

## **CABINET**

**15 DECEMBER 2020**

### **PROCUREMENT STRATEGY 2021-2025**

Portfolio Holder: Councillor Adrian Gulvin, Portfolio Holder for Resources

Report from: Perry Holmes, Chief Legal Officer

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#### **Summary**

The purpose of this report is to update the Cabinet on the progress made against the 2016-2021 Procurement Strategy and the establishment of a 2021-2025 Procurement Strategy.

This report was considered by the Business Support Overview and Scrutiny Committee on 26 November 2020. The comments of this Committee are set out at section 6 of the report.

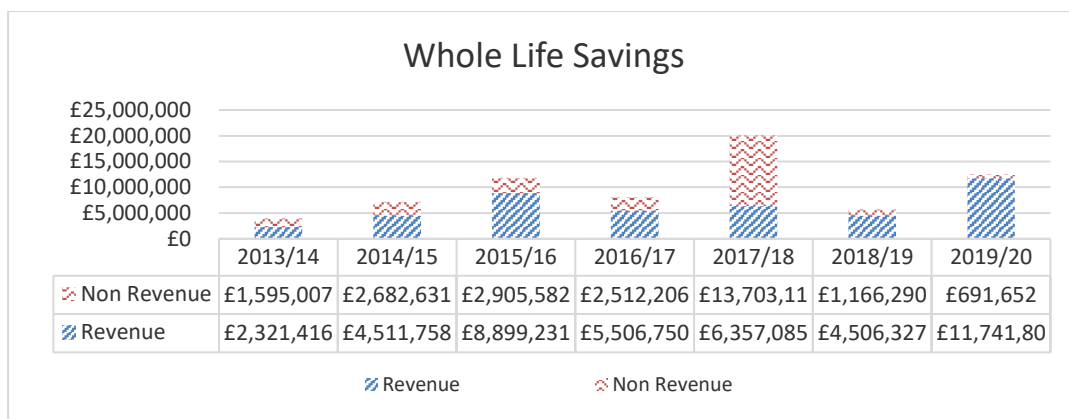
#### **1. Budget and policy framework**

1.1. Procurement is a Cabinet function. The Procurement Strategy was approved by Cabinet in August 2018 and has subsequently been annually reviewed at the Business Support Overview and Scrutiny Committee.

#### **2. Background**

2.1. The Council spends in excess of £230 million each year, which is a mixture of revenue funds and capital/grant monies. It is managed through various forms of procurement and undertaken centrally by the Category Management team. These procurements are approved by Cabinet or under officer delegation in accordance with the Council's Contract Procedure Rules, which in turn form part of the Council's Constitution.

2.2. Since the introduction of the Category Management team, the collective approach has saved the Council in the region of £69million over the life of the awarded contracts as illustrated in the below graph and this has largely been underpinned by the success of the existing Procurement Strategy.



2.3. As the current strategy is coming to a natural end and the practical objectives are all complete as per Appendix 1, this report seeks approval to implement a 2021-2025 Procurement Strategy.

### 3. Covid-19 Pandemic and EU Exit

3.1. Whilst not wholly associated to the establishment of a new procurement strategy, it is worth highlighting the impact of Covid-19 and the United Kingdom's (UK) exit from the European Union (EU) on how we currently procure and how our experience can be used to mitigate likely risks.

3.2. Firstly, Covid-19 has had an unprecedented impact on public sector procurement and will continue to do so for the foreseeable future. Procurement has been at the forefront of supplier relief, Personal Protective Equipment (PPE), and contract negotiations during this time. It has been through the proactive management of suppliers and established relationships that Medway Council has not seen unrecoverable supplier failure.

3.3. The UK's exit from the EU also promises to see changes in the way we procure. The Public Procurement Directives within the EU legal framework have been transposed into UK law and will not fundamentally change come 1 January 2021. What we do expect to see, as already published by the Cabinet Office, are amended paragraphs within the Public Contracts Regulations 2015. It is important to therefore note that the principles of procurement will not change, so for small and medium sized procurements we will use competitive quotes and the Kent Business Portal. But most notably, the way in which we make the larger procurement opportunities available currently through the Official Journal of European Union (OJEU) will change. Final details of those changes are awaited.

