



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

17TH JUNE 2021

COVID-19 SPEND

REPORT OF THE DIRECTOR OF HUMAN RESOURCES IN DISCUSSION WITH THE RELEVANT PORTFOLIO HOLDER (CLLR M. NORRIS)

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1. PURPOSE OF THE REPORT

The purpose of this report is to:

- 1.1 Provide a summary of the expenditure that was not on contract but was required in order to facilitate critical and timely support in respect of the Council's corporate responsibilities to both its residents and workforce, in addressing the Covid-19 pandemic risks.

2. RECOMMENDATIONS

It is recommended that Members:

- 2.1 Note that all procurement actions detailed within the report were undertaken to ensure that safety and wellbeing of our frontline staff;
- 2.2 Acknowledge that wherever possible, and appropriate supply is available and deliverable (option to collect) within sometimes very tight timescales, the Council has targeted the engagement of local businesses to fulfil its supply requirements.

3. BACKGROUND

- 3.1 In March 2020 the UK Government (Cabinet Office) issued the [Procurement Policy Note 01/20 – Responding to Covid-19](#) (herein referred to as the 'PPN').
- 3.2 The PPN set out information and associated guidance on the Public Procurement Regulations to assist the response to the COVID-19 outbreak. At that stage, it was clear that the UK was facing a national emergency. Public sector organisations at that time were faced with the critical situation that there was a shortage of key supplies, such as essential PPE and the necessity to



procure such goods and possibly services with extreme urgency. The PPN reinforced the message that authorities were permitted to do this using regulation 32(2)(c) under the Public Contract Regulations 2015.

- 3.3 The PPN and associated guidance set out the options that could be used in relation to procuring under the Public Contract Regulations 2015, as follows:
- direct award due to extreme urgency (regulation 32(2)(c));
 - direct award due to absence of competition or protection of exclusive rights;
 - call off from an existing framework agreement or dynamic purchasing system;
 - call for competition using a standard procedure with accelerated timescales;
 - extending or modifying a contract during its term.

- 3.4 **The sourcing and ordering of supplies that took place by the Council in support of the measures to manage Covid-19, were facilitated under the first bullet listed above, that is, ‘direct award due to extreme urgency (regulation 32(2)(c))’.**

- 3.5 The following paragraphs set out the full guidance that relates to this option.

Direct award due to reasons of extreme urgency

- 3.6 The consequences surrounding COVID-19 and the serious risk to life cannot be underestimated.

- 3.7 Regulation 32(2) sets out the following:

The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases:

.....insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with.

... the circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority.

- 3.8 In responding to COVID-19, the Council was able to enter into contracts without competition or advertising the requirement so long as we were able to satisfy the following tests:

1) There are/were genuine reasons for extreme urgency, e.g.:



- The need to respond to the COVID-19 consequences immediately because of public health risks, loss of existing provision at short notice, etc;
- Reacting to a current situation that is a genuine emergency - not planning for one.

2) The events that led to the need for extreme urgency were unforeseeable, e.g.:

- the COVID-19 situation was so novel that the consequences are not something we could have predicted.

3) It is impossible to comply with the usual timescales in the PCRs, eg:

- there is no time to run an accelerated procurement under the open or restricted procedures or competitive procedures with negotiation;
- there is no time to place a call off contract under an existing commercial agreement such as a framework or dynamic purchasing system.

4) The situation is not attributable to the contracting authority (the Council), e.g.:

- the Council did not do anything to cause or contribute to the need for extreme urgency.

3.9 **The PCR's require each contracting authority to keep a written justification that satisfies these tests.** The PCR's also require that each contracting authority carry out a separate assessment of the tests before undertaking any subsequent or additional procurement to ensure that they are all still met, particularly to ensure that the events are still unforeseeable. For example, as time goes on, what might amount to unforeseeable now, may not do so in future.

3.10 **The PCR's require that each contracting authority keep proper records of decisions and actions on individual contracts,** as this could mitigate against the risk of a successful legal challenge. If a direct award is made, then a contract award notice (regulation 50) should be issued within 30 days of awarding the contract. The Council did not issue retrospective contract notices on selltowers, this was due to the need for staff to prioritise workloads in respect of sourcing and dispatch of PPE.

