Contract Management in the NHS

RESEARCH FINDINGS

In association with

LIFECYCLE

HCSA
Supporting NHS Procurement Professionals
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About this research

The research was conducted by Lifecycle Management Group with the support of HCSA and their members. 131 procurement and finance staff in NHS organisations responded to the online survey.

The respondents represented a broad range of NHS provider organisations - including ICSs, STPs, Acutes, Specialist Acutes, Mental Health, Ambulance and Community.

We would also like to thank Liaison Financial and NHS Counter Fraud Authority for their contributions.
I want to thank all 131 of you that took the time to complete the survey, as well as our partners, Lifecycle Management Group, for compiling the survey and analysing the results. The survey has provided a fascinating insight into how we in the NHS manage our contracts. This is an important piece of research that demonstrates the gap that exists between the importance we place on effective contract management and how well we do it.

I encourage you to read the detailed findings in the following pages, but I was struck by three things:

First, and I suspect this comes as little surprise to most of us, Contract Management is our Cinderella. We universally recognise its importance, but also accept we’re not very good at it.

The second thing that struck me was the scale of the opportunity that improved contract management represents. Almost all of us believe improving our management of contracts can deliver significant cost reductions, as well as improved supplier performance.

Finally, with many organisations lacking a clear policy and the majority using spreadsheets to manage contracts, it is apparent many of us lack the building blocks to deliver effective contract management.

The encouraging news is that we recognise the challenge and the opportunity - more than two-thirds of us plan to improve the governance and management of our contracts.

I hope you find the research findings useful and food for thought.

Stay Safe.

Alan Hoskins
Chief Officer, HCSA
June 2020
We’re proud to have sponsored this important research and I’d like to thank HCSA for their support throughout the process.

Everybody involved in managing contracts in the NHS will have encountered their fair share of problem contracts. The research has provided some clear insights into how and why that happens.

Effective contract management helps to deliver maximum value for money, ensuring the benefits negotiated and achieved during the procurement process are not eroded or lost over the life of the contract. Successful contract management comprises many aspects, but at Lifecycle we believe there are three essential components:

**Contract management isn’t an afterthought**

It’s easy to think of contract management as something that happens after a contract has been procured. Along with the Chartered Institute of Purchasing and Supply, we have long taken the view that contract management should not simply be seen as a post-procurement activity, but one which includes a focus on upstream – or pre-award – activities. Contracts and suppliers are managed best when the means of driving supplier performance and contract change are identified, agreed and evaluated at the outset and contracted for effectively. This is why Lifecycle has worked hard to agree amendments to standard NHS terms, for contracts such as leasing and services, which provide a platform for maintaining value throughout the full contract term.

**Access to data and effective systems are vital**

Our experience, based on managing thousands of NHS contracts, is that access to the right data and systems is critical. Those responsible for managing contracts need easy, and centralised, access to contract data, costs, documentation, action plans and supplier performance data. The failure to provide and record this data is often the root cause of contract problems experienced by so many NHS organisations. In today’s world using spreadsheets alone simply isn’t enough to deliver effective contract management. It’s why we developed our own proprietary systems to drive all aspects of the of the process, from task management and reporting, to procurement and supplier management.

**Contract plans that drive activity are critical**

Effective contract management requires clear, planned and regular activity - from measuring and policing supplier performance to active management of key dates and milestones. Respondents recognise the importance of a formal contract management policy, and often have one in place, but few said this was actively enforced. Achieving this requires a clear action plan for each contract that ensures the right people have the right information and are actioning things at the right time. And, just as important, is oversight of the contract management process. If tasks haven’t been completed the system must be able to identify this to allow it to be addressed and remedied.

I hope the findings and observations are of interest to you and I welcome any questions or feedback you may have.

Thank you again to all the participants and to the HCSA for their support with this research project.

Jonathan Wickens
Commercial Director
Lifecycle Management Group
At a glance

Improving contract management represents a big opportunity.

92% of NHS organisations believe improved contract management would reduce costs by at least 5%-10%. 36% believe it would reduce costs by more than 10%.

74% of respondents agree or strongly agree they have experienced first hand significant problems that more effective contract management would have prevented.

53% of respondents agree or strongly agree they have experienced first hand significant problems that more effective contract management would deliver supplier performance improvement of more than 10%.

This is not currently being addressed.

28% Only 28% of NHS organisations think they manage even quite large contracts (£50k-500k/annum) well or very well.

