

APPENDIX A – PROCUREMENT STATEMENT

1. DEFINE AND DOCUMENT

- 1.1 Contracts Procedure Rules form part of the Council's Constitution and are required to be adopted by local government legislation. The Council's CPRs are supported by a suite of procurement and guidance documents accessible by commissioners on InSite, including an interactive tool to help commissioners work through CPR processes.
- 1.2 Each Directorate is accountable for the procurements that they need in order to secure the outcomes they are responsible for. The Head of Procurement and Commercial Services is responsible for setting, supporting and monitoring the Council's policies and procedures for procurement and purchasing, with day-to-day responsibility for delivery of procurements sitting with the Head of PACS. Amongst other things, 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 providing check and challenge.

Procurement Strategy

- 1.3 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.
- 1.4 The Procurement Strategy continues to promote a category management approach to procurement, though notes the resource implications mean that this is compromised in some regards. It also advocates a whole lifecycle approach, and defines clear roles and responsibilities.

Contracts Procedure Rules

- 1.5 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
- 1.6 CPRs are regularly updated and strengthened to reflect changes in legislation and Council policy. They were previously updated in October 2020, with the major amendments as follows:
 - CPR 2.1 – The requirement for formal Category Plans to be produced was removed as officers are not completing these due to being over complicated and not fit for purpose. However, Directorates must identify procurement activity and spend which is to be kept up to date and reviewed at least once every 12 months;
 - CPR 3.1.7 – Was strengthened to ensure incorporation of Social Value into the procurement process is always considered for all contracts, regardless of value;

- CPR 3.1.13 – Was amended to ensure that procurements are registered on Yortender before they commence and once registered the procurement must be conducted via Yortender only;
- CPR 3.1.14 – This has been clarified to make it clear that low value tender documents must be used for procurements below £100K;
- CPR 6.2 – Has been strengthened by making it clear procurements of “similar” goods/works/services must not be disaggregated to get round the rules;
- CPR 7.4, 8.6 and 9.8 – Now makes it explicit that a formal contract must be awarded regardless of the contract value;
- CPR 10.4 – Has been updated to reflect the relevant thresholds which came into force on the 1st January 2020;
- CPR 14.1.7 – Was clarified to make it clear that qualified tenders must be brought to the attention of the relevant Category Manager immediately so that they can be dealt with as soon as possible;
- CPR 15.2 - Change of emphasis in CPRs to introduce “price-quality separated” as the default setting for procurement evaluation methodologies. Under this approach all tenders meeting a quality threshold (to be determined on a case by case basis), are taken forward to the price evaluation and the cheapest of those compliant tenders wins. This increases the focus on price as the deciding factor in tender evaluation;
- CPR 15.3 – This is a new CPR – Now a requirement for evaluation panel members to sign a declaration of interest form;
- CPR 17.5 – This is a new CPR - In all cases, where an additional uplift to a tendered price is sought due to a delay in accepting a bid of more than 90 days, a clear documented procedure must be established to ensure a clear and transparent process is followed;
- CPR 18.8 – A requirement to inform Internal Audit when contract covers purchase of desirable/valuable goods (e.g. laptops) to ensure stock management and security arrangements are considered;
- CPR 19.3 – This is a new CPR - Where contract award is revised such that the original winning tenderer is no longer to be awarded the contract, any decision to award to a different bidder will be a Significant Operational Decision as a minimum and a new standstill/debrief must be undertaken;
- CPR 21 - Was clarified to make it perfectly clear that a contract cannot be extended once it has expired.
- CPR 21.9 – Was clarified so that below relevant threshold variations can take place without meeting the specific circumstances set out in this CPR, if the Chief Officer considers it represents value for money to do so;

- CPR 21.10 – Any variations to above relevant threshold contracts must be undertaken in consultation with the Commercial Team in PACS;
- Appendix 2 – Guidance on Company Financial Health Checks – Was updated to take into account the recommendations contained in “The Central Control of Due Diligence Arrangements” audit report published in November 2019.

Procurement tools and documents

- 1.7 The key procurement delivery documents and tools are refreshed regularly to reflect legislation and Council policy (e.g. incorporating Social Value provisions).

