

**Manchester City Council
Report for Information**

Report to: Audit Committee - 25 January 2018

Subject: Improving Contract Management and Governance

Report of: City Treasurer

Summary

This report provides Audit Committee with an update on progress to improve contract management within Manchester City Council. This follows Committee discussion of this topic at the meeting of 23 June. The report describes the current situation, the principal areas for improvement, progress to date and priorities ahead.

Recommendations

That Audit Committee note the assessment of areas for improvement and proposed actions to deliver a Contract Management Improvement Plan.

Wards Affected:

All

Contact Officers:

Lucy Makinson
Head of Integrated Commissioning
l.makinson@manchester.gov.uk

Background documents (available for public inspection):

Internal Audit reports to Audit Committee 2016/17 and 2017/18

1. Introduction and Background

- 1.1. In June 2017 Audit Committee recorded concern about contract management and governance. This was prompted by a reference to a number of audit opinions and associated risks reported to Committee over the last 12 months that had raised concerns in respect of contracts and contract management. These included reports on: Foster Care Contract Management Framework; Contract Creation and Formalisation; and a Highways Reactive Maintenance Review.
- 1.2. Audit Committee agreed that this should be more closely examined in detail, with a report from the Executive Member and Director. However, the Committee also recognised the challenges arising from the distribution of responsibilities across the whole organisation. The Committee also expressed significant concern at the lack of compliance with existing requirements for the formalisation of contract agreements.
- 1.3. The Committee made the following specific recommendations:
 - To receive a report from the relevant Executive Member and Director about the recommendations and actions taken to improve contract management and governance.
 - To receive a report on the recommendations of Internal Audit to improve the Council's contract creation and formalisation processes.
- 1.4. This report has been produced in response to these recommendations.

2. The Current Situation

- 2.1. In the 2017 Core Budget Report, the Council established a new Integrated Commissioning function, to drive efficiency and improvement in commissioning and contract management, and give contract management a more commercial focus. The team came into existence in September 2017 and consists of one special grade officer, three project managers and the Head of Integrated Commissioning. This team works closely with colleagues across all directorates and across the Core with teams in finance; procurement; performance; performance, research and intelligence; and audit and risk management. A key role of the Integrated Commissioning function is to develop, drive and support improvements in commissioning arrangements across the Council and with partners and suppliers.
- 2.2. Whilst there has been a considerable focus across the Council on improving procurement and driving value from contracting and commissioning in recent years, there has been less emphasis on ensuring effective contract management is in place. The City Treasurer commissioned a review of contract management across Manchester City Council which culminated in Strategic Management Team ("SMT) agreeing an action plan in July 2017. This was based on discussions with colleagues, Internal Audit reports and existing performance and contract data.
- 2.3. The summary case for improvement from SMT was:

- 2.3.1 The Council is buying services that are critical to delivering the City's goals and performing the Council's duties. The value and volume of contracts presents an opportunity for the Council to use its leverage to achieve strategic goals for the City, deliver the budget plan and to drive public service reform.
- 2.3.2 The value and volume of contracts across the Council should be managed to high standards and achieve value for money, given the taxpayer sums involved. Risks should be managed and flagged to the City Treasurer. The need for improvement in this areas was highlighted in a number of internal audit reports that noted issues with the effectiveness of contract monitoring (see Annex A).
- 2.3.3 There is evidence that contract management is often a challenge. In a review of public sector approaches¹, the Chartered Institute of Public Finance and Accountancy ("CIPFA") noted that contract management deserves more attention than it receives; that investment in contract management brings considerable benefits; that individual contracts need to be managed strategically; and it is essential to get the basics right. Ernst and Young's public sector-wide analysis ²found that the gains achieved through good procurement begin to diminish after three years of a contract, and earlier without good contract management. The NAO published successive reports³ on commercial and contract management in the public sector, with recommendations for best practice.
- 2.3.4 There are strengths and weaknesses in the current arrangements across the Council. Contract management is currently the responsibility of directorates, which enables the commissioning and management of external providers to be part of and close to front-line services. This is in itself a strength. Many contract officers are experienced and knowledgeable of their business areas, and have established relationships with providers/suppliers. However, each directorate takes a different approach to contract management. While there are Key Principles of contract management across the Council, these are simply principles. There are no common standards, systems, processes, data and reporting requirements, or guidance. Further, the lack of an IT contract management system drives inconsistency and cost, with the monitoring of contracts and production of data for contract performance being very labour-intensive and does not lend itself to the production of timely information or overview to support strategic decision-making and review.
- 2.4. Inevitably, a report on areas for improvement may focus what works less well, and it is important to recognise successes. There are many examples

