

Birmingham City Council
Resources Overview and Scrutiny Committee
24 March 2022



Subject: Task and Finish Group on Procurement Governance Arrangements
Report of: Task and Finish Group
Report author: Steve Sandercock, Assistant Director, Procurement

Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential : N/A

1 Introduction

- 1.1 At the start of the municipal year the Resources Overview and Scrutiny Committee identified several issues with procurement and contract management arrangements, particularly in relation to the timeliness of decisions and adherence to regulations and governance requirements.
- 1.2 With this in mind a cross-party Task and Finish Group, consisting of Councillor Mohammed Aikhlaq (Chair), Councillor Barbara Dring, Councillor Meirion Jenkin, Councillor Majid Mahmood, and Councillor Paul Tilsley, was set up to review and examine the commercial governance process to ensure, moving forward, it is robust, fit for purpose, is complied with, and delivers value for money. The terms of reference for this are set out in full at Appendix 2.

2 Evidence Gathering

- 2.1 Evidence gathering took place from April 2021 to March 2022 and included input from officers, who provided clarity on the current rules, and legal requirements, governing financial, procurement and contract matters. In addition, benchmarking data from Core Cities, other local authorities and West Midland partners was considered along with information from suppliers. The Task Group also considered information in relation to the Green Paper on Transforming Public Procurement and Planned Public Sector Procurement Regulations.
- 2.2 Findings from the Task Group's evidence gathering, together with recommendations, have been set out in full at Appendix 1.

- 2.3 It should be noted that while most recommendations achieved support from each of the 5 Task Group Members, this was not possible for all recommendations.
- 2.4 Appendix 1 highlights where consensus wasn't possible and provides information to explain why some of the recommendations were not supported by the Conservative Group. Further information is also provided via the letter, attached at Appendix 3, from Councillor Meirion Jenkins, who was the Conservative representative on the Task Group.

3 Recommendations

- 3.1 That recommendations R01 to R22, set out via Appendix 1, be approved, and the Cabinet Member for Finance and Resources be requested to pursue their implementation.
- 3.2 That progress towards achievement of these recommendations be reported back to the Resources Overview and Scrutiny Committee no later than September 2022.

4 Appendices

- 4.1 Appendix 1 – Information Pack (Evidence, Findings and Recommendations)
- 4.2 Appendix 2 – Terms of Reference
- 4.3 Appendix 3 – Letter from Councillor Meirion Jenkins

OVERVIEW AND SCRUTINY TASK AND FINISH GROUP PROCUREMENT GOVERNANCE ARRANGEMENTS

Appendix 1: Information Pack March 2022

Steve Sandercock Assistant Director – Procurement



Purpose of meeting



SECTION 1 - Recommendations



SECTION 2 - Recommendations – Outcome from O&S Task and Finish Group



SECTION 3 - Reminder – Current Procurement Governance Rules



SECTION 4 - Reminder – Legislative Requirements



APPENDIX 1A - Findings from Supplier and Officer surveys



APPENDIX 1B – Benchmark findings other Council procurement rules



APPENDIX 2 - Additional Background Information / Context

SECTION 1 - RECOMMENDATIONS



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City Council

Recommendations - Thresholds

1. **Introduce an Initial Make or Buy decision for pre Procurement Stages** – e.g. use of in-house Council services, existing contracts (ensure relevant to directorate or corporate contract), or existing public procurement frameworks. To include contracts awarded under the PCR 12(1) (formerly referred to as the Teckal exemption) and contracts awarded under PCR 12(7) (e.g. establishing or implementing a public contract with another public sector entity);



Must be able to demonstrate Best Value (also covered in clause FR10 of the Constitution). Consideration on how this aligns to the Commissioning Strategy will also be taken. Evidence to be provided in the Pre-Procurement Report and must be proportional to the value of spend.

2. **Introduce proceed to purchase threshold for under £5,000** – e.g. authorisation to be obtained via the Scheme of Delegation (see footnote -1)
3. **Introduction of new threshold to replace current £10k threshold with £5,000 - £25,000 level** and minimum of one quotation (local supplier or SME where possible), preference for three quotations (see footnote -2) –



Quotations to be attached to Purchase Order for audit purposes.

Footnote -1 181 contracts > £5,000 have been let in the last 12 months, 171 are non discretionary spend.

Footnote -2 451 contracts between £5,000 - £25,000 let in the last 12 months, 391 are non discretionary spend.

Recommendations - Thresholds

4. **Increase lower threshold to £25k**, (or Light Touch Regime (LTR)/ Concessions or Utilities Contract Regulations (UCR16) where applicable); i.e. Contract advertised on finditnbirmingham.com, minimum of ten working days for submission of quotations and at least 3 quotations have been submitted (one quote from local supplier/ SME where possible) or; formal compliant tender procedure, formal advertising required and award published on contracts finder/contracts register.



Quotations to be attached to Purchase Order for audit purposes.

5. **Introduce new uppers thresholds (Works)**, £25k to £250k or to relevant PCR15 Threshold (Concessions or UCR16) – for improvement of clarity. Application of procedure in recommendation 4.



Threshold in line with current sealing requirements for Works.

6. **Over £250k (Works) or (Concessions or UCR16) up to PCR15 Threshold** – Application of Light Touch Regime where applicable; otherwise must follow a formal compliant tender procedure, must be advertised on Find a Tender and contracts finder, contract to be published on Contract Register. Must consult with relevant Head of Category (Procurement) and the Councils' E-tendering system must be used.

Recommendations - Thresholds

7. **PCR15 Threshold** (Supplies and Services, Works, Concessions, LTR or UCR16) - **£10 million**– Maintain current requirements.
 - Cabinet can delegate decisions to Chief Officers through monthly Procurement Planning Activities Report (PPAR).
 - Obtain approval from Delegated Procurement Report (DPR) to award the contract.
 - Decisions to Cabinet where the estimated total contract value exceeds the figure stated in the PPAR by 20% or £500,000 (whichever is the lower), or exceeds £10,000,000

8. **Over £10 million** – Maintain current requirements
 - Cabinet approval is required prior to the commencement of the procurement.
 - At least three months in advance consult with Cabinet Members and include it on the Forward Plan. Cabinet Member for Resourcing and Finance should be consulted on ALL procurement reports, plus any additional related Cabinet Members.
 - Award of contracts can be delegated to a Cabinet Member jointly with a Chief Officer, or to a CO via Delegated Procurement Report (DPR).
 - Procurement Cabinet Reports require consultation with relevant Scrutiny Chair.

9. **Remove clause 2.3 v. under exemptions within the Constitution**

“Exemption from any Standing Order may be authorised by the Decision Maker PROVIDED THAT the Decision Maker is satisfied that the exemption is justified by special circumstances and the Decision Maker records in writing the ground(s) for being so satisfied as part of that decision.”

Recommendations – Exemptions/ Out of Scope/Waivers

10. Introduce a clear list of Out of Scope scenarios, these are exempt from PGA but must apply the relevant alternative governance. Following scenarios to be included:

- A contract for or on behalf of a school with a delegated budget, where the contract has been procured in accordance with the school's own formal procurement and contractual rules;



governed by Schools financial procedures manual.

- Contracts regarding the purchase or lease of property, acquisition, disposal, transfer of land, or any interest in land which includes licenses;



governed by the Head of Property Law.

- Legal charges, awards and disbursements (including all associated costs and fees) in connection with any and all legal proceedings;



governed by Civil Procedure Rules.

Recommendations – Exemptions/ Out of Scope/Waivers

- Offers of employment which makes an individual an employee of the Council.



