

Agenda Item 5c



Internal Audit Final Report

Health and Social Care

Commissioned Children's Services

Description	Priority	No.
Major issues that managers need to address as a matter of urgency.	High	2
Important issues that managers should address and will benefit the Organisation if implemented.	Medium	4
Minor issues that are not critical but managers should address.	Low	0

Distribution:

Executive Chief Officer for Health and Social Care
Lead – Strategy, Performance and Quality Assurance, Health and Social Care

Audit Opinion

The opinion is based upon, and limited to, the work performed in respect of the subject under review. Internal Audit cannot provide total assurance that control weaknesses or irregularities do not exist. It is the opinion that **Limited Assurance** can be given in that weaknesses in the system of controls are such as to put the system objectives at risk, and/or the level of non-compliance puts the system objectives at risk.

Report Ref: HSC11/001
Draft Date: 06/03/2023
Final Date: 31/05/2023

1. Introduction

- 1.1 The objective of the review was to ensure that the arrangements for the commissioning of services for children and young people are effective in terms of:
- they are compliant with Procurement Rules, meet the need to care for children in the local community and demonstrate best value; and
 - there are appropriate arrangements for the monitoring and evaluation of service delivery to ensure the expected outcomes are delivered.
- 1.2 The audit considered the arrangements for managing commissions in 2021/22 and 2022/23. A sample of commissioned services were tested to ensure that they were procured and managed in accordance with the Council's own guidance, procurement law and good practice.
- 1.3 The scope of the review extended to all commissions that are managed by Health and Social Care services':

Type of Service	Number	Estimated Value £000s
Children's Services	8	8,520
Residential Services	2	2,367
Support Services	4	622
Housing Support	1	602
Throughcare/Aftercare	2	595
Other	17	775
Total	34	13,481

It should be noted that the largest of the above commissions – Children's Residential Care and Educational Services (£7.5m) - has been managed through a Scotland Excel Framework Agreement since April 2018, which includes the quarterly monitoring returns that suppliers provide.

- 1.4 From 2012, and as part of the Highland Partnership Integration Scheme, commissions were managed by NHS Highland. A Redesign Review in 2018, recommended that commissions should be managed through an in-house hub model, which was formally agreed following a revision to the Partnership Integration Scheme in March 2021.

2. Main Findings

2.1 *Procurement Rules, Care for Children and Best Value*

The audit objective was partially achieved. The commissions were transferred to the Health and Social Care Service in November 2021. Following a period of transition to establish the status of the commissions received a decision was taken to extend the existing contracts on the understanding that it would avoid any cost or supply chain risks. A detailed SBAR (Situation, Background, Actions and Recommendations) was developed at this time to address a number of significant concerns and service management provided evidence and explanations to demonstrate that the contract extensions offered best value.

The Redesign Review anticipated that "potential savings could be obtained through rationalising services, refocusing the allocation of funding and re-procurement". However, many of the recommendations from this review have not been implemented. In particular, the commissions have not been reviewed to establish if these are still needed, or re-procured for a number of years. For the sample reviewed (except the Scotland Excel Framework Agreement) each had been extended for between 6 and 14 years. (See Action Plan Reference: H1)

The in-house commissioning team (2 officers that support both Health & Social Care and Education & Learning commissions and undertake a range of other duties) has started to review the original contract specifications. As both the Education and Learning and Health and Social Care Services have undergone significant redesign with many officers having changed role or having left the services there was little evidence to demonstrate that the officers (designated in the contracts as the nominated lead officer for operational issues) are contributing to this process. Without their involvement there is a risk that the provider's service may no longer meet the Council's needs and that opportunities to rationalise services and/ or deliver them differently may not be taken. (See Action Plan Reference: M1)

The Council's Contract Standing Orders (CSOs) ensure that procurements are carried out consistently, in accordance with the

law and demonstrate best value. The management of the commissions is not fully compliant with CSOs:

- CSO 3.10 (b) states: in all cases (where contracts are extended) the original contract must have been won via open competition.
- CSO 3.11 states: where it is agreed that the requirements of CSO 3.10 have been fulfilled: "the reason(s) be noted in the Contracts Register".
- CSO 13.11 states: "It is the responsibility of the Delegated Procurer to ensure that details of all contracts are included within the Contracts Register"

It was identified that 7 (70%) extended contracts had not been won via open competition and 8 (80%) were not recorded in the Council's Contracts Register. Contracts were extended on the advice of the Shared Procurement Service whilst a contracts team solution was being formulated. (See Action Plan Reference: H2)

