

**Corporate Audit and Risk Management**  
**Counter Fraud and Investigations Team**  
**Audit Improvement Plan**

**Adults Social Care Contracting**

<b>Owner</b>	<b>Ruth Cumbers</b>
<b>Date</b>	<b>10th May 2011</b>
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**Findings, Recommendations and Agreed Actions**

	<b>Findings</b>	<b>Recommendations</b>	<b>Agreed Actions</b>	<b>Priority</b>	<b>Responsibility &amp; Timescale</b>	<b>Status</b>
01	<p>The existing structure in Adults strategic commissioning and the lack of clarity around roles and responsibilities has caused significant problems around capacity, decision making and accountabilities.</p> <p>Our investigation into Adults' contract management arrangements found evidence of both "silo" working and a blurring of responsibilities to the extent that we were often unclear who the lead head of service / lead officer was.</p> <p>Heads of service within commissioning, contracts and operational teams were given the lead roles</p>	<p>How the Council manages its contracts in ASC needs to be fundamentally overhauled.</p> <p>Management should also use the ongoing restructure to:</p> <ul style="list-style-type: none"> <li>■ clearly define roles, responsibilities and accountabilities (through job descriptions and procedure notes)</li> <li>■ set boundaries for joint working</li> <li>■ ensure the right number of suitably trained &amp; skilled contract officers to manage the increasing portfolio of ASC contracts</li> <li>■ provide clarity on decision making at all levels, particularly within the contracting process</li> <li>■ Assess the type of skills</li> </ul>	<ul style="list-style-type: none"> <li>■ Contract register to be completed by end of June 2011.</li> <li>■ There needs to be a clear specification of what an effective register should contain and our register should meet the requirements.</li> </ul>	<p>2</p> <p>1</p>	<p>Rachel Wing June 30<sup>th</sup> 2011</p> <p>Procurement Lincolnshire</p>	<p>Complete</p> <p>Complete</p>

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	<p>for functions, services and projects – this, together with generic job descriptions, resulted in the blurring of boundaries.</p> <p>These uncertainties have contributed to a collective failure to promptly resolve contractual issues, manage key financial risks or accept responsibility.</p>	<p>and capacity needed to manage the portfolio of contracts in ASC and the whole council e.g. Children's, Resources and Procurement Lincs.</p> <p>As the Council's contracts and commissioning needs are diverse ranging from 'basic' to 'complex', we suggest that the head of service (contracts) and the Head of Procurement oversee an independent skills audit to provide clarity over the skills we have, what we need to develop and need to buy in.</p> <p>The outcome of the Contracts Review should be used to feed into the skills audit and understanding on the scale of the task to put things right.</p>	<ul style="list-style-type: none"> <li>▪ Effective processes for ensuring maintenance of the register should be put in place.</li>   <li>▪ Processes for auditing and spot-checking contract management processes should be put in place.</li> </ul>	<p>1</p> <p>1</p>	<p>Ruth Cumbers June 30<sup>th</sup> 2011</p> <p>Ruth Cumbers June 30<sup>th</sup> 2011</p>	<p>Complete</p> <p>Complete</p>

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			<p>Proposals are out to consultation for the future organisation of Adults Commissioning. These will be implemented in line with the corporate timetable.</p> <p>New approaches to accountability management will be implemented in the new team.</p>	<p>1.</p> <p>1.</p>	<p>Peter Duxbury June 2011</p> <p>Jo Mead April 2011</p>	<p>Ongoing The proposed structure of the FAB, Direct Payments and Brokerage Teams was not implemented as a result of a review of services.</p> <p>A review of which directorate the teams should be located within is being undertaken by the management team.</p> <p>Complete</p>

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			<p>A continuous professional development programme will be implemented across the new team.</p> <p>The whole Council is restructuring around Core Offer proposals. Ensure appropriate skills based selection processes are in place to implement final Core Offer.</p>	<p>2.</p> <p>2.</p>	<p>Terry Hawkins June 2011 onwards</p> <p>Peter Duxbury June 2011</p>	<p>Complete. Monthly management sessions taking place</p> <p>Ongoing as the structure was not implemented and the future Management arrangements teams are being determined.</p>
02	There are various cultural issues within ASC commissioning, contracts, assessment & care management and directorate finance which became clear through interviews on contracting	<p>The Executive Director should take the opportunity of the structural changes to clarify expectations and lay down a new set of standards for leadership &amp; management. For example:</p> <ul style="list-style-type: none"> <li>■ A more robust and</li> </ul>	<ul style="list-style-type: none"> <li>■ A clear and strong performance management culture needs to be established across the service. This will include systems and processes for checking of data etc by Director, Portfolio</li> </ul>	1.	<p>Terry Hawkins April 2011</p> <p>Performance Indicators and targets are being refreshed</p>	<p>Complete</p> <p>Complete</p>

