

**London Borough of Hammersmith & Fulham**

**Final Internal Audit Report**

**Adult Social Care – Contract Management  
Elgin Close Resource Centre  
(Notting Hill Housing Trust)**

April 2017

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## 1 Introduction

As part of the internal audit plan for 2016/17, agreed by the Audit Pensions and Standards Committee, we have undertaken an internal audit of the management of the Elgin Close Resource Centre contract with Notting Hill Housing Trust.

Adult Social Care is a shared service across the London Borough of Hammersmith and Fulham, Royal Borough of Kensington and Chelsea, and Westminster City Council. Although this is a shared service, the contracts for services delivered by external providers are assigned a contracting authority with some contracts specific to one Borough and some covering all three boroughs. A new Contract Management Framework has been developed for the shared service and is due for full adoption in December 2016.

Elgin Close Resource Centre is a London Borough of Hammersmith and Fulham led contract and this has been provided by Notting Hill Housing Trust since 2005. The centre has a range of facilities available including kitchen facilities, IT equipment, assisted bathroom, hairdressing facilities, laundry facilities and treatment/healthcare room. Services to be provided by staff at the resource centre include:

- Personal care support;
- Financial advice, assistance and advocacy;
- Practical and social support;
- Catering; and,
- Respite care.


Services are provided to those with high care needs, vulnerable older people and older people requiring preventative support.

The contract was awarded to Notting Hill Housing Trust in April 2005 with the duration of the contract taking the delivery of the service by the contractor to 01 April 2017. The contract included an option for extending the contract by 24 months. The current contract value is approximately £280,000 per financial year. Service improvements have been identified and agreed between the Council and Notting Hill Housing Trust to help to realise cost savings.

Notting Hill Housing Trust provide other services to the Council as well as the Elgin Close Resource Centre.

## 2 Executive Summary

### 2.1 Assurance Opinion

	Nil	Limited	Satisfactory	Substantial
<b>Audit Opinion</b>				

### 2.2 Recommendations Summary

The following table highlights the number and categories of recommendations made. The Action Plan at Appendix 1 details the specific recommendations made, as well as the agreed management actions to implement them.

Area of Scope	Adequacy	Effectiveness	Recommendations Raised		
			High	Medium	Low
Contract Formalities			2	0	1
Schedule of Works			0	*	0
Contract Variations and Service Improvements			0	1	0
Contract Monitoring and Performance Management			1	0	0
Payments			0	1	0
Budget Monitoring			0	0	0
Value for Money			**	0	0
Contractor Compliance and Workforce Development			0	1	0
<b>Total</b>			<b>3</b>	<b>3</b>	<b>1</b>

\*A recommendation in relation to this area has been included within the Contract Variations and Service Improvements area.

\*\* A recommendation in relation to this area has been included within the Contract Monitoring and Performance Management area.

Please refer to the Appendix 2 for a definition of the audit opinions and recommendation priorities.

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### 3 Summary of Findings

In Internal Audit's opinion, **Limited Assurance** can be given to Members, the Chief Executive and other officers, weaknesses and omissions in the system of controls are such as to put the system objectives at risk, and the level of non-compliance puts the system objectives at risk.

The key findings and an assessment of controls are summarised below:

#### **Design of and compliance with controls to address the key risks identified**

- The agreement between the London Borough of Hammersmith and Fulham and Notting Hill Housing Trust relating to the Elgin Close Resource Centre was initially signed in 2003.
- The contract expired on 19<sup>th</sup> January 2006, with no formal document or contract signed between the two parties to agree an extension, even though the service is still provided by Notting Hill Housing Trust and paid for by Adult Social Care. An extension letter sent to the contractor on 14<sup>th</sup> March 2016 was provided, outlining the conditions of a contract extension from 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2017, but this had not been signed by either party.
- The contract modification outlined in the extension letter was for more than 50% of the contract's original value and may result in a breach of the Public Contract Regulations 2015.
- Adult Social Care were unable to provide a copy of the signed contract, instead retaining an electronic copy of a draft version which was not finalised. A signed copy of the contract was obtained from the legal team.
- The contract outlines the requirements of the Notting Hill Housing Trust to provide "non-residential supportive care and other services within a secure, safe and stimulating environment to older people who may have a range of needs".
- The contract has only been reviewed once since it commenced, when the extension letter was sent in March 2016. However, there was no documentation showing how Adult Social Care had reviewed the contract or its terms prior to the extension, which we could not confirm had been agreed. Therefore, it could not be confirmed that the following areas are regularly reviewed within the contract:
  - The schedule of services provided;
  - Workforce development; and
  - Value for money.
- The contract does not outline provision for ad-hoc requests as the service provided by Notting Hill Housing Trust is all contained within the schedule of work.
- Metrics for reviewing the quality of work undertaken by the contractor are outlined within the contract such as attendance records, number of complaints, number of referrals and variance in attendance.
- Discussion with the Strategic Commissioner established that there is currently no process in place to monitor the performance of the contractor. Therefore, it cannot be confirmed whether poor performance is present or acted upon by the service.
- The Elgin Close Resource Centre contract states that payments should be made in monthly instalments. During testing of payments made in 2016, we found two cases where payments were made for a two month period (April to May, and October to November) and one case where payment was made for a three month period (June to August). Payments were authorised by the budget holder prior to payment.
- Budget monitoring is reported to the Adult Leadership Team on a monthly basis with any variances or exceptions being noted and discussed.

