



City and County of Swansea

Notice of Meeting

You are invited to attend a Meeting of the

Scrutiny Inquiry Panel - Procurement

At: Remotely via Teams
On: Wednesday, 20 October 2021
Time: 10.00 am
Convenor: Councillor Chris Holley OBE

Membership:

Councillors: P Downing, V M Evans, E W Fitzgerald, P K Jones, L R Jones, J W Jones, I E Mann, H M Morris, B J Rowlands, M Sherwood and T M White

Agenda

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Next Meeting: Wednesday, 10 November 2021 at 10.00 am

A handwritten signature in cursive script that reads 'Huw Evans'.

Huw Evans
Head of Democratic Services
Date: 13/10/2021

Contact: Michelle Roberts, Scrutiny Officer

Agenda Item 4



City and County of Swansea

Minutes of the **Scrutiny Inquiry Panel - Procurement**

Remotely via Teams

Monday, 13 September 2021 at 10.00 am

Present: Councillor C A Holley (Chair) Presided

Councillor(s)

M C Child
J W Jones
M Sherwood

Councillor(s)

P Downing
I E Mann
T M White

Councillor(s)

E W Fitzgerald
B J Rowlands
P K Jones

Other Attendees

Mark Child

Cabinet Member - Adult Social Care & Community Health Services

Louise Gibbard

Cabinet Member - Supporting Communities

David Hopkins

Cabinet Member - Delivery & Operations (Deputy Leader)

Officer(s)

David Howes

Director of Social Services

Jane Whitmore

Strategic Lead Commissioner

Christopher Francis

Commissioning and Care Services

Lee Morgan

Digital and Transformation

Chris Williams

Head of Commercial Services

Michelle Roberts

Scrutiny Officer

Apologies for Absence

Councillor(s): L R Jones, E J King and A Pugh

1 Disclosures of Personal and Prejudicial Interest

None

2 Prohibition of Whipped Votes and Declaration of Party Whips

None

3 Minutes and responses to follow up questions

The Minutes from the previous Panel meeting on the 16 August 2021 were agreed.

The Panel received the further information they had requested following the meeting on the 16 August. After looking at this information they raised the following:

- Social value – the Panel will look at this aspect further
- Role of the Planning Ecologist in Sustainability Statements

The Panel have asked further information from the Place Directorate on:

- What the role the Planning Ecologist plays in the Sustainability Statements? The Panel understand that a Biodiversity Officer is involved but they feel that the Ecologist could be involved because they are able to assess whether the contractors are serious about the issues, are committed to taking them forward and could also monitor that the commitments made have been taken forward.

4 Public Questions

One Public Question was received:

I am concerned with the lack of provision of housing for the Learning Disabled community. Is the council using the best/ most ethical companies for LD housing? Example – gentleman aged 44 still waiting for supported living within his own community.

Reply from Social Services Directorate

All of our service providers are charitable or not for profit organisations who are experienced in LD design and development. We actively encourage tender submissions from not for profit organisations and are working with regional partners to develop approaches to commissioning services which promote social value and similar ethical considerations.

We have systems in place for assessing accommodation needs and developing appropriate housing, care and support solutions. We are also developing a regional policy to ensure the support and accommodation needs of young people transitioning from children's services to adult services are anticipated. This will help to achieve more effective future planning. We are currently exploring the possibility of re-shaping some of our existing specialist adult Learning Disability services so that they can offer care and accommodation to younger people. This may expand the range of accommodation options available.

New opportunities are sometimes dependent on the availability of capital grant funding from Welsh Government as well as property that is suitable for adaptation, or availability of land for new build within the county. In some instances the mix of people within a shared setting is considered integral to the longer term wellbeing of tenants and these considerations can sometimes lead to delays in finding suitable options. However, we presently manage over 100 properties accommodating over 250 people. Later this year an additional 8 x 1 bedroom flats, and a further 4 beds within a shared house will become available. I am advised by colleagues that this is more than any other LA in Wales.

5 Procurement in the Social Services Directorate

The Panel thanked Cabinet Members Mark Child, David Hopkins and Louise Gibbard, and Officers Dave Howes, Jane Whitmore, Lee Morgan, Chris Williams and Christopher Francis for attending the meeting and providing the information the Panel requested that relates specifically to the Social Services Directorate.

