

<b>MIDDLESBROUGH COUNCIL</b>	
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<b>Report of:</b>	Director of Finance
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<b>Submitted to:</b>	Audit Committee
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<b>Date:</b>	14 December 2023
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<b>Title:</b>	Procurement Assurance report 2022/2023
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<b>Report for:</b>	Information
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<b>Status:</b>	Public
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<b>Strategic priority:</b>	All
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<b>Key decision:</b>	No
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<b>Why:</b>	Report is for information only
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<b>Subject to call in?:</b>	No
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<b>Why:</b>	
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<b>Proposed decision(s)</b>

<b>Executive summary</b>
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This report provides the Audit Committee with an annual overview of procurement activity undertaken for financial year 2022/23. The report includes information pertaining to:

- Procurement Activity
- Purchase Card utilisation
- Supplier Incentive Programme
- North East Procurement Organisation ( NEPO)

**1. Purpose**

To provide a summary of the Council's procurement activity over the last financial year including compliance with Standing Orders, practice changes and contract awards.

## 2. Recommendations

That the Audit Committee

- Note the content of this report

## 3. Rationale for the recommended decision(s)

- To receive assurance that 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.

## 4. Background and relevant information

The table below shows the financial thresholds as of 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023, which all procurement activity within that time frame was required to adhere to:

WORKS	GOODS/ SERVICES/ CONSULTANTS	LIGHT TOUCH REGIME	TENDERING PROCEDURE
Up to £10,000	Up to £10,000	Up to £10,000	Neither written quotations nor tenders need to be invited. Ensure value for money is achieved using local suppliers where possible.
£10,001 - £1,000,000	£10,001 - £213,477 (inclusive of VAT) £177,897.50 (exclusive of VAT)	£10,001 - £633,540 (inclusive of VAT) £552,950 (exclusive of VAT)	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 - £5,336,937 (inclusive of VAT) £4,447,447.50 (exclusive of VAT)	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 £5,336,937 (inclusive of VAT) £4,447,447.50 (exclusive of VAT)	Above £213,477 (inclusive of VAT) £177,897.50 (exclusive of VAT)	Above £633,540 (inclusive of VAT) £552,950 (exclusive of VAT)	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.

During 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 the Procurement Team have been involved and supported service areas with **240** procurement activities that equate to approximately £99,865,680 worth of contracts being awarded in the year.

This activity is broken down into the as follows:

- 71 - Quotations
- 15 - Tenders
- 37 - Exemptions
- 57 - Dynamic Purchasing System (DPS) further competitions
- 60 - Direct Awards/Further Competitions via Framework Agreements

Quotations are the procurement route used for low value contracts and as they do not require open advert it offers us the flexibility to target local suppliers where available. There is no reason a quotation could not be formally advertised where it was believed to be in the best interest, or where the work is specialist and national providers need to be engaged, however quotes primarily allow us to direct opportunities to local suppliers.

Tenders and Dynamic Purchasing Systems (DPS) are formal procurement processes that must adhere to the Public Contract Regulations (PCR) 2015 which is procurement law which prescribes the process to be followed from advert all the way through to contract award. The DPS route is used for Integrated Transport Unit whom utilise the system to post mini competitions for home to school transport routes.

Exemptions allow us to direct award where the contract is below the Public Contract Regulations threshold, and it meets the criteria of Section 5 of the Council's Standing Orders. The council has a clear process for approval of exemptions.

Direct Awards/Further Competitions via Framework Agreements are again compliant with PCR as the Framework Agreement will have been formally procured and the Framework Agreement will set our process for call off either via Direct Award or a further competition.

There are currently over 400 active contracts recorded on our contract register, which is available to the public.

#### **4.1 North East Procurement Organisation**

The North East Procurement Organisation (NEPO) is an established public sector procurement organisation that works in partnership with all 12 North East Councils and the wider public sector to procure goods, services and works of high value and strategic importance. The 12 authorities collectively oversee the governance framework for NEPO.

The Specialist Commissioning & Procurement Manager represents Middlesbrough Council by attending the Collaboration North East (CNE) monthly meetings together with the other 11 North East Local Authorities Heads of Procurement, discussion centre around the business of the Procurement Organisation and the procurement requirements of the public sector.

As a full member to NEPO Middlesbrough Council pay a small member fee, the annual fee is £46,000 however in return we receive a rebate of approximately £140,000k per annum due to our use of the flexible procurement solutions available through membership of the organisation, The benefits of the NEPO membership are that it provides us an income in excess of cost, but also reduces pressure on our procurement team in providing us with

procurement solutions such as frameworks that we can either call off via a mini competition or via direct award. The benefits of being a full member of NEPO are:

- Provision of flexible procurement solutions for the local authority to utilise
- Use of the above solutions minimise time delay for the authority in its procurement practices
- Specialist procurement leads within NEPO have worked with sectors such as energy, fleet, construction etc to set up cost effective solutions for local authorities to utilise – utilising the collective buying power of the 12 north east authorities
- Any concerns with large scale providers can be addressed by NEPO contract support.

