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**Title of meeting:** Governance & Audit & Standards Committee

**Subject:** Procurement Management Information

**Date of meeting:** 23<sup>rd</sup> November 2022

**Report by:** Richard Lock - Assistant Director, Procurement

**Wards affected:** N/A

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### 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.

### 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 24<sup>th</sup> 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 Oct 22 - 11.11.22
- EXEMPT - G&A&S - Procurement MI - App 2 Waivers Aug - Oct 22 - 11.11.22
- EXEMPT - G&A&S - Procurement MI - App 3 Contract KPIs Aug - Oct 22 - 11.11.22

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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 - Aug - Oct 22 - 11.11.22

### 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 20<sup>th</sup> July 2022.

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

### 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 which covered spend in June 2022 to the latest whole month spend information taken from October 2022.

Unfortunately due to the need to prioritise procurement resources onto critical projects, procurement have not been able to run and analyse a full quarter / 3 months of spend information as agreed within the minutes of the last Committee meeting. It is hoped that this will be addressed for the next Committee meeting subject to resource capacity.

### 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 relates purely to meeting the requirements of the Local Government Transparency Code (2015) and the financial controls put in place by the council. Broader compliance with wider legislation such as the Public Contracts Regulations (2015) and Public Concessions Regulations (2016) as well as the rules set out within the council's constitutional Contract Procedure Rules is covered under Section 2 of this report.

Report Development Status & Future Development Proposals

As per the last report taken to Committee procurement are now able to report on spend transacted via all systems rather than just payments made via Oracle FUSION, These additional systems include for:

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

Since the last Committee meeting financial controls on above £5k spend processed via Scala have been developed allowing compliance to be tracked for spend processed via this system.

The development of financial controls in respect of financial transaction processed via the other systems is yet to be progressed although solutions to link CONTROCC financial transactions above £5k to contract entries are currently being investigated and it is hoped that a solution for automated compliance tracking could be developed over 2023.

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

Further work will be needed to investigate how spend via these systems / methods can be simply reported upon and compliance controls subsequently implemented.

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

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- 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

October 22 Analysis

The detailed report taken from Oracle FUSION is included as exempt 'Appendix 1 - Spend Compliance Oct 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 area in respect of transactions processed via Oracle has been set previously by the Committee. Performance can be summarised as follows:

- Total spend via all systems for October 2022 equated to £29.2M (£29,165,679.58) which is slightly higher than the approx. £28.4M reported for June 2022 at the last meeting.
- Total spend for transactions with a value of £5k or more which should generally be linked to a contract entry published in accordance with transparency requirements and finance controls for October 2022 equates to £21.8M (£21,880,630.74) / 75%.
- Total spend for transactions with a value of £5k or more processed via Oracle FUSION and Scala equates to £15.7M (£15,740,262.54) / 72% of all £5k or more transactions.
- Of this spend £15.5M (£15,532,518.76) / 98.7% can be compliantly tracked to a contract entry published on the InTend system without any corrective actions undertaken by Procurement which is the highest compliance % figure recorded to date. All service areas also exceed the 95% compliance target, which is the first time this has been achieved without any corrective actions.

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Spend Compliance Comparison - June 22 vs October 22

The Committee should note that the June 22 figures measure compliance following corrective action is undertaken by Procurement whereas the October figures are taken directly from Oracle FUSION reports.

**Key**

- NC - Non-compliant
- C - Compliant

	June 2022			October 2022		
Directorate	Total £	NC £	C %	Total £	NC £	C %
Adult Services	£605,229	£1,067	99.82%	£719,681.89	£2,279.33	99.68%
Children Families & Education	£275,878	£0	100%	£341,407.53	£12,704.88	96.28%
Corporate Services	£396,687	£7,441	98.05%	£577,406.00	£11,304.35	98.04%
Culture Leisure & Regulatory Services	£282,258	£0	100%	£115,348.21	£2,862.33	97.52%
Executive	£62,921	£2,029	98.93%	£59,660.36	£70.00	99.88%
Finance	£1,722,267	£2,805	99.84%	£1,504,917.66	£9,113.75	99.39%
Housing Neighbourhood & Building Services	£6,998,300	£1,070	99.98%	£7,282,771.58	£88,748.00	98.78%
Portsmouth International Port	NA - Need to review SCALA			£535,800.44	£0.00	100.00%
Public Health	£253,539	£0	100%	£361,186.12	£618.00	99.83%
Regeneration	£5,529,974	£0	100%	£4,242,082.75	£80,043.14	98.11%
<b>TOTAL</b>	<b>£16,293,195</b>	<b>£794,079</b>	<b>99.7%</b>	<b>£15,740,262.54</b>	<b>£207,743.78</b>	<b>98.68%</b>

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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 Oct 22 - 11.11.22).

