



# MALDON DISTRICT COUNCIL

## INTERNAL AUDIT REPORT

CONTRACT MANAGEMENT  
JANUARY 2023

LEVEL OF ASSURANCE	
Design	Operational Effectiveness
Moderate	Moderate

IDEAS | PEOPLE | TRUST



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#### DISTRIBUTION

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#### REPORT STATUS LIST

Auditors:	Freya Beard
Dates work performed:	11/04/2022 - 19/05/2022
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Final report issued:	17 January 2023

## EXECUTIVE SUMMARY

### LEVEL OF ASSURANCE: (SEE APPENDIX I FOR DEFINITIONS)

Design	Moderate	There is a sound system of internal control designed to achieve system objectives.
Effectiveness	Moderate	Evidence of non-compliance with some controls, that may put some of the system objectives at risk.

### SUMMARY OF RECOMMENDATIONS: (SEE APPENDIX I)

High	0
Medium	3
Low	0

### TOTAL NUMBER OF RECOMMENDATIONS: 2

### BACKGROUND:

The Council enter contracts with suppliers following the procurement process to formalise a legal binding agreement for the service provided, including payment processes, responsibilities of both parties, warranties, etc. While these contracts are ongoing the Council will monitor, manage and take action if the supplier is not adhering to the conditions agreed in the contract.

Sound contract management practices enable the Council to gain ongoing assurance that contracts continue to meet their aims and support Council objectives, along with timely information on potential contract issues to facilitate early resolution.

This review focussed on contracts for:

1. Waste and recycling
2. Street Cleansing
3. Leisure
4. Public convenience cleaning

Our approach was to conduct interviews to establish the controls in operation for each of our areas of audit work. We also obtained a copy of the Contract Management Policy (2021) to review the processes in place. We obtained a copy of the latest contracts register and selected a sample of contracts under the agreed focus areas. In total five contracts were selected, which included two waste and recycling contracts (the main Council refuse service and a smaller specialist service for comparison), the main Leisure operator contract, the street cleaning contract, and the public convenience cleaning contract.

We sought documentary evidence that the controls are designed and operating as described, by reviewing the signed contracts, and a sample of meeting minutes and KPI reports. We also discussed the arrangements with the contract manager for each of our sampled contracts.

### GOOD PRACTICE:

We noted the following areas of good practice:

- A Contract Management Policy is in place which is supplemented by an additional Contract Procedures Rules document. The policy was formally approved by the Council in February 2021 and is set to be reviewed again in 2024. The policy is well detailed and outlines the roles and responsibilities of directors and officers in relation to contract management
- For a sample of five key suppliers we were able to verify a signed contract was in place
- KPI's, where in place, were monitored in line with requirements with those on higher value contracts being reported to Members on a quarterly basis
- For all high value contracts penalties had been included in the contract
- Break clauses were included in all of our sampled contracts
- Where meeting minutes and monitoring reports were available, we were able to agree that issues with performance (such as logged issues and resident complaints) had been shared with the contractors.

### KEY FINDINGS:

We have raised the following key findings:

- Meeting minutes for two sampled contractor meetings and an annual review were not available, and one annual review had not taken place. Meetings and annual reviews were not required with some contractors (Finding 1 - Medium)
- There were no KPI or formal performance monitoring arrangements in place for one of the key sampled contracts for public convenience cleaning (Finding 2 - Medium)
- Risk assessments and risk registers were not able to be evidenced as maintained for any contracts reviewed, in breach of the Contract Procedure Rules (Finding 3 - Medium)

### CONCLUSION:

In conclusion, we note there is a clear contract management policy and procedure rules document in place. Detailed contracts were available that had been signed and included sufficient details on penalties, termination and monitoring. Meeting minutes and monitoring reports, where available, were satisfactory. However, we have raised three medium findings in relation to the absence of formally documented meetings and reviews and KPIs lacking in some of our sampled contracts as well as clear risk assessments not having been completed and risk registers maintained.

We have concluded a moderate operational design and moderate operational effectiveness opinion.

## DETAILED FINDINGS

**RISK: THERE ARE NO CONTRACT MANAGEMENT MEETINGS IN PLACE WITH THE PROVIDERS TO ENABLE REGULAR CONTRACT DISCUSSIONS TO TAKE PLACE. MINUTES AND/OR KEY ACTIONS ARE NOT FORMALLY RECORDED AND ARE NOT ACTIONED WITHIN AGREED TIMESCALES**