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- Currently, no assurance is obtained that employees used by Notting Hill Housing Trust hold the necessary qualifications to work with the clients required by the contract. In addition, the quality of the work conducted by staff who deliver the service is not monitored by the Council to ensure that the service they provide is adequate and sufficient to meet the needs of clients and the expectations of the Council.

## **4 Acknowledgements**

We would like to thank the following members of staff for their time and assistance during the audit:

- Strategic Commissioner
- Procurement and Contracts Manager (Adult Services)
- Adult Social Care Payments Manager

## Appendix 1: Management Action Plan

### 1. Signed contract/extension

Priority	Issue	Risk	Recommendation
High	<p>The agreement between the London Borough of Hammersmith and Fulham and Notting Hill Housing Trust relating to the Elgin Close Resource Centre was initially signed in 2003.</p> <p>The contract expired on 19 January 2006 with no formal document or contract signed between the two parties to agree an extension, even though the service is still provided by Notting Hill Housing Trust and paid for by Adult Social Care.</p> <p>An extension letter sent to the contractor on 14 March 2016 was provided, outlining the conditions of a contract extension from 1 April 2015 to 31 March 2017, but this had not been signed by either party.</p>	<p>Where a legally binding contract is not in place and signed by both parties, there is a risk that the terms and conditions of the contract cannot be enforced. Additionally, the contractor could halt its service abruptly and face no legal or financial repercussions.</p>	<p>Adult Social Care should ensure that the arrangements with Notting Hill Housing Trust for the Elgin Close Resource Centre are legally binding through a signed contract.</p> <p>For future contracts, a timetable should be put in place to provide sufficient time to instigate any reviews, procurement process or waivers before the contract expires.</p> <p>Extensions should be formally agreed prior to contracts expiring.</p>
Management Response			
<p>Comments noted regarding copy of signed contract and timetable for contract extension. Legal services have been unable to locate the signed version of the contract in their archives. Activities relating to the contract extension in 2016 were impacted by The Contract and Commissioning reorganisation during 2015 and 2016. New contracts have been agreed for 2017/18 prior to contracts expiring.</p>			
Responsible Officer			Deadline
Strategic Commissioner			Ongoing, June 2017

## 2. Contract extension legality

Priority	Issue	Risk	Recommendation
High	<p>The Public Contract Regulations (PCR) 2015 state that contracts may only be modified 'where all the following conditions are fulfilled: (i) the need for modification has been brought by circumstances which a diligent contracting authority could not have foreseen... (ii) the modification does not alter the overall nature of the contract... and (iii) any increase in price does not exceed 50% of the value of the original contract...'</p> <p>On 14 March 2016, a Council representative sent an extension letter via email to the Service Provider, indicating that the contract had been extended by an additional two years with the following contract sums: (a) £282,168 for the period 1 April 2015 to 31 March 2016; and (b) £239,842.80 for the period 1 April 2016 to 31 March 2017. This modification therefore totals £522,010.80, which is more than 50% of the initial contract value (£517,091.42).</p>	<p>Where the Public Contract Regulations 2015 are not abided by, there is a risk of legal action against the Council.</p> <p>Additionally, in the event of a dispute the Council may not be able to legally enforce its intended position.</p>	<p>Adult Social Care should seek legal advice in relation to the contract extension for the Elgin Close Resource Centre to confirm they have not breached the Public Contract Regulations.</p>
<b>Management Response</b>			
Comments noted regarding legal advice. Commissioning have worked closely with legal prior to requesting contract extensions to ensure that they meet Public Contract Regulations.			
<b>Responsible Officer</b>			<b>Deadline</b>
Strategic Commissioner			Ongoing, June 2017



