

CONTRACT MANAGEMENT

Report of the Director of Resources

Author: Paul Drake, Head of Procurement (Tel: 01992 588747)

Executive Member: Ralph Sangster – Resources and Performance

1. Purpose of Report

- 1.1 To provide further information regarding the risk and associated controls recorded on the Hertfordshire County Council Corporate Risk Register relating to the procurement and management of contracts (SP0005).
- 1.2 This report invites the Audit Committee to endorse the overall approach that Hertfordshire County Council is taking to mitigate this risk.

2. Summary

- 2.1 The Audit Committee has requested a report on the above risk. The risk is owned by the Assistant Director, Finance within the Resources Directorate and is reviewed quarterly by the Head of Procurement.
- 2.2 The entry on the County Council's risk register reads:

“A significant proportion of the Council's expenditure is accounted for by externally commissioned services. In the event of insufficient skills in commissioning / contract management and competencies along with a lack of application of effective monitoring, governance and contract management rigour, there is a risk of poor value, inadequate service provision and data security and/or failure of externally delivered services, which could lead to disruption of service delivery”

- 2.3 The rating of the risk and the controls currently in place to minimise or avoid its occurrence are summarised in Appendix 1.

3. Recommendation/s

- 3.1 The Audit Committee is invited to note and comment on the information provided within this report.

4. Background

- 4.1 Currently approximately £850m is spent annually on externally commissioned services. Contract management and monitoring is the responsibility of individual contract managers within departments. The Strategic Procurement Group in Resources is responsible for ensuring appropriate training and best practice advice is available to departments. The way these contractual arrangements are set up, managed, and where necessary, decommissioned clearly presents a potential risk to the council. SP0005 aims to provide assurance that this risk is being mitigated.
- 4.2 In addition to the internal staff skills and competencies required, monitoring the performance and financial stability of the external partner is an important and challenging part of the contract management role. There have been some high profile failures of service providers to the public sector recently and it is not anticipated that the situation will stabilise in the near future.
- 4.3 The Council Contract Register contains details of approximately 1100 contracts and lists 204 contract managers. Council departments are well placed to assess risk on these and consequently the focus of contract management activity is on the larger strategic contracts or those for critical services. There are resources in place to deal with these, examples include the monitoring officers in ACS commissioning teams, the Commercial and Operational Support Team in Property and the Highways Contracts and Network Team. However the consequences of failure of a small provider, for example a key IT system provider or a private care home, could also be devastating to service users and their families so there is a general need for risk mitigation across the organisation.
- 4.4 As such the focus of risk reduction is on ensuring that a consistent and robust approach is taken to both procurement and ongoing contract management. This is achieved in a number of ways, and this paper will detail the measures in place to ensure the risk of under skilled council staff or poorly managed contractors is minimised as far as practicably possible.
- 4.5 The strength of the Council's contractual arrangements is dependent upon a number of factors addressed by this risk and associated controls. This focus report reviews arrangements in 3 areas:
- Training activities
 - Promotion of best practice to develop competencies
 - Financial Monitoring

n.b. Risk SP0006 deals with supplier monitoring in more detail although there is a clear overlap with SP0005 so this focus report addresses both areas.

- 4.6 In addition, as a temperature test a recent survey of contract managers has been undertaken and a Scrutiny session on dealing with supplier market volatility is planned in Quarter 4 of this year.

