



## City of Westminster

<b>Meeting or Decision Maker:</b>	Audit & Performance Committee
<b>Date:</b>	5 September 2024
<b>Classification:</b>	<p>The report is part exempt as Appendix 1 will be declared exempt from publication as the business to be transacted involves the disclosure of information as prescribed by:</p> <ul style="list-style-type: none"><li>(i) it contains information relating to the financial or business affairs of a particular person (including the authority holding that information) under paragraph 3 of Schedule 12A of the Local Government Act 1972;</li><li>(ii) it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings under paragraph 5 of Schedule 12A of the Local Government Act 1972;</li></ul> <p>and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<b>Title:</b>	Procurement and Commercial Services Annual Update
<b>Wards Affected:</b>	N/A
<b>Policy Context:</b>	The Council spends over £700 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
<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:
- an update on Procurement and Commercial Services
  - 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**

- 4.1 Procurement and Commercial Services in its current form has been in place since April 2020. We have a diverse team with expertise to deliver the variety of procurement and support stakeholders across the council. In last year's report we referenced embarking on phase 2 of the procurement transformation which included working across the council to make significant strides towards delivering a Fairer Westminster. Responsible Procurement is central to this, with the Council's significant third party spend being used to influence positive action on tackling the climate emergency, contributing to economic recovery, leveraging community benefit, and driving forward diversity and inclusion
- 4.2 The Procurement Service has also:
- Conducted thorough preparation for the Procurement Act 2023 which will come into force on 28 October 2024
  - Supported new service areas to become compliant with the council's Procurement Code and bringing off-contract spend under contract
  - Coordinated eight training workshops for 86 officers to enhance their comprehension of procurement

- Increased spend with target organisations through the successful introduction of the Buying Team
- Completed several notable tenders with significant social value commitments and resident involvement
- Improved contract management practice across the council

4.3 In the last 12 months, 141 Invitation to Tenders valued over £100,000 were issued and awarded by the Council. With 65 of these being awarded to SMEs. The below table details the breakdown of these by Directorate:

<b>2023/24</b>	<b>No. ITT</b>	<b>No. contracts awards</b>	<b>No. contracts awarded to SMEs</b>
Adults	15	12	9
Children's	6	24	2
Corporate	5	3	2
E&C	27	39	15
F&R	20	24	10
H&CP	3	3	3
REP	65	61	24
<b>Total</b>	<b>141</b>	<b>166</b>	<b>65</b>

4.4 The tendering team will continue to devise procurement strategies that encourage and support SMEs in bidding for Council contracts. Notable procurements include:

- Church Street Redevelopment - The negotiated procedure for identifying a Joint Venture partner for the £280m redevelopment secured substantial social value commitments. Central to the process was resident involvement, ensuring their perspectives were integral during negotiations and represented on the evaluation panel.
- Facilities Management (FM) - The transition from the existing Total Facilities Management (TFM) model to five new FM contracts was aimed at enhancing service quality and expertise, while also broadening the scope for small and medium-sized enterprises (SMEs) to participate. This approach contrasts with the traditional practice of awarding a single, large TFM contract to bigger organisations.
- School Health Services – The re-procurement of the bi-borough School Health service, which focuses on enhancing the health of school-aged children, was inclusive, with service users actively involved from the development of the specification to the evaluation stage, ensuring their significant influence on the outcome.

4.5 The school health and Church Street procurements serve as a model for resident engagement, setting a standard for involving residents in our tenders wherever possible. A new internal guidance document has been created with options and advice on involving residents and service users in our procurement decisions, from specification development and market engagement events to, occasionally, tender evaluations. Involving service users in tender evaluations can be a delicate balance, as it necessitates ensuring participants are well-trained and

aware of confidentiality and impartiality to uphold the procurement process's integrity.

## **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 procurement policy:

- Supplier commitment to pay Living Wage
- Supplier commitment to deliver Responsible Procurement outcomes
- Signed contracts in place prior to purchase orders being raised
- Exceptions to the Council's procurement policy – recording situations where the requirements of the Council's Procurement Code have been waived. For example, the competitive selection of suppliers has not been conducted.

### Exceptions to policy

5.2 The Council's Procurement Code stipulates that contracts over £25,000 must be competitively awarded. However, certain business risks or urgent needs in accordance with the Public Contracts Regulations 2015 (PCR) may justify direct awarding to a supplier without competition. For below-threshold contracts, an internal exemption/waiver from the Procurement Code is required, subject to approval by the Executive Director of the requesting Directorate and the Director of Commercial Partnerships. The waiver process also highlights cases where suppliers operate without a signed contract, drawing Executive Director attention to these situations which represent a significant risk for the council. Waivers should be raised at contract award stage (e.g. procurement board Gate 3), if a proposed award does not comply with the Procurement Code. If it becomes apparent that a supplier is 'working at risk' (which can be when work starts prior to a contract being signed, or work continues after contract expiry) this is also captured via a waiver.

