Corporate Procurement Strategy

St. Helens Council

1.0 Introduction

1.1 Overview

1.1.1 Procurement continues to play an increasing role in the operation of the Council, particularly with its growing and natural association with commissioning of services. In an increasing number of areas, the Council, and its partners, are reliant on external organisations to deliver key aspects of its vision for St Helens. In addition, the entire physical and technological infrastructure that supports all our services, from buildings to telephony, is entirely reliant on external suppliers, service providers and contractors.

1.1.2 Procurement decisions are central to the way in which the Council does business. As such, it is crucial that the objectives of the procurement function match those of the organisation, and also that the organisation’s key objectives are supported and established within all procurement activity.

1.1.3 The basis for all procurement decisions has to be value for money. The Council recognises this, but also recognises that value for money is not the same as lowest cost. It is crucial that procurement decisions are made with a longer and broader view than simply immediate cost. This document demonstrates the Council’s commitment to a ‘whole of life’ approach to procurement, and demonstrates how processes and procedures can be used to secure long term value for money and quality of provision.

1.1.4 The Council recognises the critical role it plays within the local supply chain. The Council is the largest purchaser of goods and services in the borough, and recognises that it needs to use this position responsibly. Where possible and within the bounds of the legislative framework, the Council will use its purchasing activities to stimulate the local economy and to provide opportunity for local employment and training. This is both a reflection and supportive of the Social Value legislation recently enacted by the current Government.

1.1.5 The Council also recognises the importance of the voluntary and third sector in service delivery. The Council is committed to working with such organisations in this sector to improve services for individuals, and in support of social enterprise.

1.1.6 In 2012-13 the Council spent upwards of £148 million on external supplies of goods, works and services. Of this, over £27 million was spent locally in both the commercial and community and voluntary sectors.

1.1.7 Procurement decisions also need to be mindful of wider ethical and socially responsible considerations. In particular, the procurement process will be used to ensure that external suppliers, service providers and contractors provide goods and services in an environmentally sustainable manner.

1.1.7 This document establishes the Procurement Strategy for the next three years. It is part of a wider procurement framework, which is underpinned by European competition law and the Council’s own Contract Procedure Rules. It also recognises the responsibility of the Council to ensure that external suppliers, service providers and contractors are acting in accordance with the Council’s legal responsibilities for ensuring equality and promoting diversity.
1.1.8 Because of the key relationship between the Council’s procurement decisions and the local economy, it has been developed through engagement with St Helens Chamber and the Halton and St. Helens Voluntary Community Action (VCA).

1.2 Commissioning

1.2.1 There is often some confusion regarding the use of the terms ‘commissioning’ and ‘procurement’, and the terms are often used interchangeably. For the purpose of this strategy, it is important to distinguish between the meanings of both terms.

1.2.2 The Audit Commission defined commissioning as ‘the process of specifying, securing and monitoring of services to meet individuals’ needs both in the short and long term’. Procurement is often part of the process of securing services, but this is not necessarily the case.

1.2.3 Commissioning decisions are taken before the procurement process begins. Procurement relates only to those services that are to be tested against the market, rather than provided directly, or in partnership with other public agencies.

1.2.4 A commissioning decision does not necessarily mean that a procurement process will follow, however some element of commissioning must take place before a procurement process can begin.

1.2.5 The procurement process relates to how those commissioning decisions are enacted, where a decision has been taken to look externally for the supply of goods or services.

1.2.6 The scope of the Council’s commissioning responsibilities, and potential subsequent procurement activity, has been broadened with the transfer of Public Health service responsibilities from the Health sector (NHS) to Local Authorities. This Strategy encompasses the impact of this transition.

1.3 Links to Council Key Objectives

1.3.1 The Council’s vision is to make St Helens a modern, distinctive, economically prosperous and vibrant borough.

1.3.2 As the introduction to this document states, the procurement process is central to the Council’s ability to achieve this vision. As such, it is necessary to begin the process of determining a strategy for procurement by examining the key objectives that underpin this vision.

1.3.3 The overriding objectives of the Council are those of the Local Strategic Partnership and the resulting St Helens Plan. The Plan covers the three years from 2013-2016 and the current version is themed on ‘People’ and ‘Place’ – the principal objectives are reproduced below:

“To make St. Helens a modern, distinctive, economically prosperous and vibrant Borough”
What we want to achieve:

<table>
<thead>
<tr>
<th>Improving People’s Lives</th>
<th>Creating a Better Place</th>
<th>Delivering Effectively Together</th>
</tr>
</thead>
<tbody>
<tr>
<td>We want people to be:</td>
<td>We want St. Helens to be:</td>
<td>We want all partners to:</td>
</tr>
<tr>
<td>• Healthy and Active</td>
<td>• A Safer and Stronger Place</td>
<td>Share the Same Principles and Values</td>
</tr>
<tr>
<td>• Skilled and Educated</td>
<td>• A Cleaner, Greener and Accessible Place</td>
<td>• Consult, Engage and Empower our Communities</td>
</tr>
<tr>
<td>• Independent and Empowered</td>
<td>• A Thriving, Vibrant and Competitive Place</td>
<td>• Be Open, Accessible and Transparent</td>
</tr>
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</table>

1.3.4 It is clear that commissioning and procurement decisions can and will lead to the direct engagement of external organisations in delivering these key objectives. In addition to this direct link, the process itself is a key part of the performance and governance framework that enables these objectives to be met.

1.4 Key Principles of the Corporate Procurement Strategy

1.4.1 The Corporate Procurement Strategy has been established with the vision and objectives of the Council and its partners in mind. It identifies six key principles, which will be applied to the procurement process throughout the Council, and will provide a framework for all procurement decisions.

1.4.2 Within each of these six principles, the Strategy identifies a number of key commitments, which the Council makes in order to improve the value added by the procurement function to the Council, its partners, residents and businesses. These commitments will be delivered through a series of detailed actions and targets within the Corporate Procurement Annual Service Plan. Where appropriate, these commitments will also be reflected in the Annual Service Plans of all services across the Council.

The Six Principles of Effective Procurement in St Helens.

Legality: To ensure that the Council acts in a lawful manner, in full compliance with relevant legal requirements in the purchase of goods, services and works from external parties.

Value for Money: To ensure that the Council receives full value for money through the procurement process.

Supporting the Local Economy: To use the procurement process to encourage local entrepreneurial activity, and to provide opportunities for employment and training within the borough, where possible.
Making best use of the Voluntary Sector: To engage with the voluntary sector in St Helens to ensure that the Council makes best use of the service provided by the voluntary sector, and encourages the development of social enterprise within the borough.

Sustainable Procurement: To procure goods and services in a way that encourages sustainability of supply, and ethical sourcing of materials to minimise the negative impact of economic activity on the local environment.

Promoting Equalities: To ensure that the Council’s resources are not spent on practices that lead to unlawful discrimination, harassment or victimisation, and instead are used to support and encourage equal opportunities and good community relations.

1.4.3 The following sections of the Strategy Document considers each of these principles in detail, and identifies the actions and commitments necessary for the Council to adhere to these principles, and to derive best value from its procurement activities.
2.0 The Statutory and Regulatory Framework

2.1 Introduction

2.1.2 At its most fundamental level, the primary responsibility of the Council is to ensure that its procurement practices are lawful.

2.1.3 The Council is bound by the statutory framework that surrounds public procurement throughout the European Community (EC). This framework of competition regulations arose from the establishment of the European Union with the Treaty of Rome in 1952, and is established in a series of European Directives that determine the parameters in which all public bodies must undertake procurement activities.

2.1.4 The Council’s constitutional arrangements in respect of procurement take account of these directives through the Council’s Financial Instructions, Scheme of Delegation and Contract Procedure Rules. The latter document is key to ensuring compliance with statutory requirements.

2.1.5 There are in addition constraints which apply equally to commissioning and to all local authority activities. They include:

• the growing pressures for sustainable development including social value considerations
• increasing budgetary pressures
• community strategies and community planning
• monitoring.

2.1.7 In addition to the statutory and constitutional framework, there is also a considerable regulatory framework that sets extremely high expectations for Council’s procurement functions, and the contribution that procurement processes make to the achievement of both efficiency and wider social goals.

2.1.8 Of particular importance within the three-year cycle of this strategy are the implications of the Public Services (Social Value) Act 2012, and the accent on commissioners to consider its scope when determining service requirements and their impact.

2.2 Legal Restrictions on Procurement Activity

2.2.1 The statutory framework that places the most direct constraints on the Council’s procurement practices is imposed by the European Union by way of EU Directives. These Directives have the same status as Acts of Parliament.

