



City of Westminster

# Cabinet Report

<b>Meeting or Decision Maker:</b>	Cabinet
<b>Date:</b>	12 December 2022
<b>Classification:</b>	General Release save for Appendix 6 – exempt from disclosure by virtue of the Local Government Act 1972, Schedule 12A Part 1, paragraph 12 in that it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
<b>Title:</b>	Responsible Procurement & Commissioning Strategy
<b>Wards Affected:</b>	All
<b>Fairer Westminster/Policy Context:</b>	This Strategy seeks to support the delivery of a Fairer Westminster by providing a framework for supply chain activities.
<b>Cabinet Member/Lead Member:</b>	Cllr David Boothroyd
<b>Key Decision:</b>	No
<b>Financial Summary:</b>	This Strategy is not associated with any specific financial outlay
<b>Report of:</b>	Gerald Almeroth, Executive Director – Finance & Resources

## 1. Executive Summary

1.1 This report presents the updated Responsible Procurement and Commissioning (RPC) Strategy for approval, alongside three documents that will be key tools in support its implementation:

- a) Modern Slavery Statement – Westminster City Council's first Statement published in line with the Modern Slavery Act 2015.

- b) Supplier Charter – a set of commitments that suppliers are asked to make to demonstrate that they share the council's responsible business ambitions.
  - c) Ethical Procurement Policy – a set of core supplier requirements that will apply to all new contracts.
- 1.2 This new Strategy which replaces the RPC Strategy launched in February 2022 will be a key driver in delivering against specific outcomes within our new Fairer Westminster Strategy. The main changes include a stronger focus on workers' rights, a more holistic and ambitious approach on climate action and more robust action on tackling modern slavery and exploitation
- 1.3 The RPC Strategy covers areas of local impact and social value, as well as wider aspects related to sustainable development and responsible business. It is comprised of 12 objectives, grouped into four pillars:
- Fairer Communities
  - Fairer Economy
  - Fairer Environment
  - Fairer Council
- 1.4 Achieving these objectives will contribute towards the delivery of elements of the Fairer Westminster Strategy's 'Fairer Housing' outcomes, however this is not represented as a separate pillar in this RPC Strategy.
- 1.5 As well as being designed to help deliver specific Fairer Westminster outcomes, the 12 RPC objectives will also contribute towards broader United Nations Sustainable Development Goals (UN SDGs).
- 1.6 The accompanying **Modern Slavery Statement** will be published separately to the RPC Strategy. It is a requirement of Section 54 of the Modern Slavery Act (2015) to have a separate Statement describing the steps taken to ensure modern slavery forms no part of a business or its supply chains. It is anticipated that the scope of s.54 the Act will be broadened to public authorities next year. Westminster City Council's Modern Slavery Statement describes in detail our policies, procedures, training and procurement mechanisms used to mitigate the risks of modern slavery and includes an action plan for continuous improvement.
- 1.7 The **Supplier Charter** is a set of commitments that suppliers are asked to make to demonstrate that they share the council's responsible business ambitions. It is an RPC implementation tool that will be used as part of our supplier selection process for all new contracts tendered. Existing suppliers will also be strongly encouraged to sign up to the Supplier Charter retrospectively, we will use the positive relationships we have established with strategic suppliers to achieve this.
- 1.8 The **Ethical Procurement Policy** is a set of core requirements on aspects including working conditions, freedom of association & collective bargaining,

regular employment, humane treatment & blacklisting and payment of the Living Wage. These requirements will apply to all contracts, initially over a value of over £100,000, of any duration and within any sector.

- 1.9 This report provides the background to the RPC Strategy and its accompanying tools, outlines the approach to delivery, performance measurement and governance. The RPC Strategy will guide a collaborative effort between the Procurement and Commercial Service, our commissioners, service leads and contract managers, our leadership and our supply chain to deliver more responsible business in Westminster.

## **2. Recommendations**

That Cabinet:

- i. Approves the Responsible Procurement & Commissioning Strategy and the 12 objectives it seeks to achieve.
- ii. Approves the Modern Slavery Statement and the 6-month action plan it sets out.
- iii. Approves the Supplier Charter and its use as selection criteria within new procurement procedures and voluntary requirements for existing contractors.
- iv. Approves the Ethical Procurement Policy and its use as a policy referred to in the council's terms and conditions.

