



Subject:	Procurement Act 2023
Date:	13 December 2024
Reporting Officer:	Sharon McNicholl, Deputy Chief Executive / Director of Corporate Services
Contact Officer:	Noleen Bohill, Head of Commercial and Procurement Services

Restricted Reports

Is this report restricted? Yes No

Please indicate the description, as listed in Schedule 6, of the exempt information by virtue of which the council has deemed this report restricted.

Insert number

1. Information relating to any individual
2. Information likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the council holding that information)
4. Information in connection with any labour relations matter
5. Information in relation to which a claim to legal professional privilege could be maintained
6. Information showing that the council proposes to (a) to give a notice imposing restrictions on a person; or (b) to make an order or direction
7. Information on any action in relation to the prevention, investigation or prosecution of crime

If Yes, when will the report become unrestricted?

After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in

Is the decision eligible for Call-in? Yes No

1.0	Purpose of Report or Summary of main Issues
1.1	<p>The purpose of this report is to update members on the requirements of new Procurement Act 2023 (for Supplies, Services and Works contracts) relating to:</p> <ul style="list-style-type: none"> ○ Category Management ○ Procurement process updates including Pre-Market Engagement (PME) and Conflicts of Interest (Col) ○ Contract Management
2.0	Recommendations
2.1	<p>The Committee is asked to:</p> <ul style="list-style-type: none"> • Note the Legislative updates contained within the report.
3.0	Main report
3.1	<p>The new Procurement Act 2023 is planned to go live 24 February 2025. Commercial and Procurement Services' (CPS) preparation of all upcoming changes required to above UK threshold procurements has commenced and is on schedule for go-live.</p>
3.2	<p>Any Contract Notice published, or contract awarded prior to go live will be managed under the current Public Contracts Regulations 2015.</p>
3.3	<p>Many of the changes that will come into effect impact the buyer side and will be managed centrally by CPS. These include additional notice requirements, changes to the standstill period and evaluation reporting / award letters. These changes will be managed through our existing governance which includes processes, procedures, template forms, and training. Council Officers involved in procurement activity will be kept up to date of changes made. Information on changes that impact bidders / suppliers is available and maintained on the Council's website.</p>
3.4	<p>The main change that bidders / suppliers will face is use of the Governments extended Find a Tender Service, named Central Digital Platform. The platform is currently being tested by Cabinet Office, with further guidance to be issued. New registration will be required for any bidder who wants to participate in an above threshold procurement exercise.</p>
	<p>Background</p>
3.5	<p>The procurement process is one part of the Commercial Life Cycle. The National Audit Office defines the 'commercial lifecycle' as the entire process starting with the identification of a requirement that may be delivered by a supplier to government through to the selection and appointment process, contract management activity, and ending with contract termination or transition to alternative arrangements.</p>

3.6	<p>The new Legislation will introduce a number of requirements that will more widely impact staff involved in the end-to-end commercial lifecycle and the time taken to procure Supplies and Services.</p>
<p>Category Management</p>	
3.7	<p>The new legislation requires Contracting Authorities to aggregate requirements that can reasonably be aggregated unless there are good reasons for not doing so. This is part of Category Management.</p>
3.8	<p>Category Management is a structured approach to grouping and improving the procurement of similar goods and services across the Council. CPS will continue to work with departments to support the implementation of a Category Management approach.</p>
3.9	<p>The introduction of new processes in the Council's finance system (implemented May 2024) is already helping us identify expenditure across the Council that can be aggregated. This will result in more cross-departmental contracts being identified, which will require a shift to more co-operative ownership and management of contracts across the Council.</p>
3.10	<p>CMT have agreed to ensure resources are in place to effectively implement Category Management. CPS will support Chief Officers resourcing consideration, which could include, for example, the appointment of a Contract Manager for a specific category of spend.</p>
<p>Pre-Market Engagement</p>	
3.11	<p>Currently, formal pre-market engagement (PME) activity is facilitated by CPS to seek views from the market as required- for example, to support specification or pricing schedule development.</p>
3.12	<p>The new Procurement Act places a greater emphasis on the transparency of PME undertaken by considering the purpose and subject of the engagement and not the type of communication or engagement. Informal PME could include any communication with a supplier if the purpose is related to an upcoming procurement exercise. We will be required to publish all PME, informal as well as formal.</p>
3.13	<p>CPS will share updated guidance on PME with BCC officers and members as required.</p>

Conflicts of Interest

3.14 Another aspect of the Legislation with greater transparency requirements is the declaration of any conflicts. We currently have a Conflict of Interest process that is aimed at officers involved in specification development and evaluation.

3.15 New requirements now:

- broaden the assessment of potential conflicts to include “any interested parties that can influence a decision made by or on behalf of a Contracting Authority”.
- broaden the consideration and management of conflicts across the entire contract lifecycle which includes taking up contract extensions and management of the contract.
- require published confirmation a conflicts assessment has been conducted at various stages of the procurement and contract lifecycle.

3.16 To facilitate this CPS will update the Conflicts process and update members of any changes to their conflict process relating to the monthly Contracts Report.

Contract Management

3.17 Contract Management activity within BCC is devolved to each Department and is defined as the management of activity post contract award. It is an important phase of the procurement cycle in which a supplier delivers the required goods, services, or works as described in the specification and terms and conditions of contract.

3.18 BCC Officers follow existing guidance on [contract management](#) in the delivery of their contracts. This activity will remain relatively unchanged. Contract Owners will continue to oversee contract management across their department or service and Contract Managers will continue to work with their suppliers to deliver contract outcomes including Social Value. The main change is related to the reporting on contract management activity.

3.19 The new legislation aims to embed further transparency requirements throughout the contract lifecycle so that the spending of ratepayers’ money can be properly scrutinised. This includes specific reporting requirements during the contract management phase.

3.20 For contracts with a value exceeding £5million contracting authorities will be required to:

- set and publish a minimum of three KPIs for such contracts
- actively report on the management and achievement of any KPIs set and

	<ul style="list-style-type: none"> publish details of poor performance that has not been rectified by a supplier
3.21	The Governments new Central Digital Platform will be used for the publication of these requirements.
3.22	To facilitate this legislative requirement, CPS will introduce Contract Tiering. Contract Tiering involves classifying contracts based on value and importance, in line with Government guidelines.
3.23	<p>CPS will update the existing contract management guidelines on a phased approach to:</p> <ul style="list-style-type: none"> set out the additional mandatory Legislative requirements of Tier 1 contracts recommend the appropriate level of contract management activity required for each Tier.
3.24	In conjunction with these changes CPS have commenced the process of customising a new Contract Management module which is linked to the new finance system. It is planned for implementation during 2025 which will support effective contract management including spend management etc.
3.25	CMT have agreed to ensure resources are appropriately skilled to deliver the mandatory and recommended contract management activity.
	Financial & Resource Implications
3.26	Potential financial and resource implications as detailed within report.
	Equality or Good Relations Implications/Rural Needs Assessment
3.27	Not relevant for this report.
4.0	Appendices – Documents Attached
	None