3.11 **It is important that contracting authorities continue to achieve value for money and use good commercial judgement during any direct award.**



3.12 Section 4 of this report summarise the recent findings of Audit Wales's review of the procurement arrangements adopted by Welsh Government and NHS Wales. Section 5 of this report sets out the supplies procured by the Council between the period of February 2020 to December 2020 and includes the written justification that satisfies the tests outlined in section 3.9 of this report.

4. AUDIT WALES REPORT – WELSH GOVERNMENT & NHS [SHARED SERVICES] WALES

4.1 In [April 2021](#) Audit Wales published their report in respect of their review of the procurement of PPE by the Welsh Government and NHS [Shared Services] Wales during the initial months of the pandemic.

4.2 The report acknowledged the extreme circumstances that the pandemic brought, however the following findings were reported:

- The challenge facing the NHS and social care at the start of the pandemic was stark. The stockpile developed for a flu pandemic was inadequate for a coronavirus. Global supply chains had fragmented as countries competed for scarce supplies and some imposed export controls.
- Public services across Wales responded in an increasingly collaborative way. Shared Services took on an expanded role in supplying PPE to the wider NHS, including independent contractors in primary care (GPs, dentists, pharmacies and optometrists). Shared Services then worked closely with local government to understand demand in social care and then took on an increasing role supplying PPE. Shared Services now supplies almost all social care PPE needs. We recognise the huge individual and collective effort involved in the work to source and supply PPE to frontline staff.
- Shared Services data shows that, nationally, stocks did not run out although stocks of some items got very low. At times, Wales drew on mutual aid from other countries but ultimately gave out significantly more than it received. The health and care system is now in a much better position, with buffer stocks of most PPE items in place and orders due on key items where stocks are below target.
- Surveys carried out by the Royal College of Nursing and British Medical Association suggest confidence in the supply of PPE grew shortly after the start of the pandemic, but concerns remain. While we cannot be sure how representative these views are, some frontline staff reported shortages of specific items of PPE, with a small minority saying at times



they had none at all. In some cases, staff concerns relate to the fact that they want a higher level of PPE than required under the guidance.

- A range of bodies were involved in sourcing PPE globally and in responding to, and working with, local manufacturers. In contrast to the position described by the NAO in England, we saw no evidence of a priority being given to potential suppliers depending on who referred them.
- Overall, Shared Services developed good arrangements to rapidly buy PPE, while balancing the urgent need to get supplies for frontline staff with the need to manage significant financial governance risks in an area of rapidly growing expenditure. These risks included dealing with new suppliers, having to make large advance payments and significant quantities of fraudulent and poor-quality equipment being offered.
- Time pressure meant due diligence could not always be carried out to the level it would outside of a pandemic in a normal competitive tendering process. But, for each contract we reviewed, we found evidence of key due diligence checks. And while costs were generally higher than before the pandemic, we saw evidence of Shared Services negotiating prices down.
- Shared Services did not meet the requirements under emergency procurement rules to publish contract award notices within 30 days. Shared Services told us that its staff needed to prioritise sourcing PPE and that there were other administrative reasons for delays.
- Shared Services' plan for PPE ran until March 2021. There are now some key decisions to make about the future strategy for PPE, including the size and nature of the stockpile going forwards and the role of Welsh manufacturers.

5. THE COUNCIL'S APPLICATION OF REGULATION 32

- 5.1 Rhondda Cynon Taf is the third largest Council in Wales with a population of 239,127 (2017 mid-year estimate), serving an area in the South Wales Valleys covering 424 square kilometres, stretching from the Brecon Beacons National Park in the north to the Capital City of Cardiff in the south. The range of services delivered is diverse in nature and complexity - from maintaining green spaces, educating our young people and caring for those that require support to remain independent.
- 5.2 Services are delivered within the community and from a significant number of locations, ranging from offices and frontline buildings such as schools, leisure centres, care facilities and libraries. Some services are provided directly to the



residents' home, for example care, meal provision, waste collection, etc. Many of our services are delivered by staff that are considered to be 'frontline' workers and come into direct contact with others.

