Contract Management

January 2020

Low Assurance

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Purpose & Scope of Review

The Internal Audit teams in Flintshire County Council and Denbighshire County Council agreed to carry out a joint piece of work looking at the robustness of contract management activity across both Councils. This is to provide assurance to senior management, S151 Officer, Corporate Governance Committee and will be used to inform the Annual Internal Audit Report and Annual Governance Statement.

A questionnaire was issued to staff involved in contract management activity across both councils and the collective results from the questionnaire were used to scope the audit and focus the detailed testing.

Using the results of the staff questionnaire, our review focused on the following:

- If signed contracts are in place for all contracts over £25k and are being actively managed.
- If all contracts over £25k (or renewable contracts less than £25k) are recorded on the Proactis contract management module or other contract management records/systems.
- Whether contract managers have received appropriate training, guidance and support to allow them to effectively discharge their contract management obligations.
- The processes in place to ensure consistency of contract management activity (across contracts managed by individual contract managers and across the council as a whole).
- The inclusion of appropriate performance measures within contracts to facilitate effective contract management.
- The reporting of contract management outcomes through existing management reporting structures.
- The robustness of the Risk Registers in place to support medium and high risk contracts.
- Whether community benefits / social values included in contracts are regularly monitored and actively managed.

Audit Opinion

Our overall opinion is that contract management is not being managed well within the council. In general, staff do not fully understand their roles and responsibilities, key contract management information is not maintained, monitoring meetings are often not being documented, and outcomes are not being reported. Only a couple of service areas could demonstrate that contracts were managed effectively, with information being retained in a central place, notes/minutes of contract meetings being taken, annual certificates checked and outcomes being reported. These officers either had previous experience of managing medium and large contracts or they had received prior training as part of their professional qualification e.g. Design and Construction team.

Signed contracts were difficult to locate because service based contract management registers did not have the functionality to upload a copy. For those services using the Proactis contract management system, there is the facility to save a signed contract within the system, but this is not being used by the majority of services. Staff surveyed indicate that a lack of training on the contract management module is the main reason and although training has been provided, it has not taken place recently due to lack of resources. The Procurement Business Partners are now assisting services to move contracts over £25k, or renewable contracts less than £25k, into the Proactis contract management module.

No corporate contract management training has been provided to staff in recent years and, as a consequence, staff have relied on "on-the-job" training. We noted that only two service areas had produced a contract management training manual, but both manuals had not been revised for several years. The council's Contract Procedure Rules (CPRs) set out the high level requirements for contract management, but staff were not fully aware of them. This has resulting in non-compliance in a number of cases.

The level of monitoring carried out by the services around contract management is inconsistent. Monitoring ranged from no evidence being recorded through to agendas being produced, minutes taken and the closing contract meeting being held. This could be attributed to the lack of corporate contract management training and absence of guidance.

The majority of contract management staff confirmed that they do not complete a risk assessment for each new contract and would, therefore, not consider including high/medium risk contracts onto the service risk register. However, a couple had identified contracts as a high risk and included them on the service risk register. Without a risk register in place for high and medium risk contracts, major risks that are not adequately managed may materialise and result in adverse consequences that, otherwise, could have been avoided.

Staff are not including community benefits and social values into all contracts awarded over £25,000; according to CPRs, community benefits is mandatory for contracts over £1m and encouraged for contracts below £1m. This is an area where staff have not been provided with training and, as a consequence, are not sure what is expected of them. This has resulted in the council missing out on potential community benefits. The Council is in the process of establishing a Community Benefits Hub so the council maximises the community benefits available through procurement.

We conclude that services, in the main, are not complying with contract management requirements often with little or no contract monitoring taking place. In general, outcomes are not being reported and performance measures are not being quantified. Contract management is a recognised corporate issue and features as a Corporate Support Services Review (CSSR) work-stream which will review the current arrangements in order to identify and make the necessary improvements. The results of our review have been shared with the relevant CSSR project team.

We consider that strengthening training, providing guidance notes and improving monitoring arrangements will ensure that the council's contract management arrangements improves to gain the best performance from the council's many contracts. It also ensures suitable evidence is maintained should a contract enter difficulties so that further action can be taken.

Low assurance	Significant weaknesses in management of risks and/or controls that put achievement of objectives at risk.

