action plan**
- **Approves extending the existing Procurement Strategy until 2025 pending the completion of the update of the Corporate Plan and implementation of the Procurement Act 2023**

## 3.0 SUPPORTING INFORMATION

### **Procurement Activity 2022/23**

3.1 A high-level overview of the support that the Procurement team provided to the Council during 2022/23 is provided in Appendix A. This provides summary information covering the highest value contracts awarded, extensions supported, local spend, and social value outcomes from the year.

3.2 Key highlights to note from the year include:

- The Procurement team supported a total of 167 contract awards during 2022/23. Whenever considered beneficial, the Council utilises national, sectoral, local, or regional collaborative contracts and frameworks. This helps to leverage the value of aggregate spend to obtain more favourable pricing, and to reduce risk in terms of contract and supplier management.

In addition, this approach also serves to help to make best use of the Procurement team resource.

- The Procurement team also supported 35 pre-approved contract extensions. These apply where a contract is let for a fixed number of years but there is a contractual option to extend the contract for a further period (or periods).
- All procurement activity undertaken during 2022/23 was compliant with applicable legislation and the Council's own procurement rules. No challenges to the outcome of any contract awards were received during the year.
- In total, the Council's revenue spend on goods and services was £128.5m with 1,627 suppliers. Capital spend was £20.7m with 144 suppliers.
- £127.2m (85.3%) of third party spend during the year related to contracts recorded on the Council's contract register.
- Over £21m of expenditure was spent with 241 Halton-based suppliers. This represents an in-borough spend increase of over 11 per cent when compared to 2021/22.
- The Council spent a total of £91.6m with over 1,400 national micro, small and medium enterprises (MSME's).
- 87% of the suppliers the Council traded with during the year were MSME's.
- The borough has benefited from various social value gains arising from procurement activity, most notably in relation to the construction of the new leisure centre. Further details can be found in Appendix A.

### **Procurement Strategy**

- 3.3 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 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.
- 3.4 The strategy is due to be updated; however, it is felt that it would be more appropriate to do so following the update of the Council's Corporate Plan, and when the implications of the Procurement Act 2023 are more fully understood.
- 3.5 As such, the document has been reviewed and is still considered current and relevant. Minor changes have however been made where necessary to reflect changes in activity and terminology. It is therefore proposed that the

refreshed version of the current strategy be extended to cover the period to 2025, after which the document will be fully updated.

3.6 A copy of the current Procurement Strategy is attached at Appendix B. It was originally developed with reference to 'The National Procurement Strategy for Local Government in England', and is focused around four themes:

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

3.7 The Procurement team has continued to deliver against the action plan and to support the aspirations of the strategy. The action plan section of the document provides an update against the planned actions in the strategy and demonstrates the strong progress being made against all four themes.

3.8 Key developments to note include:

- Procurement is now a key module included within the Council's training programme for managers. Training sessions are provided on a regular basis, which helps ensure that managers are aware of the Council's procurement rules and procedures.
- The Council has continued to work with partner organisations across the Liverpool City Region and beyond to shape markets and deliver better outcomes. Examples from 2022/23 include the 10-year Highways Term Maintenance contract jointly awarded with Warrington Council, and the cash collection services contract procured in collaboration with Knowsley and Sefton Councils.
- Collaboration through the LCR Procurement Group is continuing with Merseytravel taking over the role of Chair for 2023/24. The group has developed a catalogue of collaborative contracts that can be accessed by all LCR authorities.
- The Council has continued to increase the level of income being generated from procurement related activity with over £180k being achieved from the Council's early payment arrangements in 2022/23.
- Contract documents have been updated to reflect changes in legislation and best practice. Documents have also been simplified wherever possible to make doing business with the Council easier for suppliers.
- In May 2022, the value threshold within Procurement Standing Orders for low value purchases was increased to £25k. This has provided greater flexibility in terms of procurement route by removing the requirement for low value spend to be advertised on The Chest. It has also resulted in increased opportunity for local businesses to bid for Council contracts, as registration on The Chest is now not necessary for lower value opportunities.

