



**Commissioning and Procurement Strategy**  
**2020-23**

## Contents

<u>Section</u>	<u>Title</u>	<u>Page</u>
	Leadership Foreword	3
1	Background And Scope	4
2	Strategic Objectives	5
3	Commissioning and Procurement in Context	6
4	Strategic Fit and Approach	8
5	Procurement Policy and Responsibilities	11
Appendix A	Procurement Cycle	19
Appendix B	Competition Requirements	20

## **Leadership Foreword**

It is essential that we extract maximum value from public resources and the manner in which these resources are managed is critical to the successful delivery of the functions of our organisation.

This Commissioning and Procurement Strategy sets out the framework for Pendle to obtain value for money in all procurement activities. It establishes how we can use procurement to focus activity on the delivery of outcomes and realise corporate priorities during a continued period of local government reform,

There remains uncertainty around levels of Central Government funding. In addition, the ongoing impact of the Coronavirus pandemic on the local economy and supply chains, including risk to income streams to the Council, requires scarce resources to be managed effectively. The self-funding model of local government creates an operating environment where the procurement of goods and services is increasingly important and strategic.

The focus to deliver value for money has always been a priority for Pendle. The Council is committed to continually reviewing its service delivery models and associated spending.

Effective commissioning and procurement will assist us in the delivery of corporate objectives, support local economic development (and recovery) and deliver innovative social value solutions. In this way the Council will help deliver effective service outcomes across our partner organisations for the people of Pendle. We will continue to find innovative ways of sustaining services for example working collaboratively with Town and Parish Councils to transfer services so that they can continue.

We will continue to seek to measure the added value from buying local but more importantly ensure our business community is trained and supported in procurement practice and has every opportunity to trade with us by demonstrating complete transparency of opportunity.

## **1. Background and Scope**

- 1.1 This Commissioning and Procurement Strategy supports the Council's strategic objectives and ambitions and ensures procurement activities are integrated and focused on the achievement of the Council's aims. The strategy is fully supported by Councillors and the Council's Management Team.
- 1.2 It has been developed with consideration of a number of approved strategic and policy documents, including but not exclusively:
  - The Council's Constitution in particular the Scheme of Delegation
  - The Council's Strategic Plan
  - Financial Strategy and Medium Term Financial Plan (MTFP)
  - Financial Procedure Rules (FPR) and Contract Procedure Rules (CPR)
  - Service Area Service Plans
- 1.3 It considers the strategic objectives of the Council, commissioning and procurement activity within the context of the Council's operating environment and how these activities complement the Council's strategic aims.
- 1.4 Effective commissioning and procurement is the main tool through which we can maximise value for money from our available resources. It requires an increased and improved approach to commercial activity. This strategy endeavours to identify the means by which this can be achieved.

## **2. Strategic Objectives**

- 2.1 The Strategy supports the vision contained within the Strategic Plan (2020-23) in pursuance of strategic procurement aims, is committed to working with partners to ensure that:

“Pendle is a place where quality of life continues to improve and where people respect one another and their neighbourhoods. We want Pendle to be a place where everyone aspires to reach their full potential. We want to be recognised locally, regionally and nationally as a great area to live, learn, work, play and visit.”

- 2.2 Commissioning and Procurement related activity has a key role to play in enabling the Council to meet its five corporate strategic objectives:

### **Strong Services**

Working with partners, the community and volunteers to sustain services of good value.

### **Strong Economy**

Help to create and sustain jobs with strong economic and housing growth.

### **Strong Communities**

Help to create and sustain resilient communities.

### **Strong Organisation**

Maintaining a sustainable, resilient and efficient organisation which is digital by default.

### **Strong Response and Recovery**

Delivering our COVID19 response and recovery whilst working towards rebuilding, restoring and rehabilitating our communities.

### **3. Commissioning and Procurement in Context**

3.1 It is important to firstly define what is meant by 'commissioning and procurement' and to recognise that together they can deliver the outcomes desired by the Council economically, efficiently and effectively.

#### **3.2 Commissioning**

3.2.1 'Commissioning' is the process of identifying need within the local population and developing policy direction, service models and the market to meet those needs in the most appropriate and cost effective way.

#### **3.3 Procurement**

3.3.1 'Procurement' is the process by which the Council obtains the goods, works and services it requires in the provision of services to the community. The process spans the whole cycle from identifying need through to the fulfilment of the contract.

