



## City of Westminster

<b>Meeting or Decision Maker:</b>	Audit & Performance Committee
<b>Date:</b>	6 September 2023
<b>Classification:</b>	General Release
<b>Title:</b>	Procurement and Commercial Services Annual Update
<b>Wards Affected:</b>	N/A
<b>Policy Context:</b>	<p>The Council spends over £600 million each year on third party contracts. Procurement and contract management are therefore key enablers to delivering a Fairer Westminster and ensuring maximum value for Westminster and its residents and partners from its supply chain. This includes using our significant spend to influence and create positive action on tackling the climate emergency, contributing to local and national economic recovery, leveraging community benefit, and driving forward greater diversity and inclusion.</p>
<b>Cabinet Member:</b>	Councillor Boothroyd
<b>Key Decision:</b>	N/A
<b>Financial Summary:</b>	N/A
<b>Report of:</b>	Sarah Warman, Strategic Director Housing & Commercial Partnerships

## **1. Executive Summary**

- 1.1 This is an annual report to the Committee, which provides an update on the procurement and contract management activity at Westminster, including:
- progress of the procurement transformation programme
  - a retrospective view of how well the Council is complying with its procurement policy
  - an update on the priorities from last year including those helping to deliver a Fairer Westminster
  - new priorities for the forthcoming year
  - an overview of upcoming procurement activity.
- 1.2 It seeks to ensure that the Committee has the information and data it needs to carry out its obligation to maintain oversight of procurement and contract activity at the Council.

## **2. Recommendations**

- 2.1 It is recommended that the Committee notes the contents of this report and provides feedback on whether it meets their needs, as well as suggesting any changes or additional content they would like to see in future annual reports.

## **3. Reasons for Decision**

- 3.1 N/A – this report is for update only and no decision is required.

## **4. Background, including Policy Context**

### Procurement Service transformation

- 4.1 Procurement and Commercial Services (P&C) are entering the second phase of the Transformation Programme. The first phase consisted of implementation of the revised Target Operating Model which has been in place since April 2020 with the management team recruited by March 2021. An update on the four specialisms within the team is below:
- Business Partners – provide commercial support to business areas and develop robust forward pipelines. The three Heads of Commercial and Senior Commercial Specialists each support different areas of the council and the function continues to receive positive feedback from stakeholders.
  - Tendering Services – manage tendering activity for high value and more complex procurements. We use a survey at the end of tenders to measure stakeholder satisfaction with the support from Tendering Service, with scores averaging 4.8 out of 5.
  - Policy, Performance and Systems – providing systems, data, policy, governance, and monitoring effectiveness of the procurement policy.

Over the last year there has been a focus on improving data on compliance and key Fairer Westminster deliverables.

- Responsible Procurement and Supplier Relationship Management – providing dedicated support for contract managers and monitoring supply chain risk to now overseeing the delivery of the new Responsible Procurement and Commissioning Strategy.

- 4.2 In phase 1 of the transformation journey recruitment and staff development was a key priority. Last year we reported the significant progress made in moving from a third permanent staff to over 90% permanently recruited. Procurement workforce is traditionally a white, male industry and early in our recruitment journey we saw a pay gap emerge. In December 2021 we had a 26% ethnicity pay gap and a 12% gender pay gap.
- 4.3 To address this, we focused on two areas. Firstly, we wanted to grow our Procurement 'brand' so we could attract talent from elsewhere, concentrating on how we recruit and the impression we make to candidates. We have recruited a talented and diverse team with a good reputation in the sector. Secondly, we prioritised growing and developing our staff. Last year nine staff members undertook MCIPS, the public procurement professional qualification and five staff members have had band 5 or 6 acting-up opportunities.
- 4.4 As of May 2023, we do not have a gender and ethnicity pay gap. Over the next year we are looking to expand opportunities for people new to procurement. We seek to encourage procurement as a career for younger residents focusing on band 2 and 3 posts and tripling the number of apprentice opportunities in the service.
- 4.5 Phase 2 of the transformation has begun, involving further process improvements to enable the team to be as effective as possible and become a 'best in class' procurement function. We also are looking to take further steps to support the delivery of a Fairer Westminster, such as embedding resident feedback in tenders, building on the good work in the current Church Street and Speech and Language Therapy tender processes. We will be playing a leading role in increasing spend with, and support for, small, local, diverse and mission-led organisations. The priorities for this year are included in section 7.

