



City of Westminster

| | |
|-----------------------------------|---|
| Meeting or Decision Maker: | Audit and Performance Committee |
| Date: | 6 September 2023 |
| Classification: | The report is General Release however Appendix 1 will be declared exempt from publication as the business to be transacted involves the disclosure of information as prescribed by paragraph 3 of Part 1 of Schedule 12a of the Local Government Act 1972, as amended, in that they contain information relating to the financial or business affairs of any particular person (including the authority). |
| Title: | Annual Contracts Review 2022/23 |
| Wards Affected: | All |
| Policy Context: | The Council spends over £600 million each year on third party services and contracts. Procurement, commercial activities, and contract management are therefore key enablers in ensuring the delivery of maximum value for Westminster and its residents and partners. |
| Cabinet Member: | N/A |
| Key Decision: | N/A |
| Financial Summary: | N/A |
| Report of: | Sarah Warman, Strategic Director Housing and Commercial Partnerships |

1. Executive Summary

- 1.1 This report is the third Annual Contracts Review for consideration by the Audit and Performance Committee, covering the period 2022/23. In the last report, published in November 2022, we reported on the performance of contracts and compared them to National Audit Office (NAO) best practice guidelines. This report follows a similar format addressing contractual performance over the last year but also outlining developments in our approach to improve contract management across the council.
- 1.2 Contract Management in any organisation is very important, but particularly so for the council given the amount the council spends on contracts and the direct impact on residents and workforce. Research shows poor contract management can waste around 9% of spend per annum¹. The new 'Transforming Public Procurement' new legislation, likely to be introduced in October 2024, will require publication of supplier performance on our top contracts. Good contract management drives high quality service delivery, improving value for money and maximising outcomes for residents.
- 1.3 Day-to-day operational contract management is undertaken by contract managers within the directorates, with support and guidance provided by a specific team in Procurement and Commercial services. We have reviewed the support provided to contract managers to date, and we will be launching a refreshed Contract Management Framework and new approach to training and supporting contract managers in October 2023 to enhance the support available to them.
- 1.4 In preparation for this annual review we have measured contractual performance via feedback from contract managers, again using a set of operating principles based on NAO good practice to measure against. Principles of good contract management such as consistency and value for money have been applied to the council's largest 44 major suppliers and contracts (Platinum and Silver), which account for almost 75% of the council's total third party annual spend. The survey results show several areas of strength and consistency and a relatively stable position for our main contractors.
- 1.5 However, our work with contract managers has highlighted areas that need to be enhanced, either through training or better systems support, to improve the consistency of contract management. The new Contract Management Framework will guide this improved approach.

2. Recommendations

- 2.1 It is recommended that the Committee note the contents of this report and provide feedback on whether it meets their needs, as well as suggesting any changes or additional content they would like to see in future reports.

¹ Source: UK based World Commerce and Contracting

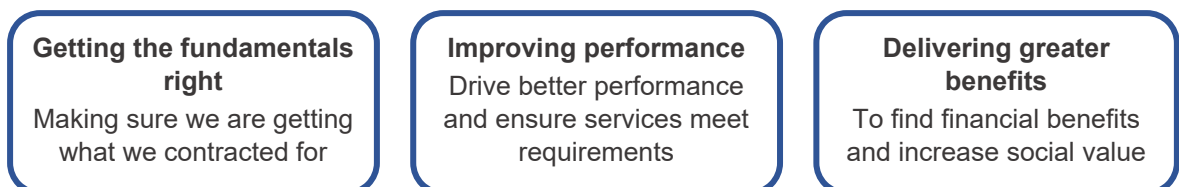
3. Reasons for Decision

N/A

4. Contract Management Approach at WCC

Overall context of Procurement Transformation & Contract Management

- 4.1 The Procurement Bill (which is based on the 'Transforming Public Procurement' Green Paper), is reaching the final stage of its journey through Parliament. Once finalised, we will have six months to prepare before the legislation comes into effect with current estimates that we would need to fully comply with these laws by October 2024. Clause 52 of the Bill requires that every contract with a value of over £5 million has at least three Key Performance Indicators, with some exceptions such as frameworks and concession contracts. Linked to the inclusion of KPIs are the new provisions in Clause 71 of the Bill which require that, at least every 12 months, performance against the contracted KPIs is assessed by the contracting authority and the results published. Currently, precise publication requirements have not been released, nor is it clear whether procurement portals will be set up to process KPI results into the form required.
- 4.2 Considering this new legislative context and Westminster's annual spend of £630m with external suppliers and third parties last year, it is essential we maximise value for the Westminster pound against the Fairer Westminster objectives. Set against difficult national economic conditions we also need to ensure we are being proactive in supporting our local economy and being mindful of proactively using any levers we have such as prompt payment, regular financial checks and our responsible procurement policies.
- 4.3 We are learning from other public bodies, working with Local Partnerships since July, who are adapting tools for us developed from the cross Whitehall initiative the Contract Management Pioneer Programme (CMPP). Work has already commenced with a sample of contracts being initially reviewed. It has become evident that various examples of high-quality contract management exist within the organisation, however there is opportunity to share this good practice more widely, and embed it across all Council departments.
- 4.4 There are three pillars of work involved, as set out below:



Getting the fundamentals right

- 4.5 This pillar centres on raising awareness of the importance of contract management. The main method of achieving this will be through training for

contract managers at different levels operating across diverse sectors. We have developed an 'Introduction to Contract Management' e-learning module, which covers key principles. This training deck has been refreshed to include enhanced sections on health and safety, safeguarding and Responsible Procurement. We delivered two contract management training sessions in July with over 50 contract managers in different parts of the council, which were well received. The sessions have proved particularly useful for those staff with contract management responsibilities as part of their role, who have limited contract management experience. Also, for the more experienced contract managers, having the opportunity to share knowledge and discuss approaches with other contract managers is mutually beneficial.

- 4.6 As part of the Contract Management framework refresh, a range of resources will be made available for contract managers to help them with their role. We will look to increase support for contract managers as well as providing specialised sessions for officers managing complex contracts.

Improving Performance

- 4.7 A key part of the framework will be the standardisation of some elements of contract management across the council to improve consistency. It is recognised that contracts managed by different directorates vary significantly, but tools and templates can be made accessible and easily tailored towards the specifics of each contract. The new framework will signpost the support available at each stage of the contract management cycle. Structured 'deep dives' into a service's commissioning and contract management practices and customs across the council have proved useful elsewhere. This allows for continued analysis and improvement of contract management practice.
- 4.8 Another element of improving performance is the use of data and insights. This will enable more detailed corporate oversight of contracts and allow us to benchmark against other authorities. An oversight group for contracts across the council will be established to drive this forward. This group could be complemented by service-based groups, potentially linked to existing directorate Procurement Boards, which were established in 2021. The forthcoming Transforming Public Procurement legislation, if agreed, will require KPI reporting for contracts over £5 million. A consistent corporate approach to performance measurement will be essential to support this, as will an effective Contract Management system.. Ideally, this system will be linked to our E-tendering portal.

Delivering greater benefits

- 4.9 By driving change based on data and evidence, we will establish a baseline of measures of success linked to Fairer Westminster priorities. This will include enhanced Responsible Procurement measures such as carbon reduction and modern slavery due diligence. It will build on the Responsible Procurement and Commissioning Strategy and social value facilitation undertaken by the Responsible Economy team. We will demonstrate efforts made by suppliers

as well as success, and showcase effective approaches. Dashboard reports and case studies will be compiled for the Oversight group.

- 4.10 A theme running through Fairer Westminster is ‘where our residents are at the heart of our decision-making, feel listened to and can work with us to shape the future of our city’. To deliver greater benefits we need to integrate resident feedback into the contract management process, and ensure the perspectives, needs, and preferences of our residents are reflected. The team has been working with the Communities department to develop best practice examples, guidance and templates for planning effective resident engagement as part of the Contract Management Framework.

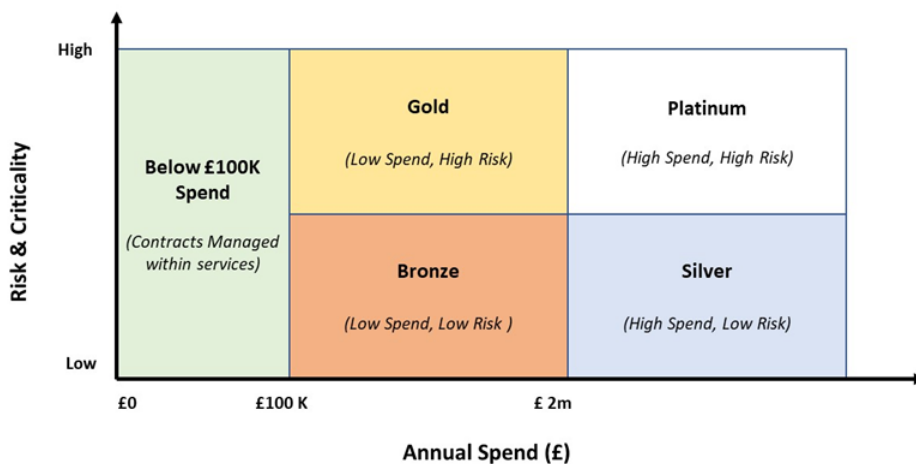
Contract Management Framework refresh launch

- 4.11 The results of the work with Local Partnerships will be a refreshed Contract Management Framework, launched in October 2023. The new framework will set out key principles and a consistent approach to contract management activity, proportionate to risk with information and tools about how to leverage optimum contract and supplier performance at each stage of the contract management cycle.