3.3.2 This Commissioning and Procurement Strategy relates to the service delivery models and the supplies and services purchased by Pendle Council. Effective procurement (and commissioning) has an important role to play to enable the Council to meet its identified savings requirement over the plan period (c£3M from 2020/21-2023/24).

3.3.3 The procurement landscape for the Council ranges from the local operating environment to the wider European marketplace and beyond. The scale of the landscape and the impact on the Council and its governance arrangements are detailed below.

#### **3.4 European**

3.4.1 Following the end of the transition period on 1st January 2021, the Council no longer has to strictly apply EU procurement directives. The Government has published PPN 08/20 and PPN 10/20 which give fuller details on the new procurement rules.

3.4.2 At a basic level, all contracts with a cumulative total value over their recurrent life of £122,976 and above (threshold as at 1st January 2021) need to be tendered and published on the Find a Tender service (FTS) website. This replaces the Official Journal of the European Union (OJEU) where tenders should no longer be published.

### 3.5 National

- 3.5.1 The Public Contract Regulations 2015(PCR2015) require specific actions to make procurement contracts more accessible to business. Other legislation also impacts on procurement e.g. the Equalities Act 2010 and the Localism Act 2011. It must also be noted that each tender exercise may require the application and awareness of specific legislation relevant to that procurement e.g. Waste Regulations 2012 (amended).
- 3.5.2 Regular guidance in the form of Public Procurement Notices (PPNs) is issued by Central Government to aid public sector organisations with best practice procurement. Further guidance is provided by the Local Government Association (LGA) in the form of the National Procurement Strategy for Local Government in England 2018, the PCR 2015 toolkit and guidance on specific sectors such as Construction.
- 3.5.3 The LGA strategy refers to three specific areas which the Council's strategy supports:
- Showing leadership
  - Behaving commercially
  - Achieving community benefits

### 3.6 Regional

- 3.6.1 The Council is committed to pursuing collaborative opportunities where appropriate throughout the North West region, through partnership arrangements with neighbouring authorities.

### 3.7 Local

- 3.7.1 Procurement is governed by internal policies and procedures in the Council's Contract Procedure Rules (CPR), Financial Procedure Rules (FPR) and Constitution (Scheme of Delegation). It is informed and shaped by the Council's own strategies and objectives. These documents reflect all regional and national strategies and legislation, and are reviewed annually.
- 3.7.2 The Council is also committed to working with, and supporting, other local organisations and volunteers to deliver services and build capacity.

## 4. Strategic Fit and Approach

4.1 A coordinated and effective Commissioning and Procurement Strategy will support the Council in the delivery of its objectives by:

- Delivering an outcomes based approach to commissioning and procurement;
- By helping to maintain timescales;
- Creating an innovative and effective approach to procurement;
- Creating greater capacity and capability and identifying new providers in different market segments e.g. third sector, local partnerships and volunteers;
- Identifying opportunities for collaboration with other commissioners;
- Building a mixed economy and flexible approach to service delivery and help identify the appropriate model;
- Identifying opportunities for decommissioning and contestability of direct provision;
- Improving interpretation of user and stakeholder opinions and needs through consultation, feedback and market research;
- Involving customers and service users in the planning, design, monitoring and evaluation of services and demonstrating a commitment to them;
- Delivering evidence based solution e.g. through the use of benchmarking;
- Providing real and sustained value for money and improvement;
- Managing and reducing demand;
- Demonstrating transparency and accountability.

4.2 The following are examples of the Council's mixed market approach to service delivery and the sharing of resources (this list is not exhaustive):

- **In-House** – The council retains the option to deliver services from its own resources e.g. Grounds Maintenance Service.
- **Joint Working (Public-Public Shared Services Agreements)** – e.g. The Pennine Night Time Noise Service delivered with other local authorities in East Lancashire.
- **Collaborative Procurement** – Working with others to achieve economies of scale e.g. use of established framework agreements such as the (Allpay) PayPoint payment solution.
- **Capacity Building** – The Council provides financial support to charitable and third sector organisations to deliver tailored services to



local residents e.g. Citizen's Advice Bureau (CAB) and initiatives to reduce domestic violence.

