

Governance, Risk and Best Value Committee

10.00am, Tuesday 14 March 2023

Procurement of Edinburgh's Christmas – referral from the Finance and Resources Committee

Executive/routine
Wards
Council Commitments

1. For Decision/Action

- 1.1 The Finance and Resources Committee has referred a report on the procurement of Edinburgh's Christmas to the Governance, Risk and Best Value Committee for noting.

Dr Deborah Smart
Executive Director of Corporate Services

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Referral Report

Procurement of Edinburgh's Christmas

2. Terms of Referral

2.1 On 26 January 2023, the Finance and Resources Committee considered a report on Edinburgh's Christmas which detailed the procurement approach and options currently under consideration for the future delivery of the event prior to further consideration by the Culture and Communities Committee.

2.2 Motion

- 1) To note that the procurement approach for events differed, depending on the circumstances and the governance arrangements in place.
- 2) To note the process for procuring Edinburgh's Christmas to date had primarily sought to balance creative content with financial return.
- 3) To note the review carried out on the process for awarding the contract for Edinburgh's Christmas in 2022.
- 4) To note the options which were currently being investigated for Edinburgh's Christmas in future years in terms of alternative procurement approaches and best practice from other public bodies.
- 5) To note a report would be prepared for Culture and Communities Committee with recommendations for future delivery of Edinburgh's Christmas by the end of May 2023.
- 6) To confirm whether a special meeting of the Finance and Resources Committee would be held to provide an update on the process.
- 7) To refer the report to the Governance, Risk and Best Value Committee for noting.

- moved by Councillor Watt, seconded by Councillor Griffiths

Amendment

- 1) To note that the procurement approach for events differed, depending on the circumstances and the governance arrangements in place.
- 2) To note the process for procuring Edinburgh's Christmas to date had primarily sought to balance creative content with financial return.

- 3) To note the review carried out on the process for awarding the contract for Edinburgh's Christmas in 2022.
- 4) To note the options which were currently being investigated for Edinburgh's Christmas in future years in terms of alternative procurement approaches and best practice from other public bodies.
- 5) To note a report would be prepared for Culture and Communities Committee with recommendations for future delivery of Edinburgh's Christmas by the end of May 2023.
- 6) To note with concern that the proposed report to the Culture and Communities Committee would come very late in any procurement process for the Winter Festivals 2023 and that this may not provide sufficient time for effective scrutiny, approvals and clarification of the festivals' proposed menu of activities.
- 7) To request that an interim report or briefing was provided to members of both the Culture and Communities and Finance and Resources committees in a parallel process to provide further detail and reassurance around the procurement brief and processes.
- 8) To confirm whether a special meeting of the Finance and Resources Committee would be held to provide an update on the process.
- 9) To refer the report to the Governance, Risk and Best Value Committee for noting.

- moved by Councillor Macinnes, seconded by Councillor Biagi

In accordance with Standing Order 22(12), the amendment was accepted as an addendum to the motion by Councillor Watt.

Decision

To approve the following adjusted motion by Councillor Watt:

- 1) To note that the procurement approach for events differed, depending on the circumstances and the governance arrangements in place.
- 2) To note the process for procuring Edinburgh's Christmas to date had primarily sought to balance creative content with financial return.
- 3) To note the review carried out on the process for awarding the contract for Edinburgh's Christmas in 2022.
- 4) To note the options which were currently being investigated for Edinburgh's Christmas in future years in terms of alternative procurement approaches and best practice from other public bodies.
- 5) To note a report would be prepared for Culture and Communities Committee with recommendations for future delivery of Edinburgh's Christmas by the end of May 2023.

- 6) To note with concern that the proposed report to the Culture and Communities Committee would come very late in any procurement process for the Winter Festivals 2023 and that this may not provide sufficient time for effective scrutiny, approvals and clarification of the festivals' proposed menu of activities.
- 7) To request that an interim report or briefing was provided to members of both the Culture and Communities and Finance and Resources committees in a parallel process to provide further detail and reassurance around the procurement brief and processes.
- 8) To confirm whether a special meeting of the Finance and Resources Committee would be held to provide an update on the process.
- 9) To refer the report to the Governance, Risk and Best Value Committee for noting.