### 3. Contract accessibility

Priority	Issue	Risk	Recommendation
Low	Adult Social Care were unable to provide a copy of the signed contract with Notting Hill Housing Trust, instead retaining an electronic copy of a draft version on SharePoint. A signed copy of the contract was obtained from the legal team.	Where an up to date copy of the contract is not held by Adult Social Care, there is a risk that staff are unaware of the terms and conditions of the contract or that understanding of the contract terms is incorrect.	Adult Social Care should keep an up to date electronic copy of the Elgin Close Resource Centre contract and this should be made accessible to staff involved in the management of the contract.
Management Response			
Comments noted regarding the retention of contracts within the department and plans are in place to address this.			
Responsible Officer			Deadline
Strategic Commissioner			June 2017

#### 4. Contract review

Priority	Issue	Risk	Recommendation
Medium	<p>The contract with Notting Hill Housing Trust has only been reviewed once since it commenced in 2003, when an extension letter was sent to the contractor in March 2016.</p> <p>However, there was no documentation showing that Adult Social Care had reviewed the contract or its terms, prior to the extension. It could therefore not be confirmed that the following areas had been taken into consideration:</p> <ul style="list-style-type: none"> <li>• The schedule of services provided;</li> <li>• Workforce development; and</li> <li>• Value for money.</li> </ul>	<p>Where contracts are not regularly reviewed, there is a risk that the needs of the Council(s)/service change, resulting in contracts becoming less effective over time.</p>	<p>As part of the contract management process, a periodic review of the contract should be undertaken to confirm that the way in which the contract is delivered continues to meet the Council's needs and provide value for money.</p> <p>Any proposed changes should be negotiated and agreed with the contractor through a formal variation order.</p>
Management Response			
<p>The performance and contract monitoring comments have been noted and plans are in place to start addressing this via a schedule of contracting monitoring.</p>			
Responsible Officer			Deadline
Strategic Commissioner			July 2017

## 5. Performance Management

Priority	Issue	Risk	Recommendation
High	Adult Social Care do not monitor the quality of work/service provided by Notting Hill Housing Trust for the Elgin Close Resource Centre.	Where Notting Hill Housing Trust's services are not formally monitored, there is a risk of poor performance resulting in service user needs not being met and value for money not being achieved.	The quality of service provided by the Notting Hill Housing Trust with regards to the Elgin Close Resource Centre should be formally monitored, with rectification action taken where issues are found.  Metrics for reviewing the quality of work undertaken by the contractor should be reviewed as part of this monitoring process as stated within the contract.
Management Response			
The performance and contract monitoring comments have been noted and plans are in place to start addressing this via as schedule of contracting monitoring.			
Responsible Officer			Deadline
Strategic Commissioner			June 2017

## 6. Payments made as per contract stipulation




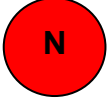
Priority	Issue	Risk	Recommendation
Medium	The Elgin Close Resource Centre contract states that payments should be made in monthly instalments. During testing of payments made in 2016, we found two cases where payments were made for a two month period (April to May, and October to November) and one case where payment was made for a three month period (June to August).	Where payments are not made in accordance with the contract, there is a risk of action being taken by the contractor to collect owed funds and penalties being levied.	The finance team should ensure that payments to the contractor are made in accordance with the contract terms. A timetable/schedule of payments should be considered to help achieve this.
Management Response			
Comments regards payments duly noted and in order to ensure value for money going forward and to minimise the need for future corrective work activity is taking place to ensure that these errors are not repeated.			
Responsible Officer			Deadline
Strategic Commissioner			June 2017

