

SLOUGH BOROUGH COUNCIL

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| REPORT TO: | Corporate Improvement Scrutiny Committee |
| DATE: | 24 th October 2023 |
| SUBJECT: | Update on procurement and contract management |
| CHIEF OFFICER: | Adele Taylor – Director of Finance/Section 151 |
| CONTACT OFFICER: | Clare Priest – Head of Commercial services |
| WARD(S): | All |
| PORTFOLIO: | Lead Member for Financial Oversight, Council Assets, Procurement and Revenues & Benefits – Councillor Chahal |

1 Summary and Recommendation

1.1 To update the Corporate Improvement Scrutiny Committee on:

- the improvements to procurement and contract management at Slough Borough Council, since the Directions issued by the Secretary of State on 1st December 2021
- implementation of the recommendations from the overview and scrutiny task and finish group on contract management
- further planned improvements to be made to the Commercial service for 2023/24

Recommendations

The Corporate Improvement Scrutiny Committee is invited to comment and make recommendations if appropriate.

Reason

1.2 To ensure that there is a fully embedded Commercial function at Slough Borough council, that continuously improves.

Commissioner Review

The Directions issued by the Secretary of State sought to achieve improvements in relation to the proper functioning of the procurement and contract management function which includes an independent review.

Procurement and contract management is an essential tool to deliver the Councils wider financial, social, economic, and environmental aims and as such the Commissioners are pleased to note the progress made to improve procurement and contract management, since the establishment of the service in April 2021.

We welcome the proposed development of a commercial strategy for procurement, which should align to the updated corporate plan and provide an indication of how the objectives will be achieved and deliver wider best value (as outlined above) to the Council and stakeholders, through its procurement and contract management activities. Consideration should also be given to the timing and approach to the independent review that will be required.

2 Report

Introduction

- 2.1 The purpose of the Commercial function is to ensure that the Council achieves best value for money for Slough's residents through procurement, contract management and commercial activities. This includes the need for transparent processes and ensuring that procurement activity is planned and undertaken in a timely manner.

Background

- 2.2 The Commercial service was established in April 2021 following the Our Futures restructure, at that time the procurement function was outsourced to RSM an external consultancy company (since May 2019). The service lacked strategic oversight of procurement and contracts and there was no centralised contracts register in place. This was the cause of the lack of forward planning in procurement and contract management resulting in rushed procurement, missed exit opportunities and poor value for money as well as not being compliant with the local government transparency code.
- 2.3 On establishment of the service, the Group Manager – Commercial (now Head of Commercial services) implemented an improvement plan and the service has:
- Reviewed and improved the council's contract procedure rules. The revised rules improve decision making at the appropriate levels;
 - Improved procurement and contract management governance by ensuring that authorisation for procurement activities is at the correct level and any new contract that is entered to is scrutinised, to confirm that it is appropriate, best value for the council, and there is sufficient budget;
 - Implemented a training programme for staff to inform and engage them about their roles and responsibilities around the contract procedure rules and governance processes;
 - Implemented a centralised contracts register which has not been in place for 10 years. This has improved the management and oversight of contracts and allows the council to plan procurement activity more effectively;
 - Improved procurement pipeline planning to ensure that procurement activity is undertaken in a timely way;
 - Moved away from relying on expensive consultancy support from rsm, by recruiting to a permanent in-house team and procuring cheaper consultancy support to use for specialist procurement support where no there are no in house resources; and
 - Reviewed all council contracts to identify opportunities to drive savings and value for money through stopping unnecessary contracts, re-scoping existing contracts and identifying opportunities of combining contracts of a similar nature. As a result of the reviews, savings of £1.8m have been identified and built into the medium term financial strategy across 2022/23, 2023/24 and 2024/25.