3.4. The way in which Medway Council procures vastly reduces the risk of delivery issues. However, we are market dependent with price and that is where we expect to see the largest change in awarded contracts, especially where raw materials are being imported through the supply chain. As this will therefore most likely be a risk associated to capital projects, they will have additional time built into the programme to allow for measures such as value engineering or Early Buyer Involvement to control risks with costs.

## 4. Options

- 4.1. Whilst the 2016 – 2021 Procurement Strategy was launched to ensure that we improve on the previous Strategy and continue to make Medway Council a great Council to do business with, it has, during its longevity, ‘outgrown’ itself. All the originally ambitious targets have been achieved and with organic growth in the arena of procurement, a revised strategy for 2021-2025 needs to take its place.
- 4.2. To achieve this, there are two viable means of establishing a new strategy; we can either (1) implement Medway specific objectives as achieved with the existing strategy or (2) utilise the National Procurement Strategy which would allow us to benchmark and leverage Medway’s performance against a national agenda.
- 4.3. The key drawback with Medway specific objectives is that it only addresses the Council’s evident issues and fails to provide a means of evaluating performance against a wider breadth of organisations.
- 4.4. Conversely, the primary advantage of a national framework is it facilitates a more diverse range of objectives whilst also including what Medway would most likely have considered in isolation, so in turn can create more positive change.
- 4.5. Based on the above two options, the recommendation would be to utilise the National Procurement Strategy.
- 4.6. Using the National Procurement Strategy as the preferred recommendation, Medway Council’s Category Management team undertook a self-assessment against the National Procurement Strategy. The main benefit of this exercise is that Medway can now reflect on its procurement related strengths and weaknesses against the national agenda. The National Strategy has 59 objectives split into 11 sections.
- 4.7. Each of the 59 objectives has a score of one to five provided (with one being the lowest and five the highest) as to where the organisation saw itself. Whilst the meaning of the scores varied per question, they can be summarised as follows:
  1. Minimum – There was no previous or planned action
  2. Developing – Whilst there may be a lack of development, it was seen as an issue and worked upon
  3. Mature – This is effectively the ‘baseline’ for effectiveness, action has been taken to a minimum standard.
  4. Leader – Good practices conducted which yield demonstrable results.
  5. Innovator – This is more forward thinking, all decisions are based on long term impacts with heavy cross-party and consortium based involvement. New concepts being delivered successfully.

- 4.8. Although there are 59 objectives in the National Strategy, the Council may decide not to pursue all of them during the term of the strategy and may otherwise focus on a selection of key areas.
- 4.9. For the purpose of the first year of this strategy, it has been assumed that by scoring at least a '3 out of 5' against an objective, there is no need to include it as part of year one's objective programme. Officers recommend this approach so that the Council can focus on the lowest performing objectives to reach a baseline of '3' across all objectives.
- 4.10. In subsequent years, objectives with more specific benefit to the authority i.e. locally specific targets as opposed to national, can be addressed.
- 4.11. Assuming the above methodology is acceptable, Appendix 2 to the report outlines all objectives with initial scores.
- 4.12. To summarise, the self-assessment the Category Management team assessed the Council as '3', or better against 39 objectives representing 66% of the objectives in the National Procurement Strategy.
- 4.13. Furthermore, the outstanding 20 objectives (34%) each with their own comments and action plans, have been isolated in Appendix 3 and, subject to Member approval, will be the focus of detailed work to improve the Council's performance during year one of the Strategy.

