



Report of Chief Officer – Financial Services

Report to Corporate Governance and Audit Committee

Date: 29th June 2020

Subject: Procurement Assurance Report – 2019/20

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

- This report provides information and assurance on procurement policies and practices within the remit of the Council's Procurement and Commercial Service (**PACS**).
- Each Directorate is accountable for the procurements that they need in order to secure the outcomes they are responsible for. PACS is accountable for provision of professional support to complex procurement activity. From the review, assessment and on-going monitoring carried out, the Chief Officer – Financial Services has reached the opinion that procurement policies and practices are up to date, fit for purpose, and effectively communicated.
- The Procurement Strategy 2019 to 2024 (**Procurement Strategy**) was adopted by Executive Board on the 26th June 2019 and identifies 5 key areas for procurement. It acknowledges value for money and good governance as the foundation stones of procurement, but also highlights the need to improve engagement with our suppliers and contract management, to be more commercial and to focus on social value.
- As a result of the Procurement Strategy, PACS has developed a Social Value guidance document for commissioners (endorsed by Scrutiny Board (Strategy and Resources) on 20th January 2020) which requires that in all procurements commissioners:

- consider social value opportunities in the 3 main priority areas of: Employment and Skills, the Environment, and Education;
- ask suppliers to consider for themselves what else they can do to be not just entrepreneurs but to be 'social entrepreneurs' in Leeds;
- for contracts valued above £50,000, apply a minimum 10% weighting in order to evaluate any Social Value commitments as part of the tender process.
- The Council has entered into a contract with the Social Value Portal (**SVP**) to allow reporting of social value commitments and performance against a series of Themes, Outcomes and Measures (**TOMs**) constructed on the principles of cost benefit analysis and "Social Return On Investment". The SVP will assist in managing the tender process, unlock social value in the supply chain (helping to set targets, manage performance and report progress), and provide live reporting (with interactive dashboards and displays).
- A Social Value Board (chaired by the Director of Resources and Housing) has been established with representation across all directorates, in order to consider and promote social value in all the Council's procurements, and provide an opportunity for sharing information and best practice on delivering social value.
- PACS has devised an anti-slavery and human trafficking questionnaire to be issued to suppliers with whom we spend more than £100,000 per annum. It requires information relating to their supply chains, their workforce awareness of modern slavery and their procedures for dealing with it. Contract managers will use the information to prompt consideration of this issue at review meetings.
- A refresh of the Council's procurement documentation and the Contract Procedure Rules (**CPRs**) was implemented from the 1st August 2019, further strengthening procurement controls. CPR training for Council staff continues, and an online interactive tool has been launched to help commissioners work through CPR processes.
- There have been no formal procurement challenges in the period to which this report relates.
- Expenditure with local suppliers and SME's equated to 64.64% of total expenditure in 2019/20 (up from 51.97% in the previous year).
- On-contract spend remains strong and there is general compliance with procurement policies. This is evidenced by the fact that on-contract and compliant expenditure stands at 95.6% for the 2019/20 financial year (a marginal reduction on 2019/20 numbers).
- The number of waivers of CPRs in 2019/20 was 79; down from 153 in the previous year.

Recommendations

Members are requested to consider and note:

- the assurances provided in this report from the review, assessment and on-going monitoring carried out; and
- the Chief Officer – Financial Services has reached the opinion that procurement policies and practices are up to date, fit for purpose, and effectively communicated.

1 Purpose of this report

- 1.1 This is the annual report of the Chief Officer – Financial Services to the committee, concerning the Council’s procurement function.
- 1.2 Members are asked to consider the ongoing work to maintain effective procurement support tools and guidance, and note the assurance offered by the Chief Officer – Financial Services.

2 Background information

- 2.1 The Council procures a very wide range of goods, works and services, including front-line services and back-office support. The Council’s spend with third parties through procurement and commissioned activity remains close to £800m per annum.
- 2.2 CPRs form part of the Council’s Constitution and are required to be adopted by local government legislation. These are supported by a suite of procurement and guidance documents accessible by commissioners on InSite, including a new interactive tool to help commissioners work through CPR processes.
- 2.3 Each Directorate is accountable for the procurements that they need in order to secure the outcomes they are responsible for. The Chief Officer – Financial Services is accountable for the Council’s procurement function, with day-to-day responsibility for delivery of procurements sitting with the Head of Commercial (head of service for PACS). PACS provides professional advice and support to complex procurement activity. Support provided by PACS includes procurement processes and compliance with procurement legislation, identifying and working with services to reduce off-contract spend, identify procurement savings, and provide general check and challenge.
- 2.4 The Procurement Strategy was adopted by Executive Board on the 26th June 2019 and identifies 5 key areas for procurement. It acknowledges value for money and good governance as the foundation stones of procurement, but also highlights the need to improve engagement with our suppliers and contract management, to be more commercial and to focus on social value.
- 2.5 The Procurement Strategy continues to promote a category management approach to procurement. It also advocates a whole lifecycle approach, defines clear roles and responsibilities, and provides a suite of documentation which can be tailored proportionately to the risks and value of procurement activity.
- 2.6 This report reflects procurement activity during 2019/20.

