

MID KENT AUDIT

PROCUREMENT

FINAL AUDIT REPORT

AUGUST 2018

Final Assurance Rating: **Sound**

Audit Code	TWBC – CF02(17-18)	Service	Procurement
Auditor	Christopher Davis (Mazars)	Audit Sponsor	Jane Fineman
Audit Manager	Frankie Smith	Director	Lee Colyer



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Summary Report

Our opinion based on our audit work is that the Procurement function has **Sound** controls in place to manage its risks and support achievement of its objectives. We provide the definitions of our assurance ratings at appendix II.

We established that procurements are advertised on the Kent Business Portal, and the Portal is used for the issue of tender invitation documents and receipt of tenders. Testing of a sample of recent procurements confirmed that these generally complied with the Council's new Standing Orders on Procurement and Contracts. Tenders were evaluated in accordance with the evaluation criteria set out in tender invitation documents.

Areas for improvement include the contracts register (which is currently incomplete) and the need for a process to identify all contracts which are due to expire and ensure that appropriate action is taken (e.g. extension of current contract within the contract terms or a re-procurement exercise).

Next Steps

At page 12 we describe the 5 recommendations arising from our work, and responses from management. We note the service has agreed to carry out the recommendations. We will follow them up as they fall due in line with our usual approach and consider re-evaluating the assurance rating as the service acts to address the issues identified.

We have prioritised our recommendations as below:

Priority 1 (Critical)	Priority 2 (High)	Priority 3 (Medium)	Priority 4 (Low)	Advisory
0	0	0	4	1

We provide the definition of our recommendation priorities at appendix II.

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Findings in Context

Our most recent audit work in this area was Procurement Strategy in May 2014. We reported then the controls offered a substantial level of assurance. This is the equivalent assurance rating to our current sound assurance rating. We therefore consider the assurance offered by controls in the service has been maintained since that review.

Independence

We are required by Public Sector Internal Audit Standard 1100 to act at all times with independence and objectivity. Where there are any threats, in fact or appearance, to that independence we must disclose the nature of the threat and set out how it has been managed in completing our work.

We have no matters to report in connection with this audit project.

Acknowledgements

We would like to express our thanks to all those officers who helped completion of this work, in particular:

- Dan Hutchins - Procurement Manager

Audit team and contact details	Report distribution list
<p>Audit Manager Frankie Smith (Frankie.Smith@midkent.gov.uk)</p> <p>Senior Audit Manager (Mazars) Dave Phillips (dave.phillips@mazars.co.uk)</p> <p>Assistant Manager (Mazars) Christopher Davis (chris.davis@mazars.co.uk)</p>	<p><i>Draft and Final Report</i></p> <p>Jane Fineman – Head of Finance & Procurement (Deputy s151 Officer) Dan Hutchins – Procurement Manager</p> <p><i>Final Report Only</i></p> <p>Lee Colyer – Director of Finance, Policy and Development (s151 Officer) William Benson – Chief Executive</p>

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Detailed Findings

We completed fieldwork during June 2018 to the agreed audit objectives and using the tests set out in the final audit brief dated February 2018, with the following exceptions:

- The sample sizes for testing procurements under and over £100k were reduced from ten to five to reflect the level of procurement activity since August 2017;
- Testing of a sample of recently extended contracts was not carried out because there was no central record of contract extensions which could be used for sample selection.

We include the audit brief at appendix I.

We present the brief as originally agreed since we completed this review in line with original timing and budget expectations. We again thank the service for support provided to enable efficient completion of our work.

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Objective 1 – To assess the adequacy of procurement controls over the purchasing of works, supplies (goods) and services to ensure compliance with the Council’s Contract Procedure Rules and Financial Procedure Rules

We established that the current Standing Orders on Procurement and Contracts were approved by Full Council on 26th July 2017. We located a set of guidance notes and flowcharts on the intranet which were based on the new Standing Orders. We also noted that the Procurement Manager sent a communication to all staff advising them of the new guidance documents. However, we noted that the Procurement page on the intranet did not have a direct link to the actual Standing Orders. **R3**

R3: Link to Contract Procedure Rules

Priority 4: Low

The Procurement page on the intranet should include a link to the Standing Orders on Procurement and Contracts.

