

UPDATED FINAL INTERNAL AUDIT REPORT
ENVIRONMENT AND COMMUNITY SERVICES DEPARTMENT

REVIEW OF STREET WORKS PERMITS AND DEFAULTS AUDIT FOR 2016-17

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REVIEW OF STREET WORKS PERMITS AND DEFAULTS AUDIT FOR 2016-17

INTRODUCTION

1. This report sets out the results of our systems based audit of street works permits and defaults audit for 2016. The audit was carried out in quarter 4 as part of the programmed work specified in the 2016-17 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee.
2. The controls we expect to see in place are designed to minimise the department's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be corrected to assist overall effective operations.
3. The original scope of the audit was outlined in the Terms of Reference issued on 16/08/2016. The period covered by this report is from 01/04/2015 to 30/04/2017.
4. The total budgeted cost of the service for 2016-17 was £565,950 made up of contract payments, direct staffing cost and recharged staffing cost. The actual cost of service as at 30/04/2017 for 2016-17 was £686,642. The income budget for 2016/17 was set as £566,000 for income from inspections and defects and £628,140 from issue of Permits. The collected income as at 30/04/2017 for 2016-17 from utility companies was £347,122 in respect of inspections and defects and £619,803 in respect of London permit scheme.

AUDIT SCOPE

5. The scope of the audit was to review the management of street works permits and defaults as detailed in the Terms of Reference.

AUDIT OPINION

6. Overall, the conclusion of this audit was that limited assurance can be placed on the effectiveness of the overall controls. Definitions of the audit opinions can be found in Appendix E.

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MANAGEMENT SUMMARY

7. LBB has a responsibility under New Roads & Street Works Act (1991) to monitor the works of statutory undertaker (utilities and telecoms companies or nationalised companies) which affect the highway infrastructure. When defects are identified in road or footway reinstatements, a defect notice is issued and a charge made to the statutory undertaker concerned to cover additional inspections. Charges are also raised when works over-run their approved programme (S74) and when other issues are found on site (Fixed Penalty Notices). The contract for the inspection of street works was let to the contractor in April 2013 to deliver inspection and enforcement duties prescribed in the New Road and Street Works Act 1991 (NRSWA), the London Permit Scheme for Road Works and Street Works (LoPS) and the Traffic Management Act 2004 (TMA).
8. LBB also administers the London permit scheme for all road and street works, with permit fees received being ring-fenced to cover administration of the scheme.
9. The Council charges utility companies for the following activities:
 - Permits- A permit is required for all street works on the public highway, although charges are only levied against utility companies. Permit applications are processed by the T&H network management team and the income budget for 2016/17 was £628K. All major utility companies pay monthly for permits.
 - Inspections- Utility companies also pay the Council to inspect ten percent of their street works (sample inspection) at each of the three stages; during the works, following completion and at the end of the two year guarantee period. Charges are based on the volume of work completed in previous years and a nationally agreed fee structure. The income budget for sample inspections for 2016/17 was £170k. This is collected in the form of an annual charge from the utility companies and is invoiced quarterly. In addition to the 10% sample inspection, the Head of Highways advised that the contractor is expected to carry out inspections on all street works for utility companies (supplementary inspection) and serve improvement notices where the remedial work is below agreed specification.

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- Defects- where defective reinstatements are identified during sample inspections, supplementary inspection or following reports from the public, a defect notice is raised and the utility company is advised to undertake repairs. For each agreed defect, the Council charges utility companies for additional inspections which are required to manage the remedial works. Defect inspections take place at following stages; a joint site inspection to agree the defect (D1), works in progress inspection whilst reinstatement work is ongoing (D2) and inspection upon works completion (D3). These inspections are currently undertaken by the contractor, with reports and correspondence with utility companies being managed by Transport and Highways (T&H) network management team. The income budget for 2016/17 was £336K.
 - Other fees- Fixed Penalty Notices are issued for contravention of permit conditions, and Section 74 charges are levied where works exceed the agreed programme and materials or traffic sign/barriers etc. are left on site. The income budget for 2016/17 was £60k.
10. The contract for the inspection of street works was let to the contractor in April 2013 for an initial three year period, with an option to extend for a further two or four years at the Council's discretion. This contract monitors the work of the various Utility Companies that operate in the Borough by undertaking inspections (sample, supplementary & investigatory), defect identification and subsequent defect inspections.
 11. Internal Audit review highlighted following areas of weakness and lack of control which require management attention:
 12. **Contract Monitoring meetings:**

No records of contract monitoring meetings and formal meetings held between the client & contractor for service changes made have been kept for audit purposes. Therefore it is difficult to establish details of any discussions on contract changes, contractor performance e.g. Key Performance Indicators and any decision making. It is understood that guidance has been cascaded down to managers setting out what they should be doing around contract management and the need to minute meetings.

