

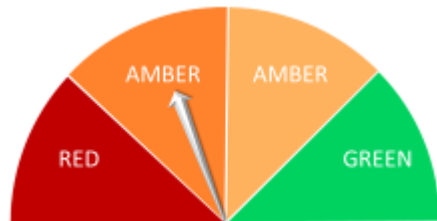
Flintshire Internal Audit

Audit Report

Title: Contract Management
Portfolio: Governance
Issued Dated: OCTOBER 2019
Report No: 47 2018/19
Report Status: **FINAL**

Internal Audit engagements are conducted in conformance with the Public Sector Internal Audit Standards.

Audit Opinion



1 Executive Summary:

Introduction and Scope:

An audit of Contract Management was undertaken as part of the Strategic Internal Audit Plan for 2018/19 to assess the robustness of contract management activity across the Council.

As part of this piece of work we issued questionnaires to staff involved in Contract Management with the aim of identifying good practice, and areas in which there may be opportunity for improvement.

68 questionnaires were issued to Contract Managers of which 38 were returned (response rate 56%). The collective results from the questionnaires were used to scope the audit and focus detailed testing.

The audit focused on the following risks;

- Incomplete Contract Registers impacting on contract awareness and the effectiveness of contract management activity.
- Level of training and resources not supporting effective contract management.
- Inconsistent monitoring of contract performance.
- Inconsistency in the management of contract risk.
- Lack of effective monitoring of Community Benefits / Social Value.
- Lack of effective review and monitoring of sub-contractor arrangements.

Detailed testing focused on a sample of six contract managers (with outcomes of discussion and review compared to the collective questionnaire results) and recognised that within the Council there are examples of good practice (in particular around the civil engineering contracts) as well as areas in which improvements are required.

Some of the findings detailed within the audit report will not apply to all services or all portfolios, but have been included to highlight weakness that have been identified in the sample tested, which we consider may be replicated across a number of services.

Audit Opinion:

In each report we provide management with an overall assurance opinion on how effectively risks are being managed within the area reviewed. Appendix A of the report details our assurance levels:

Assurance:	Explanation
Amber Red - Some	<p>Some Assurance – Significant improvement in control environment required</p> <ul style="list-style-type: none"> • Controls exist but fail to address all key risks identified and/or are not applied consistently and effectively • Evidence of (or the potential for) financial / other loss <p>Conclusion: key controls are generally inadequate or ineffective.</p>

The table below highlights the number and priority of agreed actions to be implemented.

Priority	High (Red)	Medium (Amber)	Low (Green)	Total
No.	0	8	0	8

2 Summary Findings:

Areas Managed Well	Areas for Further Improvement
<ul style="list-style-type: none"> • Increasing number of contracts are now being added to the Proactis Contract Register. • Contract and relationship management is embedded in the day to day 'business as usual' activity carried out by services. • Appropriate and proportionate contract management activity is carried out (although this may not always be robustly documented). • Use of formal construction contracts (JCT & NEC3) provide formal construction management mechanisms. • Contract Managers are generally satisfied with the quality of the 'on the job' training they have received around contract management. • Community Benefits / Social Value routinely included in larger contracts. 	<ul style="list-style-type: none"> • Inconsistency in contract management activity between services and portfolios, with weaknesses in process not being consistently addressed. • No mechanisms for identifying high and medium risk contracts, and ensuring the robustness of contract management around these contracts. • Without robust processes for managing and monitoring community benefits contract managers are not able to provide assurance that community benefits / social value are being appropriately delivered. • Contract Managers are relying on contract clauses to ensure the appropriate management of sub-contractors; use of sub-contractors is generally not considered as part of the contract management process. • Limited evidence of performance indicators being built into contracts. • As a Council we do not have a complete list of all contracts we hold, impacting on the effectiveness of procurement planning and budget forecasting. • Lack of functionality to share contractor performance data on Proactis. • Lack of robust Contract Management training.

3 Action Plan:

Priority	Description
High (Red)	Action is imperative to ensure that the objectives of the area under review are met.
Medium (Amber)	Requires action to avoid exposure to significant risks in achieving the objectives of the area.
Low (Green)	Action encouraged to enhance control or improve operational efficiency.