2.4 The above improvements were reported to Cabinet in October 2022.

Developments in the last 12 months

2.5 In the last 12 months, further improvements have been implemented and the service has:

- Embedded the training programme, 120 staff have been trained to date. The training ensures those who are involved in procurement are aware of the council's contract procedure rules, thresholds and governance processes;
- Developed a framework to ensure there is a co-ordinated and consistent approach to contract management, this has included learning from other local authorities and guidance from local partnerships;
- Completed procurement process mapping with local partnerships, this work was fed-back to the london procurement network in september and recommendations have been implemented, regarding streamlining of processes and procedures;
- Embedded sustainable improvement in the service by successfully recruiting a commercial strategy and analysis professional, procurement officer, contract management support lead and procurement category manager;
- Engaged in the london procurement network to share learning and best practice, including feedback on the experiences at slough borough council;
- Re-invigorated the berkshire procurement network, with an initial meeting held in september, the network aims to collaborate on regional opportunities and sharing best practice including the implications of the procurement legislation coming into effect in 2024;
- Piloted a social value policy in the procurement team, to ensure it is fit for purpose before rolling out more widely; and
- Engaged with small and medium enterprises at an sme event at arbour park to ensure sme's have visibility on how to do business with the council and oversight of its procurement forward plan.

Update on the recommendations of the CISC task and finish group

2.6 The Head of Commercial services assisted an overview and scrutiny committee task and finish group on a review of contract management, the task and finish group made 12 recommendations which were reported to the committee on 2nd February 2023 and approved by cabinet on 27th February 2023. The recommendations are being implemented by the Commercial service, an update on each recommendation is as follows:

Recommendation 1: The start of the procurement process must be well managed, with clear outcomes and deliverables in the procurement specification, which include outcomes-based deliverables, gateways, monitoring, timelines, milestones and reporting.

and

Recommendation 2: When assessing tenders for work they should be scored against the outcomes and deliverables in the specification and the results retained as evidence.

The Commercial service works closely with service areas to plan timely procurement activity which is assisted by a robust forward plan, this ensures that the procurement

process is well managed and tenders are scored against the outcomes and deliverables in the specification. The service ensures that comprehensive records are maintained including a register of the progress of live procurements.

Recommendation 3: Where authority is delegated to Officers for the award of a high value/high risk contract, this should be in consultation with the lead member. Members must be properly consulted with evidence of decisions in writing and their agreement clearly sought.

The Council has updated its constitution with a list of significant officer decisions which require a formal decision report to be published. This includes contracts over the financial threshold of £180k and any decision exercised following specific delegation from Cabinet. Such record should record the consultation process and comments from the consultee. This takes place during briefings between the appropriate lead member and executive director. Where a record of the consultation is required for contract sealing purposes, an email confirming the outcome of the briefing between the lead member and executive director is requested.

Recommendation 4: Council staff must follow a proper governance process, as set out in the updated Contract Procedure Rules, including having an effective and up to date forward procurement plan.

The Council has an annual procurement plan agreed by Cabinet and this is updated throughout the year as required, with the last one approved at September cabinet.

Recommendation 5: Cabinet reports for procurement must set out the evidence base for a particular recommendation and have an effective options appraisal as part of the report. Consideration should be given to phasing procurement and reserving future decisions to Cabinet for high value / high impact commissioning.

All procurement activity that require a cabinet report, have an options appraisal, however it is important that a business case methodology is used and cabinet authority is sought at the most appropriate time during the procurement cycle. Where cabinet authority is not required, a full business case is developed which sets out case for change, the options appraisal and the cost/benefit of the proposal. In addition, the forward plan report to cabinet in April and September provides an outline of the procurement including deliverables and outcomes.

Recommendation 6: Contracts on the Council's contract register must be risk assessed to identify the scale of the risk for each contract. This should be done using a standardised risk assessment matrix that considers contract value, business value and impact, sourcing and contractual complexity, and performance. This will ensure that mitigations are put in place to proactively manage risks.

and

Recommendation 7: There must be a dedicated contract manager for high-value/impact contracts identified through the risk assessment process. This officer should be appropriately trained and should have responsibility for monitoring the contract and ensuring compliance with the contractual requirements. The officer should keep records of contract meetings and should convene formal monitoring meetings as required by the contract. The officer should raise any risks with the relevant Executive Director. The officer should have access to legal and finance advice, as required, to assist with their role.

