

## ASSEMBLY

2 March 2022

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| <b>Title:</b> Review of the Council's Procurement Governance Arrangements  |  |
| <b>Report of the Cabinet Member for Finance, Performance and Core services</b>   |  |
| <b>Open Report</b>   | <b>For Decision</b>  |
| <b>Wards Affected:</b> None  | <b>Key Decision:</b> No  |
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| <b>Accountable Director:</b> Hilary Morris, Commercial Director  |  |
| <b>Accountable Strategic Leadership Director:</b> Abi Gbago, Strategic Director of Inclusive Growth  |  |
| <b>Summary:</b><br><p>Following the return of Procurement Services from Elevate in February 2020, work has been progressing to develop a new model for an in-house service which includes considering how the governance framework that supports procurement activity can be improved.</p> <p>This report sets out a proposal to change the Council's Contract Rules to implement a new streamlined framework for procurement governance for those below Cabinet threshold, which would come into effect from 1 April 2022.</p> <p>This report was considered and endorsed by the Cabinet at its meeting on 18 January 2022.</p> |  |
| <b>Recommendation(s)</b><br><p>Assembly is recommended to:</p> <ul style="list-style-type: none"><li>(i) Approve the new procurement governance arrangements as set out in the report, for implementation with effect from 1 April 2022; and.</li><li>(ii) Delegate authority to the Strategic Director, Law and Governance, to implement the appropriate amendments to the Council's Contract Rules and other documents within the Council Constitution to effect the new arrangements.</li></ul>   |  |
| <b>Reason(s)</b><br><p>The proposals contribute to the Council's vision and priorities to deliver a Well Run Organisation.</p>   |  |

## **1. Introduction and Background**

- 1.1 Barking & Dagenham's Ambition 2020 Programme sought to achieve major changes to deliver the vision for the borough and to be financially sustainable against cuts in public spending. In April 2016, Cabinet considered "We all have a part to play", the Council's response to the Growth Commission and Ambition 2020 proposals, which included a document describing the 'Design and Functions of the Core'.
- 1.2 That document recommended that 'The core of the Council should be re-shaped around the outcomes of the Council's long-term vision, and not around traditional service delivery silos....to maximise income as well as have a constant drive to improve our efficiency and productivity'.
- 1.3 The transfer of the procurement service into the Council from Elevate in February 2020 gave the opportunity to re-think our approach to procurement and to re-shape the framework in which we undertake it, to design a service offer in keeping with the Growth Commission's original recommendation to remove silo's and which aligns with our corporate approach to develop self-sufficiency within services. This framework would be backed up by improved training, development, guidelines and support.

## **2. Strategic Drivers for Change**

- 2.1 The transfer of the Elevate procurement team in February 2020 provided an ideal opportunity to consider how to integrate the procurement service into the Council as well as modernise processes and governance to reflect how the Council could more effectively operate with an in-house corporate procurement provision.
- 2.2 The outcome of that review included recommendations on how the service should work with its customers which is being implemented, as well as how the governance framework could be improved, the latter of which is the subject of this report.
- 2.3 The current framework for procurement governance is multi-layered with 8 different thresholds and multi service oversight in administration required at even low level spends, despite material risks from procurement activity only likely to materialise above the legal threshold.
- 2.4 The complexity of the current system and the different rules that apply to the different thresholds is a perceived barrier to compliance. These concerns came across clearly in a staff survey undertaken during 2020 and in the multiple workshops and individual stakeholder 1:1s undertaken throughout the review period, as did requests for contract management training and support which are also in the process of being implemented.
- 2.5 One example of the complexity in the current procurement process is in relation to the completion of paperwork authorising procurement spend. In our current governance process every purchase above £5k requires a signed Delegated Authority Report before a Purchase Order can be approved and a contractor appointed, or goods ordered.

- 2.6 This process is required irrespective of whether the purchase has been made in accordance with the contract rules and each report above £5k is required to have formal finance implications, with every purchase above £50k requiring formal procurement implications and every procurement above £100k requiring formal legal implications. This process is inconsistent and resource heavy but adds little additional value in delivering better outcomes or reduced risk at these spend levels.
- 2.7 There is no constancy in procurement training across the organisation which will be rectified as part of the implementation of the new framework. It is intended that basic procurement training will be included in the annual on-line training courses for all staff, with a professional procurement accreditation programme to be offered for those undertaking high value procurement. This programme will be developed on a rolling programme basis proposed to be funded by the apprenticeship levy.
- 2.8 The focus on organisational-level training supported by professional development opportunities is consistent with our aspirations as an Investor in People and is aligned to our expectations for other core support services which are moving towards enabling effective self-service. This new framework will be backed up with signposting to revised procurement guidance and workflows which will be made available on the intranet.
- 2.9 These proposals are intended to enable the achievement of greater success in procurement outcomes and procurement compliance over the longer term.