No.	Findings and Implications	Agreed Action	Who	When
1 (A)	<p>Contract management is a cross portfolio activity which is managed by individual portfolios. There is no overall responsibility for the Council wide development of the contract management function, consequently there is inconsistency in the quality of contract management activity across services and portfolios, with pockets of good practice, and conversely some areas in which improvement is required.</p> <p>With limited sharing of knowledge, experience and best practice between services and portfolios, and no overall responsibility for the development of contract management, weaknesses in process are not being consistently addressed.</p> <p>Proactis is not currently being used to record contract management activity. Some services prefer to use operational systems (Capita One; Technology Forge; Paris, etc.) because they provide greater functionality or integration with the delivery of operational services. Other services are choosing not to use Proactis due to lack of training / system awareness. As such there is inconsistency in the robustness of evidence maintained to support contract management.</p> <p>Whilst community benefits / social value are included in contracts, contract managers are not consistently monitoring outcomes to ensure delivery in line with</p>	<p>Chief Officer, Governance to raise awareness of the weaknesses identified around contract management with the Chief Officer Team.</p> <p>URN 02727</p> <p>Chief Officers to review contract management within their portfolios to ensure;</p> <ul style="list-style-type: none"> • Staff have appropriate skills and experience, and have received appropriate training where required. • All contracts over £25k are recorded on the Proactis Contract Register / all contracts on Proactis e-sourcing have been closed down and 'pushed through' to the Proactis Contract Register. • Signed contracts are in place to support all contracts on the Proactis Contract Register. • Contract Management activity is recorded in the Proactis Contract Management module where appropriate. • The evidence retained to support contract management activity is appropriate and robust. • Delivery of Community Benefits / Social Value is appropriately monitored. 	<p>Gareth Owens</p> <p>All Chief Officers</p>	<p>31.10.19</p> <p>31.12.19</p>

No.	Findings and Implications	Agreed Action	Who	When
	<p>contract (see further details at finding (3)).</p> <p>Contract managers are not seeking robust assurances from main contractors around compliance with contract terms & conditions re the use of sub-contractors (see further details at finding (4)).</p> <p>Aspects of contractor performance (financial performance; operational performance, etc.) are not always considered as part of the contract management process as performance management frameworks / performance data requirements are not being routinely built into contracts (see further details at finding (5)).</p>	<ul style="list-style-type: none"> • Compliance with contract clauses around the use of sub-contractors is appropriately monitored. • Appropriate inclusion of performance indicators / performance data requirements within contract terms and conditions, and appropriate monitoring of contractor performance data. <p>Chief Officers will develop Action Plans for each of their portfolios to ensure any issues identified in the reviews carried out (above) are appropriately addressed.</p> <p>URN 02771 – Colin Everett URN 02772 – Gareth Owens URN 02773 – Claire Homard URN 02774 – Neil Ayling URN 02775 – Steve Jones URN 02776 - Andy Farrow URN 02777 – Neal Cockerton</p>		
2 (A)	<p>Whilst Procurement Commissioning Forms require contract managers to assess the level of contract risk at the start of the procurement process (operational risk; financial risk & reputational risk) there are no mechanisms for capturing and reporting on this data, likewise there are no mechanisms in place for identifying and monitoring risk throughout the delivery of the contract.</p> <p>More robust levels of contract management should be evident around high and medium risk contracts, but with</p>	<p>Inclusion of high / medium risk contracts in the operational risk register templates (currently under development).</p> <p>URN 02713</p> <p>Contract Management outcomes around high / medium risk contracts to feed into Portfolio management reporting structures.</p> <p>URN 02778 – Colin Everett URN 02779 – Gareth Owens</p>	<p>Karen Armstrong</p> <p>All Chief Officers</p>	<p>31.12.19</p> <p>31.12.19</p>

No.	Findings and Implications	Agreed Action	Who	When
	<p>no mechanisms for identifying these higher risk contracts it has not been possible to assess the adequacy of contract management activity in these areas.</p> <p>There is a risk of inadequate contract management around higher risk contracts, and lack of appropriate awareness and monitoring of the risks inherent in the delivery of these contracts.</p>	<p>URN 02780 - Claire Homard URN 02781 – Neil Ayling URN 02782 – Steve Jones URN 02783 – Andy Farrow URN 02784 – Neal Cockerton</p>		
3 (A)	<p>Whilst community benefits / social value are included in contracts, contract managers have confirmed that outcomes are not being consistently monitored to ensure delivery in line with contract.</p> <p>One instance was identified where community benefits have been included in a Framework Agreement, yet processes are still to be developed to monitor delivery of these benefits. In another case two years after contracts have been finalised processes which would allow the contractors to deliver the community benefits have still not been finalised.</p> <p>Without robust processes for managing and monitoring community benefits / social value contract managers are not able to provide assurance that community benefits / social value are being appropriately delivered.</p>	<p>In addition to delivery of the Action Plans developed by Chief Officers following the portfolio reviews agreed at finding (1), and development of Contract Management training agreed at finding (8);</p> <p>Cabinet approval has been received for the appointment of a new role for the management of Community Benefits / Social Value and the purchase of software to support this function. This will ensure appropriate management of Community Benefits / Social Value to ensure;</p> <ul style="list-style-type: none"> • Development of an overarching process for the development of Community Benefits / Social Value, to allow a Council wide approach to addressing need within communities. • Development of monitoring processes at the contract specification stage to provide a clear understanding of how Community Benefits / Social Value will be measured. • Robust monitoring of the delivery of Community Benefits / Social Value to ensure delivery in line with contract. 	Niall Waller	31.12.19