2.2 *Monitoring and Evaluation of Service Delivery*

The audit objective was partially achieved. The contract documents for each commission require that the Council should have a nominated lead officers for both operational and contract issues. The review identified that the listing of nominated lead officers was out of date with it continuing to include NHS officers and 1 council officer no longer responsible for the commission This is attributable to the small contractual resource that was unable to fulfil this function and that the priority was extending current arrangements where there was an urgent service requirement to do so. (See Action Plan Reference: M2)

The contract documents outline the type and frequency of monitoring that will be undertaken, including key information receivable on a quarterly/half-yearly basis, quarterly liaison meetings and annual contract monitoring visits. The monitoring of some contracts may no longer reflect the associated finance and service risks as the contract specifications have not been recently reviewed. (See Action Plan Reference: M3)

Evidence was sought from both the in-house team and the designated managers (nominated lead officer for operational issues) to determine if the stated key contract monitoring

information had been supplied, liaison meetings had been held and contract monitoring visits had been undertaken. 7 (70%) of commissions there was no evidence to demonstrate that recent (within 3 years) monitoring information had been received or monitoring meetings had been carried out – this includes a two-year period when the contracts were managed by NHS Highland and that this was part of the decision to take the contracts back in house. (See Action Plan Reference: M4)

3. **Conclusion**

3.1 The audit has identified that except for the Children's Residential Care and Educational Services commission the arrangements for Children's commissions are not effective. It cannot be demonstrated that commissions continue to meet the needs of the children, are delivered in an effective manner and provide best value to the Council. To be effective there needs to be a "Commissioning Cycle" where services are subject to ongoing planning, procurement, delivery and evaluation.

The review has identified that the commissioning cycle for Health and Social Care is not operating as intended. Most commissions were originally procured more than 6 years ago, with services not being monitored against contract specifications to inform future decision making on service delivery.

Whilst the following recent pressures have not contributed to the current position - this happened many years ago - they have hampered the ability to make the necessary improvements:

- The in-house team has only recently (November 2021) taken responsibility for the management of the commissions;
- The in-house team has not been provided with training, guidance and support to deliver a contract management service (this was identified within the original SBAR and management is currently at an advanced stage of negotiating expertise and training to assist and develop a contracts team);
- There have been changes in leadership, which means that designated managers do not have the cumulative understanding of the commissions that they manage; and
- The Health and Social Care Service has prioritised improvements to the delivery of non-residential care.

4. Action Plan

Ref	Priority	Finding	Recommendation	Management Response	Implementation	
					Responsible Officer	Target Date
H1	High	<p>Health and Social Care renewed the existing contracts that were transferred from NHS Highland in November 2021. The commissions have not been re-procured for a number of years and for the sample reviewed (except the Scotland Excel Framework Agreement) each had been extended for between 6 and 14 years.</p> <p><i>Therefore, there is no assurance that the current arrangements provide best value for the Council.</i></p>	<p>Management must subject commissions to regular re-procurement exercises (following open competition), ensure that they reflect the current services required and their financial cost.</p>	<p>The Health and Social Care Service is at an advanced stage of negotiating expertise and training to assist and develop a contracts team which will assess those current contracts that would be subject to competition and to look at open competition and collaborative/alliance solutions with the market.</p> <p>Some services have already been secured at rates that represent best value as they are lower than those secured on the Scotland Excel framework this has been due to establishing good working relationships with these providers.</p> <p>In relation to actions, an SBAR and detailed action plan was developed when NHS Highland transferred the contacts over to the Council towards the end of 2021. This contained action points for the way forward as the start of what was anticipated to be a lengthy progress due to the volume of work to be undertaken and to understand the positions of the contracts that were taken back.</p> <p>A second (follow up) SBAR has now been prepared following an</p>	Lead – Strategy, Performance and Quality Assurance	31/07/23

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				extensive consultation within the service now that the scope of the work involved has been assessed. This SBAR also takes into consideration the need and resources required to deliver the findings of this report and more widely how to deliver the contracting and commissioning requirements for children's services in general.		
H2	High	<p>Management stated that the extension to the existing contracts was justifiable on the basis that CSO 3.10 (b) (i) best value, and (iii) unforeseeable circumstances, both applied. It further states that: (for CSO .10 to be applied) "in all cases the original contract must have been won via open competition..." and CSO 3.11 "... the reasons must be noted in the Contracts Register". This has not been fully complied with because only 3 (30%) commissions had been subject to previous competition and 8 (80%) commissions were not recorded in the Contracts Register and thus no explanations for extension were recorded.</p> <p><i>The explanation above indicates a lack of understanding on the requirements of CSOs and the risk of legal challenge if services are being commissioned in a</i></p>	<p>Management must ensure that the procurement of commissions is compliant with the Council's Contract Standing Orders, are correctly recorded in the Council's Contracts Register and where appropriate, approval is obtained to justify any exceptions to CSOs.</p> <p>Management must ensure that the in-house team is provided with appropriate training, guidance and support to ensure that commissions are properly managed in accordance with the Council's CSOs.</p>	<p>A team contracts register has been kept and updated since contracts moved over from NHS Highland although this has not been integrated with the main Contracts Register.</p> <p>Management is in the process of addressing this area in terms of acquiring expertise and speaking to the relevant finance/Procurement Approval Group in regard to compliance with CSOs.</p>	Lead – Strategy, Performance and Quality Assurance	31/07/23