5.3 Procurement has led significant efforts to enhance governance and regularise services that were previously uncontracted, which has increased in the number of waivers over the last year. Ongoing efforts to link spending to contracts has highlighted other areas where procurement governance should apply. The establishment of the Buying Team in January is improving compliance on purchasing between £25,000 and £100,000.

5.4 During the last year, 160 waivers were requested, an average of 13.3 per month. This represents an increase compared to the monthly average of 5.8 per month and a total of 70 waivers during the previous period. Of these waivers, some involved suppliers working without a contract in place. A number of contracts were awarded compliantly with competition, but suppliers still started work without a signed contract in place. Some involved waivers for retrospective contracts, where a contract was signed prior to obtaining appropriate governance

approvals, and other more minor breaches of the Procurement Code. Overall, 46 of the waivers related to contracts valued below £100,000.

5.5 The reasons for the increased number of waivers are summarised below:

- Previously, contracts valued below £100,000 were managed by Directorates without Procurement visibility, but with the new Buying Team established in January 2024, there is now improved oversight over these contracts and exceptions to policy in this 'below £100,000' category are now being monitored and reported.
- During the COVID-19 crisis, contracts such as Everyone In and the Rough Sleeping Initiative (RSI) from May 2022 to March 2025 operated on implied terms. Efforts since June 2023 have aimed to formalise these terms, ensuring coverage for past and future expenses. Due diligence has been performed to validate service relevance, inflation considerations, and responsible procurement. Direct awards made in accordance with Regulation 32 of the PCR were justified due to unique service offerings and exclusive rights held by providers, with urgency underscored by the potential impact on vulnerable individuals' wellbeing. Similar rationale also applies to some Adults contracts.
- Some contract values have been exceeded through adding additional works and services via contract variations. The Public Contracts Regulations (PCR) permits variations to contracts where the variations comply with the requirements of Regulation 72. We are investigating ways to integrate expenditure tracking with contracts and spend forecasting within the new e-contract management system.

5.6 In April 2024, a process was introduced to manage direct awards made under Regulation 32 of the PCR. A summary of contracts falling into this category is now shared with Executive Directors each month and presented to the Statutory Officers' Group regularly. We anticipate a notable decrease in exemptions this year, through the collaborative efforts of Procurement, Legal and Directorates including:

- Sharing monthly data on policy exceptions and contract-less suppliers with Procurement Boards
- Sharing the procurement pipeline, and promotion of earlier engagement and enhanced forward planning in procurement activities by service areas
- Statutory Officers Group continuing to oversee some areas of compliance

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

5.7 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 now mandatory for purchase orders valued at £25,000 or above. 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.

- 5.8 During the last 12 months, a total of 90 non-compliant POs valued above £100k were raised, an average of 7.5 per month, an increase compared to 5.8 per month 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 investigated with the relevant service area, with the aim of putting a contract in place as soon as possible. If a valid contract is not found a waiver is also required.

#### Living Wage commitments

- 5.9 The Council's commitment to the Living Wage is evident in its procurement practices. Since its Living Wage accreditation in 2019, which is renewed annually, the Council has mandated suppliers to pay the Living Wage in new contracts. While existing contracts are negotiated to include this where possible, some contracts lack provisions for enforcement until renegotiation. All contracts above £100,000 awarded in the past 12 months included a Living Wage commitment, maintaining a 100% record since October 2021.
- 5.10 Since January 2024, the new Buying Team has taken over procurement for contracts valued between £25,000 - £100,000, previously managed by Directorates, enhancing control and compliance with the Living Wage policy. From August 2024, procurement compliance reporting/KPIs will reflect Living Wage adherence for all contracts valued at £25,000 or above.

#### Responsible Procurement commitments

- 5.11 The Procurement Code mandates that responsible procurement commitments by suppliers are included in new contracts valued above £100,000, accounting for a minimum of 10% of the total evaluation in tenders. In some areas this is increased to 20% in scenarios where competition and leverage are strong, allowing for greater social value or supply chain risk mitigation. In certain tenders with a high potential impact of responsible procurement, such as the recent catering services tender, the allocation has been raised to 30%. This data is recorded at the point the contract is signed, and then tracked throughout the contract lifecycle to ensure that suppliers deliver against their commitments.
- 5.12 Over the last year, 97.5% of contract awards valued above £100,000 included such commitments, an improvement from last year. Procurement has introduced checkpoints during the procurement process to guarantee that commitments are ambitious and robust, with a particular focus on external frameworks and directly awarded contracts where competitive tender leverage is absent.