3 Procurement Strategy

- 3.1 Progress made since the adoption of the Procurement Strategy in June 2019 is highlighted below:
 - 3.1.1 Value for money and efficiency. The council consistently seeks to ensure it obtains maximum value from every pound spent through best value and innovative procurement practice; a consistent corporate approach to

commissioning; a clearly identified savings strategy and the continued implementation of a category management approach to procurement (see paragraphs 4.5 to 4.10, below).

- 3.1.2 Governance. Ensuring compliance with the Contract Procedure Rules, the Constitution and the Public Contracts Regulations 2015 in order to manage procurement risk and to comply with legal requirements. This includes matters relating to 'on-contract' expenditure and the use of waivers, and that the Council has received no formal procurement challenges in 2019/20 (see paragraphs 4.25 to 4.42, below).
- 3.1.3 Social Value. Seeking to improve economic, social and environmental wellbeing from our contracts over and above the delivery of the services directly required at no extra cost (see paragraphs 4.11 to 4.17, below).
- 3.1.4 Commercialisation. We are constantly looking at new ways to develop and create commercial opportunities through procurement and commissioning activities, not just by promoting revenue generation, but by looking at how we engage with, and influence, the marketplace and potential suppliers in order to drive innovation and develop new ideas around service delivery.
- 3.1.5 Strategic Suppliers. Effectively managing our strategic supplier relationships through continuous engagement with them and through effective management of all contracts from beginning to end in order to control costs, obtain the quality outcomes and performance levels set out in the contract and minimise the level of risk.

3.2 Progress in relation to the "procurement enablers" is as follows:

- 3.2.1 PACS are continuing to develop talent by supporting staff obtain professional qualifications and for apprenticeships. In the last year we supported 5 officers in undertaking CIPS (procurement practitioner qualification) and 1 apprenticeship;
- 3.2.2 PACS are working closely with DIS in developing Procure 2 Pay systems to allow the full implementation of electronic invoicing. In addition, we are working collaboratively with other local authorities in the Yorkshire and Humber region in procuring a new e-tendering system etc;
- 3.2.3 We are embracing innovation in our approach to procurements (such as the utilisation of bespoke dynamic purchasing systems for the White Rose Framework (services for looked after children));
- 3.2.4 embedding change in the organisation by ensuring that senior managers recognise the importance of procurement and contract management, and promote it as a way of leading and managing organisational change. As such, PACS senior officers regularly attend commissioning boards and leadership teams across directorates; and

- 3.2.5 a dashboard procurement report is currently being developed which will be presented quarterly to CLT and directorates to measure volume of procurement activity, and compliance with CPRs.

Contracts Procedure Rules

3.3 Section 135 of the Local Government Act 1972 requires local authorities to make standing orders for procurement activity, including securing competition and regulating tenders – the CPRs. The CPRs form part of the Council’s Constitution

3.4 CPRs are regularly updated and strengthened to reflect changes in legislation and Council policy. They were previously updated in August 2019, with the major amendments as follows:

- CPR 1.3 and 27.2 - Before any decision to waive CPRs is taken by the relevant Chief Officer the Authorised Officer must seek advice from PACS on the financial, legal, risk and equality implications of the waiver sought (previous requirement was to notify following a decision);
- CPR 3.1.7 - A requirement to consider “Social value and Foundation Living wage”, “Commercial opportunities and innovation” and “Strategic supplier engagement and contract management” under the Procurement Strategy throughout the life of the procurement;
- CPR 3.1.11 - Where any procurement contains, or is likely to contain, any ICT component the Authorised Officer shall consult the Digital and Information Service to ensure that appropriate skilled resource is engaged;
- CPR 7.1 – Following consultation with commissioners, and to tie in with the Government approach, the threshold for low value procurements was increased from £10K to £25K. This provides a more proportionate and agile procurement process for contracts up to £25k. In addition, it should be noted that the aggregate value of contracts below £25k for 2019/20 was £575k (c.0.06% of the total spend), therefore this change does not create a material additional risk and all procurements over £10K must still be registered on Yortender and Contracts Finder, once complete;
- CPR 11.7 – Guidance included at Appendix 2 of the CPRs in relation to Company Financial Health Checks and Profit Warnings. This guidance should be used if there are any financial concerns in relation to a potential contractor irrespective of contract value;
- CPR 15.2 – Amended to allow evaluation on 100% quality in limited circumstances (e.g. there is a set budget and the council is looking to obtain the best quality service available);
- CPR 18.8 – Requirement to advise commissioners within Directorates as to which organisation the contract has been awarded to in order to reduce off-contract spend;

- Definition of “Authorised Officer” expanded to include “relevant budget holders within Directorates”.
- Generally, the type of decision required to be taken – Key, Significant Operational or Administrative (or a combination covered by one report) – has been clarified.

