



## AGENDA

### SELECT COMMITTEE - COMMISSIONING

**Wednesday, 22nd January, 2014, at 1.30 pm**      Ask for:      **Denise Fitch**  
**Wantsum Room, Sessions House, County Hall, Maidstone**      Telephone      **01622 694269**

*Tea/Coffee will be available 15 minutes before the start of the meeting in the meeting room*

#### **Membership**

Mr M J Angell (Chairman), Mr M Baldock, Mr M A C Balfour, Mr H Birkby, Mr N J D Chard, Mr G Cowan, Mr T Gates, Mr C R Pearman and Mr M J Vye

#### **UNRESTRICTED ITEMS**

*(During these items the meeting is likely to be open to the public)*

- 1      Declarations of Interests by Members in items on the Agenda for this meeting.
- 2      Questions/themes that the Committee are investigating as agreed in the Terms of Reference (16/12/13) (Pages 3 - 6)
- 3      2.00pm - External Dean Benson, Contract Director Transportation, Amey (Pages 7 - 10)
- 4      3.00pm - KCC Sam Buckland, Audit Manager, Internal Audit (Pages 11 - 14)
- 5      Wrap up/key points

#### **EXEMPT ITEMS**

*(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)*

Head of Democratic Services  
(01622) 694002

**Tuesday, 14 January 2014**

## **KCC Commissioning and Procurement Select Committee Themes**

**The questions/themes that the Committee are investigating as agreed in the Terms of Reference (16/12/13) are:-**

What do we (KCC) need to do next to become a better commissioning authority – with a particular focus on removing barriers to entry for the provision of KCC services from new providers, particularly small to medium sized enterprises (SMEs) and members of the voluntary, community and social enterprise sector (VCSE).

Is KCC using its commissioning processes to ensure it meets its duties under the Social Value Act?

How, in becoming a commissioning authority can the voluntary, community and social enterprise sector (VCSE) play a more important role in the provision of KCC services.

The issues to be explored are

- a) the strategic context and our role as a commissioning organisation
- b) the costs of entry into KCC commissioning and procurement exercises, and if these costs present a significant barrier to new providers
- c) how any barriers to entry for new providers might be mitigated or removed
- d) the extent to which KCC decommissions and re-commissions services based on provider performance
- e) How KCC can best discharge its responsibilities through the Social Value Act
- f) the type of social benefits that should be sought through commissioning /procurement practices (e.g. apprenticeships)
- g) the extent that social value requirements be sought throughout the KCC supply chain

**Themes in detail: This is intended to give a flavour of the issues that the Committee might wish to explore through their Hearings, it is not intended to be prescriptive or relate to a specific witness and is to aid thinking.**

### **a) Role as Commissioning Organisation and Strategic Context**

- What is Commissioning?
- Do we understand as an organisation what we want or are trying to achieve? Are we sufficiently focused? Are we a provider or commissioning organisation?
- Do we have a clear understanding of our role as a commissioning organisation?
- What is our commissioning strategy?
- Are there any strategic barriers to achieving the transformation Kent needs through commissioning? How might we mitigate these?
- Is there clarity around budgets & commissioners ability to enact the strategic direction?
- What does successful commissioning look like? What do we do well and what can we improve? Are we an intelligent client? Do we know what we want and don't want?
- How do we balance our service requirements and budget of council and using the VCSE sector?
- Where can County Council Members add most benefit within a commissioning organisation?

**b) Market Development - What are the costs of entry into KCC commissioning and procurement exercises and do these costs present a significant barrier to new providers?**

- What are the costs of entry into KCC commissioning? Is access to the market equitable?
- How does this affect the sectors? Business return/profit?
- What does this mean from a provider perspective?

**c) Market Development - How might any barriers to entry for new providers be mitigated or removed?**

- What are the barriers for providers? How might these be mitigated? e.g. costs of insurance, contract length, capacity, skills, Legal/Tupe)
- How proportionate is paperwork to spend/contract value? What have we/can we do online to reduce burdens?
- How much of our provision is with VCSE, SME's? What are our targets/guidelines for procuring Kent business? Services from VCSE? SMEs?
- How are we supporting VCSE? How can the VCSE play a more important role in the provision of KCC services as we become a commissioning authority? What else might we do?
- How do we work with SME's? What else might we do?
- What are the implications of subcontracting? What are the learning points about large suppliers using SME's/VCS's? What might we do to support large private suppliers and VCS sector working together?
- How is Kent actively shaping and developing the market, what else might we do?
- What part does the construction of the proposal and contract type chosen influence which providers tender?
- Can VCSE sector and SME's build own capacity? Maintain rate of growth?

