

# CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY

## Internal Audit Progress Report

27 January 2023

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# 1 Key messages

The internal audit plan for 2022/23 was approved at the July 2022 meeting. This report provides an update on progress against that plan, the changes to the plan and summarises the results of our work to date.



## Additional 2021/22 internal audit activity

We were asked by Officers to undertake an Analysis of Government Procurement Card Expenditure and Expenses. The draft report has been issued and the final report will be issued once we have discussed the latest draft report with Officers and responses to the action plan are received.

[\[To note\]](#)

## 2022/23 Internal Audit Delivery

Since the last meeting we have issued **one final report** from the 2022/23 internal audit plan – Risk Management.

We have also issued **one further draft report** from the 2022/23 internal audit plan (Affordable Housing Grant Programme). We are awaiting responses from management to the draft report and have been advised that the draft report will be discussed at the Executive on 24<sup>th</sup> January ahead of a formal response to the draft.



The fieldwork for the Core Control Framework and Net Zero Hub - Governance audits is in progress, and the final reports are expected to be presented to the next Audit & Governance Committee (AGC) meeting.

Remaining audits are due to be delivered in January and February 2023. The use of the Succession Planning audit budget (this audit is being deferred to 2023/24 as previously reported), has been discussed with management and the budget will be used to undertake the extended scope of the subsidiary governance review. Further details are included at Appendix C.

[\[To note\]](#)

## 2023/24 Planning

We have commenced the 2023/24 Internal Audit Planning process with management and we will be bringing our proposed Internal Audit Plan for 2023/24 to the March 2023 Audit Committee for approval.



[\[To note\]](#)

## 2 Reports

### Summary of final reports being presented to this committee

We have issued one final report since the last meeting from the 2022/23 Internal Audit Plan.

Assignment	Debrief Date	Opinion issued	Actions agreed		
			L	M	H
<b>Risk Management (3.22/23)</b> <p>Our review found that the necessary updates to strengthen the risk management processes was still work in progress with areas such as the provision of training and the development of the risk appetite being planned for completion by the end of 2022. The control framework does still require further strengthening to ensure that all areas of risk can be consistently identified, managed, reviewed, and reported.</p> <p>We noted that the updated Risk Management Strategy was yet to be approved, and through review, we found that the version that had been updated was one prior to the version agreed in 2020 and further updates were required including recognition that the Corporate and Portfolio risk registers are now amalgamated as one. We noted inconsistencies in the completeness of a sample of two Programme and two Portfolio risk registers that we reviewed including details about action owners and risk scores, found that improvements are required to ensure robust and regular review of Programme and Portfolio risks as well identifying the absence of the use of assurances within the risk registers.</p> <p>Whilst we note some improvements and progress has been made since our last review in 2020/21, it is evident that further work is still required to ensure a fully robust and effective risk management framework is in place.</p>	27 October 2022 (last audited 2020/21)	<b>Partial Assurance</b>	0	6	0

## Appendix A – Progress against the internal audit plan 2021/22 – remaining audit only

Assignment	Timing / Status / Opinion issued	Actions agreed			Target AGC	Actual AGC
		L	M	H		
Analysis of Government Procurement Card Expenditure and Expenses	DRAFT report issued 16 December 2021				TO BE CONFIRMED	
	Revised DRAFT reports issued 12 May 2022 and 28 September 2022					

## Appendix B – Progress against the internal audit plan 2022/23

Assignment	Timing / Status / Opinion issued	Actions agreed			Target AGC	Actual AGC
		L	M	H		
Data Protection – Deep Dive	FINAL - Advisory	2	9	1	January 2023	December 2022
<b>Risk Management</b>	<b>Final – Partial Assurance</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>January 2023</b>	<b>January 2023</b>
Affordable Housing Grant Programme	Draft report issued 12 January 2023				(January 2023) March 2023	
Net Zero Hub - governance	Fieldwork in progress				(January 2023) Now March 2023	
Core Control Framework	Fieldwork in progress				March 2023	
IT Audit	27 January 2023				March / June 2023	
Follow Up	30 January 2023				March / June 2023	
Subsidiary Companies – Deep Dives	13 February 2023				June 2023	
Governance	20 February 2023				June 2023	
Succession Planning*	n/a				n/a	

\* please see Appendix C

## Appendix C – Other matters

### Changes to the audit plan

Since the last meeting there have been the following change to the 2022/23 internal audit plan:

Audit/Area	Change Proposed
Succession Planning	<p>The Succession Planning audit was originally scheduled to take place in October 2022. We were initially requested by management to delay this until January 2023 due to ongoing work in this area, and asked to delay the audit to summer 2023, and it is to form part of the 2023/24 internal audit plan as discussed at the previous Committee.</p> <p><b>New Change</b> - We have since agreed with management to utilise the budget by expanding the coverage of the Subsidiary Companies – Deep Dive review to encompass coverage of both one Growth Company and one Property Company.</p>

