



**TITLE OF REPORT: Procurement and Contracts Report**

**REPORT OF: Mike Barker, Strategic Director, Corporate Services and Governance**

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**Purpose of the Report**

1. Cabinet is asked to consider and approve the procurement and award of the contracts listed in appendix 2.

**Background**

2. On 21<sup>st</sup> May 2019, Cabinet agreed that a procurement and contract reports would be considered by Cabinet approximately twice per year. This was a move away from the previous process where approval to award contracts or to invite tenders for contracts that exceeded £250,000 were sought on a contract by contract basis.
3. Central Government's Cabinet Office recently issued a consultation paper on proposed amendments to procurement regulations. Within the consultation it was suggested that Council's may be required to publish a forward plan containing a pipeline of procurement activity for the next 18 months to 5 years. This report sets out the anticipated procurement activity that the Council is likely to require within the next 18-month period. There will inevitably be procurement activity that has not yet been identified, especially that arising from short term government funding arrangements, which do not necessarily align to these timescales. It is, therefore, proposed that update reports will continue to be provided to Cabinet on a twice yearly basis.

**Proposal**

4. The contracts listed in appendix 2, table 1, are at various stages of the procurement cycle, exceed £250k in value and require Cabinet approval to invite tenders, or undertake some other procurement process in accordance with the Contract Procedure Rules; and to continue through to award of contract. The table includes the proposed route to market including using existing frameworks, collaborating with other organisations, or directly awarding contracts where there is justification to do so.

**Additional information**

5. Appendix 3 provides Cabinet with a complete picture of all other current and recently concluded procurement activity to enable Councillors to obtain further information from the appropriate Service Director, or to ensure that Council priorities are adequately built into procurement activity from the outset. The information provided is set out in 4 further tables as follows:

Table 2	Provides information on contracts that are valued at below £250k (total contract value) and do not require Cabinet approval;
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Table 3	Provides progress on contracts that have previously been reported to and approved by Cabinet;
Table 4	Provides information on contracts that have been varied;
Table 5	Provides an update on contracts that have been tendered and awarded or are no longer required and will be removed from the current procurement workplan and future Cabinet reports.

6. Cabinet is asked to note that as some of the contracts are not required to be renewed immediately, or new contracts are at the very early planning stage, the contract value may not yet be known, or may be based on previous contract information, which will be updated before the contracts are advertised. The route to market may also remain to be determined. There is also a possibility that some of the proposed procurements may not progress. All information provided will be updated within the next report to Cabinet.
7. Cabinet may also note that some contracts have been extended due to Covid-19 and these are highlighted in the appropriate table. Decisions to extend contracts were based on the following:
  - The ability or likelihood of suppliers within specific markets being able to respond to a tender process;
  - The Council's capacity to undertake a procurement process at the time it was required, particularly where technical input was required from officers who were prioritising other Covid-19 related work;
  - The requirement for tenderers to access a number of Council premises, which may have been closed, in order to prepare their tender submission

## Recommendations

8. It is recommended that:
  - (i) The Service Director, Corporate Commissioning and Procurement be authorised to invite or negotiate tenders or conduct other procurement processes in respect of the contracts listed in appendix 2 and to award the relevant contracts to the tenderers submitting the most economically advantageous tenders (or otherwise proving successful in accordance with other procurement processes) in accordance with the Contract Procedure Rules; and
  - (ii) Cabinet continues to receive an updated report twice per year.

For the following reasons:

- (i) To enable the procurement of goods, works and services required for the efficient and effective delivery of services.
- (ii) To enable Cabinet to be updated with progress and changes to the procurement forward plan.

