



INTERNAL AUDIT FINAL REPORT

CORPORATE SERVICES

REVIEW OF CONTRACTS COMING TO AN END

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INTRODUCTION

1. This report sets out the results of our audit of contracts coming to an end. The audit was carried out as part of the work specified in the 2019-20 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee. The controls we expect to see in place are designed to minimise the Council's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be addressed by management.
2. The Council continually has contracts which are coming to an end and will need to be re-tendered. This area was included in the 2019-20 Annual Audit Plan to ensure that the key risks, set out below when contracts are coming to an end, are addressed through appropriate controls and procedures. It is a subject which has not been audited previously.
3. We would like to thank everyone contacted during this review for their help and co-operation.

AUDIT SCOPE

4. The original scope of the audit was outlined in the Terms of Reference.
5. We identified the following key risks:
 - The re-tendering of the contract does not take place properly, without the necessary resources, expertise and experience required.
 - The existing contract is not re-tendered within sufficient time and has to be extended, leading to poor value for money.
 - Lessons learned from managing the current contract are not identified and implemented going forward.

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AUDIT OPINION

6. Our overall audit opinion, number and rating of recommendations are as follows.

AUDIT OPINION	
Substantial Assurance	(Definitions of the audit assurance level and recommendation ratings can be found in Appendix B)

Number of recommendations by risk rating		
Priority 1	Priority 2	Priority 3
0	1	0

SUMMARY OF FINDINGS

7. There is a Procurement Board chaired by the Assistant Director of Governance & Contracts which oversees procurement and contract management throughout the Council. It meets monthly and is attended by key representatives from Directorates, with contract owners attending as required. There is a work plan for all contracts which is RAG rated and monitored by the Board to keep track of progress on all relevant contracts, including those contracts which are due to end within the next twelve months. The work plan is subsequently reported to Chief Officers and the Corporate Leadership Team with a commentary and setting out any particular areas where action needs to be taken.
8. We confirmed that there is guidance and training given to contract owners which emphasises the need to allow sufficient time for tender or contract action to take place. It also points out that there will be a challenge and possibly a sanction where this is not complied with. We identified one contract in our sample which, from information included in the Gateway Report,

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explained that insufficient time was available for another procurement exercise, but there was also a justified reason for requesting an extension to the contract for twelve months. There were two other contracts where an extension had been awarded and these also demonstrated that a satisfactory reason for the extension had been given, within the timescale required.

9. The Contracts Database shows the end date for all contracts and has a Contract Register Commentary for contract owners to complete each quarter. We confirmed that it had been completed and kept up-to-date for all of the relevant contracts in our sample i.e. those over £50,000 in value. We were also able to evidence that, for the contracts in our sample, officers with the appropriate authority, skills and knowledge had been involved in the re-tendering of the contract.
10. We were unable to evidence that any lessons learned following the end of a contract have been identified and communicated to other contract owners. Whilst this would not be appropriate for all contracts, the sharing of knowledge, experience and successful outcomes would help other contract owners managing similar contracts.

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

11. 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, together with management's responses and timescales for implementation. Appendix B details the definition of the audit assurance and priority ratings.

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DETAILED FINDINGS AND ACTION PLAN

APPENDIX A

1. Lessons learned	
<p><u>Finding</u></p> <p>We were unable to evidence that any lessons learned following the end of a contract have been identified and communicated to other contract owners and managers. Whilst this may not be appropriate for all contracts, the sharing of knowledge, experience and successful outcomes would help other contract owners managing similar contracts.</p> <p><u>Risk</u></p> <p>Areas of good practice or risks identified from managing a contract may not be identified and communicated to other contract owners.</p>	
<p><u>Recommendation</u></p> <p>The Assistant Director of Governance and the Head of Procurement should put arrangements in place for a lessons learned review to be carried out at the end of a contract, where appropriate.</p>	<p><u>Rating</u></p> <p style="text-align: center;">Priority 2</p>
<p><u>Management Response and Accountable Manager</u></p> <p>This recommendation derives from 23.6 of the Contract Procedure Rules which states the following:</p> <p>23.6 <i>Where the Total Value of the contract exceeds £500,000, the Officer must make a written report to the relevant Portfolio Holder evaluating the extent to which the Procurement need and the contract objectives (as determined in accordance with Rule 5.2) were met by the Contract. This should be done normally when the Contract is completed. Where the Contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent Contract and the authorisation requirements identified in Rule 5.1 and 16.6 above.</i></p>	<p><u>Agreed timescale</u></p> <p>Already in place; Timescale for CPR review to be determined but expected in 2020</p>

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Custom and practice has shown that this requirement has not been adhered to for at least eleven years, and most likely much longer. As part of the 2020 review of Contract Procedure Rules, this specific requirement has been removed – although this is still to be formally agreed by Members, the decision making process having been delayed due to Covid 19 disruption.

Therefore no specific action is proposed for this recommendation at this time, pending finalisation of the revised Contract Procedure Rules.

Instead, the following should be noted:

- i) All contracts with a value of £500k or higher are subject to an annual report to the Portfolio Holder (as per 23.2 of the Contract Procedure Rules which will remain unchanged). This report should cover a range of aspects including performance, compliance with specification and contract and other factors (23.5 of the Contract Procedure Rules). 23.5 can be amended to reflect that consideration of how successfully the Procurement need and contract objectives have been met.
- ii) Similarly, authorisation to proceed to procurement for an existing contract that is coming to the end of its life requires Agreement from the Portfolio Holder if over £500k whole life value via completion of a suitable Gateway report. As indicated in 23.6, such reports should include reference to the effectiveness of the existing contract.
- iii) A quarterly meeting of Contract Owners is already in place and has been meeting regularly since 2019 (currently disrupted due to Covid 19). Prior to this, a quarterly Commissioners meeting was in place for the previous two years. This forum is intended to provide support, advice, guidance, information and discussion on a range of commissioning and procurement topics. Agendas have included presentations from Contract Owners on 'lessons learned' from procurement and contract management activity. This is the most appropriate mechanism to support a learning culture between Contract Owners on procurement matters and is already in place.

OPINION DEFINITIONS

Assurance Level

Assurance Level	Definition
Substantial Assurance	There is a sound system of control in place to achieve the service or system objectives. Risks are being managed effectively and any issues identified are minor in nature.
Reasonable Assurance	There is generally a sound system of control in place but there are weaknesses which put some of the service or system objectives at risk. Management attention is required.
Limited Assurance	There are significant control weaknesses which put the service or system objectives at risk. If unresolved these may result in error, abuse, loss or reputational damage and therefore require urgent management attention.
No Assurance	There are major weaknesses in the control environment. The service or system is exposed to the risk of significant error, abuse, loss or reputational damage. Immediate action must be taken by management to resolve the issues identified.

Recommendation ratings

Risk rating	Definition
Priority 1	A high priority finding which indicates a fundamental weakness or failure in control which could lead to service or system objectives not being achieved. The Council is exposed to significant risk and management should address the recommendation urgently.
Priority 2	A medium priority finding which indicates a weakness in control that could lead to service or system objectives not being achieved. Timely management action is required to address the recommendation and mitigate the risk.
Priority 3	A low priority finding which has identified that the efficiency or effectiveness of the control environment could be improved. Management action is suggested to enhance existing controls.