## 7. Contractor staff assurance

Priority	Issue	Risk	Recommendation
Medium	<p>Assurance is not gained by the Council that the employees used by Notting Hill Housing Trust hold the necessary qualifications to work with vulnerable clients at the Elgin Close Resource Centre.</p> <p>In addition, the quality of the work conducted by staff who deliver the service is not monitored by the Council to ensure that the service they provide is adequate and sufficient to meet the needs of clients and the expectations of the Council.</p>	<p>Where staff qualifications are not checked or assurance is not obtained from the contractor regarding this, there is a risk that unqualified or unsuitable employees are hired resulting in reputational risk to the Council as vulnerable clients may be put at risk.</p>	<p>Adult Social Care should periodically obtain assurance that the staff of Notting Hill Housing Trust for Elgin Close Resource Centre have the required qualifications and skills to work with vulnerable clients.</p>
Management Response			
<p>Comments noted – work is taking place to ensure that provision is monitored going forward and that assurances will be sought with regards to the suitability and quality of staff.</p>			
Responsible Officer			Deadline
Strategic Commissioner			July 2017

## Appendix 2: Definition of Assurance Opinions and Recommendation Priorities

In order to help put the audit opinion and recommendation priority ratings in context the following tables detail the current ratings used by Internal Audit.

Rating	Description
	There is a sound system of control designed to achieve the objectives. Compliance with the control process is considered to be substantial and no material errors or weaknesses were found.
	While there is a basically sound system, there are weaknesses and/or omissions which put some of the system objectives at risk, and/or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.
	Weaknesses and / or omissions in the system of controls are such as to put the system objectives at risk, and/or the level of non-compliance puts the system objectives at risk.
	Control is generally weak, leaving the system open to significant error or abuse, and/or significant non-compliance with basic controls leaves the system open to error or abuse.

Priority	Description
<b>High</b>	Recommendation addresses fundamental weaknesses, which seriously compromise the effective accomplishment of the system's objectives. Risks presented by the control weaknesses could be damaging in the short term. The management action required should be implemented as soon as possible, certainly within 0-3 months.
<b>Medium</b>	Recommendation addresses serious weakness, which affect the reliance to be placed on the system. Risks presented by control weaknesses could be damaging in the medium term. Management action is required within 0-6 months.
<b>Low</b>	Recommendation addresses minor weaknesses, or suggests a desirable improvement. Risks presented by control weaknesses are unlikely and inconsequential. Management action is recommended to address concerns within 0-9 months.

## Appendix 3: Audit Scope, Limitations and Inherent Risks

This audit was a full risk based review of the arrangements for ASC Contract Management – Elgin Close Resource Centre (Notting Hill Housing Trust) and included the following areas:

Ref	Audit Area - Description	Comments on Coverage / Area Objectives
1	Contract formalities	<p>There is a signed contract between the Council and Notting Hill Housing Trust for the provision of the service. Staff involved in the management of the contract have easy access to the contract and are aware of its content.</p> <p>Staff involved in the management of the contract have been made aware of the new governance arrangements and responsibilities under the new Contract Management Framework.</p>
2	Schedule of works	<p>An agreed schedule of works (service specification) and defined quality standards have been developed and these are available to both Council staff and Notting Hill Housing Trust.</p> <p>The schedule and quality standards are reviewed on a periodic basis.</p> <p>The cost and specification of additional services to be delivered by the provider outside of the schedule of works are formally agreed by both parties in advance.</p>
3	Contract variations and Service Improvements	<p>All variations to the contract are formally approved and agreed by both parties prior to the service being undertaken by the contractor.</p> <p>Service improvements are in line with the strategic commissioning priorities and there is adequate communication between both parties to agree on the improvements.</p> <p>Service improvements are approved by a Senior Officer and are reflected in the contract documentation.</p>
4	Contract Monitoring and Performance Management	<p>There are metrics in place to measure contractor performance and these are suitable to measure against the objectives of the contract. The Council confirms that the contractor is working to the agreed standards and specification defined within the contract.</p> <p>Appropriate action is taken to address poor performance, including exercising penalty clauses or incentives detailed within the contract.</p> <p>Relationships with the contractor are developed and monitored to maximise the effectiveness of the services delivered.</p>
5	Payments	<p>Payments are made accurately, completely and in a timely manner according to the contract terms and conditions. Any applicable additions, deductions and variations are accounted for.</p> <p>All payments are authorised by a Senior Officer prior to processing payment to the contractor.</p>