#### Tenders over the last year

- 4.6 In the last 12 months, 41 Invitation to Tenders valued over £100,000 were released by the Council. Key services procured include:
- Speech and Language Therapy (SALT) - Provides life-changing treatment, support and care for children and young people who have difficulties with communication. This procurement was run with young person and service user involvement throughout the process including within the evaluation element. We worked with the service to ensure the responses were suitable and utilised innovative methods allowing

the young people to provide their feedback. This was extremely successful, and we will use this approach in more of our tender activities.

- Parking - The two major parking contracts were disaggregated, procuring them separately as part of a wider service redesign to deliver a new operating model. As part of this procurement, we had a savings commitment of £500,000 in 2023/24 which was delivered through this process. In addition to the savings achieved, this procurement also saw the suppliers signing up to deliver significant social value.
- Westmead Redevelopment – This scheme will deliver 65 new homes, 121 cycle spaces and accessible parking on the former care home site at Tavistock Road. The tenure is 100% affordable, bringing an additional 34 social units and 31 intermediate units to the borough. The construction will deliver high environmental standards for enhanced energy efficiency in the building and units.
- Community Equipment - A framework was procured for two thirds of London boroughs. The tender included significant elements on recycling and reducing landfill, with the target of most of the service to be carbon neutral during the lifetime of the contract. The new contractor will have fully electric fleet on day one of the contract.

## **5. Compliance Reporting**

5.1 At contract award stage, the Procurement team tracks via Key Performance Indicators (KPIs) how well the Council is complying with four key areas of its own procurement policy:

- Supplier commitment to paying Living Wage
- Supplier commitment to deliver Responsible Procurement outcomes
- Signed contracts in place prior to purchase orders being raised
- Exceptions to policy – recording situations where competitive selection of suppliers has not been conducted and value for money may therefore not have been demonstrated.

### Exceptions to policy

5.2 The Council's Procurement Code requires that contracts valued above £100,000 are awarded via a competitive process. Occasionally, business risks or urgency mean that this is not possible, and a contract must be awarded directly to a supplier without competition. In these cases, a 'waiver' from the requirements of the Procurement Code must be requested, which requires approval from the Executive Director of the requesting Directorate, and the Director of Commercial Partnerships. This year we have also extended the waiver process to record where suppliers are working without a signed contract in place, which represents a risk to the council.

- 5.3 During the last 12 months, a total of 70 waivers were requested, an average of 5.8 per month. This represents a decrease compared to the monthly average of 6.3 per month during the previous period. Of these waivers, 61 related to non-compliant direct award of contracts without competition, half of which also involved suppliers having started work without a signed contract in place. Business Partners continue to work in partnership with the Directorates to reduce the need for waiver requests, through:
- sharing monthly data on policy exceptions and suppliers without a contract
  - development of a detailed pipeline
  - earlier engagement and improved forward planning of procurement activity by service areas to reduce the need for non-compliant direct award of contracts in future.

#### Living Wage commitments

- 5.4 As part of its Living Wage accreditation (which was first awarded in 2019 and must be re-affirmed annually), the Council's contracts must obligate suppliers to pay the Living Wage. New contracts include this requirement as standard, whereas for extensions and renewals of existing contracts, the provisions are negotiated where possible. Some existing contracts do not contain provisions which allow the Council to insist upon this, and for these contracts Living Wage will not be mandated until the contract is retendered or renegotiated.
- 5.5 During the last 12 months, 100% of contracts awarded contained a commitment to pay Living Wage. This is an improvement compared to 97% during the previous 12-month period. Every contract awarded since October 2021 has included Living Wage, which is the result of increased focus on this area in the Council's procurement and commercial governance processes and in its Responsible Procurement & Commissioning Strategy.