Action Plan

Audit Review of: Contract Management

Date: January 2020

	Corporate Risk/Issue Severity Key	
0	**Critical** – Significant issues to be brought to the attention of SLT, Cabinet Lead Members and Corporate Governance & Audit Committee	
4	**Major** – Corporate, strategic and/or cross-service issues potentially requiring wider discussion at SLT.	
2	**Moderate** – Operational issues that are containable at service level	

Risk Issue 1	There is a general lack of coordination and central responsibility around the way contract management is being carried out by services.		
Background Detail	Our review highlighted several weaknesses with contract management within services as detailed in this action plan. Overall ownership of contract management across the organisation is unclear, with no one overall responsible for driving organisation-wide contract management performance, consistent arrangements and adherence to CPRs.		
Action (Ref)	**Agreed Management Action**	**Responsibility**	**Deadline**
1.1	Report to SLT highlighting the weakness identified with contract management and non-compliance with CPRs with a view to SLT reviewing arrangements in their own services to ensure: - All contracts are recorded on the Proactis contract management module or other suitable systems (until a decision is taken to replace it); - Signed contracts are obtained for all contracts over £25,000 and held on the Proactis system (or suitable approved contract management system); - Contract management activity is recorded in the contract management module within Proactis, or other method as agreed corporately; - Ensure that the delivery of community benefits is monitored; - Ensure appropriate performance indicators are included within contracts with suitable monitoring of the contractor's performance;	Head of Legal, HR & Democratic Services / Head of Finance & Property	31/03/2020

<td colspan="1" style="background:#F5A800;"></td>	- Ensure that contract risks are considered within the procurement and contract monitoring activity. Also, that significant risks are captured on the service risk register.		

Risk Issue 2	Lack of training and guidance has been identified as an issue for staff who carry out contract management as part of their role and this has occasionally resulted in non-compliance with CPRs.		
Background Detail	Our survey of staff who carry out contract management duties shows that they have not received sufficient corporate contract management training. This has led to staff learning the role whilst performing their jobs and with the support and advice from colleagues which has resulted in inconsistent approaches being developed. This issue has been further compounded by services not documenting their contract management procedures into a user manual. Due to staff not being trained/fully understanding contract management, this has resulted in non-compliance with CPRs.		
Action (Ref)	**Agreed Management Action**	**Responsibility**	**Deadline**
2.1	Ensure staff involved with managing contracts are suitably trained on the Proactis Contract Management module & contract management principles. Training will be rolled out across the council to all staff who are involved in contract management.	Legal & Procurement Operations Manager	31/12/2020 (and ongoing thereafter)
2.2	Flowcharts will be produced to document the stages of contract management and prompt users to complete standard templates attached.	CSSR Commissioning, Procurement & Contract Management Leads	31/03/2021
2.3	A user friendly manual should be developed to provide staff with additional information around contract management.	CSSR Commissioning, Procurement &	31/03/2021

	Contract Management Leads	

Risk Issue 3	All new contracts over £25k (or renewable contracts under £25k) are now moved onto the Proactis contract management module, but services are still storing key contract management information elsewhere, if at all.		
Background Detail	Although all contracts over £25k or renewable contracts less than £25k are now being moved into the Proactis contract management module, key contract management information is not being attached. Services are storing information in various other locations, if at all, and this has meant that key information such as signed contracts are difficult to locate. Staff have received training on using Proactis for its procurement function, but not all staff received training on the contract management module. A programme of training is due to be rolled out across services soon. For this to be effective, monitoring or reporting including an escalation process will be required to highlight where officers are not attaching contract documents/evidence.		
Action (Ref)	Agreed Management Action	Responsibility	Deadline
3.1	Progress with uploading contracts to be monitored via service management teams.	Head of Legal, HR & Democratic Services / Head of Finance & Property	31/03/2020

3.2	A review of the current contract management system (Proactis) to be undertaken to establish if the system is still fit for purpose. If the current system is considered unfit, then a business case will be formed to justify replacement.	CSSR Commissioning, Procurement & Contract Management Leads	31/03/2021
3.3	See also Actions 1.1 to 1.4	N/a	N/a

Risk Issue 4	The level of performance monitoring around contracts is weak with staff not recording meetings, maintaining performance records and completing information around KPIs (key performance indicators).		
Background Detail	A common theme that has been identified across the services is the level of information that is being documented and retained. In the majority of services: agendas are not being produced, minutes are not being taken of meetings held and contract performance is not being reported. The lack of information recorded could make it difficult to take action against a contractor for poor performance as no evidence would be available to demonstrate the contractor had been notified of underperformance.		
Action (Ref)	**Agreed Management Action**	**Responsibility**	**Deadline**
4.1	Review the commissioning form to include a section on KPIs to prompt for their inclusion in relevant contracts e.g. high and medium risk/strategic contracts.	Legal & Procurement Operations Manager	31/03/2020
4.2	To explore the possibility of introducing a system to enable sending out reminders if monitoring is not completed/uploaded.	CSSR Commissioning, Procurement & Contract Management Leads	31/3/2021
4.3	See Actions 1.1 to 1.4. The CSSR work-stream leads will include a review of the commissioning form process.	N/a	N/a

