

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CORPORATE OVERVIEW AND SCRUTINY COMMITTEE

5 OCTOBER 2017

REPORT OF THE CORPORATE DIRECTOR, OPERATIONAL AND PARTNERSHIP SERVICES

PROCUREMENT UPDATE

1. Purpose of Report

- 1.1 To update Members on the progression of the various work streams on the Corporate Procurement Review, and to highlight how compliance with legislation is achieved via the procurement process.

2. Connection to Corporate Improvement Plan / Other Corporate Priority

- 2.1 The report links to the following priorities in the Corporate Plan:

- Supporting a successful economy;
- Smarter use of resources.

3. Background

- 3.1 A report was presented to Programme Management Board on 3rd May 2016 proposing a Corporate Procurement Review to identify ways to improve commissioning and procurement across the Authority. Approval was given to proceed with this proposal.
- 3.2 The Corporate Procurement Review has identified various projects that would benefit from a more coordinated commissioning/procurement approach across the Authority. The review has required key stakeholders across Directorates to sit on specific projects within the Corporate Procurement Review.
- 3.3 The Code of Practice – Ethical Employment in Supply Chains was launched on 9th March 2017. The purpose of the Code was to support the development of more ethical supply chains to deliver contracts for the Welsh Public Sector and third sector organisations in receipt of public funds. Welsh Government expects all public sector organisations to sign up to the Code, with a view to assess each of the commitments and eventually implementing them.

4. Current Situation/proposal

Corporate Procurement Review

- 4.1 Below is an update for each project:

Purchasing Review

- Processes post County Borough Supplies

The planning and implementation of alternative procurement solutions have been successful since the closure of County Supplies. The Authority has sourced through the National Procurement Services collaborative arrangement suppliers for both stationery and paper. The next phase is for the catalogue to be available electronically for user ease.

- Purchasing Cards

Purchasing cards have successfully been rolled out across the Authority and to all schools. This will provide efficiencies across the Authority, reduce the use of petty cash and provide Procurement with the relevant data to control ad hoc spending.

Restructure

The restructure of the Corporate Procurement Unit has been implemented. This involved changing the way in which the unit operates by implementing a category management approach to procurement across the Authority. Category management is where goods, works and services that have similar characteristics and are bought from similar supply chains are grouped together and treated as a category. This allows for structured category planning and shaping strategic direction, understanding business requirements and market opportunities, cross-functional joined up working with commissioners and better management of supply and demand.

There are currently 4 Category Specialists and 2 Category Support Assistants within the unit.

Procurement Business Review

- Contract Procedure Rules

The Council's Contract Procedure Rules are in the process of being reviewed. The intention is to consult with CMB in November 2017 and report to Cabinet prior to an implementation date of 1st April 2018.

- Procurement Strategy

The Corporate Procurement Strategy is in the process of being reviewed in line with the restructure, changes to the Public Contracts Regulations 2015 and the review of the Council's Contract Procedure Rules. The consultation of the Contract Procedure Rules will take place in November 2017 and the strategy will follow on from the agreement of the new rules.

- eProcurement

The Corporate Procurement Unit is working jointly with Finance on the eProcurement project. Recently a Project Board has been set up – Procure 2 Pay, consisting of officers from Finance and Procurement. A full review of the Authority's (including schools) ordering and payment method and supplier usage will be

undertaken to implement a more efficient way of ordering and the payment of invoices. This will create a more centralised payment process.

Some main benefits of this review will include:-

- a single source, unified and regulated approach to ordering and invoicing
 - Optimises the use of corporate contracts. Ensuring transactions are accurately costed using default cost centres and subjective codes
 - Support compliance with the Corporate Procedure Rules and financial procedures by restricting access to contracted suppliers, thereby managing risk and ensuring legal compliance
 - Reduction in non-compliance spend – encourages centralised contract processes
 - Significantly reduces potential for duplication of orders and invoices
 - Reduced order and invoice processing time with improved payment of invoices, particularly through e-Invoicing
 - On-time payment commitment to supply chain
 - Future National Procurement Services commodity items may be held centrally and only available through the marketplace
 - No further system costs involved as COA costs already considered.
- eTendering

eTendering has been rolled out across the Authority to key stakeholders to encourage the use of electronic tendering as opposed to paper tenders. This provides efficiencies for both the authority and bidders. eTendering provides clear audit trails. Directorates have been asked to consider other potential users within the departments who would benefit from training with a view to moving completely to e-tendering in readiness for the October 2018 deadline for compliance. Training will be carried out by officers within Procurement.

