



Somerset County Council

► Contract Management

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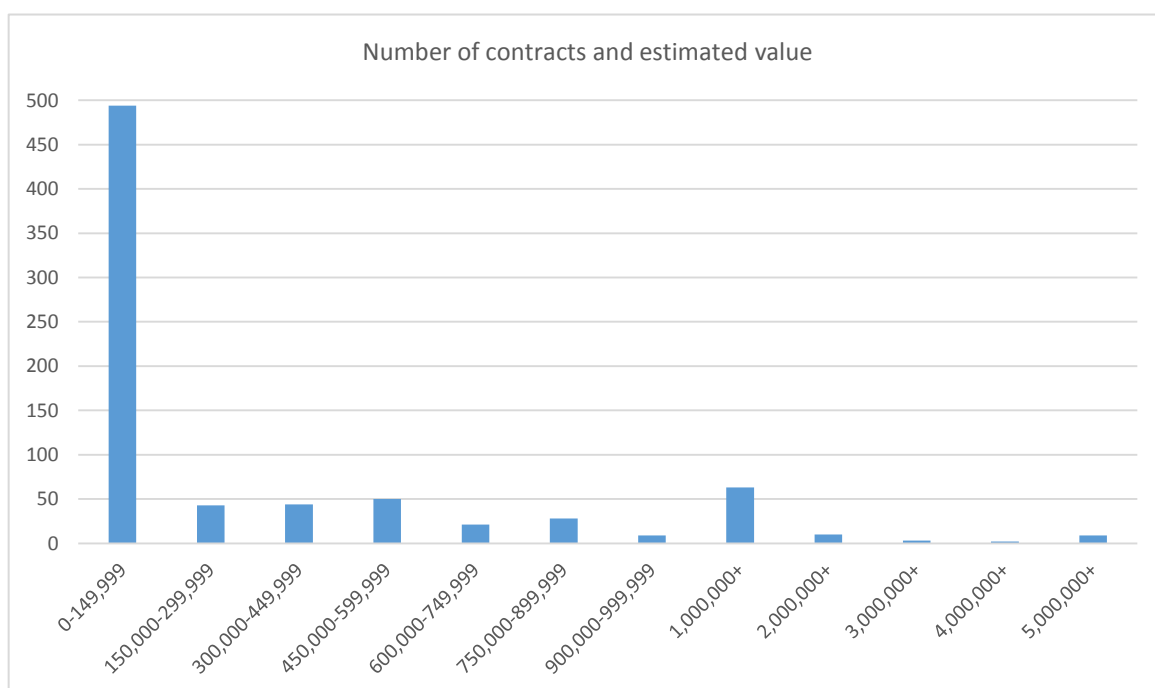
Contract Management

Management Summary

As part of the 2015-16 audit plan a review has been undertaken to assess the adequacy of the controls and procedures in place for contract management at Somerset County Council.

A report produced by the procurement team at the outset of this audit showed that Somerset County Council has over 800 contracts in place with contract values ranging from small nominal amounts to amounts in excess of £20m. The chart below shows the distribution of contracts and their associated annual values, the majority of contracts in place have an annual value of less than £150,000 however there are also 87 contracts showing an annual value of over £1m.

Given that the Council is committed to becoming an increasingly commissioning authority it is likely that the total value of contracts, if not the numbers of contracts, will increase in the medium term.