2.2.2 The full requirements of these Directives can be complex as there are many exceptions and qualifications, however the most significant of these requirements currently are reproduced here in order to provide the legal context in which this Corporate Procurement Strategy must sit.

2.2.3 The principal Directive that applies to Local Authorities is the Public Contracts Directive. This directive determines the method of advertising, selection, evaluation and negotiation of tenders and its application is therefore fundamental to the Council’s procurement practices.

2.2.4 In determining whether this directive applies there are three questions.
• is the body awarding the contract subject to the directives?
• does the object of the contract count as a service, works or a supply?
• does the estimated value of the intended procurement exceed specified thresholds?

2.2.5 In the Council’s case, the answer to the first question will always be ‘yes’. In reality, the answer to the second question will also be positive. As such, the thresholds determined by the EU Directives are of critical importance in determining the appropriate procurement route.

2.3 Thresholds and Qualifications

2.3.1 The thresholds within the European directives are expressed in Euro. They are usually reviewed every two years, with an appropriate exchange rate applied to the UK. The current relevant thresholds are:

€ 207,000 for the supply of supplies and services
€ 5,186,000 for works

2.3.2 The sterling exchange rate is reviewed periodically by the EU, and currently expresses the thresholds as £172,514 and £4,332,012 respectively.

2.3.3 These thresholds determine whether a contract notice has to be placed in the Official Journal of the European Union (OJEU). The objective of this procedure is to prevent governments and public bodies from favouring domestic suppliers and contractors by ensuring that all similar interested parties throughout the EU have the opportunity to bid for significant contracts.

2.3.4 Placing a contract notice with OJEU clearly prolongs the procurement process, and it is important that officers make provision for this within project planning, and engage with Corporate Procurement at an early stage for guidance on this procedure.

2.3.5 It is important that the Council does not seek to avoid the bureaucracy associated with the placing of a notice in OJEU by splitting essentially the same contract into smaller pieces to avoid breaching the threshold. Such practices are deemed anti-competitive and there are penalties for breaching this. However changes in EU Directives, expected to become adopted under UK legislation in 2014, may impact on this and other current provisions.

Exceptions

2.3.6 There are exceptions to the OJEU requirements. First and foremost, they obviously do not apply below the determined thresholds (see above). In addition, the rules governing aggregation of similar contracts do not apply where the ‘single requirement’ is no more than €80,000 (£66,672) for supplies and services and €1 M (£833,400) for works and less than 20% of the total value of all aggregated requirements.

2.3.7 There are other significant exceptions that relate to the type of work to be let. The Directives currently distinguish between services that are classed as ‘Part A’ or ‘Part B’. Part A services are subject to the full requirements of the Directives, while Part B services have less onerous requirements. However as mentioned earlier, revisions by the EU to this demarcation are anticipated during the life of this strategy and the strategy will be flexible to allow for such amendments.
2.3.8 Full details of these can be found in the procurement guidance on the Council’s website, however the most significant for the Local Authority are presented below.

**Part A Services**
- Repair and Maintenance of Vehicles
- Telecommunication
- Financial and Banking Services
- IT Services
- Accountancy and Audit Services
- Management Consultancy
- Architectural and Engineering Services
- Building Cleaning and Property Management
- Advertising

**Part B Services**
- Legal Services
- Personnel Services
- Education and Vocational Education Provision
- Health and Social Care
- Recreational, Cultural and Sporting Provision
- Hotel and Restaurant Provision

2.3.9 It should be stressed that this is a much-simplified overview of the regulations and should not be taken as definitive. Officers involved in procurement decisions that may be subject to European Directives must contact Corporate Procurement for advice and guidance at an early stage in the process to determine the most appropriate and compliant procurement route/model.

2.3.10 As referenced earlier the EU Directives relative to Procurement are expected to be reviewed and any resulting changes adopted within UK legislation within the period of the life of this Strategy – anticipated to be during 2014. The impact is that procurement processes will be reviewed to reflect these changes and in doing so this Strategy will observe and comply with the Directives throughout its life.

**2.4 Contract Procedure Rules**

2.4.1 The Council has in place its own Contract Procedure Rules which form part of the Council’s constitution. The objectives of these procedure rules are:

- To ensure that the Council acts lawfully when contracting for goods, services and works with external parties;

- To ensure that competitive processes are undertaken below the EU Thresholds

- To balance the need to achieve value for money through competition with the cost of the procurement process, so that the process is proportionate to the value of the contract and its inherent risk.
• To ensure that contracts entered into by the Council comply with its vision, priorities and values.
• To ensure the Council meets its obligations within the Government’s Transparency Agenda.

2.4.2 The requirements of Contract Procedure Rules are determined by the value of the contract over its defined duration (or four years when not defined). Contract values are distinguished between Low, Intermediate and High, and requirements differ for each.

Low Value

2.4.3 These are contracts where the total value is less than £10,000. For these contracts, officers must demonstrate that the same quality of goods or services could not have been achieved elsewhere at a significantly lower price.

2.4.4 Methods of demonstrating this include:

• reference to catalogues, brochures or other literature

• informal tender process involving a number of quotes from appropriate suppliers, primarily by using the North West CHEST

• benchmarking

Intermediate Value

2.4.5 These are contracts with a value above £10,000, but less than £50,000. In such instances, and where possible, a minimum of three separate written quotations need to be invited, primarily by using the North West CHEST.

2.4.6 For such contracts, a full tender exercise may also be deemed appropriate by a Chief Officer, depending on the level of complexity of the service and its associated risk.

High Value Contracts

2.4.7 High value contracts are contracts above £50,000 in value. In such instances, appropriate competition has to be demonstrated either through a formal invitation to tender from at least four suppliers, or through a publically visible tender opportunity – the North West CHEST being the default system/opportunities portal for these purposes.

2.4.8 High value contracts in excess of the EU thresholds must be advertised in accordance with the EU Directives for OJEU.

Exemptions from Contract Procedure Rules

2.4.9 Some undertakings are exempt from Contract Procedure Rules. These exemptions relate to employment, the disposal and acquisition of land and work that can only be carried out by statutory undertakers (Utilities).

2.4.10 In addition, purchases made using government purchasing organisations are also exempt – although usually qualified by Administrative Decision/Delegated Executive Decision as appropriate. This is covered in more detail within section 3.
2.4.11 There are other qualified exemptions to Contract Procedure Rules. These exemptions need to be considered on a case by case basis, and also require approval by Administrative or Executive Decision (depending on value). The most common exemptions relate to:

- Proprietary goods or services that are only provided by one person or firm (for example additions to an existing IT system)

- Work of a highly specialised nature, where only a single contractor is able to undertake the work.

- Contracts where the price is fixed by government order

- Contracts that are extensions to existing contracts

- Work that is so urgent in nature that it precludes a competitive process from taking place.

2.4.12 It is particularly important to note that these exemptions have to be used appropriately, and not for the purposes of avoiding competition. The exception relating to urgent work, for example can only be applied in unforeseen circumstances and cannot be used where officers have simply failed to act in time and an existing contract has expired.

2.4.13 It is also important to note that these are exemptions from the Authority’s Contract Procedure Rules only and do not provide for exemptions from the EU Procurement Regulations.

2.5 The Regulatory Framework

2.5.1 Both the statutory framework, and the Council’s own Contract Procedure Rules place limits on the procurement practices of the Council. In addition to this, other government legislation imposes significant targets for procurement, and the value that procurement has within Local Authorities and the wider community.

2.5.2 The most significant of these is the Public Services (Social Value) Act 2012 which was implemented by law in the UK in January 2013 although this additional emphasis on procurement as a vehicle for community and social change has its roots in the Local Government White Paper of 2006, Building Strong and Prosperous Communities. Of particular significance in this context is the requirement for Councils to use their procurement power to support economic growth and regeneration.

2.5.3 The Public Service (Social Value) Act 2012 places a requirement on commissioners of services to consider the inclusion of social value outcomes when determining requirements in advance of any associated procurement process. Social Value consideration will be central to such planning as we aim to gain added value from procurement through securing employment, learning and skills outcomes as well as local supply chain engagement by our larger contractors.

2.5.4 The challenge for the Council is therefore to meet the high expectations associated with the wider social, economic and environmental impact of procurement decisions, within a structured legislative framework and against the need to achieve value for money.

2.5.5 Through the principles identified within the strategy, and the associated commitments, the Council will be able to meet this challenge.
3. Value for Money

3.1 Introduction

3.1.1 In order to achieve the strategic objectives that the Council and its partners has identified on behalf of the community, it needs to make best use of its financial resources. With approximately £ 150 million per year spent externally, it is clear that procurement plays a key part in the Council’s ability to use its resources effectively.