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13. Variation to the terms of contract without authority

In July 2015 a report was presented to Environment PDS committee to extend the contract with the contractor for a further year to expire on 31st March 2017. The contract is performance based and the committee was informed that if the number of defect notices which was a Key Performance Target were to reduce substantially from current levels, the contract would be revised to reduce the performance targets, with a pro-rata reduction in the annual contract value.

Management started negotiations on the terms of the extension of the contract with the contractor in August 2015 and following changes were proposed by Management in the letter dated 19/08/2015:

- The yearly Key Performance Targets will be reduced from the current 6,000 to 4,000 Valid Reinstatement defects, for the annual sum of £250K for 2016-17, which will be paid in 12 monthly instalments to the contractor
- Carry out a structured Coring programme defined from a predetermined random sample of reinstatements consisting of footway and carriageway cores with an annual target of 2250 cores- £100K per annum, which will be paid monthly

Management advised Internal Audit that the proposed change in KPI was based on assurances received from the utility companies on forecasted improvement in the performance of utility companies' supply chain. Internal Audit could not evidence Management assertions. It should be noted that the total reinstatement defects identified by the contractor for the period April 2014 to March 2015 were 10,241.

The reduction in the annual contract value of £36,200 and its correlation to the reduced defect target from 6,000 to 4,000 could not be established.

The proposed expenditure on the Coring programme of £100k was not subjected to tendering and value for money cannot be evidenced. It should be noted that £119,350 was spent on the coring programme with Contractor A in 2016-17.

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These fundamental changes to conditions of the existing contract would have required written authorisation from the Chief Officer and Portfolio Holder as per Contract Procedure Rules. No variation/extension form was completed for the extension detailing the changes to the contract.

14. **Failure to comply with Contract Procedure Rules in respect of additional non-contractual work**

The contract for the inspection of street works was let to the contractor in April 2013 for three year period for the annual sum of £286,200. Additional payments totalling £181,094 has been made to Contractor A for non-contractual work (coring and material testing) for the period April 2013 to March 2016. This expenditure was not subjected to competitive tendering and value for money could not be evidenced.

Internal audit queried the reasons for not obtaining tenders for non-contractual work and including it in the specification for the original tender for the inspection of street works. The Head of Highways advised that that he believed at the time that the Contractor A would be cheapest as they have been undertaking coring work for Bromley for a number of years. An email quotation from Contractor B dated 18/11/2011 was provided to Audit for prices comparison. No meaningful conclusions could be drawn to evidence value for money as the quote from Contractor B was out of date. It could not be evidenced how the unit prices charged for coring were calculated and agreed for the period April 2013 to March 2017.

Since the Council had an ongoing contract with the contractor for the inspection of street works, Internal Audit queried how management monitored that the contractor allocated additional resources to undertake the coring work. The Network Manager advised that the contractor provided verbal assurance to that effect. As explained to Internal Audit, the defects identified as part of coring are monitored separately and are added to the Contractor contractual KPI targets for reinstatement defects.

15. **Inadequate contract monitoring:**

As per the contract, the contractor should provide a full range of inspection, reporting and support services required in relation to the provisions of NRSWA and associated legislation. The scope as specified in Appendix 3 of the contract provides details on the level of service expected from the contractor. The review highlighted the contract was not

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monitored as per the agreed KPIs. Information required to monitor some KPIs was not recorded hence they could not be monitored.

Management advised Internal Audit that the defects identified as part of coring (non-contractual activity) are monitored separately and are added to the contractor contractual KPI targets for reinstatement defects.

Given Management's interpretation of the KPIs it is not possible to ascertain if damages arose and should have been claimed for not meeting targets in respect of sample inspections, supplementary inspections and defects. No damages were levied on the contractor for the life of the contract. The contract has now ended and service has been brought in house, however lessons learnt are relevant to contract monitoring in general. Please refer to Appendix C for details of audit findings.