We established that the Procurement Manager has drafted a new Procurement Strategy for the Council. However, we note that the draft strategy has not yet been finalised and approved by senior management. **R4**

R4: Procurement Strategy

Priority 4: Low

The draft Procurement Strategy drawn up by the Procurement Manager should be finalised, and approved by senior management.

We selected a sample of ten recent procurements undertaken since the introduction of the new Standing Orders on Procurements and Contracts in July 2017 (five procurements where the contract value was between £15,000 and £100,000 and five procurements where the contract value exceeded £100,000). The results of the tests are recorded in the following tables:

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Procurements between £15,000 and £100,000

Control Tested	Compliant?	Findings & Conclusions
Authority to Tender (ATT) form signed by Head of Service	✘	Unsatisfactory (no ATT form was located for one procurement). R2
Procurement advertised on Kent Business Portal	✓	Satisfactory
Procurement advertised on Contracts Finder (gov.uk)	✘	Unsatisfactory (One procurement was not located on Contracts Finder). R5
Three or more quotations or tenders received	✓	Satisfactory (only 2 quotations were received for one procurement, but 5 invitations for quotation were sent out).
Quotations or tenders submitted via Kent Business Portal	✓	Satisfactory
Tender evaluation methodology fully explained in invitation for quotation or tender	✓	Satisfactory
Correct quality and cost weightings used on tender evaluation scoring matrix	✓	Satisfactory
Contract awarded to tenderer with highest evaluation score	✓	Satisfactory (excluding one contract which had not yet been awarded – see below).
Contract award letter issued	✓	Satisfactory (there was no award letter for one procurement in the sample as the evaluation of tenders was only completed on 31/5/18 and the contract had not yet been awarded).
Independent financial reports obtained for all tenderers	✘	Independent financial reports were not located on any of the procurement project folders. R2

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Procurements Exceeding £100,000

Control Tested	Compliant?	Findings & Conclusions
Authority to Tender form signed by Head of Service	✘	Unsatisfactory (no ATT form was located for one procurement). R1
Procurement advertised on Kent Business Portal	✓	Satisfactory
Procurement advertised on Contracts Finder (gov.uk)	✓	Satisfactory
Procurement advertised in OJEU (where above EU threshold)	✓	Satisfactory (3 procurements were above EU threshold)
Selection Questionnaires used (where above EU threshold)	✓	Satisfactory (3 procurements were above EU threshold)
Three or more quotations or tenders received	✓	Satisfactory (only 2 quotations were received for one procurement).
Quotations or tenders submitted via Kent Business Portal	✓	Satisfactory
Tender evaluation methodology fully explained in invitation for quotation or tender	✓	Satisfactory
Correct quality and cost weightings used on tender evaluation scoring matrix	✓	Satisfactory
Contract awarded to tenderer with highest evaluation score	✓	Satisfactory
Contract award letter issued	✓	Satisfactory

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Independent financial reports obtained for all tenderers	✘	Independent financial reports were not located on any of the procurement project folders. R2
Procurement approved by Cabinet (where value exceeds £150k)	✔	Satisfactory (3 procurements exceeded £150k)

R1: Authority to Tender Forms

Priority 4: Low

An 'Authority to Tender' form should be signed by a senior manager before the commencement of procurement activity.

R5: Contracts Finder

Advisory

All procurements exceeding £15,000 should be advertised on Contracts Finder (national public sector procurement website).

R2: Assessments of Financial Standing

Priority 4: Low

For each procurement activity, documents confirming the financial standing of all tenderers should be obtained (as required by Standing Order 22) and filed in the procurement project folder on the shared drive.

We established that all contract documentation is retained in accordance with the Council's document retention guidelines.

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We established that the Council's contracts register is held on the Kent Business Portal. However, currently the register only includes 21 contracts. The Procurement Manager is aware that the contracts register is incomplete and is working with service areas to address this.