Ref	Significance	Finding
1.	Medium	<p>Per the Contract Procedure Rules (2021) a pre-contract meeting should be held between the Council and contractor to agree a monitoring arrangement and regular meeting schedule prior to the start of the contract. The frequency of the meetings should be relative to the complexity of the contract/service.</p> <p>To assess this, we reviewed the meeting arrangements set out in the contracts for our five sampled suppliers and discussed the arrangements with the contract owner. Where applicable, we then selected a further sample of meeting minutes to review.</p> <p><u>We identified:</u></p> <ol style="list-style-type: none"> <li>1. One contract (Places for People) stated meetings should be held monthly. For a sample of three months, minutes were only available for one of these. However, from review of this set of minutes and discussions with the contract lead, there is good discussion of KPIs, finances as well as discussions on any contractual issues.</li> <li>2. Two contracts (Appletons and Kingdom) stated meetings should be held on an ad-hoc basis, with a formal annual review. There were no minutes available for the meetings, so we were unable to assess the frequency or format of these. There was also no reports or minutes available for either of the formal reviews and management confirmed only one formal review had taken place</li> <li>3. The remaining contract (General Holding Ltd) was a low value, specific service (£8k value) and therefore did not require a regular meeting schedule (as determined in the Contract Procedure Rules).</li> </ol> <p>For the three contracts where there were no regular formal meetings, we discussed the arrangements with the contract manager. We were advised that although there were no formal meetings the nature of the contracts means there is regular informal meetings and contact between the Council and contractor.</p> <p>Without formally held and documented meetings, there is a risk that discussions and key actions will not be recorded and therefore potentially not followed up on. For significant contracts it is important to ensure a level of record keeping in case issues need to be escalated or contract ownership changes.</p>

## RECOMMENDATION:

- A) The Council should ensure the Contract Procedure Rules are adhered to, including formal monthly meetings with contractors as well as any annual requirements. These may wish to be in line with the requirements established as part of Recommendation A in Finding 2 whereby a threshold value is used.

- B) Where it has been agreed that regular meetings or annual reviews will take place, contract managers should ensure sufficient audit trails are maintained, including formal minutes being taken and actions retained.

#### MANAGEMENT RESPONSE:

Regarding the Places Leisure contract monthly management meetings are now minuted & in place. KPI's are monitored on a monthly basis by the extended leadership team (via the balanced scorecard) During the period of the audit a number of meetings had taken place in person on site, but the focus was specifically on post covid performance, commissioning & decommissioning of the covid test centre at the Leisure Centre (& any associated issues with operations) and financial information.

The post covid meetings in relation to the contract are no longer required. Whereas the monthly contractual meetings have now resumed as normal.

Responsible Officer: Steve Butcher  
Implementation Date: Completed

For the Appletons contract quarterly meeting now take place and minutes kept. The Kingdom contract has quarterly joint inspections of all facilities - no minutes but notes kept on any items that need attention.

Responsible Officer: Carol Love  
Implementation Date: March 2023

- A) We will remind Officers of the requirements of the CPRs and the guidance. Training sessions have been provided and guidance will continue to be given in terms of the requirements for a tender process and the resulting contract. We have a toolkit that provides support around Contract Management and a guidance pack which can be reinforced with Officers. Going forward we will ensure that all higher value contracts have robust and appropriate KPIs and contract management requirements in place prior to commencing the tender process.
- B) Officers are advised to retain all documentation and communication for procurements they complete, and this will be reiterated to them. In addition, Procurement also holds copies of documentation and a signed copy of the contract for all new contracts placed. We are and will continue to ensure that fully signed and agreed contracts are placed and held by the contract manager and procurement. We will keep minutes from all meetings and update the risk registers where appropriate.

Responsible Officer: Debbie White  
Implementation Date: March 2023

## DETAILED FINDINGS

**RISK: MONITORING MECHANISMS, SUCH AS KEY PERFORMANCE INDICATORS (KPIs), ARE NOT IN PLACE AND MONITORED EFFECTIVELY TO ENSURE THE SERVICE IS PROVIDED IN LINE WITH THE CONTRACT. KPIs ARE NOT SMART INDICATORS, DO NOT COVER ALL ASPECTS OF THE SERVICE OR ARE NOT SUBJECT TO SUFFICIENT SCRUTINY BY THE COUNCIL**

Ref	Significance	Finding
2.	Medium	<p>Monitoring mechanisms, such as Key Performance Indicators (KPIs), should be in place for key contracts and should be regularly reviewed and reported on. The Contract Procedure Rules states KPIs should be set by the Council and included in the tender documents, in order to set expectations with contractors. These should then be monitored by the Council throughout the life of the contract.</p> <p>For three of the five contracts reviewed as part of our sample, we confirmed there were KPIs in place. For one this involved quarterly reporting on fly tipping levels, another was the monthly data on missed bins and waste tonnage and the final was monthly data on leisure centre participation. In all cases our sampling showed the figures had been collated and adequately analysed as described.</p> <p>However, for the two remaining contracts we did not identify any form of KPI targets or monitoring. One of these samples (General Holding Ltd) is a low value, specific service relating to clinical waste (£8k value) so would not necessarily require regular KPI monitoring. However, the other (Kingdom Services) was a contract of significant value (£997k - albeit over 12 years) and related to public convenience cleaning.</p> <p>Without sufficient performance arrangements and easily measurable targets the Council is at risk of not adequately monitoring contractors and identifying potential issues with service delivery in a timely manner.</p>