16. The contract required the contractor to produce written monthly reports which summarise the results of all inspections undertaken and reports upon their own performance against the Key Performance Indicators stated in the incentive schedule. No monthly monitoring reports were submitted by the contractor to management. Management advised that monthly reports were provided by the consultant when requested, but more accurate data was obtained from the 'ETON' system.
17. A Performance Bond was not in place for the duration of the contract. The Performance Bond undertaking provided as part of tender documents only had a validity of three months and it expired in October 2012 six months before the start of contract in April 2013. This issue will be further reviewed as part of a forthcoming audit on contract monitoring in 2017-18.
18. **Failure to comply with Financial Regulations (FR)- raising invoices for income due**

Management advised Internal Audit that they currently operate a process where a draft statement is issued to the utility companies at the end of the calendar month. The utility company is then expected to review and agree the draft statement within 4-6 weeks to allow the official invoice to be raised. Management stated that this process was developed to avoid delays in payment of invoices due to disputes being raised by utility companies. Management advised Internal Audit that departmental finance officers had agreed the permit process of allowing the utility companies a period of 4-6 weeks to review the statement of defects in order to improve the levels of outstanding debt. During August 2014, there were

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invoices outstanding totalling £584k for previous years and £275k outstanding for 2014/15. It was thought that the revised processes would improve recovery rates for future invoices.

Audit tests to ensure timely collection of income highlighted following issues:

- A sample of 10 inspections undertaken in 2015-16 and 2016-17 was tested to ensure that inspections were promptly invoiced and income due was collected in a timely manner. For 7 of 10 inspections, the elapsed times in agreeing draft statement and issuing an official invoice was more than 6 weeks. The average delays noted for the sample was 18 weeks ranging from 7.5 weeks to 33 weeks.
- Additional sample of 10 invoices for permits and defects raised in 2016-17 was reviewed to compare the period when the income became due and when it was invoiced. For 6 of 10 invoices the delays ranged from 8 weeks to 26 weeks.

As per Financial Regulations, Chief Officers should take prompt action to collect income. Any service specific requirements should be agreed with the Director of Finance in advance. It should be noted that there is no accountability of expected income on the Council's financial system until an official invoice is raised.

19. Outstanding debt

Permit invoices: Of the total invoiced income of £698,757 for permits, total debt outstanding for 2016-17 as at 30/04/2017 was £78,954 which does not include income due for permits granted in March 2017 as this income has not been invoiced as at 30/04/2017.

Defect invoices: Of the total invoiced income of £234,284 in 2016/17 for defects, the total debt outstanding as at 30/04/2017 was £87,189 which does not include income due for defects raised in March 2017 as this income has not been invoiced as at 30/04/2017. Total debt outstanding from previous years is £199,450 which predominately relates to outstanding invoices for Contractor C £186,152. As part of the audit, evidence of ongoing negotiations with Contractor C was provided by Management. It was noted that a number of outstanding queries related to quality of data provided to support the invoices.

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Coring invoices: Of the total invoiced income of £263,594 for cores, total debt outstanding for 2016-17 as at 30/04/2017 was £44,712. This figure does not include income due for cores that has not been invoiced as at 30/04/2017.

20. Review of an inspections and defects data report for 2015-16 highlighted that inspections/defects were not logged on the Confirm System promptly and there were delays of 16 to 177 days for 4214 inspections/defects. Management advised that 4110 inspections/defects (22%) were delayed as a result of various problems with IT system and 104 delays happened due to human error where incorrect dates were recorded on the system.

SIGNIFICANT FINDINGS (PRIORITY 1)

21. There are 5 Priority 1 findings identified and expanded on in this report relating to:

- Contract Monitoring meetings
- Variation to the terms of contract without authority
- Failure to comply with Contract Procedure Rules
- Inadequate contract monitoring
- Failure to comply with Financial Regulations (FR)- raising invoices for income due

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

22. 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 at Appendix B.

ACKNOWLEDGEMENT

23. Internal Audit would like to thank all staff contacted during this review for their help and co-operation.

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
1.	<p><u>Contract Monitoring meetings</u></p> <p>No records of contract monitoring meetings and formal meetings held between the client & contractor for service changes made have been kept for audit purposes. Therefore it is difficult to establish details of any discussions on contract changes, contractor performance e.g. Key Performance Indicators and any decision making. It is understood that guidance has being cascaded down to managers setting out what they should be doing around contract management and the need to minute meetings.</p>	Contractual obligation was not enforceable	<p>All formal meetings with contractors need to be documented and retained.</p> <p>[Priority 1]</p>
2.	<p><u>Variation to the terms of contract without authority</u></p> <p>In July 2015 a report was presented to Environment PDS committee to extend the contract with the contractor for a further year to expire on 31st March 2017. The contract is performance based and the committee was informed that if the number of defect notices which was a Key Performance Target were to reduce substantially from current levels, the contact would be revised to reduce the performance targets, with a pro-rata reduction in the annual contract value.</p> <p>Management started negotiations on the terms of the extension of the contract with the contractor in August 2015 and following changes were proposed by Management in the letter dated</p>	Contractual obligation was not enforceable	<p>Change control notices should be drawn up and agreed in writing and authorised at appropriate level.</p> <p>For future negotiations with the contractors, contract officers need to engage with finance and commissioning to ensure that the Council is getting value for money.</p> <p>Officers when negotiating</p>

