

Place & Resources Scrutiny Committee

30 March 2023

Commercialisation Transformation Programme

For Review and Consultation

Portfolio Holder: Cllr G Suttle, Finance, Commercial & Capital Strategy

Local Councillor(s):

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Brief Summary:

On 10 November 2022, Place & Resource Scrutiny Committee was presented an overview of the purpose and objectives of the Commercialisation Transformation Programme – “Being more commercially minded”. The report today is expanding on this earlier report to provide further detail, and assurance, on how the programme has set out a corporate approach to contract management to ensure that the Council maximises commercial opportunities and secures optimum value for money in the delivery of goods, services and works.

Recommendation:

This report is seeking that Place and Resources Scrutiny Committee note the progress made under programme and support continuation of embedding best practice contract management to ensure contracts are managed robustly and effectively.

Reason for Recommendation:

The Commercialisation Transformation Programme is wide ranging across the Council to drive organisational culture of “Being more commercially minded” and

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effective contract management is a key element of this through the adoption of some of the positive culture and behaviours of commercial organisations – “Behaving in a more business-like way.”

1. Background

- 1.1 The Council’s [Commercial Strategy - Commissioning and Procurement](#) ①, as approved by Cabinet on 8 November 2021, introduced the [Commercialisation Transformation Programme](#) ① and the concept of “being more commercially minded”.
- 1.2 The Commercial Strategy is grounded in the principles of People, Skills and Development, Effective Commissioning, Strategic Sourcing, Contract Management, Partnership Working, Maximising the Dorset Pound, and the Climate and Ecological Emergency. Commissioning and procurement (especially those of major high value) is significantly valuable in leveraging positive change beyond the Council in line with these principles and our Council Plan objectives – especially for aiding us in transitioning to a cleaner, greener Dorset.
- 1.3 The [Commercialisation Transformation Programme](#) ① defines “being more commercially minded” as four – separate, but connected – themes as illustrated in [Appendix 1](#).
 - **Theme 1 – Behaving in a more business-like way**
Adopting some of the positive culture and behaviours that are associated with commercial organisations
 - **Theme 2 – Being business friendly**
To promote local growth and prosperity
 - **Theme 3 – Commissioning as One Council**
Identify needs, develop service models and the market to meet those needs in the most cost-effective way, as One Council
 - **Theme 4 – Making money**
Doing something that generates profit

2. Contract Landscape

- 2.1 At time of writing this report, the Council’s contract database (Accord) is holding 2131 contract awards, which are made up of a mixture of individual supplier contracts or multiple suppliers awarded to a framework agreement.

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- 2.2 Below are just some of the diverse range of market categories that are contracted by the Council:

Contract Landscape

- 742 x contracts delivering adult services support and provision
- 349 x contracts supporting and delivering public health services
- 293 x contracts delivering children services support and provision
- 261 x contracts supporting highways maintenance and other highway related services
- 123 x contracts related to financial or professional services
- 97 x contracts related to assets and property service/maintenance
- 91 x contracts are IT related - software, infrastructure etc

- 2.3 In addition, there are contracts supporting the delivery of: apprenticeships; coast and greenspace; fleet services; harbours; housing; leisure; libraries; passenger transport; and waste.

3. **Managing Contracts and Suppliers**

- 3.1 In accordance with [Commercial Strategy - Commissioning and Procurement](#) ^② Principle 4 Contract Management, improving contract management is a key deliverable. Over 50% of the Council's budget is third party spend in relation to goods, services, and works therefore it is important that there is assurance, through effective contract management, that the Council attains best value in contracts.

- 3.2 The Council's has set a corporate approach to third-party arrangements however, this does not mean that all contract management is centralised but means that that there is a centre-led approach to support staff who are responsible for managing contracts within business areas.

It is centre lead to ensure that there is an overview of all contracts and spend, with clear ownership of contracts and roles and responsibilities for their management.

- 3.3 Whilst it is important to have the right commercial contracts in place through tactical and strategic sourcing, it is equally important to manage these contracts well to ensure that the best benefits identified by the original business case are realised. Value for money, savings and other benefits result from robust contract management, performance monitoring and good data.

