



## AUDIT AND RISK MANAGEMENT COMMITTEE

Tuesday, 22 October 2024

<b>REPORT TITLE:</b>	<b>PROCUREMENT UPDATE</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF FINANCE (SECTION 151 OFFICER)</b>

### REPORT SUMMARY

This report informs the Committee of the range and number of contracts awarded which have been subject to Contracts Procedure Rules (CPR's) Rule 17- Reporting to Members, Waiving the Rules (Rule 12) and Extension/Variation (Rule 13). This report shows compliance with the 'No PO No Pay' policy and also reflects lower volumes of Exceptions, Breaches, Extensions, and Variations compared to the period in the prior year.

The report covers the period 1st April 2023 to 31st March 2024, in respect of Contracts Procedure Rule 17, which requires that all contracts which meet the following criteria are reported to Audit and Risk Management Committee:

- A. Contract is awarded and the total value of which exceeds £500k
- B Variation or extension to a contract approved by the Director of Finance
- C. Waiver of the Contract Procedure Rules in relation to a contract which exceeds £25k in value, and

The report supports all themes of the Wirral Plan as the contracts and transactions referenced have been completed by all Council Departments. This matter affects all Wards within the Borough. This is not a key decision.

### RECOMMENDATION

The Audit and Risk Management Committee is requested to note the report.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 To provide the Audit and Risk Management Committee with assurance that the council is taking appropriate measures to comply with Contracts Procedure Rules (CPRs).

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The other option would be not to report this, but it is reported to ensure best practice and enhanced governance to reduce risk.

### **3.0 BACKGROUND INFORMATION**

- 3.1 Contract Procedure Rules (CPRs), approved by this Committee, came into effect on the 1st April 2016 and were revised in September 2020. The current CPRs are in the process of being updated to reflect the new Procurement Act that is due to come into effect in February 2025. They will be presented to this Committee in the New Year for sign off.
- 3.2 Each contract is posted on the Council's Contracts Register, The Chest, which is the regional eContracting Portal for North West local authorities.
- 3.3 Within the CPRs, five distinct Procedure Rules Approval Documents exist, which are are:
- Awards,
  - Exceptions,
  - Breaches
  - Extensions
  - Variations.

These form the basis of all reports to this Committee in accordance with Rule 17.

- 3.4 The CPRs include the adoption of the Public Procurement Regulations 2015, the Transparency Code 2015 and the requirement to publish all contracts above £5k in value.

### **EXCEPTIONS AND BREACHES**

- 3.5 In Financial Year 23/24 there was a reduction of 345 Exceptions from the previous year, falling from 472 to 127, which equates to a 73% reduction. The corresponding reduction in value was £22.2m, reducing from a figure of approximately £63m to £41m; Appendix 2 details this improvement.

The requests to waive the CPR's for under Public Contract Regulation threshold contracts (or where the thresholds do not apply) have been authorised only in the following circumstances, supported in all cases by the appropriate evidence:

- a. Goods, services or the execution of works are obtainable from one source or contractor and there is no reasonably satisfactory alternative,

- b. Compatibility issues such that procurement from another source would be uneconomic given the investment in the previous infrastructure,
- c. A waiver of the rules would be in the interests of the Council, be lawful, and provide value for money
- d. Where there is a legal requirement to deal with a particular supplier
- e. Contracts awarded to suppliers because of exclusive rights.

- 3.6 Breaches of the CPRs has shown a similar improvement with a decrease of 71% in 23/24 from the previous year, reducing from a figure of 95 to 28. This reflects a reduction in spend linked to Breaches from £5m in 22/23 to £3m in 23/24; details are provided in Appendix 2.
- 3.7 The Procurement team have driven changes designed to present improved statistics such as these by having close engagement within the various Directorate Management Teams (DMTs) which has enabled better visibility of scenarios where Exceptions or Breaches may occur. Undertaking this approach has provided the ability to be pro-active in identifying compliant routes to market to avoid Exceptions and taking mitigating actions to avoid Breaches occurring.

## **VARIATIONS AND EXTENSIONS**

- 3.8 There has been a big decrease in variations to contracts, this is due to Procurement challenging as to why requests to modify contracts are received without going back out to the market and enforcing an approach that a Contract can only be varied by 10% and up to 50% if the variation can be justified as unforeseen.
- 3.9 Contract extensions are permissible providing there is a contractual provision to extend and it is commercially advantageous to do so. What will not be permitted is for Contracts to be automatically rolled over with the same supplier which would also be a breach of both the CPRs and potentially the Public Procurement Regulations.
- 3.10 All of these requests are assessed as for compliance as they are subjected to multiple stages of approvals including, Budget Holder, Head of Service, Finance, Procurement, and for Exceptions above £100k, Legal. By reviewing the requests for Variations and Extensions we ensure that services continue to operate and there is no adverse impact on the Council's revenue budget.
- 3.11 Additional information has been included in Appendix 3 showing the volumes linked to each Directorate.

## **No PO No Pay**

- 3.12 The No PO No Pay Policy was introduced with effect from the 1st April 2019 and this report provides assurance that this policy has been fully implemented and adhered to with no invoices processed in 2023/24 without a valid purchase order number. There is a list of exceptions to this Policy covering payments linked to Grants, Contributions, Direct Payments etc which are communicated and re-affirmed by the Procurement Team.
- 3.13 The policy does not apply to schools as they do not have access to the Council's

procurement ordering system.

