

Report to Audit and Risk Assurance Committee

3 April 2025

Subject:	Procurement Board Update
Director:	Executive Director – Finance & Transformation Alex Thompson
Contact Officer:	Monitoring Officer, Assistant Director – Legal & Assurance Mike Jones Mike_Jones1@sandwell.gov.uk Head of Procurement George Wallace George_wallace@sandwell.gov.uk

1 Recommendations

- 1.1 To consider and comment upon the Procurement Board update.
- 1.2 To endorse progress made relating to the establishment and operation of the Procurement Board and wider corporate actions undertaken to improve corporate procurement strategy, policy and procedures to align with sector best practice.

2 Reasons for Recommendations

- 2.1 To provide the Committee with an overview of the scope of responsibilities of the Procurement Board and an update on a range of matters relating to procurement strategy, practice and procedure.

3 How does this deliver objectives of the Council Plan?

- 3.1 The Procurement Board undertakes an essential role in the oversight and assurance of corporate procurement strategy, policy, procedure and monitoring arrangements. The effectiveness of these arrangements, aligned with the introduction of new requirements under the Procurement 2023 Act, enables the commissioning and monitoring of contracts for

goods and services to be undertaken effectively, which underpins all of the aims of the Council Plan.

4 Context and Key Issues

Procurement Board

- 4.1 The Procurement Board (the Board) was established in October 2024, as part of wider strategic work to improve oversight and governance and decision-making arrangements for a range of key strategic corporate activities.
- 4.2 The primary purposes of the Board are to provide a forum for strategic oversight of procurement arrangements across the Council, focussing on key strategic and high value procurement activities and specific categories of contractual spend, most typically activities with a value of over £100,000.
- 4.3 The Board has played a key formative role in the establishment of a robust and structured corporate procurement pipeline, mapping out key procurement activities at service and Directorate-level on a multi-year basis. This approach is critical to allow the effective strategic planning of procurement activities, and to embed efficiency of operation and practice to ensure statutory best value obligations are met. Resulting savings are then available to support service transformation and performance.
- 4.4 Since its inception the Board has developed its scope of responsibilities further, ensuring that the numbers of transactional procurements are reduced with a view to engage in more strategic procurement, so that the Council can achieve best value and greater savings.
- 4.5 Areas and procurement activities subject to review by the Board since its inception include:
 - 4.5.1 Contract Management: Several presentations from contract managers have been reviewed by the board to ensure that they are being effective and compliant. Additional training for over 120 contract managers is being provided during March and April.
 - 4.5.2 Procurement Pipeline: The pipeline is reviewed monthly and any requested additions to the pipeline are taken under consideration by way of presentation from service area.
 - 4.5.3 Exemptions: An Exemption provides a degree of flexibility for contracting authorities in situations where strict adherence to procurement procedures would have a detrimental impact to SMBC. Having the Exemption provides an agreed level of

oversight to ensure an informed on compliant decision is made. A monthly report on exemptions is provided to the Board on the use of Exemptions.

4.5.4 Purchasing Cards (PCard): A monthly report on PCard usage and non-compliance is provided to the Board for review.

4.5.5 To ensure SMBC source efficiently and compliantly the Monitoring Officer is currently reviewing the standing orders, financial regulations, and the approach to procurement exemptions, including terminology, the application and scope of their use. These proposals will come before Members in the upcoming months as part of a wider package to revisions to the constitution.

4.6 Additional oversight and monitoring of procurement activities with values under £100,000 has also been developed, ensuring comprehensive oversight of all procurement activities.

Procurement transformation activities

4.7 Procurement activities undertaken by public sector bodies such as the Council have until recently were required to comply with the requirements of the Procurement Regulations 2015. These arrangements were aligned with procurement requirements seen across the European Union (EU) reflecting the UK's then membership of the bloc.

4.8 Following the UK's departure from the EU, the then Government undertook a review of national procurement regulations and frameworks. This review process culminated in the Procurement Act 2023 (the 2023 Act).

