

Audit & Governance Committee

Date of Meeting: 31 July 2018

Report Title: Internal Audit Procurement Review

Senior Officer: Jan Willis, Interim Executive Director of Corporate Services

1. Report Summary

- 1.1. This report provides Members with an overview of the recent Internal Audit review of procurement which superseded a review initially commenced during 2015 that was paused as a result of a police investigation into the award of contracts.

2. Recommendation/s

- 2.1. That the Committee note the content of the report and the management actions agreed as a result of the review.

3. Reasons for Recommendation/s

- 3.1. Receiving this report aligns with the Audit and Governance Committee's terms of reference in considering reports on the effectiveness of internal control and requesting summaries of specific internal audit reports.
- 3.2. The report is also intended to provide assurance to the Committee that the learning points arising from the Internal Audit review will be effectively implemented and monitored, to improve future working practices.

4. Other Options Considered

- 4.1. No other options were considered as this update report is a request from the Committee.

5. Background

- 5.1. During August 2015, Internal Audit commenced a planned review of procurement arrangements to obtain assurance that appropriate controls

were in place to ensure compliance with Contract and Finance Procedure Rules.

- 5.2. The review had been included within the 2015/16 Internal Audit Plan as the Council's procurement rules had recently been updated to reflect changes to European Union and domestic procurement legislation. It also introduced simplified processes following the Council's decision to become a Strategic Commissioning Council, and the creation of Alternative Service Delivery Vehicles for the provision of Council services.
- 5.3. Shortly after the review commenced, the Council received whistleblowing referrals relating to the letting of a particular contract and it was decided that the most appropriate way in which to test the concerns raised was to do so as part of the ongoing procurement review. The rationale behind this approach was that Internal Audit would be able to access documentation relating to the contract award without drawing attention to it, thus reducing the risk of tipping off anyone identified by the whistleblowing referrals.
- 5.4. The testing of concerns commenced during September 2015 and was placed on hold in December 2015 when Cheshire Police commenced an investigation into the contract award. Following discussions between the Corporate Manager Governance and Audit and the police it was agreed not to continue the audit review until the police investigation had concluded.
- 5.5. Following discussion at the December 2016 meeting of this Committee, it was agreed that a new piece of work should be completed to provide assurance to both officers and Members that the arrangements in place to manage procurement activity were appropriate and effective. As such, a proposed terms of reference was shared with the Senior Investigating Officer undertaking the police investigation to ensure that any audit work in this area would not impact upon their work.
- 5.6. The terms of reference were agreed and work commenced during March 2017 on the new review of procurement arrangements. However, due to resource issues and competing priorities it was not possible to complete the review and as such it was again placed on hold and rolled forward into the 2017/18 Audit Plan. The audit review was completed in March 2018 with the final report issued to Management on 4 June 2018.
- 5.7. In planning the audit, three risks were identified and the policies, systems and procedures in place to manage these risks were subject to review to obtain assurance that they were both effective and appropriate.
- 5.8. The three identified risks were as follows:

Risk 1 - *Procurement rules and supporting processes are not sufficiently detailed or wide ranging so as to ensure that procurement activity across Cheshire East is both legal and in compliance with Finance & Contract Procedure Rules leading to failure to achieve value for money, legal challenge and reputational damage.*

Risk 2 - *Failure to effectively communicate procurement rules, and the associated requirements, to the appropriate officers resulting in procurement of goods and services not being carried out in accordance with current procedure and/or legislation leading to financial loss, legal challenge and reputational damage.*

Risk 3 - *Ineffective arrangements are in place to identify, regulate and, where appropriate, escalate non-compliance with Procurement Rules resulting in a failure to identify and correct poor or inappropriate practice resulting in failure to achieve value for money, financial loss, legal challenge and reputational damage.*

- 5.9. The review involved discussions with officers, examination of policies and procedures and testing of identified controls through a combination of walk through and sample testing. Where sample testing was undertaken, it included a range of transactions completed throughout 2017/18 in order to ensure that the findings were as comprehensive and reliable as possible and also captured an accurate reflection of current practice. However, Members should note that, in common with all audit reviews, although reasonable assurance can be drawn from test findings it is never possible to give complete assurance that all issues have been uncovered, as Internal Audit are unable to test every transaction.
- 5.10. The review identified no issues with Risk 1 or Risk 2 and therefore concluded that both were effectively managed. However, the following findings were reported in relation to Risk 3:

Finding 1 - A review of the corporate contracts register identified 33 out of the 633 contracts listed had passed their expiry date. This was clearly a concern and additional work was carried out to determine whether spend had continued or it was simply a matter of expired contracts not having been removed from the register. It was pleasing to note that no spend had taken place post expiry of any of these contracts and action was taken to update the Contract Register and ensure that it is kept up to date in future.