We established that the Procurement Team is in the process of establishing a process for identifying contracts which are due to expire, to ensure that appropriate action is taken (e.g. extending the existing contract, or initiating a re-procurement activity). The Procurement Manager stated that when the contracts register has been fully updated, the Procurement Team will use the register to identify contracts which are approaching their expiry dates.

Testing of the sample of ten recent procurements identified that signed and sealed contracts were only available for two procurements in the sample (Tunbridge Wells Christmas Lights and GDPR Consultancy). The Calverley Pavilion contract had not yet been awarded as the evaluation of tenders had only recently been concluded. The relevant Head of Service confirmed that there was no signed contract for the Insurance procurement, but the Council's insurance policy documents were the equivalent of a contract. We established that contracts for the other six procurements in the sample had not yet been finalised.

We established that waivers to Standing Orders must be approved by the Section 151 Officer (Director of Finance, Policy and Development). Standing Order 51.2 states that any request to waive Standing Orders shall be set out in writing with clear reasons as to why the waiver is necessary and proportionate.

Examination of the Non Conformance Register (see below) identified five waiver requests since the introduction of the new Standing Orders in July 2017. Testing of these cases confirmed that each request was supported by a detailed explanation of the need for the waiver from the relevant Head of Service. Each waiver request was correctly approved by the Director of Finance, Policy and Development.

Four of the waiver requests originated from the same department (Planning). The Procurement Manager stated that he was arranging staff training sessions with the Head of Planning to explain required procurement processes and reduce the likelihood of future requests for waivers.

We established that the Procurement Manager introduced a Non Conformance Policy in September 2017, which requires a non-conformance to be raised where a procurement activity does not comply with Standing Orders. Each non-conformance is recorded on a Non Conformance Register.

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Examination of the Non Conformance Register established that it contained six entries; five of the entries related to requests for waivers to Standing Orders (see above), while the other entry related to a contract extension which was outside of the original agreed contract terms.

We noted that the Procurement Manager submitted a quarterly report on non-conformances to the Head of Finance and Procurement in the form of an email.

Conclusion: We conclude as a result of our testing that the controls in place to ensure compliance with the Council's Standing Orders on Procurement and Contracts are generally sound, although there are some opportunities for improvement.

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Recommendations and Action Plan

R1: Authority to Tender Forms		Priority 4: Low
<p>An 'Authority to Tender' form should be signed by a senior manager before the commencement of procurement activity.</p> <p>Implementation of the recommendation will help ensure that resources are not wasted on inappropriate procurement activities, which were not approved by senior management.</p>		
Management Response		
Agreed		
Responsible officer: Dan Hutchins	Implementation date: 01/10/2018	

R2: Assessments of Financial Standing		Priority 4: Low
<p>For each procurement activity, documents confirming the financial standing of all tenderers should be obtained (as required by Standing Order 22) and filed in the project folder on the shared drive.</p> <p>Implementation of the recommendation will help to ensure that resources are not wasted on procurement activities, which were not approved by senior management.</p>		
Management Response		
Agreed		
Responsible officer: Dan Hutchins	Implementation date: 01/10/2018	

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R3: Link to Contract Procedure Rules

Priority 4: Low

The 'Procurement' page on the intranet should include a link to the Standing Orders on Procurement and Contracts.

Implementation of the recommendation will help to ensure that staff involved in procurement activities have easy access to the Council's contract procedure rules.

Management Response

Agreed

Responsible officer:

Dan Hutchins

Implementation date:

17/9/2018

R4: Procurement Strategy

Priority 4: Low

The draft Procurement Strategy drawn up by the Procurement Manager should be finalised and approved by senior management.

Implementation of the recommendation will help to ensure that future procurements are carried out in an efficient and cost effective manner, with effective use of framework contracts and partnership arrangements where possible.

Management Response

Agreed

Responsible officer:

Dan Hutchins

Implementation date:

31/3/2019

R5: Contracts Finder

ADVISORY

All procurements exceeding £15,000 should be advertised on Contracts Finder (national public sector procurement website).

