

Setting up and managing a Contracts Register

A guide for district councils

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FOREWORD

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Contract & Relationship Management (C&RM) remains a major challenge for the UK public sector. The results from the LGA's NPS diagnostic¹ from 2021 show it as the worst performing aspect of commissioning and procurement across 59 assessment codes, achieving an average score of 1.9 (out of 5) for tier 2 councils. Since the end of the pandemic, councils are having to deal with even more challenges, with high inflation, supply chain disruption and recruitment problems, set against a background of reduced budgets.

Many council CEOs and lead Members recognise that urgent action is required. The reputational damage that comes with poorly performing contracts, for whatever reason, has huge personal and corporate consequences. Moreover, with the tools, networks and knowledge available to organisations today, 'do nothing' is not a viable option. Yet, alarmingly, there is evidence that many organisations do not even have the basics in place – a comprehensive, up-to-date and easily accessible contracts register. This guide is designed to help you change that status quo and start your contract management transformation journey.

It includes:

- An outline financial case for implementing C&RM
- Checklists, key information and sources of help for establishing your contracts register
- An indication of how the information contained within your contracts register can help drive significant transformation and greater commercialism

The change to an effective C&RM culture comes through the ability to:

- identify, select and work with contractors of all sizes and from all sectors
- treat contracts as a catalyst for building dynamic relationships rather than blunt legal instruments to keep contractors in check
- focus jointly on 'what matters', sharing goals and agendas centred on improvement and relationship management
- deliver appropriate outcomes and benefits to the wider community from the contract
- engage with the sustainability agenda, including social value and use of local businesses

At [World CC](#), we are successfully working with organisations in all sectors across the world to change attitudes to C&RM. We will be expanding our presence in English local government during 2023

This guide has been written specifically for CEOs, chief officers and senior managers in English district councils to help them ensure that they have a register in place so that they are able to undertake effective C&RM.

The prize for having an effective C&RM culture in your council is not just a financial one and the need to avoid risk. It is also about the ability to improve outcomes from commissioned services and enhance corporate reputation at all levels.

¹ <https://www.local.gov.uk/publications/national-procurement-strategy-local-government-england-2022>

and will be helping councils professionalise their C&M operations. We know that the issues and challenges that face the UK public sector are similarly faced in the wider public and private sectors on all continents. Yet, genuine and permanent change cannot come about unless we implement some common sense and have the basics in place and.

This guide was first published in 2018 and continues to help district councils and similar organisations that are serious about making a difference with their approach to C&RM.

As Global CEO of one of the world's fastest growing non-profits, Sally's mission is to inspire and support the World Commerce & Contracting (WorldCC) team and global community to collectively drive recognition and excellence in Commercial and Contract Management.

She is an experienced and accomplished commercial and contracts management professional, holding senior commercial positions at a range of corporate and multi-national organizations. Her focus is on the creation of positive and successful business relationships, constantly striving to ensure that businesses realize their true potential and value.

In 2019 Sally was invited to become Chair of the Board for the Open Contracting Partnership (OCP) and in 2021 she was appointed Professor in Practice in Strategy and Innovation at the University Of Durham Business School.

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1. THE FINANCIAL CASE FOR CONTRACT & RELATIONSHIP MANAGEMENT

Consider a few commercial facts about English local government today:

- The sector typically spends about £55B² per annum on third party goods, services and works. The split between tier 1 and tier 2 authorities is about 85:15
- Expenditure with third party organisations (excluding non-influenceable spend such as staff costs, taxation, statutory grants) by tier 2 will vary between £3M and £40M per annum
- The total value of committed³ expenditure for a district authority is usually 2.5 to 3 times their annual third party expenditure
- The contracts in place, particularly the high value multi-year ones, are often for high profile services such as street cleansing, waste collection, leisure management and housing services
- Most of the major contractors used are common to multiple authorities in regions and across the UK. A report commissioned by Improvement East (now the East of England LGA) in June 2011 showed the extent of this commonality and the extensive potential for rationalisation and savings generation
- [Research by World Commerce and Contracting](#) suggests that final contract outturns exceed their expected value by an average of 9.2%. Where there is no effective contract management in place, it is likely to be much higher