Governed by the Employment Rights Act 1996. For further clarity - If BCC put out a contract for services and that person was self-employed and won the tender, it would still be a contract for services rather than a contract of employment. If however authority has been granted to recruit a perm / interim / consultant etc then, for the latter, the commissioning gateway process would need to be followed and it might be helpful to include a reference to that to ensure compliance with the process. [More info here engage recruit a non-payrolled worker](#)

- Insurance claim compensation.

11. Introduce a clear list of Waivers, following principles to be included:



reported under clause FB6 (iv) of the Constitution.

- In the event of a genuine emergency or a major disaster involving immediate risk to persons, property or serious disruption to Council services or significant financial loss, to the extent necessary to deal with the immediate risk.



This would be a temporary waiver (see recommendation 14)

- A contract where application of Procurement Governance Arrangements would create an impossibility for a supplier to provide the required supply, services or works, e.g. where application of 20% Social Value weighting would be impractical/ impossible.

Recommendations – SCNs/MCNs

12. Strengthen clarity of when Single Contractor Negotiations (SCNs) / Multiple Contractor Negotiations (MCNs) should be applied, following principles to be included:

- The purchase of a named product required to be compatible with an existing installation;
- The purchase of proprietary or patented goods or materials or services which, are obtainable only from one supplier, and where no reasonably satisfactory alternative is available;
- The creation or acquisition of a unique work of art or artistic performance.
- Carrying out, with the approval of the Section 151 officer, security works where the publication of documents or details in the tendering process could prejudice the security of the works to be done
- The execution of works or the supply of goods or services are controlled by a statutory body.
- The execution of works / supply of goods or services for which it can be demonstrated that no genuine competition can be obtained.
- The execution of works or supply of goods or services are of a specialised nature which, are carried out by only one supplier, and where no reasonably satisfactory alternative is available.

Recommendations - Breaches

13. Incorporate a clear Breach Procedure, proposed principles being:

- Any exemption sought after contract award has been completed will be classed as a breach with initial referral to the Head of Category to undertake initial investigation. The investigation will consider intent, the individual circumstances and the impact of the alleged breach.
- Investigations and actions taken will be proportionate to the nature and risk the breach poses to the Council.
- Where the Head of Category upholds the breach, the matter will be referred to the Assistant Director - Procurement, to agree the appropriate course of action. Where required the Breach will be referred to the relevant Assistant Director within the service area to take the appropriate action, this may include the Council's Disciplinary and Capability Procedure or service sanctions where appropriate e.g. repeated and wilful breaches.
- Report on the number of breaches raised to be sent to Cabinet on a quarterly basis.

Recommendations – Other Areas

14. Improve clarity of actions to be taken in case of emergency–



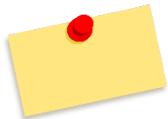
Consideration given to the Emergency Plan, Business Continuity Plan and the Proposed New Contract Regulations.

15. Align authorisations for sign off in line with Scheme of Delegation, following principles to be included:

- Scheme of Delegation to cover entire contract life including all potential extensions

16. Contract Extension rules to be updated during document update, following principles to be included:

- Extensions to be signed off under Scheme of Delegation – where there is an existing option to extend.
- Expired Contract End Date – commence new procurement in line with Procurement Governance Arrangements.
- SCNs/MCNs are not to be used to extend contracts.



Constitution Part D - Clauses 2.1 i. and vii.; to be reinforced during training.

- Contract duration (plus any extensions) should be appropriate to the market for the contract – where practical use short extensions to create breaks for review (i.e. 2+1+1 instead of 2+2).

Recommendations – Other Areas

17. Contract Management rules to be updated during document update, following principles to be included:

- Clear identification of Contract Manager for each contract whether Corporate or Directorate contract.
- Contract Management and Social Value training to be given
- Suite of templates for contract managers

18. Contract Variations procedure to be updated during document update

This paragraph applies where the value of the modification is below both of the following values:—

(a) the relevant threshold mentioned in regulation 5, and

(b) 10% of the initial contract value for service and supply contracts and 15% of the initial contract value for works contracts,

provided that the modification does not alter the overall nature of the contract or framework agreement.

19. PPAR (Planned Procurement Activities Report) to be advertised on internet – opportunity for suppliers to review and allocate resource to upcoming tenders. This will increase opportunities for SMEs that do not have bid teams.

Recommendations – Other Areas

- 20. Expiring contracts report** – report to directorates and scrutiny monthly/ quarterly highlighting contracts due to expire within the upcoming 12 months; enabling the commissioning process to commence and procurement activities to be included in Procurement Workplan for allocation of resource. Oracle will automate this.
- 21. Clear clause in tender documents and quotations to highlight Route to Zero** – where applicable.
- 22. Open Audit recommendations to be addressed in the update of documentation.**
The Council's rules for extending contracts need to be made clearer in both Standing Orders and Operation of Procurement Governance Arrangements.

In particular, there needs to be clarity and consistency regarding:

- which type of report template to use;
- authorising officer(s);
- under what circumstances a SCN as opposed to Contract Extension Report should be used;
- under what circumstances a combined SCN and Delegated Award Report may be used.

SECTION 2 - Recommendations – Outcome from O&S Task and Finish Group



Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
1.	Introduce an Initial Make or Buy decision for pre Procurement Stages;			
2.	Introduce proceed to purchase threshold for under £5,000;	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training and guidance on the new procedures and documents to support culture change	All agreed subject to further guidance other than Cllr Jenkins
3.	Introduction of new threshold to replace current £10k threshold with £5,000 - £25,000 level;	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training and guidance on the new procedures and documents to support culture change	All agreed subject to further guidance other than Cllr Jenkins

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
4.	Increase lower threshold to £25k;	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training to support culture change	All agreed subject to further guidance other than Cllr Jenkins
5.	Introduce new uppers thresholds (Works);	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training to support culture change	All agreed subject to further guidance other than Cllr Jenkins
6.	Over £250k (Works) or (Concessions or UCR16) up to PCR15 Threshold;	We are of the view that the council culture is not sufficiently mature to secure value for money and this needs urgently addressing for this to work, however if other changes are made in line with the requests made in my letter then we would not oppose this change	Recommendation to provide training to support culture change	All agreed subject to further guidance other than Cllr Jenkins

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
7.	PCR15 Threshold (Supplies and Services, Works, Concessions, LTR or UCR16) - £10 million - Maintain current requirements	As per letter, we believe the £10m threshold is far too high and should be reduced in line with other authorities	<p>Current requirements included in column C.</p> <p>This has to go through to Cabinet via PPAR and Cabinet can chose to delegate award decisions authority to officers or not.</p> <p>Option A - Lower the threshold and review capacity required, attach Cllr Jenkins letter.</p> <p>Option B - Note types of contracts that would need to follow a different procedure (i.e signed off in detailed consultation with relevant portfolio holder(s))</p> <p>Option C - Keep the recommendation as is, noting not all parties agreed.</p> <p>Note: (41 contracts above £5 million, 25 contracts above £10 million, 203 contracts between PCR15 (Supplies and Services) and £10 million)</p>	<p>3 votes Option B</p> <p>1 vote Option A</p> <p>1 vote Option C</p>

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
8.	Over £10 million – Maintain current requirements	As per letter, we believe the £10m threshold is far too high and should be reduced in line with other authorities	<p>Current requirements included in column C.</p> <p>Option A - Lower the threshold and review capacity required, attach Cllr Jenkins letter.</p> <p>Option B - Note types of contracts that would need to follow a different procedure (i.e signed off in detailed consultation with relevant portfolio holder(s))</p> <p>Option C - Keep the recommendation as is, noting not all parties agreed.</p> <p>Note: (41 contracts above £5 million, 25 contracts above £10 million, 203 contracts between PCR15 (Supplies and Services) and £10 million)</p>	As Above (Recommendation 8)
9.	Remove clause 2.3 v. under exemptions within the Constitution			Agreed