## **SUPPLIER SET UPS**

- 3.14 To enable the effective screening of new suppliers being registered, the implementation of the Oracle Fusion system has facilitated a new supplier set-up process. An e-form built within the Granicus system has been developed, which collates information such as the name of the company, company registration number, address as well as a detailed business case why the supplier should be granted access to the supplier portal and what the cost of the project or contract will incur.

The form is completed by a commissioner then sent electronically to the relevant procurement team (People, Place or Corporate) where the officer can complete checks on the business, including checking their details on Companies House and ensuring the bank details are linked to the name of the supplier. Should more information be needed the category officer can return the form and request further information/evidence to confirm. The use of the electronic form enables a clear audit trail for the setting up of new Suppliers.

## **CONTRACT PURCHASING AGREEMENTS (CPA'S)**

- 3.15 A CPA process has been introduced to enable tracking of spend against both a Contract and a Purchase Order. This is a mitigation against spend going beyond both the value of the Contract and the Purchase Order value as well as associated spend being committed beyond the life of the Contract. This process stops non-contractual spend and reduces the risk of maverick spend against a recognised supplier. The CPA process is covered in detail within Appendix 4.

## **PROCUREMENT CARDS (P Cards)**

- 3.16 Procurement are in the process of a controlled roll out of P Cards identifying areas of high volume, low value expenditure whereby the use of the cards will bring efficiencies to the Organisation.
- 3.17 In the Financial Year 23/24 there were approximately 5,000 Transactions linked to a spend in the region of £844,000. The majority of the spend related to provision of homeless accommodation followed by utilities and fuel. The number of P Cards in circulation is currently 84.
- 3.18 Lodge Cards are currently being trialled with the Furniture Resource Centre, a Contract put in place for emergency financial support packages, to supply a range of goods consisting of beds, bedding, kitchen equipment and white goods. Lodge Cards are virtual cards linked to a Contracted Supplier of high-volume low value Transactions. Assuming this trial goes well activity will be undertaken to identify additional Suppliers to take the same approach. This will create efficiencies within the procurement to pay process.
- 3.19 Following the previous contract end date for the use of the P Cards, for which did not benefit from any rebate income linked to the spend, the Council have since joined a collaboration with Cheshire West and Cheshire East Councils. Under the new arrangements, a financial benefit will be realised in the form

of a rebate on P Card spend in respect of the collaborating organisations. This was the result of a Procurement Team led endeavour.

## **COMMISSIONING AND CONTRACTING PROGRAMME**

3.20 In order to establish improvements in the way that contracts are commissioned, managed, monitored, and controlled, a programme of work is under way that will establish a new, standard, and modern methodology and governance process. This will provide further assurance on the measures being taken to improve compliance, performance, and value for money in contracts and transactions.

## **4.0 FINANCIAL IMPLICATIONS**

4.1 There are no direct financial implications arising from this report, however the report contents and associated appendices address significant financial activity and associated matters that support ongoing financial management and monitoring activities.

4.2 The No PO No PAY policy will continue to minimise/eliminate exposure to spend occurring outside the CPR's and improve value for money (VFM) from existing and new contracts.

4.3 Financial controls reduce the risk of fraud and exposure to the risks identified in section 6.

## **5.0 LEGAL IMPLICATIONS**

5.1 The Council must comply with its Contract Procedure Rules and relevant procurement Legislation.

## **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

6.1 The programme of addressing these issues has received significant levels of support from Procurement Staff to deliver training and workshop initiatives and to provide regular communications and reminders.

## **7.0 RELEVANT RISKS**

7.1 Failure to comply with the No Po No Pay Policy exposes the council to a range of risks including:

- Failure to control expenditure with suppliers and providers
- Duplicate or overpayments for goods, services and works
- Poor planning and control of contracts
- Inefficient practices and controls within the services

7.2 Failure to monitor contracts is not good governance and exposes the Council to potential fraud.

7.3 Risk of litigation if fail to apply procurement legislation and/or Contract Procedure Rules. Risk of services being withdrawn, financial penalties and reputational risk.

## **8.0 ENGAGEMENT/CONSULTATION**

8.1 The Departmental Management Teams, and Senior Management Teams receive monthly analysis of performance against the Contracts Procedure Rules and No PO No Pay Policy. The Corporate Governance Group is updated periodically to ensure improved compliance continues to be the trajectory.

## **9.0 EQUALITY IMPLICATIONS**

9.1 There are no equality issues arising from this report, but equality implications are embedded into procurement processes.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

10.1 The content and recommendations contained within this report are expected to have no impact on emissions of greenhouse gases.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

11.1 The content and recommendations contained within this report are expected to have no impact on community wealth but the analysis for 2023/24 indicates that 34.59% of third-party Council spend was with local suppliers which reflects the positive impact awarded contracts have on the local economy.

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## **APPENDICES**

Appendix 1 – Contracts with a value exceeding £500k that have been awarded in the period specified

Appendix 2 – Compliant exception requests granted, that remain within available budget and approved by the appropriate officers

Appendix 3 – Contract extensions within available budget

Appendix 4 – CPA process workflow

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## **BACKGROUND PAPERS**

Data reports from the Firmstep Smart forms system, and Oracle Fusion, General Ledger and Accounts Payable modules.

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Audit and Risk Management Committee</b>	<b>24/10/2023</b>
<b>Audit and Risk Management Committee</b>	<b>24/01/2022</b>
<b>Audit and Risk Management Committee</b>	<b>05/07/2021</b>