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		<i>manner that is not compliant with CSOs or procurement law.</i>				
M1	Medium	<p>The contract specifications for the inherited commissions are out of date. The Health and Social Care Team's commissioning officers are leading on the review of these specifications with the intention that they will be used to manage commissions from 01/04/2023. There was no evidence to demonstrate that designated managers are contributing to this review and shaping the future delivery of these commissioned services.</p> <p><i>There is a risk of financial loss if the Council continues to pay for services that are no longer required, are no longer being delivered or are not delivered to the expected standards.</i></p>	Management should ensure for each commission that appropriate senior officers are designated as the nominated lead officer for operational issues and that they fully participate in the review of service specifications to ensure that the Council properly plans for the future delivery of Children's commissioned services.	The current specifications are inherited and it is recognised that this will be a considerable service undertaking. Following on from a period of significant redesign, the leadership team within the Health and Social Care service have undertaken a review to both assign contracts to a designated manager and to ensure these managers engage.	Lead – Strategy, Performance and Quality Assurance	31/05/23
M2	Medium	<p>Many of the operational lead officers/designated managers have left the Council, are no longer responsible or did not know that they were responsible for managing provider relationships or monitoring the service provided. For the commissions tested, Children's Services records identified 10 (100%) commissioning officers (CO), 6</p>	Management should ensure that the roles and responsibilities for monitoring the operational and contractual aspects of each commission are clearly defined, understood and carried out to the required level by appropriately trained officers (including handover arrangements).	This is a historical issue resulting from when NHS Highland managed the contracts and gaps back then in identifying the service personnel and resources required to monitor services. Since taking back the contracts, Service managers have worked to put in place the structures required to ensure effectiveness and accountability in this area.	Lead – Strategy, Performance and Quality Assurance	31/07/23

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		<p>(60%) Area Contracts Officers with none that are identifiable as current Council officers and 7 (70%) Designated Managers – 6 (60%) of whom are identifiable as current Council officers – 1 of these is no longer responsible for the commission.</p> <p><i>As a result, there is no evidence to show if commissions are being delivered to the expected standards.</i></p>				
M3	Medium	<p>In relation to Contract Monitoring the Council's contract documents state:</p> <ul style="list-style-type: none"> • 4 (40%) commissions require that providers supply key information on a quarterly basis, have quarterly liaison meetings and an annual contract monitoring visit; or • 4 (40%) commissions require that providers supply key information on a 6-monthly basis, and an annual contract monitoring visit. <p>The contract documents were produced many years ago when the services were first commissioned. A more dynamic approach is required to ensure that contracts are monitored in response to current risks.</p>	<p>Management should assess commissions on an ongoing basis in terms of finance and service user risk to determine the level and frequency of contract monitoring required and the results of this assessment should be communicated to the lead officers.</p>	<p>This is integral to a rolling programme and will be rectified when new contracts are issued and a new model contract developed which allows for variances that take into account the risk and value of contracts in relation to regular monitoring information gathering and visits/meetings.</p> <p>The service (management) will look to address this area with appropriate operational managers and regulate monitoring through updated contracts which will contain monitoring scrutiny requirements that are proportionate to the contract value and risk.</p>	Lead – Strategy, Performance and Quality Assurance	30/09/23

Ref	Priority	Finding	Recommendation	Management Response	Implementation	
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M4	Medium	7 (70%) of commissions there was no evidence to demonstrate that recent (within 3 years) monitoring information had been received or monitoring meetings had been carried out.	Management should ensure that there are appropriate monitoring arrangements in place and evidence is retained to demonstrate that commissions are properly monitored and evaluated.	<p>This relates largely to the time when NHS Highland managed the contracts and the subsequent transfer of these services back to the Council this area of monitoring is now planned for. This includes the development of a structure for when providers will receive monitoring visits and how these visits will be carried out and structured.</p> <p>There is regular monitoring produced quarterly for residential placements on the Scotland Excel framework although and there is a service commitment to continuous evaluation of these processes to ensure they are still relevant and applicable.</p>	Lead – Strategy, Performance and Quality Assurance	31/12/23