

REPORT TO:	CABINET 16th NOVEMBER 2022
SUBJECT:	CONTRACT MANAGEMENT FRAMEWORK
LEAD OFFICER:	SCOTT FUNNELL HEAD OF STRATEGIC PROCUREMENT AND GOVERNANCE
CABINET MEMBER:	COUNCILLOR CUMMINGS CABINET MEMBER FOR FINANCE COUNCILLOR WARD DEPUTY CABINET MEMBER FOR CONTRACT MANAGEMENT
WARDS:	ALL

SUMMARY OF REPORT:

The Council has made a commitment to review and manage contracts better to seek best value through the procurement of contracts, and then to undertake a thorough oversight of the delivery of those contracts to ensure that the terms and performance levels associated with that agreement are strictly enforced.

The Council has researched best practise in the development of a Contract Management Framework, with value for money at the heart of its principles and a standardised yet proportionate approach. Corporate oversight of this framework will improve the management of risks within the Council's supply chain.

FINANCIAL IMPACT:

There is limited direct financial impact related to training. Whilst some fully funded external training has been secured through the Cabinet Office Contract Management Pioneer Programme, there will remain a requirement to source some training for all contract managers within the Council.

KEY DECISION REFERENCE NO: [insert number if applicable/not a key decision]

Approval of these recommendations would not constitute a key decision.

The Executive Mayor in Cabinet is recommended to make the decisions set out below:

RECOMMENDATIONS:

1. To approve the adoption of the Contract Management Framework as set out in this paper and the associated appendices
2. To approve the Contract Management Policy (Appendix 1) as an official policy of the Council.

3. To approve a re-drafting of the Tender and Contract Regulations to reflect the proposed changes (and clarifications), to be reported to the Constitution Working Group with a view to seeking recommendations from the General Purposes Committee and/ or the Executive Mayor in Cabinet for onward recommendations to Full Council.

DETAIL OF YOUR REPORT

1. BACKGROUND

- 1.1 Effective Contract Management has proven to deliver a range of benefits including improved outcomes for service users, added social value, reduced cost, reduced risk, and increased innovation. This is a key area for improvement identified by the Council and the Executive Mayor of Croydon's manifesto which also set out the need to introduce robust contract management to ensure efficient, value for money services.
- 1.2 Improved management of the Council's contracts was a Mayoral manifesto commitment and the changes set out in this report will help to deliver that pledge.
- 1.3 The past few years have seen the Council experience significant challenges to how it manages its contracts and suppliers. The Improvement and Assurance Panel in its report of 30 April 2021 noted the requirement to improve the management of contracts.
- 1.4 The Second Report of the Improvement and Assurance Panel dated 30 April 2021 identified that:

"The Improvement and Assurance Panel noted that the Council's arrangements for ensuring that contracts deliver value is poor. There has been a lack of a strategic approach to securing contracts, confusion in commissioning intent and a lack of a systematic approach to monitoring performance.

The Council has recognised this and has produced a Contracts Improvement Plan which is currently going through the process of adoption. While that happens, an interim plan is ensuring that its principles are applied. This plan will put in place sound governance arrangements, an annual set of commissioning intentions that will align with budgets and effective performance management."

- 1.5 The Contracts Improvement Plan was overseen by a working group which included the Lead Member Finance and Resources, the Assistant Chief Executive, an LGA Procurement specialist and was supported by the Improvement and Assurance Panel.

