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Contract Monitoring

Vale of Glamorgan Council

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Status of report

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The team who delivered the work comprised John Golding and Gail Turner of Grant Thornton.

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The arrangements in place to monitor the contracts vary from contract to contract and the Council cannot currently be confident that these are being monitored effectively.

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Summary report

Summary

1. The Annual Governance Statement published in September 2013, highlighted key control issues that had been identified as part of the work of Internal Audit. In particular, there were concerns relating to the lack of contractual arrangements within the Waste Management Service and also to the adequacy and effectiveness of the financial and quality monitoring arrangements surrounding partnership arrangements between the Council and the Leisure Centres service provider.
2. Following on from discussions held with the Managing Director, a review was scoped to independently examine the key control issues highlighted. Within the Leisure and Waste sectors a list of contracts was obtained and the three largest contracts were examined as part of this report, these being Leisure Centres, Recycling and Composting.
3. The review found that there is no performance management regime which formally and systematically tests the extent to which the contracts are being monitored.

Leisure

4. The Leisure contract commenced in August 2012 after a variety of options were considered for the Council. Outsourcing to a contractor was felt to be the better option as industry experts could run the leisure centres, adapting quickly to trends in market demand, whilst providing a high quality low cost service for the Council. The first phase of the contract involved the Council investing in the leisure centres and paying a fee for the service being provided, but with the progression of the contract, the contractor would become liable to the Council for a monthly fee. In these austere times therefore there is no threat of closure to the leisure centres but instead over the next couple of years, will be a source of income to the Council.

Recycling and Composting

5. The Waste (Wales) Measure 2010 and the Welsh Government Landfill Allowance Scheme (Wales)(Amendment) Regulations 2011, placed recycling and landfill reduction targets upon the Council. In order to meet these targets, the Council have introduced performance measures into their contracts where possible. For recycling, there is currently no permanent contract in place for recycling due to the circumstances outside the Council's control. The Council is instead operating under emergency powers. During the fieldwork, the tender documents were being drafted for a new contract. The Kitchen Food and Green Waste contract commenced in June 2012.

Overall

6. For the Vale of Glamorgan, the contracts present a challenge being:
- the extent to which the governance arrangements provide the Council with the information, flexibility and influence that it requires, to assure itself that the citizens in the Vale of Glamorgan are receiving the best services possible
7. This review sought to answer the question:
- Has the Council got effective arrangements in place to monitor the performance of Contractors?
- In looking at this, we considered the following three sub-questions:
- Are there effective arrangements in place to monitor the progress made by the contract?
 - Do the systems include standard definitions of performance indicators and targets?
 - Does regular and robust monitoring occur including strong challenges from Scrutiny and Stakeholders?
8. Overall, our work has led us to conclude that the arrangements in place to monitor the contracts are not consistent across the Council as they vary from contract to contract and in addition, the Council cannot currently be confident that these are being monitored effectively.

Proposals for improvement

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|----|---|
| P1 | The Council should refine the contract management regime to ensure that it formally and systematically tests the extent to which contracts are being monitored effectively paying particular attention to the Leisure contract. |
| P2 | The Council should undertake a review to determine the appropriate level and skills mix of resources required to effectively monitor the Leisure contract. |
| P3 | The Council should ensure the standard definitions for performance indicators are being utilised and data is recorded accordingly paying particular attention to the Leisure contract. |
| P4 | Scrutiny members should be offered training to ensure that an effective level of challenge is present to officers. |

Appendix 1

Findings Matrix

How well does the Council monitor the governance, process and actual implementation of its contracts?

