

# Final Internal Audit Report

## Contract Formalities and Storage of Contracts

### June 2017

**Distribution:** Executive Director - Corporate Resources (Final Only)  
 Director of Customer and Corporate Services  
 Director of Commissioning and Improvement  
 Head of Business Support and Customer Contact  
 Director of Law and Monitoring Officer

Assurance Level	Recommendations Made	
<b>Limited Assurance</b>	Priority 1	3
	Priority 2	1
	Priority 3	0

#### Status of Our Reports

This report ('Report') was prepared by Mazars Public Sector Internal Audit Limited at the request of the London Borough of Croydon and terms for the preparation and scope of the Report have been agreed with them. The matters raised in this Report are only those which came to our attention during our work. Whilst every care has been taken to ensure that the information provided in this Report is as accurate as possible, we have only been able to base findings on the information and documentation provided and consequently no complete guarantee can be given that this Report is necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

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Please refer to the Statement of Responsibility set out in appendix 3 of this report for further information about responsibilities, limitations and confidentiality.

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STATEMENT OF RESPONSIBILITY

## Executive Summary

### 1. Introduction

- 1.1 Hard copies of contracts entered into by the Council are held in the secure Deeds Room in Bernard Weatherill House. The Business Services Team keep a record of the contracts held in the Deeds Room.
- 1.2 Officers responsible for the day-to-day management require access to a scanned copy of the definitive signed version of the contract.
- 1.3 The Council has joined the London Contracts Register. Public access to this can be gained via a link on the Council's website as well as directly via the London Contracts Register's website. As at the 6 July 2016, this details that the Council has 68 contracts totalling £1,402.99m.
- 1.2 This audit has been undertaken as part of the agreed Internal Audit Plan for 2016/17. The objectives, scope and approach are contained in the agreed Audit Terms of Reference, at Appendix 1.

### 2. Key Issues

#### Priority 1 Recommendations

Formal contracts are not in place for all of the contracts sampled. **(Rec 1).**

The contracts were not all held securely in the Deeds Room or an alternative secure location **(Rec 2).**

Electronic, signed definitive versions of the contract are not available to contract managers **(Rec 4).**

#### Priority 2 Recommendations

Records of contracts held in the Deeds Room are incomplete. **(Rec 3).**

3. Actions and Key Findings/Rationale

<b>Control Area 1: Compliance with Contract Standing Orders, including the Tenders and Contract Regulations and the Contract Management Handbook for formalising and secure holding of prime contract documentation</b>	
<b>Priority</b>	<b>Detailed Finding/Rationale</b>
<p><b>1</b></p> <p>Formal contracts should be entered into in accordance with Section 4, paragraph 30 of the Council's 2016 Tender and Contract Regulations.</p> <p>The definitive signed versions should be held securely by Business Services.</p> <p>Only electronic copies (scanned pdfs) should be made available to contract managers.</p>	<p>The Council's Tender and Contract Regulations in force at the time (July 2014) apply to the procurement of goods and/or services with a value of £100,000 and above. Section 30, paragraph 30.1 states that 'Every contract must be in writing and in a form approved by the Director of Democratic and Legal Services'. The Council will have no recourse in the event that the agreed goods or services are not delivered, where any agreement is entered into and this is not formally documented and signed by both parties'.</p> <p>For three out of twenty-eight contracts there was no formalised contract in evidence. For a further four cases, unsigned electronic copies of possible contracts were available, however, as these were not copies of the definitive signed versions, we cannot say with certainty that these are the final ones agreed by the parties to the contract.</p> <p>The three cases of no existence of contract at all are:</p> <ul style="list-style-type: none"> <li>• EWC (Operation, Maintenance &amp; Management of Waste Transfer &amp; Three Civic Amenity Sites) with a total value of £14,000,000. We were unable to obtain either a hard copy or electronic version of the contract;</li> <li>• Good Food Matters (Community Food Learning Centre) with a value of £200,000. We were unable to obtain either a hard copy or electronic version of the contract; and</li> <li>• Fusion (Leisure Management) with a value of £5,000,000. We were unable to obtain either a hard copy or electronic version of the contract. We were informed by the team that the contract had been misplaced by the previous contract manager.</li> </ul>