19% Only 19% of respondents said they performed well or very well on clarity of contract plans for managing contracts.

16% Only 16% of Heads of Procurement estimate that regular reviews of contract costs, volumes and performance take place on more than half their contracts.
Many of the key building blocks required to deliver successful outcomes are not typically in place.

30% Only 30% of Heads of Procurement report that their organisation has a formal policy for the management and governance of contracts.

94% of Heads of Procurement report that their organisation uses spreadsheets to manage some contract registers.

41% Only 41% of NHS organisations agree or strongly agree that contract change mechanisms are agreed in advance.

However, there is a clear desire to address today’s shortcomings.

67% of NHS organisations intend to improve their management and governance of contracts.

82% of NHS organisations believe it is worth the effort to manage even lower-value contracts.

92% of Heads of Procurement cite improving services and supplier performance as a motivation for improving contract management.
What you told us

“It would be great to have a centrally managed and funded contract management software tool that allows stakeholders from all departments to review and update (access agreed). It would also help to plan STP and National procurement workplans to deliver the much-needed economics of scale, reduction in variation and improved product and service standardisation.”

“Extremely important subject and a key area for much needed improvement.”

“The trust has more than one contract database so although procurement can sort by values the contracts, the contracts team’s database does not have this detail.”

“Within my organisation we have never been a priority Department to put resource into therefore we have never been able to manage our contracts effectively. We have fairly robust procedures and systems in place - trouble is very few adhere to them. Unfortunately, effective contract management is viewed by many clinical colleagues as a process that takes them away from front line delivery of patient care and is therefore not a priority.”

“With back office under pressure this is a nicety where it should be a necessity.”

“Lack of expertise within the Procurement department is a risk.”

“Our organisation lacks the over arching vision and lacks the resources in the right places. Leaders often arrive, lurch the entire procurement process in one direction and then move on without completing the job. We then, invariably, lurch in the opposite direction when the next person arrives.”
“Contract management is an area which historically has been neglected and procurement are only involved if there is a problem with the contract. There is also a lack of expertise and more focus on CM, as suppliers become complacent and based on the contract value we really need to manage this more efficiently. As procurement are evolving, they are becoming more involved in supporting contract management, but the reality there is not sufficient resources. Therefore, some of the contracts are managed by General Managers and in some areas this works (For example, Facilities managers on outsourced SfM) and some will need more support.”

“One of the forthcoming challenges will be the management of Alliance Contracts as the Integrated Care Partnerships form within the larger Integrated Care System’s. This will require traditional healthcare providers to become tactical commissioners as lead providers in an alliance or consortium. The role of the merging CCG’s will be that of a much bigger strategic commissioning role. This scenario will bring pressures to bear in terms of the level of contract management required particularly if the partner organisations are from the Voluntary Community Sector. The other challenge will be the formation of primary care Networks led by GP’s who do not have the capability or capacity to contract manage.”

“We classify our contracts between gold, silver and bronze based on a mixture of value and criticality, risk and opportunity to the organisation and so difficult to give generic answers - contract management undertaken.” properly is resource intensive and so we focus on the gold/ silver contracts primarily.”

“As a team, we simply don’t have the resource available to devote to managing contracts properly.”
NHS organisations recognise that effective contract management can deliver a significant increase in value for money.

We asked respondents how much additional value effective contract management could deliver for their organisation. NHS organisations almost universally recognise the additional value that can be delivered, with almost every respondent believing that every component - costs, supplier performance and patient outcomes - can all be improved by more than 5%. More than half believed supplier performance could be improved by more than 10%, with almost 40% believing costs could be reduced by more than 10%.

Total annual non-pay spend for NHS providers is almost £30bn. Assuming 20% of this spend is, or should be, on contract, a 10% saving achieved through more effective contract management is almost £600m/annum.

How much additional value could effective contract management deliver for your organisation?

![Chart showing responses to the question](chart.png)

Observation

It’s clear that NHS organisations accept the scale of the prize that improved contract management could deliver on all three measures: cost reduction, improved supplier performance and improved patient outcomes. In terms of pure cost reductions, for an average Acute trust with upwards of £50m per annum on contract spend, improved contract management could deliver savings of £5m or more. Having already mined so many areas for savings, improving contract management represents a significant opportunity for NHS providers.
NHS organisations don’t believe they manage contracts well today.

