

BROMSGROVE DISTRICT COUNCIL

Cabinet 12th July 2023

Approval to Spend Report

| | |
|--|---|
| Relevant Portfolio Holder | Councillor Charlie Hotham, Finance and Enabling Portfolio Holder |
| Portfolio Holder Consulted | Yes |
| Relevant Head of Service | Michelle Howell |
| Report Author | Job Title: Head of Finance & Customer Services email:michelle.howell@bromsgroveandredditch.gov.uk Contact Tel: 0152764252 |
| Wards Affected | N/A |
| Ward Councillor(s) consulted | N/A |
| Relevant Strategic Purpose(s) | All |
| Non-Key Decision | |
| If you have any questions about this report, please contact the report author in advance of the meeting. | |

1. SUMMARY

The purpose of this report is to set out to Cabinet the key implications of the New Procurement Bill which the Council has to comply with from 1st April 2024, and what the Council needs to do to meet its obligations.

2. RECOMMENDATIONS

Cabinet are asked to Recommend to Council that:

- **The Key Decision threshold is raised to £200k.**
- **On a quarterly basis a report “the Approval to Spend Report” will be provided to Cabinet which sets out the Council’s Procurement Pipeline for approval to be included on the forward plan and an analysis of spending over the past 4 years to identify spending with suppliers over the £200k limit to ensure this spending is converted to properly contracted expenditure and rogue expenditure is dealt with.**
- **That items from the initial pipeline report at the appropriate Key Decision level, as set out in Appendix C, are added to the forward plan.**

3. KEY ISSUES

Introduction

- 3.1** This report sets out the key implications of the new Procurement Bill, which needs to be enacted by 1st April 2024. The Bill brings even more transparency to how Councils undertake their business. The report sets out:
- the key parts of the new Bill
 - Transparency arrangements already in place at the Council

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- Council procurement governance requirements
- An analysis of present procurements and comparison of limits against local Councils
- The proposed way forward.

The Procurement Bill

- 3.1 The Bill will reform the UK's public procurement regime, making it quicker, simpler, more transparent and better able to meet the UK's needs while remaining compliant with our international obligations
- 3.2 It will introduce a new regime that is based on value for money, competition and objective criteria in decision-making. It will create a simpler and more flexible, commercial system that better meets our country's needs. And it will more effectively open up public procurement to new entrants such as small businesses and social enterprises so that they can compete for and win more public contracts.
- 3.3 It will strengthen the approach to excluding suppliers where there is clear evidence of their involvement in Modern Slavery practices, and running throughout each part of the Bill is the theme of transparency.
- 3.4 Contracting authorities must have regard to delivering value for money, maximising public benefit, transparency and acting with integrity. Integrity must sit at the heart of the process. It means there must be good management, prevention of misconduct, and control in order to prevent fraud and corruption. The Bill also includes a duty on contracting authorities to have regard to the particular barriers facing SMEs, and to consider what can be done to overcome them.

Key Points within the Bill

Undertaking a Procurement

- 3.5 The Bill introduces a new procedure for running a competitive tendering process - the competitive flexible procedure - ensuring for the very first time that contracting authorities can design a competition to best suit the particular needs of their contract and market.

Contract Management

- 3.6 The important work on procurement does not stop once a contract has been awarded. Part four of the Bill sets out steps that must be taken to manage a contract. This includes the strengthening of rules ensuring that suppliers are paid on time and new requirements to assess and publish information about how suppliers are performing.

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Transparency Notices

3.7 The Bill proposes a number of measures to ensure greater transparency to make it easier to scrutinise procurement decisions. In particular, contracting authorities will be required to publish:

- a "pipeline notice" where contracting authorities consider that they will spend more than £100 million on certain types of procurement in the next financial year;
- a tender notice at the commencement of the procurement procedure;
- more detailed information about the evaluation to unsuccessful bidders;
- a contract award notice before (instead of after) entering into a public contract;
- information about contracts after they have been concluded;
- a copy of any public contract with a value exceeding £2 million within 90 days of it being entered into;
- information about payments under public contracts to enable scrutiny by the general public;
- a contract implementation notice to update on performance against KPIs;
- a contract change notice in advance of implementing amendments; and:
- a contract termination notice ahead of the expiry or termination of a contract.

