Managing and Improving Performance

This section of the Contract and Supplier Management process outlines a number of activities and tools to effectively manage and improve the performance of your suppliers. You must be careful not to substantially modify the contract when considering some of the following.

Contract Managers should present information in regular reports to senior managers .

Contract Managers should:

- prepare and issue reports summarising the management actions they have taken since the last report
- identify any significant issues
- detail conclusions reached
- consider the consistency of their conclusions with those arising from the work of the regulatory bodies
- clearly identify the nature and grounds for any concerns, and the action(s) required to secure improvement
- consult suppliers on the accuracy of all reports
- communicate regularly with suppliers
- ensure emerging findings are discussed at an appropriate level within their organisations.

Care and Support Services

Open or close

For Care & Support Services please also read **Additional Guidance when Reviewing a Care and Support Service**.

In some areas Contract Management Officers routinely attend the Care Inspectorate's post-inspection feedback sessions with suppliers.

Contracts are awarded following a thorough evaluation process which looks at some standard elements. Your Organisation should perform periodic supplier 'health checks' should be undertaken throughout the life of the contract to ensure standards are maintained. These checks could include:

- Financial Status,
- CIS Registration,
- Business Probity,
- Conviction of Criminal Offences,
- Compliance with Legislation and Regulatory Provisions (including Equality),
- Corporate Social Responsibility:
- Sustainable Procurement and Environmental Practices
- Health & Safety
- Insurances
- Care Inspectorate Inspection reports and records.

The frequency of the checks depends on the type of contract, e.g. strategic and bottleneck contracts will be checked more frequently than collaborative and routine contracts.

Measuring Supplier Performance

Open or close

Understand Contract Terms & Conditions

The purpose of Contract and Supplier Management is to ensure suppliers meet their contractual obligations and the contract requirements are successfully delivered.

It is essential that anyone engaged in managing suppliers reads and fully understands the contract's terms and conditions, otherwise they will be at a permanent disadvantage should any issues arise.

Your Organisation’s Contract Manager/Contract Management Officer should engage early in the process, from the **Develop Strategy** stage, and participate in the development of terms and conditions.

Balanced Scorecard

Open or close

The full Balanced Scorecard can be used for managing and monitoring contract and supplier performance. A template for you to use can be found at the bottom of the page.

The scorecard can be issued to multiple users of the contract and responses compiled to use as a discussion point during the supplier review meetings.

The Key Performance Indicators (KPIs) can be edited to suit the commodity/service area.

Key Performance Indicators (KPIs)

Open or close

KPIs provide a way to measure the four quadrants of the balanced scorecard (Quality, Cost, Sustainability and Service). KPIs help organisations understand how well they and/or their suppliers are performing against their strategic goals and objectives.

Blacklisting

Open or close

You must ensure effective contract management so that the practice of blacklisting does not occur in public contracts.

Management Information (MI)

Open or close

MI is used to monitor the supplier's or contract's performance and ensures management have the information to make effective strategic and operational decisions.

You must clearly define your MI requirements and communicate these to your supplier(s).

Your MI reporting arrangements must be fair and proportionate and not duplicate information already provided.

Your MI reporting approach should minimise demands on suppliers for information about the delivery of the goods/services.

You can undertake a risk assessment to help decide what the frequency and level of reporting should be. This may change/increase in certain circumstances, for example if a complaint is made about the service/delivery.

The reporting arrangements can be included in your specification and/or in the terms and conditions of the contract.

For some specific services, you should avoid duplicating information which is collected by/available from regulatory bodies. This can be achieved through the development of Memoranda of Understanding and regular discussions between the organisation and the regulatory bodies.

Approaches to Managing and Monitoring Sustainable Procurement Outcomes

Open or close

Sustainable Procurement outcomes, for example **Fair Work Practices**, must be an integral element of the contract and supplier management process. They should be included as a standard agenda item at supplier review meetings and considered alongside all other contract management matters.

It is important to ensure monitoring includes the use of any agency or sub-contractor workers throughout the duration of the contract. This will include any new members joining the workforce engaged on the contract's delivery.