The following changes were previously reported:

Audit/Area	Change Proposed
Affordable Housing Programme	At the July Audit & Governance Committee, it was suggested that the proposed Affordable Housing Programme audit may overlap with other work being undertaken. We discussed with management the potential scope of the audit and whether it remained appropriate to be included within the plan, or whether it should be replaced with something else. We agreed that the audit should focus on the grant programme, and therefore there would be no overlap with the work being undertaken by the scrutiny committee.
IT Audit	A scoping meeting was held with the audit sponsor, at which we were asked to push the audit back due to the current transition period which includes IT changes. This audit will now take place in January 2023.

## **RSM External reviews of quality**

One of the key measures of quality is an independent third-party assessment and, as a firm we are required to conform to the requirements of the International Professional Practices Framework (IPPF) published by the Global IIA. Under the Standards, internal audit services are required to have an external quality assessment (EQA) every five years. The RSM UK Risk Assurance service line commissioned an external independent review of our internal audit services in 2021, to provide assurance as to whether our approach continues to meet the requirements.

The external review concluded that RSM 'generally conforms to the requirements of the IIA Standards' and that 'RSM IA also generally conforms with the other Professional Standards and the IIA Code of Ethics. There were no instances of non-conformance with any of the Professional Standards'. The rating of 'generally conforms' is the highest rating that can be achieved, in line with the IIA's EQA assessment model.

## **Information briefings and updates**

We attach one client briefing in regard to our Procurement & Contract Management Newsletter & Technical Brief - January 2023



## Appendix C - Key performance indicators (KPIs) for 2022/23 delivery

	Delivery				Quality		
	Target	Actual	Notes (ref)		Target	Actual	Notes (ref)
Audits commenced in line with original timescales following scoping	Yes	83%	Succession Planning audit has been delayed	Conformance with PSIAS and IIA Standards	Yes	Yes	
Draft reports issued within 15 days of debrief meeting	100%	50%	One report was issued after 25 days due to auditor sickness.	Liaison with external audit to allow, where appropriate and required, the external auditor to place reliance on the work of internal audit	Yes	Yes	
Management responses received within 15 days of draft report	100%	0%		Response time for all general enquiries for assistance	2 working days	100%	
Final report issued within 3 days of management response	100%	100%		Response for emergencies and potential fraud	1 working days	N/A	
Notes							

The above KPIs take into account changes agreed by management and the Audit & Governance Committee during the year.

## FOR MORE INFORMATION CONTACT

Daniel Harris, Head of Internal Audit

Email: [Daniel.Harris@rsmuk.com](mailto:Daniel.Harris@rsmuk.com)

Nick Fanning, Manager

Email: [Nick.Fanning@rsmuk.com](mailto:Nick.Fanning@rsmuk.com)

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# Procurement & Contract Management

## Newsletter & Technical Brief

Jan 2023

In this our first newsletter of 2023 we cover the key technical developments and news about public sector procurement and contract management in the UK.

### **In this edition:**

1. New Procurement Bill reaches the House of Commons, but progress is taking longer than expected.
2. Government puts a good spin on the benefits of the new Procurement Bill, however the knives are out in the House of Commons and everything could change.
3. Disclosing details of other bidders: a balancing act of transparency vs commercial interests.
4. The 30 day time limit for procurement challenge is clear but when does the clock start ticking?
5. Oh what a tangled web we weave when we design to run roughshod over the rules.
6. Up coming webinars and training courses.

Please contact us for more information about the content of this newsletter or if you would like to attend our free webinars or paid-for training events.

Walter Akers

Partner

RSM UK Risk Assurance Services LLP

[walter.akers@rsmuk.com](mailto:walter.akers@rsmuk.com)

+447561327662

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## **1. New Procurement Bill reaches the House of Commons, but progress is taking longer than expected.**

The Procurement Bill completed its committee and report stage in the House of Lords and was passed to the House of Commons on 14 December 2022. The current amended version of the bill has been published and can be found here: [Procurement Bill](#). The second reading in the Commons took place on 9 January 2023. The Bill's passage is taking longer than expected and it is now anticipated that we will reach royal assent in late 2023 with implementation during the first half of 2024.

Join us on 30 January 2023 at 12:30 at our next webinar when we will discuss the new draft procurement legislation and the impact it will have on us all. To join this FREE Webinar on 30 January 2023 12:30, use this TEAMS link: [Click here to join the meeting](#)

## **2. Government puts a good spin on the benefits of the new Procurement Bill, however the knives are out in the House of Commons and everything could change.**

This week the Cabinet Office Government Commercial Function published a report; [Benefits for Prospective Suppliers to the Public Sector](#). The document sets out how the new regime will deliver a range of benefits for suppliers of all sizes wishing to do business and deliver contracts for the public sector. However, the Bill is yet to face the rigour of the Commons and significant amendments are expected. That said if just some of the benefits set out by the Cabinet Office report are realised it will be a significant improvement on the current regime. You have to applaud the ambition.

