

Agenda Item No: 7

Report To: Audit Committee

Date of Meeting: 27th September 2018

Report Title: Contract Management – Update September 2018

Report Author & Job Title: Tracey Butler, Head of Environment and Land Management and Martin Murphy, Managing Director, SCMG
Portfolio Holder: Cllr. Shorter and Cllr. Galpin.

Portfolio Holder for: Property and Projects



Summary: Following internal training, a review of contract management and extensive analysis of spend and supplier information has been conducted. This paper presents the progress to date and the forward plan to develop a more proactive category based procurement and contract management lifecycle approach, to improve the structure, management and delivery of contracts.

This approach includes improved processes and tools for Project Managers and individuals managing contracts. There will also be a new Contract Manager role to provide proportionate direct and indirect support. This will facilitate a change in approach and behaviour to develop a corporate strategy and focus on improving contract performance and reducing cost across the authority.

Recommendations: **The Audit Committee is recommended to:-**

I. Endorse the proposed Contract Management Strategy and new approach.

Policy Overview: Current approach and practice to Financial Standing Orders of the Council in relation to managing contracts.

Financial Implications: Investment required in new role of Contract Manager circa £60k (incl on costs) total cost per annum.

Legal Implications: The strategy and investment in new capability and capacity will provide a more robust approach to Contract Management in terms of improved processes and skills. This will reduce the risk associated with managing complex contracts and a proportionate approach to risk with a focus on continuous improvement and cost reduction.

Equalities Impact Assessment: Not applicable individual procurement to have their own EIA.

Exempt from Publication: NO

**Background
Papers:**

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Introduction and Background

1. As part of the appraisal process in March 2017, HR identified a number of individuals that had highlighted and requested a need for more in depth training on contract management.
2. That training was included in the annual training programme produced by HR and sourced through “Understanding Modern Gov”; a comprehensive public sector training provider.
3. Contract management training (entitled The Principles of Successful Contract Management) was provided in December 2017, through Understanding Modern Gov by a company called SCMG, specifically Martin Murphy, the Managing Director. Over 20 participants attended from across the organisation.
4. The feedback from the training indicated it was extremely useful, was very clear on identifying the need for contracts, their structure, commissioning, end of life and covered points identified as skills gaps by attendees. However, the training also identified that understanding of the importance of contract management lifecycles and advice available to those creating and managing contracts could be variable, based on experience. It was identified that a better defined corporate approach and a formal source of advice would align corporate contract management, reducing variability solely based on experience and improve whole project understanding.
5. Based on this feedback, Martin Murphy from SCMG was commissioned to undertake a contract management review for Ashford Borough Council, which reported back in late March 2018.
6. The overarching themes from the review included the facts that; there are elements of good practice in several areas, many of the essential elements of good contract management were in place e.g. contract standing orders, a published contract register and quarterly spend published via the authority’s own website transparency pages, large contracts are managed well at a local level by services or delivery managers.
7. Nonetheless, there was room for improvement. As we have become such a commercial and entrepreneurial council, some staff have become contract managers by default rather than by design (this is not unusual and is a familiar pattern in a range of public organisations). This meant that we have some very experienced and knowledgeable contract managers, who are generally managing the more complex and high value contracts and were held up as exemplars of good practice. These included the Housing Performance Manager managing the PFI contract on Stanhope, the Development and Regeneration Manager and team working on some of our housing projects and the Environmental Contracts and Enforcement Manager, managing the Biffa refuse, recycling and street cleansing contract.

8. Due to our drive to be commercial and entrepreneurial, we have some roles and some service areas in the council that in recent years, through service evolution, have been faced with contract management for the first time.
9. In circumstances where a service may need expert advice to perform a function that becomes a part of your role, e.g. budget management, you would expect to be able to take advice from a service accountant. However, in the case of contract management, it became clear that some roles that had evolved to take on contract management by default, did not have a central point or resource from which to gain knowledge and support but instead drew upon colleagues own previous experience or developed on a self-help basis.
10. The review also undertook a high level spend analysis based on published data for the previous year and reconciled this against contracts in place, to review where contracts could or should be utilised. This examined where advantage had been taken of "roll over" clauses rather than going back to the market and what this meant for driving best value, either at tender or in the life time of the contract, through seeking contract improvements and innovation. The review considered where most focus should be provided going forwards.
11. It is important to note that through the review no practices were identified that stepped outside of contract standing orders or outside of the terms of the contracts themselves. This review adopted an approach to identify where good practice could be extended from contracts that are being proactively managed to the larger number of medium and lower risk and value contracts, where the approach is less formal and robust versus a corporate approach. In these cases, decision making is devolved to services or individuals but with less emphasis on improvements or innovation and what those improvements may look like between different types and categories of contracts.