- 5.3 During the early stages of the pandemic period, a key priority was to ensure that all frontline staff (both Council staff and staff working for Council commissioned services) had sufficient PPE that met the required safety standards. From a senior leadership position, there was a clear instruction that the Council was not prepared to put staff in a position where they had little or no suitable PPE. The work delivered by the Procurement Service resulted in a sufficient stock of suitable supplies. The feedback from unions and staff in respect of providing timely, sufficient and appropriate PPE has been very positive.
- 5.4 As referenced in para 5.3 above, the importance of keeping our 10,500 workforce and indeed our citizens safe during the early onset of the pandemic was and remains of paramount concern. As a consequence of our corporate responsibilities, and given the global shortages of key items as set out in section 3 of this report, the sourcing and the timely acquisition of critical supplies to keep people safe and minimise the virus spread was considered to be of the highest priority.
- 5.5 This section of the report provides a summary of the off-contract spend that was incurred by the Council during 2020 when ordering supplies to help manage the urgent challenges it faced when dealing with the impact of Covid-19.
- 5.6 When looking to source key supplies between February and June 2020 it became quickly apparent that there were significant shortages. Items that were required such as PPE, hand sanitiser, soap and surface wipes (anti-bacterial and anti-viral) were not available from our contracted suppliers, and future stock indications could not be confirmed. As a result, the Procurement Service was tasked to source supplies from alternative sources. The sourcing exercise involved contacting numerous suppliers, and following up with suppliers who had made contact with the Council. A process of due diligence was undertaken to ensure product specification and certificates of conformity were sufficient. The global demand challenges experienced in respect of essential PPE, had a direct impact on the 'product pricing' when compared to 'normal' operating circumstances. The demand led price increases were considered and accepted by the relevant SLT Officers when authorising orders. High level price comparisons were undertaken where possible against companies directly approaching the Council, as further orders were placed during the year.
- 5.7 Table 1 summarises the non-contracted suppliers that were utilised following due diligence, along with the critical supplies they provided. Table 2 illustrates the dates that the orders were delivered for PPE and hand sanitiser.



RHONDDA CYNON TAF





TABLE 1 – SUMMARY OF EXPENDITURE WITH NON-CONTRACTED SUPPLIERS:

SUPPLIER	£	COMMENTS	COMMENTS
A Cardiff based company	£1,775,000.00	TYPE IIR SURGICAL FACE MASKS	Orders placed: 8 th April 20 14 th May 20 A full breakdown of delivery dates for this supplier is provided in Table 2. National shortage of Type IIR surgical face masks
TOTAL	£1,775,000.00		
B Local company based in RCT	£221,000.00	PPE (FACE MASKS & GOGGLES)	PPE orders placed: 23 rd March 2020 National shortage of Type IIR surgical face masks, gloves, aprons and goggles.
	£278,669.70	SANITISER	Sanitiser orders placed: 24 th /26 th /30 th March 20 2 nd April 20 27 th April 20 12 th May 20 10 th June 20 9 th September 20 24 th September 20 A full breakdown of delivery dates for this supplier is provided in Table 2. National shortage of hand sanitiser during the first few months of the pandemic.



			This company were able to provide larger units with pumps for 'public' areas as well as small size bottles for staff to carry on their person. The smaller size bottles were delivered during April 2020. During September 2020 the Council switched to non-alcoholic sanitiser. The supplier was able to satisfy our supply demands.
TOTAL	£499,669.70		
C Local company based in RCT	£52,500.00	FACE VISORS	PPE orders placed (visors): 3 rd April 20 20 th April 20
	£257,598.00	OFFICE & TEST CENTRE SUPPLIES (SNEEZE GUARDS, RCT BRANDED SIGNAGE ETC.)	National shortage of these products, many companies turned their manufacturing to PPE. The orders placed for signage and sneeze guards were numerous during this period and placed by Corporate Estates & Education Colleagues.
TOTAL	£310,098.00		
D Company based in England	£202,600.00	HAND SANITISER	Orders placed: 16 th March 20 24 th April 2020 A full breakdown of the delivery dates for this supplier is provided in Table 2. National shortage of hand sanitiser. This company was identified via the buying department of a large retailer. Prior to placing the orders D&B checks were completed to assess the integrity of the company – no issues identified. In order to secure the initial order a proforma payment was requested. This was agreed with relevant SLT members and the chaps payment made.