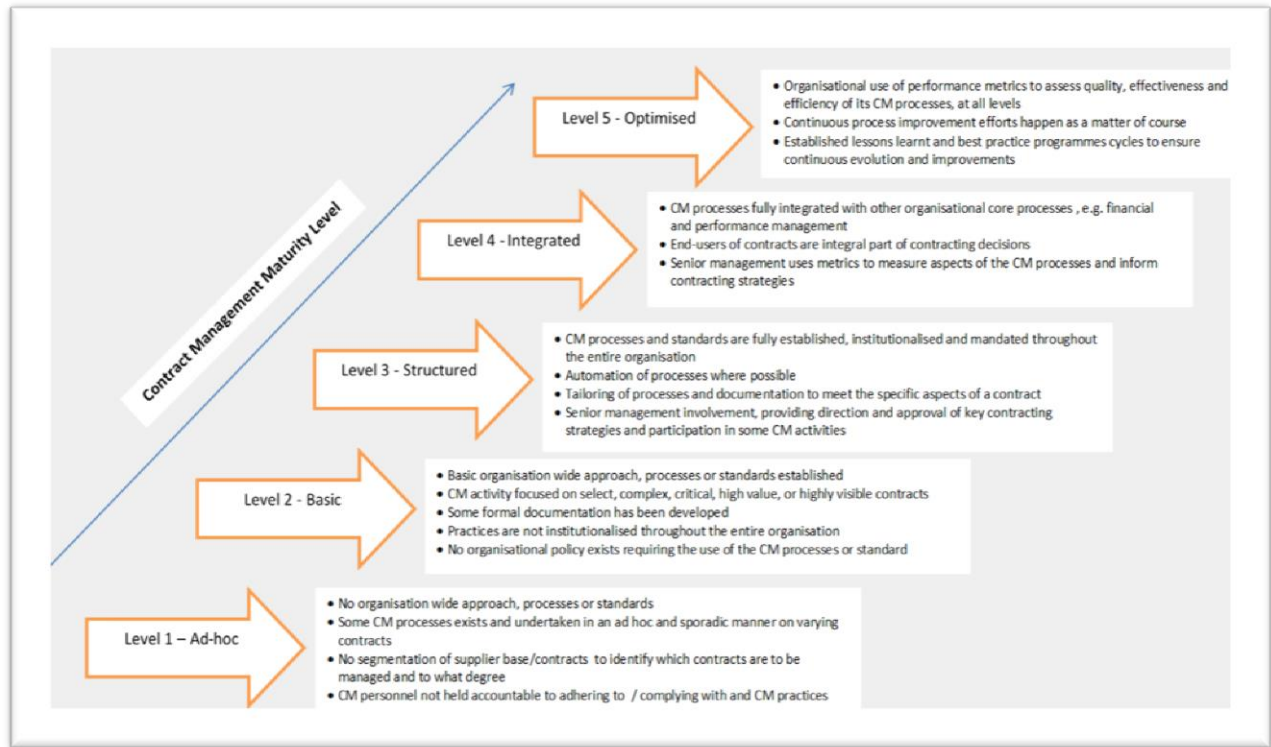


Analysis of distribution of contract values based on procurement information (July 2015)

The audit focusses on the corporate approach to contract management in place at the Council and also seeks to identify differences and similarities evident across the organisation in order to recognise common risks to SCC and share good practice.

The contract maturity model (DR G. Rendon) below shows breaks corporate contract management into 5 levels of ‘maturity’ or development. This model is in use at least one other SWAP partner authority.

Whilst other models exist the following is included in this introduction to assist report recipients in considering the level of ‘maturity’ of contract management at SCC. This could be considered both in terms of current and desired levels.



Summary of Significant Corporate Risks

The following table records the inherent risk (the risk of exposure with no controls in place) and the manager’s initial assessment of the risk (the risk exposure on the assumption that the current controls are operating effectively) captured at the outset of the audit. The final column of the table is the Auditors summary assessment of the risk exposure at Corporate level after the control environment has been tested. All assessments are made against the risk appetite agreed by the SWAP Management Board.

Areas identified as significant corporate risks, i.e. those being assessed as ‘high’ or ‘very high’ risk areas in line with the definitions attached should be addressed as a matter of urgency.

Risks	Inherent Risk Assessment	Managers Initial Assessment	Auditors Assessment
1. Contracts are not delivered within budget	High	Medium	High
2. Services fall below expected standards or are not delivered.	High	Medium	High

Summary of Significant Findings

The following were identified as key findings for the service and therefore categorised, in accordance with the definitions attached, as a level '4' or '5' priority in the action plan.

- No corporate contract performance framework is in place for managing contracts above defined thresholds.

Further details of audits' findings can be viewed in the full audit report, which follows this Management Summary.

Conclusion and Audit Opinion

 **Partial**

I am able to offer Partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

It is acknowledged that the Council has implemented new contract procedural rules from May 2015 which post-dates the contracts reviewed in this audit, however these procedural rules contain only 'headline' statements relating to contract management.

Most notable in the audit work undertaken was the lack of consistency in terms of the approach to contract management across the contracts reviewed. Whilst good practice was found to be in place in several areas, the level of and approach to management of contracts varied greatly. No rationale based on proportionality, value, or risk for this variation was found to be in place. The largest contract reviewed had an annual value of over £10 million per annum but no performance indicators were currently being actively monitored.