4.9 The current UK Government reviewed the requirements of the 2023 Act and, subject to adjustments, new requirements relating to the conduct of procurement and contract activities by public authorities came into effect from 24 February 2025. The 2023 Act introduced changes to public procurement regulations, some key elements including:

4.9.1 Central Digital Platform: a new electronic central repository for procurement information, simplifying the process for suppliers by allowing them to enter information once and then reuse it in multiple tenders. Suppliers required be registered on the Central Digital Platform to bid/tender for Council opportunities. The Central Digital Platform opened to supplier registration on 24 February 2025.

- 4.9.2 Enhanced Transparency: requiring the Council to publish more notices about their procurements.
- 4.9.3 Competitive Flexible Procedure: new arrangements give more flexibility to design procurement processes to fit their needs - potentially including stages such as dialogue, negotiations and product demonstrations.
- 4.9.4 Procurement Review Unit (PRU): The PRU will monitor compliance with the Act and investigate patterns of non-compliance. Whilst this won't offer direct remedies, this does offer an affordable avenue for complaints.
- 4.9.5 Exclusion and Debarment Regime: A new central debarment list is introduced which will be managed by the PRU. The list can exclude suppliers from bidding for public contracts for up to five years for reasons such as tax evasion or poor contract performance. The list will also exclude certain suppliers from bidding for public contracts owing to acts committed by their connected persons and key subcontractors. Suppliers have the right to appeal against proposed debarments.
- 4.9.6 Open Frameworks: These are a series of framework contracts awarded successively on similar terms - thus allowing new suppliers to join and therefore bid for opportunities during the lifetime of the series. This promotes competition and prevents suppliers from being locked out of opportunities.
- 4.9.7 Contract Management Provisions: These will require the Council to pay undisputed invoices within 30 days. These organisations will also have to agree key performance indicators (KPIs) with suppliers for new contracts worth at least £5,000,000 and publication of Contract Performance Notices where applicable.
- 4.9.8 Evaluation Criteria: Tender evaluation will now be based on the 'most advantageous tender' rather than the 'most economically advantageous tender'. This change emphasises that contracts do not need to be awarded based on the lowest price. Factors such as quality and social value may also be considered, an approach already taken by the Council.
- 4.9.9 Contract Award Process: Instead of standstill letters, suppliers will receive detailed assessment summaries explaining why their bids were successful or not. The tender standstill period has been adjusted from ten calendar days to eight working days. Standstill will now commence on the publication of the Contract Award Notice.
- 4.9.10 Performance Transparency: Contracts worth at least £5,000,000 will require the publication of the contract itself and its most important key performance indicators (KPIs). This will enhance transparency but may also pose reputational risks for suppliers.

- 4.10 In anticipation of the 2023 Act coming into force, the Council has been undertaking preparatory work since 2023. Close co-operative working arrangements operate between the Council's Legal Services and Corporate Procurement Service, which have helped underpin a review of existing arrangements and work to develop compliant templates and operating procedures to meet the requirements of the 2023 Act.
- 4.11 Following consultation and engagement with Corporate Procurement, the Commercial & Contracts Team from Legal Services have drafted a complete suite of templates aligned with the requirements of the 2023 Act: fully compliant, these resources ensure the Council is well-placed to undertake fully compliant procurement activities under the 2023 Act.
- 4.12 In addition to new templates and procedures, core knowledge and competency requirements are essential to their effective operation. A structured programme of development and practice sessions for Legal Services and Corporate Procurement is in development. This programme includes a range of key areas of practice in the conduct and management of procurement activities. Additional options to access an external resource library of web-based training materials, practice guides and model templates are currently being evaluated and will be taken forward in due course.
- 4.13 Beyond the two core services, the Monitoring Officer and Head of Procurement are exploring options for regular development and briefing sessions targeted towards officers with responsibilities for procurement and contract management activities across all service areas. Core knowledge and competency requirements, including requirements to complete regular refresher training, will be introduced to ensure consistent practice and compliance is embedded across the Council.
- 4.14 To ensure the Council sources efficiently and compliantly the Monitoring Officer is currently reviewing the Contract and Financial Standing Orders and the approach to procurement exemptions, including terminology, the application and scope of their use. These proposals will come before Members in the upcoming months as part of a wider package to fully refresh the Constitution.
- 4.15 The Council has also taken opportunities to embed efficiencies of operation and practice to support sustained transformation of procurement activities and its own processes. The advent of the 2023 Act has provided an ideal opportunity for substantive review, as has the successful implementation of Oracle Fusion within the Council