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
10.	Introduce a clear list of Out of Scope scenarios;			Agreed
11.	Introduce a clear list of Waivers;			Agreed
12.	Strengthen clarity of when Single Contractor Negotiations (SCNs) / Multiple Contractor Negotiations (MCNs) should be applied;	As per letter, we believe that delegated authority should be removed for SCNs so that there is cabinet member level sign off justifying its use	To be applied in meaningful consultation with the relevant portfolio holder, to include outcomes of consultation, alterations to recommendations, date of consultation etc.	Agreed except for Cllr Jenkins
13.	Incorporate a clear Breach Procedure;	Where a failure to follow process in a timely way means that following the full procurement route is not an option, delegated authority should be removed and cabinet member level sign off should be required	Detailed work is required around the breach process and that proportionality is applied to both the breach and consequence. Consideration will be given to this point. Potential report to cabinet under a certain threshold, above threshold to go to Cabinet for agreement. Breach procedure to give due regard to any legal and HR requirements.	Agreed

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
14.	Improve clarity of actions to be taken in case of emergency;	It should be made clear within this that failure to act in a timely way is NOT a reason for emergency	Agreement that there would be clear definition within the constitution and we will reinforce in both wording and training that failure to act in a timely way will not constitute an emergency	Agreed
15.	Align authorisations for sign off in line with Scheme of Delegation;	Support subject to other changes		Agreed except for Cllr Jenkins
16.	Contract Extension rules to be updated during document update;	Support subject to other changes		Agreed except for Cllr Jenkins
17.	Contract Management rules to be updated during document update;	Support subject to other changes		Agreed except for Cllr Jenkins
18.	Contract Variations procedure to be updated during document update;	Support subject to other changes		Agreed except for Cllr Jenkins

Recommendations – Outcome from O&S Task and Finish Group

No.	Recommendation	Cllr Jenkins Comments	Officer Comments/ Further Guidance	O&S Task & Finish Outcome
19.	PPAR (Planned Procurement Activities Report) to be advertised on internet;	Quality of information in the PPAR can be variable, need to ensure it is sufficient to serve this purpose	PPAR detail can be reviewed during document update. Comment to be taken into consideration, enough information for suppliers to feel confident to bid	Agreed
20.	Expiring contracts report to be sent to Directorates and Scrutiny (monthly/ quarterly);	For particularly large contracts - eg as with the original 25 year waste disposal - that run over many years then these need to be flagged earlier than 12 months to give sufficient time	Recognised - training with CMs on length of contract determining timescale for pre procurement. Flag to Scrutiny more than 12 months in advance for longer contracts	Agreed
21.	Clear clause in tender documents and quotations to highlight Route to Zero;			Agreed
22.	Open Audit recommendations to be addressed in the update of documentation.	Support subject to other changes		Agreed except for Cllr Jenkins

SECTION 3 - Reminder – Current Procurement Governance Rules



Reminder - Current Rules



- **Low Cost Quotations – Under £10,000**

Three written quotations to be gained via Find It In Birmingham, in line with the low-cost quotations Standing Orders. No further approvals are required

- **High Cost Quotations – £10,000 to Public Contract Regulations 2015 (PCR15) threshold (currently £213,477 inc. VAT).**

Contract to be advertised on finditinbirmingham.com and a minimum of ten working days allowed for the submission of quotations and at least three quotations have been submitted, or;

Use a suitable collaborative Framework Agreement

Reminder - Current Rules



Greater than the Public Contract Regulations 2015 (PCR15) threshold but below £10m:

- Cabinet can delegate decisions to Chief Officers through monthly Procurement Planning Activities Report (PPAR).
- Obtain approval from Delegated Procurement Report (DPR) to award the contract.
- Decisions to Cabinet where the estimated total contract value exceeds the figure stated in the PPAR by 20% or £500,000 (whichever is the lower), or exceeds £10,000,000

Greater than £10m or if TUPE of current Council staff is likely:

- Cabinet approval is required prior to the commencement of the procurement.
- At least three months in advance consult with Cabinet Members and include it on the Forward Plan. Cabinet Member for Resourcing and Finance should be consulted on ALL procurement reports, plus any additional related Cabinet Members.
- Award of contracts can be delegated to a Cabinet Member jointly with a Chief Officer, or to a CO via Delegated Procurement Report (DPR).
- Procurement Cabinet Reports require consultation with relevant Scrutiny Chair.

Update – Planned Public Sector Procurement Regulations

A summary provided in **Appendix 1**, key points for us to consider:

- Maintaining the principles, “*public good; value for money; transparency; integrity; fair treatment of suppliers and non-discrimination*”
- Maximising opportunities for example Most Advantageous Tender around local considerations
- Agility to utilise the right and appropriate procedure for best outcomes
- Applying proportionality



Reminder - Scheme of Delegations

Constitution – Part E

2.2 Process and Recording of Delegated Decisions

- (i) All decisions with a value of £50,000 or more made by Officers under delegated powers should be recorded in writing and a single copy for each Directorate produced to the Chief Executive and the Leader/Deputy Leader on the 30th September and 31st March of each year.
- (ii) Additionally, all decisions taken by Cabinet Members (based on a written report by the Chief Officer) should be recorded using the prescribed template. These decisions are only effective and actionable when posted on the Council's website by Committee Services and following the call-in process.

Reminder - Scheme of Delegations

3.2 General Delegations

The Chief Executive and Chief Officers have the following delegated powers in respect of all matters which are not “key decisions” and not reserved for decision by the Council or by a Committee of the Council:

- (i) To make decisions and approve expenditure relating to the functions of their Directorate providing that:
- The sum expended is within the approved budget for the Directorate and/or relevant portfolio, (Steve) and
 - The amount in relation to any single matter does not equal or exceed £200,000 (Section 151) or
 - The amount in relation to any single matter that is at or above £200,000 and below £500,000 (revenue) or £1m (capital) is a Cabinet Member(s) decision (based on a written report from the Chief Officer).
 - The requirements of the Financial Approvals Framework in this Constitution and other requirements in the Constitution are complied with.
-

Reminder - Scheme of Delegations

3.2 General Delegations (continued)

(iii) To approve tender strategies and award contracts in accordance with the Procurement Governance Arrangements where the supplies, materials, or services to be purchased or the works to be executed are between the Procurement Threshold (£181,302 as at September 2019) and £10,000,000 in value, over the contract length.

(iv) Where no other viable alternative exists to approve contract extensions, where no extension option in the contract exists, in accordance with the Procurement Governance Arrangements where the supplies, materials, or services to be purchased or the works to be executed do not exceed £500,000.

How To Guide - Procurement

2.1 Tender Approval

Before a tender exercise is undertaken approval must be gained. The level of approval required is dependent on the anticipated value of the award. Table 1 shows levels of anticipated value and authorisation required.

A high-level precis of approval thresholds for Options Appraisal and Full Business Case decisions is (for comprehensive guidance please refer to the Gateway and Related Financial Approval Framework (at 9.23 to 9.26 of the Financial Regulations in the Council's Constitution).

