

Report of the Overview and Scrutiny Task and Finish Group on Contract Management

JANUARY 2023

1. Foreword

In July 2022 the Overview and Scrutiny Committee agreed to convene a Task and Finish group on contract management to investigate issues concerning contract management which had not been addressed by the council for many years. The aim of the Task and Finish group is to make recommendations to improve the management of contracts at Slough Borough Council.

I am very grateful to the members of the Task and Finish group for their input and contribution to our work. I would also like to thank the officers and contractors who were interviewed as part of the work of the Task and Finish group, and the support provided by the Head of Commercial services and the Head of Governance and Scrutiny to ensure the smooth running of the meetings.

Our investigations highlighted several themes concerning procurement and contract management and they have informed the recommendations of the Task and Finish group. I hope the recommendations are endorsed by the Overview and Scrutiny Committee and Cabinet, as these will improve the Council's approach to contract management and drive better value for money for our residents.

Councillor Harjinder Gahir
Chair
Contract Management Task and Finish Group

2. Executive summary and recommendations

2.1 An Overview and Scrutiny Task and Finish group on contract management was convened in November 2022 to review three contracts and to make recommendations to improve contract management at Slough Borough Council.

2.2 Good contract management leads to improved supplier performance and quality, mitigation of risks, reduction of contract disputes or surprises and delivery of better outcomes to time, quality, and budget.

2.3 The Task and Finish Group have made the following recommendations to improve contract management:

- The start of the procurement process must be well managed, with clear outcomes and deliverables in the procurement specification, which include outcomes-based deliverables, gateways, monitoring, timelines, milestones and reporting.
- When assessing tenders for work they should be scored against the outcomes and deliverables in the specification and the results retained as evidence.
- Where authority is delegated to Officers for the award of a high value/high risk contract, this should be in consultation with the lead member. Members must be properly consulted with evidence of decisions in writing and their agreement clearly sought.
- Council staff must follow a proper governance process, as set out in the updated Contract Procedure Rules, including having an effective and up to date forward procurement plan.
- Cabinet reports for procurement must set out the evidence base for a particular recommendation and have an effective options appraisal as part of the report. Consideration should be given to phasing procurement and reserving future decisions to Cabinet for high value / high impact commissioning.
- Contracts on the Council's contract register must be risk assessed to identify the scale of the risk for each contract. This should be done using a standardised risk assessment matrix that considers contract value, business value and impact, sourcing and contractual complexity, and performance. This will ensure that mitigations are put in place to proactively manage risks.
- There must be a dedicated contract manager for high-value/impact contracts identified through the risk assessment process. This officer should be appropriately trained and should have responsibility for monitoring the contract and ensuring compliance with the contractual requirements. The officer should keep records of contract meetings and

should convene formal monitoring meetings as required by the contract. The officer should raise any risks with the relevant Executive Director. The officer should have access to legal and finance advice, as required, to assist with their role.

- Meaningful Key Performance Indicators must be developed for contracts and reviewed and followed up regularly at contract review meetings to ensure that any performance issues are discussed and challenged accordingly. For more significant commissioning arrangements, contract review meetings should include operational and strategic meetings with key officers in attendance. These meetings should be confidential to allow for full and frank discussion, with opportunity to agree minutes to be put in the public domain where updates are to be provided to a formal member meeting. If a contractor is invited to attend a formal Member meeting, consideration should be given to allowing this to take place in Part 2 to allow for a more detailed discussion about any issues.
- A standardised framework for contracts should be implemented, which includes a contract management plan for each contract, tailored to take account of value and impact of the contract. This considers important mechanisms for the management of a contract, including roles, responsibilities and governance, dispute resolution, key performance indicators, and exit plans.
- When commissioning management consultancy, consideration should be given to the payment mechanism and if this is on a time and materials basis, there should be close monitoring of the value being delivered via this arrangement and consideration of alternatives, such as recruiting in-house resource.
- When commissioning services, ensure that decisions are informed by data, including benchmarking data where available, to demonstrate value for money for Slough's residents.
- Ensure there is an effective mechanism to review commissioning activity, including reviewing whether the arrangement delivered on the intended strategic aims and capturing any lessons learned. Regular reports should be presented to CLT and the Lead Member responsible for contract management.

