

AGENDA SUPPLEMENT

Audit and Governance Committee

To: Councillors Pavlovic (Chair), Fisher (Vice-Chair), Lomas, Mason, Wann, Webb and Carr

Date: Wednesday, 29 September 2021

Time: 5.30 pm

Venue: George Hudson Room, West Offices, Station Rise, York YO1 6GA

The Agenda for the above meeting was published on **Tuesday 21 September**. The attached additional documents are now available for the following agenda item:

- 6. MIY Contract Management** (Pages 1 - 10)
To provide an update on actions taken in response to the Veritau report on Make It York contract arrangements.

This agenda supplement was published on **Monday 27 September 2021**.

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Contract Management - Make it York
City of York Council
Internal Audit Report 2020/21

Business Unit: Customer and Communities Directorate and Place Directorate
Responsible Officer: Director of Customer and Communities and Corporate Director of Place
Service Manager: Assistant Director Customer and Communities
Date Issued: 8 April 2021
Status: Final
Reference: 19080/036

	P1	P2	P3
Actions	0	4	0
Overall Audit Opinion	Limited Assurance		

Summary and Overall Conclusions

Introduction

There are a number of Council Services that are delivered via third parties under different contractual arrangements. These include arrangements with Make It York for the provision of Marketing, Tourism and Business Information Services.

Make It York is a shareholder Ltd company owned wholly by CYC. The 3 year contract with the Council commenced in April 2015 and was subsequently extended for a further 3 years. The contract cost was set at £798K per year for the provision of services with an income stream to the Council of 474K per annum, plus a dividend of at least £25K per annum. Net funding of the contract is currently in the region of £290K.

Objectives and Scope of the Audit

The purpose of this audit is to provide assurance to management that procedures and controls within the system will ensure that:

- the contract agreement includes appropriate performance measures and controls to ensure effective information flow ;
- performance measures are correctly applied in monitoring service delivery;
- there is effective financial monitoring of the contract;
- contract activity remains compliant with current council policy and plans over the life of the contract;
- support has been given during Covid-19 that is compliant with the contract, and government guidance.

Key Findings

The contract documents include performance measures which are measurable and are currently being reviewed in line with the contract specification. Service user feedback has not however been included as a performance measure in the service level agreement (SLA) despite the requirement to collect relevant user feedback data being included in the specification. It is recommended that this is addressed. Quality standards are included in the contract and a process for taking action if performance targets are not met is clearly stated.

To ensure effective information flow, the responsibilities of MIY in relation to regular formal communication and the provision of reports is clearly set out. It was noted however, that there are no escalation procedures or penalties specified in the contract, eg for failing to meet reporting requirements.

The contract requires regular performance review meetings where performance reports from MIY will be considered and any action required to mitigate underperformance addressed. To inform these meetings quarterly performance narrative reports, reporting on the outcomes and targets specified in the SLA, are required to be produced by MIY. These reports have not been produced since September 2018. Client/contractor meetings are therefore not fully informed on performance and assurance cannot be given that poor performance is identified and appropriate action taken.

Other key reports which have not been produced consistently are the monthly Key Account Management (KAM) reports during the period October 2018 to December 2019. Reporting issues have been discussed during the client/contractor meetings but all actions agreed by MIY (in particular in relation to producing performance narrative reports) have not yet been taken.

Good controls are in place for financial monitoring of the contract. All payments from the council to MIY have been made promptly to date and charges have been raised for contract income due, property rents, service charges and other contract costs. However, no contract income has been received from MIY since quarter three of the 2019/20 financial year, and property rents, service charges and other contract costs have not been paid for during the financial year 2020/21. The level of debt (at end of December 2020) was in the region of £663k. As MIY are a council-owned company the contract manager, and other relevant officers, receive monthly financial information from MIY. The council has been closely monitoring the current financial position of MIY, which has been significantly affected by the coronavirus pandemic, during which the income streams have been severely reduced.

To ensure activity remains compliant with council policy throughout the life of the contract a process for agreement of an MIY annual business plan and an associated refreshed SLA is in place. However, this process was not completed for 2019/20, due to a change in MIY's Managing Director, with no annual business plan and revised SLA being approved. The process for 2020/21 was being followed but, with the arrival of the coronavirus pandemic, this was taken off the forward plan. Without a revised SLA, and revisions to monitoring outcomes, effective monitoring of performance cannot take place.

Support given to MIY during the pandemic has been compliant with the government's procurement policy note 02/20 on supplier relief and the officer decision taken on 24 March 2020 to provide financial relief to suppliers. Revised working arrangements were notified to portfolio holders in April 2020 and amendments to the SLA agreed by the Executive Member for Economy and Strategy (22 September 2020). The financial position of MIY throughout the pandemic has been monitored and challenged by the council. A request for a council support package for recovery has been submitted by MIY and was agreed by the council's Executive committee on 16 December 2020.

Overall Conclusions

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. Our overall opinion of the controls within the system at the time of the audit was that they provided Limited Assurance.

1 Contract reporting requirements and escalation procedures

Issue/Control Weakness

Reporting requirements to the council have not been fully met. There is no penalty or clear method of addressing failure to meet reporting requirements in the contract documents.

Risk

The council is unable to evidence delivery of a high quality service which achieves the agreed outcomes.

