

Finance Sub-Committee

Date of Meeting:	7 September 2022
Report Title:	Procurement Pipeline
Report of:	Alex Thompson: Director of Finance and Customer Service
Report Reference No:	FSC/3/22-23
Ward(s) Affected:	All

1. Executive Summary

- 1.1. The purpose of this report is to receive an update on the procurement pipeline for the council, the contracts awarded since April 2022 and procurement activity.
- 1.2. The responsibilities of the Finance Sub Committee include the oversight of procurement. To manage these responsibilities a Procurement Working Group was established at the July Committee. The working group met during August to review several completed procurements and will report back at the September meeting.
- 1.3. This report supports the Council being open and working transparently with its residents, businesses and partners
 - 1.3.1. **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 2 new pipeline projects in Appendix 1 as business as usual (column H approval required).

- 2.1.3. Note the contracts awarded by the Council since April 2022, Appendix 2.
- 2.1.4. Note the reason for 7 waivers approved between 1st June 2022 and 31st August 2022 (13 in total in 2022/23).

3. Reasons for Recommendations

- 3.1. The sub-committee has responsibility for oversight of procurement. To manage these responsibilities the Sub Committee have requested that a working group be established to review past procurement projects and report observation back to the Sub Committee.
- 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 H 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 since April 2022.
- 3.5. 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.
- 3.6. 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 Finance Sub Committee approved the Terms of Reference for the Procurement Working Group in July 2022. The group met during August to review a number of procurements to provide the Sub Committee with assurance that the procurement projects followed the Contract Procedure Rules, complied with the Public Contract Regulations 2015 and achieved value for money. The feedback will be provided at the September Committee.

5.4. The procurement pipeline provides a list of all the Council’s scheduled procurement activity above £1m. The Committee should be reassured that significant decisions are well managed and therefore consider reviewing important or valuable contracts.

5.5. 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 7. The detailed waivers are set out in Part 2 of the agenda as they contain exempt information.

5.5.1. Table 1: Waivers

Waivers	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021 - 2022	April – August 2022
	40	20	16	17	25	37	13

5.5.2. The number of waivers increased over the past two years because of COVID and the impacts it has had on the care sector. So far this year 8 of the waivers approved have been care related.

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 Councils 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.

Access to Information	
Contact Officer:	Lianne Halliday Lianne.halliday@cheshireeast.gov.uk
Appendices:	Appendix 1 Pipeline (spreadsheet) Appendix 2 Contracts (spreadsheet)
Background Papers:	Waivers - exempt

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

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