


<b>Individual Commissioner Decision Proforma</b>  Decision Log No: ____	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Acting Corporate Director Resources	<b>Classification:</b> Unrestricted
<b>Secretary of State's Direction – Procurement Action Plan</b>	

<b>Is this a Key Decision?</b>	<b>No</b>
<b>Decision Notice Publication Date:</b>	30 <sup>th</sup> January 2015
<b>General Exception or Urgency Notice published?</b>	<b>Not required</b>
<b>Restrictions:</b>	(If restricted state which of the exempt/confidential criteria applies)

## EXECUTIVE SUMMARY

On the 17<sup>th</sup> December 2014 the Secretary of State for Communities and Local Government issued a series of directions, under sections 15(5) and (6) of the Local Government Act 1999 to the Council to secure compliance with its best value duty.

This report, in accordance with Direction No.7 of those directions sets out a Procurement Action Plan that further strengthens processes already recognised by PricewaterhouseCoopers in their inspection report of 16<sup>th</sup> October 2014, and also takes account of changes to the Local Government Transparency Code 2014 and to European Union procurement regulations, whilst continuing to recognise the importance social value considerations, as set out in the Public Services (Social Value) Act 2012.

This is an urgent report because the direction issued on the 17<sup>th</sup> December required the Council to prepare the plan, in consultation with the Commissioners, no later than the 1<sup>st</sup> February 2015

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; **and other relevant matters are set out in the attached report.**

**DECISION**

1. Agree the Procurement Action Plan attached as Appendix A for submission to the Secretary of State for Communities and Local Government, in order to comply with Direction No.7 of the directions exercised by the Secretary of State on 17<sup>th</sup> December 2014

.....  
.....

**APPROVALS**

1. **(If applicable) Corporate Director proposing the decision or his/her deputy**

I approve the attached report and proposed decision above for submission to the Mayor.

Signed ..... *C. Lane* ..... Date *30/11/15*

2. **Chief Finance Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

Signed ..... *C. Lane* ..... Date *30/11/15*

3. **Monitoring Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

~~(For Key Decision only – delete as applicable)~~

~~I confirm that this decision:-~~

- ~~(a) has been published in advance on the Council's Forward Plan OR~~
- ~~(b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.~~

Signed ..... *[Signature]* ..... Date *30/01/15*

**4. Mayor**

I agree the decision proposed in paragraph above for the reasons set out in the attached report.

Signed  ..... Date 30/01/15 .....

**5. Commissioner**

I agree the decision proposed in paragraph above for the reasons set out in the attached report.

Signed ..... Date .....

**ALL INFORMATION BEYOND THE HEADINGS ABOVE SHOULD BE INCLUDED IN A REGULAR CABINET STYLE REPORT THAT SHOULD BE APPENDED TO THE PROFORMA.**


**A – NOTES ON COMPLETING THIS FORM**

- **Delete this page onwards before submitting your decision.**
- This form is only to be used where the signature of the Head of Paid Services (HoPS) is not required. Should his signature be required please use the other form.
- Please delete any guidance notes in square brackets [ ] before submitting your form for signature.
- The decision log number will be hand written onto the form on completion by Democratic Services so you do not need to find this out early on.

**B – NOTES ON EXECUTIVE DECISION MAKING**

1. Key Decisions – where a Key Decision is to be taken it must be published in the Forward Plan. Please ensure that this has happened, or fill in the FP1/FP3 form as necessary.
2. All Commissioner decisions shall be:-
  - (i) Recorded in a log held by the Service Head, Democratic Services and available for public inspection; and
  - (ii) Published on the Council's website

save that no information that in the opinion of the Head of Legal Services is 'exempt' or 'confidential' as defined in the Council's Access to Information Procedure Rules shall be published, included in the decision notice or available for public inspection.

<b>Commissioner Decision Report</b> 30 <sup>th</sup> January 2015	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Chris Holme – Acting Corporate Director, Resources	<b>Classification:</b> Unrestricted
<b>Secretary of State’s Direction – Procurement Action Plan</b>	

<b>Lead Member</b>	<b>Cllr Alibor Choudhury – Lead Member Resources</b>
<b>Originating Officer(s)</b>	Chris Holme
<b>Wards affected</b>	All
<b>Key Decision?</b>	No
<b>Community Plan Theme</b>	<b>One Tower Hamlets – Work efficiently and effectively as One Council</b>

### **Executive Summary**

On the 17<sup>th</sup> December 2014 the Secretary of State for Communities and Local Government issued a series of directions, under sections 15(5) and (6) of the Local Government Act 1999 to the Council to secure compliance with its best value duty.

