

## Update on the response to the External Auditor's value for money opinion (2017/18) and findings of procurement weaknesses

To: Audit and Accounts Committee

Meeting Date: 31<sup>st</sup> May 2022

From: Tom Kelly, Director of Resources & Chief Finance Officer

Outcome: The Committee will be informed of the action taken in response to the findings of procurement weaknesses identified in the external auditor's value for money opinion.

Recommendation: It is recommended that the Committee:

- a) Receives the update on the actions taken and planned in response to the identified procurement weaknesses.
- b) Notes and comments on the County Council's actions taken and planned as set out in this report.

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## 1. Background

1.1 On the 25<sup>th</sup> November 2021, this Committee received a report outlining the external auditor's findings of procurement weaknesses and the actions taken and planned in response to those findings.

1.2 Following discussion at that meeting, an additional recommendation was agreed

*(d) include as an annual agenda item at a meeting of the Audit and Accounts Committee the following:*

*(i) the number and descriptions of current and future procurement exercises and resultant contracts, waivers and extensions that are awarded and any numbers that fail to meet Council and legal requirements:*

*(ii) the number of extensions to contractual scopes or periods with justification for such extensions;*

*(iii) that training is provided and reported to this Committee for both Members and relevant Officers, of the impact of variable sensitivity of scoring systems as part of an overall training package relating to procurement;*

*(iv) that the role and appropriate balance of Member involvement and Officer delegation in the planning, execution and determination of procurement exercises is adequately documented.*

An update on these actions is also provided in this report.

## 2. BDO Recommendations and action taken

2.1 The report to this Committee in November set out that several of the areas highlighted by external audit had first been detected by internal audit in 2017/18 and therefore the Council had already made progress with implementing improved controls to avoid recurrence.

2.2 BDO recommended that action was required to ensure that contracts are added to the Contract Register following procurement activity. In response, a monthly download from the Contract Register is cross referenced against procurement activity by Senior Category Managers in the Procurement Team. A further system is being established where supplier spend is cross referenced with the Contract Register, again to identify disparities. Active updating of the Contract Register is supported by the recently updated Procurement Guide and will be emphasised in the procurement training being developed.

2.3 BDO recommended that mandatory procurement training is provided to all officers who have responsibility for procurement. Plans are progressing to ensure that the training will be available to Officers following approval of the updated Contract Procedure Rules and as part of the updated e-learning software made available by the L&D Team. It is anticipated that the training will be available in September.

2.4 Details of the online waiver process are available on the Procurement Intranet pages and in the recently reviewed Procurement Guide. Details of the process will also be provided in the

training that is being developed for Officers. The Contract Register checks described in 2.1 above will ensure that waivers are being sought in all cases where they are required.

- 2.5 In reference to the BDO recommendation regarding Monitoring Officer approval for contracts longer than four years, the re-drafted Contract Procedure Rules emphasise the need for proper approval at the start of the procurement process for the process itself and the contract term thereby negating the need for this extra approval step.
- 2.6 The updates required to the Contract Procedure Rules as a result of the BDO recommendations were approved by Full Council on 10<sup>th</sup> May 2022. A query was raised at Full Council as to the waiver requirements where fewer than three bids have been received. It is clarified that the change in this area relates to the Council's response after a competitive procurement has been run but only one bid has been received. The change does not relate to circumstances in which a direct award can be contemplated. The changes to the Contract Procedure Rules allow for a central storage location for contracts valued over £100,000 to be established.
- 2.7 Follow up internal audit further to the external audit findings in relation to consultancy procurement has detected a further historic example of a consultancy appointment where the accumulated value exceeds the key decision threshold but where Committee approval appears not to have been given in advance. In addition, there are more recent examples of non-compliance with Council policies around information retention, internal approvals and payment incentivisation. The Corporate Leadership Team has considered these findings and is committed to prioritising compliance for consultancy procurement, instigating an online request for, approval panel and improved guidance and controls within the ERP Gold system.