The above leads this report to present an overarching recommendation that SCC should develop and define key thresholds for contracts. In defining thresholds the value, the business criticality, and assessed risk related to the contract should be considered. Above given thresholds, levels of contract management should be enhanced and conversely below given thresholds, reduced. This latter point around reduction should be seen as key to the ability of SCC to direct limited resources most effectively.

The use of thresholds to define proportionate contract management responses and improvements is a feature of all recommendations made in this report.

Findings are reported at a corporate strategic level, findings relating to individual contracts will be communicated to individual contract managers.

Detailed Audit Report

Objectives & Risks

The key objective of the service and risks that could impact on the achievement of this objective were discussed and are identified below.

Audit Objective: To confirm that contracted services are delivered in accordance with the terms and conditions of the contract and desired outcomes achieved.

Risks:

- Contracts are not delivered within budget
- Services fall below expected standards or are not delivered.

Method & Scope

This audit has been undertaken using an agreed risk based audit. This means that:

- the objectives and risks are discussed and agreed with management at the outset of the audit;
- the controls established to manage risks are discussed with key staff and relevant documentation reviewed;
- these controls are evaluated to assess whether they are proportionate to the risks and evidence sought to confirm controls are operating effectively;
- at the end of the audit, findings are discussed at a close-out meeting with the main contact and suggestions for improvement are agreed.

The scope of this audit was agreed with the Group Director of Operations and contracts from Somerset Care, Highways and Transporting Somerset were reviewed to determine whether a corporate approach was in operation. The following contracts were subsequently selected for testing:

- Somerset Care – Adults Care at Home
- SSE - Highways Lighting
- FirstBus – Park & Ride

Findings

The following paragraphs detail all findings that warrant the attention of management.

The findings are all grouped under the objective and risk that they relate.

1. Risk: Contract is not delivered within budget

1.1 [Financial incentives and penalties](#)

All three contracts had financial penalties written in to their original documentation, however, the contract for Somerset Care had them removed following an amendment in October 2005, only the Highways Lighting contract had a clause to reward performance although this had not been used as supplier performance had not met the required levels.

The three contracts reviewed incorporated incentives and penalties in different ways in their contracts, to help ensure the supplier delivers value for money for the Council. The use of penalties and incentives can be an incentive to ensure performance is maintained at a satisfactory level.

The Highways Lighting team have an advantageous position as they are able to monitor all works carried out through the use of a shared database, whereas both the Somerset Care and Park & Ride contracts would be reliant on data provided from the contractor or from the Council. In the case of one contract commitment of resource to monitoring which would not be covered by any penalties levied or would not deliver service improvement and so was not carried out.

Clauses not being included or actioned presents a risk that the Council is not actively managing contractor performance to ensure the service is delivering value for money.

1.1a **I recommend the Group Director of Operations initiates the development of a performance monitoring process that allows contract managers to effectively manage incentives and penalties to ensure supplier provide value for money.**

1.2 [Contract/Supplier spend included in Corporate Budget Monitoring](#)

The corporate information produced on budget monitoring does not show individual contract spend. In discussion with relevant Finance Managers for the Park & Ride contract and Highways Lighting it was determined that should any variances occur that were noteworthy then narrative information would be included in with the financial reports. For Somerset Care, individual contract spend is not reported at any level, however the expenditure on the service as a whole is monitored.

There is a risk that contracts being procured of significant value or suppliers with multiple contracts equating to significant financial spend are not being scrutinised at a senior level to ensure the contractor is providing SCC with value for money.

1.2a **I recommend that the Group Director of Operations initiates the development of a standard for monitoring spend to suppliers over an identified threshold that can be reported at a corporate level.**

2. Risk: The service falls below expected standards or is not delivered.

2.1 SCC Contract Monitoring Framework

There is no overarching corporate performance monitoring framework that is being used by contract managers for the contracts subject to this audit. One of the service areas had devised their own performance monitoring framework which also documented the levels of associated risks and frequency of information to be provided by the contractor. However in discussion with the contract manager it was identified that the full monitoring process had yet to be rolled out and therefore it was too early to review how well it was working.

Although there is no corporate standard for performance management, a consistent finding was that there were regular meetings held between the client and contractor which demonstrated regular communication between the parties. The Somerset Care and Highways Lighting contracts both had meetings where there were set agendas and minutes/notes were recorded formally, Transporting Somerset differed somewhat where those attending kept their own notes and the meetings held would cover a range of contracts.

