

 EXECUTIVE 4 January 2018		Agenda Item No. 5
Title	Procurement Partnership and Staffing	
For further information about this report please contact	Mike Snow 01926 456800	
Wards of the District directly affected	N/A	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	N/A	
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality Impact Assessment Undertaken	N/A

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	15/12/2017	
Head of Service	15/12/2017	Mike Snow
CMT	15/12/2017	
Section 151 Officer	15/12/2017	Mike Snow
Monitoring Officer	15/12/2017	Andrew Jones
Finance	15/12/2017	John Roberts
Portfolio Holder(s)	15/12/2017	Cllr Whiting
Consultation & Community Engagement		
Insert details of any consultation undertaken or proposed to be undertaken with regard to this report.		
Final Decision?		Yes/No
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 This report proposes a partnership with Warwickshire County Council for the provision of Strategic Procurement Support from 1 April 2018 for up to two years.

2. **Recommendations**

- 2.1 That the Executive agrees an exemption to the Code of Procurement Practice to enable a partnership with Warwickshire County Council (WCC) for Strategic Procurement Support to be established from 1 April 2018 for a period of up to two years.
- 2.2 That the Executive delegates authority to the Deputy Chief Executive (AJ) and Head of Finance, in consultation with the Finance Portfolio Holder to agree the terms and scope of the support with WCC, and enter into an agreement on this basis.
- 2.3 That the Executive agrees that the proposed procurement partnership with WCC is reviewed after the first year of operation, with the intention that any revised arrangements can be put in place by April 2020.
- 2.4 That the Executive agrees that the Council's current approach to procurement and contract management is reviewed to inform the proposed review of the partnership arrangement set out in recommendation 2.3.
- 2.5 That the Executive agrees that a Procurement Board is established, comprising of members of the Senior Management Team, to oversee the procurement activity across the Council.
- 2.6 That, subject to agreement of recommendation 2.1, the Executive agrees that an additional £20,000 be included in the budget from 2018/19 onwards for the estimated net additional cost of proposed partnership, subject to the agreement of proposals by Employment Committee in January 2018.

3. **Reasons for the Recommendations**

- 3.1 The proposals within this report are intended to ensure that the Council will have a resilient Procurement function. The proposals will entail strategic procurement support being provided by WCC. Alongside this, an important "procurement presence" will be maintained "within the office" so as to provide day to day support for most projects, and assistance for the larger projects alongside WCC. This changed approach is seen as an opportunity to review the Council's approach to procurement and continue to embed good procurement practice across the Council.
- 3.2 The Council has had a formal Procurement function for over 10 years. Over that period Government and EU Regulations around procurement have increased substantially. Along with this, there has been increased case law which needs to be complied with by public bodies.
- 3.3 In that period significant strides have been made across the Council to ensure correct procurement procedures are followed whilst seeking to ensure that value for money is obtained from contracts and the Council's purchases of supplies and services. Overall, there is knowledge, recognition and acceptance by officers Council-wide of their responsibilities with regard to complying correct

procurement requirements. Whilst there have been some cases which have been reported to members where good procurement practices have not been followed, these are the exception. In total there are approaching 250 contracts within the Council's current Contract Register.