No.	Findings and Implications	Agreed Action	Who	When
		URN 02714		
4 (A)	<p>Whilst formal construction contracts (JCT, NEC3) include mechanisms for the use of sub-contractors by the main contractor (and other contracts for works and services include references to the use of sub-contractors where relevant) contract managers are not seeking assurances (and supporting evidence where appropriate) from the main contractor that these terms and conditions are being complied with, instead relying solely on the inclusion of contract clauses to ensure the main contractor is appropriately managing the use of sub-contractors.</p> <p>Sub-contractor clauses within contracts would typically include reference to notification of changes to sub-contractors; sub-contractor payment terms; development of business continuity plans by sub-contractors; sub-contractor insurance requirements, sub-contractor compliance with Council policies (Equality & Diversity; Health & Safety; Modern Slavery, etc.).</p> <p>In relying solely on the inclusion of sub-contractor clauses in contracts to ensure the appropriate use of sub-contractors, without seeking assurances or evidence that these clauses have been complied with, the Council is failing to robustly manage the potential reputational risk to the Council around the inappropriate use of sub-contractors.</p>	<p>To be addressed through the delivery of the Action Plans developed by Chief Officers following the portfolio reviews agreed at finding (1) and the development of Contract Management training agreed at finding (8).</p> <p>URN 02715</p>	See Para. 1	See Para. 1
5 (A)	<p>Whilst contract management is generally focused on ensuring delivery of outcomes within timescales and budget, there are other aspects of contractor performance which may be relevant to some contracts.</p>	<p>To be addressed through the delivery of the Action Plans developed by Chief Officers following the portfolio reviews agreed at finding (1) and the development of Contract</p>	See Para. 1	See Para. 1

No.	Findings and Implications	Agreed Action	Who	When
	<p>These other aspects of contractor performance (financial performance; operational performance, etc.) are not always considered as part of the contract management process as performance management frameworks / performance data requirements are not being routinely built into contracts.</p> <p>Whilst it is recognised that performance data requirements may not be relevant for all contracts, it is unclear if delivery of outcomes within timescale and budget alone provides the Council with the performance information needed to robustly assess the success of contract delivery and the performance of contractors.</p>	<p>Management training agreed at finding (8). URN 02716</p>		
6 (A)	<p>Whilst an increasing number of contracts are now being added to the Proactis Contract Register, and new processes have been introduced to ensure Purchase Orders (PO's) over £25k are only approved if a contract is in place, there remain a number of contracts over £25k which are not reflected in the contract register.</p> <p>Whilst development of the contract register and the new processes around Procurement Business Partner approval of PO's over £25k are recognised to be 'work in progress', PO approval is based on receipt of a copy contract from the service (who are then advised to update the details onto the Contract Register) Procurement have no control over whether or not services action this advice. Likewise if services submit PO's for invoice value rather than total contract value, these contracts will not be identified by the Procurement Business Partners.</p> <p>In addition to the register being incomplete, a number of entries on the Proactis Contract Register are not</p>	<p>In addition to delivery of the Action Plans developed by Chief Officers following the portfolio reviews agreed at finding (1) and the development of Contract Management training agreed at finding (8);</p> <p>Review of the new processes for the approval of PO's over £25k by Procurement Business Partners to consider if they are robust and effective.</p> <p>URN 02722</p>	Gareth Owens	31.12.19

