

**CODE OF PROCUREMENT
(Report by the Directors of Central Services and
Commerce & Technology)**

1. INTRODUCTION

- 1.1 The purpose of this report is to advise the Panel on the actions taken or planned to promote compliance with the Council's Code of Procurement and/or to promote better procurement practices across the Council's organisation.

2. BACKGROUND

- 2.1 At the last meeting of the Panel the Audit & Risk Manager drew Members' attention to a number of occasions over the past year where reviews have identified breaches of the Council's Code of Procurement. These included –

- ❖ non-compliance with external procurement regulations;
- ❖ awarding further work to contractors who were initially appointed without competition;
- ❖ awarding contracts on the basis of a single tender or quotation where competition could have been achieved;
- ❖ not keeping records of quotations;
- ❖ not recording tender evaluation processes;
- ❖ using non-standard contract terms and conditions without adequate consideration or challenge;
- ❖ the appointment of sub-contractors without competition;
- ❖ not retaining documentation on which tenders were based and evaluated; and
- ❖ contract documentation which does not fully protect the Council's interests.

- 2.2 In making his report, the Panel were advised by the Audit & Risk Manager that from the breaches identified there was no suggestion of corruption or collusion or wrongdoing between contractors and Council Officers.

- 2.3 Over the same period there have also been examples of procurement that comply with the provisions of our Code and which have produced significant savings and enabled service improvements.

- 2.4 As a consequence of these findings, the Directors of Central Services and Commerce & Technology offered to undertake a review of the underlying causes and to suggest actions which could be taken to ensure that similar breaches are discouraged in the future. In so doing, the Directors had in mind that the Code of Procurement has a dual function: to provide a framework which protects the Council's reputation by avoiding alleged or actual malpractice and to provide a framework of good procurement practices to obtain value-for-money

for the Council. The Code is shaped by the overriding laws and regulations such as those established by the European Union.

2.5 Having undertaken the review, there are a variety of reasons, sometimes in combination, why breaches of the Code of Procurement have occurred. These include –

- ❖ a lack of appreciation of the benefits of good procurement/competition;
- ❖ a lack of knowledge about rules and processes;
- ❖ limited forward planning;
- ❖ specifications and budget costs which are led by suppliers;
- ❖ a low appetite for risk, leading to the promotion of incumbent suppliers; and
- ❖ conflicting work priorities - competitive processes can impose additional workload and time demands.

In the majority of cases, these failings in terms of the Code can be summarised as a desire to “get the job done as easily and quickly as possible”.

2.6 In addition, from December this year new regulations come into force which strengthen the impact and increase the penalties for not complying with EU Directives on procurement.

2.7 Two particular initiatives are already underway which will make elements of procurement more streamlined. The first is the increase in the number of purchasing cards which makes internet purchasing available to more services. The second is the introduction of an E-Marketplace early next year which will reduce paper, streamline systems and ensure that competition requirements are complied with. There is potential for the volume of spending on the E-Marketplace to expand but there will be projects and construction schemes which will need to continue to be bespoke procurements.

3. ACTION PROPOSED

3.1 Immediately following the Panel in September, Heads of Service and Senior Managers were instructed to ensure that all procurement was conducted in accordance with the Council’s Code of Procurement, pending a more detailed review. In so doing, they were advised of a number of sources of help and advice if they needed support. They were also invited to comment on measures that could be taken to improve procurement practices and ensure compliance with the Code.

3.2 The proposed developments, set out below, include comments received from Heads of Service, together with suggestions from relevant Officers with responsibility for overseeing compliance with the Council’s legal, financial, procurement and risk activities. Work has started already on some of these initiatives, others will be undertaken in due course and some will continue over the longer-term.

Activity	By Whom	By When
As soon as the Draft MTP is formally approved each December, Heads of Service will be asked to supply expected dates for procurement and the proposed method.	Heads of Service in liaison with the Procurement Manager	January each year
Heads of Service will be asked to identify procurements over £30k that they expect to require within the next 2 years that are not already covered by the MTP exercise above.	Heads of Service in liaison with the Procurement Manager	6 monthly First report April 2010
Both of the above activities will form the basis of periodic procurement reporting to COMT.		
Production of a Procurement Strategy: a succinct document to identify procurement by priority areas and outline the likely processes to be adopted taking into account the EU requirements, non-traditional, standardisation and commissioning etc..	Procurement Manager in conjunction with relevant Managers	April 2010
To provide additional training on - Good practice procurement and compliance overview ❖ Heads of Service and Senior Managers ❖ Other Managers involved in procurement Best procurement Practices and Compliance ❖ Regular "buyers" Update the supporting documentation and guidance already available on the intranet when necessary.	Procurement Manager Support from Heads of Law, Property & Governance and Democratic & Central Services	Training programme commencing in January 2010 and then continuing.
Review the Code of Procurement to make understanding more easy and develop it to reflect internet procurement and the E-Marketplace.	Head of Financial Services	February 2010

4. MONITORING AND REVIEW

- 4.1 The Council already has a number of processes in place, including internal audit reviews, which will continue to monitor compliance with the Council's Code of Procurement, the promotion of good procurement practices and the effectiveness of these additional activities. Further reports will be submitted to the Panel if necessary and will otherwise be highlighted in the Annual Audit Report prepared by the Audit & Risk Manager.

5. CONCLUSIONS AND RECOMMENDATIONS

- 5.1 The Council's Code of Procurement is one of the cornerstones of the Council's Corporate Governance framework and is an important means to ensure that the Council obtains the best value for money from the services it provides. This has been highlighted to all managers which, together with existing and proposed developments will help to achieve these objectives.
- 5.2 Members of the Panel are asked to endorse the developments that are proposed.

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Background Papers

- Annual Audit Report prepared by the Audit & Risk Manager
- Council's Code of Procurement