## 5. Advice and analysis

- 5.1. The 2016-2021 Procurement Strategy has allowed us to realise the following benefits:
  - The Council continues to engage with local suppliers and Small and Medium sized Enterprises (SMEs) at an impressive rate, in excess of 75% in 2019/20.
  - We have continued the reduction of the administrative burden on local suppliers and SMEs via standardising our tender documents.
  - We have met and engaged with the voluntary sector to help them be more successful in tender opportunities.
  - The Category Management team is working closely with the Finance team to minimise unnecessary spend within the Council.
  - We have created Frameworks which reduce time for delivery and are being used by other public bodies who pay to use them. This in turn creates a financial income for the Council.
  - The Category Management team constructively challenges services decisions to deliver better outcomes.
  - Developed relationships with external organisations to deliver economies of scale with purchases and better utilise shared resources.
  - The reputation of the Category Management team has improved, and more services are engaging earlier in the procurement cycle.

- The Category Management team has been proactive in delivering corporate requirements, such as Frameworks and Catalogues.
- 5.2. Through horizon scanning, now is an important time to standardise working practices as the impact from the global pandemic plus the UK's withdrawal from the European Union will impact all public sector procurement activity, be it financially or otherwise.
- 5.3. Therefore, by adopting and implementing national frameworks, we will be in the most advantageous position to be able to more closely work with other public sector organisations and help, or be helped with, the development of Medway's procurement deliverables.
6. **Business Support Overview and Scrutiny Committee – 26 November 2020**
- 6.1. This report was considered by the Business Support Overview and Scrutiny Committee on 26 November 2020. The report provided an update on progress made against the 2016-2021 Procurement Strategy and the establishment of a 2021-2025 Procurement Strategy. The comments of the Committee were as follows:
- 6.2. **Impact of the end of the Brexit Transition period for current Council procurement activity** – it was noted that the EU legal framework for procurement had been transposed into UK law (with an abridged version) effective from 1 January 2021. The main change related to the requirement for providing notices of contracts from use of the Official Journal of the European Union (OJEU) into a Finder Tender service which will be a UK bulletin board. The Head of Category Management advised that there had never been interest in any Medway contracts from countries in the EU, EEA or Switzerland.
- 6.3. **Improved working with the voluntary sector** – the Committee was advised of the material contribution made by the voluntary sector in supporting the Council's response to the COVID pandemic some of which had involved varying contracts to create that capacity.
- 6.4. **Capacity to achieve the aspirations in the Procurement Strategy** – the Head of Category Management provided an assurance that while the targets in the Strategy were ambitious he was confident that a score of 3 could be attained against all objectives as detailed within Appendix 3 of the report
- 6.5. **Building on the understanding of the Procurement process by elected Members** – the Committee expressed support for a recommendation that training for all elected Members on procurement should take place and for further discussion to take place on the format and delivery of the training to encourage interest and take-up.
- 6.6. **Social value in procurement** – Members expressed interest in how the Council could maximise the achievement of social value through procurement

activity including training of young people, encouraging diversity, the creation of good quality jobs and safeguarding the environment. The Head of Category Management explained that there was a framework of over 100 social value themes, outcomes and measures (TOMS) to assist the Council to determine social value priorities and then to evaluate impact.

- 6.7. **Developing talent** – the Committee was advised Category Management were a team of six, three of whom had achieved membership of the Chartered Institute of Procurement and Supply and three of whom were studying towards full membership.
- 6.8. **Council engagement with Medway SMEs** – the Head of Category Management provided an assurance to the Committee that activity to regularly engage with SMEs in Medway was ongoing and that project -specific dialogue with local bidders had been found to be more effective than the previous annual Meet the Buyer event run by the Council. Barriers to successful bidding by SMEs had been addressed. For example, procurement documentation had been streamlined and upfront information was provided about generic standards and certification required for each project with careful scrutiny to ensure that project-specific requirements from bidders were appropriate.
- 6.9. In conclusion the Committee noted the achievements of the 2016-2021 Procurement Strategy as outlined in the objectives in Appendix 1 to the report.
- 6.10. The Committee also discussed and noted the proposed utilisation of the National Procurement Strategy for the 2021-2025 Procurement Strategy’s objectives and the proposal that year one of the new strategy should be used to attain a score of 3 against all objectives as detailed within Appendix 3 of the report.
- 6.11. The Committee agreed to recommend the Cabinet to agree that training on the Council’s Procurement Strategy and the associated processes for local authority procurement should be provided for all Members of the Council and that the Chief Legal Officer and the Head of Category Management should develop a proposal for the format and delivery of the training in consultation with the Chairman and Opposition Spokesperson for the Business Support Overview and Scrutiny Committee.

