

	<h2>Performance and Contract Management Committee</h2> <h3>12 September 2017</h3>
<p style="text-align: right;">Title</p>	<p>Procurement - reviewing changes to wider procurement procedures</p>
<p style="text-align: right;">Report of</p>	<p>Procurement transformation lead Customer and Support Group</p>
<p style="text-align: right;">Wards</p>	<p>All</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Urgent</p>	<p>No</p>
<p style="text-align: right;">Key</p>	<p>No</p>
<p style="text-align: right;">Enclosures</p>	<p>None</p>
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<h2>Summary</h2>
<p>A procurement exercise was undertaken for an Adults enablement homecare service in 2016. A new supplier was selected, as a result of a compliant procurement exercise and contracted to perform the services.</p> <p>The selected supplier failed to perform the duties set out at a very early point in the contract, with particular failings identified in the service transfer, mobilisation, and implementation phase of the contract.</p> <p>Following the Performance and Contract Management Committee meeting on 15 November 2016 a review report was presented to Adults and Safeguarding Committee on 23 January 2017. The service review of the provision of the adult enablement homecare service was also reported to the Performance and Contract Management Committee Agenda on 27 February 2017.</p> <p>As a result of this supplier failure a lessons learnt exercise was conducted and procurement procedures have been reviewed. This paper sets out 7 improvements which have been identified for future procurements and contract mobilisation of new services.</p>

Recommendations

- 1. The Performance and Contract Management Committee is asked to note the outcome of the procurement review**
- 2. The Committee is asked to note that officers will implement the improvements that will be made to wider procurement procedures as set out under section 4 of this report.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Performance and Contract Management Committee received a report on the service review of the provision of the adult enablement homecare service on 27 February 2017. At the meeting the Committee agreed to receive a report at a future meeting setting out the findings of a wider review around the procurement processes in place.
- 1.2 This report identifies improvements that will be implemented for the mobilisation of newly contracted services. This report explains seven identified areas, which will reduce the risk of future supplier failures and support new contract mobilisation plans.
- 1.3 Being able to efficiently move complex services to suppliers offering better quality or price is an important part of the Council ensuring it can effectively approach the market for value for money services. It is therefore key that the Council continues to have confidence in its processes for selecting new suppliers and supporting the process of new supplier implementation, mobilisation, or transfer of duties.
- 1.4 Multiple processes are already in place to ensure that capable suppliers are selected through a procurement process, but lessons learnt and a focus on continuous improvement is vital for future success.
- 1.5 Compliant procurement processes are in place including use of the e-portal for procurement exercises in excess of £10,000, advertising requirements in excess of £25,000 and undertaking OJEU procedures in accordance with threshold value and Public Contracts Regulations 2015. These are in place to deliver compliancy and identify suppliers capable of delivering the contract requirement.

Procurement has undertaken a review of the procurement exercise to identify lessons learnt from the procurement and mobilisation of the enablement homecare service. This included:

- Review of portal audit trail

- Review of clarifications
- Review of contract mobilisation to identify lessons learnt and improve mobilisation guidance for service areas
- Review of contract management to identify lessons learn and improve contract management guidance for service areas
- Ensure contract management training in accordance with Contract Procedure Rules is highlighted to all service areas to promote importance of service area responsibilities and contract manager's completion of training prior to delivery of role.

2. REASONS FOR RECOMMENDATIONS

- 2.1 These recommendations are required to ensure a high standard of contract mobilisation is implemented and areas of risk are mitigated. This will in turn deliver better quality services for the residents of Barnet.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Review of the procurement procedures was recommended at the Performance and Contract Management Committee meeting on 15 November 2016. Alternative options were not considered, as these were not the recommendation.

4. POST DECISION IMPLEMENTATION

The following seven recommendations for further enhancements to the process are made.

1. Early identification of tenders with high-risk mobilisation plans:

This will take place through the options appraisal process, which is a procurement form, which is completed at initial meeting with commissioning lead. It provides an audit trail for procurement exercise, which is held by both procurement, commissioning lead and service area. This form includes identification of possible high-risk service mobilisations, particularly those services with:

- High reliance on a successful TUPE process
- Resident facing activities
- High need for service continuity (care support services etc.)
- Services subject to Equality Impact Assessment (EIA) to inform future service delivery and procurement activity¹

2. Resilience and Business Continuity:

¹ Procurements on their own do not require an EIA. When the service has community/resident impact then it is the service areas responsibility to undertake and confirm to procurement the outcome to inform the procurement exercise. The Options Appraisal seeks confirmation of what consultation (including EIA) has taken place.