The following was noted from the discussion (a copy of the full report provided will also be included in the Inquiry Evidence Pack):

- We have a large spend in Social Services particularly in adult social services. It is called Commissioning rather than contracting. We have the statutory responsibility for most of the services that we do Commission, but a substantial proportion of those services are delivered by independent organisations.
- It is at times a difficult market to operate in for providers, their margins are narrow and it has been particularly difficult over the last year. It tends to be a different relationship we have with them to a normal contractual relationship we might have in other parts of the Council.
- Some of the problems we are experiencing at the moment, as an example, the stability of the domiciliary care markets. They are experiencing real pressures being able to meet demand and similar for our in house services. What we are experiencing right now is that of fragility, particularly the external market. It is leading to us having to step in at very short notice. When we are already really stretched it is really difficult for us.
- We do not tend to have purely contractual arrangement with organisations but a more of a co-productive approach. That is good but it does mean that we have to step in and support organisations much more actively than we would perhaps need to with other sorts of contractual arrangements.
- Our resources to meet care and support needs in both health and social care are stretched in ways that we have never experienced historically. This has been compounded by experiencing issues around workforce being impacted directly by COVID. This is having a huge strain on our services and the sector. Staff are also exhausted, staff are leaving health and care services and where we already have got huge competition for that workforce this is difficult. It is still a low paid workforce, Welsh government have expressed ambition to do something about this.
- The services in this directorate are about people so it is different from buying goods. In 2018 the authority created a virtual commissioning hub that brings all of our Commission and contracts within the different teams across the directorate together. This is to make sure that we can build capacity across all elements of that Commission and the cycle. It also helps when analysing what the market looks like? What the current situation is and needs planning done around? How we would meet that need and then thinking about how we could do it in different ways.
- There has been a huge amount of work done since there so 2016 around non-compliance to ensure that social care contracts are compliant with the County Council contract procedure rules and the public contract regulations. We do have a huge amount of contracts, around 133 at this point. Currently about 8 are non-compliant and have had a waiver for a period of time (this is usually for 1 year), we do not renew those waivers. We do also work closely working with the National Commissioning Board around Social Care Wales.
- Contracts are refreshed regularly and have ongoing monitoring.

- There is a piece of legislation or guidance to come in this month (September) that will now look at those exit strategies after Covid as we taper down support. But again, it is a very much of a moving beast as things move so quickly.
- The legislation will also give some high level principles about working through and reviewing our contractor arrangements and looking closely at the contracts. If there has been some really good innovation and different things that we have done over the COVID period then we need to consider that moving forward.
- We do ensure that there is a consistency of approach in alignment with the Council strategies and objectives, it is discussed in our people commissioning group. This includes bringing in adult services, children, services, prevention services, education and housing to make sure that we can have that consistent approach for the residents of Swansea. We also look at where we can join up some resources and grant funding opportunities.
- Grant funding has its own approval processes, which is slightly different and are on top of revenue funding.
- When we work through the commissioning process we look at Contract Procedure Rules and other relevant policy as well as considering things like the Wellbeing and Future Generations Act. Also other regional drivers including social value and community benefits, this is all included in the tender packs as well.
- We have the standard terms and conditions that look at social value, community benefits, modern slavery, Welsh language, equal opportunities and safeguarding. So if a contractor failed one of those they would not be able to operate a contract. We do 'meet the buyer' events to ensure those contractors understand the requirements.
- We make sure that all of the public sector equality duties are met. IIA process for screening are put on full reports.
- Training on procurement and tendering is done jointly, commissioning and procurement training done together for teams across the directorate.
- We are under the normal audit procedure for the Council, but we do have external audit requirements in terms of the large grants, mainly the housing support grant and the children communities grant, and that is carried out by West government.
- In terms of Brexit (and in conjunction with Covid) we have experienced some supply issues and currently a shortage of HGV drivers. Some issues in terms of some supplies, for example, with the joint equipment store having longer lead in times, especially for some key equipment which has a knock on effect of delaying discharges from hospital etc. But there is a national viewpoint on this led by the NHS supply chain in Wales so we are looking to use our collective buying power to see how we can address this.
- As far as working with Health, we are working more closely with Health following Covid which has been positive, but it is still a journey and there is still a way to go.
- In terms of when we award a contract we do not necessarily award to the lowest bidder because of the nature of the contracts that we provide. As it is services to people we provide rather than a product we look at 70% of the contract award

being about quality of service. So that we are making sure they are applying with all of the requirements fully and that they are registered in the proper way.

