

Lessons Learnt / Recommendations and Management Responses June 2023

The following details the recommendations made from the 'Executive Summary – Final' document along with management responses.

5.1 (para. 4.2) Going forward in order to avoid any potential breach of procurement regulations, it is vital that departments precisely follow any instructions given by the Procurement Team and retain full and accurate records relating to instructions and decisions made.

5.1 Management Response

Procurement is introducing a section setting out the advice issued by the Procurement Officer - Expected end June 2023.

There will be tighter controls around the provision of evidence to justify the request e.g., demonstrating there is only one suitable supplier - Expected end June 2023.

5.2 (para 4.3) When wording supporting narrative within a waiver, care must be taken to ensure the narrative is clear and reduces the risk of misinterpretation.

5.2 Management Response

Procurement is introducing a section setting out the advice issued by the Procurement Officer - Expected end June 2023.

There will be tighter controls around the provision of evidence to justify the request e.g., demonstrating there is only one suitable supplier - Expected end June 2023.

Weekly waiver review meetings between Procurement and s151 Officer commenced in April 2023 to discuss requests in detail. Improved consistency checks are now built into this process along with a robust challenge.

5.3 (para 4.4) When contracting, all company information must be consistent throughout to ensure that related due diligence is undertaken on the correct company(ies).

5.3 Management Response

Procurement will improve checking in this area and ensure this issue is built into future training provided to departmental staff.

Weekly waiver review meetings between Procurement and s151 Officer commenced in April 2023 to discuss requests in detail. Improved consistency checks are now built into this process along with a robust challenge as to whether financial checks on companies are required.

5.4 (para.4.5) To ensure robust waiver approval, the information contained within it must be complete and accurate, which may be achieved through the provision of evidence supporting the waiver content.

5.4 Management Response

The waiver process will be strengthened. Weekly review meetings between Procurement and s151 Officer commenced in April 2023. Further amendments will be made including:

- a) supplier suitability questionnaires (SSQs) to be completed for all waivers where the contract value is above £25K,
- b) requirement for waiver to reflect the total value of the contract to the supplier, rather than just the level of Council spend,
- c) introducing a section setting out the advice issued by the Procurement Officer,
- d) tighter controls around the provision of evidence to justify the request e.g., demonstrating there is only one suitable supplier,
- e) using contract risk tool (to be developed) to establish procurement risks and for the outcome of the assessment to form the procurement comments,
- f) returning waivers to the budget holder for completion where they have not detailed the reasons for the decision to proceed or not. Expected end June 2023.

5.5 (para.4.6) Again, linked to recommendations 5.2 and 5.4, the information stated within the waiver must be accurate and challenged by all involved in the approval.

5.5 Management Response

The waiver process will be strengthened. Weekly review meetings between Procurement and s151 Officer commenced in April 2023. Further amendments will be made including:

- a) supplier suitability questionnaires (SSQs) to be completed for all waivers where the contract value is above £25K,
- b) requirement for waiver to reflect the total value of the contract to the supplier, rather than just the level of Council spend,
- c) introducing a section setting out the advice issued by the Procurement Officer,
- d) tighter controls around the provision of evidence to justify the request e.g., demonstrating there is only one suitable supplier,
- e) using contract risk tool (to be developed) to establish procurement risks and for the outcome of the assessment to form the procurement comments,
- f) returning waivers to the budget holder for completion where they have not detailed the reasons for the decision to proceed or not. Expected end June 2023.

5.6 (para.4.7 and 4.8) Due diligence must include a current financial check on the supplier and any related companies regardless of whether it is following a successful tender process or as a result of a waiver process.

5.6 Management Response

Procurement will develop and implement a comprehensive and robust process for undertaking supplier financial checks. This will take into consideration parent companies and ultimate parent companies, contract risk assessment, bonds / guarantees, ongoing monitoring of financial standing, D&B Finance Analytics reports and tracking, Companies House information, accounts and relevant financial information provided by supplier, use of Cabinet Office's Financial Viability Risk Assessment (FVRA) Tool. Initial meetings arranged w/c 19/06/2023.

5.7 (para.4.7 and 4.8) Financial checks must be undertaken and repeated throughout the Procurement processes through to contract award and final signing to address the risk of decisions being made on out-of-date financial information.

