

CONTRACTS SUB-COMMITTEE

Minutes of the meeting held at 7.00 pm on 24 August 2016

Present

Councillor Stephen Wells (Chairman)
Councillor Chris Pierce (Vice-Chairman)
Simon Fawthrop, William Huntington-Thresher, Russell Mellor,
Keith Onslow and Angela Wilkins

12 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

There were no apologies.

13 DECLARATIONS OF INTEREST

There were no declarations.

14 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC ATTENDING THE MEETING

There were no questions.

15 MINUTES OF THE MEETING OF CONTRACTS SUB-COMMITTEE HELD ON 22 JUNE 2016 AND MATTERS ARISING

The minutes were agreed.

In considering matters arising, the Chairman reminded Members that contract summaries were available electronically with a hard copy also available in the Members' Room.

The summaries had been designed to provide all pertinent information and it was possible to "drill down" for further detail. They would also be regularly updated. When the database for the Contracts System is fully operational (by December 2016) training would be provided. It was suggested that Members bring their i-Pads to future meetings to carry out any interactive work.

Members considered how internal audit reports can be brought to the attention of PDS Committees. It was understood that specific issues are referred to PDS Committees and reports from Internal Audit are available electronically but the Chairman preferred a more pro-active approach. A Member suggested that E&R PDS undertake a higher level of scrutiny on contracts. However, the E&R PDS Chairman preferred Audit Sub-Committee to highlight particular matters for E&R PDS where possible and suggested a similar approach for all PDS Committees. Should such an approach not be sufficient further consideration could be given.

Another view suggested that audit reports be provided routinely to PDS Committees, although a number of findings were for a Portfolio Holder to take forward. It was suggested that findings referred to PDS Committees should be relevant for scrutiny e.g. matters concerned with KPIs, budget monitoring, policy development, procedures not being followed etc. A Member felt that PDS Chairmen would want to see audit reports.

In view of internal audit sometimes highlighting systemic issues, the Chairman felt that it was necessary for the Audit Sub-Committee Chairman to ensure a more active dissemination of audit reports to PDS Chairmen. Accordingly, the Chairman offered to write to the Chairman of Audit Sub-Committee to request that the Sub-Committee Chairman write to PDS Chairmen alerting them of such a proposal.

In regard to funding a system developer at £50k to assist in providing the contracts system, technical support was needed to ensure the production of relevant data from a variety of document types including word documents and Oracle data. There were no off the shelf systems that would be sufficiently comprehensive. It was about how Oracle related to all the relevant systems. At the end of the process it was intended to have a central data warehouse. Officers already had an Access database but it was necessary to “drill down” further e.g. to look at tables behind Oracle. The Chairman of E&R PDS Committee suggested there was possibly a risk in depending upon one person for the work but if successful the system could perhaps be marketed for other Local Authorities.

16 CONTRACT MONITORING (ADULT SOCIAL CARE/STREET CLEANSING)

Report CS17028

Contract Monitoring - Street Cleansing

The street cleansing contractor is required to meet Key Performance Indicators (KPIs) and officers meet regularly with the contractor, both of which are conditions of contract. Officers have mobile devices to help monitor contractor compliance with the KPIs and can input data e.g. customer complaints. The routine inspections are inputted into the Officers mobile devices randomly to ensure assets are checked annually and the system allows for ad hoc inspections of areas to ensure that intelligence led monitoring can occur. Officers are enabled to look at areas of concern and data can be retrieved from the CONFIRM system in order to manage reports in the field. More focus is given to repeat complaints and a report is presented annually to PDS reviewing the contractor’s performance.

Certain efficiencies have been made by the service involving the frequency of cleansing activities and in response to enquiries by Members regarding isolated locations, it was clarified that more detailed cleansing requires further resource. The process of customer complaint/request management was outlined. When a complaint / service request is made, this information is logged on the CONFIRM system and the contractor is notified. The contractor then investigates and monitors the concern. Serious concerns are escalated to the Neighbourhood Officer and an action plan initiated. Generally, a street cleaning request is a contractor matter and a complaint is referred to the

Neighbourhood Officer.

