

Report subject	Commissioning & Procurement Transformation Update
Meeting date	4 September 2024
Status	Public Report
Executive summary	<p>The purpose of this report is to provide Cabinet with an update on the commissioning and procurement centre of expertise, including the outcome of a review into the future of the combined commissioning & procurement functions.</p> <p>The report also highlights a major change in October 2024 with the introduction of new procurement legislation that will influence much of what the Council purchases.</p> <p>In addition, the report seeks approval for the BCP Council Procurement and Contract Management Strategy 2024 - 2029, setting out the approach the council will take in all significant procurement activity.</p>
Recommendations	<p>It is RECOMMENDED that Cabinet:</p> <ul style="list-style-type: none"> (a) Notes the content of this report on the progress, challenges and next steps in the Council's Commissioning & Procurement approaches. (b) Notes the outcome of the officer review of the combined commissioning and procurement centre of expertise and the intention to separate the functions. (c) Notes the Council's preparations for implementation of the Procurement Act 2023, and the opportunities for continued development of the contract management and procurement approach, including the establishment of a contracts and procurement board. (d) Approves the BCP Council Procurement & Contracts Management Strategy 2024 - 2028

Reason for recommendations	An effective corporate approach to procurement and contract management is crucial in the light of ever challenging budget reductions and the delivery of the future legislative challenges to ensure internal compliance and delivery of best value for the residents of the area.
----------------------------	--

Portfolio Holder(s):	Councillor David Brown - Portfolio Holder for Health and Wellbeing Councillor Jeff Hanna – Portfolio Holder for Transformation and Resources
Corporate Director	Jillian Kay – Corporate Director of Wellbeing
Report Authors	Phil Hornsby – Director of Commissioning Stuart Bickel – Interim Head of Strategic Procurement
Wards	Council-wide
Classification	For Decision

Background

1. In November 2019, Cabinet approved the organisational design and operating model for BCP Council which included the development of 'centres of expertise' as hubs for innovation, driving best practice thinking to support the whole Council. Two of the areas considered suitable were commissioning and procurement.
2. The same report included 'a high-level assessment of costs, benefits, and outcomes' of the new operating model, and identified 'a significant opportunity to address over £300m of spend through contract consolidation, contract renegotiation and overall economies of scale'. The potential savings range was between £10.7m - £19.8m.
3. A number of centres of excellence, now known as 'Centres of Expertise' were proposed; two of them being a centre for all commissioning activity and another for procurement. During the design process it was agreed that a combined Commissioning and Procurement Centre, drawing together all commissioning, procurement, and contract management resources across the Council into a single centralised function could be beneficial. Design and implementation was delayed with the outbreak of the Covid pandemic and the need to focus resources, particularly in adult social care commissioning, in dealing with the challenges Covid presented.

Development of the centre of expertise

4. In 2021, a 12-month work programme commenced, with the Council's Transformation Strategic Implementation Partner, KPMG, to scope and develop a proposed structure for a Commissioning & Procurement Centre and subject to approval, implement the

structure with the necessary technology to enable a co-ordinated approach and aligned to the Operating Model.

5. While there has been progress in realising the ambition of the centre of expertise approach, there have also been challenges.
 - a) Adults and Children's Commissioning functions were combined in April 2022 as part of a corporate restructure that saw the creation of the Director of Commissioning role and this included incorporating the Strategic Procurement function. However, Children's Commissioning reverted back to the direct management of the Corporate Director for Children's Services in October 2023 as part of the children's services improvement journey.
 - b) A further challenge has been in the identification of which staff across the council, outside of the Strategic Procurement Team, who are engaged in procurement and contract management activities and should therefore form part of the centre of excellence under the model. Many staff involved have procurement as a relatively small part of their role and drawing them into the centre could create unintended consequences for their service area
6. The model has therefore not been implemented in the way originally envisaged and officers have reviewed through the Transformation Board whether the development of the combined commissioning and procurement approach delivers best value for the future.
7. The Transformation Board concluded that the commitment to a centre of expertise for procurement should be restated. The procurement centre of expertise would support the new Procurement and Contracts Board in delivering its objectives consistently and effectively across the whole council. A consistent, corporate approach is particularly important when implementing new legislation. The Transformation Board concluded that the case for a combined centre of expertise with commissioning was less clear and recent experience demonstrates that commissioning functions are better aligned with relevant services.
8. The review concluded that a centralised procurement and contract management function was good practice and would ensure consistent and effective procurement in the future. In relation to where adults and children's commissioning functions should sit, it was felt that each directorate should maintain its own commissioning function.
9. Three options were explored for positioning the procurement centre of expertise within the council - remaining as now within the Wellbeing Directorate, moving to the Operations Directorate, where it could be aligned with economy, environment and commercial services, or the resources directorate as a more traditional organisational model. The conclusion was that positioning the procurement centre of expertise under the Director of Finance would best enable the function to drive compliance and best value approaches across the council. The change will be made during September 2024.

