



Report of the Head of Adult Services

Audit Committee – 21 July 2020

Update on Internal Audit of Social Care Contracts

Purpose:	To update on Adult Services Social Care compliance with Corporate CPRs and Public Contracts Regulations 2015
Report Author:	Peter Field
Finance Officer:	Chris Davies
Legal Officer:	Caritas Adere
Access to Services Officer:	Catherine Window
For Information	

1. Background

- 1.1 As a result of an internal audit on social care contracts carried out in December 2017 an assurance level of moderate was given.
- 1.2 An action plan was developed to address individual contracts identified as non-compliant with corporate CPRs and Public Contract Regulations 2015.
- 1.3 This action plan identified the following actions:
 - Review and update the contracts register to identify the 94 contracts stated as non-compliant
 - Further develop the People Directorate Work Plan to build on the contracts register and forward plan for the procurement processes to prioritise compliance based on risk
 - Prioritise re-tendering of contracts with large areas of spend
 - Report quarterly to the People Commissioning Group to enable progress to be monitored.

2. **Progress at May 2018**

- 2.1 An update report was provided to Audit Scrutiny Committee in May 2018 which confirmed the following:
- 2.2 Of the 94 non-compliant contracts 16 have ended and a programme of work identified to address all areas of non-compliance. The contracts register had been updated to reflect this and monitoring arrangements established via the People Commissioning Group. All actions had been completed.

3. **Progress at December 2018**

- 3.1 The number of contracts reported as non-compliant reduced from 94 to 30. Every contract currently non-compliant with CPRs or Public Contract Regulations has been reported via a contract waiver to ensure justifications are defensible, risks are manageable and re-procurements arrangements are in place. These arrangements will continue to be monitored by the People Commissioning Group.

4. **Progress at April 2019**

- 4.1 All **Residential Care Contracts** are compliant (exemption now operates to exclude care homes from contract procedure rules on basis that competitive tendering is not required).
- 4.2 There are 14 non-compliant **Domiciliary Care Contracts**, 2 have been contracted via direct award to help meet demand for services pending completion of re-procurement process. The Re-procurement of domiciliary care contracts has commenced as expected. Tender requirements have been advertised. Compliant contracts will be awarded in October '19.
- 4.3 There are only 2 **Supported Living Contracts** identified as non-compliant. A legally compliant procurement framework has now been created and a re-procurement programme established. Re-procurement via the framework has commenced in January 19. Re-procurement will occur in 4 tranches. Contract awards will occur in May 2019 for tranche 1, September '19 for tranche 2, December '19 for tranche 3 and March 20 for tranche 4.
- 4.4 There are 5 **Third Sector Contracts** reported as non-compliant Progress in this areas has been slow. Partly due to changes in personnel, staff absences and competing priorities given the relatively low spend on these services. Contract waivers have been submitted for some of these services.

5. **Progress at June 2020**

- 5.1 All **Residential Care Contracts** are compliant (exemption now operates to exclude care homes from contract procedure rules on basis that competitive tendering is not required).

- 5.2 All **Domiciliary Care Contracts**, are compliant following a re-procurement exercise. Tenders were awarded in October 2019
- 5.3 All **Supported Living Contracts** are compliant. A legally compliant procurement framework was created and a re-procurement programme established. Re-procurement occurred in 4 tranches. Contract awards were made in May 2019 for tranche 1, September 2019 for tranche 2, December 2019 for tranche 3 and March 2020 for tranche 4. Tranche 4 has been delayed due to the Covid 19 pandemic, however waivers and variations are in place for these contracts to ensure compliance with corporate requirements.
- 5.4 The **Third Sector Contracts** are compliant with corporate procedures, through the application of contract waivers. These are low level spend and are under assessment to determine if these should be offered as grants as opposed to contracts in the future. There is one third sector contract for an extra care scheme which is of a value that cannot be waived. This contract is non-compliant. Arrangements for re-procuring to ensure compliance will be considered as part of a wider review of services to meet the care and accommodation needs of older people. This will commence in 20/21.

6. **Summary**

- 6.1 All the 94 contracts identified as non-compliant with corporate CPRs and Public Contract Regulations 2015 as a result of an internal audit on social care contracts carried out in December 2017, are now compliant and are monitored through the People Commissioning Group.
- 6.2 A follow up internal audit will be carried out in the Autumn of 2020 to test a sample of contracts categorised under social care across the Directorate.

7. **Equality and Engagement Implications**

- 7.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not
- 7.2 Our Equality Impact Assessment process ensures that we have paid due regard to the above.
- 7.3 An EIA screening (Appendix 1) has been undertaken which shows that there are no equality and engagement implications in relation to this report.

8. Legal Implications

- 8.1 Contracts which are non-compliant with CPRs have or are in the process of being reported via a contract waiver. Contracts which are non-compliant with Public Contract Regulations are also being reported to ensure justifications are defensible, risks are manageable and re-procurement arrangements are in place. Where contracts are granted waivers this has the effect of removing non-compliant status on the contracts register.

9. Financial Implications

- 9.1 Re-commissioning of services to ensure legally compliant procurement processes is likely to have above inflation implications for the unit costs of services concerned. Strategies are in place for managing rising costs. If these are not successful additional savings in other areas of Adult Services will need to be identified to comply with the requirements of the Medium Term Financial Plan.

For Information

Background papers: None.

Appendices: Appendix 1 – EIA Screening Form.