

Argyll and Bute Council

Internal Audit Report

August 2020

FINAL

Social Care Contract Management

Audit Opinion: Reasonable

	High	Medium	Low	VFM
Number of Findings	0	3	1	0

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1. Executive Summary

Introduction

1. As part of the 2019/20 internal audit plan, approved by the Audit & Scrutiny Committee in March 2019, we have undertaken an audit of Argyll and Bute Council's (the Council) system of internal control and governance in relation to Social Care Contract Management.
2. The audit was conducted in accordance with the Public Sector Internal Audit Standards (PSIAS) with our conclusions based on discussions with council officers and the information available at the time the fieldwork was performed. The findings outlined in this report are only those which have come to our attention during the course of our normal audit work and are not necessarily all the issues which may exist. Appendix 1 to this report includes agreed actions to strengthen internal control however it is the responsibility of management to determine the extent of the internal control system appropriate to the Council.
3. The contents of this report have been agreed with the appropriate council officers to confirm factual accuracy and appreciation is due for the cooperation and assistance received from all officers over the course of the audit.

Background

4. The purpose of contract and supplier management is to work closely with suppliers to maximise efficiencies for the Council and suppliers throughout the supply chain by:
 - ensuring the contract is successfully executed
 - maximising value for money
 - providing a system of monitoring, managing and improving performance
 - ensuring all parties recognise and understand their contractual roles and responsibilities
 - monitoring compliance by all parties to the terms of the agreement, contract Key Performance Indicators and Service Level Agreements
 - driving continuous improvement
 - identifying lessons learned to inform future contract terms or strategies.
5. The Procurement Commissioning Team (PCT) consult with the relevant service(s) to agree the appropriate level of management required for individual contracts, by considering factors such as value and length of contract, public visibility, openness to complaints or challenges, risk, performance criteria and compliance with requirements of governing bodies (e.g. Care Inspectorate grades for social care contracts).

Scope

6. The scope of the audit was to assess compliance with the Council's contract management arrangements as outlined in the Terms of Reference agreed with the Category Management Officer on 11 June 2020.

Risks

7. The risks considered throughout the audit were:
 - **Audit Risk 1:** Failure to have robust contract management arrangements in place

- **Audit Risk 2:** Failure to ensure that services provided are in line with agreed contractual conditions
- **Audit Risk 3:** Reputational damage to the Council

Audit Opinion

8. We provide an overall audit opinion for all the audits we conduct. This is based on our judgement on the level of assurance which we can take over the established internal controls, governance and management of risk as evidenced by our audit work. Full details of the five possible categories of audit opinion is provided in Appendix 2 to this report.
9. Our overall audit opinion for this audit is that we can take a reasonable level of assurance. This means that internal control, governance and the management of risk are broadly reliable. However, whilst not displaying a general trend, there are areas of concern which have been identified where elements of residual risk or weakness may put some of the system objectives at risk.

Recommendations

10. We have highlighted three medium priority recommendations and one low priority recommendations where we believe there is scope to strengthen the control and governance environment. These are summarised below:
 - care contracts should be signed and agreed in advance of services commencing
 - consideration should be given to whether all Care contracts should be classified as high risk by default and changes to contract risk should be supported by a revised risk assessment
 - contract management Plans and Key Performance Indicators should be in place for all care contracts
 - call up letters detailing the service to be provided and rates should be in place prior to service commencement.
11. Full details of the audit findings, recommendations and management responses can be found in Section 3 of this report and in the action plan at Appendix 1.

2. Objectives and Summary Assessment

12. Exhibit 1 sets out the control objectives identified during the planning phase of the audit and our assessment against each objective.

Exhibit 1 – Summary Assessment of Control Objectives

	Control Objective	Link to Risk	Assessment	Summary Conclusion
1	The Council has robust contract management arrangements	Audit Risk 1	Substantial	There are contract management procedures to provide guidance on the operational management of contracts. A contract manager is assigned to all care contracts to help ensure contract compliance and training was delivered to relevant officers in 2019 although this any need to be revised to reflect a restructure and any revised policies and procedures.

2	Supplier performance is monitored and reported in line with established processes	Audit Risk 1 Audit Risk 2	Reasonable	<p>There are two ongoing care contracts without an up-to-date signed contract. These are continuations of previous contracts and are currently operating on previously agreed contractual terms. HSCP officers are continuing to negotiate revised terms and, in one case, these negotiations have been ongoing for in excess of a year.</p> <p>All contracts have a risk category which determines the required level of contract monitoring however clarification on whether all care contracts should be high risk is required. Contracts have had risk classification changed but there is limited evidence to support this. Contract Management plans are not in place for all care contracts.</p>
3	Payments to suppliers are consistent with contractual arrangements and actual service delivered	Audit Risk 2 Audit Risk 3	Reasonable	<p>Care requirements are documented on a call letter which details the service to be provided and associated rates. Sample testing highlighted situations where services are being provided without call up letters being in place. This is contrary to Council policy. Where call up letters were available the rates agreed to payments made for the service.</p>