The Highways Lighting contract did not cover the monitoring of Contract performance however I was informed that a financial bond had been agreed between SCC, SSE and Natwest as part of the contract, which mitigates the risk of the contractor failing to deliver. The financial bond is in place to cover financial support should the Contractor fail to deliver parts or all of the service in line with the terms stated in the contract.

There is a risk that without a corporate performance management framework for contracts that there will be variations in contract monitoring arrangements, dependent on the contract manager that will not achieve a consistent standard that delivers best value for money for SCC.

2.1a I recommend that the Group Director of Operations initiates the development of a corporate standard for managing contracts within the Council that will provide guidance on minimum expectations depending on defined contract threshold.

2.2 Contractor risks and Continuity & Contingency arrangements

None of the contracts reviewed had an up to date risk register in place to inform the performance monitoring.

By not identifying or monitoring risks associated with the contract delivery and/or supplier, there is a risk that the Council does not have adequate controls in place to ensure satisfactory delivery of key services. Establishing a minimum standard of risk management for contracts whose non-delivery could have a significant reputational or financial risk to the Council would assist in controlling any consequences of non-performance or supplier failure.

Of the three contracts reviewed, one contract (Park & Ride) did not have any clear contingency arrangements in place for managing contractor failure that were known to the Contract Manager. There is no process in place to manage provider failure for Somerset Care although I was provided with a checklist that would be used for the closure of a care home and was informed that there are plans in place to review the domiciliary arrangements from November 2015. The Highways Lighting Contract had a Performance Bond written into the contract documentation, although this provides some financial insurance should SCC need to procure other services in the event of non-delivery, there were no clear plans or frameworks to manage such an instance. Whilst it may be determined that the risks of supplier failure are low without having an appropriate risk register in place there is nothing to ensure that this is being

reviewed on an ongoing basis.

Risks regarding the delivery of individual contracts were not present on the JCAD system risk management system, however, overarching risks for each of the Service Areas that would have an impact on the contract delivery were identified. Inclusion of significant risks that would impact on the performance/delivery of contracts above defined thresholds would be in line with the Council's risk management policy which provides a framework for risk monitoring and review. There is a risk that non-inclusion on the JCAD system of significant contract risks will result in said risks not being effectively managed and lacking sufficient oversight.

2.2a I recommend the Group Director of Operations ensures that for contracts over a defined threshold risks are assessed and monitored and have appropriate continuity/contingency plans in place based on risks.

2.3 [List of Contracts retained corporately](#)

There was no Corporate list that detailed all three of the contracts reviews. Only two of three contracts were named on a list provided to me by the Procurement Team (the Park & Ride contract was not present).

Contracts are also not universally available through the Pro-Contract system even though this is a stated requirement in SCC contract procedural rules. This finding has been raised in the 2015 Freedom of Information and Data transparency audits reports and so no recommendation is included here.

2.4 [Contract Management Support & Training](#)

It was identified from testing that contract managers do not receive training on corporate standards of contract management or good practice in contract management. In addition, contract managers do not receive corporate updates on good practice in contract management to support them within their roles.

All contract managers met with demonstrated a reasonable knowledge of the contract in place, one in particular demonstrated a strong knowledge of the performance management arrangements detailed within the contract and referenced particular contract clauses in answer to audit questions.

A common theme throughout all contracts was that the contract documentation allowed for greater performance management of the services than is currently being actioned (for example, performance penalties, request of KPIs and management information). Resource was often cited as a rationale for not using greater performance management.

Whilst all officers stated that they would be able to gain support from Procurement if required there does remain a risk that without a standard level of training for key contract managers that contracts will be managed inconsistently and not at a standard that would ensure effective service delivery.

2.4a I recommend the Group Director of Operations initiates work to identify and deliver contract management training to officers managing contracts. This could usefully be included as an additional module of existing 'Passport to Procure' E-Learning. For management of contracts above defined thresholds completion of training should be mandatory.

2.5 [Performance Indicators](#)

The levels of contractor performance information requested and reviewed by SCC differed across the three contracts. All contracts/tenders had clauses that state the performance information required, however it was identified that rarely is all performance information requested or analysed. Although performance information detailed in contractual documentation is not fully obtained, all contract managers monitored the delivery and quality of the contract at some level including monitoring customer complaints and service delivery. In addition, all Contract Managers held regular reviews with Suppliers (see 2.1 above).

Only one out of the three contracts reviewed had an effective process for monitoring the performance indicators that are defined within the contract terms. This was for the Highways Lighting contract where I was able to review that data is available readily at SCC and is related to the service delivery and original declarations of quality made by the Contractor at the point of tender.