Measures already in place

3.8 Whilst the above may appear daunting, the recent work that the Council has already done to put measures in place means that the majority of the requirements under the new Bill are already being met with a few changes required for transparency purposes.

Our existing measures include:

- No Compliance No Order which was implemented on the TechOne system on the 1st April 2023. With this, an order cannot be raised unless it's linked to a contract or an identifiable procurement route. We are 3 months into this process and in the short term we will allow orders not linked to contracts as long as the contracting process is under way (which is checked/approved by the Procurement Team. By the end of the Calendar year we expect high compliance as contracts will have been set up for all significant expenditure.
- All new suppliers have to be approved by the procurement and payments teams. Up to September 2022 new suppliers were approved just by the payments teams. The

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new route ensures that we are making the most value of contracting and reducing rogue non contract linked expenditure.

- Monthly spending of over £500 is placed on the Councils Website. Please use this link <https://www.bromsgrove.gov.uk/council/finance/supplier-payments-over-%C2%A3500.aspx>
- That the Council has an EPC Card system for small expenditure. Controls are in place using these Cards:
 - Maximum monthly expenditure.
 - Individual transaction limits.
 - Merchant Category Group code blocking
 - Each supplier is classified with a Category Group code. Any number of these codes can be blocked or left unblocked to ensure compliance with business policies.
- The contracts register is available to Officers, Members and the Public – See Appendix C.
- The Procurement team is available for monthly meetings with HOS and this ensures the procurement team has visibility of what service departments are procuring to ensure contracts are set up to ensure compliance to the No Compliance No Order regime.
- Procurement training is provided to the teams on request in order for them to understand the new and wider procurement requirements. The procurement team recently provided a series of training in September 2022.
- Monthly Accounts payable training delivered to ensure that those administering procurements within Service Departments understand how to use the TechOne system to properly code those requisition and orders.
- There is a dedicated Procurement Teams Page (See **Appendix A**) for Officers which covers:
 - The Procurement Process
 - Award Procedures
 - Frameworks Commonly Used
 - How we Advertise our Contract Information
 - Requests for Training
 - Social Value
 - Glossary of Procurement Terms
 - Template documents

Council Governance

- 3.9 Part 6 of the Constitution sets out the Schemes of Delegation. The schemes of delegation set out what decisions can be delegated to Cabinet and individual Officers. These are set out in Appendix B.

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- 3.10 The Council Constitution sets out that from a financial basis a “key decision” is any item that has a combined financial spend (either as a single item or for the length of the contract) of £50,000.
- 3.11 Key decisions need to be on the Council’s forward plan. Then
- Cabinet Decisions are actioned via a Cabinet Report;
 - Decisions delegated to Officers are actioned via an Officer Decision notice.

This includes Revenue, Capital and S106 allocations.

The Present Council Procurement Pipeline

- 3.13 The Council’s Procurement Pipeline, which is presently based on the Contracts Register, is set out in Appendix C along with the initial “pipeline document”. The Procurement Pipeline provides a forward look of potential contracting opportunities and when existing contracts are due to expire. The initial pipeline document which has been derived from the Council’s existing Contracts database. However, as set out in section 3.8 above, this is in the process of being built and so departmental procurement officers have been asked to update the Pipeline document for any procurements that they have coming up in 2023 and 2024 that are over £50k for the life of the contract and are not already on the contract register.
- 3.14 The key task of the pipeline is **to allow for proper planning of procurements** to ensure the Council maximises its contracting opportunities by
- Alerting Officers and Members to contracts coming to the end of their terms;
 - Reducing the likelihood of duplicating contracts;
 - Ensuring that if decisions are Key that they are on the appropriate Key Decision Registers
- 3.15 By having an up to date procurement pipeline, and ensuring procurements and the associated key decisions are efficiently planned, we will ensure that the Council is delivering fully to the new Procurement Bill which becomes a requirement on the 1st April 2024.
- 3.16 Assessing the current joint procurement register we have the following levels, by spending, of contracts:

Contracts Register – taken as at 17th June

- Over £200k – 44 Contracts
- £100K to £200k – 32 Contracts
- £50k to £100k – 36 Contracts
- £10k to £50k – 94 Contracts

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- Up to £10k – 62 Contracts

Capital (Just Bromsgrove) – taken from the present capital programme approved in February 2023

- Over £200k – 9 Schemes
- £100k to £200 – 2 Schemes
- £50k to £100k – 1 Scheme

3.17 It is clear from this data that the present £50k threshold for Key Decisions covers far too many projects as many contracts last for multiple years. The majority of Councils have traditionally set the key decision limit at the EU Threshold level of £179k. Other Councils in Worcestershire have the following key decision limits:

- Wyre Valley - £50,000
- Worcester City – £164,176 in 2017, suggests not required in present structure

As a further Comparison we have

- Birmingham – Capital £1m, Revenue £500k, Chief Officers £200k
- Solihull - £500k
- Wolverhampton - £250k

Proposal

3.18 Given the above points, it is proposed that:

- The Key Decision threshold is raised to £200k. The logic of this is for revenue expenditure using GCloud, contract lengths can be up to 4 years. As such this is the existing £50K limit expanded to the full term of revenue contracts. This new threshold will apply to all classes of delegated decision.
- On a quarterly basis a report “the approval to spend report” will be provided to Cabinet which sets out from the Procurement Pipeline those procurements that should be taking place over the next year. This report will be refreshed every quarter and can be converted once approved by Cabinet into the ongoing forward plan.
- That as part of this report an analysis of spending will be made of the past 3 years to identify spends with suppliers over the £200k limit to ensure this spending is converted to properly contracted expenditure and rogue expenditure is dealt with.

4. Legal Implications

4.1 No Legal implications have been identified.

5. Strategic Purpose Implications

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Relevant Strategic Purpose

- 5.1 The Strategic purposes are included in the Council's corporate plan and guides the Council's approach to budget making ensuring we focus on the issues and what are most important for the borough and our communities. Our Financial monitoring and strategies are integrated within all of our Strategic Purposes.

Climate Change Implications

- 5.2 The green thread runs through the Council plan. Procurements by their nature have potential financial implications and these in term can have implications on climate change. These will be addressed and reviewed through individual reports when relevant by climate change officers will ensure the correct procedures have been followed to ensure any impacts on climate change are fully understood.

6. Other Implications

Customer / Equalities and Diversity Implications

- 6.1 None as a direct result of this report.

Operational Implications

- 6.2 Managers meet with procurement officers to consider their current procurement position and to ensure actions are in place to mitigate any expenditure that is not contracted properly.

7. RISK MANAGEMENT

- 7.1 The financial monitoring is included in the corporate risk register for the authority

8. APPENDENCES

Appendix A – Dedicated Procurement Team Page
Appendix B – Bromsgrove Scheme of Delegation
Appendix C – Forward Pipeline and Contracts Register

AUTHOR OF REPORT

Name: Pete Carpenter– Interim Director of Finance (S151)
E Mail: Peter.Carpenter@bromsgroveandredditchbc.gov.uk

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Appendix A – Dedicated Procurement Teams Page

Thinking about procuring something? Read the process here first then ask us for any advice you may want or need. [Email us](#) or post in [the chat in this channel](#). Procurement is part of Legal Services.

What you procure, when, and why, is up to you and your teams inside the councils' usual political processes. It's your work.

How you procure, however, is **not** up to you. As public employees how we procure is regulated, and there is a process you must follow, with support from Procurement. The process is simple, essential, and will help you to procure well.

It's your responsibility.

Service Protocol – Procurement

Our service protocol can be found [here](#)

The process of procurement

Follow this simple **four-step process** whenever you think about procuring. Links to relevant supporting resources are included as you go along. Documents you may wish to refer to here are collected in [the Files tab of this channel](#).