Given the scale and profile of this commercial activity, it must⁴ be underpinned by flexible and highly visible contracts. The management of this third party expenditure and associated contractor relationships has a huge bearing on:

- Cost control and budget management – particularly important given the economic turbulence, high inflation and global shortages of materials and labour
- Effectiveness of outcomes achieved and value created
- The ability to contribute to sustainability goals including social value and promotion of the local economy
- Reputation of both the sector and individual local authorities
- Corporate risk management

Research undertaken by Andy Davies⁵ to support his excellent handbook⁶ *'You and Your Contractor'* showed that on the positive side most major contracts were typically well managed, mainly because they had a dedicated contract manager in place. However, key problems with the remainder included:

- Issues locating contract documentation such as contract, specification and contractor responses

² This is the number reported to CLG and includes both capital and revenue expenditure

³ Used in the contractual sense (i.e. if a contract runs its full term)

⁴ I say 'should' as it is not uncommon for contracts for significant expenditure to have been lost, long expired or not even created in the first instance

⁵ His research based on London boroughs in 2006 was the first authoritative study on contract & relationship management in the sector

⁶ Published in 2007 and reprinted in 2011. Contact SPS for more information.

- No records of agreed changes made during the contract
- No proactive performance management linked to inadequate governance – problems were dealt with after they had happened rather than being anticipated
- Limited post contract reviews and poor forward planning for when contracts needed to be retendered
- Inability to identify projected contract costs / budgets against actual payment data

While most Leaders and Chief Officers have been aware of why effective C&RM is essential, the recent combination of the Covid 19 pandemic and the resultant economic turmoil created, underlined why a 'do nothing' option carries significant risks – financial, commercial and reputational.

Yet 'doing something' about it is straightforward and easy to achieve. The first step is very simple. Ensure that you have a contracts register in place and that it is:

- Widely used and regularly updated
- Fully accessible to everyone needing to search, update or access contract records
- Comprehensive – all areas of significant expenditure are covered (if you are spending a lot of money with a supplier and there is no contract record, act now)
- Accurate – all records are complete using standard data formats
- Strategically supported – senior management understand its' importance and advocate staff usage
- Maintained – with agreed housekeeping arrangements in place

This document is written to help you to achieve this goal quickly and at minimum cost, giving a long-term, embedded solution.

2. ABOUT THE CONTRACTS REGISTER

2.1 What is a contracts register?

In its simplest form a contracts register is a council's 'list' of known contracts containing summary details such as contractor, duration, contract owner and expenditure category(s). It may also include associated documents (e.g. copies of contracts, schedules or specifications). Most councils keep a form of contracts register for compliance reasons such as:

- Government policy – supporting the transparency⁷ agenda or a sector strategy
- Legal requirement⁸
- Procurement requirements – e.g. informing potential providers of forthcoming procurement opportunities

However, it also has the capability of being a proactive resource allowing a council to:

- Forward plan renewal exercises
- Collaborate and/or share contracts with neighbouring and like-minded organisations
- Manage performance, outputs and risks
- Build sound relationships with contractors, including local businesses and the voluntary sector
- Introduce and manage social value and other sustainability considerations from third parties

The availability and format of contracts registers varies widely across councils. Most registers are stored as spreadsheet lists, but some are provided via functionality in other systems such as an e-tendering or even a finance system, or as a part of a third party hosted service.