- 1.6 Following a re-structure to the Council's Commissioning and Procurement Directorate, a central Strategic Procurement and Governance Service was formed, and the Contracts Improvement Plan was expanded into a Procurement Improvement Plan.
- 1.7 The Procurement Improvement Plan is now overseen by the Finance, Risk and Assurance Internal Control Board.
- 1.8 This improvement plan includes the introduction of a standardised and proportionate method of contract management across the Council, alongside relevant tools and training.
- 1.9 Although contracts are currently being managed within the Council, there is no standardised framework for contract managers to work within, no centralised support for contract managers and no formal corporate reporting of how contracts are performing.
- 1.10 A new Contract Management Framework (CMF) would aim to ensure that contracts are delivering best value and to foster long-term collaborative relationships with suppliers that strive for continuous improvement in service delivery and efficiencies. It will also provide greater corporate oversight into the performance of our suppliers and the progress of our contracts against our corporate priorities. The new framework will allow a corporate 'One Council' lens on individual contractors that are used by a range of services so that relationships can be managed more effectively, potentially giving services more leverage to improve supplier performance.
- 1.11 The adoption of a CMF is widespread practice amongst much of the public sector. Whilst there is no single standard approach, there is a plethora of good practice principles and guidelines designed by the Cabinet Office (the Crown Commercial Service and the Government Commercial Function), the National Audit Office (NAO), and the Local Government Association (LGA).
- 1.12 The seven principles that the Council has applied when developing the framework are as follows:
 1. Achieve best value for money for the Council and our residents, driving continuous improvement and innovation.
 2. Corporate oversight of contracts and appropriate internal controls to manage risk and enable strategic oversight.
 3. Council-wide standardised approach to contract management, with clarity on roles and responsibilities.
 4. Proportionate management and reporting on contracts based on risk, value and complexity.
 5. Apply modern day best practices to contract management, utilising advice and training from central government and expert organisations.
 6. Simple to use processes, simplifying Council governance throughout the procurement cycle.

7. A Co-designed Framework with contract managers across the Council, ensuring that successful delivery of contracts is best achieved through a joined-up and communicative approach.

1.13 The CMF will consist of the following:

- Contract Management Policy - *public policy statement setting out how we will approach contract management at Croydon Council (Appendix 1)*
- Contract Management Handbook – *a handbook for anyone managing a contract or suppliers on behalf of the Council*
- Document repository – *a central repository on SharePoint containing contract documents*
- Toolkits and Templates – *online toolkit containing templates for contract administration, FAQs and troubleshooting, best practice guidance from Cabinet Office, CCS, NAO etc.*
- Corporate Performance reporting – *performance scorecards for top tier contracts to feed into corporate dashboard reports*
- Contract Management Training – *internal and external training programmes for contract managers*
- Digital contracts register and pipeline

Contract Tiering

- 1.14 A proportionate approach to managing contracts provides the most efficient use of Council resources, and the best practise is to apply a tiering system to contracts based on value, complexity, and risks. The Council had previously applied a tiering system to contracts based solely on value, however this led to approximately 80 contracts allocated the highest tiering. Best practice advice is to have fewer top tier contracts and focus the resource on managing these ones with greater rigor.
- 1.15 The new proposed tiering system would allocate each Council contract to a category from one of Platinum, Gold, Silver, and Bronze using the Government Commercial Function's Contract Management Classification Tool. This has resulted in 13 Platinum, 25 gold and 38 silver tiered contracts, with the remaining contracts allocated a bronze tiering. The list of proposed contract tiering is at **Appendix 2**.
- 1.16 The classification will then determine the appropriate resources, governance, and reporting requirements of each contract. A summary of the requirements for each tier can be found in **Appendix 3**.
- 1.17 The proposals will apply to contracts within scope of the Council's Tenders and Contracts Regulations, which contains references to managing contracts. These references are largely compatible with the proposals in this report, but will be reviewed and considered in detail as part of recommendations to be reported to the Constitution Working Group with a view to seeking recommendations from the General Purposes Committee and/ or the Executive Mayor in Cabinet for onward recommendations to Full Council. As an interim plan until such approval by Full Council of the new Tenders and Contracts

Regulations, any incompatibility arising will be managed by adhering to the Tenders and Contracts Regulations whilst still seeking to ensure the principles in this report are applied.

- 1.18 Existing processes for managing contracts will alter to meet the requirements of the proposed CMF. This may not happen immediately if changes to existing contracts are required and will need to be considered within the current resourcing allocation for the management of individual contracts.
- 1.19 The Council has secured funding on the Cabinet Office *Contract Management Pioneer Programme – investing in commercial capability across local government*. This will invest in the Council's contract managers with a high quality and recognised training programme to commence in November 2022.

