



AGENDA

SELECT COMMITTEE - COMMISSIONING

Monday, 3rd February, 2014, at 10.00 am

Ask for: **Denise Fitch**

**Swale 1, 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 **10.00am** - Angela Slaven, Director of Service Improvement (KCC) (Pages 7 - 8)
- 4 **11.00am** - Nigel Baker, Head of Integrated Youth Services with Andy Jones Planning and Development Manager (KCC) (Pages 9 - 10)
- 5 **12.00** - Jason Martin, Director - CAP Enterprise (Pages 11 - 14)
- 6 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)

Peter Sass
Head of Democratic Services
(01622) 694002

Friday, 24 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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Response to Commissioning and Procurement Select Committee

Angela Slaven, Director of Service Improvement

My role and responsibility for commissioning spans some 20 years during this time I have been both a provider of services and latterly a commissioner of services. The experience shapes my understanding and opportunity to think about how to achieve effective services that provide the best outcome for the service recipient or service user.

My experience is predominantly in the provision of services that require demonstrable outcomes that improve the lives of people in our communities – drug and alcohol treatment services; Supporting People housing related support; services to prevent offending or reoffending by young people; employment training and skills provision; youth services and services that support community safety initiatives including domestic abuse and work with adult offenders.

Commissioning is the process through which the need for services is assessed, shaped and designed. This is based upon **a Needs Analysis** - defined by the needs of the service user group – the required outcomes and the available budget – the development of a clear **Service Specification** is the culmination of all factors being drawn together in a cohesive and comprehensive understanding of the services that are required. Commissioning continues with a cycle of contract management – performance management and review – all should be driven by a focus on **Outcomes**

Procurement is the process through which we achieve the appropriate services – the tendering and awarding of contracts, the legal process of commissioning including TUPE considerations.

Effective commissioning should engage with and assess the quality of the **Provider Market** to understand the **level of maturity within the category of provision**; the extent of the need to support and enhance development and the base line assessment of costs. My experience with commissioning has largely been drawn on working with the Charitable Sector although in some instances there is coproduction and delivery with private sector collaboration. It is clear that the private sector is moving towards greater delivery within the emerging Public Sector opportunities for the provision of care and health services.

KCC has a mixed record in commissioning and many contracts remain on a grant basis without review or retendering for considerable periods of time. KCC needs to be clear what can and should remain grant based and what needs to be commissioned. In part this addresses the issue of the relationship with the VCS – there is no clear framework and the relationship to support of the infrastructure is complex. KCC has a relationship with only a small percentage of the VCS in Kent

and this is mainly a relationship with organisations providing services to Adult or Children Social care.

Successful commissioning for the service user is when delivery to the service user reflects the need and is within a clear delivery framework; the service outcome required is explicit and achieved and the service user understands the service and it is delivered in a timely fashion. This can be on at individual and community level.

Successful commissioning from a KCC perspective achieves the required outcomes – it meets the needs of the service user and the organisation; the outcomes are measureable and the service is delivered within budget and demonstrates a reduction in demand; a reduction in the repeat need for services (if appropriate) and quality and impact is assured. Where required services demonstrate adherence to statutory obligations and fulfil all safeguarding principles.

A significant factor for many charitable organisations is the issue of annual turnover and financial provision vis a vis the level of funding attached to the tendering process. This has been modified by the recent ***New Public directives enacted by the EU Parliament – the turnover cap.*** This aims to ensure greater access and participation of SME in the procurement/commissioning of services.

Contract management should ensure the quality of services and the effective management of a failure to deliver. Many KCC contracts remain untested and the move towards more consistent practice and understanding is critical. Decisions have been taken to terminate contracts (***decommission***) by services within my responsibility and this has been based upon clear evidence of outcome, cost analysis/utilisation. The critical factor is that ***the Service Specification and final Contract is explicit on the deliverables, the outcomes required and the penalties that will apply.*** There should be no lack of clarity for the provider or the service user in what is expected and what will be delivered.

Subject: Commissioning Youth Services

By: Andy Jones, Planning & Development Manager, Integrated Youth Services

To: Select Committee on Commissioning

Date: 22nd January 2014

The commissioning of Youth Services in Kent is an example of ‘...innovative and inclusive commissioning...’ as highlighted by Nick Hurd MP, Minister for Civil Society in a report entitled ‘Making it easier for civil society to work with the state. Progress update’. (HM Government, December 2012).