- **Joint Venture Company (JVC)** – Creation of Joint Venture Companies with the private sector to regenerate areas of the borough e.g. Pendle Enterprise and Regeneration (PEARL) Ltd.
- **Trust** –The Council created The Pendle Leisure Trust in 2000.
- **Public Private Partnership (PPP)** – A strategic partnership with the private sector, e.g. with Liberata UK.
- **Co-ordinated Commissioning (Engineering Services)** – The Council manages civil engineering contracts within Pendle, from scheme design to contractor appointment through to scheme management. The service also supplies its skills and expertise to other Local Authorities as part of the Council's Financial Strategy to generate income from an innovative/commercialised approach to chargeable services.

4.3 A snapshot of future commissioning aims is reproduced below

- **Shared Services Agreements – Public Sector (SSA)** – including discussions with neighbouring authorities to explore the possibility of sharing services.
- **Shared Services Agreements – Private Sector (SSA)** - working with private sector joint venture partnerships, developing capacity and expertise and senior management know-how.
- **Strategic Procurement** – working with partner councils to take advantage of collective purchasing power to reduce the cost of supplies to Pendle, seeking both transformational and transactional savings.
- **Citizen Self-Service** – engaging with the local community to deliver services at lower cost through the utilisation of technology e.g. Online payments (Planning Portal) and PayPoint services available at retail outlets within the borough as part of the Council's 'Digital by Default' agenda.
- **Service Transfer and Community Asset Transfer** – continuation of existing council run services through alternative providers via service and/or asset transfer e.g. enabling voluntary and community groups and Town and Parish Councils to deliver services.

- **Concessions** – The granting of a right or asset (and the transfer of risk) to the private sector in return for a source of income.

## **5. Procurement Policy and Responsibilities**

### **5.1 Procurement Policy and the links to Strategic Objectives**

- 5.1.1 All procurements should demonstrate a clear link to the Council's overall Vision, Values & Strategic objectives and service planning and seek to demonstrate how a corporate approach to procurement will support these.
- 5.1.2 The following commissioning and procurement principles have been developed with the aim of underpinning this Strategy and defining responsibilities. This will require adherence to the procurement /commissioning cycle (Appendix A).

### **5.2 High Professional Standards & Best Practice**

- 5.2.1 All commissioning/procurement procedures shall be operated in a professional manner and ensure the highest standards of transparency, probity and accountability.
- 5.2.2 All procedures shall be operated in accordance with the Council's Contract Procedure Rules (CPR), codes of practice, best practice, ethics and standards set by the relevant professional organisations.
- 5.2.3 Wherever possible, model or standard terms and conditions of contract should be used that have been evaluated by legal officers as being satisfactory for use by the Council.
- 5.2.4 All procedures shall be auditable and be able to demonstrate sufficient probity and accountability for all decision-making processes.
- 5.2.5 A designated officer/s shall be identified to take responsibility for the project management of all new commissioning/procurement projects over a value of £50,000.
- 5.2.6 A plan for all major commissions/procurements shall be prepared in a timely manner and approved by the Council's Policy and Resources Committee prior to all new projects, indicating:
- Assessment of the business case
  - The procurement time-scales

- Resources requirements
- Risk assessment
- Reporting and monitoring arrangements.

### 5.3 Management, Control & Monitoring of Contract

5.3.1 The Responsible Officer as defined in the Council's Contract Procedure Rules shall be assigned to take responsibility for monitoring and reporting of contracts within their remit, including:-

- Compliance with H & S requirements;
- Compliance with all relevant Legislation;
- Regular Client & Contractor progress meetings;
- Performance Management including:
  - Performance against delivery specification,
  - Service Costs
  - Service Quality
  - Performance against Key Performance Indicators
  - Complaint Monitoring
  - Capacity for continual improvement and Lessons learned (what went well and what did not go well).

### 5.4 Assessing & Minimising Risk

5.4.1 The risks associated with all procurement shall be assessed and minimised accordingly.

5.4.2 All procurement project management and contract management will be based upon the principle of the recognition and management of risk.

5.4.3 The risks associated with the procurement of contracts shall be evaluated in accordance with the Council's Risk Management Framework and the likely consequences assessed accordingly. Whistleblowing should form part of standard contract conditions.

5.4.4 As a general principle, identified risks should lie with whoever is best placed to manage and minimise risks.

5.4.5 All officers involved in commissioning and procurement should be fully aware of, and have the ability to apply and adhere to the Council's Contract Procedure Rules (CPR) and Financial Procedure Rules (FPR) in relation to all procurement exercises.