This report, in accordance with Direction No.7 of those directions sets out a Procurement Action Plan that further strengthens processes already recognised by PricewaterhouseCoopers in their inspection report of 16<sup>th</sup> October 2014, and also takes account of changes to the Local Government Transparency Code 2014 and to European Union procurement regulations, whilst continuing to recognise the importance social value considerations, as set out in the Public Services (Social Value) Act 2012.

This is an urgent report because the direction issued on the 17<sup>th</sup> December required the Council to prepare the plan, in consultation with the Commissioners, no later than the 1<sup>st</sup> February 2015

### **Recommendations:**

The Commissioners are recommended to:

1. Agree the Procurement Action Plan attached as Appendix A for submission to the Secretary of State for Communities and Local Government

## **1. REASONS FOR THE DECISIONS**

- 1.1 Decision is required in order to submit the action plan to the Secretary of State by the 1<sup>st</sup> February to comply with Direction no.7 of those issued to the Council by the Secretary of State on the 17<sup>th</sup> December 2014.

## **2. ALTERNATIVE OPTIONS**

- 2.1 Fail to comply with the Direction. This may have reputational issues for the Council

## **3. DETAILS OF REPORT**

- 3.1 The Council procures annually some £350m of supplies and services with a current supplier base of approximately 3,500 suppliers. The governance arrangements undertaking such buying decisions are set out in the Council's Procurement Rules, which form part of Financial Regulations. These rules were strengthened at the beginning of 2014, following an end-to-end review, and under the new arrangements all procurements over £25,000 undertaken by directorates must be progressed in association with the Corporate Procurement Team within the Resources Directorate.
- 3.2 Following publication of the PricewaterhouseCoopers (PwC) inspection report in November 2014, and having received subsequent representations from the Council, the Secretary of State issued a series of directions to the Council under sections 15(5) and (6) of the Local Government Act 1999. The directions have been issued, to satisfy the Secretary of State that the Council is able to demonstrate compliance with its best value duty in accordance with Part 1 of the 1999 Act.
- 3.3 With regards to contracts and procurement processes, which were subject to the PwC best value inspection established by the Secretary of State in April 2014, the findings of that inspection did not find a failure to comply with the duty of best value. This was recognised by the Secretary of State in making his determinations. Furthermore PwC stated that in their opinion the Council's written procurement policies and procedures were sound, and had been improved just prior to their inspection.
- 3.4 A number of areas of concern were however raised including:
- Absence of signed contracts in a number of cases
  - Lack of audit trails, and evidence of tollgate reviews in some procurement documentation
  - Maintenance of a comprehensive contract register including lower value contracts
  - Adherence to procurement procedures in some areas, and corporate monitoring arrangements to ensure compliance

- Some failures to provide bidders with information regarding criteria for evaluation of bids
  - Delays in the letting of some contracts
- 3.5 Although the Secretary of State accepted PwC's conclusion that the findings did not constitute a failure in the Council's best value, he remained of the view that there was a risk such a failure could occur, and that PwC's findings with regard to adherence to policies and procedures was key in issuing the Direction
- 3.6 The attached action plan incorporates measures to address the concerns, outlined in para. 3.3 above, whilst also supporting the delivery of Mayoral aspirations regarding local economic development and ethical considerations, and also responding to the changing landscape of contracts reporting EU procurement rules. The actions set out in Appendix A will build on progress made in making processes more transparent and accessible for local businesses. Our work to date in this area has already been recognised by award of the National Government Office (GO) Excellence in Public Procurement Innovation/ Initiative of the Year Award in March 2014. Furthermore the Council was accredited in June 2014 for its commitment to securing the London Living Wage into contracts.

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1. Whilst agreement to the action plan itself has no immediate financial implications, implementation of some of the actions will have. These will be considered as approved, progressed and reported accordingly.
- 4.2. The actions are intended to further strengthen governance arrangements and processes to demonstrate delivery of best value with regard to outcomes arising from procurements across the Council.

#### **5. LEGAL COMMENTS**

- 5.1. The Council is obliged, as a best value authority under section 3 of the Local Government Act 1999, to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". The arrangements which the Council adopts for procurement and contract management are key to this duty, given the clear potential to deliver efficiencies.
- 5.2. The Council is required to consult for the purposes of deciding how to fulfil its best value duty. This obligation was the subject of consideration in the case of *R (Nash) v Barnet LBC*. Some guidance was given in the High Court to the effect that it is not every time an authority makes a makes a particular operational decision, by way of outsourcing or otherwise, that it is required by section 3 to consult about that decision. The High Court thought that consultation about "the way in which" it performs its functions connotes high-level issues concerning the approach to the performance of an authority's functions.