## **6. Update on Priority Areas**

- 6.1 This section revisits the priorities highlighted in last year's Committee report.

#### Transforming Public Procurement regulations

- 6.2 On 28 October 2024, the government plans to replace this existing legislation with a new regime, known as the 'Procurement Act 2023'. The new Act is

intended to create a simpler, more flexible commercial system, which enables small businesses and social enterprises to win more public contracts and allows increased scrutiny of public spending.

6.3 The Act's key areas of focus include:

- New standards of transparency, including a requirement to publish our procurement pipeline 18 months in advance, increased obligations to publish information about our procurement and contract management activity and new requirements to publish information about how suppliers are performing.
- A new, more flexible procedure for a competitive tendering process.
- Removing barriers so that small businesses and social enterprises can compete for and win more public contracts.
- Strengthening of rules ensuring that suppliers are paid on time.
- Creating a digital platform for suppliers to register their details once for use in any bids and allow suppliers to see all opportunities in one place - to increase spending with SMEs and social enterprises.
- Strengthening the approach to excluding suppliers where appropriate.

6.4 The Procurement team has proactively collaborated with the Cabinet Office and other councils, as well as internally with the Legal team, Kensington and Chelsea and WCC contract managers, to ensure readiness for the upcoming legislative changes. Initial efforts were dedicated to training the Procurement and Legal teams, with the Procurement team completing 10-hour e-learning, and a select group of 'superusers' scheduled for a more comprehensive three-day training.

6.5 Ongoing training for Contract Managers is being conducted through the monthly Contract Management Forum. The team is also closely coordinating with our new e-Procurement system provider to guarantee system compliance with the new legislation in October.

Procurement Code Update

6.6 The Council's Procurement Code is undergoing an update to incorporate the requirements of the new legislation and reflect Fairer Westminster, to be launched in October. Updates will include:

- Simpler, more user-friendly presentation – easier for officers to understand
- Introducing Responsible Procurement policy obligations, to support delivery of the Responsible Procurement and Commissioning Strategy
- Improvements to how high-risk procurement activity is defined, including introduction of a new Risk Assessment Tool
- Mandating Procurement Buying Team involvement in contracts between £25,000 and £100,000
- Streamlining commercial governance so that resources and scrutiny are focused on high-risk and high-value (£500,000 and above) procurements, reducing the time and resource involved in simpler contracts

- Increased Cabinet Member scrutiny of procurement strategies for contracts valued at £5m and above (which were previously approved by Executive Directors only), to enable greater input from Members at an earlier stage
- Clearer obligations relating to contracts for IT systems or software, or which involve personal data.

#### Introduction of Buying Team

- 6.7 In November 2023 the Buying team was introduced with responsibility for all purchasing between £25,000 and £100,000. In the 120 projects since its launch the service has achieved its four key outcomes:
- 94% of contracts awarded to local minority-led businesses and SMEs
  - Ensuring that Officers are complying with the Council's policies and procedures when spending more than £25,000 with POs rejected if they are not
  - Low value buying is easier for services with positive stakeholder feedback about the new team
  - Savings made of over £200,000 (almost 10% of the £2.45m budgeted spend)

#### New tendering and contract management system

- 6.8 A new digital solution for e-tendering and e-contract management is being introduced this summer, offering increased flexibility and the ability to streamline operations, minimise repetitive tasks, and provide consistent support throughout the commercial lifecycle. For suppliers, the system simplifies the process by allowing them to input certain information just once, eliminating the need to re-enter data for each tender. This feature is especially advantageous for SMEs who typically have smaller bidding teams. The system also introduces several functional upgrades that improve our ability to monitor SME participation and manage procurements with multiple lots more efficiently. This platform is a key component in our ongoing efforts to evolve into a top-tier procurement entity.

#### Insourcing Framework update

- 6.9 A framework approach to insourcing decisions has been in place since November 2022 overseen by a monthly multi-disciplinary Insourcing Programme Board. The board includes representatives from the services, finance, legal, HR, economist, corporate property and IT. For an identified service, a checklist is completed to be reviewed by Programme Board. If insourcing is considered viable, a full options appraisal will be completed to be reviewed by the Board.
- 6.10 22 services have been assessed so far with one large scale service being insourced in 2024/25 and one pilot underway:
- Cabinet in July approved the implementation of a hybrid delivery model for the Housing Solutions Service from April 2025, as per the options appraisal conducted from October 23 to February 24. This model will bring certain service elements in-house for greater Council control and decision-making, while other elements will remain outsourced. This approach aims to



maintain service continuity during high demand and allows for a phased insourcing and recommissioning process.

