

## **Wiltshire Council**

### **Committee Name – Audit and Governance Committee**

**Meeting Date - 27<sup>th</sup> September 2022**

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### **Update: Exemptions and Category Management Audits**

#### **Purpose of Report**

1. The purpose of this report is to provide an update to the Audit and Governance Committee in respect of the general progress that has been made within the Commercial and Procurement Team, an update on the following two audits:
  - a. Exemptions
  - b. Category Management

#### **Relevance to the Council's Business Plan**

2. This report directly supports the Council's Business plan. Section 5 of the Business plan states that we will be an 'efficient and healthy organisation' and that we strive to the 'highest performing Council in the country'
3. By delivering against the transformation Plan and the audit actions (as set out and referenced below) The Commercial and Procurement Team will be supporting the Council to achieve this by:
  - a. Achieving a high level of compliance
  - b. Being innovative in our approach to procurement and how that can support the Council to deliver other elements of the Business plan
  - c. Delivering value for money solutions for the goods and services that the residents of Wiltshire receive.

#### **Background**

4. The Commercial and Procurement Team underwent a restructure in early 2022, with the new structure commencing on the 01st of April 2022. Alongside that the Commercial and Procurement Team made a commitment to deliver an ambitious Transformation Plan. Using the Transformation Plan as the basis the Commercial and Procurement Team have developed a Service Plan (attached at appendix 1) that captures planned activity to take place this year.
5. The Service Plan captures actions that need to be undertaken to deliver the Transformation plan as well as items that were outstanding. Therefore, the actions associated with the Exemption audit and the Category Management audit have now fallen within the Service Plan for the Commercial and Procurement Team.
6. ***Commercial and Procurement Team – Transformation Plan***

The Commercial and Procurement Team (prior) to the restructure lacked a strategic vision and a robust commercial governance framework. As a result, this meant that direct tendering activity was, in most instances, reactive.

As the Commercial and Procurement Team was in this situation it meant that they were unable to (for example):

- a. Keep up with changes in legislation and or best practice
- b. Be consistent across the team with advice and support to teams across the Council
- c. To have a consistent approach to Social Value and other legislation

The Exemption and Category Management audits demonstrated the above.

## **7. Exemptions Audit**

The final Exemptions Audit, requested in 2021 and published in April 2022, gave an overall assurance opinion of 'Limited'. Historically there was poor control and understanding of the Exemption process and when it is (or is not) appropriate to use an Exemption to award contracts for the provision of goods and or services. The key findings were:

- a. The number of Exemptions was excessive due to improper use
- b. Contract end dates and spend of Exempted contracts was not being monitored
- c. The competence framework for officers needed reviewing to ensure that it met with Cabinet Office instructions

A summary of the actions and progress can be located at appendix 2.

## **8. Category Management Audit**

9. The final Category Management Audit, requested in 2021 and published in April 2022, gave an overall assurance opinion of 'Limited'. The key findings were:

- a. The lack of an overarching Category Plan strategy meant that there was not a consistent approach to the plans and as a result did not link to the Council's corporate goals
- b. None of the Category Plans reviewed were complete and there was no formal sign off process
- c. Detailed financial information was not available which meant that Category Plans could not accurately project savings and or efficiencies with any certainty. This in turn meant that, sometimes, financial information was not presented correctly.
- d. Teams across the Council did not understand the role of the Category Manager and how Category planning and advice should be provided
- e. There was no mechanism to share changes in legislation

A summary of the actions and progress against is attached at appendix 2

## **Main Considerations**

10. This report provides an update which describes how the Commercial and Procurement Team is doing in respect of delivery against the Transformation/Service Plans.

## **11. Commercial and Procurement Team – Transformation Plan/Service Plan**

12. Work is now well underway and the Commercial and Procurement Team expect to deliver what has been set out whilst managing the peaks and troughs created by direct tendering activity.
13. A review of the procurement process has taken place and as a result a new 'end to end' process has been created. To support the implementation a full review of procurement documentation is taking place. This will provide a consistent way of delivering procurement activity whilst also support the Commercial and Procurement Team to meet its audit actions.
14. The Socially Responsible Procurement Policy (SRPP) has been developed and consulted on. It is being received positively and marks a significant step forward for the Commercial and Procurement Team. It is now due to be discussed at Cabinet Liaison before going to Cabinet for discussion.

#### 15. ***Exemptions Audit***

16. The Commercial and Procurement Team have been working to redefine the meaning of Exemptions within the Council to ensure that the process is used appropriately and consistently.
17. A draft of the definition has been created and the Commercial and Procurement Team will work collaboratively with their Legal colleagues and other relevant stakeholders to bring the definition and process into policy.
18. There may be a need to amend the Constitution and other associated documents. Where this is the case the Commercial and Procurement Team will work with the relevant stakeholders and governance arrangements to make the necessary arrangements.
19. It should be noted that whilst we have yet to agree and bring to policy the new definition and approach to Exemptions, which we will be known as Exceptions to Competition, The Commercial and Procurement Team have changed the way in which they work and as a result there has been a significant reduction in the number of Exemptions that have been approved (table 1).
20. The Commercial and Procurement Team has been able to reduce the number of Exemptions by:
  - a. Addressing the way in which advice is given to service areas
  - b. Being consistent in their approach to how and when an Exemption should be sought
  - c. Continuing with the Exemptions Panel, but with a slightly changed approach following the restructure
  - d. Ensuing that appropriate sign off and where necessary, and as set out in the constitution, approval from, Director Legal and Governance / Monitoring Officer and Corporate Director Resources & Deputy Chief Executive (S.151 Officer)

