



AGENDA

SELECT COMMITTEE - COMMISSIONING

Tuesday, 4th February, 2014, at 2.00 pm

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 2.00pm - Karen Sharp, Head of Public Health Commissioning (KCC) (Pages 7 - 8)
- 4 3.00pm - Ryan Campbell, CEO and Karen Tyrell, Director, Development and Marketing, KCA (Pages 9 - 14)
- 5 4.00pm - Sean Kearns Chief Executive and Stephen Bell, Director of Business Development, CXK (Pages 15 - 20)
- 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

Monday, 27 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?

This page is intentionally left blank

From: **Karen Sharp, Head of Public Health Commissioning**

To: **Select Committee – Commissioning and Procurement - January 2014**

Subject: **Public Health Commissioning and Procurement**

1. Overview

Public Health has responsibility for commissioning a range of services which aim to improve the health and wellbeing of the people of Kent and reduce health inequalities across the county.

KCC assumed responsibility for commissioning public health services in April 2013 and inherited several different contracts with a range of organisations including NHS Trusts, voluntary and community sector (VCS) providers as well as private companies. Public Health is committed to further work with small and medium sized enterprises (SMEs) and with the voluntary sector and community sector (VCS) to improve public health outcomes.

2. Commissioning Programmes

Since April 2013, Public Health has initiated a number of commissioning and procurement projects that have aimed to use best practice in commissioning. These have included:

- A large scale re-tendering exercise for **sexual health services** in Kent. These services have historically been provided by three NHS trusts in Kent. The commissioning process has included a detailed market engagement exercise with two *Meet the Market* events for potential bidders which were attended by representatives from 20 different organisations from across the public, private and voluntary sector.
- Significant investment in preventative mental health services a many of which have been delivered by SMEs. Two key examples are:
 - An innovative programme to develop twelve small scale projects to promote wellbeing among Men in Kent. These projects, known as Men's Sheds will be supported by a lead organisation, commissioned by Public Health to help get the projects off the ground and helping as many people as possible. The Dartford Shed group will be predominantly focused on involving the large population of Veterans in the district, with an intention to improve the overall support in the local area.
 - Joint project with KCC policy called asset mapping to understand and promote the voluntary and community sector and its impact on social and economic development.
- Working collaboratively with Families and Social Care to commission community based **postural stability classes** to support delivery of the Kent Falls Framework

3. Key Issues

Costs of entry and barriers – we have been proactive in reducing barriers to entry for commissioning and procurement processes and encouraging new providers into the market for public health services.

As an example, the procurement of sexual health services are currently underway and have been broken into seven individual lots to enable a wider range of potential providers to bid even if they are not able to provide the full range of services across all lots.

Breaking potentially very large contracts into smaller, more manageable contracts is a key method of reducing barriers to entry especially for smaller organisations. We manage the risks of increased contract management overheads with this approach by managing contracts effectively and constantly reviewing transaction costs. Public Health has a small commissioning team of 3 people with responsibility for managing the commissioning budget.

Voluntary and Community Sector – we recognise the contribution and benefits that value that the VCS bring to the people of Kent. The VCS have a key role to play both as direct providers of public health services and also in supporting vulnerable people to help them live longer with better quality of life.

We seek to engage with VCS as well as other potential providers throughout the commissioning process and seek to avoid imposing unnecessary requirements which might discourage VCS providers from bidding for contracts. We do consistently apply the same standards of robust contract management to VCS providers as to those from the private or public sector to ensure best value for money whoever the provider happens to be.

Social Value Act and Social Benefits – we believe that a key mechanism for discharging our responsibilities under the Social Value Act will be the needs assessment and service planning/design stages of the commissioning cycle. Giving consideration at this stage to any social or environmental factors will ensure that the relevant policy outcomes are incorporated into the specification and implementation of the service.

We are keen to further explore the potential for using the commissioning and procurement processes to deliver wider public health benefits. This will include promotion of the Six Ways to Wellbeing programme and workplace health initiatives.