	<p>The four cases of uncertain existence of final form of contract are:</p> <ul style="list-style-type: none"> <li>• Medi Aid (UK) Ltd. (First Aid Training) with a value of £163,500. An unsigned electronic copy of a contract is held by the service manager. However, as it is not a copy of the definitive signed version, we cannot say with certainty that this is the final contract form;</li> <li>• Plexus Law (Legal Support for Defending Litigated Insurance Claims) with a value of £10,714,285. An unsigned electronic version of a contract is available to the manager, however, as above we cannot say with certainty that this is the final contract form;</li> <li>• Veolia Environment Services UK (Plc) (Refuse and Recycling Collections, Street Cleansing and Ancillary Services and Collection and Disposal of Recyclable Materials) with a value of £188,000,000. We were provided with an unsigned electronic copy of the original contract in place with Cleanaway from 2005. A supplemental agreement was signed in 2013 with Veolia, however this was not signed; and</li> <li>• Geowise Ltd. (Croydon Observatory Project LIS) with a value of £50,000. We were provided with a Word document, however we cannot confirm that this is the final version of the agreement.</li> </ul> <p>There is a risk that in the event of a dispute, the Council may not be able to legally enforce its intended position.</p>
<b>Management Response</b>	
<p>A working group has been set up, including representatives of all relevant divisions, to agree revisions necessary to the system to ensure that we have proper control over contracts.</p>	<b>Deadline</b> 31 August 2017

<b><u>Control Area 1: Compliance with Contract Standing Orders, including the Tenders and Contract Regulations and the Contract Management Handbook for formalising and secure holding of prime contract documentation</u></b>	
<b>Priority</b>	<b>Recommendation 2</b>
<b>1</b>	<p>All definitive signed contracts should be held in the Deeds Room, or an approved alternative secure location.</p>
	<p style="text-align: center;"><b>Detailed Finding/Rational</b></p> <p>Having recourse to original definitive signed contracts helps ensure that the Council is able to defend its position in the event of a dispute with a contractor/supplier/service provider.</p> <p>For four out of twenty-one contracts selected for testing, the definitive signed version of the contract was not held in the Deeds Room, or an alternative secure location. These are:</p> <ul style="list-style-type: none"> <li>• Keegans Ltd. (RE:Fit Professional Services) with a value of £59,300. A hard copy is held with the contract manager;</li> <li>• Liberata UK (Contract for Payroll Administration &amp; Management Services - Lot 1 Corporate Staff and Pensioners) with a value of £2,840,000. A hard copy of the contract dated April 2016 is held by the Head of HR and Finance Services. This has not been placed in secure storage;</li> <li>• Morning Lane Associates (Provision of Systemic Family Therapy Training for Children's Social Care). We were informed by Business Services from its records that this contract was removed from storage by an officer who we have ascertained as having left the Council on 11 September 2015. We identified that the contract is now held by a Category Manager as the team are looking to issue a variation to it. This could have been done through officers having access to electronic copies of definitive signed contracts instead of having to withdraw the original hard copies from secure storage and risk losing them; and</li> <li>• Mouchel Management Consulting Ltd. (Assets and Property Valuation Services) with a value of £120,000. An electronic copy of the definitive signed contract is available to the contract manager.</li> </ul>

		<p>There is a risk that contractual documentation is damaged or lost, and that in the event of a dispute, the Council may not be able to legally enforce its intended position and that the acts and omissions of the parties in the interim period may have varied any implied or explicit contract created by the procurement/tendering process.</p> <p>There is a further risk of reputational damage to the Council should an additional copy of a contract need to be requested from the contractor/service provider/supplier.</p>
<p><b>Management Response</b></p>		<p><b>Deadline</b></p>
<p>A working group has been set up, including representatives of all relevant divisions, to agree revisions necessary to the system to ensure that we have proper control over contracts.</p>		<p>31 August 2017</p>