Procurement Act 2023

10. The Procurement Act 2023 is new legislation that reforms the public procurement system in the UK and aligns it with the government's strategic objectives of social value, innovation, transparency, and efficiency. The Act introduces a new set of principles, rules, and procedures for public procurement, as well as new remedies and sanctions for non-compliance. The Act applies to all contracting authorities, including local authorities, and covers contracts for goods, services, and works above certain thresholds.
11. The Procurement Act 2023 introduces the following key changes to the public procurement system:
 - a) A new set of principles that guide the procurement process, namely: public good, value for money, transparency, integrity, fair treatment of suppliers, and non-discrimination.
 - b) A new framework of rules and procedures that simplify and streamline the procurement process, including: a single electronic portal for publishing and accessing procurement notices and documents, a single set of procurement procedures for all types of contracts, a reduced timescale for procurement processes, and a flexible approach to award criteria and contract terms.
 - c) A new regime of remedies and sanctions that strengthen the enforcement and oversight of the procurement system, including: a new Procurement Ombudsman that can investigate complaints and impose fines and sanctions, a new Procurement Tribunal that can hear appeals and grant remedies, and a new duty for contracting authorities to report on their procurement activities and outcomes.
12. The Act has significant implications for local authorities, as they will need to comply with the new principles, rules, and procedures, as well as the new remedies and sanctions. It also provides new opportunities for local authorities to achieve their strategic objectives and deliver public value through procurement, as they will have more flexibility and discretion in designing and conducting procurement processes, as well as more scope for innovation and collaboration with suppliers and stakeholders.
13. To comply with the Procurement Act 2023 and to make the most of the new opportunities it offers, BCP Council will need to take the following actions:
 - a) Develop its procurement and contract management strategy and procedures to align them with the new principles, rules, and procedures of the Act (by end September 2024).
 - b) Train and educate its procurement staff and other relevant stakeholders on the new procurement system and its implications (Procurement staff nationally-led training is currently being rolled out and is due for completion by end September 2024).

- c) Other relevant stakeholders, including suppliers, members and other staff will receive awareness raising training and guidance before the new Act comes into force (completion by end September 2024).
- d) Register and use the new electronic portal for publishing and accessing procurement notices and documents (awaiting release and registration requirements from central government).
- e) Monitor and report on its procurement activities and outcomes, and ensure transparency and accountability throughout the procurement process (by October 2024).
- f) Engage and consult with suppliers and stakeholders on its procurement needs and objectives, and foster innovation and collaboration through procurement. This already happens but will be strengthened and a consistent approach developed (end August 2024).
- g) Seek and implement feedback and best practices from the Procurement Ombudsman and the Procurement Tribunal and comply with their decisions and recommendations (no details from central government as to when this will become available).

14. An additional objective for the team follows the decision by Cabinet, at its meeting on 6 March 2024, to request Officers to explore, with other key partners, the benefits and practicalities of an anchor procurement partnership for the BCP area. This will be explored during 2024/25.

Procurement and Contract Management Strategy

15. The council has responsibility for a wide range of services from caring for vulnerable residents, to enabling the safe enjoyment of our beaches. To a greater or lesser extent, the services we provide rely on the things we buy. Procurement and contract management therefore impacts on the council budget and quality of services.
16. Procurement is the process of identifying and acquiring suitable goods, services, works and services/works concessions from a third-party vendor while ensuring timely delivery of the right quality and quantity.
17. What we buy, who we buy it from and the way we go to market all have environmental, economic and social impacts too. The Council's guiding principles, set out in the Shared Vision, link strongly with the objectives set out in the proposed Procurement and Contract Management Strategy:
- To drive best value
 - To ensure fair and compliant procurement in accordance with regulations
 - To leverage our social value priorities including:
 - local business growth and local employment, including care leavers and vulnerable adults
 - local skills development
 - local natural environment condition

18. The proposed Procurement and Contract Management Strategy sets out the corporate direction of travel for procurement and contract management to:

- Support the delivery of the Council's corporate objectives.
- Support the delivery of the national priorities and meet our legislative obligations.
- Maximise the effectiveness of our spending power.
- Contribute to the delivery and success of the Corporate Strategy, vision and priorities.
- Comply with applicable laws, regulations, and policies governing public procurement.
- Implement robust standard operating procedures that promote accountability, ethical conduct, and equality in the procurement process
- Ensure compliance with local, regional, and national procurement guidelines and standards
- Promote fair competition, transparency, and equal opportunities for all potential suppliers
- Integrate environmental, social, and economic considerations into procurement decisions
- Ensure value for money is secured whenever we spend money.