- Monitoring of compliance is built within the contract specifications. When we award we have an inception meeting that talks to the provider in terms of managing expectations between both parties. Compliance will be monitored regularly, some quarterly but many more frequently that, depending on the type of contract.

The Panel have asked for the follow up information below to be supplied to a future meeting of the Panel:

1. Standard Terms and Conditions for Contracts (Social Services)
2. Membership of the Commissioning Group
3. How many contracts not compliant and the current position
4. Update of figures in table 3.5
5. What will the effect of the new NI contributions on Social Services, staff and providers (positives/negatives)?
6. Details of the Real Living Wage and the impact on the Council and providers (positive/negatives)
7. Link to the Legislation mentioned provided

6 Inquiry Project Plan

The Panel agreed to add Business Wales to the evidence gathering meeting on the 10 November.

The meeting ended at 11.40 am

Chair



City and County of Swansea

Minutes of the **Scrutiny Inquiry Panel - Procurement**

Remotely via Teams

Monday, 27 September 2021 at 10.00 am

Present: Councillor C A Holley (Chair) Presided

Councillor(s)

P Downing
L R Jones
B J Rowlands

Councillor(s)

I E Mann
M Sherwood

Councillor(s)

P K Jones
H M Morris
T M White

Other Attendees

David Hopkins
Robert Smith

Cabinet Member - Delivery & Operations (Deputy Leader)
Cabinet Member - Education Improvement, Learning & Skills

Officer(s)

Adam Hill
Brian Roles
Chris Williams

Deputy Chief Executive / Director of Resources
Head of Education Planning and Resources
Head of Commercial Services

Apologies for Absence

Councillor(s): E W Fitzgerald and J W Jones

1 Disclosures of Personal and Prejudicial Interest

None

2 Prohibition of Whipped Votes and Declaration of Party Whips

None

3 Public Questions

There were no public questions received.

4 Responses to follow up questions

Panel wished to satisfy themselves that the terms and conditions attached to planning permissions, particularly relating to the ecological impacts of developments, are being met. The Panel were satisfied that we have adequate arrangements in place to ensure that any conditions that we might attach are actually being made.

5 Procurement in the Education Directorate

Cllr Robert Smith and Brian Roles attended the Panel to present the report and answer questions. The full report was received and will form part of the evidence pack for the inquiry. Over and above this the following was noted from the discussion:

- Council works in partnership with schools and also Welsh Government to procure a significant amount of what is spent within the Education Directorate, as well as what we ourselves are responsible for.
- The most effective controls exist where there is an ownership of issues and ownership of the need for robust processes. It is not simply a matter of a policing role at the centre, there must be ownership in the understanding of the need for robust practices. For that reason the Directorate's robust overarching governance and assurance framework provides the essential foundation for robust procurement practice. These broad areas are subject to audit and scrutiny.
- It is really important to recognise the extent to which direct procurement is limited within the Education Directorate. Whilst there is a large overall budget as an education directorate, the lions share is delegated directly to schools.
- The most significant of the areas of procurement is home to school transport. These contracts are managed by the Place Directorate on behalf of Education. The Transportation team regularly tender those contracts to seek to ensure the most cost effective arrangements.
- Another significant budget area is the independent and out of county placement budgets and associated costs. We have a long term strategy to enhance the availability of that specialist provision within county and in so doing mitigate the scale of the costs from external placements.
- A third area are catering and cleaning supplies which we procure with the support of corporate teams.
- The next area is IT hardware and license costs to support schools and these costs and managed in partnership corporate teams who again ensure value for money.
- In terms of capital, we have a very significant capital investment programme through our 21st century schools programme. Our tendering and contracts are delivered in accordance with corporate requirements through corporate building services.
- The Panel asked a question relating to home to school transport: Do we include in the discussions with transport companies any requirements about effective pollution management? Also how do we monitor and take account of their actual behaviours? For example ensuring that those who transport, when waiting ensure schools their engines are turned off to minimize pollution. The Place Directorate will be contacted with the question.
- The Wellbeing of Future Generations Act principles are embedded in the operation of the Directorate. In fact, the very nature of education provision in the planning for future education provision necessitates long term planning and this is clear in the 21st century schools programme, wider capital investment for schools and the planning of schools places. School building projects have particular focus on building efficiency. Potential linkages with the curriculum are made so we can

engage pupils and wider stakeholder group in the process of delivering a new build school.

