



Internal Audit Report
Communities
21-07 Agency Workers
September 2023
(Report No. 23/285)

Final Report

Legal and Governance
Corporate and Democratic Services
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21-07 Agency Workers

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1. Introduction

- 1.1 The audit of the management of the '*Provision of a Managed Service for Term Operational Resource*' contract (Agency Workers contract) was undertaken as part of the Internal Audit Plan for 2021/22, which was approved by the Audit Committee on 30 June 2021 (Committee report [21/111](#)).
- 1.2 The indicative scope was to review contractual arrangements for the management of agency workers within Operations in the Communities Service.

2. Executive Summary

- 2.1 The scope of the audit was to ensure the adequacy of arrangements to manage the Provision of a Managed Service for Term Operational Resources contract.
- 2.2 The audit has concluded that limited assurance can be placed on the arrangements in place for the management of this contract, with 1 high-risk and 3 medium-risk actions arising, as detailed in section 10, two of which has been concluded.

3. Audit Background Information

- 3.1 Procurement work can positively support the achievement of objectives set out in the Community and Corporate plans for Perth and Kinross. Effective contract and supplier management plays a key part in this, assisting in ensuring that the Council achieves best value and minimises risk.
- 3.2 The former Environment Service, now part of Communities, has had a contract for the supply of agency workers for temporary shortages of workforce to undertake Council services with Rightmann Services Ltd since 2004/05. In 2017, the Service decided to re-tender the contract rather than use the option to extend for up to 36 months, with a contract value of £6m. Rightmann Services Ltd were successful. The contract, titled *Provision of a Managed Service for Term Operational Resource*, was for three years to December 2020, with an option to extend for 36 months. The Head of Environmental & Consumer Services approved a 12-month extension in 2020, to December 2021. A further extension of 24 months was approved by the Head of Environmental & Consumer Services in 2021.

- 3.3 Internal Audit reviewed the management of the *Provision of a Managed Service for Term Operational Resource* contract in 2017/18, along with others. Internal Audit report 17-05 *Management of Contracts* was submitted for consideration to the Audit Committee on 27 September 2017 (Committee report [17/311](#)). Detailed outcomes for each contract examined were shared with the relevant Service, including one on the *Provision of a Managed Service for Term Operational Resource* contract. The published Internal Audit report had no actions for the then Environment Service, however there were six 'suggested learning points' provided to the Service for this contract. Five related to the *Provision of a Managed Service for Term Operational Resource* contract, one related to new contracts.
- 3.4 Internal Audit have revisited the management of the *Provision of a Managed Service for Term Operational Resource* contract to identify and test any procedural changes that have been made since 2017, particularly, but not exclusively, as a response to the 'suggested learning points', and to ensure the Service demonstrates that obtaining staff from a service provider is value for money over employing staff.

4. Scope and Limitations

- 4.1 In order to arrive at an opinion on the achievement of the control objective, the audit included interviews with officers and a review of systems and documents in use.

5. Assessment of the Control Environment

- 5.1 The table below contains the number of actions against each control objective and Internal Audit's assessment of the adequacy and effectiveness of the controls in place to meet each of the objectives agreed for this audit. Further details, including any improvement actions, are set out in the Management Action Plan.

No.	Control Objective	Action Rating					Control Objective Assessment
		5	4	3	2	1	
1.	To ensure the adequacy of arrangements to manage the <i>Provision of a Managed Service for Term Operational Resources</i> contract.	2		3			Limited

- 5.2 The auditor has assessed that limited assurance can be placed on controls overall in relation to the contractual arrangements for the management of agency workers from the audit. Meaning:

Significant gaps, weaknesses or non-compliance were identified.

6. Summary of Findings

- 6.1 Below is a summary of key findings and actions, which are reflected in the Management Action Plan, detailed in section 10.
- 6.2 It was noted that the matters raised in the suggested learning points have been considered by the Service.
- 6.3 From discussion, Internal Audit are clear that the Contract Manager, who is involved in the day-to-day management of the contract, gains his assurance of satisfactory contract performance from his daily involvement along with monthly budget monitoring with the Finance team. Whilst he recognises the value of the monthly performance review as an additional control, his assurance comes from his daily involvement. As this daily involvement is not routinely documented, neither Internal Audit nor Service management are able to rely on this as a control over the managed service providers performance or as evidence of the PKC Contract Manager's oversight of the contract.
- 6.4 The PKC Contract Manager and the managed service provider's Account Manager meet regularly to discuss contract performance. There is a standard agenda that among other things covers the performance indicators included in the contract specifications. Internal Audit have been informed that a *Monthly Contract Performance Review* document, which has initially been populated with data by managed service provider's Account Manager, is completed at the meeting and the names of both attendees and the date are typed on the document as each's verification that all the information supplied on the document is true and accurate. The *Review* document was introduced as a result of discussions between the Internal Auditor and the PKC Contract Manager during the previous audit, as evidence of performance management being undertaken.
- 6.5 The performance review is scheduled to be carried out monthly, however the PKC Contract Manager advised Internal Audit that occasionally a review has been missed and caught up later because one or other or both of the PKC Contract Manager and the managed service provider's Account Manager have not been available because of unforeseen circumstances.
- 6.6 Historically this contract was managed day-to-day by the Assistant Operation Manager and overseen by the Operations Manager. Following the promotion of the Assistant Operations Manager to the post of Operations Manager, the Manager continued to manage the contract day-to-day. His title is now Direct Services Manager, with two Assistant Operations Managers reporting to him. The Direct Services Manager is the budget holder.