Step 1: DETERMINE THE NEED

1. What are you procuring? Identify and scope the requirement. (Refer to: *Procurement Training*, as a summary of the formal *Contract Procedure Rules*)
2. Agree the procurement with management, including, for new a requirement, whether it's a priority.

Step 2: SPECIFY THE PROCUREMENT TO MEET THE NEED

1. Set out exactly what will you need to buy. This step is critical as it will determine what you end up getting. (Refer to: *Specification training* and *Specification template*. Here's some Crown Commercial Service [info on writing a specification](#))
2. Determine which award procedure you will be following. See [the Award procedures section](#) below for more.
3. Get your specification approved with management, and where necessary get advice from Legal Services.

Step 3: GO TO MARKET (only skip this if your award procedure is a direct award via a framework)

1. Depending on your award procedure, run your tender or quotation procedure. Refer to the template documents, terms and conditions, etc., in [the Files tab](#) on this channel. The standard terms & conditions are not appropriate for all procurements, so please check with Legal Services which terms and conditions are suitable for you.
2. If you are using the procurement portal to go to market, Procurement will handle incoming questions via the portal.
3. Evaluate supplier responses. (Refer to: *Evaluation training*)
4. Feed back to all bidders, and where necessary get advice from Legal Services first.

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Step 4: AWARD/CONTRACT

1. Award the business / contracts.
2. Notify and sign contracts.
3. Request that the supplier and contract are added to the system (all new suppliers require a [new supplier form](#) to be sent to Payments (that file is always available over on the [Purchasing and Payments channel](#) of the ERP Support Team, which is where you should go if you want more support on adding a new supplier).
4. Manage the business / contracts as an ongoing concern.

Note: procurements may require technical guidance by Legal Services at certain points before they can proceed. This protects both you and the councils from compliance issues. Most contract and larger-value awards require technical guidance.

Award procedures

All procurements must follow the relevant **award procedure** in line with councils' Contract Procedure Rules. This isn't just our policy, it's the law, and it protects you, the councils, and the public purse.

The award procedure depends on the amount you're spending. Generally speaking the more money you are spending, the more demanding the award procedure, and the more time you will need to allow for it including getting any technical guidance.

Which award procedure do you need to follow?

| Total value of spending (including repeat spending on the same thing) | Award procedure | Written evidence you need on file (emails are ok) | Retain evidence for |
|---|--|---|--|
| £0- £3,000 | Order off a Framework* | | |
| | or | | |
| | There must be evidence of competitive enquiries being undertaken, with details of final selection criteria recorded and retained for one year from date of purchase (this can be in by email) Good practice is to get three quotes. This can be via email with a required response date. | Framework agreement or Your enquiries and how you decided | Purchase date or contract end date plus one year |
| £3,001 - £25,000 | Send your final choice to Procurement for logging on the Contracts Register & ERP. Order off a Framework* | | |
| | or | | |
| | Get at least 3 written quotations and record how you decided which supplier to award to, this can be completed by email. Send your final choice to Procurement for logging on the Contracts Register & ERP. | Framework agreement or Your quotes and how you decided | Purchase date or contract end date plus one year |

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| | | | |
|--|---|-------------------------------|--|
| | Optional: Ask Procurement to advertise the opportunity for you! | | |
| | Order off a Framework* | Framework agreement | |
| | or | or | Purchase date or contract end date plus five years |
| £25,001- £50,000 | Contact Procurement to advertise an invitation for businesses to quote | All procurement documentation | |
| | Send your final choice to Procurement for logging on the Contracts Register & ERP. | | |
| | Order off a Framework* | | |
| £50,001 – £177,897.50 (goods and services) or £4,447,447.50 (works) | or | Framework agreement | |
| | Contact Procurement to advertise an invitation to tender via the Proactis Portal managed by Procurement Team. | or | Purchase date or contract end date plus five years |
| Figures exclusive of VAT | Send your final choice to Procurement for logging on the Contracts Register & ERP. | All procurement documentation | |
| | Order off a Framework* | | |
| Over £177,897.50 (goods and services) or £4,447,447.50 (works) | or | Framework documentation | |
| | Contact Procurement to Advertise on 'Find a Tender' and via the Proactis Portal managed by Procurement Team. | or | Purchase date or contract end date plus five years |
| Figures exclusive of VAT | Send your final choice to Procurement for logging on the Contracts Register & ERP. | All procurement documentation | |

**Where there is no adequate framework (see below) we can establish our own mini-framework of suppliers to meet a procurement need. Please ask.*

Frameworks we commonly use

Frameworks go to the market so you don't have to.

