



AGENDA

SELECT COMMITTEE - COMMISSIONING

Monday, 14th April, 2014, at 10.00 am

Ask for: Denise Fitch

**Medway 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. Minutes:

- a) 14 January 2014 (Pages 3 - 8)
- b) 21 January 2014 (Pages 9 - 20)
- c) 22 January 2014 (Pages 21 - 32)
- d) 29 January 2014 (Pages 33 - 46)
- e) 30 January 2014 (Pages 47 - 64)
- f) 3 February 2014 (Pages 65 - 80)
- g) 4 February 2014 (Pages 81 - 94)
- h) 6 February 2014 (Pages 95 - 104)
- i) 7 February 2014 (Pages 105 - 110)

2. "Better Outcomes, Changing Lives, Adding Social Value" - Final draft of the Select Committee report for approval (Pages 111 - 202)

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, 4 April 2014

KENT COUNTY COUNCIL

SELECT COMMITTEE - COMMISSIONING

MINUTES of a meeting of the Select Committee - Commissioning held at Swale 1, Sessions House, County Hall, Maidstone on Tuesday, 14 January 2014.

PRESENT: 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

PRESENT AS A WITNESS: Mrs J Doherty

IN ATTENDANCE: Ms D Fitch (Democratic Services Manager (Council)) and Ms J Sage (Assisting Research & Business Intelligence)

UNRESTRICTED ITEMS

3. Minutes of the meeting held on 16 December 2013
(Item. 2)

RESOLVED that the minutes of the meeting held on 16 December 2013 were agreed and signed by the Chairman as a correct record.

4. 2.00pm - Informal discussion of Background Research - Briefing notes and research papers
(Item. 3)

The Committee discussed aspects of the briefing note and research papers that had been circulated at the meeting of the Committee on 16 January 2013. There was a specific discussion around "Social Value" and its application.

5. 2.45pm - Judy Doherty, Business Transformation and Programme Manager, Customer and Communities
(Item. 4)

1) The Chairman welcomed Judy Doherty to the meeting and invited her to outline to the Committee her role in KCC and to answer questions from Members of the Committee.

(2) Judy explained that she worked in the Customer and Communities Directorate; her line manager is David Weiss (Head of Business Transformation and Programmes, who reported to Angela Slaven) and that her areas of responsibility covered a number of factors related to the County Council's relationship with the voluntary sector and the social enterprise sector, for example, working with commissioners to help build understanding of the current operational environment for the voluntary sector and to advise on engagement with the sector.. The team also works with colleagues in Business Strategy on developing a new relationship with the Voluntary Sector.. The aim was to enable the voluntary and community sector organisations to operate within a commissioning environment, in which there is greater use of contracting and less emphasis on grant funding.. Judy works with the Kent Community Foundation who also administer, on behalf of

KCC, the Big Society Fund, which helps new and existing social enterprises access loan finance on bespoke terms which are designed for them.

(3) Judy referred to the launch of the Volunteering Charter which was part of the Olympic and Paralympic legacy work and which is a statement of KCC's commitment to supporting volunteering.

(4) Judy stated that she worked directly with the voluntary sector in relation to Kent's Partners Compact, which is Kent's relationship agreement with the sector (Compact is a national agreement). The Compact for example covers the way that KCC and other statutory bodies enter into funding agreements and a code of practice on volunteering. She stated that every local authority in the country receives annual Freedom of Information requests from Compact Voice regarding their Compact and any changes in funding arrangements. Compact Voice publishes a report annually.

Question – Are you able to explain your role in relation to the issues to be explored by the Select Committee as set out in a) to g) of the agreed Committee themes?

(5) Judy explained that she did not directly commission work herself, part of her role was to work with commissioners to help them to understand the pressures on the voluntary sector, and to help the sector build its understanding of commissioning processes including needs assessment and outcome focused delivery. Commissioners regularly consult with providers regarding the impact on them and to take into account the feedback.

Question – One of the main problems is the question of barriers especially for smaller organisations, do you have a view on that?

(6) Judy stated that the major policy issues for the voluntary sector were the dual problem of being able to secure capacity for forward planning and financial stability in a changing funding environment. There is also a sense that the voluntary sector is in a new contractual and funding environment which has the potential to compromise the 'independent' lobbying voice of the sector.

(7) Judy stated that the typology developed by NCVO describes different types of voluntary sector organisations. Some were described as service providers, and this segment overall had seen growth as a result of government contracts, of which local government was a part. In the last financial year after a period of growth, they had seen a plateau and some dip in income and assets. Some reports say that the sector is healthy because there is still growth in this segment, but it is difficult to get reliable data about the majority of the community and voluntary sector. A large number of these VCS organisations have an income of less than £5k and are therefore not registered with the Charity Commission. These include groups such as Parent Teacher Associations, who fund raise and spend, but this segment includes groups which are very local and are set up to deliver specific services in relation to a perceived need in the community. These often struggle to be financially viable and may only have one member of staff or be run entirely by volunteers. They have limited ability to plan growth or the capacity to do this. Judy drew attention to the vulnerability in that part of the sector.

Question – how can KCC help?

(8) Judy explained that KCC worked hard to help the voluntary and community sector to improve their offer and there also was a lot of sector-led transformation. Recently the Cabinet Office had invested in this with its “Transforming Local Infrastructure Fund”. Nationally this has been used to bring about mergers and collaboration and to develop more on-line support for voluntary organisations. This has not necessarily produced wholesale transformation but has made steps towards it. There was a need to think nationally about rebuilding strategic partnerships. This was an area where the local authority could help but it was a question of what was the most helpful way to do it. KCC, as a commissioner is required to give consideration to social value but KCC had a duty to spend money well.

Question – There are a number of voluntary sector bodies which deliver services in a locality, there was an aspect of a prime contractor i.e. a body which drew in smaller providers to make a contract with KCC. This was the idea of the Kent and Medway Care Service, which brought together voluntary and provide providers, what is your view on this model?

(9) Judy stated that this model was encouraged i.e. to bring together a consortium of organisations to bid. One version of this model was to have a prime contractor wins the bid and sub-contracts to other bodies. There are examples of this with Department of Work and Pensions contracts. One criticism of this model is that the smaller voluntary organisations sometimes find that the risk is passed down to them. Another version of this model is where there is a consortium which is wholly voluntary sector-led or a mixture, who have worked together in the providers field for some time and who come together to use their expertise to bid. They work out amongst themselves how to finance the work etc. There is an example of this in Kent in Domestic Violence services. Generally consortiums had not taken off in a big way in Kent. Also in relation to Social Care, the use of personal budgets means that service users themselves have purchasing power.

Questions – In your view are we being a bit unfair to the smaller organisations by having short term contracts as they are not able to plan or be geared up. If there were longer term contracts maybe they would be in a better position to bid?

(10) Judy stated that the Compact encourages 3-year funding arrangements.. Annual funding was an issue as it is always up of renewal.

Question – have any of the organisations that you are aware of come back and asked for a 5 year contract?

(11) Judy stated that no organisations had come to her about this.

Question – On page 7 of the papers paragraph 1.3.4 states that micro organisations account for half of all voluntary organisations in the UK but for only 6% of the total sectors income, does this mean that a lot of voluntary organisations in Kent are run on a shoe string?

(12) Judy explained that within the micro organisations group some were like Parent Teacher Associations which raise money to spend and only spend if they

have the funds. Others, approximately 60% to 75% of voluntary organisations, receive no statutory funding and are dependant on fundraising.

Question – When you go out to tender could foreign firms bid?

(13) Judy replied that she was not an expert on procurement law but that she was not aware of the voluntary/community sector outside of the UK tendering for contracts in Kent.

Questions – Are voluntary bodies delivering the advice and support that we need as an organisation? How can we engage smaller groups and enable them to engage with us? How do you think we adapt out processes to accommodate voluntary groups that we want to work with?

(14) Judy stated that there were two major issues, firstly how can we retain a unique sector that is valued and secondly how can we operate in a changing financial environment. There was no doubt that the commissioners in KCC had an interest in business development that the sector infrastructure bodies can offer, but this is not to say that KCC can be a main contributor and shape demand. Judy emphasised that the users also shaped demand not KCC alone. National and local infrastructure bodies helped voluntary sector organisations to help their community; they give the voluntary sector a lot of advice on how to engage. There is little available for commissioners to help them understand the issues of voluntary sector organisations of different sizes. The Compact can assist and involves the engagement with different sizes of voluntary organisations.

Question – In relation to question 1 on page 13 of the papers (What mechanisms and incentives would prevent contracting authorities from asking unnecessary and burdensome questions during the procurement process?) What is the attitude in Kent?

(15) Judy explained that the report of the Independence Panel expressed concerns that the environment was becoming more competitive. Whilst there is evidence of an element of competition in the sector there is also a lot of evidence of mutuality and working together, they are beginning to explore coming together as consortiums.

Question – I am concerned that larger private companies have already got an interest in place and do not welcome voluntary groups and SME's. These larger companies can use their size and expertise to marginalise those other groups, what as a Council are we doing to ensure that the voluntary groups and SME's are not marginalised?

(16) Judy stated that this was really a question for Procurement colleagues, they would be able to tell the Committee what the limits were and where there was room for manoeuvre.

Question – Do you have a wish list? Are there processes that you come across that you wish you could improve in order to move the whole process forward? Are there some things that you would like to see driven in a different way?

(17) Judy referred to volunteers; she would like to see the use of volunteers by organisations being considered as part of social value considerations.. Also what is positive about commissioning is that it has the potential to unlock innovation, it opens government funding to new organisation that are innovative.

(18) Judy stated that she was particularly concerned about how to manage the transition from grant dependency to new funding arrangements and the way that funding changes are impacting on organisations. We could say all is well as there is growth in the voluntary sector, but the growth is predominately through government contracting which is leading to funding difficulties for some organisations. Commissioning colleagues are aware of this. It is important to find a way to pursue changes which can improve services but there is a need to recognise the transition issues.

Question – Commissioning of Youth Services, how was that managed, Speaking of my experience of one District, social value was identified in the Consortium, there were organisations who were struggling to support one youth worker, when they came together and agreed to form a consortium, local interest and knowledge made it happen. Social value from this was 10 times greater than anticipated. However in other areas this does not appear to have been the case. Is local better than global? It is necessary to accept that there are differences across Kent, how can we manage those differences?

(19) Judy stated that her colleagues Nigel Baker and Andy Jones, whom the Committee would be seeing, would be able to describe the way that the Youth Service Commissioning had been carried out. There was a dynamic purchasing framework used and this had helped to ensure that local needs were addressed. The outcome was a high proportion of smaller voluntary sector organisations were able to win contracts. There have been other examples of this such as the Schools meal contracts which have a local element.

Question – What insights are there to be gained from the commissioning of Community and Youth Services? Also in Kent local authorities and the voluntary sector are going down big contract and sub contractor route, are there any compacts?

(20) Judy explained that the Kent Partners' Compact was unusual in that there was a single overarching agreement for Kent which had been signed up to by all of the statutory organisations and the voluntary sector. Some compacts in the Country are looking to bring the private sector to the table. She stated it was important to ensure that the Compacts conditions were reflected in sub contracts.

Question – What mechanisms are in place to rectify problems with the Youth Service contract in certain areas?

(21) Pippa stated that this was something that the Committee could ask Nigel Baker when he meeting with the Committee. Also the question of having the right specifications and performance management were issues that the Committee could raise with Karen Sharp, Head of Commissioning – Public Health and Henry Swan, Head of Procurement.

Question – It is important to hear from service users. There are a proliferation of voluntary organisations and quasi voluntary organisations which were previously grant added but we may look to commission services from. Is commissioning services from the voluntary sector efficient, does it cost a lot to do this?

(22) Judy stated that there were cost in relation to procurement and commissioning. Voluntary organisations were geared up to the needs of service users. There was the issue of whether smaller organisations, three quarters of which had no statutory funding could resource bidding and tendering or if they are literally a band of local volunteers working for the common good in their community.

(23) Judy alerted the Committee to the data and information that was available on <https://www.bigsocietyweb.com/>. On the home page there was a link to the [Kent data tool](#) which contained data extrapolated from the national data. It was possible to drill down by District which would give Members data (excluding micro organisations) on the registered charities in the area including their income, number of employees, what they spend in Kent, their assets and what kind of services they offer.

Question - I hope that we look at all options, in some areas it is cheaper for the Council to employ directly than to go through the process of tendering contracts every 3 years. There is a risk that if relation to volunteers who work for free e.g. litter picking, if you put structures around them and pay them then there is a risk that you will loose them as it goes against the reason why they are doing it. What are you views?

(24) Judy replied that there was a fine line around what constitutes an organisation or a group of individuals who don't regard themselves as an organisation but individually care about and are active in their area.

(25) The Chairman thanked Judy her work to support the Select Committee and for answering questions from Members

KENT COUNTY COUNCIL

SELECT COMMITTEE - COMMISSIONING

MINUTES of a meeting of the Select Committee - Commissioning held at Wantsum Room, Sessions House, County Hall, Maidstone on Tuesday, 21 January 2014.