In 2022/23, 25% of our procurement solutions utilised NEPO framework arrangements, without this investment would be required within the procurement team to meet the demands of the procurement activity of the local authority.

Middlesbrough Council has annual conversations with NEPO to review the available frameworks and discuss opportunities for future commissioning plans.

In addition to procurement solutions NEPO manage and deliver our e-tendering portal and work is just nearing completion of the introduction of a new dynamic portal called Open which will be rolled out in early 2024 to all 12 members. This has been a significant project led by NEPO and the Local Authorities in trying to develop a unique and innovative e-tendering system that can support the entire commissioning process. It is essential that all authorities operate the same processes to mitigate impacts of procurement on the suppliers across the North East. Consistency in approach ensures they are more cost effective within their bidding and costing processes.

Further work with NEPO is progressing in regard to the introduction of North East Social Value TOMs (themes, outcomes, measures) . Middlesbrough Council already has social value within its procurement practice however work is being undertaken to strengthen this aspect of procurement for 2024/25.

## **4.2 Purchase Cards**

Middlesbrough Council requested an audit of purchasing cards as part of Internal Audit programme of assurance. This was requested as monitoring of spend is undertaken within Directorates and assurance was required regarding the sufficiency of the processes for review and monitoring of transactions, and use of the cards. Internal Audit have given limited assurance regarding the utilisation of purchase cards, the detailed findings are published within the Internal Audit report and highlight a number of areas of concern, including non recording of VAT, processes linked to reviewing and approving spend, the lack of quality descriptors for the spend and required updates to policy. Linked to the internal audit report on the use of purchase cards a programme of improvement activity is currently being rolled out in quarter 3 of 23/24, to amend the practice linked to purchase card activity. Historically purchase cards were considered to be one of the primary mechanisms for payment as they reduced the administrative and cost burden of processing invoices and were a solution that met the requirements across a number of Directorates. Following the recent review from internal audit, along with the communication

of reducing all non-essential spend, the strategic direction is now to reduce and review levels of spending associated with purchase cards. Furthermore with the introduction of the Supplier Incentive programme, expenditure should be routed through formalised channels in Business World in order to maximise the opportunities SIP presents and support suppliers engaging with this scheme.

As a result the following programme of activities are currently being progressed:

- Business World is being promoted as the primary mechanism for payments
- Directors asked to confirm cardholders in each directorate, making assessments as to the essential users across their services and documenting reasons why posts require access to purchase cards.
- Cardholders no longer requiring a card have been notified and the card has been cancelled
- Cardholders that are keeping their card or getting a card have been contacted to confirm this, advised of their spending limits and requested to attend mandatory training – children's has been the priority.
- Cardholders that are currently not at work have had their cards set to £0 so no spend can occur
- Purchasing Card Policy has been updated
- Intranet content review and guidance documents all updated
- Processes introduced for fraudulent spends which will now be investigated by the procurement team and will be notified to Internal Audit
- Monthly spends to Directors for review with their management teams and understanding of spend activity. Discussions are held at monthly budget clinics
- Commissioning & Procurement Team working with Data Team to introduce a data dashboard for purchasing card spend in order to provide weekly reporting digitally to all Directors
- Review of RBS system and mandatory fields for review which will be updated in January 24 to make more fields mandatory which will include VAT Amount Rate, Expense Description, Additional Information, Receipt held, Receipt Scanned

This work is outlined within the action plan for the section 24 recommendations. Internal Audit were asked in direct response to their findings to do further investigations regarding any potential fraud, as a result Internal Audit reported that there are no resulting fraud investigation concerns linked to the work they appraised.

Currently the number of cards are being reduced from 313 to 171, and this will be kept under review.

During 2022/23 the Council spent £7,938,163 via purchasing cards which was 23,119 transactions. The majority of spend was low value with 16,856 (73%) being below £99, 5,571 (24%) were £100 to £1,000 and 692 (3%) were over £1,000.

The table in Appendix 2 provides the detailed breakdown of spend by Directorate each month. Adult Social care has the highest level of spend on purchase cards, the majority of this spend is the purchase of equipment for Tees Community Equipment Services. Tenders and quotations are fully undertaken for this service, however a strategic decision was taken previously to pay for goods on purchase cards to maximise the level of rebate received. Work has subsequently been undertaken to engage these suppliers into the SIP

programme and as a result the spend will be routed through business world, with a target date of March 2024. Details are also provided in Appendix 2 outlining the top 3 categories of spend by each Directorate.

Rebates for the cards are paid annually each year and are based on spend activity between 1<sup>st</sup> December to 30<sup>th</sup> November, rebate received is £60k.