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>19/08/2015:</p> <ul style="list-style-type: none"> • The yearly Key Performance Targets will be reduced from the current 6,000 to 4,000 Valid Reinstatement defects, for the annual sum of £250K for 2016-17, which will be paid in 12 monthly instalments to the contractor • Carry out a structured Coring programme defined from a predetermined random sample of reinstatements consisting of footway and carriageway cores with an annual target of 2250 cores- £100K per annum, which will be paid monthly <p>Management advised Internal Audit that the proposed change in KPI was based on assurances received from the utility companies on forecasted improvement in the performance of utility companies' supply chain. Internal Audit could not evidence Management assertions. It should be noted that the total reinstatement defects identified by the contractor for the period April 2014 to March 2015 were 10,241.</p> <p>The reduction in the annual contract value of £36,200 and its correlation to the reduced defect target from 6,000 to 4,000 could not be established.</p> <p>The proposed expenditure on Coring programme of £100k was</p>		<p>with contractors need to ensure that the Council's interest is protected at all times. Any agreed changes should be based on factual information.</p> <p>[Priority 1]</p>

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>not subjected to tendering and value for money cannot be evidenced. It should be noted that £119,350 was spent on the coring programme with Contractor A in 2016-17.</p> <p>These fundamental changes to conditions of the existing contract would have required written authorisation from the Chief Officer and Portfolio Holder as per Contract Procedure Rules. No variation/extension form was completed for the extension detailing the changes to the contract.</p>		
3.	<p><u>Failure to comply with Contract Procedure Rules</u></p> <p>The contract for the inspection of street works was let to the contractor in April 2013 for three year period for the annual sum of £286,200. Additional payments totalling £181,094 has been made to Contractor A for non-contractual work (coring and material testing) for the period April 2013 to March 2016. This expenditure was not subjected to competitive tendering and value for money could not be evidenced.</p> <p>Internal audit queried the reasons for not obtaining tenders for non-contractual work and including it in the specification for the original tender for the inspection of street works. The Head of Highways advised that that he believed at the time that the Contractor A would be cheapest as they have been undertaking coring work for Bromley for a number of years. An</p>	Value for money may not have been achieved	<p>Officers should ensure that Contract Procedure Rules (CPR 13 and CPR 23.7 shown at Appendix D) are complied with to ensure value for money is achieved.</p> <p>Non-contractual work should be formally agreed and monitored to ensure that there is a business case for it and that the contractual work is not adversely impacted. [Priority 1]</p>

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>email quotation from Contractor B dated 18/11/2011 was provided to Audit for prices comparison. No meaningful conclusions could be drawn to evidence value for money as the quote from Contractor B was out of date. It could not be evidenced how the unit prices charged for coring were calculated and agreed for the period April 2013 to March 2017.</p> <p>Since the Council had an ongoing contract with the contractor for the inspection of street works, Internal Audit queried how management monitored that the contractor allocated additional resources to undertake the coring work. The Network Manager advised that contractor provided verbal assurance to that effect. As explained to Internal Audit, the defects identified as part of coring are monitored separately and are added to the contractor's contractual KPI targets for reinstatement defects.</p>		
4.	<p><u>Inadequate contract monitoring</u></p> <p>As per the contract, the Consultant should provide a full range of inspection, reporting and support services required in relation to the provisions of NRSWA and associated legislation. The scope as specified in Appendix 3 of the contract provides details on the level of service expected from the. The review highlighted the contract was not monitored as per the agreed KPIs. Information required to monitor some KPIs was not recorded hence they could not be monitored.</p>	<p>Poor performance by contractor was not challenged which may have resulted in potential losses to the authority</p>	<p>Contract Procedure Rules require all contracts with a value higher than £200,000 to be subject to monthly formal review by the Head of Service.</p> <p>Justification to make fundamental changes to KPI where changes may result in</p>

