

**Open Report on behalf of James Drury, Executive Director - Commercial**

Report to:	<b>Executive</b>
Date:	<b>08 May 2019</b>
Subject:	<b>Procurement Strategy</b>
Decision Reference:	<b>I017669</b>
Key decision?	<b>Yes</b>

**Summary:**

The Report seeks Executive approval for the Procurement Strategy 2019-2022, as attached at Appendix A, to replace the Council's current Procurement Strategy which expires in April 2019.

**Recommendation(s):**

That the Executive approves the Procurement Strategy 2019 -2022, as attached at Appendix A to this report, with immediate effect.

**Alternatives Considered:**

1. Do nothing.

The current strategy would lapse and there would be no formally agreed overarching strategy setting out the Council's approach to using procurement not only to secure value for money but to drive the achievement of the Council's wider objectives. This could result in significantly reduced value for money.

2. Adopt the Procurement Strategy with amendments.

**Reasons for Recommendation:**

The strategy sets out a robust and comprehensive approach to procurement related activity, is consistent with the Council's commissioning and commercialisation approach, has been developed in the context of the Council's requirements, local markets, and local needs whilst having regard to the National Procurement Strategy for Local Government in England 2018.

## **1. Background**

### **Introduction**

1. The Council's current Procurement Strategy expires in April 2019 and consequently a new Strategy has been developed and is set out at Appendix A covering the period 2019-2022. The Council is part of a shared procurement service with North Kesteven District Council and West Lindsey District Council and although the Strategy has been developed for the County Council many of the principles and approaches included in it are of general application and the Strategy may be adopted in similar or like form by those authorities.

### **The Strategy**

2. Public procurement is often viewed from the standpoint of the Council's legal obligations and the desire to achieve good value. This is an important perspective and the draft Strategy recognises this. It deals, for instance, with legal compliance, efficient practices and category management. This is a strategic approach which organises procurement resources to focus on specific areas of spends. This enables category managers to carry out in depth market analysis and acquire detailed knowledge and understanding of the market so as to make better procurement related decisions.
3. At the same time as befits a commissioning council the Strategy recognises that the way the Council conducts its procurement can impact on a range of other issues from the sufficiency of markets through the achievement of the Council's own objectives and outcomes to the delivery of wider social and community benefits.
4. This is reflected in the place based approach set out in the key principles on page 1 of the Strategy. This approach has two elements. The first is the commitment to collaborative procurement where this is appropriate with other public bodies. This is at its most developed in the area of health and social care where the Council has led on a number of joint or collaborative procurements for services such as re-ablement. It has the potential, however, to be applicable in other areas such as waste. This is reflected in the Strategy's references to partnerships, collaboration and relationship management
5. The second important place based element is the local market. The Strategy recognises that the Council contracts with a range of providers from multi-national companies to SMEs but the way in which the Council procures has an important role to play in fostering a vibrant local market and thereby contributing to the economic wellbeing of the local area. That local area and market are characterised by a high proportion of SME businesses and therefore the way in which the Council structures its procurement by reference to the involvement of SMEs is an important element.

6. Again this is an area where the Council has already done considerable work for example when letting the new home care contracts it was a requirement that 10% of the providers capacity came from SME's, specialist support was also made available so SMEs could collaborate to create strong supply chains, SMEs were offered some similar protection on the SEND school transport redesign and many of the Council services such as residential care and pharmacy services are delivered in large part by SMEs. The Strategy commits the Council to further work in this respect, particularly so that tender processes are easier to engage with for SMEs and so that SMEs continue to get the support they need to produce the tenders and submissions that can be competitive in the Council's tender processes.
7. The aim of this is to develop a vibrant and sustainable marketplace. As a commissioning Council this is central to the achievement of the Council's corporate plan objectives. That market needs also to be diverse with large sections of the Council's needs in the area of adults and children's care being met from third sector and charitable organisations.
8. The aim of any procurement is the conclusion of a contract under which the provider undertakes to provide services to the Council in return for payment. There is a hard edged commercial element to this fully recognised in the Strategy. It is important that the Council negotiates robust commercial terms with the necessary protections for the Council. It is also important that those contracts are properly managed and providers are held to account for the promises they have made.
9. At the same time the Strategy recognise that both parties have legitimate interests to protect through the contract and the indiscriminate passing of risk to a provider is likely to lead to less value for money as well as poor supplier relationships. The Strategy commits the Council to good supplier management through the development of relationships in which both parties can commit to quality outcomes.