3.1.2 Value for Money through procurement means deriving the maximum benefit to the Council, and where appropriate the recipient(s) of the service, at the least cost, while minimising associated risks.

3.1.3 It also means selecting the lawful procurement route that balances the cost of procurement (including time), with the benefits derived by particular contracts.

3.1.4 In order to achieve these targets, the Council also has to maintain effective and efficient procurement arrangements that add value to the organisation, via the provision of appropriate expertise throughout the procurement process.

3.2 Definition of Value for Money and the Whole of Life Approach

3.2.1 The Council defines value for money as the ability to secure the maximum benefit from a particular contract or transaction, for the least cost. Within this definition, there are a number of very important qualifications and principles.

3.2.2 The Council embraces the principle of ‘Whole of Life’ costs in all of its contractual arrangements, and explicitly rejects the notion that the lowest price necessarily offers the best value for money.

3.2.3 The Whole of Life approach evaluates the total benefits of a contract over its useful life, alongside its total associated costs. Importantly, the cost of a contract is not purely financial, but may also be expressed in terms of:

- The quality of the service,
- The cost of contract monitoring, and particularly demands on officer time,
- The compatibility of products or services with other services,
- The ability of a contractor to work with other partners, or contractors,
- The capacity of an organisation and its ability to quickly deliver,
- The ability of an organisation to manage legal and technical issues, such as TUPE - see Section 5 – 5.3.7 to 5.3.10
- The flexibility of a product or service, and its ability to adapt to changes in technology or business processes,
- Ease of access by customers, where appropriate,
- Quality of on-going support by the contractor
3.2.4 Not all of these considerations will apply in every contract, and this is by no means a definitive list. For each contract, the approach will differ accordingly, however the principle of the whole of life approach must still apply.

3.2.5 The following section expands on this and demonstrates how this approach will be reflected for different contracts, and how this will be reflected in the procurement process and tender evaluation.

3.3 Risk

3.3.1 The key determinant of the relevant costs and likely benefits of each contract is risk. Although the risks associated with each procurement are many, they can each be split into two related categories:

- Strategic Risk – the impact of the contract on the Council’s ability to deliver its overall strategic objectives
- Financial Risk – the value of the contract over its total life

3.3.2 These risks will have been considered at the commissioning stage, prior to any decision to procure. Following this review, however there are many areas where, despite high financial and strategic risks, it is still desirable to contract out a service, rather than provide it directly. In these areas, using the correct procurement process is key to managing risks.

3.3.3 For contracts with a high degree of strategic and financial risk, it is likely that quality, rather than cost, will be the overriding factor in selecting an appropriate contractor. This is particularly the case where business continuity is a significant risk.

3.3.4 Similarly, there are many contracts that are of little direct financial risk to the Council, or similarly offer no direct risk to the Council’s ability to achieve its overall objectives.

3.3.5 The approach to such contracts needs to reflect this, but also needs to be mindful that in aggregate, such contracts account for significant values. For such contracts, it is likely that price will be the overriding factor in selecting an appropriate contractor.

3.3.6 The majority of contracts, however, fall somewhere in between these extremes, and the procurement process selected for each needs to reflect where each sit within this spectrum.

3.4 Risk and the Procurement Process

3.4.1 The procurement process is determined primarily by the parameters set by statute and through the Council’s Contract Procedure Rules. Within this, however there is considerable scope to tailor the process to best suit the type of contract that is being procured.

3.4.2 In determining the most appropriate procurement model, the matrix of value and risk needs to be applied.

*Low Risk and Low Value*

3.4.3 These are routine transactions, typically involving high volumes of goods, with low individual values, and which are often replenished. Typical examples would be office stationary, classroom equipment or screws and other mechanical fixings.
3.4.4 For these transactions, it is necessary to demonstrate value for money, but also necessary to minimise the procurement cost of individual transactions. The approach to such transactions is to put in place arrangements to enable budget holders to quickly and conveniently access products and services with proven value for money.

3.4.5 The emphasis is on process efficiency and minimising the administration associated with procuring such goods. The Council has invested in an e-procurement system to minimise the procurement cost of such items. See 3.5 below

High Risk and Low Value

3.4.6 Products and services with relatively low individual value are often still associated with high risk to the Council. Examples include ICT Hardware (PCs, laptop computers and mobile phones); catering supplies; health and safety equipment and building maintenance.

3.4.7 These are typically products and services where the Council has its own internal standards (eg ICT), or where overriding health and standards of quality and method apply (electrical repairs).

3.4.8 For such products and services the emphasis needs to be on quality of service. Because of the associated risk, there will also need to be considerable contract monitoring associated with such contracts. As a result, the reliance that can be placed on a suppliers own quality assurance systems will also play a part.

High Value and Low Risk

3.4.9 High value but low risk contracts typically relate to products and services where there is a high degree of standardisation, and where there is a predictable and ongoing requirement or demand. Examples of this would be liquid fuel, electricity and other energy costs.

3.4.10 Given the degree of standardisation, there is less emphasis on quality and more on price, however unlike low value items, such transactions are of sufficient value to warrant considerable attention to the procurement process.

3.4.11 For such contracts, a leverage approach will be adopted. This seeks to use economies of scale to achieve favourable prices from suppliers. This can be done in isolation by the Council, however the best results will be obtained through partnership work with other Councils, or by using existing framework agreements (see below).

High Risk and High Value

3.4.12 These contracts are for goods and services of significant strategic value to the Council. These are the services that directly effect the Council’s ability to meet its overall strategic objectives. For such services, there will already have been a commissioning process that has determined that the most effective method of service delivery is external.

3.4.13 Examples of such contracts are large-scale construction and engineering projects, major ICT implementations and high-value contracts for Health and Social Care.

3.4.14 The procurement processes associated with such services will reflect their strategic importance and be both rigorous and intensive.

3.4.15 For all high risk activities, issues of business continuity must be considered. These are considered in more detail at 8.2
3.5 Minimising Procurement Costs and E-Procurement

3.5.1 The Council is committed to achieving value for money in all its services. Within a procurement function, this goes further than obtaining value for money in competitive contracts, but extends to the costs of procurement.

3.5.2 We are committed to maintaining Corporate Procurement arrangements that are effective, efficient and flexible. What this means in practice, is that the Council will employ the procurement model that is most appropriate to the requirement that is being procured, based on the assessment of risk identified above.

3.5.3 In order to maintain this proportionality within the procurement process, a number of arrangements are in place, and can be accessed accordingly.

3.5.4 E-Procurement seeks to minimise the costs associated with procurement by providing an efficient, electronic route to market for budget-holders. The e-procurement system in operation at St Helens is a ‘purchase to payment’ solution that covers a wide range of both goods and services.

3.5.5 The Council will continue to explore the expansion of ‘e’ capabilities within it’s procurement activities to support the drive for further efficiencies.

Framework/Call-off Contracts

3.5.6 For high volume and repeat purchases or where there is difficulty in predicting demand for goods, services or works the Council maintains framework agreements with suppliers. These agreements cover terms and conditions of supply, quality expectations, environmental issues and review processes. These agreements will be subject to a tender process.

3.5.7 The Council will continue to extend existing activities including the use of ‘open’ framework agreements to enable use within the local or regional public sector community. There are significant benefits to be gained from participating with other bodies to access framework agreements.

3.5.8 The Council already benefits from contractual arrangements available through the Government Procurement Service and other local authorities, and there is a potential to increase usage. The Council also enjoys the benefits of framework agreements available through the YPO consortium and particularly it’s engagement with other consortia which has seen the establishment of Pro5, a collective of similar organisations – see also 3.9

Collaboration

3.5.9 In the public sector procurement environment it is often beneficial for authorities to work together in consortia or networks, as the overwhelming majority of goods and services will be common to all Local Authorities.

3.5.10 Collaboration between St Helens and other Councils and public bodies to combine buying power has direct benefit to the Council. Economies of scale mean that procurement costs are reduced, and the collaborative approach has more leverage with suppliers through aggregation opportunities.
3.5.11 The Council is a member of such a collaborative group sub-regionally - the Merseyside Procurement Partnership (MPP) which includes the five Merseyside authorities in addition to Cheshire West & Chester, Halton BC, Merseyside Fire and Rescue and Merseytravel.

3.5.12 The Council is committed to collaborative working and this Strategy affirms this.

3.6 Tender Evaluation

3.6.1 Tender evaluation is obviously vital to the success of any procurement. It is important that the evaluation process is proportionate to the value and risk of the associated contract.

3.6.2 For some contracts, price-only criteria will be appropriate. This is the simplest form of evaluation, where the lowest bidder is selected. This option is suitable only where the service or product is of a standard nature or brand, and where the Council is confident that all the bidders have sufficient financial standing and technical capacity to deliver.