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>Management advised Internal Audit, the defects identified as part of coring (non-contractual activity) are monitored separately and are added to the contractor’s contractual KPI targets for reinstatement defects.</p> <p>Given Management’s interpretation of the KPIs it is not possible to ascertain if damages arose and should have been claimed for not meeting targets in respect of sample inspections, supplementary inspections and defects. No damages were levied on the contractor for the life of the contract. The contract has now ended and service has been brought in house, however lessons learnt are relevant to contract monitoring in general. Please refer to Appendix C for details of audit findings.</p> <p>The contract required the contractor to produce written monthly reports which summarise the results of all inspections undertaken and reports upon their own performance against the Key Performance Indicators stated in the incentive schedule. No monthly monitoring reports were submitted by the contractor to management.</p>		<p>potential unclaimed damages should be agreed and documented.</p> <p>Management should record all inspection undertaken irrespective of the outcome to ensure effective monitoring on contractor performance can take place.</p> <p>Management should ensure that the contractor submits the monitoring information as agreed in the contract.</p> <p>Going forward, Management should ensure that contractor performance is monitored effectively and damages arising for poor performance as per the contract are collected from the contractor in a timely manner.</p>

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
			[Priority 1]
5	<p><u>Failure to comply with Financial Regulations (FR)- raising invoices for income due</u></p> <p>Management advised Internal Audit that they currently operate a process where a draft statement is issued to the utility companies at the end of the calendar month. The utility company is then expected to review and agree the draft statement within 4-6 weeks to allow the official invoice to be raised. Management stated that this process was developed to avoid delays in payment of invoices due to disputes being raised by utility companies. Management advised Internal Audit that departmental finance officer had agreed the permit process of allowing the utility companies a period of 4-6 weeks to review the statement of defects in order to improve the levels of outstanding debt. During August 2014, there were invoices outstanding totalling £584k for previous years and £275k outstanding for 2014/15. It was thought that the revised processes would improve recovery rates for future invoices.</p> <p>Audit tests to ensure timely collection of income highlighted following issues:</p> <ul style="list-style-type: none"> • A sample of 10 inspections undertaken in 2015-16 and 2016-17 was tested to ensure that inspections were promptly 	Losses due to income due not being invoiced in a timely manner.	<p>Management should review the invoicing process and address the issues for delay in raising invoices to collect income due for permits, inspections and defects.</p> <p>Management should ensure that the procedure to raise draft statements before raising official invoices is agreed with Director of Finance.</p> <p>[Priority 1]</p>

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>invoiced and income due was collected in a timely manner. For 7 of 10 inspections, the elapsed times in agreeing draft statement and issuing an official invoice was more than 6 weeks. The average delays noted for the sample was 18 weeks ranging from 7.5 weeks to 33 weeks.</p> <ul style="list-style-type: none"> Additional sample of 10 invoices for permits and defects raised in 2016-17 was reviewed to compare the period when the income became due and when it was invoiced. For 6 of 10 invoices the delays ranged from 8 weeks to 26 weeks. <p>As per Financial Regulations, Chief Officers should take prompt action to collect income. Any service specific requirements should be agreed with the Director of Finance in advance. It should be noted that there is no accountability of expected income on the Council's financial system until an official invoice is raised.</p> <p>As per financial regulations Chief Officers should take prompt action to either:</p> <ul style="list-style-type: none"> Collect the income due within arrangements approved by the Director of Finance and Section 5 of Financial Regulations; <p>Or</p>		

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>•Raise an account for inclusion in the Council’s debtors system, to enable the Director of Finance to ensure that appropriate recovery procedures are undertaken where necessary.</p> <p>Any changes to above procedures made by Chief Officers to meet their own specific service needs should be agreed with the Director of Finance in advance. No agreement approved by Director of Finance was evidenced.</p> <p>It should be noted that there is no accountability of expected income on the Council’s financial system until an official invoice is raised.</p>		
6	<p>Outstanding debt</p> <p>Permit invoices: Of the total invoiced income of £698,757 for permits, total debt outstanding for 2016-17 as at 30/04/2017 was £78,954 which does not include income due for permits granted in March 2017 as this income has not been invoiced as at 30/04/2017.</p> <p>Defect invoices: Of the total invoiced income of £234,284 in 2016/17 for defects, the total debt outstanding as at 30/04/2017 was £87,189 which does not include income due for defects raised in March 2017 as this income has not been invoiced as at 30/04/2017. Total debt outstanding from</p>	Loss to authority due to non- collection of income	<p>Outstanding debt should be recovered in a timely manner.</p> <p>Management should ensure that supporting information provided as part of invoices is accurate.</p> <p>[Priority 2]</p>