Communicating the Procurement Strategy and procurement policies

- 2.1 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. 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.
- 2.3 In order 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. PACS has also launched an interactive version of the council’s CPRs which is available on SharePoint in order to take colleagues through the key steps of a procurement. Telephone support is also currently available through PACS for this process, and CPR guidance is also published on Insite.
- 2.4 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. 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.
- 2.5 A cross-council Procurement Practitioner Group meets every 6 weeks 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.

- 2.6 However, both the recent “Survey of Internal Control” and the LGA Peer Review identify the opportunity to further improve the connectivity between PACS and colleagues undertaking procurement activity in services.

3 EFFECTIVELY EMBED

Procurement activity during 2020/21

- 3.1 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 in 2020/21 was £992,465,919 (increased on typical spend levels as a consequence of Covid-related grant funding).
- 3.2 PACS’ limited resources are prioritised to supporting high value and/or complex (from a risk perspective) activity.
- 3.3 PACS also provides support in respect of lower value procurements by way of:
- 3.3.1 an e-learning procurement training module for council staff through the Performance and Learning system which gives guidance and training for staff council-wide on how to comply with policy, governance and CPRs when ordering goods and services;
 - 3.3.2 telephone support; and
 - 3.3.1 where non-standard terms and conditions are proposed, the requirement that these are vetted through the commercial team within PACS.

Regional Procurement

- 3.4 The Council continues to liaise with other regional authorities via the YORprocure Strategic Procurement Group (**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 has also recently led on the development of a regional Social Value taskforce.
- 3.5 In addition, PACS manages the regional online tendering platform (YORtender) 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 c£80,000 per annum of external income.
- 3.6 PACS provide YORtender training and support across the Council with on-site training sessions, phone/email conversations and an on-line interactive tutorial.

- 3.7 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. The Council publishes its full Contracts Register on Data Mill North.
- 3.8 In addition, the Head of PACS is the Council's representative on the YORhub board (managing a number of regional construction and consultancy framework contracts) and PACS manages a suite of Children's services framework contracts.

Covid-19

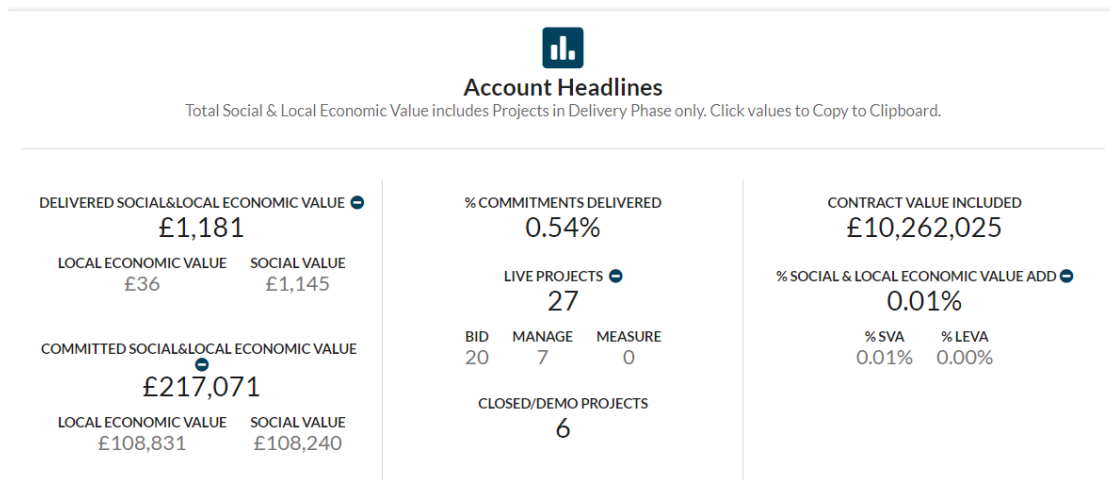
- 3.9 The Covid-19 pandemic had a major impact on the implementation of the Procurement Strategy, and resulted in increases in Council spend in 2020/21.
- 3.10 Responding to the Covid-19 emergency resulted in urgent contracts or contract variations/extensions needing to be put in place, and a diversion from cost saving/income generation measures that PACS originally planned to pursue in the first quarter of 2020/21. For example, workshops organised to assist commissioners in embedding the Social Value Guidance document had to be postponed due to the requirement to work from home where possible due to the social distancing measures, and the Faster Payment Service team was re-assigned to support BSC with processing invoices from home
- 3.11 However, the flexibility and capability of the Council's procurement staff meant that issues such as PPE have been effectively and efficiently managed throughout the pandemic (including providing support to other partners and public sector bodies in Leeds).