Leisure contract

Sub Question	Finding	Conclusion
<p>Are there effective arrangements in place to monitor the progress made by the Contract?</p>	<p>The Contract commenced on 1 August but at the date of fieldwork, was unsigned and operating under a letter of intent. It is unclear as to what was holding up the signing of this Contract as at the beginning of October, the Legal department confirmed that the Contract was ready for signing.</p> <p>The Contract has been drafted in various schedules with schedule 5 being titled "Performances of the services contract standards review and monitoring". Within this schedule are numerous headings:-</p> <ul style="list-style-type: none"> - Performance of the Services - The Contractor's Personnel and Other Persons engaged in or about the Services - Monitoring and Contract Standards - The Performance Measures Indicators and Targets in the first year - Performance Measures Indicators and Targets after the first year - Information and Knowledge of the Contractor's performance - The Council's review of the Contractor's review process - Reviewing and Monitoring of the Contract <p>The Contract has therefore been set out in a way which would enable the Council to assess the performance of the Contractor throughout the life of the Contract.</p>	<p>The arrangements in place to monitor the progress made by the Contract are not effective.</p> <p>This conclusion has been reached as:-</p> <ul style="list-style-type: none"> - there are insufficient resources to monitor performance - the appropriate skills mix does not appear to be present within the team - the OM:L&T is unfamiliar with the detailed elements requiring monitoring within the Contract

Sub Question	Finding	Conclusion
	<p>The Officer responsible for overseeing the Contract is the Operational Manager for Leisure and Tourism (OM:L&T). Internal Audit in their report dated September 2012 note that there is a risk that the Contract may not be properly managed if sufficient resources are not made available. In their follow up report dated August 2013, they note that further resources are not available and in the situation where the OM:L&T is unavailable the Director for Development Services (DDS) will deputise. In practice, the DDS will be able to cover for emergency situations such as boiler break down or civil emergency, but will not be up to date with performance monitoring or have the background knowledge needed to understand the arrangements in place should the OM:L&T become unavailable.</p> <p>From reading the Contract and discussing this with the OM:L&T and the Contract Manager appointed by the Contractor, it is clear that neither party are familiar with the details of the Contract and therefore have not been following them. Further, specifications of the Contract are included on a CD, but neither party has had access to the CD and are therefore unable to confirm if the details on the CD are different to what they understand and have implemented. A request was made from the Legal department for a copy of the CD on 14 October 2013 but it was confirmed that this was only held by the external solicitors. The CD was made available on 9 December 2013. The OM:L&T has provided a copy of performance indicators, which are believed to be the same as contained on the CD.</p> <p>The Contract also states (Schedule 13) that there are a number of Council Policies which the Contractor must either comply with or hold an equivalent policy. One such policy is the Welsh Language Scheme. It could be argued that the Contractor is not fully complying with this policy which states that " The Welsh language service is advertised alongside the English language service." (paragraph 47). For example, within Barry Leisure Centre the signage on the outside of the building is bi-lingual and there are some signs throughout the Centre, but</p>	<ul style="list-style-type: none"> - potential non-compliance with Council policies for example the Welsh Language Scheme

Sub Question	Finding	Conclusion
	<p>none could be found in the main reception area.</p> <p>Operationally, the OM:L&T and the Contractor Contract Manager appear to have a very good working relationship, which may be due to the fact they used to work together for the Council and hence have known each other for a long time.</p>	
<p>Do the systems include standard definitions of performance indicators and targets?</p>	<p>Whilst the performance indicators listed within the draft document provided by OM:L&T are not all National Strategic Indicators, these are SMART and therefore should be comparable to those performance indicators used by other Local Authorities for monitoring the performance of their Leisure Centres. In addition, the Contractor operates over 80 leisure centres (per their website). Benchmarking with other public sector and private sector leisure centres should therefore be possible.</p> <p>One National Strategic Indicator has been identified in the draft list and that is LCS002 – The number of visits to local authority sport and leisure centres during the year per 1,000 population where the visitor will be participating in physical activity (as per National Strategic Indicator Guidance for Wales 2012-13). The Data Quality Audit performed in July 2013 covering the year to 31 March 2013 noted that in relation to this performance indicator "The data system has some weaknesses which the Council must address". This was due to findings that due to a change in software reports, this indicator was not available for the whole of the year and in addition definitions for usage rates were not being followed in some instances. Recommendations were made that the Council discuss the definitions with the Contractor to ensure that the correct figures are being reported and internally these are reviewed on a sample basis to keep a check on these. Definitions were discussed with the Contract Manager for the Contractor who confirmed that these still needed to be examined. During the interview, the Contract Manager stated the incorrect figures for the definition and therefore it</p>	<p>The standard definitions were not being followed which has resulted in lower usage figures being reported. The Council are in the process of managing changes to the way that data is collected to ensure that the standard definitions are being adhered to.</p> <p>This conclusion has been reached as:-</p> <ul style="list-style-type: none"> • Data Quality Audit qualified the PI for the year ended 31 March 2013. • Discussions with the Contractor appear to highlight issues with standard definitions. • The CPC is still not happy with the validity of the data being received and is