3.6.3 Use of ‘price-only’ criteria is an efficient method of securing value for money in both process and outcome, when applied to a restricted process. Using this approach, all organisations are invited to tender from a select list or an approved contractor management system. This list/management system is maintained of organisations that each meet the Council’s required standards of financial standing, professional and technical expertise, and that can demonstrate compliance with appropriate health and safety and equalities requirements and environmental considerations.

3.6.4 As with the procurement process as a whole, it is important that the evaluation stage is proportionate to value and risk. To minimise the cost of evaluation the Council also uses pre-qualification questionnaires to ensure that only bids that comply with required financial, technical and professional standards progress to the evaluation stage.

3.6.5 The pre-qualification process (PQQ) will typically require a potential supplier to produce Method Statements that capture the information required by the Council. The PQQ may vary in content dependent on a number of considerations principally related to value and risk – however it should always be proportionate and not include unnecessary content which is not relative to the requirements of the procurement. Equally the requirement to evidence information contained within a PQQ may be introduced at a later stage within the procurement process to minimise the burden on bidders – adoption of this approach is likely to be proportionate to the risk.

3.6.6 For many a ‘price-only’ evaluation will not secure value for money. These are contracts where it is not possible to standardise the product or service so the quality of the product and service is also part of the evaluation.

3.6.7 For these contracts, a relative weighting is applied to both price and quality. This weighting can be anything between 0% for a ‘price only’ evaluation and 100% where quality is the only concern, although in the majority of cases, it will be somewhere in between.

3.6.8 The criteria to be used in contract evaluation has to be determined at the specification of the contract and be transparent to all potential bidders. Criteria that can be applied in respect of quality can be directly related to the contract and can also be indirect. Examples of indirect criteria include:

- Compatibility with existing IT systems
- Quality assurance
• Contract monitoring costs
• Ability to support other areas of Council activity

3.6.9 The Council’s contract procedure rules cover the arrangements for formal evaluation of tenders and, in particular, how tenders are received and opened. In addition, the scoring and evaluation process has to be transparent and objective. It also has to be recorded with a high degree of accuracy as it is at this stage that the Council is most vulnerable to legal challenge from unsuccessful bidders.

3.6.10 It is likely that the evaluation stage will also include some form of testing and verification. This process may involve some or all of the following, but should be proportionate to the risk and value of the contract:

• Second-stage interviews with bidders
• Site visits to organisations where a supplier is engaged
• Visits to premises
• References from other sites

3.6.11 The quality model can also be used to include an evaluation based upon the Council’s wider objectives

3.6.12 It is vitally important to understand that the criteria for tender evaluation has to be identified extremely early in the procurement process. While there is considerable scope for including a variety of direct and indirect criteria within the contract specification, and disclosing this to potential bidders, it is not lawful to apply any further criteria once bids have been received.

3.6.13 This is particularly important where the Council is seeking to use procurement to deliver its wider social and environmental objectives.

3.7 Partnership Arrangements

3.7.1 Achieving Value for Money through procurement requires a proportionate approach to process and evaluation. While our objective is to minimise the costs of procurement to the Council, it has to be acknowledged that for some high risk, high value contracts, a great deal of intervention by Members and Officers is warranted.

3.7.2 These are contracts of a strategic nature, where the Council has to keep very close regard on contractor performance at all times. In these instances, a partnership approach may be appropriate.

3.7.3 St Helens has extensive experience of partnerships within construction. Under a partnership arrangement, the Council uses a competitive process to identify a suitable partner in a particular venture, rather than a traditional contractor.

3.7.4 Under a partnership venture, a very high weighting is placed on quality. The Council and the contractor share expertise throughout the project and work towards shared objectives. Partnership arrangements are particularly suited to ensuring that the wider social and environmental aspects of a project are achieved.
3.7.5 While partnerships have been typically undertaken within major construction projects, there is no reason why this approach cannot be adapted in other areas.

3.8 Support for Schools

3.8.1 St Helens schools are able to directly choose their sources of supply under the terms of their delegated powers. As a result, school governors have a duty to ensure that they are purchasing goods and services lawfully and in line with value for money principles.

3.8.2 Where possible, the Council will seek to minimise the cost of procurement to schools through the use of framework agreements. Such agreements will be accessible by schools and enable them to select and evaluate competitive products and services within a robust legal framework.

3.8.3 Where schools prefer to operate independently of these arrangements, advice support and guidance will be provided throughout the procurement process, if requested.

3.8.4 Similar advice and guidance will be available to Academy based schools under appropriate ‘trading arrangements’.

3.9 The Yorkshire Purchasing Organisation

3.9.1 The Yorkshire Purchasing Organisation (YPO) is a joint procurement venture, of which St Helens has full member status, along with a further twelve local authorities in Yorkshire and the North West. As such, St Helens has a financial interest in the commercial success of YPO, and has received substantial dividend payments over many years.

3.9.2 YPO offers a highly convenient route to market for many types of contract – particularly lower risk contracts. In using YPO to procure goods and services, the Council is accessing products that have already been subject to a robust competitive process.

3.9.3 The Council supports YPO and uses YPO as a source for general supplies, direct delivery and contractual arrangements, examples being school meals and fuel. YPO’s stock catalogue is represented on the Council’s E-Procurement system, enabling effective and efficient acquisition by Council budget holders. YPO is also a significant supplier for St Helens schools.

3.9.4 More recently YPO has become a member organisation of a wider collective of purchasing consortia known as Pro5 and offers a wider range of services arrangements to complement its existing supply portfolio.

3.10 Summary

3.10.1 There are many aspects to achieving Value for Money through the procurement process. Key to all of these is to select a procurement model that is proportionate to the value and risk of individual contracts. The procurement model must also be the one that is best-suited to delivering all of the desired outcomes for the requirement/service in question.

3.10.2 The Council must maintain adequate procurement expertise to guide it through the process. All officers and members must engage this support at the earliest stage in the process. This is particularly important if the Council is to deliver its broader social and environmental objectives through the remaining principles of effective procurement covered in the following sections.
4. Supporting the Local Economy

4.1 Introduction

4.1.1 This Principle underpins the Council's intention to use the procurement process to encourage local entrepreneurial activity, and to provide opportunities for employment and training within the borough reflecting social value considerations/opportunities.

4.1.2 Action to help the local economy is a lawful exercise of well-being powers, however these powers are constrained by other statutes, particularly in this instance, The Treaty of Rome. The Treaty precludes any explicit local buying policies, even though these would greatly help the local economy. It does not, however, preclude the Council from procuring in such a manner that benefits the local economy.

4.2 Legal Constraints

4.2.2 The Council recognises that there are significant advantages of engaging with small local businesses, both for the Council, and for the local economy. The Council is committed to using procurement processes that encourage such businesses to compete for work and to benefit from the Council’s purchasing power.

4.2.3 The following sections illustrate this commitment, and show how the overall procurement strategy will support the local economy.

4.3 The Benefits of Engaging with Small Local Businesses

4.3.1 For some types of contract, small businesses are often the most willing and best able to do the work. The Council is committed to ensuring that our procurement arrangements encourage the service providers most likely to give the best service. This is especially the case where there are benefits to the Council, and to the local economy.

4.3.2 The strengths of small, local businesses often include:

- an acceptance of small packages of work
- rapid accommodation to the approaches and methods of their clients
- a readiness to provide key add-ons to bigger and more complex contracts and services
- a close relationship with clients at partner and manager level, resulting in closer understanding of clients’ needs, and the development of services specifically designed to secure them
- a willingness to go the extra mile in giving service
- a good knowledge of local social conditions, the local market for labour and materials, and travelling difficulties
- a convenient location, and willingness to work from local bases
- a high value which they put on working for their ‘host’ local authorities.

4.3.3 In addition to these strengths, supporting small local businesses also encourages entrepreneurial activity and employment in the borough, and will bring environmental benefits through shorter travel to work journeys.
4.4 Encouraging Small, Local businesses to compete.

4.4.1 There are many ways in which the Council is able to encourage small local businesses within the law, and with due regard to achieving value for money. The Council is committed to providing a procurement framework that welcomes approaches from small local businesses.

4.4.2 Many large businesses are extremely adept in promoting their services to prospective buyers, however many smaller suppliers may lack such promotional expertise. It is important that the Council, through its officers and members is welcoming to approaches from small businesses.

4.4.3 Although there is obviously the need to observe extremely rigorous standards of transparency and lawfulness during a tender process, it is proper as well as constructive, however, at any time before procurement has begun for small businesses to draw authorities’ attention to their own particular expertise and standing and the packaging, selection and evaluation criteria which they think would be most likely to bring out these qualities, without disadvantaging any other potential bidder.