4. Commissioning Skills & Standards

Public Health has a good range of commissioning and contract management skills with experience of NHS and local authority commissioning. Public Health have demonstrated effective commissioning practice and contract management over the course of 2013/14 and will be working with FSC colleagues and the Institute of Public Care to embed the Commissioning Operating Framework across the full range of public health programmes.

5. Contact Details

Karen Sharp, Head of Public Health Commissioning
Public Health, Sessions House, 0300 333 6497

External Witness Biography – 4th February 2014

KCA

KCA is a registered charity that provides specialist care to those affected by drugs, alcohol and mental health issues across London and south east England.

Since it was established in 1975, KCA has continued to grow and now provides services across London and south east England.

KCA has substantial experience of delivering high-quality substance misuse services for adults and young people and providing evidence based and holistic treatments for those with mild to severe mental health services.

KCA services include:

- Adult Substance Misuse Services
- Young Persons' Services
- Mental Health Services

KCA aims to work with communities and families to help people unlock solutions to their difficulties, by ensuring that treatment is tailored to individual need.

In the last year, KCA has engaged with nearly 50,000 adults and young people across all services.

Attending the Select Committee today are Ryan Campbell, Chief Executive and Karen Tyrell, Director, Development and Marketing

This page is intentionally left blank

Background paper

1. Overview of KCA experience

We welcome KCC's intention to continually review and scrutinise commissioning; it is often seen as a mechanism of government that does not in itself merit much attention, which has led to a situation where benchmarks, frameworks and in fact much intelligence and useful data about commissioning itself is almost impossible to find. This is not a Kent issue, but is a serious national issue. We have no particular specific issue with KCC's procurement and commissioning practice. In our experience the quality and processes of procurement are standard and competent.

2. The cost/benefit of commissioning

There is no available data on the cost of commissioning, or a standard way of measuring either cost or benefit. This means that commissioning costs are not quantified in terms of value for money or impact on the resulting service, and it is impossible to gain anything more than an impression about whether or not Kent performs well or badly compared to other areas. Kent is following a necessary policy of achieving savings through procurement; it seems to us that understanding the costs of a commissioning exercise against the intended benefits (financial and otherwise) would be useful to target and control this policy. This would need to be done across more than one other area.

As providers we are acutely aware of the cost to us of commissioning. Around a third of our existing business is retendered every year, and retaining it is a difficult and specialist job. Therefore several specialist job roles at senior level, and much of our senior-level time, is devoted to tendering. Any provider is more likely to lose a contract on retendering than to retain it, and the average 'hit rate' for winning a new contract bid is between 20-40%, which is standard in the sector. This means that most of this expenditure is unproductive and is loaded into the cost of the successful bids. When the costs to commissioners of evaluating 10-15 unsuccessful tenders per exercise are added, this makes commissioning a service, which might already be performing very highly, a significant drain on public funds. We don't think there is a single satisfactory 'answer' to this; longer contract terms, more streamlined processes etc. may work in some instances but be detrimental in others. We would like to see a more 'intelligent' approach where tendering costs, are tailored against anticipated benefit.

3. Market confidence

We are a voluntary sector provider. Nobody directly benefits financially if we grow or contract in turnover, we do not seek or make profit, and our stated ethos is about helping people and communities, not about winning business, although we are

comfortable with the latter where it is the route to the former. The current preponderance of competitive tendering, and an emphasis on transformation and change, is difficult to manage within our ethos.

Because contracts do tend to change hands every 3-6 years, it is hard to engender loyalty amongst frontline staff, who are likely to be TUPEd to someone else at some point however well or poorly they perform. Senior staff have to repeatedly win new contracts to replace likely losses in order to keep their jobs. This fast-moving storm of contract turnover includes tangible elements of antipathy and fear, affecting the aspirational desire to 'do good' which is one of the traditional strengths of the voluntary sector. It also stops organisations sharing information and best practice, as those who might benefit are usually business rivals. Some consideration of protection for good performance, and provision for positive bonuses and incentives, might help create a more aspirational and productive market.