- 6.7 The Direct Services Manager is involved in day-to-day operation of the contract and is also overseeing contract performance. As such, the Service is unable to evidence an adequate separation of duties between contract operation and oversight. Consideration should be given to the day-to-day management of the contract being held by another officer.
- 6.8 By reintroducing this segregation of duties, the monthly contract performance review control will be enhanced and the documenting as evidence of a shared understanding of performance between managed service provider's Account Manager and the PKC Contract Manager will be more important.
- 6.9 Such a segregation of duties protects the Contract Manager, as well as the Council from the perception of too close a relationship between the Contract Manager and the service provider.
- 6.10 This control could be enhanced by an e-mail trail between the managed service provider's Account Manager and the PKC Contract Manager ensuring and documenting that a shared understanding exists. Any difference in understanding or feedback could be resolved and documented in the e-mail trail.
- 6.11 The Direct Services Manager, the PKC Contract Manager, and his Head of Service meet regularly to discuss all areas for which the Direct Services Manager is involved. The Head of Service prepares an action plan from this meeting and e-mails it to the Direct Services Manager. The contract will only be referred to if there is an action.
- 6.12 The control could be enhanced by the discussion of the performance of the agency workers supplier being a periodic standing item on the agenda for the meeting and the Direct Services Manager recording for each meeting if he is satisfied or otherwise with the performance. This would evidence the Head of Service's oversight of the contract.

Action Point 1

- 6.13 From discussions with the Contract Manager, Internal Audit are clear that he believes that, from his many years being involved with Agency Workers contracts, it provides value-for-money compared with employing staff directly. He cites the following as reasons: past experience of difficulty in recruiting and retaining staff at busy times when they are needed; engaging workers only as required; the benefit of trialling workers, without risk, who could be offered PKC employment if required a later date, particularly as the Contract Specification states that no finder's fee will be paid to the agency if a person it supplies is subsequently offered PKC employment following fair and open recruitment.

- 6.14 Whilst the Contract Manager has been asked to justify the use of agency workers over employing staff directly by Service management at times over the years of the contracts, no ongoing evidence has been collected during the lifetime of the contract to demonstrate that the contract offers best value, compared with the Council employing staff directly. The Direct Services Manager has stated that direct employment of temporary workers was proven not to be successful in 2004, resulting in service failure and prompting the introduction of the agency arrangement.
- 6.15 Prior to this contract being considered for review / re-tendering, which is due by December 2023, evidence should be collected, and presented to the Head of Service, demonstrating that a contract for agency workers offers best value as opposed to employing staff directly. Such evidence can be used in any future consideration around the awarding of an agency workers contract in December 2023.

Action Point 2

- 6.16 Internal Audit undertook a review of the spend against the contract to end of June 2023. This revealed that the Council has spent £10.6m on the contract, which had an awarded value of £6m, with a further six months remaining of this contract at the time of writing. Procurement regulations require that, where a contract exceeds its value by 50% this should be subject to a new procurement exercise. Internal Audit sought the advice of Procurement as the threshold has already been breached, who advised that, due to the nature of the contract and its imminent expiry, the contract should not be terminated on this occasion, but that action should be taken to ensure that a more realistic Contract Strategy should be prepared for the tendering exercise for December 2023.
- 6.17 The Service stated that they were unaware of the requirement regarding restrictions on contract spend within procurement regulations and highlighted various, specific reasons why spending had been higher than anticipated at the commencement of the contract 6 years ago.

Action Point 3

7. Conclusion

- 7.1 The Internal Audit review is able to place reasonable assurance on the overall control environment for the management of the *Provision of a Managed Service for Term Operational Resource* contract. The agreed actions, once implemented, should enable Internal Audit to place substantial assurance on this.

8 Acknowledgements

- 8.1 Internal Audit would like to thank all officers who were involved in this audit, particularly the Direct Services Manager and officers within the Finance teams in Communities services.