Different ways of working for street cleansing are being considered with PDS, particularly in view of problems caused by parked vehicles. If it is not possible to sweep a road (e.g. due to parked vehicles), operatives then move to the next road to maintain efficiency. A routine 'deep cleaning' programme funded from the £200k contingency approved by Executive in 2012, addresses the cleaning of heavily parked streets. Contract performance is output based and operatives might not sweep a road if it is already compliant with the DEFRA Code of Practice on litter and refuse. The contractor monitors its work by grading according to the Code of Practice.

The number of sweeps depends upon the road concerned. The contractor is not accountable for the rate of litter dropping; the key consideration (and contractor's responsibility) is whether a street is as clean as it can be after a clean. Most street cleansing vehicles have GPS technology and it is possible to identify whether a vehicle has travelled in a road and the appliances and rate of speed undertaken during the cleansing operation. The annual report to PDS refers heavily to customer satisfaction and this had increased at a time when efficiencies had been made to the cleansing specification. The next customer satisfaction survey is currently being undertaken by the contractor through an independent research company.

The Chairman felt that anything innovative that can be introduced for street cleansing would be good and it might be necessary to ask residents not to park at a location for the purpose of street cleansing.

In checking work of the contractor's crews, the Contractor's Supervisory team, Officers and Neighbourhood Managers refer to the DEFRA Code of Practice and a road should be clean at the end of cleansing. The Chairman suggested that the Code of Practice is made available to Sub Committee Members. (Democratic Services Note - the Code of Practice can be viewed via the Council's street cleaning web page which has embedded a link to this document -

http://www.bromley.gov.uk/info/200089/street_care_and_cleaning/1038/street_cleaning

Autumn leaf fall also impacts on cleanliness and plans have been developed using GIS data and arboriculture advice in order to work efficiently by clearing leaf fall in roads where it is known that leaves fall early in the season. For cleaning litter and leaves between parked cars and the gutter, a Member suggested use of modern innovative suction equipment that can act as an industrial vacuum cleaner. (Democratic Services Note: following the meeting it was confirmed that the Council provides the contractor with high powered vacuum units to collect autumn leafing.) The Member also highlighted leaf fall on the borough's roads from private trees. He also encouraged Friends Groups in the borough and the Chairman commended the Groups.

Contract Monitoring - Adult Social Care

The ECHS Procurement and Contract Compliance team provide advice to the ECHS department on best practice in compliance and monitoring, negotiation of fees, escalating and acting on concerns for poor performance. An annual report is presented to PDS on quality monitoring of commissioned care services, covering arrangements for monitoring contracts and progress made to raise standards in domiciliary care, extra

care, and supported living schemes.

The frequency of monitoring is determined by an assessment of risk including: CQC rating, LBB QAF (Quality Assurance Framework) rating, numbers of complaints, safeguarding alerts, whistleblowing reports, local intelligence from partners, changes in management, and number of Bromley funded clients. The financial robustness of companies is regularly checked using an electronic credit rating tool alerting the Council to any change in status.

Quality Assurance Frameworks for each contract area monitored help focus compliance work and assist providers achieve continuous service improvement. Providers are expected to achieve a minimum of level C in each area of the QAF and to work towards the achievement of level A. After each monitoring visit the provider is required to respond to points of improvement raised and to follow an action plan to achieve these.

Contract monitoring information informs Commissioners and Senior Management on the quality of care being delivered. To focus on service user experience, home visits are undertaken to supported living schemes or to users receiving domiciliary care, helping to corroborate findings from office visits where the focus is on compliance, and scrutinising policies, procedures, and service record information. Providers are also asked to carry out a satisfaction survey and the Council also undertakes a survey on home care. For any concerns identified through regular monitoring visits or intelligence sharing, action plans are drawn up with the provider to work towards quality improvements. A reactive system is provided to complaints involving initial representations to the provider which can be escalated to the client unit should the concerns not be adequately dealt with.

Other adult social care contracts (covering Third Sector Service Contracts, Strategic Partnerships, IT contracts, Transport, Integrated Equipment, Domestic Violence, and Supported Accommodation) have a contract compliance officer and procurement officer with details recorded on the Contracts Register. The monitoring officer is expected to collect data, assess contract performance and update the relevant Commissioner, the Commissioner then being able to share the information at DMT level and use it to inform commissioning strategies.