Background

KCC’s Cabinet Member for Customer and Communities took a key decision to continue to meet the statutory duty for the provision of education and recreational leisure time activities (youth work) through the continuation of a core offer of open access youth work delivered by KCC, augmented by an increased level of services commissioned from local voluntary and community groups. The new model of service provision commenced in January 2013.

Dynamic Purchasing System (DPS)

Across the county, 124 organisations successfully joined the Commissioning Framework at the Pre-Qualification Questionnaire stage in June 2012. These organisations were then invited to submit tenders between 27 July and 7 September. By the deadline, 54 organisations had submitted a total of 221 bids to deliver the 47 commissioning lots that were available across Kent.

Contracts were offered to 24 different organisations to deliver Youth Services in Kent

The Dynamic Purchasing System remains ‘open’ for four years to new providers to join and for mini-competitions to be advertised when funding becomes available. In addition, if a provider is unsuccessful in joining the DPS then the Pre-Qualification Questionnaire can be re-submitted following feedback for approval.

This flexibility allows for more dynamic commissioning and a number of mini-competitions have been run since the main Youth Services commissioning described above.

Evaluation

The process of evaluating bids began on the 10th September and ran until Friday 12th October 2012. Locality Boards or local representative Member groups were involved in the process and this did, for example, involve a small number of

Members in a 'task and finish' group working with representatives from the Integrated Youth Services (Youth Service).

The views of local young people were represented in the evaluation stage through the establishment of 4 youth panels, covering the 4 youth areas and 12 Districts, and coordinated by the Area Team Managers.

Support to the Voluntary Youth Sector

In order to mitigate for any potential barriers to commissioning, a number of processes were put into place including training, two conferences in conjunction with Young Kent (formally Kent Youth), and the use of the Dynamic Purchasing System.

Nigel Baker, Head of Integrated Youth Services, spoke at the Young Kent Conference on the 10 May 2012, held at the Ashford International Hotel, to 165 delegates from the voluntary and community youth sector about the Commissioning Framework.

Training for those voluntary and community sector organisations interested in being commissioned by the Integrated Youth Service was well received; with four training days having been delivered across the County in conjunction with Young Kent.

Implication of the use of the Dynamic Purchasing System

An implication of this type of approach to commissioning is that it is labour intensive. With 22 organisations delivering across 47 lots the contract management has been possible by the engagement of the Integrated Youth Services Managers, Quality Assurance Team and Youth Workers in observations on the youth work being delivered.

Barriers

It is not felt that the costs associated with the commissioning of Youth Services by KCC were prohibitive to the voluntary youth sector.

The Kent Business Portal and previously, The South East Business Portal are not intuitive systems and many small organisations reported difficulties in using them.

The Voluntary Youth Sector is an under-developed market and therefore the Integrated Youth Services continue to help build the market through direct support to commissioned providers and the commissioning of Young Kent to support the wider voluntary youth sector in Kent, including uniformed organisations such as the Scouts and Guides.

External Witness Biography - 3rd February 2014

CAP Enterprise (Kent)

CAP Enterprise (Kent) exists to develop Kent's social economy - developing innovative new social ventures and offering business support to individuals and organisations working for social benefit.

Third sector organisations are finding it more and more difficult to sustain themselves with grant funding. Organisations are starting to recognise the need to generate their own income as a way to sustain themselves. They need the support of experienced and committed social entrepreneurs like CAP Enterprise to help them achieve this change.

CAP help our clients become social enterprises, by equipping them with the tools to build smart, creative, self-sustaining organisations that have the power to continue doing what their communities need of them, without needing to spend all their time chasing the next pot of funding.

The CAP team of advisors, coaches and third sector professionals are committed to turning great ideas into social ventures which improve quality of life across our home county.

Attending the Select Committee today is Jason Martin, Founder and Director

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Strategic Context

12,000 frontline organisations active in a very diverse sector, whose structure mirrors that of the Kent and Medway business community:

1. Small, volunteer-led organisations (£0 - £1,000)
2. One-staff member groups (£1,000 - £10,000) – grant & donation-dependent **AT RISK**
3. Micro-organisations (£10,000 - £25,000) – grant & SLA-dependent **AT RISK**
4. Social SMEs (£25,000 - £500,000) – grant, SLA & tender-based income **AT RISK**
5. Large ventures and national charities (£500,000 +) – grants, tenders and other traded income **AT RISK, BUT RESILIENT THROUGH DIVERSIFICATION**

The small to medium-sized Kent and Medway third sector organisations are at risk from themselves (a reluctance or inability to adapt to the new commission-based environment), from their more commercially-minded peers and from commercial competitors with the resources and capacity to secure public service contracts – who appear a more reliable option for procurement staff.