Revenue:

- Up to £200k – Chief Officer
- Between £200k - £500k - Joint Cabinet Member and Chief Officer
- Above £500k - Cabinet

Capital:

- Up to £200k – Chief Officer
- Between £200k - £1m - Joint Cabinet Member and Chief Officer
- Above £1m - Cabinet

Overspends - Revised Full Business Report must be approved by the relevant decision maker – Refer to Part D Constitution page 13

How To Guide - Procurement

Contract Value	Pre-procurement		Post-procurement	
	Reports	Approvers	Reports	Approvers
Below £10k	Email approval	Budget holder	Email approval	Budget holder
£10k to £189,330	Email approval	Budget holder	Chief Officer Award Report	Chief Officer (in accordance with your directorate delegated approval level)
£189,330 to £10m	PPAR	Cabinet	Award Report	DPR
	FBC &Strategy Report	DPR		
£189,330 to £10m (Framework)	PPAR	Cabinet	Strategy Award Report	DPR
Above £10m	FBC & Strategy Report	Cabinet	Award Report	Cabinet
SCN / MCN Reports	Governance follows the above based on value			
Where there is not adequate time for the activity to be included on the PPAR, a separate executive approval can be sought				
£200k to £500k (revenue) £200k to £1m (capital)	FBC & Strategy Report	DPR + Cabinet Member and Chief Officer	Award Report	DPR

Table 1 – Tender value and approval required

SECTION 4 - Reminder – Legislative Requirements



Reminder – Legal Requirements



- The Public Contract Regulations 2015 require wider public sector bodies to publish all advertised UK public sector procurement opportunities and contract awards above £25,000 on Contracts Finder.
- The Local Government Transparency Code 2015 –
 - ✓ Publish details of all expenditure that exceeds £500
 - ✓ Publish all Government Purchase Card (GPC) expenditure
 - ✓ Provide invitations to tender details for goods and/or services with a value exceeding £5000
 - ✓ Provide details of grants to voluntary, community or social enterprise organisations
 - ✓ Provide details of contracts, commissioned activity, purchase orders, framework agreements and any other legally enforceable agreement with a value that exceeds £5,000.

Changes are due to the current Public Contracts Regulations 2015 as a result of the UK leaving European Union – these are anticipated to come into effect in 2023

APPENDIX 1A – Findings from Supplier and Officer surveys



Findings from Survey - Suppliers



- Sent to Chamber, FSB, FIIB, BVSC, iSE, Locality and some current suppliers
- 51 response received

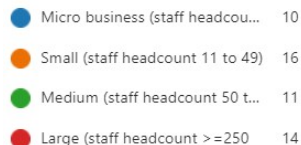
Have you ever tendered or bid for business with Birmingham City Council?

[More Details](#)



What type of business are you?

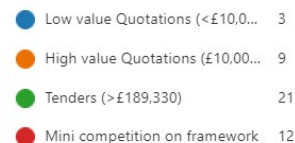
[More Details](#)



What type of work have you bid for previously (with Birmingham City Council)

[More Details](#)

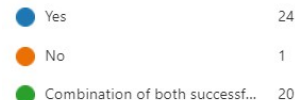
[Insights](#)



Were you successful in your previous bid/bids (with Birmingham City Council)

[More Details](#)

[Insights](#)

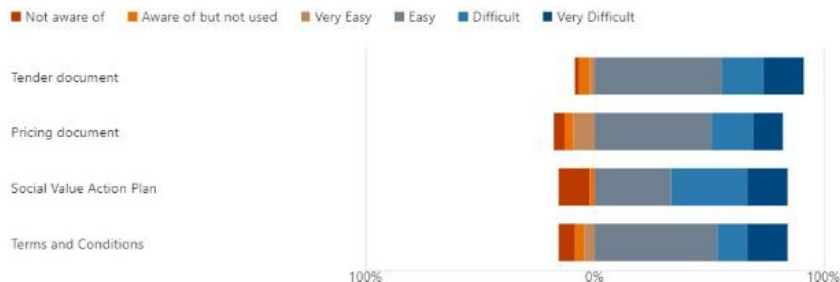


Findings from Survey - Suppliers



Please provide feedback on the complexity of our tender documents. How easy have you found these to understand when bidding?

[More Details](#)



Do you know where to find Birmingham City Council's Constitution and Procurement Governance Arrangements? (I.e. the rules we have to follow in conducting our procurement.)

[More Details](#)

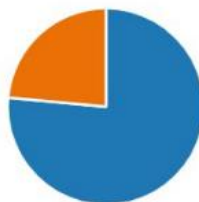
[Insights](#)



Have you ever tendered or bid for business with another Local Authority?

[More Details](#)

[Insights](#)



Are you registered on FindItInBirmingham?

[More Details](#)

[Insights](#)



Findings from Survey - Suppliers



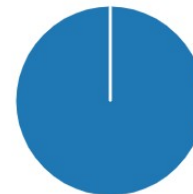
KEY MESSAGES

- Vast majority have bid to the Council before
- More than half have been successful before
- All would bid to the Council in the future
- Social Value is the hardest element to understand – no correlation to size – Training needed
- Three quarters have bid to other councils before
- Two thirds are registered on Finditinbirmingham
- Little awareness of our upcoming procurement platform (Oracle) – Training needed
- Two thirds would be interested in a webinar on public sector procurement, vast majority of whom have tendered to the council before and no correlation to size

. Would you bid for work with Birmingham City Council in the future?

[More Details](#)

[Insights](#)



I. Would you be interested in attending a webinar on how to bid for public sector contracts?

[More Details](#)

[Insights](#)



Findings from Survey – Suppliers – Quotes



BUREAUCRACY

- *For small contract and when dealing with small businesses or self-employed, completely overhaul the system to make it far more streamlined.*
- *The “Pre-Qualification process the standard questionnaire question sets could be automatically saved preventing duplicating the same information every time we tender*
- *Engaging in strategic commercial discussions with strategic partners to explore agreements which can deliver more value to the council.*
- *Looking at options for 1 quote / 3 quote exercise only for contracts of certain values to save time **and** Perhaps opportunities below the public tender threshold could be directly communicated to current/approved suppliers.*
- *Greater transparency of tender and publications of results and spread of contracts*
- *Clarification process. Turnover requirements to be eligible to bid .*
- *Lack of understanding of procurement of local services and social value / Easier social value navigation.*
- *Complexity & time is a factor for third sector organisations.*
- *Ridiculous amount of paperwork for small suppliers and having to keep chasing and chasing for payments **and** Getting the paperwork approved (completed perfectly from my end, just ridiculous 3 month delay from Birmingham)*
- *You're not transparent about what you are doing and why. You have no sense of proportion*

Findings from Survey – Suppliers - Quotes



LEARNING FROM ELSEWHERE

- *I would suggest looking global - New Zealand has some great practice in strategic alliances and integration based on population outcomes.*
- *Lloyd's bank foundation commissioning in crisis report has a great overview from vcs perspective*
- *Greater understanding of social value offered by smaller organisations. Look at turnover limits. Greater understanding of voluntary sector who are currently delivering services well to not exclude applications*
- *Yes, and very easy. Treat small suppliers and small contracts differently to multi-million pound suppliers and contracts. Completely streamline the process for smaller contracts and suppliers so that they can be approved within a couple of days and paid within 14 days instead of 28.*
- *Some Local Authorities apply an annual inflationary rate to their contracts to allow for inflationary increases*
- *When bidding for other local authorities we have in the past entered into Framework agreements*
- *Not many local authorities include such a detailed Social Value Action Plan as BCC*
- *Procurement processes are fairly similar - as they follow legal frameworks*
- *Other authorities have communicated post tender evaluations in a more timely manner*
- *Simplicity. We have worked with over 150 local authorities in UK and honestly, i have never dealt with one with such a complexed and long winded procurement process.*

Findings from Survey – Suppliers - Quotes



LEARNING FROM ELSEWHERE

- *Online tender applications seem to work better than manually uploading documents to a portal.*
- *Clear instructions Clear direction Clear requirements and scope Clear timeframes*
- *Other Local Authorities undertake more market engagement activity which assists us in meeting their needs.*
- *Co-production for service specification is good practice Information sharing events with commissioners prior to the tender being released*
- *Other LAs are easier to work with as they are more open and transparent in how they deal with the private sector. BCC appears to operate from closed approach fraught with suspicion of the people they are seeking to do business with.*
- *Please give advance notification of large tenders to allow adequate time to plan and resource responses. Please also stick to timescales for releasing tenders and making a decision.*
- *The documentation either needs to be in plain English or have advisors on hand to help wade through the jargon*