**d) Commissioning/Contract Management –**

**Do we decommission / re-commission services based on performance?**

- Why is re-commissioning/de-commissioning important? Are the processes clear?
- Do we have a clear picture of what we are spending and with whom?
- How are we developing the market through decommissioning and re-commissioning? What are the benefits of particular procurement models (e.g. Dynamic purchasing model)?
- How is decommissioning influenced by nature of service and market?
- Contract monitoring – What are the realities of outcome focused commissioning? How successfully are we monitoring outcome focused contracts? Are the outcomes specified the right ones for contract – activity or outcome based? Do we understand model procuring into/service pathways and key part supplier plays, interdependencies and specific attributable outcomes? What can we learn?
- How do we reward providers for past performance? Do we assess past experience of providers in procurement process? How can we build previous experience of providers into procurement process?
- What is our approach to managing contracts, in particular poorly performing providers? What do we need to get better at?

- Is there clarity of roles between commissioner and provider/supply? Do we understand our role as a commissioning organisation and have the skills to support this? Are we good commissioners?
- How can the right commissioning and contract management help meet KCC's savings targets? In managing contracts what do we do well, what should we do better? How might we modernise our approach? Do contracts include good specifications and the necessary levers? How have other LA's approached this e.g. Essex?
- How should we balance the need for contracts that give time for innovation, companies to make a return and enable Kent to decommission and ensure good market development? Within our contracts is there capacity through length of contract for service re-design and innovation?
- What are our relationships like with suppliers – how could these be better?
- What impact does length of contract have on providers entering the market, performance managing a provider on outcomes, provider gain and added social value?

**e) How can KCC best discharge its responsibilities through the Social Value Act**

**f) What type of social benefits should be sought through commissioning and procurement?**

- Are we meeting the duties of the social value act?
- How can we use commissioning to ensure meet duties under social value act?
- How have we worked with providers to achieve social value? (e.g. apprenticeships, waste)
- Do our procurement systems allow wider public value judgements to be included in the assessment of tenders so that the added value of the voluntary and community sectors can be recognised in the decision about procuring our goods and services?
- How does the nature of the added social value depend on the procurement model, sector or individual provider?
- To what extent should social value requirements be sought throughout the KCC supply chain?

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## External Witness Biography – 22 January 2014

### Amey

Amey is one of the most diverse companies in the public and regulated sectors. They work with customers across the UK designing and maintaining many of the services that people rely on every day.

Amey works with public and regulated sector clients to help create better places to live, work and travel. They are the faces behind the services you use each day whether it be the roads, the railways, schools, waste disposal, airports or the power you use to fuel your home. In fact almost everybody in the UK will use at least one Amey service today.

Amey operates over 320 contracts, providing an unrivalled range of services including utilities, highways, waste management, rail, justice solutions, social housing and facilities management. Services are underpinned by our leading consulting and asset management capabilities, which allow us to offer stand-alone or integrated service solutions to a range of clients.

In brief, Amey:

- Founded in 1921 and have been part of Ferrovial since 2003
- Employ 21,000 people with a turnover is £2.3 billion
- Work in nearly every county of the UK
- Service and maintain 800,000 street lights throughout the UK
- Manage and maintain over 55,000km of road network in the UK

Attending the Select Committee today is Dean Benson, Contract Director Transportation

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## Select Committee Commissioning & Procurement Briefing Paper

- Amey/Enterprise is contractually bound to use Kent companies and suppliers to supplement its term maintenance contract. With the exception of occasional specialists we use Kent based companies for all our operations. This includes, for example, traffic management, civil engineering, highway repairs, lighting, drainage and structures projects.
- We also use local suppliers for materials, albeit some are national companies, e.g. Travis Perkins
- Our operational sub-contractors are all procured using the ISO9001 approved process, which ensures proposed suppliers are fully checked and verified to ensure financial, safety and process compliance
- Our sub-contractors are contracted using the NEC framework with appropriate reference to our main contract terms and conditions
- Where typical H&T works are used a schedule of sub-contract rates is used, which link to those agreed as part of the main contract. Annual rate reviews are undertaken.
- As with the main contract, all works are procured on a 'no order – no work' basis. This ensures that the clients requirements are fully understood and can be appropriately permitted
- Our supply chain is treated in the same way as our staff operatives including H&S and quality standards.
- Our suppliers are also measured on the same OPM's as operated in the main contract. These include safety, quality, programme and customer satisfaction measures
- We are committed to specialist local industry too – Royal British Legion Industries supplies most of the road signs we install. We are currently working with the probation service to provide general labour to support both offender rehabilitation and to increase productivity in areas such as clearing of public rights of way.
- We have also introduced a technical review group, which allows any member of our team or supply chain to promote innovation. This process is documented and fully supported by KCC, who sit on the review panel. To date our supply chain has contributed significantly with ideas to improve crash barrier maintenance, pot hole repair, hedge and verge trimming, prevention of gully cover theft and pavement waste recycling. We have implemented or carried out trials on over 90% of all the ideas raised.
- Our supply chain has contributed to our initiatives to promote and improve operational safety. In September 2013 our supply chain attended our annual safety review and several other events to ensure a consistent approach to operator and public safety
- Through our Working Better Together Initiative with KCC we have reviewed process maps and devised pragmatic and workable solutions that deliver value to all major stakeholders.
- We have spent over £54m with our subcontractor supply chain to date on the contract, utilising organisations of various sizes, with the vast majority of these being based within Kent.
- We also carry out monthly audits on our operatives and contractors alike to ensure compliance with HAUC standards of site management and safety.
- We use local companies for operational training and this ensures all aspects of our business is delivered for Kent by Kent workers and suppliers.