They invite suppliers to compete to win business from multiple framework customers (us, and organisations like us). This saves time for you, and can mean significantly better prices too, because framework suppliers aren't just competing for your business - they're competing for the business of every customer who comes to that framework. Frameworks can be a simple, low admin way to procurement compliance.

Other sector specific frameworks are available, so if you don't see what you need here or these frameworks don't have what you need on them, please ask.

- Yorkshire Purchasing Organisation (YPO) <http://www.ypo.co.uk/>
- ESPO <http://www.espo.org/supplier-area/becoming-a-supplier.aspx>
- Crown Commercial Service <https://www.gov.uk/government/organisations/crown-commercial-service>
- LHC <https://www.lhc.gov.uk/>
- Fusion 21 <https://www.fusion21.co.uk/>

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- EEM Ltd <http://eem.org.uk/>
- PFH <http://procurementforhousing.co.uk/>
- NHS SBS [Procurement Services - NHS SBS](#)
- Procure Partnership [Procure Partnership Frameworks | Procurement For The Public Sector \(procurepartnerships.co.uk\)](#)

Here's some more information on [what a framework is](#), from the Crown Commercial Service.

How we advertise our contract information

We use the Proactis Pro Contract (Due North) platform, and sometimes we use Government platforms too.

- **All our contracts:** [Proactis Pro Contract \(Due North\)](#). Users can sign up for alerts.
- **Our lower value contracts but over £25k:** [HM Government Contracts Finder](#)
- **Our higher value contracts over £177,897.50 (goods and services) or £4,447,447.50 (works):** [HM Government Find a Tender](#)

We also use Proactis for our [contract register](#), which is a public record of all our contracts.

Request training

Procurement training is **mandatory** if you purchase for our councils. The Procurement team offer regular training sessions across the councils, but you can request your own bespoke training at any time by contacting the team. We recognise that one size does not fit all!

Request training anytime by contacting Procurement. Training documents that support the key areas of procurement are available in the Files tab of this channel.

Social Value

Social value in procurement is about making sure that what you buy creates additional benefits for society. To get it right, you need to start thinking as early as possible about how to apply it to what you are buying.

Here's a [link to Crown Commercial Service article on Social Value](#).

Glossary of Procurement Terms

Running a procurement can involve technical language that can sometimes be a little daunting. We want to help you understand some of the [common terms and abbreviations](#) you may come across.

Related documents and files

See [the Files tab in this channel](#).

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Appendix B – Bromsgrove Scheme of Delegation

Link to the Council's Scheme of Delegation

<https://moderngovwebpublic.bromsgrove.gov.uk/documents/s53711/6%20Scheme%20of%20Delegations%20April%202022.pdf>

Appendix C – Contracts Register and Forward Pipeline

Link to the Council's Contracts Register

[Contracts register \(due-north.com\)](https://contractsregister.due-north.com)