- 3.4 The permanent establishment of the Procurement Team comprises of one Procurement Manager and one Procurement Officer. Since 2007, the Council has had three Procurement Managers, with the current incumbent due to retire in April. Since 2010, there have been three appointments to the post of Procurement Officer, with this post currently filled by an officer on secondment as a temporary measure. This arrangement is due to end in March. In addition, on the establishment there is a three year Procurement Office post which it has not been possible to fill successfully.
- 3.5 Based on feedback from officers across the Council, the continued in-house procurement support, with officers readily accessible to respond to queries and progress projects is believed to be important. This is deemed to be key to in the continued need to imbed good procurement practices across the Council.
- 3.6 In the current market, it is apparent that procurement professionals are in great demand. This has been amplified by such things as HS2, where HS2 have appointed many procurement specialists and are still appointing.
- 3.7 Factors such as this explain the high turnover within the Council's Procurement Team and how the Council has struggled to appoint and retain these officers. There is on-going concern as to the resilience of Procurement function.
- 3.8 Earlier this year a review was undertaken by external consultants of the Council's Procurement function. The review had been launched to help officers determine a way forward on a number of issues, including but not limited to:
- Addressing resilience issues on the team;
 - Attracting high calibre candidates to the team;
 - Reviewing the corporate approach to procuring works and services.
- 3.9 The backcloth to the review was a procurement team that had struggled to maintain stability with its staff resource as discussed above. On top of this, WDC had spent significant sums (estimated net £20,000 per annum) on specialist procurement advice from WCC Legal Services to help with high profile projects such as Leisure Development, Europa Way and HQ relocation. In the future, there will always be cases where more specialist legal/procurement support is needed, above the support able to be provided by a small in-house team.
- 3.10 Based on the findings of the report, feedback from senior officers, the need to try a new approach and to address the imminent departure of the procurement manager, WDC officers have made further enquiries into a collaborative or shared service model.
- 3.11 The outcome of these enquiries suggested that locally the only real collaborative working was taking place between Nuneaton and Rugby. There was no appetite for other Councils buying services off Warwick District Council with concerns raised around control and political influence. However, a separate conversation with Warwickshire County Council was much more encouraging.

- 3.12 WCC has a well-established team of 11 staff (9.8 fte) although it is currently carrying two vacancies. Given the financial demands placed upon top tier authorities it sees its role as a strategic i.e. "not buying pencils and pens". Its aim is to upskill the Service Areas so they own their procurement processes. This is done through comprehensive training and support with the strategic planning. It provides a quality assurance role and is increasingly involved in commercial management i.e. making sure that Service Areas get the best from their contracts. WCC's approach has developed to such a degree whereby it now feels able to allow Service Areas to deal with their own frameworks, auctions and KPI's, with the procurement team providing an assurance role. With a larger team, they are able to offer more expert advice.
- 3.13 The WCC procurement team has a very close relationship with the legal team and the knowledge transfer between the two disciplines has been extremely beneficial. As WCC is one of the owners of the Eastern Shires Purchasing Organisation (one of the largest public sector buying organisations in the UK) it has influence at a Member and Senior Officer level and is therefore well placed to be able to maximise the benefits that might be available from ESPO on behalf of the Council. ESPO is jointly owned by its six member authorities: Leicestershire County Council, Lincolnshire County Council, Cambridgeshire County Council, Norfolk County Council, Warwickshire County Council, and Peterborough City Council. It also has a "sharing" arrangement in place with Coventry City Council and Solihull MBC procurement services. Its credentials in the procurement field are therefore not in doubt.
- 3.14 WDC needs a team that is robust, has experience in various activities, and is nimble in responding to demand and can deliver training and advice appropriate to the good, service or work being procured. WDC's team is too small to deliver this. It is vulnerable to staff turnover and has not universally devolved the responsibility to Service Areas to enable them to feel empowered and owning "procurement".
- 3.15 Based on discussions with senior colleagues, the findings of the Procurement Review Report and further enquiries made by WDC officers it is proposed that WDC enters into a trial arrangement for up to two years with WCC based on the following principles:
- WCC provides the strategic procurement lead for WDC including strategic planning advice, training and developing commercial management;
 - WDC retains two procurement business partners at Riverside House to provide transactional support and develop the officers' skills and knowledge in strategic procurement by working with WCC;
 - A review is undertaken of the job descriptions and salaries of the procurement business partners to ensure they reflect the requirements of the proposed arrangements;
 - A review is undertaken of the amount of information provided to Councillors;
 - A review is undertaken of the documentation that supports procurement practice;
 - A Procurement Board is established consisting of SMT members to own the Council's strategic procurement direction.
- 3.16 Proposals are being considered with WCC Procurement whereby they will provide the strategic, project and some tactical support. The details of this currently under discussion are included within Appendix 1. It is therefore recommended that the Executive delegates authority to the Deputy Chief Executive (AJ) and Head of Finance in consultation with the Finance Portfolio

Holder to agree the terms and scope of the support with WCC, and enter into an agreement on this basis.