3. Background Reading

- 3.1 [Finance and Resources Committee – 26 January 2023 - Webcast](#)
- 3.2 Minute of the Finance and Resources Committee – 26 January 2023

3. Appendices

- 4.1 Appendix 1 – report by the Executive Director of Place

Finance and Resources Committee

10.00am, Thursday, 26 January 2023

Procurement of Edinburgh's Christmas

Executive/routine Wards Council Commitments	Routine All, particularly City Centre
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1. Recommendations

- 1.1 It is recommended that Finance and Resources Committee notes:
 - 1.1.1 That the procurement approach for events differs, depending on the circumstances and the governance arrangements in place;
 - 1.1.2 The process for procuring Edinburgh's Christmas to date has primarily sought to balance creative content with financial return;
 - 1.1.3 The review carried out on the process for awarding the contract for Edinburgh's Christmas in 2022;
 - 1.1.4 The options which are currently being investigated for Edinburgh's Christmas in future years in terms of alternative procurement approaches and best practice from other public bodies; and
 - 1.1.5 That a report will be prepared for Culture and Communities Committee with recommendations for future delivery of Edinburgh's Christmas by the end of May 2023.
- 1.2 Finance and Resources Committee is asked to refer this report to Governance, Risk and Best Value Committee for noting.

Paul Lawrence

Executive Director of Place

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Report

Procurement of Edinburgh's Christmas

2. Executive Summary

- 2.1 This report responds to an action agreed by Finance and Resources on 10 October 2022 in respect of the procurement process for events.

3. Background

- 3.1 On [10 October 2022](#), Finance and Resources Committee considered a request to put in place an Emergency Contract Award for Edinburgh's Christmas, as Angels Events Experience (Limited) had notified the Council that it was not able to deliver the contract as awarded in June 2022, and had asked to be released from the contract.
- 3.2 This report focuses on the following element of the adjusted amendment by Councillor Macinnes which was approved on 10 October 2022: To request a report in two cycles in respect of the procurement process for events, highlighting what alternative approaches were available, what was best practice and what changes would be made to the Council procedures in light of this experience.
- 3.3 The procurement approach for the award of the contract for Edinburgh's Christmas was reported to Finance and Resources Committee on [16 June 2022](#). Following the issues with contract delivery, a report was presented to Governance, Risk and Best Value Committee on [22 November 2022](#) outlining the procurement approach.
- 3.4 On [22 November 2022](#), it was requested that this report be referred to Governance, Risk and Best Value Committee.

4. Main report

Procurement of Events

- 4.1 There is no single approach for commissioning events which has proven to be best practice. Within the Public Sector, a number of different approaches are utilised depending on the circumstances of each event (or group of events).
- 4.2 If an external contractor model is used, the routes to market via procurement include:

- 4.2.1 A Contract Notice to invite competitive tenders with or without prior market engagement; and
 - 4.2.2 A Future Contract Notice/Prior Information Notice (PIN) as a call for competition, setting out at an early stage the intention to engage with the market leading to an invitation to tender without a further Contract Notice.
- 4.3 The approach to procurement depends on the elements of delivery which are being procured (e.g. some organisations will advertise for the creative production of all aspects of the event, while others will procure individual elements depending on the nature of the event and the governance arrangements in place).
- 4.4 PINs are often utilised to alert the market to potential opportunities (e.g. The Royal Parks recently published a [PIN notice](#) for Hyde Park Winter Wonderland, to invite potential strategic partners who may be interested in operating the event in future years to visit the 2022 festival while it was open between 18 November 2022 and 2 January 2023. This is in advance of an expected procurement exercise commencing in Summer 2023 to commence delivery in late 2024). As shown in The Royal Parks example, the timescale from an initial PIN notice to conclusion of a contract award can be extended over a number of years.
- 4.5 In addition, some public bodies choose to proceed utilising grant funding agreements, in-house or partnering arrangements. In most cases, in-house and partnering arrangements also include (at least) some commissioning or procurement.