13. Further details of our conclusions against each control objective can be found in Section 3 of this report.

3. Detailed Findings

The Council has robust contract management arrangements

14. The Council has a generic 'Contract and Supplier Management Toolkit' which outlines a standardised approach for operational day-to-day management throughout the lifecycle of a contract helps ensure both the Council and supplier's obligations are understood and managed. The toolkit provides guidance on key areas such as:

- roles and responsibilities
- level of contract management based on assessed contract risk
- contract implementation
- contract meetings
- key performance indicators
- contract variations

- contract close.
15. The PCT is responsible for contract management activity including commissioning and quality assurance functions. They co-ordinate contract monitoring activity, analyse information from different sources, identify issues and risks and produce contract monitoring reports. HSCP staff are responsible for ensuring the care and support provided to service users is appropriate, of a good quality and meeting the individual user agreed outcomes.
 16. All care service providers are required to sign up to the Council's standard terms and conditions which cover all aspects of contract performance including:
 - performance of service
 - financial regime
 - contract manager
 - disputes
 - monitoring and reporting.
 17. All contracts are assigned a contract manager from the PCT who is responsible for ensuring contract compliance including any issues arising from contract monitoring are dealt with promptly and in accordance with the contract terms and conditions. The provider is required to co-operate with the monitoring activity under the Council's standard terms and conditions.
 18. The contract manager, and senior managers where appropriate, will decide on action required by the provider as a result of contract monitoring activity. All actions are discussed and agreed with the provider.
 19. Training was rolled out to all relevant PCT and HSCP staff during 2019. It covered all aspects of the procurement process as well as contract and supplier management for the current processes. The PCT are currently undergoing a reorganisation including a review of all processes and procedures which may require training requirements to be revisited. It will be important that to ensure that any future training is effective to ensure the ongoing delivery of effective procurement and also robust contract monitoring arrangements.

Supplier performance is monitored and reported in line with established processes

20. We reviewed sample of eight care contracts (two from Children and Families and six from Adult Care) to ensure they have been monitored in line with established processes. In particular to ensure that:
 - there is a signed and agreed contract in place
 - they have been assigned a risk category to establish monitoring requirements
 - a balanced scorecard is completed at least once per year to assess the risk
 - contracts are monitored in line with assigned risk.
21. All care contracts should have an agreed and signed contract in place. This was the case for six of the eight contracts however for two this wasn't the case. In both cases these are continuations of previous contracts and they are currently operating on previously agreed contractual terms. HSCP officers are continuing to negotiate revised terms and, in one case, these negotiations have been ongoing for in excess of a year.

Action Plan 1

22. Care contracts are assigned a risk category which determines the required level of contract management. A review of the care contracts register found that contracts have been assigned a range of risk categories (high, medium or low) however current policy is that all care contracts should be given a high risk category. Consideration should be given to determining whether that policy is still appropriate within current resource constraints.

Action Plan 2

23. A review of the eight contracts highlighted that five had been classified as high risk, two as medium and one as low. Three had had their risk category amended in the last 12 months with no evidence of a revised risk assessment (balanced scorecard) having been conducted. Reference to the requirement to revise the risk rating was recorded in the significant events log for each of the three contracts.

Action Plan 2

24. Formal engagement with providers is carried out via contract monitoring meetings. Frequency of engagement is dependent upon the risk category assigned to contracts. The procedure toolkit states that contracts/suppliers where a medium level of management is being applied there should be at least one supplier review meeting a year and for contracts and/or suppliers where a high level of management is being applied there should be at least four review meetings a year.

25. A review of the eight contracts confirmed that all contract meetings had generally been undertaken with service providers at least once per year which is consistent with the requirement based on the risk assigned to the contracts. However, as noted at paragraph 24, three of the eight contracts sampled have had their risk category recently changed to high which will require four supplier meetings per annum. This will require a significantly higher level of contract engagement with these providers going forward.

26. A review of contract monitoring meeting notes confirmed them to be detailed and generally covered all relevant areas. They highlighted where the service is performing well and, where the provider is not meeting contract requirements, the identified corrective action with corresponding timescales and responsible person.

27. Procedures state that all contracts should have a Contract and Supplier Management Plan which details:

- the agreed level of management (low/medium/high)
- roles and responsibilities
- risks and issues
- escalation process (within supplier organisation and the Council)
- performance management framework (KPIs)
- review meeting schedule
- exit plan.

28. Of the eight contracts sampled only two had plans in place. Discussions with officers confirmed that Contract and Supplier Management Plans are a relatively new things and only contracts that underwent a procurement process in the last two years would have one. They further confirmed that a Contract and Supplier Management Plan will be established for contracts which undergo a procurement process going forward.

Action Plan 3

29. Key Performance Indicators (KPI's) are a standard tool for contract management. Contract management procedures state that all contracts, where appropriate, should have a suite of KPI's which reflect the requirements of the contract.