Risk Issue 5	Significant contracts in a number of cases did not have a risk assessment so that major risks identified could be managed accordingly. Without this, major risks could materialise and cause significant impact where it could have been avoided. For those contracts that had been assessed, there is little evidence to show they are updated regularly.		
Background Detail	Discussion with the various services identified the majority of services do not complete a risk assessment for every new significant contract and attach a risk rating. However, those that have assessed their contracts, we noted very little evidence that the contracts were being re-assessed periodically and the risks updated accordingly. In the main, high / medium risk contracts were not being reported to the senior management team, and no contingency measures had been produced.		
Action (Ref)	**Agreed Management Action**	**Responsibility**	**Deadline**
5.1	Review the contract management system for functionality to record contract risks.	CSSR Commissioning, Procurement & Contract Management Leads	31/03/2021
5.2	All risks associated with operating a contract need to be recorded on a pre-contract risk form. The form should follow the RAG rating used by the Strategic Planning & Performance Team.	CSSR Commissioning, Procurement & Contract Management Leads	31/03/2021
5.3	Review that contract risks identified (e.g. within the procurement commissioning form) are considered in the contract specification and contract T&Cs, where relevant. Details to be included in the flow chart (action 1.3) and user guidance (action 1.4).	CSSR Commissioning, Procurement & Contract Management Leads	31/03/2021
5.4	Prompt services to consider contract related risks so that significant risks are captured on the service risk register or corporate risk register where appropriate.	CSSR Commissioning, Procurement & Contract	31/03/2021

	Management Leads & CSSR Business, Planning, Performance Research, Information & Data Leads

Risk Issue 6	Currently, services are not including community benefits into contracts worth between £25k and £1m. Where it has been included, very little monitoring is being carried out.
Background Detail	Similar to the issues raised in our recent review of Section 106 (report issued May 2019), this review highlights that there is no community benefit strategy or policy in place to provide staff with guidance on what is expected of them.
	Community benefits is an area currently being underutilised by services as they have not been properly briefed on what can be included. Those services that have included community benefit have struggled to either use the benefit provided or have not been monitoring the benefit due to lack of knowledge/understanding.
	Discussion with the Framework Manager – Legal, HR & Democratic Services has confirmed these issues have already been identified and the team are looking at how they can best be addressed through the Community Benefits Hub which is being set up.

Action (Ref)	Agreed Management Action	Responsibility	Deadline
6.1	Community Benefit Hub will monitor all community benefits centrally to coordinate and ensure that they are delivered. *Links to Internal Audit review of Section 106 agreements*	Framework Manager – Legal, HR & Democratic Services	31/03/2020
6.2	*See also Actions 1.1 to 1.4*	*N/a*	*N/a*

Appendix 1 – Risk Matrix and Assurance Ratings

Likelihood						5	4	3	2	1
Event is almost certain to occur in most circumstances	>70%	Almost Certain	A							
Event likely to occur in most circumstances	30–70%	Likely	B							
Event will possibly occur at some time	10–30%	Possible	C							
Event unlikely and may occur at some time	1–10%	Unlikely	D							
Event rare and may occur only in exceptional circumstances	<1%	Rare	E							

	5	4	3	2	1
	Very Low	Low	Medium	High	Very High
Service Performance	Minor errors or disruption	Some disruption to activities/customers	Disruption to core activities/customers	Significant disruption to core activities. Key targets missed	Unable to delivery core activities. Strategic aims compromised
Reputation	Trust recoverable with little effort or cost	Trust recoverable at modest cost with resource allocation within budgets	Trust recovery demands cost authorisation beyond existing budgets	Trust recoverable at considerable cost and management attention	Trust severely damaged and full recovery questionable and costly
Financial Cost (£)	<£50k	£50k – £250k	£250k – £1m	£1 m – £5 m	>£5m
Impact					

Levels of Assurance		Definition	Management Intervention
	High Assurance	Risks and controls well managed and objectives being achieved.	Minimal action required, easily addressed by line management.
	Medium Assurance	Minor weaknesses in management of risks and/or controls but no risk to achievement of objectives.	Management action required and containable at service level. Senior management and SLT may need to be kept informed.

		Significant weaknesses in management of risks and/or controls that put achievement of objectives at risk.	Management action required with intervention by SLT.
	Low Assurance		
	No Assurance	Fundamental weaknesses in management of risks and/or controls that will lead to failure to achieve objectives.	Significant action required in a number of areas. Require immediate attention from SLT.

Report Recipients
• Chief Executive Officer
• Head of Business Improvement & Modernisation
• Head of Legal, HR & Democratic Services
• Head of Finance & Property Services / S151 Officer
• Finance & Assurance Manager
• Legal & Procurement Operations Manager
• Strategic Planning Team Manager
• Lead Officer, Destination, Marketing & Communication
• Framework Manager Legal, HR & Democratic Services (report extract)
• Strategic Planning & Performance Officer
• Scrutiny Co-ordinator
• Chair – Performance Scrutiny Committee
• Lead Member for Finance, Performance & Strategic Assets
• Corporate Governance & Audit Committee

Internal Audit Team		
Bob Chowdhury	Senior Auditor	01824 706988 bob.chowdhury@denbighshire.gov.uk

Key Dates	
Review commenced	July 2019
Review completed	September 2019
Reported to Corporate Governance Committee	18 March 2020
Proposed date for 1st follow up review	April 2020