3.5 A further review of CPRs is currently in progress with a view to them being adopted on the 1st August 2020.

Procurement tools and documents

3.6 The key procurement delivery documents and tools are refreshed regularly to reflect legislation and Council policy.

3.7 Of particular significance is PACS has undertaken a review and updated the entire suite of procurement documentation to ensure they are user friendly for commissioners, encourage bidder participation and focus on innovation and opportunities. In particular, the standard terms and conditions of contract have been given a complete overhaul to ensure they are up to date with current legislation, more commercial in outlook and easier to understand. Further, the Contract Management Plan, Assurance Guide and Tender Evaluation guidance have been updated to make them fit for purpose. All documents will be made available to partners in the region.

Communicating the Strategy and procurement policies

3.8 As well as providing online training and tutorials, each Category team within PACS works closely with commissioning staff within directorates to ensure compliance with CPRs and use of the correct documentation and governance processes.

3.9 In addition, the Procurement Strategy, updated documents and supporting tools are available on InSite, within toolkits dedicated to procurement and category management which are updated when any changes are made, and with key changes being further communicated on the InSite carousel. These documents include a new interactive tool to help commissioners work through CPR processes.

3.10 A cross-council Procurement Practitioner Group meets on a monthly basis to share issues and best practice, and training sessions are organised for procurement staff and commissioners when new significant policy changes (such as the New Procurement Strategy) are implemented. Introductory training is provided to new Members and commissioners.

3.11 PACS also hosts the Council-wide Commissioners’ Procurement Group, and has representatives on various commissioning boards and attending senior management team meetings in service areas across the Council.

4 Procurement activity during 2019/20

4.1 PACS’ resources are prioritised to supporting high value and/or complex (from a risk perspective) activity.

- 4.2 PACS also provides support in respect of lower value procurements by way of:
- 4.2.1 an e-learning procurement training module for council staff through the Performance and Learning system which gives guidance and training for staff council-wide to comply with policy, governance and CPRs when ordering goods and services;
 - 4.2.2 telephone support; and
 - 4.2.1 where non-standard terms and conditions are proposed, the requirement that these are vetted through the commercial team within PACS.

Regional Procurement

- 4.3 The regional procurement category work continues to develop, with PACS administering the regional strategic procurement group (**SPG**). The Council liaises with other regional authorities via SPG, which meets every six weeks to share best practice, act as the voice of the region on national procurement issues, and promote collaboration opportunities. The Council administers the SPG, and reports periodically to the Yorkshire and Humber Chief Executives Group. The Council feeds in to SPG representation on the LGA National Advisory Group for Procurement which provides leadership at a national level to local government procurement. The Council also sits on the Public Sector Procurement Working Group working with Cabinet Office on developing strategy.
- 4.4 In addition, PACS manages the regional online tendering portal, and is the Council's representative on the YORHub board (managing a number of regional construction and consultancy framework contracts).

Value for Money in Procurement

- 4.5 The £185,000 budget savings set for PACS in 2019/20 were achieved.
- 4.6 PACS has led roll-out of the Councils 'Faster Payment Service (**FPS**) whereby the Council receives a discount in exchange for payment earlier than standard terms.
- 4.7 Tender documentation highlights the FPS to potential contractors, and PACS has worked with DIS and held workshops for commissioners to explain and promote FPS (enabling commissioners to utilise supplier relationships to further promote it).
- 4.8 There has also been a significant amount of work from PACS to address barriers that prevent invoices being paid within 10 calendar days. This has involved working with directorates and challenging current processes to enable a faster turnaround on the invoice processing. This work is on-going especially within Children's and Families and Adults and Health. The PACS team have also worked with Central Payments and directorates, and now independently manages the whole invoice payment process.
- 4.9 The FPS team generated income of £123,525.61 during 2019/20 from 83 suppliers.
- 4.10 PACS have also been supporting the Business Support Centre in the implementation of the 'No Purchase Order, No Payment' policy. Whereby invoices

will not be paid unless they quote a valid order number. PACS have updated the terms and conditions within the tender documents to reflect this.

