



Scrutiny of Procurement at Havebury Housing Partnership

December 2016

1. INTRODUCTION

A performance and scrutiny panel sub-group of David Lockwood, Lee Northcutt and Kevin Marshall met on 22nd August to scope the scrutiny of procurement at The Havebury Housing Partnership.

The scope was agreed as follows:

To;

- a) Understand the procurement process from the start to securing a contract, and;
- b) Understand how and where money is spent and how value for money is assured in Havebury's procurement activity.

2. WHAT WE DID

The following methodology was agreed by the sub-group members at the scoping meeting.

What will be reviewed	Details	How
The Procurement Policy/ Strategy	To review the current Procurement Policy/ Strategy for The Havebury Housing Partnership.	Desktop review
Value for Money	The definition of Value for Money and how this relates to the procurement of contacts and services.	Desktop review/ Discussions
Views of staff	Interviews to be conducted with Debra Mclean and Matthew Dick.	Interview/ Discussions

A timetable for the work was agreed as below;

Action	Date
Procurement Policy/ Strategy and Value for Money definition to be circulated to sub group.	August 2016
Sub group to prepare questions for interviews.	September 2016
Interviews with relevant staff members	November 2016
Tender process review (with Procurement Manager)	December 2016
Final report	December 2016

3. OUR FINDINGS

- 3.1 Havebury's procurement strategy and action plan and the CIH's definition of value for money were distributed to the sub-group to be reviewed. This informed the sub-group's questions they would pose during the later interview with staff.
- 3.2 The sub-group were happy that the procurement strategy and action plan make suitable reference to value for money and how this can be delivered, taking into account the three key principles of effectiveness, efficiency and economy. It also pays attention to EU law, including recent updates, which must be complied with.
- 3.3 An interview was held on 29th November 2016 with Matthew Dick (MD), Head of Assets and Debra Mclean (DM), Procurement Manager. The questions put by the group can be seen in full at appendix b.
- 3.4 The meeting was positive and insightful and the sub-group were left with a good understanding of the procurement process and how value for money is taken into consideration when contracts are secured.
- 3.5 MD and DM explained the various methods for attracting tender bids, such as agencies, online portals and Havebury's own records. The sub-group were satisfied that this offered Havebury sufficient choice within the relevant market and to ensure value for money can be delivered.
- 3.6 The emphasis was that whilst cost is a factor, quality is a primary focus both with the quality of the service and materials (if applicable). The sub-group understood the requirement to have a balance with cost and quality, when contracts are secured.
- 3.7 In respect of contract costs, the sub-group raised concerns if budgets are ever exceeded. It was explained that in some cases unforeseen circumstances (for example, an increase in price of materials or additional work required), may cause additional unplanned expenditure. Whilst rare, the sub-group were satisfied Havebury properly mitigate against the risk of individual contracts exceeding budget, ensuring there is no overall overspend on repairs and maintenance.
- 3.8 The sub-group raised the question of penalty clauses and compensation if the contract terms are defaulted. Havebury include a 'six month no fault clause', which means that the contract may be terminated without blame. Havebury's approach is to try and resolve any disputes directly with the contractor to maintain a good working relationship, which in turn is more productive longer term.
- 3.9 The sub-group were satisfied that in the instance a contract is terminated due to poor performance, Havebury keep a list of these contractors and are unlikely to appoint them in the future. Those contractors who have a good record of performance are more likely to be contracted again, if required.
- 3.10 It was explained that major contracts are usually for five years, however a review is scheduled after three years, in part, to confirm value for money continues to be achieved.

- 3.11 MD offered the Sub-Group an opportunity to see examples of a small contract and a large contract process with DM, which took place on 14th December 2016. This assisted the group in forming a recommendation.
- 3.12 The sub-group reviewed the example contracts against Havebury's procurement strategy and were happy the strategy had been followed (including giving sufficient consideration to the principles of value for money) in each being awarded. They felt however, in order to confirm the principles of the strategy and value for money had continued into contract delivery, further scrutiny of contract management was required.