#### Responsible Procurement commitments

- 5.6 The Procurement Code requires that new contracts contain responsible procurement commitments by the supplier, which are allocated a minimum of 10% of the marks in evaluating supplier bids. We are working with service areas to increase this percentage where appropriate to 20%, with an ambition to increase this further to a minimum of 20-30% by 2025/26. Responsible Procurement commitments are recorded in the contract. New contracts include this requirement as standard, whereas for extensions and renewals of existing contracts, the provisions are negotiated where possible.
- 5.7 The process for identifying Responsible Procurement commitments in contracts has changed from April 2023, recorded as the contract is executed rather than at contract award report stage. This provides further opportunity for contracts to deliver meaningful responsible procurement objectives. The measurement for the last three months uses a different approach to the first 9

months, and the percentages cannot be combined as they use differing underlying data sets; therefore, two separate averages are shown for this KPI.

- 5.8 During the first 9 months of this period, 81% of contracts awarded contained such commitments; during the last 3 months of this period, 93% of contracts awarded contained such commitments. Both figures represent an improvement compared to 71% during the previous period. Alongside the new strategy we have introduced additional checkpoints during the procurement process, to ensure Responsible Procurement commitments are ambitious and robust. This includes a focus on external frameworks where Responsible Procurement commitments are not robust enough to meet the council's requirements, and on directly awarded contracts where we do not have the leverage of a competitive tender.

#### Purchase Orders Raised Without a Valid Contract in Place

- 5.9 The Council's Financial Regulations and Procurement Code require that a signed contract must be in place before any purchase orders (POs) are raised or payments made to the supplier. Procurement approval is mandatory for purchase orders valued at over £100,000. POs raised without a supporting contract are rejected or require an exemption to be approved by both the relevant directorate's Executive Director and the Executive Director of Finance & Resources.
- 5.10 During the last 12 months, a total of 69 non-compliant POs were raised, an average of 5.8 per month, the same figure as during the previous period. The reasons for non-compliance include POs raised against contracts which have expired; POs raised when there is no contract in the system; or the total value of the PO exceeds the total contract value. These are then investigated with the relevant service area, with the aim of putting a contract in place as soon as possible.

## **6. Priority Areas over last year**

- 6.1 This section reflects on the priorities stated in last year's Audit and Performance report:

#### Responsible Procurement

- 6.2 On 18 April 2023, we officially launched the [Responsible Procurement and Commissioning Strategy \(RPC\)](#), after approval by Cabinet last December. The strategy realigned the previous version, launched a year earlier, to the new 'Fairer Westminster Strategy'. The launch of the strategy took place at Grand Junction in Paddington, with over 200 suppliers and council officers in attendance. Contract managers across various functions came to support, as did theme leads responsible for key areas such as climate emergency, social value, employment & skills and modern slavery. One of the most impactful sessions at the launch event was the presentation of eight supplier-led spotlights, which illustrated how suppliers large and small can deliver social

value and responsible business. Feedback from the event was universally positive and ten of our key strategic suppliers covering construction, highways, waste and housing have agreed to voluntarily adhere to the Supplier Charter and Ethical Procurement Policy requirements. Between them, their existing full contract values are worth over £1 billion.

6.3 Three key documents accompany this new strategy and can be found at the bottom of [our webpage](#) under 'our publications':

- The Modern Slavery Statement describes the council's current due diligence procedures, designed to prevent the recruitment of trafficked people or those working under forced labour conditions, or their involvement in our supply chains. It also sets out our action plan to increase levels of due diligence in procurement and contract management. The council has made great progress in this area as reflected in our revised statement published at the end of June.
- The Supplier Charter, previous known as the Supplier Code of Conduct, is a set of requirements on the technical and professional ability of contractors to deliver and report on our responsible procurement objectives. This is a very significant step for providers delivering wide ranging Responsible Procurement.
- The Ethical Procurement Policy now forms a part of our standard terms and conditions and covers workers' rights, pay and conditions including issues such as zero hours contracts and union representation.

6.4 After the successful launch of the new strategy, we have some additional capacity for delivery. The new focus on Community Wealth Building and broadening of target suppliers led to a successful bid from the UKSPF (UK Shared Prosperity Fund for 'levelling up'), administered on behalf of the Government by the GLA. This will fund the development of a small, local business directory and new capacity to help engage with, upskill, train and facilitate new target organisation entrants into our own supply chain and those of our existing contractors. These target supplier organisations include smaller, local businesses, those that support the local social economy (including social enterprises and VCSEs), women-led, global majority-led, disabled-led and other minority-led businesses, cooperatives, municipally owned companies.

