

Audit Committee

29 January 2024



Report of: Director Finance

Title: Procurement Compliance update

Ward: n/a

Member Presenting Report: n/a

Recommendation

Committee 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.
8. 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 may sometimes need to be made at very short notice to safeguard vulnerable individuals, and the Procurement rules rightly make allowances for the auditable decision to follow on as soon as reasonably practical after the emergency placement has been made, without this being a breach. An example of when a placement could result in a breach would be if the service area extends a contractual commitment without first engaging with P&CMS. This would mean the contractual decision had been entered into without undergoing the proper scrutiny to ensure that the decision was justified, within budget and evidenced value for money.

9. The procurement rules were adopted by the administration, and incorporate good practice, compliance and transparency. 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.

10. 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”*.
11. 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.
12. 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 place
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	Explored/ alternatives (see table 2) being considered
<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, Data Academy apprenticeships, Mandatory induction for commissioning lead	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 and accessibility of appropriate newly commissioned frameworks in the following areas Adult Social Care (go live January 2024) , to embed procurement authorisation and thereby avoid breaches:	Partial

<ul style="list-style-type: none"> • Children’s (in place Oct 2023) • Education (in progress) • Construction contracts (in progress) 	
Giving Heads of Service greater visibility of contract register and procurement pipeline	In place
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 place

13. There were a total 342 breaches in FY22/23 and have been 179 in Q1-Q3 2023/24.
14. 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.
15. In Q1-Q3 2023/24, there have been 1859 decisions made, of which 179 were breaches (around 10%).
16. The number of breaches is therefore significantly lower than last year but is still high. Numbers are particularly high in Childrens and Education, this is against a backdrop of significant pressures in these areas. This includes budget overspend due to service demand being above the initial budget resulting in additional unplanned/unavoidable spend.
17. Exec Directors have put action plans in place to reduce breach numbers in their area and progress is being actively monitored on a weekly basis at CLB.
18. Several of the actions require working practices, culture and systems to be redesigned. In some areas, work has been completed to redesign and strengthen decision-making processes to bring P&CMS engagement further upstream and this has started to bring breach numbers down. Other remedial actions such as setting up new procurement frameworks and other process/system changes may take longer to take effect, particularly in the context of needs-led sectors which are suffering from a lack of resources and capacity.
19. Progress has therefore been made to reduce the number of breaches but focus remains on reducing this further. This is supported by good engagement and full ownership by the Senior Leadership Team, Members and Service areas.
20. To support this engagement, periodic reports have been submitted to Audit Committee, in addition to reviews by Internal Audit.
21. 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

22. 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