Third Party savings

19. Regardless of the challenges and changes to the original Organisational Design and Operating Model brief, benefits have nonetheless been delivered. Through a combination of contract reductions, spend management and improved procurement, third party spend reduced to approximately £224 million in 2023/24, a reduction of £70 million since the KPMG analysis in October 2019.

20. Achieving this level of reduction in third party spend is significant. The impact of the Covid pandemic, war in Ukraine and huge inflationary increases in recent years, have challenged the ability of the council to realise the opportunities identified in the KPMG work.

21. It has not been possible to correlate the inflationary pressures to an absolute figure, but, for example, KPMG suggested Adult Social Care could expect to achieve around 2% - 4% savings from third party spend, the main areas of spend being care in people's own homes, care homes and other services such as day centres. In reality, Government led initiatives, such as higher than inflation increases in the National Living Wage (NLW), plus cost-of-living increases, have driven costs to increase by more than 20% in the last three years. In the setting of the 2024/25 budget, the increase in NLW announced in the Chancellor's Autumn Statement added approximately £12million to the Adult Social Care projected expenditure for the current financial year.

22. Other cost reductions through improved procurement have been achieved but it has not been possible to translate those into identified budget savings due to the limitations of the previous financial management system, which did not support category management approaches to easily identify which budgets have benefitted from consolidated purchasing or contract renegotiations. Dynamics F&O should enable greater visibility and

analysis of spend. Procurement and Finance lead Officers are working together to develop this functionality.

23. Five years on from the original KPMG assessment, it is necessary to re-baseline the ambition for the period ahead in the context of the current MTFP. This should be conducted with the oversight of the new Procurement and Contracts Board, with 6-monthly reporting to the Audit and Governance Committee.
24. Within the resources of the Procurement and Contract Management team, a structured approach to third party savings to deliver further opportunities against identified categories or projects will continue. Some examples of this approach are:
 - a) Consolidation of multiple energy contracts into one, with various terms and identifying off contract spend. This has ensured, with controlled contract management, single consistent contracts against categories and controlled billing there has been efficiencies of cost and being able to optimise the Council's buying power under a single contract. This allows the baselining of consumption and costs and will also support future decisions around alternative sustainable solutions.
 - b) Rationalisation of the Office Stationery contract and centralised budget to control costs and spend, has delivered 60% returned savings against the original consolidated budget. This was achieved by creating controlled buying against catalogues, refining products, and reduced volumes of stationery.
 - c) A programme of engagement and negotiation is underway that will see reductions in costs of individual fees for care home placements, within adult social care, to realise up to £2m in savings.
 - d) A review of adult social care day opportunities recognised that a more modern approach to the provision of these services could net a saving of £1.8m. Cabinet approved the new strategy and work is underway to deliver the saving and create more personalised activities.
24. Significant work has gone into the creation of a comprehensive single contracts register for all known contracts and agreements involving third parties. There are circa 600 contracts within the contracts register for all known contracts and agreements involving third parties which is published on-line (link under appendices) as required under transparency legislation.
25. A recent development to strengthen the corporate procurement approach is the creation of a Procurement and Contracts Board, currently chaired by the Director of Commissioning with the Director of Finance and Director of Law and Governance making up the Board membership. In future, aligned to the changes referenced earlier in this report, the Board will be chaired by the Director of Finance and consideration will be given to expanding the membership to include directorate representatives from across the wider council

26. . The Board's scope covers all Council procurement and contracts, and its objectives include:

- a) enabling the Council to meet its statutory responsibilities in relation to procurement and contract activity against all categories and secure best value for money.
- b) acting as the governance board for Council wide procurement and contract management projects.
- c) providing a forum to discuss and report on all planned and contracted third party spend of the Council, whether revenue, grant or capital expenditure.