Payments to suppliers are consistent with contractual arrangements and actual service delivered

30. The HSCP hold an annual Children's Resource Panel (CRP) for children affected by disability where the needs of the children are discussed and packages agreed. Subsequently a call up letter is prepared for both the recipient of the service i.e. the parent and service provider. The call up letter details the service to be provided, the number of required hours per week and the hourly rate as agreed between the service provider and the Council. When invoices are received from the provider they are checked to call up letters to ensure that hours charged and rates are as per agreements. It is the policy of the Council that no service should be provided unless a call letter is in place.
31. We reviewed a sample of call up letters across four contracts where call up letters are relevant to ensure that invoices agreed back to call up letters.
32. For two of the four contracts no call up letters were available for the current financial year as there is currently no agreed contract in place with these service providers. Services are being provided based on previous agreements as mentioned in paragraph 22. Where call up letters were available they agreed back to payments made for the service.

Action Plan 5

Appendix 1 – Action Plan

	No	Finding	Risk	Agreed Action	Responsibility / Due Date
Medium	1	<p>Care Contracts</p> <p>Sample testing of eight contracts highlighted two situations where there is no agreed and signed contract between the Council and the provider. In both cases these are continuations of previous contracts and they are currently operating on previously agreed contractual terms. HSCP officers are continuing to negotiate revised terms and, in one case, these negotiations have been ongoing for in excess of a year.</p>	It may be difficult to manage and resolve any potential contractual disputes.	Contract Negotiations with two providers nearing conclusion – awaiting confirmation of estimated capacity from providers to allow terms to be finalised.	<p>Locality Manager-HSCP</p> <p>31 December 2020</p>
Medium	2	<p>Care Contract Risk Assessment</p> <p>Care contracts have been assigned a range of risk categories (high, medium or low) however current policy is that all care contracts should be given a high risk category. This assessment determines the required level of contract monitoring. Consideration should be given to determining whether that policy is still appropriate within current resource constraints.</p> <p>A review of the eight contracts highlighted that three had had their risk category amended in the last 12 months however there was no evidence of a revised risk assessment (balanced scorecard) having been conducted.</p>	Contracts may not be subject to the appropriate level of contract monitoring.	Contract Management Process to be reviewed and updated.	<p>Category Management Officer</p> <p>31 December 2020</p>

Medium	3	<p>Contract Plans and Key Performance Indicators</p> <p>Of the eight contracts sampled only two had a contract management plans and established key performance indicators.</p>	Contracts may not be subject to the appropriate level of contract monitoring.	Contract Management Process to be reviewed and updated.	<p>Category Management Officer</p> <p>31 December 2020</p>
Low	4	<p>Call Up Letters</p> <p>Sample testing highlighted situations where services are being provided without a call up letter being in place. This is contrary to Council policy.</p>	Services may be provided at the wrong level and/or charged at an incorrect rate.	Updated call up letters will be issued when providers confirm estimated capacity for year.	<p>Locality Manager-HSCP</p> <p>31 December 2020</p>

In order to assist management in using our reports a system of grading audit findings has been adopted to allow the significance of findings to be ascertained. The definitions of each classification are as follows:

Grading	Definition
High	A major observation on high level controls and other important internal controls or a significant matter relating to the critical success of the objectives of the system. The weakness may therefore give rise to loss or error.
Medium	Observations on less significant internal controls and/or improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system. The weakness is not necessarily substantial however the risk of error would be significantly reduced if corrective action was taken.
Low	Minor recommendations to improve the efficiency and effectiveness of controls or an isolated issue subsequently corrected. The weakness does not appear to significantly affect the ability of the system to meet its objectives.
VFM	An observation which does not highlight an issue relating to internal controls but represents a possible opportunity for the council to achieve better value for money (VFM).

Appendix 2 – Audit Opinion

Level of Assurance	Definition
High	Internal control, governance and the management of risk are at a high standard. Only marginal elements of residual risk have been identified with these either being accepted or dealt with. A sound system of control designed to achieve the system objectives is in place and being applied consistently.
Substantial	Internal control, governance and the management of risk is sound. However, there are minor areas of weakness which put some system objectives at risk and specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale.
Reasonable	Internal control, governance and the management of risk are broadly reliable. However, whilst not displaying a general trend, there are areas of concern which have been identified where elements of residual risk or weakness may put some of the system objectives at risk.
Limited	Internal control, governance and the management of risk are displaying a general trend of unacceptable residual risk above an acceptable level and placing system objectives are at risk. Weakness must be addressed with a reasonable timescale with management allocating appropriate resources to the issues raised.
No Assurance	Internal control, governance and the management of risk is poor. Significant residual risk and/or significant non-compliance with basic controls exists leaving the system open to error, loss or abuse. Residual risk must be addressed immediately with management allocating appropriate resources to the issues.