### RECOMMENDATION:

- A) The Council should review the Contract Procedure Rules and ensure it provides sufficient, actionable guidance as to when KPIs should or should not be formally set out during the tendering process (eg. all contracts over £50k should have KPIs or those deemed high risk or high profile as part of their risk assessment) and included as part of the contract and ongoing monitoring arrangements.
- B) The Council should review the current KPI and performance monitoring arrangements with its key contractors, based on the thresholds decided as part of a) to ensure sufficient arrangements in place

### MANAGEMENT RESPONSE:

- A) Additional Contract Management guidance is provided in the toolkit and also within the Contract Management training / guidance slides. Further guidance is given pre-procurement. We will ensure further training and guidance is given to contract managers prior to commencing the tender process, and support where appropriate

throughout the life cycle of the contract. We will review the Contract Procedure Rules and assess the thresholds for KPIs and contract monitoring.

- B) We are currently working to put in place longer term contracts, where defined robust KPIs and monitoring arrangements can be added at the earliest stage, then continue throughout the contract following award. We will ensure that all high value contracts over £50k will have KPIs and detailed contract management appropriate to the contract is in place.

Responsible Officer: Debbie White

Implementation Date: May 2023



## DETAILED FINDINGS

**RISK: CONTRACT OWNERSHIP, ROLES, AND RESPONSIBILITIES, INCLUDING CONTRACTOR RELATIONSHIP MANAGEMENT ARE NOT DEFINED OR ARE INADEQUATE AND/OR INEFFECTIVE**

Ref	Significance	Finding
3.	Medium	<p>We noted that the Contract Procedure Rules (2021), section 20 includes detail on risk assessment and contingency planning, stating:</p> <p><i>For all contracts with a value of over £50,000, contract managers must:</i></p> <ul style="list-style-type: none"> <li>• <i>maintain a risk register during the contract period;</i></li> <li>• <i>undertake appropriate risk assessments and for identified risks;</i></li> <li>• <i>ensure contingency measures are in place.</i></li> </ul> <p>To assess whether this was in place we discussed the risk assessment process with Contract Managers. We were advised that although contractors may conduct their own risk assessments for services they perform for the Council and contingency plans have been put in place in response to situations such as Covid-19 and extreme weather, management do not maintain a risk register specifically relating to contracts. However, we were provided with one for Suez (waste and recycling) but this was dated 2015.</p> <p>The procedure rules also include a table which helps managers identify whether contracts are low, medium or high risk. They state that in the case of high-risk contracts, monthly formal reviews with the contractor should occur. Whilst four of our five sampled contracts exceeded the £50k threshold for the above, from our review of the documentation associated with each of our sampled contracts and discussions with management we could not identify that a formal risk status had been applied to the contracts.</p> <p>There is a risk contracts are not being assessed and monitored as prescribed in the Contract Procedure Rules resulting in insufficient levels of contract management.</p>

## RECOMMENDATION:

- A) The Council should ensure Contract Managers are aware of the need to maintain a risk register and undertake risk assessments and contingency planning for high value contracts
- B) All contracts should be assessed and have an agreed risk status applied of high, medium or low at the start of the contract, in order to easily determine which requirements of the policy will apply to the management of the contract going forwards.

**MANAGEMENT RESPONSE:**

Places Leisure currently hold a risk register in relation to the delivery of the service & operations. A risk register for the contract risks/issues will be set up as per our contractual guidelines. A risk status will also be applied.

Responsible Officer: Steve Butcher

Implementation Date: March 2023

- A) Higher value contracts that require committee approval should include potential performance monitoring and KPIs appropriate and proportional to the specific contract. Once finalised these will then be included in the tender documentation on commencement of the procurement. We will ensure that the need for risk assessments and registers are reinforced with updated Contract Procedure Rules disseminated to staff with training provided where necessary.
- B) Assessment of risk factors/status identified and included in the tender documentation to allow for proportionate contract monitoring and KPI requirements.

Responsible Officer: Debbie White

Implementation Date: March 2023

For the Suez, Kingdom and Appletons contracts a risk status will be applied.

Responsible Officer: Carol Love

Implementation Date: March 2023

## STAFF INTERVIEWED

BDO LLP APPRECIATES THE TIME PROVIDED BY ALL THE INDIVIDUALS INVOLVED IN THIS REVIEW AND WOULD LIKE TO THANK THEM FOR THEIR ASSISTANCE AND COOPERATION.