Findings

The reporting and communication requirements for the contract are specified in Schedule 4 of the contract documents. They require the following reports to be produced:

- Quarterly Narrative Performance Reports
- Quarterly Key Account Management Reports
- An Annual Performance Report for publication
- Twice yearly Reports to Shareholder Committee (to report progress and achievement of outcomes and approval of the following year’s business plan)
- Reports to Scrutiny Committee in response to relevant reviews

Quarterly narrative reports have not been produced since September 2018 and the annual report for 2019/20 has also not been produced... No Key Account Management reports were produced for the period October 2018 to December 2019. The lack of reporting has been discussed during the client/contractor meetings but none of the actions agreed by MIY (in particular to produce performance narrative reports) had been completed at the time of the audit.

There is a process for addressing failure to deliver and perform services in accordance with the specification and to charge reasonable costs of required action by the council in the case of a breach of contract. However, there is no clear process in place for escalation of issues such as failure to meet reporting requirements and there is no facility to apply penalties under the contract. The failure of MIY to comply with all reporting arrangements continues to be an issue.

Agreed Action 1.1

A new contract will be drawn up to be entered into with MIY by 30 September, 2021. This contract will include a process for escalation of issues including failure to meet reporting requirements with appropriate commensurate penalties.

Priority	2
Responsible Officer	Assistant Director Customer and Communities
Timescale	30 September 2021

2 SLA and performance measures

Issue/Control Weakness

Current SLA performance monitoring measures do not include user feedback which is a service specific requirement.

Risk

The council will be unable to evidence delivery of a high quality service which is valued by users.

Findings

The Service Level Agreement, schedule 1 part 3 (Outcomes and Service Levels), does not include service user feedback as a performance measure. This is despite the requirement to "collect relevant data including user feedback to evidence performance against objectives" being included in Schedule 1 part 2 (Service Specific Requirements). It is important that measures are in place that can demonstrate that services provided directly by MIY eg to support business, tourism and events are valued and are of a high standard.

Agreed Action 2.1

The requirement for MIY to put in place measures to gather user feedback will be included in the new Service Level Agreement which will form part of the new contract. MIY will then be required to write this into their new business plan and report on it annually.

Priority

2

Responsible Officer

Assistant Director
Customer and
Communities

Timescale

30 September 2021

3 Performance monitoring

Issue/Control Weakness

Performance monitoring reports have not been produced by MIY and effective performance monitoring has not been in operation.

Risk

Poor performance is not identified and addressed

Findings

Performance monitoring discussions at monthly client/contract meetings and at the annual review meeting were to be informed by the quarterly narrative performance reports and annual review report produced by MIY, reporting on the outcomes and services levels set out in the Service Level Agreement (SLA).

The last narrative report produced by MIY covered the period July to September 2018. This report did not include all of the performance measures specified in the SLA.

The last annual report produced covered 2018/19 and provided an overview of achievement during the year but it was not linked to the SLA through any performance measures. There has therefore been no specific measure of performance throughout the current contract. The lack of performance data against agreed measures may result in a failure to identify poor performance and to introduce the appropriate mitigation strategies.

The reasons for this lack of performance reporting are not clear and minutes have not been taken at client/contractor meetings. Any issues with the target outcomes and measures included in the SLA should be discussed and addressed so that effective performance monitoring can be introduced.

Agreed Action 3.1

The return to quarterly performance reporting will be enforced through the client management meetings. Arrangements will be put in place, through the new contract, to provide for the quarterly report to be signed off by the MIY board so that any failure to provide the report would immediately be apparent to the board. A feedback loop will be put in place whereby the council gives feedback on the report to the board.

Priority

2

Responsible Officer

Assistant Director
Customer and
Communities

Timescale

30 June 2021

4 Alignment with Council strategy

Issue/Control Weakness

A revised business plan and refreshed SLA were not agreed for 2019/20, The process was disrupted for 2020/21 by the coronavirus pandemic.

Risk

The contractor may not meet council objectives and requirements.

Findings

A process is specified in the contract documents for setting and agreeing an annual business plan to align with council objectives and priorities and for refreshing the SLA in line with this business plan. However, the current contract has been in place since April 2018 and a revised business plan and refreshed SLA has not been agreed throughout the contract period.

The business plan was not revised for 2019/20 due to a change in MIY's Managing Director (although assurance was given that priorities did not change significantly during this period).

Without an agreed annual business plan and a refreshed SLA covering the operations of contractor for the coming year, assurance cannot be given that activities of the contractor are in alignment with council strategy and effective monitoring of performance cannot take place.

It is acknowledged that the process for 2020/21 was being followed but with the start of the pandemic this was taken off the forward plan. An emergency plan, directed by council priorities, was agreed by the Executive Member for Economy and Strategy for 2020/21. Timescales for tasks were set where appropriate and progress regularly monitored and updated through close liaison with MIY. MIY and the council will need to work together to ensure an agreed business plan is in place for 2021/22.

Agreed Action 4.1

A new SLA will be taken to the Council's Executive for approval on 20 May 2021.

Priority

2

Responsible Officer

Assistant Director
Customer and
Communities

Timescale

20 May 2021

Audit Opinions and Priorities for Actions

Audit Opinions	
<p>Our work is based on using a variety of audit techniques to test the operation of systems. This may include sampling and data analysis of wider populations. It cannot guarantee the elimination of fraud or error. Our opinion relates only to the objectives set out in the audit scope and is based on risks related to those objectives that we identify at the time of the audit.</p> <p>Our overall audit opinion is based on 4 grades of opinion, as set out below.</p>	
Opinion	Assessment of internal control
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.

Priorities for Actions	
Priority 1	A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management.
Priority 2	A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management.
Priority 3	The system objectives are not exposed to significant risk, but the issue merits attention by management.

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