Evidence should be sought from suppliers to demonstrate compliance with agreed contract conditions. This includes what the main contractor is doing to ensure Sustainable Procurement outcomes, such as Fair Work First commitments, down the supply chain to subcontractors and to agency workers. Evidence which should be sough can include reviewing recruitment information which could include pay policy and the terms and conditions for workers involved in the delivery of the contract.

Where there are material concerns regarding a supplier's compliance with any sustainable procurement commitments or the contractual obligations it has made, an Organisation could consider whether to undertake general sustainability audit of the contract.

Escalation

Open or close

You should detail what will happen if the contract is not being delivered or the agreed quality standards are not being met.

Performance issues should be addressed immediately, and escalated within the supplier organisation if not resolved promptly.

Contract Managers/Contract Management Officers should ensure the escalation process is clearly defined, understood and communicated to all stakeholders and end users.

If you find that the supplier is not delivering the agreed level of service:

- you should raise this with them immediately. For speed this can be done by telephone but should be followed up in writing.

- Ask your supplier for an action plan to ensure that the required levels of service re-commences in a short time frame.
- If the issue is major it may also be necessary to hold a face-to-face meeting with the supplier.
- All discussions/meetings etc. should be minuted to ensure an audit trail exists.
- If resolution of the issue is not completed within the timescales agreed then the issue should be escalated (see below) and your procurement contact notified of the problem. When escalated with the supplier, and an early face-to-face meeting should be arranged. Here actions and timescale to remedy the situation should be agreed and implemented.
- The recovery actions should be monitored on a regular basis to ensure that the agreed recovery / resolution dates do not slip.
- All discussions/agreements should be noted in writing.

Incentives and Sanctions

Open or close

There are specific contract terms and conditions that can be used appropriately to help drive and maintain contract compliance/performance.

You should incorporate these into the Terms and Conditions (T & Cs) of contract. You should understand the specific contract T & C's, and that any incentives and sanctions considered are appropriate and legally enforceable. You must seek legal advice if in doubt as to the wording, appropriateness or legality of a proposed condition.

Examples of incentives and sanctions which could be considered are listed below, but must not be applied on your own. Appropriate internal approval must be sought and received prior to implementation.

Incentives could include (subject to substantial modification):

- Contract extension options
- A longer contract opportunity could provide performance motivation
- Payment by result, e.g. by use of milestone payments (linked to defined deliverables)
- Reduced payment terms

Conditions of Contract could include:

- Retention e.g. legitimately withhold payment if deliverables are not completed (only with genuine and notified reason. This must be compliant with previously agreed contract terms and conditions)
- Litigation
- Termination of the contract (Please note: you cannot terminate a contract with the aim of avoiding procurement rule obligations)
- Liquidated Damages (compensation amount(s) agreed to be paid when the contract was created if a specific breach occurs)

To enforce a sanction sufficient evidence is required to justify the claim or action. You must therefore have clear records e.g. agreed service levels, notice periods, reminders, communications, agreements, etc.

Any enforced incentive or sanction must comply with the agreed contract terms and conditions.

Feedback and Improved Communication

Open or close

Improvement opportunities can be identified by anyone engaged with the Organisation, both internally and externally.

Many improvement ideas don't come from management, but from employees and suppliers operationally involved in the delivery of the service. These are the people who are regularly exposed to issues which may not be visible higher up in the Organisation.

Your Organisation should seek feedback and work to develop a culture where everyone is encouraged to look for and suggest operational improvements. To do so the Organisation must show that all suggestions will be considered.

Demand Management - What is Demand Management?

Open or close

Demand Management can be defined as:

"the alignment of a business' consumption with its business requirements"

It applies to all goods and services where internal demand and consumption can be influenced to reduce costs.

Demand Management is a key aspect of aligning external resources to meet our requirements. People often think demand management is stopping people spending money. However there are

a number of other ways to look at demand management without completely preventing spend. These can still provide notable savings and have a less drastic impact on the business.

