

CYNGOR SIR POWYS COUNTY COUNCIL

Executive Management Team

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SUBJECT: Transforming Contract Management in Powys

REPORT FOR: Decision / Discussion / Information

Summary

This report provides for the outcomes and recommendations of a review of current contract management processes used to manage contracts for works supplies and services for the Councils key contracts when set against best practice and the delivery of Vision 2025

Background

The Head of Service, Finance has commissioned a review of Contract Management (CM) following the Financial management capability review undertaken by CIPFA in April 2019 to cover the following:

- A Light Touch review of current practice across the Service Areas focusing on larger contracts undertaken for delivery of its services
- Review of current accepted and emerging best practice in contract management
- Consider how good contract management can help to deliver the Councils Vision 2025, and value for money.
- Provide recommendations that the Council services and directorates can use to to achieve benefits across the services and provide assurances to the Council that contract management is being conducted in accordance with best practice.

Methodology

The top 10 contract by value were selected and a questionnaire derived from the National Audit Office's 'A framework for Contract Management' and interviews conducted with key designated contract managers. All interviewees were told that and any information will not be attributed directly to them.

Summary of Findings

- Contract management (CM) was in place for each of the contracts reviewed with designated responsibilities
- Commercial Services have a little or no involvement in ongoing contract management once contracts have been let
- In most cases CM was carried out using processes developed by individuals across the organisation which seem to work for the specific contract though it was not clear whether this was done consistently and efficiently across the broad range of

contracts. Training had not been provided at the levels required of the contracts managed. Data did not seem to be reported systematically for all of the top contracts assessed and there was little visibility of the information across the organisation.

- Some Contract Managers were able to demonstrate some improvements over time and one contract observed was able to include new 'value added' elements and reduced contract values over the term
- EMT may decide that it also requires the regular reporting of KPI's, for performance and value for money reports to ensure that value for money and return on investment was achieved.
- EMT may consider whether a digital/electronic system is made available to manage its contracts across the organisation which would provide visibility and the ease of reporting needed to provide the necessary assurance.

Why is contract management so important?

Powys Councils spends £200million per year with private and voluntary sector supplier. These suppliers play a significant role across the County in delivery of quality services and achievement of its statutory obligations but also in contributing to the Council's Vision 2025.

Contractors and suppliers undertake complex projects, provide support for back office and deliver front line services in Social Care, Transport, Education, Waste and Highways. They can play a vital part in transforming and redesigning services and in many cases, this would simply not happen without them.

Contract management is the process that enables both parties of a contract to meet their obligations in order to deliver the objectives required from the contract. But it also involves building a good working relationship between customer and provider so that changes and challenges and transformation can be developed with their expertise, partnership and innovation. This should continue throughout the life of a contract and involves managing proactively to anticipate future needs, as well as reacting to situations as they arise.

Commercial Services often see their work as complete once a contract is awarded. Their activities around sourcing strategy, supplier selection, prequalification and capability assessment, contract development and tendering/negotiation are central to their responsibility. However, once the contract is signed, procurement/commissioners may step away and handover to budget holders and service managers. This is generally the case in Powys Council with some exceptions though Commercial services or Legal Services are consulted when services experience difficulties with a contract or require interpretation of the terms of the contract.

Commercial capability should increasingly feature in Contract Management arrangements in order that the client is able to effectively negotiate and re-negotiate contract terms so that the best value is obtained throughout the life of the contract. Contracts are not static; they need to be developed in line with service demands and user needs. Failure to do so could result in significant failures or damage to reputation or even increasing costs.

Some of our contracts are long term and so the relationship aspect of the transaction is all the more important, With strong CM transformational change and opportunities to reduce cost can be grasped and agreed. Economic and Financial Assessments should also be maintained to manage risk in our supply chain particularly in some sectors which are more volatile and riskier, such as construction.

Implementation of Vision 2025 and the Well Being of Future Generations Act will depend on good contract management for services delivered externally particularly for longer term contracts and contracts which have some time before re-procurement.

However everything that happens post-award, contract management is all the more important to ensure that a the procurement phase is successfully delivered.

Great procurement can be undone by weak contract management but even when a less successful procurement is put in place the contract can be recovered through effective contract management

The ideal is that an effective sourcing process and strategy for each contract should take full account of how the contract is to be managed. This would include terms embedded into the contract such as critical KPI's and incentives for improving performance over the term including efficiencies and promoting innovative options for delivery. Early engagement with suppliers, even before the tender process commences, will help to foster relationships with suppliers and provide options for long term delivery of the services. Good contract management can also help develop smaller companies by the demand for high performance and quality standards of performance and ongoing development

Monitoring of Contracts

All of the Councils contracts should be monitored in the same way as we measure our own performance and therefore reported in a similar way but also that these relationships are maximised and challenged to deliver our services in new innovative ways. The level of contract management should be at 'expert' levels for some contracts because of the risk and high value associated with the service and spend.