* Contract management is an area which historically has been neglected and procurement are only involved if there is a problem with the contract. There is also a lack of expertise and more focus on CM, as suppliers become complacent and based on the contract value we really need to manage this more efficiently. As procurement are evolving, they are becoming more involved in supporting contract management, but the reality there is not sufficient resources. Therefore, some of the contracts are managed by General Managers and in some areas this works (For example, Facilities managers on outsourced SfM) and some will need more support.”

Anonymous response

We asked how well respondents believed they managed their contracts based on different contract values.

On average, across all contract types, only 29% believe they manage their contracts well or very well. For contracts up to £50k/annum, only 15% believe they manage them well. This figure only rises to 28% for contracts up to £500k/annum.

Observation

The overwhelming response is that contracts across the board are not managed well, and that this gets worse the lower the value of the contract. When it comes to lower value contracts (which collectively amount to a large proportion of total spend), Heads of Procurement are particularly pessimistic, with only 6% believing they manage contracts up to £50k/annum well or very well.
NHS organisations have experienced first-hand problems that better contract management would have prevented.

74% agreed or strongly agreed that they had experienced problems that would have been avoided by better contract management.

Observation

This recognition, that NHS organisations have experienced significant problems on poorly managed contracts, is borne out by real-world examples such as the case studies included as part of the interviews on pages 19-25. What is apparent from these examples is the similarity of the underlying causes: poor access to contract data, lack of continuity, insufficient contractual leverage and not holding suppliers to account are all key weaknesses.

A minority of NHS organisations specify contract change management mechanisms in advance.

41% agreed or strongly agreed that contract change mechanisms are agreed in advance.

Observation

The Chartered Institute of Purchasing and Supply are clear in their view of the importance of upstream activities (i.e. pre-procurement) to effective contract management. These activities need to include consideration of how contracts might change downline, as well as how poor supplier performance will be remedied. Unless these issues are resolved at procurement stage, value will leak away unseen.
The ability of NHS organisations to manage contracts effectively is limited by several factors.

We wanted to understand which factors limited NHS organisations’ ability to deliver effective contract management. We asked respondents to assess their ability across a range of different areas. All organisations report factors limiting their effectiveness. Of the criteria listed, a lack of resource was the most consistently cited as a limiting factor. Heads of Procurement cited a lack of procurement resource (89%) and a lack of departmental resources (79%) as the most limiting factors.

89% of Heads of Procurement cited lack of procurement resource as the factor that most limited contract management effectiveness.

Observation

The factors most often cited as limiting contract management effectiveness were a lack of resource - at both procurement and departmental level. This comes as no surprise, given the stretched resources in the NHS. However, the two factors seen as least limiting - lack of continuity and access to adequate systems – are actually critical. Experience suggests these are often the root cause of contract problems and deserve a greater focus.
NHS organisations recognise significant scope for improvement on key contract management success measures.

We asked respondents how well their organisation performed on a series of measures of contract management effectiveness. On all eight measures, most NHS organisations believed they performed relatively poorly. Only on one measure did more than 25% of respondents believe they performed well.

Observation

Effective contract management requires a consistent focus on each of these success measures. An adequate contract management policy should accommodate these considerations, and include processes to ensure they are built into the procurement and contracting phases as well as providing a framework for active management during the delivery phase.
NHS organisations agree on what is important in a policy, but recognise they don’t implement them in practice.

We asked Heads of Procurement about the importance they placed on a range of factors being included within a Contract Management Policy.

The vast majority of respondents believed all of the measures were either important or very important.

However, when asked how well their organisations performed on each of the measures, very few believed their organisation observed them well or very well in practice.

How important are these policy components?
How well are they observed in practice?

Specifying contract management mechanisms during procurement
Specifying meaningful and measurable KPIs
Specifying the content of a contract management plan
Specifying measures to drive supplier performance and continual improvement
Specifying how key dates should be identified and managed
Specifying how contracts should be reviewed and audited
Specifying exit and transition arrangement

Observation

The gulf between the importance NHS organisations place on key activities on the one hand, and on the other hand how well they are observed in practice, is stark. This would suggest that, whilst having a clear policy in place is important, having the processes and building blocks in place to support the implementation of that policy is equally critical.
A majority of NHS organisations have no formal policy on Contract Management.

Less than half of all respondents (44%) reported that their organisation had any formal policy. Interestingly, only 50% of Heads of Procurement say their organisation has a formal policy.

30% of Heads of Procurement report that they are currently developing formal policies.

However, even those with a formal policy recognise that the policy is rarely adhered to in practice. In fact, only 34% of Heads of Procurement believe their policy is adhered to the majority of the time.