Social Value

- 4.11 Social Value from procurement is a key element of the Council's wider aspirations for inclusive growth in conjunction with local communities and businesses. Social Value outcomes are monitored by the Council around some key areas of activity, and the beneficial outcomes include the following:
 - 4.11.1 a key aspect of social value is improving opportunities for local companies and SMEs. Expenditure with local suppliers and SME's equated to 64.64% of total expenditure in 2019/20 (up from 51.97% in the previous year), with associated employment and skills outputs from procurement activity and planning agreements. Additionally the YORscep supply chain engagement programme will post opportunities on the YORhub website which will be open to all sub-contractors registered, in order to reduce onerous barriers such as lengthy pre-qualification processes, and improve visibility of projects. This in turn should result in even greater values of expenditure being spent locally, and quality opportunities becoming available to local businesses. Further, we plan to reach out directly to those local organisations that that we do not currently work with by using the Council's business data base to make them aware of tendering opportunities and offer assistance in registering on the Yortender procurement portal;
 - 4.11.2 employment and skills targets are assigned to contracts with a value of £500,000 or more and a duration of at least 12 months. As a result of this a total of 387 Leeds residents have been supported into new jobs and apprenticeships over the last 3 years (financial years 2017/18, 2018/19 and 2019/20), compared to 204 in the preceding 3 years period; and
 - 4.11.3 the Council has been working towards compliance with the principles of the Unison Ethical Care Charter in relation to externally commissioned services and has committed to working towards the Rowntree Foundation Living Wage by working with the Roundtree Foundation and trade unions to develop a roadmap for future accreditation as a living wage employer.
- 4.12 The Council has also developed a collaborative and systematic approach to engaging with anchor institutions. The Anchor Procurement Group meet every six weeks to discuss ways in which we can collaborate and actively promote collective action on employment, low pay and social responsibility. We are currently looking at ways we can contribute to an Anchor Meet the Buyer event and SME Guide to be developed by the Anchors Procurement Group.
- 4.13 PACS has developed Social Value guidance document for commissioners (endorsed by Scrutiny Board (Strategy and Resources) on 20th January 2020) which requires that in all procurements commissioners:
 - 4.13.1 consider social value opportunities in the 3 main priority areas of: Employment and Skills, the Environment, and Education;

- 4.13.2 ask suppliers to consider for themselves what else they can do to be not just entrepreneurs but to be 'social entrepreneurs' in Leeds;
- 4.13.3 for contracts valued above £50,000, apply a minimum 10% weighting in order to evaluate any Social Value commitments as part of the tender process (note that aggregate spend on contracts of that value would be c£650m – i.e. this would apply to contracts equating to c.73% of Council spend).
- 4.14 The Council has entered into a contract with SVP to aid in the implementation of Social Value into Procurement, to allow reporting of Social Value commitments and performance against a series of TOMs constructed on the principles of cost benefit analysis and "Social Return On Investment". PACS continues to work with SVP and commissioners to determine a Leeds-specific set of TOMs which will help achieve our social value priorities. The SVP will also provide a procurement platform that will assist in managing the tender process and unlock social value in the supply chain. The portal will provide an interactive solution designed to help set targets, manage performance and report progress. It will provide live reporting with interactive dashboards and displays, which include geospatial mapping of value by area. Data collected will also feed into an audit of social value achieved in Council contracts to be undertaken by colleagues in internal audit in 2020/21. SVP have provided 3 dedicated members of staff to provide training, stakeholder and contract management and portal support.
- 4.15 A Social Value Board (chaired by the Director of Resources and Housing) has been established with representation across all directorates. The first meeting of which took place on the 21st February 2020. The purpose of the Board is to consider and promote the inclusion of social value in all the Council's procurements and provides an opportunity for sharing information and best practice on delivering social value.
- 4.16 The Council's delivery of additional social value from procurement will also be the subject of review by internal audit for the year 2020/21.

Modern Slavery Act 2015

- 4.17 In 2019 the Council published a Modern Slavery Statement which sets out what it will do tackle Modern Slavery in its supply chain:
- "We are in the process of creating a questionnaire that will be distributed to a selection of our suppliers, in order to prompt further consideration of their own supply chains, their workforce awareness of modern slavery and their procedures for dealing with it"
- 4.18 As a result PACS has devised the questionnaire attached at Annex 2 which will be issued to suppliers with whom we spend more than £100,000 per annum, in order to prompt further consideration of their own supply chains, their workforce's awareness of modern slavery and their procedures for dealing with it. Contract Managers within service Directorates will use the information provided to prompt a discussion with our contractors regarding this issue, as modern slavery should be on the agenda of every contract review meeting. As such, we have developed guidance for contract managers to support their review of questionnaire responses which is set out at Annex 3.

- 4.19 Compliance by supplier's with their anti-slavery obligations will be picked up as part of the internal audit of social value aspects of procurement (see paragraph 4.16).

Contractor Insolvency and Profit Warnings

- 4.20 The collapse of a number of high profile construction/facilities management companies in the UK in recent years has served to re-inforce the importance of good contracts and contract management practices, but also the need for robust procurement on behalf of the Council, as good procurement will ultimately lead to good contracts. To address this issue, PACS have produced a guidance and policy document for commissioners and contract managers within the Council relating to company financial health checks and profit warnings. The document highlights actions that can be undertaken prior to entering into a contract as well as during the contract period in order to provide reasonable mitigations against the risk of contractor insolvency. The document was launched at the same time as the New Procurement Strategy, updated CPRs and procurement documentation and is referenced as Appendix 2 to the updated CPRs. The guidance document was reviewed by Internal Audit in September 2019 as part of a wider 'Central Control of Due Diligence Arrangements' report, with only a few minor recommended changes (which have subsequently been actioned).