4.4.4 The Council welcomes all approaches such as this, and is committed to maintaining a comprehensive awareness of the local supply chain, and the opportunities that arise within it.

4.4.5 The Council is aware that expressing the desire to work with small local businesses is not in itself sufficient, and that for many firms, more tangible steps need to be taken. This section contains a summary of the powers available to the Council that can be used within the Tender process to help small, local businesses.

4.4.6 The Council is committed to considering the following throughout the procurement process.

*Due notice of contract opportunities*

4.4.7 The Council will maintain an accurate database of all its current contract opportunities, along with the date that current contracts will expire. This database will be published on the Council’s website and should allow businesses to anticipate contract opportunities, allowing sufficient time to gear up their business capacity.

4.4.8 This proactive approach will also ensure that the Council meet’s its obligations in terms of compliance with the Government’s Transparency requirements.

4.4.9 Similarly, the Council will also maintain and publicise a list of all its current ‘Approved Lists’, along with information for businesses on the conditions for inclusion on each of these lists.

4.4.10 The website will also include the Council’s contract conditions. Potential suppliers will also be able to access information about the authority’s standard requirements with regard to discrimination, environmental protection, Health & Safety, and sustainability.

4.4.11 The Council’s forward plan of key decisions will also include details of any significant medium term commissioning or construction schemes that will be of interest to local businesses.
Packaging of Contracts and Pricing Mechanisms

4.4.12 The Council are aware that the size of contracts to be let can have an impact on the type of enterprise that is attracted to the work. Economies of scale will sometimes dictate that large contracts are most appropriate, however the Council, where possible will let contracts in such a way as to encourage small and local enterprises to be successful, even where this means packaging contracts ‘small’.

4.4.13 The Council will consider the capacity of small and local businesses in determining the size of contracts to be let. Where appropriate, the Council will let contracts in lots, to provide more opportunity for smaller businesses to win amounts of work that they are able to deliver within their capacity.

4.4.14 Pricing mechanisms for contract payments can also inhibit small and local companies from bidding for work. The Council recognises that small businesses work on small margins and cannot afford to take significant risks not directly under their own control. The Council will not use pricing mechanisms that unnecessarily require small businesses to carry such risks and where possible, the Council will employ a ‘schedules of rates’ approach to pricing contracts.

4.4.15 The Council will also consider opportunities for introducing early payment terms where this is beneficial to both the Council and ‘supplying’ businesses.

Advertising and Contract Notification

4.4.16 The Council is committed to placing advertisements where small and local suppliers can be reached. The Council will advertise all of its current contract opportunities on the website, and will expand its use of the North West CHEST as the ‘default’ tender opportunities portal.

4.4.17 In addition to this, the Council will actively seek expressions of interest from local providers through prompting, even where this involves direct contact with potential suppliers to ensure that they are aware of current opportunities – the Chamber and VCA may also appropriate channels for this approach.

4.4.18 The Council will also take an active role in encouraging local enterprises to apply to join select and approved lists for services within their area of expertise.

Contract Conditions, Documentation and Tender Evaluation Criteria

4.4.19 Contract conditions will be appropriate to each contract to be let. That said, the Council will consider the needs of small, local business in determining contract conditions and will not adopt conditions that effectively exclude small businesses. The reasons for all contract conditions will be clearly indicated within contract documents.

4.4.20 Contract documentation will similarly be proportionate to the size and risk associated with each contract. We will endeavour not to use documentation designed for large contracts for all our contracts. It is not in the Council’s interests to deter small businesses, or for them to require legal/specialist advice before tendering – see also 3.6.5

4.4.21 Evaluation criteria, including technical and professional ability, and financial standing will also be proportionate to the contract being let.
4.4.22 Officers and members evaluating contract documentation, and presentations from bidders, will judge each on the content and substance. The Council recognises that large companies often have professional, dedicated staff responsible for preparing tenders, and delivering presentations, and that smaller businesses do not have such capacity.

4.4.23 In summary, the evaluation and selection process for each contract will be proportionate, and based on substance rather than form.

**Debriefing**

4.4.24 A constructive debriefing will be provided where this is requested by a tendering party. This will include the relative strengths and weaknesses of their bids, documentation and presentation.

4.5 **Guidance, Support and Training for Small Local Businesses**

4.5.1 The Council and its partners within the Chamber are committed to encouraging entrepreneurial activity within the borough. As such, the Council will also provide guidance, support and training for companies to help them prepare for tender opportunities, and to remove some of the barriers to tendering.

4.5.2 Such direct intervention will include seminars and training specifically for small local businesses, with a focus on improving their ability to identify business opportunities, and take advantage of them. The Corporate Procurement section will continue to support the Chamber in its ‘Meet the Buyer’ events and other initiatives, enabling potential bidders to discuss forthcoming tender opportunities with the Council.

4.5.3 Other forms of intervention may include help with business premises and assistance with the support arrangements necessary to deliver a contract.

4.6 **Sharing the Benefits from Large Contracts**

4.6.1 The Council recognises that for some high risk, high value contracts, the most appropriate tender mechanism will often be unsuitable for all but the largest, most specialised companies. Such contracts will typically be large scale construction contracts, where economies of scale, the requirement for bonds and technical and professional ability will prevent smaller suppliers from winning work.

4.6.2 In such cases the Council is still able to derive significant benefits to the local economy through working with large contractors to secure employment, training and opportunities for smaller organisations in a sub-contracting capacity.

**Subcontracting**

4.6.3 In letting large contracts, the Council is able to ask businesses who have applied to tender how much work they propose to subcontract, if this enquiry is for the purpose of encouraging small businesses. The Council can also, where appropriate, require a main contractor to open a percentage of a contract sum to subcontractors, and to package this in such a way that small businesses will be able to compete.

4.6.4 The Council will continue to explore and open up such opportunities within its supply chains.
Employment and Training

4.6.5 The Council and its partners are committed to reducing worklessness in the borough. Procurement activity plays a key role in this, and the Council will use its purchasing capability to boost employment and training within the borough. This will reflect its support for the Liverpool City Region Charter for Employment and Skills through Procurement.

4.6.6 It is unlawful for the Council to specify that any supplier must employ a local labour force, as this would be considered a protectionist policy contrary to the Treaty of Rome. It is, however, permissible to ask potential suppliers to provide opportunities for the long-term unemployed, and to evaluate bids using this criteria.

Sustainability

4.6.7 The Council is committed to using the procurement process to minimise any negative environmental impact of its service. Section 6 below covers this in more detail, however support for the local economy will support this objective. Supporting local employment, local subcontractors and local suppliers significantly reduces the mileage associated with deliveries of materials and journeys to work associated with significant projects.

4.6.8 Again, as Section 6 demonstrates, the Council will, where appropriate, evaluate contracts using the environmental impact of working practices as a factor.

Partnership Approach to Procurement

4.6.9 While there will be opportunities to influence main contractors in many types of contract, the Council will have more leverage to pursue its wider economic and social objectives through partnerships. The Council has significant experience of this in major construction projects and is committed to building on this experience in all high value contracts – the Building Schools for the Future initiative is an example of where this has been successfully deployed.
5 Making best use of the Local Community and Voluntary Sector

5.1 Introduction

5.1.1 The Council recognises and values the work undertaken within the community and voluntary sector, and is committed to making best use of this capacity in achieving its vision for the borough.

5.1.2 The Council recognises the diversity of organisations within the voluntary sector, and uses the government definition of the ‘Third Sector’ in relation to these groups. For the purposes of this strategy, the community and voluntary sector is synonymous with the ‘Third Sector’, and embraces:

- **Voluntary organisations.** These are organisations formed independently of government to pursue social, ethical and environmental objectives, and other objectives of general public benefit, including voluntary sports clubs. Any profits these organisations make are used solely to further these objectives;

- **Community organisations.** These are bodies, usually wholly voluntary, formed to improve the lives of all people, or of particular types of people, in a particular geographical area; and

- **Social enterprises.** These are organisations which trade for specified social, community and environmental purposes; and commit their surpluses to achieving these purposes. They may also be wholly-owned subsidiaries of voluntary and community organisations (VCOs) which have been formed specifically to trade on behalf of their parent bodies.

5.1.3 The Council already places substantial amounts of high risk and high value work within the community and voluntary sector. This is particularly the case within social care and supported housing. These contracts are typically placed with large national or regional charities, and are subject to the Council’s Contract Procedure Rules regarding tendering (although as ‘Part B’ services, they fall outside the scope of the OJEU requirements currently – see also 2.3.7).

5.1.4 The Council is also committed to working with the community and voluntary sector on a smaller scale, to take advantage of the opportunities provided particularly at a local and community level.