## **3. Reasons for Decision**

- 3.1 The council spends over £550million each year on third party services and contracts. We have potential to drive positive action on increasingly important issues such as tackling the climate emergency, contributing to local and national recovery, community wealth building, ensuring human and labour rights and greater diversity and inclusion in our supply chain.
- 3.2 This is a cross-council strategy designed to provide a framework to support the delivery of the Fairer Westminster Strategy and the some of the specific outcomes it sets out including; meeting our net zero carbon targets, reducing poverty and inequality in Westminster and procuring responsibly and ensuring the ethical treatment of people involved in our supply chains.

## **4. Background**

- 4.1 This RPC Strategy is an updated version of that released in February 2022. When the Labour Administration took control of the council, all documents relating to responsible procurement and commissioning were reviewed to identify any gaps or deviations from the Labour Manifesto. The Procurement & Commercial Service liaised with relevant Cabinet leads and other interested

parties and two-way feedback was given on the development of the new Fairer Westminster Strategy and the revision of the RPC Strategy.

4.2 The main changes include:

- a stronger focus on workers' rights which is now being driven through the creation of a new Ethical Procurement Policy
- a more holistic and ambitious approach on climate action
- more robust action on tackling modern slavery and exploitation
- a clearer vision of how impact will be measured.

## **5. Developing the RPC Strategy & accompanying tools**

5.1 The RPC Strategy was developed by the Councils Responsible Procurement Manager and wider Procurement and Commercial Services, working in collaboration with teams across the council. This includes the theme leads in the areas covered by the Strategy (e.g. Climate Emergency-, Modern Slavery-, Social Value-, Diversity & Inclusion teams) as well as front-line delivery colleagues (e.g. Cross-Council Cost of Living Group, the Communities Directorate, Westminster Employment Services etc.). have been developed by Procurement & Commercial Services in collaboration with our internal Legal team.

5.2 There has been an extensive engagement and consultation programme, which has included a number of events and workshops participated in by:

- in excess of 170 contract managers and service leads grouped into categories of spend,
- local Westminster businesses that form part of our Responsible Business Network,
- the new Future of Westminster Commission,
- over 100 existing suppliers including larger companies, SMEs and VCSEs,
- other external parties such as multi-agency working groups and subject-matter industry experts.

5.3 The final documents presented with this paper represent what is deemed to be a robust and ambitious approach to ensuring responsible business practices amongst our supply chain whilst:

- mitigating risk of challenge under the PCR Regulations
- maintaining suitable levels of competition to secure value for money for tax payers
- ensuring that we aren't creating artificial barriers to competition for smaller enterprises with fewer resources.

- 5.4 There are detailed action plans for each of the 12 RPC objectives which underpin how the Strategy will be implemented and the activity that will be undertaken.

## 6. Overview of the RPS documents

- 6.1 The RPC Strategy is structured into four pillars, which correspond to four of the five pillars of the Fairer Westminster Strategy. 12 objectives sit below these pillars, each of which corresponds to a Fairer Westminster Outcome, which are detailed below.

### **Pillar 1: Fairer Community**

Focuses on social value by addressing both short and long-term community need and ensuring fairness, inclusion and representation of people with protected characteristics under the Equality Act 2010. Contractor contributions to the 'cost of living' crisis is covered, alongside legacy programmes aimed at community cohesion and wellbeing. It also includes inherently important issues such as supplier workforce pay gaps. Specific objectives include:

- Increase collaboration with contractors to tackle poverty and inequality in Westminster
- Increase supply chain equality, diversity, and inclusion
- Increase partnership with contractors to strengthen local communities

### **Pillar 2: Fairer Economy**

- 6.2 Covers local economic growth; targeting opportunities to local people and enterprises, driving supplier diversity and facilitating social mobility. It includes the creation of training and employment opportunities for residents and development opportunities for existing supply chain workers. It seeks to increase the support offered to smaller, local enterprises and those that are mission-led and minority-led, as well as increasing our spend with these organisations. This pillar will be tailored over time to ensure alignment with the council's evolving approach to community wealth building. The two objectives under this pillar are:

- Increase spend with and support for target organisations to drive community wealth building
- Increase decent work and training for Westminster residents and professional development of existing supplier staff

### **Pillar 3: Fairer Environment**

- 6.3 Seeks to ensure rigorous environmental management, the mitigation of supply chain environmental impacts, an improvement of our local environment and increased access to green community spaces. This includes our work to baseline and reduce our supply chain carbon footprint, the amount of waste

we generate as well as improve local air quality and biodiversity. Specific objectives include:

- Increase climate action to meet our 2040 net zero city target
- Reduce air pollution from contractor activity
- Reduce waste and integrate circular economy principles within supply chains
- Increase contractor contribution to urban greening & biodiversity

#### **Pillar 4: Fairer Council**

6.4 Aims to ensure responsible business practices within our local and global supply chains. It seeks to improve the way that our contractors operate including their treatment of workers and subcontractors and their approach to responsible operations including fair tax conduct and sustainable procurement. The three objectives are:

- Increase due diligence to combat modern slavery & exploitation
- Increase responsible business performance of contractors
- Increase sustainable procurement & supply chains

6.5 Achieving these objectives will contribute towards elements of the Fairer Westminster Strategy's 'Fairer Housing' outcomes, it not represented as a separate pillar in this RPC Strategy.