YORtender procurement portal and data transparency

- 4.21 The Council (along with other Yorkshire and Humber regional authorities) has used YORtender as its procurement portal for the last 6 years, enabling electronic tendering for the vast majority of procured spend. The Council is responsible for the regional contract management for YORtender which, along with the on-going SPG programme management, generates £74,000 per annum of external income.
- 4.22 PACS provide YORtender training and support across the Council with on-site training sessions, phone/email conversations and an on-line interactive tutorial.
- 4.23 YORtender also provides collaboration successes with other authorities in the region such as the White Rose Looked After Children framework.
- 4.24 CPRs require all spend over £10k to be registered through YORtender. Under the Government's Transparency Code local authorities must publish details (including a unique reference, a description of the goods/services/works and dates for review) of every invitation to tender for contracts to provide goods and/or services with a value that exceeds £5,000. This requirement is complied with through publication through the YORtender portal for spend of over £10,000 and by manual analysis of any spend exceeding £5,000 within FMS.
- 4.25 Local authorities must also publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000. The Council's Contracts Register published on Data Mill North fulfils this requirement along with a separate report for items below the threshold for publication on YORtender which also covers non and off-contract spend items.

- 4.26 The Council, in its role as SPG programme manager, is working closely (on behalf of SPG) with Sheffield City Council who are leading on the joint procurement of a new and updated e-tendering system for the region. The new system will replace YORtender when it expires on 31st December 2020.

Monitoring Contracts Procedure Rules and Waivers

- 4.27 CPRs require Chief Officers to involve and/or consult with PACS for specified procurement activity, and also requires PACS to be informed of the following activity: waivers, extensions, variations of high value contracts, where the template procurement plan or contract management plan is not to be used, breaches of CPRs and where ISPs (internal service providers) are not used. Members should note that aside from monitoring of non and off contract spend and waiver activity, current resources do not permit additional significant monitoring of compliance with CPRs, however the contract award process for contracts above £100,000, internal audit reports and the ongoing training and support provided to directorates (see above) offer further assurance around compliance.
- 4.28 CPRs allow certain rules to be waived in circumstances where relevant Chief Officers consider a course of action to be justified, provided that PACS is consulted before waivers are approved by Chief Officers, and that such waiver decisions are published as Significant Operational Decisions. However, issues relating to the inappropriate use of waivers of CPRs have been the subject of scrutiny over many years.
- 4.29 PACS officers have put in place a robust, automated process for capturing waiver information from the decision register, which allows officer resource to concentrate on seeking to understand the detail of each particular waiver, rather than finding and logging the information. This has improved the accuracy of the register of waivers.
- 4.30 PACS have also been focusing on ensuring that PACS is consulted prior to decisions being formally taken to waive CPRs, in addition to ensuring decisions are made prior to the contract start date. Despite the requirement only being implemented in CPRs part-way through the year, prior consultation with PACS took place in respect of 46% waiver decisions in 2019/20 (in comparison to being consulted in 18% of published decisions in 2018/19).
- 4.31 Recent analysis, utilising the more effective search tools referred to above, has identified 79 waivers of CPRs in 2019/20. This is a decrease from 153 waivers of CPRs published in 2018/19, which is the baseline measure for the waiver KPI in the Procurement Strategy. Of these 79 waivers, only 4 were correctly recorded as being related to timing and resource issues (i.e. there was insufficient time to procure the contract in accordance with CPRs). This indicates that the majority of waiver decisions in the current year have either been raised in line with CPR requirements or (in some circumstances) were not necessary (e.g. where contract value is up to £25,000, a direct award is permissible without the need to waive CPRs). Aggregate spend in 2019/20 against contracts which were the subject of waivers of CPRs was £16,526,211, being 2.33% of the total spend with third parties through procurement and commissioned activity.

- 4.32 A recent internal audit report in relation to waivers of CPRs identified that there are “good” processes and compliance in ensuring PACS is aware of all waivers undertaken, though it recommended as a high priority that further training on CPRs be provided. In terms of taking due consideration of the legal and policy framework when taking decisions to waive CPRs, the report found the control environment to be “good” and the compliance to be “acceptable”. In terms of the latter point, the report again identified the need to provide further training to increase compliance. Finally, the report identified a “good” control environment in place for reviewing and analysing waivers to learn lessons and feed back into the waiver process.
- 4.33 The evidence therefore suggests that the CPR waiver regime is (for the most part) being utilised in an appropriate fashion. However, it is recognised that there is still room for improvement in respect of the waiver process – for example, with regard to record keeping, consultation with PACS before taking a decision to waive CPRs, clarity of rationale behind a waiver and officer understanding of the waiver process. In respect of trying to improve officer understanding of how waivers of CPRs should properly be utilised, information on InSite has been reviewed and amended to make the process of waivers easier to follow and clearer to understand, and a flow chart of the process has also been published. In addition, a single format of contract register linked to the YORtender system has been adopted which includes clear dates in relation to contract expiry and a series of early warnings as to key procurement and decision making dates.
- 4.34 PACS has launched an interactive version of the council’s CPRs which is available on SharePoint. This resource has been developed to take colleagues through the key steps of a procurement. Telephone support is also currently available through PACS for this process. This has been rolled out to over 150 people within the Council.
- 4.35 Further training will continue to strengthen current procedures and allow a greater level of check and challenge, giving PACS the opportunity to provide advice and have visibility of the proposed waiver before the relevant decision is made. It also allows PACS to obtain greater detail in the reporting information gathered and the reason for the waiver being raised should be easier to identify.
- 4.36 Monitoring of the use of waivers will continue, and will be reported to the Corporate Governance and Audit Committee and to R&H Scrutiny Board. Internal Audit also carry out audit activity on a small number of specific procurements each year.

