

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**OFFICER REPORT TO**

**Finance Assets and Performance Scrutiny Committee**  
**24 March 2022**

**Report Title:** Procurement Strategy and Action Plan 2022-25

**Submitted by:** Business Improvement Manager

**Portfolios:** Finance, Town Centres and Growth

**Ward(s) affected:** All wards

**Purpose of the Report**

To provide the Finance Assets and Performance Scrutiny Committee with an update on the Borough Council's Procurement Strategy and Action Plan 2022-25.

**Recommendation**

**That members of the Finance Assets and Performance Scrutiny Committee:**

- 1. Review the officer report, work undertaken to date and proposed changes by government;**
- 2. Review the officers proposed work as part of the action plan published alongside and in support of the delivery of the Council Procurement Strategy 2022 to 2025;**

**Reasons**

The Procurement Strategy 2017 – 2021 expired December 2021. In line with the Council's priorities, internal governance, legislative changes, sustainable procurement and Brexit, your officers have formulated a new strategy that seeks to address change and respond to the need to support the ongoing improvements and implementation of change throughout the authority.

**1. Background**

- 1.1 Procurement has a far broader meaning than that of simply purchasing, buying or commissioning. It is about securing assets and services that best meet the needs of users and the whole community spanning the life cycle of an asset or service.
- 1.2 Commissioning is the process of specifying securing and monitoring services to meet individuals' needs both in the short and long term.
- 1.3 The Government initially placed a duty of best value on local authorities under the Local Government Act 2000 to deliver services to clear standards of cost and quality by effective, economic and efficient means available. Best Value was a challenging framework that required authorities to review all their services in the light of government guidance.
- 1.4 In the context of procurement, obtaining best value for money means choosing the solution that offers the optimum combination of whole life costs and benefits to meet the customer requirement.
- 1.5 The Procurement Strategy 2022-25 sets down the basis of developing and implementing best value throughout its service to citizens and the business community, aligned with the challenge to deliver ongoing savings in line with the authority's need to respond to the

changing financial environment. The Council will continue to develop its procurement principles and practices aiming to deliver further improvements in this key service.

- 1.6 It is important that we ensure procurement activity supports the delivery of the Borough Council's strategic and operational priorities, with relentless focus on value for money, financial performance and fit for purpose solutions, as well as wider strategic aims. Sustainable Procurement is a strategic procurement aim of the Council, having effective sustainable procurement practice embedded within our processes will help ensure that procurement is recognised as being vital to the delivery of our corporate objectives
- 1.7 The Procurement Strategy 2022-25 is supported by the publication of the 'Action Plan' found at Appendix 1 of the strategy that's seeks to support the delivery of the strategy throughout the three year period. The strategy is further supported by a range of governance procedure inclusive of:
  - Council Contract Procedure Rules;
  - Council Financial Regulations and
  - Council Constitution

## 2. Issues

- 2.1 In developing the Strategy your officers have recognised the need to
  - Further embed legislative changes (Public Contract Regulations 2015);
  - Embed sustainable procurement into the Council's Procurement Strategy;
  - Comply with the changes introduced following Brexit;
  - Examine and embed the considerations contained within the Governments Green Paper: Transforming Public Procurement, which seeks to speed up and simplify our procurement processes, place value for money at their heart, and unleash opportunities for small businesses, charities and social enterprises to innovate in public service delivery of such. Headline changes highlighted below are summarised by way of eight key areas of challenge and change delivered during the term of the Council new procurement strategy. Further detail, expansion and training linked to the headline changes below will be rolled out by central government (currently awaited):
    - Procurement that better meets the UK's needs:
      - Proposed general principles divided into principles and statutory objectives;
      - Proportionality to feature in drafting of specific regulations;
      - Need to consider implementation once legislation is passed e.g. new National Procurement Policy Statement;
      - Procurement Review Unit (PRU) to focus on systemic or institutional breaches – Will predominantly act on referrals or data from proposed digital platform;
    - A simpler regulatory framework:
      - Single, uniform framework – Sector-specific differences for utilities and defence procurement;
      - Familiar structure, application and scope;
      - Better navigation due to clear and simple language;
    - Using the right procurement procedures:
      - Existing procedures reduced to 3 modern procedures 1. Open procedure 2. Limited tendering procedure 3. Competitive flexible procedure;
      - Light Touch Regime will be retained – Scope of services to be reduced (?) – Need for greater procurement flexibility when buying essential services in certain areas e.g. social care and education;
    - Awarding the contract to the right supplier:

- MEAT to MAT transition – not limited to price or other economic criteria;
  - Award criteria can be unrelated to subject matter in specified circumstances (e.g. net zero, social value, modern slavery etc.
  - New exclusions framework – 5-year time limit – Central debarment list – Potential expansion of current exclusion grounds;
- Using the best commercial purchasing tools:
    - Dynamic Purchasing System Plus (DPS+) model renamed Dynamic Market – Available for all types of procurement – Two-stage procedure – procured via competitive flexible procedure;
    - Open and closed framework agreements – Possible to exceed maximum duration if publication of relevant justification in tender notice – The need to publish information relating to nature, scope and overall maximum estimated value of the contracts awarded under framework;
    - Charging suppliers when awarding a call-off;
  - Ensuring open and transparent contracting:
    - Transparency to be embedded by default throughout procurement lifecycle – but have taken account of concerns raised: – Value threshold of £2m before publication of redacted contracts – No debrief letters – No requirement to disclose tenders;
    - Introduction of a central digital platform – "Tell us once" approach – Importance of fully functional IT system;
  - Fair and fast challenges to procurement decisions:
    - Reform of Court processes – quicker, cheaper, more accessible – Written pleadings – Early and enhanced disclosure – Dedicated procurement judge;
  - Effective contract management:
    - Proposals for tackling payment delays – Guidance promised to provide clarity and further detail;
    - Regulation 72 provisions<sup>1</sup> to be made easier to navigate – New safe harbour for amendment of long-term contracts;
    - Mandatory publication of contract change notices;
- 2.2 The new strategy aims to (further) increase the profile of the procurement processes, procedures, principles, sustainability and protocols within the Council. They have recognised a need to heighten the requirements for the delivery of Social Value in support of the 'Public Services (Social Value) Act 2012 taking into consideration its potential impact on the local environment, and social wellbeing of the community.
- 2.3 The strategy identifies drivers for the successful delivery and builds on the need to simplify processes and seek to attract and increase spend with local service providers inclusive of small to medium enterprises, micro business and social enterprises inclusive of third sector providers. It examines the call for greater efficiencies, collaboration and sharing of services.
- 2.4 Sustainable Procurement is an important consideration when making procurement decisions. It ensures that we consider the environmental impact of procurement decisions. In committing to achieving these aims we will build on the:
- Promotion, and embed best practice for sustainable procurement across all service areas.

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<sup>1</sup> Regulation 72 describes a number of changes that can be made to awarded public contracts without triggering a requirement to conduct a fresh tender process.

- Where appropriate, require our suppliers and contractors to reduce carbon and its impact on the delivery of goods, works and services. Recent examples have included high value contracts awarded as part of the Future High Streets and Town Deal Projects. Carbon reduction and net zero aspirations were included as part of the evaluation criteria, with all bids achieving maximum marks on evaluation of their submissions.
- As part of the work in requiring information from current and potential suppliers on how they will help us to progress our environmental objectives, your officers will look to engage with existing large to medium sized organisations currently delivering goods and services to the Council to understand their carbon reduction commitments. Officers will also engage with local partners and the Staffordshire Chambers of Commerce to assess how small to medium and micro organisations are adapting to the needs of carbon reduction.

Officers will explore (in line with the UK Government Procurement Policy Note (PPN) 06/21 – ‘Taking Account of Carbon Reduction Plans in the Procurement of Major Government Contracts’) the possibilities of introducing scalable environmental considerations and carbon reduction outcomes across its profile of contract spend on goods, works and services, which may include, but is not limited to:

- Contracts which have a direct impact on the environment in the delivery of the contract;
- Contracts which require the use of buildings by staff engaged in the delivery of the contract;
- Contracts which require the transportation of goods or people used in the delivery of the contract;
- Contracts that require the use of natural resources in the delivery of the contract.