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### Policy Context

1. To deliver efficient and effective services, and the Council's Thrive agenda it is necessary for the Council to procure a wide variety of goods, works and services from a range of external organisations in accordance with the Corporate Commissioning and Procurement Strategy 2016-2021

### Background

2. Procurement activity exceeding specific financial thresholds must comply with the Public Contract Regulations 2015 amended by Public Procurement (Amendment etc.) (EU Exit) Regulations 2020.
3. The Council's Contract Procedure rules set out a framework within which all procurement activity must be undertaken and implement the Regulations.
4. On 21 May 2019, Cabinet approved amendments to the Contract Procedure Rules that require approval of Cabinet for all contracts exceeding £250,000 to:
  - "2.1 invite or negotiate tenders, or conduct some other procurement process and to award the Contract to the tenderer(s) submitting the most economically advantageous tender(s) as determined by the Service Director, Corporate Commissioning and Procurement, in accordance with the stated terms of the tender or other process, or:
  - 2.2 subsequent to the conduct of a tendering process or other procurement process to award the Contract to the tenderer(s) submitting the most economically advantageous tender(s) in accordance with the stated terms of the tender or other process."
5. Prior to this date Cabinet approval was only required for 2.2 above. Cabinet were not always aware of the procurements that were planned, and therefore had limited input into the scope and content of contracts, or proposed route to market. The effect was that Cabinet had no input until the procurement process had identified the preferred bidder.
6. The revised Contract Procedure Rules are designed to be more flexible by not requiring specific processes to be carried out based on value alone and will enable Cabinet members to influence specific contracts by contacting the Service Director, Corporate Commissioning and Procurement to discuss any aspects of contracts before the procurement processes commence.

### Consultation

7. Consultation has taken place with Service Directors to identify their future requirements as set out in appendix 2 and 3.
8. Prior to issuing tenders or commencing other procurement processes, varying degrees of market engagement routinely takes place.

## Alternative Options

9. For each contract, a range of options are considered as part of the procurement process and the options can include:
  - 9.1 whether or not works and services can be delivered via a directly employed workforce (i.e.in-house) in which case no procurement activity will be undertaken;
  - 9.2 a range of routes to market (including obtaining tenders, use of existing procurement arrangements, procuring collaboratively with other organisations, using frameworks established by other organisations, directly awarding contracts where it is appropriate to do so, etc);
  - 9.3 whether a tender process will deliver the best outcome, or whether a simple quotation or other process can be used;
  - 9.4 when a tender process is required, which of tender process should be used (open tender, restricted tender, dynamic purchasing system, process using negotiation etc.).

## Implications of Recommended Option

### 10. Resources:

- a) **Financial Implications** – The Strategic Director, Resources and Digital will be asked to confirm that budgetary provision is available prior to any tender being issued and/or contract being awarded.
- b) **Human Resources Implications** – In the event that there are potential human resource implications that may result from a procurement process (e.g. TUPE may apply), advice will be sought from the Service Director, Human Resources and Workforce Development.
- c) **Property Implications** - In the event that there are potential property implications that may result from a procurement process advice will be sought from the Strategic Director, Housing, Environment and Healthy Communities.

### 11. Risk Management Implication -

Each contract will be subject to a number of risk assessments including health and safety, financial, and where appropriate safeguarding. This process enables the identification and management of risks on a contract by contract basis. Processes have also been implemented to try to minimise the risk of procurement challenges.

### 12. Equality and Diversity Implications -

Each contract will be considered in terms of equality and diversity implications prior to the procurement process commencing. The use of the Corporate Social Responsibility Pledge will also communicate the minimum equality and diversity standards that the Council requires from its supply chain.

**13. Crime and Disorder Implications –**

Each contract will be considered in terms of crime and disorder implications prior to the procurement process commencing.

**14. Health Implications -**

Each contract will be considered in terms of health implications prior to the procurement process commencing. The use of the Corporate Social Responsibility Pledge will also communicate the minimum health implication standards that the Council requires from its supply chain.

**15. Climate Emergency and Sustainability Implications -**

Each contract will be considered in terms of climate emergency and sustainability sustainability implications prior to the procurement process commencing. The use of the Corporate Social Responsibility Pledge will also communicate the minimum sustainability standards that the Council requires from its supply chain.

**16. Human Rights Implications -**

Each contract will be considered in terms of human rights implications prior to the procurement process commencing. The use of the Corporate Social Responsibility Pledge will also communicate the minimum human rights standards that the Council requires from its supply chain.

**17. Ward Implications -**

Each contract will be considered in terms of ward implications prior to the procurement process commencing.

**18. Background Information**

The following reports have been relied on in the preparation of this report:

- (a) Report to Cabinet on changes to the Constitution on 21 May 2019,
- (b) Corporate Commissioning and Procurement Strategy,
- (c) Corporate Social Responsibility Pledge