4. RECOMMENDATIONS

The sub-group were satisfied with the responses given at the interview and the contract examples shown by DM.

The recommendation arising from this scrutiny review is for the sub-group to follow up with an additional scrutiny of contract management, which is planned in 2017.

5. CONCLUSION

In conclusion, we refer back to the questions we aimed to answer at the beginning of the review:

QUESTION	CONCLUSION
To; a) Understand the procurement process from the start to securing a contract	The procurement strategy and action plan (Appendix B) were distributed to the sub-group and questions arising from this (Appendix A) were raised with staff to gain an understanding of the procurement at Havebury. Examples of contracts recently awarded were also presented to the panel to further clarify the process.
To; b) Understand how and where money is spent and how Value for Money is assured in Havebury's procurement activity	The CIH's definition of value for money (Appendix C) was distributed to the sub-group. During the scrutiny it was confirmed that the principles of value for money are a key consideration throughout the procurement process and are applied in awarding contracts.

Appendix A -

Questions and Answers

Matthew Dick (Head of Assets), Debra Mclean (Procurement Manager)

29th November 2016

- 1. Have the procurement procedures been reviewed since October 2010 and when are they due to be reviewed?**
The procurement procedures have not been officially reviewed since October 2010 and are currently being reviewed in line with regulations.
- 2. How are the procurement procedures determined? Are there set guidelines and where do these come from?**
The EU Public Procurement Regulations Contract was updated in 2015. There were a few amendments made in 2016, which are adhered to. The UK incorporates any changes into the act that must be complied with.
- 3. Are tenders regularly issued to give other contractors the opportunity to compete with others to help Havebury achieve its VFM values?**
Yes. It depends on how the tenders are advertised. An example is an online portal called 'Construction Line', whereby requirements are submitted and a supply list is then produced. The benefit of this is ensuring measures are in place such as up to date Health and Safety and insurance.
A note is made on the supplier list of any previous contractors who have performed well and subsequently, any contractors who have not performed so well are removed.
Contracts are usually agreed for a period of 5 years, with a cost review after 3 years (although there is no guarantee that a better price may be achieved).
Quality versus the cost is considered, depending on the contract, but there is always a quality aspect during the tender process.
- 4. What happens if the budget agreed with a contractor is exceeded?**
This is usually down to the Contracts Manager rather than the Procurement Team and depends on the situation. This tends not to happen with 'continuous contracts', (for example, kitchen and bathroom installations).
Build costs can vary as there are sometimes uncertainties and unforeseen circumstances that can affect this. In these circumstances monies can be taken from another budget to accommodate this.
- 5. Are there any penalty clauses if the terms are not adhered to in the contract?**
A standard '6 month no-fault clause' is included in most contracts, meaning that the contract may be terminated without blame.
Various penalty clauses could be included within contracts however, when enforcing these can incur staff time and legal costs. The preferred approach is to work with the contractor to put things right, which enables to build better relationships. If a tenant is affected, Havebury will settle with the tenant and then claim with the contractor.

Procurement Strategy and Action Plan

2016/2019

Approved by Operational Board on 17 May 2016

1. General Introduction

- 1.1 The Chief Executive is responsible for ensuring the Procurement Strategy, procedures and responsibilities are clearly set out and understood by Management Team. This Strategy sets out Havebury's approach to ensure that the organisation provides its residents with measureable value for money through efficiency and procurement.
- 1.2 The Procurement Strategy is a key element of Havebury's Value for Money work. The purpose of the Procurement Strategy is to provide a framework for the procurement of goods and services throughout the organisation with an overriding objective to demonstrate overall value, including economic, environmental and social value. As a concept, social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, above and beyond the benefit of merely the goods and services themselves. The Social Value Act became law on March 8th 2012 and "live" from 31st January 2013.

