THIS ITEM IS FOR INFORMATION ONLY
(Please note that "Information Only" reports do not require Integrated Impact Assessments, Legal or Finance Comments as no decision is being taken)

Portsmouth
CITY COUNCIL

Title of meeting:	Governance & Audit & Standards Committee
Subject:	Procurement Management Information
Date of meeting:	8th March 2023
Report by:	Richard Lock - Assistant Director, Procurement
Wards affected:	N/A

1. Requested by

Governance & Audit & 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 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 Jan 23
- EXEMPT - G&A&S - Procurement MI - App 2 Waivers Nov 22 - Jan 23
- EXEMPT - G&A&S - Procurement MI - App 3 Contract KPIs Nov 22 - Jan 23

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 - Nov 22 - Jan 23

<u>Performance Comparison & Reports Development</u>

The report provides, where possible, a performance comparison to the data provided within the last report taken to the committee on 23rd November 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 and which will continue until the new reporting models are fully implemented.

<u>Exempt Information</u>

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

<u>Introduction</u>

The table on the following page provides a comparison of spend compliance from the last report taken to Committee which covered spend in October 2022 to the latest whole month spend information taken from January 2023.

<u>Context & Current Process</u>

The Local Government Transparency Code (2015) requires that all contracts with a lifetime value that exceeds £5,000 are published. The Council monitors and enforces compliance by requiring every purchase order raised though Oracle FUSION 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.

Further to the Code requirements, the Council is also required under Public Contracts regulations (2015) to publish information on awarded contracts to the central Contracts Finder system for all contracts with a lifetime value of over £30,000.

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

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.

THIS ITEM IS FOR INFORMATION ONLY
(Please note that "Information Only" reports do not
require Integrated Impact Assessments, Legal or
Finance Comments as no decision is being taken)

**Portsmouth
CITY COUNCIL**

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. Work has also progressed in respect of analysis of spend processed via CONTROCC and SystemsLink. These controls are not currently automated so further work will be required to develop and implement processes to ensure that contract entries are raised promptly at commencement of contract rather than at point of check.

Spend and compliance statistics in respect of all systems is now also included for the first time within this report. However, it should be noted that protocols for analysis of spend via other systems need to be developed and as such some of the analysis and associated statistics are based upon assumptions, that although realistic, will require further testing.

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 full compliance reporting across all systems is requires addressing, it is unlikely that after further analysis there will be many or any significant instances of higher value / 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

- PFI payments for Partner Highways Maintenance Contract can be traced back to a compliant contract entry on the Council's InTend contracts register

THIS ITEM IS FOR INFORMATION ONLY
(Please note that "Information Only" reports do not
require Integrated Impact Assessments, Legal or
Finance Comments as no decision is being taken)

Portsmouth
C I T Y   C O U N C I L

- 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

January 23 Analysis

The detailed report taken from Oracle FUSION is included as exempt 'Appendix 1 - Spend Compliance Jan 23'. 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 January 2023 equated to £28.2M (£29,165,679.58) which is slightly lower than the approx. £29.2M reported for October 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 January 2023 equates to approx. £21.6M / 76.7% which is an improvement on the figures for October 2022 which were £21.8M / 75%.

- Total spend for transactions with a value of £5k or more processed fully via Oracle FUSION (raising of purchase order and payment of invoice) equates to approx. £18.5M / 66% of all £5k or more transactions.

- Of this spend £18.4M / 99.3% can be compliantly tracked to a contract entry published on the InTend system without any corrective actions undertaken by Procurement which is higher than 98.7% figure reported for October 2022 and is now the highest compliance % figure recorded to date. All service areas also exceeded the 95% compliance target other than Culture who still recorded a compliance % of 94.9%.