5.2 The Benefits of working with the Community and Voluntary Sector

5.2.1 Community and voluntary sector service providers are likely to have a close focus on their own chosen fields, and as such are often to be the best, and possibly the only, service providers willing and able to undertake certain types of work. Knowledge of particular groups such as substance misusers, ex-offenders, or people with particular medical conditions is very often concentrated entirely or substantially within the community and voluntary sector.

5.2.2 As a result of this focus on specialist areas, the community and voluntary sector often has greater open-mindedness about methods of service delivery, and can be highly innovative and flexible in the pursuit of its objectives. Significantly, unlike providers in the public
sector, the regulators of community and voluntary sector organisations are similarly less concerned with their methods, but more with their overall governance.

5.2.3 The legal status of community and voluntary sector organisations also has practical benefits in enabling the partnerships to which they belong to qualify for external funding such as National Lottery or Sport England.

5.2.4 The Council recognises that all these strengths are inherent throughout the community and voluntary sector, however it also values the particular strengths of small, locally based voluntary and community organisations. These include:

- the ability to foster good relations and credibility with target groups;
- an often intimate knowledge of local communities generally;
- the ability to generate trust in new local projects;
- convenient locations, and willingness to work from local bases;
- the ability to accept small packages of work;
- the flexibility of recruiting from target groups and local communities.
- a good basis for judging the type of service that is most needed by a particular target group
- their ability to act as expert advisers within partnerships.

5.2.5 Money spent in the local community and voluntary sector feeds through more directly into disadvantaged communities than money spent in almost any other way.

5.2.6 The Council is also extremely keen to promote the growth of social enterprises within the borough. It recognises the special strengths of social enterprises within communities. These strengths are similar to those of smaller voluntary and community organisations, with the additional advantage of being able to trade outside constraints of charity and trust law.

5.2.7 This has direct benefits in enabling social enterprises to win contracts through a tendering process, and also fulfils the wider social and economic objectives of stimulating entrepreneurial activity within the borough – particularly amongst disadvantaged groups or localities.

5.2.8 Social enterprises have already established strong national positions in waste recycling, leisure management, community transport, and vocational training.

5.2.9 It has to be recognised, however that contracting with the community and voluntary sector, particularly smaller organisations may require both greater input from service managers and from corporate procurement, and result in less ability to derive economies of scale.

5.2.10 Not all contracts will therefore be suitable for community and voluntary sector delivery, however where the benefits of engaging the Third Sector outweigh these costs, the Council is committed to encouraging associated organisations to tender for work.
5.3 Helping the Community and Voluntary sector to Compete for Contracts

5.3.1 The legal position of the Council in relation to the community and voluntary sector is similar to that with small, local businesses. It is expressly forbidden for the Council to contract with an organisation simply because of the type of organisation it is. Having said this, it is possible to use the procurement process to encourage community and voluntary sector providers of services to bid for work. (see also 5.5 below).

5.3.2 Many of the actions that can be taken to assist third sector organisations to tender for work mirror those that were considered in the previous section, relating to small, local businesses. These are summarised below. Most importantly, however, the Council will endeavour to maintain an open relationship with community and voluntary sector providers and welcome any and all approaches.

5.3.3 The Council will also work closely with the local Voluntary and Community sector, through the Halton and St. Helens Voluntary Community Action (VCA) to maintain knowledge of the services available through voluntary and community organisations within the borough.

5.3.4 The Council recognises that for many smaller organisations, the burden of bureaucracy associated with contracting with the Council is a barrier to service provision. While the Council is clearly unable to waive health and safety requirements, for example, it is committed to a proportionate approach to each tender process.

5.3.5 In particular, the Council will review its tender documentation to ensure that this is appropriate for the size and risk of the contract being let – see also 3.6.5

5.3.6 In certain circumstances, where the value of working with a particular community or voluntary group is very high, other direct support may be provided by the Council. This can include:

- Reviewing payment terms, where it would be unreasonable to expect a small organisation to accept payment in arrears

- Reviewing financial standing criteria, where this would mitigate against smaller organisations, subject to the risk involved in the contract

- Assuming a greater burden of contract monitoring costs, where an organisation does not have in place a professional infrastructure for reporting performance

- Provision of certain office functions, where an organisation does not have dedicated professional services. This, for example, could include payroll

- Provision of facilities, such as premises or ICT to enable a voluntary or community organisation to deliver services from Council assets where it would be unreasonable to expect an organisation to provide its own physical assets.

5.3.7 The Council also recognises that potential TUPE liabilities may be a barrier for some community and voluntary sector service providers. Unaffordable long-term liabilities associated with TUPE may inhibit smaller organisations from tendering for a contract, unless they are sure (and the staff affected agree) that TUPE does not apply.
5.3.8 The fundamental position is that TUPE applies to all transfers of all undertakings between authorities and service providers when work is contracted out or brought back in-house, and between one service provider and another.

5.3.9 The Council will only support applications for Admitted Body Status to the Local Government Pension Scheme on a partially funded basis. Providers bidding for Council contracts should take appropriate advice on this as it may incur financial implications. It should be noted that the Council will not be liable for the cost of any bond required to support Admitted Body Status in the Local Government Pension Scheme as administered by the Merseyside Pension Fund where TUPE applies.

5.3.10 The Council may, however package its contracts in such a way that TUPE does not apply, where to do otherwise would prevent community and voluntary sector service providers from bidding for contracts where their expertise would be considered valuable.

5.3.11 The table below summarises other actions that the Council is committed to taking to assist the community and voluntary sector in bidding for, and delivering Council contracts.

Summary of Commitments to Supporting the community and Community and Voluntary sector.

<table>
<thead>
<tr>
<th>Commitment</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Due Notice</td>
<td>The Council will maintain a list of all current contracts, with their expiry date on its website, and provide a link to this list through the CVS. The Council, where appropriate, will directly contact appropriate voluntary and community organisations to give notice of forthcoming contract opportunities</td>
</tr>
<tr>
<td>Packaging</td>
<td>The Council will consider the implications to voluntary and community groups in the packaging of all contracts. Where appropriate, contracts may be let in small ‘lots’, or as single-skill contracts if to do otherwise would prevent third sector organisations from bidding for contracts where their expertise would be beneficial.</td>
</tr>
<tr>
<td>Advertising</td>
<td>The Council will advertise in such a way that will enable local voluntary and community groups to have notice of current tender opportunities.</td>
</tr>
<tr>
<td>Contract Conditions</td>
<td>Contract conditions will be proportionate to the size and risk of each contract. In determining contract conditions, the Council will be mindful of the</td>
</tr>
</tbody>
</table>
implications to third sector organisation.

<table>
<thead>
<tr>
<th>Contract Evaluation</th>
<th>Contract evaluation criteria will be proportionate to the size and risk of each contract.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debriefing</td>
<td>Opportunities to discuss successful and unsuccessful bids will be available to all organisations</td>
</tr>
<tr>
<td>Guidance Support and Training</td>
<td>Meet the buyer events or similar</td>
</tr>
</tbody>
</table>

3 Transfer of Undertakings: Protection of Employment. These are liabilities under the EU Acquired Rights Directive and relate to the transfer of employment terms and conditions between organisations where a contractor has been awarded a contract previously undertaken by another organisation, and the staff who undertake that work will be undertaking substantially similar work.

5.4 Subcontracting Opportunities

5.4.1 Not all contract opportunities will be suitable for voluntary and community groups to deliver, particularly small organisations. The Council recognises, however that such organisations can still make a valuable contribution to certain specialist aspects of larger contracts. The Council will encourage larger contractors to use Third Sector providers.

5.4.2 More information on the Council’s powers in respect of subcontracting opportunities is included in section 4.6 above.

5.5 Buying Goods and Services from Sheltered Workshops

5.5.1 Procurement Regulations allow the Council to legally reserve one contract for a supported factory or business, where at least 50% of the employees are registered disabled. The Council is able to do this without undertaking a tender exercise.

5.5.2 The Council recognises the potential value of contracting with a Supported business and will continue to seek opportunities to benefit from this regulation.
6. Sustainable Procurement

6.1 Introduction

6.1.1 The Council is committed to procuring goods and services in a way that encourages sustainability of supply, and ethical sourcing of materials to minimise the negative impact of economic activity on the local environment.

6.1.2 The Council recognises that as a major consumer of goods and services, it has a responsibility to procure responsibly, and in accordance with its overall values and objectives.

