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Portsmouth
CITY COUNCIL

Title of meeting: Governance & Audit & Standards Committee
Subject: Procurement Management Information
Date of meeting: 20th July 2022
Report by: Richard Lock - Procurement Manager
Wards affected: N/A

1. Requested by

Governance and Audit and Standards Committee.

2. Purpose

To provide evidence to allow the committee to evaluate the extent that Portsmouth City Council is producing contracts for goods, works and services in a legally compliant value for money basis.

To update the Committee on progress developing procurement performance reporting and seek comments in respect of proposed further developments.

3. Information Requested

Performance Monitoring Elements & Base Line Data Reports

The report covers 3 key performance monitoring elements:

- Spend compliance
- Contract award via waiver
- Contract management performance monitoring

At the request of the Committee at the meeting held on 24th July 2020 the base line data used to calculate summary figures is included as the following exempt appendixes:

- EXEMPT - G&A&S - Procurement MI - App 1 Spend Compliance Jun 22 - 11.07.22
(Pages 115 - 122)
- EXEMPT - G&A&S - Procurement MI - App 2 Waivers Apr - Jun 22 - 11.07.22
(Pages 123 -125)
- EXEMPT - G&A&S - Procurement MI - App 3 Contract KPIs Apr - Jun 22 - 11.07.22
(Pages 127 -129)

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A further exempt appendix has also been included for which covers analysis of the data by procurement and which includes for some commercially sensitive information:

- EXEMPT - G&A&S - App 4 - Procurement Data Analysis - Apr - Jun 22 - 11.07.22
(Pages 131 - 142)

Performance Comparison & Reports Development

The report provides, where possible, a performance comparison to the data provided within the last report taken to the committee on 21st January 2022.

However, as Procurement are working to develop the reports in order to provide a more complete, accurate and relevant assessment of performance this has had some impact on the granularity of comparison that can be achieved at present which will continue until the new reporting models are fully implemented over the coming months.

The changes to the reports, proposed development plans and implementation timescales are detailed within each of the relevant report sections that follow.

Exempt Information

Where detail is required by the committee the Procurement Manager will provide this during the committee meeting, however where questions relate to detail included within the exempt appendices responses cannot be provided whilst the public live streaming is in operation.

SECTION 1 - SPEND COMPLIANCE

Introduction

The table on the following page provides a comparison of spend compliance from the last report taken to Committee on 21st January 2022 which covered spend in December 2021 to the latest whole month spend information taken from June 2022.

Context & Current Process

The Local Government Transparency Code (2015) requires that all contracts with a lifetime value of £5,000 or above are published. The Council monitors and enforces compliance by requiring every purchase order with a distribution value of £5,000 or above is linked to a contract entry which has been raised and published on the Council's InTend system.

Compliance is measured initially by reporting on spend linked to a contract entry which has been raised on the council's InTend system.



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It should be noted that the 'compliance' definition for this section of the report also includes for approved departures from local constitutional rules and national legislation as set out above. The data and analysis provided in this section therefore relates to compliance with governance processes, in particular financial transaction controls which help to ensure linking to corresponding contract entries.

Broader compliance with rules and regulations is covered under Section 2 of this report which provides an analysis of contracts awarded via waiver approval within the quarter.

Report Development Status & Future Development Proposals

Since the last Committee meeting Procurement have developed the spend compliance report to encompass spend processed across a range of Council systems rather than just spend via Oracle FUSION as was previously the case. Spend from the following systems is now also directly included for within the report:

- MOSAIC - Children's Social Care spend
- CONTROCC - Adult Social care spend
- SystemsLink - Utilities spend (Gas, Electricity, Phone, etc.)
- Scala - Port spend

Spend via these systems for June 2022 equates to approx. £12.1M with approx. £16.3M processed via Oracle FUSION within this period. This represents a 43% increase in the value of spend reported on.

However, as the controls in place within Oracle FUSION that enforce linking of financial transactions to parent contract entries are not present within these systems there is currently no method in place for tracking compliance.

This has a dramatic impact upon compliance %s when spend processed within these systems is applied to the totals, although as detailed later within the report this does not necessarily mean that there is definitely high levels of non-compliance associated with this spend.

If the Committee so desires Procurement will work with services to investigate potential solutions for tracking spend compliance within these other systems and report back on feasibility, options and potential roll out timescales.