2.2 Why is a contracts register important?

A contracts register is an important corporate resource in that it should provide summary⁹ details of all significant contracts held by the council. It is important to a council as it:

- Provides a centrally accessible record of contracts which isn't lost when either people cease employment or departments are restructured
- Allows more detailed information about the contract, including hard copies, change control records and background papers to be located and accessed quickly
- Demonstrates responsible financial management and governance – especially given the committed expenditure that most councils have in their contract portfolio
- Offers the opportunity to assess future business options, such as aligning with those held by other organisations or creating collaborative contracts

⁷ Details are at www.gov.uk/government/publications/local-government-transparency-code-2015

⁸ Section 35 of the Procurement Reform (Scotland) Act 2014

⁹ Such as contractor, owner, start and finish dates, options or extension, what it is for (high level), value and contract type

- Allows potential gaps to be identified and appropriate action taken - where contracts should be in place because of spend levels with suppliers or where they have long expired and never been renewed for example
- Provides the baseline for councils that are serious about introducing effective management of their contracts and the associated relationships and wish to implement more advanced contract management systems

2.3 Who should own and access the contracts register?

If a contracts register exists, it is usually found in the legal, procurement or finance functions. There is no hard and fast rule as to which department should have direct responsibility for its maintenance and upkeep. Some people mistakenly regard the information stored on their register as “commercially confidential” – it is not. It is a corporate resource, and as such, widespread access to it is of paramount importance for the following reasons:

- Different people, professions, specialisms and departments will want to have access to the information to inform better corporate decision making
- Keeping records current and accurate is a challenge everywhere – granting the ability for contract “owners” to access and update their records directly gives greater certainty that this will happen
- Effective contract and relationship management requires easy access to records and information

Many organisations struggled to identify their commercial exposure during the recent Covid 19 pandemic, especially when lockdowns were in place and offices closed. This would have been a simple task if a good and up-to-date contracts register had been in place.

It is important to stress that while the contracts register may have a single nominated owner, the contracts recorded on it will have multiple owners (often in the originating service department).

2.4 What are the main problems with contracts registers?

It is not uncommon for a local authority contracts register to have significant problems in terms of:

- Coverage – details of contracts are often missing as they cannot be located, have been lost or never existed
- Information captured - the fields available are inadequate for all purposes¹⁰
- Data quality and completeness – records are often out of date, incomplete or stored in different formats
- Minimum functionality – reactive rather than proactive, such as no ability to email contract owners when a major contract is due to expire or has an option to extend
- Accessibility – people don’t know where to find it or are prevented from updating / viewing it

There are different reasons for this often due to how the council views contract management. Other factors contributing to this situation are:

- Absence of a formal process to capture information and keep records

¹⁰ Often key information such as estimated value, duration, extension options, is absent

- Lack of faith in the accuracy of the register
- Poor communications resulting in people being unaware of where to find and access it
- People not understanding its value to them or its purpose
- Too busy with the day job so often overlooked

Some councils use a specialist system (e.g. e-tendering/quotations) to capture contract information automatically and populate its contracts register. However, the information content is only as good as the percentage of the overall third party expenditure that goes through such systems. In many cases, the percentage is very low as tendering exercises are conducted off-line and/or a new entry is not created automatically once a contract is let.

As a guide, it is not unusual for tier 2 councils to have captured and centralised contract details on less than 30%¹¹ of their third party expenditure. This will largely remain the case if contracts are regarded as legal documents or the property of the commissioning department.

¹¹ This figure has been derived from undertaking our commercial contracting challenge and other expenditure reviews

3. MAKING THE CHANGE

3.1 Getting started

The preparatory work is largely common sense and can usually be done within a few months using freely available templates and checklists at little or very modest cost. However, it can be labour intensive if little or nothing is known about the location and detail of active contracts in the council. The first things that you need to make progress with modernising your contracts register are:

- A part-time supervisor / project manager with the authority from an Executive Director to request and retrieve details of contracts from service departments
- Access to your third party creditors' records covering either a financial year or calendar year
- A small budget – say up to £5k, to cover minor costs that will be incurred on updating data content and quality

The authority for your nominated person to act and request contract information is very important. Busy people will take the view that searching for details of their contracts is not an immediate priority for them, particularly if it means ploughing through paper records or even searching in the civic centre basement. It is not uncommon for people not to know the whereabouts of older contracts.

3.2 Building your register

3.2.1 IDENTIFYING CONTRACTS

This is an important issue, and arguably the most difficult step to take. A clear and positive explanation as to why contract information is being sought in the first instance may not appear onerous at first glance. Yet it is essential that this is done with the active backing of an Executive Director. It is not uncommon for some people to think that they will get in to trouble if contracts are not in place or have been lost. Also, if it is perceived as just an administrative request it will not be seen as important and it will not be completed.