- 5.3. It is unlikely that the action plan itself is such as to require consultation, but consideration will need to be given to whether any of the proposed actions (e.g. adoption of a new procurement strategy) would need to be consulted upon.
- 5.4. In carrying out its functions, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty). A proportionate level of equality analysis is required in order to inform consideration of these matters. It is unlikely that the action plan itself will give rise to any significant equality impacts, but further consideration should be given to the impacts of each action before they are implemented.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1. The action plan compliments key actions and milestones set out in the Council's strategic plan.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 The Council's procurement processes require consideration of sustainability issues. Those considerations are not affected in the attached improvement plan.

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1. Supply chain failure is identified as a corporate risk. The plan sets out specific actions with regard to contract management to help mitigate.
- 8.2. Adherence to policies and procedures –the improvement plan sets out a number of actions to ensure compliance, and mitigating inherent risks.

## **9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 9.1 None

## **10. EFFICIENCY STATEMENT**

- 10.1 Robust and transparent procurement procedures the support delivery of best value outcomes.

## **11. Safeguarding Implications**

- 11.1 None
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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- PwC Best Value Inspection of London Borough of Tower Hamlets – October 2014

### **Appendix A**

- Procurement Action Plan

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- None

### **Officer contact details for documents:**

- Chris Holme

Appendix 1

**Procurement Action Plan Arising from the Best Value Audit**

Recommendation	Current Status	Action	Assigned to	Timeframe
<b>1. Strategy and Vision</b>				
New Procurement Strategy	<ul style="list-style-type: none"> <li>Existing Procurement Policy Imperatives – expires end of 2015</li> </ul>	<ul style="list-style-type: none"> <li>New three year Procurement Strategy to go live from January 2016.</li> </ul>	Chris Holme / Zamil Ahmed	Sept 2015
New Supplier Ethical Code of Conduct	<ul style="list-style-type: none"> <li>Existing ethical code of conduct is outdated.</li> </ul>	<ul style="list-style-type: none"> <li>New Ethical Code of Conduct to be updated to reflect legislative changes, Council policies and procurement best practice.</li> </ul>	Chris Holme / Zamil Ahmed	Sept 2015
<b>2. Organisational Development</b>				
Leadership and strategic alignment of procurement with Finance Director/s 151 Officer, Executive and elected member champion for procurement	<ul style="list-style-type: none"> <li>Quarterly contracts forward plan report to Cabinet.</li> </ul>	<ul style="list-style-type: none"> <li>An annual procurement report to senior managers, Cabinet and Overview and Scrutiny on procurement practices, outcomes and developments across the organisation.</li> <li>New procurement training programme for elected members.</li> </ul>	Chris Holme / Zamil Ahmed	Dec 2015
Central monitoring of contracts and compliance to Council's Procurement Procedures	<ul style="list-style-type: none"> <li>Existing procurement model is being reviewed to strengthen the compliance role of central procurement service.</li> <li>Centre Led model with contracts and commercial management role is being developed.</li> </ul>	<ul style="list-style-type: none"> <li>Business case for increasing compliance through procurement re-organisation to be developed.</li> <li>New operating model to go live from September 2015.</li> </ul>	Chris Holme / Zamil Ahmed	Sept 2015
New procurement training programme to develop procurement knowledge and skills across the organisation	<ul style="list-style-type: none"> <li>Bespoke training has been piloted in D&amp;R /CLC / THH</li> <li>Seven workshops held with 107 attendees.</li> </ul>	<ul style="list-style-type: none"> <li>New procurement training programme to be launched to build better procurement competencies across the organisation by ensuring staff are equipped with the knowledge, training and practical skills needed to derive maximum benefit from procurement practices.</li> <li>Completion of training to be mandated for all officers with procurement and</li> </ul>	Chris Holme / Zamil Ahmed	Sept 2015