These actions are underway as part of the development of the contract management strategy and toolkit, which will assist contract managers to appropriately contract manage high risk contracts. This is due to be in place by the end of October 2023.

Recommendation 8: Meaningful Key Performance Indicators must be developed for contracts and reviewed and followed up regularly at contract review meetings to ensure that any performance issues are discussed and challenged accordingly. For more significant commissioning arrangements, contract review meetings should include operational and strategic meetings with key officers in attendance. These meetings should be confidential to allow for full and frank discussion, with opportunity to agree minutes to be put in the public domain where updates are to be provided to a formal member meeting. If a contractor is invited to attend a formal Member meeting, consideration should be given to allowing this to take place in Part 2 to allow for a more detailed discussion about any issues.

and

Recommendation 9: A standardised framework for contracts should be implemented, which includes a contract management plan for each contract, tailored to take account of value and impact of the contract. This considers important mechanisms for the management of a contract, including roles, responsibilities and governance, dispute resolution, key performance indicators, and exit plans.

This action is underway as part of the development of the contract management framework. The council's contract management support lead is involved at the earliest stages of procurement of high risk contracts to ensure that appropriate KPI's are identified and a contract management plan is in place to monitor them. This is due to be in place by the end of March 2024.

Recommendation 10: When commissioning management consultancy, consideration should be given to the payment mechanism and if this is on a time and materials basis, there should be close monitoring of the value being delivered via this arrangement and consideration of alternatives, such as recruiting in-house resource.

Careful consideration is given to the commissioning of management consultancy and consideration of the options through development of the procurement business case that is scrutinised at procurement review board.

Recommendation 11: When commissioning services, ensure that decisions are informed by data, including benchmarking data where available, to demonstrate value for money for Slough's residents.

and

Recommendation 12: Ensure there is an effective mechanism to review commissioning activity, including reviewing whether the arrangement delivered on the intended strategic aims and capturing any lessons learned. Regular reports should be presented to CLT and the Lead Member responsible for contract management.

This is done through improvement of business cases and cabinet reporting. Business cases are scrutinised at internal strategic boards to ensure that they meet the intended strategic aims.

Challenges

2.7 Whilst improvements have been made in the service it continues to address a number of challenges:

Recruitment

2.7.1 Whilst it is encouraging for SBC to see that recent hires described above are either interim officers interested in becoming permanent members of staff or choosing to return to Slough Borough Council after working elsewhere, two procurement category manager roles remain vacant. This is a challenging space to recruit to and it is a national issue, not unique to SBC. The service continues to work with colleagues in Human Resources to develop innovative ways to attract candidates to Slough including active use of social media and networks to raise the Council's profile and encourage applications. If a further recruitment round is unsuccessful, it may be necessary to engage specialist agencies to assist with finding suitable candidates which will attract a small cost but mitigate the need to spend money on interim staff.

Regional Networks

2.7.2 Historically there have been few opportunities to collaborate with other local authorities on joint procurements. There are practical and operational reasons for this, including the challenges in alignment of contract end dates to facilitate jointly procuring new contracts. It is hoped that the establishment of more regional networks will recognise more opportunities including identification of categories of procurement that lend themselves to collaboration on a regional level.

Social value

2.7.3 As referenced above, the Commercial service have developed and implemented internally, a social value policy. The policy is currently being piloted to ensure that it is fit for purpose, the pilot commenced in August 2023 and is due to be completed by February 2024. At this point, the Strategic Procurement review board will review the outcome of the pilot and make the decision on formal roll out.

2.7.4 The policy sets out when social value should be considered in the tender process and what types of social value should be considered. It is important to ensure that social value applied, is measurable, links directly to the residents of Slough and included in the key performance indicators, monitored as part of contract management. The contract management support lead has been actively involved in development and implementation to ensure it is built into contract management plans as part of the contract management framework developed.