Demand often comes from internal practice and processes rather than real need. As the approach is about addressing change ‘in’ an organisation the starting point will be the culture, policy and behaviours of that organisation. The organisation can also participate by:

- sharing best practice
- benchmarking behaviour
- policy guidance
- peer review

Demand management can occur at different points in the procurement process. For example:

- from initial purchase - making sure that software licences are purchased for the correct number of users at a single point in time or
- where costs are reoccurring as an ongoing activity - in a category where spend is ongoing and regular, such as stationery or postal services.

Principles of Demand Management

Open or close

Demand Management, including behaviour change, represents a significant and untapped opportunity.

In the short term, this is about changing expectations; in the medium term about changing participation; and in the long term about reducing need.

There are 3 main principles of demand management:

1. Each business unit should have exactly what it needs in order to deliver its business objectives
2. Any resources consumed above this level represents a waste to the organisation
3. There may be many and very different ways of meeting a user need, with each way representing a different level of resource to achieve the same outcome

The three strategies listed below could be independently or jointly applied.

Eliminate	Is the requirement really needed? Can the consumption be stopped? e.g. cancel non-essential meetings, or stop the use of mobile phones for non-business calls

Replace	Can we use lower cost or more effective alternatives? e.g. use video-conferencing for meetings or ensure non-confidential papers are not treated as confidential waste
Reduce	Can we use less of a product / service? e.g. don't order a monitor with every PC purchase or, schedule meetings for the same day With Demand Management you should consider: • A reduction in the demand for goods • If there is an option to use recycled goods to avoid buying new, and could recycled goods be supplied under an existing contract • If there is an opportunity to consolidate orders/services to reduce costs • If you can reduce your transactional cost by improving the purchase to pay system

Benefits of Demand Management

Open or close

There are a number of benefits to an effective Demand Management strategy. Many are driven by change in the organisation's culture and outlook, and to how goods and services are specified and requested.

When robustly implemented across all goods and services, Demand Management drives public sector organisations to make the most efficient and effective use of procured external resources to meet the operational requirements.

The Demand Management process challenges the norms, standards, customs and practices of an organisation to a degree not usually found in other processes.

When used as a priming process for Strategic Sourcing, Demand Management can establish organisation requirements to be sourced to a very specific level. This can avoid the development of a sourcing strategy that meets over-specified operational requirements.

As a routine part of an organisation operation Demand Management can ensure the greatest possible levels of resource are directed at front line services in the public sector.

Forecasting Demand

Open or close

You should consider forecasting demand fluctuation management initially at the **Shaping the Requirement** Stage. These should be subsequently monitored and managed throughout the lifetime of the contract. Failure to do so could result in:

- Excess material purchases and subsequent material write off/waste disposal costs
- material shortages resulting in additional recovery costs and/or service breakdown
- excess, inadequate or inappropriately positioned resource
- reputational damage as a result of service breakdown
- detrimental impact on the end user

You can manage your costs better, and have help your suppliers have the correct levels of resources in place, by using effective demand management forecasting. Also give the supply base the opportunity to manage their costs by positioning resource and material in line with demand.

Demand forecasting should be based on considerations such as:

- Historical consumption
- Supplier lead times
- Market forces
- Service criticality
- Key stakeholder input
- Purchase cost
- Information from other buying organisations, trade bodies and business support organisations e.g. Federation of Small Businesses and Chambers of Commerce etc.

You should try to reduce future demand and costs by using strategies such as:

- fully or partially transition to recycled goods instead of buying new
- reduce transactional cost by improving your purchase to pay system
- supplier(s) reducing mutual cost through innovation. This should have been previously written into the contract / agreement with the supplier

To operate effectively your suppliers must understand and manage demand. It can use this knowledge to set its resources and processes proportionately. This will ensure their service delivery is efficient and cost effective.

By understanding your historical demand you can work with your suppliers to improve efficiency and reduce costs.

To forecast future demand you must consider a combination of:

- historical demand,

- market forces and
- the Organisation business plan/strategic direction.

Forecasting will never be 100% accurate However these elements should provide enough information to develop forecasts which are accurate enough to accommodate demand fluctuations.

