

URN: 21-116
Subject: Procurement Strategy and Service Update
Report to: Executive Leadership Team – 21 April 2022
Policy & Resources Committee – 12 July 2022
Report by: Head of Legal & Governance, Monitoring Officer



SUBJECT MATTER

To update members on changes to the Council's procurement approach and to seek approval of the Procurement Strategy for 2022-25.

RECOMMENDATIONS

That Committee:

1. approve and adopt the Procurement Strategy which appears at Appendix 1 to this report; and
2. note the new arrangements for the Council's procurement provision via a shared service based at Breckland District Council, and the introduction of revised contract and procurement documentation.

1. INTRODUCTION

- 1.1 The Procurement Strategy 2022 – 2025 details the Council's approach to procurement by setting out how the Council will use commercial spend to deliver environmental, economic and social benefits within our community. The Strategy document provides the framework which governs the Council's corporate aims and objectives in relation to procurement. It emphasises the increasing importance of using procurement to support wider social, economic and environmental objectives.
- 1.2 The Procurement Strategy is aligned to a number of the Council's corporate priorities and strategic approaches, and identifies the following key themes:
 - growing and encouraging opportunities for the local economy
 - creating social value
 - supporting the council's sustainability strategy
 - increasing staff knowledge and support throughout the procurement cycle
 - mitigation of the risk of legal challenges
 - delivering better value contracts and savings to the taxpayer
 - providing a simpler & more commercially focused experience for partners & contractors.
- 1.3 The Council has in recent years used the South Norfolk District Council procurement service on a reactive basis, instructing officers within that service as and when required. South Norfolk have now combined forces with Breckland District Council to provide a shared service and the Council has committed to use this service for at least the next

two years. The intention is that by paying an annual fee, the commitment will enable the shared service to provide a more pro-active, forward-thinking approach and thus facilitate economies by analysing spend, as well as providing more consistency for our contractors and greater support and training for officers within the Council who carry out commissioning and procurement activity.

- 1.4 At the same time the Council's contract and tender documents have been revised and updated by nplaw to provide a suite of documentation that is fit for purpose and will provide greater consistency and clarity in the Council's approach.
- 1.5 The Council's Contract Standing Orders are also being revised and updated in order to reflect legislative change.

2. BACKGROUND AND KEY INFORMATION

SHARED PROCUREMENT SERVICE

- 2.1 The Breckland District Council based shared Procurement Service has offered to deliver a proactive approach to the Council's Contracts & Procurement requirements. The intention is that the service will also take control of the Contracts Register and review the spend data so that they could forward plan the Council's procurement. The proposal includes within its scope the following activity:

- procurement policy, strategy, and plans
- delivering value for money from procurement activity
- maintaining contracts registers
- being a centre of procurement expertise
- options analysis including available consortium or framework contracts
- ensuring compliance with procurement legislation and the various councils standing orders
- pre-tender market engagement
- reviewing procurement options
- tender management (issue of tenders, supplier communication for clarification, receipt and opening of tenders)
- evaluation of tenders in conjunction with service managers
- communication with suppliers including the award of contract
- providing feedback to unsuccessful suppliers
- contract handover to service manager including a contract management plan
- providing advice on contracts, and contract management support
- training, development, and support for council staff including specification writing, tender development, evaluation, and contract management

- monthly review meetings to ensure smooth running and to discuss any additional requirements from the council
- assist in discussing the suitability of Dynamic Purchasing Systems (DPS). The e-procurement portal has provision for DPS to be set-up, advertised and run.

PROCUREMENT STRATEGY

2.2 The Council's procurement activity does not currently reflect particular fixed principles, other than the strict requirements set out in legislation and in the Constitution. It is recommended that in order to achieve additional social and economic benefits from its procurement, over-arching values and approaches should be adopted and applied consistently across the Council's procurement activity. The concept of the Strategy is to embed principles and practices in our procurement processes so that we do not only adhere to legislation and our own Constitution, but provide benefits for the community by increasing social, economic and environmental value, in accordance with the themes set out in the Strategy. These themes align with the Council's corporate priorities. The Strategy sets out practical approaches we will take to achieve our objectives – for example, by encouraging all new procurement activities to include apprenticeships as part of their selection criteria, or by ensuring that we consider our environmental objectives in all new procurements by (where appropriate) including the reduction of waste and the delivery of high environmental standards.

3. Financial Implications

- 3.1 There are no specific financial implications arising from the introduction and implementation of the Procurement Strategy though the overall approach of the Strategy aims to deliver certain economic benefits.
- 3.2 The procurement service formerly available through South Norfolk District Council and currently via Breckland District Council has to date been charged at a daily rate of £385. The proposal over the initial fixed term of two years is an annual rate of £35,000.