PRESENT: Mr M J Angell (Chairman), 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

IN ATTENDANCE: Mrs P Cracknell (Research Officer Scrutiny & Evaluation, Business Intelligence), Ms D Fitch (Democratic Services Manager (Council)), Mrs A Taylor (Scrutiny Officer) and Ms J Sage (Assisting Research & Business Intelligence)

UNRESTRICTED ITEMS

6. 10.00 am - John Burr, Principal Director of Transformation (KCC) (Item. 3)

1. Mr Burr explained that the Council was mid way through phase 1 of the transformation process. 12 areas of service were being investigated through engagement with the market to determine whether there were alternative ways of delivering services. Some areas of Kent County Council were more forward thinking than other areas and the Council was in the process of determining outline options, one of which would be to leave the service as it is. The options would then be submitted to the transformation group who would select their preferred option and a detailed business case would be worked up, to include costs and risks and this would then be reviewed by the Transformation Board (a cross party group) and then reviewed by the Transformation Advisory Group (which, it was noted, was not a formal decision making body. The option would then proceed through the formal governance processes of the Council. No decisions or recommendations had been proposed yet, there was always an option to keep and expand services by raising revenue.
2. Phase 2 would begin with a provisional list of services to review for the next financial year. The focus was on doing things better and once the top tier had been realigned the directorates would be moved into the right areas then the work would begin on looking for further efficiencies over the next 12-18months. Most savings from working in different ways – need 20 -30%
3. Being a Commissioning authority meant having an educated client with top level awareness of what the authority was aiming to achieve and the ability to specify it to someone who would be able to deliver it. KCC not always clear – need to be clear to provider, and good specification, may be in house KCC provider or external provider, but depend on service. The Corporate Programme Office had a role in monitoring and ensuring delivery of projects and make sure save and do what we say we are going to.
4. In response to a question around the 12 areas or 300 services to be reviewed Mr Burr explained that the 12 areas were business which had put themselves forward for market engagement, libraries and HR for example. The 300

services were teams within the County Council, the suggestion would be to continue with larger but fewer teams as they are developed and streamlined as part of the transformation.

5. In response to a question about the areas in which KCC was doing well at Mr Burr explained that KCC's legal services team was very forward thinking, generated external revenue and was very highly regarded nationally. Property Services was another area which was doing very well with a forward thinking business model and potential to run as a business arms length in year or so time. Areas which were more challenged were business behaviours and finance - this included Kent Scientific Services, which did not currently make a profit (base trade figures from finance but not account for costs as a private sector would – with salary multiplier of 1.7 – 2% compared to KCC 2.4%). If externalise officers are on protected salary and pension. KCC costs are higher than first think – no commercial understanding. Need to understand true cost.
6. A Member asked about the role of the voluntary sector, Mr Burr explained that most voluntary companies are not for profit but still have costs, but may not need 3-4% return. Many were run with volunteers e.g. ramblers phone in issues, voluntary bus drivers/trips to hospital, which are both very successful but if the service was needed from 7.30am – 6.30pm this became a job and there was a need for pay. Very few organisations were prepared to undertake scheduled regular work without being paid.
7. In relation to procurement practices it had been difficult to find, for large areas, organisations to tender for or meet obligations that KCC set. For example Highways - wanted to award contract to/with SMEs but they didn't work/want to work together and wanted 20 – 30 contracts, so went to one main supplier who subcontracts. Have tried to underwrite risk as many voluntary organisations don't carry indemnity insurance and did not have high public liability insurance. KCC had to determine whether it was prepared to underwrite some of the risk involved for voluntary organisations. To make it easier for the voluntary sector to engage, but they also have to compete in like for like basis.
8. The Chairman asked for suggestions of how the procurement practices could be improved and requested some written advice to be provided to the Select Committee on this issue.
9. A Member commented that for a number of years KCC had been focussing on outsourcing which was concerning due to the lack of flexibility and lack of exit strategy. It was now a commissioning authority but there were concerns about whether this was a one way direction of travel or a cycle. Was the Council factoring in future proofing? Mr Burr confirmed that there was no agenda to outsource for the sake of it, the focus was on how teams could be more efficient, and there were no plans to outsource problems as a provider would then take profit in this. Needed to get better then decide if there was a more appropriate way of doing something – in house/or outsourced. Regarding the risk aspect there was a need to have some commercial understanding and the ability to write good contracts (write good price yr 1 and for subsequent years, deductions, progression of KPI difficulty). In relation to contracts there may be ways of obtaining cheaper contracts but if it didn't work for KCC it would not be feasible, there was often a difference between what the public wanted and what the public needed. It was necessary to have this commercial contract insight

but it could result in political conflict. Need to balance KPIs and need to fix e.g if KPI objective 99.5% street lights on and contract for 5 yrs and one goes at 99.6% won't fix it.

Need to build flexible contracts, work out what is controllable overhead, what is fixed overhead – (one objective was to ensure salary multiplier doesn't increase). Kent multiplier was often higher than providers.

10. In response to a question about whether the Council had considered franchising outside of the Kent boundary Mr Burr confirmed that property was one area which would operate outside the county boundary, Norfolk had a very successful property business.
11. Concerns were raised regarding the transformation project and the related insecurity, fear, risk aversion and delays, had the project been humanised? Mr Burr explained that he worked closely with the Corporate Director of Human Resources, a range of programmes had been utilised to engage staff, caution was advised and it was considered important to create a need for change, there was a need for a balance. The theme of the transformation project was to be straight talking, open and honest.
12. Members considered that the culture within KCC led officers to be accepting of small failures as long as they were not critical, this empowered officers and members to take risks and needed enforcing.
13. In response to a question about the continued involvement of Members, Mr Burr confirmed that this was a definite; success would be measured by the satisfaction levels of members and customers. Possibility of Scrutiny/advisory group was raised. There was a commitment to involve members as much as possible. Wanted to bring ideas in more structured way.
14. Mr Burr confirmed that it was no longer possible to specify subcontractors or products to be used by companies, but it was possible to encourage a supply chain that when need to top up ask to use SMEs. The Council wanted companies that listened and add key points to bid docs, show willing regarding social value and encourage supply chain and can then contract for this. Council need companies with ideas and challenge, there was a need for more experience to promote varied ideas and practices. The role of the procurement team within KCC was to get the best deal for KCC. The Commissioning role would be to determine which services was required, what level of risk the Council was prepared to accept and then determine whether the supplier should be internal or external.
15. A Member asked how it was possible to have control over an outsourced service which was not providing the expected service. Mr Burr explained that it was necessary to have the right client officers, knowledge and culture, this was not currently the case all across KCC, and there were inconsistencies in contract management. It was necessary to buy from the right company – needed to be robust and be happy to be judged by success. Have to be judged as service is judged not just contractually – need the company with mindset to share risk. It was possible to write information into contracts - outcomes, number of apprentices, value added etc and contract incentives: with penalties for not meeting targets. In the newer contracts there was no automatic right for

a contract extension, it was possible for companies to meet their objectives but for the Council to be dissatisfied with their work. It was vital to build in flexibility around perception and reputation – so included a contract clause to deal with this as protection, but it was hoped that this would not be used. Mr Burr was able to terminate contracts at any point if the need arose - without a contractual reason.

7. 11.00am - Mark Lobban, Director of Strategic Commissioning (KCC)
(Item. 4)

Mr Mark Lobban – Director of Strategic Commissioning was in attendance for this hearing.

1. Mr Lobban explained his role to the Committee, he was responsible for strategic commissioning across Families and Social Care (Adults and Children), he also lead on Adult Social Care Transformation and managed the day to day relationship with Newton Europe (efficiency partner). 4 teams – safeguarding, performance, accommodation solutions, and community support. Approx. 90 Commissioners in team.
2. In May 2012 the County Council approved a blue print for adult social care transformation. There was a need to manage demand and ensure that people were not inappropriately pulled into adult social care.
3. Relationships with providers are transactional. If receive £5m – 10k we treat them the same, no difference, limited strategic relationships – which does not make commercial sense.
4. Adults were 1/3 of non school budget so would have to significantly contribute to the Council's budget deficit – recent analysis shows can do a lot around efficiencies and work smarter/differently. Need to manage demand and not keep people in adult social care when they do not need to be – so key role to look at how prevent need for someone coming in /staying in, so key to work with vol sector to ensure right services for this – (which do not have at the moment).
5. Clear need to look at what should happen and importantly what actually happens on the ground – big difference. Need to remove silo working – need flexibility to work, but also need to move at pace and deliver consistency and same standards (thanet/west kent)
6. 3 roles for Mr Lobban = Director of commissioning, role for transformation, integration (internally joined up and with partners (District, Boroughs and NHS)).
7. Transformation important to commissioning - 3 key areas within Adult Social Care
 - optimisation, making best use of staff and resources
 - care pathways, to ensure people get the right service at the right time
 - commissioning- services we buy (at the right cost)

There was a need to focus on all three and recognise the links.

e.g could commission the best enablement service, but if the hospital was under pressure, a person who could benefit from enablement could go

straight to residential care which is not the right outcome for the individual and a greater cost to KCC.

8. One of the initial tasks for the ASC service was to carry out an audit of the projects underway, there were 150 projects running simultaneously and officers were struggling with prioritisation and sequencing (if all 150 are a priority then nothing is).
9. Integration meant joined up services around an individual - irrespective of who was providing the service. Invest to save – but need to focus on the 3 areas (optimisation, care pathway, commission), otherwise it was like pouring water into a leaking bucket – so get Optimisation **then** think about investment.
10. Adult social care programme being approached in 3 phases. Wave 1. The service has been working on making the best use of existing resources and matching staff to demand. e.g. utilization of enablement service was only 40% - so need to match staff/demand, either prevent going into hospital or on coming out. What didn't show/measure previously was no of failed visits - where someone not come out of hospital yet and worker been deployed. Another example - the business process was being redesigned, and waiting times had been improved for contact with social services (in dover had been 28 days to see someone and now was only 5days. Approach has been largely transactional. 140 providers – spend 75% with 20 providers. The remaining 25% of the spend with 120 providers, gives issues re safeguarding as difficult to communicate with so many providers. If paying £5m want value for money – what else are we getting? Up till now no conversations along these lines as transactional - Wave 1 was about making best use of existing resources and determining where the service could work differently with providers. The market was consolidating without KCC's intervention, (e.g. company taking over another with £1m contract – expect some benefits to this). Some of the residential care contracts were 12 years old and it was a priority to work with providers to re-let residential care contracts.
11. Wave 2 focussed on considering increasing the breadth of the services and Wave 3 focussed on integrating the service with the NHS. At end of each wave there were two things to ask 1. Had we made it better? 2. Had we made savings?
12. Wave 2 design was about increasing breadth of services. Domiciliary care had been time and task – (someone gets ½ hour in morning ½ hour at night/times not suitable/call cramming/no travel time).. The Care Bill says cant do this anymore and so it was essential to move to an outcome focussed homecare system. How did we do this with 140 providers? Older people/clients are not choosing their provider it is social workers. An exercise was undertaken to map workers, their visits and travel. This showed criss-crossing of workers enroute to their clients, large travel times/distances – showed clear need to look at volumes of work and services in area, rather than provider led, so can improve service and flexibility for clients and make timings and travel more efficient for workers. Extra Care Housing has dedicated team on site providing support as and when needed, so client sometimes may need more or less support- is a good model but don't provide this in community. Need to think about dedicated community team for Domiciliary care area.
Then can start to think about what else could we ask them to do ...telecare etc. if move away from more traditional service to more outcome focussed.

13. There were barriers between service provision and there was a need to remove those barriers. 90% of social care services was currently outsourced, and there was a barrier between KCC's social workers and the providers/care staff – with providers often saying that they couldn't get hold of social services. Much of professional staff time was spent on paperwork, data entry attending meetings etc rather than on core business (face to face with service users). (80-20%). It was necessary to reduce bureaucracy to allow Social Workers to spend more time out in the community – how integrate provision of social services with providers – consider putting staff out there. Incentivise how they would work with the VCS/subcontractors. Very exciting link to wave 3.
14. Wave 3 – NHS has clear commissioner provider split. KCC had a mix. KCC fragmented service, NHS big providers. If KCC can create a firm foundation of consolidated service – becomes attractive to NHS as potential to integrate in community. The Chairman asked how the culture of the NHS was managed, Mr Lobban explained that this was improving, there was a need to focus on the sustainability of social care and the Council was committed to improving outcomes and saving money. The council had a statutory responsibility to provide care for older people. Can only cut non statutory services e.g. voluntary sector, enablement, which were the services we needed to be investing in if we were to be successful in managing demand and making the required savings.
15. Members raised concerns about receiving value for money, a mixed economy was considered to be most efficient with flexibility and leverage. With regard to the integration with the health service was support but Members considered there were uncertainties about the NHS's readiness and commitment and as there were problems in the NHS adult mental health services, and this then provided a reputational risk to KCC. There was a brief discussion around CAMHS, this was being discussed at the HOSC meeting on 31 January 2014.
16. The proportion of investment was a factor i.e. joint health and social care responsibility but NHS invest 14m and KCC 1m Members suggested real danger not thought through before change.
17. Mr Lobban considered that if the Council was exploring the possibility a joint commissioning team for children's commissioners with the NHS KCC should have a single team for health and social care hosted by KCC. With regard to mental health the NHS spend was significantly more than KCC's spend on social care, which would normally result in the NHS leading however KCC would have to be assured of the risks and confident in the capability of the NHS to lead.
18. Members asked Mr Lobban to give thought to how the Select Committee could help the service to achieve what it needs to achieve.
19. In response to a question around the key challenges Mr Lobban explained that key was approach taken. Eg. contract to re-let the domiciliary care was critical as it was the platform for further transformation, focus not about reducing providers from 140 to less but about moving towards an outcome focussed model of care, giving choice and control to older people, a consequence of which may be less providers. About outcomes not about number of providers.