- There is an aspiration for the next phase of projects to be net zero carbon in terms of the delivery and we are working on that with the most recent business case that has been submitted to the Welsh Government.
- The Panel asked if possible was possible for schools to be provided with costing examples or provided with catalogues so they have an idea of the cost of what they need to purchase. The Panel heard this has been discussed and schools have been asked for nominations for reps to be on a procurement working group to consider such issues and how best to provide advice and support to schools. Any gaps can be identified and common solutions can be created.
- The Directorate have Integrated Impact Assessment screening, which are completed for all capital projects, as well as the Wellbeing of Future Generations Act assessment.
- The service level agreements with schools are very important and are specifically reviewed each year as part of a very well established process through the school Budget Forum and its working groups. This is to ensure that service level agreements remain fit for purpose and provide the services that schools need. It ensure that they are transparent and are clearly costed, reflecting the true cost of delivering those services.
- In terms of capital projects, there is routine monitoring with any financial claims scrutinised and disputed if appropriate, any risks and issues are escalated. There is a well-established governance process for the whole QEd programme.
- In terms of the 21st century schools programme we are required to comply with a whole number of conditions that come with the funding that the Welsh Government provides and procurement needs to be undertaken via an approved Welsh Government framework. This is done working in conjunction with corporate building services.
- There needs to be national change and or revision to national policy if we are to further develop our procurement practices and regional frameworks to be flexible enough to truly procure locally. It is a very difficult to balance this with the need for sufficient capacity to deliver on the size of schemes that we are talking about.
- Welsh Government have been discussing how we can in future can look at the distance that materials have travelled and the carbon impact as part of the evaluation of tenders
- If we are to move forward to a more localised procurement we must look at what needs to be changed to enable that. For example capacity building at provider level needs to happen.
- The issue of Governing bodies having a Procurement sub-committee or similar was raised by the Panel. The Panel were given reassurance that schools within their governing bodies do have subgroups that do focus on finance and premises matters.

6 Procurement in the Corporate Centre

Cllr David Hopkins, Adam Hill and Chris Williams attended the Panel to present the report and answer any questions. The following was noted over and above the written report provided:

- In relation to procuring locally, this has been one of the areas we are pushing but it is not just about buying local but it is about making sure that we work with local companies. We are part of Swansea major employer's forum and that enables us to encourage and allow businesses to understand what it is like and how they can best work with us also to show how they would apply including the processes that we go through. It is a priority for Swansea that we seek to maximise the spend in our local area and we consider that as part of our contract design.
- Some of the examples of environmentally focused procurement include: Green Fleet initiative and The More Homes Initiative of energy efficiency in housing, these show how our procurement activity translates into reality and tangible outcomes. The Council's pension fund was also mentioned and the recognition it has received for its best practice in the area by moving away from holdings relating to fossil fuels.
- Through our contract system we look to enforce core obligations of the public sector and the legal framework we operate in. One example is modern slavery, anybody with a conviction for anything related to that would not be a company we would deal with and we check all new suppliers.
- With regard to equalities duty all staff are trained in understanding the implication of the Act and adherence to the Act is integrated into the procurement process.
- The impacts of leaving the European Unions and impact of Covid was outlined including that it has been a perfect storm with COVID in terms of many businesses having stopped working for a fair length of time. Impacts have been felt more recently include: Cost and availability of building materials; some supplies are delayed in being received, things like plasterboard and the labour market are far more volatile. The same level of staff are not available.
- Social value is a key part of what we do. The Welsh Government has said it is going to follow the new UK rules on how to enhance social value in contracts, so in the next few months we should see the first draft of those new rules and these will be circulated to the Panel when they become available.
- It was highlighted that there are only 8.5 members within the commercial procurement team that supports place, social services, education and the corporate centre resources versus Welsh Government guidance of 26 members of staff. £260 million pounds is spent per year on suppliers and services, which will at some point go through the Commercial Services team, so further resourcing for this area is being considered at this time.

7 Inquiry Project Plan

The Panel reviewed the Project Plan.

The meeting ended at 11.45 am

Chair

RESPONSE TO PANEL QUESTION

Response to the further question to Place Directorate following meeting on 27 Sep:

Q: *Do we include in our discussions with transport companies any requirements about effective pollution management? Also how do we monitor and take account of their actual behaviours? For example ensuring that those who transport pupils, when waiting, ensure schools their engines are turned off to minimize pollution?*

A: The Council procures transport for those pupils who meet the criteria set by the Welsh Government for entitlement to free transport. Most of the transport for mainstream pupils is provided using buses and minibuses and that for pupils with additional learning needs is provided by minibuses and taxis.

