

Audit Committee



26 September 2024

Title	Procurement Internal Audit Recommendations Progress Update
Purpose of the report	To note
Report Author	Karen Limmer Interim Group Head of Corporate Governance
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	N/a
Corporate Priority	Services
Recommendations	<p>Committee is asked to:</p> <p>Note the progress in relation to the Procurement Internal Audit Progress Review Update and the Implementation of the Procurement Act 2023</p>
Reason for Recommendation	This is a report to update Members on the previous report to this Committee on 29 January 2024.

1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none"> The Audit Committee has requested an update on the Procurement Audit. 	<ul style="list-style-type: none"> As part of the Council's assurance and risk framework, the Audit Committee needs to note the actions taken to date and yet to be taken.
This is what we want to do about it	These are the next steps
<ul style="list-style-type: none"> To ensure Audit recommendations are being implemented. To understand the planning for the implementation of the Procurement Act 2023. 	<ul style="list-style-type: none"> An audit of the implementation of the Procurement Act 2023 is scheduled to be carried out in Q3 of this year and will be reported to members.

1.1 This report seeks to inform the Audit Committee of the actions taken in relation to the Audit since the last report to Committee on 24 January 2024 and the planned implementation of the Procurement Act 2023.

2. Key issues

2.1 Implementation of the Procurement Act 2023

2.2 The new Act comes into force on the 28 October 2024. The Act has replaced the Public Contracts Regulations 2015 as from that date but any procurements commenced before then will continue to be subject to the PCR 2015 as part of the transitional provisions.

2.3 An audit of the implementation of the Act is scheduled for Q3 2024 which will be carried out by the Southern Internal Audit Partnership, the Council's external internal audit service provider

2.4 It is therefore necessary to prepare for the new regime commencing with training open to all officers held in August and a separate training session for all Members. Members will be updated on the arrangements for this. Officers are reviewing Contract Standing Orders, together the new guidance documents for staff and template documentation as appropriate. A refreshed officer Procurement Group is being set up to take a view of procurement activity and to monitor compliance and issues such as cashable savings. Recruitment to the Corporate Procurement Manager post has now been successful and she will commence her employment on 1 October.

2.5 The most significant areas of change are:-

- (a) Transparency: there are many more notices (25 in total) that the Council will need to be publish about any procurement and the lifetime of the contract
- (b) Procurement Processes: new flexibilities, subject to limits, to design bespoke procurement processes
- (c) Supplier debarment list: the possibility of supplier debarment where mandatory or discretionary exclusion criteria apply
- (d) New vocabulary: there is a new vocabulary associated with the Act. For example, the award criterion will change from Most Economically Advantageous Tender (MEAT) to Most Advantageous Tender (MAT).

2.6 As mentioned above, training is being arranged for all Members so that they begin to get familiar with the new regime and vocabulary, prior to the reporting back of the Implementation Audit as planned by SIAP.

2.7 As a consequence, it is necessary to revise Contract Standing Orders and these are being brought forward to ultimately be presented to full Council on 24 October 2024. There is a new concept of 'below threshold' tenders which are above £30,000 in value and below £214,904, including VAT. This needs to be reflected in the revised CSO's.

2.8 For officers, a completely revised set of guidance will need to be drafted and placed on Spelnet. This also means that new procurement documentation will have to be drafted for contracts that are above the threshold for goods or services procurements which is £214,904 including VAT over the lifetime of the contract, and similarly for works contracts, £5,372,609 including VAT. The Procurement Unit of the Cabinet Office has also recently issued a suite of

guidance documents addressing all aspects of the new regime, covering subjects from transitional arrangements and covered procurement through to pre-market engagement, award rules, exclusions and contract modifications.

- 2.9 The transparency requirements involve the publication of up to twenty-five notices at various stages of the process, compared to the three mandatory ones under the current regime.
- 2.10 The Act also imposes new obligations in relation to matters such as record keeping, key performance indicators for contracts valued over £5m, use of a single digital platform for supplier registration, contract modifications and a formal conflicts assessment procedure ahead of publication of a Tender Notice, to name but a few.
- 2.11 In preparing for this implementation, there is some overlap with the previous audit recommendations and this needs to be borne in mind.

Update on Internal Audit Recommendations

- 3.1 In the Internal Audit there are a number of recommendations that are partially implemented but will soon be subsumed into the requirements of the Procurement Act.
- 3.2 As mentioned, there will be new Contract Standing Orders to be approved by full Council and disseminated to all staff.
- 3.3 There will be a new landing page on Spelnet, on the front page, with the new advice and guidance for officers.
- 3.4 With the new CSO's, there will be some new procedures to reflect the new statutory requirements for advertising. The Procurement Team will be responsible for placing the statutory Notices and will therefore need to be fully aware of all prospective procurements that fall within the Act or the CSO's. the officer Procurement Group will have responsibility, within its terms of reference to ensure compliance with the rules, including such matters as signing.
- 3.5 The advice on managing contracts will also be updated to take into account the new rules as greater transparency will be needed, and the team will work with the Transformation Team on the publication of data.
- 3.6 The Exemptions procedure is to be reviewed and tightened up.
- 3.7 Further work on the contracts e-tendering system is needed as it will need to tie into the Government Procurement platform and the transparency requirements under the Act.

3. Options analysis and proposal

- 3.1 Do Nothing (not recommended) doing nothing would mean that the required improvements and planned implementation are not implemented.
- 3.2 Committee notes and agrees the actions taken and planned (recommended) the Procurement Team will continue to work through the planned actions to implement the Act and those outstanding from the Audit where they have not been changed by legislative requirements. Internal Audit will be monitoring progress.

3.3 Committee notes the actions taken and planned, and proposes alternative and/or additional actions The Committee may wish to propose further actions where, in their opinion, these will address the Audit recommendations more appropriately.

4. Financial management comments

4.1 There is a requirement to achieve value for money across the Council and, in particular, with expenditure through procurement activity.

4.2 The Finance team will play a crucial role in building identified cashable savings into budgets.

5. Risk management comments

5.1 The issues set out above already highlight the areas of risk for the Council.

5.2 The Report sets out how the Procurement Team is taking forward the internal audit recommendations and the implementation of the Procurement Act 2023.

6. Procurement comments

6.1 Procurement comments form the basis of this report.

7. Legal comments

7.1 The Council is required to comply with the provisions of the Procurement Act 2023.

8. Other considerations

8.1 No other considerations that those set out above are asked to be taken into account.

9. Equality and Diversity

9.1 The council's Policies and Procedures are designed and intended to allow equal access to any procurement and contract opportunities offered by the Council.

10. Sustainability/Climate Change Implications

10.1 The Council's policies and procedures are designed and intended to consider sustainable sourcing and to minimise climate change wherever applicable.

11. Timetable for implementation

There is a statutory deadline for the implementation of the Procurement Act 2023 and a scheduled audit planned for Q3.

12. Contact

12.1 Karen Limmer K.Limmer@spelthorne.gov.uk

Background papers:

[Interim Audit Report November 2023.pdf \(spelthorne.gov.uk\)](#)

Audit Committee Report dated 29 January 2024: Procurement Internal Audit Recommendations Progress Review [Procurement Internal Audit Recommendations Progress review.pdf \(spelthorne.gov.uk\)](#)