Two other systems / purchasing routes are not yet included for within the reports, which are:

- CHAPS - used to process PFI payments to partner highways maintenance contractor
- Purchasing Cards - used typically for lower value transactions as per Council policy

Again if the Committee wishes, Procurement will work with services to report on spend for these systems and investigate potential solutions for tracking spend compliance within

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these other systems and report back on feasibility, options and potential roll out timescales.

Following the implementation of Oracle FUSION and work undertaken by Procurement to develop its reporting functionality it is now easier for spend reports to be processed. Currently the report only covers the most recent complete month whereas the waiver and KPI reports cover the last quarter.

At the Committee's option, Procurement can also begin to report on spend compliance by quarter as well so that time period comparisons are consistent for each section of this report and a broader view of performance can be provided.

Procurement would also like the Committee to consider whether they wish to see below £5k financial transactions included for within Procurement's analysis of the data. Procurement recommend that this is removed as there is no requirement under the Local Government Transparency Code to publish details of contracts which do not exceed £5k and as such there are no controls within the Oracle FUSION system to enforce matching of below £5k transactions to corresponding contract entries.

Procurement do however recommend developing reports that can be run using Oracle FUSION to monitor aggregation of spend by supplier over a time period of 2 years which will help to identify areas of spend which may not be compliant when transactions by supplier are reviewed on a more holistic basis.

June 22 Analysis

The detailed report taken from Oracle FUSION is included as exempt 'Appendix 1 - Spend Compliance Jun 22'. This report shows the compliance figures overall, by service and by sub-service area.

A summary of the analysis undertaken by service area is included within the data following table. A target of 95% compliance overall and by service following any adjustments made by the Procurement Manager has been set previously by the Committee.

When spend processed using other systems is removed and only the June 2022 spend via Oracle FUSION of £16,293,195 is accounted for, as per all previous reports taken to the Committee, compliant spend equates to £15,499,116 / 95.13% before transactions with a distribution value which do not exceed £5,000 are removed.

When transactions which do not exceed £5,000 are removed, on the basis that no contract entry is required under Transparency Code or Oracle FUSION business rules controls, this increases compliant spend to £15,882,255 / 97.48%.

The Committee has also previously requested that the figures are further recalculated to remove transactions which Procurement can provide assurance that the parent contract has been compliantly procured. Such transactions appear in the raw reports due to admin error where the transaction is not linked to its corresponding InTend contract entry or, less

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commonly, where a correspond contract entry has not been created on InTend in spite of an actual compliant contract being in place.

When the figures are recalculated to remove transactions where a compliant contract is known to be in place this increases compliant spend to £16,244,033 / 99.7%. This meets the target agreed and shows a significant increase from December 2021 which was at 77% prior to analysis and adjustment by the Procurement Manager.

However, when the additional June 2022 spend via other systems of £12,144,057 is accounted for this increases overall spend for June 2022 to £28,437,253 and decreases % compliance to 56%. This does not mean that spend is necessarily non-compliant or that a contract entry has not been published in line with Transparency Code requirements, it is due to financial transactions made via these other systems not being linked to a contract entry which makes simple compliance reporting problematic.

Whilst the current inability to provide compliance reporting from other systems is an issue that needs to be overcome, it is unlikely that after further analysis there will be many or any significant instances of higher risk non-compliance with Public Contracts Regulations (2015) requirements as:

- Procurement can provide assurance that all utilities contracts which SystemsLink transactions relate have been compliantly procured
- Higher value transactions processed via CONTROCC for adult social care services, via MOSAIC for children's social care services and via SCALA for Port transactions should be able to be tracked back to approved contracts through application of the Council's Procurement Gateway Process which is applied to all contracts with a lifetime value of over £100,000
- Transactions related to waste collection can be traced back to a compliant contract
- PFI payments for Day Services Centre can be traced back to a compliant contract
- Payments made to suppliers for locally commissioned services (pharmacies) can be traced back to a compliant contract
- Payments made to builders for works undertaken for private sector residents for disabled facilities grants, warm homes funding, etc. are not subject to procurement regulations

Due to the significant number of transactions it is not practical to provide the Committee with a full line by line report, however this can be provided by request electronically.