4 MEANINGFULLY MONITOR

Social Value

- 4.1 Social Value from procurement is a key element of the Council's wider aspirations for inclusive growth in conjunction with local communities and businesses.
- 4.2 Expenditure with local suppliers and SME's has been measured for several years, and continues to increase each year, equating to 65.88% of total expenditure in 2020/21 (up from 64.64% in the previous year). In addition, the Council has sought to deliver employment and skills outputs from procurement activity. The Council has also developed a collaborative and systematic approach to engaging with anchor institutions, to discuss ways in which we can work together more closely and actively promote collective action on employment, low pay and social responsibility.
- 4.3 As previously reported, PACS has developed Social Value guidance document for commissioners (which requires that in all procurements commissioners:

- 4.3.1 consider social value opportunities in the 3 main priority areas of: Employment and Skills, the Environment, and Education;
- 4.3.2 ask suppliers to consider for themselves what else they can do to be not just entrepreneurs but to be 'social entrepreneurs' in Leeds;
- 4.3.3 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.
- 4.4 The Council is working with its partner, Social Value Portal (**SVP**) to embed Social Value into Procurement, and has developed a set of Leeds-specific set of Social Value themes, outcomes and measures which will help achieve our social value priorities. SVP supports commissioners in Leeds to identify appropriate Social Value requirements for their procurement, and provides a platform that assists in managing the tender process and monitoring delivery.
- 4.5 The first contracts went live on SVP in February 2021, and to date:
 - 4.5.1 There are 27 projects on SVP with a contract value of £10,262,025 (20 are at the bidding stage and 7 at contract manage stage);
 - 4.5.2 £217,071 of committed Social and Economic value (Social Value - £108,240 and Economic Value - £108,831); and
 - 4.5.3 We have delivered £1,181 of Social and Economic value (Social Value - £1,145 and £36 Local Economic Value), this relates to local spend



- 4.6 The Social Value Board (chaired by the Director of Resources and Housing) continues to include representation across all directorates, and provides oversight in relation to Social Value in procurement, promotes 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.
- 4.7 The Council's delivery of social value from procurement has been the subject of review by internal audit for the year 2020/21. The report concludes the "Acceptable assurance" has been given for the Control Environment with respect to the

implementation of Social Value within the Authority's processes and procedures, noting:

“a range of good governance procedures which have been established regarding incorporating and embedding the concept of Social Value within the culture of Leeds City Council. These include provision of training to relevant officers, inclusion of Social Value within key policies and making available a range of guidance. Additionally we found that the Authority has embraced the use of the Social Value Portal which gives the opportunity for appropriate Social Value reporting and monitoring both on an individual contract and global basis.”

The report notes that the Council's Social Value framework gives the opportunity to maximise the benefits associated with Social Value whilst also giving assurance around complying with the statutory requirements of the Social Value Act. However, while the direction of travel is broadly positive, there are still a number of changes that may need to be made before Social Value is fully embedded and the level of contracts which have recently been tendered in which Social Value was a consideration remains currently extremely low.

- 4.8 Key recommendations (which will be addressed as part of the P2P Review and subject of the further report to the Committee in Autumn 2021) are below:
 - 4.8.1 Importance of Social Value should be given more prominence in CPRs
 - 4.8.2 Targeted training to be provided
 - 4.8.3 Performance data should be reported to the Social Value Board, facilitating monitoring and with the opportunity to highlight areas for improvement
 - 4.8.4 Social Value guidance should be available on Insite
 - 4.8.5 promotes the concept of Social Value across all areas, including off-contract expenditure
 - 4.8.6 develop suite of KPIs (including in relation to SMEs) and effectively monitor.

YORtender procurement portal and data transparency

- 4.9 The Council, in its role as SPG programme manager, has worked closely with North Yorkshire County Council to lead a 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 2021.

Compliance

- 4.10 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 internal service providers are not used. In addition, the contract award process for contracts above £100,000, internal audit reports and the ongoing

training and support provided to directorates offer further assurance around compliance.