In line with the purchasing card policy staff are responsible for reviewing all spend on their card by the 28<sup>th</sup> of each month which includes providing the receipt, detail of expenditure, cost centre and GL codes. Processes are in place whereby staff whom fail to follow due process on three occasions or more will have their cards removed.

Managers with staff who have cards are also responsible for monitoring spend and the team continue to share monthly reporting and management of cardholders in line with the Council's policies.

It is acknowledged that the council does require purchase cards for some aspects of transactional activity however review work continues to close down channels of spend and merchant categories to ensure spend and transactions on cards meet the strategic aims.

### **4.3 Supplier Incentive Programme**

The Supplier Incentive Programme (SIP) with Oxygen Finance is an early payment programme which gives suppliers the opportunity to be paid earlier than standard practice. The programme gives suppliers the option to be paid as soon as the invoice is authorised. The aim is to complete this within 10 days, normally payment term is 30 days. Suppliers pay a small pre-agreed rebate which is applied as the invoice is paid. The rebate is proportionate to the number of days the authority accelerates the payment by. The rebate is only applied if the invoice is paid earlier than 30 days. The SIP programme has been operational since May 2022 and the Council has achieved savings of over £25k to date.

Suppliers are onboarded to the programme via two main methods (sourcing via procurement and direct engagement with suppliers). Where SIP has been included within a tender, 68% of the winning bidders have opted into the SIP. This is a very positive figure and higher than average across councils operating an early payment programme.

During the tender process, suppliers can onboard all their spend with the Council, maximising their cash flow and delivering additional rebate back to the council.

A SIP Officer has recently been appointed to further promote SIP with suppliers and maximise the efficiency of the programme through additional and targeted engagement.

Over the last year, the scope of the programme has increased to include Care (excluding Adults Residential) and this has immediately become the category with the biggest appetite amongst suppliers, therefore driving the most earnings. It is now targeting the construction sector.

As part of SIP we have Free Pay which allows the Council to identify and pay early without rebate to support our SME (small & medium sized enterprises) market and attached as Appendix 1 is a summary of Free Pay performance in the current year.

SME suppliers do not know they are benefiting from SIP but as a Council we know how beneficial this is to the SME market in these times of financial constraints. The list of Free Pay suppliers is reviewed regularly to ensure only eligible suppliers are included.

**4.4 Local Spend**

Middlesbrough Council has a strategic direction for ensuring spend remains local and this is monitored quarterly. The quotation process allows for more targeting spend to local suppliers and practice linked to quotations is encouraged to ensure suppliers that are local and offer value for money are requested to quote. The local spend continues to be monitored and a summary of the percentage performance of local spend during 2022/23 is shown below:

<b>PERIOD</b>	<b>TARGET</b>	<b>ACHIEVED</b>	<b>SPEND</b>
April – June 2022	40%	42.0%	£25m
July – September 2022	40%	36.9%	£28m
October – December 2022	40%	39.1%	£28m
January – March 2023	40%	40.0%	£27m

The overall performance for 2022/23 was 39.5% which is slightly below the target of 40%.

**5. Other potential alternative(s) and why these have not been recommended**

There are no other alternatives for consideration

**6. Impact(s) of the recommended decision(s)**

**6.1 Financial (including procurement and Social Value)**

Within Middlesbrough Council’s constitution, the regulations pertaining to contracts are outlined within the Contract Procedure Rules. Staff are required to adhere to the contract procedures pertaining to any procurement activity, and flow charts and threshold tables were provided on the staff intranet as easy reference guides. Any activity linked to grant income is exempt from procurement processes if detailed within the grant conditions attached to the funding.

**6.2 Legal**

All contracts are required to be approved and signed by legal services.

**6.3 Risk**

Internal audit have issued limited assurance in regard to the utilisation of purchase cards in 2023/24. The work highlighted the requirement to maximise VAT, and provide tighter controls and monitoring on expenditure across Directorates. Work has commenced in regard to managing the issues identified.

**6.4 Human Rights, Public Sector Equality Duty and Community Cohesion**

There are no human rights, equality or data protection issues arising as a result of the recommendations in this report.

**6.5 Climate Change / Environmental**

There are no Climate Change / Environmental issues arising as a result of the recommendations in this report.

**5.6 Children and Young People Cared for by the Authority and Care Leavers**

There are no issues relating to Children and Young People cared for by the authority and care leavers arising as a result of the recommendations in this report.

**5.6 Data Protection / GDPR**

There are clear processes linked to data protection and GDPR within procurement guidelines and practices.

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

Action	Responsible Officer	Deadline
Undertake purchase card review project	Louise Grabham	31 <sup>st</sup> December 2023

**Appendices**

1	Free Pay Performance
2	Purchase Card Data 2022/23

**Background papers**

Body	Report title	Date
none		



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