You should ensure the supplier stays in regular contact with all key stakeholders (including other suppliers). This ensures that all parties are aware of the supply/demand position, especially during periods of fluctuation.

Risk Management:

Open or close

A key element of Contract and Supplier Management is the proactive identification and management of risk. More information can be found in **Risk Management**.

Fraud Prevention, Detection, Monitoring and Handling

More guidance on fraud is provided on the **Scottish Government Website**.

Overbilling

Open or close

Weak links between the finance, commercial, and contract management functions provides an opportunity for fraud and/or overbilling. This could be as a result of error and inefficiency or by deliberate intent.

Better scrutiny of payments, and a sound understanding of the contract, will quickly identify both overbilling and fraudulent activity, and allow the appropriate action to be taken. You should not rely on your supplier to interpret the contract which could then result in billing errors.

Supplier Health Check

Open or close

Contracts are awarded following a thorough evaluation process which looks at some standard elements. Your Organisation's Contract Managers/Contract Management Officers should perform periodic supplier 'health checks'. They should undertake these checks throughout the life of the contract to ensure standards are maintained. These checks could include:

- Financial Status,
- CIS Registration,
- Business Probity,
- Conviction of Criminal Offences,
- Compliance with Legislation and Regulatory Provisions (including Equality),
- Corporate Social Responsibility:
- Sustainable Procurement and Environmental Practices
- Health & Safety and
- Insurances.

The frequency of the checks depends on the type of contract, e.g. strategic and bottleneck contracts will be checked more frequently than collaborative and routine contracts.

Data Protection

Open or close

Contract management activities must include sufficient checks to ensure suppliers are meeting their **Data Protection Legislation** obligations as the Processor. These checks may include audits undertaken by the controller or a third party auditor.

If obligations are not being met, organisations should take urgent remedial action with the supplier to address issues and risks.

More detailed information can be found in **Additional Resources.**

Innovation/Value Add

Good Contract and Supplier Management processes should encourage both supplier and organisational innovation. Suppliers often have innovative ideas. These ideas can improve both their own and their customers' service, however, they are frequently blocked to progress these ideas.

Your Organisation should want to be a customer of choice i.e. into which suppliers will invest and bring innovation.

Quickfire Guide

Quickfire Guide

How to Promote Innovation

You should promote supplier innovation and added-value activity to flourish:

- **Embrace your suppliers as an extension of your business.** Learn from their ideas and build open and trusting relationships where innovation will thrive.
- **Establish a culture of trust and encourage ideas from suppliers**, as they often know your business better than some of your own team.
- **Define and share your Organisation's definition of supplier innovation**. This way suppliers can understand your internal process, where they fit in and your expectations of them.
- **Share as much information as you can with your top suppliers.** The earlier suppliers can see your product / services roadmap, the sooner they can provide ideas to improve it.
- **Implement a consistent governance framework.** If a supplier’s idea has potential, assign an internal owner to investigate and develop this ensuring there is accountability and development continuity.
- **Innovation does not have to be ‘ground breaking’.** Even minor service or process adjustments can bring cost and/or efficiency gains.
- **Encourage collaboration within the teams.** Let them know some ideas will be more successful than others, but all ideas will be considered. Publicise and reward innovative contributors appropriately.

- **Publicise supplier innovation success stories.** A brief email outlining real supplier initiated added-value and the mutual benefits will encourage others to do the same.

- **Consider innovation as a standard KPI** and ensure innovation is on the agenda at performance reviews.

Innovation is a two-way process. Your Organisation should be equally active in exploring innovative ideas which will help your suppliers improve their performance and service delivery.

Review Meetings

Open or close

Performance Review Meetings provide both your Organisation and the supplier with an opportunity to:

- focus on end to end performance,
- identify issues and opportunities and
- put the appropriate action plans in place.

The Performance Review Meeting standard agenda template can be completed by both your Organisation and the supplier in advance of the meeting. This will provide a structure to the meeting.

You should hold at least one review annually for suppliers identified under the segmentation process as requiring ‘medium level’ supplier management. Hold two review meetings for ‘high level’ suppliers.