### 3. Proposed Changes

- 3.1 Recommendations from the procurement review include the development of a formalised approach to the hub-and-spoke model for procurement and contract management activity across the Council, with clarification on roles and responsibilities, backed up by training and support from within the Council's core procurement and commercial teams.
- 3.2 However, the substantive recommendations are those related to revising the governance framework, particularly the thresholds for procurement procedures to allow more agility at low level spend and enhanced oversight of risk associated with high value contracted activities.
- 3.3 The changes being recommended are the simplification of our current procurement thresholds for decisions below the Cabinet threshold which is proposed to remain at £500,000. As such, the level at which Cabinet will have oversight of procurements will remain untouched in these proposals.
- 3.4 The simplification includes reducing the eight different categories of procurement thresholds to three, as shown in Appendix 1. These three categories will be bronze, silver and gold as follows:

**Bronze:** up to £25k

Requires a minimum of two quotations, where possible one sourced locally. Delegated Authority Report only required if the minimum two quotes cannot be secured. The Delegated Authority report would only be required to be signed by the budget holder, no finance, legal or procurement comments required.

**Silver:** £25k – Legal Threshold\*

Requires a minimum of three quotations, where possible one sourced locally and publication of award notice on e-tendering solution. Delegated Authority required but only required authorisation from the relevant budget holder; legal, procurement and financial implications not required.

**Gold:** Public Contract's Regulation threshold (currently £190+ for goods and services); Internal threshold for works, Procurement Strategy Report required to be approved by Procurement Board. Delegated Authority Report required with legal, procurement and financial implications.

- 3.5 As can be seen from the above table, the proposal introduces streamlined governance by removing the requirement for delegated authority reports to have oversight by multiple services at the bronze and silver spend thresholds. Although services will still need to keep auditable records of procurement activity and purchasing decisions, those decisions will not require formal implications from procurement, finance and legal colleagues but will instead require authorisation from the services budget manager who is accountable for the spend associated with that cost centre.
- 3.6 Importantly, at the bronze level threshold the minimum standard includes a requirement for one of the minimum two quotes to be from a local supplier with a delegated authority report being required to be completed where that standard cannot be met. This is intended to incentivise the purchasing of local goods and services and increasing the amount of spend within the local area.
- 3.7 There is currently little data to evidence how much of our spend is via our local supply chain due to the reporting difficulties within our current finance system. This is being rectified with the implementation of our new ERP and, in the meantime, targeted activity is being undertaken to identify and source local suppliers where possible. However it will take some time for organisational level data to be capable of driving an effective local supplier engagement strategy. Engagement is underway with local suppliers to understand how they can be supported, in a state aid compliant manner, to bid for Council contracts. However, responses to a supplier engagement survey issued in September 2021 have unfortunately been limited.
- 3.8 At gold threshold all current procurement governance will be retained, including the requirement to gain approval of the procurement strategy at Procurement Board and to ensure legal, finance and procurement implications for all procurement activity.
- 3.9 In addition to the above, the new framework will require compliance with the Council's approach to risk assessment and management by introducing a requirement for all procurement strategy reports submitted to include an assessment of the operational delivery risks associated with the services being procured. This assessment will be expected to inform the service approach to the contract management regime to ensure that it is robust and proportionate to manage the outcomes and risks effectively.
- 3.10 Although we transact with more than 3,000 suppliers on an annual basis, out of our total organisational spend bronze procurements account for approximately 2% with

silver spend accounting for approximately 8% and gold counting for the vast majority of our purchases at 90%.

- 3.11 As such, the vast majority of our procurement activity will still be subject to the full rigour of the existing governance but with an additional focus on understanding and managing associated risks in our supply chain. By introducing organisational level training this revised framework will provide an enhanced and proportionate governance framework which reduces non-value adding bureaucracy at low level, low risk spend.