6.6 The RPC Strategy aims to deliver a focused and impactful approach to delivering responsible business goals, relevant to departmental service leads and suppliers alike. It seeks to set a clear vision and direction of travel. However, the approach taken will be, in each procurement or commissioning exercise, tailored to the nature and value of the contract, the associated risks and opportunities presented by the project and the particular industry or sector.

6.7 The goal is to embed responsible business principles throughout the procurement and commissioning cycle to have the greatest impact possible, whilst ensuring that our suppliers are clear about their role and prepared to make the necessary improvements.

#### **Modern Slavery Statement (Appendix 2)**

6.8 The council's first Modern Slavery Statement covers 18 months' work to significantly increase the due diligence procedures used by Westminster to minimise the risk of modern slavery and exploitation in our supply chains. It includes:

- The structure of our organisation, its supply chains and our key risks and priorities

- How we as an organisation ensure that this has no place within our business, in terms of our recruitment procedures and relevant policies e.g. whistleblowing
- The steps we have taken so far to try and ensure that it forms no part of our supply chains, describing in detail our policies, procedures, training and due diligence mechanisms used at each stage of the procurement cycle
- The work we will do to continuously improve our approach to due diligence set out in an action plan October 22 – March 2023. covers the last half of Financial Year 22/23, so that next year when we publish our revised annual Statement, we will be synchronised with our financial reporting cycles.

### **Supplier Charter (Appendix 3 – Guidance Appendix 4)**

- 6.9 The Supplier Charter is a set of commitments that suppliers are asked to make to demonstrate that they share the council's responsible business ambitions. They are required to evidence aspects of their approach to Environmental Performance, Carbon, Air Quality, Waste, Modern Slavery, Prompt Payment, Local / Diverse Supply, Employment & Skills and Community Benefit.
- 6.10 The Supplier Charter is an RPC implementation tool that will be used as pass/fail requirements within the supplier selection process for all new over-threshold contracts tendered. Bidders must commit to evidencing technical and professional ability to align contract delivery with the RPC Strategy in order to tender for our contracts. We are permitted to de-select suppliers who do not commit to meeting these standards under Regulation 60(9) of the Public Contract Regulations (PCR), which sets out permissible selection criteria on a project specific basis. This is one reason why the requirements within the Supplier Charter are tailored according to the nature, duration and value of the contract. Existing suppliers will also be strongly encouraged to sign up to the Supplier Charter retrospectively, we will use the positive relationships we have established with strategic suppliers to achieve this, alongside other incentives such as publicity and case studies on their good practice. This material can be showcased on our website to demonstrate their commitment to responsible business to other potential clients and to communicate the types of activity and levels of ambition we expect from our supply chain.
- 6.11 The Charter sets out the foundations of what we need suppliers to have in place to ensure appropriate focus and continuous improvement throughout the lifetime of the contract. The requirements within the Charter are tailored according to the nature, value and duration of the contract each supplier is delivering or is bidding for:
- to prioritise their focus on the most relevant areas of responsible business
  - to ensure relevance and proportionality

- to uphold the principle of not creating artificial barriers to tendering; especially important as we seek to diversify our supply chain and increase the number of smaller, local businesses, social enterprises and voluntary and community sector organisations.

### **Ethical Procurement Policy (Appendix 5)**

- 6.12 This Policy was developed in response to the new administrations clear mandate to improve workers' rights in our supply chain. It is a set of core requirements on aspects including working conditions, freedom of association & collective bargaining, regular employment, humane treatment & blacklisting and payment of the Living Wage.
- 6.13 The criteria set out in the Ethical Procurement Policy relate to the ethics and fairness of supplier business practices, as opposed to their technical and professional ability to deliver our contracts. For this reason, it is not possible to use the criteria set out in this Policy as 'selection' criteria, but the Procurement & Commercial Service have worked with our Legal team to set out robust, mutually agreed wording that can be used as a supplier-facing policy, which will be incorporated into the 'policies' schedule of our standard terms and conditions. These requirements will apply to all contracts, initially over a value of over £100,000, of any duration and within any sector.