¹ CIPFA: The case for commissioning and procurement transformation in English local government, 2015

² Ernst & Young work with MCC 2010-12 on contract management; Ernst & Young: Supporting local public services through change Contract optimisation, Nov 2012

³ eg Nov 2016, NAO: Commercial and contract management: insights and emerging best practice

of good practice across the Council including contract management of the £345k pa Employee Assistance Programme, officers' approach to scrutiny of the Council's catering contract and the Energy Management team's processes for parting company with providers if they persistently fall short on service or price. Where established, Lead Commissioners / Contract Management Leads in Directorates have been instrumental in raising standards, for example in collating contract registers, reducing duplicative contracts, increasing tendering of expiring contracts and providing support and challenge on contract performance.

3. The principal areas for improvement

Strategic Oversight

- 3.1. Current arrangements do not enable the Council to provide strong strategic direction over commissioned services in a consistent manner. Contract management is led from directorates, which has the valuable advantage of keeping it close to the business and those who best understand the services being delivered, but arrangements do not currently ensure a collective, cross-cutting perspective and the pursuit of city-wide priorities. There is little formal strategic governance and cross-cutting information on or oversight of contracts, except ad hoc, below SMT. Further, data on contract performance is not collected in a consistent or comparable way, making it hard for senior officers to take a strategic view; eg it is very difficult to produce a report that analyses MCC spend by supplier, contract and business area.

Governance

- 3.2. There are examples of gaps in accountability: it is not always clear who "owns" a contract and is responsible for ensuring the contract is implemented and that the processes to deliver it are in place. The processes for the execution of contracts have not always been applied. These were issues noted in the Internal Audit of Contract Creation and Formalisation which is referred to in section four below.

Systems and Processes

- 3.3. The Council's systems do not align to the information needed to manage contracts effectively, requiring staff to set up standalone spreadsheets and other records, which are labour intensive to maintain, not easily accessible and are not linked to work processes, such as SAP for payments, or common reporting systems.
- 3.4. Approval of payments is not automatically linked to contract management, which itself creates risk. As noted in Internal Audit reports, the Council's contract management processes are not prescribed, and so are inconsistent, which increases risk of error and poor governance and is inefficient.

Supplier/provider management and contract monitoring

- 3.5. Basic standards for management and monitoring of contracts and suppliers could be defined and communicated more clearly. Internal Audit have found several instances of contracts in place without data reports on provider

performance, verification of key performance indicators, infrequent meetings with providers, and payments made without checking the contract position. There are examples of a gap in implementation between what has been agreed in the contract, and what is monitored rather than monitoring of providers being against a contract in a pre-established and systematic fashion.

- 3.6. The Council's monitoring of providers is partial, both in coverage (not all providers) and in scope (sometimes focusing on inputs and activity rather than outputs and outcomes). Contract performance measures and monitoring of providers should cover activity, outcomes and spend, planned against actuals.
- 3.7. To manage providers effectively, it is critical to forecast and monitor activity, expenditure and outcomes together, and to review this with providers. However, within the Council, data on these three can be inconsistent and owned by different people and systems; consequently, contract management officers are rarely in position to be authoritative across the board. There are gaps in both strategic and operational management of suppliers, and in the assessment of who the Council's strategic suppliers are.
- 3.8. At times there can be a gap between the operational data and what is needed for strategic planning and assessment of value for money. For instance, there is lack of annual reporting on provider performance that covers all aspects of performance, analysis and recommendations for the year ahead.