Since the implementation of eTendering the Category Specialists have had a better insight into spend non-compliance and opportunities for aggregating spend.

The aim of the roll out is to allow key users to procure low value spend independently, with guidance. This will free up Category Specialists to work on the high value, high risk strategic projects.

- Tender Templates

As part of the review there was a common theme across Directorates that tender templates would be helpful when they are conducting their quotes independently. Currently the Procurement Unit is working on these documents to share with clients.

- Website

Currently procurement has an internal and external web page, which is being reviewed to make them more user friendly by ensuring easy access to the directory of contract, Contract Procedure Rules and relevant guidance on how to procure in the Authority. It will also have links to documents such as the tender templates.

- Collaborative Frameworks

The Authority utilises the National Procurement Services framework agreements for common and repetitive spend. The Crown Commercial Services frameworks are also used, particularly for IT spends. Some directorates also collaborate with regions to set up regional frameworks/contracts, in particular Western Bay.

- Contracts Register

The Corporate Contracts Register has been established via the existing eTendering portal. This is now fully implemented across the Authority and is an electronic means of management information for spend and compliance. Key stakeholders across the Authority have been trained on uploading new or renewed contracts on the portal and further training is due to be arranged to target other stakeholders and new starters. Currently the Procurement Unit manage the register but the intention in the future is for each Directorate to be responsible for managing their contracts via this portal. Reminders are sent to contract managers for contracts that are due to expire to help inform their forward work plan and also the Category Specialist workload.

Implications of Legislation such as national minimum/living wage, zero hour contracts

- 4.2 For procured services, contract terms and conditions include the requirement to comply with all relevant legislation and any future changes to legislation. This includes employment legislation, including National Minimum Wage, National Living Wage.
- 4.3 If providers can evidence legislation has had a direct financial impact on their business they can apply for uplift in relation to the service they carry out for the Authority. Individual Directorates must manage budget pressures that arise due to changes in legislation.
- 4.4 The Living Wage differs from the National Living Wage. It is a voluntary scheme which employers can choose to sign up to. The rate is set by the Living Wage Foundation and is not legally enforceable. This Authority does not currently participate in this scheme and it is not included as a contract term or condition for procured services.

Code of Practice – Ethical Employment in Supply Chains

- 4.5 The Code of Practice – Ethical Employment in Supply Chains is designed to help ensure workers in public sector supply chains in Wales are employed in a fair and ethical way. The Code has 12 commitments which need to be implemented,

managed and monitored to report to Welsh Government. The Authority has not yet signed up to the Code and would need corporate commitment to do so. The 12 commitments are summarised below with an indication of what the Authority would need to put in place to ensure compliance:

1. Produce a written policy on ethical employment within the organisation and our supply chains. Once produced, the Authority will communicate the policy throughout the organisation and will review it annually and monitor its effectiveness. Appoint an Anti-Slavery and Ethical Employment Champion.

This has currently not been produced and would need to be completed corporately.

2. Produce a written policy on Whistle-blowing to empower staff to raise suspicions of unlawful and unethical employment practices.

The Authority has a Whistle-blowing Policy which is reviewed as and when required.

3. Ensure that those involved in buying/procurement and the recruitment and deployment of workers, receive training on modern slavery and ethical employment practices, and keep a record of those that have been trained.

Not all staff have received the relevant training.

4. Ensure that employment practices are considered as part of the procurement process – include a copy of the Authority's Policy on ethical employment in procurement documentation and include appropriate questions on ethical employment in tenders and assess the responses provided. Incorporate, where appropriate, elements of the Code as conditions of contract and ask bidders to explain the impact that low costs may have on their workers each time an abnormally low tender is received.

The Authority currently does not have a policy and therefore it cannot be included in procurement documentation.

If relevant, appropriate questions are asked on ethical employment in tenders within procurement abnormally low bids are challenged in line with the PCR2015.

5. Ensure that the way in which the Authority works with its suppliers does not contribute to the use of illegal or unethical employment practices within the supply chain. Ensure that undue cost and time pressures are not applied to any of our suppliers and ensure that our suppliers are paid within 30 days of receipt.