### 3 Annual Report on Procurement Activity

- 3.1 During 2021, the Procurement Team supported 141 procurements. 30 of these were in the Corporate Services/IT category, 51 were in the People and Communities category and 60 were in the place and economy category.
- 3.2 A mixture of procurement processes were used by the team:
  - 2 competitive dialogues
  - 7 direct awards from external framework agreements or DPSs
  - 3 new internal DPSs were established
  - 6 new internal framework agreements were established
  - 2 were market engagement processes only, meaning that the procurement process has yet to be started.
  - 24 mini competitions from external framework agreements/DPSs
  - 31 mini competitions from internal framework agreements/DPSs
  - 37 open/1-stage tenders
  - 3 restricted/2-stage tenders
  - 14 requests for quotations
- 3.3 All of these procurements, within involvement from the corporate Procurement Team, meet the Council's obligations and internal governance requirements. The challenge previously identified, and leading to non-compliance in 2015 and 2018 is whether any purchasing has

circumvented these procedures without input from a procurement professional. There are three levels of measures to prevent and detect this risk. Firstly, the communications and training messages are designed to ensure that contract managers are better informed and engage with corporate compliance. Secondly, increased controls have been built into the Contract Register and the ERP Gold purchasing system. Thirdly, internal audit have been tasked with sampling expenditure with a view to detecting procurement non-compliance.

- 3.4 During 2021/22, 64 contracts listed on the Contract Register were extended in time using extensions provided for within the contract. The justifications for these extensions are not noted in the Contract Register. However, contract extensions broadly fall into two groups. Firstly, contract extensions may have been allowed for within the contract terms and officers may therefore be making use of these allowable extensions. Secondly, a contract may need to be extended beyond its allowable term for a specific reason, in these cases a waiver needs to be sought and restrictions apply on the nature and length of any extension agreed.
- 3.5 24 procurements have been started by the team so far in 2022.
- 3.6 During 2021, 157 waivers were submitted. 46 were connected to a change to an existing requirement, for example an extension in scope or length of contract where that extension was not provided for within the original procurement. 105 were for new requirements where reasons were put forward as to why the requirements of the Contract Procedure Rules could not be followed. 6 were in relation to the replacement of an existing requirement.
- 3.7 The system logs which directorate submitted the waiver:
- 15 were from Customer and Digital Services
  - 44 were from People and Communities
  - 39 were from Place and Economy
  - 40 were from Public Health
  - 19 were from Resources.
- 3.8 The total value of contracts covered by waivers was £7,424,279 and the average value was £47,000. In comparison, the total value of contracts added to the Contract Register during 2021/22 was £69,324,906.
- 3.9 KPI169 monitors the % of waivers submitted within 5 days of the waiver start date to track whether waivers are submitted in sufficient time to allow for a procurement should the waiver be rejected. The target for this KPI is 20% allowing for the fact that valid reasons for waivers include emergencies and urgent situations. Performance currently stands at 68%
- 3.10 Procurement training for Officers is detailed in 2.3 above. Once the Contract Procedure Rules have been updated, procurement training will also be developed for Members to support them in their duties. An initial briefing on Public Procurement and the principles of effective procurement were included in the Member Induction Programme 2021.
- 3.11 The revised Contract Procedure Rules include information on the expected role of Members in procurement activity in line with the LGA 'A Councillor's Guide to Procurement'.

## 4. Source documents

- 4.1 Contract Procedure Rules: <https://www.cambridgeshire.gov.uk/council/meetings-and-decisions/council-constitution>
- 4.2 Contract Register: <https://data.cambridgeshireinsight.org.uk/dataset/cambridgeshire-county-council-contract-register>
- 4.3 Intranet Procurement Guidance: <https://cccandpcc.sharepoint.com/sites/CCCResources#procurement> Available on request
- 4.4 Audit and Accounts Committee November Report: [Council and committee meetings - Cambridgeshire County Council > Meetings \(cmis.uk.com\)](#)
- 4.5 Constitution and Ethics Committee April Report: [Council and committee meetings - Cambridgeshire County Council > Meetings \(cmis.uk.com\)](#)