Edinburgh's Christmas

- 4.6 The approach taken to procure Edinburgh's Winter Festivals is primarily based on balancing the creative offering with securing income for the Council.
- 4.7 From 1992 to 2009, the Council delivered Edinburgh's Winter Festivals in-house (with an external partner procured to curate the creative content and to deliver some aspects of the programme), and from 2010 onwards the Winter Festivals have been procured using an Open Procurement approach.
- 4.8 The review of recent experience recognises the need to ensure that, whatever the circumstances of commissioning Edinburgh's Christmas in the future, the feedback received during the consultation in 2021 must be at the core of the Council's approach going forward.
- 4.9 It is important to note that there is significant logistical cross-over between Edinburgh's Christmas and Edinburgh's Hogmanay, which means that there is a dependency of Edinburgh's Christmas taking place successfully in order to ensure that Edinburgh's Hogmanay can also go ahead. In recent years, there has also been a significant financial contribution from Edinburgh's Christmas to support the delivery of Edinburgh's Hogmanay, in the region of £200,000 per annum.

Recap of Procurement in 2022

- 4.10 As previously reported to this Committee and to Governance, Risk and Best Value Committee, Edinburgh's Christmas formed part of a dual lotted tendering process

from March 2022 for Edinburgh's Winter Festivals, whereby responsibility for the provision and management of Edinburgh's Christmas was awarded to a single company.

- 4.11 This followed the same approach as the previous procurements of Edinburgh's Winter Festivals. However, in preparing for this procurement, there was greater Elected Member oversight of the process than in previous commissions, with Elected Members being involved in both the development of the consultation that informed the specification for the tender, in approving the tendering specification (through the Festivals and Events All Party Oversight Group) and receiving a briefing on the outcome of the tendering process on 9 June 2022 in advance of this being reported to Finance and Resources Committee on 16 June 2022.
- 4.12 The potential procurement procedures considered for tendering the current Winter Festivals were outlined in Appendix 1 of the report to Governance, Risk and Best Value Committee on 22 November 2022.

Lessons Learned

Time

- 4.13 While the approach to this procurement was based on the experience of previous tenders and awards, the primary factor in determining the most appropriate route to market for tendering Edinburgh's Christmas as an Open procurement procedure was the period of time available.
- 4.14 The Procedure:
 - 4.14.1 Enabled feedback from the Winter Festivals consultation to be built into the tender documentation and in the key principles for what was expected from the successful contractor;
 - 4.14.2 Recognised that this route to market built on existing good practice, where there are a limited number of bidders and there is a short amount of time available, and minimised the demand on both officers and bidders; and
 - 4.14.3 Ensured that a contract would be in place for Christmas 2022.
- 4.15 Although time was a significant factor in the approach taken, the tender documentation was published on 3 March 2022 and was advertised for six weeks, during which time bidders were given the opportunity to raise questions, to seek clarification and/or to express any concerns about deliverability based on the information provided. Council officers responded to all of the questions asked and note that there were no questions raised about deliverability within the timeframe set out in the tender documents. The outcome was reported to Committee on 16 June 2022.

Governance

- 4.16 The governance arrangements for this contract were strengthened to reflect previous feedback. As noted in paragraph 4.11, there was greater Elected Member oversight than in previous iterations of this tender process.

- 4.17 In addition, additional oversight of the procurement process was introduced, with the Service Director - Culture and Wellbeing monitoring the evaluation process and reviewing the outcomes of the tender evaluation.
- 4.18 Recognising that the tender was revised from previous years as a result of feedback received during consultation and the clear key principles, the contract awarded also included a break-clause at the end of year one in order to allow the Council to terminate the contract should the delivered service not meet the needs of the Council nor address the key principles contained within the specification.
- 4.19 It is also recognised that there was a narrow timescale between contract award and delivery of Edinburgh's Christmas in 2022. However, the contractor only raised concerns about its ability to deliver the agreed outcomes following the award of the contract. In addition, there were some challenges within the internal governance arrangements between the contractor and its partner organisations which may have also contributed to these difficulties.

Creative Content

- 4.20 While the tenders received included details of the proposed creative content for Edinburgh's Christmas, it is clear that the full creative content from the original AEE tender submission was unlikely to be delivered in 2022 due to the limited timescale between the award of the contract and the contract delivery dates.
- 4.21 In future, irrespective of the approach to delivery, officers will ensure that the creative content is confirmed in detail before any contracts are awarded.