On average 4.20% of invoices are paid after 30 days, usually due to incorrect invoicing.

6. Expect suppliers to sign up to the Code to help ensure that ethical employment practices are carried out throughout the supply chain.

This has not been implemented due to the Authority currently not being signed up.

7. Assess expenditure to identify and address issues of modern slavery, human rights abuse and unethical employment practice. The Authority will be required to carry out regular reviews of expenditure and undertake a risk assessment to identify where there is risk. Investigate any supplier that is identified as high risk and work with suppliers to rectify any issues. Monitor the employment practices of high risk suppliers.

This is currently not carried out in procurement.

8. Ensure that false self-employment is not undertaken and that umbrella schemes and zero hour contracts are not used unfairly or as a means to avoid payment of tax and national insurance and the relevant minimum wage, unduly disadvantage workers in terms of pay and employment rights, job security and career opportunities and avoid health and safety responsibilities.

This is not included in procurement exercises. Corporately all new suppliers are subject to employment status checks before they are paid through finance or payroll. This ensures the Authority is paying the correct tax and national insurance.

9. Ensure that workers are free to join a Trade Union or collective agreement and to undertake any related activity and raise workers concerns without risk of discrimination. The Authority will not make use of blacklists/prohibited lists, ensure that suppliers do not make use of blacklists/prohibited lists, not contract with any supplier that has made use of blacklist/prohibited list and expect suppliers to ensure that Trade Union representatives can access members and contracted workers.

The Authority allows workers to join Trade Unions or collective agreements without discriminating against them. It is not currently included in procurement specifications.

10. Consider paying all staff the Living Wage Foundation's Living Wage as a minimum and encourage suppliers to do the same. The Authority will consider becoming an accredited Living Wage Employer, encourage suppliers based overseas to pay a fair wage to all staff, and to ensure that staff working in the UK are paid at least the minimum wage.

The Living Wage has not been implemented within the Authority. There is currently no encouragement to suppliers to pay this rate. The Authority ensures suppliers are complying with their legal obligations to pay National Minimum Wage / National Living Wage.

11. Produce an annual written statement outlining the steps taken during the financial year, and plans for future actions, to ensure that slavery and human trafficking are not taking place in any part of our organisation and its supply chain. The Authority will ensure that the statement is signed off at Senior Management board/ level and publish the statement on its website. If this is

not possible, the Authority will provide a copy to anyone within 30 days of a request being made. (All organisations signing up to this Code are expected to produce and publish this annual written statement).

Currently the Authority does not produce an annual statement.

12. Ensure all those undertaking work on an outsourced contract are treated fairly and equally. Ensure that public sector staff who are transferred as part of a public service which is outsourced to a third party retain their terms and conditions of employment. Ensure that other staff working on an outsourced public service are employed on terms and conditions that are comparable to the transferred public sector staff.

The Authority adheres to the Two Tier Code and the relevant TUPE regulations when outsourcing staff.

How the Authority procure contracts

- 4.6 The Corporate Procurement Unit procures contracts in line with its own internal Contract Procedure Rules as set out in the Constitution. When it is anticipated that the spend will exceed the Public Contract Regulations 2015 thresholds, the procurement is conducted in accordance with the Regulations. Depending on the commodity, there are various methods of procuring. The Category Specialists work in partnership with the Commissioners to advise the best route to achieve best value for money. This may be in the form of a contract or a framework agreement.

5. Effect upon Policy Framework and Procedure Rules

- 5.1 There is no impact on the Policy Framework and Procedure Rules.

6. Equality Impact Assessment

- 6.1 There are no equality matters relevant to this report.

7. Financial Implications

- 7.1 The implementation of the Code of Practice – Ethical Employment in Supply Chains would require additional resource to implement but this is not quantifiable at this stage. Annual third party annual expenditure on goods and services was £97 million in 2016-17

8. Recommendation.

- 8.1 The Committee is recommended to note the contents of this report

Andrew Jolley
Corporate Director, Operational and Partnership Services
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- 12. Contact Officer: Kelly Watson**
Group Manager Legal
Telephone: (01656) 643248
Kelly.watson@bridgend.gov.uk
- Rachel Jones**
Corporate Procurement Manager
Telephone (01656) 642596
Rachel.jones2@bridgend.gov.uk

- 13. Background documents:**

None