The original Park & Ride tender states a number of performance indicators to be provided at set frequencies, however currently only the passenger totals and ticket revenues are obtained. It was stated during the audit that there would be resource requirements to reviewing further information. Additionally, there is no process in place to validate the Park & Ride data provided by First.

There are currently no KPIs being requested for the Somerset Care contract.

Without a process to collect, monitor and validate KPIs there is a risk that the contract is not being effectively monitored to ensure that it is meeting the full service requirements outlined within the contractual documentation and may not be delivering value for money.

There is a risk that the Council does not have a process to ensure that contracts are being delivered in line with the contractual terms. For example, is care being provided by appropriately qualified staff, and do bus drivers have appropriate licenses.

A recommendation has already been made regarding implementing a minimum standard of contract performance management across SCC contracts which should incorporate monitoring performance indicators.

2.6 [Corporate Performance Indicators](#)

There is limited information regarding the performance of specific contracts that is reported at a Corporate level - with the three contracts reviewed they have an estimated combined annual cost to the Local Authority in excess of £13m a year (£10.5m for the Adults Care at Home Contract). There was no corporate information to show at a senior level that the services are being delivered effectively by the contractor, there is performance information for Adults & Health however, as this is covered by a range of suppliers it is not possible to determine how Somerset Care are delivering the service for £10.5m annually.

By not including information on how well Contractors are performing at a Corporate level there is a risk that Contractors' performance or the management of Contractors is not being scrutinised at senior levels to help ensure early intervention should performance not meet required standards.

A similar weakness has already been identified in the August 2015 Corporate Performance Management - Data Quality audit that identified that performance indicators are not always defined in service or project plans.

There is a risk that senior management will not be aware of underperformance in a contract or with a contractor unless the underperformance has a direct consequence on the reported KPIs.

2.6a I recommend the Group Director for Operations establishes a process to report corporately on contract performance for contracts above an identified threshold or on contractors who receive a defined amount across multiple contracts.

2.7 [Lessons learnt and identifying best practice](#)

There are limited opportunities taken at SCC to share best practice and improve contract management across the Council for both staff involved in managing the financial arrangements of the contract and staff managing the performance. Some Officers met during this audit did discuss areas of the contract management process that they felt they had improved - although it was evident that there was no corporate process in place to share best practice/lessons learnt. I was informed that the Client Team that work alongside the Procurement Team do manage a number of contracts and do carry out Lessons Learnt exercises, however these contracts were not in the scope of this audit and have not been tested.

Where the responsibilities of managing a contract is shared with different officers (e.g. performance and financial monitoring) it was clear from discussions that there is regular communication between those staff. It was also noted that for Park & Ride and Somerset Care the contract managers who are responsible for managing the performance of the contract also stated they would contact the procurement team should they require any advice.

Contract managers also stated that did not receive corporate updates or details of emergent risks to support their contract management. Implementing processes to communicate on an ongoing basis with contract managers could be used to share lessons learnt and best practice ideas as well as communicate potential risks.

There is a risk that lessons learnt are not widely shared to prevent replication across other council contracts and that best practice ideas are limited to one service area.

2.7a I recommend the Group Director of Operations initiates the development of a process to communicate with all officers involved in contract management to provide updates on potential risks and best practice initiatives.

The Agreed Action Plan provides a formal record of points arising from this audit and, where appropriate, the action management has agreed to take and the timescale in which the action will be completed. All findings have been given a priority rating between 1 and 5, where 1 is low and 5 is high.

It is these findings that have formed the opinion of the control environment that has been reported in the Management Summary.





Finding	Recommendation	Priority Rating	Management Response	Responsible Officer	Implementation Date
Objective: To confirm that contracted services are delivered in accordance with the terms and conditions of the contract and desired outcome achieved.					
1. Contract is not delivered within budget					
1.1a Performance incentives were not included in two contracts, one contract did not have any performance penalties and one contract had penalties that were not routinely monitored and therefore not actioned.	I recommend the Group Director of Operations initiates the development of a performance monitoring process that allows contract managers to effectively manage incentives and penalties to ensure suppliers provide value for money. <small>SWAP Ref: 29984</small>	3	Contract Management was not properly addressed as part of the move to the new Operating Model and in large has been left within respective services to manage with little corporate guidance, support or intervention. This has led to inconsistencies in approach across the whole gambit of contract management. This audit has helped identify the need for SCC to further develop a corporate approach to contract management, whilst maintaining strong support from the respective services in their delivery and operational management. It is intended to raise this at the Commissioning Board to agree the way forward in putting appropriate systems in place.	Tbc by the Commissioning Board	To be rolled out post Commissioning Board decision making. Likely to be early 2016.
1.2a Individual contract spends	I recommend that the Group	3	Agreed for a need to have a	Tbc by the	To be rolled out

