

MEETING:	OVERVIEW AND SCRUTINY COMMITTEE
DATE:	16 JANUARY 2012
TITLE OF REPORT:	KEY MECHANISMS FOR THE MANAGEMENT OF PERFORMANCE IN THE CONTRACT WITH AMEY HEREFORDSHIRE
REPORT BY:	ASSISTANT DIRECTOR - PLACE BASED COMMISSIONING

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To advise the Committee on the key contractual mechanisms currently in place to manage performance within the contracts with Amey Herefordshire

Recommendation

THAT the content of the report is noted

Key Points Summary

- Amey Herefordshire (AH) provide a range of place based services for Herefordshire Council. This strategic partnership is founded on two base contracts. The Council renegotiated elements of the contract to form a managing agent type contract or MAC.
- Performance is managed through a range of contractual mechanisms. In addition to this, for the MAC services, monthly performance reports are submitted by AH, quarterly a Strategic Partnership Board reviews performance and overall performance of all services is reported through the Integrated Corporate Performance Report to Cabinet.
- The original contracts entered into in 2003 included limited mechanisms to drive performance improvement. A key achievement of the renegotiation of the contracts in relation to the majority of services which led to the establishment of the MAC in 2009 was the introduction of a contractual requirement for the development and maintenance of a performance framework that measures the outcomes being attained by Amey Herefordshire for the County of Herefordshire and its communities. This is the key contract mechanism through which performance is driven and provides incentives and penalties to drive correct behaviour from the provider.
- The potential to achieve contract extension beyond the initial guaranteed term to September 2013 is linked to the level of performance as measured through the performance framework.

- The 2009 performance framework included for 38 measures.
- A future performance framework is being developed which would apply for future years. This will consolidate and build upon the 2009 framework and includes measures covering improved asset, market development, improved education and awareness, increased community engagement, locality working & parish liaison, reduction in environmental impact, continuous improvement, investing in people, investment in inventory and improved financial management.
- Budget management is also a key aspect of performance monitoring. The MAC contract requires Amey to deliver spend in accordance with agreed budgets with unauthorised underspends and overspends being repaid to the Council.
- For those services that were not covered by the MAC negotiation, the base contracts from 2003 still apply. Performance is managed by the client on a project by project basis and through the Integrated Corporate Performance Report.

Alternative Options

- 1 There are no Alternative Options as this report is for information only

Reasons for Recommendations

- 2 This report is in response to a request for information from the committee

Introduction and Background

- 3 Amey provides a range of place based services for Herefordshire Council, a briefing on the commissioning arrangements for these services was reported to the committee on the 17 October 2011.
- 4 This strategic partnership is founded on two base contracts, which commenced on the 1 September 2003. The Council renegotiated those elements of the contract with new arrangements commencing on the 1 September 2009. This built upon the 2003 base contracts to form a managing agent type contract or MAC. This contract form sees AH deliver 'end to end' services. The remaining services (Property) continue to be delivered through the original contracts.
- 5 The base contracts use the New Engineering Contract (NEC) as the form of contract, which includes for a range of contract management mechanisms, which can be used to manage performance. In addition to this the base contracts include bespoke clauses in regard to defects, uncorrected defects, works not done and damage and other matters.
- 6 The Deed of Variation that built these base contracts into the MAC introduced the requirement for the development and maintenance of a performance framework that measures the outcomes being attained by AH for the County of Herefordshire and its communities. Whilst the Deed of Variation also reinforces a number of the base contract mechanisms which assist in the management of performance, it is this performance framework that is the key contract mechanism through which performance is driven. No such performance framework exists in the base contracts, as used for non-MAC services. Here the management of performance across the service is a client activity and the contracts enable contractor performance to be addressed on a project by project basis.

- 7 The overall performance of all services is reported through the Integrated Corporate Performance Report to Cabinet.
- 8 Overall governance of this Strategic Service Delivery Partnership is provided through a Strategic Partnership Board who meets quarterly.