Findings from Survey – Suppliers - Quotes



PROCESS

- *Timeframes for submission could be longer , TUPE information being to hand*
- *Generally a very easy process, evaluation timescales can be protracted **Versus** The immensely long procurement process and steps / complex process to work with BCC*
- *Timescales, everything takes so long, and its never clear where we are in the process.*
- *Timelines are usually not met once the tender has been submitted with little or no feedback. We call it the BCC blackhole - you submit a tender and then never hear anything again!*
- *Concise information and market events to clarify information / Good premarket engagement*
- *Please give advance notification of large tenders to allow adequate time to plan and resource responses.*
- *Please also stick to timescales for releasing tenders and making a decision.*
- *Pricing schedules are complex but it is very clear to understand from them exactly how much the service will cost.*
- *It is very difficult to add any social value local to the area for a business of our size and the specialist nature of our services.*

Findings from Survey – Suppliers - Quotes



TRANSPARENCY

- *If the council has an internal price for jobs carried out be useful to be able to view these and hopefully comeback with a lower offer..*
- *Greater transparency of tender and publications of results and spread of contracts*
- *it's about consistency, including the way BCC works with different sectors e.g. private and third sector, there seems to be a mindset (in some quarters) that the third sector simply works for BCC and no one else. Plus scale, the 'big boys' move in with resources and tools smaller more local providers do not have; the systems, or questions, make it difficult for BCC to differentiate meaning 'slick' nationals talk the talk, but don't deliver real value and have no longevity*
- *Publishing a pipeline of procurement activity will allow businesses more time to secure the necessary resource to deliver the Council's requirements **and** Advance notice of future tenders Longer period for tender return / Getting visibility to future projects to secure adequate resources*
- *Use a well known stable portal such that all potentially interested parties have notification of any tender opportunity, and the time to prepare a robust and thorough response.*
- *We need to get away from the suspicion and distrust and get to an open and transparent position. Where we can trust each other confidently and therefore the communications are better. BCC has made some difficult decisions in the past, some very poor decisions such as competitive tendering which saw the care services market increase exponentially*
- *You really don't seem to actually value local businesses employing local people in your processes.*

Findings from Survey – Suppliers - Quotes



ENGAGEMENT

- *Look at ways to support third sector organisations to secure work.*
- *Get the supplier paperwork sorted properly and pay suppliers within 28 days.*
- *Consideration of longer term contracts (3 years plus 2 ?) - longer term contracting in this situation would be beneficial to procurement process/cost as well as better for longer term planning on the contract /for service users*
- *Allow for adjustments to standard framework rates*
- *This is a positive point. I feel BCC is one council that understands how important service is and does not just take the cheapest quote.*
- *Our services are labour intensive and the cost of that labour goes up each year on a statutory basis as the Government changes the National Living Wage, so a clear understanding of how and when contract pricing can be reviewed is important.*
- *The tenders are usually very technical and times consuming. Officers do not think about bidders and usually run tenders with closing dates after a holiday such as first week of January. This means cancelling leave for bid writing teams. This all favours larger corporate businesses who have dedicated bid writers and is contrary to aims within the business charter.*

Points to consider from Survey – Suppliers



- How to make the process proportional to suppliers, e.g. SME / Large
- Improve arrangements on awareness / comms around how to tender / do business with the Council
- Improve clarity on Social Value process
- Review and streamline documents and process
- Consider publishing pipeline for tender opportunities
- Improve documentation and communication of those documents (Intranet / Internet)

Findings from Survey –Officers

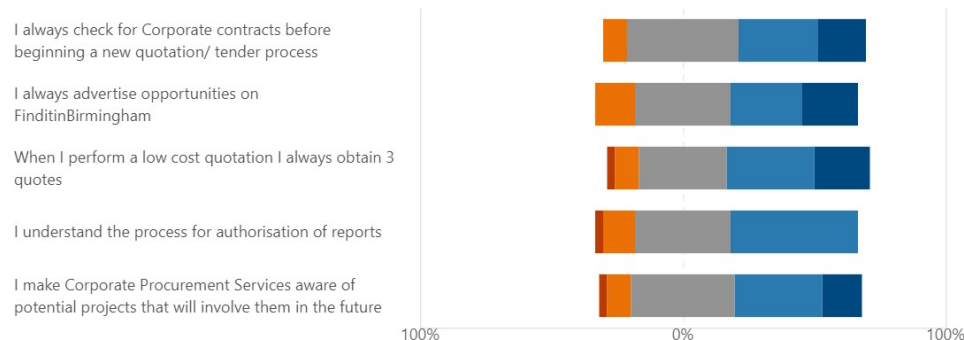


Survey sent direct to extended CLT for distribution to key managers, with 33 responses, which is noted as a small sample compared to overall workforce. Key findings being:

- Typically, positive responses around agree / strongly agree to following agreed approach ~65% upwards

Please indicate the degree to which you agree with the following statements

Strongly disagree Disagree Agree Strongly agree N/A to myself



Findings from Survey –Officers



- Typically, positive responses e.g. agree / strongly agree to understanding process. With exception on Frameworks, Dynamic Purchasing Systems, Contracts and quote process. Approx 2:1 ratio, which also relates to ability to understand the rules (D2 and D3)

Please state how easy it is to understand section D2 - Rules relating to contracts

[More Details](#)

Easy to understand Difficult to understand

2.2 Definitions



2.4 Quotations



2.5 Negotiated contracts



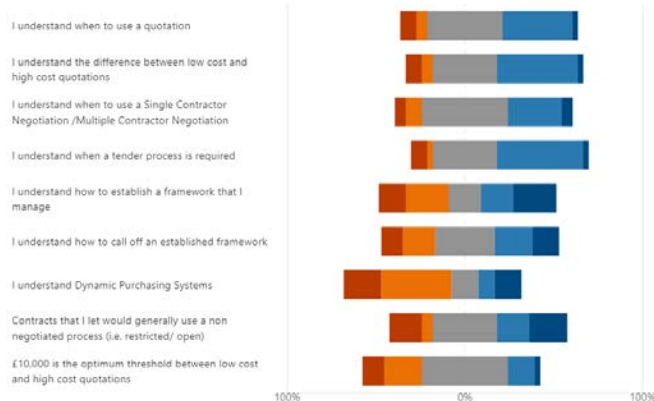
2.6 Framework agreements



Please indicate the degree to which you agree with the following statements

[More Details](#)

Strongly disagree Disagree Agree Strongly agree N/A to myself



2.7 Submission of quotations and tenders



2.8 Evaluation and award



2.9 Content of contracts



2.10 Execution of contracts



Findings from Survey –Officers



Please state how easy it is to understand section D3 - Procurement Governance Arrangements

[More Details](#)

■ Easy to understand ■ Difficult to understand

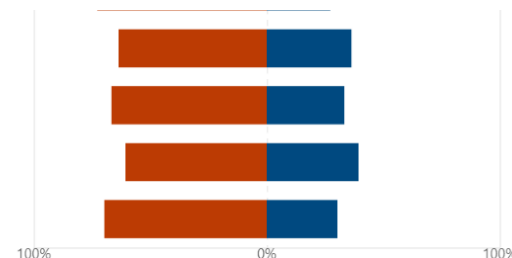


3.6 Combined Strategy and Contract Award Report

3.7 Contract Extension Report

3.8 Framework Agreements

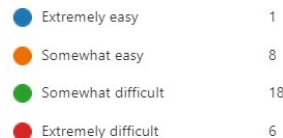
3.9 Record of Decisions



- Application of the rules seems more challenging

How easy do you find it to apply the Procurement Governance Arrangements in what you do?