6.5 Key elements of delivery also include:

- Fully integrate Responsible Procurement into contract management and monitoring with technical support provided to contract managers and suppliers via Contract Management framework.
- Implementing the increased weighting for responsible procurement within tenders to up to 30%.
- Roll out of Ethical Procurement Policy, Supplier Charter and enhanced modern slavery due diligence.
- Development of Fair Tax pledge liaising with providers.

- Strengthen commitments on tackling climate emergency – working with suppliers to reduce carbon associated for council projects with new specific commitment to baselining and reducing scope 3 (indirect, including supplier-related) emissions.

6.6 We recognise the importance of measuring our own team's performance in terms of implementing RPC, as well as the performance of our suppliers and the impact they are making on our resident and business communities. A new internal KPI which we are now reporting on as part of the Fairer Westminster Delivery Plan is percentage by value of contract awards which are made to SMEs and VCSEs. The target is 25% and from April to June 2023 the figure achieved is 61%. The team will also collate P&CS performance indicators on:

- % RPC weighting attributed in tenders (mandatory between 10-30%)
- % relevant tenders with carbon reduction commitments
- % relevant tenders with modern slavery due diligence requirements
- % relevant tenders requiring social value outcomes

#### Systems & Data

6.7 In last year's report we stated that a new cloud-based eSourcing procurement and contract management system was being implemented. Unfortunately, significant weaknesses were identified with the proposed system, and the decision was taken in March 2023 not to progress with implementation, and instead to commence a re-tender for another system. Our requirements have been updated to reflect lessons learned from the previous procurement and these will shortly be re-presented to the market.

6.8 The new tendering system will be utilised for all procurement activity and act as a crucial tool for pipeline development and resource allocation. This will be a significant improvement on the current system, allowing us more flexibility, with the opportunity to streamline processes, reduce duplication and formalise contract management across the Council. This system will underpin the work being undertaken to develop into a best-in-class procurement function. We are expecting to identify the preferred system by October 2023.

6.9 We have continued to develop the capabilities of the council's existing eProcurement platform, including:

- Introducing new fields to easily capture data on suppliers' Responsible Procurement commitments within the Supplier Charter
- Developing a simple 'Request for Quotation' workflow, to enable the new Buying Team to easily use the system for lower value procurement activity
- 47 new users across WCC (plus a further 18 in RBKC/external bodies) have been trained to use the current system



- 6.10 Significant effort has gone into developing the procurement data analysis function this year, to provide greater insight for directorates into their commercial activity. Key developments have included:
- Developing data to enable regular monitoring of spend, expiring contracts and financial risk.
  - Analysis of purchase order usage and patterns, which will be shared with directorates in the coming months to enable better insight and improved risk management.
  - Developing interactive 'Power BI' dashboards for spend and for missing contracts, which will allow users across the council to 'self-serve' to answer questions about their contracts.
  - To allow us to directly link council spend to our contracts we have successfully piloted use of the eStore in two service areas.

#### Policy & governance

- 6.11 Continuous improvements have been made to commercial governance, including updated, simplified governance templates & guidance, which ensure that risks involved in procurements are more clearly articulated and the Council's decision makers are fully informed. Risk management processes have been enhanced with the further development of a Procurement Risk Log and a monthly leadership review of all open governance actions across the team, to ensure timely resolution.
- 6.12 Training sessions have been delivered to increase awareness of the Council's Procurement Code and governance processes, as well as sessions for the Procurement team on Responsible Procurement; Construction Contracts; tendering processes; Risks in the Procurement Process; Governance; Evaluation and Moderation; Stakeholder Management; Data Protection; Freedom of Information; and Equalities Impact Assessments.

#### Contract Management

- 6.13 The accompanying Annual Contracts Review provides more detail on our approach to improving consistency of contract management across the council. This continues to be a priority and a development area for our service.