- 4.16 Legal Services has undertaken a comprehensive review of the existing suite of model contracts used for the procurement of goods and services across the Council. The purpose of this review was two-fold, to:
- 4.16.1 ensure model contract terms and conditions are fully compliant with the requirements of the 2023 Act and aligned with public sector best practice: and
 - 4.16.2 provide a model library and suite of contract terms and conditions for use by Legal Services in the drafting and preparation of contracts through Oracle Fusion.
- 4.17 The review process is not one undertaken in isolation: Legal Services continuously review all standard and model clauses to maintain compliance with regulatory and professional requirements. However and as indicated earlier in this report, the 2023 Act introduced fundamental changes and, at the initiation of the Monitoring Officer, a comprehensive review and redraft was required to ensure best practice and consistency in contract form.
- 4.18 Corporate Procurement have over several months shared a range of feedback with colleagues in Legal Services relating to the use and application of the existing contract terms and conditions suite: this process has been positive and reflects the close co-ordination between both services. The review process broadly covered the following suite of contract terms and conditions:
- 4.18.1 Long form supply of goods and/or services.
 - 4.18.2 Short form supply of goods and/or service.
 - 4.18.3 Adult social care.
- 4.19 Fully updated draft terms have been completed for the first two elements, the latter being finalised imminently to ensure best practice is embedded. These are fully compliant with the 2023 Act, adopt best practice and take account of sector norms including regard to Crown Commercial terms, and are structured to allow Legal Services to review and amend these to meet specific instruction requirements.
- 4.20 In parallel, work has continued to embed Oracle Fusion in the drafting processes for contract terms and conditions. Gateway questions have been reviewed and tested to enable the drafting and review of short and long form contracts by legal professionals within Oracle Fusion.
- 4.21 The use of Oracle Fusion will embed integration of operation between Legal Services and Corporate Procurement, supporting the seamless transfer of drafted contracts from Legal Services to Corporate

Procurement and instructing service areas: a comprehensive electronic library of all procurement and contracting activities is maintained through Oracle Fusion, in turn supporting reporting arrangements to the Procurement Board.

Next steps

4.22 The Procurement Board continues to play a key strategic role overseeing the transformation and effective operation of the Council’s procurement arrangements. The terms of references and responsibilities of the Board remain subject to continuous review and refresh to ensure best practice is embedded in all aspects of procurement, and to ensure robust oversight of the operation of all relevant policies, procedures and systems.

5 Implications

Resources:	There are no direct financial implications to this report. Any future compliance, training and awareness requirements will be delivered through existing budgets.
Legal and Governance:	The Council is required to put in place appropriate and compliant arrangements for the conduct of procurement activities under the Procurement Act 2023. Extensive work has been undertaken by Legal Services and Corporate Procurement under the oversight of the Procurement Board.
Risk:	The Procurement Board model provides effective strategic oversight and review of procurement frameworks, activities and compliance. A mature approach to risk identification and management is adopted and subject to continued review.
Equality:	Compliance with the public sector equality duty relating to the conduct of procurement activities are directly addressed within the new template suite in accordance with guidance which accompanies the Procurement Act 2023.
Health and Wellbeing:	There are no direct implications arising from this report.
Social Value:	The opportunity to incorporate social value requirements relating to the conduct of procurement activities are directly addressed within the new template suite in accordance with guidance which accompanies the Procurement Act 2023.
Climate Change:	There are no direct implications arising from this report.

Corporate Parenting:	There are no direct implications arising from this report.
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6. Appendices

6.1 None.

7. Background Papers

7.1 None.