Observation

The widespread absence of policies for Contract Management – and the fact that even where a policy exists it is rarely applied in practice - suggests that organisations have not given a high priority to contract management. It would suggest too that the policies that do exist are ineffective.
Few NHS organisations use a central contract register. Almost all use spreadsheets for some contract records.

We asked Heads of Procurement what formats were used for contract records, and whether they used multiple registers, or a single, central register. 94% reported that their organisation used spreadsheets, with only 39% using any form of dedicated contract management system. 22% even use hard copy for some contract records.

Interestingly, 42% said their organisation used a single, central contract register. However, a detailed analysis of their responses show that the majority of these actually used more than one register.

What format do you use for contract records? (Heads of Procurement)

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<th>Percentage</th>
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<tr>
<td>Spreadsheets</td>
<td>94%</td>
</tr>
<tr>
<td>Databases</td>
<td>5%</td>
</tr>
<tr>
<td>Contract Management</td>
<td>2%</td>
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<tr>
<td>System</td>
<td></td>
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<tr>
<td>Hard Copy</td>
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Observation

Very few organisations appear to have a single method of storing and accessing contract information and data. The widespread use of spreadsheets, even where contract management systems were in place, would seem to infer that these systems are not providing the functionality or ready access to information needed by stakeholders.
Responsibility for post-procurement contract management is largely devolved to departments.

We asked respondents whether they agreed with the statement that ‘contract management is devolved to departments.

52% of respondents agreed or strongly agreed that contract management is devolved to departments. This is supported by anecdotal evidence (comments by respondents) suggesting frustration by procurement teams that departments fail to observe the procedures laid down believing “effective contract management is viewed by many clinical colleagues as a process that takes them away from front line delivery of patient care and is therefore not a priority”.

Observation

As the profile of procurement increases within NHS organisations - and as the role expands to facilitating overall value for spend, rather than simply driving down headline price - it is clear that contract management will become a more central issue for procurement teams. A more collaborative approach, where stakeholders are supported and overseen by procurement to drive value, will be required if improving contract management is to deliver the anticipated benefits.
NHS organisations believe it is worth the effort to manage even lower-value contracts well.

18%

We asked respondents whether they agreed with the statement “It isn’t worth putting in the effort to manage lower-value contracts effectively”.

Given the fact that only 15% of respondents believed their organisations managed lower-value contracts (<£50k/annum) well, we anticipated that this was because organisations did not believe it was worth the effort.

But the findings don’t reflect this. In fact, only 18% of respondents agreed or strongly agreed this was the case. NHS organisations recognise that effective management of smaller contracts is worth the effort involved.

Observation

The vast majority of contracts for NHS providers are smaller contracts, making up a significant proportion of spend. But, because these contracts have been neglected more than larger contracts, there are still big gains to be had from improving the focus on smaller contracts as well as larger contracts.

Regular reviews of contract costs, volumes and performance are the exception rather than the rule.

16%

We asked Heads of Procurement what proportion of their contracts had ‘regular reviews of contract costs, volumes and performance’.

Only 16% estimated these reviews took place on more than half of their contracts.

Observation

Without such reviews, value will leak away throughout a contract’s life. Regular reviews are essential, not only to ensure the contract terms are applied and enforced, but also to signal to suppliers that controls are in place.
Most NHS organisations plan to improve their governance of contracts – and are highly motivated to do so.

We asked NHS organisations about their plans to improve governance and management of their contracts. 67% of respondents reported that they planned to improve it.

We also asked about their motivations for planned improvement. Across the board, respondents agreed that all of the criteria were strong motivations for them to improve their management of contracts.

Reducing costs was cited as the primary motivation, with 92% saying this was a High Priority or a Very High Priority. But even Adhering to Compliance and Governance Standards, the lowest score at 84%, was still a strong motivator.

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<td>There are very clear motivations for improving contract management, and acknowledgement too that, whilst there are significant financial imperatives, equally this is an activity that can drive better compliance, and ultimately better patient care and clinical outcomes.</td>
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An interview with Peter Mullin, CEO, Lifecycle Management Group

What is your view of the findings of the research program?

I don’t think there are too many surprises, if I’m honest. I have quite a lot of sympathy for NHS Procurement Heads. Their main driver over recent times has been reportable headline savings - and when you are judged largely on cash releasing saving, it is no great surprise that focus on areas which deliver longer-term benefit get pushed to the periphery. What is encouraging is how many people now see this as an area which can deliver major benefit going forward.