9. Action Implementation & Follow up

- 9.1 Responsibility for the maintenance of adequate and effective controls rests with management. Where the audit has identified areas for management action, these are identified in the Management Action Plan. Where a decision is taken by management not to act in response to a finding from this review, it is the responsibility of management to assess and accept the risk arising from non-implementation.
- 9.2 Achievement of the agreed actions is monitored through Internal Audit's 'follow up' arrangements

10. Management Action Plan

Action Point	Para. No	Finding	Risk Rating	Agreed Action & Evidence	Action Owner	Target Completion Date
1.1	6.6 to 6.12	<p>The Direct Services Manager is involved in day-to-day operation of the contract and also oversees contract performance. As such, the Service is unable to evidence an adequate separation of duties between contract operation and oversight. Consideration should be given to the day-to-day management of the contract being held by another officer.</p> <p>Furthermore, consideration of the contract as part of the monthly meetings could be more formalised to ensure Head of Service oversight.</p>	3 - Medium	<p>The Direct Services Manager will identify another officer to take over the direct responsibility for the day-to-day management of the contract. This will allow for the reintroduction of the oversight of the implementation and management of the contract by the Direct Services Manager and ensure that appropriate segregation of duties and challenge can be implemented at an appropriate level.</p>	N Taylor, Direct Services Manager	Completed
1.2				<p>The contract will be considered quarterly as part of routine management meetings between the Direct Services Manager and the Head of Service.</p>	M Butterworth, Head of Environmental & Consumer Services	September 2023

2.	6.13 to 6.15	Evidence should be collected and evaluated to demonstrate that a contract for agency workers offers best value as opposed to employing staff directly. Such evidence can be used in any future consideration around the awarding of an agency workers contract in December 2023.	3 - Medium	Justification for the future contract relating to agency workers included an evaluation of how this provides best value over direct employment and was considered by the Head of Environmental & Consumer Services as part of the identification of the strategy for the contract.	N Taylor, Direct Services Manager	Completed
3.	6.16 to 6.17	The Council has spent £10.6m on the contract, which had an awarded value of £6m, with a further six months remaining of this contract at the time of writing. Procurement regulations require that, where a contract exceeds its value by 50% this should be subject to a new procurement exercise. Internal Audit sought the advice of Procurement as the threshold has already been breached, who advised that, due to the nature of the contract and its imminent expiry, the contract should not be terminated on this occasion, but that action should be taken to ensure that a more realistic Contract Strategy should be prepared for the tendering exercise for December 2023.	1 - Critical	<p>The Contract Strategy being developed for the tendering exercise to be concluded by December 2023 will contain a more realistic contract value.</p> <p>The quarterly monitoring of the contract agreed in Action Point 1.2 will include consideration of the values paid to the contractor in relation to the value of the contract. This will ensure that any likely breaches of contract expenditure limits are considered and appropriate pro-active action taken.</p>	<p>N Taylor, Direct Services Manager</p> <p>M Butterworth Head of Environmental & Consumer Services</p>	<p>December 2023</p> <p>December 2024</p>

11. Authorisation

11.1 The auditor for this assignment was M Stewart. The supervising auditor was J Clark.

This report is authorised for issue:

12. Distribution

12.1 This report has been distributed to:

T Glen, Chief Executive

K Donaldson, Chief Operating Officer

B Renton, Executive Director, Communities

M Butterworth. Head of Environmental & Consumer Services

N Taylor, Direct Services Manager

L Simpson, Head of Legal & Governance

S Mackenzie, Head of Finance

L Stewart, Senior Procurement Officer (Team Lead), Corporate Procurement

V Robertson, Team Leader, Corporate Procurement

Committee Services

External Audit

13. Assessment Definitions

13.1 The following table contains the definitions of the control objective assessment.

Control Objective Assessment	
Level of assurance	Definition
Substantial Assurance	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable Assurance	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited Assurance	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
No Assurance	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

13.2 The following table contains the definitions applied by Internal Audit in rating audit findings/actions.

Risk Rating for Individual Findings		
Rating	Rating description	Definition
5	Critical	Significant observations / major concerns which require immediate action. Management will need to add these to the appropriate Service risk register <i>Issue represents a control weakness which could cause, or is causing, severe disruption of the process or severe adverse effect on the ability to achieve process objectives</i>
4	High	Significant observations regarding the absence / failure of key controls requiring urgent action. Management should consider adding these to the appropriate Service / divisional risk register <i>Issue represents a control weakness which could have, or is having, major adverse effect on the ability to achieve process objectives</i>

3	Medium	<p>Observations regarding the effectiveness of key controls requiring reasonably urgent action. Management should consider these when updating any divisional / team risk registers</p> <p><i>Issue represents a control weakness which could have, or is having, significant adverse effect on the ability to achieve process objectives</i></p>
2	Low	<p>Minor observations regarding the adequacy of controls which require action to improve the efficiency, effectiveness, or economy of operations or which otherwise require to be brought to the attention of Senior Management</p> <p><i>Issue represents a minor control weakness with minimal but reportable impact on the ability to achieve process objectives</i></p>
1	Trivial / Minor	<p>Very minor observations which will be raised during the audit and may not be included within the final report</p> <p><i>Issue represents a very minor control weakness with negligible impact on the ability to achieve process objectives. The issue will be raised during the audit and may not be included within the final report.</i></p>