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	<p>matters.</p> <p>The common themes were:</p> <ul style="list-style-type: none"> <li>■ lack of urgency to resolve contractual matters</li> <li>■ inadequate recognition of the Council’s budgetary constraints and matters around affordability</li> <li>■ failure to comply with mandatory processes, such as Contract &amp; Procurement Rules and Scheme of Delegation</li> <li>■ lack of challenge and follow through</li> <li>■ inconsistent management oversight (at all levels)</li> </ul>	<p>proportionate performance process should be introduced – the process needs to be understood and acted upon.</p> <ul style="list-style-type: none"> <li>■ We advise the director reviews the existing ASC accountability framework to ensure it properly holds managers to account.</li> <li>■ The directorate’s Section 151 officer is the last line of defence in ensuring sound financial management and minimising financial risk – this role needs to be understood by all senior</li> </ul>	<p>Holder, and Assistant Directors.</p> <ul style="list-style-type: none"> <li>■ Clarity in relation to team plans.</li> <li>■ Clear and up-to-date appraisal processes.</li> <li>■ Evidence of identifying good practice and dealing with poor practice.</li> </ul>		<p>All Heads of Service September 2011</p>	<p>Completed</p>

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	<ul style="list-style-type: none"> <li>■ inability / reluctance to accept responsibility / defensiveness</li> <li>■ lack of transparency, a failure to flag up key risks and a tendency to minimise</li> </ul>	ASC officers and effectively discharged by the post holder.	<ul style="list-style-type: none"> <li>▪ Discussion with Resources Director regarding appropriate support by the Finance Officer</li> </ul> <p>Implement fully the contracting improvement plan currently underway.</p>	1.  1.	<p>Peter Duxbury/ Pete Moore April 2011</p> <p>Terry Hawkins Ongoing</p>	<p>Complete</p> <p>Next plan of improvement underway. Additional capacity in place including at Head of Service Level. This is being tracked as part of the improvement board.</p>
03	The tone of correspondence from providers and discussions with staff indicates that the independent sector has driven the way the contracting team operates.	<p>Management should ensure the new ASC contracting team possess the skills, knowledge and expertise to carry out robust contract management.</p> <p>We advise a comprehensive</p>	Implementation of Core Offer review following consultation.	1.	Terry Hawkins May 2011	<p>Ongoing Training facilitated by procurement Lincolnshire is now underway.</p> <p>The additional</p>

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	We found examples where the lead officer or manager did not have the competency to act in the best interests of the Council when handling complex commissioning or contract management issues.	<p>skills and competency assessment for contracting teams across the whole of the council for:</p> <ul style="list-style-type: none"> <li>■ basic contract letting and contract review work</li> <li>■ complex contract management, commissioning and commercial awareness</li> </ul> <p>(see recommendation 1)</p>	Core Offer review consultation underway. Ensure adequate competency assessment within selection processes.	1.	Heads of Service May 2011	resources remain in place in the interim to undertake key priority work.  Complete
04	Outdated and badly constructed contracts have resulted in unnecessary costs and	Contract management procedures should include regular review of the financials within contracts by	Implement fully the contracting improvement plan currently underway.	1.	Ruth Cumbers Ongoing	Ongoing Contract management systems are



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	<p>poor value for money. These facts were well known but we found a general reluctance to vary contracts to put things right. Explanations provided were around the nature of ASC contracts, maintaining provider relationships, the personalisation agenda and moving to a more 'commissioning' organisation.</p> <p>The contract management arrangements did not routinely look for efficiencies, hence the work of the "Fit for the Future" team.</p> <p>Directorate finance officers focus on operational budgets and have historically only provided limited support to contracting staff.</p>	<p>looking at unit costs, overall activity and opportunities for new ways of working to achieve efficiencies and/or provide assurances on value for money.</p> <p>There is limited evidence that the existing contracts team have the requisite skills to address this – management may need to consider utilising and combining the skills which exist in other teams (i.e. Fit for the Future team, finance officers and Procurement Lincolnshire).</p> <p>Future financial monitoring should focus on provider spend as well as operational budgets.</p>	<p>Review financial support to commissioning.</p>	2	David Laws July 2011	<p>being managed in line with points above and below and staff skills are continuing to be audited. Correspondence to and from providers is being audited. Contracting staff are fully aware of the requirement to ensure any contract provides and represents all 3 elements of VFM. This can be demonstrated by the savings made and recorded within the Transformation Savings Tracker. Ongoing</p> <p>Complete</p>