#### **4. Risk Management**

- 4.1 The paper aims to develop a framework that will improve compliance with procurement governance by making it easier for services to understand how to conduct procurement effectively and providing training for colleagues to do so however no governance framework is without risk.
- 4.2 Although the changes reduce multi-service oversight of procurement on a small proportion (10%) of our spend it will be important to ensure that there are controls in place to continue to monitor compliance once the existing controls at this level are removed. Controls to ensure compliance with the requirements include;
- Compliance with the new framework will be included in the annual internal audit plan for the foreseeable future
  - Any spend non-compliant with the two minimum standards at bronze and silver level will have to be authorised by the budget holder to ensure there is sufficient service level oversight of the requirement to secure best value and sufficient budget available.
  - All silver level procurements will be required to attach the completed Delegated Authority report (confirming budget holder level authorisation for the spend and the duty to secure best value) to the Purchase Order request on the finance system so the rationale for the spend can be audited at a later date.
  - Effective budget management should identify any significant adverse trends with spend.

#### **5. Consultation**

- 5.1 The development of the new Procurement Target Operating Model has been developed in consultation with service users and stakeholders as set out below;
- Service user workshops.
  - Organisation survey completed on One Borough Voice
  - Workshops, 1:1s and focus groups for Corporate Procurement & contract management
  - Individual feedback sessions with key commissioners and stakeholder
  - Approval by Corporate Strategy Group in August 2021
  - Endorsement by Portfolio Holder December 2021
- 5.2 The proposals in this report were also considered and endorsed by the Cabinet at its meeting on 18 January 2022.

## **6. Financial Implications**

Implications by: Sandra Pillinger Finance Manager

- 6.1 There are no direct cost implications associated with the proposals in this report. Financial implications will only be required to be provided for contract awards of over £190k. Budget managers have delegated authority to manage their budgets subject to their approval limits and budget availability. This change should streamline the procurement process and facilitate faster turnaround. Awards of over £500k will continue to require approval by Cabinet.

## **7. Legal Implications**

Implications by: Tessa Odiah, Locum Contracts and Procurement Solicitor

- 7.1 This report sets out the recommendations for the variation and amendment of the Council's Contract Rules. These recommendations are intended to implement a new simplified framework for procurement governance for those below Cabinet threshold.
- 7.2 The Council's Contract Rules (Rules) are issued in accordance with section 136 of the Local Government Act 1972. The Rules outlines the Council's procedure rules for procurement of all range of contract types, and are intended to promote good purchasing practice, public accountability and deter acts of corruption.
- 7.3 There is a provision in the Council's Constitution and stipulated under clause 2.1 of the Rules, which permits any amendment to correct any inconsistency in these Rules or clarify any interpretation of these Rules.
- 7.4 The proposed recommended amendments and variations set out in the body of this report would appear to be compliant with clause 2.1 referred to above and would improve compliance with procurement governance, making it easier for Services to understand how to conduct procurement. This will also enable the achievement of greater success in procurement outcomes and procurement compliance over the longer term, as demonstrated in the body of the report.
- 7.5 Therefore, if Cabinet agrees with the proposals set out in this report, then the proposed recommendations are legally compliant.

## **8. Procurement Implications**

Implications by: Euan Beales, Head of Procurement

- 8.1 The current Contract Rules set out the requirements that procurement must comply with to ensure a fair, open and transparent process is conducted, which mitigates risks to the Council from a financial, operational, and reputational basis. Currently the Contract Rules uses 8 separate thresholds, which all require an individual process to be complied with, this is to be simplified in the proposed amendments, which would set out simply and clearly to all procuring staff what is required from them.

- 8.2 The recommended Contract Rules changes will not amend or alter the value of procurements that will require Cabinet/HWB approval but are designed to enable Officers to be guided through a process to combine market engagement with commercial guidance that will deliver on the specific outputs required by the operational leads.
- 8.3 The recommendations to amend the Contract Rules combined with a new Procurement model will consolidate our data view and will enable further strategic decisions to be made that will benefit Local supply chain provisions due to consolidated approaches and enabling flexibility of process with the lower spend thresholds.
- 8.4 Based on the detail contained in this report I fully support the recommendations as being made, as I believe this will be an enhancement to the current process, which will lead to better outcomes for the Borough and its Residents.

## **9. Corporate Policy, Customer and Equality Impact**

- 9.1 There is no anticipated impact on the customer or equality impact but the proposals will support effective delivery of corporate policy to ensure a well-run organisation.

**Public Background Papers Used in the Preparation of the Report: None**

### **List of appendices:**

- **Appendix 1:** Comparison of current and proposed thresholds