- 4.11 Further the recent Survey of Internal Control identified that:
 - 4.11.1 Over 90% of respondents were (in their view) “very much” or “somewhat” aware of and complied with CPRs; and
 - 4.11.2 Over 90% of respondents were (in their view) “very much” or “somewhat” aware of and complied with arrangements for waiving CPRs.
- 4.12 While the Survey of Internal Control also identified that c.75% of respondents were (in their view) “very much” or “somewhat” aware of and complied with arrangements for obtaining advice and guidance from PACS, clearly there is an opportunity to increase the understanding of the corporate procurement support that is available to services.

Waivers

- 4.13 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.
- 4.14 Issues relating to the inappropriate use of waivers of CPRs have been the subject of scrutiny by the Committee over many years, however a robust, automated process for capturing waiver information from the decision register allows officer resource to concentrate on seeking to understand the detail of each particular waiver, rather than finding and logging the information.
- 4.15 Collectively, this has improved the accuracy of the register of waivers, and PACS has supported services to reduce the numbers of waivers each year. In 2020/21, the number of waivers reduced to 60, down from 79 in 2019/20. Aggregate spend in 2020/21 against contracts which were the subject of waivers of CPRs was £8,699,428 (down from £16,526,211 in 2019/20). This equates to 0.88% of the total external spend in 2020/21 (down from 2.33% in 2019/20).
- 4.16 Monitoring of the use of waivers will continue, and will be reported to the Corporate Governance and Audit Committee. Internal Audit also carry out audit activity on a small number of specific procurements each year.

On-Contract Spend

- 4.17 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.
- 4.18 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.

- 4.19 In 2020/21, 96.42% of payments were on contract or compliant with CPR's, up from 2019/20 figure of 95.6%, despite urgent non-compliant spend as part of the response to Covid-19.
- 4.20 Contract expenditure analysis and compliance 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. Collaboration with Directorates using the report has been successful toward reducing non-compliance and ensuring best value is achieved from Council expenditure. Bespoke reporting is available upon request and utilised as a mechanism to further assist services.

Challenges to procurement activity/transparency

- 4.21 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.
- 4.22 PACS receives and responds to a significant number of FOI requests each year. 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 REVIEW AND REFINE

- 5.1 The Procurement Strategy was adopted in June 2019, and the Procurement Strategy committed to reviewing progress towards achieving the Procurement Strategy KPIs in 2021. This review is underway, and will be reported to the Committee in Autumn 2021.
- 5.2 Following completion of the review, a refresh of the KPIs will be undertaken, to remove those now completed, and provide greater focus in order to achieve the Procurement Strategy priorities.
- 5.3 Progress in relation to the "procurement enablers" identified in the Procurement Strategy is as follows:
- 5.3.1 developing talent – the Council continues to support staff in obtaining professional procurement qualifications (CIPS), and a procurement apprentice scheme has been identified. However, resource in general is stretched;
 - 5.3.2 Exploiting digital technology - a number of inefficient manual systems and processes are in operation across the Council, meaning there is a need to repeatedly input data, interpret results and apply manual solutions. Work is underway to adopt new systems to support all aspects of the "P2P" processes (including monitoring compliant spend) as part of the Core Business Transformation programme. In addition, the Council has worked collaboratively with other local authorities in the Yorkshire and Humber

region in procuring a new e-tendering system, schedule to go-live in January 2022;

5.3.3 Enabling innovation – the Council’s procurement processes and procedures are kept under constant review to increase flexibility and opportunities to innovate. As part of the P2P Review, proposals for allowing increased focus on strategic value from procurement are currently in development;

5.3.4 Embedding change - senior managers are encouraged to recognise the importance of procurement and contract management, and promote it as a way of leading and managing organisational change. PACS senior officers regularly attend commissioning boards and leadership teams across directorates, and are seeking to support opportunities for achieving savings through procurement activity to help respond to the Council’s financial challenge. In addition, as part of the P2P review, a best-practice guide and support for contract management is under development.

“Procure to Pay”/Adding Further Value to the Council’s Procurement Activity

5.4 One of the ambitions of the Core Business Transformation Programme is not only to procure and implement modern integrated cloud technology to exploit digital capability, but also to drive down costs and achieve better value for money through efficient and standardised practices, including in relation to “Procure to Pay” (**P2P**).