Resourcing and Capability

- 3.9. For most effective results, a blend of contract management skills and knowledge of the front line business is required. In many Council contract management teams, resources are stretched and teams lack the complete set of skills to manage across the full lifecycle of a contract. There are limited opportunities for sharing good contract practice across directorates, nor a formal professional development route for contract officers.

Contract Design

- 3.10. In some cases not enough thought is given at design stage to how the operation and management of the contract will operate in practice. For example, operational key performance indicators can be weak, insufficiently linked to service goals or sometimes not in place. There are instances of lack of clarity over the respective responsibilities of the Council and provider under a contract, for example conforming who is responsible for executing financial provisions, such as applying volume discounts. In some contracts it is not clear whether old or new terms apply, where a service continues across two periods.

4. Internal Audit Report: Contract Creation and Formalisation

- 4.1. The limited assurance Internal Audit report on Contract Creation and Formalisation noted a general lack of compliance with existing requirements

over the formalisation of contract agreements and signing authority as set out in the Council's Constitution and Contract Procurement Rules. Whilst in the main, this was not seen as a high risk issue affecting the continued operational delivery of contracts, there was recognition that the existing process requirements were impractical and capacity issues prevented quick turnaround of contracts.

- 4.2. Areas for reported improvement included the need to obtain assurance over the completion of contract sign-off as this was not evident in the samples tested. There was also some confusion over the definition of a signed contract and responsibility and accountability for the contract 'sign off' stage was not consistently understood. The process for legal sign off needed to be more clearly defined with set timescales for completion and for consideration of relative risks that might require a greater or lesser extent of Legal Services oversight on contract completion. Testing showed that significant delays existed in completing the formal sign off stage.
- 4.3. In support of this report and to explore practical and feasible options to address risk, Internal Audit facilitated a workshop with Legal Services and Corporate Procurement which generated a number of potential areas where improvements could be made which included proposals around:
- risk profiling of upcoming contracts to understand specialist input requirements;
 - earlier notification, timetabling and communications leading to better engagement and more effective work planning;
 - amendments to financial regulations and delegated authority to reflect a more risk based approach to contract sign off;
 - including contract creation and formalisation requirements in contract specification documents and guidance and clearly setting out the importance of early engagement and collaboration between legal, procurement and the contract owner;
 - further development of contract registers; and
 - use of standardised contract documents for more straightforward contracts.
- 4.4. There have been delays in finalising proposed actions but there is now a commitment as part of the final report for the Head of Legal Services and the Head of Corporate Procurement to develop an improvement action plan for approval by the City Solicitor and City Treasurer to address areas of non-compliance identified in this audit.
- 4.5. Whilst the points noted above are the outline areas for focus, a final improvement plan is proposed for completion by the end of January 2018 and implementation of the agreed plan actions is proposed by the end of June 2018. Monitoring of the completion of these actions will be undertaken as part of ongoing Internal Audit and Integrated Commissioning engagement and as part of the Internal Audit recommendation monitoring process which includes quarterly updates to Audit Committee.

5. Improvement Programme: Progress to date and next steps

- 5.1. The improvement plan agreed by SMT on 4 July consists of seven work streams, against which the following progress has been made and next steps are planned:

Developing common standards and guidance for contract management

- 5.2. There is a requirement to confirm minimum standards of operation and to embed a common approach to allow strategic decision making. These standards are being developed through seven design workshops with practitioners (six completed) and have resulted in new templates, tools and guidance that have been rolled out to contracts staff in directorates for testing (see Annex B). These cover:
- governance and accountability for implementation, management, compliance with and oversight of contracts;
 - contract design, including: risk and benefits management, KPIs, payment by results, outcomes focus, social value;
 - products, processes and systems for monitoring contracts, payments approvals, reporting, and ensuring compliance with contract terms;
 - reporting, data and analysis for decision making at operational and senior levels; and
 - supplier management and contract monitoring.