6.1.3 In particular, the Council is committed to:

- using goods and services that minimise environmental damage in the sourcing of materials, the production process, transportation and disposal
- minimising the consumption of non-renewable resources
- maximising the use of recycling
- promoting the principles of ‘Fair Trade’; and
- engaging with suppliers who can demonstrate high standards of corporate and social responsibility

6.2 Minimising Environmental Damage through Procurement

6.2.1 The Council recognises that it needs to play its part in the global response to climate change and our procurement policies need to reflect this. The Procurement Strategy reaffirms this commitment.

6.2.2 Environmental issues are important throughout the procurement process, however the greatest benefits will arise from anticipating environmental benefits and costs at a very early stage. This begins before the procurement stage, with Commissioning Decisions, and in particular whether the Council requires replacement goods, or whether existing ones are sufficient.

6.2.3 An example of such decision making would be a decision to replace a fleet of vehicles, where the environmental costs of maintaining an old and fuel-inefficient fleet may justify the benefits of commissioning a new fleet by reducing emissions and fuel consumption.

6.2.4 Environmental considerations need to be included within contract specifications, where the Council intends to use these are part of the contract evaluation criteria. These may be direct, such as the nature of materials or the generation of waste, or indirect, such as the mileage generated from operational activity.

6.2.5 In the example at 6.2.3 above, commissioning a new fleet of vehicles would involve procuring vehicles with greater fuel-efficiency. Standards for fuel efficiency would be written into contract specifications, and potential suppliers would understand that emissions and consumption were a part of the evaluation criteria. (See below for more information regarding transport procurement policies)
6.2.6 The Council is particularly aware of the potential impact of major construction schemes and will specify detailed sustainability requirements within contract documentation. The Building Schools for the Future programme is an example of where the Council had set ambitious targets that were both achieved and will be used as a model of best practice for all construction schemes undertaken by the Council.

6.2.7 As this illustrates, the Council will specify the environmental considerations associated with each contract at the specification and pre-qualification stage. An example of a pre-qualification questionnaire for furniture is included within the following table:

*Example: Pre Qualification Questionnaire : Furniture*

<table>
<thead>
<tr>
<th>Question</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Give details on products that have been awarded an eco-label, such as Fairtrade or equivalent?</td>
<td></td>
</tr>
<tr>
<td>Which products are made from recycled materials?</td>
<td></td>
</tr>
<tr>
<td>Please provide details.</td>
<td></td>
</tr>
<tr>
<td>Give details on products that are made from renewable resources.</td>
<td></td>
</tr>
<tr>
<td>Is packaging made of recycled materials?</td>
<td></td>
</tr>
<tr>
<td>If Yes provide details below.</td>
<td></td>
</tr>
<tr>
<td>Can packaging be reused or recycled?</td>
<td></td>
</tr>
<tr>
<td>Will suppliers take back packaging for re-use?</td>
<td></td>
</tr>
<tr>
<td>Can any of your products or their components be re-used or recycled?</td>
<td></td>
</tr>
<tr>
<td>If Yes provide details below.</td>
<td></td>
</tr>
<tr>
<td>Which products can be easily dismantled into its single components?</td>
<td></td>
</tr>
<tr>
<td>If possible provide details below.</td>
<td></td>
</tr>
</tbody>
</table>

6.2.8 St Helens Council is committed to managing its own sustainability impacts and expects all its contractors, suppliers and organisations to do the same. Evidence about an organisations’ sustainability systems, processes and practices will be sought through the pre-qualification questionnaire. Applicants without a Sustainability Policy can comply with the basic requirements of this section by completing the Council’s Template Sustainability Policy, copied below:
6.3 Prohibited Substances

6.3.1 Depending on the type of contract, the Council will specify appropriate sustainability criteria within the contract documentation, and within its standard terms and conditions. In particular, the Council will adhere to the list of prohibited products maintained by the UK Government (Red List) and EU Directives (Black List). A comprehensive list of products currently prohibited is maintained on the Procurement Portal and through the Council’s Website but includes materials such as Mercury, Cadmium, Asbestos and DDT-based pesticides.
6.3.2 Products included on the prohibited list will not be purchased by the Council, nor should they be used by any contractors working for the Council. The only exceptions to this would arise where no alternative substitute is available.

6.3.3 In addition to the list of prohibited materials, the Council sets standards for the use of tropical hardwoods. Any tropical hardwoods should be independently certified as coming from a sustainably managed forest. Examples of both are:

- The building is to be constructed of sustainable and renewable systems and materials which have low embodied energy and low volatile organic compounds with a minimum of 20% of the total value of materials used in the building and 70% in external works being derived from recycled and reused sources. Furthermore, 80% of major building elements, floor slabs, external fabric, roof and windows are to achieve an A rating as defined within the BRE Green Guide to Specification.
- The Forest Stewardship Council (FSC), International Standards Organisation (ISO) and African Timber Organisation.

6.4 Quality Assurance and Labelling

6.4.1 The Council recognises that some procurement decisions are routine and low risk. As the Council is committed to taking a proportionate approach to the procurement process, it will not be realistic to evaluate the environmental impact of these transactions. This is significant, however as the environmental impact of routine purchases can be extreme, particularly in terms of waste and disposal.

6.4.2 For low risk purchases, the Council will need to rely on environmental labelling and standards from recognised organisations to provide necessary assurance. The Council is aware, however that there is considerable commercial incentive for companies to exaggerate their environmental credentials. As such, the Council will maintain a list of recognised organisations who provide effective Quality Assurance. This list currently includes:

- Fair Trade
- European Energy Label (as commonly displayed on fridges and freezers)
- Forestry Stewardship Council
- ISO14001
- The Marine Stewardship Council
7. Equality & Diversity

7.1 Introduction


7.1.2 Equality and Human Rights duties apply to all Council decision, functions and services, including those delivered in house, in partnership or through contractual arrangements. As such, the Council must take reasonable steps to ensure “due regard” is given to the equality and Human Rights duties within its commissioning and procurement processes.

7.1.3 Therefore, the Council is committed both in law, and in policy, to ensuring that its resources are not spent on practices that lead to unlawful discrimination, harassment or victimisation, and instead are used to uphold Human Rights, advance equality of opportunity and foster good community relations.

7.1.4 The Council has developed a Procurement Equality Standard and a template Business Equality Policy. These tools are designed to ensure “due regard” is given to the equality and Human Rights duties within Council commissioning and procurement processes.

7.2 The Procurement Equality Standard

7.2.1 Every Council Department must integrate and use the Procurement Equality Standard within commissioning and procurement processes, including select lists and approved lists and the pre-qualification stage of all invitations to tender for contracts or Service Level Agreements.

7.2.2 Procurement Equality Standard sets out three areas of assessment. These are used to identify whether a potential provider is fit to meet the Equality and Human rights duties upon them as an employer.

Procurement Equalities Standard

<table>
<thead>
<tr>
<th>Procurement Equality Standard Assessment Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Equality Policy Assessment</strong></td>
</tr>
<tr>
<td>This assessment asks potential providers and suppliers to demonstrate that they maintain appropriate, and lawful equality policies. It uses a checklist that includes amongst other thing an assessment of</td>
</tr>
<tr>
<td>(i) Legal duties and statutory codes</td>
</tr>
<tr>
<td>(ii) Protected characteristics and prohibited conduct</td>
</tr>
<tr>
<td><strong>Equality Impact Assessment</strong></td>
</tr>
<tr>
<td>An Equality Impact Assessment is undertaken by the Commissioning Team so that appropriate actions and requirements to demonstrate due regard to Equality Duties can be built into the Contract Specification</td>
</tr>
<tr>
<td><strong>Equality Monitoring</strong></td>
</tr>
<tr>
<td>Monitoring of the Contractor’s workforce using Equality Profiles to demonstrate equality of opportunity in employment. The Council may use the data to promote initiatives to improve employment for groups such as disabled people</td>
</tr>
</tbody>
</table>
7.3 Template Business Equality Policy

7.3.1 Any organisation that has an Equality Policy that does not comply with the Equality Policy Checklist will not be considered for select lists, approved lists, service level agreements or contracts.

7.3.2 The Council, however, recognises that for some businesses, particularly small businesses, new businesses, or community and voluntary groups, it may be unrealistic to expect these policies to be in place as tender opportunities arise.

7.3.3 The Council will endeavour not to use this as a barrier to prevent such organisations from doing business with the Council. The Council will maintain a standard Business Equality Policy template, which meets current equality employment duties. Any organisation that does not have an effective Equality Policy may adopt the Council’s template Business Equality Policy in order to demonstrate legal compliance and progress with tender procedures.

7.3.4 The template Business Equality Policy also includes an Action Plan to help businesses implement the policy commitments into their business practice.