Proactive management of a contract maintains high performance which leads to service enhancement and delivery of outcomes. If a contract is left unmanaged, performance usually declines.

- 3.4 Foundations of contract management are laid during the commissioning and procurement process including specification and setting of service levels and key performance indicators. Approach, roles, responsibilities, and the Contract Manager should be determined at an early stage. This should include what level of contract management is appropriate and whether there is also a supplier relationship management requirement.

Contract Management concerns the management of an individual contract whereas Supply Relationship Management (SRM) concerned the management of a supplier.

Contract Management focuses on the management of supplier's performance under a contract, specifically ensuring the compliance of both the Council and the supplier with the agreed terms of the contract. Using only this approach will be appropriate to arm's length and transactional contracts. However, for contracts that are critical to the Council, SRM will need to be applied in addition to contract management.

- 3.5 Appendix 2 provides details on the guides and resources that are available to contract managers to effectively manage contracts. All these are held within the [Commercially Minded - The Learning Hub](#) ① which was developed to provide a platform to hold templates, tools, resources and training resources to support and promote "Being more commercially minded".

4. **Critical Contracts**

- 4.1 To understand how critical a contract will be to the Council and maximise the benefits from contract management and develop contract management plans, contract risk needs to be determined at the early stages of commissioning and procurement planning.

This is determined by the use of Contract Criticality Assessment Tool (CAAT), refer to Appendix 2, that considers two factors: impact and spend. The most significant contracts will be those that are both high value and high impact, and as such high level of contract management should be invested to mitigate supplier failure.

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5. Staff Training Courses

5.1 The Council recognises that managing a contract well requires specialist skills, including understanding cost and value, negotiating, and procurement and commissioning processes. Ensuring people have the right skills are in place to carry out contract management is essential to release more value from contracts.

5.2 The Council has in place the following formal training which compliments the resources discussed so far in this report.

5.3 Contract Management Training – core offer

The purpose of the course is to develop skills and increase capabilities of contract managers to enable them to manage contracts well and to release more value from contracts. The training encompasses the following modules which includes pre-training case study and mid-course E-Learning.

1. Contract Management Principles

- *governance, managing performance and change, continuous improvement, and value for money*

2. Managing Supplier Relationships

- *assessment models, conflict resolution, communication routes and systems, negotiation, and disputes*

3. Managing Supplier Performance

- *performance indicators (PI), key performance indicators (KPI), management information (MI), targets and payment mechanisms*

4. Applying Contract Terms and Conditions

- *consideration, offer and acceptance, express and implied terms, variation, extension, contract exit and termination, review and lessons learnt process*

Link: [Contract Management | Dorset Council \(learn.link\)](#) ①

5.4 Interactive Commercial Negotiation and Influencing Webinar

The Council needs to be more commercially minded when working with suppliers, particularly in the current financially complex environment, and this may lead to what could be challenging or perhaps uncomfortable

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conversations. The aim of this webinar is to provide staff tools to influence and negotiate, and hopefully grow confidence, when having such conversations. It includes a pre-training case study.

Link: [Interactive Commercial Negotiation and Influencing Webinar | Dorset Council \(learn.link\)](#) ①

This is a core offer for 2023/24 financial year following two successful pilots at the end of 2022.

5.5 Contract Management Pioneer Programme

The Contract Management Pioneer Programme is a collaboration between Department of Levelling Up, Housing & Communities (DLUC), Crown Commercial Services (CCS), Cabinet Officer (CO) and the Local Government Association (LGA) to provide funded learning and development opportunities for contract management professional across local government.

This programme provides Practitioner level training and accreditation over 24 weeks commencing in April 2023. Normally would cost £6,100 per place but the Council secured 6 places free of charge as part of the funded learning.

5.6 Leadership and Management Academy

This is a new Learning & Development offer to support managers of the Council. It is informal in designed to give managers all the information they need, from supporting everyday management tasks to helping develop inspirational leaders.

