

REDACTED



**FINAL INTERNAL AUDIT REPORT**  
**CHIEF EXECUTIVE'S DEPARTMENT**

**Implementation of COVID19 Procurement Arrangements 2021/22**

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## **IMPLEMENTATION OF COVID19 PROCUREMENT ARRANGEMENTS 2021/22**

### **INTRODUCTION**

1. This report sets out the results of our internal audit (audit) of the implementation of COVID19 procurement arrangements in line with the Public Contract Regulations (PCR) 2015. The audit was carried out as part of the work specified in the 2021-2022 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee. The controls we expect to see in place are designed to minimise the Council's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be addressed by management.
2. The audit looked to review the actions taken during the COVID19 pandemic to support providers of Council services in compliance with Procurement Practice Notes (PPNs) 01/20 and 02/20.
3. PPN01/20 details options that may be considered for procurement under PCR 2015, whereas PPN02/20 provides practical guidance to contracting authorities and suppliers on keeping payments flowing, (this can take the shape of relaxing key performance indicators supported by temporary variation agreements.)
4. Both PPNs are open ended. PPN01/20 was a reiteration of existing options so an end date did not apply. PPN02/20 was initially to be in place until 30 June 2020 but was superseded by PPN04/20 in June 2020 with an end date of October 2020, which in turn was then extended with subsequent lockdowns.
5. We would like to thank all staff contacted during this review for their help and co-operation.

### **AUDIT SCOPE**

6. The original scope of the audit was outlined in the Terms of Reference issued in February 2021. This internal audit review was conducted remotely due to Covid-19 and government advice and restrictions.
7. The controls in place to mitigate the impact of the key risk areas were examined. Controls relating to corporate and departmental risks were also examined where applicable. The audit included a review of relevant documentation, interviews with key officers and testing of related procedures and processes.
8. The following were considered to be the key risks to the process:

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- Where staff are not properly aware of or do not properly understand the implications of PPN01/20 and PPN02/20 then inappropriate procurement activities may take place.
- Procurement undertaken may not be in line with Council and relevant public procurement regulations.
- The Council may not be able to demonstrate that procurement activities during COVID19 have satisfied the qualifying tests included in PPN01/20 and PPN02/20, and therefore violate the PCR 2015.
- If procurement is not in line with the needs and objectives of the Council, value for money may not be demonstrated.
- If non-compliance is identified and not addressed, this could lead to reputational and financial damage to the Council.

### AUDIT OPINION

9. Our overall audit opinion, number and rating of recommendations are as follows.

<b>AUDIT OPINION</b>	
<b>Substantial Assurance</b>	<b>(Definitions of the audit assurance level and recommendation ratings can be found in Appendix B)</b>

<b>Number of recommendations by risk rating</b>		
<b>Priority 1</b>	<b>Priority 2</b>	<b>Priority 3</b>
<b>0</b>	<b>1</b>	<b>0</b>

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### SUMMARY OF FINDINGS

10. Controls were noted to be in place and working effectively, based on the audit testing conducted, including:
- PPN guidance was provided to contract owners initially in April 2020 and then again in July 2020 detailing:
    - Specification requirements;
    - Cash flow support mechanisms;
    - Continuity funding, and
    - Additional funding.
  - An executive decision was taken by the leader of the Council on 24 April 2020 to grant delegated authority to chief officers to take appropriate procurement action to manage contracts during and after the pandemic including supporting ongoing sustainability.
  - Communication was sent out to all Bromley providers on 24 March 2020, detailing the support available for sustainability and what arrangements have/can be put in place to aid each provider based on their specific needs. In addition to this there was a dedicated webpage offering advice and guidance to all through the pandemic.
  - There has been no specific training provided to the contract owners; however, it was confirmed that there was guidance available, along with 'urgent' actions required to be taken.
  - Sample testing of 10 providers to demonstrate PPN02/20 (supplier relief) being applied found that:
    - Two providers did not require any relief, (one provider a response via email from the Managing Director (14/05/20) confirmed that no help was required and for the other assistance was offered but the provider declined this, this was seen via an update of the provider financial support central log completed by the contract owner).
    - For the remaining eight, while there were appropriate reasons given for requiring support, which consisted of one of either additional funding, cash flow support, continuity funding, or specification variation support categories, evidence of the required completed provider support arrangement templates were not available for any of those sampled. (Finding 1).