3. Introduction

3.1 Effective overview and scrutiny should provide constructive 'critical friend' challenge, amplify the voices and concerns of the public, be led by independent people who take responsibility for their role and drive improvement in public services.

3.2 The recommendations from this report should lead to benefits of good contract management and in turn lead to:

- better evaluation of supplier's performance through higher quality contracts allowing for action to be taken to increase the performance and effectiveness of the contract
- decisions being taken at the proper time, which mitigates potential risks appearing in the future
- reducing contract disputes or surprises

4. Background

4.1 At the July Overview and Scrutiny committee, it was agreed that a task and finish group would be convened on contract management, with an aim to reviewing the council's contracts register and selecting three contracts to focus on. The group would:

- Meet with relevant officers for those contracts and discuss the key lines of enquiry; and
- Bring a report back to a future meeting of Scrutiny for consideration.

4.2 The members of the group were:

- Councillor Harjinder Gahir (chair)
- Councillor Fiza Matloob
- Councillor Jina Basra
- Councillor Kamaljit Kaur
- Councillor Puja Bedi (attended one meeting out of four meetings)
- Councillor Wayne Strutton (attended one meeting out of four meetings)
- Supported by Clare Priest Head of Commercial Services and Alex Polak Head of Governance and Scrutiny.

4.3 The objectives of the group set out in the terms of reference were to:

- consider what thought went into the initial procurement phase to ensure the end contract would deliver the outcomes needed (e.g. what the specification was, what the KPIs are)
- consider the contract management activity in place, to determine what processes have been put in place to monitor performance
- understand what action is being taken where delivery is not what was expected
- determine what learning is being derived from the process to ensure any lessons are fed into next procurement activity

5. Methodology

5.1 The task and finish group reviewed the council's contracts register and came up with a shortlist of contracts it was interested in reviewing.

5.2 Each contract on the shortlist was risk assessed in relation to:

- Contract value
- Business value and impact
- Sourcing complexity
- Contractual complexity
- Performance

5.3 As a result of the risk assessment, the task and finish group identified the following contracts to review:

1. GateOne

Gate One were procured as the Council's "delivery partner" to work with the Council as part of its transformation programme (also known as "Our Futures") in June 2019. This contract is no longer in place, so the emphasis was a "backwards look" and lessons to be learned.

2. Matrix

Matrix is the Council's contract for the supply of temporary labour.

3. Osbourne

Osbourne is the Council's repairs maintenance and investment contract for the Council's housing stock.

5.4 The key lines of enquiry document shared at the July Overview and Scrutiny committee was refined to ensure that the most important aspects of contract management were considered. The document was shared with the chair of the London Procurement Network, for external quality assurance, who confirmed that this was a best practice approach.

5.5 The key lines of enquiry were used at each evidence gathering session to ensure there was a consistent approach to scrutiny of the contracts being reviewed.

6. Evidence gathering sessions

6.1 For each contract an "evidence pack" was compiled and sent to the committee before the meeting, this included:

- Recent committee reports on the contract, e.g., that had been presented to Overview and Scrutiny committee or the Employment and Appeals committee within the last six months
- A copy of the contract
- Key Performance Indicators
- Recent Internal Audit reports

6.2 For each contract review, managers were interviewed that represented the service, the management of the contract and financial considerations. The Head of Commercial services was also in attendance at all meetings, in her role supporting the Task and Finish group as subject matter expert and representing procurement and risk management.

6.3 The agenda for each session was as follows:

- Introduction on the contract from the service area and contract manager
- Questions and answers from members of the Task and Finish group
- Key lines of enquiry
- Reflections on emerging themes

6.4 Summary of each contract discussion is as follows:

GateOne

Gate One were procured as the Council's "delivery partner" to work with the Council as part of its transformation programme in June 2019. The only Cabinet authority for this is in April 2019 where wide-reaching decisions were made as follows:

1. That the business case be agreed for a transformation programme to deliver a new operating model for the Council, including procurement of a delivery partner;
2. That a budget of £4.2m be agreed to fund the programme, funded from the transformation fund in accordance with the flexible capital receipts strategy;
3. That the chief executive has delegated authority to deliver and implement the programme.