## **7. Implementation and reporting timeline**

- 7.1 A Responsible Procurement & Commissioning Delivery Board is being established which will bring services together from across the Council to oversee the implementation of the RPC Strategy.
- 7.2 The main activities taking place to implement and report the performance of the RPC Strategy over the next 12 months are summarised below:
- Supplier Charter – integrated into our e-procurement templates ready for use within the selection stage of tenders [Dec 2022]
  - RPC (internal) Sharepoint content and guidance launched [Dec 2022]
  - RPC Directory - a set of sample supplier evaluation questions, tailored to 80 different spend categories made available internally [Dec 2022]
  - Initiate internal refreshed RPC training to support strategy implementation [Jan 2023]
  - Supplier-facing event launching the RPC Strategy and accompanying documents with large and small suppliers, encouraging voluntary sign up to the Supplier Charter and Ethical Procurement Policy amongst existing contractors [Mar 2023]



- Initiate external RPC training to existing suppliers and interested bidders, including smaller enterprises [Mar 2023]
- Pilot RPC measures on performance Jan 2023 – March 2023 compiled and assessed [April 2023]
- Second Modern Slavery Statement with progress achieved Oct 2022 – March 2023 and new (annual) action plan published [May 2023]
- Robust quarterly reporting on RPC measures [July 2023, Oct 2023, Jan 2024]
- First annual RPC report to Audit and Performance Committee [Jan 2024]

7.3 The implementation of the RPC Strategy and associated tools will be regularly reviewed and the approach tailored to ensure it has maximum impact in achieving our Fairer Westminster outcomes. The aim is to ensure that the council's expectations of suppliers in regard to responsible business are clear and robust, whilst at the same time, good levels of competition are maintained to ensure value for money. We therefore recognise that our procurement processes must be made as simple, transparent and accessible as possible to avoid creating barriers to smaller businesses and that levels of ambition are tailored according to market maturity. The Procurement & Commercial Service will be responsible for ensuring this balance is maintained throughout the implementation of the strategy.

7.4 Our success in achieving the RPC objectives will be measured at three different levels to gain detailed insight and drive good performance. This will include:

- **Contract performance** – RPC Performance will be assessed on an individual contract basis alongside other quality measures, as part of standard contract management processes e.g. 'number of work placements for people with learning difficulties provided within the relevant timeframe'. This will provide the Council with the information on the progress suppliers are making and the impact they are each having through the delivery of our contracts.
- **RPC Strategy measures** – We will now start to measure the implementation of the RPC Strategy through the development of new measures on each of the 12 objectives. These measures will be used to communicate performance on each objective to senior leadership as well as theme leads across the council e.g. '% suppliers (by annual spend) signed up to the Supplier Charter/ Ethical Sourcing Policy'.
- **Wider measures** - Outcomes of the delivery of the RPC Strategy will contribute towards a wide range of Fairer Westminster commitments and

outcomes, as well as GLA and national targets. RPC reporting will also allow the demonstration of how we are contributing to the UN SDGs. We want to start building a better set of data that will inform future design of service design and procurement activity so that we can drive real change e.g. 'Scope 3 carbon emissions reduction in FY 2022/23'.

## **8. Financial Implications**

- 8.1 There are no direct financial implications arising from this report or the recommendations. However, increases in the percentage weighting for responsible procurement could be offset with the commercial assessment. Each tender will be reviewed case by case, with the final weighting for quality, commercials and responsible procurement approved by the Commercial Gateway Review Board, ensuring the Council are receiving the right balance of quality and value for money.

## **9. Legal Implications**

- 9.1 The proposed Responsible Procurement and Commissioning Strategy (Strategy) seeks to facilitate the Council in meeting the 12 objectives set out in the report.

### **Modern Slavery Statement**

- 9.2 The Modern Slavery Act 2015 (MSA 2015) consolidates offences relating to trafficking and slavery. Section 54 of the MSA 2015 requires commercial organisations with an annual turnover of more than £36m to produce a statement each year setting out the steps they have taken to ensure that modern slavery is not taking place in the business or its supply chains. The Council has voluntarily chosen to publish an annual statement to provide transparency and demonstrate its commitment to tackling modern slavery. The Council has made a commitment in May 2023 to ensuring the publication of a second annual Modern Slavery Statement.