5. Contract performance 2022/23

Supplier Segmentation

- 5.1 In line with the current Contract Management Framework, supplier contracts are categorised into one of five designated groups according to value and risk. This guides the level and intensity of contract management required and ensures the council can allocate resources, skills and governance proportionately taking account of commercial impact, contract and risk:



| Higher Criticality/Risk: | Medium Criticality/Risk: | Lower Criticality/Risk: |
|--|---|---|
| High (>£100k) commercial impact, significant public/customer or market visibility or loss of critical functions/systems. | Limited (<£100k) commercial impact, limited negative reputational or political impact; functions/systems impacted, but restored within 2 days | Negligible commercial impact (< £10K); No external visibility and no critical effect; negligible dependency on supplier |

- 5.2 WCC's 2022-23 third party expenditure was £631m (£25K+ suppliers only) with the majority of the spend concentrated in the Platinum and Silver groups, where over 73% of spend falls to only 44 suppliers:

| Classification | No. of suppliers | 12 Months' Spend | % Share |
|--------------------|------------------|----------------------|-------------|
| Platinum | 24 | £ 382,756,191 | 60.6% |
| Silver | 20 | £ 82,159,458 | 13.0% |
| Gold | 57 | £ 36,150,215 | 5.7% |
| Bronze | 313 | £ 97,539,732 | 15.4% |
| Below £100k | 582 | £ 33,228,047 | 5.3% |
| Grand Total | 996 | £ 631,833,643 | 100% |

Results from survey of Platinum & Silver Supplier Contract Managers

- 5.3 We reviewed the performance and outlook of the 44 Platinum and Silver suppliers, via their Contract Managers, through four quarterly surveys covering 2022/23. The contract managers were asked to rate their suppliers on the quality of their performance. 96% of suppliers are performing well or satisfactorily, and generally meeting standards. While there may be operational issues in some cases, these are managed and resolved through regular dialogue with suppliers.

| Directorate (as of 2022/23) | Good - meets or exceeds requirements | Satisfactory - generally meets but some minor issues | Poor - falling short of requirements though not critically | Unsatisfactory - often falling short of requirements sometimes critically | Grand Total |
|-----------------------------|--------------------------------------|--|--|---|-------------|
| Adults Services | 22 | 34 | 3 | | 59 |
| ECM | 15 | 5 | 0 | | 20 |
| Finance & Resources | 16 | 20 | 1 | 1 | 19 |
| GPH | 30 | 21 | 2 | | 53 |
| Grand Total | 83 | 80 | 6 | 1 | 170 |
| % | 48.8% | 47.1% | 3.5% | 0.6% | 100% |

- 5.4 Within the responses provided across the quarterly surveys, four of the council's top suppliers were rated as Poor or Unsatisfactory in their day-to-day operational performance. Information on each of these is given in Appendix 1 (restricted document). One of the themes for suppliers falling short of requirements relates to changes in supplier staff (e.g. managers) or staff shortages within the specific sectors; more information is provided below. Although contractual issues do vary, the matters are addressed by the contract manager, directly in most instances. Resolutions have been found via corrective action planning and escalation both within the Council and the supplier.
- 5.5 During discussions at the Council's Performance Board, there was an interest in discovering whether there were potential staff retention and recruitment issues within the workforce of our Platinum suppliers. Procurement supported the Board by sending a brief survey to the key contract managers. The results

of the survey highlighted that there are some issues within staff recruitment which may start to impact on the service provision. We are investigating this further with relevant contract managers.

- 5.6 Contract managers were asked to state how they viewed their suppliers' performance during the quarter four of 2022/23. Of the 44 suppliers surveyed, Contract Managers rated 5 as 'Improving' their current delivery during the next quarter. 3 suppliers (also rated as currently poor) may be at risk of deteriorating services. There are active steps in place to manage their performance, with escalation routes and review meetings taking place regularly. The other suppliers are rated as stable in their outlook.