In addition, in March 2021, a report to the Procurement Review Board from the Director of Transformation requested the direct award of £495,000 to Gate One for further work between March 2021 and August 2021. The report referred to authority as being the April 2019 Cabinet decision.

The start of the procurement process was not well managed. There was a lack of detail on the commissioning processes and no apparent agreed deliverables and outcomes for the programme overall and in particular for the delivery partner. As a result only two consultancies were interviewed for the work after submitting bids and Gate One, who had not delivered a Local Authority transformation programme were appointed. Other large consultancies apparently did not bid as from the documentation were not aware the work was for a transformation programme. The Chief Executive, had delegated authority to appoint the contractor, but not in consultation with the lead member. Therefore, the Chief Executive did not consult with the leader or members to explain why GateOne were suitable or provide a report to evidence how they were appointed.

The contract was procured through a framework on a time and materials basis. This meant that the contractor was paid for hours worked not on outputs or deliverables. This limited the Council's ability to fix the price for certain activities based on delivery

of results and required closer monitoring of spend and activity to ensure it provided value for money. The Director designated to lead the programme did not appear to robustly manage the contract, agreeing an extension without considering returning the matter to Cabinet and authorising payment of invoices with no breakdown of outputs delivered or inputs. As a result, Gate One were given the impression that the work they were doing was effective and when the Director left, it was difficult for the Council to dispute payment of the invoices with GateOne.

A contract of this type needs close management, including whether deliverables were appropriate or timely, and this did not happen. No concerns on GateOne's performance were raised at the time by the Director of Transformation or the Chief Executive, the client lead and project sponsor for the contract.

It was evident that some of the work being undertaken by GateOne was outside the work outlined in the original business case approved by Cabinet in April 2019. This included organisational development, governance, member workshops and localities.

As a result, the transformation programme was not implemented well and has led to a staffing structure which is not fit for purpose and does not deliver the financial savings anticipated. Implementation of this programme was deemed to be a major contributor to the governance and financial issues identified in the Department for Levelling Up, Housing and Communities (DLUHC) commissioned Governance Review. Current staff still refer to the organisational damage caused by the failures of the Our Futures programme.

Aside from the annual budget reports, which contained details of delays in delivering anticipated savings and details of capital spend, there was no formal reporting mechanism back to Cabinet on the programme. This demonstrated very poor governance for such a costly and significant programme of change. This was a significant factor in the resulting non-delivery of results for a contract that cost the Council £2.8m. It appeared that Gate One were being commissioned to support a much wider level of activity than originally envisaged, including supporting on HR and ICT transformation. This resulted in individuals being charged out at day rates, sometimes multiple officers on the same day, for activities that could have been commissioned via an agency worker arrangement at lower cost. It should also be noted that the Transformation programme did not feature on the corporate risk register.

It is easy to hold Gate One responsible for the failures in delivery of the Our Futures programme, however it was the Council that was responsible for commissioning and managing the programme and Council officers who procured and managed the contract. Issues were flagged including by an LGA external review, the results of which were presented to the Audit and Corporate Governance Committee.

It is essential that the Council learns from the mistakes made. The Council has reviewed its Procurement Review Board to ensure this has an appropriately strategic focus. This Board ensures all procurements are managed appropriately with clear outcomes.

To improve outcomes the Council has set up a new Programme Management Office, dispensed with as part of the transformation programme.

Major contracts must have contract managers assigned with the appropriate level of experience and specialist training has been provided to key officers with responsibility for strategic commissioning activity.

Members must also ensure that work programming is focused on corporate priorities. It is surprising that despite the Our Futures programme being a major project to transform the Council, it was not reported on the corporate risk register, was not part of the internal audit programme and was not subject to periodic reporting to Cabinet or Overview and Scrutiny. Members should be curious and ask questions, ask to see evidence and data – this is scrutiny's role in particular.

Matrix

The Matrix contract's purpose and how it was procured was outlined during the evidence gathering session. The key driver for this contract is the organisation's need for good quality specialist roles where there are national shortages.