### **7. New Priority Areas for the Coming Year**

- 7.1 P&C has an overarching service plan focusing on people and culture; our processes; delivering Fairer Westminster and enhancing our strategic offering. Delivery of Responsible Procurement and Commissioning remains a priority as referenced above. Some of the other key elements are described below:

## Transforming Public Procurement regulations

- 7.2 Public procurement is currently governed by various pieces of legislation, including the Public Contracts Regulations 2015 and Concessions Contracts Regulations 2016. In 2024, the government plans to replace the existing legislation with a new regime. The Procurement Bill is currently progressing through Parliament and is expected to come into force in October 2024. The government has committed to a notice period of at least six months, to allow public contracting authorities to prepare for the new legislation. To ensure a successful roll out and implementation of the new Legislation across the council, a steering group has been established to oversee the implementation, with representatives from key council functions.

### Introduction of Buying Team

- 7.3 In February 2023 Cabinet agreed to fund a new Buying Team. This team will be responsible for procuring works or services with a value between £25,000 and £100,000. The main aims of the team are:
- Increase the number of local, SME and minority led businesses and organisations in our supply chain (a Fairer Westminster priority)
  - Deliver value for money through competition
  - Ensure compliance with the procurement code and relevant legislation
  - Reduce officer time spent on obtaining quotes and processing orders
- 7.4 The team will consist of one Commercial Manager, three Senior Commercial Officers (one funded by UKSPF funding) and a Commercial Officer. Recruitment is completed with all of the new team place by October. A cross-departmental working group is developing a mobilisation and communication plan to ensure a smooth transition to this new operating model.

### Refining the Insourcing Framework

- 7.5 P&C has played a leading role in developing and implementing an Insourcing Framework for the council. Our Insourcing framework is an organisational approach which has been designed to be proportionate and grounded in sound analysis and the consideration of risk. The framework is overseen by an officer group which has been in place for the last eight months. The group meets monthly with members from finance, legal, HR, policy including an economist and all directorates. This group provides a steer on an 'initial checklist', which is a tool used to assess whether insourcing should be considered. This year the group will see full options appraisals to determine whether insourcing is a viable option, as well as more initial checklists.

## **8. Procurement & Commercial Services Forward Plan**

- 8.1 Listed overleaf are the major procurement projects taking place over the next two years:

<b>Directorate</b>	<b>Project name / Description</b>	<b>New service start date</b>
Adults & Public Health	<b>Home care</b> - Outcome based home care service with technology underpinning geographical based service model	December 2024
Adults & Public Health	<b>Older People's Preventative Day Services</b> - A range of preventative services for Care Act eligible and residents below threshold to promote independent living	October 2024
Adults & Public Health	<b>Learning Disability Housing Care and Support</b> - Proposed single framework for housing support services for residents with learning difficulties	October 2024 (option to extend 6 months)
Children's Services	<b>Schools Capital Projects</b> - Strategic professional services contracts and project design/build contracts as required.	Various
Environment, Climate & Public Protection	<b>Highways contractor re-procurement</b> - Delivery contracts in relation to highways services are due to expire in 2026.	April 2026
Environment, Climate & Public Protection	<b>Cashless parking</b> - Collection of cashless payments for on street parking with current contract ending March 2024	March 2024 (option to extend 6 months)
Environment, Climate & Public Protection	<b>Waste Collection and Cleansing Services</b> – Current contract is being extended to allow time to acquire land to assist with a re-procurement	September 2027
Environment, Climate & Public Protection	<b>Public conveniences - operation and maintenance</b> - To operate and maintain on street public conveniences to ensure cleanliness and public safety.	May 2024 (option to extend 6 months)
Finance & Resources	<b>Huguenot House Development partner</b> - In the event a decision is taken to develop the site at Huguenot House.	Late 2024
Finance & Resources	<b>Facilities Management contracts</b> - All facilities management requirements related to the operational portfolio of property assets	May 2024
Growth & Planning	<b>Ebury Phase 2 &amp; 3</b> - Phase 2 build / main contractor contract; Phase 2 professional services for quantity surveying; Phase 3 Demolition for phase 3 to commence	Early 2024
Growth & Planning	<b>Church St – Site A</b> – Delivery Partner for Site A (with options for site B & C)	Award late 2023 / early 2024
Growth & Planning	<b>291 Harrow Road</b> - Cost Consultant, Engineers, Architects, Main Contractor	Throughout 2024
Housing & Commercial Partnerships	<b>Supported accommodation pathways</b> - To include young people, rough sleepers and women's services	April 2024