5.5 “Procure to pay” refers to all processes and systems from procurement, through contract management, to payment. The P2P function is not currently recognised as one end to end, integrated business function in Leeds. It is one of the most critical business processes and involves significant spend and cash flow. A review of the P2P function (the **P2P Review**) is currently underway to baseline the current position and to help inform the vision for transformation of the P2P function to improve system capabilities.

5.6 Initial internal findings included that:

5.6.1 while there are some very positive examples of good commercial practices, they are not consistently applied across the Council. In particular, not all contract managers have the necessary skills to successfully manage and continually challenge suppliers to review and re-negotiate contracts on an ongoing basis;

5.6.2 CPRs/procurement support documents could be materially simplified to facilitate compliance/understanding;

5.6.3 there are also opportunities for greater standardisation and sharing of expertise, and consolidation of procurement / contract management staff embedded within services outside of PACS may help deliver an improved service (e.g. more consistent systems and processes, greater staff productivity etc) and efficiencies; and

5.6.4 improvements in technology could enable the transition from resource-heavy processes to a more automated/self-service approach and improve access to data,

generating efficiencies, further improving compliance, informing better decisions/contract management and facilitating opportunities to focus resource on activities that add greater value.

- 5.7 PACS have started work on helping to build greater commercial awareness and acumen across the council, with an initial focus on identifying the capabilities required for certain roles, out of which a training package will be developed and rolled out over the next 12-24 months. In addition, a new post has been created to facilitate a 12-month trial of a “Strategic Commercial Business Partner”. This role will bring commercial expertise to be embedded within services, focusing on seeking procurement savings/challenging commissioners as to the scope of the procurement and improving contract management (to again identify savings but also to deliver improved outcomes).
- 5.8 We have sought to further substantiate opportunities for improving the P2P function by inviting the LGA to facilitate a “peer review” of procurement in the Council (the **LGA Peer Review**). The LGA Peer Review panel consisted of procurement and transformation professionals, together with Elected Member representation.
- 5.9 The LGA Peer Review was undertaken in June 2021, and the final report is anticipated imminently. However, initial feedback has been provided. Amongst other things, the LGA Peer Review suggests that rather than seeking to further improve “excellent levels of compliance”, more energy and resources should be focused on delivering strategic value from procurement (e.g. savings, supplier engagement, commercial, social value) and contract management.
- 5.10 An action plan will be produced in response to the final recommendations of the LGA Peer Review when received, and will be reported to the Committee in due course.
- 5.11 Timescales:
- an action plan responding to the LGA Peer Review will be developed by September 2021.
 - It is anticipated that the P2P Review and action plan responding to the LGA Review will include some actions capable of immediate implementation. These will be reported to the Committee in Autumn 2021.
 - Other opportunities for improving efficiency and effectiveness depend on improving P2P systems. It is anticipated that procurement of a new system will take 12 months, to September 2022 with a further period of 18 months to adopt and embed the new system. Further detail as to this programme will be reported to the Committee in Autumn 2021.

Financial Challenge

- 5.12 Taking a similar approach to last year when the council stopped all non-essential spend, PACS is in the process of working through all contracts with services to identify the potential to pause, reduce in scope, or not procure / re-procure at all.

The initial focus of the review will be revenue contracts, given the General Fund pressure, seeking to identify the potential for savings through to March 2023.

- 5.13 Rather than spread the review thin across all contracts, PACS is working with services to identify the highest value revenue contracts for review, before sense-checking to ensure that they are appropriate for review (e.g. reduction in scope would not cause adverse service impacts etc).
- 5.14 Recognising that some contracts will require lengthier negotiation periods, and services require the opportunity to implement changes, this review will be extended to include contracts to be re-procured through to 2024/25.

Brexit/Procurement Regulations Review

- 5.15 Brexit has so far had limited impacts on the Council's procurement, however this is being kept under review. PACS provided a response to the recent Green Paper consultation on the proposed new procurement regulations, which seek to overhaul procurement rules that have "been bogged down in bureaucratic, process-driven procedures. We need to abandon these complicated and stifling rules and unleash the potential of public procurement so that commercial teams can tailor their procedure to meet the needs of the market".
- 5.16 It is anticipated that new procurement regulations will be introduced by Government in 2022. Assuming that the new regulations will allow procuring authorities greater flexibility to design procurement methodologies to meet their individual needs, this would provide the opportunity for the Council to develop procedures with even greater focus on driving savings.