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>previous years is £199,450 which predominately relates to outstanding invoices for Contractor C £186,152. As part of the audit, evidence of ongoing negotiations with Contractor C was provided by Management. It was noted that a number of outstanding queries related to quality of data provided to support the invoices.</p> <p>Coring invoices: Of the total invoiced income of £263,594 for cores, total debt outstanding for 2016-17 as at 30/04/2017 was £44,712. This figure does not include income due for cores that has not been invoiced as at 30/04/2017.</p>		
7	<p>Review of inspections and defects data report for 2015-16 highlighted inspections/defects were not logged on the confirm system promptly and there were delays of 16 to 177 days for 4214 inspections/defects. Management advised that 4110 inspections/ defects (22%) were delayed as a result of various problems with IT system and 104 delays happened due to human error were incorrect dates were recorded on the system.</p>	<p>Poor performance by contractor is not challenged which results in potential losses to the authority</p>	<p>Inspections and defects should be promptly recorded on the Confirm system. Management should ensure that IT issues affecting the system are identified and rectified in a timely manner. [Priority 2]</p>

MANAGEMENT ACTION PLAN

APPENDIX B

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
1.	All formal meetings with contractors need to be documented and retained.	1	Monthly performance meetings with contractors to be minuted and retained on SharePoint	Head of Service & Contracts Managers	Immediate
2.	<p>Change control notices should be drawn up and agreed in writing and authorised at appropriate level.</p> <p>For future negotiations with the contractors, contract officers need to engage with finance and commissioning to ensure that the Council is getting value for money.</p> <p>Officers when negotiating with contractors need to ensure that the Council's interest is protected at all times. Any agreed changes should be based on factual information.</p>	1	<p>Formal Contract Waivers and Exemptions template to be used for all changes in scope and contract extensions following ES PDS or Executive approval</p> <p>Continue to engage with Officers from Finance and Commissioning when considering contract variations</p> <p>Agreed</p>	<p>Head of Service & Contracts Managers</p> <p>Head of Service & Contracts Managers</p> <p>Head of Service & Contracts Managers</p>	<p>Immediate</p> <p>Immediate</p> <p>Immediate</p>

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APPENDIX B

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
3.	<p>Officers should ensure that Contract Procedure Rules (CPR 13 and CPR 23.7 shown at Appendix D) are complied with to ensure value for money is achieved.</p> <p>Non-contractual work should be formally agreed and monitored to ensure that there is a business case for it and that the contractual work is not adversely impacted.</p>	1	<p>Agreed</p> <p>Agreed</p>	<p>Head of Service & Contracts Managers</p> <p>Head of Service & Contracts Managers</p>	<p>Immediate</p> <p>Immediate</p>
4.	<p>Contract Procedure Rules require all contracts with a value higher than £200,000 to be subject to monthly formal review by the Head of Service.</p> <p>Justification to make fundamental changes to KPI where changes may result in potential unclaimed damages should be agreed and</p>	1	<p>Monthly performance meetings with contractors to be minuted and retained on SharePoint</p> <p>Formal Contract Waivers and Exemptions template to be used for all changes in scope and contract extensions</p>	<p>Head of Service & Contracts Managers</p> <p>Head of Service & Contracts Managers</p>	<p>Immediate</p> <p>Immediate</p>

MANAGEMENT ACTION PLAN

APPENDIX B

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
	<p>documented. Management should record all inspection undertaken irrespective of the outcome to ensure effective monitoring on contractor performance can take place.</p> <p>Management should ensure that the contractor submits the monitoring information as agreed in the contract.</p> <p>Going forward, Management should ensure that contractor performance is monitored effectively and damages arising for poor performance as per the contract are collected from the contractor in a timely manner.</p>		<p>The results of all streetworks inspections to be recorded on ETON database, including 'passes'</p> <p>Contract monitoring data to be provided by Contractors</p> <p>Contracts will continue to be monitored effectively and Low Service Damages issued in a timely manner</p>	<p>Contract Manager</p> <p>Head of Service & Contracts Managers</p> <p>Head of Service & Contracts Managers</p>	<p>Immediate</p> <p>Immediate</p> <p>Immediate</p>
5.	<p>Management should review the invoicing process and address the issues for delay in raising invoices to collect income due</p>				

MANAGEMENT ACTION PLAN

APPENDIX B

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
	<p>for permits, inspections and defects.</p> <p>Management should ensure that the procedure to raise draft statements before raising official invoices is agreed with Director of Finance.</p>	1	<p>Agreed</p> <p>Agreed</p>	<p>Head of Service & Contracts Managers</p> <p>Head of Service & Contracts Managers</p>	<p>September 2017</p> <p>September 2017</p>
6.	<p>Outstanding debt should be recovered in a timely manner.</p> <p>Management should ensure that supporting information provided as part of invoices is accurate.</p>	2	<p>This is an ongoing process, and will be continued</p> <p>This is an ongoing process, and will be continued</p>	<p>Head of Service & Contracts Managers</p> <p>Head of Service & Contracts Managers</p>	<p>Immediate</p> <p>Immediate</p>