- The 9-month DLO pilot launched in March 2024 for communal repairs has seen the Community Works Team, comprising 6 tradespeople, complete approximately 150 work orders across 2 estates with high resident satisfaction. A review after six months will evaluate the pilot's performance and cost-effectiveness to inform future service delivery decisions.

### Delivery of Responsible Procurement and Commissioning Strategy

- 6.11 This section and the Contract and Supplier performance report summarise progress against the Responsible Procurement and Commissioning Strategy. The learning is being collated in a progress report to be published in September. The aim of the progress report is to:
- Provides an update on the work undertaken to implement the RPC Strategy
  - Set out plans for continuous improvement
  - Shares candid lessons learned so that similar local authorities can benefit from our experiences with implementation, both positive and challenging
  - Demonstrates the commitment to responsible procurement and commissioning
  - Improves credibility amongst peers, opens opportunities for further collaboration with public authorities across the UK as well as London boroughs
- 6.12 Over the past year, there has been a noticeable enhancement in responsible procurement practices within tenders:
- For phase 2 of the Ebury re-development, residents were engaged to establish social value priorities and evaluate some responses.
  - The Church Street procurement secured a £1 million cash contribution as part of the social value commitment to residents, which includes employment, skills development, and volunteering opportunities. Additionally, their proposal is projected to reduce carbon emissions by over 2,700 tons compared to the original design.
  - As referenced above, a tender with a 30% total weighting in a catering contract has been completed including the employment of individuals with learning disabilities while saving £200,000 over the five-year contract.
- 6.13 The Supplier Readiness Programme, funded by the UK Government through the UK Shared Prosperity Fund has been a significant contributory factor in increasing spend with target organisations. Support including one-to-one tailored advice and guidance, workshops and events such as 'Meet the Buyer', business planning, social value, and bid writing sessions will help suppliers to acquire new skills, and submit compliant, high-quality bids, increasing their chances of securing public sector contracts.
- 6.14 To date 160 businesses have received support with 11 bidding for new work from the council. The programme has received positive feedback, particularly from

SMEs and target organisations that either had unsuccessful bids on previous tenders or had never participated in public sector tendering. These suppliers have highlighted the creation of peer-to-peer networks as a significant benefit, providing a platform for connection, and the exchange of details, experiences, and knowledge. The external funding ends in March 2025 and the Procurement and Responsible Economy team are currently considering how the programme can continue.

- 6.15 Overall, the progress on Responsible Procurement delivery has been encouraging, and recognised by other boroughs, but there is much more to achieve this year working closely with the Responsible Economy team:
- Start using an innovative points-based system for social value to ensure that each contract yields the appropriate amount of social value, both in quantity and quality.
  - Increase integration of responsible procurement criteria for lower value projects via the Buying Team.
  - Transition from responsible procurement inputs via tendering to supplier outputs via contract management and supplier relationship management.
  - Develop a mechanism to recognise ambitious specifications as responsible procurement criteria as well as tender criteria.
  - Develop a sustainable procurement policy which will be part of standard specifications which will include energy efficiency thresholds and other important green criteria
  - Refresh our external facing webpages with the progress updates and individual case studies.

## **7. Procurement & Commercial Services Priorities and Forward Plan**

### Service Priorities

- 7.1 Some of the priorities for next year are listed below:
- Successful implementation of the Procurement Act 2023
  - Implement a roadmap for further development of the new e-tendering and contract management system, to automate manual tasks and fully leverage its capabilities for the council's benefit
  - Phase 2 of Contract Management Framework (see Contract and Supplier Performance report)
  - Continue to deliver Responsible Procurement and Commissioning Strategy
  - Refresh our approach to managing procurement risk, working with the Fraud team and Competition and Markets Authority to deliver training on Procurement fraud, and developing a Procurement Risk Management Framework for the council
  - Enhance the commercial offer of procurement to add value for services and deliver best value