### **Supplier Charter**

- 9.3 The Council as a contracting authority is required to comply with the Public Contracts Regulations 2015 (PCR 2015). Appendix 6 sets out the extent to which the Council can lawfully adopt the Supplier Charter as part of a selection criteria to be used under a public procurement.

### **Ethical Procurement Policy**

- 9.4 The Public Services (Social Value) Act 2012 places a duty on local authorities to have regard to economic, social, and environmental well-being in connection with public services contracts, and for connected purposes. This places a duty on local authorities to consider at the "pre-procurement" stage of any services contract how the procured service could improve the economic, social, and environmental well-being of the relevant area.

- 9.5 The Council may adopt this policy and incorporate it into its standard terms and conditions. The policy covers a range of areas to improve workers' rights in the Council's supply chain.
- 9.6 There is a risk that potential suppliers will be deterred from bidding by the implementation of the Strategy which could also see a rise in contract price.
- 9.7 Legal Services will work with the procurement team to update the Council's standard contract terms and conditions, procurement documents and any strategy documents as they pertain to the proposed Strategy. Legal Services will also support the procurement team to report any deviations in the standard selection criteria to the Crown Commercial Service.

## **10. Consultation**

- 10.1 A comprehensive engagement programme involving staff across the council has taken place to inform and shape the strategy. Procurement Boards across all Directorates have been consulted, as well as management teams. It featured on Loop Live with follow up information on six 2-hour workshops, which were attended by over 170 staff, tailored for different directorates and categories of spend. These sessions have helped shape the strategy by prioritising key issues and by ensuring the standards we set for suppliers are specific to the service area.
- 10.2 We have engaged wider stakeholders including:
- Westminster's Responsible Business Network
  - The Future of Westminster Commission
  - Over 200 existing suppliers and those interested in doing business with the council at a series of four supplier facing events, three of which were aimed at smaller, sustainable and/or minority-led businesses.
- 10.3 This RPC Strategy and its implementation tools are live documents; the strategy itself will be reviewed annually and updated where required, and the Ethical Procurement Policy and Supplier Charter will be regularly updated when new ideas and initiatives are brought forward, after testing these additional measures with our supply base through supplier engagement and soft market testing.

## **11. Carbon Impact**

- 11.1 This Strategy provides a framework for improvement in the environmental performance of Westminster City Council's supply chain. The four objectives to be delivered under the 'Fairer Environment' pillar of the Strategy include:
- Increase climate action to meet our 2040 net zero city target
  - Reduce air pollution from contractor activity
  - Reduce waste and integrate circular economy principles within supply chains
  - Increase contractor contribution to urban greening & biodiversity

11.2 To accelerate the delivery of the first objective, specific actions for the Procurement & Commercial Service have been developed as part of the Council's overarching Climate Action Plan to reduce the carbon emissions associated with our third party spend. Work is focused on calculating a carbon footprint for each of our ten highest spend, most carbon intensive contracts. This forms the basis of identifying carbon hotspots and working with contractors to reduce emissions in line with Council targets. We are also working to create a scope 3 baseline for supply chain emissions and set a net zero target for scope 3 in collaboration with other officers.

## **12. Human Rights Implications**

12.1 This Strategy is designed to improve the Council's approach to mitigating human and labour rights risks in our domestic and global supply chains. Objectives relevant to human rights, which will be delivered under the 'Fairer Council pillar of the Strategy include:

- Increase due diligence to combat modern slavery and exploitation
- Increase responsible business performance of contractors

12.2 To accelerate the delivery of the first objective, a Modern Slavery Action Plan has been developed as part of our Modern Slavery Statement (see Appendix 2). Work to deliver this action plan is supported by the multi-agency Modern Slavery and Exploitation Group, underpinned by the bi-Borough Modern Slavery Strategy.

## **13. Energy Measure Implications**

13.1 The implementation of this strategy will include the requirement for contractors to report carbon emissions associated with our contracts to baseline and evidence a continuous reduction of carbon emissions

### **If you have any queries about this Report please contact:**

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## **APPENDICES**

**Appendix 1** – Responsible Procurement and Commissioning Strategy

**Appendix 2** – Modern Slavery Statement

**Appendix 3** – Supplier Charter

**Appendix 4** – Supplier Charter Guidance

**Appendix 5** - Ethical Procurement Policy

**Appendix 6** – *Legal Note (Non-Public: Exempt)*

**BACKGROUND PAPERS:**

Responsible Procurement Strategy – [Original document launched February 2022](#)