A Review Meeting Template is available here, and a meeting agenda example is laid out below:

Quickfire Guide

Quickfire Guide

Example Performance Review Meeting Agenda

This agenda can be amended to suit your personal preferences:

Agenda Item	Description
Introduction and Opening Remarks	Introduce attendees. Recognise special or new guests. Provide any opening remarks that are pertinent to this meeting such as current events, organisational changes, etc.
Review of Action Items	Each Performance Management Review meeting will produce some follow up action items for your supplier, your Organisation or both. These should be documented and followed up at the next Performance Management Review meeting.
Supplier Performance	Performance against SLA/KPIs/Scorecards should be reviewed and discussed, and any performance concerns raised. This will be a quick review if all deliverables are being achieved. Any "below plan" performance will demand more discussion and most likely recovery action plans. These plans should be managed operationally and reviewed at the next Performance Review meeting.
Customer Performance	The supplier can raise any customer performance issues. For example these may be impacting their ability to fulfil their contractual obligations.
Key Improvement Areas/Opportunities	All opportunities for improvement should be explored. Once identified, action plans should be agreed. Areas to be explored should include: current performance issues, cost, process, Sustainable Procurement, Corporate and Social Responsibility, innovation/value add.
Supplier Presentation	The supplier should provide a business overview, including example financial information, strategy, overarching objectives, etc.

Meeting Summary and Review of Action Items	Round up of meeting and confirm next meeting date.

Optional Benchmarking

Benchmarking costs against the suppliers' competitors is a recognised way to avoid cost 'creep' and ensure best value. Benchmarking can be done throughout the life of the contract. It can be used for:

- ensuring existing incumbent suppliers remain competitive in the market
- keeping up-to-date with market rates
- a negotiation tool for cost reductions.

Step One – What to Benchmark

Open or close

- You decide which spend category(s) you wish to perform the benchmarking exercise for.

- Complete a spend analysis on what you have purchased in that area for at least the last 12 months (by line item).

- Sort the data from the highest to lowest spend and then highlight the top 80 percent of the spend. This will normally be no more than 20 percent of the number of line items and should capture the majority of your spend.

You now have a manageable amount of data to go out into the market place with.

This will not cover every aspect of the potential scope of supply. You may need to add items such as bottle-neck and specialised items. The aim is to gain an estimation of the market rates.

You should inform your existing supplier that you are planning to perform a benchmarking exercise before you go out to the market place.

Step Two – Going to the Market

Open or close

Having selected the items you want to benchmark, you can now approach the market to understand the current costs.

Benchmarking is generally an informal process. The **Management Information Hub** is a good source of information, as is the internet in general. You can also contact a number of suppliers directly.

It is important to ensure that the recipients of any requests understand it is a benchmarking exercise. It is not a business opportunity. The request should be simple enough for the suppliers to provide information without having to spend a great deal of time doing so.

Step Three – Results Analysis

Open or close

You can now compare the results of your benchmarking exercise. For example, enter all costs into a spreadsheet to determine the price difference between your existing supplier and the market rates. You can now determine where the incumbent supplier sits against the best, worst and average market rates.

Step Four – What Next?

Open or close

If you are happy with where the incumbent supplier's pricing fits in comparison to market rates, this shows the supplier is competitive and no further action need be taken.

If you are not happy then invite your supplier to a meeting. Give them the opportunity to explain why they are not competitive against the current market rates. You must not divulge the competitors' names or pricing information.

If the supplier is willing to accept their prices are not in line with market rates then this will be a cost reduction for you. If however, the supplier is unwilling to negotiate a reduction, initiate your escalation process and include as an agenda item at the next Review Meeting.

Any documents you need are listed below

Additional Guidance when Reviewing a Care and Support Service

(file type: docx)

Additional KPI Guidance for Care and Support Services Contracts

(file type: docx)

Balanced Scorecard

(file type: docx)

Management Information

(file type: pdf)

Performance Review Meeting Template

(file type: docx)

Full Balanced Scorecard - Excel Spreadsheet

(file type: xlsx)