Spend Compliance Comparison - Dec 21 vs Jun 22

The figures by service area are broken down within the following table, with a summary analysis provided following after and detailed information on transactions included within the exempt Appendix Spend Compliance report. All services corrected recalculated figures are above the 95% target when spend from other systems is removed, as per all previous reports taken to Committee. This is the highest compliance figure that has ever been

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reported and also represents the first time that a report has been taken to the Committee where all service areas have met the 95% target.

Key

- NC - Non-compliant
- C - Compliant

**Calculated figures following removal of below £5k transactions and transactions that Procurement can provide assurance that a compliant contract is in place*

	December 2021			June 2022		
Directorate	Total £	NC £	C %	Total £	NC £	C %
Adult Services	£825,147	£3,431	99.58%	£605,229	£1,067	99.82%
Children Families & Education	£285,820	£3,233	98.87%	£275,878	£0	100%
Corporate Services	£452,511	£18,339	95.95%	£396,687	£7,441	98.05%
Culture Leisure & Regulatory Services	£190,684	£9,589	94.97%	£282,258	£0	100%
Executive	£62,921	£6,458	89.74%	£62,921	£2,029	98.93%
Finance	£3,041,380	£71,900	97.64%	£1,722,267	£2,805	99.84%
Housing Neighbourhood & Building Services	£6,302,136	£48,138	99.24%	£6,998,300	£1,070	99.98%
Portsmouth International Port	£6,027,747	£48,279	99.2%	NA - Need to review SCALA		
Public Health	£57,351	£0	100%	£253,539	£0	100%
Regeneration	£4,958,520	£1,809	99.96%	£5,529,974	£0	100%
TOTAL	£22,204,217	£211,176	99.05%	£16,293,195	£794,079	99.7%

The data set from which the above table has been calculated can be found within exempt Appendix 1 (EXEMPT - G&A&S - Procurement MI - App 1 Spend Compliance Jun 22 -

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11.07.22). Financial transactions which do not exceed £5,000 have been removed from the report but can be provided electronically to the Committee upon request.

Analysis of non-compliant financial transactions which cannot be traced back to a compliant contract currently by Procurement are included for within Appendix 4 (EXEMPT - G&A&S - App 4 - Procurement Data Analysis - Apr - Jun 22 - 11.07.22).

In summary the analysis shows that there are no financial transactions with an overall distribution value in excess of £100k which cannot be traced back to a compliant contract and only 10 with a distribution value above £5k but below £100k which cannot be traced back to a compliant contract currently by Procurement.

However, it should be noted that detailed analysis of spend processed via other systems other than Oracle FUSION is yet to be undertaken by Procurement and will be progressed over the coming year.

SECTION 2 - CONTRACT AWARD VIA WAIVER

The tables below show a comparison of contracts with a lifetime value of £100,000 or more awarded via application of a waiver between November - December 2021 as reported at the Committee meeting on 21st January 2022 with those awarded via waiver over the last reportable quarter being April - June 2022.

Whilst waivers are to be sought for any significant departure from the council's Contract Procedure Rules (CPRs), the report focuses upon waivers with a lifetime value of over £100k as it is at this level that review by Procurement and Legal is mandated under the Council's CPRs. Below this level waivers can be approved by the relevant Director or Assistant Director.

As Procurement involvement is not mandated below £100k there is no comprehensive file of below £100k waivers maintained by Procurement at present. Waivers below this level have therefore been removed from this report as accurate numbers and reasoning behind the waivers cannot be provided under current governance processes.

Under the CPRs waivers can be approved by:

- Director including for Assistant Directors given delegated authority by the Director - up to £100k
- Procurement manager - up to £1M
- Procurement Gateway Board - above £1M

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Above £100k Contracts Awarded via Application of Waiver - Reporting Period Comparison

Risk Profile	November - December 2021		April - June 2022	
	No. of Contracts	Contract Value	No. of Contracts	Contract Value
HIGH RISK	0	£0	0	£0
MEDIUM RISK	1	£234,784	9	£7,814,184
LOW RISK	5	£889,106	12	£4,060,493
TOTAL	6	£1,123,890	21	£10,505,075

Summary information regarding the waivers including for service area, contract name, supplier, value, term, etc. can be found within 'Appendix 2, Waivers Apr - Jun 22'.