20. If social care is to be sustainable then we need to integrate with the NHS, it would be necessary to have pooled a joint 'better care fund' of £101m by 2015 for integration of health and social care, and prevent people going into hospital and to allow them to come home as quickly as possible, reporting to the Health and Wellbeing Board. CCGs were also required to set out their 5 year vision and a 2 year detailed plan. Need NHS to plan their waves so are ready at the same time as Kent. E.g KCC needs to say when ready with enablement service to test market; NHS need to get ready with their intermediate service at same time. There were problems around the language used by KCC and the NHS, using 'care pathways' as an example NHS regarded care pathways as disease specific, KCC regards care pathways as ensuring right service at right time.
21. In response to a question around how it was possible to monitor and manage a commissioned service which was not up to scratch. Mr Lobban explained that this was linked to the cost and quality of the service, and whether serious concerns had been raised or any safeguarding alerts. A retendering process was underway for carehomes for older people, and there would be a constant evaluation between price and quality.
22. Barriers – Res care- none, people have a choice of accommodation and could move anywhere providing it was within the resources of the Local Authority, KCC could offer x bed, y bed or z bed. Dom care – had put in place a lotting strategy so big and small companies could bid for different lots/geographically. There was also a private market for care and direct payments– not all provided by KCC/directly funded – needed to ensure these people had right advice, to make an informed choice if own income.

8. 12.00 noon - Henry Swan, Head of Procurement (KCC)
(Item. 5)

1. The Chairman welcomed Henry Swan to the meeting and invited him to give the Committee an outline on how his role supported Kent Businesses and to answer questions from Members of the Committee.
2. Henry stated that as Head of Procurement he was responsible for procurement across the whole of the County Council. He set out the following key aims
 - to save money
 - to manage risk
 - to support Kent businesses
3. Henry explained that half of the money spent externally was with Kent businesses. The majority of this went to: medium sized businesses (32%), small and medium sized businesses (SME's) (22%) and micro businesses (17%). Compared with other counties Kent was doing well.
4. Henry informed the Committee that KCC used to advertise contracts via the South East Business Portal but they had procured a Kent Portal and all tenders over £50k were advertised on it. Suppliers could register on the Portal for a particular category and receive an email alert when a tender for that category was posted on the portal. Kent District Councils, and Kent and Medway Fire and Rescue and Medway Council were also able to advertise via the portal. The cost to KCC of the Portal was £22k. There were currently

5,600 suppliers registered on the Kent Portal, 3,060 were Kent suppliers. He confirmed that Kent had a good supply base.

5. Henry confirmed that his role was to ensure that procurement was carried out legally.
6. Henry explained that for every procurement over £50k there was a procurement plan. The plan gave options for carrying out the procurement, and checklist - set out how Kent businesses would be considered within the tender. The Procurement Board met monthly and the question of how Kent businesses were being considered was always asked by the Leader. Henry stated that sometimes the answer to this was to say if the tender was broken down to smaller contracts it would be more advantageous to Kent businesses.
7. Regarding European procurement rules, there were times when KCC knowingly pushed the boundaries of the rules in cases where it was considered unlikely that there would be a challenge, the level of risk was outweighed by the benefits, KCC will take risks, procurement will advise decision makers on the level of risk that has been evaluated. Part of the role of the procurement team was to give advice on this level of risk.
8. Henry confirmed that he met regularly with the Federation of Small Businesses (FSB). He had also tried to standardise procurement documents across the County Council and as part of this process had got feedback from the FSB to make the procurement process better for these suppliers. Tenders should then look similar online. The outsourcing of the Youth Service had been carried out via the Kent Portal and there had only been two complaints about the use of this facility. He stated that everything his team did was focused on Kent businesses.

Question – Do the FSB have particular problems with KCC tendering process?

9. Henry replied that the move to standardised documentation would make it easier for them. Part of the feedback on the documents from FSB was that these should be in plain English. There was also information about consortiums which had been incorporated, plus information on whether a financial assessment was required or not. Issue highlighted re consortiums and need for companies to work together and form a Joint Venture Company if they were successful in tendering.

Question – What is the cost of making a bid?

10. Henry stated that the main cost of submitting a bid was in time to the business, we aim to make this as easy as possible for them.

Question – Regarding the Social Value Act, is social value something that is quantifiable? Is there more that we can do to facilitate third party procurement? Is it possible for the Kent Portal to be use by all bodies outside of Kent?

11. Henry replied that there was a lot of misunderstanding about the Social Value Act, it was not something that could be used for all procurements. Central Government had come out with a law or guidance which did not tie in with European law. The legal interpretation of the Social Value Act was that we should consider it when thinking HOW we do the procurement and carried out our procurement but not when we carry out our evaluation of the tenders because this would be unfair to European bidders. He confirmed that the social value was taken into consideration anyway and that there had not been need for an act which had not been helpful.
12. Henry explained that it was possible to infer things that KCC would like to be included, such as apprenticeships, in conversations but not in the tender specification document. However, suppliers could include this in the bid and we could then pick up on that on contract on that basis.
13. Regarding the Kent Portal, Henry stated that it was the intention to extend the use of this by other non Kent based businesses, so that they could use it to advertise for Kent sub-contractors.

Question – In your two and a half years experience at KCC, if there were three things that you could change about the way that procurement is carried out in the public sector what would they be?

14. Got to get it right at the beginning. Henry stated that there were benefits from being in the public sector, the evaluation process was good, and it was not possible to change your mind about the tender halfway though as happened in the private sector. In the public sector it was not possible to negotiate the contract (with final 3 providers) as you would in the private sector. However, in the private sector you are not given the best price as it was expected that there would be negotiation. Henry referred to the reverse auction process which he was using where suppliers bid against each other and the lowest bidder was awarded the work. The suppliers were able know whether they were 1st, 2nd and 3rd in the scale of tenderers but not the price bid.

Question – How do you manage risk?

15. Henry stated that it was important to ensure that what people tendered for is what we/they actually wanted. At the beginning of the process officers were encouraged to talk to suppliers. Use PIN notice to engage with Market. At the end of the process if there are two lowest bidders, we would talk this through with the manager of the contract, we can not get the tenders to change anything but it was important to ensure that the understanding of the contract manager and the tenderer were the same, before the contract was awarded.

Question – What barriers to participation have the FSB identified?

16. Henry replied that the SME's had identified the need for clear advertisements and tenders in smaller lots where possible. These were things which KCC tried to do but there was a balance to be struck. KCC sometimes needed to upscale contracts for financial reasons. Sometimes small but not always better; Need standardisation, clear advertising, smaller lots.

Question – What are the barriers to voluntary sector infrastructure support groups?

17. In relation to the Voluntary and Community Sector (VCS) Henry stated that he was working with these groups and acknowledged that there was more work to be done with this sector. If KCC worked with the voluntary sector and used volunteers it should be more competitive as they did not have the same costs. He confirmed that we would need to use the third sector more.

Question – What about Not for Profit (NFP) organisations?

18. Henry stated that NFP organisations could move forward, should be more competitive (as use volunteers or not for profit) but that was not always the case.

Question – How do you evaluation sustainability?

19. Henry confirmed that this related to delivering the contract in the required period. He explained that if an abnormally low bid was received there was a duty to investigate to make sure it was sustainable. They would ask for a breakdown of price from the tenderer. If we were satisfied with the breakdown we could challenge them to deliver to that.

Question – Regarding the Kent Portal is there a directory of services available to organisations?

20. Henry replied that there was not, it was a means of advertising tenders and it held the contracts register, there were currently 2.5k contracts on it. It was also a method to communicate to suppliers. Some are not accurate but in progress to improve.

Question – What is the one major thing that the organisation could do to improve procurement/commissioning?

21. Henry stated that KCC could implement the report that he had taken to Corporate Directors on Monday 20 January 2014. The key parts were 1) to have the right people in the right places and roles and 2) contract management - to make sure that there was clear contract management and clear roles. The Committee asked Henry to supply them with a copy of the report. Henry stated that a good example of contract management was where the Head of Commissioning in Public Health saw that Kent Community Health NHS Trust was not doing what they were required to do under the contract she challenged them and got a credit of £690k. Service performance sits with Commissioners and their role is to have an understanding of contract management.

Question – De- commissioning and re- commissioning – how well do we do that and what are the real issues?

22. Regarding re-commissioning and de-commissioning this does not sit with procurement, but with commissioning. He emphasised the importance of looking across the whole of the county council when commissioning for

example there was a tender for infant feeding, which when it went to Procurement Board the question was then raised about Children's Centres and their role.

Question – In relation Kent businesses is there a limit regarding economies of scale?

23. KCC target for 60% Kent business (1st and 2nd tier). Henry stated that KCC was getting close to that limit now. It was now more about taking into account second tier sub contractors. The Council could only do so much. KCC was ahead of the game compared to other Councils.

Question – One of the weaknesses is enforcing and monitoring contracts. It is important not to be outsmarted by the private sector and are we too soft in enforcing control?

24. Henry agreed that there was vast scope for improvement. Procurement were now responsible for the contract side, in the past this had rested with Legal Services. Key is what needed, by when and standard. There was a standard form of contract, with key provisions and other provisions which could be included as appropriate. The start of the process was crucial as there was no scope for changing the tender specification once the tender process had started. When a client produced a contract colleagues in procurement challenged it in relation to clarity etc. The contract manager needs to be involved in the process all the way through – this is now happening. Need to be right before procure. Henry confirmed that there was a big push on contract management.

Question – Are procurement involved early enough in the process?

25. Henry stated that procurement were now involved in nearly every procurement. He gave the example of Mark Lobban who had involved procurement nice and early in the process for adult social care procurement. Henry emphasised that procurement colleagues were not there to stop commissioners or to give legal advice but their role was to help managers do the right thing in relation to procurement and help do legally as much as possible and advise on risk

Question – How do you get the best out of a contract?

26. It is important to consider how long a contract needed to be, in local government there had been a tendency to have contracts of 5 years or longer. We should have the contract for whatever length is best for the Council. (so if need to award yearly make process easier not contract longer e.g. commodities) At the moment there was an edict to 1) make sure that there is a budget for the procurement and therefore contract managers must speak to finance to confirm this and 2) to try to limit contracts to 2 years at the most, as uncertainty of future budgets. He acknowledged that there would always be times when there was a need to have longer contracts where capital investment by the contractor was required..

Question – Do you get more tenderers for a longer contract than for a shorter one?

27. Henry explained that this depends on what type of contract it was, it was necessary to talk to the market and to decide on the best way forward e.g. the telecare contract was for 18 months, as within that period a larger solution would become available and this system could become part of that.
28. The Chairman thanked Henry for helping the Committee with their work and for answering questions from Members.

KENT COUNTY COUNCIL

SELECT COMMITTEE - COMMISSIONING

MINUTES of a meeting of the Select Committee - Commissioning held at Wantsum Room, Sessions House, County Hall, Maidstone on Wednesday, 22 January 2014.

PRESENT: 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

IN ATTENDANCE: Mrs P Cracknell (Research Officer Scrutiny & Evaluation, Business Intelligence), Ms D Fitch (Democratic Services Manager (Council)), Ms J Sage (Assisting Research & Business Intelligence) and Miss T A Grayell (Democratic Services Officer)

UNRESTRICTED ITEMS

9. External Dean Benson, Contract Director Transportation, Amey (Item. 3)

(1) The Chairman welcomed Dean Benson to the meeting and invited him to explain how Amey operated and to answer questions from Members.

(2) Dean gave an overview of Amey which was a Spanish owned company. It acquired Enterprise in April 2013. Enterprise was awarded the KCC term maintenance contract for highways in Sept 2011. It has 22k staff all over the UK from Scotland to Kent. The company focused on utilities and term maintenance of highways and railways. They had been working in Kent since 2011 and had a zero volume contract with KCC which was nominally £50m a year. They operated from six depots across the County. Their resource consisted of 323 people; the majority were operatives and supervisors on sites. Process 80,000 orders – no order no work except overarching work like winter maintenance. Their average order in 2013 was £400+ on a no order – no work basis. KCC raises the work orders to Amey. The rates are all scheduled. It is a robust system. This meant that KCC was in control of the amount of work to be carried out and knew what was going to happen and when. The lowest order amount from KCC was 29p for repainting of a white line. This gave a flavour of the scope and scale of the work that Amey carried out for KCC. The majority of SME's used by Amey were Kent based which gave greater flexibility and reduced travel costs, Dean gave the example of having people out on Christmas Day, Boxing Day etc to deal with the issues caused by the adverse weather. As the suppliers came from Kent the response time was reduced.

(3) Dean explained that Amey also had access to specialist services which may be from outside of Kent, a lot of these were based in the north of England. Using these services tended to be the exception rather than the norm.

(4) Amey carried out, for example, drainage, lighting and technical schemes for KCC and Amey has a 5 year contract, which they were in the 3rd year of, with an option of a year on year renewal up to a maximum of ten years. This length of contract was important to enable Amey to decide how to invest.

(5) Dean explained that their rates were open book. Kent inspectors and Amey operative gangs had hand held tablets which contained rates for the work. This allowed orders to be assessed and placed from site which greatly reduced the amount of paper to be processed and reduces the number of site visits.

Question – How did Amey decide whether to tender for the contract with KCC?

(6) Dean explained that before submitting a tender, Enterprise looked at whether they had the capacity to undertake the contract and took into account the geographical location, type of work and previous experience. Since the acquisition by Amey the team had the added benefit of being able to draw upon the services of its colleagues in Hampshire if necessary, e.g. localised snow emergency. Enterprise had a robust process for deciding whether to tender it was less about commercial factors and more about whether they had the practical capacity to carry out the work. The company had decided recently not to go for certain contracts if they did not feel that they could resource them.