2.7.5 The council has developed a set of example social value questions to be used as reference during a tender for Council Services. These questions aim to assess the bidder's commitment to social value and community impact, aligning with the Council's corporate plan and strategic aims.

2.7.6 To facilitate the measurement of social value, providers will be asked for outcomes, KPI's and measures. Providers bidding for a service will be asked to provide examples of specific outcomes, key performance indicators (KPIs), and measurement methods that can be used to evaluate the bidder's responses to the social value questions in the tender:

2.7.7 These specific outcomes, KPIs, and measurement methods will provide the Council with quantifiable indicators to assess the bidder's commitment to social value and

community impact. Bidders should be prepared to provide data, evidence, and regular reporting on these aspects as part of their proposal and this will be monitored as per the contract management plan for the relevant contract.

Contract management

2.7.8 Whilst the Commercial service is implementing a corporate contract management strategy and toolkit, it is important to ensure this is tailored to Slough Borough Council, and it does not take a “one size fits all” approach to all contracts. To ensure that resources are concentrated on the right contracts, contracts will be categorised and risk assessed, to ensure Directorate’s know which contracts to pay most attention to and time is spent on those that are highest risk to the council. In addition, options for management of the contract register on council systems is being addressed, and the service is considering utilising MSOffice tools to assist with this task. This is due to be in place by the end of March 2024.

Further improvements to be implemented in 2023/24

2.8 In addition to the above, the service is undertaking improvement to processes and procedures which will be completed by the end of the financial year including:

- development of a commercial strategy which expands on the strategy developed in 2021, to include commercialisation and contract management, this will be completed by 31st December 2023.
- driving up contract management standards by developing assurance processes, such as contract management plans.
- review of the contract procedures rules to ensure they are fit for purpose in relation to the council's governance arrangements, the service will also consider the impact of the procurement legislation coming into effect in 2024. The current legislation is planned to be in place by October 2024 (although this is subject to progression through parliament) so the revised rules will go to July or September Council in 2024.
- enhancements to internal systems and processes supported by the Procurement officer and IT systems.
- continuing the staff training programme, courses take place every two months with the next date programmed for 8 November 2023.

Key Performance Indicators

2.9 The service has developed a set of Key Performance Indicators to determine whether improvements in the service are embedding in the council, see Appendix A. The key findings from this data is as follows:

- only 16% of procurement business cases sought an exemption during the first quarter of 2023/24 and none were rated Red. Most exemptions were because of demonstrable best interest, sole supplier or single tender action. Exemptions are tracked and monitored as a “corporate health” indicator.
- the largest contract values came from the former Place and Community directorate and this was due to tenders going out for the green waste contract and for the DSO leased fleet.
- the majority of savings were achieved through IT contracts where opportunities for making savings through contract re-procurement are

identified through the scope of new contracts and efficiencies identified as part of the modernisation programme.

- procurement are working closely with directorates to ensure that services are re-procured within their budget envelope.
- the majority of procurement is either through an external framework or open tender to ensure that best value is achieved.

3 Implications of the Recommendation

3.1 Financial implications

3.1.1 The plans are supported by the key elements of the Council's Constitution most notably Contract Procedure Rules and Financial Procedural Rules.

3.2 Legal implications

3.2.1 The Council is under a general Duty of Best Value¹ to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness." The improvement of the Commercial function, will enable the Council to fulfil its best value duties. These arrangements will secure continuous improvement regarding economy, efficiency and effectiveness and overall value, including social value and will be considered in the procurement and contract management process.

3.3 Risk management implications

3.3.1 The Council takes a risk-based approach to the management of contracts. Contracts are risk assessed to ensure that those highest risk contracts have a robust contract plan in place, which is managed by the contract owner, and supported by the contract management support lead in the commercial team.