5 Training activities

- 5.1 There is a mature Council wide procurement training programme in place covering 4 key skills areas, which are fundamental to the delivery of good quality procurement / commissioning and contract management. These courses are part of the corporate Learning and Development offering and are bookable several times per year via iLearn. Courses are usually run at capacity, and for some of the courses a waiting list is maintained. Urgent requirements are met via the “supplementary training” set out below.
- 5.2 The courses are currently delivered on-site by Cordie Ltd, a leading edge provider of training in tools and techniques for procurement and supply chain professionals. Cordie Ltd is rated as a ‘Centre of Excellence’ by the Chartered Institute of Procurement and Supply (CIPS) and has twice won the UK National Training Awards.
- 5.3 The 4 courses on offer are:

Pre-procurement market engagement

This is a focused ½-day event for all staff who may be involved in the process of scoping and preparing for a procurement initiative. It considers the key activities required to engage with a market and to analyse it prior to commencing any procurement procedure. The role of stakeholders and market consultation activities are also considered, as well as the regulatory aspects of maintaining transparency and non-discrimination.

Effective Procurement Procedures

This is a 1-day course providing detailed practical guidance on application of the EU public procurement directives and other relevant regulations for procurement staff in Hertfordshire. The need for efficiency and probity in public sector procurement is strongly reinforced by this course.

Contract Management

This is a 1-day course providing excellent foundation knowledge and awareness of how to manage contracts with external providers successfully, in order to both deliver desired commercial outcomes and maintain a sustainable contractual relationship. Competence in this area is equally about how to manage intelligently, knowing when to consult

with professional colleagues especially when undertaking complex processes such as making contractual changes, recognising the key drivers that will improve supplier performance and understanding the role and importance of robust contract governance.

Negotiation Skills for Public Contracts

This is a 1-day course aimed at officers who are involved in negotiating and/or working with suppliers either as part of a contract award or during the contract management phase. As well as concentrating on how to prepare, manage and execute a negotiation, it also considers key aspects of the regulatory environment and the impact of public procurement legislation.

- 5.4 Attendance has been consistently high over the course of the programme, details are shown below, and feedback from participants has been excellent. Whilst this training is not currently mandatory, Hertfordshire County Council contract regulations require that “all officers involved in the commissioning and procurement of goods, services or works must be appropriately trained to carry out their duties”. The contract register records show there are 204 contract managers across the organisation currently. Some existing contract managers have not attended this training, these are usually either experienced contract managers, who feel they have the necessary skills already or they are managing smaller, often one-off, contacts.

Procurement Training attendance 2015-2018

Course Title	Total Number	ACS	CS	CP	Env.	PH	Res.	Other
Pre-procurement Market Engagement	77	14	11	0	15	2	31	4
Effective Procurement Procedures	107	29	17	1	17	5	36	2
Contract Management	106	15	16	3	21	3	41	7
Negotiation Skills for Public Contracts	58	13	11	1	14	1	14	4
Total	348	71	55	5	67	11	122	17

5.5 Supplementary training

As well as the generic courses offered, additional tailored sessions are available to departments on a procurement by procurement basis. These are usually delivered by a member of the Strategic Procurement Group, or occasionally external consultants if they are delivering technical advice to a particular service.

Examples include:

- Advice on running tailored pre-procurement market engagement exercises to ensure better understanding of the specific supply market, these may take the form of questionnaires, workshops,

industry days, “speed dating” sessions, webinars, video briefings and site visits.

- Briefing sessions for services about to embark on a larger scale procurement process, aimed at building the project team and developing an understanding of the individual roles within it.
- Evaluation and moderation briefing sessions for those officers involved in these tasks. These sessions clearly explain the approach to evaluation, setting out the do’s and don’ts, the process and the requirement for quality detailed rationale of scoring decisions made. The specialist role of moderator is explained and attention drawn to the particular demands of technical competence as well as impartial challenge to the evaluation scores. These sessions have proved extremely valuable in minimising the number of challenges from disgruntled bidders.
- Briefing sessions for suppliers, particularly in industries or sectors which may not have wide experience of bidding for Council contracts, for example taxi companies, or voluntary and community sector organisations. These sessions typically focus on what the Council is looking for in a good tender, and on how to use the eTendering technology. They help to avoid misunderstandings about the Council’s requirements that could get magnified into legal challenge later in the process. They also help suppliers to deliver focussed and realistic bids.
- With Finance colleagues, sessions to build a financial evaluation model which ensures a robust evaluation but also keeps in mind the sustainability of the contract over its lifetime.