On/off contract spend

- 4.37 PACS continues to monitor off contract spend through FMS, actively collaborating with colleagues in the wider Council including the Business Support Centre, Corporate Finance and directorates (via their feeder systems) in order to have visibility of non and off-contract spend.
- 4.38 PACS produces monthly and quarterly reports detailing non and off-contract spend. These reports are used to inform monthly meetings with PACS Category Managers and their meetings with directorate contacts. The activity has enabled off contract spend to remain at minimum levels compared to total spend this financial year.

- 4.39 In 2019/20 is 95.6% of payments were on contract or compliant with CPR's. This is marginally lower than the 2018/19 figure of 96.6%. This decrease likely reflects a strengthened and more rigorous CPR compliance regime, where we have improved monitoring and further tightened compliance standards, direct decisions and in other areas. Compliance with CPRs has likely in fact increased.
- 4.40 PACS officers have continued to deliver compliance training to all directorates, with a particular focus on how to remain compliant when using FMS and P-Cards and promoting a holistic approach to lower value procurements so that services are considering their overall needs. These sessions have been delivered to large groups, individuals and have involved Heads of Service. PACS officers also provide post-training support with reports, monitoring and assistance with YORtender. More than 500 staff have been trained with some services having attending multiple sessions. Guidance documents have been created and published to Insite, the compliance section of FMS has been updated to facilitate ease of use and the team provides advice and support by telephone and email on a daily basis. The team has also rolled out remote training as a strategy to continue to provide training support during COVID-19.
- 4.41 PACS staff have undertaken an exercise to classify suppliers within FMS to easily identify whether they are Local or SME's. To date staff have manually classified more than 15,000 suppliers and entered this information into FMS. This has provided us with the ability to report more clearly on expenditure with SME and local suppliers and regularly report on trends in this area.
- 4.42 Contract expenditure analysis continues to be distributed at directorate and service level so that expenditure by directorates with suppliers who do not hold a valid contract is visible and action can be identified and undertaken. This report gives an overview to Directorates whether expenditure is compliant with CPR's. Collaboration with Directorates using the report has been successful toward eliminating non-compliance and ensuring best value is achieved from Council expenditure. Bespoke reporting is available upon request and utilised as a mechanism to assist services in improving their understanding of and compliance with CPRs.
- 4.43 PACS staff have been continuing to be actively focused on the orders raised for low value items (under £5,000). PACS have been challenging expenditure where there is a known contract with a supplier that has not been used and also where CPR's have not been visibly followed, following this up with advice and guidance on the correct process to follow. This has significantly reduced the number of orders that are raised incorrectly.

Challenges to procurement activity

- 4.44 There have been a number of requests for additional information in response to standstill letters however none of those requests have developed into formal proceedings challenging decisions by the Council on award of contracts.

Brexit

- 4.45 This is being kept under review. The proposed new procurement regulations are, for the most part, the same as the existing rules (with appropriate amendments to take account of practical changes like utilising a UK-based online portal, rather than the EU tendering portal).

FOI requests

- 4.46 PACS receives and responds to a significant number of FOI requests, with 51 received in 2019/20. Many of the requests relate to information already available and published on Leeds Data Mill, and applicants are commonly instructed on how to access Leeds Data Mill.

5 Corporate Considerations

Consultation and Engagement

- 5.1 Review of the Social Value Guidance document commenced with consultation with the category managers within PACS, the corporate commissioning group, the people's commissioning group and the public health board. A draft of the Social Value Guidance document was taken to the January 2020 R&H Scrutiny Board for it to be endorsed prior to its adoption. The approach to developing Council specific social value TOMs includes consultation with the Social Value Board and commissioners across the Council.
- 5.2 Review of the Anti-Slavery and Human Trafficking Questionnaire was developed in consultation with the Safeguarding and Domestic Violence Team and consultation has taken place with Category Managers within PACS and Commissioning Officers within Directorates. Further, CLT support the proposed course of action re issuing the questionnaire and for contract managers to own it.
- 5.3 Reviews of procurement documentation also involve consultation with users in the services, and input from external legal advisors (Weightmans). The annual CPR review involves wider consultation involving commissioners, Internal Audit and Corporate Governance. Third sector representatives are periodically asked whether any barriers exist to small/third sector organisations, and any comments are fed into the document reviews. Third sector representatives and the People's Commissioning Strategic Group have also been consulted in respect of the Social Value guidance document.