3.3.2 The commercial team uses the council's risk management framework to ensure that any risks of strategic importance are escalated to the directorate or corporate risk register and mitigating actions are managed accordingly.

3.4 Environmental implications

3.4.1 There are no specific environmental implications arising directly from this report.

3.5 Equality implications

3.5.1 The Best Value Statutory Guidance states that authorities should avoid "gold plating" the Equality Act 2010 and should not impose contractual requirements on private and voluntary sector contractors over and above the obligations in the Act. This includes seeking to remove unnecessary paperwork and obstacles to contract compliance thereby making it easier for small and medium firms and the voluntary sector to apply and bid for contracts, and lowering costs to taxpayers.

¹ Section 3 of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007)

3.6 Procurement implications

3.6.1 All procurement projects will consider the best procurement option and procurement route. This will ensure that best value is demonstrated in each procurement undertaken.

3.7 Workforce implications

3.7.1 The restructure of the Finance and Commercial Directorate, that took place in summer 2022 took into account the need for sufficient capacity to be built into the structure to ensure there is a team to lead and manage procurement and contract management.

3.8 Property implications

3.8.1 Property implications will be considered upon the letting of each contract.

4 **Appendices**

'A' - Quarter 1 performance indicators

5 **Background Papers**

None

Appendix 'A' Quarter 1 Performance indicators

| Quarter 1 20223/24 | | | | | |
|---|-------------------|------------|--------------------|--------------------|--------|
| Number of Procurements by Directorate | Totals Q1 2023/24 | | | | |
| Directorate | Number | Percentage | Value | Saving | Target |
| Strategy and Improvement | 11 | | £ 668,121 | £ 1,197,105 | |
| Finance and Commercial | 3 | | £ 1,863,811 | £ - | |
| Place and Community | 4 | | £ 4,111,070 | £ - | |
| Housing and Property | 9 | | £ 157,869 | £ - | |
| People (Adults) | 10 | | £ 2,454,932 | £ 9,320 | |
| People (Children) | 0 | | £ - | £ - | |
| Totals | 37 | | £ 9,255,803 | £ 1,206,425 | |
| Procurement approach | | | Value | | |
| Contract Extension Request | 0 | | £ - | | |
| Exemption Request | 6 | | £ 954,251 | | |
| Negotiated Procedure | 0 | | £ - | | |
| Request to Quote | 0 | | £ - | | |
| Request to Tender | 5 | | £ 2,746,181 | | |
| Use of External Framework | 9 | | £ 5,291,596 | | |
| Proforma | 17 | | £ 263,775 | | |
| Totals | 37 | | £ 9,255,803 | | |
| Number & Percentage of Red RAG'd exemptions | 0 | 0% | £ - | | 0% |
| Number & Percentage of Amber RAG'd exemptions | 4 | 67% | £ 853,251 | | 40% |
| Number & Percentage of Green RAG'd exemptions | 2 | 33% | £ 101,000 | | 60% |
| Total | 6 | 100% | £ 954,251 | | |

| Contract Exemptions - further details | | | | | |
|---|---|--|--------------------------|-------------|-------|
| April | | | | | |
| Look Ahead direct award | Single tender action | Exceptional circumstances | People (Adults) | £ 138,750 | Amber |
| YMCA direct award | Single tender action | Exceptional circumstances | People (Adults) | £ 83,250 | Amber |
| SCVS | Demonstrable best interest | Required for a new model to be developed | People (Adults) | £ 473,251 | Amber |
| May | | | | | |
| Colliers as managing agents on the HRA shops portfolio. | Direct award Demonstrable best interest | Linked to asset disposal | Housing and Property | £ 36,000 | Green |
| Liquid logic LAS and LCS renewal | Direct award Sole Supplier | Clause 14.9a in the CPRs | Strategy and Improvement | £ 158,000 | Amber |
| June | | | | | |
| Assistive technology | Direct award Sole Supplier | Specialist Consultancy Service Hampshire | People (Adults) | £ 65,000.00 | Green |