6. Promotion of best practice to develop competencies

- 6.1 The Contracting Best Practice Group exists in order to keep key officers informed of the latest developments in contract management best practice and of any advice with regard to supplier failure or new legislation. The Group meets every 3 months and continues to be well attended, with representatives from all departments. It is administered by the Strategic Procurement Group and chaired by the Head of Procurement.
- 6.2 Recent meetings have considered the lessons arising from the issues afflicting Carillion, Capita and other major providers of services to the public sector. Other matters that have been dealt with recently by the Group include ensuring a robust and compliant approach is adopted to the new General Data Protection Regulation requirements in terms of contract terms and conditions, and reviewing arrangements to ensure suppliers maintain their business continuity plans.

- 6.3 In addition to the Best Practice Group, a substantial amount of information on Best Practice procurement and contract management is issued and maintained on the Council's Procurement intranet pages.

7. Financial Monitoring

- 7.1 There are detailed processes in place to ensure that contract managers can monitor the financial position of key suppliers. These can be split into 2 periods – pre contract and during contract management.

Pre contract

The Council's financial checking and monitoring tool is Dun & Bradstreet. There are 43 users of this system across all departments. These users are able to run instant reports on suppliers containing the latest standard financial accounts data on an organisation, with some additional analysis such as payment habits, comparison with industry payment benchmarks and detailed structure and governance information.

All bidders are subject to background checks on financial status. In the year 2017/18 a total of 4950 reports were run to check financial status. If any doubts are raised by a check, then more specific financial assurance will be sought from a bidder.

Contract management

Over 1780 organisations are held on a daily monitor with Dun & Bradstreet. These are identified by spend (over £100k) and/or nomination by the relevant contract manager. Alerts are coded as Red / Amber / Green according to significance of any changes identified to their financial position. All "Red" alerts are forwarded to the relevant contract manager on the day of the alert, with recommended actions such as contacting the supplier immediately for an explanation of any significantly deteriorating financial position. Whilst this is not a perfect warning system for unpredicted supplier difficulty, it can provide a useful view of a supplier's deteriorating position over time and enable the contract manager to intervene early.

However, close contract monitoring can provide a plethora of early indicators of supplier issues. For example if staff training is not being maintained, an unusually high level of temporary staff is being used, investment in maintaining buildings is not being made or the supplier is chasing invoice payments or asking for early payment. These 'soft' indicators often provide earlier warnings of issues than financial data.

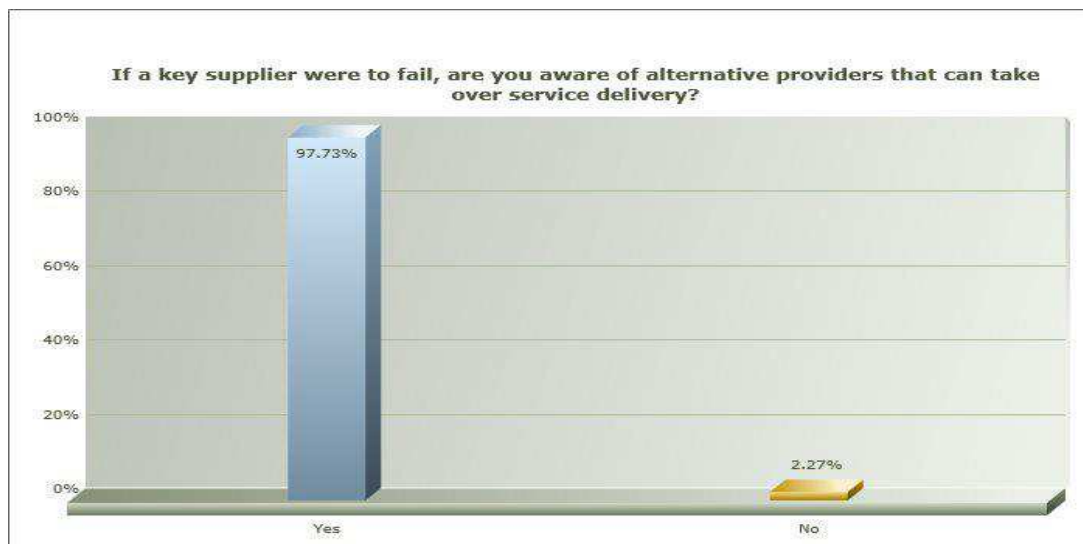
8. Temperature test - Contract Managers Survey 2018