No.	Findings and Implications	Agreed Action	Who	When
	<p>supported by copies of signed contracts.</p> <p>There is no evidence that Contract Registers are maintained at portfolio / service level to manage contracts which are not reflected in the Proactis Contract Register.</p> <p>As a Council we do not have a complete list of all contracts we hold, impacting on the effectiveness of procurement planning and budget forecasting.</p>			
7 (A)	<p>Whilst a supplier performance management template is currently under development by the Procurement team (for completion by Contract Managers at the close of contract) there is no functionality within Proactis to share this supplier performance information across services / portfolios to inform future procurement exercises.</p> <p>Likewise there is no scope to share the results of resident satisfaction questionnaires, or concerns arising from complaints received by the Council.</p> <p>Whilst the completeness and quality of the data on the Proactis Contract Register makes it difficult to determine whether multiple services are placing contracts with the same supplier, review of ledger spend suggests there is cross service / cross portfolio spend with contractors.</p> <p>The lack of functionality to share performance data has the potential to impact on the appropriateness of procurement spend.</p>	<p>A more detailed piece of work is required to establish the extent of any issue and to determine if any further action is required, this piece of work will be scoped out in conjunction with the Procurement team.</p> <p>URN 02724</p>	Gareth Owens	31.12.19
8 (A)	<p>There is inconsistency in the level of contract management training received by Contract Managers, with training limited to 'on the job' training and external training designed to support the use of formal construction contracts (JCT, NEC3).</p>	<p>In addition to delivery of the Action Plans developed by Chief Officers following the portfolio reviews agreed at finding (1);</p> <p>Development of a formal training programme</p>	Gareth Owens	31.03.20

No.	Findings and Implications	Agreed Action	Who	When
	<p>Whilst training has been delivered on use of the Proactis Contract Management module, this training has not been rolled out to all contract managers, and supports use of the Proactis Contract Management module rather than the contract management function.</p> <p>A lack of robust Contract Management training may result in inconsistency in the delivery of contract management activity and inconsistency in the evidence retained to support this activity.</p>	<p>for contract managers to ensure;</p> <ul style="list-style-type: none"> • Appropriate awareness of the issues to be considered in ensuring effective delivery of Community Benefits / Social Value. • Appropriate awareness of the risks around the use of sub-contractors in the delivery of contracts & understanding of the activity which should be carried out as part of the contract management process to ensure terms and conditions around the use of sub-contractors are being complied with. • Appropriate awareness of the use of performance indicators / performance data requirements within contract terms and conditions & the robustness of processes in place for the validation and monitoring of performance data. • Appropriate awareness of the requirement to include all contracts on the Proactis Contract Register and to ensure a robust understanding of the processes for uploading signed contracts onto Proactis. • Use of the Proactis Contract Management module. <p>URN 02726</p>		

4 Distribution List:

Name	Title
Gareth Owens	Officer Responsible for the Implementation of Agreed Actions
Colin Everett	Chief Executive
Andy Farrow	Chief Officer – Planning; Environment & Economy
Claire Homard	Chief Officer – Education & Youth
Gareth Owens	Chief Officer - Governance
Neal Cockerton	Chief Officer – Housing & Assets
Neil Ayling	Chief Officer – Social Services
Steve Jones	Chief Officer – Streetscene & Transportation
Karen Armstrong	Business & Communications Executive Support Officer
Niall Waller	Enterprise & Regeneration Manager

Appendix A – Audit Opinion:

The audit opinion is the level of assurance that Internal Audit can give to management and all other stakeholders on the adequacy and effectiveness of controls within the area audited. It is assessed following the completion of the audit and is based on the findings from the audit. Progress on the implementation of agreed actions will be monitored. Findings from **Some** or **Limited** assurance audits will be reported to the Audit Committee.

Assurance	Explanation
Green - Substantial	<p>Strong controls in place (all or most of the following)</p> <ul style="list-style-type: none"> • Key controls exist and are applied consistently and effectively • Objectives achieved in a pragmatic and cost effective manner • Compliance with relevant regulations and procedures • Assets safeguarded • Information reliable <p>Conclusion: key controls have been adequately designed and are operating effectively to deliver the key objectives of the system, process, function or service.</p>
Amber Green – Reasonable	<p>Key Controls in place but some fine tuning required (one or more of the following)</p> <ul style="list-style-type: none"> • Key controls exist but there are weaknesses and / or inconsistencies in application though no evidence of any significant impact • Some refinement or addition of controls would enhance the control environment • Key objectives could be better achieved with some relatively minor adjustments <p>Conclusion: key controls generally operating effectively.</p>
Amber Red – Some	<p>Significant improvement in control environment required (one or more of the following)</p> <ul style="list-style-type: none"> • Key controls exist but fail to address all risks identified and / or are not applied consistently and effectively • Evidence of (or the potential for) financial / other loss • Key management information exists but is unreliable • System / process objectives are not being met, or are being met at an unnecessary cost or use of resources. <p>Conclusion: key controls are generally inadequate or ineffective.</p>
Red – Limited	<p>Urgent system revision required (one or more of the following)</p> <ul style="list-style-type: none"> • Key controls are absent or rarely applied • Evidence of (or the potential for) significant financial / other losses • Key management information does not exist • System / process objectives are not being met, or are being met at a significant and unnecessary cost or use of resources. <p>Conclusion: a lack of adequate or effective controls.</p>