## **National Context**

10. The Strategy has been developed with due regard to the National Procurement Strategy which was issued in 2018 and which has focused on three key themes:
  - showing leadership
  - behaving commercially
  - achieving community benefits
11. Showing Leadership requires the engagement of councillors in the leadership and governance of council procurement and commercial activity setting the Council vision and strategy and making the key procurement decisions that aim to deliver on that vision and strategy.
12. The draft Strategy at Appendix A sets out the framework in which procurement will support the delivery of the Corporate Plan. It will continue to be supported by robust decision making through the Council's

constitutional procedures for major procurement processes supported by prior scrutiny.

13. Behaving commercially relates to the way in which councils seek to extract value from their procurements, engaging with markets and potential suppliers and encouraging innovation and managing contracts and suppliers. As has been seen the draft Strategy accommodates these requirements in particular in relation to supplier management and the fostering of a vibrant market

14. Achieving community benefits addresses the wider value that can be achieved through attention to social value in designing and carrying out procurements. The Strategy addresses this through the section on Social and Community Benefits

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

\* Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act

\* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

\* Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

\* Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic

\* Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it

\* Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process

The Equality Act requirements have been considered but there are not considered to be any equality impacts of the proposed decision on the Strategy. Each individual procurement exercise may raise specific equality issues on the basis of their subject matter and these will be taken into account in the design and carrying out of those procurements

#### Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

The JSNA and JHWS requirements have been considered but there are not considered to be any direct impacts of the proposed decision of the Strategy itself. The Council's procurement approach has the potential to support a vibrant economy and the success of local businesses which can impact on the health and wellbeing of the community.

Each individual procurement exercise may raise specific wellbeing issues on the basis of their subject matter and these will be taken into account in the design and carrying out of those procurements

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

Section 17 of the Crime and Disorder Act 1998 requirements have been considered but there are not considered to be any direct impacts of the proposed decision on the Strategy itself.

Each individual procurement exercise may raise specific crime and disorder issues on the basis of their subject matter and these will be taken into account in the design and carrying out of those procurements

### 3. Conclusion

The revised strategy provides the Council with a clear and comprehensive approach to its procurement activity which has been developed through an appraisal of best practice approaches, national guidance and local issues.

#### 4. Legal Comments:

The proposed Strategy is consistent with the Council's legal obligations.

It is consistent with the Policy Framework and within the remit of the Executive.

#### 5. Resource Comments:

There are no financial implications arising directly from the recommendation in this report, i.e. to approve the Procurement Strategy 2019/22. However, its adoption will enable the Council to continue to work efficiently and effectively in securing value for money, maximising the benefits from expenditure and delivering cost effective services.

### 6. Consultation

#### a) Has Local Member Been Consulted?

N/A

#### b) Has Executive Councillor Been Consulted?

Yes

#### c) Scrutiny Comments

On 25 April 2019, the Overview and Scrutiny Management Board supported a recommendation for the Executive to approve the Procurement Strategy 2019-2022 and highlighted the following points for consideration:

- The Board supported that the Council continue to promote opportunities for small and medium-sized enterprises (SMEs) to produce tender submissions that can be competitive in the Council's tender processes.
- The Board endorsed a focus on developing social and community benefits through the Procurement Strategy by developing apprenticeships, particularly for young people who are leaving care, while delivering contracted services.
- The Board recommended that the Council prioritises developing a commercial collaboration approach by actively driving a culture change to joint commissioning and developing relationships with other public sector organisations in Lincolnshire to secure additional value for the benefit of the public sector.
- The Board recommended that the Council carry out an annual review of

the success of the Procurement Strategy including any wider collaboration achieved, the benefits of category management and the community benefits secured.