Finding	Recommendation	Priority Rating	Management Response	Responsible Officer	Implementation Date
are not reported at a corporate level.	Director of Operations initiates the development of a standard for monitoring spend to suppliers over an identified threshold that can be reported at a corporate level. <i>SWAP Ref: 29986</i>		corporate based standard on reporting above thresholds.	Commissioning Board	post Commissioning Board decision making. Likely to be early 2016.
2. The service falls below expected standards or is not delivered.					
2.1a The three contracts reviewed had differing levels of management of the contractor's performance. There is no corporate standard available to contract managers.	I recommend that the Group Director of Operations initiates the development of a corporate standard for managing contracts within the Council that will provide guidance on minimum expectations depending on defined contract threshold. <i>SWAP Ref: 30003</i>	4	Agreed need to develop a corporate based standard for contract performance that services can refer to and utilise as part of day to day management.	Tbc by the Commissioning Board	To be rolled out post Commissioning Board decision making. Likely to be early 2016.
2.2a Risks were not routinely identified/monitored as part of the contract monitoring processes.	I recommend the Group Director of Operations ensures that for contracts over a defined threshold risks are assessed and monitored and have appropriate continuity/contingency plans in place based on risks. <i>SWAP Ref: 30007</i>	3	Agree that an appropriate risk register needs to be kept for those contracts where continuity and contingency plans may be necessary.	Tbc by the Commissioning Board	To be rolled out post Commissioning Board decision making. Likely to be early 2016.

Finding	Recommendation	Priority Rating	Management Response	Responsible Officer	Implementation Date
2.4a No corporate training or standard information provided to contract managers.	<p>I recommend the Group Director of Operations initiates work to identify and deliver contract management training to officers managing contracts.</p> <p>This could usefully be included as an additional module of existing 'Passport to Procure' E-Learning.</p> <p>For management of contracts above defined thresholds completion of training should be mandatory.</p> <p><i>SWAP Ref: 29995</i></p>	3	Agree that the development of a corporate based e-learning module on the council's revised arrangements for contract management would be a useful tool to support contract managers.	Tbc by the Commissioning Board	To be rolled out post Commissioning Board decision making. Likely to be early 2016.
2.6a The individual performance of contracts/contractors is not reported at a corporate level.	<p>I recommend that Strategic Commissioning identifies a process to report corporately on contract performance for contracts above an identified threshold or contractors who receive a set amount across multiple contracts.</p> <p><i>SWAP Ref: 30012</i></p>	3	Agree that a process needs to be developed	Tbc by the Commissioning Board	To be rolled out post Commissioning Board decision making. Likely to be early 2016.
2.7a Best practice and lessons learnt are not identified and shared across the Council.	<p>I recommend the Group Director of Operations initiates the development of a process to communicate with all officers involved in contract management to provide updates on potential risks and best practice initiatives.</p> <p><i>SWAP Ref: 30002</i></p>	3	Agree to establish a process that permits internal learning.	Tbc by the Commissioning Board	To be rolled out post Commissioning Board decision making. Likely to be early 2016.

Audit Framework Definitions

Control Assurance Definitions

Substantial		I am able to offer substantial assurance as the areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.
Reasonable		I am able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Partial		I am able to offer Partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
None		I am not able to offer any assurance. The areas reviewed were found to be inadequately controlled. Risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

Categorisation Of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors, however, the definitions imply the importance.

Priority 5: Findings that are fundamental to the integrity of the unit's business processes and require the immediate attention of management.

Priority 4: Important findings that need to be resolved by management.

Priority 3: The accuracy of records is at risk and requires attention.

Priority 2: Minor control issues have been identified which nevertheless need to be addressed.

Priority 1: Administrative errors identified that should be corrected. Simple, no-cost measures would serve to enhance an existing control.

Definitions of Corporate Risk

Risk	Reporting Implications
Low	Issues of a minor nature or best practice where some improvement can be made.
Medium	Issues which should be addressed by management in their areas of responsibility.
High	Issues that we consider need to be brought to the attention of senior management.
Very High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.