2. CONSULTATION

- 2.1 There is no requirement for external consultation as this is an internal process.
- 2.2 The plan for a new process was presented to CMT on 2nd August 2022 where it gained full support. Working groups were held with contract managers in Winter/Spring 2021-22. Further consultation will be held with contract managers through a Council Contract Managers Network established in October 2022
- 2.3 The contract management framework will be reviewed once the new Transforming Public Procurement Bill is enacted into law 2023-2024.

3. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 3.1 The Council has chosen to adopt the central government approach drafted by the Cabinet Office's Government Commercial Function, the adoption of which is being encouraged for the wider public sector.
- 3.2 This approach was chosen due to several factors:
 - The demonstrated success of contract management improvements within central government departments by adopting this model;
 - The level of support available online via toolkits and knowledge hubs;
 - The training programme created by the Cabinet Office in conjunction with the LGA and DLHUC to support local government contract management function which is based on this model;
 - The inclusion of contract management in the new Transforming Public Procurement bill which is likely to reflect some of these policies;
 - The validation from the National Audit Office to promoting good practice contract management using this approach.
- 3.3 A proposed timeline for implementation is set out below:

	Activity	Target Date
1	Joining the Contract Manager Pioneer Programme (CMPP) Senior Responsible Officer network	28 th September 2022
2	Establish Contract Manager Network for Croydon's CMPP attendees	25 th October
3	Finalise Contract Management Handbook and Toolkit	15 th November
4	Launch of Contract Management Framework – comms to stakeholders (contract managers, suppliers)	25 th November
5	CMPP to start	November – exact date tbc
6	Complete LGA's Self-Assessment for National Procurement Strategy for Local Government	10 th December
7	Finalise document repository and collated contract documents	10 th December
8	Issue performance scorecards to contract managers	12 th December
9	1 st set of Performance scorecards returned for Q3	18 th January 2023
9	1 st dashboard reports for Platinum and Gold contracts	24 th January
10	1 st review of Contract Management Framework	15 th March
11	Cabinet Office Commercial Continuous Improvement Assessment Framework (CCIAF)	April

4. OPTIONS CONSIDERED AND REJECTED

4.1 There are many options for contract management strategies that can be adopted by a contracting authority. There is no hierarchy of models nor a particular preference by local government bodies. In fact, there are several models and approaches created by professional organisations for the public sector that could be adopted.

4.2 **Option 1:** Don't do any active contract management and trust suppliers to carry out their contractual requirements without any oversight.
NOT RECOMMENDED

4.3 **Option 2:** Maintain existing arrangements. Continue to manage the Council's contracts at a local level with no corporate oversight or central reporting, with no standardised methods in place or support for contract managers.
NOT RECOMMENDED

4.4 **Option 3:** Introduce the proposed new contract management framework as set out in this paper. **RECOMMENDED**

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1. The Head of Finance for Resources and the Assistant Chief Executive's Department comments on behalf of the Director of Finance.

5.2 Managing contracts more effectively and providing corporate oversight will lead to improved financial controls over contract spend. It will also help to highlight

areas that can be identified for savings targets, continuous improvement, and assist with assessing the impact of inflation on our contracts.

- 5.3 Good contract management also helps to ensure that good performance outcomes are achieved.
- 5.4 The corporate oversight and reporting will be delivered by existing resources in the Strategic Procurement and Governance team. It is not envisaged at this stage that any additional resource will be required to manage contracts. Contracts already have identified contract managers to oversee the delivery of contracts. The introduction of the framework will provide Contract Managers with the tools required to ensure an effective and standardised approach, as well as the required oversight. The new CMF may require contract managers to re-prioritise their work to meet the requirements of the framework but ultimately this should deliver more value.
- 5.5 A small resource may need to be allocated to a programme of contract management training. This is yet to be scoped but would be bid for from the Council's centralised training budget overseen by the Learning and Development Board.
- 5.6 Finance have been consulted and can confirm that the report reflects accurately the financial impact of the various options.
- 5.7 Approved by: Lesley Shields, Head of Finance for Resources and the Assistant Chief Executive's Department on behalf of the Director of Finance.