## **Exemption Comparison 2021 to 2022**

**1st April 2022 to 31st August 2022**

**Number of Exemptions: 15**

**Maximum Exemption Spend Value: £20,324,056.61**

The following three exemptions account for £19,712,195:

<b>3 contract extensions for property maintenance, boilers &amp; electricals</b>	<b>£1,650,000</b>
Help to Live at Home Alliance	£11,387,945
Passenger Transport Unit - Dynamic Purchasing System extension	£6,674,250

**1st April 2021 to 31st March 2022**

**Number of Exemptions: 69**

**Maximum Exemption Spend Value: £25,218,417.61**

*Table 1*

### **21. Category Management Audit**

22. Progress has been good in respect of the Category Management audit actions. Working with the Commercial Board, suggested Category Plans have been discussed. During the forthcoming meetings we will refine and evolve the format and what data should be presented.
23. Category Plans will be presented to the Commercial Board, in collaboration with service areas, where they will be discussed and agreed. The aim, through that discussion, is to agree a longer term (strategic) approach to activity within a category so that we maximise opportunities and minimise risks.
24. A 12-month rolling programme will be delivered to Commercial Board of regular presentations of Category plans to be agreed as well as reviewed at Commercial Board.
25. The Commercial and Procurement Team will provide a suggestion as to which category will be presented and when. There will need to be agreement, through discussion at Commercial Board, about how we profile category areas deciding, which areas should be brought forward for discussion at Commercial Board. Currently the decision is driven by value (with known risks and issues helping to inform the decision). Therefore, our next steps which involve the creation of a policy so that a consistent approach to category planning, will be to explore risk profiling options that can be used.
26. Categories are selected, as stated above, based on known risks and value. Attached at appendix 3 is a breakdown of our high-level category areas with spend. This has been produced to illustrate how the Council spends its money and will be updated as work is undertaken to refine the figures ensuring their accuracy.

## **Overview and Scrutiny Engagement**

27. No engagement has taken place in with overview and scrutiny.

### **Safeguarding Implications**

28. There are no direct safeguarding implications as a result of this report. This report provides an update on audit actions to be completed by the Commercial and Procurement Team in respect of the audits for Exemptions and Category Management. These audits have no direct impact on the safeguarding of vulnerable people.
29. The Socially Responsible Procurement Policy will have an impact in helping the Council to meets its obligations in respect of the safeguarding of vulnerable adults which will be identified as part of that work.

### **Public Health Implications**

30. There are no direct public health implications as a result of this report. This report provides an update on audit actions to be completed by the Commercial and Procurement Team in respect of the audits for Exemptions and Category Management. These audits have no direct impact on the safeguarding of vulnerable people.
31. The Socially Responsible Procurement Policy will have an impact in helping the Council to meets in obligations in respect of public health implications which will be identified as part of that work.

### **Procurement Implications**

32. There are no expenditure implications directly associated with this report.
33. Through the work being delivered as part of the Transformation Plan the Commercial and Procurement Team are developing a robust framework under which they will be able to:
- a. Achieve a higher level of compliance with regulation in respect of direct tendering activity
  - b. Be consistent in the way that procurements are approached and when providing advice
  - c. Develop and keep up to date with our obligations in respect of Social Value to maximise the benefits that it can bring.
  - d. Drive the team forward so that it is a supportive and innovative function of the Council.
34. Through delivering the audit actions the Commercial and Procurement Team will have a consistent and robust approach to Exemptions that will continue the trend of reduction.
35. Category Plans will become a tool with which we will be able plan procurement activity strategically. This will allow the Council to benefit both financially and through efficiencies as we will be able to maximise opportunities, minimise risks and plan for effectively for the future.

## **Equalities Impact of the Proposal**

36. An equalities impact assessment has not been conducted as the report is an update on progress made against outstanding audit actions.

## **Environmental and Climate Change Considerations**

37. There are no direct environmental and climate change implications as a result of this report. This report provides an update on audit actions to be completed by the Commercial and Procurement Team in respect of the audits for Exemptions and Category Management. These audits have no direct impact on the safeguarding of vulnerable people.
38. The Socially Responsible Procurement Policy will have an impact in helping the Council to meet its obligations in respect of environmental and climate change considerations which will be identified as part of that work.

## **Workforce Implications**

39. There are no workforce implications for the Council as a result of this report.

## **Risks that may arise if the proposed decision and related work is not taken**

40. No decision required

## **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

41. No decision required

## **Financial Implications**

42. There are no financial implications relating to this update

## **Legal Implications**

43. There are no direct legal implications as this provides an update on activity against audit actions for the Commercial and Procurement Team. However, it should be noted that work to address the audit actions and the Transformation/Service plan will see the Commercial and Procurement Team achieve a higher level of compliance against regulation and internal governance.
44. The Commercial and Procurement Team are working in collaboration with our Legal colleagues on the relevant aspects of the Transformation Plan/Service Plan. This is with regard to our commitments in respect of:
- a. Part 10 of the Constitution
  - b. Relevant legislation including, but not limited to, the Public Contract Regulations 2015 and associated case law
  - c. Upcoming changes in law, The Procurement Bill

## **Options Considered**

45. No other options have been considered as this paper provided as an update

## **Proposals**

46. There are no proposals as result of this paper as it provides an update from the Commercial and Procurement Team to the Audit and Governance Committee.

## **Helen Jones, Director of Procurement and Commissioning**

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Date of report

## **Appendices**

Appendix 1 – Service Plan

Appendix 2 – Audit Progress Overview

Appendix 3 – Where The Money Goes