A light touch review has been undertaken of current practice when measured against the National Audit Office's publication 'A Framework for Contract Management' (see Appendix 1) which was developed to assist government departments to improve their CM processes. This review measured current practices, against the categories set out in the document including governance, arrangements, performance, training, ongoing review and the processes adopted for undertaking CM within services.. Questions were asked around these areas and how they were managed for each of the contracts

The Councils larger contracts include:

- Waste and Recycling,
- Social Care (Residential Care, Domiciliary Care and Learning Disabilities)
- School Build Programmes
- ICT
- House Build programme,
- Joint Venture with HOWPS
- Home to School and Public Transport
- Fleet Purchase
- Temporary Workers
- Leisure Contract

The Powys spend also contributes to the economy and approximately 31% (2018/19) of spend is with companies based in Powys, though a considerably larger proportion deliver

benefits to the Powys economy even from those companies based outside of Powys e.g. private residential care homes based in Powys.

The above categories account for approximately 64% of the Councils non-pay spend (£134m) with the total number of companies being managed of 741.

Findings

Governance Processes

Generally, the majority of respondents did not receive a formal handover from Commercial Services but were involved in the original tender process so understood the requirements of the contract. However, this wasn't always the case and where this didn't occur individuals had to develop the contract management processes themselves though some were helped and supported by their line managers. However, no formal training was provided to existing and new staff except for an introductory course provided corporately in September 2017 and delivered by APSE. The function of contract management is included in some job descriptions but not all.

The contract documentation was available to all interviewees for reference and use during the terms of the contract.

All respondents knew who their contacts were for each supplier or contract that they managed and regular meetings were conducted with the contractor (monthly or quarterly) Respondents/interviewees were confident that contracts were performing to the required outputs. There were some very good examples where practice was used effectively not only to monitor performance but to consider longer term and more innovative or different options for service delivery by working collaboratively with the provider. The Leisure contract for instance had consistently delivered improvements during its term including significant service developments and efficiencies to the Council and continues to improve.

Responsibility for contract management was clear in many contracts though it was observed that in some areas particularly social care this seemed to be under resourced relying on few staff to undertake the necessary contract management process. This requires a more in-depth review of contract management in these services to be undertaken with the Head of Services and appropriate staff.

There appears little performance information produced for data reporting to management teams other than the necessary statutory KPI's for such requirements as waste to landfill, recycling. Any other information produced is held within the team unless there are serious known performance issues with the delivery of the contract and these are addressed. Whilst there were some able to produce KPI's quickly others were unable to easily supply information on the performance of their suppliers.

There is currently no central resource for activity for contract management though support is provided within Commercial Services and Legal Services when contractual issues arise.

Training

There has been little training and development of specific competencies in this area. These would include but are not limited to negotiation, contract performance and administration in operation, commercial and business skills. Association of Public Service Excellence (APSE) were commissioned to deliver two courses some 2 years ago but nothing further had been developed for this purpose. CIPFA provide an accredited training and development for contract management and also some foundation/introductory courses. CIPFA have developed a professional standard for contract management issued in July this year which sets out the roles and competencies of CM's and also Senior Responsible Owners in the process. The Council may wish to consider developing this aspect for contract managers particularly those high risk or high value contracts so that these officers are operating so that they are at 'expert' levels

Many respondents also felt that it would be advantageous to develop a Contract Management forum for this activity meeting perhaps twice or 4 times annually so that experiences could be shared and best practice developed.

Processes

The process of contract management would include the processes used for management of performance, templates, monitoring of service levels, capturing performance information, reporting, corrective action and escalation processes, improvement notices, variations service credits, price increases, and managing payments and credits to and from the supplier and ongoing continuous improvement and development.

It would also include a requirement for economic and financial checks. Even though these would have been undertaken at the point of procurement there is not any subsequent process to monitor or undertake reviews of company standing at anniversary points in the contract where there should be for key contracts. These may be best monitored centrally where current expertise in this area lies but using possible electronic monitoring portals to do so.