Equality and Diversity / Cohesion and Integration

- 5.4 There are no implications for this report. The procurement processes require consideration of equality matters and social value within procurement activity.

Council policies and Best Council Plan

- 5.5 Effective procurement activity supports the Council's ambitions of a strong economy and a compassionate city, and the Procurement Strategy is specifically drafted in response to the Best Council Plan. Individual procurements support most/all of the Council's priorities and breakthrough projects.

Resources and value for money

- 5.6 The systems and processes anticipated by the Procurement Strategy (and the documented KPIs) represent an appropriate use of resources and are good value for money. Additionally the procurement activity supported enables both cashable and non-cashable savings to be made in the commissioning lifecycle.

Legal Implications, Access to Information and Call In

- 5.7 The arrangements put in place through the Procurement Strategy, CPRs and procurement tools and documentation meet all legal requirements.
- 5.8 This report is not eligible for call-in.

Risk Management

- 5.9 The systems and processes that form part of the Council's procurement framework are currently functioning well. One of the Resources and Housing Directorate risks relates to risk of procurement challenge. As set out above there have been no formal challenges to procurement activity in the year to date, and work is continually undertaken to ensure the tender evaluation guidance is embedded through training and monitoring.
- 5.10 Covid-19: The onset of the Covid-19 has had a major impact on the implementation of the Procurement Strategy, and presents material risks to achieving procurement related KPIs in 2020/21. For example:
- (i) The impact on the Council's financial position in 2020/21, and the actions recently reported to Executive Board, has resulted in a request to review the Procurement Strategy to see whether the commissioning of contracts can be stopped or slipped into future years. If a contract does need to be re-procured then the specification will be reviewed to see whether the adoption of a lower specification is possible and therefore realise possible savings through reduced contract prices etc. In addition, the proposed service review means that it would be unadvisable to enter into long-term new/extended contracts. To this end PACS have asked Directorates to follow the principles set out in Annex 1 in respect of procurements in 2020/21.
 - (ii) It is anticipated that putting in place short term emergency arrangements in response to the financial pressures arising as a consequence of Covid-19 and the subsequent service review will result in a greater volume of waivers in the current year.
 - (iii) Responding to the Covid-19 emergency has resulted in urgent contracts needing to be put in place, and a diversion from cost saving/income generation measures that PACS originally planned to pursue in the first quarter of 2020/21.
 - (iv) Workshops organised to assist commissioners in embedding the Social Value Guidance document have had to be postponed due to the requirement to work from home where possible due to the social distancing measures. We are currently looking at other ways we can support commissioners in embedding the guide. In addition, with the number of procurements

potentially reducing significantly over this financial year, it is anticipated that the total amount of Social Value outcomes achieved will also reduce. However, Social Value will still be a major consideration in all procurements that do proceed in line with the Social Value guidance for commissioners.

- (v) The FPS team has been re-assigned to support BSC with the new method of processing invoices from home as a consequence of Covid-19. Naturally, this pause in the FPS (having now been on hold for 3 months) will impact on the level of savings achievable this year.
- (vi) the Council has been working towards compliance with the principles of the Unison Ethical Care Charter in relation to externally commissioned services and has committed to working towards the Rowntree Foundation Living Wage by working with the Roundtree Foundation and trade unions to develop a roadmap for future accreditation as a living wage employer. However, this work is also now on hold due to the Covid-19 pandemic.

6 Conclusions

6.1 From the review, assessment and ongoing monitoring carried out, the Chief Officer – Financial Services considers that it is demonstrated that, overall, procurement systems are operating effectively and that there are no fundamental control weaknesses. This position will be improved by continuing to implement the Procurement Strategy, updating CPRs/procurement documentation and measuring/monitoring compliance via the KPIs. At the same time, it is recognised that procurement assurance needs to be subject to regular review and assessment with the following actions already identified for 2020/21:

- Implementation of the SVP and review of procurement documentation;
- Review of CPR's in line with changes in legislation and Council policy; and
- Training of relevant officers in respect of the same.

Compliance remains an issue in some areas, notably around justification in reports considering waivers, and this will be a particularly challenge in the current year as a consequence of the adverse impact of Covid-19. However, the continued robust monitoring of CPRs and non/off contract spend are anticipated to be of benefit in this regard and will continue to provide a much clearer picture of the actual number of, and justifications for, waivers of CPRs.

7 Recommendations

7.1 Members are requested to consider and note:

- 7.1.1 the assurances provided in this report from the review, assessment and on-going monitoring carried out; and
- 7.1.2 the Chief Officer – Financial Services has reached the opinion that procurement policies and practices are up to date, fit for purpose, and effectively communicated.