Current Position

12. From the review, a proposal was constructed to implement improvements in contract management. The proposal included the identified need for the role of a Contract Manager to oversee the contract lifecycle process. This role will advise on contract management across the council, with particular regard to those of highest value or greatest longevity where intervention could drive innovation and contract savings / provide added contract value over a longer period. The proposal was phased to ensure the work could progress as quickly as possible, some before and some after the appointment of the proposed new role. The key tasks of the proposal appear below;

#	Stage Description	Timescale*	Key Tasks
1	Develop and support further development of the Contract Register	Month 1 (May)	<ul style="list-style-type: none"> • Fully populate existing contract register, • Ensure current version on website, • Identify contracts that should be on Register, • Identify "contracts" that do not need to be on the Register

2	Contract and Spend Analysis	Month 1 & 2 (May & June)	<ul style="list-style-type: none"> • Tender Wave Plan, • Undertake spend analysis, • Review contract values and annual spend, • Identify Spend Categories,
3	Segment Contracts	Month 3 (July)	<ul style="list-style-type: none"> • Risk / Value analysis at Category level, • Segment Contracts (e.g. A, B and C), • Top "20" Suppliers,
<i>Planned break to accommodate recruitment process lead times.</i>			
4	Develop Contract Management Lifecycle model for ABC	Month 4 (September)	<ul style="list-style-type: none"> • Develop and agree lifecycle model, • Define procedures and collateral to support individual stages,
5	Organisational Review (Procurement and Contracts)	Month 5 (October)	<ul style="list-style-type: none"> • Target Operating Model, • Review Resources and develop organisation model for Supply Chain (Procurement and Contracts), • Roles and Responsibilities,
6	Contract Management Strategy	Month 6 (November)	<ul style="list-style-type: none"> • #1 to #5 consolidated and presented as ABC "Contract Strategy".

*Timescale Revised from original proposal (April 2018) to reflect recruitment process.

13. To date, the following has been achieved;
14. The contract register has been developed further to improve the content and accuracy of the information. All contract managers have answered detailed "on line" questionnaires on the construct, value, longevity, performance and expectations of the contracts they manage. This information is required to be published but other useful information has also been collected for internal purposes. This information has been used to fully populate the contract register. The provision of this information has supported the analysis of contract grouping and segmentation, in terms of related procurement categories and considering procurement and contract management as part of an overall lifecycle approach.
15. The information required for a public contracts register is now up to date and has been more accurately reconciled to budget spend. This will be next uploaded to the website for 1 October 2018 (next quarterly publication date). Contracts such as non-repairing leases will not appear on the Contract Register and have been removed and recorded elsewhere. The Contract Register will focus on contracts for Supplies, Services and Works.
16. A tender wave plan has been devised. This will ensure that the planned contract end date triggers a review of the contract. A re-tender date is defined for each contract to allow adequate lead time and preparation for an appropriate tender procedure to take place and minimise any tendency to extend contracts unnecessarily or without going back out to the market in terms of achieving best value.
17. The tender wave plan will also help planning and resourcing future procurements. This task should not be underestimated. For example, to manage and support an "above the threshold" (Supplies and Service = £181k and Works = £4.5 Million) public contract over a six month period or more requires circa 30 days of resource per tender.

18. The organisation is spending this amount of time across different Directorates and Services which is not recognised or documented, accounted or organised as “Procurement” activity.
19. An up to date spend analysis has been undertaken to reconcile spend with the “new” Contract Register. This will enable total contract values and spend analysis to be reconciled and reviewed annually once the Contract Manager is in post.
20. The review of spend categories, bringing the procurement and contract management functions more closely together, will enable procurement frameworks to be more quickly and easily identified. This will support a whole authority corporate approach to focus on categories of spend and contracts, as opposed to individual services or contractors and suppliers. Again, this supports a lifecycle approach and maximises the opportunity to procure and manage contracts better.
21. The contracts have been further segmented to reflect risk and value (reflecting corporately adopted risk ratings), to ensure that greatest attention is paid to financial value of contracts or those that represent greatest reputational risk or both. This is the basis of a segmented or tiered approach to managing contracts and developing a proportionate approach to tiers of contracts, i.e. high value and high risk contracts require a different approach to low risk and low value contracts.
22. This further segmentation has identified where the contract manager will initially focus on a “top 20” contracts and suppliers to reduce risk, improve performance and reduce cost through continuous improvement and innovation (in some instances this may include reduced operating costs or improving service from that contract).
23. A Category Management template has been developed. The template will be used to develop individual category strategies and will be generally available as part of the toolbox.
24. A business case for the Contract Manager has been developed with a x10 payback (detailed attached at appendix 2). The premise for the business case is on the basis that Contract Manager will proactively identify and implement improvements in overall and contract specific terms, through better specifications (at a category level), avoiding leakage (spending outside of the construct of that contract), over-runs and improvements.
25. The Contract Manager role has been specified to focus on both the compliance aspects of managing contracts but also to focus on continuous improvement and cost reduction.
26. The Contract Manager role has been advertised internally and assessed against eight criteria. This has not identified any suitable candidates from three applications. The Contract Manager role is now being advertised externally with the associated lead time. To ensure work moves forward in a smooth and timely fashion, the next phases of the project are progressing with a view to updating the new post holder as they join the organisation. Therefore, the framework and structure of a “Toolbox” approach has been developed. This will complement the