Kent-based research shows that frontline organisations are ill-equipped to play a prominent role in the delivery of public services without significant intervention:

1. Working Connections

Bring commissioners, procurement staff and frontline organisations closer together. Commit to and resource a single, independent point of access to the sector, which actively reduces the distance between strategic partners and frontline service delivery in order to drive joint-working and mutual support.

2. Impact-based Strategic Framework

Develop an authority-wide impact framework, against which deliverers can measure core impacts and value-adding impact. This establishes impact overlaps, complementary social value and a more cohesive and client-focussed delivery of services.

3. Impact-based Commissioning vs Output-based Procurement

A system where experts are told how best to deliver a service by non-experts seems a nonsense and is the product of a lack of quality co-design. The solution – invest in talking directly to us, not via “infrastructure” partners and move away from the misconception that a single voice can represent the diverse and complex sector. This communication does not always need to be face-to-face – modern technology simplifies mass two-way communication and is a cost-effective alternative.

4. Consortium Leaders

Consortium formation and leadership is being mystified within the sector and because of this viable consortia are not being formed; leaving smaller deliverers to be sub-contracted by larger third sector organisations and public service companies, such as Serco, G4S, Avanta, Interserve etc, who provide a practical opportunity for joining a consortium, ie. being sub-contracted by them. The evidence of the London work programme demonstrates that this model of consortium engagement puts small, vulnerable frontline organisations at increased risk of closure due to: crippling cashflow, prime contractor creaming off the low-hanging fruit and frontline organisations being sub-contracted to only work with the hard-to-reach/challenging/vulnerable.

5. Sector Governance

At a time when strategic minds are needed to steer organisations through the challenges of a commission-based landscape a large number of trustees and board members lack basic commercial sensibilities and drive to make a positive impact. Board development and new trustee recruitment are imperatives. Boards are also highly risk averse and place internal limits on the abilities of organisations to undertake more commercial activities.

6. Business Development Capacity

The majority of the sector does not have access to dedicated business development resource. Building capacity in this area is time-consuming, tender submission is time-consuming and daunting. Many smaller organisations are not able to commit the resource to this as meeting the needs of their clients is always their priority.

7. Intra-Sector Networking & Peer Network Development

Insufficient resource allocated to developing the sector's internal linkages. Infrastructure organisations are putting too little time into sector-led consortium development. Maybe because many of the infrastructure organisations are also frontline deliverers and don't want to foster competition from their peers.

8. Commission-Specific Capacity Development

In 2012 Suffolk County Council invested £150,000 in supporting its third sector public service deliverers to develop their bid-writing, tender preparation and business development capacity; to increase their chances of securing public service contracts and to equip them with the resources to survive if they failed to secure public service contracts.

9. The Match Funding Myth

Third sector organisations do not automatically have access to funds to supplement the value of under-monetised public service contracts. This dangerous myth (allied to the perception that there are armies of capable volunteers willing to give up significant amounts of time and expertise) must be quashed.

10. Market Intelligence & Ongoing Consultation

A recent online survey asked the simple question, "Does your organisation feel connected to its strategic partners?" Over 70% responded with a "No". A small number of well-organised sector engagement events throughout the year, supplemented by more frequent online consultation activities will provide valuable insight into community-level intelligence.

11. Social Value built into contracts?

Ensure that public service companies winning contracts collaborate with frontline third sector organisations by including auditable social impact results in each contract.

12. Ethical Leadership

Some smaller organisations will only get involved in the commissioning agenda if they are led into it by a lead organisation they trust and who manages consortia ethically, without competing for delivery, drives up the quality of service delivery, ameliorates financial risk and seeks to build capacity.

In simple terms, commissioning has created a highly competitive marketplace, which a large number of frontline organisations are ill-equipped to break into. As a result KCC is failing to commission or procure from expert, well-established frontline delivery organisations. The simple solution is to create a commissioning process which targets social value and to invest in dedicated infrastructure services which inform, inspire and lead frontline organisations to more-effectively engage with the commissioning agenda.

Jason Martin, Director, CAP Enterprise