It is a bank of different resources hosted in new area of The Learning Hub which been linked to the [Commercially Minded - The Learning Hub](#) ① to support managers, as part of the Academy, to “Being more commercially minded”.

6. **Staff Feedback**

- 6.1 Appendix 3 provides staff feedback on the training, resources and tools available. Represents a good mixture of support of the approach and ideas of potential areas of improvement, or gaps.

7. The Procurement Bill

- 7.1 The [Procurement Bill](#) ② under the Government's Transforming Public Procurement Programme, was introduced to Parliament on 10th May 2022 and repeals over 350 individual regulations derived from EU Directives contained in what are four existing statutory instruments and replaces them with a single new procurement regime. It proposes significant major reforms to the rules governing public sector procurement.
- 7.2 This Bill intends to set legislation in respect of contract management, unlike the current Public Contract Regulations 2015 (PCR15), including the requirement for contracting bodies to publish commercial pipelines (both contracts and procurement activity at a minimum of 18 months ahead). It is therefore vital that the Council continues with the Commercialisation Programme – Being more commercially minded, to embed best practice in management of contracts, forward planning commercial activity, and ensure that contract data is recorded in the contracts database.
- 7.3 Currently the Bill is being debated in the House of Commons so there is still a long way to go to Royal Assent, and then afterwards there will be a need for secondary legislation to be made to bring elements of the Bill and the wider regime into effect. It is the current expectation that the new regulations will not come into effect until the beginning of 2024, at the earliest.
- 7.4 Ahead of the Bill, the Government published in June 2021 the [National Procurement Policy Statement \(NPPS\)](#) ②. This policy sets out the Government's strategic priorities of public procurement and how contracting authorities can support their delivery. It is expected, following the Royal Assent of the Procurement Bill, secondary legislation will be laid down for contracting authorities have due regard to the NPPS.

8. Financial Implications

- 8.1 This report is in respect of the progress and development of the Commercialisation Transformation Programme and how it is driving commercial thinking in how the Council's approaches supplier chains in terms of contract management and the adoption of internal training/resources to upskill staff. The purpose being to ensure that the Council attains value for money through contract delivery.

8.2 The approach to managing contract price should be a consideration by the relevant project team as part of the business case / procurement project initiation and sourcing report and rationale at point of procurement, which should be followed through in-contract by means of contract management.

9. **Environmental Implications**

9.1 To be considered by the relevant project team as part of the business case / procurement project initiation and sourcing report and rationale at point of procurement, which should be followed through in-contract by means of contract management.

9.2 In accordance with the Council's [Commercial Strategy - Commissioning and Procurement](#) ^②, such rationale should take into consideration the Council's own local priorities as set out in the Council's [Climate and Ecological Emergency Strategy](#) ^②, and the national priority outcome of "Tackling climate change and reducing waste" as set out by Government's [National Procurement Policy Statement \(NPPS\)](#) ^②. Best practice should also consider application of [PPN 06/21: Taking account of Carbon Reduction Plans in the procurement of major government contracts](#) ^② where relevant and proportionate.

10. **Well-being and Health Implications**

10.1 The Commercialisation Transformation Programme is supporting the development of staff and providing resources/training to "being more commercially minded" therefore benefiting the well-being and health implication within the Council.

10.2 In terms of contracting service delivery, well-being, and health implications to be considered by the relevant project team as part of the business case / procurement project initiation and sourcing report and rationale at point of procurement, which should be followed through in-contract by means of contract management.

11. **Other Implications**

11.1 None

12. **Risk Assessment**

12.1 HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: LOW
Residual Risk: LOW

13. **Equalities Impact Assessment**

13.1 Not applicable in respect of this report however any service change or policy development under the Commercialisation Transformation Programme may be subject to individual Equalities Impact Assessment and considerations.

14. **Appendices**

14.1 Appendix 1 – Being More Commercially Minded

14.2 Appendix 2 – Resources available

14.3 Appendix 3 - Feedback

15. **Background Papers**

15.1 Not applicable