In 2013, Matrix was procured through a procurement process to provide workers through a neutral vendor model. This contract ended and a further procurement exercise was undertaken, in 2019. Matrix were confirmed as the preferred providers but on this occasion, to provide the services through a hybrid model. The hybrid model allows us to have better control on the types of temporary labour contracts we have including rates and charges, as opposed to the previous model where agencies would control fees and charges. Matrix benchmark against current market rates to ensure we are getting value for money. Moving to the hybrid model has reduced costs by £40,000 per annum, by being able to source temporary labour through CDL, and approximately £300,000 per annum through reduction of agency margins. The new contract was effective from January 2020 and has given the council more control and better reporting, including centralised records regarding the engagement of agency workers, which was not in place previously.

Every organisation has a need for temporary workers – there are peaks and troughs which require temporary workers to cover the gaps. There is an added pressure at Slough due to the Our Futures restructure, public criticism of the Council in relation to its governance and financial sustainability and the impact of the Council's financial deficit reducing the Council's ability to fund necessary staff recruitment. The Council is currently re-branding as an organisation to make Slough an attractive place to work. This has been successful in recruiting to vacant posts in Finance, following their restructure earlier in the year.

The recent audit of Matrix was included in the evidence pack reviewed by the Task and Finish group, this highlighted several actions that need to be addressed to ensure the Council is getting good value for money from the contract, and the requirement to reduce reliance on temporary labour to enable the Council to significantly reduce costs.

Management information on numbers of agency staff needs to be regularly and consistently provided to managers to ensure that expenditure on temporary labour is monitored by managers and to review why agency bookings are needed and what action is being taken to recruit permanent staff. The Council should also undertake periodic benchmarking exercises to ensure that bookings are in line with market rates and to ensure that the contract is delivering best value. The approach needs to be agreed with Matrix and where issues identified remedial action is taken in collaboration with Matrix. It should be noted that Matrix have contracts with several local authorities and therefore it should be easy to compare rates Slough Borough Council is paying compared to similar organisations.

The audit also identified the need to obtain Key Performance Indicator data prior to contract review meetings so this can be reviewed to identify any performance issues to be discussed with Matrix and this is documented during contract review meetings, this will evidence that there is scrutiny of Matrix's performance and evidence discussion of service delivery issues.

Osbourne

The discussion focussed on the mechanisms in place to review performance of the Osbourne contract including the role of the operational and strategic management boards. The quarterly board meetings have up until now, been arranged on an ad hoc basis and the recent audit identified the need to standardise these and be more frequent to hold the contractor to account.

Historically the amount of detail on performance provided was inadequate and more key performance indicator information is needed to determine how the contract is performing. For example, what percentage of jobs are coming from the same tenants and the number of repairs completed in one visit.

It was acknowledged that performance varies in the contract, this was evidenced in the report the Task and Finish group received from the Extraordinary Neighbourhood and Community Services Scrutiny Panel in April 2022. Whilst performance on compliance work and planned works is good, the number of tenants not satisfied with responsive repairs is considered too high at 20%. The low penalty clause in the contract means that there is insufficient incentive for the contractor to get it right first time and performance measures focussing solely on the number of jobs attended rather than how many jobs are successfully completed does not adequately determine how well the contract is performing. This is being addressed through more formalised, frequent, and standardised board meetings to monitor the contract.

Tenant satisfaction levels are not acceptable, with 20% of tenants not satisfied with responsive repairs. The reasons why tenants are not satisfied is regarding the amount of time for the job to be done or where jobs are not completed. Communication with tenants is one of the causes of complaints – management of their expectations is needed to reduce this.

Osbournes are catching up with a legacy of jobs not completed, this was due to a backlog created during the Covid lockdowns. As this occurred two years ago the contractor need to get more resource assigned to clear this. The knock-on impact

for the customer will be that more resource will ultimately be freed up to get more jobs done.

The contract has been in place for 5 years, extension is due in December 2024, the council will be looking at options regarding extension or re-procurement.