5.7 Management Response

Procurement will develop and implement a comprehensive and robust process for undertaking supplier financial checks. This will take into consideration parent companies and ultimate parent companies, contract risk assessment, bonds / guarantees, ongoing monitoring of financial standing, D&B Finance Analytics reports and tracking, Companies House information, accounts and relevant financial information provided by supplier, use of Cabinet Office's Financial Viability Risk Assessment (FVRA) Tool. Initial meetings arranged w/c 19/06/2023.

The need for financial checks is now considered in weekly waiver meetings with the Section 151 Officer. Procurement will guide / advise departments with regards to the need for, and frequency of, any company financial checks at the commencement of any procurement process.

5.8 (para. 4.8) To support accurate decision making, all financial check reports must be shared with all relevant parties.

5.8 Management Response

Procurement will develop and implement a comprehensive and robust process for undertaking supplier financial checks. This will take into consideration parent companies and ultimate parent companies, contract risk assessment, bonds / guarantees, ongoing monitoring of financial standing, D&B Finance Analytics reports and tracking, Companies House information, accounts and relevant financial information provided by supplier, use of Cabinet Office's Financial Viability Risk Assessment (FVRA) Tool. Initial meetings arranged w/c 19/06/2023.

Any financial checks which are returned indicating any medium or high-level concern will be communicated to both the relevant department and Section 151 Officer immediately.

5.9 (para.4.9) In addition to company financial checks, due diligence could include Procurement checks of Companies House information on the supplier and any related companies.

5.9 Management Response

Procurement will develop and implement a comprehensive and robust process for undertaking supplier financial checks. This will take into consideration parent companies and ultimate parent companies, contract risk assessment, bonds / guarantees, ongoing monitoring of financial standing, D&B Finance Analytics reports and tracking, Companies House information, accounts and relevant financial information provided by supplier, use of Cabinet Office's Financial Viability Risk Assessment (FVRA) Tool. Initial meetings arranged w/c 19/06/2023.

5.10 (para. 4.10) Contract monitoring must ensure that all contractual obligations are met by the supplier and any non-compliance is recorded and addressed.

5.10 Management Response

The revised Selection Questionnaire and Supplier Suitability Questionnaire now includes the requirement to submit organisational business continuity and exit management plans as part of the selection process. There will be a restructure within the procurement, contract management and commissioning team to increase resources available to support pre-procurement decision making and contract management activities and provide greater oversight of contract compliance (e.g., provision of business continuity and exit management plans, insurances, annual accounts etc.) Expected end December 2023.

The Transforming Procurement Programme includes:

- a) development of contract management training, guidance and clear escalation processes,
- b) redrafting of Contract Procedures.

Expected end December 2023

5.11 (para. 4.11) Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.

5.11 Management Response

Procurement will develop and implement a comprehensive and robust process for undertaking supplier financial checks. This will take into consideration parent companies and ultimate parent companies, contract risk assessment, bonds / guarantees, ongoing monitoring of financial standing, D&B Finance Analytics reports and tracking, Companies House information, accounts and relevant financial information provided by supplier, use of Cabinet Office's Financial Viability Risk Assessment (FVRA) Tool. Initial meetings arranged w/c 19/06/2023.

The need for financial checks is now considered in weekly waiver meetings with the Section 151 Officer. Procurement will guide / advise departments with regards to the need for, and frequency of, any company financial checks at the commencement of any procurement process.

Procurement / Finance will advise service departments with regards to the need for any further financial checks as and when pertinent information on companies becomes available / brought to the Council's attention.

There will be a restructure within the procurement, contract management and commissioning team to increase resources available to support pre-procurement decision making and contract management activities and provide greater oversight of contract compliance (e.g., provision of business continuity and exit management plans, insurances, annual accounts etc.) Expected end December 2023.

The Transforming Procurement Programme includes:

- a) development of contract management training, guidance and clear escalation processes,
- b) redrafting of Contract Procedures.

Expected end December 2023

5.12 (para. 4.12) Supplier evaluation and selection must clearly record and consider the suitability of the bid proposal prior to award of contract.