4. Legal Implications

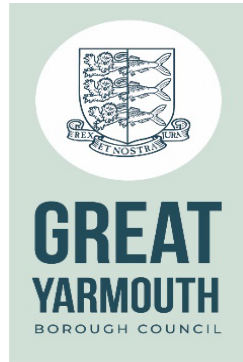
- 4.1 The Council has a power to enter into contracts and undertake procurements. When doing so the Council is required to comply with the Public Contracts Regulations 2015. There is also a need to ensure compliance with the Council's Contract Standing Orders (forming part of the Constitution) which take into account the requirements of the Public Contracts Regulations.

5. Appendices

Appendix 1 – Procurement Strategy 2022-25

6. Background Documents None

Area for consideration	Comment
Monitoring Officer Consultation:	N/A
Section 151 Officer Consultation:	As part of the ELT process
Existing Council Policies:	None
Financial Implications (including VAT and tax):	As outlined in the report
Legal Implications (including human rights):	As outlined in the report
Risk Implications:	As outlined in report
Equality Issues/EQIA assessment:	None
Crime & Disorder:	None
Every Child Matters:	None



Procurement & Commissioning Strategy 2022 – 2025

1. Introduction

As central government funding decreases, it is important that the Council spends its money strategically, so that it can continue to deliver services which are efficient and able to manage the future demands of our community. This Strategy introduces objectives which align with the Council's corporate priorities, setting goals to create benefits for the Borough while at the same time adhering to sound commercial, best value and governance principles. One of the key themes of this Strategy will be to make procurement and opportunities more accessible to businesses local to the Borough, while maintaining a fair and transparent approach.

2. What is Procurement and why is it important?

Procurement is the process which the Council must follow in order to purchase third party goods, services and works. This could be something simple, such as stationery, or the provision of a complex service, such as the appointment of an external provider for refuse collection. The processes the Council follows are defined by procurement legislation, which underpins the Contract Standing Orders in the Council's Constitution. The Council will apply the highest professional standards when spending money on behalf of taxpayers, so that it can provide the best possible services whilst keeping tax down and reducing our dependence on central government funding.

3. Purpose

As a public sector buyer, Great Yarmouth Borough Council spends in excess of £50 million per year on contracts. This money is used to procure the third party supplies, works and services which help to us deliver key services to the public. By thinking strategically about how we procure these services, we can support the Council's wider social, economic and environmental objectives and help stimulate a vibrant local economy. By building relationships and increasing our knowledge of local businesses, we can work to increase the proportion the Council spends within the Borough, which directly feeds into one of the Council's Corporate Priorities: *"a strong and growing economy"*.

We are committed to ensuring our procurement benefits the Borough by adding social value. By creating job opportunities and supporting the local supply chain, we can have an impact on our local community. In conjunction with the Council's Contract Standing Orders, this Strategy will outline the Council's key objectives, principles, goals and responsibilities in its strategic approach to procurement.

4. Central Government Intentions – Transforming Public Procurement

In December 2020, the Cabinet Office set out proposals for shaping the future of public procurement legislation with the publication of a Green Paper, 'Transforming Public Procurement'. The overarching goals of these proposals are to speed up and simplify our

procurement processes, place value for money at their heart, generate social value and unleash opportunities for small businesses, charities and social enterprises to innovate in public service delivery.

A procurement regime that is simple, flexible and takes greater account of social value can play a big role in contributing to the Government's levelling-up goals.

Procurement reform has previously had to work within the framework of EU based regulations. The most recent EU procurement Directives were transposed into UK law in 2015 and 2016. Following the UK's exit from the EU, there is now an opportunity to develop and implement a new procurement regime, moving away from the complex EU rules-based approach that was designed first and foremost to facilitate the single market, and instead adopt a new simplified approach that prioritises boosting growth and productivity in the UK, maximising value for money and social value, promoting efficiency, innovation and transparency.