5.4.6 Staff engaged in procurement and contract management shall be trained for the process.

5.4.7 When project managers are arranging a procurement they should have the capability themselves, through qualification, experience and/or knowledge (or have access to suitably trained & qualified staff) to be able to arrange the procurement in a satisfactory manner, particularly where new initiatives are introduced such as the CHEST, the Council's electronic procurement portal.

5.4.8 Officers managing major contracts shall have the capability themselves, through qualification, experience and/or knowledge (or have access to suitably trained & qualified staff) to be able to ensure the sound management & monitoring of the contract.

## 5.5 Commissioning and Procurement

5.5.1 Services should carry out a rigorous assessment of the need for any procurement. This should include an effective sourcing strategy to determine the appropriate service model and the potential markets for the supply.

5.5.2 A thorough business case should be made addressing:

- Strategic fit – does the planned procurement fit with our corporate policy and service plans?
- Cost /Benefits Analysis – what is the real cost and do we know what benefits can be delivered?
- Achievability – Is it achievable and can the Market deliver?
- Affordability – Can we afford it in both Capital and Revenue terms (whole life cost approach)?
- Value for Money - Does it deliver real value for money? Is some other project delivering greater value? Does it deliver savings?
- Available Options to support the procurement - have we considered the appropriate approach to the market, the preferred and compliant procurement route and an effective procurement tool should this be needed and available?
- Risk - have we carried out a thorough assessment of risk linked to the specific procurement?

## 5.6 The Market Process

5.6.1 A quick guide to competition requirements and the market process is attached at Appendix B.

5.6.2 All Procurements will be carried out in line with Contract Procedure Rules and Financial Regulations. Compliance will reduce the Council's exposure to breaches of procurement legislation, provide a more effective audit trail

and ensure effective communication to all stakeholders, delivering the transparency and accountability the council is committed to. It will also deliver value for money and effective delivery of the Council's corporate policy and service plans.

- 5.6.3 All external commissioning/procurement will be based on competition, recognising that there will be limited exceptions to this approach in certain defined (exceptional) circumstances.
- 5.6.4 Commissioning and procurement processes will primarily be based on the assessment of outcomes, noting that the evaluation of inputs will remain an integral aspect.
- 5.6.5 Forms of external commissioning or procurement, will be based upon a partnering approach recognising mutual advantage, and which reflect longer-term relationships seeking continuous improvement.
- 5.6.6 Arrangements shall ensure that all new commissioning/procurement projects are adequately managed and monitored with a view to achieving completion of the project on time and within budget. The cost of contract management and other ongoing council inputs should be assessed within the business case.
- 5.6.7 Consideration should be given to a number of important principles when preparing the procurement and approach, the contract terms and conditions, and post contract management namely:
  - Arrangements for contract management and compliance;
  - Mechanisms for performance management and monitoring;
  - Measurement of value for money i.e. economy, efficiency, and effectiveness;
  - Continuous improvement requirements throughout the contract management;
  - Determination of the appropriate arrangements for supplier relationship management including an effective communication plan;
  - The Council's Sustainable Community Strategy should be considered and, where applicable, adequately addressed when writing specifications, evaluating tenders and throughout the service delivery of the contract;
  - All commissioning and procurement shall actively recognise the impact on social, economic and environmental wellbeing;
  - A whole life cost approach should be taken for all procurements to reflect the real cost to the Council.

