

## CORPORATE AFFAIRS AND AUDIT COMMITTEE

<b>Report title</b>	Procurement Policies, Practices and Financial Regulations Compliance
<b>Chief Executive or Director</b>	James Bromiley, Director Finance, Governance & Support
<b>Date</b>	26 <sup>th</sup> June 2018
<b>Summary of the report</b>	To provide an overview of procurement policies, practices and financial regulation compliance.
<b>Decision(s) asked for</b>	That the committee notes the report and considers whether it provides assurance that appropriate governance arrangements are in place for commissioning and procurement
<b>Impact of decision(s)</b>	The information provided will ensure members are aware of the governance arrangements in this area

**What is the purpose of this report?**

1. The purpose of this report is to provide an update of the Council's position with regard to procurement activity over the last financial year including compliance with Standing Orders, practice changes, and contract awards.

**Why is this report necessary?**

2. The report is necessary as it is within the terms of reference for this committee to have oversight of the Council's corporate governance arrangements.

**Report Detail****Compliance with Standing Orders**

3. The Procurement Strategy, which was revised in 2017, reflects the Council's initiatives to remove unnecessary complexity from processes and procedures and to retain only those that add value to the services we deliver.
4. The EU directives governing procurement, along with the implications of the community right to challenge and the Public Services (Social value) Act 2012 requires the Council to adopt flexible procurement procedures that are capable of not only delivering value for money but also supporting wider social, environmental and economic needs of the residents of Middlesbrough. The strategy sets out three key themes listed below:
  - **Straightforward:** To make procurement as straightforward as possible for the

Council and potential suppliers, in particular to improve access for local suppliers, SMEs, the VCS/ Third Sector and to eliminate anything that does not add value to the procurement.

- **Strategic:** To use sound procurement practices and innovative solutions to promote sustainability and value for money, making use of collaboration and partnership opportunities where this meets the needs of the Council.
- **Develop local opportunities:** To support and encourage an effective local supplier market including the voluntary sector and the promotion of local social value in contracts (such as the creation of apprenticeships and local supply chains).

5. An action plan accompanies the strategy which identifies how these key themes will be progressed.
6. The Council has in place the Contract Procedure Rules as part of the Council's Constitution and these provide the governance in respect of procurement practices.
7. In January 2017 following formal agreement the financial thresholds for procurement were amended in order to increase contracts being awarded via quotation, which we use to target the local market and keep money in Middlesbrough and the Tees Valley. In January 2018 the financial thresholds were updated again in line with the review of the OJEU Thresholds.
8. The tables below show the thresholds as at 1<sup>st</sup> April 2017 and 1<sup>st</sup> January 2018:

1<sup>st</sup> April 2017

WORKS	GOODS/ SERVICES/ CONSULTANTS	LIGHT TOUCH REGIME	TENDERING PROCEDURE
Up to £15,999	Up to £15,999	Up to £15,999	Neither written quotations nor tenders need to be invited. Ensure value for money is achieved using local suppliers where possible.
£16,000 - £1,000,000	£16,000 - £164,176	£16,000 - £589,148	At least 3 written quotations. The quotation system must be used for quotations. Use local suppliers where possible. Tenders can be sought but this is optional.
£1,000,001 - £4,104,394	N/A	N/A	At least 4 tenders must be sought. The Tender advert(s) must be placed on Contracts Finder. The NEPO portal must be used.
Above £4,104,394	Above £164,176	Above £589,148	EU Procedure - OJEU Notice. At least 5 tenders must be sought, ensuring that the tender process complies with the EU Directives. The NEPO portal must be used.

1<sup>st</sup> January 2018

<b>WORKS</b>	<b>GOODS/ SERVICES/ CONSULTANTS</b>	<b>LIGHT TOUCH REGIME</b>	<b>TENDERING PROCEDURE</b>
Up to £15,999	Up to £15,999	Up to £15,999	Neither written quotations nor tenders need to be invited. Ensure value for money is achieved using local suppliers where possible.
£16,000 - £1,000,000	£16,000 - £181,302	£16,000 - £615,278	At least 3 written quotations. The quotation system must be used for quotations. Use local suppliers where possible. Tenders can be sought but this is optional.
£1,000,001 - £4,551,413	N/A	N/A	At least 4 tenders must be sought. The Tender advert(s) must be placed on Contracts Finder. The NEPO portal must be used.
Above £4,551,413	Above £181,302	Above £615,278	EU Procedure - OJEU Notice. At least 5 tenders must be sought, ensuring that the tender process complies with the EU Directives. The NEPO portal must be used.

## Practice Changes

### Local Commissioning

9. In order to monitor and increase where possible local commissioning the Council has a strategic objective to achieve a target of 25% of all purchasing spend to be with local Tees Valley suppliers and reported performance for 2017/18 has been:

<b>Period</b>	<b>Target</b>	<b>Achieved</b>
April – June 17	25%	30%
July – September 17	25%	44%
October – December 17	25%	43%
January – March 18	25%	31%

10. Overall performance has been good with big achievements in Quarter 2 and 3 and has produced an average annual achievement of 35%. The increase in the quotation threshold hold and use of purchasing cards have been pivotal to achieving these results. The actual spend in monetary terms that has been spent with Tees Valley suppliers is £24,451,355 and of that £13,694,154 directly with Middlesbrough based suppliers.