[More Details](#)



Findings from Survey –Officers



Do you find the Procurement Governance Arrangement enables or hampers you in your work?

[More Details](#)



13. What areas would you like to see as improvements in any future changes to the Procurement Governance arrangements

[More Details](#)

Strongly Disagree Disagree Agree Strongly Agree

13a. Simplified arrangements for running quotations / tenders



13b. Raising of thresholds under which 3 quotations / tenders are required



13c. Improved self service to undertake quotations / tenders



13d. Improved guidance / information e.g. specification process, undertaking quotation /...



13e. Improved guidance / information on Contract Management



13f. More joined up corporate contract arrangements



13g. Greater collaboration with other public sector organisations on procurement and tendering



13h. Training / lunch and learn session on procurement and contract management related topics



13i. Simplified rules to remove barriers / bureaucracy



13j. Greater networking opportunities to share best practice through M5 Teams



13k. Other (expand in q14 below)



100% 0% 100%

Findings from Survey –Officers



CONTRACTS

- *“My response is based up contract extensions / modifications / variation process being absolutely confusing and contradictory. The process needs simplifying” and “various contract award processes which are contradictory”*
- *People are working in silos - there is no proper contract management and ownership of the contract. I don't even know if contracts are reviewed before being extended and this is involving thousands of pounds worth of contract*
- *Contract Extension Report - are these still being used in practice? I have seen extensions through SCNs and Cabinet Member reports. A Corporate Procurement Services officer I spoke to thought 3.7 had been removed.*
- *I manage contract, but I have had no training put in place to learn the ropes. Its been difficult navigating the process step by step- allocated person form CPS only available when asked by senior people. Not responding to queries or emails on time no matter how urgent. I think there should be an ilearn or instructor led course for all Officers grade 4 or above and involved in procurement, and this should be a pre-requisite before managing any contract.*
- *There is no information in the constitution on variations and when to use regulation 32 and 72. Clear guidance needs to be provided. Do contracts for quotations need to be signed off by Legal? Not clear on social value on SCN's or direct awards how is this captured and the clear processes for this. What happens with non compliant? /*

Findings from Survey –Officers



DEMOCRATIC PROCESS / SCHEME OF DELEGATION

- *The procurement governance arrangements don't align with other delegated powers to Cabinet Members and Chief Officers. e.g. in our area projects listed in the Capital Programme have delegated authority to the Cabinet Member for spend up to £10m and to Director for up to £2m to save on the need to take a Cabinet report through, however you still end up needing to take a PPAR and strategy report as those delegations are not there. So in reality we end up doubling up reports, and staff get confused.*
- *It is not so much the government arrangements in terms of documentation, but trying to plan in how long it is likely to take for approvals and sign-offs which can be up to 8 weeks. Plus, arrangements do not allow for flexibility in extreme circumstances, and very rigid. Compliance is a major issue*
- *More delegations to officer to handle the tendering process and also certainly simplifying processes and bureaucracy*
- *A more streamlined reporting process for governance of higher value projects over £200K. i.e. where budgets and project objectives are pre-determined through other means e.g. grant awards and S106 legal agreements*
- *There really needs to be thought given to the levels of delegated procurement authorities to tie up with other spend delegations.*

Findings from Survey –Officers



HELP TRAINING SUPPORT AND GUIDANCE

- *I wouldn't mind some training on Procurement Governance Arrangement*
- *Most colleagues struggle with social value and needs to be simplified and in short form*
- *I have asked procurement for help on multiple occasions. As a new member of staff, I have not been offered help, a guide, or any resources to explain BCC's procedures for procurement and contracting. I find this really unsettling. and "I am new in post and need some support to guide me initially".*
- *It can feel as though the templates provided are not conducive to the nature of the work we invite tenders on.*
- *There are discrepancies between PGA in Standing Orders and Operation of PGA (the separate guidance document on CPS SharePoint folder)*
- *Its usually a case of resourcing. By having to go through a third party i.e. CPS there are often delays getting reports through the system or loaded on to Contracts Finder and Find-it in Birmingham. If there was a more direct route to these portals for Project Mangers that would be helpful.*
- *"I don't use it frequently enough to retain the knowledge and acquire expertise. As a result, it feels like starting from scratch each time" and "I only procure advice contracts every three years so each time i feel its quite a challenging experience".*

Findings from Survey –Officers



HELP TRAINING SUPPORT AND GUIDANCE

- *A single place for procurement information and guidance. Maybe a lunch and learn or iLearn module. At present guidance is not easy to find*
- *You need to ensure that new hires are given support to learn the processes correctly.*
- *Its difficult to find the latest versions of the forms without having to ask someone in CPS, taking up their time which is always stretched.*
- *Level of guidance and supporting templates seems to have become somewhat disjointed.*
- *Definitely need more learning opportunities as it is very important area to local gov and easy to get wrong.*
- *Need simplification/an idiot's guide for those who only do this infrequently.*
- *Please help us to help procurement and the Council save money, don't be a hinderance. Put in place audit arrangements to enable us to do the job right first time, provide sample checklists forthe process.*
- *I have been unable to find the Procurement Governance Arrangements on the intranet with a simple search*

Findings from Survey –Officers



KNOWLEDGE AND EXPERIENCE AND QUALITY OUTCOMES

- *The issue is around how reports are written where some directorates struggle in. The issue is not at the documentation and the procurement governance, the clients don't allow enough time to draft documents and reports and then expect it to be cleared in a couple of days.*
- *Clients want quotations issued straight away and the documentations are not fit for purpose to be released. They do not realise the importance of GDPR implications and whether its IT related, specifications are really poor, literally sometimes just a sentence and then expect it to go out, they just want it out.*
- *Lack of understanding in software as a service applications will force expensive procurement exercise to renew our particular licence.*
- *its very hard to get staff, to help you through the process, unsure if this is down to short staff within dept or lack of knowledge for what we need them for.*
- *There is often incorrect guidance given which leads to conflict.*
- *I find that I sometimes have the same conversations repeatedly with Procurement, and on occasion Procurement and Legal have offered contradictory advice and “I have struggled in the past to get consistent advice from CPS , or even timely advice”.*

Findings from Survey –Officers



TIMESCALES

- *The time element in setting up and processingso this is the process (1.) create a new supplier, (2.) then adding the contract to system, (3.) then raising/auth the Purchase Order..... this whole process can take 6/7 weeks!! and this sometimes can be after an event has been done.*
- *I appreciate that all tender processes have to go through Procurement but due to the volume of their work understandably it takes time for our tenders published.*
- *It doesn't align with the other general delegations for delivery of projects, it takes far too long when we have quick turnaround projects e.g. government suddenly award a grant for £5m to be spent in the next 12 months, we don't have time to wait 6 weeks to get something onto the PPAR*
- *Cumbersome and time-consuming*
- *The Council is not agile in procurement and delivery of contracts and whilst its is absolutely recognised the process needs to be fair open and transparent, the bureaucracy surrounding the whole process is unwieldy and cumbersome adding more cost in staff time than it saves in the procurement process.*

Findings from Survey –Officers



TIMESCALES

- *Simplified rules, in terms of extreme urgency that allows some flexibility, but more important approvals and sign-offs have to be done within a set period of time when received by the appropriate directorates, not the times it takes now for sign-offs which is adding months + to processes*
- *The one size hat fits all approach is not suitable for some of the shared services*

KNOWLEDGE AND EXPERIENCE AND QUALITY OUTCOMES

- *If we could learn to be able to do more simpler tenders our selves as we have staff that are more than capable of doing this, and have procurement staff there for guidance and support*
- *Directorates are poor at specifications etc as this is not their day job*