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05	<p>We found evidence that contract terms had been “varied” without a formal change, most significantly the residential care home framework agreement. Contract officers had completed other variations using a letter, with no sequential control and inappropriate authorisation.</p> <p>We found few formal variations for:</p> <ul style="list-style-type: none"> <li>■ price changes</li> <li>■ material changes to existing legislation or</li> <li>■ new legislation</li> </ul>	<p>Management should introduce a controlled process to formally vary contracts.</p> <p>Each variation should be sequentially numbered, agreed, signed off and recorded so changes can be monitored and easily tracked.</p> <p>All fundamental pricing or legislative changes should be actioned by a formal contract variation to protect the interests of the Council. Contract templates should also be routinely updated to reflect these changes.</p>	<p>A new control process in line with the Scheme of Delegation has been implemented.</p>	1.	Ruth Cumbers 1 April 2011	Complete
06	<p>LCC’s Contract Regulations require each director to maintain a Contracts Register. The ASC contracts register was incomplete, not used for planning purposes and did not include provider /</p>	<p>ASC contracting should maintain their contracts register in line with LCC expectations and used for planning and control purposes.</p> <p>The directorate should decide</p>	<p>A new contract register is under construction.</p> <p>A local register, compliant with the corporate standard under development.</p>	1.  1.	<p>Rachel Wing June 2011</p> <p>Rachel Wing June 2011</p>	<p>Complete</p> <p>Complete</p>

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	<p>contract spend. This affected procurement planning and decisions around the allocation of contract management resources.</p> <p>We also noted that ASC contracting did not routinely submit contract awards to Lincolnshire Procurement for inclusion on the corporate contracts register – this was in breach of the LCC Contract and Procurement Rules.</p>	<p>whether a local register is required or whether reliance can be placed on that held by Lincolnshire Procurement.</p> <p>The latter option requires ASC staff to routinely submit contract award information to Lincolnshire Procurement. Relevant ASC officers need to be able to:</p> <ul style="list-style-type: none"> <li>■ easily access the corporate register for planning purposes</li> <li>■ rely on its accuracy</li> </ul>				
07	<p>ASC contracting procedure notes had not been updated since 2006 and we found little evidence of compliance.</p> <p>Consequently we identified examples of “custom and practice”, unauthorised ‘policy’ shifts and contract management activity that was no longer</p>	<p>Management need to develop and implement comprehensive procedural guidance covering all aspects of the contracting environment from basic file maintenance to monitoring provider performance, ensuring value for money and reporting exceptions.</p> <p>All contract officers should be</p>	<p>Need to develop absolute clarity in relation to what constitutes excellent contract management – implications for policy, processes, staff conduct etc.</p>	1.	Rachel Wing 1 April 2011	Complete.

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	consistent with the Council's mandatory requirements or industry best practice.	trained in these procedures to ensure consistency of approach and clarity of expectations.				
08	<p>We found ASC performance management processes burdensome and ineffective (this finding excludes the work of the Transformation Programme).</p> <p>There was little triangulation of information, complete reliance on verbal assurances and misleading progress reporting.</p>	<p>See recommendation 2 above.</p> <p>Team/work plans need to be achievable balancing the targets with "business as usual" contract management activities.</p>	Revised accountability arrangements under development.	2.	Jo Mead June 2011	Complete
09	<p>The standard of record keeping within ASC contract files is poor.</p> <p>We found hard copy files which were incomplete, had no structure, contained irrelevant</p>	<p>Management should introduce a structure and set of standards for maintaining contract files (hard copy, electronic or both).</p> <p>The Contracts Review Team have already completed a</p>	Implement fit for purpose system to keep electronic and hard copies of files	2	Rachel Wing December 2011	Before any contract is entered onto the contract register all documentation is validated as being correct. Where missing or