(7) Dean confirmed that KCC tender documents were very clear with performance measures set out. The measures were summarised as follows: 6 strategic performance measures, and 30+ operational performance measures with pass marks up to 99%. The measures broadly mirror the company target and align with ISO9000 performance requirements. The performance measures were set out in KCC's tender but Amey also complied with industry safety standards.

Question – Your business is carried out in a tight regulatory framework?

(8) Dean confirmed that this was the case.

Question – One of the areas that we are investigating is how we can involve more Kent based SME's, could you tell us more about the how you balance due diligence with sub contractors and the risks involved?

(9) Regarding SME's – Dean gave the example of tree surgeons and the interface between the Kent Landscape Team and Amey, need small number of good 2 tier companies when the weather forecast indicated that there might be a need for these peoples Amey would contact them and make them aware. Amey ensured that all specialist local suppliers that they used had the necessary training etc. Amey focused on approximately a dozen tier 2 providers in Kent who were compliant with Health and Safety and other regulations Amey made sure that they could access specialist resources, if necessary, taking account of sole traders if they were appropriately trained etc. Dean confirmed that Amey only used Kent businesses unless the specialist skills were not available in Kent, on a practical level it was easier for them as a company to use local business.

Question – do you feel that there are adequate checks and balances in using these suppliers for yourselves?

(10) Dean confirmed that he did and he stated that they were responsible to KCC for the suppliers that they used, if there was a problem with them then it was down to Amey. Amey had mechanisms to make sure that they carried out due diligence with their supply chain.

Question – The find and fix approach to repairing roads is a different way of working can you tell us about your approach to that and how this is accommodated within the ridged framework of the contract but also allowing a pragmatic approach to the work?

(11) Dean stated that the rates within the contract were fixed. In relation to Find and Fix, the costs depended on the size and depth of the pothole. The work was tracked on a daily basis to give KCC clear feedback on what was being done.

(12) Dean explained that in relation to developing ideas and best practice, they had a Technical Review group or “dragons den” type process for the workforce and supply chain where ideas could be put forward, this was done on a quarterly basis. The ideas put forward were all looked at in terms of their practical application. He gave the examples of a metal gully lock, a smart sponge to soak up hydrocarbons when cleansing gullies; one supply chain coming up with a type of motorised tree, verge and hedge cutter, ‘like a army knife on wheels’. Amey liked the idea and had possible investment from supply chain to of £250K into developing this. A number of the ideas put forward were taken up on a trial basis and if they proved effective in Kent, Amey then rolled them out across their other contracts.

Question – Regarding the Social Value Act which should be taken into consideration by KCC when commissioning, do you consider it right for KCC for example to say to Amey e.g. that they must employ apprentices?

(13) Dean stated that the civil engineering industry actively supported this. In the 1990’s this type of training stopped. This has lead to a knowledge and experience gap in the industry. Need to invest going forward. As a company Amey supported training, they employed 8 or 9 apprentices and last year ran an Apprentice of the Year award, the winner of that award was rewarded with a permanent job organising all their training. Dean stated that, all apprentices brought value to contract and the majority end up being employed full time and the approach was worthwhile and builds for the future.

Question – Are you happy that the standards in your contract with KCC are monitored fairly?

(14) Dean confirmed the monitoring process was carried out fairly. It covers at strategic performance measures on monthly basis. These drive behaviours – targets need to challenge and not be too easy. There was a joint analysis between KCC officers and Amey, they checked if orders were placed on time, completed on time and to the agreed quality standard on a monthly basis. There was a financial penalty attached to not meeting these targets. He stated that they had a pretty good pass rate, and had achieved 100% compliance, currently lighting maintenance was at 90%, this was due to the weather creating safety issues but he was confident that this would soon be back on track. He stated that KCC officers who carried out the monitoring were knowledgeable and challenging and he could see nothing wrong with that.

Question – What is the relationship between the supply chain and performance measuring.

(15) Amey and Kent have also agreed 2 performance measures for Kent - this is a new initiative and is supported by both parties. Dean suggested that Kent Performance Measure 1 was critical as it allowed the team to monitor order accuracy, including locations, type of work, local risks and expected costs. This development is testament to a good working relationship and enables commitment.

Question – Has the contract increased?

(16) Dean confirmed that the scope and scale of the contract was unchanged. However, Amey continually looked to see if the way they operated under the contract could be improved e.g. they made sure that KCC's "confirm" order system was compatible with Amey's system. Also Dean gave the example of possible innovative ideas - machine recycled tarmac from Kent roads as a commodity could benefit the contract rather than using brand new tarmac. This was an idea that could be taken for consideration with the 7 south east counties to acquire mobile recycling unit and share. The supplier could possibly invest 350K in unit and create a stockpile but they would need an effective return on investment especially on a zero return contract. Amey was also able to bulk purchase and negotiate with large suppliers which affected the rate that they were able to charge KCC.

Question – can you explain the third of your £50m a year being spent on sub contractor?

(17) Dean stated that some specialist treatments were more expensive and could distort the figures. Amey used sub contractors to supplement their workforce when volumes of work were higher than normal e.g. find and fix and winter emergencies.

Question – Do you allow sub contractors to sub contract?

(18) Dean confirmed that Amey did allow some sub contraction by sub contractors but they looked at this on an individual basis, go to third tier if qualified and can safely operate on network, bring in specialist skills etc.

Question – If KCC contracts to you and you contract to a sub contractor who then sub contracts, does KCC's expectation and standards get diluted?

(20) Dean stated that NEC contracts which had been developed in the 1990's created a back to back sub contract which had the same conditions but were a scaled down version of the main contract, but retained the essence of the main contract. Amey made sure that all their sub contractors knew the terms and conditions that they were working under e.g. timescale, rates and quality.

Question – If there is a complaint to the main contractor does this then get passed down the line to the sub contractor with no one wanting to take responsibility for any mistake?

(21) Dean replied that Amey would make sure that they knew who was responsible and if it was Amey then they would deal with it internally, if it was the supplier then Dean would speak to the managing director of the company. Amey could not pass the buck down the supply chain, because the OPM's relate to Amey and the main contract. Specific sub-contract penalties do exist and are employed if performance falls below agreed standards.

Question – Can you explain the impact that performance has on the renewal of the contract after the initial 5 year period?

(22) Dean stated that at the end of the 5 year period there would be a review of the performance level. If the level had dropped then KCC could go out to tender and Amey could submit a bid. If Amey had met the agreed performance criteria at the end of the 5 year period then the contract could be renewed on an annual basis. There were about 6/7 audits a month but they were not representative in relation to amount of work. Amey suggested changes a) poor performance go to process to disciplinary b) if learning points need them to come back (is it equipment or systemic problem). Now typically do 100/150 audits depending on level of work. Way of working with Kent allows positive working with subcontractors. It is measured on Amey if not deliver.

Question – I assume that the contract needs to be a minimum of 5 years to justify your investment in capital equipment and that the sub contracts can be for a shorter period?

(23) Dean confirmed that this was the case. He gave the example of the investment of possible £350k that supplier interested in making in mobile plant for recycling materials, if the contract had been for up to 3 years there would not have been a sufficient return on their investment. With a contract of 5 years even though it is a zero volume contract Amey were still taking a risk but it would give them a reasonable chance of getting a return over the 5 year period. Dean also gave the example of gritters which they had procured/long term hired at £60k each, they needed a 5 year contract in order to be able to make this type of investment.

Question – Is it possible for you to sub contract to the “voluntary” sector? For example the Ramblers Association for clearing of Public Rights of Way (PROW)?

(24) Dean stated that it was possible for Amey to sub contract work like this to for example, the Probation Service, as part of rehabilitation, but not work normally carried out under contract. There were a lot of rules around with probation service and PROW. It was necessary that the people that commissioned the worked with were happy with this arrangement. PROW was ideal for this type of sub contracting but, it had proved challenging to engage them.

Question – what makes a contract go wrong?

(25) Dean explained that one of the ways that a contract can go wrong is if the specification was not well briefed/understood, or the wrong contract was used – all parties need to understand operational performance measures. We understand the 30 performance measures in our contract with KCC and agree with them. It also comes down to the people involved, you can have the best specification and the best contract but if the people in the contractual relationship are not geared up to work together then it will fail.

(26) Dean referred to the whole TUPE mechanism which was difficult. Amey had TUPE'd 200+ people from the previous contract were only used to working with a cost plus contract rather than a SOR contracts, it took time for them to adjust to the new way of working.

Question – Is there anything that you feel that Kent County Council can do better in terms of commissioning and procurement?

(27) Dean stated that he had attended one of KCC's Facing the Challenge sessions so was aware of the financial situation that Kent was in. He stated that if there was a mature relationship between the contractor and the commissioner then trust was built. Dean gave the example of gully cleaning, KCC believed that it had 340k gullies – gully cleaners are expensive to hire/buy so a full survey was agreed and it was concluded that KCC has only 250k gullies in the county. As a result, a more focused service could be developed with the potential for cost and performance efficiencies to be developed.

Is the public happy is the ultimate measure!

Question – What can be done to balance the need to have detailed instructions/invoicing and reducing costs?

(28) Dean confirmed that KCC's costs were going down. Last year there was a business process review as better order quality and process was needed. This led to a refined process and sharing resources, e.g. use of electronic devices to place orders on site. In practical terms processing paperwork could cost £500k over 10 years compared to use of hand held devices at a one off cost of £44k. This brought the inspectors together with the workforce. This generated a saving in paper and time by being able to order work or download information on site, using current information and photographs as necessary, this was being introduced by Amey to their own staff.

(29) Dean stated that Amey/KCC carry out rate reviews annually and looked at every single rate to assess cost reduction opportunities.

Question - In relation to the current contract is there one element that your company would showcase?

(30) Dean highlighted the HMC and Work Manager system used throughout the contract. It allowed the team to automatically plot each order on a county map. This in turn allows crew deployment to be optimised and public disruption to be minimised. It also allows more effective countywide planning of works.

(31) The Chairman thanked Dean for attending the meeting and for assisting the Committee with their work.

10. Interview with Sam Buckland, Audit Manager, KCC Internal Audit
(Item. 4)

(1) The Chairman thanked Ms Buckland for attending and those around the table introduced themselves.

(2) Ms Buckland summarised the key points in her written paper, which she had prepared in response to themes sent by the Research Officer, and had been published with the Committee's agenda. The paper summarised the key points which the County Council might face and would need to address around its commissioning and procurement, seen from her professional point of view as an

internal auditor. She explained that she had been involved in the new commissioning and procurement processes in the Adult Social Care and Education, Learning and Skills directorates and in her role on the Accommodation Solutions Group, giving audit support and advice in the role of a 'critical friend'.

Barriers for new providers – key points are, in traditional procurement, the need to evaluate information which supports tenders (financial papers and evidence of previous quality for new providers), and the challenges around achieving this. A change in public procurement requirements could simplify the credentials which those tendering for a contract need to produce – e.g. the introduction of a self-declaration stage - and only bidders who pass this stage successfully will be asked to submit documentary evidence. This extra stage allows the County Council to acquire sufficient information to avoid risk while reducing the barriers to tendering processes. If the County Council were to move to a less risk-averse approach, it would need to back this up with a robust performance monitoring and commissioning mechanism. New and small providers bidding for a contract may lack the experience of preparing tender documents, while large and established providers have more practise and expertise at doing this. The County Council could work with new or smaller and inexperienced companies to give them support with the preparation process. This could be a role for Members. Ms Buckland emphasised that this support would be unrelated to any specific tender processes, so would not give those bidders any unfair advantage over other bidders. The County Council needs to engage across the Kent community about training.

Provider performance – the establishment of new Strategic Sourcing and Procurement teams has had an improvement in setting performance requirements and measures. Performance monitoring and length of contract are interdependent. Shorter contracts have the advantage of a clear exit point, but limited time to help providers develop, and, for new providers, to demonstrate evidence. This also allows limited time for monitoring of performance in terms of outcomes, yet does not carry the risk of the County Council being tied-in over a long period to a provider who may not be performing well. Longer contracts may give time to generate and develop relationships and allow scope for longer-term monitoring – and will need robust mechanisms to support that monitoring - but have a longer lock-in period and associated risk if a contractor's performance is not of the required standard. Therefore, if taking this route, we need clear exit strategies. More Framework contracts and Dynamic Purchasing Systems give flexibility on whom we use, and we can add and take off providers. This allows the County Council to spread the risk across several providers. There needs to be focus on both outcomes and outputs, as relevant. When monitoring and reporting outcomes, it is important to be clear about what is being measured, and to set realistic and achievable targets. For example, when measuring performance in a smoking cessation campaign, a long-term aim would be a reduction in the number of deaths from smoking-related diseases (which would be very difficult to identify within a contract period of three years, for example), while a target which could realistically be measured within a three-year contract would be a number of people having successfully ceased smoking and managed to remain smoke-free for six months or twelve months, for example.

Responsibilities in the Social Value Act – the County Council will need to identify 1) the Social Value requirements of its services and define what it is trying to achieve by contracting, 2) whether or not commissioning a certain service is the

best way of achieving that aim, and 3) how/what it intends to build into its contracting process to take account of its responsibilities under the Social Value Act and the need to evaluate its effectiveness in meeting these responsibilities. The County Council will need to reconcile its new responsibilities, the requirements of procurement legislation and the need to seek best value for public money. The new Public Procurement Directive will help with this. There is a need for flexibility around Social Value – it is about the value of spend of £1 – and what else the County Council may get for that sum.