Details of contracts and associated information can be collected and recorded on a simple spreadsheet to begin with. Details of the minimum information that needs to be collected are at Appendix A – Suggested information for populating a contracts register.

Councils need to search for two types of contracts, 'known' and 'unknown'.

- **'Known'** contracts are where a department or individual is aware of a contract being in existence. While locating these contracts should be reasonably straightforward it is not uncommon to find contracts have been lost, have expired or were never let in the first instance
- **'Unknown'** contracts are where a contract should be in place for an expenditure category because of factors such as value, duration and risk, but no one is aware that this is even the case

There are various ways that this may be achieved, the most obvious will be asking the relevant department or person to provide summary details and ideally a copy for central storage and scanning. Some councils have found that this activity is highly suited to junior or temporary staff as a specific project, particularly where departments have insufficient capacity to carry out the task in a reasonable timescale.

It is also important for a cross-reference to be made to actual spend derived from the council's finance system. We recommend:

- Reviewing contract coverage for suppliers where spend is high (greater than £10k annually or £25k over the lifetime), identifying budget holders or cost centres to determine ownership where this is unknown
- Using multi-year comparisons to identify 'on going' versus 'one-off' expenditure
- Comparing the allocated contracts register classification with the allocated procurement classification in the corporate finance system to check accuracy and gauge whether a contract covers all or only part of the total expenditure with each contractor. It is common for extra services and products to be acquired from the same contractor but not as part of your agreed contract, particularly where multiple departments use the same contractor

Setting expectations when collecting contract information for the first time is important, as initial results can appear to be disappointing. Large gaps in knowledge and even the absence of valid contracts for significant areas of expenditure are not uncommon. The reasons for this can include staff turnover, restructuring, human error and contract novation¹². In some cases, where a contract has been mislaid or there is uncertainty as to whether one exists, an approach to the supplier may be the only option. Although embarrassing, it is a better option than maintaining a serious gap in your knowledge.

Once an initial contracts list is in place, an action plan can be made to:

- Take urgent action to remedy situations where no contracts exist and there is a potential serious breach of legislation, contract standing orders or government regulations
- Locate expiry and potential extension dates so that plans can be made in advance to renegotiate or go to market
- Check who is managing your contracts, whether they are being proactive in doing it and have the necessary skills and knowledge to do it effectively
- Analyse the risk and potential impact if a high profile/high value contractor ceases trading, is taken over by another company or has been weakened by the global turmoil of recent years

As a guide this will be no more than about forty contract records for a tier 2 council if a sensible threshold¹³ is used to collect contract information.

3.2.2 DATA QUALITY AND ENHANCEMENT

Contract data quality and enhancement is an important aspect of populating a contracts register as it:

- Helps ensure a comprehensive summary of key information without the need to access detailed records
- Makes the identification of contracts easier
- Facilitates like-for-like comparison, particularly important when accessing records from multiple councils

The four data items where enhancement is particularly important are:

- **Expenditure category** – using the English local government standard, [ProClass](#)

¹² This is where a contract has been passed from one organisation to another.

¹³ We recommend using £25k life time value as the cut-off point.

- **Contract type** – setting out what type of contract has been let (e.g. framework, JCT, service, spot)
- **Potential extensions to contract** – this is essential for negotiation, forward planning and alignment purposes
- **Details of contract variations** – the change control history summarised
- **Actual annual expenditure against contract** (not supplier) – this is the “Holy Grail” of CRM but essential if over/under spend is to be tracked

The last of these requires a link with the finance system, and is best done by having a common contract reference alongside processes which ensure that spend is matched to the right contracts.

More detailed information can be found at Appendix A – Suggested information for populating a contracts

3.2.3 FORMALISING POLICIES AND PROCEDURES

Formalising appropriate policies and procedures covering why, what and how contract information needs to be collected is a significant step to ensuring it becomes embedded in the council’s management culture. Simplicity is crucial here to avoid this being seen as an “added value” task rather than “another administrative overhead”. There are several ways to undertake this.