Sub Question	Finding	Conclusion
	<p>appears that this still may be recorded incorrectly. This was immediately brought to the attention of the Corporate Performance Co-ordinator for Corporate and Customer Services (CPC) who confirmed that she also had concerns over the reporting of figures and had therefore arranged to meet a representative of the Contractor to identify if there was an issue. The outcome of that meeting was a series of action points whereby the Contractor would manually collect data where the software was not able to do so and send these reports monthly to the Council so that they could monitor the data. The CPC confirmed that she had directly received long lists of unvalidated figures from the Contractor. As a result, the CPC escalated this to the DDS and another high level meeting has been arranged with the Contractor to ensure that they understand their responsibilities when it comes to collecting and validating the data for this PI. As the OM:L&T is responsible for overseeing the contract, he should ensure that he is receiving the data and challenging as necessary and then submitting the data to the CPC. Currently it appears that the CPC is taking the lead and pushing for changes to be made, rather than the OM:L&T.</p>	<p>working with the Contractor to address this.</p>
<p>Does regular and robust monitoring occur including strong challenges from Scrutiny and stakeholders?</p>	<p>Monthly meetings are held between the Contractor and the Council. They are usually attended by the OM:L&T, the Contractor Contract Manager and the Area Manager for the Contractor. There is a set agenda for these meetings and performance is included within the items discussed. However the agenda is very wide and mainly covers operational matters such as contract signing arrangements, contract payments and matters which need to be brought to the OM:L&T attention. The relationship between the OM:L&T and the Contract Manager for the Contractor is very good and very often informal discussions will occur throughout the month which are not documented, for example if there is an issue with the heating with in a leisure centre. Operationally, therefore, there appears to be regular communication with the Contractor. Performance management however does not appear to be discussed in detail. When questioned, the OM:L&T confirmed that he monitors performance by customer feedback, observations when he walking around the leisure centres and from meetings and discussions held with the Contractor. The performance indicators are not discussed and it would appear that neither the Contractor nor the OM:L&T are aware of the performance</p>	<p>The Contract monitoring is not regular nor robust and there is no strong challenge from Scrutiny or Stakeholders.</p> <p>This conclusion has been reached as:-</p> <ul style="list-style-type: none"> - Monthly meetings are mainly operationally focused - Little performance management evidence is presented by the Contractors and is not