6. LEGAL CONSIDERATIONS

- 6.1 The Head of Commercial & Property Law comments on behalf of the Director of Legal Services and Monitoring Officer that the recommendations in this report seek to improve contract monitoring, governance of contracts, and ensure best value.
- 6.2 The Council is under a general Duty of Best Value 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 (Section 3 of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007)).
- 6.3 The Executive Mayor has the power to exercise executive functions pursuant to s9E of the Local Government Act 2000. The adoption of a contract management policy is within the power of the Executive.
- 6.4 The proposals in this report will apply to contracts within scope of the Council's Tenders and Contracts Regulations, contained within the Council's Constitution. As such, any amendments required to these Regulations will need to be approved by Full Council in accordance with Article 15 of the Constitution: "changes to this Constitution shall only be approved by the Full Council after consideration of written proposals made by the Mayor, Cabinet, General Purposes Committee or Monitoring Officer and the submission of a recommendation to a meeting of the Council. Changes approved by the Council

shall take effect from the conclusion of the meeting at which those changes are agreed unless the recommendation specifies otherwise”.

- 6.5 The General Purposes Committee recently approved the setting up of a Constitution Working Group (meeting of 29th September 2022, item number 4) and the scope of their review includes the following specific changes: “*Part 4.1 – Tenders and Contracts Regulations 2022 - General review and update in light of recent governance reviews and reports and the Mayor’s Scheme of Delegation*”.
- 6.6 Paragraph 1.16 of this report explains how any incompatibility arising between the Tenders and Contracts Regulations and the proposals in this report will be managed in the interim.
- 6.7 Approved by Kiri Bailey, Head of Commercial & Property Law on behalf of the Director of Legal Services & Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 There are no expected Human Resources impacts arising from the content of this report other than the appropriate training required for contract managers.

Approved by: *Gillian Bevan, Head of HR Resources and Assistant Chief Executives* on behalf of the Chief People Officer

8. EQUALITIES IMPACT

- 8.1 The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, in the performance of its functions, therefore have due regard to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 When a service is contracted out both the contractor and the public authority that commissioned the service have to give due regard to the three principles of the General Duty as set out above. Any supplier that is exercising public functions also has an obligation to fulfil the general duty.
- 8.3 The Contract Management Framework is required to work within the framework of the Equality Strategy 2020- 2024. The deliverables in the Equalities Strategy should be incorporated into the Contract Management Framework and policy documents as detailed below:

“Outline how the proposed contract(s) will comply with the Public Sector Equality Duty outlined in Section 4 of the EQIA; and meet the outcomes of the Council’s equality strategy, particularly:

- (i) All Council contracts contribute towards delivering our equality objectives
- (ii) Council contractors are inclusive and supportive of vulnerable groups
- (iii) Ensure that every strategy, delivery plan, council contract and staff appraisal has an equality objective linked to it.
- (iv) That contractors be requested to adopt Croydon’s Equality and George Floyd Race Matters Pledges”

8.4 The Equalities Strategy including the Pledges named above, are provided to all bidders during the tendering stage of the procurement process. Social Value objectives also mirror the Council’s commitments to equalities and diversity.

8.5 Approved by: Denise McCausland – Equality Programme Manager

9. ENVIRONMENTAL IMPACT

9.1 There is no Environmental Impact expected as a result of this decision

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are no Crime and Disorder Reduction Impacts expected as a result of this decision

11 DATA PROTECTION IMPLICATIONS

11.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF ‘PERSONAL DATA’?**

NO

11.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

NO

A DPIA has not been completed as the adoption of this recommendation would not constitute handling any data that requires a DPIA.

CONTACT OFFICER: Scott Funnell, Head of Strategic Procurement & Governance

APPENDICES TO THIS REPORT:

Appendix 1 – Contract Management Policy

Appendix 2 – Proposed Council Contract Tiering

Appendix 3 – Summary of requirements for Contract Management Tiers

BACKGROUND DOCUMENTS – LOCAL GOVERNMENT ACT 1972

There are no applicable background documents.