Ref	Audit Area - Description	Comments on Coverage / Area Objectives
6	Budget Monitoring	<p>The service is delivered within agreed financial constraints and any variances are identified promptly through regular budget monitoring.</p> <p>The impact of any variances is assessed fully and valid corrective action is identified, agreed and implemented in a timely manner.</p>
7	Value for money	<p>Monitoring mechanisms are in place to ensure that the contract provides value for money and opportunities for cost efficiencies are explored.</p>
8	Contractor Compliance and Workforce Development	<p>The Council confirms that the contractor's staff delivering the services hold the relevant qualification and vetting requirements and have received appropriate training.</p> <p>The quality of staff is monitored and is as expected with any issues with the workforce being addressed in a timely manner.</p> <p>Workforce development is considered when identifying and discussing service improvements.</p>

### Inherent Risks

The risks listed below are potential inherent risks which are common for any system/organisation of this type:

- Poor contractor performance persists with no corrective or enforcement action taken;
- Payments are made for work not undertaken to a satisfactory standard, or at all;
- The contractor does not deliver value for money for the Council; and
- The resources available, including staff and infrastructure, are not adequate to deliver the activities and sessions required.



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## Limitations to the Scope of the Audit

The following limitations to the scope of the audit were agreed when planning the audit:

- The work will be undertaken using a risk based approach and testing will be on a sample basis to verify compliance;
- The records maintained by third parties to the Council will not be reviewed and are outside of the scope of this audit;
- The audit review does not provide absolute assurance that material error, loss or fraud does not exist; and,
- This audit work will provide assurance over the contract management processes but will not provide an opinion on the procurement process or the effectiveness of the contract itself.

The internal audit approach was developed through an assessment of risks and management controls operating within the agreed scope. The following procedures were adopted:

- Identification of the role and objectives of each area;
- Identification of risks within each area which threaten the achievement of objectives;
- Identification of controls in existence within each area to manage the risks identified;
- Assessment of the adequacy of controls in existence to manage the risks and identification of additional proposed controls where appropriate; and,
- Testing of the effectiveness of key controls in existence within each area.

Management should be aware that our internal audit work was performed in accordance with the Public Sector Internal; Audit Standards which are different from audits performed in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board.

Similarly, the assurance gradings provided in our internal audit report are not comparable with the International Standard on Assurance Engagements (ISAE 3000) issued by the International Audit and Assurance Standards Board.

Our internal audit testing was performed on a judgemental sample basis and focussed on the key controls mitigating risks. Internal audit testing is designed to assess the adequacy and effectiveness of key controls in operation at the time of the audit.

Please note that, in relation to the agreed scope, whilst our internal audit will assess the efficiency and effectiveness of key controls from an operational perspective, it is not within our remit as internal auditors to assess the efficiency and effectiveness of policy decisions.

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## Appendix 4: Timetable and Distribution List

Stage	Date
End of Fieldwork	20/03/2017
Draft Report Issued	22/03/2017
Responses Received	05/04/2017
Final Report Issued	07/04/2017

### Audit Team

Client Engagement Manager: James Graham (Mazars)

Auditor: Matthew Blackman (Mazars)

### Auditee

Strategic Commissioner (Adult Social Care and Health)

### Client Sponsor

Mike Boyle – Director for Strategic Commissioning and Enterprise

### Report Distribution List

Strategic Commissioner (Adult Social Care and Health)

Head of Complex Needs (Older People)

Head of Commercial Innovation and Insight

Strategic Commissioner

Assessment and Review Team Manager

### Copy Recipients of Report

Mike Boyle – Director for Strategic Commissioning and Enterprise

The matters raised in this report are only those which came to our attention during our internal audit work and are not necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required. Recommendations for improvements should be assessed by management for their full impact before they are implemented. The performance of internal audit work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices. We emphasise that the responsibility for a sound system of internal controls and the prevention and detection of fraud and other irregularities rests with management and work performed by internal audit should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify all circumstances of fraud or irregularity. Auditors, in conducting their work, are required to have regards to the possibility of fraud or irregularities. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud. Internal audit procedures are designed to focus on areas as identified by management as being of greatest risk and significance and as such we rely on management to provide us full access to their accounting records and transactions for the purposes of our audit work and to ensure the authenticity of these documents. Effective and timely implementation of our recommendations by management is important for the maintenance of a reliable internal control system.

This report is prepared solely for the use of Audit Committees and senior management of the London Borough of Hammersmith and Fulham, Royal Borough of Kensington and Chelsea and Westminster City Council. Details may be made available to specified external agencies, including external auditors, but otherwise the report should not be quoted or referred to in whole or in part without prior consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended for any other purpose.