Sub Question	Finding	Conclusion
	<p>arrangements set out within the Contract. Even though performance is discussed at the monthly meetings, there is very little evidence presented by the Contractor on which any judgements can be made and evidence is not pursued by the OM:L&T. The Council cannot be assured that the Contractor is operating in accordance with the Contract and therefore effective arrangements for monitoring the contract are not in place.</p> <p>In October 2013, the Economy and Environment Scrutiny called in a report to discuss the performance of the Contractor since the date of commencement of the Contract. This meeting coincided with the date that the OM:L&T had for bringing the Contractor Annual Report. The Contractor Annual Report was therefore presented to the Scrutiny Committee on 5th November 2013.</p> <p>The Scrutiny Committee were asked "<i>To note the good performance of the Contractor in the first year of operation</i>" (Recommendation 2). The accompanying background paper states the following key messages:-</p> <ol style="list-style-type: none"> 1. <i>"The first year of the Contract has proven successful for both the Council and the Contractor"</i> - there is no "evidence" within the background paper or the Annual Report demonstrating that this is the case. The final page of the Annual Report shows "Number of participants in activities" for the six leisure centres and demonstrates that in five of these, the number of participants decreased during the period January to September 2013. 2. <i>"the service has seen physical improvements to the buildings, a growth in new activities and an increase in usage in key areas"</i> – the physical improvements to the buildings are the result of Council investment. The Contractor have introduced new activities to the leisure centres such as SWAY dance and were able to react quickly to the demand in the market. Increased usage relates to the purchase of additional spin bikes by the Contractor as they saw that this activity was in demand. The Annual Report however does not give figures for these activities so that the reader can assess 	<p>pursued by the OM:L&T</p> <ul style="list-style-type: none"> - The OM:L&T does not have the support to effectively monitor the Contract - The OM:L&T appears not to have the appropriate skills required to effectively monitor the contract - The Annual Report provided from the Contractor was weak and no challenge was provided to this by the OM:L&T - The Scrutiny Committee was not as robust and challenging as it should have been - The Director of Development Services is not involved with the monitoring of the Contract <p>Recommendations:</p> <ul style="list-style-type: none"> • support is provided by the DDS either in the form of additional resources from within the existing team, a recruitment exercise is

Sub Question	Finding	Conclusion
	<p>for themselves the impact that the Contractor has had.</p> <p>3. <i>"direct comparisons in terms of performance indicators required in the Contract are difficult to ascertain after only one year as there is little comparative data as most of the indicators were not recorded when the service was operated directly by the Council."</i> - the data presented in the Annual Report for the performance indicators is very basic with blank spaces and the detail "see additional supporting documentation", which was not presented to the Scrutiny Committee. There was no benchmarking against other Leisure Centres in either of the public or private sector.</p> <p>4. <i>"The Contractor has demonstrated their commitment to equal opportunities during their first year of operation. Examples of this include: Welsh language information within their sites"</i> – a visit to Barry Leisure Centre confirmed that this is not the case inside the reception area.</p> <p>The Contractor Annual Report is very basic and not what would be expected coming from a company in the private sector. There is no header page or title other than "executive summary". The narrative element of the report is two pages long. The data contained in the second part of the report is not explained. A lever arch file was presented to the OM:L&T to accompany this report which includes data in raw formats as well as charts and graphs. The data however is in a raw format and the charts and graphs contain very little explanation as to their purpose or what they show. This Annual Report is the only performance data that has been provided since the commencement of the Contract. Discussions should therefore be held with the Contractor to discuss the quality of information that is required.</p> <p>The Contract Manager and Area Manager for the Contractor were invited to the Scrutiny meeting held on 5th November to answer members questions. The Annual Report and accompanying background paper was discussed for fifty minutes in total, however the questions being asked by the Scrutiny Members were not necessarily scrutinising the report presented to them. The first question asked was why had the usage figures gone down? The</p>	<p>undertaken to employ an individual with contract monitoring skills or the existing team is offered training in order to obtain the requisite skills involved for contract monitoring.</p> <ul style="list-style-type: none"> • training should be provided to scrutiny members on effective challenge.

Sub Question	Finding	Conclusion
	<p>Contractor's Contract Manager confirmed that the figures may not be accurate given the issues noted around the definitions of Performance Indicators. The Member appeared to be happy with this explanation as it wasn't until a couple of questions later was the question raised as to what the Contractor were doing to address this issue. The questions posed by Members appeared to be more around whether any leisure centres going to close, discussing facilities available and why no tariffs are on display. Members did not go far enough into asking challenging questions to scrutinise the performance at the Contractor – for example no Performance Indicators were discussed.</p> <p>The Director of Development Services (DDS), did not attend the Scrutiny Committee and is not involved with the monitoring of the Contract. The DDS does not see any of the information provided by the Contractor during the year and therefore does not present challenge to the Contract performance. As the OM:L&T is the only Officer involved within the Contract it appears that there is not a higher level of challenge. It can be argued that the DDS needs to assess the resources within the department and allocate resources appropriately to ensure that the Contract is being monitored effectively. A recommendation is that the support is provided by the DDS either in the form of additional resources from within the existing team, a recruitment exercise is undertaken to employ an individual with contract monitoring skills or the existing team is offered training in order to obtain the requisite skills involved for contract monitoring.</p>	

