

Title: Learning and Action Plan – Procurement
 Lead Officer: Tracy Dolphin, Head of People & Communications;
 Rebecca Reading, Strategic Procurement and Creditors Manager
 Portfolio Holder: Councillor Jessica Harrison/Cllr Jonathon Chilvers
 Wards of the District directly affected: None

Approvals required	Date	Name
Portfolio Holder	11.7.23	Cllr Jessica Harrison Cllr Jonathon Chilvers
Finance	23.6.23	Andrew Rollins
Legal Services	10.6.23	Kathryn Tebbey (SDC)
Chief Executive	23.6.23	Chris Elliott
Director of Climate Change	23.6.23	Dave Barber
Head of Service(s)	11.7.23	Tracy Dolphin
Section 151 Officer	23.6.23	Andrew Rollins
Monitoring Officer	23.6.23	Andrew Jones
Leadership Co-ordination Group		
Final decision by this Committee or rec to another Cttee / Council?	Yes	
Contrary to Policy / Budget framework?	No	
Does this report contain exempt info/Confidential? If so, which paragraph(s)?	No	
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?	No	
Accessibility Checked?	Yes	

Summary

Following the confidential report to Cabinet - Contract Dispute – Dictate2Us Transcription Services on the 8.3.23 this report provides an update of the learning and action plan.

Recommendation

- (1) That O & S note the report and agreed actions.
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1 Reasons for the Recommendation

- 1.1 In July 2021 WDC followed the procurement process to tender for a new supplier for transcription services. There was a discrepancy in the contract which both WDC and Dictate2Us disputed as to the interpretation. The dispute was settled in March 2023. This report provides a summary of the learning and implementation timeline and is not intended to review the decision.
- 1.1.2 Although all Officers involved in the procurement had received procurement training and the circumstances and resulting outcome of this situation could not have been foreseen; it is acknowledged that there could still be opportunities for lessons learned.

Following discussions with the Strategic Procurement and Creditors Manager, it has been proposed that:

- Procurement awareness training shall be rolled out to all Officers within the Council within the next 12 months; ensuring Officer awareness of legal accountabilities in spending public money, at all spend levels; and that training should take place on a three-year cyclical basis.
- Officers review with Legal and Procurement colleagues what further controls and safeguards can be put in place, learning from the best practice of similar organisations, so as to reduce the likelihood of such events re-occurring.

1.2 Learning and Actions

- 1.2.1 Procurement is central to much of the work that WDC and local authorities do and, importantly, the services they provide, both internally to colleagues and externally to the public. With more and more scrutiny on how public money is used, WDC recognises that it cannot stand still and must continue to ensure every council employee understands how procurement fits into their role and responsibility. From thoughtful scoping and day-to-day contract management to renegotiating with new suppliers, WDC understands it has more work to do to support colleagues to become more confident and competent in all stages of procurement, and in particular with regard to contract terms and conditions and management.
- 1.2.2 Scoping work has taken place to plan the review of the current learning programme for Procurement. Following meetings with an external facilitator we are now at the stage of confirming the initial phase to utilise focus groups to support the authority to understand what the training programme does well and where there are potential gaps that could be developed. With quality data supporting detailed analysis, we will then look to redesign and possibly expand upon existing training material to ensure colleagues have the knowledge, skills,

and behaviours to better understand all areas of Procurement to a sufficient degree for their level of contracts and deliver measurable improvement.

To identify what 'a sufficient degree of understanding' means with regard to procuring a contract, the learning review will be run in tandem with a contract classification project, whereby all Council contracts will be classified as Gold, Silver and Bronze:

Gold = High value, high risk, or high complexity

Silver = Medium value, medium risk

Bronze = low value or low risk

The classification process will be undertaken using the Government Procurement Function Contract Management approach and toolkit.

Based on capacity of the procurement team the focus groups are planned to be conducted in September 2023 with the ambition that revised and reengineered training material is available from February 2024. Our objective is to "To improve confidence and competence in the procurement process and help colleagues become better contract managers".

1.2.3 **Phase 1 – Qualitative & Quantitative Data Analysis (Sept 2023)**

Using an experienced facilitator, we will agree and create a range of anonymous questions designed to discover how operational managers, contract managers and members of the Procurement Board understand and rate their competence with procurement and contract management. This report will provide the foundation for proposed changes and enhancements to the current procurement training.

Phase 2 – Revise and Re-engineer the WDC Procurement Training (Feb 2024)

The facilitator, working closely with the Strategic Procurement and Creditors Manager, will create the structure, slides, and exercises required to execute an engaging and informative suite of training modules. Each module would be 2-3 hours in duration and, depending on the focus group feedback, may be split to address specific groups of people and their needs. Broadly speaking, a beginner level, intermediate level, and a more advanced level. Although it would be a basic requirement that all staff understand that contracts must be reviewed without prejudice and read and understood in accordance with what it actually says or doesn't say.