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	<p>information or had not been updated in years.</p> <p>The central electronic files are either not used or are incomplete. We also found evidence that Contract Officers hold contract information in personal network areas or in their email accounts.</p> <p>Poor record keeping has resulted in financial loss and difficulties in resolving contractual disputes.</p>	<p>gap analysis on LD/PD files. This should be extended to all ASC files and action taken to ensure key contract documentation is held centrally, in an appropriate format.</p> <p>Additional administration resource may be required to facilitate this, particularly if scanning is required and files moved from personal to shared areas of the network.</p> <p>Management should introduce periodic spot checks on files to ensure future compliance.</p>				<p>incomplete the contract will not be issued / entered until in place.</p> <p>The record keeping systems are being reviewed further to develop the use of electronic files and central filing systems. This work will take place with officers to ensure compliance</p>
10	<p>Our findings show that officers at all levels within ASC are either unclear about the Council's scheme of delegation or find ways to justify non-compliance:</p> <ul style="list-style-type: none"> <li>■ Contract variations are</li> </ul>	<p>Management should take action against those officers operating outside of their delegated limits.</p> <p>The directorate needs a training and awareness session to ensure future compliance with the scheme of delegation and other</p>	Update the scheme of Authorisation	2	David Laws July 2011	Complete

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	<p>authorised by contract officers (the highest value £462k).</p> <ul style="list-style-type: none"> <li>■ Framework Agreements and Spot Contracts were let by the contracting team despite the potential level of spend with the providers. The belief was that these contracts had no value.</li> <li>■ Settlements or ‘deals’ reached with providers to recover a proportion of a contract overpayment did not go through the formal write off process.</li> </ul> <p>We found a general lack of transparency in this area and no recognition of the need for write off. There was also confusion among senior officers about</p>	<p>relevant polices.</p> <p>Officers should be required to acknowledge that they have read and understood the delegation arrangements.</p> <p>Assistant Directors need to ensure there is more transparency around the decision making process, especially where write off action is required. This may mean exposing examples of past poor practice but will provide assurances for the future and demonstrate a commitment to put things right.</p> <p>The director should also clarify expectations around exception reporting – where contract disputes and problems arise, exposing the council to potential financial loss and reputational</p>	<p>Process/procedure to be put in place regarding write-offs.</p> <p>Note to be sent to staff regarding exception reporting</p>	<p>1.</p> <p>1.</p>	<p>David Laws April 2011</p> <p>David Laws</p>	<p>Complete</p> <p>Complete</p>

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	if/when write off approval should be obtained.	damage.				
11	<p>Some contract activity, in particular home care, was not routinely validated and spot checks were only carried out by exception. The Brokerage Team did visit one provider to audit their records and reported: paperwork inconsistencies, carers scheduled to be at 2 locations at the same time and 25% of the hours charged by the provider could not be validated.</p> <p>We also have email evidence of a 2008 decision to suspend the requirement for home support providers to submit contract monitoring data as LCC were not utilising it.</p>	<p>ASC should review how it confirms that it is receiving the services it is paying for - spot checks/audits could be used and/or periodic requests for timesheets etc, in order to independently validate invoices.</p> <p>The requirement for providers to submit contract monitoring information should be reinstated, reviewed and periodically (independently) validated. The information needs to be timely, reliable and proportionate.</p> <p>The directorate should seek assurance that these weaknesses in the invoice validation process do not exist in other ASC service areas.</p>	<p>A revised process of validation to be implemented</p> <p>New framework agreements and contracts are under development, that clarify performance requirements.</p>	<p>1</p> <p>2.</p>	<p>Rachel Wing 1 April 2011</p> <p>Rachel Wing September 2011</p>	<p>Complete</p> <p>Complete</p>

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12	<p>A sample check of provider payment terms (on SAP) confirmed that a range of ASC providers are set at immediate or 7 days.</p> <p>LCC policy is 28 days – vendor master forms showed that these had been adjusted over the years by a range of staff from Assessment &amp; Care Management and Business Support.</p>	<p>If not already actioned, the payment terms for all ASC providers should be re-set to 28 days. This Council should not take this action without informing / engaging with providers.</p> <p>Management needs to ensure that assessment &amp; validation processes do not delay payment to providers.</p> <p>The directorate should agree and introduce an authorisation process for any future changes to payment terms – any change should be temporary and in exceptional circumstances.</p> <p>The SAP master data team should be informed of any agreed process for changing payment terms.</p>	<p>All provider payment arrangements already reset to standard 28 days. Exceptions will only be made on exceptional short term basis and authorised as appropriate to the Scheme of Delegation.</p>	1	Ruth Cumbers April 2011	Complete
13	<p>The frequency of contract monitoring meetings varied from one contracts officer to another and had been scaled back due to</p>	<p>The frequency of contract management meetings should be determined by a risk based approach.</p>	<p>New procedural notes, audit checklist and risk based monitoring protocols needing completion.</p>	1	Rachel Wing April-July 2011	Complete