When you talk about contract management, what exactly do you mean?

It’s easy to think of contract management as something that happens after a contract has been signed. But if you think of it only as a post-procurement activity, you’re already on the back foot. If you want to drive the maximum long-term value, it’s absolutely essential to think of every aspect of the buying cycle – from conception, to procurement and contracting to management - as part of a joined-up process. Unless contract management considerations play a major role in the procurement process, managing contracts is always going to be a bigger challenge than it needs to be.

What does that mean in practice?

Well, it sounds obvious, but it’s hard to manage a contract properly if there isn’t absolute clarity over what that contract should be delivering. We see this often and there are all kinds of ambiguities which rarely work in the buyer’s favour. And it’s hard to drive suppliers to deliver well if the contract doesn’t give you leverage to do so, or you have no means of policing them, or if no thought has been given to how change will be managed and costed. If all of this is considered at the procurement stage you give yourself a far better basis to manage a contract effectively.

Are you saying it isn’t possible to properly manage contracts that haven’t been set up in this way?

Absolutely not. You may not have all the levers you ideally need, but that’s all the more reason to get on top of things and understand where the strengths and weaknesses lie. If you do that, you not only do you have a chance of identifying and addressing problems before they come home to roost, you position yourself to go into the re-procurement process equipped with better information and input to inform better contracts next time round.
An interview with Peter Mullin, CEO, Lifecycle Management Group

HCSA  Do you think that Contract Management policies are important for NHS organisations?

Peter Mullin  One of the things that the research brought out pretty clearly was that, even where policies exist, the real challenge is getting the organisation to follow them in practice. Having a contract management policy is important – but only where it drives the right activity, rather than gathers dust. I think the main problem is that policies are rarely supported by the tools, systems and processes necessary to do this. Without being linked to the right building blocks, policies alone are never going to deliver the right outcomes.

HCSA  What are the biggest weaknesses in contract management in the NHS today?

Peter Mullin  One of the things what stood out from the research findings was that the NHS is quite open that there are weaknesses across the board, so I’m not sure there is any one area to focus on that will provide a silver bullet solution. I think maybe there are more useful questions to ask: First, where should I start? And second, where should I trying to get to? In other words, what would ‘good’ look like? If you can answer these two questions, it’s much easier to put in place a realistic plan in place to improve.

HCSA  So how should Trusts address these weaknesses?

Peter Mullin  It starts with data and information. The research findings show Trusts store and manage key data in all manner of different ways. I can tell you, from our experience, that getting even base data on contracts is very often a real challenge for many Trusts. When we take over portfolios of contracts to manage there is almost always a major exercise to pull together and validate even headline data. Without this it’s hard to get off first base. And the problem will only be exacerbated when we are looking collaboratively across multiple entities with STPs and ICSs.

A couple of years ago we asked ourselves what ‘good’ looked like for an organisation. Our answer was that a manager needed access to a single screen of information that allowed them to very quickly understand all about a contract - its objectives, the key contractual information, how it was being managed and how the supplier was performing. Not only would this deliver continuity, but also provide all the data needed to manage the contract effectively.
An interview with Peter Mullin,
CEO, Lifecycle Management Group

What do you mean by value leaking away?

Ever since we started delivering services to the NHS in the early 1990s, the goal has always been to obtain ‘best value’. And this clearly serves to ensure that more than just headline price are taken account of in procurement decisions. What it doesn’t necessarily help with is in ensuring that ‘best value’ is being achieved over the whole lifecycle of a contract. We have found that trying to identify the areas where value might be eroded over a lifecycle of a contract – where it might ‘leak away’ - and addressing these in the way we buy, contract and manage contracts for our clients – is a really good way of driving us do the right things to deliver best overall long term value for them.

Can you give me an example?

Well, we manage over 5,000 NHS contracts today, so we’ve got armfuls to be honest. We did have one situation very recently, though, which illustrates how easy it is for value to be lost – even when all the right things seem to have been done at the outset. We were asked to take on a portfolio of leasing contracts for one of our clients who had merged with another Trust. We had actually procured some of the contracts some years earlier, so we understood them well.

One of the things we always do for leases we manage is minimise long-term cost by ‘capping’ the total amount that can be charged under the lease - no matter how long the assets are retained. When we audited the contracts, we found the leasing companies had completely ignored this, and overcharged by almost £150K. Which showed two things. First, the importance of information and continuity – they weren’t negligently letting this happen, there simply was no-one in place who understood properly what the contract actually provided for. And second, how important it is to anticipate and take account of change at the procurement stage – without caps built into the procurement process in the first place, no-one would have ever even dreamt that value was being lost, and we wouldn’t have been able to recover their £150K for them.