COMMUNICATIONS

- *Systems seem straight forward, however changes to arrangements or templates have generally not been well communicated. Time taken to get sign off of reports or advice / assistance causes significant operational difficulties. Historically there has been very poor level of document control.*

Findings from Survey –Officers



PROCESS

- *The use of Social Value from providers is not prominent. This is an area that could be strengthened to provide a better services for citizens of Birmingham and better use of public funds.*
- *Really need to sort out the bureaucracy - if the cabinet member has authority to deliver the project up to £10m, then why can he not also have the authority to award contracts to make this happen in a timely manner.*
- *Why do finance need to comment on a procurement strategy when it is surely a legal and procurement matter. The financial aspects would be picked up by the scheme approvals in the OBC or FBC.*
- *The quote and tender processes are fine, but thresholds for quotes should commence just under £25k inline with the contracts finder threshold*
- *Social Value and timescales are giving to prepare reports and documentations last minute and then expect to be cleared within 24 hours! The other thing can be improved the input on data protection and GDPR needs to be a quick turnaround.*
- *The process needs to be easier to navigate, quicker to process and less bureaucratic.*

Points to consider from Survey –Officers



- Look to improve / align governance levels, e.g. Scheme of Delegation and ensure proportionality
- Review process with wider consideration to proportionality
- Improve clarity on contract management and process around contract variations / guidance
- Improve guidance, training and support (both within Directorates & Corporate Procurement Service)
- Improve documentation and communication of those documents (Intranet / Internet)

APPENDIX 1B – Benchmark findings of other Council procurement rules



Findings from Benchmark of other procurement rules



VALUE LEVEL	Proceed to purchase	Min. 1 quotation	Min. 2 quotations	Min. 3 quotations/tenders
Under £500	Staffordshire			
Up to £2,000		Manchester		
Under £2,500	Sheffield			
Under £5,000		Bristol		
Under £10,000	Coventry Telford and Wrekin	Cardiff	Shropshire	Birmingham Leeds*
Under £25,000	Newcastle Nottingham	Bradford		Leeds*

* threshold can be increased to £25,000

Findings from Benchmark of other procurement rules



	From	To	Procedure
Birmingham	£10k	PCR 15	Obtain min 3 written quotations (where possible)
	Greater than PCR 15		Formal Tendering Activity
Bristol	£5k	£25k	Obtain min 1 written quotations, preference 3 (where possible)
	£25k	PCR 15	Obtain min 3 written quotations (where possible)
	£25k	£250k	(Works) Obtain min 3 written quotations (where possible)
Cardiff	£10k	£25k	Obtain 3 written quotations, (where possible)
	£25k	PCR 15	(GOODS & SERVICES) Open Advertisement for Tender
Leeds	£10k	£100k	Obtain 3 written quotations including 2 with Local supplier & or 3rd Sector Org (where possible)
	£100k	PCR 15	At least 4 written tenders (Where possible)
Manchester	£2k	£30k	Obtain 3 written quotations, or Quick Quotes (where possible)
	£30k	PCR 15	Open Advertisement for Tender to at least 3 Candidate (where possible)
Newcastle	£25k	£100k	Obtain 3 written quotations (where possible)
	£100k	PCR 15	Open Advertisement for Tender to at least 5 Candidate (where possible)
Nottingham	£25k	£100k	Obtain 3 written quotations (where possible)
	Greater than £100k		At least 3 written tenders (Where possible)
Sheffield	£2.5k	£150k	(GOODS & SERVICES) Obtain 3 written quotations including 1 with Local supplier (where possible)
	Greater than £150k		(GOODS & SERVICES) Open Advertisement for Tender to at least 3 Candidate (where possible)
	£2.5k	£50k	(WORKS) Obtain 3 written quotations including 1 with Local supplier (where possible)
	£50k	£500k	(WORKS) Obtain min 3 written quotations or full tender activity

Findings from Benchmark of other procurement rules



	From	To	Procedure
Bradford	£25k	PCR 15	Obtain 4 written quotations or Open Tender Process
	Greater than £150k		Open Advertisement for Tender via electronic procurement
Coventry	£10k	£99.9k	Obtain 3 written quotations - Approval by Procurement Panel
	Greater than £100k		At least 3 written tenders (Where possible)
Shropshire	£10k	£50k	Obtain 3 written quotations (where possible)
	£50k	£140k	Open Advertisement for Tender
Staffordshire	£500	£25k	Obtain 3 written quotations (where possible)
	£25k	PCR 15	Open Advertisement for Tender via electronic procurement
Telford & Wrekin	£10k	PCR 15	Request to quotations
	Greater than PCR 15		Open Advertisement for Tender via Delta

APPENDIX 2 – Additional background / context



Additional insight to spend and procurement activities



Contract Awards over the Procurement Threshold (£189K)

- 63 awards (54 following a procurement process, 9 awards following SCN approval over the procurement threshold) (£181,908,619 value) approved under PPAR in 2020
- 46 awards (36 following a procurement process, 10 awards following SCN approval over the procurement threshold) (£411,626,045 value) approved under PPAR in Jan – Jun 2021

Awards following Approval of Single Contractor Negotiations from £10k to over Procurement Threshold

- 47 awards (£14,443,267 value) in 2020
- 31 awards (£17,391,906 value) in Jan – Jun 2021

Contract Awards below the Procurement Threshold (£10-£189k) – Quotations

- 83 quotations awarded from Jan 20 - June 21 (£5,207,276.86 value)

NOTE

Whilst monitoring of spend is regularly undertaken there is no formal process around reporting of spend that is non-compliant or in breach of the current Procurement Governance Arrangements.

Purchase Card Spend



April 2021 – December 2021 Total transactions – 41,688

Directorate - £2,588,541.15

Schools - £1,525,500.49

Children's Trust - £534,387.28

External Cards - £534,387.28

Acivico - £8,464.12

Total Purchase card spend - £4,942,755.62

April 2020 – March 2021 Total transactions – 39,554

Directorate - £2,911,216.23

Schools - £1,954,891.52

Children's Trust - £554,399.01

External Cards - £297,361.67

Acivico - £26,369.58

Total Purchase card spend - £5,744,238.01

Active purchase cards in circulation 2022:

BCC	Purchase Card	258
SCHOOLS	Purchase Card	103
BCT	Purchase Card	197
BCC	Virtual Card	26
SCHOOLS	Virtual Card	110
BCC	Fuel Card	170
BCC	Corporate Card	9
Mixture	Cash Cash	10
Acivico	Purchase Card	1
Total		884

Purchase Card Spend



BCC Total purchase card spend vs 15 other LAs – provided by CCS

Spend 20/21 FY - RM3828

Actual Customer	Spend
XXX City Council	£28,076,896
XXX Borough Council	£7,521,207
XXX County Council	£7,211,941
XXX Borough Council	£7,181,983
XXX County Council	£6,088,214
XXX County Council	£5,943,768
XXX County Council	£5,466,945
XXX Borough Council	£5,455,394
Birmingham City Council	£5,419,589
XXX Borough Council	£5,410,892
XXX Metropolitan Borough Council	£3,855,367
XXX Borough Council	£3,811,544
XXX County Council	£3,752,426
XXX County Council	£3,714,452
XXX Borough Council	£3,608,568
Total	£102,519,187

Spend 19/20 - RM1095

Actual Customer	Spend
XXX City Council	£38,682,820
Birmingham City Council	£9,434,542
XXX Borough Council	£8,170,296
XXX City Council	£5,615,484
XXX Borough Council	£5,597,246
XXX	£4,634,465
XXX Council	£4,476,543
XXX County Council	£4,046,695
XXX County Council	£3,950,691
XXX County Council	£3,903,416
XXX Metropolitan Borough Council	£3,787,162
XXX County Council	£3,619,529
XXX Council	£3,290,640
XXX City Council	£3,054,891
XXX Council	£2,887,452
Total	£105,151,873