Management Response – The contracts register forms part of service team plans which should be subject to regular review by contract managers who should provide any updates to the Procurement Team. This should have identified the expired contracts and improved monitoring of contracts

within services is required. This area has also been subject to an Internal Audit review with appropriate recommendations agreed to improve the control environment.

However, in recognition of this weakness in control a process has been introduced within the Procurement team whereby the contracts register is checked at the end of each month to identify expired contracts. These are then reviewed, including an analysis of spend and closed down. In addition, the Procurement and Commissioning Group also monitor contracts that are nearing their expiry date to ensure that appropriate action is taken.

The new Business World system will include a new contract register linked to spend that will include workflow notifications to ensure that both contract managers and procurement staff are notified when contracts are due to expire. This will provide greater control and oversight of spend against contracts and non-contract expenditure and improve control in this area.

Finding 2 - The terms of reference for the recently established Commissioning and Procurement Board did not include the receipt and review of WARNs. This was contrary to the Contract Procedure Rules which clearly state at paragraphs 7.2.2 and 7.9 that waivers and breaches should be reported to the Commissioning and Procurement Board. Whilst this was a weakness it was felt that the impact was mitigated by the review of WARNs undertaken by Audit and Governance Committee. Furthermore, all WARNs are subject to consideration and approval by the s151 Officer and Monitoring Officer.

Management Action - The Procurement Manager took action to update the terms of reference for the Commissioning and Procurement Board and the updated terms of reference were approved at the meeting held on 27 June 2018 at which the Board also received a WARNs report.

Finding 3 - A review of the procurement information available on the Council's website identified a Procurement Strategy dated 2014/2017. The Strategy included 24 agreed targets and measures with timeframes for implementation dating from 2014/15 to 2017/18. One of the measures included in the Strategy was to report the progress on the Strategy bi-annually. A review of the Procurement Board minutes from 2014 to 2017 highlighted that whilst some of the targets and measures have been monitored, there was no evidence to demonstrate that overall progress against the Strategy targets and measures had been formally reviewed and reported on.

Management Action - The Corporate Procurement Unit is in the process of developing a new Procurement Strategy which is due to be approved

and implemented later in 2018. The Procurement Manager has acknowledged that reporting of performance against the previous strategy could have been improved and confirmed that all of the targets and measures set out in the previous version have been included in the process for identifying and developing targets for inclusion within the Procurement Strategy 2018-2021. Progress against objectives, measures and targets will be subject to regular monitoring and formal reports to the Commissioning and Procurement Board.

- 5.11. Given the low number of identified findings, the swift resolution of these by the Procurement Manager, and the effective controls that were found to be in place and operating effectively, a 'Satisfactory' audit opinion was provided.
- 5.12. However, given the level of risk associated with procurement activities across the whole of the public sector, this area will continue to be subject to regular audit reviews to ensure that appropriate controls are in place to safeguard the public purse and ensure that Cheshire East Council is compliant with both legislation and regulations.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. There are no direct legal implications although a failure to comply with procurement legislation would have a significant impact in this area

6.2. Finance Implications

- 6.2.1. There are no direct financial implications although a failure to effectively manage procurement activity would have a significant impact in this area.

6.3. Policy Implications

- 6.3.1. There are no direct policy implications.

6.4. Equality Implications

- 6.4.1. This report did not require an Equality Impact Assessment to be completed.

6.5. Human Resources Implications

- 6.5.1. There are no direct human resources implications.

6.6. Risk Management Implications

6.6.1. This report provides assurance that the identified risks are being managed effectively and that appropriate action has been taken to address identified weaknesses.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People

6.8.1. There are no direct implications for children and young people.

6.9. Public Health Implications

6.9.1. There are no direct implications for public health.

7. Ward Members Affected

7.1. Procurement activity impacts upon all areas of service delivery and the whole of the Cheshire East area, therefore all Members are affected.

8. Access to Information

8.1. Not applicable.

9. Contact Information

9.1. Any questions relating to this report should be directed to the following officer:

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