Thank you for your time.
In your work auditing contracts on behalf of NHS organisations, what do you see as the key weaknesses in NHS contract management?

One of the key weaknesses we find is that suppliers can sometimes appear to be more in control of costs and performance than the NHS organisations that employ them. When we audit contracts, we find that suppliers start by adhering relatively closely to the terms of the contract but, over time, their positioning can change and reporting and invoices may not continue to reflect the original contract terms.

What could NHS organisations do to address these weaknesses?

One of the most useful changes that NHS organisations could make would be to employ efficient contract control measures, to ensure that suppliers maintain performance and invoices are issued correctly, and to let suppliers know that control measures are being adhered to.

Why do you think NHS organisations find this difficult?

The root cause of many inaccuracies we see when auditing is that invoices which don’t reflect the terms of the original contract are paid without sufficient scrutiny. Of course, this isn’t always an easy process and requires trusts to manage three aspects perfectly.

First, trusts need the ability to police supplier performance and deliverables. Our experience is that you can’t rely on supplier reports of performance and quality – certainly not if this is linked to billing.

Second, trusts need to understand what to do with an invoice. This is often well understood and relatively easy to deal with at the outset of a contract, but as variance clauses become more important, and the teams managing contracts change, this becomes more difficult. We regularly see situations where the finance team doesn’t have access to sufficiently clear information to understand the mechanics and terms of the contract.

The final element is oversight. Not only must the finance team have effective oversight of the contract and supplier performance, trusts also need to establish a process of oversight for the team in order to ensure that both terms and processes are being met effectively.
Do you think the problems trusts face in managing contracts is a function of poor policies, lack of systems or lack of oversight?

In reality, it is usually a combination of all three factors. Many NHS Finance departments are working to capacity and can, at times, work to a process when passing invoices for payment. This means that nuances of the contract, and any amends, may not be checked so an incorrect invoice may be passed for payment. Once this happens, there is a likelihood that future incorrect invoices may be approved as the same as the previous month. This can result in overcharges, the full scope of services not being delivered and poor quality service delivery for the trust.

Can you give me an example?

We were asked to look at a soft FM contract for an acute trust. The procurement team knew that costs had risen over the contract term, but didn't feel this was reflected in the level of service they were receiving. They had anecdotal evidence that suggested this but didn't have the resources to perform the in-depth analysis required to identify exactly where these differences lay. Not only were the Trust concerned they had been overcharged, they also wanted to ensure they didn't repeat any mistakes in the upcoming procurement to replace the existing contract.

We started by looking at the terms of the contract, the original tender documents, interviews with the trust team, performance reports and the associated invoices. Following a forensic audit, we identified significant gaps between what should have been delivered and what was actually delivered. Costs were also substantially in excess of what the terms of the contract dictated. Once we had all the data, we presented it to the supplier and began a successful process of recovering rebates from the supplier.

We were also able to report back to the trust on what had led in both the contract and the management of the contract to the underperformance and overcharging. The Trust was able to use this information to specify the next contract differently and to address the shortcomings in the contract management process.

Thank you for your time.
I understand you have been doing your own research of contract management in the NHS. What have you discovered?

Yes, last year the NHS Counter Fraud Authority (NHSCFA) launched a national exercise on the prevention of procurement fraud. As part of this, we asked NHS provider trusts to ‘stress-test’ (critical review) a selection of contracts so that we could gain an understanding of contract performance and how various variables play their part. We also followed up on these responses with a series of site visits to understand these dynamics in more detail.

One of the main themes to come out of our research is that the NHS is great at procuring goods and services, but managing contracts has always posed a challenge – this is largely down to the skill and resource gap within the NHS. This is not to say that procurement functions are particularly lacking, but that the procurement team cannot physically be everywhere at once and for the vast majority of contracts, it is left up to the end-user to manage a contract. In these instances, the end-user will not necessarily be accustomed to the skills and processes of effective contract management or it may not be a priority.

Where are the areas where you see most contract fraud?