- **Contract Standing Orders (CSOs)** – Typically, your contract collection and storage policy should be set out in CSOs even though the focus is usually on quotation and tender procedures and thresholds. The CSOs should also set out a simple policy for recording contract details and the importance of having a nominated and relevant contract owner throughout the life of the contract.
- **Intranet** – A page should be set up on the Intranet setting out the procedure for recording contract information and providing suitable downloads and sources of information and help.
- **Training / briefing** – potentially using a simple learning management system.

The main things that need to be captured are

- Why the contracts register is important
- What needs to be collected, by whom and when
- How the information needs to be recorded and stored
- Where you can get help or advice – including information sources and training
- When it should be collected, frequency and by whom

3.3 Moving from a spreadsheet to a system

Deciding on the appropriate medium for your contracts register is important. As a minimum, a system must be able to contain the data required, provide appropriate access for users, and must support the processes for maintaining the content and quality that have been agreed. Additionally, it will support reporting requirements and automated notifications.

The following requirements are important to factor in when considering the options:

- **No user restriction on access** – individuals should have read /edit/create capability depending on their needs. Records on the register become far more accurate and up-to-date when wider access is available
- **Ability to share a common register with neighbouring authorities** – again this can be very cost effective and allow contract alignment/ shared contracting to be undertaken

- **Public access** – as a website and subject to excluding confidential data, but with the ability for local businesses to explore forthcoming bidding opportunities
- **Expiry/extension reminders and alerts** – allowing for configuration to allow contract owners / commissioners to be alerted in advance when contract expiry / potential extensions are required
- **Upload of key documents** – the contract, specification and successful bidder response
- **Predefined entries** – for classification, contract types etc. to minimise error
- **Contract alignment** – production of reports showing when contracts of a similar nature are due to expire and/or be extended (very useful for planning when multiple authorities are involved)
- **Audit** – who is entering, amending and accessing the records to ensure that high risk contracts are being managed correctly

This is not an exhaustive list, but an indication of how a contracts register can be turned from a static list to a proactive management tool.

Once your data is collated and refined it will be tempting to continue to use a spreadsheet as the register. This is very rarely, if ever, a good idea for many reasons including:

- Data quality rules are harder to enforce
- Version control – copies are easily made and adapted to suit user's individual requirements resulting in out of date information or lack of a single version of 'the truth'
- It is difficult to give access to different user groups – some will require the ability to add new contracts, some to amend, some to view and the external stakeholders will want to see a subset of the columns
- Commitment and the skills to develop a complex spreadsheet may seem to be available at the time, but these are skills that are not always available to the procurement department
- Alerts and other reporting will need to be built in or supporting processes developed to do this manually
- There is no audit trail for updates and new entries

3.3.1 USING A PURPOSE BUILT SOLUTION/SERVICE

A purpose built solution/service for a contracts register is the best option for many.

The market for contracts registers as opposed to contract management solutions is limited as they occupy a grey area between finance and e-tendering solutions. While contracts registers are sometimes offered as a part of the latter, care needs to be taken for the following reasons:

- Many contract management solutions are integral modules of e-tendering solutions. They can be set up as stand-alone systems, but this may mean specific benefits are lost (e.g. auto population when a tendered bid is converted into a contract, if it exists)
- Third party solutions often charge by user numbers as well as hosting fees and maintenance costs. This can make the solution expensive and harder to justify
- Solutions are often not designed with an eye on the future evolution of C&RM – e.g. the ability to share live records and information with key contractors as part of a wider move towards commercial

relationship¹⁴ contracts

The table below provides some questions to consider when choosing a way forward.