All taxis used on school transport have to be licensed and comply with the Licensing Authority's vehicle standards for Hackney and private hire vehicles. The majority of vehicles are licensed by Swansea Council with some by Powys and Neath Port Talbot. Buses and Coaches must comply with Department for Transport vehicle standards.

With regard to contract services funded by the Council, the Home to School Transport Terms and Conditions of contract contain the following wording:

- No vehicle used in the performance of the Contract to wait on the public highway for longer than is necessary to pick up and set down passengers.
- Where layover time exceeds two minutes at any collection point, engines shall be switched off. The idling of vehicle engines should be kept to the minimum.
- No Vehicles used in the performance of Contracted Services shall be parked overnight on any public highway.
- All vehicles provided under the terms of this Contract shall be a maximum of 15 years old, for the duration of each contract except PSV minibuses with 9 to 16 passenger seats which must be under 12 years old.

The Council employs a Survey Team of part time staff who monitor the operation of these service on site. In addition to this the Licensing division of the Council undertake their own monitoring of licensed taxi and private hire vehicles.

Agenda Item 6



Report of the Convener of the Procurement Inquiry Scrutiny Panel

20 October 2021

Roundtable Meeting with Stakeholders

Purpose:	To gain the views of stakeholders via a roundtable meeting
Content:	Discussion with Stakeholders
Councillors are being asked to:	Discuss the issue with Stakeholders as part evidence gathering for the Scrutiny Inquiry into Procurement.

Context

The Procurement Scrutiny Inquiry Panel as part of their evidence gathered has asked to speak to a number of stakeholders including a roundtable meeting with some people the council regularly contracts with.

Representatives from the following Company's/Organisations have agreed to attend:

Computer Centre
Swansea Council for Voluntary Services
Yellow Cabs Swansea
Days Fleet
LBS Business Merchants

The points below have been circulated to those invited in advance of the meeting:

1. What are your experiences of the procurement process in Swansea (positive and/or negative)
2. Do you believe that the Councils procurement processes and systems are efficient, transparent and consistently applied?
3. Have you experienced any barriers in accessing the procurement processes in Swansea?
4. In your opinion do you think the council is effective at procuring locally, ethically and greenly?
5. Given your experience working with Swansea Council is there any element of the Procurement process you would like to see changed?

Agenda Item 7

Project Plan - Inquiry into Procurement

Date/Venue	Evidence Gathering Activity	
Procurement Pre-Inquiry Scrutiny Working Group 24 Oct 19 and Revisited 24 Jun 21	Overview of subject area with key officers and Lead Cabinet Member for Procurement. <ul style="list-style-type: none"> • Provide an overview of the structure and make-up of the service, the legal frameworks we work under and the key influencers. • Provide the Procurement Strategy for Swansea • Outline Procurement Framework and probity, legislative and policy influences (national, local and Europe) 	
Evidence gathering - Internal		
Session 1 27 Jul 21	Internal Audit	
Session 2 16 Aug 21	Place	Departmental perspectives/procurement activities: <ul style="list-style-type: none"> • Positive social/local procurement activities • Environmental, ethical and sustainable procurement • Case studies • Consistency in following practice/procedures • Monitoring and enforcing SLAs/contract terms • Joint Procurement activities • Specific legislative/policy influences
Session 3 13 Sep 21	Social Services (including commissioning aspects)	
Session 4 27 Sep 21	Education Corporate centre	
Consultation activities - External		
Session 5 20 Oct 21	Talk to others - local businesses and stakeholders – roundtable meeting remotely	
Session 6 10 Nov 21	<ul style="list-style-type: none"> • Business Wales – training for small businesses • Submissions received from call for evidence • Social and local procurement ...look at practice elsewhere including Cardiff and Preston’s socially responsible procurement info. • Any useful survey or comparison data readily available 	
TBC	<ul style="list-style-type: none"> • Attend procurement/buyer meeting/event - tbc 	
Concluding Inquiry		
Meeting 7 24 Nov 21	Findings report and discussion	
Meeting 8 31 Jan 22	Draft Final Report (informal meeting)	
Meeting 9 15 Feb 22	Final Report agreed by Panel (then submitted to Scrutiny Programme Committee on 15 Jul 21 and Cabinet on 21 Apr 21)	