5. The Objectives of the Council's Strategy

The Council's corporate priorities are:

- 1) A strong and growing economy
- 2) Improved housing and strong communities
- 3) High-quality and sustainable environment
- 4) An efficient and effective council

This Strategy sets out below a number of objectives - which the Council will seek to focus on throughout all procurement activity. The objectives are aimed to align with and support the Council's corporate priorities. The objectives of this Strategy are:

• GROWING AND ENCOURAGING OPPORTUNITIES FOR THE LOCAL ECONOMY

WE WILL DO THIS BY: building resources and directories of local businesses for staff to use pre-procurement; holding 'meet the buyer' events to warm up the local market and ensure local providers are aware of upcoming opportunities. We want to involve our communities and local businesses in shaping our approach to procurement and commissioning, and we will consult with local businesses to get feedback on working with the Council. We will develop and implement a local supplier engagement plan including the use of targeted communication to local suppliers; and we will encourage use of SMEs (small and medium-sized enterprises).

• CREATING SOCIAL VALUE

WE WILL DO THIS BY: considering social value in writing specifications, award criteria and contracts; by ensuring our contractors are considering social factors, establishing prompt payment down the local supply chain; by identifying benefits that we achieve in our contracts for the community, particularly in deprived areas (e.g. new facilities, jobs or an improved living space); by encouraging all new procurement activities to include apprenticeships as part of their selection criteria. We will consider the social value our contracting opportunities can add to our community's economic, social and environmental wellbeing - where possible, splitting larger contracts into lots to encourage SMEs to bid.

• SUPPORTING THE COUNCIL'S SUSTAINABILITY STRATEGY; SUPPORTING DELIVERY OF THE CARBON REDUCTION ACTION PLAN - WORKING TOWARDS A CARBON NET ZERO TARGET OF 2035

WE WILL DO THIS BY: embedding sustainable principles into our commissioning and contracting activities to 'green' the economy; by encouraging all new procurement activities to consider sustainability criteria as part of their selection such as the use of green energy and the offset of carbon

emissions; by ensuring that we consider our environmental objectives in all new procurements and in our contract management activities; by (where appropriate) including the reduction of waste and the delivery of our high environmental standards in service area contract management.

- **INCREASING STAFF KNOWLEDGE AND SUPPORT THROUGHOUT THE PROCUREMENT CYCLE**

WE WILL DO THIS BY: providing regular training to all commissioning officers to ensure that they follow best practice; assessing skills and knowledge requirements within the service areas, developing a planned approach to delivering procurement updates and training.

- **MITIGATION OF THE RISK OF LEGAL CHALLENGES**

WE WILL DO THIS BY: combining sound governance, transparency, accountability and probity with proportionality in our operational processes; ensuring that our policies and procedures reflect the latest legislation and are fit for purpose, including regular review of value thresholds and procurement routes.

- **DELIVERING BETTER VALUE CONTRACTS AND SAVINGS TO THE TAXPAYER**

WE WILL DO THIS BY: establishing performance reporting to include savings opportunities and capturing other key procurement indicators such as commercial and social benefits; by providing accurate contract management information to support commercial risk management and improve our forward planning capability.

- **A SIMPLER AND MORE COMMERCIALY FOCUSED EXPERIENCE FOR PARTNERS AND CONTRACTORS**

WE WILL DO THIS BY: working with external stakeholders including businesses and the voluntary, community and social enterprise sector to understand and remove barriers to our procurements. By working with external partners such as Crown Commercial Services, ESPO, Procurement for Housing, Eastern Procurement Ltd. and the East of England LGA

6. Good Principles of Procurement

At the centre of this Strategy are the best practice principles which underpin the processes the Council follows in commissioning services: **transparency, integrity, economy, openness, fairness, competition and accountability**. Below are some of the practical steps the Council will take to embed these principles in its processes.

ECONOMY & COMPETITION

PRE-MARKET ANALYSIS - the procurement service will assist officers in choosing the best route for procurement, checking for duplications in service to rationalise contracts where appropriate. The Council's procurement service will support the Council to achieve this by:

- conducting gap analysis of current contracts
- identifying opportunities for partnership working with other public sector organisations
- advising staff on the appropriate procurement process for an individual procurement

MARKET RESEARCH - the Council needs to build its knowledge so that it can identify as many businesses that can deliver the community's requirements as possible and create a competitive tendering process. We will achieve this by:

- Conducting regular benchmarking exercises throughout contracts to stay informed on trends in value, quality and industry standards.

- Finding new ways to connect with the local market and advertise our opportunities by making use of electronic tendering and social media, while ensuring that our opportunities are accessible to all in our community.