TOTAL	£202,600.00		
E Cardiff based company	£192,112.10	RCT BRANDED FACE COVERINGS	<p>Orders placed 20th/25th/27th August 20 10th/24 September 20 9th November 20</p> <p>During August 2020 it was becoming clear that all pupils travelling on home to school transport and all staff within schools would be required to wear 3-layer face coverings when schools started back in September.</p> <p>The Council required 3-layer face coverings, ideally branded with the RCT logo. Contracted suppliers could not provide the quantities and the branding required. Therefore, the orders were placed.</p> <p>These face coverings were subsequently rolled out for use across the council.</p>
TOTAL	£192,112.10		

TABLE 2 – DELIVERY DATES

DELIVERY DATES	SUPPLIER NAME	
		SANITISER



		SMALL BOTTLES	5 LITRE PUMPS	1 LITRE PUMPS	NON - ALCOHOLIC 1 LITRE PUMPS
25/03/2020	B	1082			
25/03/2020	B	2376			
27/03/2020	D		800		
27/03/2020	B	10,800			
28/03/2020	B			2,000	
31/03/2020	B	1008			
01/04/2020	D		800		
03/04/2020	D		1000		
08/04/2020	B	6480			
17/04/2020	B	6480			
30/04/2020	D		840		
To be collected w/c 11/05	B	6048			



Collected w/c 15/06/20	B	6048	3836	10350	
13/08/2020	B		1920		
14/09/2020	B				5520
02/10/2020	B	12096			
TOTAL UNITS		52418	9196	12350	5520

DELIVERY DATES	SUPPLIER NAME	TYPE IIR FACE MASKS	KN95 FACE MASKS	VISORS
10/04/2020	A		90,000	
22/04/2020	B	109,000	10,000	
28/04/2020	A	500,000		
19/05/2020	A	1,500,000		
12/05/2020	B		32,000	
14/05/2020	C			17,650



TOTAL UNITS

2,109,000	132,000	17,650
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5.8 In addition to the spend listed in Table 1, it is relevant to note that wherever possible the Council has looked to the local economy to support its endeavours when sourcing supplies. Table 3 provides a summary of the non-contracted spend that has taken place with local suppliers during the period covered by this report.

TABLE 3 – Local Spend Under EU Threshold

SUPPLIER REF	£	PRODUCTS	LOCALITY
F	£46,883.90	ANTI-BAC/VIRAL WIPES	TREDEGAR
TOTAL	£46,883.90		

G	£26,687.35	OFFICE CHAIRS FOR STAFF, TEST CENTRES & VACCINATION CENTRES	PONTYCLUN
TOTAL	£26,687.35		

H	£6,218.00	THERMOMETERS	CARDIFF
TOTAL	£6,218.00		

I	£16,542.52	THERMOMETERS & VOMIT BOWLS	TREDEGAR
TOTAL	£16,542.52		

6. EQUALITY AND DIVERSITY IMPLICATIONS

6.1 There are no equality and diversity implications as a result of the recommendations set out in the report.

7. CONSULTATION

7.1 There are no consultation requirements emanating from the recommendations set out in the report.

8. FINANCIAL IMPLICATION(S)



- 8.1 There are no direct financial implications on the Council as the spend listed in this report has been reclaimed from the Welsh Government via the Covid-19 grant process.

9. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 9.1 This report aims to set-out the reasons why specific orders were placed at a point in time. The justifications provided aims to satisfy the 'tests' listed under Regulation 32 of the Public Contract Regulations 2015.

10. LINKS TO CORPORATE AND NATIONAL PRIORITIES AND THE WELL-BEING OF FUTURE GENERATIONS ACT

- 10.1 The work undertaken to procure specific items of PPE supported the Council urgent response in managing the local impact of the Covid-19 pandemic.

11. CONCLUSION

- 11.1 The onset of the global pandemic was significant and unforeseen. The months during the UK's first Lockdown period brought about significant challenges for the Council. One of these challenges was the global shortage of critical supplies and goods, and the requirement to secure the supply of PPE considered to be of the highest priority by the Council's Senior Leadership Team. The safety of staff working on the frontline was of paramount priority. This report summarises those commodities purchased under Regulation 32 and provides the rationale for why these arrangements were necessary and appropriately entered into.



LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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