

Audit Committee

20 November 2023



Report of: Director - Finance

Title: Procurement Compliance update

Ward: n/a

Member Presenting Report: n/a

Recommendation

The Committee is asked to note the data on procurement breaches and the actions underway to improve procurement compliance.

Summary

This report provides an update on non-compliance with the Council's own procurement rules, as well as assurance regarding actions being taken by the Council to improve compliance levels.

The significant issues in the report are:

This report provides an update on non-compliance with the Council's own procurement rules, as well as assurance regarding actions being taken by the Council to improve compliance levels.

Policy

1. Not applicable

Consultation

2. **Internal**
Not applicable
3. **External**
Not applicable

Context

4. When procuring a new contract or amending an existing contract, the Council's own internal Procurement Rules set out:
 - 4.1. What procurement processes can be used in that scenario (procurement route)
 - 4.2. Who needs to give prior authorisation (authorisation)
5. A procurement Breach is when one, or both, of these elements has not been followed.
6. The role of the P&CMS (Procurement & Contract Management Service) is to support and govern procurement and contract management activity undertaken by Officers across the Council. P&CMS's role includes keeping the relevant Cabinet Member informed, as well as reporting on rule breaches to Directors who are ultimately accountable for non-compliance in their Division. P&CMS also liaise with Internal Audit and our external auditors (Grant Thornton) regarding assurance work and investigations regarding procurement compliance.
7. Breaches are defined by the specific procurement rules the Council has chosen to adopt – and are also dependent on the effectiveness of controls, identification and reporting – so it is not possible or meaningful to compare breach numbers between Councils.

The council has incorporated within their Procurement Rules a range of good practice principles which enhance spend controls, financial management and transparency principles which in turn enhance public reporting.

An example: Emergency placements

Most significant financial pressures are being experienced in Adults and Childrens Social Care. In compliance with best practice we recognise that placements need to be made before internal spend approval can be completed. The Procurement rules rightfully make allowances for this by means of the Social Care and Education Placements Procedural Note. However where the breach occurs is if the service wish to extend a provision but fail to engage with P&CMS and enter into and extended contract without enabling the proper justification and contractual decisions being made without taking into account the need to evidence value for money, which inturn results in non-compliance with the Council's procurement rules.

Whilst it maybe considered that these rules we have adopted by the administration they demonstrate good practice, compliance and transparency. If they are not followed each procurement breach means the Council's internal governance controls have not been followed in some way, so the Council's target must ultimately be for there to be zero breaches.

8. The number of procurement breaches has been identified as a significant weakness and has

been part of audit findings for the last 3 years, most recently including the Grant Thornton Annual Report on Bristol City (14 July 2023) which recommended that “The Council should consider what further action is required to reduce the number and value of contract breaches”.

9. CLB has made procurement compliance a priority, and actions have been agreed to reduce breach numbers. The tables 1 and 2 below summarise the actions agreed and their current status.
10. Table 1 relates to the management actions summarised in the Annual Governance Statement and Value For Money Review for implementation 2023/24.

Table 1

Action	Status
Compliance will be part of the mandatory performance objectives for all Heads of Service in 2023/24.	In place
Quarterly Director Management Team (DMT) (by request) & Executive Director Meetings (EDM) will have regular attendance by procurement business partners	In place
Additional specific quarterly reports on procurement compliance to EDMs, Corporate Leadership Board (CLB) and Cabinet	In place
Overview of future procurement activity will be part of induction for new officers with commissioning responsibilities	In progress
Greater Executive Director accountability for compliance	In place
Explore system development and Power BI reporting to increase visibility of contract end dates and spend monitoring	In progress
<ul style="list-style-type: none"> • Oversight in 2023/24 will be through CLB (weekly updates) • Ongoing review by Internal Auditors • Further updates to be provided to Audit Committee 	In place In place In place

In addition to the actions listed above, Table 2 gives details of additional actions which have been agreed:

Table 2

Action	Status
Organisational annual performance objective to ‘Comply with Management Requirements - procurement rules and regulations’.	In place
Action plans for breaches presented to CLB by each Exec Director CLB 24 Oct 2023	In place
Procurement compliance e-learning developed and officers enrolled	In place
Live breach dashboard made available to Directors, including detailed data on circumstances, root causes and risk factors	In place
Weekly reports on breaches being sent to CLB	In place
Decision-making process and system for children’s social care placements redesigned to embed procurement engagement and sign-off and thereby avoid breaches	In place
Work underway to redesign decision-making processes in the following areas, to embed procurement authorisation and thereby avoid breaches: <ul style="list-style-type: none"> • Adult Social Care • Children’s (in place Oct 2023) • Education • Construction contracts 	In progress
Giving Heads of Service greater visibility of contract register and procurement pipeline	In progress

Contract management framework, system and training available, including redesigned training to support adoption of the Contract Management system	In place
HR support for Exec Directors regarding taking disciplinary action when necessary	In progress

- 11.** There were a total 342 breaches in FY22/23 and 125 in Q2 2023/24.
Reported breach numbers have been affected by work by the P&CMS over that period to tighten controls and improve breach identification. The level of overall procurement activity also has an impact on the absolute numbers of breaches.
- 12.** For context, there were a total of 2133 procurement decisions made in FY22/23 of which 342 were breaches (around 16%).
- 13.** We have had significantly lower breach numbers than last year but that numbers are still high. Predominantly in Childrens Social Care – due to Education clearing of the backlog of Educational Health & Care Plans which are beyond 20 weeks which require retrospective actions, and Children Social Care significant increase in the need for emergency changes to placements.
- 14.** Exec Directors have put action plans in place to reduce breach numbers in their area. Breaches are being actively monitored on a weekly basis at CLB. Several of the actions require working practices, culture and systems to be redesigned. Periodic reports to Audit Committee. Internal Audit follow up review. This work is underway but may take some time to take effect particularly in needs led operational areas, such as Procurement frameworks, changes in processes and systems and a lack of resources and capacity within agencies outside of the Council.

Good Progress has been made to reduce the number of breaches but focus remains on reducing further, this is supported by good engagement and full ownership by the Senior Leadership Team and Members and Service areas.
- 15.** Full numbers of breaches will be provided at an end of year report for the Committee and External Audit.

Proposal

Note the report being presented

Other Options Considered

Not applicable

Risk Assessment

Not applicable – no decision being taken

Summary of Equalities Impact of the Proposed Decision

- 16.** Not applicable. No EQIA undertaken, as this report is not requiring a decision to be made.

Legal and Resource Implications

Legal

Not applicable – no decision being taken

(Legal advice provided by n/a)

Financial

(a) Revenue

Not applicable – no decision being taken

(b) Capital

Not applicable – no decision being taken

(Financial advice provided by n/a)

Land

Not applicable

Personnel

Not applicable

(Personnel advice provided by n/a)

Appendices:

none

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

none