- 3.17 The proposed partnership with WCC Procurement will be reviewed after 1 year of operation, allowing recommendations on any revised arrangements to be reported to the Executive and, subject to approval, put in place no later than April 2020.
- 3.18 The Council's current emphasis on the responsibility for procurement and contract management resting within individual service areas will also be reviewed. This will include a review of all aspects of policy, process, skill requirements, training needs and the potential merits of alternative partnering arrangements. The outcome of this review will feed into the review of the proposed partnership with WCC and together they will allow recommendations on any revised approach to be considered by a future Executive, alongside the review of the operation of the partnership.
- 3.19 As discussed in Section 5, the cost the support from WCC will initially be charged on an hourly basis. This is estimated to cost £45,000 per annum, although this is a cautious estimate, with it hoped the actual cost will be less than this. In accordance with the Council's Code of Procurement Practice, contracts of this magnitude would normally be subject to a formal tendering exercise. If the Council is to progress this arrangement, the Executive is asked to approve an exemption to the Code of Procurement Practice.
- 3.20 The net cost of the proposals is estimated at £20,000 per annum. This is recommended to be included as a recurring budgeted cost from 2018/19.
- 3.21 The creation of a Procurement Board comprising of Heads of Service, is to ensure ownership of the procurement function will now sit at the highest level possible within the organisation, Senior Management Team, in recognition of its importance to the Council. Procurement performance reports will continue to be reported to Finance and Audit Scrutiny Committee.

4. **Policy Framework**

4.1 **Fit for the Future (FFF)**

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
External		
Health, Homes, Communities	Green, Clean, Safe	Infrastructure, Enterprise, Employment
<u>Intended outcomes:</u> Improved health for all Housing needs for all	<u>Intended outcomes:</u> Area has well looked after public spaces	<u>Intended outcomes:</u> Dynamic and diverse local economy

met Impressive cultural and sports activities Cohesive and active communities	All communities have access to decent open space Improved air quality Low levels of crime and ASB	Vibrant town centres Improved performance/ productivity of local economy Increased employment and income levels
Impacts of Proposal		
Good procurement practices should seek to ensure services meet the Council's priorities.	Good procurement practices should seek to ensure services meet the Council's priorities.	Good procurement practices should ensure the Council obtains value for money in the provision of its services.
Internal		
Effective Staff	Maintain or Improve Services	Firm Financial Footing over the Longer Term
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
Impacts of Proposal		
The proposals are intended to provide a more resilient workforce and provide opportunities for staff development.	Good procurement practices should seek to ensure services meet the Council's priorities.	Good procurement practices should ensure the Council obtains value for money in the provision of its services and help secure financial savings.

4.2 Supporting Strategies

Each strand of the FFF Strategy has several supporting strategies and the relevant ones for this proposal are explained here:-

Procurement Strategy – The proposals should help to ensure that the procurement activities of the Council help to achieve the priorities and actions within the Procurement Strategy.

4.3 Changes to Existing Policies

The WDC procurement documentation is intended to more closely align with that of WCC, on the basis that is familiar to both WCC Procurement and Legal, and will reduce the amount of documents to be updated in the future. This means the Council's Code of Practice will need to be amended and subsequent agreed by Council at some future date.

4.4 Impact Assessments

The proposals do not require any impact assessments to be undertaken.

5. Budgetary Framework

- 5.1 The cost of the services from WCC Procurement will initially be charged on an hourly basis. If this support entails an average of 2.5 days' work per week (from officers at different levels), the cost would amount to £45,000 per annum.
- 5.2 The job descriptions of the proposed Procurement Business Support Partners have been reviewed. These are estimated to cost £5,000 less than the current permanent establishment, subject to confirmation by the Council's Hay Panel.
- 5.3 For some significant projects recently, e.g. Leisure Options, Pump Room Gardens and Creative Quarter, the Council has utilised WCC Legal. The advice given here has been with regard to contracts and procurement advice. Under these proposed arrangements, by working with WCC Procurement, there should be less need for procurement advice from WCC. This is estimated to generate a saving on WCC Legal costs of £20,000 per annum.
- 5.4 The net annual cost of the proposed Procurement Partnership is £20,000 per annum.

6. Risks

- 6.1 The proposals within this report are intended to reduce the risks associated with non-compliance with good procurement practice. The main risks associated with procurement can be cost overruns and the threat of legal challenge. This in turn may impact upon service delivery and reputational damage.