Options Appraisal

27. This section is not applicable to this report.

Summary of financial implications

28. Third Party spend has reduced over the last five years by £70 million, over 3 times the amount suggested by the October 2019 Cabinet report.

Summary of legal implications

29. Legal implications in delivery of any future projects referenced within this report will be considered on a project basis and early engagement with the Council's Legal Team will be sought as required.

The Council is obliged to sufficiently take account of the following legislation, but not limited to:

- The Local Government Act 1972, 1988 and 1999.
- Public Services (Social Value) Act 2012
- The Local Government (Transparency Requirements) (England) Regulations 2015
- Public Contracts Regulations 2015 (and as amended)
- Modern Slavery Act 2015
- Concession Contracts Regulation 2016
- Public Procurement (International Trade Agreements) (Amendment) Regulations 2023
- Procurement Act 2023
- The Health Care Services (Provider Selection Regime) Regulations 2023
- The Procurement Regulations 2024
- Relevant Procurement Policy Notes (PPNs) as issued by Central Government that we are obliged to follow.

In addition, Part 5 of the Constitution – Financial Regulations Part G – Procurement & Contract Procedures will apply.

Summary of human resources implications

30. There are no human resources implications arising from this update report other than the transfer of responsibility and line management for the Procurement and Contract Management function to the Director of Finance.

Summary of sustainability impact

31. Each individual procurement project within the procurement and contract management processes undertakes the appropriate Sustainability Impact Assessment at the point at which proposals are defined and considered.

Summary of public health implications

32. There are no direct public health implications related to this report however, some procurement projects within the procurement and contract management processes will undertake the appropriate assessment at the point at which proposals are defined and considered as part of decision making for individuals or groups impacted by the proposed changes.

From 1st January 2024, The Health Care Services (Provider Selection Regime) Regulations 2023 went live and applies where the Council procures relevant health care services (not Goods or non-health care services).

Summary of equality implications

33. Impact on people with protected characteristics

The Procurement and Contract Management Strategy is not forecast to have any impact, positive or negative on any group of people with protected characteristics and therefore no mitigating actions/ resolutions have been identified as needed.

34. Impact on local protected groups

Benefits have been identified that relate to:

- local market development
- local economic growth which improves local employment prospects
- improved outcomes for children in care and care experienced young people

Summary of risk assessment

35. Risk management in procurement and contract management involves identifying, assessing, and mitigating potential threats to the successful execution and delivery of contracts.

The risk strategies include:

- **Risk Identification** - Identify potential risks associated with procurement and contract management. Categorise risks into areas such as financial, legal, operational, and strategic.

- **Risk Assessment** - Evaluate the probability and impact of each identified risk. - Prioritise risks based on their significance to the project's success.
- **Risk Mitigation** - Develop strategies to minimise or eliminate identified risks. - Establish contingency plans and risk response strategies.
- **Contractual Protections** - Ensure contracts include clauses that address potential risks. - Specify responsibilities, timelines, and performance metrics to reduce uncertainties.
- **Monitoring and Control** - Continuously monitor the project and contract for emerging risks. - Implement control mechanisms to address unforeseen challenges promptly.
- **Documentation** - Maintain comprehensive documentation of risk management activities. - Keep records of risk assessments, mitigation plans, and contract amendments.
- **Communication** - Foster open communication channels among stakeholders. - Share risk-related information to keep all parties informed and aligned.
- **Compliance and Legal Considerations** - Adhere to legal and regulatory requirements in procurement and contracts. Ensure compliance with relevant legislative or industry standards and guidelines.
- **Continuous Improvement** - Conduct post-project reviews to analyse the effectiveness of risk management strategies. Implement lessons learned in future procurement and contract management processes.

36. By systematically addressing risks throughout the procurement and contract management lifecycle, the Council can enhance project success and minimise potential disruptions.

Background papers

- a) Cabinet report – Organisational Development – Design Outcomes, 13 November 2019
- b) Cabinet report - Budget and Medium-Term Financial Plan 2023/24, 8 February 2023
- c) Cabinet report – Climate Progress Report 2022/23, 6 March 2024
- d) [Procurement Act 2023](#)
- e) [The Procurement Regulations 2024](#)
- f) [The Health Care Services \(Provider Selection Regime\) Regulations 2023](#)

Appendices

Appendix 1 - BCP Council Procurement & Contract Management Strategy 2024-2028

Appendix 2 – link to BCP Council Contracts Register [Contracts register - Search results \(due-north.com\)](#)