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	<p>resource issues.</p> <p>Coverage of meetings and the standard of minute taking varied and agreed actions were difficult to identify and track.</p>	<p>Lead contract officers needs to have the skills to appropriately challenge cost, quality and performance, agree areas for improvement and track delivery of agreed actions to resolution.</p> <p>Management should ensure that officers with the right skills are allocated the right contract / provider group.</p> <p>Procedure notes should include standards and expectations around depth of coverage, format of minutes and process for escalating risks (internally).</p>				
14	<p>Internal Audit produced a report on contract management in 2010. Although this investigation did not include a follow up of the agreed action plan, we can confirm that some or all of the actions are still outstanding.</p>	<p>Management should review progress against the action plan and take the necessary action to address any outstanding action and risks.</p>	<p>Actions are combined into the contracting improvement plan.</p>	2	Ruth Cumbers Ongoing	<p>Issues contained within previous audit report all included for consideration / implementation within the current contract improvement plan</p>



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	<p>agreed actions or track resolution.</p> <p>Similarly, appraisal records were either not found on personal files or were incomplete / ineffective.</p>	<ul style="list-style-type: none"> <li>■ frequency</li> <li>■ coverage</li> <li>■ individual performance</li> <li>■ workload control</li> <li>■ tracking progress &amp; agreed actions</li> </ul> <p>ASC Assistant Directors should review compliance with LCC's appraisal process and take action, where necessary.</p>				
17	<p>The largest contractual concern to arise from the Contracts Review related to the Adults Supporting Adults contract (ASA). This showed a potential reserve of £600k (accumulated over the 5 year contract) and a double payment in excess of £253k.</p> <p>Our findings show the provider's £600k+ reserve was the result of a poorly</p>	<p>Whilst LCC's scope for redress regarding the £600k+ reserve is limited, it could be used as leverage for a more favourable settlement regarding the double funding.</p> <p>The "deal" on the table included a cessation of the double payment, a review of unit costs, a weekly management fee and a goodwill payment to LCC of £50k. We do not believe this is the best deal for LCC.</p>	ASA Service to be re-specified and market tested.	1	Ruth Cumbers September 2011	Discussions re the ASA continue with the provider. In the interim period a 6 month contract has been awarded. The 'duplicate payment' for the 6 service users stopped in November 2010 and talks will continue in respect of the recovery of

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	<p>constructed contract, limited LCC knowledge (in the early years) about activity or cost and inadequate monitoring.</p> <p>The contract included annual payment guarantees but no-one:</p> <ul style="list-style-type: none"> <li>■ quantified the cost of contract underperformance</li> <li>■ rectified the contract anomaly</li> <li>■ limited the provider's increasing reserve</li> <li>■ reduced the Council's loss</li> </ul> <p>We also found that staff had identified the double payment / accounting in 2006. It relates to 6 preserved rights individuals – ASA were including the activity in their statistics (at full cost) and we were also funding</p>	<p>The contract for ASA ended 31.12.10 (now extended). In the interim LCC commissioners were looking to expand the type of services ASA provides.</p> <p>We know ASA do not have any other significant contracts. This, together with the commissioning intentions could also be used in the negotiation of any settlement.</p>				<p>monies paid to ASA for these individuals. All service users in receipt of an ASA service to be reviewed in the next 6 months which will include a financial assessment.</p>

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	<p>the care of these adults in care homes.</p> <p>We found a catalogue of mismanagement from this point onwards by all Council staff involved.</p> <p>The guaranteed payments &amp; the underperformance meant there was no initial loss. But, the activity was accounted for twice and no action was taken to stop the provider including it in their monitoring information.</p> <p>Consequently, when the ASA activity exceeded the guaranteed payment (2007 onwards), the double payments began.</p> <p>We have evidence that it was raised in 2006, 2008 and 2009 but no-one took action to stop the double payment.</p>					

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	<p>Senior Council officers raised this with ASA in September 2009 but they came back with an argument that LCC had agreed (in 2008) to continue to pay the double payment to off-set some low unit costs.</p> <p>There is no evidence to support the alleged agreement, except that LCC did not stop the payments to ASA in 2008 and did not seek to recover any overpayment.</p> <p>The Council's position in this dispute is weakened by:</p> <ul style="list-style-type: none"> <li>■ the poor state of the contract files</li> <li>■ inadequate record keeping</li> <li>■ lack of recovery action</li> <li>■ continued payments</li> </ul> <p>The ASA overpayment</p>					

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	<p>from April 2007 to December 2010 is £364k.</p> <p>Responsibility has now transferred to the new Head of Service, the double funding has stopped (December 2010) and negotiations are underway to resolve the dispute.</p>					