

## **Finance Sub-Committee**

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<b>Date of Meeting:</b>	5 January 2022
<b>Report Title:</b>	Procurement Pipeline
<b>Report of:</b>	Alex Thompson: Director of Finance and Customer Service
<b>Report Reference No:</b>	FSC/22/21-22
<b>Ward(s) Affected:</b>	All

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### **1. Executive Summary**

- 1.1.** The purpose of this report is to enable the Sub-Committee to fulfil its responsibilities in relation to oversight of the procurement pipeline of the Council. The report provides an update of the pipeline of procurement activity up to April 2024 (for all known re-procurements). Recommendations also require approval of, and classification of, certain procurements that are significant decisions. To enhance the oversight of procurement the report also contains information on contracts awarded by the Council since April 2021 and provides an update on the number of cases where and reasons why procurement activity has required the use of waivers.
- 1.2.** All waivers will be presented without any information redacted. However, they will be presented in Part 2 of the Committee as they may contain commercially sensitive information and/or Officer Details.
- 1.3.** Council approved on the 15<sup>th</sup> December 2021 to expand the definition of Significant Decision to provide greater clarity.

“A decision which is likely to result in the local authority incurring non-routine expenditure which is, or the making of non-routine savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates; and / or is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the Council. For these purposes, savings and expenditure are ‘significant’ if they are equal

to or greater than £1,000,000, unless the context requires otherwise. For clarification, no decision previously approved by the Finance Sub-Committee, and no treasury management decision, shall constitute a Significant Decision”.

- 1.4. Significant Decisions are decisions that need to go to committee. There are no ‘Key Decisions’ in a committee system but clarity on where a decision should be made was requested. The previous definition was simplified to a decision over £1m unless the context required otherwise. This was causing unnecessary activity as the Council has regular ‘business as usual’ decisions over £1m which would still have required routine reports to committee. To ensure alignment with the Council’s vision to be Open the Sub-Committee has responsibility to oversee the procurement pipeline, This means members are sighted on all procurement activity, but the overall process remains proportionate.
- 1.5. This report supports the Council being open and working transparently with its residents, businesses and partners
  - 1.5.1. **Ensuring that there is transparency in all aspects of Council decision making** (page 3 and 13 Corporate Plan 2021 to 2025) by publishing a pipeline of procurement activity and contracts awarded on the Council’s Open Data.

## 2. Recommendations

- 2.1. That the Finance Sub Committee
  - 2.1.1. Note the procurement pipeline of activity in Appendix 1.
  - 2.1.2. Approve the business-as-usual procurements and the Significant Decisions which require service Committee approval, Appendix 1, column G.
  - 2.1.3. Note the contracts awarded by the Council since April 2021, Appendix 2.
  - 2.1.4. Note that purchase card expenditure above £500 is now published on the Council’s transparency pages.
  - 2.1.5. Note the reason for 17 waivers approved between 1<sup>st</sup> September 2021 and 30<sup>th</sup> November 2021 (27 in total in 2021/22)

## 3. Reasons for Recommendations

- 3.1. The sub-committee has responsibility for oversight of procurement. Procurement is the process of acquiring goods, works or services from third parties including wholly owned subsidiary bodies of the Council. The process spans the whole commissioning cycle and is generally covered by the Public Contract Regulations 2015 (PCR) 2015.

- 3.2. To ensure compliance with the PCR, the Constitution and the Commissioning Framework a procurement pipeline of work is maintained which the Committee should review as part of their responsibilities. This is attached at Appendix 1.
- 3.3. Column G of the pipeline identifies which procurements are categorised as business as usual and which are categorised as Significant Decisions and require service Committee approval. This is due to them incurring non-routine expenditure or having a significant effect on communities.
- 3.4. To ensure the Council complies with the Local Government Transparency Agenda all contracts awarded are published on the Council's transparency pages on the website. Appendix 2 provides a list of all contracts awarded over £5000.
- 3.5. The Local Government Transparency Agenda also requires publications of expenditure exceeding £500, this along with other procurement information is available on OpenData.
- 3.6. The Council has recently enhanced its spending transparency by publishing all purchase card expenditure above £500. This is available on the Council's transparency pages, OpenData and responds to a question raised at the Council's Audit and Governance Committee.
- 3.7. The contract procedure rules set out the necessary controls that are used to manage related spending. There are occasions where it is appropriate to waive these rules with the proper authority.
- 3.8. Waivers are pre-approved variations from the Contract Procedure Rules, and these form part of the procurement process.

#### **4. Other Options Considered**

- 4.1. There is an option not to publish a pipeline of procurement activity that classifies business as usual activity and significant decisions. This option would lead to all procurement activity requiring detailed reports to Committees in addition to the existing oversight from the Finance Sub-Committee and exception reporting to the Audit and Governance Committee. This would cause additional work for officers having to draft routine reports for committee for business-as-usual expenditure. This option is not recommended as the Finance Sub-Committee can provide suitable assurance that spending is, or is not, routine and within the Budget and Policy Framework. Audit and Governance Committee also provide assurance in their role of reviewing procurement activity where procedure rules are waived or not adhered to.
- 4.2. The responsibility of the Sub-Committee is to establish a procurement forward plan, which is provided at Appendix 1. Other information such as the past spend, review of waivers and approval of significant decisions could therefore be removed from this report as an alternative option. This option is not recommended as the Corporate Plan supports transparency

which is enhanced by providing additional context around procurement activity.