MANAGEMENT ACTION PLAN

APPENDIX B

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
7.	<p>Inspections and defects should be promptly recorded on the Confirm system.</p> <p>Management should ensure that IT issues affecting the system are identified and rectified in a timely manner.</p>	2	<p>The results of all streetworks inspections to be recorded on ETON database, including 'passes'.</p> <p>IT issues will continue to be identified and rectified.</p> <p>Business continuity process to be put in place to ensure service can continue to be delivered.</p>	<p>Contract Manager</p> <p>IT Manager</p> <p>Head of Service & Contracts Managers</p>	<p>Immediate</p> <p>Immediate</p> <p>September 2017</p>

SERVICE LEVEL TABLE

As per the contract, the Consultant should provide a full range of inspection, reporting and support services required in relation to the provisions of NRSWA and associated legislation. The scope as specified in Appendix 3 of the contract provides details on the level of service expected from the contractor. The review highlighted following issues:

Service Level Table		
Aspect of Service	Low Service Damage	Audit finding
Failure to complete 100% of Sample Inspections as instructed each calendar month i.e. 10% of the street works at each of the three stages;	£50 for each missed inspection	<p>Completion of sample inspections is not monitored monthly and is undertaken on a quarterly basis.</p> <p>The sample inspections are not evenly spread through the year. In 2015-16 majority of sample inspections were undertaken in the first quarter.</p> <p>Management advised that monthly targets for sample inspections are not spread evenly during the year. Justification to make fundamental changes to KPI where changes may result in potential unclaimed damages should be agreed and documented.</p>
Failure to complete 90% of Supplementary Inspections as instructed each calendar month	£1000 per calendar month	<p>Completion of supplementary inspections is not monitored monthly.</p> <p>Management advised that they have instructed</p>

SERVICE LEVEL TABLE

		<p>the contractor to not record supplementary inspections if a defect is not identified.</p> <p>As management do not have a record of actual number of inspections undertaken by the contractor they do not monitor this target.</p>
<p>Failure to complete 90% of Sample and Supplementary Inspections as instructed each calendar month for three or more calendar months in a rolling 12 month period.</p>	<p>£5000 (This level of failure shall also be considered as a substantial failure to Provide the Services which may lead to termination under Clause 90.3 of the conditions of contract.)</p>	<p>As stated before, completion of sample and supplementary inspections is not monitored each calendar month. Potentially there could be unclaimed damages if 90% of Sample and Supplementary Inspections as instructed each calendar month for three or more calendar months in a rolling 12 month period were not completed on time.</p>
<p>Failure to meet a calendar month Key Performance Indicator target, as set out in the Incentive Schedule of 500 valid Reinstatement Defects</p>	<p>£50 for each Reinstatement Defect not identified</p>	<p>Completion of target reinstatement defect is monitored annually rather than each calendar month. Total reinstatement defects raised in 2015-16 were 4588 as reported to committee in June 2016.</p> <p>On enquiry why damages were not claimed for not meeting reinstatement defect target, Management provided revised information and stated reinstatement defects raised in 2015-16 to be 5998. The revised figures included defects raised from coring work.</p>

SERVICE LEVEL TABLE

Failure to meet a calendar month Key Performance Indicator target, as set out in the Incentive Schedule of 500 valid Reinstatement Defects for three or more calendar months in a rolling 12 month period	£5000 (This level of failure shall also be considered as a substantial failure to Provide the Services which may lead to termination under Clause 90.3 of the conditions of contract.)	Completion of target reinstatement defect is monitored annually rather than monthly. Potential damages could have been collected if the Incentive Schedule of 500 valid Reinstatement Defects was not met for three or more calendar months in a rolling 12 month period.
Failure to complete 100% of Joint Site Inspections and/or Reinstatement Defects Inspections as required each calendar month	£50 for each missed inspection	No evidence of monthly monitoring seen.
Failure to provide witness statements by the date instructed	£100 per failure	No evidence of monitoring seen.
Failure to attend court at the time and/or dates instructed	£500 per failure	No evidence of monitoring seen.