<b><u>Control Area 1: Compliance with Contract Standing Orders, including the Tenders and Contract Regulations and the Contract Management Handbook for formalising and secure holding of prime contract documentation</u></b>	
<b>Priority</b>	<b>Detailed Finding/Rational</b>
<b>2</b>	<p><b>Recommendation 3</b></p> <p>Officers should not be allowed to remove definitive signed versions of contracts unless the original requires amendment and additional signing by both parties to the contract.</p> <p>In all other cases, only electronic copies of the definitive signed version should be made available.</p> <p>An accurate, complete record of all contracts held in the Deeds Room, including the dates on which any contracts were removed and the names of the officers removing them, will assist the Council in locating these documents should they be required.</p> <p>We identified the following inaccuracies and/or incompleteness in the contract records at Business Services:</p> <ul style="list-style-type: none"> <li>• Fusion (Leisure Management) with a value of £5,000,000. Business Services' records state that this contract was taken out of secure storage by the Strategic Programme Manager. No date of removal is recorded. The Strategic Programme Manager informed us that the contract had not been taken out by him, but by the previous contract manager several years ago, who has since left the Council; and</li> <li>• Veolia Environmental Services (UK) Ltd. (Refuse and Recycling Collections, Street Cleansing and Ancillary Services and Collection and Disposal of Recyclable Materials). Business Services' records state that this was taken out of secure storage in the Deeds Room by the Green Spaces Manager on 27<sup>th</sup> July 2015. We were informed by the Green Spaces Manager that this is not the case.</li> </ul> <p>There is a risk that contractual documentation will become lost or damaged. Where a contracts becomes lost, there is a risk that, should a dispute arise with the supplier, the Council would be unable to seek specific performance, damages or other suitable remedies at the discretion of the Courts.</p>
<b>Management Response</b>	
<p>A working group has been set up, including representatives of all relevant divisions, to agree revisions necessary to the system to ensure that we have proper control over contracts.</p>	
<b>Deadline</b>	
31 August 2017	



<b>Control Area 2: Availability of Definitive Signed Contracts</b>	
<b>Priority</b>	<b>Recommendation 4</b>
1	<p>Electronic copies of definitive signed versions of contracts should be made available to those officers requiring access to contracts (as an absolute minimum, those officers responsible for the contract management of the supplies/services/works in question).</p>
	<p><b>Detailed Finding/Rational</b></p> <p>Access to-electronic copies of definitive signed versions of contracts allows contract managers to effectively monitor the contract provision. Should there be any damage to the original hard copy contract documents (i.e. fire, flood or other damage), the Council may still have access to electronic copies for the purposes of contract monitoring, as well as in the event of a dispute.</p> <p>In six of the applicable twenty-one cases, we requested, but were not provided with, evidence that an electronic copy of the definitive signed version of the contract was available to operational officers:</p> <ul style="list-style-type: none"> <li>• Funeral Services Ltd. (Collection of bodies, delivery to mortuaries for the South London Coroners Service) with a value of £800,000. No electronic copy was in evidence;</li> <li>• One Housing Group (Supporting People - 24 Hour Mental Health Services) with a value of £1,343,408. No electronic copy was in evidence;</li> <li>• Morning Lane Associates (Provision of Systemic Family Therapy Training for Children's Social Care) with a value of £308,810. No electronic copy was available. We were informed that the service did not have the scanning capabilities;</li> <li>• Hyman's Robertson LLP (Actuarial and Benefits Consulting Services) with a value of £600,000. The Pensions Manager informed us that she is responsible for managing the contract, but that the electronic copy is held with the procurement team, and therefore not directly accessible by her;</li> <li>• Liberata UK Ltd. (Contract for Payroll Administration &amp; Management Services - Lot 1 Corporate Staff &amp; Pensioners) with a value of £2,840,000. A hard copy of the contract dated April 2016 is held by the Head of HR and Finance Services. We were informed that this has not been scanned due to its size.</li> </ul>

	<ul style="list-style-type: none"> <li>• P&amp;MM Ltd. (Employee Benefits Contract) with a value of £200,000. The HR Policy and Operations Manager has overall responsibility for this contract, but was unaware of the officer responsible for day-to-day management. We were therefore unable to confirm that the contract manager has access to an electronic copy of the definitive signed version of the contract.</li> </ul> <p>In one further case ,we noted the following:</p> <ul style="list-style-type: none"> <li>• Liquidlogic (Children Recording System) with a value of £489,000. No copy was available when our initial request for evidence was made. However, a signed copy was obtained from the Contractor during the audit.</li> </ul> <p>There is a risk that operational management is unaware of what has been agreed and what is legally required of the contractor allowing the contract to become varied by action/inaction of the parties.</p>
<p><b>Management Response</b></p>	
<p>A working group has been set up, including representatives of all relevant divisions, to agree revisions necessary to the system to ensure that we have proper control over contracts.</p>	<p><b>Deadline</b></p> <p>31 August 2017</p>