(3) Ms Buckland then responded to questions from the Select Committee, as follows:-

If there were a provider wishing to tender which you suspected of having poor financial practice, but who was otherwise good, do you have scope to address any doubts or problems before proceeding with their tender?

(4) Yes, we have scope to build into any contract that we give them a requirement that they agree to financial monitoring, which would give the County Council some protection against a provider's poor financial management. The County Council also has the opportunity to work with a provider who is in difficulty, with the aim of helping them deliver their contractual obligations. However, for example, if the County Council were contracting with a provider who also ran private care homes, the County Council would have no automatic right of entry to a private care home to check on conditions or practice, but could set up a system of checks through the terms and conditions of contracts, including a right to audit, to see if any problems present at the home were down to financial or operational issues.

What capacity does the Internal Audit team have to monitor performance on contracts? There are many contracts but a finite number of Internal Audit staff. If performance on a contract were poor, what would be Internal Audit's role in addressing this?

(5) Internal Audit does not have a role in monitoring individual contracts; we have an auditing role and can comment on the contracting process and give assurance on performance management and whether or not processes are in place and how well they work. The Directorate colleagues who commission the contract will have the role of monitoring it. For example, in the case of a care home provider, the monitoring role would be taken by Mark Lobban, Director of Strategic Commissioning for Adult Social Care, and if we find weaknesses in the process through the audit we would pass these back to Mark, who can take them up with the provider. We can look at a sample of contracts to assess the process.

It seems that it's hard to define the requirements of the Social Value Act in contracts in a way in which the public will understand it.

Can you give more information on a role that elected Members could have in this process?

(6) Members are well placed to interact and engage with the voluntary sector and other organisations. This engagement would not conflict with the contract process as Members can be impartial.

If the County Council were to enter a long-term contract, how easy is it, and what mechanism is there to change requirements part-way through, to meet new Council or public requirements?

(7) There is a risk in changing objectives part-way through a long-term contract. We would need to work collaboratively to address any issue.

(8) Part of a change in thinking around contracts is a move towards regional or framework contracts and dynamic purchasing systems which allow smaller providers to take part. These mechanisms are very good at allowing 'call off' to several smaller providers. It's about providing elements of service. The County Council could look at services or at geographical areas. As small providers may not manage a whole service, the County Council could look at smaller lots.

When the County Council contracts with EU companies and sets out terms and conditions, it includes stipulations around health and safety, but EU Health and Safety laws do not take account of UK Health and Safety laws. How can the County Council ensure that an EU company will comply with these?

(9) The County Council would build it into the contract conditions and the monitoring process. The same rules would apply to any company with which it contracted, and, as the contractor, they would need to comply with the County Council's conditions. Older contracts would need to be adjusted to take account of changes in health and safety laws. Robust monitoring is key, and the only way to pull out of a contract would be to have evidence, via monitoring, of a provider's poor performance.

In terms of robust monitoring and performance management, does the County Council have the capacity to react if poor results are shown up via monitoring?

(10) That is difficult to answer as it is difficult to judge capacity. For example, when looking at re-letting residential care contracts, each home would ideally be visited once a year by the Commissioning Team. However, there are large numbers of homes to visit, and this could mean more than 500 visits, and there is a risk that a visit will not be able to go into sufficient detail at every home to be really useful. Hence, capacity is something which needs to be considered as the County Council moves towards being a commissioning authority and monitoring becomes more important. It is important to be clear about what is being monitored, when and how. I believe that care homes should have face-to-face visits.

Do external auditors get involved in what you do?

(11) External auditors do not get involved in the detailed work around procurement and commissioning. Their role is to audit the County Council's accounts and assess financial resilience.

The human relationship between the commissioner and the provider is vitally important to working well together. How can this link be incorporated into the commissioning and procurement system so human relationships can contribute to the process?

(12) The commissioner/provider relationship is important to make things work well. I agree that good working relationships can minimise the risk of getting to the stage at which a contracting relationship has broken down and independent intervention and mediation is needed. I don't know how this element could be built into a contract, unless, instead of calling something just a 'contract', we start describing a contract document as 'an agreement to work together to deliver services...' or something similar, and have a mechanism by which feedback can be channelled both ways between parties.

This would need a culture change and a change of mindset. Could Members be mediators, if these are needed?

(13) A group of Members could take an objective view, which could be useful, but Members would need training to take on this role. As the County Council moves towards becoming a commissioning authority it will need people with contract management skills.

So could there be a group of lay Members with some technical support which could have a role to play?

(14) Yes. A group of Members with legal advice and support could have an advisory capacity, but there also needs to be a process by which an issue can be escalated if the Member advisory group is unable to deal with it.

I think the role of Internal Audit as a 'critical friend' is good. The County Council seeks to encourage more small and medium-sized enterprises (SMEs) to take part in its tendering processes but this brings with it a greater risk (financially, and to the reputation of the County Council), even with the monitoring systems you have described. Perhaps a role for the Member Group which has been suggested would be to try to offset this risk. It could be useful to have an objective Member group with, for example, audit/procurement/legal advice as relevant. This group could possibly have a role in oversight of social value.

How much value will the or should the County Council put on the requirements of the Social Value Act, and how does this fit with Bold Steps? As Members, we all care about our local communities, so is there another role for Members, to do with Social Value?

(15) In my view, the Member group feeds into the process and has value, but needs to be clear how it fits into the process and who makes the 'final call'. The key question is 'does this achieve what we want for Kent?' Members have a scrutiny function to see what the County Council achieves for the people of Kent.

Could a Member group have input into the specification stage of the process?

(16) Yes, Member input on the Social Value element could be built into that stage. Members' input will depend on what role they choose to have, on which contracts (dependent on size), and what proportion of contracts the group wants to examine (it is unlikely that it will have capacity to look at all contracts) and how it will select which contracts it will look at. Bold Steps alone does not include sufficient detail to guide this role.

Could the Member group have a role as mediators?

(17) No, Members would have a 'critical friend' role, looking at how Social Value can be added, to meet the needs of the people of Kent.

There are two areas of responsibility when letting contracts; for delivery of the service, which the County Council passes to the contractor as part of the contract, and the overall accountability for the services, which the Council retains.

(18) This depends on the relationship between the host organisation and the key contractor. The host organisation will make the usual checks, including asking for three years' accounts, before a potential contractor gets through the initial filter process and is interviewed. The host and the contractor would need to agree a joint monitoring mechanism to be used and build this into the contract. Good working relationships between the host and the contractor are important, especially in areas such as social care, as this benefits both parties. If it is agreed between the two that they will evaluate performance jointly, as part of the contract agreement, there could be a role for Members. (19) There is a need to change the present culture, as currently there is a need to develop better monitoring and scrutiny of a contract once it is set up, and this practice needs to be established. While the culture is changing, people will need guidance and support to achieve sensible contract management.

Can you suggest any ways in which the County Council can improve its commissioning and procurement practice?

(20) The County Council needs to understand clearly that, when it contracts with an external body, it still retains overall accountability for the service being contracted. It can't transfer risk to the contractor, and must ensure that it does not become complacent. There is a potential lack of understanding in the County Council about contract monitoring and the need for training and guidance. For example, for a new contract/provider, if performance data is based only on complete years, there may not be sufficient data to monitor performance until 18 months into the contract (as year one would set a baseline, year two would monitor year three anticipate re-tendering) and by the time two years' data is available to monitor it is too late to find out that a three-year contract is not progressing well. Hence, it is very important to understand outputs and measures. If performance measures are set which cannot be assessed, then intelligent monitoring will not be possible. Performance measures and set outcomes need to be meaningful and measure the quality of performance.

Could performance be monitored from day one of a contract?

(21) Performance needs to be measurable in a meaningful way, and target setting needs to be intelligent. If the County Council cannot measure performance, it cannot hold the contractor accountable. If the County Council seeks to be less risk-averse, it will need to work with providers more flexibly. The County Council needs to consider who should monitor, and if monitoring can be done differently.

What you have told us shows that Internal Audit is a very powerful tool. Has attending the Select Committee today stirred you to think differently about how you work?

(22) Yes, it has been a very interesting conversation, and has made me think about what we do and how we do it.

(23) The Chairman thanked Ms Buckland for attending and added that any further thoughts she wished to add could be sent direct to the Research Officers.

KENT COUNTY COUNCIL

SELECT COMMITTEE - COMMISSIONING

MINUTES of a meeting of the Select Committee - Commissioning held at Stour Room, Sessions House, County Hall, Maidstone on Wednesday, 29 January 2014.

PRESENT: 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 and Mr C R Pearman

IN ATTENDANCE: Mrs P Cracknell (Research Officer Scrutiny & Evaluation, Business Intelligence), Ms J Sage (Assisting Research & Business Intelligence), Mrs A Hunter (Principal Democratic Services Officer) and Mrs C Wade (Democratic Services Officer)

UNRESTRICTED ITEMS

11. 10.00am - Keith Harrison, Chief Executive Action with Communities in Rural Kent (Item. 3)

1. Chairman welcomed Keith Harrison (KH) Chief Executive, Action with Communities in Rural Kent (ACRK).

Please see Select Committee Agenda Item 3 (pages 7 to 16)

2. KH gave an overview of ACRK 's ethos. It was set up with the primary aim to provide advice and guidance to ensure that no one was disadvantaged because they lived or worked in a rural area.
3. ACRK has, over the last 40 years, focused on community development activities and is currently supporting around 600 community-led organisations for example with their regeneration projects.
4. ACRK is funded by about 40 different organisations (i.e. private sector, individuals, EU, Kent public sector). There is recognition this is not an efficient funding mechanism but an unfortunate reality. 60% of funding streams not Kent (county based, from public or private sectors) funding.
5. ACRK has changed/diversified. The charity is in a very different position to its thinking in 1992 (when existing KCC core-finance levels were set; they have varied within a £5,000 limit either way since.) This presents a major challenge. To continue to exist ACRK must undertake work which brings in the associated management fees which can in turn be used to fund the work ACRK wants to do but cannot get funding for.
6. KCC funding equates to 6% of ACRK core financing. Where work is co-financed by KCC each £1 of KCC funds has £10 in matched funding - contributors from public, private and civil society sectors, co-finance from Defra, which amounts to a mixed funding approach.
7. The Chairman took questions for each of the Select Committee Members:

Q: How beholden is ACRK to its paymasters? What would make the organisation a better one in terms of the number of funders / pay masters? How does KCC support ACRK and can it play a more important role in the provision of KCC services as it becomes a commissioning authority?

A: ACRK and KCC financial relationship very different to that of other County Councils and 'their' ACRKs; for example KCC annually fund ACRK £37,000, in Hampshire the funding is £300,000. Such disparities in funding effects stability and forces organisations such as ACRK to seek different fund sources to continue to exist, flourish and to enable research and investment in new ideas. It was suggested there should be a review of how KCC Directorates work with all VCSE organisations, Consideration of a more realistic core agreement for ACRK would be a good as a starting point as the relationship with KCC is vitally important.

Q: KCC Members /tax payers of Kent needed certainty of outcomes, who commissions?

A: Other Counties have a strategic over view. In Essex, for example the County Council Leader and Chief Executive have been meeting with RCC Essex (ACRK's equivalent) twice yearly, and had an interesting and mature relationship. Kent is a huge organisation, working in many different directions. KCC talk about control, Essex talk of enablement. The Essex relationship model is still based on political personalities and with a change in Leadership, it will be interesting to see how the relationship will (continue) to work. Additionally, in Essex a RCC Essex Trustee had become a County Councillor consequently a lot of trust has built up based on the personalities of the politicians involved.

A Member commented Kent was not organised in the same way as Essex but it was not unreasonable to ask if Kent was adequately accommodating organisations like ACRK and whether the current structures were working in the best way for the people of Kent.

Q: How does ACRK work in rural areas without a parish council?

A: The work is ad hoc as ACRK do not have the resources to generally go into areas without parish councils and can only work where invited to do so by the local community; for example working with village hall organisation - ACRK have a related project running in Thanet. ACRK does not have the resources to target 'bomb' rural areas and tends to rely on organisations making the initial contact. ACRK does try to ensure organisations are aware of their existence through village magazines, notice boards in pubs, village shops, etc.

Q: What is ACRK 's criteria for a bid? If a good idea (not specifically defined) was tabled, would a test be applied, the project costed, bid for and commissioned?

To work new projects had to be related to ACRK's core business for all bidding purposes. All projects are considered for eligibility in relation to ACRK's aims; if a project sits outside our area of expertise but ACRK believed running a pilot might assist the commissioning authority it would consider bidding. All major projects, i.e. with six-figure funding are referred to ACRK Trustees for consideration / agreement. It was reiterated that generally new projects must link to ACRK's strategic aims, for example a Community Foundation style project was declined

because it was deemed more suitable for other experienced organisations to consider.

Q; What about the potential effect of staffing for example if ACRK did not have the appropriate staff for a project or skills to bid?

A: Staff would be recruited as ACRK employees to either cover the 'normal' work load or ACRK would buy in expertise who might be subcontracted individual who were self-employed.

Q: To clarify if a bid fitted the core aims of the charity and ACRK buy-in staff sub-contractors - was there a limit to securing expertise?

A: ACRK uses the appropriate mechanisms to try and secure the right benefit for itself and commissioners. Sub-contractors are used by ACRK to achieve the best skills sets. It was suggested one idea might be to help VCSEs / SMEs would be to bank roll them via interest free loans, or to act as their financial guarantor so that a private sector organisation had confidence that a particular subcontract could be delivered.

Q: Referring to page 11 of the papers and the point about disconnection and the expertise within VCSEs, is the solution to KCC's suggested 'incapability' to be able to organise itself - to hand everything over to ACRK with guaranteed funding for a period of years?

