

Audit and Governance Committee
Open Contracting and Transparency

Date: 25 January 2019

Agenda No:

Title of Report:	Open Contracting and transparency
Purpose of Report:	In accordance with the decisions of the Constitution Committee to report on: i. The Council's compliance with the Local Government Transparency Code ii. Contract Spend Software iii. Procurement Portal
Recommendations:	To note the report and to consider any required actions.
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Key Risks:	Failure in corporate governance, which leads to reputational damage or failure.

1. Background:

The Constitution Committee has discussed the findings and recommendations of the Open Contracting Advisory Group, the Group having been established to consider the implications of the Council adopting open contracting principles.

The Group's recommendations were approved, which included the following:

1.1 Local Government Transparency Code 2015

To request the Strategic Director: Strategy and Challenge to undertake a review of how the Council has implemented the Local Government Transparency Code 2015. This should include a compliance check against the code's requirements and report on progress against recommended elements of the code. Where recommended elements have not been implemented, the review should consider the practicalities of introducing them, including resources and timescales.

A report to be made to the Audit and Governance Committee by no later than 30 January 2019 to allow any resource requirements to be considered as part of the 2019-20 Budget.

1.2 Contract Spend Software

To request the Strategic Director: Finance to investigate the practical implications of introducing the same type of procurement system as Norfolk CC. This should cover the resource requirements associated with cleansing of data and improving interfaces between Council systems.

A report to be made to the Audit and Governance Committee by no later than 30 January 2019 to allow any resource requirements to be considered as part of the 2019-20 Budget.

1.3 Procurement Portal

a) To request the Head of Legal Services to review the process for drafting contracts so that suppliers are asked to clearly state what information in the contract they believe to be commercially sensitive and the reason why.

b) To request the Strategic Director: Finance to consider the practical implications of working towards publishing future contracts on the Council's procurement portal.

A report to be made to the Audit and Governance Committee by no later than 30 January 2019 to allow any resource requirements to be considered as part of the 2019-20 Budget.

This report has therefore been produced at the request of the Constitution Committee.

2. Local Government Transparency Code 2015:

2.1 An internal audit review has been undertaken of the Council's compliance with the mandatory requirements of the Code. On the basis that the issues identified by the audit review are addressed, the audit opinion was Satisfactory Assurance on risk identification, management, and control arrangements.

The review's key findings were that:

- a. the Council has a clear commitment to being transparent, which is evident in the Council's Constitution and Code of Corporate Governance
- b. in most mandated areas, the Council publishes the required data in accordance with the data definitions stated in the Code
- c. there are areas where further steps are required to both enhance corporate ownership, and to move to full compliance with the mandated elements of the Code
- d. Directors/service leads have undertaken to progress actions to address those areas of identified non-compliance these being:
- the provision of additional financial and parking space details in the Council's Annual Parking Report
 - the provision of additional detail covering the services and functions for those posts falling within the 'Senior Salaries' category of the Code, together with the budget held and the number of staff under direct/indirect line management responsibility ensuring the timing of the publication of all data is in accordance with the requirements of the Code
 - ensuring the timing of the publication of all data is in accordance with the requirements of the Code
- e. due to the Council's devolved working arrangements the audit was unable to confirm the completeness of the Council's published data relating to contracts with a value over £5,000
- f. there is a need to monitor the delivery of the enhancements agreed during the audit to secure full compliance with the mandated elements and the publication of data in accordance with the timings specified in the Code
- g. the council needs to formalise the corporate ownership for overseeing the delivery of the requirements of the Code and monitoring and reporting non compliance

The Code identifies (where in order to enhance the levels of transparency) additional information can be published and is referred to as "recommended for publication". During the audit review discussions with lead officers confirmed that for data beyond that mandated by the Code the "being transparent" principle is balanced against the costs and benefits of providing the data. The generally expressed view is that to publish data beyond that mandated needs to be demand led. At present there has been no evidence of a demand for the "recommended for publication" data.