CPR 13. EXEMPTIONS TO THE NEED FOR COMPETITIVE TENDER

13.1 A decision to negotiate with one or more *Candidates* on any arrangements required within the *Procurement* process shall not be made except in compliance with the following and any *Public Contracts Regulations 2015* (see also Rule 3). Note - For the purpose of this Rule the establishment of a *Service Level Agreement* is treated as being a negotiated arrangement;

<i>Estimated Cost (or Value)</i>	<i>Authorisation Requirement</i>
£5,000 - £50,000	Chief Officer Agreement
£50,000 - up to £100,000	Chief Officer in agreement with <i>Director of Corporate Services, Director of Commissioning and Director of Finance</i> with a report of the use made of this exemption being made to Audit Sub- committee on a bi-annual basis.
£100,000 – up to £1,000,000	Chief Officer in agreement with <i>Director of Corporate Services, Director of Commissioning and Director of Finance</i> and following Approval of the relevant <i>Portfolio Holder</i> , with a report of the use made of this exemption being made to Audit Sub-committee on a bi-annual basis.
£1,000,000 and above	Chief Officer in agreement with <i>Director of Corporate Services, Director of Commissioning and Director of Finance</i> and the approval of the <i>Executive or the Council</i> as appropriate.

13.2 The Officer concerned will need to ensure that the records necessary to justify the intended action are maintained and issued where necessary, for above and below EU Threshold activity as set out in the *Public Contracts Regulations 2015*.

13.3 In determining the *Value* (and any *Aggregate Values*) for a particular requirement, together with those used to calculate the values of any modifications and/or extensions proposed to existing arrangements, care must be taken to value such activity using the approaches identified in the various parts of the *Public Contracts Regulations*. In general terms, it is the *Value* of an activity across the Council, and not of a *Contract* in isolation which determines its treatment within the *Public Contracts Regulations 2015*.

13.4 Subject to the satisfactory completion of any required Contract Monitoring Report (see CPR 23), and where the Report produced as required by CPR 5 provides for a discretionary Extension of the Contract for an additional period of time, providing the Authorising Committee have indicated their agreement at the point of the CPR 5 Report, without the need for further referral, then the relevant Chief Officer may, in agreement with the *Director of Corporate Services*, *Director of Commissioning* and *Director of Finance*, and any other person specified in the authorisation and in Consultation with the Portfolio Holder, make use of this permissible extension providing,

- (a) there is at least six months left on the existing contract term, and
- (b) it is notified to the Audit Sub-committee, as part of the Bi-Annual Report produced and identified in this CPR.

13.5 Chief Officers with Social Care responsibilities have specific exemptions provided to them under the Council's *Scheme of Delegation* for certain contracting arrangements

CPR 23.7 Variations and Extensions

23.7.1 No *Variation* should be issued or *Extension* agreed unless there is sufficient budgetary provision for each *Contractor* where it is permitted under the Council's *Capital Programme Procedures* and related responsibilities for financial control of capital projects.

23.7.2 All *Variation* Orders must be issued promptly and authorised before the work is undertaken. All variations will be contained within agreed limits for each contract and made within the authorised limits determined by the *Chief Officer* as provided for in *Financial Regulations* and the *Capital Programme Procedures*.

23.7.3 Subject to any requirements of *Financial Regulations*, statutory restrictions and compliance with any provisions of the *Public Contracts Regulations* (particularly those relating to negotiation; modifications and extensions and any limitations imposed by Regulation 72 of the Regulations above), a *Chief Officer* may authorise the following extension to an existing contact:

- An extension for a particular period provided for within the terms of the contract (but subject to satisfactory outcomes of contract monitoring, such information having been provided to where required in these Rules to the relevant *Portfolio Holder* and/or *Executive*);
or

- A single extension of the contract by up to one year; or
- An increase in the scope of activities being undertaken.

23.7.4 Providing that where the value of any single and/or all extensions granted is greater than **£50,000** the processes and authorisation procedures required shall be the same as those identified in Rule 13 above.

23.7.5 The *Chief Officer* shall consult with the *Head of Procurement, Director of Commissioning and Director of Corporate Services* on any need to issue a *Modification Notice* or take other action required by *Reg.72 of the Public Contracts Regulations 2015*.

Assurance Level

Definition

Full Assurance

There is a sound system of control designed to achieve all the objectives tested.

Substantial Assurance

While there is a basically sound systems and procedures in place, there are weaknesses, which put some of these objectives at risk. It is possible to give substantial assurance even in circumstances where there may be a priority one recommendation that is not considered to be a fundamental control system weakness. Fundamental control systems are considered to be crucial to the overall integrity of the system under review. Examples would include no regular bank reconciliation, non-compliance with legislation, substantial lack of documentation to support expenditure, inaccurate and untimely reporting to management, material income losses and material inaccurate data collection or recording.

Limited Assurance

Weaknesses in the system of controls and procedures are such as to put the objectives at risk. This opinion is given in circumstances where there are priority one recommendations considered to be fundamental control system weaknesses and/or several priority two recommendations relating to control and procedural weaknesses.

No Assurance

Control is generally weak leaving the systems and procedures open to significant error or abuse. There will be a number of fundamental control weaknesses highlighted.