## **3. Disclosing details of other bidders: a balancing act of transparency vs commercial interests**

Do public bodies need to release the names of parties who took part in a procurement exercise and failed to secure a bid?

Under the Public Contracts Regulations 2015, there is no obligation to disclose details of other bidders beside the specific requirement in the standstill letters, where only details of the successful contractor must be disclosed to the individual unsuccessful bidder. However, could the Freedom of Information override this?

The First-tier Tribunal of the General Regulatory Chamber dismissed an appeal in [Greenwood v Information Commissioner](#), brought under section 57 of the Freedom of Information Act 2000. The court found that there was insufficient evidence to persuade them that on balance it was in the public interest to disclose the withheld information, particularly following evidence that disclosure would or would be likely to adversely affect these companies' commercial interests. The case required a balancing act between the public interest in the Government's handling of the pandemic versus the respondents' notion of protection and safeguarding the anonymity of unsuccessful bidders. The Tribunal found the commercial interest in withholding the information outweighed any public interest and therefore dismissed the appeal.

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### 4. The 30 day time limit for procurement challenge is clear but when does the clock start ticking?

We see instances when contracting authorities believe the clock starts rigidly when they inform bidders of the outcome, however if you withhold information (intentionally or by error) from unsuccessful bidders this 30 day period could start much later and open a challenge at a future date. The case law is clear; The clock is stated to run from “the date when the Claimant first knew or ought to have known that grounds for starting the proceedings had arisen”.

We have been provided with further guidance on when things about which a Claimant “ought to have known” in [Siemens Mobility Ltd v High Speed Two \(HS2\) Ltd](#). This judgment provides a useful analysis of the case law on this often confusing situation about the 30 day limitation period for procurement claims, and the point at which a Claimant can be said to have acquired or should have acquired enough knowledge to start that limitation clock running. The judgement is worth a read.

### 5. Oh what a tangled web we weave when we design to run roughshod over the rules

The case of [Consultant Connect Limited v NHS Bath](#) is most extraordinary. So many breaches of the regulations all happening during one procurement process is rare. Contracting authorities must comply with both Regulations 18 and 33 of the Public Contracts Regulations 2015 (PCR) when awarding call-off contracts, and in this case they clearly did not.

The judgement finds wide-ranging breaches of the Regulations, including that:

- the Defendants used the framework to effect the direct award of the contract to the Interested Party in breach of the equal treatment requirements under Regulation 18;
- the mini competition did not comply with Regulation 33, because (a) only one bidder was invited to tender; (b) the Defendants had tailored their requirements to that bidder; and (c) the pricing arrangement did not remotely resemble the pricing set out in the framework agreement; and
- two employees had conflicts of interest and, in breach of Regulation 24, no appropriate measures were taken by the Defendants to prevent them from being involved in the procurement.

Further the judge rejected the Defendants' argument that non-parties should be unable to challenge the award of a call-off contract under the relevant framework agreement. On the facts of the case, the Court found that the contract award breached a relevant duty owed to the non-member and the non-member suffered, or risked suffering, loss in consequence.

The judge was clearly not happy and he made a contract shortening order, the first of its kind in the UK, ordered the Defendant to pay civil financial penalties and further found that the Defendant's breaches were sufficiently serious to award damages.

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## 6. Up coming webinars and training courses

### Training

The next Public Procurement & Contract Management Training days are open for bookings. Please write to [walter.akers@rsmuk.com](mailto:walter.akers@rsmuk.com) to book.

- Beginners Guide to Public Procurement (Level 1) - Friday 10 March 2023 (9:30 – 15:45) Cost £240 plus VAT per attendee.
- Introduction to contract Management (Level 1) – Wednesday 15 March 2023 (9:30 – 15:45) Cost £240 plus VAT per attendee.
- Guide to completing FTS Notices – Friday 24 March 2023 (9:30 – 12:45) Cost £180 plus VAT per attendee.
- How to Undertake Compliant Tender Evaluations - Friday 28 April 2023 (9.30 -15.45) Cost £240 plus VAT per attendee.

### Webinar 30 January 2023

The next FREE Webinar is on 30 January 2023 from 12:30 to 13:15. During this Webinar we will be providing an update on the new UK procurement bill. To join this FREE Webinar on 30 January 2023 12:30, use this TEAMS link: [Click here to join the meeting](#)

Walter Akers  
Partner  
RSM UK Risk Assurance Services LLP  
[walter.akers@rsmuk.com](mailto:walter.akers@rsmuk.com)  
+447561327662

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