Waste Recycling Contract

Sub Question	Finding	Conclusion
<p>Are there effective arrangements in place to monitor the progress made by the contract?</p>	<p>A temporary contract is currently in place which resulted from an emergency powers request. The reason for this is that the Council was in negotiation for services in collaboration with another Council and that arrangement dissolved before the Memorandum of Understanding was signed. The Council however were not made aware of this until very close to when the new Contract was due to commence and as a result needed to act quickly. During the fieldwork, the Council was going through the Procurement and tendering process. On 10th March, Cabinet agreed that the new recycling contract was to commence on 1st April 2014.</p> <p>Discussions were held with the Commercial Manager (CM) who was compiling the tender during the review. The CM is responsible for the drafting of tender documentation for all new contracts entered into within the Waste department and for also ensuring that the Contractor follows the requirements of the Contract once it is in place. The CM is involved with the drafting of the documentation and with the timescales included for tender deadlines. During the review, the CM was anxious that the timescales could not be met due to the large amount of work needed to prepare the tender. The emergency powers request was therefore extended from 31 January 2014 to 31 March 2014. During the review the CM indicated that at that point he was unsure as to what performance indicators should be included within the tender documentation. The CM was therefore asked whether the Improvement and Development Team (IDT) would be used to help with determining appropriate indicators. The CM confirmed that he would not use this team as while they are performance management experts, they do not know the waste business as well as the CM. The CM would therefore rely on his own knowledge and experience to draft the performance indicators. The information obtained through this contract would then be subject to the departments own procedures.</p>	<p>The Contractor is monitored to ensure that the data provided by them is adequate and correct</p>

Sub Question	Finding	Conclusion
	<p>The Council uses a software package called 'WasteDataFlow' to record the data and this is a compulsory system used by every Council in Wales. There is a strong team behind the collection process to ensure that the data being entered into the system is correct. This involves two individuals in particular, being an Administrative Assistant (AA) and Support Officer (SO). The AA collects and collates the information provided by the Contractor and compares to information from weigh bridge tickets provided by the delivery drivers. If there is any discrepancies this data is queried with the Contractor and is not approved unless the data is agreed by the Council. This process does rely on the delivery drivers submitting the weigh bridge tickets on time. The next step in the process is that the information compiled in a spread sheet format will be sent to the SO for entering the information into WasteDataFlow.</p> <p>This is a complex system and requires a series of questions / tests to be answered about the waste for example if the Contractor doesn't provide details about the end destination of the waste then the Council cannot claim this as recycling. Once the SO is happy with the data he 'rolls this up' and makes it available for the CM to review. If the CM is happy this data is then submitted, but if not the data is 'rolled back down' and queries are resolved. The submitted data is received directly by the Welsh Government. The Welsh Government then review the data and submit a list of queries back to the Council to resolve. When the Welsh Government are happy with the information across the whole of Wales, they will produce a newsletter called 'First Release' that benchmarks performance indicators across all Councils in Wales. This however takes time and the report for the quarter ended 31 March 2013 was published on 28 August 2013. For internal reporting therefore 'unaudited' figures are used to speed up the process noting that these are subject to change.</p>	
Do the systems include standard definitions of performance indicators and targets?	In this instance the main performance indicator that is being used is the National Strategic Indicator. The data is entered into the software and the performance indicator is automatically calculated meaning that the Council have no option other than to use the	The system includes standard definitions of performance