5.12 Management Response

Further amendments to processes will be made including:

- a) supplier suitability questionnaires (SSQs) to be completed for all waivers where the contract value is above £25K,
- b) tighter controls around the provision of evidence to justify the request e.g., demonstrating there is only one suitable supplier,
- c) using contract risk tool (to be developed) to establish procurement risks and for the outcome of the assessment to form the procurement comments,

Expected end June 2023.

The revised Selection Questionnaire and Supplier Suitability Questionnaire now includes the requirement to submit organisational business continuity and exit management plans as part of the selection process. Procurement will develop and implement a comprehensive and robust process for undertaking supplier financial checks. This will take into consideration parent companies and ultimate parent companies, contract risk assessment, bonds / guarantees, ongoing monitoring of financial standing, D&B Finance Analytics reports and tracking, Companies House information, accounts and relevant financial information provided by supplier, use of Cabinet Office's Financial Viability Risk Assessment (FVRA) Tool. Initial meetings arranged w/c 19/06/2023.

5.13 (Appendix C and D) We noted in the scope that there are areas that we are unable to examine due to limitations on information available to us. The Council may wish to consider engaging the Police to request wider investigation into the Companies.

5.13 Management Response

It is the Council's understanding that the Police have been made aware of the operations / concerns with regards to this company.

5.14 (para. 4.14) Contracts such as these should consider inclusion of related public recourse against financial loss incurred.

5.14 Management Response

A contract risk tool will be developed and utilised to establish procurement risks with the outcomes of the assessment to form the procurement comments.

The Transforming Procurement Programme includes:

- a) development of contract management training, guidance and clear escalation processes,
- b) redrafting of Contract Procedures.

Expected end December 2023

Appointment of an in-house Commercial Lawyer to assist with drafting contracts and ensuring appropriate indemnities in place. Expected December 2023.

5.15 (para 4.5 and 4.12) Financial Regulations must be reviewed in light of this matter and the new waiver process to ensure there is no risk of misinterpretation of authority to contract award and approval. In addition, consideration should be given to strengthening the waiver due diligence to ensure it as at least as robust as the tender process e.g., requiring exemplar contract information.

5.15 Management Response

The Transforming Procurement Programme includes:

- a) development of contract management training, guidance and clear escalation processes,
- b) redrafting of Contract Procedures.

Expected end December 2023

Any links across to changes required to the Council's Financial Regulations will be identified, and actioned, accordingly.

5.16 (para 4.15) In addition to the Procurement processes, the contract management processes must ensure that prompt action is taken on any information received relating to a supplier, including where applicable, timely responses to the informant. Process needs to be amended to ensure that access is taken promptly on any concerns raised about contracts.

5.16 Management Response

There will be a restructure within the procurement, contract management and commissioning team to increase resources available to support pre-procurement decision making and contract management activities and provide greater oversight of contract compliance (e.g., provision of business continuity and exit management plans, insurances, annual accounts etc.) Expected end December 2023.

The Transforming Procurement Programme includes:

- a) development of contract management training, guidance and clear escalation processes,
- b) redrafting of Contract Procedures.

Expected end December 2023

5.17 (para 4.16) The Procurement processes must incorporate consideration of any prior knowledge of suppliers and any potential conflicts of interest, given the findings (para 4.2) and related recommendation at 5.1.

5.17 Management Response

Further amendments to processes will be made including:

- a) supplier suitability questionnaires (SSQs) to be completed for all waivers where the contract value is above £25K,
- b) tighter controls around the provision of evidence to justify the request e.g., demonstrating there is only one suitable supplier,
- c) using contract risk tool (to be developed) to establish procurement risks and for the outcome of the assessment to form the procurement comments.

Expected end June 2023.

The revised Selection Questionnaire and Supplier Suitability Questionnaire now includes the requirement to submit organisational business continuity and exit management plans as part of the selection process. Procurement will develop and implement a comprehensive and robust process for undertaking supplier financial checks. This will take into consideration parent companies and ultimate parent companies, contract risk assessment, bonds / guarantees, ongoing monitoring of financial standing, D&B Finance Analytics reports and tracking, Companies House information, accounts and relevant financial information provided by supplier, use of Cabinet Office's Financial Viability Risk Assessment (FVRA) Tool. Initial meetings arranged w/c 19/06/2023.

The format of the SQQ, and other relevant procurement documentation, will be modified to require disclosure with regards to any potential conflict of interest and/or relevant previous experience of supplier(s).