Phase 3 – Qualitative & Quantitative Data Analysis (June 2024)

Following the same format as Phase 1, the facilitator would create a range of questions to help facilitate a discussion with the same three defined groups identified during Phase 1. This will measure the improvement as a result of the revised training materials to see how the data compares to the results gathered in September 2023. This would help show the impact of the work completed and be a clear indicator of a return on investment.

2 Alternative Options

- 2.1 Alternative options are to do nothing, which does not comply with the request from O & S or support the ambition to revise the training offering for procurement.

- 2.2 Alternative approaches to the training have been reviewed based on previous programmes however the robustness of the phased approach to not only deliver but measure impact clearly links with the objectives.

3 Legal Implications

- 3.1 Currently, the Public Contract Regulations 2015 require transparency within the Sourcing element of the Procurement process. This requires notices to be published at the start and award of all Procurements above £25,000 to make the market aware of how contracts are/were procured, what our budget and requirements are and what the contract length will be, plus in the case of the award notice, who the contract has gone to and at what value. Under these regulations, professionally qualified and skilled procurement resources have primarily been focused on ensuring that transparency in the sourcing stage of a procurement exercise are met; resulting in commissioning and contract management being the responsibility of Service areas and contracts below £25,000 being the sole responsibility of Service areas for the whole procurement process.

In the case of Dictate2Us these notices would not have applied as there is no transparency requirement applicable to this value of contract; and as a result, less resource and scrutiny has been applied than occurs with contracts above £25,000. In addition to reviewing procurement training to try and mitigate the likelihood of such contract issues occurring again; another challenge to requires more robust procurement skills and resources will be coming into force.

It is expected that new obligations to publish contract termination notices will be introduced in 2024 under the Procurement Act 2023. These notices bring greater transparency throughout the entire Procurement process, with information regarding decisions within the commissioning and management of contracts being required to be published into the public domain.

At this stage, it is not clear whether this obligation will extend to confidential settlement proceedings in a dispute where both parties reach an agreement to walk away, rather than one party terminating the contract. This will need to be kept under review as the new legislation and guidance emerges, but all councils need to be aware of the potential greater transparency which is emerging.

4 Financial Services

- 4.1 The cost of the programme overall is up to £7,000 and can be supported as part of the corporate training budget.

5 Business Strategy

- 5.1 Warwick District Council has adopted a Business Strategy which sets out key areas for service delivery.
- 5.2 Appropriate procurement training and resources are essential in ensuring that the following business strategy outcomes are realised.
- 5.3 Health, Homes, Communities,
Procurement of contracts is critical to ensuring Housing needs for all are met.
- 5.4 Green, Clean, Safe,
The Procurement Strategy and Code of Procurement Practice both have made commitments in ensuring the Council meets its Climate Change outcomes.
- 5.5 Infrastructure, Enterprise, Employment,
Procurement is integral in both ensuring that value for money is achieved in sourcing contracts to develop town centres, and also supporting the local

economy. All procurements below £25,000 promote the use of the local suppliers for providing these contracts; and for above £25,000 contracts, if a non-local supplier is successful, they are required to offer Social Value commitments such as utilising local supply and employment.

- 5.6 Effective Staff,
Up to 70% of procurement activity is undertaken outside of the Procurement team by Service areas. To ensure we meet the outcome that the right people are in the right job with the right skills and behaviours, it is essential that we review our current procurement resources.
- 5.7 Maintain or Improve Services
- 5.8 Firm Financial Footing over the Longer Term.
Ensuring that procurements are appropriately budgeted for and fit for purpose is essential to Commissioning any contracts; as is ensuring that contracts are delivered to the required quality at the price committed. This requires procurement resources to be adequately trained in the appropriate skills suited to the classification of contracts in which they are involved.

6 Environmental/Climate Change Implications

- 6.1 For all contracts of £50,000 and above, Social Value and Climate Change commitments are 5-15% of the award criteria. A failure to address skills and training issues within Procurement resources, in particular within Commissioning and Contract Management, means that these contractual commitments will not be delivered.

7 Analysis of the effects on Equality

- 7.1 None.

8 Data Protection

- 8.1 None.

9 Health and Wellbeing

- 9.1 None.

10 Risk Assessment

- 10.1 Not progressing this programme increases the risk of contract delivery and performance issues, budget overspend and failure in achieving Social Value commitments when both commissioning and managing contracts. The resources in the procurement team are primarily tasked with sourcing contracts in collaboration with commissioners and contract managers from service areas; and have limited capacity which has to be prioritised.

Supporting Documents

Cabinet 8.3.23 Confidential Contract Dispute – Dictate2Us Transcription Services