TRANSPARENCY, OPENNESS & ACCOUNTABILITY

Central government transparency requirements enforce a number of changes to the way public contracting bodies record procurement activity. We will achieve this by publishing the following on our website:

- A quarterly contracts register
- Spending over £500 and purchase card purchases
- Performance on paying contractors within 30 days
- Advertising and publication of tender documents on Contracts Finder and Find a Tender (where legally required)

FAIRNESS & CONSISTENCY

We want everyone who does business with the Council to have the same experience; our processes should be straightforward, efficient and modern. We will achieve this by:

- A new approach to evaluating tenders through improved award criteria which consider quality and price proportionately.
- Use of an electronic tendering system to ensure we are compliant with government legislation on the provision of fully electronic procurement while still supporting those local suppliers that might not use online services.
- Developing standardised documents to ensure that procurement practice is consistent across all parts of the Council.

7. Legislative and Constitutional Context

The UK is no longer subject to EU regulations and now follows UK domestic legislation.

As far as the applicability of public procurement rules to the Council's procedures is concerned (for contract values above the thresholds) from the 1st of January 2021, the UK no longer follows rules outlined for OJEU tenders. Tenders are now be published on a new e-tendering portal, called Find a Tender Service (FTS) instead of on OJEU.

In terms of the wider public procurement framework, the UK is now a member of the World Trade Organisation's (WTO) Government Procurement Agreement (GPA). This allows for the UK to have equal rights to bid on public sector contracts that are proposed by EU members and/or those in agreement with the GPA, and vice versa. The WTO's GPA also governs procurement thresholds.

The Government plans to produce a draft Bill in 2022. Further to the new legislation the Government will also introduce new secondary legislation or regulations to implement the new regime and produce "a detailed and comprehensive package of published resources (statutory and non-statutory guidance

on the key elements of the regulatory framework, templates, model procedures and case studies)” (extract from the Green Paper) to help contracting authorities and suppliers understand how the new regime will work. Due to significant changes and the amount of work required to bring this all into effect it is unlikely that the new regime will be implemented until 2023 at the earliest

The following is an easy reference summary of the Council’s own procedures, guidance and thresholds for procurement, which are set out in the Constitution:

Article 34 – Contract Standing Orders (CSOs)

SECTIONS 1-4 set the scope of the CSOs, identify authorities and controls and the segregation of duties. They cover officer conduct and audit requirements. They outline the options for procurement, including the use of framework agreements. They establish the procedure for a new contract and outline the legislation to which the Council must have regard. The CSOs provide a pre-procurement procedure; this sets out the methods officers must use for calculating contract value – which must be done at the outset to establish the relevant threshold and related procedure. The CSOs allude to the need for market research and the assessment of contract risk. They explain the circumstances in which the Council’s standard terms and conditions are to be used and the absolute need for legal advice when the supplier’s terms are applied. They address the issue of pricing in long-term contracts.

SECTIONS 5 – 7 deal with supplier engagement and the choice of process; how to place advertisements in accordance with the Council’s transparency obligations; how to deal with passing information to potential suppliers and meetings; the development of a specification; the identification and selection of suppliers. The procurement routes are explained: i) Open ii) Restricted iii) Competitive with Negotiation iv) Competitive Dialogue v) Dynamic Purchasing System vi) Light Touch Regime (NB - In the Green Paper the government has proposed removing the Light Touch Regime altogether. It suggested that the new procurement rules for services would in themselves provide the flexibility currently given by the LTR, to the extent that a light touch regime will not be required). vii) innovation partnerships. It covers the receipt, opening and accepting of tenders, the debriefing of unsuccessful tenders and deals with errors or discrepancies. It provides post-tender procedures and goes on to address the form of contract.

SECTIONS 7, 8 & 9 deal with Contract Management, Decommissioning and Document Retention respectively.

SECTION 10 describes the circumstances in which exemption, waiver and operational emergency may apply.

SECTION 11 deals with review of the CSOs.

Article 35 – Glossary of Terms

This article provides a quick reference guide to the terminology used in the CSOs

Article 36 – Procurement Authority Thresholds

This article sets out the required selection procedure and transparency obligations as well as identifying the decision maker, dependent on the value on the contract.

Article 37 – Exemption/Waiver Form

This article sets out a template for an application for reliance on Exemption or Waiver (a form is available online)

Article 38 – Grant Procedures

This article deals with the Council's procedures for grants to third parties. Although this is not within the scope of the CSOs, the principles underlying the procedures mirror certain procurement principles, such as the need for openness, fairness and transparency.

Article 39 – Procurement Plan Template

This article provides a template for planning all procurement activity, and should be completed at the outset and held in the lead officer's records.

Article 40 – Contract Risk Matrix

This article provides a matrix to identify a risk score for the contract, which is relevant to both selection and management.

Article 41 – Tender Report Template

This article provides a template for an outline of a basic report. Advice should be taken from the Council's Procurement Service.