The Act, for the first time, places a duty on public bodies to consider social value ahead of procurement. Under the EU Procurement Directive Housing associations are considered to be public bodies and therefore the Social Value Act applies.

The Act applies to the provision of services, or the provision of services together with the purchase or hire of goods or the carrying out of works that exceed the EU procurement thresholds.

The principles of the Act are consistent with Havebury's own values expressed in our corporate objectives.

The wording of the Act states that...

The authority must consider—

(a) *how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and*

(b) *how, in conducting the process of procurement, it might act with a view to securing that improvement.*

It also opens the door for consultation with stakeholders to better understand social value and improve service specifications.

- 1.3 This Procurement Strategy should meet Havebury's corporate objectives. The following should be included in the procurement documents and procedures in order to achieve overall value for money or added value to the lifetime of a contract.

The Contractor(s) are to be asked to consider how they can support Havebury's Corporate Objectives and add value to the contract.

These Objectives are as follows:

1. Develop opportunities for Havebury tenants
2. Increase the supply of Havebury homes
3. Provide homes and services which people want

4. Be an effective, well organised business that delivers continuous improvements and excellent value
5. Create better, greener neighbourhoods and target fuel poverty

Havebury looks at each contract to take a view on what and how social value measures within the contract would be appropriate. This should also reflect in the scoring criteria for social value within the quality submission for a contract. E.g. Where the criteria is 60:40 and the price being 60 and quality 40, 10% of the quality mark might be attributed to the social value element, however, it could be more or less than this.

Examples could include;

Promoting careers in a certain profession in schools.

Promoting training and employment opportunities.

Support for youth employment, women's employment, the long-term unemployed and people with physical or learning disabilities, supporting Havebury's employment and worklessness agenda.

Supporting community organisations.

Supporting local social enterprise.

Supporting local companies – purchasing goods.

Thought should be given to determine what kind of additional social or environmental value would best serve the needs of the local community as well as giving providers the opportunity to innovate.

- 1.4 The Procurement Strategy makes sure everyone with a responsibility for buying goods or services follows Havebury's procedures and best practice detailed in the Procurement Strategy and Action Plan.

Havebury is fully committed to:

- Operating as effectively as possible
- Obtaining the best possible value for money for customers and stakeholders
- Striving for efficiencies to support and deliver the Corporate objectives and add value to the contract
- Providing a Procurement Strategy and Action Plan which reflects the key principles of the Strategy and reports on outcomes and sets targets on an annual basis.

2. Aims of the Strategy

2.1 The aims of the Strategy are to:

- Ensure that all procurement supports the values of Havebury as expressed in our Corporate Objectives.

- Assist Havebury in achieving overall value, including economic, environmental and social value.
- Procurement of cost effective and efficient services and supplies
- Ensure compliance with our Environmental objectives and issues of sustainability
- Take into account the long term interests of the organisation and customers
- To ensure specifications focus on the right balance of cost, quality and improving the economic, social and environmental well-being of the relevant area.
- To provide a framework for the operation of the Procurement Strategy and Action Plan providing the scope, objectives and outcomes to ensure objectives met

2.2 The Procurement Strategy and procedures form the operating guide by which Havebury's procurement team will operate.

3. Procurement Principles

3.1 Havebury will take into consideration the following procurement principles when developing/renewing the Procurement Strategy and procedures:

- Legislation
Havebury will abide by the UK public procurement rules, which implement the EU legislation, regulate procurements of public authorities and certain other entities within the UK.
- Management and control of contracts
Use policies and procedures that ensure all contracts are properly tendered, managed and monitored with a view to achieving completion of service delivery on time, to budget and in accordance with the specification.

Assessing and minimising risk

Develop and use adequate policies and procedures and ensure they are reviewed annually to meet the organisation's requirements and regulatory changes.