THIS ITEM IS FOR INFORMATION ONLY
(Please note that "Information Only" reports do not require Integrated Impact Assessments, Legal or Finance Comments as no decision is being taken)

Spend Compliance Comparison - October 22 vs January 23

1. Spend Processed Entirely Via Oracle FUSION

Key

- *NC - Non-compliant*
- *C - Compliant*

Directorate	October 2022			January 2023		
	Total £	NC £	C %	Total £	NC £	C %
Adult Services	£719,681.89	£2,279.33	99.7%	£766,513.18	£9,352.57	98.8%
Children Families & Education	£341,407.53	£12,704.88	96.3%	£800,957.76	£1,995.75	99.8%
Corporate Services	£577,406.00	£11,304.35	98%	£212,542.15	£787.58	99.6%
Culture Leisure & Regulatory Services	£115,348.21	£2,862.33	97.5%	£235,494.13	£11,984.18	94.9%
Executive	£59,660.36	£70.00	99.9%	£89,121.62	£0.00	100%
Finance	£1,504,917.66	£9,113.75	99.4%	£1,994,835.07	£2,165.15	99.9%
Housing Neighbourhood & Building Services	£7,282,771.58	£88,748.00	98.8%	£7,732,014.81	£1,424.46	98.98%
Portsmouth International Port - SCALA	£535,800.44	£0.00	100%	NA - See Other Systems below		
Public Health	£361,186.12	£618.00	99.8%	£477,761.65	£309.00	99.9%
Regeneration	£4,242,082.75	£80,043.14	98.1%	£6,229,665.03	£6,408.71	99.9%
TOTAL	**£15,740,262.54**	**£207,743.78**	**98.7%**	**£18,538,905.40**	**£136,294.52**	**99.3%**

THIS ITEM IS FOR INFORMATION ONLY
(Please note that "Information Only" reports do not
require Integrated Impact Assessments, Legal or
Finance Comments as no decision is being taken)

2. <u>Spend Processed Entirely or Partly though Other Systems</u>

January 2023			
Systems / Payments	**Total £**	**NC £**	**C %**
Academy Payments - Education Funding Transfers	£860,605.68	£860,605.68	0%
Early Years Payments - Children & Families Funding Transfers	£2,560,692.61	£2,560,692.61	0%
Energy Services - Warm Homes Grant Transfers	£1,228,313.09	£0.00	100%
MOSAIC - Children's Social Care Finance System	£490,664.87	£490,664.87	0%
CONTROCC - Adult's Social Care Finance System	£2,421,972.41	£1,475,278.93	39.1%
Pre-Paid Cards	£7,506.08	£7,506.08	0%
Private Sector Housing - Disabled Facilities Grant Transfers	£164,507.12	£0.00	100%
SCALA - Port Finance System	£1,180,439.66	£1,047,711.86	11.2%
SystemsLink - Utilities Payments	£620,964.25	£0.00	100%
VAT Only Invoice Payments - Finance	£101,867.12	£0.00	100%
TOTAL	**£9,637,532.89**	**£6,442,460.03**	**33.2%**

The data set from which the above tables has been calculated can be found within exempt Appendix 1 (EXEMPT - G&A&S - Procurement MI - App 1 Spend Compliance Jan 23).

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 - Nov 22 - Jan 23).

In summary, the analysis shows that in respect of spend processed entirely via Oracle FUSION, 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.

THIS ITEM IS FOR INFORMATION ONLY
**(Please note that "Information Only" reports do not
require Integrated Impact Assessments, Legal or
Finance Comments as no decision is being taken)**

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.

In respect of spend processed via other systems and processes robust analysis protocols need to be developed. However, through focusing on higher value over £100k transactions, there does not appear to be many transactions above this value which cannot be linked to a compliantly procured contract or would likely fall outside of the Council's Contract Procedure Rules and wider procurement regulations - e.g. funding transfers, grant payments, VAT reconciliation.

Work will be progressed by Procurement, with support from Finance and Legal as needed, to further analyse spend being transacted using other systems and processes. This will include for consideration of whether the transactions are covered by procurement regulations and transparency requirements.

Where transactions are within scope Procurement will work with the relevant sections to ensure that contract entries are transparently published and develop control protocols. This work has already commenced with the Port SCALA system and Adult Social Care CONTROCC system where transactions can be manually traced back to contract entries through use of an agreed referencing protocol.

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 August - October 2022, as reported at the last Committee meeting, with those awarded via waiver over the last reportable quarter, being November 2022 - January 2023.