**d) Have Risks and Impact Analysis been carried out?**

Yes

**e) Risks and Impact Analysis**

See the body of the Report

**7. Appendices**

These are listed below and attached at the back of the report	
Appendix A	Draft Procurement Partnership Strategy 2019-2022

**8. Background Papers**

The following Background Papers within the meaning of Section 100D of the Local Government Act 1972 were used in the preparation of this Report

Document title	Where the document can be viewed
National Procurement Strategy	<a href="https://local.gov.uk/national-procurement-strategy">https://local.gov.uk/national-procurement-strategy</a>

This report was written by Sophie Reeve who can be contacted on 01522 552578 or [Sophie.Reeve@lincolnshire.gov.uk](mailto:Sophie.Reeve@lincolnshire.gov.uk) and Alex Botten who can be contacted on 01522 554258 or [Alex.Botten@lincolnshire.gov.uk](mailto:Alex.Botten@lincolnshire.gov.uk) .

# Procurement Partnership Strategy 2019-2022

NB Lincolnshire County Council is part of a procurement partnership Procurement Lincolnshire with North Kesteven District Council and West Lindsey District Council

---

## Vision

To secure value for money and maximise the benefits from spend with suppliers, supporting delivery of fit for purpose, cost effective and quality services for the people of Lincolnshire, working effectively, efficiently and collaboratively with our partners and suppliers to high standards of practice.

## What we will do and key principles

This strategy is based on the key principles that:

- We are clear on how our public funds are spent, and how this offers value for money for the residents of Lincolnshire.
- We take a Lincolnshire place based approach to procurement by working closely with other public bodies where possible.
- We will actively manage the performance of suppliers to ensure that commitments are delivered.
- We will better understand our markets and the challenges they our suppliers face and manage our supplier relationships so as to maximise the availability of a functioning and sustainable market for Council services across Lincolnshire.
  
- We will seek appropriate Social and Community benefits through procurement, and we will pay regard to the obligations of the Equality Act and the Social Value Act.
- We will seek to engage small medium enterprises (SMEs) in our procurement where opportunities arise.

# Key Challenges

## Financial pressures

- The Council is facing a period of sustained financial pressure, with an increasing demand for services and a reduction of funding.
- We recognise that competition through procurement helps maximise value from spend with providers.
- We will explore revenue generating and cost avoidance opportunities but without putting public funds and services at risk.

## Safeguarding the vulnerable

- The Council has a duty to safeguard vulnerable citizens who are eligible for a variety of social care and other health related services. The complexity of needs and demand for services is escalating within a strained market.
- We shall ensure that we have effective monitoring of service suppliers, and service quality controls within our contracts to manage risks, and protect vulnerable service users from harm.
- We will provide proactive support to those suppliers who need it, identifying how they can improve their service and make clear our concerns so that they can be addressed.

## Service quality

- The Council will procure the quality of services necessary to deliver the outcomes identified within the Corporate Plan.
- We will use an evidence based approach whenever possible when deciding between solutions to procure. We will define our requirements clearly so that they are easy for suppliers to understand, and we will ensure that our contracts include contract and performance management arrangements so that we can monitor the quality of the services we contract for.

## Market sufficiency

- The breadth and diversity of suppliers that form part of the Council's supply chain is extensive, ranging from large multinational companies through to local charities, with some finding it difficult to remain sustainable in the current financial climate.
- We will work with suppliers and service users to help shape a vibrant, competitive marketplace encouraging participation from SMEs while providing stability of provision. This will be supported through effective contingency and continuity planning to ensure that where possible the effects of supplier failure on the people of Lincolnshire are minimised.

## Sustainability

- Climate change, plastic pollution, and the utilisation of natural resources are important issues that the Council has a duty to consider through its own operations, and those of its suppliers.
- Where relevant we will ensure that service suppliers consider how they can minimise their impact on the environment, adopt sustainable business practices, whilst also delivering social and economic benefits for Lincolnshire.

## Commercial management

- We shall strike a balance between commercial terms that hold suppliers to account but which are not onerous and therefore costly to the Council.
- We shall ensure that our contracts include mechanisms to protect the interests of the Council while providing sustainable commercial opportunities for suppliers. Performance controls will hold suppliers to account for good performance, without being overly punitive we will we will favour open book arrangements. Our contract terms will reflect the size and value of the contract and the market place making them accessible to SMEs and charities as appropriate.

- Our procurement processes will be efficient and we will work with commissioning colleagues to reduce the time between identifying a need and letting a contract.