## Forward plan

7.2 Listed below are the major procurement projects 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 model	April 2025
Adults & Public Health	<b>Older People's Preventative Day Services</b> - Services for Care Act eligible and residents below threshold to promote independent living	June 2025
Adults & Public Health	<b>Learning Disability Housing Care and Support</b> – procurement for housing support services for residents with learning difficulties	April 2025
Adults & Public Health	<b>Beachcroft Care Home</b> - overarching support service for informal carers to receive the right support at the right time.	April 2026
Children's Services	<b>Passenger Assistance and Short Breaks</b> - Safety and support of children / young people with special needs during transit to education	September 2025
Children's Services	<b>Short Breaks</b> - manage respite care for those with learning disabilities	September 2025
Children's Services	<b>SEN Tuition/ Alternative Education</b> – provision of SEN services and Virtual School.	May 2025
Children's Services	<b>Schools Capital Projects</b> - Strategic professional services contracts and project design/build contracts as required.	Various
Environment & Communities	<b>Westminster Advice Partnership</b> - Advice services to support residents with claiming benefits, debt problems, housing applications etc	September 2025
Environment & Communities	<b>Highways contractor re-procurement</b> - Delivery contracts in relation to highways services	April 2026
Environment & Communities	<b>Cashless parking</b> - Collection of cashless payments for on street parking	March 2025
Environment & Communities	<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 & Communities	<b>Leisure Portfolio</b> – Management and maintenance of Leisure centres	June 2026
Environment & Communities	<b>Parks and Open Spaces</b> – management and maintenance of parks and open spaces.	April 2026*
Environment & Communities	<b>Public conveniences</b> - Operate and maintain on-street public conveniences to ensure cleanliness and public safety.	November 2024
Finance & Resources	<b>Print and Document Management Services</b> – Digitalisation opportunities for the service to rationalise requirements ahead of procurement	June 2025
Finance & Resources	<b>ICT managed Services</b> - End User Computing services, with option to procure IT hardware.	June 2025
Finance & Resources	<b>Out of Hours contact Centre</b> – Re-procurement of resource and technology requirements for out of hours contact centre.	November 2025

Regeneration, Economy & Planning	<b>291 Harrow Road</b> - Two-phase scheme providing about 133 homes, including 16 for people with learning difficulties	April 2026
Regeneration, Economy & Planning	<b>Hopkinson House Refurbishment</b> - Refurbish and provide approximately 33 temporary accommodation units	Dec 2024
Housing & Commercial Partnerships	<b>Supported accommodation pathways</b> – Person centered, supported accommodation to for young people, women, mental health and rough sleepers	April 2025 & April 2026
Housing & Commercial Partnerships	<b>Street outreach &amp; Floating Support</b> - Front-line response including direct engagement with individuals sleeping rough and providing support to those at risk of homelessness	June 2025
Housing & Commercial Partnerships	<b>Housing Solutions</b> - Statutory housing and homelessness duties for singles pathway and the management of TA provision	April 2026
Housing & Commercial Partnerships	<b>Housing Term Contracts</b> – Specialist contracts for different disciplines to maintain the housing stock	June to November 2027
Corporate Services	<b>Temporary Agency Resource</b> – contract to allow WCC to bring in temporary agency staff.	May 2025*

*\*Contract includes provision to extend*

## 8. Financial Implications

- 8.1 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.

## 9. Legal Implications

- 9.1 Legal Services will continue to support Procurement & Commercial Services with implementing the Procurement Act 2023, and the major projects set out in section 7.2 of the report. Further legal implications are included in the exempt appendix.

## 10. Carbon Impact

- 10.1 The Climate Emergency team funded a two-year fixed term resource within the Responsible Procurement team to accelerate a reduction in supply chain carbon. This new officer is helping to embed working practices throughout our procurement and contract management processes to reduce contract-related direct carbon emissions (Scope 1 and 2) and indirect emissions (scope 3).
- 10.2 Scope 1 emissions reduction is being pursued through a partnership to electrify the internal fleet, involving departmental engagement, demo vehicles to showcase viability, and a 'fuel hierarchy' favoring electric vehicles. Negotiations with the contractor allow for early electric vehicle adoption without termination fees.

- 10.3 Scope 2 emissions, related to electricity use, are being addressed through the preparation for procuring renewable electricity Power Purchase Agreements (PPAs). A detailed report on a multi-off-taker PPA with seven other boroughs is under review, exploring both 'virtual' and 'physical' PPA models. The procurement is planned for around September 2025, considering the complex nature of the process and the current energy market uncertainties.
- 10.4 The team is addressing Scope 3 emissions by incorporating sustainability and carbon reduction criteria into contracts over £100,000 and engaging with suppliers through the Supplier Relationship Management program to identify and pilot lower carbon solutions.
- 10.5 This work is reported to the Climate Emergency Delivery Board.

**11. Equalities Impact**

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

**12. 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:** Ed Humphreys, Interim Director of Commercial Partnerships, [ehumphreys@westminster.gov.uk](mailto:ehumphreys@westminster.gov.uk)