4. Consideration of alternative models

Whilst we are not experts in European commissioning regulations, we believe there are alternative models of commissioning which may be worth exploring. In particular, procurement processes rarely involve communities or require engagement and dialogue between stakeholders in co-design. One model, which has been trialled in some areas, is for the process to choose a provider which has the best fit with the requirements, rather than choosing the best proposed service. The service is then specified post-award in partnership with the provider. This would allow commissioners to properly test a model, rather than trust what has been written in a tender.

Other options may include standardising information required at Pre-Qualification Questionnaire stage, which would reduce workload for organisations such as KCA and would provide comparable information across procurement teams and services.

We are not aware of any research which evaluates the quality of a tender submission with the resulting performance of an awarded contract. If commissioners were able to undertake site visits and inspections, and have more dialogue with prospective suppliers, instead of relying on scoring a paper submission and 45 minute presentation, this may give added reassurance and better risk management.

We have never understood why price is part of the award criteria for Part B services. The budget available is clearly defined and approved. Building an incentive into the procurement process to make further savings seems to remove a tool by which commissioners can pursue best value from the resource available to them. We are not clear how the resulting savings are allocated – do they sometimes end up funding something which may be of less priority?

Drug, alcohol and mental health services

Registered office: Dan House 44 East Street Faversham Kent ME13 8AT T: 01795 590635 www.kca.org.uk

KCA is the trading name of KCA (UK), a company limited by guarantee. Registered in England No. 152497; Charity No. 292824

5. Co-ordination of commissioning

KCA is currently preparing to write six tenders to defend existing contracts, all on the same four-week timescale. We will not be tendering for anything else in this period as we do not have any further capacity. If commissioners were able to better understand activity trends across the whole marketplace, rather than just within their own area of benefit, then bottlenecks could be avoided. This would result in better quality and more considered tenders, and better access to the wider marketplace for commissioners. Longer timescales for writing tenders, perhaps three months instead of one month for example, would make it easier for prospective providers to plan around the bottlenecks where they do occur. We also see trends of tenders which need to be written during August or in the run up to / over Christmas, as commissioners often want to get their specifications out in advance in order to hit the financial year or to allow summer holidays.

Ryan Campbell
Chief Executive

This page is intentionally left blank

External Witness Biography – 4th February 2014

CXK

CXK Ltd is a charitable organisation delivering a range of services across Kent to support young people and families to maximise their potential. In particular by providing them with advice, guidance, skills and the confidence that will help them to progress into education, employment and training. Services include:

- careers guidance, advice and work related learning for vulnerable young people and adults (including the National Careers Service);
- mental health & wellbeing services (Young Healthy Minds);
- Leadership & Development programmes for young people including the National Citizen Service and the Prince's Trust team programme;
- Management of youth centres and a mobile youth service (Community Activity teams);
- Training Programmes for those not in employment, education and training (European Social Fund);
- Accredited training for adults and professionals working with young people
- Parenting programmes and family workshops

As a charity, any surplus is reinvested into developing new and innovative projects for the benefit of clients.

CXK is a member of Reachfor, which is a new joint venture of eight regional social enterprises delivering services to young people and adults. Its purpose is to work together to deliver high quality services to support young people and adults (particularly those who are vulnerable) through key transitions in their lives, in particular to achieve positive destinations in employment, education and/or training.

Attending the Select Committee today are Sean Kearns, Chief Executive and Stephen Bell, Director of Business Development.

This page is intentionally left blank

CXK's Response to Select Committee - Terms of Reference and Scope

- a) To determine what KCC needs to do 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).**

KCC need to keep frameworks more open to accommodate new and emerging VCS organisations and at the least have an annual framework intake or review as this will take account of organisations that no longer exist.

TUPE considerations when commissioning out a service and the impact of LGPS pensions and the need for new contract holder having to take out bonds to provide indemnity to risk exposure and that this is required as an up front payment.

The quality of specifications is poor, they very often specify outcomes but measure the contract in outputs rather than outcomes which restricts provider's ability to drive innovation and develop new more efficient ways of working.

Commissioning Teams need to recognise that VCS organisations need to be able to create small surpluses in order to grow and still be able to meet their reserves policy and remain sustainable.