Each contract is risk assessed annually to gauge the level of monitoring required; each contract having key performance indicators detailed on contract monitoring forms to become source data for the new Contracts Register. Data is submitted quarterly, checked for accuracy (and against contractual requirements) and shared/discussed with the relevant Commissioner. Officers periodically review collected information to ensure it continues to be the most relevant.

Being recognised as best practice in the Council, the team for contract compliance and monitoring in Adult Social Care has recently moved to the Corporate Commissioning Team with the team's role intended to be expanded to oversee Compliance and Monitoring activity across other departments, as appropriate, for service arrangements in place. This will help provide assurance that performance issues are identified, raised and acted upon quickly and facilitate regular briefing and exception reporting to Councillors and Senior Managers (at a Corporate and Departmental level) as required.

Officers sometimes receive complaints from the public and staff also raise concerns with management on occasions. A Member suggested a Press Statement to highlight that the Council welcomes a positive position on whistleblowing and it was confirmed that there would be no discrimination against a whistle-blower.

Concerning domiciliary care and care in homes, no new placements would be made where a provider had fallen below acceptable standards. Individuals would however remain in the home and the level of risk for such persons would be assessed. Options might include moving service users. The contractor and remaining service users would be monitored more closely and carefully (although it might be undesirable to move a particularly elderly client resident in a home for a number of years).

The Council had entered into core agreements with all the Care Homes it uses, both in and out of borough. Although such arrangements were not detailed individually on the contracts register due to volume and fluctuation of prices, it was possible to evidence value for money through (emergency) placements being reviewed within six weeks of placement. A ceiling rate would be set indicating a maximum amount that the Council was prepared to pay in a residential nursing home. If there was only one nursing home at the ceiling rate, the Council could be challenged; the Council was receiving pressure to hold the ceiling against other Local Authorities. The Commissioning team advised Care Management and tested the ceiling rate on value for money.

A provider given an inadequate rating by the CQC would not be used; if there were one or two concerns, officers would expect the provider to improve and show improvement, working with the CQC. A monthly review would be held with the Assistant Director, Adult Social Care for a provider receiving an inadequate rating. The Portfolio Holder also received a briefing each week and Members were welcome to visit care homes, domiciliary care agencies, and service users. The Chairman noted that take up for such visits was low and the Council has a duty of care for vulnerable adults.

Although the Chairman was more reassured on monitoring arrangements, he felt that it was necessary for Members to be more active in this area and to increase the level of care home visiting. Even though a low ceiling existed, it was also important to maintain the standard of service. Members heard that there were challenges concerning the introduction of the National Living Wage and officers were looking to establish a reasonable rate. Ceiling rates were reviewed each year and it was important for the Council to be successful against any challenge.

RESOLVED that the briefings on contract monitoring for Street Cleansing and Adult Social Care be noted.

17 CONTRACTS REGISTER

Noting the number of Red and Amber status markings on the Contracts Register, the Chairman suggested an apparent delay, lack of timetable, and lack of procurement understanding on the part of some officers. Generally, it seemed that officers had become accustomed to using extensions. Another Member referred to the importance of highlighting key dates.

It was accepted that some officers were not allowing sufficient time and not

thinking differently on how to commission services. Where there were problems it was necessary to seek waivers. Not understanding timescales was leaving the Council exposed. A minimum six months was needed for all contracts and up to 2 to 2.5 years needed for the larger more complex contracts. The Head of Corporate Procurement is preparing guidance for officers so that timetables for tendering are more robust. The Commissioning team were diligent in “ragging” contracts. On occasions services do not always carry out service reviews adequately and allow enough time for the reviews. There was also a skills set for officers to learn in thinking how desired outcomes for services can be achieved.

Cllr Simon Fawthrop, Executive and Resources PDS Chairman, confirmed that Register entries to contracts from the Chief Executive’s Department (marked CEX) were sufficient for the Committee.

The Chairman suggested the Contracts Register as a standard item at future Sub-Committee meetings and another Member asked for the register to be provided at least two to three days in advance of future meetings.

