Managing and Improving Performance

This section outlines a number of activities and tools necessary to manage and improve suppliers' performance.

You must be careful not to substantially modify the contract when considering some of the following.

Measuring Supplier Performance - Understand Contract Terms & Conditions

Open or close

The fundamental purpose of Contract and Supplier Management is to ensure that:

- suppliers meet their contractual obligations for the duration of the contract;
- the contract's requirements are successfully delivered. This includes any special contract *performance* conditions included in the competition documentation and related to the contract subject-matter. This may cover economic, innovation-related, environmental, social or employment-related conditions.

Anyone engaged in managing suppliers must read and fully understand the contract terms and conditions. This will ensure they are not at a disadvantage should any issues arise.

It is essential that your Organisation's Contract Manager/ Contract Management Officer is engaged from the Develop Strategy stage early in the process and participates in the development of the terms & conditions.

Care and Support Services

Open or close

For Care & Support Services please also read the "Additional Guidance when Reviewing a Care and Support Service" document which can be found at the bottom of this page.

In some areas Contract Management Officers routinely attend the Care Inspectorate’s post- inspection feedback sessions with service providers.

Contract management arrangements should identify what happens when the contract is not being delivered as agreed or, the agreed quality standards are not being met.

As an example, for Care and Support Services, the content management arrangements should describe the process for agreeing necessary improvements (where appropriate, in discussion with the Care Inspectorate) to the service and the timescales that will apply. The contract itself should specify the circumstances in which the public body has a right to terminate the contract (for example, insolvency, service failure, loss of registration).

Management Information (MI)

Open or close

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

It is important that your MI requirements are clearly defined and communicated to the supplier. The reporting arrangements can be included in your specification and/ or in the terms and conditions of the contract. Reporting arrangements must be fair and proportionate and not duplicate information already provided.

Your MI approach should minimise demands on suppliers for information about goods/ service delivery. The frequency and level of reporting should be informed by a risk assessment. Reporting may increase in certain circumstances, for example, if a complaint is made about service/ delivery.

For some specific services you should avoid duplicating information which is collected by and is available from regulatory bodies. This can be achieved through

the development of Memorandum of Understanding and regular discussions between the Organisation and the regulatory bodies.

Contract Managers/ Contract Management Officers should present information gained through contract management in regular reports to senior managers. In order to fulfil their role, they should:

- prepare and issue reports summarising their actions, identifying any significant issues and detailing the conclusions that they have 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 that is required to secure improvement;
- consult suppliers on the factual accuracy of all reports;
- communicate regularly with suppliers and ensure that emerging findings are discussed at an appropriate level within their organisations.

Further examples can be found in the "Management Information" document which can be found at the bottom of the page.

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.

Incentives and Sanctions

Open or close

Incentives and sanctions should be used appropriately to maintain/improve the contract/supplier performance.

There are specific contract terms and conditions (T&Cs) that can be used to help drive contract compliance/performance. These should be incorporated into the contract T&Cs.

You should ensure that you understand the contract's specific T&Cs. Any incentives and sanctions must be appropriate and legally enforceable. You must seek legal advice if you are 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. These must not be applied autonomously. Appropriate internal approval must be sought and received prior to implementation.

Incentives could (subject to avoiding substantial modification) include:

- contract extension options as;
- a longer contract opportunity could provide performance motivation;
- payment by result, e.g. milestone payments (linked to defined deliverables);
- reduced payment terms.

Conditions of Contract could include:

- retention e.g. legitimately withholding payment if deliverables are not completed with genuine and notified reason, but compliant with previously agreed contract terms and conditions;
- legal action;
- termination of the contract. (Please note: you cannot terminate a contract with the aim of avoiding procurement rule obligations);

- collecting liquidated damages. Please note that Liquidated Damages is the amount which the parties designate during the formation of the contract for the injured party to collect as compensation should a specific breach occur.

For a sanction to be effectively enforced, sufficient evidence is required to justify the claim or action. It is therefore important to have clear records which could include records of; agreed service levels; notice periods; reminders; communications; agreements etc.

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

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 can come from management, employees and supplier(s) operationally involved in the delivery of the service/ goods contract. Supplier(s) and employees can be particularly insightful as they are regularly exposed to operational inefficiencies which may not be visible higher up in the Organisation.

Your Organisation should seek feedback and should work to develop a culture where everyone in the Organisation is encouraged to look for, and suggest, operational improvements. All suggestions should be considered.

Supplier Health Check

Open or close

Contracts are awarded following a thorough evaluation process which addresses some standard elements.

Throughout the life of the contract, your Organisation’s Contract Managers/Contract Management Officers should perform periodic supplier ‘health checks’. This ensures the standards demonstrated during the initial evaluation are being maintained.

Health checks could include:

- Financial Status;
- 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 should be in line with the type of contract. For example, strategic and bottleneck contracts will be checked more frequently than collaborative and routine contracts.

Review Meetings

Open or close

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

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

The **Review Meeting Meeting Template** can be completed by your Organisation and the supplier before the meeting. This will provide a structure to the meeting.

It is best practice to hold at least an annual review for suppliers identified (under the segmentation process) as requiring ‘medium level’ supplier management. At least two review meeting per year should be held for ‘high level’ suppliers.

The **Review Meeting Template** and a **Meeting Agenda Example** are available below to assist you in doing this. These documents can be amended to suit the requirements of your contract.

Quickfire Guide

Example Performance Review Meeting Agenda

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 SLAs/ 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 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.

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)

Relationship of the Buyer and Supplier

(file type: docx)

Performance Review Meeting Template

(file type: docx)

Full Balanced Scorecard - Excel Spreadsheet

(file type: xlsx)