



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

Thursday, 28 JULY 2022

Report of the Director of Corporate Property

**Corporate Property Procurement Strategy and use of Non DCC
Construction Frameworks**

(Cabinet Member for Corporate Services & Budget)

1. Divisions Affected

1.1 County-wide.

2. Key Decision

2.1 This is a key decision because it is likely to result in the Council incurring expenditure which is, or savings which are significant having regard to the budget for the service or function concerned and it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

3. Purpose

3.1 To seek Cabinet approval to a procurement strategy for the Corporate Property division and approve the use of five non-Derbyshire County Council frameworks for delivering construction projects.

4. Information and Analysis

4.1 Background

The Council's Procurement Strategy 2021 – 2026 provides a framework and delivery plan for all procurements undertaken by the Council. The

strategic aims of the Procurement Strategy include aligning procurement to best practice; ensuring Social, Economic and Environmental value is delivered through procurement activities and ensuring compliance with National Procurement Policy. Corporate Property as the division within the Council responsible for the management of the Council's property portfolio is responsible for delivering and commissioning construction and maintenance projects. Accordingly, a Corporate Property Procurement Strategy has been prepared to outline the procurement routes, systems, and processes, that County Procurement and Corporate Property will adopt to support Corporate Property deliver and commission projects and services. This Strategy also clarifies the roles and responsibilities of those parties involved in procuring and delivering works and services. A copy of the Corporate Property Procurement Strategy is attached at Appendix 2, this document is 'live' and will be updated periodically by Corporate Property as it reviews its procedures and its relationships with its supply chain.

In December 2020, the Cabinet Office published the Construction Playbook. This provides best practice guidance for contracting authorities on procuring and managing projects and programmes. One of the key recommendations is a Delivery Model Assessment (DMA). This is an analytical, evidence-based tool to reach a recommendation on how a project should be delivered, including the procurement route. The Construction Playbook acknowledges that there is not a one-size-fits-all approach for the procurement of public works and services, but it does recognise that Frameworks can be an efficient method of procurement and can provide an opportunity for economies of scale. A further recommendation within the Playbook is the adoption of Gold Standard Frameworks. These are Frameworks which meet best practice and embody the policies set out in the Playbook

4.2 Construction Frameworks

Periodically Corporate Property recommends using Frameworks for the procurement of a contractor to deliver construction projects. To date this has been on a project-by-project basis. Reflecting the principles in the Construction Playbook, it is proposed to move away from this piecemeal approach. In future a number of Frameworks will be evaluated on an annual basis and a small number identified as a pool of 'gold' standard Frameworks for the Council to use. Approval to use these Frameworks will be sought from Cabinet in accordance with the Council's Constitution, as detailed in Protocol 2. For each project the selection as to which Framework will be used will then be made using the DMA tool referred to above.

This annual approval of Frameworks to be used will avoid the production of individual procurement business cases for each requirement, thus reducing delivery time and transaction costs for each project. Producing a DMA for each project, to be approved by County Procurement and Corporate Property will provide an evidence-based audit trail to demonstrate value for money and best practice in line with the Construction Playbook.

The short list of Frameworks has been selected from an evaluation of a longer list of Frameworks having regard to the Council's Key Priorities. In twelve months' time when a new short list of Frameworks is presented to Cabinet for approval, a report on the current year's Frameworks will be included. The current short list of construction frameworks are:

- Crown Commercial Services (Modular Buildings & Construction)
- Department for Education (Construction)
- ESPO (Modular Buildings)
- NHS Shared Business Services (Modular Buildings & Construction)
- Scape (Construction)

4.3 Concertus Derbyshire Limited

Concertus Derbyshire Limited (CDL) has been established and appointed as the Council's design team and project manager for delivering construction projects. CDL are supporting the Council in delivering projects to time and to budget. The clarification of roles and responsibilities within the Corporate Property Procurement Strategy helps with this. The adoption of a smaller number of pre-evaluated Frameworks, also helps control cost and time.

5. Consultation

- 5.1 The Council's strategic partner CDL has been consulted in the preparation of this report. No additional consultation is required.

6. Alternative Options Considered

- 6.1 Alternative Option 1 Do Nothing – Corporate Property could continue to produce a separate procurement Business Case each time an external Framework has been identified as the optimal procurement delivery method. This is not recommended as each Business Case requires approval by the Director of Finance and ICT and Director of Legal and Democratic Services. This adds time and cost to the project, and an

unnecessary requirement when a Delivery Model Assessment is used, and it has already been established that the use of a Frameworks will deliver best value and the legitimacy and Terms and Conditions of the Framework have been verified as part of the Business case approval.