Analysis

Risk ratings have been applied to the waivers reviewed in accordance with the following criteria / characteristics:

- **HIGH RISK** - In breach of statutory procurement regulations, high probability of market challenge, lack of effective mitigation strategies, no agreed strategy in place to bring the contract into compliance
- **MEDIUM RISK** - In breach of statutory procurement regulations, low probability of market challenge, mitigation strategies in place, agreed strategy in place to bring the contract into compliance, rationale for waiver meets Council CPR requirements
- **LOW RISK** - No breach of statutory procurement regulations, low probability of market challenge, mitigation strategies in place, rationale for waiver meets Council CPR requirements

Whilst the value and number of waivers has increased over the reporting period this largely due to one significant waiver linked to the extension of a framework agreement for Supported Living services and 9 other associated contracts with a total combined value of £9,460,008 which have been extended on a staggered basis whilst the framework agreement is re-procured.

All waivers classified as Medium risk have been subject to financial benchmarking and delivery performance. Procurement have engaged with services to plan and implement procurement processes which will bring the contracts back into compliance where requirements are forecast to be on-going.

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Information regarding each above £100k waiver reported on above including for summary risk analysis undertaken by Procurement can be found within exempt Appendix 4 (EXEMPT - G&A&S - App 4 - Procurement Data Analysis - Apr - Jun 22 - 11.07.22).

SECTION 3 - CONTRACT MANAGEMENT PERFORMANCE MONITORING

Current KPI Model & Planned Developments

Contract management performance is currently monitored at summary level by application of a set of 3 standard KPIs which are scored and reported on via the InTend system. The 3 KPIs currently used are:

- KPI 1 - Contract Service Level
- KPI 2 - Customer Perception
- KPI 3 - Business Processes

Procurement recommend that this system is phased out and replaced as the current model causes the following problems:

- Not all contracts relate to front line activities, making the customer perception KPI 2 superfluous in some cases
- Each of the KPIs are weighted equally, which can overemphasise relatively minor business process issues in relation to KPI 2 (e.g. late receipt of an invoice) on contracts that are otherwise performing well and scoring highly in respect of KPI 1 Contract Service Level
- Having to consider 3 KPIs which may not always be relevant and rarely equal importance frustrates contract managers which can lead to inaccurate or non-completion of KPIs where services do not see benefits

Procurement have developed a simplified flexible single KPI model whereby contracts are assessed on a consistent 0-5 basis as per the example below:

- 0 - Unacceptable Performance - grounds for immediate termination and barring from future contract opportunities
- 1 - Poor - significant issues have arisen. May invoke termination and barring from future opportunities unless significant and immediate improvements are implemented.
- 2 - Fair - activities were generally undertaken to a satisfactory level however a number of smaller issues arose that were addressed when improvement notices were issued
- 3 - Satisfactory - met the contractual obligation and performed within the range of expectation
- 4 - Good - met and on occasion exceeded contractual expectations. Activities undertaken to a high standard.
- 5 - Excellent - performed above general contracted requirement by bringing added value and exceeded expectations in multiply areas.

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This revised model has been welcomed by services and has been successfully implemented onto a number of procurement processes undertaken over the last year.

The model by virtue of its core simplicity is flexible and can be applied on a proportionate and relevant basis to any contract irrespective of the value, scale and complexity of the contract.

It can be used to provide a consistent top level summary assessment of simple contracts which may not include for specific KPIs through to high value strategic contracts which may include for a suite of contractual KPIs.

Procurement have worked with Legal to ensure that the revised KPI model has bearing within contract terms and can be used to help enforce performance improvements or issue sanctions where improvements are not made. Simplifying the KPI reporting model within the system will make it possible for non-Procurement users of InTend to easily access consistent and accurate KPI contract performance data.

Procurement have worked with the provider of its e-sourcing solution InTend to successfully develop and test the KPI model within the system. The new model is now at the point where it can be deployed across the Council and Procurement are currently developing a roll out plan for the model which is likely to initially focus upon implementation within higher value strategic contracts and the contracts procured over the last year where the 0-5 model has been applied. Procurement will bring a rollout plan for consideration to the next Committee meeting for consideration.