Implementation of the recommendation will help to ensure that responses are obtained from the maximum number of suppliers when a procurement activity takes place.

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Appendix I: Audit Brief

About the Core Finance Area

Internal control is a means for assuring achievement of the Council's objectives in effectiveness and efficiency. It also ensures reliable financial reporting and compliance with laws, regulations and policies. It incorporates both financial and non-financial areas.

Robust and effective financial management is fundamental and underpins everything the Council does. It is crucial to the Council's success in achieving strategic objectives.

The Council's procurement process is governed through the Contract Procedure Rules, which are designed to ensure that the procurement process adheres to UK regulations, EU procurement directives, and in accordance with the agreed procurement thresholds. The Council's Contract Procedure Rules have recently been reviewed and amended and were adopted by Full Council on 26 July 2017.

It is important that the Council has effective controls in place to ensure that its procurement practices are conducted in accordance with these rules. Goods and services with a value between £15k and £99,999 require at least three written quotes in advance. Goods and services above £100k are required to go through a competitive tender process.

The recently created Procurement Team is made up of the following officers:



Key Contacts	
Dan Hutchins	Procurement Manager
Holly Collicott	Procurement Officer

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About the Audit

This audit is a **core finance review** meaning that we will focus on how the Council manages the risks associated with this area, and uses its information to achieve its objectives.

The review seeks to provide assurance on procurement undertaken throughout the Council and compliance with the Council's Contract Procedure Rules.

Our findings in this review will contribute towards the **internal controls** aspect of the Head of Audit Opinion, to be issued in June 2018.

Evaluation Criteria

Management currently base their assessment of service performance on:

- Contract Procedure Rules
- Financial Procedure Rules
- EU procurement rules

We are satisfied these are appropriate criteria and so will in our review use the same to guide our review.

Audit Objectives

1. To assess the adequacy of procurement controls over the purchasing of works, supplies (goods) and services to ensure compliance with the Council's Contract Procedure Rules and Financial Procedure Rules.

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Audit Scope¹

This audit will focus on procurement activity since the adoption of the revised/ updated Contract Procedure Rules in July 2018.

1. Contract Procedure Rules
2. Financial Procedure Rules
3. Roles, responsibilities & reporting lines
4. Compliance testing £15k - £99,999
5. Compliance testing £100k +
6. Contract extensions
7. Contract register
8. Tenders (invitation, application, receipt, storage, opening, evaluation and void)
9. Contracts
10. Waivers
11. Non-compliance

Audit Testing

1. Review and summarise the Council's Contract Procedure Rules and Financial Procedure Rules (relating to procurement activity)
2. Search for the Contract Procedure Rules on the Council's website and intranet to determine how easy it is to locate
3. Discussion with key officers to determine what has been done to increase awareness of the Council's Contract Procedure Rules
4. Walk-through testing to document the procurement process
5. Testing on a sample of 10 supplier expenditure between £15,000 - £99,999 since 01 August 2017 to confirm compliance with the Council's Contract Procedure Rules and Financial Procedure Rules
6. Testing on a sample of 10 supplier expenditure over £100k since 01 August 2017, to confirm compliance with the Council's Contract Procedure Rules and Financial Procedure Rules
7. Testing on a sample of recently extended contracts to confirm compliance with the Contract Procedure Rules
8. Review of the Council's Contract Register

¹ This scope is current as at the date of the document. In the event that our testing identifies further areas of audit interest we may modify/extend testing but will discuss modifications with you before undertaking additional work.

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9. Walk-through testing and observation of the tender process (from invitation to tender to evaluation of tenders)
10. Testing on a sample of 5 tender exercises completed since 01 August 2017 to confirm compliance with the approved procedure
11. Review void tenders to confirm compliance with approved procedures.
12. Discussion with key officers to determine the storage arrangements for key contract documentation
13. Testing on a sample of 5 recent contracts to confirm the original contract has been signed and sealed by an appropriate officer and the original document is easy to locate and held in accordance with the Council's Contract Procedure Rules
14. Review a sample of waivers processed since 01 August 2017 to confirm compliance with the Council's Contract Procedure Rules
15. Discussion with key officers to determine how the number of waivers is minimised
16. Discussions with key officers to establish what monitoring is completed to identify non-compliance and review of non-compliance records (August 2017 +)

