

# Procurement Process and Policy Updates

For Cabinet – Thursday 9 February 2023

## Summary

**Lead Member:** Christopher Hall, Cabinet Member for Finance and Performance

**Lead Director:** Lee Colyer, Director of Finance, Policy and Development

**Head of Service:** Jane Fineman, Head of Finance, Procurement and Parking

**Report Author:** Dan Hutchins, Procurement Manager

**Classification:** Public document (non-exempt)

**Wards Affected:** All

Approval Timetable	Date
Management Board	23 <sup>rd</sup> November 2022
Finance & Governance Cabinet Advisory Board	24 <sup>th</sup> January 2023
Cabinet	9 <sup>th</sup> February 2023

## Recommendations

Officer / Committee recommendations as supported by the Cabinet Member:

1. That the Finance & Governance CAB recommend the approval of the proposed Sustainable Procurement Policy and Modern Slavery Statement by the Cabinet.
2. That the Finance & Governance CAB note the proposed changes to the Contract Standing Orders (CSOs) approved by Constitution Review Working Party on Wednesday 7<sup>th</sup> December 2022, pending final approvals from Audit & Governance Committee and Full Council.

# 1. Introduction and Background

- 1.1 In July 2019 Tunbridge Wells Borough Council (TWBC), declared a Climate Emergency (FC29/19 – see [Full Council minutes](#)) and set an ambition to make its own operations, services and buildings carbon neutral by 2030.
- 1.2 We have worked closely with the Climate Emergency Officer Group to create a Sustainable Procurement Policy, which is attached as Appendix A. This will provide a framework to any officer tasked with procuring goods, works or services for TWBC, and will ensure that we are building appropriate levels of environmental focus into our tender evaluations and contract award decisions.
- 1.3 We have utilised a number of sources in the creation of this document, most notably the LGA toolkit, and liaised with our colleagues and peers from other authorities within Kent to ensure that the policy is robust and meets the needs of TWBC.
- 1.4 In addition to the Sustainable Procurement Policy, we have also created a Modern Slavery Statement. This document outlines TWBC's commitment to eradicating modern slavery from its supply chain, and our expectations for both suppliers and officers. This document is attached as Appendix B.
- 1.5 Whilst reviewing the legislative position to ensure that our Constitution is compliant and up to date, we have taken the opportunity to review the operational effectiveness of our current thresholds in order to ensure that our processes are as efficient as possible for officers. In undertaking this review we have considered the current processes and needs of both TWBC, and our partner authority Maidstone Borough Council (MBC), in order to provide a well balanced approach to our Procurement operations.

# 2. Current Position

- 2.1 TWBC has a Social Value Policy, which was approved in March 2020.
- 2.2 The Social Value Policy looks at Social, Economic, and Environmental factors which should be considered by officers in the letting of any contract for TWBC, with a mandated 10% minimum weighting to Social Value for any contract above £100k.
- 2.3 The proposed Sustainable Procurement Policy is designed to work in tandem with the Social Value Policy, but to add greater emphasis on the environmental/sustainability factors which will be pivotal to TWBC achieving its aim of carbon neutrality by 2030.

- 2.4 TWBC does not currently have a Modern Slavery Statement, and while it is not a requirement for Local Authorities it would be considered best practice to have a statement approved and published. All TWBC standard contracts contain wording regarding Modern Slavery.

### 3. Other Proposed Changes

- 3.1 As well as the proposed Sustainable Procurement Policy and Modern Slavery Statement, a number of changes to contract thresholds and updates to wording within the Contract Standing Orders (CSOs) of TWBC's Constitution have been proposed.
- 3.2 These changes have been approved by the Constitution Review Working Party (CRWP), and are awaiting final approval from Audit & Governance Committee and Full Council before adoption.
- 3.3 The report on these changes can be found in the agenda pack for CRWP on Wednesday 7<sup>th</sup> December 2022, and the reports which will follow to Audit and Governance Committee and Full Council.

### 4. Options Considered

- 4.1 The options considered are as follows:
- 4.2 **Option 1: Approve the Sustainable Procurement Policy and Modern Slavery Statement for adoption and publication** - Approve the two documents (pending any wording changes or requests) for implementation and publication.
- 4.3 **Option 2: Appoint a Consultant** - Appoint a consultant to produce a Sustainable Procurement Policy and Modern Slavery Statement on behalf of the Council
- 4.4 **Option 3: Do nothing**

### 5. Preferred Option and Reason

- 5.1 Our preference is to adopt Option 1 as outlined in section 4.2 of this report.
- 5.2 Adoption of this option would enable TWBC to implement a new framework for the use of environmental and modern slavery factors in its evaluation of tenders, and the decision to award contracts.
- 5.3 It will also provide officers with a framework to ensure that they are properly considering the environmental impacts of any procurement they undertake.