A: The member's interpretation of the briefing paper was disputed but ACRK does have sufficient expertise to state KCC was inadequate in its work with rural communities. ACRK is one but not the only option and ACRK offered potential solutions, with the pitch "could it be done better? ". ACRK also needs funding to do better - there were models across the country which have not been tested in Kent and might be better. Primarily it was imperative to achieve the best for the people of Kent.

Q: Does ACRK see itself in competition with other organisations i.e. CPRE

A: No not in competition - as all organisations had their own specific remit or core business. ACRK looking to help make things better and more efficient not to take things over - ACRK wants to work together - not to appear to be arrogant.

Q: Through our conversations with procurement team and community organisations we have become aware of 'soft' silo working, one possible outcome of the Select Committees might be a top to bottom review. What is ACRK s approach to KCC regarding procurement, does you for example speak to commissioners?

A: There have been are no direct conversations between ACRK and KCC Commissioning Officers, these have primarily been held with officers working on specific projects; for example the ESF programme worked with Economic Development staff. KCC appear to be unaware globally of what ACRK was doing or able to do - as an example ACRK had emailed the Cabinet Member for Economic Development regarding a commission thought to be worth £80,000 to gather community assets information across the county that ACRK already held much of. This commission came from a separate directorate from that overseen by the

Cabinet Member for Economic Development (who does oversee the directorate ACRK has its core working relationships with). ACRK is registered on the South East Portal but had not been notified, through that system, of this commission.

ACRK were advised to register on the new Kent Business Portal.

Q: Case Study 2 (p.12) suggests that £7m might have been saved. What is the effect on employees - concerns were expressed about zero hour contracts, lack of pensions and the need to consider both ends of life - retired life and working life?

A: Employment laws must be complied with and ACRK did recognise work / life balance and paid pensions to staff, although these were not the same rates as KCC. Duty of care was a huge issue, but research showed there are savings to be made with the right social value which is not at the disadvantage of employees - investment needed to be awarded to the right contractor and project (Case Study 2) trialled.

Q: How can a more efficient service be realised at a reduced cost, whilst protecting staff and community?

A: By trialling new partnership working, asking the questions - Is anybody else doing this? Can we give a better service more efficiently and reduce cost but protecting both the communities we serve and staff? It is all about piloting future work methods, commissioning a mix of services some in-house and some external. In one area an idea was commissioned and trialled by own internal staff.

Q: With 6% core KCC grant and the 40 different funding organisations is there waste / inefficiency and how could it be made easier or stream lined?

A: The example was given of the numerous funders for affordable housing contracting with ACRK - 13 Housing Authority and 7 or 8 Housing Associations offering a total pot of only £57,000 is totally inefficient. ACRK had suggested a single commissioning authority and setting fees to simplify the process and costs for the associations / authorities. The difficulty was the inability of the funders to agree to a financial rate or a joint specification - for example they would need to agree a common flat rate % of every new build.

Q: How could KCC help?

A: Ensure that any joint-commissioning or multi-agency partnerships are governed by clear formal agreements, setting out precise roles and responsibilities of all parties.

Q: What opportunities been missed? Is ACRK able to do more if KCC relinquish the reigns? Is ACRK an enabling organisation or just taking over?

A: ACRK have a history of running services but are happy to trial, if the bid aims indicated right to do so. It was hoped the review would look at whether there were ways for KCC to support innovation rather than stagnation. A review of infrastructure funding is needed, with benchmarking against other counties and the introduction of a degree of parity, transparency and fair formulae applied.

Q: There are lot of small businesses in rural areas, often attracting apprentices could ACRK do more to help get information out to rural businesses?

A: ACRK had a failed bid to the Princes Countryside Fund. Graduates and NEETS from Kent could have been mentored. If funds were available there were major options to pilot a scheme utilising ACRK's contacts, drawing funds from Central Government and EU funds, thus reduces the toll on KCC. There might be a role in helping SMEs find out about the grants / financial assistance available to them as both SMEs and to employ apprentices.

Q: What offers are made in regard to piloting a particular project? What specific efforts are ACRK making to ensure on the radar of KCC commissioning and procurement teams?

A: Some parts of KCC were good at commissioning and some were not. ACRK is part of the process but not THE process. It is about navigation and communication. Efforts had been made with specific KCC politicians and officers, such as Cabinet Member for Economic Development and Director for Economic Development and Spatial Awareness (Economic Development) who head-up the part of KCC that ACRK works most closely with. But, what had become clear from attending this session of the Select Committee is that ACRK were not necessarily connecting with the right KCC people across the directorates. It was clear they were not acquainted with the correct people/contacts at County Hall involved in commissioning and were unaware of the obvious person/link.

It was apparent from the discussions that there were barriers to partnership working and commissioning with KCC. The Committee took the point that there might be unnecessary repetition, the Committee suggested Keith Harrison email Mrs Cracknell the list of his current projects and Members agreed this was the best way forward.

Mr Angell thanked Keith for leading an informative debate and confirmed the Select Committee would give careful consideration to all aspects of re-commissioning and de-commissioning in Kent.

12. 11.00am -Roger House, Chairman - Kent and Medway Region, Tim Colman, Director of Partnership Working Limited, Alison Parmar, Development Manager - Kent & Medway Federation of Small Businesses
(Item. 4)

- (1) The Chairman welcomed Mr House, Mr Colman and Mrs Parmar to the meeting and invited them to introduce themselves and outline the role of the Kent and Medway Federation of Small Businesses (KMFSB), before answering questions from Members of the Committee.
- (2) Mr House said the Federation of Small Businesses was the largest organisation representing small businesses with 190,000 members

nationally and 6,500 in Kent and Medway. The Federation had started as a lobby group and had extended its remit to support and represent small business on both national and local issues pertaining to the economy. In Kent and Medway the FBS was organised into five branches, each with a small committee and team who liaised with national government and district and borough councils. The KMFSB aimed to be a critical friend and bring forward solutions to problems.

- (3) Mr Colman said he undertook a voluntary role within the KMFSB and focussed on procurement issues from the national to local level with a view to developing procurement practices that would benefit small and micro businesses.
- (4) Mrs Parmar said she acted as a link between the strategic / national FSB and KMFSB, a facilitator for KMFSB and KCC and between the FSB and small and micro businesses. This could be through face to face contact, liaison with a range of media and other activities which contributed to ensuring that such businesses had the right knowledge to be successful.

Question – What practical steps could KCC take to get micro and small businesses involved in its work? What opportunities are being missed by not involving micro and small businesses in its work?

- (5) Micro businesses (businesses with fewer than nine employees) account for between 84%-88% of the economy. They need an education programme with practical help on tendering and a clear pathway to enable them to bid for contracts with the county council.
- (6) There is not a clear and simple system within KCC for individual teams to advise the corporate communications team of the intention to procure goods or services and consequently there is no single point of contact for businesses interested in tendering for work. Neither is there a key email point on the website or person who could advise and assist small businesses about forthcoming tenders and the process to be followed to become a contractor with KCC.

Question – Are you aware of the Kent Business Portal?

- (7) Personally yes but it is important that thousands of business know about it and this requires constant messaging and communication.

Question – What are the main barriers to trading with KCC?

- (8) There are five principal issues.
 - (a) There is a lack of transparency in relation to low value contracts which could be of great interest to small businesses. Contracts with a value of £5,000-£8,000 are not included in the Kent Business Portal. Contracts of this size can be of considerable interest to small enterprises.
 - (b) Micro and small enterprises often lack understanding of the procurement process including an understanding of which contracts

they should and should not bid for and the mechanics of completing tender documents. It would be helpful to advise small business about what is available and what would be good to bid for as well as what not to bid for. Training could be offered at procurement workshops and “meet the buyer” events. Other local authorities including Hampshire County Council organise such events.

- (c) Contract terms need to be proportionate to the value of the contract. For example it is not reasonable to require £10m public liability insurance to bid for a contract for small value contracts.
- (d) Contracts should not be aggregated so they are beyond the capacity of small suppliers. There is a move nationally by enlightened councils to disaggregate some larger contracts.
- (e) Pre-Qualification Questionnaires (PQQs) need to be proportionate to the contract value. Often they are too long and complicated. Wakefield and Hampshire councils, among others, have agreed on simple, short PQQs that are used for 90% of their contracts - 4 pages and 4 simple questions.

Question – While HS2 might be contentious are there any opportunities for Kent companies?

- (9) Yes. The original intention of HS2 project managers was to let few large contracts to big players but following lobbying by the FSB there was a change of approach with HS2 directors giving a commitment to contract with small enterprises and to supporting such businesses to form consortia to enable them to bid for and deliver contracts.

Question – Has the legacy from the Olympics 2012 made it easier for small businesses to win contracts?

- (10) A Freedom of Information request revealed that less than 0.5% of contracts went to small business. Many of the small businesses that won contracts were, in reality, part of larger companies. Small businesses won a bigger percentage of contracts at the winter Olympics in Turin and the Olympics in Athens and Sydney.

Question – What is being done to attract young entrepreneurs and how are young businesses supported?

- (11) The FSB has done some work with the Kent Foundation and Young Business Initiative. Much time is spent talking to young people and young business about employability to ensure they know the support available. The FSB also supports Young Enterprise financially and provides advisers and competition judges for their events. Young people need to be supported and developed to take over from those about to retire. Many micro businesses are teetering on the edge of taking that step and being able to meet KCC contractual processes.
- (12) The FSB gave an example of a design agency based in Maidstone employing nine people locally but found it easier to access markets in

London and therefore most of their contracts were based there. Such organisations would benefit from easier access to KCC contracts.

Question – What have you done to assist MSEs to interact with the county council?

- (13) About five years ago Mr House worked with Robert Hardy (a deputy KCC director) on a project “Making Micros Matter” which produced good results and demonstrated what could be done however people move on it had not become embedded in the local authority’s strategy. Such projects also required continuous refreshing and communication.
- (14) Pan-European research showed that as a country emerged from recession 84% of business was generated by SMEs which were more likely to take on new staff, recruit staff locally and therefore have a greater impact on the employment of the young. KCC needed to support and enable SMEs to employ young people.
- (15) The private business that Roger House operates has bases in three further education colleges and students work to provide solutions to issues set out in real briefs from SMEs and clients and, from such exposure, acquire the ability to form and run businesses.

Question – Commissioning and Procurement are key elements of KCC’s transformation programme. What can Members do? How can they help?

- (16) There are currently 6,500 businesses in Kent saying it is not easy to do business with KCC. Using the experiences elsewhere in the country it would be very helpful to bring in good practices such as simplifying PQQs and to reflect those policies at district and borough level.
- (17) It may be worth considering as an innovative move to appoint a lead member at cabinet-level who is responsible for small business interests. It is about listening, improving and simplifying process. Kent Works had been created without any prior consultation with businesses but may have had potential to support business if ‘we’ had got together and worked it out.
- (18) Hampshire County Council and the Isle of White Council have formed a business alliance with FSB, Institute of Directors and the Chambers of Commerce to work with the two local economic partnerships (LEPs) covering their area. One works well, one not so well. But this initiative had enhanced the exchange of information, acted as a single source of information and was used by the county council and the LEP to get messages out to 70,000 businesses.
- (19) KMFSB and Chambers need to be represented on Kent LEPs. The FSB expressed concern that at present there are a number of contracts which seem to be awarded to the same companies at the expense of others.

Question - What more could the FSB do for its members? Could FSB underwrite due diligence for small businesses in a framework agreement or facilitate meetings between commissioners and providers?

- (20) FSB is an independent organisation that does not receive public funding and does not operate as a certification or training organisation. The organisation is however keen to create new programmes, including meet the buyer and training on the procurement process, in conjunction with KCC as this would be welcomed by FSB members. FSB could host the events with KCC speakers on contracting and procurement - to talk businesses through the bidding process and a sample contract. As important are events which signpost organisations and develop their understanding of what tenders or contracts not to go for.
- (21) The venue is the most expensive element of such events. The ability of local authorities and further education colleges to provide suitable venues was acknowledged as was the desirability of a county wide approach including district and borough councils as well as chambers of commerce in events and programmes.

Question - Is the absence of a track record a barrier to small or new businesses getting their first contract?

- (22) Part of the education process for new businesses is to learn how to work up the ladder. Small businesses need to start with low value, low risk contracts and the challenge for commissioners is to publicise such contracts.
- (23) KMFSB work with members who have procurement experiences and could offer a training programme. Participation in agreed training events could be part of the approval process which would reinforce confidence of both the contractor and commissioner and reduce perceived risk.
- (24) For start-up organisations the biggest issue is absence of a financial track record. For local authorities it is a matter of mitigating risk and both sides need to build trust. Offering a bond against productivity / performance; could support small businesses to bid for and successfully deliver a contract.

Question - Is the speed at which KCC pays suppliers causing problems for small businesses?

- (25) There are no issues with KCC payment of invoices. The picture is mixed among the boroughs and districts. It would be helpful if KCC required all its tier 1 contractors to pay their sub contractors within the same timeframes it had set for itself. E-invoicing will speed up the payment process, increase transparency and save money. E-invoicing will become law from 2017 but efforts are being made to bring this forward to 2015.

Question - Final points?

- (26) KCC internal processes and culture are complicated. Targets need to be bold.