11. This strategic objective remains with us for 2018/19 and a challenging target of 43% (approximately £24million) of spend be with Tees Valley suppliers and of that 65% (approximately £16million) with Middlesbrough based suppliers has been set.
12. A key priority is to get as much spend as possible with Middlesbrough based suppliers and to support that we will be driving forward various work streams during 2018/19, which includes the development of a campaign called 'Buy Boro'.

### Monitoring Standing Orders

13. As an outcome of an internal audit of procurement we have introduced quarterly monitoring of all spends in respect of Standing Orders. Quarterly reports link with spend from the financial system against our contract register; this has been useful for identifying areas of the Council where Standing Orders are not been adhered to. This work has been really positive and has helped to raise awareness of the team and procurement processes that need to be followed, which has resulted in an increase of our networks and contacts from other service areas.
14. On occasions procurement outside of Standing Orders can occur and when this happens we call these 'breaches'. They can happen for a variety of reasons, such as lack of awareness of Council procedures, service needs/urgency and spend over a period of time not being considered, all of these can be removed or reduced through training and guidance and the team utilises the intranet and Friday bulletin to promote and publish guidance for all staff, as well as direct training where appropriate.
15. At present there isn't a system in place to provide monitoring data about breaches and this is an area for development for the Commissioning & Procurement team during 2018/19 so that next year more detail can be provided.
16. Since the introduction of the quarterly reports the following improvements/actions have been seen:
  - a. Identified Frameworks that 'off contract' spend can be moved to resulting in it becoming 'on contract' spend
  - b. Savings identified from moving to 'on contract' spend
  - c. Publishing of tender or quotations where no other procurement route available resulting in more opportunities for the market
  - d. Identified training needs
  - e. Identifying gaps in the market, one gap identified has resulted in this service being included in a regional procurement framework via the North East Procurement Organisation (contract due to go live in September 2018)
  - f. Identified areas where an exemption from standing orders is required and supported areas to get these in place
  - g. Increased our networks across the Council and our ability to promote and educate areas about the financial thresholds

### Exemptions from Standing Orders

17. In accordance with the Contract Procedure Rules, dispensation from Standing Orders can be authorised where criteria is met. During 2017/18 there were 32 exemptions approved. Please note that 1 of those was not required in the end and as such a contract was not awarded.

18. Exemptions are recorded and in February 2018 the Procurement Manager introduced a pre-approval process by the Procurement Team Leader. This change will ensure a gatekeeper approach to requests and will provide a clear evidence trail of why exemptions are either approved or declined.
19. The Exemption form was updated and the new process promoted on the weekly bulletin.
20. The monitoring of exemptions will also be reviewed during 2018/19 in order to identify any further improvements that can be made to our processes.

### **Contract Awards**

21. There have been 100 contracts awarded during 2017/18 and there are currently 299 contracts contained on the Council's public contracts registers.

### **What decision(s) are being asked for?**

22. That the committee notes the report and considers whether it provides assurance that appropriate governance arrangements are in place for commissioning and procurement.

### **Why is this being recommended?**

23. Not applicable. This report is for information only.

### **Other potential decisions and why these have not been recommended**

24. Not applicable. This report is for information only.

### **Impact(s) of recommended decision(s)**

25. That the Corporate Affairs and Audit Committee are confident that the Commissioning & Procurement Team have in place robust mechanisms for monitoring, controlling and improving commissioning and procurement activity of the Council.

### ***Legal***

26. The Procurement Manager and Principal Solicitor work closely in order to monitor and govern procurement activity, dealing with any issues that may arise. There are no direct legal implications as a result of this report.

### ***Financial***

27. There are no direct financial implications as a result of this report, however this report does set out how the Council manages its procurement processes to ensure compliance with financial regulations and standing orders.

### ***The Mayor's Vision for Middlesbrough***

28. There are no direct impacts on the Mayor's vision as a result of this report, however it does describe application of the Procurement Strategy, one of the aims of which is to maximise innovation, sustainability and collaboration in our procurement and commissioning processes in order to ensure we deliver the Middlesbrough 2025 – Fairer, Safer, Stronger – Mayor's Vision.

### ***Wards***

29. This report covers all wards across the Middlesbrough.

### ***Equality and Diversity***

30. Not applicable, this report is for information only.

### ***Risk***

31. There are no direct risks associated with this report, however compliance with the policies and processes that are in place to support procurement strategies positively impacts on a number of risks including:

- 08-003 – Lack of support for corporate commissioning and procurement
- 08-011 – Failure to adopt procurement best practice across the Council
- 08-055 – Failure to respond effectively and efficiently to legislative changes

### **Actions to be taken to implement the decision(s)**

32. Not applicable.

### **Appendices**

33. There are no appendices.

### **Background papers**

34. No background papers were used in the preparation of this report.