## 5.7 Sustainability

- 5.7.5 All commissioning and procurement shall actively recognise the impact on social, economic and environmental wellbeing and give particular consideration to the Social Value Act for qualifying contracts but also for smaller scale projects where it is deemed relevant.
- 5.7.6 All commissioning/procurement projects will recognise that meeting the needs of the borough's diverse communities will be a key factor in determining the best providers, and that specifying and measuring equalities outcomes will therefore be an important part of any procurement process. We will ensure visibility of our supply chains to enable this to be monitored.
- 5.7.7 The viability of local business is a key part in achieving the Council's vision. Local businesses should be given appropriate support and encouragement to enable them to compete for Council contracts. Regeneration is a primary objective for the Council and any procurement exercise that benefits the local economy will be given full consideration.
- 5.7.8 All procurement projects will recognise the need for providing value for money by taking into account the whole-life costs of goods and services. i.e. running and disposal costs and not just the initial purchase price.
- 5.7.9 The Council is committed to the principles of the Small Business Friendly Concordat. This is a voluntary, non-statutory code of practice set out by MHCLG and the L.G.A. and the Small Business Service. It promotes the equality of treatment of small and medium sized enterprises in tendering exercises and encourages Councils to help SME's understand what the requirements of Local Authorities are.
- 5.7.10 Compliance is also required with part 4 of the Public Contract Regulations 2015 i.e.:
- Payments to companies to be made in 30 days;
  - Advertisements on Contracts Finder for opportunities over £25,000 (subject to the Council's own Standing Order/Contract Procedure Rule value for the need to advertise);
  - A record of such procurements to be maintained;
  - Compliance with central Government guidance.
- 5.7.11 All commissioning and procurement should take into account environmental principles, wherever possible supporting low carbon options, specifying environmentally preferable products and services and promote 'Fairtrade'.

5.7.12 Environmentally preferable products are defined as ones that are less harmful to human health and the environment when compared with competing products that serve the same purpose. Amongst other things they:

- Are fit for purpose and provide value for money;
- Are energy and resource efficient;
- Are obtained from local suppliers in order to reduce transport related environmental impacts;
- Use the minimum amount of virgin materials;
- Make maximum use of post-consumer materials and reduce packaging;
- Are non (or less) polluting;
- Are durable, easily upgraded or repairable;
- Are reusable and have markets and infrastructure for recycling the product at the end of its life;
- Are supported by additional information to demonstrate their suitability. e.g. Timber is purchased from certified sources such as those accredited by the Forest Stewardship Council (FSC).

## 5.8 Workforce Matters

5.8.1 It is important that Council officers responsible for commissioning and procurement recognise that the employment practices of prospective partners can be relevant for the purposes of achieving best value and seek to ensure through the commissioning/procurement process that such practices are governed by the principles of negotiation and continuous service improvement, in particular, by:

- Ensuring that relevant information on bidders' employment practices is required in the Invitation to Tender;
- Incorporating the ability to recruit and retain staff into the quality assessment criteria;
- Meeting all current central government guidelines in respect of the 'Principles of Good Employment Practice';
- Requiring that all potential employers consider applying for Admitted Body Status to the Local Government Pension Scheme but have at least a workplace pension scheme in place;
- Requiring that all potential employers consider recognising those trade unions currently representing staff;
- Ensuring that all other TUPE regulations are applied.

5.8.2 Council officers must also recognise that consultation with staff and the trade unions is an important part of the procurement process, both in

terms of procurement decisions and in the management of any project, in particular, by:

- Providing appropriate information to staff and trade unions at all stages of the commissioning/procurement process;
- Establishing regular consultation processes with staff and trade unions at appropriate frequencies;
- Providing an opportunity for trade unions to comment on all aspects of the procurement process at key milestones of the procurement process;
- Facilitating meetings between trade unions and potential providers at key stages of the procurement process;
- Allowing full discussions between trade unions and the Council's preferred bidder prior to contract award.

## 5.9 Equalities

5.9.1 The Council is committed to the promotion of equalities in Pendle and Service Managers involved in commissioning and procurement are required to be fully aware of the requirements of the Council's policy. Contractors wishing to be considered for tendering opportunities or partnership arrangements are required to have equality statements and may be required to show evidence of equalities put into practice. The Council has Equality and Dignity at Work statement, which contractors who do not have an equalities policy will be asked to sign. In appropriate cases contractors are required to complete a Standard Selection Questionnaire (SSQ), which includes an equalities section. This questionnaire is contained as an Appendix to the Council's Contract Procedure Rules (CPR).

5.9.2 The Contractor shall not discriminate directly or indirectly against any person because of their gender, age, ability, sexual orientation, gender reassignment, religion or belief, marriage and civil partnership, pregnancy and maternity. These are the nine protected characteristics of the Equality Act 2010.

5.9.3 In summary, the Contractor shall comply with the provisions of the following legislation (or any statutory replacement legislation or re-enactment thereof):

- The Equality Act 2010
- The Human Rights Act 1998
- The Modern Slavery Act 2015
- The Civil Partnership Act 2004



5.9.4 The Council will not enter into a contract with any supplier who does not comply with this contract condition.