7.3.5 Organisations that decline to accept the Business Equality Policy template, and fail to adopt appropriate standards of their own Equality Policy will not be eligible for further consideration.
8. Arrangements and Responsibilities

8.1 Responsibilities of Budget Holders

8.1.1 Budget Holders in this context represent the purchasers of goods, services or works. In many cases, budget holders will be individual service managers, however for more complex contracts, this could be service departments, Chief Officers, the Executive or the Council itself.

8.1.2 Budget holders are responsible for commissioning services. As was stated at section 2.1, this does not necessarily involve a procurement process. Where commissioning decisions do lead to procurement activity it is important that the commissioning process has been robust and proportionate to the risk and value of a proposed contract.

8.1.3 The initial commissioning stage is critical to achieving a successful outcome through procurement, and it is vital that budget holders retain ownership of this process. This Corporate Procurement Strategy shows how procurement can be used to achieve a range of successful outcomes, however these will only be realised if they are planned for at the earliest stage in the process.

8.1.4 The initial commissioning stage is important in maximising the potential benefits from procurement activity, and avoiding any unforeseen consequences that may for example be harmful to the local economy or the environment.

8.1.5 It is extremely important to the success of any procurement undertaking that contract specifications and evaluation criteria are drafted in such a way as to accommodate all the outcomes desired from any given contract. A range of evaluation criteria can be lawfully applied to a tender process, however these have to be made clear to bidders at the outset, and cannot be applied retrospectively.

8.1.6 The Corporate Procurement Team will support and guide budget holders through this process of selecting an appropriate route to market, and drafting tender specification documentation, however determining the best outcomes for any service continues to be the responsibility of budget holders and service managers.

8.1.7 The Table below identifies a range of issues that need to be considered at the initial commissioning stage, although the application of these will be dependent upon the risk and value of any potential contract. As can be seen, these questions all relate to the requirement/service. Problems will be encountered at the procurement stage if these issues are not considered beforehand, particularly with regard to requirements for robust monitoring arrangements.

*Commissioning Goods, Works and Services – Key Questions for Service Managers*

<table>
<thead>
<tr>
<th>What are you seeking to achieve?</th>
<th>A High level strategic decision based on the Sustainable Communities Plan / LSP Objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>What other objectives do you want to achieve?</td>
<td>Boost to local employment and training Boost to local supply chain</td>
</tr>
</tbody>
</table>
Increased efficiency
‘Future Proofing’
Engagement with community and voluntary sector
Minimise environmental impact of service delivery
Reduce costs of contract monitoring
What other ‘impacts’ relative to the scope of ‘social value’ need to be considered?

**What is the best way to achieve these Outcomes?**
What group or locality is being served
What resources are available?
What are the risks associated with it?
Is this a core service with business continuity implications?
Is there the capacity to deliver in-house?
Are any partners better suited to delivering this? (eg Health / Police/other LA’s)
What Monitoring/Performance Review arrangements need to be established along with their scope, frequency and ownership?
Is Project Management required and if so what level required?

**Is the service suitable for contracting externally?**
Is there a local market currently delivering this service or will it need to be developed?
What are the implications on the local economy?
Would the local community and voluntary sector be suitable suppliers?

**What would be the implications for the Supporting an external contract?**
What would be the extent of change and is there the capacity to deliver this?
What would be an appropriate timescale?
Does the service have appropriate technical expertise?
Is there capacity to support effective project management?
Would an external contract require additional ICT Infrastructure development?
What additional other costs associated with implementing contract?
Are there HR Implications? (TUPE or redundancy)

8.1.8 Contract Procedure Rules also require a formal risk assessment to be undertaken for all contracts with a likely value in excess of £100,000.

**8.2 Business Continuity**

8.2.1 The Council recognises that arrangements for business continuity for core services must not be compromised through any contractual agreements. This responsibility resides with the service manager regardless of the vehicle for service delivery.

8.2.2 As such, any high risk activities that effect the Council’s Civil Contingency arrangements have to be highlighted at the earliest stage in the commissioning process, so that appropriate mechanisms can be included in any procurement specification, evaluation and monitoring process.

8.2.3 As with other aspects, the extent of these arrangements will be based on proportionality and risk.

**8.3 Corporate Procurement Arrangements**

8.3.1 The Council is committed to maintaining a professional procurement function that is able to support the Council in achieving its overall objectives through procurement activity. The
Council will continually review the function and nature of its procurement arrangements to ensure that it has the capacity and knowledge to provide advice and guidance across the whole range of procurement activity.

8.3.2 The Corporate Procurement Function sits within the Finance Division and is represented by the Finance portfolio holder on Cabinet, who also acts as the Council’s Procurement Champion.

8.3.3 The Assistant Chief Executive (Finance) has overall responsibility for the development and delivery of the Corporate Procurement Strategy. The Assistant Treasurer effectively acts as the Head of Procurement and is supported by the Corporate Procurement Manager, who oversees the Corporate Procurement Function, and provides technical guidance to the Council.

8.3.4 The Corporate Procurement Team are responsible for delivering specific procurement exercises. An element of their work relates to contracts that are not service-specific, such as fuel, office equipment and furniture. The Division is also responsible for providing advice and guidance of the type discussed above.

8.3.5 A key element of the role of the Corporate Procurement Function is its ability to challenge service managers, and to help them select the procurement model that best suits the desired outcomes of the service. As such, it is very important that this section continues to have an appropriate level of skills and expertise.

8.3.6 It is important that the procurement function remains relevant to the type of service that is using procurement. In particular, the Council is committed to maintaining appropriate commissioning and contracting expertise within the following high risk areas:

- Construction and Engineering Contracts
- Social Care, Health and Supported Housing
- Information and Communications Technology

8.3.7 The Council is committed to the training and development of procurement staff and all staff and members involved in procurement. Training needs are met and delivered in accordance with the Procurement Annual Service Plan.

8.3.8 Within the Council, there are a number of services that rely almost entirely on external suppliers of goods, works and services. These key areas require a considerable amount of technical expertise in the drafting and evaluation of contracts. As such, these areas manage much more of the procurement process than is the case in other services. This proximity is a feature of both the high risk, and high value of these contracts, and the frequency with which services need to undertake procurement activity.

8.3.9 In cases where the procurement requires a high degree of technical or professional knowledge and skills, the Assistant Chief Executive (Finance) may determine that the procurement process can be more effectively undertaken by a particular service. Examples of this include ICT Equipment and infrastructure, Construction and Engineering, Supporting People, Adult Social Care & Health, and Public Health.
8.3.10 Each of these services remains bound by this Strategy and by Contracts Procedure Rules, and must consult with the Assistant Chief Executive (Finance) on all significant procurement undertakings.

8.4 Project Management

8.4.1 Significant procurement undertakings will usually involve some element of change, and as such may involve a high degree of financial and operational risk. As such, appropriate project management arrangements need to be in place at an early stage in the commissioning process.

8.4.2 For contracts where this is evident, service managers and budget holders need to ensure that appropriate project management plans are in place and include the following:

- Designated Project Sponsor
- Project Manager
- Project Team
- Risk Assessment including Risk Register
- Project Timetable
- Reporting Requirements, including frequency of meetings
- Contract monitoring requirements and responsibilities
- Success criteria and desired outcomes
- Benefits Realisation criteria

8.4.3 Consideration of project management issues must be undertaken as part of the initial Commissioning Process (8.1 above). In particular, there needs to be an assessment of the capacity of services to manage the process of change, or whether specialist external project management support is required (which will itself be subject to further procurement activity).

8.4.4 Advice and guidance must be sought from the Corporate Procurement Team in drafting a project timetable to allow sufficient time for the procurement process to be effective, and to allow appropriate resources to be deployed to support the tender evaluation stage.

8.4.5 All significant procurement undertakings must be subject to the Council’s accepted project management methodology, and where appropriate be included on the Project Initiation Document (PID) database.

8.5 The Procurement Portal and Cross Departmental Procurement Forum

8.5.1 The Procurement Portal of the Council’s intranet contains up to date and accurate information regarding procurement rules and regulations. In addition to statutory guidance, the portal also gives officers and members access to the CIPFA Standing Guide to Local Authority Procurement of Goods, Works and Services. This is a comprehensive on-line library and reference source for all procurement and contract related regulations and best practice.
8.5.2 The Procurement Portal also contains the Procurement Forward Plan and Contracts Database.

8.5.3 As mentioned earlier within Section 4, the Council will maintain an accurate database of all its current contract opportunities, along with the date that current contracts will expire. The database functionality will support the publication of contacts on the Council’s website and will allow businesses to anticipate opportunities of interest, allowing sufficient time to gear up their business capacity.

8.5.4 This proactive approach will also ensure that the Council meet’s it’s obligations in terms of compliance with the Government’s Transparency requirements.

END

April 2014