7. Alternative Option(s) considered

- 7.1 The Council could continue to rely entirely on in-house procurement support. As detailed in this report, this is not proposed as the Council will continue to be reliant on a small team for which there is likely to be high turnover in the future, which may result in appointment problems with subsequent impact on services.
- 7.2 If the Council continues to seek to retain the procurement function entirely in-house, it would need to seek to fill the current two procurement posts (Procurement Manager and Procurement Officer). The Council has struggled in the past to attract candidates for these posts. This may be a factor of the salaries being paid, or the robust market for procurement professionals. The problems with this approach are seen as:-
 - Difficulty in attracting suitable applicants
 - If successful, potential future continued high turnover of these posts, so presenting risks in terms of resilience.
 - The current approach to procurement is likely to be retained, which in the past has presented some problems with good procurement practices not being uniformly applied across the Council. This would not present the same opportunity for the function to be relaunched with a new model of provision.
 - Likely short term vacancies until new officers commence. Any gap is likely to require agency appointments, and potentially increased support from WCC

Legal. Aside from the impact of this on services, there will undoubtedly be a cost.

- 7.3 The Council could review the structure and gradings of the procurement team, with a view to raising its status. Whilst this may in due course enable a more resilient service (with potentially reduced future staff turnover), there may be the following problems:-
- Delay in getting a new structure in place.
 - Cost of new structure (this would go against the planned savings in the Senior Management Team salary bill that are within the Medium Term Financial Strategy).
 - Short term cost of interim (agency/WCC Legal) arrangements until permanent appointments can be made.
 - Not likely to present the opportunity for the Council's approach to procurement to be enhanced.
 - Continued reliance on a small team for all procurement support, with lack of any specialism.
- 7.4 It is proposed that alternative approaches to the current in-house arrangements are reviewed, in addition to the review of the proposed new partnership itself, and the outcomes of these reviews are reported back to a future Executive as set out in recommendations 2.3 and 2.4.

Appendix 1

Service Proposal

Assumptions

- There is no intention on either side for staff to TUPE transfer between organisations as part of or linked to this offer to provide procurement support.
- The programme of work will be agreed in advance of each support year
- Support will commence formally on 1st April 2018.
- When working for WDC, WCC Procurement will work with WCC Legal Services (WLS) in the same way as it does when undertaking procurement on behalf of WCC i.e. in partnership making best use of the skill sets/expertise of both services.
- The process of WDC procurement will continue to be undertaken within CSW-Jets
- WDC will adopt the WCC process procurement documentation (i.e. Invitation to Tender, Evaluation templates etc.) as this is familiar to both WCC Procurement staff and WCC Legal and will mean only a single document set to keep current
- WDC staff will work with WCC procurement staff effectively and understand and support WCC's role as procurement lead.
- Either party will have the ability to terminate the proposed arrangement before the end of the 2 year period after providing a suitable period of notice.

Strategic Support – General

- Attendance at/Participate in the Procurement Board if/when created
- Advising the Council on procurement policy and strategy
- Supporting the Council to consider/implement procurement legislation and procurement best practice across the Council
- Develop and deliver appropriate training for/to the Council's staff Strategic Project Support - The WCC Strategic Procurement Unit will provide upstream support for up to 10 projects per annum (to be agreed at the start of each support year) – this support will be focussed around: -
- Creating the right relationships with key WDC Service/Project leads in order for Procurement to become a partner of choice which adds value.
- Contributing to Options Appraisal development generally and contributing market insight and intelligence to support decision making
- Advising on/Designing the most appropriate routes to market which recognise the legislative environment surrounding public procurement but also the objectives/drivers of the Council.
- Generally being a 'Critical Friend'

Tactical Procurement Support for the agreed 'supported' projects -

- Quality assuring key procurement documentation prior to release in particular OJEU Notices and ITT's including evaluation methodology (the assumption is that WDC procurement staff will manage the process of procurement).
- Being available to WDC procurement staff to provide advice, guidance and support throughout the process of procurement.
- Quality assuring key procurement documentation prior to contract award in particular final tender evaluation, Intention to Award (including feedback), and responding to unsuccessful supplier 'noise' and 'challenge' in conjunction with Legal Services.
- If and when appropriate, mentoring and coaching WDC staff to raise their skills/competency/confidence levels in order to remove the reliance on WCC for tactical support and over time reduce the requirement for Strategic support.