Risk Management

- 5.7 Through the Risk Governance Forum, we maintained a regular review of any issues that might affect suppliers. Primarily we focused on risk of financial insolvency using tools such as CreditSafe, and our own monitoring tools. During 2022-23, only a handful of suppliers were flagged to be at potential risk, mainly due to them not reporting their annual statements to Companies House on time. Whenever a supplier we use is flagged as a risk we contact the contract manager to further understand and mitigate the risk.
- 5.8 Our Platinum suppliers, through enhanced checks, have been shown to be stable over the last year. The suppliers that have been flagged as at financial risk are with smaller contracts, with the impact of inflation a factor. Finance have supported contract managers with inflation requests, particularly for contracts that do have inflation clause built in. The Risk Governance Forum will continue to meet six-weekly with Procurement and Finance working together to provide information for contract managers about their suppliers that may be at risk.

Responsible Procurement

- 5.9 As part of the Responsible Procurement & Commissioning Strategy launch in April, targeted engagement sessions were held for existing contractors on the council's new Supplier Charter and Ethical Procurement Policy. This included training sessions on more complex requirements related to modern slavery due diligence within supply chains, and methods of carbon baselining, reporting and reduction. Following the launch, 12 key suppliers, which between them constitute 40% of current spend, have voluntarily signed up to these commitments, which now form part of all new procurement exercises. This gives us a useful framework to increase collaboration and continuous improvement with our strategic partners on all elements of contract management, but especially responsible business practices.
- 5.10 GPH Economy & Skills' Social Value team have established relationships with strategic contractors to facilitate the delivery of social value offered during tendering exercises. The Responsible Procurement function fed into the recently published Fairer Economy Plan and the council's first [Social Value](#)

[Year End Report \(22/23\)](#), which demonstrated the depth and breadth of impact our contractors make within our communities.

- 5.11 Our teams work side by side to tailor our social value approach according to sector, skills and capacity. Together we leverage, help deliver and track skilled volunteering, sponsorship, donations, employment and training opportunities and spend with local SMEs by our strategic contractors. Our teams have worked closely to launch a Social Value Consultation Panel to engage resident-facing colleagues across the council and ensure that interests of all residents are met. We have jointly presented progress on various Economy & Employment workstreams of the Future of Westminster Commission.
- 5.12 Modern Slavery: The council's second [Modern Slavery Statement \(22/23\)](#) was published on 3 July this year, describing the significant progress made by the team to date and setting out a refreshed action plan for 23/24. Extensive work has been undertaken with contract managers responsible for those contracts at highest risk of modern slavery and exploitation (MS&E) in the supply chain. A total of 34 contract managers were engaged with, which represents 98% by spend of our high-risk contracts. It included an initial MS&E risk assessment of each contract, detailed evaluation of our contractors' current approaches to due diligence, and a tailored guide for each contractor setting out areas for improvement and evidence of progress required.
- 5.13 This year, we are increasing the contact time with our suppliers, both to communicate requirements and objectives, but also to ensure we are listening to their feedback on the barriers they face. A series of 'deep dive' meetings are being set up with key strategic contractors to run through their approach to responsible business, address existing contractual commitments, and encourage them to improve their performance on areas such as environmental sustainability, workers pay and conditions, dealings with sub-contractors, offering employment opportunities, and delivering community benefit.

6. Key actions and next steps

- 6.1 The following actions will take place in the final two quarters of 2023/24:
- Launch of the Contract Management Framework in October 2023
 - Follow-up with individual teams/departments to promote new the framework and support offered
 - Significantly increased take-up of the recently refreshed 'Introduction to Contract Management' eLearning.
 - Programme of face-to-face and hybrid training for teams across the council
 - Recruit a second Contract Management lead to lead training and provide time-limited support for contract managers of poorly performing contracts
 - Enhance resident feedback about how services are performing for them
 - Pilot new KPI contract management reporting for full roll out by April 2024.

7. Financial Implications

7.1 There are no financial implications associated to this report (*Kim Wreford, 14th August 2023*).

8. Legal Implications

8.1 The legal implications are set out within the body of the report. (*Kar-Yee Chan, 9th August 2023*).

9. Carbon Impact

9.1 The top ten suppliers we are working with have now disclosed their direct carbon emissions associated with our contracts. We are determining appropriate annual reductions targets for all similar upcoming contracts and running projects which will help us reduce operational and embodied carbon. We are aiming to learn from this collaborative work and roll out effective approaches across other contracts from similar sectors.

10. Equalities Impact

N/A

11. Consultation

N/A

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Ed Humphreys, Interim Director of Commercial Partnerships

Contact Details: ehumphreys@westminster.gov.uk

Appendices - Confidential

- Appendix 1: Details of contracts rated unsatisfactory in performance (separate document)