- 8.1 As a response to the high profile supplier issues nationally, and following discussion at Procurement Board in March 2018, a survey of the contract management community was conducted by the Strategic Procurement Group in Spring 2018.

- 8.2 The survey was distributed to all contract managers and was aimed at getting a fuller picture of how contracts are being managed across the organisation and at identifying any examples of best practice that could be disseminated across the Council contract managers.
- 8.3 There were 47 responses to the survey, with a good spread across departments. Some of the significant findings are detailed below:

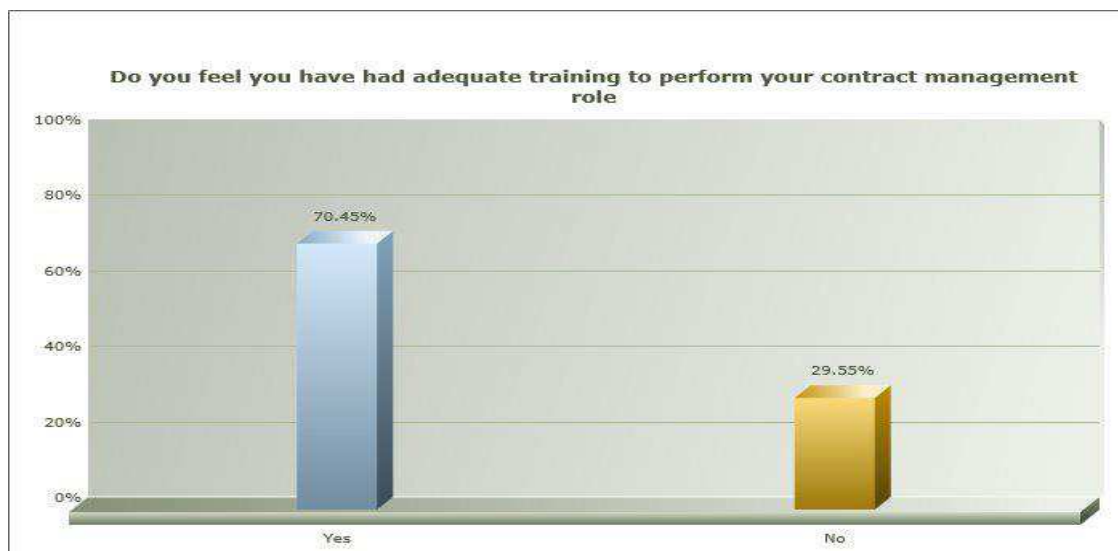
Alternative suppliers in the market

When asked if a key supplier were to fail, could an alternative provider be readily identified, over 97% of respondents were aware of alternative providers that could take over service delivery.