Sub Question	Finding	Conclusion
	standard definitions.	indicators.
Does regular and robust monitoring occur including strong challenges from Scrutiny and stakeholders?	<p>The team in place to produce the data each have a level of challenge. The AA who collates the data challenges the Contractor, the SO who enters data into WasteDataFlow challenges the AA if data is delayed or doesn't appear correct, the CM challenges the data and results that get reported from WasteDataFlow and the Operational Manager (OM) has oversight over the whole process who in turn is overseen by the Director. The Director has a very hands on approach and therefore is able to monitor the processes carried out by his staff.</p> <p>On 5th November 2013, a new style of performance reporting was taken to the Economy and Environment Scrutiny Committee. The Corporate Performance Co-ordinator explained the new style of reporting to the Committee and then the Director asked the Committee if there were any questions relating to the data contained within the Report. Two questions were asked by the Committee but these were in relation to future work. The Scrutiny Committee did not question the Director and present a level of challenge that would have been expected given that the Report was discussing performance. Instead the Committee accepted the Report. A recommendation would therefore be to provide training to members around the level of challenge they should provide.</p>	<p>Regular and robust monitoring occurs within the team, but the level of challenge presented by the Scrutiny Committee needs to be improved.</p> <p>This conclusion has been reached as:-</p> <ul style="list-style-type: none"> - Challenge is present within the Team structure - The Scrutiny Committee did not challenge the Performance Report presented. <p>Recommendation:- Training should be provided to members around the level of challenge they provide.</p>

Waste Composting Contract

Sub Question	Finding	Conclusion
<p>Are there effective arrangements in place to monitor the progress made by the contract?</p>	<p>The Operational Manager (OM) holds ad hoc meetings with the Contractor to discuss operational matters as well performance. The agendas are set to ensure that items are discussed but there is flexibility to discuss any emerging issues. In addition, where items need to be discussed in between these meetings, telephone calls are made and notes are recorded. The OM has responsibility for overseeing the performance of the Contractor and therefore he will monitor the performance indicators to look for any negative trends. Where these occur, discussions are held to realign the indicators. Where improvements can be made to the service, the OM discusses these with the Contractor. For example, the OM noticed that the Contractor did not hold "Pass100", a quality standard meaning that the Compost could be redistributed to members of the Public. The OM therefore worked closely with the Contractor to ensure that the standard was obtained and therefore they could begin to offer the Compost free to members of the Public.</p>	<p>The monitoring arrangements in place appear to be effective.</p>
<p>Do the systems include standard definitions of performance indicators and targets?</p>	<p>The performance indicators used are National Strategic Indicators and therefore have a standard definition. The data is collated within the WasteDataFlow system and this is used to generate the performance indicator data. The standard definition is therefore being followed.</p>	<p>The system includes standard definitions of performance indicators.</p>
<p>Does regular and robust monitoring occur including strong challenges from Scrutiny and stakeholders?</p>	<p>The team in place to produce the data each have a level of challenge. The AA who collates the data challenges the Contractor, the SO who enters into WasteDataFlow challenges the AA if data is delayed or doesn't appear correct, the CM challenges the data and results that get reported from WasteDataFlow and the Operational Manager (OM) has oversight over the whole process who in turn is overseen by the Director. The Director has a very hands on approach and therefore is able to monitor the processes carried out by his staff.</p> <p>On 5th November 2013, a new style of performance reporting was taken to the Economy and Environment Scrutiny Committee. The Corporate Performance Co-ordinator explained the new style of reporting to the Committee and then the Director asked the Committee if there</p>	<p>Regular and robust monitoring occurs within the team, but the level of challenge presented by the Scrutiny Committee needs to be improved.</p> <p>This conclusion has been reached as:-</p> <ul style="list-style-type: none"> - Challenge is present within the Team structure - The Scrutiny Committee did

Sub Question	Finding	Conclusion
	<p>were any questions relating to the data contained within the Report. Two questions were asked by the Committee but these were in relation to future work. The Scrutiny Committee did not question the Director and present a level of challenge that would have been expected given that the Report was discussing performance. Instead the Committee accepted the Report. A recommendation would therefore be to provide training to members around the level of challenge they should provide.</p>	<p>not challenge the Performance Report presented.</p> <p>Recommendation:- Training should be provided to members around the level of challenge they provide.</p>



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