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- In line with the Council's requirement that, '*Where Contract Owners believe that provider support arrangements for critical services need to be maintained beyond August 2020, this needs to be agreed with their Director and Finance Lead, especially where there are financial implications in doing so*', testing confirmed that all relevant decisions were undertaken by the respective directors for each service for the 8 sampled cases where relief was provided.
  - Testing of the supporting documents and Gateway reports for a sample of 10 contract awards since 1 April 2020 (consisting of seven contract extensions and three direct awards) confirmed that (in line with the requirements of PPN01/20) for each:
    - There were genuine reasons for extreme urgency (exemption beyond terms);
    - They were preceded by events that had led to the need for extreme urgency;
    - In case of acquiring PPE, the need to comply with the usual timescales was not possible;
    - All supported Gateway reports, that further broke down the reasons, were in place and suitably authorised by the Assistant Director Governance and Contracts; and
    - The contracts were discussed at the relevant audit sub-committee.
  - Under PCR regulation 32(2)(c) a contracting authority, where reasons of extreme urgency brought about by unforeseeable events, time limits or restricted competitive procedure, may opt to go down a direct award route, i.e. would be classed as having an "exemption from tendering". Testing of three of our sample (out of a sample of 10) contracts classed as having an "exemption from tendering" confirmed that the urgency criteria had been met, as follows:
    - contract was undertaken as a direct response to the pandemic, and therefore could not comply to the regular procurement route;
    - this was a direct award to the existing contractor, where the existing contract had expired on 31 March 2020 (the option for extension was included in the original contract); and
    - this was a direct award to the existing contractor, where the existing contract expired in March 2020.
11. We would, however like to bring to management attention that the Council's procurement strategy is due to be updated, extending the social value aspects within this. No recommendation has been made as the Assistant Director Governance & Contracts, was already in the process of updating this document at the time of audit (In June 2021).

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### **DETAILED FINDINGS / MANAGEMENT ACTION PLAN – N/a**

- 12.** The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed in Appendix A. Any recommendations to management are raised and prioritised, together with management's responses and timescales for implementation. Appendix B details the definition of the audit assurance and priority ratings.

1. Support Arrangement Templates	
<p><b><u>Finding</u></b></p> <p>Guidance issued on 1 July 2020 to all contract owners detailed that, <i>“Where provider support arrangements have been put in place, Contract Owners must record a summary of what has been agreed and the proposed transition plan (or proposed continuation of support arrangements) using the template provided. Completed templates must be sent to the Assistant Director Governance &amp; Contracts.”</i></p> <p>Evidence of completed provider support arrangement templates were not provided to us for any of the sample of 10 contracts tested.</p> <p>Assurance was given by the Assistant Director Governance &amp; Contracts that requests were reviewed and that a central tracker was maintained.</p> <p><b><u>Risk</u></b></p> <p>There is no clear audit trail of the decisions made and a risk that aspects of these arrangements may be lacking</p>	
<p><b><u>Recommendation</u></b></p> <p>Contract owners should be formally reminded of the need to complete and submit provider support arrangement templates to the Assistant Director Governance &amp; Contracts.</p> <p>Outstanding templates should be followed up.</p>	<p><b><u>Rating</u></b></p> <div style="border: 1px solid black; background-color: yellow; padding: 2px; display: inline-block;">Priority 2</div>
<p><b><u>Management Response and Accountable Manager</u></b></p> <p>The outcomes of the Audit report are positive and very welcome.</p> <p>In relation to the recommendation: the purpose of the request to Contract Owners to complete the template provided was to support COE and CLT oversight on provider support arrangements put in place at that time in July/August 2020.</p>	<p><b><u>Agreed timescale</u></b></p> <p>Communication to be sent to Contract Owners by September 2021</p>

<p>A year has now elapsed, and that information is no longer required in that format, nor will it be provided to COE/CLT at this time. Therefore, there is no value to Contract Owners retrospectively completing those templates at this time.</p> <p>A communication will be sent to Contract Owners highlighting the recommendation arising from this audit; it will emphasise the importance of responding to similar requests for information in future and the reasons to do so; and it will remind Contract Owners to review their contracts to ensure that any actions taken at that time are supported by suitable contract variations where required.</p>	<p>Assistant Director Governance &amp; Contracts</p>
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**Assurance Level**

Assurance Level	Definition
<b>Substantial Assurance</b>	There is a sound system of control in place to achieve the service or system objectives. Risks are being managed effectively and any issues identified are minor in nature.
<b>Reasonable Assurance</b>	There is generally a sound system of control in place but there are weaknesses which put some of the service or system objectives at risk. Management attention is required.
<b>Limited Assurance</b>	There are significant control weaknesses which put the service or system objectives at risk. If unresolved these may result in error, abuse, loss or reputational damage and therefore require urgent management attention.
<b>No Assurance</b>	There are major weaknesses in the control environment. The service or system is exposed to the risk of significant error, abuse, loss or reputational damage. Immediate action must be taken by management to resolve the issues identified.

**Recommendation ratings**

Risk rating	Definition
<b>Priority 1</b>	A high priority finding which indicates a fundamental weakness or failure in control which could lead to service or system objectives not being achieved. The Council is exposed to significant risk and management should address the recommendation urgently.
<b>Priority 2</b>	A medium priority finding which indicates a weakness in control that could lead to service or system objectives not being achieved. Timely management action is required to address the recommendation and mitigate the risk.
<b>Priority 3</b>	A low priority finding which has identified that the efficiency or effectiveness of the control environment could be improved. Management action is suggested to enhance existing controls.