## Legal compliance

- The Council operates within a regulated environment where the consequences for getting things wrong is costly.
- We will ensure that we have the skills, management practices and capability to effectively and proportionately manage risk when making commercial and procurement decisions.

## How we will deliver

### Compliance and transparency

- We shall operate efficient and effective governance arrangements that will be transparent so our citizens know what decisions have been made, and why.
- We will ensure that our internal procedures and processes for conducting procurements are aligned with our regulatory duties.
- We will manage the quality of our procurement practices through Quality Assurance, Gateways, Peer and Scrutiny reviews, and a dedicated governance board.
- We will manage risk in a proportionate manner.

## Value for money

### **Specifications and contracting terms**

- We will use market intelligence when developing specifications and agreeing contractual obligations. We will identify outcomes that are important to Lincolnshire and ensure that suppliers are held to account for delivering those outcomes.
- We will build suitable payment mechanisms, such as milestone payments or payment by results, to incentivise and reward good performance.
- We will introduce a set of light touch terms and conditions for lower value procurements.

### **Category Management**

- Key areas of spend will identify areas where performance needs to improve, identifying initiatives and contracting strategies including management to optimise performance and ultimately deliver the outcomes identified within the service commissioning strategies.
- This will ensure that future contracts provide the most effective use of resources and demonstrate value for money.
- Our key areas of spend are:
  - Adult Care and Community Wellbeing
  - Children's Social Care
  - Education
  - Information Technology (IT)
  - Environmental Services (incl. Waste)
  - Highways (incl. Grounds maintenance)
  - Property Services (incl. Construction)
  - Transport and Vehicles
  - Employment Services, Agency Workers, and Consultancy

### **Supplier Relationship Management**

- We will identify strategic suppliers (current and potential) and engage with them to improve performance, reduce cost, mitigate risk, benefit from innovation, and share benefit as appropriate.
- The Council will take a considered and collaborative approach to managing relationships with our strategic suppliers.

### **Contract Management**

- Our contracts will be regularly reviewed to monitor service delivery, contract compliance, transparency and actual spend versus planned spend. Opportunities for additional value from specification and performance reviews will be assessed on an ongoing basis.
- Where contract changes are agreed they will be written down.
- We will pursue all benefits/savings promised by contractors.
- Where our suppliers are experiencing difficulty we will do our best to support them to succeed.

### **Partnerships, Collaboration and Relationship Management**

- We will work collaboratively and develop relationships with other public sector organisations in Lincolnshire such as the NHS, Schools, the Lincolnshire Police, District Councils, the University of Lincoln, and other public bodies. We will collaborate with our partners where our requirements are similar and can be delivered within a single procurement activity.
- We will adopt a 'one Lincolnshire' approach to our contracts endeavouring to ensure that they complement other related services that are contracted by our public sector partners.
- We will contribute to regional and national working groups, sharing best practice and guidance for the benefit of the public sector.
- We will adopt a commercial mind-set when engaging all of our partners and suppliers to secure additional value whilst having regard to the strength of the market place.

## Efficient practices

- We will utilise existing Frameworks awarded by Public Buying Organisations such as Crown Commercial Services, Eastern Shires Purchasing Organisation, North Eastern Purchasing Organisation and Yorkshire Purchasing Organisation where they meet our requirements as this will harness the purchasing power of the public sector whilst reducing the resources required to put a contract in place, and save time.
- We will follow the Council's Contract and Procurement Procedure Rules and will make use of the exception process provided in those rules particularly for Social and other specific services (Section 7 PCR2015) where appropriate.
- Where practicable we will adopt tried and tested solutions and will not favour bespoke solutions.
- For routine contracts we will use standard documents and contract terms to simplify and speed up the process.
- We will invest in skills development and capacity building to ensure that the Council has a well skilled and experienced procurement team.

## Social and Community Benefits

- When developing our requirements we will consider whether additional social and community benefits could be delivered without materially increasing costs.
- We shall investigate opportunities for our large suppliers to provide apprenticeships, particularly for young people who are leaving care, while delivering our contracted services.
- Our specifications will have regard to the environment.
- We will be sensitive to energy efficiency, the reduction of waste, and the consumption of natural resources.
- We will provide "always-on" digital tendering support for suppliers, so that SMEs can access the support that they need to write tenders and bid for contracts, when they most need it.