KPI Performance Analysis for Apr - Jun 2022

In previous reports KPI performance has been assessed against the following criteria:

Key

- Gold: Outstanding performance
- Green: Performing to standard
- Amber: Some areas of improvement required
- Red: Failing to perform
- Expired KPI: a schedule is in place, and at least one KPI score has been recorded, but there has been no KPI scoring in the last 12 months
- KPI never scored: a schedule is in place, but there have been no KPI scores for the contract
- KPI not yet due: a schedule is in place, but KPI scores are not due yet. This includes contracts where KPIs are overdue by less than 3 months (grace period)
- No KPI scheduled: no KPI instances have been scheduled.

Whilst the colour coded performance information has proved useful for providing a snapshot of performance over the last quarter the information regarding expired KPIs, never scored KPIs and KPIs not due has not been reliable or viewed as particularly useful

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by the Committee. In view of this KPI analysis has been altered for this report to now cover the following:

- Total number of contracts on InTend system
- Total number of contracts on system with KPI requirement
- Total number of contracts due KPI performance update in last quarter
- Total number of contracts due KPI update in last quarter that KPIs have been reported
- Performance level of contracts KPI scored within the last quarter

The report parameters have also been altered to only report upon KPIs due in the last quarter whereas the previous report included for all KPIs, irrespective of completion date, which meant that KPIs scored a significant time ago were being reported upon. Whilst this means that for this report effective comparison cannot be achieved it will provide for improved analysis within subsequent reports.

Analysis Parameters	Nov - Dec 21		Apr - Jun 22	
Total No. Contracts	1240		1602	
Total No. Contracts with KPI Requirement	625		956	60%
Total No. Contracts with KPI Due Assessment in Last Quarter	Not Reported		72	7%
Total No. Contracts with KPI Assessed in Last Quarter	Not Reported		70	97%
Total No. Contracts Assessed as Red / Poor performance in Last Quarter	Not Reported		0	0%
Total No. Contracts Assessed as Amber / Below Satisfactory performance in Last Quarter	Not Reported		3	4%
Total No. Contracts Assessed as Green / Satisfactory performance in Last Quarter	Not Reported		41	58%
Total No. Contracts Assessed as Gold / Above Satisfactory performance in Last Quarter	Not Reported		26	38%

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Contracts with KPI Requirements

Whilst the majority (956 / 60%) of contracts recorded on the InTend system have KPI reporting requirements applied to them a very significant number (646 / 40%) do not and it is not immediately clear how the decision to apply the KPI or not is being applied on a consistent basis. Whilst some contract entries have been established for transparency purposes only - e.g. statutory undertakers, land transactions - this should generally be by exception.

Procurement will undertake a review and report back on findings and proposed business rules for determining whether KPI requirements should be applied or not at the next Committee meeting. Procurement will roll out the revised business rules in parallel with the revised KPI model referred to earlier within this section of the report.

Contracts with KPI Assessment Due in Last Quarter

Only a small proportion (72 / 7%) of the contracts which have KPI requirements were due performance reports within the last quarter which appears to be significantly lower than would be expected as some contracts include for quarterly reporting and those that only include for yearly reporting should still equate to approx. 25% of contracts due in any one quarter.

Again, Procurement will undertake a review and report back on findings and proposed business rules for determining frequency of KPI reporting schedules. Procurement will roll out the revised business rules for determining KPI schedules in parallel with the revised KPI model.

No. of Contracts due KPI Assessment Scored and Levels of Performance

Only two contracts due assessment within the quarter have not had KPIs completed. Upon review one of the contracts is not due KPI assessment yet with a schedule amendment required. The other contract was scored as above satisfactory / gold but the was not fully completed within the InTend system.

No contracts have been scored as poor / red and only 3 / 4% have below satisfactory performance reported against them. A high number of contracts 26 / 38% have above satisfactory performance reported.

Further Detailed Information

Details on the contracts due KPI assessment within the last quarter along with rationale for allocation of less than satisfactory scores can be found within the exempt information which accompanies this report - 'EXEMPT - G&A - Procurement MI - App 3 Contract KPIs Apr - Jun 22 - 11.07.22' and ' EXEMPT - G&A&S - App 4 - Procurement Data Analysis - Apr - Jun 22 - 11.07.22.

It is proposed by Procurement that for future reports information from council contract managers on why they have scored contracts as above satisfactory is also included for

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within the exempt information. This will help to provide a more balanced view of performance to the Committee and allow for analysis of whether consistent performance application has been applied which will be important for ensuring that the revised model is effectively implemented.

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Signed by Richard Lock - (Acting) Procurement Manager