Income Recovery

- 4.22 The fixed fee rental income model (whereby the contractor would be charged daily rental for sites utilised) for this contract was introduced a number of years ago to address concerns that the Council was being denied the opportunity to secure income from this contract. Previous contracts had included a profit share model with the producer that had resulted in a return of £32,000 to the Council across the life of the contract. A fixed fee rental income guarantees the Council a much higher return.
- 4.23 However, as with any financial model, officers recognise that the rental income model can lead to challenges in financial deliverability, create economic pressures for both the contractor and, ultimately, the public as consumers. It is difficult to balance this with a profit share which may not offer best value to the Council.
- 4.24 As reported previously on the most recent Edinburgh's Christmas contract, the procurement approach used includes a comprehensive financial assessment of the information provided within tender submissions. However, this procurement approach offers limited opportunity for officers to interrogate the deliverability of tender submissions.

Options for Future Delivery

- 4.25 In advance of a report to Culture and Communities Committee later in 2023, officers are currently investigating options for future delivery of Edinburgh's Christmas.

- 4.26 The options being considered build on the learning from 2022 and previous procurement exercises, the Council's experience of delivering Edinburgh's Winter Festivals in-house prior to 2010, and best practice from other public sector organisations.
- 4.27 To ensure that the options considered deliver on the feedback from the Winter Festivals consultation, ensure that the event promotes Edinburgh's cultural and local offer, is affordable, and offers sufficient flexibility. The options being explored include (but may not be limited to):
- 4.27.1 An in-house delivery model. The Council previously had an in-house delivery model for Edinburgh's Winter Festivals so officers will review this approach, recognising that it is likely that any in-house model would significantly increase the financial and reputational risk for the Council, and that additional support would be required on the creative content (as the Council does not currently have this expertise in-house). In addition, it is likely that the Council would not be able to directly deliver all aspects of Edinburgh's Christmas without support from external organisations/sub-contractors due to the significant up-front capital investment which would be required for some aspects of service delivery or significant capital and revenue funding investment; and
- 4.27.2 Alternative procurement approaches to identify a delivery partner. Officers have received early feedback that the market would prefer that any future procurement to be dialogue based following a Future Contract Notice/PIN. This would allow the Council to set clear parameters based on the consultation feedback (including but not limited to): defining the locations, timescales, operational constraints and financial arrangements). However, as noted above, if this approach is progressed, it can take a protracted period of time, so it is important to begin early dialogue with potential partners as soon as possible.
- 4.28 The investigation will also consider financial, reputational, legal, governance and wider risks for the Council as well as considering any feedback from other local authorities and public sector organisations.
- 4.29 The option to deliver a single Edinburgh's Winter Festival contract (combining the existing Edinburgh's Christmas and Hogmanay commissions) will also be considered, recognising that the contract for Edinburgh's Hogmanay is in place until the end of 2024/25 (with the option to extend for two further periods of 12 months). While this approach will be reviewed again, officers note that this had previously been discounted as it is likely to restrict the market and the opportunity for Small and Medium sized Enterprises (SMEs) to tender.

5. Next Steps

- 5.1 A report on the outcome of delivery of Edinburgh's Christmas 2022 will be reported to Culture and Communities Committee on 7 March 2023, with a recommendation

on next steps. Finance and Resources Committee will also be kept updated on this.

- 5.2 As agreed by the Council on 27 October 2022, a report on the options for delivering Edinburgh's Christmas in future will be presented to Culture and Communities Committee by the end of May 2023. This will build on the information provided in this report will ensure the Council's commitments to quality, reliability, community engagement, supporting local traders and sharing the celebrations around the city are properly reflected in any plans and future procurement programmes. The Festivals and Events APOG will be kept updated on progress with this, and input from suppliers, local traders, community groups and ward councillors will be sought at the appropriate time.

6. Financial impact

- 6.1 There are no direct financial impacts arising from the recommendations in this report.
- 6.2 The report to Culture and Communities Committee will set out the financial implications of the options for delivering Edinburgh's Christmas in the future.

7. Stakeholder/Community Impact

- 7.1 The results of a consultation on Edinburgh's Winter Festivals were reported to Policy and Sustainability Committee on [30 November 2021](#).
- 7.2 These results were used to form the basis of the tender which was issued for delivery of the two Lots of the Winter Festivals contract. The award of contracts for Edinburgh's Christmas and Hogmanay were approved by Finance and Resources Committee on 16 June 2022.
- 7.3 It is essential that the future commission for Edinburgh's Christmas reflects the feedback received to the Winter Festival's consultation, as reported in November 2021.

8. Background reading/external references

- 8.1 None.

9. Appendices

None.