- b) to consider if the authority is using its commissioning processes to ensure it meets its duties under the Social Value Act**

there is a general lack of respect for service users and minimal engagement if any in the commissioning process, when consultations take place with the public and service users there is a lack of transparency, e.g. Youth Service consultation outcome of which seemed to have been ignored in the commissioning outcome. The consultation outcome on children's centres bears no relation to the plan designed by KCC which begs the question on why consult if you are going to ignore the results or there is no real chance of influencing the plan for commissioning.

KCC disinvested in User participation in 2010 which is now having a significant impact on the openness and transparency of decisions, there is also a distinct lack of engagement with the VCS to the extent that the only county wide infrastructure body representing the sector is to close at the end of January!

- c) to examine how, in becoming a commissioning authority the voluntary, community and social enterprise sector (VCSE) can play a more important role in the provision of KCC services**

The lack of engagement or providing dynamic purchasing opportunities to the VCS restricts the opportunity for innovation, and the removal of the community chest has had significant impact on smaller charities that carry out crucial support services to the most vulnerable people in Kent.

There is an issue with the need for KCC commissioners to understand and support market development of the VCS, this should include supporting VCS advisory organisations to be an impartial interface with the sector, this will require commissioners to not allow infrastructure bodies to become providers which compromises their impartiality and independence e.g. VAWK, Young Kent.

- d) **to make recommendations around the role of KCC as a commissioning authority and the programme of activity through Facing the Challenge that will move the authority to have a commissioning focus and improve how we do commissioning.**

In order to become a commissioning authority KCC must apply fairly the commissioning process, currently KCC are pulling services back in house which is contradictory to this policy and lack transparency.

Length of contracts needs where possible to be extended and budgets secured for the duration of the contract to minimise contract variations and reductions and costly contract variations at short notice.

Commissioners should take into account the opportunity to broker supply chain discounts by using their buying power and offering these discounts to their supply chain partners thus freeing up valuable resource to direct to delivery activities.

Improve the understanding of commissioning by senior and middle managers, as well as the relationship between commissioning and procurement i.e. procurement is a process within commissioning not the other way round.

Scope - The issues to be explored are

- a) **The strategic context and our role as a commissioning organisation** – this needs to be reflected in culture and behaviour, involving and allowing delivery partners and service users to contribute to the design and development of specifications of services.
- b) **The costs of entry into KCC commissioning and procurement exercises, and if these costs present a significant barrier to new providers** – this must be proportional to the contract value and tenure including TUPE, surplus, mobilisation costs.
- c) **How any barriers to entry for new providers might be mitigated or removed** – open framework to new entrants each year, allow for consortium and collaborative bids to take part in the tendering process.
- d) **The extent to which KCC decommissions and re-commissions services based on provider performance** – this is a very weak area in the KCC commissioning team there is a distinct lack of communication with providers in this area, PM systems change many times in the duration of a contract without negotiation or consideration of cost of these changes. Performance and contract management benchmarks and timescales need to be by negotiation and reflect outcomes rather than just outputs. A clearer and more robust impartial dispute resolution process needs to be in place to ensure openness transparency and fairness in the commissioning cycle.

- e) **How KCC can best discharge its responsibilities through the Social Value Act**
- Openness and transparency with active participation of stakeholders and service users that is heard and acted on.

The development of a supply chain culture more akin to John Lewis or Waitrose rather than Wal Mart or Tesco's, develop longer term relationships with providers that have the ability to prove outcomes that only long term tenure allows.

- f) **The type of social benefits that should be sought through commissioning /procurement practices (e.g. apprenticeships)** - The integration and seamless pathways between services and transition points should be considered rather than commission in silos also greater consideration of the added value additional complimentary services can bring to achieving outcomes.

The use of supply chain specification or incentives to support wider strategies like youth employment, Disability employment and social enterprise suppliers that enhances the impact of spending public funds.

- g) **The extent that social value requirements be sought throughout the KCC supply chain** - I believe that there is an opportunity to embed a change in culture and behaviour through including social value principals in all tiers of the supply chain, which includes the purchaser as well as the provider thus promoting a outcomes commissioning cycle.

This page is intentionally left blank