- 6.2 Alternative Option 2 Do Something Different – The Council could establish its own Frameworks. Although a Business Case under Protocol 3 would still be required, the process would be simpler than producing a Business Case for non-Council Frameworks. As the terms and conditions and value for money assessment would have been undertaken when the Council Framework was established. Whilst the Council's own Frameworks have their place, Government guidance identifies that there is significant cost and time wasted by public sector clients and bidders procuring multiple, speculative construction Frameworks that are not connected to specific pipelines. Accordingly, as there are a number of gold standard Frameworks already available to the Council, the option of establishing Council Frameworks is not recommended.

7. Implications

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

8. Background Papers

- 8.1 None identified.

9. Appendices

- 9.1 Appendix 1 – Implications
9.2 Appendix 2 – Corporate Property Procurement Strategy

10. Recommendation(s)

- 10.1 That Cabinet:
- a) approves the Corporate Property Procurement Strategy.
 - b) approves the use of the following Frameworks to deliver construction projects for the next twelve months:
 - i) Crown Commercial Services (Modular Buildings & Construction)
 - ii) Department for Education (Construction)
 - iii) ESPO (Modular Buildings)

- iv) NHS Shared Business Services (Modular Buildings & Construction)
- v) Scape (Construction)

11. Reasons for Recommendation(s)

- 11.1 The Corporate Property Procurement Strategy, provides guidance on how Corporate Property works and services should be procured and delivered in accordance with best practice and the Council's Procurement Strategy.
- 11.2 In accordance with Protocol 2A of the Council's Financial regulations a Business Case has been approved by the Director of Finance and ICT and Director of Legal and Democratic Services for the use of five non-Derbyshire County Council Frameworks for the next 12 months. Call offs under the Frameworks will be by way either direct award or mini-competition depending on the terms of the framework and the conclusions of the Delivery Model Assessment.

12. Is it necessary to waive the call in period?

- 12.1 No

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Implications

Financial

- 1.1 There are no direct financial implications as a result of the approval of Property Procurement Strategy, however, the Business Case identifies that £30m of design and construction services could be provided via the external frameworks identified in Annex A of the Business Case over the next 12 months. Whilst Approval of the Strategy would mean that individual procurement Business Cases would not need to be prepared, it should be noted that any budget requirements for individual schemes would still be subject to the usual budget approval process as set out in Financial Regulations, prior to contracts being entered into.
- 1.2 In order to ensure Cabinet, remain informed on the amount of expenditure procured through the proposed Frameworks, a report will be produced towards the end of year which will recommend approval of the use of Frameworks for the following year and provide an update on the progress and amount procured during the current year.
- 1.3 Protocol 2 (A) of the Council's Procurement and Award Procedures, as set out in the Constitution is the protocol to follow when permission to use a non-Derbyshire County Council framework agreement is intended to be used. Protocol 2 (B) sets out the procedure route for call-offs from a non-Derbyshire County Council framework agreement which has been established under protocol 2(A). In accordance with Protocol 2 B , award of contracts from the non DCC Frameworks is a matter which is delegated to the Strategic Director
- 1.4 In accordance with Protocol 2 (A) a Business Case has been approved by the Director of Finance and ICT and Director of Legal and Democratic Services for the use of five non-Derbyshire County Council frameworks for the next 12 months. Call offs under the frameworks will be by way of either direct award or mini-competition depending on the terms of the framework and the conclusions of the Delivery Model Assessment.

Legal

- 2.1 The Procurement Strategy, including the use of non-Derbyshire County Council Frameworks, has taken into account the requirements of the Public Contract regulations 2015 and the Council's Constitution and Financial regulations.

- 2.2 The Director of Legal and Democratic Services is satisfied that the use of the non DCC Frameworks is in accordance with the County Council's Financial Regulations, and will provide advice as necessary on the 'call off' terms of the Frameworks and any contractual matters

Human Resources

- 3.1 None.

Information Technology

- 4.1 None.

Equalities Impact

- 5.1 None.

Corporate objectives and priorities for change

- 6.1 The Council Plan refresh 2022-23 has four priorities. One of which is high performing, value for money and resident focused services. Within this priority is an objective to achieve excellence in procurement and contract management. Implementing a Corporate Property Procurement Strategy and improving the procurement of contractors through the use of Frameworks supports this priority by driving value for money throughout the contract lifecycle.

Property and Asset Management

- 7.1 A Corporate Property Procurement Strategy and structured approach to appointing contractors through the use of gold standard frameworks helps support the implementation of the Council's Asset Management Strategy.