## INTERNAL AUDIT TERMS OF REFERENCE

### Contract Formalities and Storage of Contracts

#### 1. INTRODUCTION AND BACKGROUND

- 1.1 Hard copies of contracts entered into by the Council should be held in the secure Deeds Room in Bernard Wetherill House. Definitive signed copies of contracts should be held by the respective service or project management teams, usually in electronic format.
- 1.2 The Business Services Team maintains the Council's Contracts Register. The London Borough of Croydon has also joined the London Contracts Register and access to this is via a link on the Council's website to the Register. This details that the Council has 68 contracts totalling £1,402.99m.
- 1.3 This audit is being undertaken as part of the agreed Internal Audit Plan for 2016/17.

#### 2. OBJECTIVES AND METHODOLOGY

- 2.1 The overall audit objective is to provide an objective independent opinion on the adequacy and effectiveness of the control environment relating to contract formalities and the storage of contracts
- 2.2 In order to achieve the overall objectives, a risk based systems audit approach will be carried out, documenting and evaluating the actual controls against those expected and based on this, undertaking appropriate testing conducted.
- 2.3 The key findings, conclusions, and subsequent recommendations arising will be presented at an exit meeting and followed by the circulation of a draft report for consideration by management. This prior to agreement and issue of the final audit report.

#### 3. SCOPE





- 3.1 The audit included the following areas

Control Areas/Risks	Recommendations Made		
	Priority 1 (High)	Priority 2 (Medium)	Priority 3 (Low)
Compliance with Contract Standing Orders, including the Tenders and Contract Regulations and the Contract Management Handbook for formalising and secure holding of prime contract documentation	2	1	0
Availability of definitive, signed contracts in electronic format	1	0	0
<b>Total</b>	<b>3</b>	<b>1</b>	<b>0</b>

## DEFINITIONS FOR AUDIT OPINIONS AND RECOMENDATIONS

In order to assist management in using our reports:

We categorise our audit assurance opinion according to our overall assessment of the risk management system, effectiveness of the controls in place and the level of compliance with these controls and the action being taken to remedy significant findings or weaknesses.

	Full Assurance	There is a sound system of control designed to achieve the system objectives and the controls are consistently applied.
	Substantial Assurance	While there is basically a sound system of control to achieve the system objectives, there are weaknesses in the design or level of non-compliance which may put this achievement at risk.
	Limited Assurance	There are significant weaknesses in key areas of system controls and/or non-compliance that puts achieving the system objectives at risk.
	No Assurance	Controls are non-existent or weak and/or there are high levels of non-compliance, leaving the system open to the high risk of error or abuse which could result in financial loss and/or reputational damage.

Priorities assigned to recommendations are based on the following criteria:

<b>Priority 1 (High)</b>	Fundamental control weaknesses that require the immediate attention of management to mitigate significant exposure to risk.
<b>Priority 2 (Medium)</b>	Control weakness that represent an exposure to risk and require timely action.
<b>Priority 3 (Low)</b>	Although control weaknesses are considered to be relatively minor and low risk, action to address still provides an opportunity for improvement. May also apply to areas considered to be of best practice.

## STATEMENT OF RESPONSIBILITY

We take responsibility to the London Borough of Croydon for this report which is prepared on the basis of the limitations set out below.

The responsibility for designing and maintaining a sound system of internal control and the prevention and detection of fraud and other irregularities rests with management, with internal audit providing a service to management to enable them to achieve this objective. Specifically, we assess the adequacy and effectiveness of the system of internal control arrangements implemented by management and perform sample testing on those controls in the period under review with a view to providing an opinion on the extent to which risks in this area are managed.

We plan our work in order to ensure that we have a reasonable expectation of detecting significant control weaknesses. However, our procedures alone should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify any circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud. The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices.

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