proposed Process and Organisational improvements. It will support an integrated Procurement and Contract Management Lifecycle as the basis of a corporate approach for larger contracts but available and accessible to all individuals managing contracts as a central intranet resource. This will include established and new procedures and tools in a Contract Manager's Toolbox e.g. using Pentana as a Risk Assessment tool for major contracts (Tier A) to ensure consistency and utilise resources already available and investments already made.

27. A number of interim (31 July 2018) recommendations and work in progress have been suggested to support and simplify future analysis, which should be repeated annually.
 - a. Add new codes to Finance System for Procurement Categories by Type and Category (*to simplify and streamline mapping Expense types to Procurement Categories*),
 - b. Agree Expenses Type map to Procurement Classification and Categories,
 - c. Category Management approach for Supplies, Works and Services,
 - d. Create Organisation template based on Supplies, Services and Works Contract,
 - e. Increase Single Source threshold from £15k to £25k (*to harmonise internal procurement guidance with public sector requirement to advertise all contracts over £25k on the Contract Finder portal and encourage local suppliers and SMEs to participate in council tenders*),
 - f. All contracts with a value of £100k or more should be formally Contract Managed,
 - g. Recruit Contract Manager into new role (*initial focus on high risk contracts to support individuals managing contracts*),
 - h. Develop Organisation model – right size Procurement and Contracts organisation to procure and manage Categories of contracts, (*build capability and capacity to manage the contract lifecycle*),
 - i. Develop and agree Category Management template,
 - j. Develop Category Management strategies for Categories where appropriate.

Implications and Risk Assessment

28. A more consistent corporate approach is required to Contract Management. This is a significant change with a focus on categories of contracts rather than the present focus by individual services or on individual suppliers and contracts, to a more holistic and joined up approach. In simple terms this can be considered as a top down and managed system, versus a bottom up and evolving approach.
29. The proposed approach will require resource to support this change including a different mind-set and focus with implications for how every Directorate and Service engages with the market, tenders are structured and contracts are managed.
30. It is unlikely that any improvements will be achieved without associated resource. The request (which has been approved through Management Team and is being recruited to) is considered modest and minimum in terms of the risk and

opportunity and should be considered as a transition over time to a larger team that can make more of an impact, once the approach and role has delivered results. The business case for this role is appended (2).

31. The risks and consequent opportunities to taking this approach, are identified as follows,

#	Risk	Type	Mitigation
1	Compliance	Reputational	The strategy must be socialised within the authority including communicating the Toolbox to users and ensuring that it is well structured, accessible and easy to use. The toolbox will support and drive compliance and provide a checklist approach and tools as the basis for contract information, an audit trail and support better decision making.
2	Lack of resource	Organisational	The strategy must be resourced appropriately to provide a focal point, champion for contract management and demands for advice and support.
3	Buy In	Organisational	The approach requires support and buy in from Directorates and Service to be successful. Management of change issues should be considered to engage key stakeholders and to win hearts and minds.
4	Contract Manager	Organisational	The role is pivotal, and the individual must be able to lead from the front, engage with stakeholders on complex issues in a constructive and proactive manner as well as deal with contractors and suppliers in sometimes difficult circumstances at all times representing the authority and Ashford citizens' best interests at all times.
5	Performance	Financial	The business case and benefits are hypothetical until proven. Benefits, both financial and non- financial, should be recorded and tracked to prove the case but also identify future opportunities and further development and investment in this area.

Communities Impact Assessment

32. Recognising the authority's pivotal role in local economic development and community engagement and associated benefit to the Contract Management Strategy, provides an opportunity to ensure that equality and diversity requirements are fully reflected in procurement and managed in delivering contracts. This can only be done properly from a corporate perspective and ensuring there are clear guidelines defined and appropriate approach driven by legislation and good practice in this area.

