

Minutes

FINANCE AND CORPORATE SERVICES SELECT COMMITTEE

20 October 2022



Meeting held at Committee Room 5 - Civic Centre

	<p>Committee Members Present: Councillors John Riley (Chairman) Richard Lewis (Vice-Chairman) Kaushik Banerjee Kishan Bhatt Narinder Garg Gursharan Mand</p> <p>LBH Officers Present: Matthew Kelly, Head of Procurement Neil Fraser, Democratic Services Officer</p> <p>Also Present: Rebecca Rees, Partner and Head of Public Procurement at Trowers law firm</p>	
27.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>Apologies were received from Councillor Mathers.</p>	
28.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p>	
29.	<p>MINUTES OF THE PREVIOUS MEETING (<i>Agenda Item 3</i>)</p> <p>RESOLVED: That the minutes of the meeting held on 06 September 2022 be approved as a correct record.</p>	
30.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED AS PART I WILL BE CONSIDERED IN PUBLIC AND THAT THE ITEMS MARKED AS PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 4</i>)</p> <p>It was confirmed that all items would be considered in public.</p>	
31.	<p>REVIEW - 1ST WITNESS SESSION - PROCUREMENT WITHIN HILLINGDON (<i>Agenda Item 5</i>)</p> <p>Matthew Kelly - Head of Procurement, provided the Committee with the legal and regulatory context for the operation of Hillingdon's Procurement Team. Mr Kelly was supported by Rebecca Rees, Partner and Head of Public Procurement at Trowers law firm.</p>	

Procurement Bill

Following the UK's exit from the European Union, the Procurement Bill had been drafted to take advantage of opportunities resulting from Brexit, and to reform public procurement to ensure it was "quicker, simpler, and more transparent" while "remaining compliant with international obligations". This included empowering authorities to set their own policies, for example when creating policies governing smaller value 'below threshold' contracts. Officers would in future be allowed the freedom to create bespoke policies that could take into account a broader definition of value (i.e. not just lowest price), including local business, social, and environmental considerations. However, these additional powers would come with the caveat that there would be a greater administrative burden due to the requirement for increased transparency and reporting.

The Bill was currently under review and transitioning through Parliament, with various amendments being made following comments received through the consultation process. There was no final date for when it would become law, though it was expected to receive Royal Assent in Q1 or Q2 of 2023, before then coming into effect in 2024. Once in effect, authorities would be granted a six-month implementation period to ensure sufficient training and upskilling of staff, together with the embedding of any new policies and processes.

It had been recognised that there had been an expectation that, following Brexit, there would be greater freedom to rework procurement policies from the ground up. However, the new Bill contained what were in effect lighter versions of current EU policies. Where the Bill was significantly different was through its promotion of innovation and flexibility to allow local authorities to design processes that met both Council priorities and the needs of the market.

Building social responsibility into procurement would likely require a cultural change for local authorities. The new Bill would allow for a wider definition of 'value', which would allow authorities to move away from procuring based solely on lowest initial cost, and instead allow for costs across the entirety of the contract term, or other benefits. It was recognised that due to current financial constraints, local authorities were under pressure to deliver savings immediately, and so further discussions on what value was, and how to achieve it, would be required.

The Committee was advised that Hillingdon was well placed to respond to newly required policies and take advantage of new opportunities resulting from the Bill, through regular monitoring and oversight together with support from key partners such as Trowers. Through the provision of a six-month implementation period, government was accepting that a period of adjustment would be required. Opportunities included securing better value through procuring to a greater number of smaller organisations, though this would require additional staff oversight within contract management.

The National Procurement Policy Statement

The National Procurement Policy Statement (NPPS) was published in June 2021, and asked that all contracting authorities had due regard to a set of national strategic priorities when carrying out procurement. These priorities included creating new businesses, jobs and skills within the UK, tackling climate change and reducing waste, and improving supplier diversity, innovation and resilience. The NPPS recommended that authorities ensured that sufficient policies and processes were in place to manage commercial delivery, and that authorities had the requisite skills and resources to achieve value for money and increased social value. Additional themes within the NPPS included contract management as part of post-Covid recovery, and the removal of barriers to entry for small and medium businesses.

Standing Orders

The Council's Standing Orders were also referred to, as set out within the report. It was highlighted that the Committee could be minded to further explore potentially updating the Standing Orders to better incorporate social value and environmental commitments. It was accepted that any changes to the Standing Orders would need to have due consideration to the unique procurement needs of certain service areas, as well as impact on staff resources.

Questioning

The Committee noted the information presented, and sought additional information on a number of points.

Regarding the new Procurement Bill, Members suggested that further consideration should be given to the inclusion of policies on anti-child labour, conflict materials, and carbon usage/power consumption for manufacturers. The Committee was advised that many of these points were being considered through further proposed amendments to the Bill.

On the matter of statutory guidance on standardising the definition of terms within the Bill, the Committee was advised that interpretation of terms had historically been a challenge throughout the EU, and legislation was to be amended to better remove ambiguity through standardisation.

Regarding Key Performance Indicators (KPIs) for both the Council and its suppliers, the Committee was advised that secondary legislation would be forthcoming that would provide greater guidance on the measurement of performance and how to address poor performance. Currently, Hillingdon agreed KPIs with their suppliers at the outset, which were then reviewed as part of the Council's contract management processes. Cabinet Office mandatory KPIs were also included in some higher value contracts, which were then reported on to a central database.

	<p>Authorities had powers to address poor performance of suppliers in a number of ways, including the implementation of an action plan, contract shortening, fines, and contract termination. Conversely, good performance could be rewarded through contract extensions or new contracts.</p> <p>It was highlighted that there was scope to review and refresh performance KPIs and subsequent reporting, for both internal teams, and external suppliers.</p> <p>Members requested clarity on whether the new Procurement Bill would provide local authorities with powers to address financial issues that they had no direct control over (e.g. significantly rising inflation). The Committee was advised that the Bill included powers for governing procurement in crisis (as a result of the Covid-19 pandemic), including the ability to directly award contracts. Additionally, good practice included building sufficient flexibility into contracts at their outset to respond to external factors that could impact on the delivery of the contract during its term.</p> <p>It was confirmed that officers were undertaking pre-contract market research and engagement to identify further technical innovation and best practice.</p> <p>RESOLVED: That the information presented be noted.</p>	
32.	<p>CABINET FORWARD PLAN (<i>Agenda Item 6</i>)</p> <p>RESOLVED: That the Cabinet Forward Plan be noted.</p>	
33.	<p>WORK PROGRAMME (<i>Agenda Item 7</i>)</p> <p>RESOLVED: That the Committee's Work Programme be noted.</p>	
<p>The meeting, which commenced at 7.00 pm, closed at 8.22 pm.</p>		

These are the minutes of the above meeting. For more information on any of the resolutions please contact Neil Fraser on 01895 250692. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.