Contract fraud can happen in many different circumstances and by many different perpetrators, it is therefore of paramount importance that NHS organisations take a holistic approach to protecting against fraud. There are 3 main components that contribute to the increased risk of fraud, they are:

• Pressure (on the perpetrator to commit the fraud)
• Opportunity (i.e. lax controls within the system inside of which the fraud will be committed – in this case, the contract)
• Rationalisation (that the fruits of committing the fraud outweigh the risk of being caught).

NHS organisations should therefore focus on reducing the opportunity for fraud to be committed by increasing controls on contracts (using a risk-based approach) and thereby reducing the rationalisation of committing the fraud.

In what ways do you think that NHS organisations could better set up or manage contracts better to avoid the potential for fraud?

The one anecdote that kept repeating itself, was that procurement teams were consulted too late in the day and usually when there were contract performance issues. Our data showed a positive correlation between positively performing contracts and where both the contract manager (procurement team) and end-user were frequently involved in contract performance reviews.
It is important for organisations to focus on proactive contract management rather than reactive. They should ensure that for every contract, there is an end-user that has delegated responsibility to feedback performance metrics to the central procurement function who should have organisational oversight on all (within reason) operational contracts.

To understand what fraud looks like and what control measures can be employed to ensure accountability, transparency and probity during contract management, read NHSCFA’s **NHS fraud prevention quick guide on contract reviews** to understand how to minimise the risk of fraud occurring.

**What should NHS organisations focus on to reduce the level of fraud?**

The NHS spends a significant amount of money on goods and services, which are obtained through a variety of contracts and arrangements. Contract management is key to ensuring optimal financial and operational performance of contracts; however it can also be useful to prevent and detect fraud.

NHS organisations should regularly undertake contract review meetings with their suppliers / contractors to prevent and detect vulnerabilities to fraud in NHS contracts. The frequency of the contract review meetings should be determined using a risk-based approach, taking into account factors such as the contract’s value (low or high) and size and the risk of fraud occurring. This should be a defined process that is documented in a standard operating procedure (SOP) or policy.

**Why is it important to take action?**

The purpose of contract management is to manage and mitigate risks within the supply chain. Good contract management encourages ownership and oversight and assists in the prevention and detection of fraud. It also prevents bribery and corruption of NHS staff and the potential for collusion with suppliers to either obtain an advantage or to commit fraud.

The impact of good contract management is that it maximises performance, reduces any potential disruption in service delivery and ensures accountable use of public money. It also provides assurance to organisations’ Audit and Risk Committees that processes and procedures are being adhered to.

*Thank you for your time.*
A number of procurement hubs also completed the survey, but the responses of this group were significantly different from those from provider organisations. As their comments showed, these organisations answered the survey on the basis of the framework agreements they managed, rather than conventional paid contracts with suppliers. As a result, responses from these organisations are not included in the final analysis.
Detailed findings. All respondents.

Which of the following job titles most accurately reflects the role you play in your organisation?

- Head of Procurement
- Procurement - Other
- Director of Finance
- Finance - Other
- Other (Please specify)

Which type of organisation do you work for? Please tick all that apply.

- Acute
- CCG
- ICS/STP
- Mental Health
- Community
- Ambulance
- Other (Please specify)

Which elements of the contract management process are you actively involved with in your organisation?

- Contract procurement
- Contract negotiation
- Performance management
- Contract revisions
- Change management
- Auditing of contracts
- Renewal of contracts
- Supplier management

How easy would it be to provide accurate numbers and annual values of your contracts?

1 – very difficult
2
3
4
5 – very easy
Don’t know
Does your organisation have a formal policy on how contracts should be managed?

Yes
A policy is in the process of being developed
No
Don’t know

To what extent do you believe the organisation’s policy is adhered to in practice?

1 - Never
2 -
3 -
4 -
5 - Always

How would you rate the importance of the following in a contract management policy?

Specifying contract management mechanisms during procurement
Specifying meaningful and measurable KPIs
Specifying the content of a contract management plan
Specifying measures to drive supplier performance and continual improvement
Specifying how key dates should be identified and managed
Specifying how contracts should be reviewed and audited
Specifying exit and transition arrangements

Detailed findings. All respondents.
Detailed findings. All respondents.

How well would you say each of these is observed within your organisation?

1 - Not at all well
2
3
4
5 - Very well

Specifying contract management mechanisms during procurement
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Specifying exit and transition arrangements

Does your organisation maintain a register of contracts?

Yes, it operates a single, central contract register
Yes, it is managed across multiple contract registers
No
Don't know

To what extent do you think your organisation’s contract register is up to date?