Building your own solution	Using a solution/service offered by another local authority	Buying a third party solution/service
<ul style="list-style-type: none"> • Have you costed the need to maintain, amend and upgrade the system – this is not a one-off exercise? • Do you have appropriate resources earmarked? • Is the solution technology dependent? • Is the solution reliant on the knowledge of a person or group of people who will change over time? • Will it continue to be supported and developed once live? 	<ul style="list-style-type: none"> • Is the technology platform up-to-date and not obsolete or unsupported? • Is there a commitment to maintain and to further develop the register to include new functions, reports etc.? • Does the solution/service compare favourably with a commercial option? 	<ul style="list-style-type: none"> • Are the functions that you are looking for available and can it be shared with other councils/organisations? • What are the user licence charges/restrictions, implementation fees and maintenance? – insist on a fixed price for each year of use • Are there any restrictions on getting your data back should you decide to change your solution? • Is the solution reliant on third party software licenses?

¹⁴ See Commercial and Contract Management – insights and emerging best practice, NAO November 2016 www.nao.org.uk/wp-content/uploads/2016/11/Commercial-and-contract-management-insights-and-emerging-best-practice.pdf

4. LIFE BEYOND YOUR CONTRACTS REGISTER

Once your contracts register is active and well used the challenges are to:

- Ensure that your good work is used in a proactive way
- Embed using and maintaining it in the organisational culture
- Contribute to the ongoing transformation process for contract relationship management

Setting up and running a contracts register is just the start. The opportunities that present themselves once these basic steps have been taken are numerous. They include the ability to:

- Plan ahead for all major contracts; maximising opportunities to exploit market conditions, shared contracts and commercial leverage
- Report accurately on outcomes achieved including spend against contract
- Manage the contract change control process
- Negotiate effectively with contractors including challenging proposed cost increases
- Build stronger and more open relationships with contractors focused on problem solving and creation of shared values
- Help identify potential risk before it becomes a reality – e.g. Carillion, Four Seasons

5. HELPING YOU TO MAKE IT HAPPEN

If you have found this guide useful, please feel free to circulate it to colleagues and use it within your council to make the commercial case for C&RM change.

Please contact us if you would like more information, some advice on getting started or how to overcome a barrier. We offer all sorts of services and have been doing for 20+years. We are EELGA associates and they have worked with us to develop some of these services and to provide learning and networking opportunities to support their members.

More information on our services can be found at www.sps-consultancy.co.uk/services

All our services are also available through [EELGA](#).

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APPENDIX A – SUGGESTED INFORMATION FOR POPULATING A CONTRACTS REGISTER

Data Item	Text Format and Suggested Rules
Organisation	The Contracting Organisation.
Contract Title	Free Text - This may be on the front cover of a file or on the front of the actual contract.
Contract ID	A unique code for each contract record. To be used to cross-reference other systems such as Finance.
Contract Reference	This is usually the file reference or unique contract record number. It is what would be used to locate the contract in the future.
Contract Type	Call-Off Contract Framework Contract One-Off or 'Spot' Contract Public Finance Initiative (PFI) / Public Private Partnership (PPP) Renewable or "Period" Contract This may not be immediately evident. If in doubt, default to 'One-off / Spot' contract.
Suppliers Names	Free Text, but governed by rules for standardisation such as: All abbreviations related to supplier names should be in full as below (subject to supplier name field character limit): Supp – Supplies Assoc – Associations Serv – Services Consult – Consultancy Int – International Exception is Limited – Ltd Remove unwanted punctuation such as full stops after names, and hyphens in names, commas 'And' should always be replaced with '&' Data in upper and lower case In some cases where the contract is part of a call off or framework contract there may be multiple suppliers.
Classification (multiple levels)	Ideally ProClass
Start Date	Agree standard date format such as MM/YYYY.
Expiry Date	Agree standard date format such as MM/YYYY.
Contract Duration (months)	Agree standard format.
Contract Extension Option	Yes or No
Annual Value	Numerical - GB Pounds excl. VAT
Total Value (Estimated)	Numerical - GB Pounds excl. VAT Estimated value over the life time of the contract, bearing in mind that expenditure may vary significantly each year.
Status	Open / Closed / Archived / Deleted
Contract Owner	Name of person(s) responsible for information and managing the contract.
Notes	Further useful information.



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