## 7. Risk management

- 7.1. The table below outlines the risk associated with the implementation of the proposed procurement strategy.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Reputational	The Procurement Strategy does not continue to be relevant to the	(1) Periodically update and review the objectives.	D3

Risk	Description	Action to avoid or mitigate risk	Risk rating
	needs of the market, suppliers and residents, service users and the Council's aspirations.	(2) Sharing the outcomes of the strategy for review against progress should keep the Strategy relevant.	

## 8. Consultation

- 8.1. Officers have consulted with their equivalents within other local authorities and a consensus is that the proposed National Procurement Strategy is being more widely adopted.

## 9. Climate change implications

- 9.1. The most objective dense section of the proposed National Procurement Strategy relates to obtaining social value through procurement. Specifically, Objective 33, Social Value TOMS, will be a key objective in attaining a carbon reduction as well as many other social value benefits through the procurement activity.

## 10. Financial implications

- 10.1. Whilst there are no financial implications associated to the establishment of the new Strategy for year one, in subsequent years, seeking attainment of higher scores against select objectives may incur additional expenditure. There could be a point, for example, at which benefit diminishes yet direct cost increases for attaining higher scores, however, these will be addressed as part of the review process.

## 11. Legal implications

- 11.1. There are no direct legal implications relating to this report. However, in the adoption of a new Strategy, the Council needs to ensure that it balances its aspirations for local SMEs with its duty to comply with the Public Contracts Regulations 2015.
- 11.2. Actions proposed to meet the objectives set out in Appendix 3 to the report have the potential to result in actions which may require approval of the Cabinet under the key decision rules.

## 12. Recommendations

- 12.1. The Cabinet is asked to consider the comments of the Business Support Overview and Scrutiny Committee set out at section 6 of the report.

- 12.2. The Cabinet is asked to agree that training on the Council's Procurement Strategy and the associated processes for local authority procurement be provided for all Members of the Council and that the Chief Legal Officer and the Head of Category Management be instructed to develop a proposal for the format and delivery of the training in consultation with the Chairman and Opposition Spokesperson of the Business Support Overview and Scrutiny Committee.
- 12.3. The Cabinet is asked to note the achievements of the 2016-2021 Procurement Strategy as outlined in the objectives in Appendix 1 to the report.
- 12.4. The Cabinet is asked to agree to the utilisation of the National Procurement Strategy for the 2021-2025 Procurement Strategy's objectives.
- 12.5. The Cabinet is asked to agree that year one of the new strategy should be used to attain a score of 3 against all objectives as detailed within Appendix 3 to the report.
- 12.6. The Cabinet is asked to agree to delegate authority to the Chief Legal Officer, in consultation with the Portfolio Holder for resources to progress the actions specified in Appendix 3 to the report, reporting back to the Cabinet to obtain any necessary approvals.

### 13. Suggested Reasons for Decisions

- 13.1. The proposed Procurement Strategy will provide a holistic suite of objectives to ensure the service maintains national awareness but with the ability to focus on local issues effectively.

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#### Appendices

Appendix 1 – 2016-2021 Final Objectives

Appendix 2 – 2021-2025 NPS Objectives Review

Appendix 3 – 2021-2022 Procurement Strategy Objectives

#### Background papers

[2019 Procurement Strategy Progress Report \(minute 454 refers\)](#)

[2018 Procurement Strategy Progress Report \(minute 558 refers\)](#)