Focussed discussions will take place, as part of the project options appraisal, with the commissioning and service leads to ensure that if a supplier failure did occur there is a sufficient business continuity plan and resilience measures in place.

The business continuity plan and resilience measure requirements are owned by the service, and through discussions with procurement it may be highlighted to the commissioning lead that these are to be considered, as they may need to inform the specification/final contract dependent on requirement need.

3. Tender Documents:

The tender documents will emphasise the need for seamless service transition and ask specific questions on:

- How the supplier will ensure the seamless transition
- Where have they had experience of this before
- Lessons learnt from previous transitions

4. Evaluation:

Specific attention will be paid to the evaluation scoring weightings to ensure suppliers with weaker responses and implementation plans score significantly less and are screened out. All implementation/mobilisation plans submitted as part of the tender documentation will form part of the evaluation process, with the appropriate scoring weightings added.

5. References:

References are already sought in relation to new suppliers. References will be sought from other local authorities, which have undergone similar project mobilisations and implementations. – Prior to awarding a contract to a new supplier a due diligence exercise will be conducted and references obtained. Where there are concerns raised regarding the preferred supplier additional assurances and information will be sought from the supplier before awarding. When taking references from other local authorities, specific questions will be asked regarding each supplier's track record on:

- Implementation of similar sized projects
- Quality of service delivered
- Safeguarding and performance issues
- Lessons learned

6. Contractual terms:

A review of the terms and conditions that the Council uses to contract for the above service types will be conducted with HB Public Law to ensure there are robust enforceable contractual remedies available for supplier failure, and terms are unequivocal.

7. Internal commercial support:

A discussion with the Council Commercial Team is already underway to establish how the wider Council may support delivery units when going through high-risk service changes or implementation projects

5. IMPLICATIONS OF DECISION

- 5.1 To ensure the recommendations take place, a number of small workshops will take place with Commissioning and the Delivery Unit. These workshops will be led by procurement. Procurement undertake delivery of regular training workshops covering Contract Procedure Rules, Governance, and Contract Management and have identified additional workshops to be delivered which are service specific relating to contract management and contract mobilisation

6. Corporate Priorities and Performance

- 6.1 All procurement requirements directly reference the Corporate Priorities within the Options Appraisal form.
- 6.2 Procurement require that tender documents cross reference with Council strategy documents and these are available as support information to tender exercises.

7. Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 7.1 All procurements are undertaken in accordance with the Contract Procedure Rules Appendix 1 Table A.

Confirmation of approved budget is required to enable proceeding to contract award following procurement exercises.

Implementation of the seven recommendations will not require any additional resourcing or incur additional cost to the Council. The improvements however, are likely to reduce future risks in procurement exercise and therefore help to underpin the Council's achievement of value for money.

8. Social Value

- 8.1.1 The procurement options appraisal form already asks the project leads to consider social value and how the project could further enhance and secure social value and link this to the Council constitution and objectives.

9. Legal and Constitutional References

- 9.1 Under the Council's Constitution, Responsibility for Functions (Annex A) the Performance and Contract Management Committee has responsibility for contract management and performance and to receive reports on relevant performance information on Delivery Units providing services under the remit of the Committee.

- Council Constitution 22 Contract Procedure Rules define procurement and contract management requirements for delivery units and service areas of the Council.

10. Risk Management

- 10.1 Risk management is identified by the service area and supports completion of Procurement's Options Appraisal. Identification of procurements which may involve high risk procurements is central to the improvements being made as a result of this review.

11. Equalities and Diversity

- 11.1 Procurement exercises have regard to the 2010 Equality Act and the provisions of the Public Sector Equalities Duty. Award of contract authorisation is subject to appropriate declaration of delivery of this duty.

12. Consultation and Engagement

- 12.1 The recommendations within this report will be submitted to the Procurement Board on the 21 September 2017 for endorsement and implementation.

13. Insight

- 13.1 Not relevant in the context of this report.

14. BACKGROUND PAPERS

- 14.1 Performance and Contract Management Committee 27 February 2017
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=693&MId=8797&Ver=4>