## 5. Background

- 5.1. It is important for the Council to ensure proper oversight of procurement activity. Following the implementation of the Committee system, Key Decisions have been replaced within the Constitution by “Significant Decisions”.
- 5.2. Oversight is important as in a normal operating year the Council spends more than £350m with external parties which need to be procured in accordance with the PCR’s 2015 ensuring value for money and that the Council’s Social Value principles and objectives are achieved.
- 5.3. The procurement pipeline provides a list of all the Council’s scheduled procurement activity up to April 2024. The Committee should be reassured that significant decisions are well managed and therefore consider reviewing important or valuable contracts.
- 5.4. The Local Government Transparency Code was published in 2015 which details, amongst other things, the procurement information local authorities are required to publish. Cheshire East Council publishes a monthly spend report which details the previous months spend along with contracts awarded quarterly in arrears. The Council also complies with the PCR where all contracts above £25k are published and awarded on Contracts Finder and Find a Tender when above the PCR threshold.
- 5.5. At a recent Audit and Governance Committee it was requested that purchase card spending above £500 be published to enhance the spending transparency of the Council. This has now been implemented, but unfortunately, due to external supplier systems, the Council cannot provide the same level of detail for the purpose of the expenditure as seen in the standard £500 spend reports. This is due to the purchase card suppliers only having the software to enable level 1 card data reporting (total purchase amount, date, merchant category code and supplier/retailer name).
- 5.6. All waivers approved in the periods between Finance Sub-Committees will be presented to the next Committee meeting. The number of waivers to be reported to this committee is 17 (27 waivers in total to date).

### 5.6.1. Table 1: Waivers

Waivers	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	Apr-Oct 2021
	40	20	16	17	25	27

**5.4.2** The number of waivers has increased in the past two years because of COVID and the impacts it has had. There have been 16 approved due to issues within the care market and the Council needing to secure beds at care homes, 3 for COVID testing and behavioural campaigns and 3 for support for the Government's Afghan citizens resettlement scheme.

## **6. Consultation and Engagement**

**6.1.** Consultation and engagement have been undertaken with Cheshire East Council staff who have a role within Commission, Procuring and Contract Managing goods, services or works for the Council.

## **7. Implications**

### **7.1. Legal**

**7.1.1.** The Council's commercial legal team will work with procurement and seek to ensure that the Council's procurement activity complies with the PCRs and the Council's contract rules; and will look to advise on the appropriate form of contracts to be used.

### **7.2. Finance**

**7.2.1.** The recommendations in this report do not impact on the Council's Medium Term Financial strategy (MTFS).

### **7.3. Policy**

**7.3.1.** New policies regarding Contract Management and the roles and responsibilities.

### **7.4. Equality**

**7.4.1.** All tenders issued by the Council include a Selection Questionnaire which asks bidders to confirm obligations in environmental, social and labour laws. This is a self-declaration which provides a formal statement that the organisation making the declaration has not breached any of the exclusion grounds, including Equality Legislation. If a serious misrepresent is found in the Selection Questionnaire, bidder may be excluded from the procurement procedure, and from bidding for other contracts for three years.

**7.4.2.** All Cheshire East Council contracts have a clause stating "the supplier shall perform its obligations under the Contract in accordance with all applicable equality Law and the Council's equality and diversity policy as provided to the Supplier from time to time"

### **7.5. Human Resources**

**7.5.1.** There are no direct implications for HR.

## 7.6. Risk Management

- 7.6.1. Contract and supplier risks and issues will be managed through the new Contract Management System ensuring supply chain risks are monitored and managed appropriately with visibility across the Council.

## 7.7. Rural Communities

- 7.7.1. There are no direct implications for rural communities.

## 7.8. Children and Young People/Cared for Children

- 7.8.1. There are no direct implications for children and young people.

## 7.9. Public Health

- 7.9.1. There are no direct implications for public health

## 7.10. Climate Change

- 7.10.1. Carbon and the environment form part of the Council's Social Value Policy and Framework. How the Council measures the outcomes and performance from the supply chain will be through the Contracts Management Framework.

<b>Access to Information</b>	
Contact Officer:	Lianne Halliday Lianne.halliday@cheshireeast.gov.uk
Appendices:	Appendix 1 Procurement Pipeline Appendix 2 Contracts awarded since April 2021
Background Papers:	None

### **Procurement pipeline of work**

Directorate	Number of contracts to be procured	Total contract value (including the term)
Corporate	141	£140,282,576
Place	49	£53,038,000
Adults, PH, Communities	40	£680,944,800
Children's	18	£31,119,178
<b>Total</b>	<b>248</b>	<b>£905,384,554</b>

### **Contracts awarded since April 2021**

Directorate	Number of contracts awarded	Total contract value
<b>Total</b>	<b>287</b>	<b>£87,431,568</b>

Data is available on the Cheshire East website, link below.

<https://opendata-cheshireeast.opendata.arcgis.com/search?sort=name&tags=contracts%20register>