Key Considerations

- 9 AH are incentivised to perform as contract extensions are linked to the level of performance as measured through the performance framework.
- 10 The performance framework includes a number of Partnership Performance Indicators (“PPIs”) that were agreed as important successes for the contract or priorities for the Council. Targets for the PPIs were based on available baseline data and comparative data or as an improvement over the measurement period. The PPIs are designed to be particularly challenging to justify the award of up to a five-year contract extension, based on Year 1 performance.
- 11 A full set of performance measures have also been established for the remaining period. The remaining years’ extensions would be awarded in response to meeting ever stretching performance targets. This will include the possibility of gaining any shortfall in contract extension upon the achievement of further stretching targets. For each of these PPIs an upper and lower threshold of performance is established where performance below the lower threshold reflects a poor level of performance, the upper threshold reflects an excellent level of performance and performance between the thresholds represents an acceptable level of performance. The purpose of the thresholds is to drive continual improvement in the delivery of services and to deepen the service delivery partnership.
- 12 Each PPI have a procedure or equivalent document that defines:
 - the actual indicator (or reference to National Indicator methodology if applicable) and any calculations if applicable;
 - the specific method for collection of data;
 - the people responsible for managing the indicator (both owner and collator);
 - actions to be taken to deliver the target level of performance; and
 - auditing and self-certification regimes.
- Performance is reported monthly.
- The performance framework agreed in 2009 included for 38 measures. See Appendix 1 for a list of the headings from this performance framework.
- A future performance framework for future years is being developed and will consolidate and build upon the 2009 framework and will include measures covering improved asset, market development, improved education and awareness, increased community engagement, locality working & parish liaison, reduction in environmental impact, continuous improvement, investing in people, investment in inventory and improved financial management.

- 13 Monthly performance reports are produced by AH and audited by the client team. Performance is also reviewed at a quarterly Strategic partnership Board meeting chaired by the Cabinet Member for H & T attended by the Director of Places and Communities, Chief Finance Officer and AD Place Based Commissioning. This contributes to the Integrated Corporate Performance Report presented to Cabinet.
- 14 Performance against the 2009 framework is currently being examined. This will determine the basis for any negotiation with Amey over the next few months regarding the extent to which a contract extension beyond the initial guaranteed term to September 2013 could be awarded. It is suggested that a further report be submitted to this committee at a suitable future meeting to provide an update as this work progresses.

Community Impact

- 15 Through this service delivery partnerships HPS provide a wide range of place based services that are regarded as important or essential 'council services' to most if not all of Herefordshire's communities. As such AH's performance is intrinsically linked to the success of HPS in achieving the outcomes desired for Herefordshire by its communities.

Financial Implications

- 16 For the 2011/12 financial year AH are responsible, through the MAC for the delivery of a revenue budget of £7,718,297, a 'non pay' revenue budget of £685,332 and a capital budget of £9,971,982 a total of £18,375,611. All AH managed budgets are projecting spend to budget. The overall spend with AH includes for these MAC budgets, together with contributions to major projects and the delivery of non-MAC services. The financial management of these projects and services is a client activity.

Legal Implications

- 17 None as a result of this report

Risk Management

- 18 For the MAC risk is managed dynamically through the exchange of early warnings which highlight matters which may impact on time, quality and/or cost, providing the opportunity for partners to minimise the impact and/or actively manage the consequences. A risk register is also maintained by the partners and is used to inform management activity. This register is reviewed at both operations and performance and compliance meetings.

Consultees

- 19 None

Appendices

List of performance indicator areas from 2009 MAC Performance Framework

Background Papers

- None identified

Appendix 1 - List of performance indicator areas from 2009 MAC Performance Framework:

- defect management;
- programme delivery;
- asset management;
- street and environmental cleanliness;
- place audits;
- carbon reduction;
- waste and recycling;
- apprenticeships;
- support to the voluntary sector;
- new deal placements;
- the use of local products and services;
- satisfaction, penalty points incurred;
- road safety;
- road and footway condition;
- efficiency;
- biodiversity;
- cycling; and
- congestion