Contract Management training

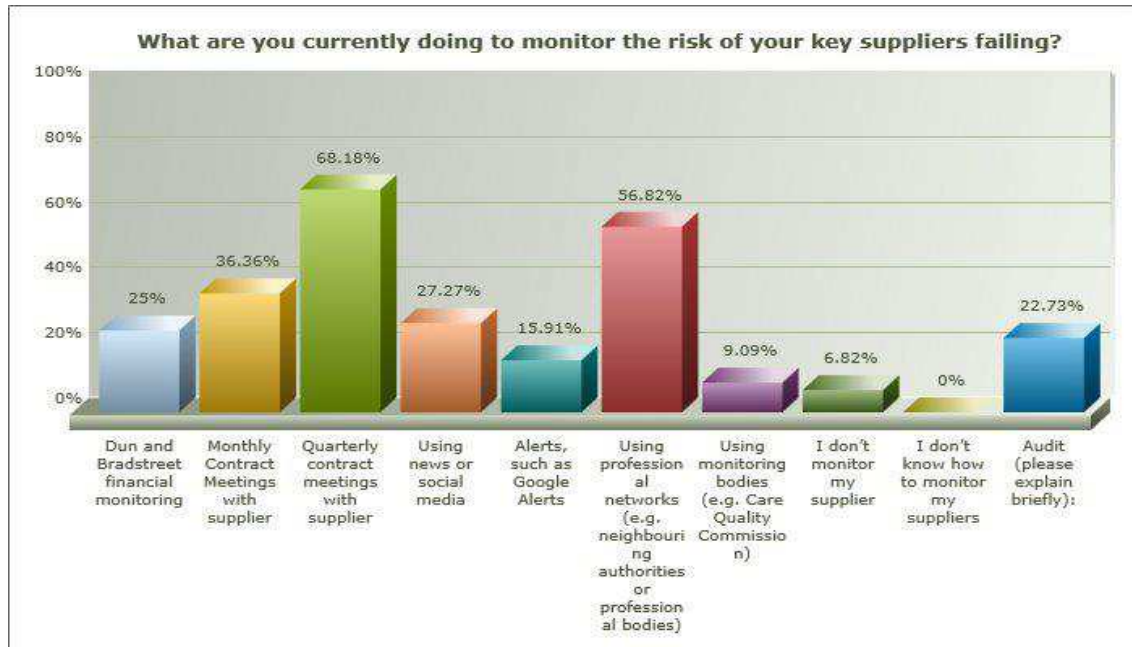
Over 70% of respondents felt they had adequate training to perform their contract management role.



Market monitoring

There was a wide spread of activities taking place to monitor the marketplace in order to assess the probability of key supplier failure including:

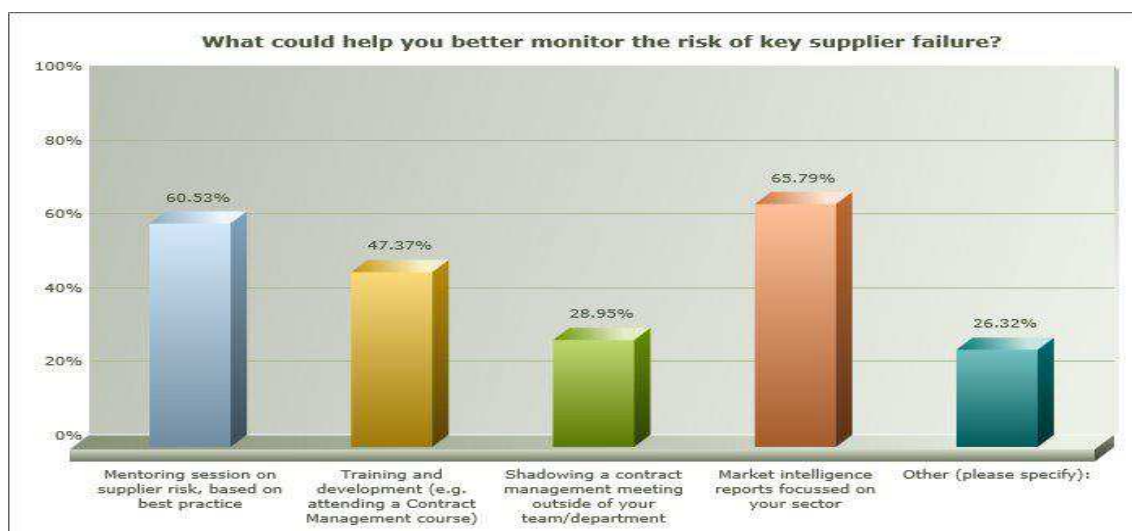
- Financial checking,
- Contract management meetings monthly or quarterly,
- Accessing professional networks
- External monitoring bodies such as the Care Quality Commission.