Support and assurance on existing contracts

- 5.3. A key objective of the Integrated Commissioning Team has been to support Directorate Commissioning and Contract Management leads on their existing contracts to address risk, support delivery and increase value for money.
- 5.4. To date, work has been carried out with several directorates to provide support on specific priorities and on a systematic approach to improvement. Work is already underway in the following areas:
- Negotiations with external fostering agencies for Children's Services
 - Fee negotiations for social care contracts for 2018/19.
 - Planning the commissioning and procurement of social care contracts that must be in place by April 2019
 - Forward Planning for commissioning and renegotiation of Children's Services contracts
 - Systems for monitoring social value in contracts.
 - Monitoring the car parking contract.

Delivering Social Value:

- 5.5. As part of this work, guidance and support tools for the delivery of Social Value is being produced for MCC commissioners and contract managers. A workshop with key commissioners took place in November to consult with practitioners and to kick off a codesign approach. The workshop considered what worked well and less well now; where the gaps were; how to implement standards for social value in commissioning and contract management; and what should be in the guidance /toolkit that would help staff at each stage of the commissioning, procurement and contract process.

- 5.6. Since then, a number of standards, tools and guidance for commissioners and contract managers have been developed and are in testing, which set out how to identify and track the delivery of social value in contracts. Further tools and guidance are in development (eg Annex B). A working group is taking this forward. The social value commissioners toolkit is due to be launched in the spring this year.

Assurance reporting

- 5.7. New reporting and monitoring arrangements are being developed for directorate management teams and SMT. These include (i) a Forward Commissioning and Contracts plan that will a clear overview of externally contracted services, with a focus on those of strategic importance, and (ii) a quarterly assurance report to on the performance of those services. A prototype Forward Commissioning Plan is being piloted by Children's Services prior to wider adoption. On (ii) the focus has been on contract/supplier performance dashboards and risk management tools. The major constraint has been in quality of data, arising from significant weaknesses in systems and processes. The next steps are to test the assurance reports with real data.

Management and accountability arrangements for social care contracts

- 5.8. Work has been carried out with social care and health colleagues to develop arrangements for the management of and accountability for social care contracts. This has been done in support of the integration of health and social care, to help meet Council accountability requirements, and build the platform for future and further integration. This work is overseen by the Health and Social Care Commissioning Group chaired by Dr Carolyn Kus, Executive Director for Strategic Commissioning (MHCC) and Director of Adult Social Care Services (DASS).

Developing ICT capability to support good contract management

- 5.9. Improved ICT systems and capability are required to support contract management, to ensure an effective interface between operational workflow, outcomes, financial management, and payments systems. This has been an issue raised through past Internal Audit reports and there are two principal requirements:
- Systems that will record and track contract lifecycle processes, such as a contract register, recording the relevant parties to contracts, key dates for action and renewal.
 - ICT capability that will support the performance management and assurance of contracts, such as monitoring expenditure and performance against contracts.
- 5.10. This work forms part of the ICT investment plan. ICT and Integrated Commissioning officers are in discussion and have started work on defining the requirements for a contract management solution. By the end February 2018 officers will produce a timetable for design, procurement and delivery of a solution.

- 5.11. In addition, officers have explored the option of a small adjustment to SAP to capture contract reference data in relation to all payments, which would enable the tracking of expenditure against contracts. ICT will start the work on SAP at the end of April 2018.

Develop contract management officers to build professional expertise

- 5.12. There is a need to ensure the appropriate skills and expertise are in place across the Council to ensure that improved commissioning and contract management practice and capability can be developed and embedded. Learning and development options need to be developed in a number of areas: (i) Minimum information for all staff, potentially as part of regular induction; (ii) Practitioner standard training for all staff who have a contract management role; (iii) Advanced practitioner standard for staff running complex and/or high value contracts - potentially Apprenticeship or certificate awarded by an industry body; (iv) Top-up / refresher training regularly for all staff involved in contract management.