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

THIS ITEM IS FOR INFORMATION ONLY
(Please note that "Information Only" reports do not
require Integrated Impact Assessments, Legal or
Finance Comments as no decision is being taken)

Portsmouth
C I T Y   C O U N C I L

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

Risk Profile	August 22 - October 22		November 22 - January 23	
	No. of Contracts	Waiver Value	No. of Contracts	Contract Value
HIGH RISK	0	£0	0	£0
MEDIUM RISK	4	£2,933,248	3	£3,568,817
LOW RISK	4	£284,408	6	£5,358,558
TOTAL	**8**	**£3,217,656**	**9**	**£8,927,375**

Summary information regarding the waivers including for service area, contract name, supplier, value, term, etc. can be found within the exempt 'Appendix 2, Waivers Nov 22 - Jan 23'.

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 number of waivers has stayed broadly the same as the number reported at the previous Committee (9 vs 8) and represents a consistent reduction compared to 21 previously reported for period covering April - June 2022.

Whilst the reasoning for the decrease has not been investigated in detail, it can assumed that the reduction may be due to the lessening impacts of the CVD-19 pandemic upon re-tendering programmes. However, whilst work is progressing, there is still significant work required to address the backlog of contracts that require re-tendering.

The value of waivers has increased compared to the last reporting waivers (£8.9M vs £3.2M) which has been driven by above £1M waivers being processed within the last reportable quarter. However, the risk profile associated with the waiver sign offs has not increased as a result with broadly similar reporting period values falling into the medium risk category (£3.5M vs £2.9M) and no instances of any High risk waiver sign offs within the last reportable quarter.

All waivers have been subject to a level of financial benchmarking and delivery performance assessment in order to provide best value assurance in the absence of full competitive processes. For all on-going medium to long term requirements, Procurement have engaged with services to plan and implement procurement processes which will bring the contracts back into compliance.

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 - Nov 22 - Jan 23).

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 - Business Process Level

- KPI 3 - Customer Perception

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 3 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:

THIS ITEM IS FOR INFORMATION ONLY
**(Please note that "Information Only" reports do not
require Integrated Impact Assessments, Legal or
Finance Comments as no decision is being taken)**

- 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.

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 from April 2023:

- 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.

From April 2023 the current KPI model will be deactivated and the new 0-5 model will be applied to all contracts with a lifetime value of over £100k from October 2023.

The new model will be implemented along with consistent reporting instance business rules which will be actively monitored by procurement and reported to Directors. This will be coupled with provision of training and support from Procurement. Over the next 6 months consistent application and completion of KPIs is targeted to have improved significantly.

THIS ITEM IS FOR INFORMATION ONLY
(Please note that "Information Only" reports do not require Integrated Impact Assessments, Legal or Finance Comments as no decision is being taken)

KPI Performance Analysis for Nov 22 - Jan 23

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	Oct - Aug 22		Nov 22 - Jan 23	
Total No. Contracts	1599		1624	
Total No. Contracts with KPI Requirement	966	60%	940	58%
Total No. Contracts with KPI Due Assessment in Last Quarter	341	35%	324	34%
Total No. Contracts with KPI Assessed in Last Quarter	89	26%	75	23%
Total No. Contracts Assessed as Red / Poor performance in Last Quarter	1	1%	0	0%
Total No. Contracts Assessed as Amber / Below Satisfactory performance in Last Quarter	1	1%	1	1%
Total No. Contracts Assessed as Green / Satisfactory performance in Last Quarter	42	47%	36	48%
Total No. Contracts Assessed as Gold / Above Satisfactory performance in Last Quarter	45	51%	38	51%

Portsmouth
CITY COUNCIL

Contracts with KPI Requirements

Whilst the majority (940 / 58%) of contracts recorded on the InTend system have KPI reporting requirements applied to them a very significant number do not and it is not immediately clear how the decision to apply the KPI or not is being applied on a consistent basis.

Moving forwards the new 0-5 KPI model will be launched alongside consistent business rules for when KPIs are applied to contract entries and the required frequency of reporting, which as far as possible will run on a quarterly basis in line with G&A&S reporting frequency. Any departure from the business rules will need to be raised with Procurement.

Levels of Performance

No contracts for the quarter covering November 22 to January 23 and only 1 contract has been scored as amber (1%). Further information in respect of which contract has been scored amber along with the rationale for the score is provided within the exempt appendixes referred to below.

36 contracts have been scored as satisfactory (48%) and 48 (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 Nov 22 - Jan 23' and ' EXEMPT - G&A&S - App 4 - Procurement Data Analysis - Nov 22 - Jan 23'.

…………………………………………
Signed by Richard Lock - Assistant Director, Procurement