Improvement recommendations

There were a number of suggestions aimed at better preparing for the risk of failure, these included more training on monitoring supplier risk and more market intelligence data.

'Market intelligence reports' and 'mentoring and sharing best practice' were the most popular choices (65% and 60% respectively).



Recommendations from respondents included:

- Better outline of the expectations of contract managers
- Developing an officer level best practice group for contract managers
- Cross-organisational monitoring, e.g. Public Health colleagues working with the CCGs – can resources be pooled for monitoring?

- 8.4 Actions arising from the Survey - The next Contracting Best Practice Group (July 2018) will review the survey findings and determine an action plan to further consolidate risk measures. These actions are likely to include improving the clarity of the 'role of the contract manager' and additional measures to work with departments on identifying supplier risks.

9. Other relevant information

9.1 Future Scrutiny session

There will be a 2 day topic group on dealing with contractor market volatility taking place on 11 & 25 March 2019.

The objective is to assess Hertfordshire County Council's arrangements to deal with supply market and contractor volatility post Carillion, including sub-contractors and partners.

The questions that will be addressed are:

- How effective are Hertfordshire County Council's due diligence activities?
- How does the council practise good quality contract management to identify potentially serious issues early?
- What happens when a supplier fails or becomes increasingly unstable?

10. Recommendation

- 10.1 The Audit Committee is invited to note and comment on the information provided within this report.
- 10.2 Based on the content of this report and the current level of instability and unpredictability in the supply market generally, it is recommended that the risk score remains unaltered i.e. Probability Possible (3) x Impact High (8) = 24 Significant.

APPENDIX ONE

CORPORATE RISK REGISTER					
Risk Number			Risk Owner		Department
SP0005			Steven Pilsworth		Resources
Date risk first included on risk register	Risk treatment (response) to manage the risk		Executive Member		
09/07/2010	Reduce		Ralph Sangster		
Description of the risk A significant proportion of the Council’s expenditure is accounted for by externally commissioned services. In the event of insufficient skills in commissioning / contract management and competencies along with a lack of application of effective monitoring, governance and contract management rigour, there is a risk of poor value, inadequate service provision and data security and/or failure of externally delivered services, which could lead to disruption of service delivery. [Formerly IMP0002/CSCE0019]					
Consequences of the risk Service disruption, poor value / poor quality services, data security breaches and service failure.					
Current controls SP0005/002 Effective use of The Procurement Cycle (the `Do, Buy, Share' model of procurement) SP0005/005 Deliver specialist procurement training programme SP0005/006 Regular newsletter and Contracting Best Practice meeting which takes place bi monthly SP0005/008 SPG team specialist support to key business areas SP0005/009 Commercial skills assessment undertaken through SMART Commercial programme SP0005/010					

Effective service and contractual checks are made by contracting managers pre contract placement and on an ongoing basis

SP0005/011

HCC's Technology team provide support to contracting managers to assess ICT implications and security.

Current Risk score based on effectiveness of current controls

<i>Probability score:</i>	<i>Impact score:</i>	<i>Overall score:</i>
3 - Possible	8 – High	24 - Significant

Reason for inclusion on Corporate Register

Identifiable risk of service delivery disruption or detrimental effect on quality / cost of provision.

Direction of travel (*overall risk score for previous three quarters*)

24	24	24
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Target risk score

<i>Probability score:</i>	<i>Impact score:</i>	<i>Overall score:</i>
2 - Unlikely	8 - High	16 – Significant