- 5.13. In conjunction with HR colleagues, proposals are being explored to help develop arrangements that will:
- offer a career pathway in commissioning, procurement and contract management;
 - make a standard learning and development offer to all staff and provide focused training for those in commissioning, procurement and contract management roles;
 - provide opportunities for networking and sharing best practice across the organisation, breaking down departmental silos; and
 - specify skills requirements and skills audits for those working in commissioning, procurement and contract management.

Deploy staff from a small corporate team

- 5.14. The majority of the Integrated Commissioning team was in place by the beginning of September 2017 and the team will continue to develop corporate and directorate support in line with the above and future priorities.

6. Future Priorities

- 6.1. The second phase of the work is being developed into a road map and plan. It includes:

Ensuring effective strategic oversight

- 6.2. Supporting directorate management teams and SMT to have a clear forward programme of commissions and contracts in order to shape these in line with strategic objectives; and an overview of the performance of externally contracted services. The new Forward Commissioning and Contracts Plan, contract management standards and guidance, assurance reporting and improvement plans will provide clearer oversight, but this needs to be underpinned by a cultural change where more emphasis is placed on these areas. New accountability arrangements are being agreed and this will form an important part of the next iteration of the Council's Medium Term Financial Plan.

Supplier management and contract monitoring

- 6.3. The Integrated Commissioning team will continue to work with Directorates during 2018 to:
- support specific priority contracts, including those identified as high priority by Internal Audit. The 2018 workplan is yet to be finalised but will include: contracts for external residential care for Children's Services; forward planning and contract management improvement of education contracts; planning the commissioning and procurement of social care and public health contracts that must be in place by April 2019; working with Highways on their contract management improvement plan; and the future Leisure contract.
 - implement new contract management standards (underway);
 - support implementation of directorate contract management improvement plans; and
 - introduce a systematic approach to addressing risk, supporting delivery and increasing value for money. This will build on directorates' own assessment of risk and performance, Internal Audit recommendations and savings objectives, on a rolling quarterly/monthly basis as risk profile requires - identifying and planning handling of high risk contracts, opportunities for innovation and improvement, and savings.

Systems and processes

- 6.4. Priorities are (i) working with directorate contract leads and corporate functions including finance, payments, procurement and legal to implement efficient and standardised processes, and (ii) working with ICT to implement ICT functionality and streamlined business processes, as part of the implementation of the contract standards. Timetable for delivery to be produced next February 2018.

Resourcing, skills and capability

- 6.5. Building of skills and capacity building a professional network to facilitate job moves, share experience and spread best practice and deploying staff from the small corporate team to bring additional capacity and expertise to support directorates. Work is being carried out with colleagues in HR and across GM with the aim of establishing a learning and development programme for 2018/19.

Contract design

- 6.6. The new contract management standards, templates and guidance, improvement plans and training offer will provide a model, but will only be as effective as the quality of implementation. Senior officers in directorates and cross cutting corporate functions will have a critical role in overseeing implementation and quality assurance.

Savings

- 6.7. The budget includes a savings target of £1.5m to be achieved through improved contract management and procurement with a target of £750k for 2018/19. Tracking and delivering this target for 2018/19 is a key priority.

7. Conclusion

- 7.1. Officers have analysed the scale and nature of the challenges facing the Council in contract monitoring, and developed a Contract Management Improvement Plan, focusing on seven priorities. This report sets out a wide range of positive benefits that will result from improvement and delivery of these seven key priorities. Implementation will be a challenge and will take senior leadership, staff effort and resource, investment in systems and training, and the resource of the dedicated Integrated Commissioning team, to drive change.

8. Recommendation

- 8.1. That Audit Committee note the assessment of areas for improvement and proposed actions to deliver a Contract Management Improvement Plan.