- 5.4 Option 2 would ensure that TWBC has a robust set of policies and statements in place, but would come at a cost – which would further strain the budget, and would be an unnecessary outlay.
- 5.5 Option 3 is not practically viable, as TWBC has a commitment to carbon neutrality by 2030 and therefore must take steps to ensure that its procurement of contracts is undertaken with sustainability as a key focus.

## **6. Consultation on Options**

- 6.1 Management Board reviewed the proposed documents at their meeting on Wednesday 23<sup>rd</sup> November 2022, and gave approval for them to move through the political approvals cycle.

## **7. Implementation**

- 7.1 Implementation of the proposed changes will take effect from the expiry of the call-in period following the Cabinet decision on 9<sup>th</sup> February 2023 (subject to approval of the recommendation).

## **8. Appendices and Background Documents**

Appendices:

- Appendix A: Sustainable Procurement Policy
- Appendix B: Modern Slavery Statement

Background Papers:

- Management Board – Wednesday 23<sup>rd</sup> November 2022
- Constitution Review Working Party (for proposed changes to CSOs) – Wednesday 7<sup>th</sup> December 2022

## **9. Cross Cutting Issues**

### **A. Legal (including the Human Rights Act)**

The Legal team have been heavily involved in this process and the proposed changes bring the Council's Constitution into line with the legislative changes that have been made to procurement processes. There are no consequences arising from the recommendation that adversely affect or interfere with individuals' rights and freedoms as set out in the Human Rights Act 1998.

Lucinda MacKenzie-Ingle, Team Leader Contracts and Commissioning MKLS 15 December 2022

### **B. Finance and Other Resources**

The changes may have budgetary implications owing to potential increases in costs if sustainability measures are introduced into contract requirements. There are a number of ways that this could be monitored and managed during the commissioning and tendering phase of a contract (for example, requesting pricing for both sustainable and traditional delivery models in order to compare costs).

Dan Hutchins, Procurement Manager 9 December 2022

### **C. Staffing**

There are no specific implications

Nicky Carter, Head of HR, Customer Service and Culture, 11 January 2023

### **D. Risk Management**

The changes will provide a framework for officers to ensure that they are properly considering sustainability and modern slavery as part of their contracting/commissioning cycle. This will help to mitigate the risk of the Council not achieving its stated objective of carbon neutrality by 2030.

Dan Hutchins, Procurement Manager 9 December 2022

## **E. Environment (inc. Biodiversity) and Sustainability**

A Climate Emergency Impact Assessment must be undertaken at the start of any new project etc. and as part of project planning and not as an 'add on' towards the end of completing the committee report.

**Sustainability have been heavily involved in the production of the proposed Sustainable Procurement Policy, and have taken an active role in ensuring that the policy meets the needs of the Council.**

The Climate Emergency Impact Assessment form and guidance document can be found in the cross-cutting issues section, you are advised to read the guidance in full prior to completing the assessment. The impact assessment also includes biodiversity requirements.

Dan Hutchins, Procurement Manager 9 December 2022, consulted with sustainability on 12 December 2022.

## **F. Community Safety**

The proposed Modern Slavery Statement will provide officers with a framework to ensure that potential slavery concerns within the supply chain are mitigated – ensuring that the safety and rights of vulnerable groups and individuals are properly considered within the decision making process for the award of contracts.

Terry Hughes, Community Safety Manager, 12 December 2022

## **G. Equalities**

Procurement processes need to take account of the diverse needs of service users. Discussions have been held with Procurement and it is recommended that an Equalities Impact Assessment is completed for any procurement process exceeding £100k in value, or any process below this threshold in which potential equalities considerations are identified. We will also review our procurement processes to ensure that equalities considerations can be captured as appropriate to the value of the contract.

Jane Clarke, Head of Policy & Governance, 13 December 2022

## **H. Data Protection**

Whilst company data does not fall under the data protection act, the personal data of individuals, such as sole traders, would be protected. The Council abides by UK data protection law, and whilst all tender documents can potentially be made public under FOIA requests, the Council would consider each on a case by case basis, to balance the rights of privacy of the individual with the public's right to know.

Jane Clarke, Head of Policy & Governance, 13 December 2022

## **I. Health and Safety**

There are no specific implications

Mike Catling, Health & Safety Advisor, 12 December 2022

## **J. Health and Wellbeing**

There are no specific implications

Rebecca Bowers, Health Improvement Team Leader, 14 December 2022