Forward Pipeline – Bromsgrove Specific

| Council | Contract Title | Contract Description | Department | Current Contract Expiry Date | Procurement Start Date | Contract Commencement Date | Contract Length | Extension | Contract Value (anticipated Lifetime Value) | Planned Procurement Route (project type?) | Suitable for SME's? | Suitable for VCSE's? |
|------------|---|---|------------------------|------------------------------|------------------------|----------------------------|-----------------|-----------|---|---|---------------------|----------------------|
| Joint | Supply of MFD | Supply of MFD and associated requirements | Communications | 31/08/2023 | 01/05/2023 | 01/09/2023 | 5 | 0 | | Framework | Y | N |
| Joint | ERP System | ERP system | Finance | 13/06/2023 | | 14/06/2023 | 2 | 2 | | Framework | N | N |
| Bromsgrove | Dangerous Dog Contractor Ser | Framework Agreement Dangerous Dog Contractor Services For | WRS | | TBC | TBC | TBC | TBC | | | | |
| Bromsgrove | Dog warden cover | Worcestershire Regulatory Services framework agreement to provide dog warden cover for Worcestershire regulatory services. | WRS | 06/04/2024 | TBC | TBC | TBC | TBC | | Open Tender | Y | Y |
| Bromsgrove | out of hours dog warden serv | framework agreement to provide out of hours dog warden services for | WRS | 28/02/2024 | TBC | TBC | TBC | TBC | | Open Tender | Y | Y |
| Bromsgrove | Management and maintenance of data centre | Worcestershire Regulatory Services. Management and maintenance of data centre infrastructure | ICT | 28/02/2024 | TBC | TBC | TBC | TBC | | Open Tender | Y | Y |
| Bromsgrove | | Civica Open Revenues | Revenues & Benefits | 01/01/2024 | TBC | TBC | TBC | TBC | £378,000 | | | |
| | | Contract for the design, supply, installation, maintenance, and removal of Christmas lighting displays for the Borough of Redditch and District of Bromsgrove Including | Leisure | 01/12/2023 | TBC | TBC | TBC | TBC | | Framework | Y | N |
| Joint | Christmas lighting | FRAMEWORK AGREEMENT TO PROVIDE Kennelling of Dogs FOR | WRS | 31/01/2023 | 01/05/2023 | 01/11/2023 | 3 | 0 | 150,000 | Open Tender | Y | Y |
| Bromsgrove | PROVIDE Kennelling of Dogs | WORCESTERSHIRE REGULATORY | WRS | 31/03/2024 | TBC | TBC | TBC | TBC | | open Tender | Y | Y |
| Bromsgrove | IDOX Software | BDC-Call-off contract to support and maintenance for Idox Uniform and DMS solution | WRS | | TBC | TBC | TBC | TBC | | | | |
| Bromsgrove | Water Supply | Water, Wastewater and Ancillary Services VIA CCS RM6187 | Property Services | 28/02/2023 | TBC | TBC | TBC | TBC | £77,000 | Framework | Y | N |
| Bromsgrove | Energy Advice | Provision of Energy Advice and Energy Efficiency Schemes in Bromsgrove District and Redditch Borough | Housing Strategy | 30/04/2023 | TBC | TBC | TBC | TBC | £45,000 | Framework | N | N |
| Joint | Fuel | BDC Diesel Fuel via CCS RM6177 | Environmental - | 31/05/2024 | TBC | TBC | TBC | TBC | £161,000 | Open Tender | Y | Y |
| Bromsgrove | Fuel | RBC Diesel Fuel via CCS RM6177 | Environmental - | 31/03/2024 | TBC | TBC | TBC | TBC | £450,000.00 | Framework | N | N |
| Bromsgrove | Vehicle Hire | Vehicle Hire and Car Share (BDC) Via CCS RM6013 | Environmental - Fleet | 31/03/2024 | TBC | TBC | TBC | TBC | £24,000.00 | Framework | N | N |
| Bromsgrove | Wheeled Bin | Supply of wheeled plastic bins via ESPO 860_22 BDC | Environmental - Stores | 31/07/2023 | TBC | TBC | TBC | TBC | | | | |
| Bromsgrove | Air Quality Monitoring | Air Quality Monitoring | WRS | 31/03/2024 | TBC | TBC | TBC | TBC | £300,000.00 | Framework | Y | Y |
| Bromsgrove | | | | N/A | Aug-23 | | | | £276,000 | Open Tender | Y | Y |

Bromsgrove Capital Schemes
 Levelling UP Scheme
 UK Shared Prosperity Scheme

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Disabled Facilities Grant
Home Repairs Assistance
New Fleet Replacement
Replacement Parking Machines
Wheely Bin Purchases
Footpaths Maintenance
Buildings Maintenance