Audit Resources

Based on the objectives, scope and testing identified we expect this review will need **15 days** of audit time, broadly divided as follows:

Audit Task	Auditor/s	Number of Days (Projected)
Planning	Frankie Smith	2.5
Fieldwork	TBC	9
Reporting	TBC	2
Supervision & Review	Frankie Smith	1.5
Total		15

Audit Timeline

Fieldwork commence date: 29 May 2018
Draft report date: 17 August 2018 *

* The draft report issue date was delayed due to annual leave commitments

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Resources required by audit

Documents required	
Contracts register	
Tender documentation	August 2017 +
Waivers	August 2017 +
Contract documentation	August 2017 +
Non-compliance documentation	August 2017 +
Systems access	
e-Financials	Read only access
Procurement shared drive	Temporary access
Physical sites access	
Contracts storage room	

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Appendix II: Assurance & Priority level definitions

Assurance Ratings

Full Definition	Short Description
<p>Strong – Controls within the service are well designed and operating as intended, exposing the service to no uncontrolled risk. There will also often be elements of good practice or value for money efficiencies which may be instructive to other authorities. Reports with this rating will have few, if any, recommendations and those will generally be priority 4.</p>	<p>Service/system is performing well</p>
<p>Sound – Controls within the service are generally well designed and operated but there are some opportunities for improvement, particularly with regard to efficiency or to address less significant uncontrolled operational risks. Reports with this rating will have some priority 3 and 4 recommendations, and occasionally priority 2 recommendations where they do not speak to core elements of the service.</p>	<p>Service/system is operating effectively</p>
<p>Weak – Controls within the service have deficiencies in their design and/or operation that leave it exposed to uncontrolled operational risk and/or failure to achieve key service aims. Reports with this rating will have mainly priority 2 and 3 recommendations which will often describe weaknesses with core elements of the service.</p>	<p>Service/system requires support to consistently operate effectively</p>
<p>Poor – Controls within the service are deficient to the extent that the service is exposed to actual failure or significant risk and these failures and risks are likely to affect the Council as a whole. Reports with this rating will have priority 1 and/or a range of priority 2 recommendations which, taken together, will or are preventing from achieving its core objectives.</p>	<p>Service/system is not operating effectively</p>

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Recommendation Ratings

Priority 1 (Critical) – To address a finding which affects (negatively) the risk rating assigned to a Council strategic risk or seriously impairs its ability to achieve a key priority. Priority 1 recommendations are likely to require immediate remedial action. Priority 1 recommendations also describe actions the authority **must** take without delay.

Priority 2 (High) – To address a finding which impacts a strategic risk or key priority, which makes achievement of the Council’s aims more challenging but not necessarily cause severe impediment. This would also normally be the priority assigned to recommendations that address a finding that the Council is in (actual or potential) breach of a legal responsibility, unless the consequences of non-compliance are severe. Priority 2 recommendations are likely to require remedial action at the next available opportunity, or as soon as is practical. Priority 2 recommendations also describe actions the authority **must** take.

Priority 3 (Medium) – To address a finding where the Council is in (actual or potential) breach of its own policy or a less prominent legal responsibility but does not impact directly on a strategic risk or key priority. There will often be mitigating controls that, at least to some extent, limit impact. Priority 3 recommendations are likely to require remedial action within six months to a year. Priority 3 recommendations describe actions the authority **should** take.

Priority 4 (Low) – To address a finding where the Council is in (actual or potential) breach of its own policy but no legal responsibility and where there is trivial, if any, impact on strategic risks or key priorities. There will usually be mitigating controls to limit impact. Priority 4 recommendations are likely to require remedial action within the year. Priority 4 recommendations generally describe actions the authority **could** take.

Advisory – We will include in the report notes drawn from our experience across the partner authorities where the service has opportunities to improve. These will be included for the service to consider and not be subject to formal follow up process.