However, where data is readily available or accessible, or helps demonstrate the Council is taking proactive actions, additional data is published. This is evident through the Annual Fraud Report where all of the "recommended data" is published.

This approach is in line with the vision set by the Corporate Management Team.

2.2 The internal audit review has been a catalyst for further work:

Appendix 1 sets out details of the information that must be published and a summary of the level of compliance within GCC.

Appendix 2 sets out details of the information which it is "recommended for publication" and a commentary on the implications of reaching these thresholds within GCC.

Governance:

In terms of the audit review's recommendations about governance, the Council's internal arrangements have been reviewed to provide clarity about accountabilities. These have now been strengthened through:

- i. The Director: Strategy & Challenge being confirmed as the lead on Code compliance, and thus ensuring the delivery of the enhancements agreed during the course of the review to secure full compliance with the mandated elements
- ii. Directors, in their Annual Assurance Statements, now being required to explicitly confirm that they have ensured that their respective services have delivered the Code's mandatory elements to the required standards

3. Contract Spend Software:

To request the Strategic Director: Finance to investigate the practical implications of introducing the same type of procurement system as Norfolk CC. This should cover the resource requirements associated with cleansing of data and improving interfaces between Council systems.

The need to improve the systems available to support the contract management function has been accepted. Taking account of our existing systems (e.g. SAP) and needs, we have explored the options and have decided to proceed with the purchase of the Proactis Contract Management system.

This will complement our existing Pro Contract e-procurement system, and provide the contract management function (and the wider organisation) with:

- a comprehensive contracts register showing all supplier details, goods or services supplied and key contract information as required by the Code
- the ability to store electronically a final signed copy of a contract and documented changes to that contract, in a single place, accessible by multi users
- the administration of key recurring contractual information
- spend data by contract
- contract performance against agreed performance indicators
- record and track performance meetings with the supplier
- create a corporately available knowledge base across the Council for the contract
- the ability to look across directorates and whole organisation to assess performance
- summarise performance and spend information across suppliers, business sectors and Council service areas

We are moving swiftly, planning for implementation in Spring 2019. No further resource are required.

4. Procurement Portal:

a) To request the Head of Legal Services to review the process for drafting contracts so that suppliers are asked to clearly state what information in the contract they believe to be commercially sensitive and the reason why.

The Council's current approach is to include a schedule for suppliers to provide details about what they believe to be commercially sensitive and why. We intend to remind suppliers/providers that it is their responsibility to respond on this point. The Council continues to retain its ability to disclose information using its discretion in order to meet FOIA and EIR and to comply with disclosure of information under the Freedom of Information Act (FOIA) and the Environmental Information Regulation.

b) To request the Strategic Director: Finance to consider the practical implications of working towards publishing future contracts on the Council's procurement portal.

The Council uses the South West ProContract portal for its procurement.

<https://www.supplyingthesouthwest.org.uk/>

This includes comprehensive information on both invitations to tender, including copies of all tender documents, and details of the contracts awarded as follows:.

- Reference no
- Lots
- Title
- Department
- Buyer Description
- Description of the geographical coverage
- Start date
- End date
- Awarded date
- Review date
- Appraisal date
- Display until date Visibility
- Initial contract period (months)
- Total option to extend (months)
- Total contract period (months)
- Available No. of Ext.
- Available extension details
- Taken No. of Ext.
- Taken Extension details
- Estimated value
- Estimated annual value
- VAT not recovered
- Primary contact
- Process used
- OJEU
- Open to other organisations
- Participating organisations
- Central purchasing body
- Framework type
- Keywords
- Categories
- Suppliers
- Custom fields
- (Field:Value)
- Public notes

- Portal notes
- Private notes

This detail is visible on the Contract Register until the Contract ends.

To date the Council has received 3 requests for access to full contract documentation. To change our approach and publish the estimated 3,000 plus contracts let per annum, would require a significant injection of resources, calculated to be in the region of £750K.

5. Next steps

The Audit and Governance Committee is asked to identify any issues and to consider any actions it wishes to take.