13. 12.00am - Jan Perfect, Chief Executive Case Kent
(Item. 5)

- (1) The Chairman welcomed Mrs Perfect to the meeting and asked her to introduce herself before answering questions from Members of the Committee.
- (2) Mrs Perfect said CASE Kent was similar to an old-style council for voluntary services and to avoid mission drift and conflict of interest did not compete for contracts against its members. Mrs Perfect felt that CASE Kent would not be able to advise other organisations on how best to complete procurement documents if they were going to then compete against them. CASE Kent worked with a range of charities from very small to large ones such as Age UK including giving advice on legal issues such as setting up and in some cases closure. Most of the work was with smaller charities which provided a range of services that were valued locally and by users.
- (3) CASE Kent received an annual grant of £117,000 from the Families and Social Care directorate within KCC. Originally the purpose of the grant had been to support the charitable sector but more recently FSC had been trying to assign responsibility for particular outcomes allied to their policies and strategies
- (4) Mrs Perfect said CASE Kent had successfully completed the Pre Qualification Questionnaire for the provision of services for children but did not proceed because of the nature of the contracts and the legality of some of the clauses – for example KCC Children Services right to discipline contractors' employees. CASE Kent had also tendered for the Men's Sheds' project and was interviewed. The bid was, however, ultimately unsuccessful and Mrs Perfect thought this was because it was marginally more expensive than the successful tender. KCC should consider may need extra margin for voluntary sector not just go with the cheaper provider. Cheapest does not always come with VFM for the service user and she was concerned that the effect of the current structure could lead to large and small voluntary sector organisations folding.
- (5) Commissioning may know what they want but procurement is almost mathematical. Thinking in simply business-like terms can stifle creativity and sharing of good practice / ideas across the sector. Why would you share in the new commissioning domain it does not make good business sense.
- (6) Grant funding is not VAT eligible but contracts are. The final arbiter of whether or not VAT is liable is HMRC and they make decisions on a contract by contract basis. The sector is still waiting for HMRC to take a view but the outcome could have huge implications for the sector and associated costs.
- (7) TUPE raises issues for the sector in terms of the transfer of staff and associated HR, governance and legal costs.
- (8) Tender bidding and presentation do not provide a level playing field regarding the quality of the service ultimately provided. Larger organisations can afford professional expertise for their bids. Smaller organisation are often resource light and do not have the capacity or the experience to

complete tender documents. Tendering and contracting for specified services denigrates innovations / good ideas which the grants system enabled to flourish.

Question – Where you (CASE Kent) bidding for contracts beyond your capacity?

- (9) No. I have the personal capacity and experience from running Age Concern and CASE Kent as an organisation also had experience and capacity. It felt as if there was a difference in the expectations of the commissioners and providers about what could be done for the money.

Are you saying that KCC should allow a greater budget for the voluntary sector? Why should KCC not go for the cheapest option?

- (10) It is important to reflect the true cost of providing the services otherwise contracting organisations would not be able to provide the best service to users. There appeared to be a conflict in that commissioners know what they want the service to look like and the procurement process itself focuses on the financial and mathematical aspects .

Question – Does CASE Kent get involved in discussions with commissioners?

- (11) No but over the last 5 years CASE Kent has attended meetings about services for older people. The commissioners of services tend to talk to providers (such as Age UK), user groups (such as Carers' Association) and umbrella organisations. FSC had also been clear that they do not want lots of small contracts.

Question – Meet the market events appear to work for other sectors. Why does the voluntary sector appear reluctant to get involved in such events?

- (12) The charitable sector is diverse in both size and in its beneficiaries. Individual charities tended to be risk averse and their resources are becoming increasingly limited. When grants were available from local authorities, primary care trusts and other sources for projects there was an element of "give it a go". With the commissioning model the time and resources required to go through the tendering process was disproportionate to the size of the contract and beyond the capacity of many charities.

Question – Do you get involved if a provider is failing to provide the service it has been commissioned for?

- (13) Yes. For example, it became clear that Age Concern Ramsgate ran into difficulties and Age Concern Broadstairs was insolvent and operating illegally. Both were visited by Age UK and CASE Kent got involved too. Age Concern Thanet has now been established but were no longer able to provide direct services to users in Ramsgate and Broadstairs.

Question – Was the decommissioning of these services carried out to your satisfaction?

- (14) It was a difficult process for KCC but KCC did well because it did not dictate but advised about particular actions to be taken.

Question – Could CASE Kent have provided the service that KCC was expecting?

- (15) Only by sub-contracting to other charities. KCC passes responsibility for delivering the service to a main provider who then passes it proportionately to its sub-contactors
- (16) It is harder than it was 5 years ago for charities to secure funding.

Question – Do you have any additional funding?

- (17) No, CASE Kent did have central government grant of £250,000 pa, but that funding has ceased, so the charity is currently running in part on reserves. It is very difficult to find philanthropic funding pots for 'second tier' charities.

Question – How many employees are there at CASE Kent?

- (18) There are 7 direct employees which equates to 5 full time equivalents.

Question – Will the Social Value Act make a difference to CASE Kent's ability to secure contracts even when they are not the cheapest bidder?

- (19) It does not feel possible for a potential contractor to express a view that the specification could not be delivered for the price commissioners prepared to pay. Charities often had concerns about the quality of the services to the end users. For example the contract for services at the Minor Injuries Unit in Faversham has not been let because none of those tendering could meet the specification.
- (20) Changes to providers can make it difficult for users to access support and services.

Question – Could two or more charities come together to enable them tender for a contract?

- (21) It is possible to form consortia but a lead organisation to take on the responsibility and the risk is still required. An element fee or payment to incorporate that risk would be required.

Question – What are the principal barriers to charities tendering for contracts?

- (22) The cost of tendering in terms of time and knowledge as well as the size of the contracts being let by KCC particularly FSC. The domiciliary care tender is an example where the contracts will be operated by 'super charities' and private organisations to the detriment of smaller local organisations serving their communities. There have already been 92 appeals relating to the new contracts being offered and subsequent tender process.

- (23) Trustees can be very risk averse – it is imperative for organisation to have the correct trustee skill mix (including commercial savvy)
- (24) Forming consortia to provide specific services – they cannot be formed quickly as they involve 'buy in' not only from managers but also from trustees. The voluntary sector is more business like generally but cannot always move at the same speed as business due to its different structure.

14. Wrap up/key points (Item. 6)

The Committee concluded that:

- (1) It would be useful to consider case studies and examples of good practice in commissioning and procurement.
- (2) If parish and town councils could use small contractors for low risk and small works it would create opportunities for small contractors to build a track record and be in a position to provide references however most town and parish councils are required to use a recommended list.
- (3) So far the Committee had focussed on tendering for contracts but negotiated contracts with a chosen supplier are often advantageous.
- (4) It would be useful to consider studies undertaken elsewhere which sought to understand why public services cost more in rural areas compared with services in urban areas.
- (5) It was clear from evidence provided earlier in day that businesses and the voluntary sector do not know where to get information about contract opportunities, find it difficult to identify the contracts worth pursuing and to understand the mechanics of the procurement process.
- (6) It might be important to retain grant opportunities for the charitable and voluntary sector as they often have good ideas for valuable but non-statutory services and are unlikely to be able to form consortia to bid for contracts.
- (7) Based on the evidence received it appeared that KCC teams tended to use tried and tested contractors but awarding low value, low risk contracts to small enterprises or charitable organisations could make a significant difference to an organisation's ability to survive.

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KENT COUNTY COUNCIL

SELECT COMMITTEE - COMMISSIONING

MINUTES of a meeting of the Select Committee - Commissioning held at Wantsum Room, Sessions House, County Hall, Maidstone on Thursday, 30 January 2014.

PRESENT: 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

IN ATTENDANCE: Mr A Tait (Democratic Services Officer), Miss T A Grayell (Democratic Services Officer), Mrs P Cracknell (Research Officer Scrutiny & Evaluation, Business Intelligence) and Ms J Sage (Assisting Research & Business Intelligence)

UNRESTRICTED ITEMS

1. **Peter Heckel, Director, Project Salus** (Item. 3)

(1) Mr N J D Chard informed the Select Committee that his son received support from the KCC Disability Team. This was not an Other Significant Interest, and he was therefore able to participate fully in the consideration of this item.

(2) Mr Heckel introduced himself as the Director of Project Salus (Latin for "Wellbeing"). This had previously been part of KCC under the heading "Kent Safe Schools (KSS)." In 2011 his proposal for KSS to become a social enterprise was accepted. KCC had provided Project Salus (as it was now known) with a three year grant and 23 staff TUPE transferred from KCC to Project Salus in June 2011.

(3) Project Salus had a turnover of £800k and it had lead responsibility for anti-bullying, drugs and alcohol education, restorative justice. It received £1.2m from KCC to undertake work in Children's Services, Justice, Youth Work (running youth clubs in Hythe and Maidstone) and Domestic Abuse.

(4) **Questions - can you provide further details on the submission that "KCC and the services it commissions may benefit from a unified and corporate approach to commissioning?"**

(5) Project Salus has always been dealt with fairly and professionally by all commissioning directorates and units within KCC. There are, however, marked differences in approach between them in other respects. For example, Children's Services always provide TUPE information to all the bidders at the very start of the process. Other teams, on the other hand, only provide this information after the contract had been won. This usually leads to a renegotiation of the contract and can lead some contractors to withdraw altogether.

(6) **Question - Can you explain what the barriers are to small organisations entering the market?**

(7) KCC tends to split those services it wishes to outsource into Area lots, making it difficult for small providers to put in a bid. The result tends to be the creation of consortia (which are by their nature difficult to quality assure) or that the risk is passed on to the provider who consequently needs to sub-contract. However, when the Youth Service offer was broken down into 47 lots, smaller Youth organisations were able to participate and win contracts.

(8) The answer lies in either reducing the area size of the lots that can be bid for or in making the criteria far more specific. The overall current position is that small, local organisations are often effectively prevented from bidding because of the size of the contracts. Some contracts are for provision over half the county, so enormous amounts of work are needed to put a bid together. Project Salus, for example, needed three staff to work fulltime for a week and a half preparing one bid. Such a concentration of resources would have been completely beyond the smaller organisations' capacity or would have been to the detriment of service provision.

(9) Question – Can you tell us more about the “disappointment” discussed in the first paragraph of your submission?

(10) Some of the KCC Teams are more adversarial than others. Better results are achieved through a good working relationship, with flexibility on both sides. If the Team and the supplier are able to work flexibly together they can overcome unexpected barriers such as changes in legislation. The adversarial system leads to polarisation and a determination on both sides to stick rigidly to the contract. This approach benefits no one. When, on the other hand, both parties are committed to working together, it becomes possible to vary the contract in creative ways to reduce costs.

(11) Question – You talk about potential suppliers becoming involved in drafting specifications - do you want to have your cake and eat it?

(12) Project Salus is very conscious of its previous history as Kent Safe Schools, but it has never made the mistake of considering itself as part of KCC. The County Council is Project Salus' largest and most important customer, so there is every reason for both parties to find better ways to work together. We want a team-like relationship, but we can and will challenge KCC if we need to..

(13) Organisations have to be more efficient. All profits made by Project Salus are ploughed back into its services. At the point when the Project left KCC, 65% of its resources were concentrated on front line services. That figure now stands at over 80% as an outsourced company.

(14) Question - What do you mean by “prescriptive tender specifications.”?

(15) One of the reasons for prescriptive tender specifications is central government policy. Nevertheless, many of KCC's tender specifications are more prescriptive in terms of service build than they need to be, asking for a certain number of hours with quantifiable outcomes. It might be preferable if Specifications were to state the outcomes and seek suggestions for innovation in the services to achieve those outcomes. Currently, the tenders specify the number of social workers who need to be employed in specific areas to target specific family types.

If, instead, the tender were to set a target of reducing anti-social behaviour, the bids would become more varied and lead to higher quality of service.

(16) There are organisations that do not deliver or are uncompetitive. Such organisations do not have the right to exist. KCC should be able to decommission those Voluntary Organisations that are unable to compete and deliver. But, by the same token, organisations should be able to hold KCC to account.

(17) Question – Your two main areas of concern appear to be the adversarial nature of some of the commissioning processes and the Quality Assurance regime. Can you elaborate?

(18) There is a culture in certain parts of KCC that leads to adversarial commissioning. The selection process usually involves scoring or marking a bid and then interviewing the top two or three bidders. Some commissioning teams look for the strengths and positives whilst others search for flaws. The less adversarial commissioners offer valuable feedback whilst their counterparts provide nothing more than a scorecard. You can feel as though you have gone ten rounds with Mike Tyson, and this does not help us to help you!

(19) The QA approach tends to be more focussed on outputs than outcomes. This means that numbers rather than quality become the way in which the success of a project is judged. Project Salus runs the Shepway Youth Club in Maidstone where some 90 young people attend. This figure is above the target set. However, there is no measurement of what should be done for this number of young people. Likewise, KCC specifies that the Youth Club should engage with the young people, whilst also requiring that the youngsters should gain accredited outcomes such as First Aid qualifications. These targets can be in direct conflict, young People are at school all day learning, in the evening they also want a bit of fun and may not want to talk part in formal learning. Setting a target of this nature prevents Project Salus from achieving something of genuine value with young people – an outcome such as a decrease in antisocial behaviour.

(20) Question - Could KCC enable its staff to develop innovation and make the savings i.e. 20p in the £1?

(21) This would be possible but very difficult due to its culture. Businesses need to look at profit and loss whereas KCC managers generically judge themselves based on the number of staff in their teams, the size of their budgets and their areas of control. This leads to protectionism and the creation of a silo mentality. For example - it would have been highly unlikely that my Team could have run a youth club during the period they were employed by KCC. This is because as Education Directorate officers we would have been stepping on the Communities Directorate's patch.