1 - no information is completely up to date
2 -
3 -
4 -
5 - all information is completely up to date
Don't know
Detailed findings. All respondents.

What tools are used to maintain contract registers within your organisation? Please tick all that apply.

- Spreadsheets
- Databases
- Contract management software
- Hard copy (paper) records
- Other (Please specify)

Are contract registers in your organisation accessible to ALL stakeholders and contract owners?

- 1 - no contract registers are accessible
- 2 -
- 3 -
- 4 -
- 5 - all contract registers are accessible
- Don’t know

Which elements of the contract management process are you actively involved with in your organisation?

1. Original business case
2. Contract documentation
3. Key terms and KPIs
4. Key dates
5. Contract management plan
6. Supplier performance data
7. Contract costs data

1 - For no contracts
2
3
4
5 - For all contracts
Detailed findings. All respondents.

What proportion of contracts in your organisation do you ESTIMATE have:

- 0%
- 25%
- 50%
- 75%
- 100%

What proportion of contracts in your organisation do you ESTIMATE have:

- financial penalties if KPIs are not met?
- identifiable KPIs?
- specified volume or variation discounts?
- regular reviews of contract costs, volumes and performance?

How much do you agree or disagree with the following statements?

- 1 - Strongly disagree
- 2
- 3
- 4
- 5 - Strongly agree

- It's difficult to quantify the benefits of effective contract management
- It isn't worth putting in the effort to manage lower value contracts effectively
- Contract change mechanisms are agreed in advance
- We have experienced problems that would have been avoided with better contract management
- Effective contract management is a priority for the Trust
- Contract management is devolved to departments

Detailed findings. All respondents.
Detailed findings. All respondents.

How well do you think your organisation manages contracts?

1 - Very poorly  
2  
3  
4  
5 - Very well

Typically, how well is the organisation performing on each of the following?

1 - Very poorly  
2  
3  
4  
5 - Very well

Does your organisation have plans to improve governance and management of contracts?

Yes  
No  
Don't know
What are your motivations for improving governance and management of contracts?

- Improving services and supplier performance
- Adhering to compliance and governance standards
- Reducing costs associated with contracts
- Improving patient care
- Reducing clinical risk

To what extent do the following factors limit how you can manage contracts effectively?

- Lack of continuity
- Lack of procurement resources
- Lack of management oversight
- Access to adequate systems
- Lack of adherence to policies and guidelines
- Lack of skills and expertise
- Lack of resource at a departmental level

How much additional value do you think effective contract management could deliver for your organisation?

- Cost reductions
- Improved supplier performance
- Improved patient outcomes
Detailed findings. Heads of Procurement.

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Detailed findings. Heads of Procurement.

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1 - Not at all well
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5 - Very well

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1 - Very poorly
2
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4
5 - Very well

Does your organisation have plans to improve governance and management of contracts?

Yes
No
Don't know
What are your motivations for improving governance and management of contracts?

1 - Very low priority
2
3
4
5 - Very high priority

Improving services and supplier performance
Adhering to compliance and governance standards
Reducing costs associated with contracts
Improving patient care
Reducing clinical risk

To what extent do the following factors limit how you can manage contracts effectively?

1 - Not at all
2
3
4
5 - To a great extent

Lack of continuity
Lack of procurement resources
Lack of management oversight
Access to adequate systems
Lack of adherence to policies and guidelines
Lack of skills and expertise
Lack of resource at a departmental level

How much additional value do you think effective contract management could deliver for your organisation?

Less than 5%
Between 5% and 10%
More than 10%

Cost reductions
Improved supplier performance
Improved patient outcomes

Detailed findings. Heads of Procurement.
About Lifecycle

Lifecycle Management Group has been helping NHS trusts procure and manage contracts to deliver best whole-life value for 30 years. We manage thousands of contracts on behalf of over 50 NHS trusts. To date we have delivered over £200m in savings for our NHS clients.

The survey responses demonstrate the importance the NHS places on effective contract management – and how it can deliver reduced costs, improved supplier performance and better patient outcomes. They also highlight the difficulties faced in implementing this activity effectively across a large organisation. Our Contract Lifecycle service helps our clients achieve this. We provide the resource, expertise, market knowledge and systems needed to deliver effective procurement and management of contracts, resulting in reduced whole-life costs and improved contract performance.

To find out how we can help you procure and manage your contracts, call Jonathan Elsmore-Wickens, our Commercial Director, on 07979 495 986 or drop him an email at j.wickens@lifecycle.co.uk.