6.5 A summary of the key lines of enquiry is as follows:

Area	Key questions	GateOne	Matrix	Osbourne
Planning and governance	Contract ownership is clear, with the budget holder, senior responsible owner (SRO), and contract manager clearly defined	Clear project sponsor but the contract manager and senior responsible officer roles got blurred – there wasn't a contract manager in place	Responsible owner is clear, and Contract Manager is responsible for managing the day-to-day relations with Matrix and relationship between SBC and Matrix to review any issues with delivery of the contract. This includes issues with individual workers	There is a contract manager, SRO and budget holder identified
	Contract management issues and performance are reported through the governance structure with senior level engagement	No there was no clear governance structure in place	Bi-monthly monitoring meetings, with senior management of Matrix	Strategic management board with senior representatives All performance measures are circulated
People	The contract manager has a detailed knowledge of the contract and other relevant issues, such as service level agreements, and ongoing supplier performance	No contract manager No deliverables set Time materials basis – GateOne officers not necessarily being used in the right way	Contract manager has knowledge of the contract and relevant issues on service level agreement. Any concerns are discussed either as they arise during the contract on a day-to-day basis or addressed at the monitoring meeting, dependant on the urgency or nature of the issues arising.	All stakeholders are aware of what is expected regarding responsive repairs and planned works. Some aspects of the contract are not being delivered but are not essential to the main outcomes – e.g. additional pieces not deliverable because of the pandemic. The core of the contract is being delivered.
Administration/ Managing performance	There is regular and ad hoc reporting of contract management information. Supplier performance is assessed using clear, objective and meaningful metrics	See above There is some evidence that GateOne were setting out what the project should achieve, without a separation of function between management of the	There is quarterly reporting to the Employment and Appeals Committee (EAC) members. A Temporary staffing report is produced on agency spend and activity including	Key performance indicators were revised in October 2021, to ensure the right things were being measured. They have tracked improvement and

Area	Key questions	GateOne	Matrix	Osbourne
		project and management of the contract with the delivery partner.	responses to any ad-hoc requests for management information on agency data or Freedom of Information requests. Metrics are reported on a quarterly basis at EAC and reviewed on Monthly monitoring meetings	reflect the service delivered.
Managing relationships	Both regular structured and informal communication routes between the contract manager and supplier are open and used; customer and supplier staff are co-located where appropriate.	No clarity over contract manager role No formal contract management meetings There were daily conversations but not on the management of the contract	The appointed Customer Success Executive, who is the liaison with the Contract Manager on day-to-day issues to manage the customer and supplier. HR business partners review spend and the need for continued use of agency workers with managers.	There is colocation with Osbourne which allows for formal and informal communication This is part of the contract that works well
	Problem resolution processes are well defined and used, and are designed to ensure minor problems do not escalate and cause relationship issues; a 'blame culture' is avoided (for example, through the use of a 'relationships charter' or similar document).	No concerns were raised with GateOne No one was asking GateOne what SBC wanted to achieve	The relationship with Matrix is robustly managed and any problems or issues are quickly resolved with the Customer Success Executive, if any issues become challenging these are escalated to more senior Customer Success colleagues or Business Manager of Matrix which the Contract manager has regular access to. Customer expectations are clearly defined in the contract and Service Level Agreement with Matrix.	There is a problem resolution template but never have to use it – issues are regularly discussed inside and outside of meetings. There isn't a blame culture – but people are held to account Co-location means issues can be resolved quickly before they escalate.

7. Themes

7.1 Through review of the evidence packs, discussion with the contract manager and review of the key lines of enquiry, a number of themes have been identified by the Task and Finish group as lessons learned for the review.

Procurement

7.2 Ensure the beginning of the procurement process is well managed, and evidence based. Ensure that Members are properly consulted and provided evidence of decisions in writing and their agreement is clearly sought. Where

authority is delegated to an Officer for the award of high value/high risk contracts, this should be in consultation with the lead member. Ensure that the specification developed and procurement that is undertaken is done in the most appropriate way for the service being provided. For example, if management consultancy is appointed on a time and materials basis, client-side resources need to be in place to ensure the consultants are being used appropriately and provide value for money. Have clear outcomes and deliverables to assess the success of the arrangement and ensure that objectives are achieved.

Key Performance Indicators

- 7.3 Meaningful performance indicators are required to ensure that there are no perverse or unexpected consequences from them. Where they are loosely defined, it will lead to performance issues not being brought to the fore. For example, a contract that specifies performance that is measured on a sample, will miss parts of the contract that are underperforming and as a result, give an inaccurate view of performance as a whole. This will have knock on impacts for residents. KPI's should be reviewed on a regular basis at contract review meetings.