RESOLVED that:

(1) only entries in the Contracts Register related to contracts from the Chief Executive’s Department (marked CEX) be presented to future meetings of the Executive and Resources PDS Committee;

(2) the Contracts Register be a standard item at future meetings of the Sub-Committee; and

(3) the Contracts Register be provided to Sub-Committee Members at least two to three days in advance of future Sub-Committee meetings.

18 WORK PROGRAMME 2016/17

In addition to seeing the Contracts Register at each future meeting, the Chairman suggested that some of the issues highlighted in the Internal Audit Report at item 9 of the agenda be considered in October and December. A Member suggested that it might be helpful to look at aspects not normally looked for and to look at unexpected concerns. The contract related to Manorfields could be considered in October and the CCTV and Stray Dogs contracts could be looked at and tracked in future meetings.

It was agreed that Guidance Notes on contract timetabling would be produced for the next meeting. The Chairman would also work with Cllr Pierce, Vice-Chairman, in looking at the minutes of the Audit Sub-Committee meeting held on 6th July 2016.

RESOLVED that:

(1) the Contracts Register be presented to each future Sub-Committee meeting;

(2) some of the issues highlighted in the Internal Audit Report at item 9 of the agenda be considered at the Sub-Committee's October and December meetings - the contract related to Manorfields being an issue for consideration in October;

(3) the CCTV and Stray Dogs contracts be considered and tracked at future meetings; and

(4) Guidance Notes on contract timetabling be presented to the next meeting.

19 CONTRACTS ISSUES ARISING FROM INTERNAL AUDIT

Report CSD16122

A summary of contracts was provided in view of related issues that had arisen from recent Internal Audit reviews.

The Public Protection service had received critical Internal Audit reports on contracts concerning CCTV and Stray Dogs. Issues had been highlighted around contracting processes with Personnel issues, Key Documentation, and Contract Monitoring identified as themes across the cases.

Other issues arising from a number of Internal Audit investigations were also covered. All the highlighted issues had already been reported to Audit Sub-Committee, which normally received copies of the actual Internal Audit reports.

Members considered the various issues raised by audit findings from the contracts. Members found the issues particularly disturbing and expressed concerns in relation to timing/timetabling, an apparent lack of training and skills sets, a lack of understanding of contract monitoring, and a poor quality of management and knowledge of a contract.

To help improve overall contract management a number of broad measures were suggested. This included training and better contract specifications and definitions. It was important for a contract to be clear on what happens should KPIs not be met. The importance of Contract Management (in contrast to Contract Monitoring) was highlighted as a key foundation. Having a Contract Compliance expert to look through contracts was also suggested and this was supported by another Member. It was important the Council performed highly in Contract Management given the level of services being commissioned.

To raise concerns, the Contracts Register provided Red and Amber warnings; developing the Register further would provide a valuable contract management tool to drill down for relevant detail. Contract material was also seen by the Commissioning Board and contracts were regularly prevented from going forward given problems. Additionally, the Council's Legal team saw a number of contracts (other than smaller contracts).

Every contract over £200k should be seen by legal (with the commissioner in a Department). Officers undertake contract planning, involving experts as necessary, to ultimately arrive at a contract package. Generally, contract documentation was considered satisfactory; however, problems sometimes occurred in monitoring. Different services had different approaches, some of which were poor and a central team was being created for contract monitoring, headed by the Director of Commissioning.

Members agreed that Report CSD16122 should be escalated to the next E&R PDS Committee along with minutes of the Sub-Committee's meeting. The Chief Executive could also be questioned on Contract Management at the meeting. A summary of actions proposed by Audit Sub could also be available to E&R PDS along with a record of progress made to help address the concerns.

For the moment, it was agreed that future minutes would exceptionally be referred to E&R PDS, to draw a particular matter to the Committee's attention; an assessment would subsequently be made on whether to regularly refer minutes to the Committee. The Sub-Committee's Annual Report would also go to E&R PDS.

In view of concerns for the contracts highlighted in Report CSD16122, it was RESOLVED that the report and minutes of the Sub Committee's meeting be referred to the Executive and Resources PDS Committee.

The Meeting ended at 10.05 pm

Chairman