3. Governance, Systems and Procedures		commissioning responsibilities.	
A central register of all contracts	<ul style="list-style-type: none"> <li>Contracts over £25k recorded centrally</li> <li>No corporate visibility of contracts below £25k</li> <li>RCDA process and guidelines has been updated.</li> </ul>	<ul style="list-style-type: none"> <li>New central contracts register linked to contract award being developed to capture all contracts above £25,000, including all RCDA and linked to spend to increase compliance and minimise use of RCDA.</li> </ul>	Chris Holme / Zamil Ahmed Apr 2015
Reconciliation of contracts listing to financial data	<ul style="list-style-type: none"> <li>Annual spend analysis completed and presented to Competition Board</li> <li>All transactions over £25k channelled to procurement category managers for review and approval</li> <li>Resources Procurement dashboard completed.</li> </ul>	<ul style="list-style-type: none"> <li>Implementations of directorate Procurement dashboards to identify opportunities for collaboration and identify drive further savings from Councils third party spend</li> <li>Improved Finance and Procurement controls to increase compliance and transparency of spend across the organisation.</li> </ul>	Service Head Finance and Procurement May 2015
Clear audit trails in place for all procurement activity in accordance with the Procurement Procedures.	<ul style="list-style-type: none"> <li>Full audit trail available for contracts above £25k</li> <li>No corporate visibility or assurance on below £25k procurement activity</li> <li>Standard Toolkit introduced but does not address compliance issues</li> </ul>	<ul style="list-style-type: none"> <li>Review of existing Procurement thresholds to comply with Transparency Code requirements.</li> <li>Automate all procurement over £5k through the e-tendering portal and publish as part of Transparency Code</li> <li>Link to central contracts register</li> <li>Declaration of interest from staff involved in the procurement process centrally captured.</li> </ul>	Chris Holme/ Zamil Ahmed Jan 2016
Availability of signed contracts	<ul style="list-style-type: none"> <li>Absence in a significant number of cases of signed contracts</li> </ul>	<ul style="list-style-type: none"> <li>Undertake a review of the current status on signed contracts.</li> <li>Explore the possibility to deliver contracts by electronics means (e-tendering) to create a central repository of signed contracts.</li> </ul>	Legal Services/ Procurement Apr 2016
Delegation and appropriate Member Engagement	<ul style="list-style-type: none"> <li>Review of contracts award approval process completed and presented to CMT</li> </ul>	<ul style="list-style-type: none"> <li>New guidelines and executive member engagement in contracts award to be presented to MAB.</li> <li>New procurement training, reflecting new guidelines, programme for executive</li> </ul>	Chris Holme/ Zamil Ahmed Apr 2015

		members (as per timescale set out in action 2).		
<b>4. Category Management</b>				
Review of third party and commissioned spend	<ul style="list-style-type: none"> <li>A full category management analysis of the Councils third party spends is underway.</li> </ul>	<ul style="list-style-type: none"> <li>Complete spend analysis to Identify key categories of third spend and have a clear category management strategy in place to ensure value for money (VFM) for these categories of spend, reduce costs and oversupply.</li> <li>Directorate and corporate spend dashboards to be developed to support savings challenge programme.</li> </ul>	Chris Holme/ Zamil Ahmed	Sept 2015
<b>5. Commercial, Contracts &amp; Risk Management</b>				
Partnering and Collaboration	<ul style="list-style-type: none"> <li>A Procurement Gateway Process (Tollgates) is in place which ensures appropriate challenge in the procurement process for collaboration and partnering.</li> </ul>	<ul style="list-style-type: none"> <li>All significant procurements are assessed pre-procurement to identify the optimum route to market.</li> </ul>	Competition Board / Zamil Ahmed	March 2016
Develop a corporate approach to contract management to ensure best value and effectiveness from supply chain through better relationship management.	<ul style="list-style-type: none"> <li>No standard corporate approach to contract and commercial management.</li> <li>Workshops with officers from across organisation completed and findings have been presented to Competition Board.</li> </ul>	<ul style="list-style-type: none"> <li>Integrate contract management within the Councils procurement and commissioning models</li> <li>Implementation of a contract management procedure /toolkit to facilitate contract monitoring to ensure consistency on contract management, performance and raise the standard of contract management across the Council.</li> </ul>	Chris Holme/ Zamil Ahmed	Jan 2016
Supply Chain Risk Management to be integrated into Procurement processes.	<ul style="list-style-type: none"> <li>Assessment of new tool to monitor financial risk management of key contractors is currently underway</li> </ul>	<ul style="list-style-type: none"> <li>High value and strategic contracts to be identified and monitored centrally to minimise failure of Councils Supply Chain.</li> <li>Supply Chain resilience risk (pre and post appointment) to be introduced and monitored through Competition Board.</li> </ul>	Chris Holme/ Zamil Ahmed	March 2015