Officers have also made a commitment to further explore the publication of the Local Government Association – Sustainable Procurement – Delivering Local Economic, Social and Environmental Priorities (Toolkit for commissioners, practitioners and contract managers), and look to utilise the toolkit where beneficial in support of delivering ‘sustainable procurement’ at the Borough Council.

### 3. **Proposal**

3.1 Cabinet reviewed, considered and approved the Borough Council’s Procurement Strategy and Action Plan 2022-25 at their December 2021 meeting.

### 4. **Reasons for Proposed Solution**

4.1 The proposed, Procurement Strategy seeks to:

- reflect best practice;
- identifies by way of the action plan further ongoing improvements;
- support in the simplification and standardisation of processes;
- identify the need to support officers undertaking procurement exercises on a regular basis and
- the continual requirements to identify and deliver savings, responding to the need to address the budget shortfalls identified by the Council as part of its medium term financial strategy.

4.2 The Procurement Strategy and its implementation identifies and demonstrates a willingness to improve procurement practices across the Council, leading to ongoing improvements in:

- service levels;

- increased efficiencies;
- sustainability and officer awareness of the ongoing changes in the public procurement.

## 5. **Option/s Considered**

5.1 To do nothing and continue to run with an outdated Procurement Strategy would have been detrimental to the authority as it would reflect on an inability to:

- respond to the ongoing need/s for change and continuous review;
- challenge and the identification of ongoing improvements and
- a continued need to support service/s throughout the Council.

## 6. **Legal and Statutory Implications**

6.1 There are no new legal or statutory implications, however the Procurement Strategy 2022-25 supports the work in embedding the requirements under the Public Contract Regulations (PCR) 2015, Public Services (Social Value) Act 2012, the Governments Green Paper 'Transforming Public Procurement' and the changes brought about by completion of BREXIT.

## 7. **Equality Impact Assessment**

7.1 All major procurement (high risk and high value) shall recognise the impact on the social, economic and environmental wellbeing within the Borough. We will strive to offer equality and diversity in all our procurement transactions. We will strive where practicable and possible to utilise local labour, materials and services. We will aim to support the growth in modern apprenticeships and the placement of trainees in industry and commerce.

## 8. **Financial and Resource Implications**

8.1 At this stage there are no direct financial and resource implications, however, where (and if) resource issues are identified as part of the implementation and delivery of the Procurement Strategy; these will be raised with the Head of Legal & Governance Services.

## 9. **Major Risks**

9.1 There are no major risks but areas of high risk can be summarised as follows:

- Failure to identify the financial support to the service.
- Failure to meet legislative requirements.
- Failure to identify key areas for improvement and savings.
- That the Council's corporate commitment and priorities are not delivered.
- Failure to provide efficient staff with skills, knowledge and capacity to support the delivery of appropriate procurement options.
- Failure to provide efficient staff capacity to support the assessment and delivery of new methods of service and to evaluate immature and emerging markets.
- Council fails to innovate and develop new methods of delivery.
- Failure to identify social value criteria at the early stages of the procurement cycle.
- Failure to identify the whole life costs of strategic procurements.
- Failure to contract manage.
- Failure to identify savings as part of both existing contracts and new procurements.

## 10. **UN Sustainable Development Goals and Climate Change Implications**

10.1 The Procurement Strategy 2022-25 and Action Plan seeks to support the following sustainable Development Goals and Climate Change Implications:



## 11. **Key Decision Information**

11.1 The revised Strategy and action plan supports the objective of ensuring the council commissions and procures fit for purpose services and supplies, and understands the market it seeks to influence and develop.

## 12. **Earlier Cabinet/Committee Resolutions**

12.1 This report aims to update the 'Finance Assets and Performance Scrutiny' committee following the publication of the 'Procurement Review' published in September 2021.

12.2 Cabinet approval of the Procurement Strategy and Action Plan 2022 -2025 on 1<sup>st</sup> December 2021 (decision reference A9).

## 13. **List of Appendices**

13.1 Appendix 1 – Procurement Strategy and Action Plan 2022 -2025

## 14. **Background Papers**

14.1 Green Paper: Transforming public procurement:

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

14.2 'Procurement Review' published in September 2021.