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## **Commissioning and Procurement Select Committee Briefing**

Samantha Buckland - Audit Manager

### **Introduction**

Internal Audit's key role is to provide independent assurance on governance, risk and controls. However, our remit also allows for the provision of advisory work and any views expressed in this paper should be seen in this vein, i.e. advice based on professional judgement and experience rather than assurance or evidence based conclusions. The perspective taken in preparing this paper is to focus on the need for measures to adequately manage risks within KCC's risk appetite.

### **Barriers for new providers**

A number of challenges face new providers; predominantly the ability to demonstrate that they meet quality and financial resilience requirements due to the obvious lack of historic information/evidence. Normal process for the pre-qualification stage of procurement and commissioning is for organisations to provide three years of audited accounts, or equivalent financial records, and to demonstrate an ability to meet quality requirements. KCC must satisfy itself that providers have the capacity and resilience to deliver the required service for the contract/agreement period. There is therefore a need for KCC to develop measures to manage any risk in relation to a break in service, through a provider either failing financially or failing to deliver to the appropriate standard. KCC may choose to be less risk averse in its evaluation processes, but this must be compensated for by very robust performance monitoring, including financial performance, and contingency arrangements.

New providers may also face challenges due to a lack of experience in preparing tender submissions. This last issue could be addressed through engagement with relevant potential providers, unrelated to specific tender processes, to make available support and guidance on process, evidential requirements and KCC policy.

### **Provider Performance**

Recent audit work has demonstrated an improvement in setting performance requirements within contracts or equivalent documentation since Strategic Sourcing and Procurement and Strategic Commissioning teams have been in place. However in some instances, while performance requirements are set, monitoring has been limited or unclear. It is recognised that by the nature of contract arrangements, i.e. lead in times to re-tender and contract length, this is an area that takes time to embed and should continue to develop; this is paramount for a commissioning organisation to ensure continuity and quality of service delivery.

There is a need to consider contract length in this regard, short contracts provide a natural exit point should there be performance issues but may be limited in terms of ability to measure performance over a meaningful time period and shorter contracts may also reduce the opportunity for favourable pricing. In contrast longer contracts provide more opportunity to measure performance comparatively over set time periods and work with providers to improve any areas for development. However, without very clear monitoring and exit strategies longer contracts risk tie in with poorly performing providers. The increased use of framework contracts and dynamic purchasing systems mitigates this to some extent, where they are appropriate.

Finally there is a need for caution in relation to both understanding of and requirements for outputs and outcomes. For certain service areas outcomes, by their nature, are likely to be long term and exceed contract terms. For example a public health outcome for smoking cessation would be a reduction in smoking related disease, a long-term target, which would be challenging to measure in the contract term and therefore to hold the provider accountable for. In such cases shorter term outputs may make more sensible performance measures. Conversely in a social care setting, outcomes in relation to individual service users may involve increased engagement, confidence and social skills which are achievable in a shorter term and therefore more relevant/appropriate for performance measurement. As such attempts to measure performance based on outcomes may be less realistic and achievable for some service areas than others. In these instances, for contract performance only, outputs may be a sensible option, with a view that setting these correctly leads to the desired outcome in the longer term.

### **Responsibilities Social Value Act**

As relatively new legislation there is likely to be a lack of experience across the organisation in meeting the requirements of the Act. As such there is a need to ensure central co-ordination through Strategic Sourcing and Procurement and Strategic Commissioning to ensure consistency of approach and, importantly, to negate any conflict with procurement legislation.

There is clear guidance about the criteria to ensure compliance with EU procurement legislation while meeting social requirements and it is important that KCC define Social Value to ensure any social requirements are reflected in policy. When considering value for money this should therefore include social, economic and environmental value and it must be clear how these are measured and evaluated in selection processes.

### **Social benefits and social value requirements**

Arguably there are a myriad of social benefits that could be sought through commissioning and/or procurement practices. KCC needs to be clear what social benefits it is seeking to achieve for the Kent community, then consider which of these can be achieved/facilitated through commissioning/procurement and how. For

example tender specifications could include a requirement for increased employment opportunities for local people, but it must be ensured this does not discriminate against providers across the European Union.

Any social benefits or social value requirements will need to be clear in tender specifications and subsequently in contract terms. Therefore there is a need, again, for central coordination and for full consideration of how KCC will measure achievement of requirements through performance measurement, i.e. the requirements must be 'SMART'.

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