Dedicated contract management

- 7.4 Where there is a dedicated contract manager, the contract will perform better than where none is in place, this needs to be supported by governance and mechanisms where the contract can be regularly reviewed, and issues can be escalated in a timely manner. It must be noted that failure of a contract is the client's responsibility.

Re-Procurement

- 7.5 Contract re-procurement needs to be planned and options considered based on the performance of the contract to ensure that re-procurement activity does not repeat the mistakes made in the previous procurement.

Reporting and risk assessment

- 7.6 Regular reporting to Cabinet and Scrutiny must be done for high-risk projects, and those must be risk assessed using a standardised framework similar to that used to select contracts during this review.

Problem resolution

- 7.7 Contract managers should use informal and formal mechanisms to resolve disputes, where there are problem resolution templates in place, these should be used to escalate issues that cannot be resolved informally.

8. Recommendations

- 8.1 In reviewing the key themes, the Task and Finish group have made the following recommendations in the report:

- 8.1.2 The start of the procurement process must be well managed, with clear outcomes and deliverables in the procurement specification,

which include outcomes-based deliverables, gateways, monitoring, timelines, milestones and reporting.

- 8.1.3 When assessing tenders for work they should be scored against the outcomes and deliverables in the specification and the results retained as evidence.
- 8.1.4 Where authority is delegated to Officers for the award of a high value/high risk contract, this should be in consultation with the lead member. Members must be properly consulted with evidence of decisions in writing and their agreement clearly sought.
- 8.1.5 Council staff must follow a proper governance process, as set out in the updated Contract Procedure Rules, including having an effective and up to date forward procurement plan.
- 8.1.6 Cabinet reports for procurement must set out the evidence base for a particular recommendation and have an effective options appraisal as part of the report. Consideration should be given to phasing procurement and reserving future decisions to Cabinet for high value / high impact commissioning.
- 8.1.7 Contracts on the Council's contract register must be risk assessed to identify the scale of the risk for each contract. This should be done using a standardised risk assessment matrix that considers contract value, business value and impact, sourcing and contractual complexity, and performance. This will ensure that mitigations are put in place to proactively manage risks.
- 8.1.8 There must be a dedicated contract manager for high-value/impact contracts identified through the risk assessment process. This officer should be appropriately trained and should have responsibility for monitoring the contract and ensuring compliance with the contractual requirements. The officer should keep records of contract meetings and should convene formal monitoring meetings as required by the contract. The officer should raise any risks with the relevant Executive Director. The officer should have access to legal and finance advice, as required, to assist with their role.
- 8.1.9 Meaningful Key Performance Indicators must be developed for contracts and reviewed and followed up regularly at contract review meetings to ensure that any performance issues are discussed and challenged accordingly. For more significant commissioning arrangements, contract review meetings should include operational and strategic meetings with key officers in attendance. These meetings should be confidential to allow for full and frank discussion, with opportunity to agree minutes to be put in the public domain where updates are to be provided to a formal member meeting. If a contractor is invited to attend a formal Member

meeting, consideration should be given to allowing this to take place in Part 2 to allow for a more detailed discussion about any issues.

- 8.1.10 A standardised framework for contracts should be implemented, which includes a contract management plan for each contract, tailored to take account of value and impact of the contract. This considers important mechanisms for the management of a contract, including roles, responsibilities and governance, dispute resolution, key performance indicators, and exit plans.
- 8.1.11 When commissioning management consultancy, consideration should be given to the payment mechanism and if this is on a time and materials basis, there should be close monitoring of the value being delivered via this arrangement and consideration of alternatives, such as recruiting in-house resource.
- 8.1.12 When commissioning services, ensure that decisions are informed by data, including benchmarking data where available, to demonstrate value for money for Slough's residents.
- 8.1.13 Ensure there is an effective mechanism to review commissioning activity, including reviewing whether the arrangement delivered on the intended strategic aims and capturing any lessons learned. Regular reports should be presented to CLT and the Lead Member responsible for contract management.