Review Outcomes and Summary

1. All Contract Managers (CM) in Directorates were using their own processes for contract management which had been developed locally and independently from other CM's in the Council. These processes were not reviewed but clearly a more consistent approach would provide more assurance to the Council and also assist the managers in carrying out these duties. CM were generally unaware of best practice other than their knowledge of practice in some local authorities through the forums they attend.
2. The administration of some contracts is generally undertaken via email and some maintained on the contract notices and correspondence held on directorate drives etc. This could be an issue if staff leave or are not in work and if a contract issue were to arise at the same time
3. The Council consider further work within social services to consider resources and approach to contract management set against best practice
4. The Council or management team were not receiving any reports on the performance in a systematic way to assure them of the performance of suppliers and contractors and value for money and to provide a challenge on the contract operation.
5. It wasn't clear whether the requirements of Vision 2025 and the Well Being of Future Generation Act 2015 were being built into all of our contracts particularly

those of top 20% suppliers and contractors affecting approximately 80% of spend.

6. Generally, contract management was being undertaken for all the contracts across the Council but not necessarily in a consistent way and to varying degrees of intensity. Whilst some KPI's were directed at the actual performance of the suppliers, others were collected for statutory reason (e.g. volumetric, service availability etc). There was no evidence of any specialist software or software adapted to provide ease of administrative data, corrective actions and management of variations/price increases or other information.
 - a. There was some evidence where service credits, liquidated damages or penalties were built into contracts for non-performance, but this was not always the case. For construction contracts these are generally built in to the standard forms such JCT or the NEC form of construction contract.
 - b. There were some good examples of contract escalation processes particularly for care contracts and where safeguarding or serious service issues arise, and strong governance arrangements were in place where this was the case.
 - c. There were some excellent examples where contract management was deemed to be good or excellent particularly for Leisure Services where reduction in costs to the Council and ideas for efficiency are regularly traded. The monitoring of the HOWPS contract had also produced some improvements in data collected and being monitored through the Board.

The Contract management of HOWPS Property Joint Venture also had similar escalation processes including a process for the service to be run in house for a time should performance dip well below required standards though there didn't seem to be a penalty where this occurred. There was also some value for money concerns raised in particular areas of their activity and this need to be clarified, understood and addressed.

In that particular contract/JV a valuable forum has been set up so that users of the service can meet with contract managers to develop the services or raise performance issues which This is good practice particularly where a contract is providing to a number of clients across different services. are then considered at Board level.

However, there is still some evidence of disgruntled clients who feel that services have not improved despite the process and this needs to be carefully considered.

Support for Contract Management

Generally, no specific support is available for contract management centrally or otherwise other than through general line management or when contractual issues or enquiries arise and Commercial Services or Legal Services are consulted

The Council should consider whether a central resource to provide corporate assurance that contracts are:

- delivered to specification,
- that value for money for being achieved,
- that KPI's were improving and are good or excellent for the service
- that Vision 2025 imperatives are being incorporated into the contract,
- That exceptions are reported to EMT for consideration

Recommendations

- A. The Council (and therefore) Commercial Services could develop these handover processes once procurement or commissioning is complete so that any Contract Managers (or subsequent staff changes) can fully understand the requirement of the specification and terms and conditions and the role of contract management
- B. The Council may wish to decide the level of appropriate training is put in place for contract management across the organisation and in particular for its high risk and key contracts. This could include an accredited contract management course be provided to those with contract management responsibility for high value or high risk contracts. This is available through organisations such as CIPFA..
- C. The Council may wish to trial the development of a forum to help contract managers share issues and experiences and consider best practice
- D. Executive Management Team may wish to consider how the performance of its key suppliers and contracts can be incorporated into performance reports for the whole organisation and provide the transparency and assurance that the Council is receiving value for money, that it is in control of its suppliers and that they are receiving the appropriate return on investment as well as alignment with the Vision 2025 or any new legislative requirements.
- E. The development of contract management guidance using best practice in Wales and UK to assist contract managers and to provide assurance that the activity is being undertaken consistently across the authority but also to build in consistency and assurance of contract management process across the Council
- F. EMT may also wish to trial the periodical reviews of each of its high value or high risk contracts to assure that performance and requirements are being met, that Vision 2025 and the Well Being of Future Generations Act 2015 are being incorporated into its contracts and that value for money is being achieved.
- G. That clear KPI's are developed for defined contracts and are reported upon systematically
- H. The Council consider a further in-depth review of contract management processes within social care services against the best practice guidance
- I. Consider use of the e-tender system or other software to help support systematic contract management and collation of necessary monitoring improvement data

Conclusion

This review has highlighted some particular improvements which could go a long way to transforming the way contract managements if conducted across the authority but also building into contracts delivery of Vision 2025 and Future Generations requirements into the way these services and contracts are delivered. It will also provide for data and information about our circa £200m worth of spend for EMT and surety that contracts are being delivered in accordance with specification, tenders submissions and terms and conditions and value for money is being achieved.