Carol Love	Waste & Street Scene Manager
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Steven Butcher	Commercial Manager
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APPENDIX I - DEFINITIONS				
LEVEL OF ASSURANCE	DESIGN OF INTERNAL CONTROL FRAMEWORK		OPERATIONAL EFFECTIVENESS OF CONTROLS	
	FINDINGS FROM REVIEW	DESIGN OPINION	FINDINGS FROM REVIEW	EFFECTIVENESS OPINION
Substantial	Appropriate procedures and controls in place to mitigate the key risks.	There is a sound system of internal control designed to achieve system objectives.	No, or only minor, exceptions found in testing of the procedures and controls.	The controls that are in place are being consistently applied.
Moderate	In the main there are appropriate procedures and controls in place to mitigate the key risks reviewed albeit with some that are not fully effective.	Generally, a sound system of internal control designed to achieve system objectives with some exceptions.	A small number of exceptions found in testing of the procedures and controls.	Evidence of non-compliance with some controls, that may put some of the system objectives at risk.
Limited	A number of significant gaps identified in the procedures and controls in key areas. Where practical, efforts should be made to address in-year.	System of internal controls is weakened with system objectives at risk of not being achieved.	A number of reoccurring exceptions found in testing of the procedures and controls. Where practical, efforts should be made to address in-year.	Non-compliance with key procedures and controls places the system objectives at risk.
No	For all risk areas there are significant gaps in the procedures and controls. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Poor system of internal control.	Due to absence of effective controls and procedures, no reliance can be placed on their operation. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Non-compliance and/or compliance with inadequate controls.

RECOMMENDATION SIGNIFICANCE	
High	A weakness where there is substantial risk of loss, fraud, impropriety, poor value for money, or failure to achieve organisational objectives. Such risk could lead to an adverse impact on the business. Remedial action must be taken urgently.
Medium	A weakness in control which, although not fundamental, relates to shortcomings which expose individual business systems to a less immediate level of threatening risk or poor value for money. Such a risk could impact on operational objectives and should be of concern to senior management and requires prompt specific action.
Low	Areas that individually have no significant impact, but where management would benefit from improved controls and/or have the opportunity to achieve greater effectiveness and/or efficiency.

## APPENDIX II - TERMS OF REFERENCE

### PURPOSE OF REVIEW:

To review the design and effectiveness of controls in relation to contract management for key contracts held by the Council.

### KEY RISKS:

The following potential key risks have been developed through discussions with management, using our collective audit knowledge and utilising the risk assessment undertaken during the development of the internal audit operational plan. These are potential risks associated with the area under review, and not conclusions drawn, which will be considered as part of the audit testing to assess whether they are actual risks to the Council:

- Contract ownership, roles, and responsibilities, including contractor relationship management are not defined or are inadequate and/or ineffective
- Signed contracts with the Council's suppliers are not in place, therefore no assurance that the terms and conditions of the contract are acceptable to the Trust
- There are no contract management meetings in place with the providers to enable regular contract discussions to take place. Minutes and/or key actions are not formally recorded and are not actioned within agreed timescales
- Monitoring mechanisms, such as Key Performance Indicators (KPIs), are not in place and monitored effectively to ensure the service is provided in line with the contract. KPIs are not SMART indicators, do not cover all aspects of the service, or are not subject to sufficient scrutiny by the Council
- Areas of poor performance by the provider are not addressed and escalated as a risk within the Trust where necessary. Penalties are not included within the contract to penalise the provider for ongoing poor performance or break clauses have not been referenced within contracts

### SCOPE OF REVIEW:

The following areas will be covered as part of this review:

- Analyse the Council's contract procedure rules to ensure sufficient guidance on contract management requirements are included
- Review of contracts to establish KPIs and assess whether these are reviewed and monitored on a regular basis with the contractors
- Check regular contract management meetings take place and any actions are documented with timeframes.

However, Internal Audit will bring to the attention of management any points relating to other areas that come to their attention during the course of the audit. We assume for the purposes of estimating the number of days of audit work that there is one control environment, and that we will be providing assurance over controls in this environment. If this is not the case, our estimate of audit days may not be accurate.

### APPROACH:

Our approach will be to conduct interviews to establish the controls in operation for each of our areas of audit work. We will then seek documentary evidence that these controls are designed as described. We will evaluate these controls to identify whether they adequately address the risks.

We will seek to gain evidence of the satisfactory operation of the controls to verify the effectiveness of the control through use of a range of tools and techniques.

FOR MORE INFORMATION:

**Greg Rubins**

Greg.Rubins@bdo.co.uk

The matters raised in this report are only those which came to our attention during the course of our audit and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. The report has been prepared solely for the management of the organisation and should not be quoted in whole or in part without our prior written consent. BDO LLP neither owes nor accepts any duty to any third party whether in contract or in tort and shall not be liable, in respect of any loss, damage or expense which is caused by their reliance on this report.

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