Analysis of non-compliant financial transactions exceeding £5k 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, above which contracts are classed as high value under the council's CPRs and should be let via a fully advertised compliantly tender process, that cannot be traced back to a compliant contract or are otherwise exempt from regulations and council CPRs. Whilst work is required to ensure that contract entries are raised and published on InTend, the risk of legal challenge to the Council for failing to meet transparency requirements is low.

## **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 April - June 2022 as reported at the last Committee meeting 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 that apply to contracts with a lifetime value of over £100k as it is at this threshold that review by Procurement and Legal is mandated under the Council's CPRs. Below this threshold waivers can be approved by the relevant Director or Assistant Director.

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

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

Risk Profile	April - June 2022		August - October 2022	
	No. of Contracts	Waiver Value	No. of Contracts	Contract Value
HIGH RISK	0	£0	0	£0

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MEDIUM RISK	9	£7,814,184	4	£2,933,248
LOW RISK	12	£4,060,493	4	£284,408
<b>TOTAL</b>	<b>21</b>	<b>£10,505,075</b>	<b>8</b>	<b>£3,217,656</b>

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

The value and number of waivers has decreased over the reporting period compared to the last report taken to Committee. Whilst the reasoning for the decrease has not been investigated in detail, it can be assumed that the reduction may be due to the lessening impacts of the CVD-19 pandemic upon re-tendering programmes. However, there is still significant work required to address the backlog of contracts that require re-tendering, particularly in respect of Adult Social Care contracting which was most acutely impacted by the pandemic.

All waivers have been subject to varying degrees of financial benchmarking and delivery performance assessment in order to provide a level of best value assurance in the absence of competition. 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.

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 - Aug - Oct 22 - 11.11.22).

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### **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 are in the process of phasing out this system 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.

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



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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.

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 has now been launched within the system and is due to be implemented across the following contracts over the coming months:

- Within the Council's top 20 higher value strategic contracts which collectively equate to over £100M spend per annum
- Contracts procured via the Council's Primary Contractor Framework used to procure routine building works where the 0-5 model has been applied which collectively equate to over £20M.

KPI Performance Analysis for Aug - Oct 2022

Performance is assessed against the following parameters:

- 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

Analysis Parameters	Apr - Jun 22		Oct - Aug 22	
Total No. Contracts	1602		1599	
Total No. Contracts with KPI Requirement	956	60%	966	60%
Total No. Contracts with KPI Due Assessment in Last Quarter	72	7%	341	35%
Total No. Contracts with KPI Assessed in Last Quarter	70	97%	89	26%
<b>Total No. Contracts Assessed as Red / Poor performance in Last Quarter</b>	0	0%	1	1%

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<b>Total No. Contracts Assessed as Amber / Below Satisfactory performance in Last Quarter</b>	3	4%	1	1%
<b>Total No. Contracts Assessed as Green / Satisfactory performance in Last Quarter</b>	41	58%	42	47%
<b>Total No. Contracts Assessed as Gold / Above Satisfactory performance in Last Quarter</b>	26	38%	45	51%

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### Contracts with KPI Requirements

Whilst the majority (966 / 60%) of contracts recorded on the InTend system have KPI reporting requirements applied to them a very significant number (633 / 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.

Work is required to further review why KPIs have not been applied and develop a consistent set of business rules over the coming months which can be rolled out alongside the new KPI model.

### Levels of Performance

Only 1 contract has been scored as red (1%) within the quarter which upon review is due to inputter error as the supplier has performed well. This will be corrected within the InTend system.

Only 1 contract has been scored as amber (1%) which upon review is a warranted score, further information is provided within the exempt appendixes referred to below.

42 contracts have been scored as satisfactory (47%) and 45 (51%) have been scored as above satisfactory.

### 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 Aug - Oct 22 - 11.11.22' and ' EXEMPT - G&A&S - App 4 - Procurement Data Analysis - Aug - Oct 22 - 11.11.22.

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Signed by Richard Lock - Assistant Director, Procurement