## **Procurement Act 2023**

- 3.9 The Procurement Bill received Royal Assent on 26 October, officially making the Bill into an Act of Parliament. This ended 18 months of Parliamentary debate and scrutiny. The resulting Act is intended to provide contracting authorities with greater commercial freedom and flexibility to design procurement processes that better meet their needs.
- 3.10 Secondary legislation is due to be presented to Parliament in early 2024, and it is anticipated that the new regulations will come into effect from October 2024.
- 3.11 The focus of the Cabinet Office is now on implementation and ensuring readiness for the new regime. Guidance and communications materials will be issued over the coming months. A series of learning and development options will also be available to stakeholders to support implementation. Cabinet Office has also confirmed that there will also be a six-month notice period once all the legislation is finalised. This is intended to provide authorities and suppliers time to prepare.
- 3.12 The Act will allow greater flexibility to contracting authorities in terms of procurement procedures. For example, rather than setting prescriptive procedures, contracting authorities will be able to decide whether to use an 'open procedure' or another kind of competitive procedure of their choice, known as a 'competitive flexible procedure':
- Open procedure  
A single stage tendering procedure, without restriction on who can submit tenders
  - Competitive flexible procedure  
This will allow contracting authorities the opportunity to design their own procedures, provided that they are appropriate to the procurement in question
- 3.13 There will also be increased flexibility for contracting authorities to directly award contracts in certain circumstances. Justifications for direct awards will include single supplier scenarios (e.g. for commissions of unique works of art), matters of urgency that were not foreseeable, and in the event that a competitive process has been conducted and the authority received no suitable tenders.
- 3.14 The Act also introduces several new requirements for publishing notices throughout the procurement lifecycle from planning through to contract expiry. The intention is to increase transparency, but this will inevitably create an additional administrative burden for procurement teams. New requirements include publishing planned procurement notices, pipeline notices, and termination notices.
- 3.15 For contracts above £5m in value, there will be a new transparency requirement to publish at least three key performance indicators relating to

the contract. This will involve assessing the supplier's performance against the indicators and publishing information relating to that assessment at least annually.

3.16 Whilst the Act introduces several new provisions, there are areas of the new regime that are familiar, albeit with some differences:

- The light-touch regime (which is a more flexible procedure that applies to contracts for health, social care, and other related services) will remain.
- There will still be remedies for any breaches of the rules governing a public procurement process.
- The financial thresholds above which the Act will govern procurements will not initially be significantly different to those currently in force (see para 3.17).
- There will still be options to use framework agreements, with some modified arrangements.
- There will still be options to use dynamic purchasing systems (rebranded as dynamic markets; again with some modified arrangements).

3.17 It is important to note that the new legal framework will only apply to the Council's procurements that are above the following thresholds:

<b>Contract Type</b>	<b>Threshold from 1 January 2024</b>
Public Works Contracts	£5,372,609
Supplies and Services	£214,904
'Light Touch Regime' Services	£663,540

#### 4.0 **POLICY IMPLICATIONS**

4.1 Effective procurement supports the policy objectives of the Council.

#### 5.0 **FINANCIAL IMPLICATIONS**

5.1 Effective procurement practice helps to reduce the costs associated with undertaking procurement. It can also help to realise financial savings. As such, effective procurement forms a key element of the Council's Medium Term Financial Strategy.

5.2 There are however no direct financial implications arising from this report.

#### 6.0 **IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

6.1 **Children & Young People in Halton**

Effective procurement practice helps to deliver a better use of resources and thereby contributes to the delivery of all the Council's priorities.

**6.2 Employment, Learning & Skills in Halton**

See 6.1

**6.3 A Healthy Halton**

See 6.1

**6.4 A Safer Halton**

See 6.1

**6.5 Halton's Urban Renewal**

See 6.1

**7.0 RISK ANALYSIS**

7.1 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.

**8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. As such, there are no direct equality or diversity issues to be considered.

**9.0 CLIMATE CHANGE IMPLICATIONS**

9.1 None

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

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