Annex A

Summary: Internal Audit recommendations on contract management

Theme	Current challenges	Priorities for improvement	Audit source report
Governance	Current delegated organisational model for contract management has the advantage of being front-line focused; but disadvantage is inability to take cross-cutting overview.	Governance and data to enable corporate and strategic decision making Clearer accountability for implementation of contracts and their oversight	Contractor Selection and Award - FRIF* Contractor Selection and Award - MSIL* Highways Reactive Maintenance Review Contract Management Audit on North West Foster Care
Contract design	Operational KPIs not always specified at design stage, leading to weak KPIs insufficiently linked to service goals and outcomes Responsibilities under the contract, eg for executing discounts or which terms apply, not always clear.	Decide outcomes and design KPIs, derived from outcomes, up front Clearer responsibilities under the contract	Contract Management Audits on: <ul style="list-style-type: none"> - Public health contracts - North West Foster Care - ICT - Fleet Management - Waste Contract PPIs - Leisure Contract Management
Processes and systems	Inconsistent processes, formats and impact in contract management, e.g. monitoring data, payments approvals. Systems do not automatically or easily link data on activity, outcomes and expenditure Gaps in accountability for implementation and oversight of contracts	Clearer accountability for implementation of contract terms Develop standard products and processes. Review critical processes on LEAN basis Systemic solutions	Contract Management Audits on: <ul style="list-style-type: none"> - North West Foster Care - Fleet Management - Public Health Contract Management Contractor Selection and Award - MSIL Highways Reactive Maintenance Review

Data and reporting	Data on contract performance are not comparable, making both strategic perspective and day to day operation difficult. Inconsistent data in contract management, e.g. contract register data; contract monitoring data	Data to enable strategic decision making Be clearer about what information and data is required for operational management and what for strategic planning and assessment of value for money. Common performance dashboard	Contract Management Audits on: - Utilities Management - Fleet Management - Leisure - Waste Contract
Supplier management and contract monitoring	MCC sets out principles for contract management, but not detailed guidance or examples, e.g. in verification of KPIs, monitoring of providers, and expenditure. Inconsistent application of principles.	Develop standard products and processes. Clearer accountability for oversight of contract Forecast and monitor activity, expenditure and outcomes together, reviewing regularly with providers	Contract Management Audits on: - North West Foster Care - Fleet Management - Public Health Contracts - ICT - Facilities Management Contract Selection and Award – FRIF Highways Reactive Maintenance Review North West Construction Hub Performance Management
Resources and skills	Some teams are very stretched Not always clear about what skills required	Communicate the new standards; provide training and professional development	Contract Management Audits on: - North West Foster Care - ICT

*FRIF - Family Resource and Intervention Framework (aka Troubled Families)

*MSIL - Manchester's Service for Independent Living (formally MEAP)

Annex B

Developing common MCC standards and guidance for contract management: Templates, tools and guidance: developed and in development

	Already developed	In development
The first stages of commissioning	<ul style="list-style-type: none"> • Guidance on reviewing an existing contract as it reaches the end of its original lifecycle • Flow charts and timetable for getting from commissioning to procurement • Checklist, guidance and template for writing a specification • Guidance on designing KPI • Social value toolkit for suppliers • Pre tender form 	<ul style="list-style-type: none"> • Social value toolkit for staff (Social Value sub group) • Training specification
Tender & procurement	<ul style="list-style-type: none"> • Procurement guidance • Procurement quote template 	
Contract implementation	<ul style="list-style-type: none"> • Template for a brief to operational staff on a contract (the Operational Brief) 	<ul style="list-style-type: none"> • Implementation plan template • Delivery plan template • Training specification
Contract management	<ul style="list-style-type: none"> • Model contract register for use in all directorates • Guidance on holding contract reviews • Template for annual report on contract performance, including social value 	<ul style="list-style-type: none"> • Dashboard for reporting on contract performance • Contract monitoring documents • Training specification