- High Professional Standards and Best Practice
All procurement procedures to be operated in a professional manner to ensure the highest standards of probity and accountability
- Continuous Improvement
All contracts to identify and promote continuous improvement, overall value, including economic, environmental and social value and have the ability to react to changing external circumstances
- Consider partnering opportunities
- Continue to procure new homes through the I Havebury's Development Team

4. Current Arrangements

- 4.1 The Contract & Procurement Group ensures a strategic overview is maintained whilst providing an opportunity for monitoring and developing the contract and procurement function. Representatives from across the organisation, who are responsible for a range of contracts, form a key part of the group, offering support and contract management expertise and experience. The Group meets as required to ensure the contract tendering process is effectively managed to meet service requirements.

5. Actions

- 5.1 An Annual Procurement Report to be provided to the Operations Committee on an annual basis, detailing the range of contracts tendered and costs achieved in line with Havebury's commitment to demonstrate overall value, including economic, environmental and social value.
- 5.2 The Procurement Strategy and Action Plan is approved by the Operational Board and a detailed Action Plan to be implemented.

6. Action Plan [2016/20196]

- 6.1 Havebury has set targets to ensure the requirements of the Procurement Strategy are properly developed and implemented. These will be further developed following approval by the Board into a detailed Action Plan.

6.2 Action Plan for 2016/19 includes:

Activity	Target Requirement	Responsibility	Status
Approval of the revised Procurement Strategy and Action Plan	June 2016	Operational Board	Awaiting approval
Annual Review of the Procurement Strategy and Action Plan	Annually	Procurement Coordinator	Ongoing
Monitoring by Contract & Procurement Group	Quarterly	Contract & Procurement Group	Ongoing
Review of Contract Register	Quarterly	Contract & Procurement Group	Ongoing
Review of Procurement Function	July 2016	Head of Assets Head of Finance	Underway
Monitor Expenditure against contract value bi-annually	September 2016	Head of Finance Procurement Coordinator	Ongoing
Annual Procurement Report to Operational Board	Annually by July	Procurement Co-ordinator Head of Assets	Ongoing
Contract specification review	Before each new contract commences	Head of Property Services Contract specific Manager	Ongoing
Report VFM on contracts	Ongoing Report to Head of Finance	Procurement Co-ordinator QS Manager	Ongoing
Report Added Value	Ongoing report to Head of Finance	Procurement Co-ordinator	Ongoing
Contract Negotiations	Ongoing, before discretionary extension award	Head of Assets Procurement Co-ordinator/ Contract specific Manager	Ongoing

Appendix C -

The Chartered Institute of Housing's 'How to deliver Value for Money' - the definition.

Developing a common language

Defining VFM can be difficult. The judgement as to what represents VFM is subjective and can mean different things to tenants, landlords, government, taxpayers and the regulator. In 2007 CIH and HouseMark published a definition of the term VFM in *Embedding value for money in housing association services* which defined three core components as:

- **effectiveness** - doing the right things
- **efficiency** - doing things right, which includes carrying out activities in a timely and simple manner, and with minimum waste
- **economy** - the cost of procuring inputs to services, that reflects not just price but sustainability.

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Today these elements still hold true, but the current climate means just being efficient will not be enough to respond to the operational challenges listed earlier.

As a landlord you will need to make difficult strategic choices, and challenge yourself on your purpose, and the value and quality of services offered:

- **purpose** - be clear about your organisational purpose, values and objectives. 'Without value social housing simply becomes welfare housing, a housing safety net to be delivered 'on the cheap'' (*Embedding VFM* (2011) HouseMark)
- **quality** - should not be confused with an aspiration of excellence. Quality is about setting an agreed acceptable standard which is adhered to consistently.

The proposed new VFM standard makes reference to '**trade offs**'. Trade offs involve recognising, for example what the consequences of cost reduction are on performance, and of sustainability requirements on quality. Alternatively, it could be about understanding the opportunity cost of retaining certain stock in a given area. This balanced attitude fosters a steady continuous improvement approach to VFM across the business, rather than simply in terms of service delivery.