

Update on the LGA's Procurement and Commissioning programme

Purpose of report

For information.

Summary

This report updates the board on the progress of the LGA Procurement and Commissioning programme and includes detail on the new Procurement Bill outlined in the Queen's Speech on 10th May 2022.

Is this report confidential? Yes No

Recommendation

That the Improvement and Innovation Board considers the report and agrees any follow-up action.

Actions

Officers to use any feedback and comments made to inform the approach to the programme going forward

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Update on the LGA's Procurement and Commissioning Programme

1. Background

- 1.1 The LGA Procurement and Commissioning Programme supports councils to improve their procurement practices through a framework of the LGA's National Procurement Strategy for Local Government. The programme makes up a part of our sector support offer funded through the Department of Levelling Up, Housing and Communities (DLUHC).
- 1.2 This report sets out an update on the activity that took place in 2021/2022 and the impact this had including our response to procurement challenges emerging following Russia's invasion of the Ukraine. It also provides an update following announcements made in the Queen's Speech and looks forward to the 2022/23 programme offer.

2 2021/2022 Programme Delivery

- 2.1 Our 2021/2022 Procurement and Commissioning Programme has provided extensive support for councils providing training opportunities, networking events, opportunities to meet suppliers, social value guidance and more. Some of the key highlights of the last year include the following.
- 2.2 We engaged extensively with councils through several networks on subjects including working with strategic markets and suppliers, social value, access to learning and development opportunities and input into Government's thinking on procurement policy. Our weekly update newsletter has some 5000 subscribers.
- 2.3 Our national benchmarking exercise, undertaken in October 2021, saw responses from more than 60 per cent of councils which are being used to identify areas of support for this new financial year.
- 2.4 We provided training to more than 100 officers on best practice procurement as outlined in the Cabinet Office's Sourcing Playbook (with a 90 per cent satisfaction rating) and when Crown Commercial Service offered to fund places on the Cabinet Office's Contract Management training we identified which councils would benefit most. More than 40 councils have been offered the opportunity for up to ten of their officers to undertake the training which is valued at £7k per delegate. This offer is now going to be extended to all councils.
- 2.5 We convened a group of councils to work with Department of Health and Social Care and NHS England to develop the detailed provisions of the new Provider Selection Regime (PSR) which will cover the commissioning of healthcare by the NHS, and now also the health element of social care commissioned by councils. We are continuing to work through the practical processes to be used when the PSR is implemented later this year.
- 2.6 We recently delivered, in partnership with Social Value Portal, a hybrid conference celebrating success over ten years of the Act. 300 people in total attended in person on day one with another 1500 people attending sessions online. Day two was fully online and the conference had a satisfaction rating of 85 per cent. Similarly, we

achieved more than 90 per cent satisfaction for our annual construction conference which attracted 296 officers from local government.

3. Current Challenges going into 2022/23

- 3.1 In response to the Russian invasion of Ukraine in March 2022 we quickly set up a network of those councils procuring energy from Gazprom to help them to network and support each other on calls for the public sector to exit contracts with Russian entities. 54 councils have been involved in the weekly meetings which will continue into 2022/23. We secured pro-bono support from Browne Jacobson to help with the legal aspects of potentially terminating contracts and inputted practical scenarios into DLUHC to assist them in formulating a Statutory Instrument which will, once agreed by Parliament, allow the Minister to disapply elements of the Local Government Act which states that councils cannot take 'non-commercial' considerations into account when deciding to procure (or terminate a contract).
- 3.2 So far two councils have reported that they have terminated contracts (paying termination fees) and another has said they intend to terminate on their contract's anniversary in September (and will also be liable for fees). In both cases the councils will need to move to the open market and are expecting to pay much higher prices for energy going forward. The lack of ability to make judgments in relation to value for money and the fact that Gazprom will be able to sell energy not taken by councils at a higher price appears to have deterred some councils from terminating contracts.
- 3.3 Last year we convened councils to help us to formulate a response to the *Transforming Public Procurement* green paper in December 2020 and have been in a constructive discussion with government since. We welcomed the general ethos of the green paper to simplify and make more flexible procurement processes. Improvement and Innovation Board members will recall that the original green paper outlined the abolition of the Light Touch Regime without a suitable replacement for social care; the proposal to require councils to publish every bidder's scoresheet to the world at large at the start of the standstill period; and about a very burdensome approach to transparency, which would have had major resource implications for councils. These main concerns have been resolved and this is seen as a significant win for local government.
- 3.4 The Queen's Speech on 10th May set out the proposal for a new Procurement Bill. The Bill referred to the National Procurement Policy Statement which requires councils, alongside their own strategic priorities, to be cognisant of Government's three strategic priorities. (social value, having the right policies and processes in place to manage the key stages of procurement and considering their organisational capability and capacity, with regard to procurement skills and resources). These national priorities are in line with what most councils are seeking from procurement. It is important to note that as part of 'considering their organisational capacity' councils are encouraged to benchmark their performance against other similar organisations – something councils have been doing since 2017. At the time of writing this report we have not seen the detail of the Procurement Bill. Any further concerns will be dealt with verbally at the meeting

19 May 2022

3.5 As set out in the DLUHC grant determination letter, the LGA will deliver an updated national procurement strategy, provide knowledge, support and access to networking and learning opportunities and convene councils to work on key themes such as social value. We will also deliver another cohort of Sourcing Playbook training. All learning, reports and results will be shared on the LGA website to ensure that councils can benefit from that knowledge.

4. Equalities implications

4.1 The programme is committed to ensuring there are no adverse implications for equality and diversity from its activity.

5. Implications for Wales

5.1 We will continue to share and learn from case studies from the Welsh LGA and Welsh councils working on procurement projects. The new procurement regime set out in the Queen's Speech will also apply to Wales.

6. Financial implications

6.1 The Procurement and Commissioning programme is delivered by the LGA with funding from the DLUHC core grant. The grant is for the period ending in March 2022.

7. Next Steps

7.1 Councils are keen that we continue to engage with Government on developing the training and capacity building aspects of the Procurement Bill, delivering the training for councils on using the Provider Selection Regime and piloting a procurement fitness check, primarily aimed at smaller councils. We also intend to update our Councillor Guide to Procurement.

7.2 In our response to the Queen's Speech we commented that we would welcome a further discussion on a potential nationally funded approach to upskilling council's procurement officers.