33. This must include setting targets and ensuring that these requirements are built into and specified, delivered and tracked and monitored. The cumulative effect across multiple contracts can be documented, measured and reported as social value indicators and a litmus test for how the authority's policies manifest themselves in practical terms through the delivery of contracts and associated benefits not only in spend or financial terms.
34. This approach should also provide a focus for local business, community engagement, social enterprises, charities and minority businesses within the same framework and context based on clearly defined and objective criteria.
35. The key issues arising are,
 - a. The application of equality criteria to contracts and wider supply chain issues,
 - b. A consistent approach to equality criteria reflected in all contracts,
 - c. Recording and tracking equality requirements as an integral part of performance reporting,
 - d. Creating and supporting a culture where decisions can be made objectively without fear or favour and an environment to do business based on equality of opportunity and delivery of contracts for all stakeholders.

Consultation Planned or Undertaken

36. Service Managers and a range of personnel involved in contract management have been involved to varying degrees in meetings to discuss Service spend and to feedback and discuss analysis of this information, using information derived from the finance system.
37. Contract (or Project) Managers and individuals managing contracts have participated in a structured information and data collection exercise using a web based questionnaire to collect information on current contracts. This has resulted in 30% more (100) contracts being added to the Contract Register more accurately reflecting the number and total value of contracts that are published on the transparency pages.
38. Presentations to portfolio holders (1 Aug) and (2 Aug).
39. Update presentation to Corporate Management Team (CMT) on 13 September 2018.

Other Options Considered

40. **Option 1:** Status Quo. It is unlikely that any meaningful change can be achieved without applying some level of resource to deliver and support the Contract Management Strategy to support both the high value and risk (Tier A) contracts to be proactively supported and managed, and Tier B, where Process improvements across the board will provide a better focus and approach and

Tier C where consolidation and restructuring of low value contracts will provide the biggest benefit.

41. **Option 2:** A more accelerated approach to resourcing (higher numbers of staff). A larger central contract management team could be disruptive to the organisation where there is currently a lot of autonomy with regards to contracts and where decisions made are not outside regulations. However, there may be resistance if the scope of change and a perceived centralisation of contracts is forced or too aggressive. Also this approach becomes more of a “leap of faith” that additional employment costs will reap financial and reputational benefits without a proven track record.

Reasons for Supporting Option Recommended

42. The option recommended to develop a Contract Management strategy and resource an individual Contract Manager role provides a balanced approach that reflects the difference between large contracts and projects that do not recur and other recurring contracts and procurements to be managed and procured regularly on an ongoing basis.
43. This also reflects that some contracts will be managed by individual Services when they are specific to that service and others where there are common requirements across different Services.
44. The precedent for a Contract Manager has been the introduction of a Procurement Manager which is a central role (as part of Property and Projects) that is highly valued by colleagues to consult with and seek advice and to involve in tenders and procurement if and when required.
45. Contract Management (other than a legal focus and compliance) is developing as a strategy and approach at pace for many organisations who are adopting a lifecycle (Procurement and Contract Management) approach. It is now widely recognised that the benefit of Public Procurement regulations can only be delivered if contracts are managed constructively and proactively. Otherwise the procurement promises made at the tender stage will dissipate quickly when the reality of managing the contract becomes a reality.
46. We can differentiate ourselves from other councils and get “ahead of the pack” by developing a coherent and well executed approach to managing contracts.

Next Steps in Process

47. The immediate next step is to progress the recruitment and the Contract Manager role from external candidates and recruitment channels. As at the time of writing this is work in progress.
48. The Toolbox will help embed better practice and a more structured approach. This should be progressed in anticipation of the Contract Manager role being filled so available to use on taking up the position but also for use by individuals managing contracts as a centrally available resource.

49. The recommendations highlighted above are being progressed and the entire work programme is due to be completed by the end of the year

Conclusion

50. A Contract Management strategy is required and should be implemented to complement the current approach to Procurement.
51. A Contract Manager is required to support large and high risk contracts directly or indirectly (providing support to Project Managers) as well as being able to promote and champion the new corporate approach and provide advice and support to contracts that may still be managed locally but will be structured, organised, procured and delivered differently based on a Category approach rather than a Directorate or Service or spend by Supplier approach.

Portfolio Holder's Views

52. Portfolio Holders were supportive and commented on the depth of analysis and conclusions at that point.
53. Both Portfolio Holders recognised the need for the proposed approach to organise and manage contracts differently from a compliance perspective but also to identify improvement opportunities through better performing contracts and reduced cost including challenging some existing custom and practice.
54. Cllr. Shorter and Cllr. Galpin reiterated the requirement to engage with the local community and local suppliers and contractors in terms of discharging responsibilities in relation to social value obligations and the bigger picture in relation to the authorities' corporate strategy, objectives and goals.

Contact and Email

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Appended update on progress 31st July 2018 and contract manager business case.