Housing & Commercial Partnerships	<b>Street outreach</b> - Front-line response to working with people sleeping rough, engaging with individuals on the streets and supporting rough sleepers into accommodation	June 2024
Housing & Commercial Partnerships	<b>Housing Solutions</b> - Statutory housing and homelessness duties, the allocation of social housing and homeless prevention functions	October 2024
Housing & Commercial Partnerships	<b>Housing Term Contracts</b> – Specialist contracts for different disciplines of work to maintain the housing stock	June to November 2027
Innovation & Change	<b>Westminster Advice Partnership</b> - Advice services to support residents with claiming benefits, debt problems, housing applications and challenges, and planning applications.	September 2025
People Services	<b>Agency Contract</b> - Temporary agency workers	May 2024

## 9. Financial Implications

- 9.1 No specific financial implications arise from this report. However, all contract awards will need to consider the financial impact, including budgetary limits, value for money, inflationary increases, links to the MTFP and align to the financial regulations. (Kim Wreford, 14th August 2023).

## 10. Legal Implications

- 10.1 There are no legal implications arising directly from this report. Legal Services will continue to support Procurement & Commercial Services with implementing the new procurement regime, and the major projects set out in section 8.1 of the report. (Kar-Yee Chan, 9th August 2023).

## 11 Carbon Impact

- 11.1 P&CS has successfully integrated responsible procurement requirements into all supplier selection criteria, these include tailored requirements to baseline, report and reduce carbon emissions.
- 11.2 In parallel to this the team has developed a reporting protocol or "Supplier Charter for carbon reporting", which has been presented to and consulted with London boroughs, the GLA functional bodies and other public sector entities including BEIS and CCS. This also includes requirements to baseline, report and reduce emissions.
- 11.3 We are starting work to pilot the charter requirements with suppliers we have established relationships with, to test the concept before launching and encouraging all London public sector entities to start using this harmonised system.

- 11.4 We have made good progress on integrating responsible procurement measures into our refreshed Contract Management Framework, which will go live in September 2023 and are continuing work on baselining carbon emissions amongst our highest carbon-intensity contractors, many of which have now signed up voluntarily to the requirements set out in our Supplier Charter.
- 11.5 There are also now systematic checks in place to ensure that bidders for construction projects as well as other relevant contracts are being made aware of the councils net zero carbon targets and Climate Action Plan as well as the Code of Construction Practice.
- 11.6 Recruitment for a Sustainable Procurement Officer that will help develop sustainability criteria and drive pilot projects is now live and we anticipate having an individual in post by October 2023

## **12 Equalities Impact**

N/A – this report is for update only, no decision is required.

## **13 Consultation**

N/A – this report is for update only, no decision is required.

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:**

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## APPENDIX 1: Procurement Key Performance Indicators July 2022 – June 2023

KPI Definition	Target	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Average This period	Average Previous period	Trend
Awarded Contracts with Responsible Procurement Commitments	<b>90%</b>	50%	89%	75%	75%	83%	88%	83%	90%	81%	100%	50%	100%	<b>81% - 93% (*see note below)</b>	80%	Improving
Awarded Contracts paying Living Wage	<b>100%</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	<b>100%</b>	91%	Improving
Purchase Orders Raised Without a Contract	<b>N/A</b>	14	3	2	4	2	3	6	4	5	4	15	7	<b>5.8 per month</b>	5.8 per month	No change
Exemptions from Procurement Code (Waivers)	<b>N/A</b>	7	7	8	4	4	2	5	13	6	2	7	5	<b>5.8 per month</b>	6.3 per month	Improving

*\* The process for identifying Responsible Procurement Commitments in contracts was changed after the first 9 months of this 12-month period, and the percentages cannot be combined as they use differing underlying data sets, therefore two separate averages are shown for this KPI. See sections 5.9 and 5.10 of this report for further detail*