8 Background documents¹

8.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Annex 1

Procurement Strategy Review:

The position agreed by CLT states that there shall be the “Implementation of an immediate freeze on non-essential spend with the exception of spend needed to keep a service running” and includes specific reference to the need to review the current procurement strategy “to see whether the commissioning of contracts can be stopped, slipped into future years or re-specified at a lower value to achieve savings”.

While an initial review of the current procurement calendar has already begun, in light of the actions agreed by CLT, the review will now proceed in accordance with the following principles:

1. In all circumstances, category managers and commissioners shall review the procurement calendar for year 2020/21 to consider whether a procurement may be re-scheduled (i.e. postponed) or stopped indefinitely with a view to reducing Council spend.
2. In all circumstances, any procurements/awards/extensions/variations that are permitted to go ahead in year 2020/21:
 - a. shall be developed at the minimum cost possible to meet the specific requirement, which shall include reviewing the contract terms/specification in order to realise possible savings;
 - b. shall be kept to the shortest term practicable. By way of guidance, a contract award or extension in year 2020/21 should not exceed 12 months save in exceptional circumstances; and
 - c. shall be the subject of prior consultation with the relevant category manager, head of finance and chief officer, with such consultation and any comments received being referenced in any decision report.

Options for identifying specific savings within services are currently being considered. Any specific savings requirements that are agreed by CLT/Members as a consequence of these service reviews in due course will apply to procurements.

Annex 2

Anti-Slavery & Human Trafficking Questionnaire

The council used 10,743 external suppliers in the 2019/20 financial year, spending £10m+ on 16 suppliers. Given this large and varied supply chain, the council considers it is extremely important to take steps in the procurement process to try to eliminate the risk of modern slavery in its supply chains. As such, this questionnaire has been produced in order to prompt further consideration by you of modern slavery in the context of your own business, supply chains, and workforce, and to ensure appropriate procedures are in place for combating it.

Company Number:

Company Name and address:

Your Name:

Position in the company:

Phone number:

Email address:

Q1. Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the [Modern Slavery Act 2015 \("the Act"\)](#)?

Yes (Go to Q2)

No (Go to Q3)

Q2. If you have answered "yes" to Q1, are you compliant with the annual reporting requirements contained within section 54 of the Act 2015?

Yes (Please provide evidence)

No (Please advise why you are not compliant)

Q3. Do you have your own Anti-Slavery and Human Trafficking Policy?

Yes (Please provide a copy)

No (Please advise why you do not have such a policy)

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Q4. Please confirm that you are complying with Clause D9.1, D9.2, D9.3 (b), D9.4, D9.5 and D9.7 of the contract terms and conditions – D9 Compliance with Anti-Slavery and Human Trafficking Laws and Policies

<input type="checkbox"/> Yes
<input type="checkbox"/> No (Please advise why you are not compliant)

Q5 - In the event that non-compliance by your suppliers is discovered, do you have a programme to remediate such infractions?
--

<input type="checkbox"/> Yes (Please provide details)
<input type="checkbox"/> No (Please advise why no such programme is in place)

Q6 - Have your management employees, particularly those in charge of supply chain management, been trained to understand what slavery and human trafficking are and how to mitigate the risk of them in their respective supply chains?
--

<input type="checkbox"/> Yes (Please provide details of the training provided)
<input type="checkbox"/> No (Please advise why no such training is in place)

By signing below you warrant that you have authority to sign this questionnaire on behalf of your organisation. In addition, you confirm that your organisation agrees with the principles set out in Leeds City Council’s Modern Slavery Statement and Strategy, and confirm that all information provided is true and accurate to the best of your knowledge and belief.

Signed: Name: Date:
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Annex 3

Modern Slavery Questionnaire - Guidance For Contract Managers

If “yes” answers are provided, together with supporting evidence, this is an indicator of an organisation that understands its obligations regarding Anti-slavery and Human Trafficking and is compliant with them. However, it is advisable to undertake occasional audits of the information provided by contractors to ensure they are continuing to do what they have said they are doing etc. Your Departmental Safeguarding Lead should be able to support in this regard, and further advice and support is available from Procurement and Commercial Services.

If any “no” answers are given, or “yes” answers are provided that are not supported by evidence, this is an indicator that an organisation may not fully understand or be compliant with its obligations regarding Anti-slavery and Human Trafficking. You must seek further guidance and support from your Departmental Safeguarding Lead and Procurement and Commercial Services, and:

a) in respect of contractors, any concerns must be raised at **contract management meetings** in which you should try to agree and set out a plan, with agreed milestones, which shows how the contractor intends to move towards being able to provide a satisfactory response to the questionnaire; and

b) in respect of tenders, the inadequate questionnaire issues should be raised with the Authorised Officer and due caution should be taken before deciding to award the contract to the tenderer.

The links below contain further useful information:

<https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide>

<https://www.unseenuk.org/modern-slavery/modern-slavery>