Purchase Cards – Spend Limits

Highest Value Spend Limit (BCC) - £250,000 (1 card)

Lowest Value Spend Limit (BCC) - £200 (1 card)

Most Common Spend Limit (BCC) - £2,000 with £500 transaction limit (101 cards)



Work Outline

Task and Finish: Commercial Governance

Resources Overview and Scrutiny Committee

Our key question:	How effective are the Council's commercial governance arrangements in ensuring proportional and effective compliance, enabling delivery of value for money plus maximising other outcomes eg Social Value?
1. How is O&S adding value through this work?	<p>In the past the Resources O&S Committee has identified several issues with procurement and contract management arrangements, particularly in relation to the timeliness of decisions and adherence to regulations and governance requirements.</p> <p>O&S Committee are to set up a Task and Finish group to review and examine the commercial governance process to ensure that it is robust, fit for purpose, complied with and delivers both value for money for taxpayers and the Council's communities.</p>
2. What needs to be done?	<p>Proposed Task and Finish group would look to:</p> <p><u>Background / Existing Arrangements</u></p> <ul style="list-style-type: none"> Assess existing background around the Council's spend and how performance is monitored Scrutinise the effectiveness of the current Procurement Rules Scrutinise the effectiveness of Contract Management arrangements <p><u>Research and findings</u></p> <ul style="list-style-type: none"> Research and findings from elsewhere (including benchmarking with others and assessing pending changes to the national Procurement Policy) Seeking insight from elsewhere and Peers / best practice around commercial arrangements <p><u>Consultation</u></p> <ul style="list-style-type: none"> Seeking insight and views from key external stakeholders (including suppliers, Federation of Small Business, Voluntary Community and Social Enterprise Sector) on how they perceive the current Procurement Rules works



	<ul style="list-style-type: none"> Seeking insight from key internal stakeholders / commissioners who are required to apply the Procurement Rules as part of their work <p><u>Options and recommendations</u></p> <ul style="list-style-type: none"> Identify what works well in the current arrangements and any gaps in provision Establish details on impacts and how it will be monitored Consideration of the implications of the Council's Equality report and action plan to ensure key points are covered, in particular increasing diversity in disadvantaged groups and VCSE community <p>Set out clear consideration of the options and recommendations with the necessary level of scrutiny.</p>
3. What timescale do we propose to do this in?	The inquiry will take place from September 2021 to February 2022, provisionally with a report in March 2022.
4. What outcomes are we looking to achieve?	A set of recommendations to the Cabinet Member for Finance and Resources to strengthen procurement and contract management in the Council.
5. What is the best way to achieve these outcomes and what routes will we use?	Informal sessions of the Task and Finish, to be determined by the group when convened.

Member / Officer Leads

Lead Member (O&S Chair)	Cllr Mohammed Aikhlaq
Membership:	Cllrs Mohammed Aikhlaq, Barbara Dring, Meirion Jenkins, Majid Mahmood and Paul Tilsley
Lead Officer:	Christian Scade, Interim Head of Scrutiny and Committee Services



Councillor Meirion Jenkins

**Conservative
Sutton Mere Green Ward**

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5th February 2022

Councillor Mohammed Aikhlaq
Chair
Finance & Resources Overview and Scrutiny Committee

Dear Councillor Aikhlaq,

**OVERVIEW AND SCRUTINY TASK AND FINISH GROUP: PROCUREMENT GOVERNANCE
ARRANGEMENTS**

Further to discussions at the O&S task and finish group on procurement, I have been disappointed with the findings of this review and write to outline my objections, and those of the Conservative Group, as to the direction of travel of the Council on this subject. I believe that the proposals as drafted are bad for democracy, bad for taxpayer value, and bad for the quality of services we deliver to residents.

Councillors are elected to make decisions on behalf of their communities and Birmingham generally. As such, councillors are ultimately responsible for every decision that is taken and every penny that is spent.

It is of course important that decision making is timely and not hampered by unnecessary bureaucracy, but as a council that spends £1bn a year on externally procured goods and services, it is essential that there is appropriate oversight and transparency around how this money is spent. There has been a worrying trend from the current Labour administration to absolve itself of responsibility by delegating more and more decisions to unelected officers, who can now make decisions on contracts up to £10m a year without referral to any elected representative. This is *forty* times the average limit of other English Core Cities.

Whilst Birmingham is the largest local authority, it is not twenty times bigger than Manchester or forty times bigger than Sheffield, and yet their procurement delegation thresholds are twenty and forty times smaller than ours. Newcastle City Council require cabinet member involvement for any contract over £100,000 - 100 times less than the level given to officers in Birmingham. None of these cities are struggling to make effective procurement decisions in a timely manner and none of them have had any, let alone three, Section 24 notices from their external auditor due to concerns about financial management. It is also worth noting that cabinet members making those decisions have far less generous allowances than in Birmingham.

There are particular concerns about these delegated powers in respect of single contractor negotiations (SCNs), and late renewal of contracts. Requiring additional, rigorous oversight and accountability, SCNs should only be used in exceptional circumstances. Late renewal of contracts (which on occasion has been some time after contracts have expired) should never be needed. It

should also be noted how often the two seem to go hand in hand, with a common reason for requiring a single contract negotiation being the lack of time that has been allowed to go to market. Removing delegations for these types of procurement would increase transparency and accountability and act as an incentive to officers to ensure their use is minimised.

Similarly, as I and others in our group have said on a number of occasions, this council has a worrying reliance on the use of external consultants, where spend has increased in recent years with seemingly little benefit to the taxpayer. The Council spent £17.5m in 2020/21 on consultancy fees, 48% more than 2 years ago. There have been further lucrative contracts this year, often in areas where consultants have been used before such as the SEND children's service where those previous exercises by consultants yielded no improvement in the service and the government have had to appoint a commissioner. There are of course times when consultants can add value, but they remain a contentious area of spend with the public. Trade unions often point to consultancy costs when cuts to services are being made. Removing delegations would not only act as a check on overall spend, it would also send a clear message that we are engaging consultants only where there is a compelling reason to do so and where the cabinet member is willing to attach their name to that decision.

It is also important to note that we have previously proposed, and indeed Council agreed, a register of interests for chief officers with delegated authority but that this has never been progressed. We do not have any concerns about the propriety of any officer, rather this is an important point of principle. It is surely right that where officers are taking executive decisions on our behalf, that they are subject to safeguards and scrutiny. Of course, officers are not the same as members and they have a justified expectation of a greater level of privacy with regard to their private life. That is why we proposed a register of 'professional' interests only, in accordance with the decision of the information tribunal in *John Greenwood and Bolton Metropolitan Borough Council v Information Commissioner*.

For the reasons set out above, I would urge you to consider including within the task and finish group recommendations, the following proposals:

- Officer procurement delegation to be brought down from £10m to £500k in line with other core cities.
- A new lower threshold of £10,000 for the procurement of management consultancy, so as to get consultancy spend back under control.
- A register of 'professional' interests of all officers with delegated decision-making powers to be published annually online.
- Late approval of contracts (e.g. renewal\extension after expiry or procurement that does not allow enough time for a full procurement exercise) to require cabinet member approval and a public report.
- Single contract negotiations to require cabinet member approval and a public report.

In conclusion, the point I would ask all members to consider is what we think the role of the Executive and wider elected representatives should be: Do we want to absolve ourselves of responsibility and allow unelected officials to take decisions on our behalf, or do we want to own, and be seen to own, the decisions we take on how we spend taxpayer's money?

Yours sincerely
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