(22) Culture is the hardest thing to change. It is changing at KCC but not fast enough. KCC's frontline staff are skilled and innovative because KCC is very good at fostering personal development. Its weakness is that it is very hierarchical across the Directorates. It is very difficult to achieve development or innovation in a hierarchical structure.

(23) Question – Is it not true that targets come when outcomes are achieved?

(24) Targets are important and should be qualified by the outcome. There needs to be a purpose to the work undertaken. This means that work should be judged in terms of its overall effectiveness rather than on the number of nice things that have been provided for young people. Projects need to be quantified by outcome, purpose and achievements. You can work with a family for two years but the question to ask is what difference has been made. Has anti-social behaviour gone down, and have the families' employment and other prospects increased?

(25) The volume of resources required to complete submissions could lead to the loss of good service deliverers. Are these levels of service requirements achievable for small businesses? There is evidence that some of them have viewed KCC specifications as unachievable and have therefore not tendered. Organisations have to ensure that they can continue to meet their own ethos. No-one wants to do anything badly, and contractually everyone wants to do as well if not better than everyone else. All our reputations are at stake.

(26) Question – Please comment on these two statements. Firstly, for certain services it would be better if local KCC managers, who know their patch, were to actually negotiate directly with the potential supplier. The second statement is that the job and personal specification ought to be changed for commissioning managers so that they become less risk-averse?

(27) The Munro Report on Child Protection called for local authorities to be risk-aware rather than risk-averse. It is important to look at the quality of the decisions made rather than at the risk of taking the decision in the first place.

(28) If a small voluntary organisation receives large amounts of money, this can actually result in its demise due to problems of cash flow, systems and staff numbers.

(29) Question - Youth Clubs' targets are set out in terms of numbers. Is this not because it is hugely difficult to quantify quality?

(30) Project Salus has worked with Christchurch College on developing means to measure softer outcomes. There would be cost implications and tensions if different, more comprehensive evaluation methods were to be installed beyond those traditionally used. For example 40% of KCC contracts are based primarily on price (which cuts out competition based on added value).

(31) Question - Can you compare your experiences of Kent County Council with other local authorities?

(32) All the local authorities tend to be on a par regarding the difficulties. Project Salus and KCC have the advantage of being familiar with one another. This means that it is less likely that a number of the Project's staff will be asked to travel long distances for a thirty second meeting (as has recently happened with a nearby county council).

(33) KCC as a commissioning authority should not be seen as a "broken system." But it could perform better – as all systems can.

2. Interview with Carolyn McVittie, Managing Director, Stepahead Support
(Item. 4)

(1) The Chairman thanked Ms McVittie for attending, and those around the table introduced themselves. Ms McVittie responded to questions from the Select Committee.

Please tell us what you do and what your organisation does, in terms of commissioning.

(2) I am the Managing Director of Stepahead, which has operated since 1999 to support children, young people and families. Our work has changed a lot since 1999. Our funding comes mostly from the County Council, a situation which has brought us some criticism, as we have put 'all our eggs in one basket', but there has always been a good relationship with the County Council as a funding partner. I will highlight some of the key points of my written paper.

(3) In the past, contracting has started with a discussion around a table, at which meeting partners have identified needs and discussed how these should be met, and we have been given some funding and asked to go away and deliver services. This does not lead to sustainable contracts, however; we had yearly rolling contracts, which are not ideal. Sometimes we do not know what funding we will have until April.

(4) Now there is the framework model, in which organisations can apply to go on a selected list to become potential future contractors. We welcome this model as it recognises quality and standards and builds a pool of quality organisations which can deliver services. However, the process around the framework model is not how we had hoped it would be, and the timescales have slipped. It also generates an awful lot of paperwork. We had just undertaken a review of all our contracts, one by one, which for a small organisation was demanding in terms of time and energy. The eligibility criteria to go on the framework changed. At first, people had to score 80% in the test questions to qualify to go on the framework, but then, after delay, this was reduced and people only needed to score 20% to get on. This led to more organisations - 127 - coming onto it, which devalued the process. We had made much effort with our preparation work but other providers got in with less effort. We had a good open relationship with the County Council commissioners and they were honest about not being sure about what services the Council wanted, moving forward.

(5) In the framework, we are able to tender for opportunities as they come up, and we expected opportunities to be presented gradually, but sometimes they come three at a time and we have to decide whether to spend time and effort preparing a really good quality tender for one of the three or to divide the time and effort preparing tenders for all three, which means that each one might not be such a good quality tender, (which is difficult to do, professionally, as have high standards) and we might miss getting a contract because of it. As a small organisation we didn't have a business team which we could dedicate to preparing tenders; I did them all myself.

(6) In terms of commissioning, there are some positives; the service specifications are better now, and are quite detailed, but also a negative. The question and answer stage is good. Market engagement events are good and

useful in helping people to understand the process; they are not a 'tick box' exercise but are a good way for the County Council to talk to providers and understand which models could work.

(7) In terms of decommissioning and re-commissioning, there have been some detrimental effects. For example, for a Stepahead mediation service, we had a 27-month period during which staff were put at risk of redundancy as the future of a contract was unsure, then it was renewed for three months, then at the end of the three months we had to start the redundancy process again. We tendered and went to interview but then no contracts were awarded. Then we had to re-tender, were awarded a contract and then waited when it was challenged, and had a long period of uncertainty. This stop and start is very unsettling and makes it very difficult to plan our staffing and services. By the time we eventually secured a firm contract, many of our most experienced and skilled staff had found more settled employment elsewhere and we were left having to replace them so we could deliver services under the new contract. The County Council told us that they hadn't de-commissioned us because we weren't good but because they had a process to which they were committed. It was good to know that we hadn't lost a contract through not being good, but this situation really did not help us in terms of staff morale. We now have a three-year contract and the possibility of an extension, so we have some security, as long as we continue to perform well.

(8) Previously, the monitoring of contracts was done locally by County Council contract managers who knew the service and with whom we had a good relationship. Performance would be reviewed, and was often output-focused, and Stepahead wrote a report of outcomes (rather than outputs) and talked to local people who understood local needs and issues. This could help with setting up school clinics, etc, but there was no countywide overview. Now, commissioning and contracts are at a countywide level and the process can be more challenging and intimidating for staff. It doesn't feel like a partnership now – it now feels more like a Head Teacher and pupil relationship! Although it is important to build relationships, it is difficult to do this when the turnover of commissioning staff is high (the commissioning manager for the mediation service changed three times in 6 months), but once we are able to build relationships we can work through the other issues with the new system.

(9) In terms of funding, there is always an assumption that the voluntary sector can do things cheaper, pay lower salaries, have no pensions, etc. We are lucky that our staff are willing to stay with quite modest salaries but it is not always possible to rely on this long-term. The money we are paid does not always cover what is in the specification for the contract. When we have been asked to deliver something at a price which we know does not support good quality service provision, and at a risk that the services we would be able to deliver would be below standard, we have withdrawn rather than have our name associated with it. What is specified in a contract, and what is paid, needs to be realistic. We understand the financial pressure that the County Council is under but commissioning needs to be realistic and fair.

(10) We are given contracts to work with those with mostly high and complex needs, as the County Council needs to ensure these families receive attention. Early intervention is often seen as low-need but this isn't necessarily so. Previously, young people would be referred to us via their school. It is wonderful to find someone who wishes to refer themselves, but sadly we cannot accept self-

referrals now; they all have to go through the common assessment framework (CAF) process. I worry that there are people who, because of this, are not able to receive a service which could help them, and who might then develop more severe problems later, as a result. I am concerned that there is a gap, or that people will only show up when core intervention is needed.

Thank you. Some of the points you have raised support things we have heard from previous speakers.

Previously the focus was on outputs and now is on outcomes, which can be difficult to identify in this area. Is it possible to identify the outcomes which should be achieved? Can you give us an example of good practice as regards the County Council working with you, for example, by looking at something other than just numbers (outputs)?

(11) Numbers are easy to see but outcomes are more difficult as you have to assess and demonstrate the sustainability of improvements. We had agreed how these were going to be measured – for example, via follow-up after 3 months, 6 months or 9 months. You would need to have a family's permission to carry out these follow-up sessions, and they would need to be brief and consist of quick and simple questions. If follow-up is onerous or oppressive, families will not take part (some do decline) and you won't be able to undertake the meaningful monitoring you need to do to demonstrate the long-term impact of support. Different measurement tools need to be used. Previously, I have been told I cannot use the 'strengths and difficulties' questionnaire, a recognised social work tool, to monitor outcomes, but now that seems to be back in favour.

I am concerned about early intervention, to avoid greater needs developing later. People have to be referred through the CAF, and the elimination/filter process starts there. How can you get people needing early intervention to (be able to) come forward sooner? Is this an issue of targeting?

(12) Yes. Our target age group is currently 0 to 19 years but we get very few babies being referred for mediation. We need to talk to the County Council and other providers (NHS, etc) about how to pool our funding to enable early intervention. Previously, many young people were engaged and helped at school. We held school 'clinics' and drop-in sessions, from which we could signpost them on to appropriate services. But we can't do this now – all referrals have to come via the CAF. The way in which we work with our partners, and how we divide our budget, is key. Some young people we can't help so we signpost them on via their school (not via GPs – they don't tend to engage!) But CAMHS, for example, has a very long waiting list, so there is no easy answer.

You said the County Council is unclear of the service it wants or needs to achieve?

(13) Children in care and care leavers were previously helped via Catch 22, but this service will not continue to be funded, and will not be re-tendered immediately, as needs are unclear. It is good that the County Council is honest about not wanting to re-tender for this service, but when it is making this sort of decision it needs to think about what is needed sooner and plan ahead!

When a contract is renewed, is good performance rewarded - for example, a provider who has met all their targets? However, the County Council has an obligation also to consider other organisations. The framework does not seem to have scope to allow experimentation. Does the County Council stick with what it knows or does it try new things and take risks? What is your position, compared to other providers/contractors?

(14) That's a very good question! There is a risk of becoming complacent; if outcomes are being delivered, it is easy just to carry on with a current arrangement. A review could be undertaken, rather than a contract being automatically renewed. Companies may have some really good ideas for a good service model in an area in which they may lack experience, and they will lose marks in the assessment process because of their lack of experience. Assessing potential providers on paper has value, but it's important also to have a dialogue with them. They might deliver a good service but it is difficult to put this on paper, so a good relationship between commissioners and contractors is important, and dialogue needs to be ongoing through the whole length of a contract; not start towards the end when it is time to look at renewing.

Is Stepahead a charity?

(15) Yes.

As a charity, do you think the County Council treats you any differently from other providers?

(16) They do seem to expect us to be able to do more with less, but expect the same standards as they set for other providers. We are part of a consortium which pools its strengths to look at contracting together. This has been a good experience but took some 18 months to agree.

Are there pros and cons of working in a consortium?

(17) Yes, there are. It's not something that can be set up overnight.

If you get a contract for three years and the law changes during that time, how would this affect you, and how would you deal with it?

(18) This has never happened so we've never had to deal with this issue.

The framework has been in place for two years now, so do you consider yourself to be a partner of the County Council now? Do you feel there is a need to review the framework, and how would you influence it or change it?

(19) I don't think the framework is worth the paper it's written on! It doesn't meet the service needs and never has. It was supposed to be made up of high-quality providers who scored 80% or above at the test stage, but it now includes companies who only scored 20%. I appreciate that, at 80%, it would only have had a few providers and there would potentially be gaps in provision. As regards how I would influence it, I would say there needs to be open discussion about what is needed and how best to support children and families. The framework needs to be a working document but doesn't give any guidance within it about how much and what information people need to include on forms. There needs to be more

guidance for people using the document about what information they need to provide.

Do you consider yourself to be a partner now?

(20) We do now, but we feel contracting and partnership working is led by a process rather than by relationships. If there could be more consistency around contracting (three commissioning managers had left in quite quick succession) then some good relationships can be built.

Looking at commissioning for complex needs and safeguarding, do you think the County Council sees you as someone it can use as a buffer for capacity? Do you feel that they mess you about? Outsourcing and safeguarding issues affect people's lives. Does this outsourcing model make this risk greater? Would insourcing be better? Is this a weakness?

(21) It would depend on the organisation. It would add an extra layer to safeguarding procedures, information would be third-hand, and it would delay the timeframe. But I don't think it would put more children or vulnerable people at risk, as long as the commissioning is good and there is good communication with the statutory team. We have had some issues in the past which we felt were serious but which were not deemed to be serious, once referred to Social Services. Responses used to be poor, but now there is a swift response at any time. There could be some risk if issues and concerns which are raised by an outsourced service are not acted upon. Safeguarding and monitoring would need to be very thorough. There is always a risk around any method of contracting for people-based services.

It seems to be about continuity, partnerships and relationships. Why do you think the County Council does not know what it wants to commission?

(22) I was told a while ago that the County Council had not known how many contracts it held or what it was going to commission. Its central record keeping did not seem good, so there was no overview. There was a review in 2011. It is only when the County Council came to undertake a review that it realised how many contracts it has, and it found several contracts in which different companies were doing the same work. The framework would be a useful tool to bring work together information and avoid duplication.

Can you give an example of good or bad experience of your having asked the County Council what it needed to commission to fill a gap?

(23) I can't think of an example of having done that. There is still a lack of clarity but no one specific example. Some contracts do not have a clear service focus.

Surely there are areas in which there should be clarity – for example, around Troubled Families?

(24) Yes, needs should be clear; that is the aim of the Troubled Families initiative. Troubled Families involves services which are difficult to deliver. We deliver family mediation, Young Healthy Minds, etc, and we do get some inappropriate referrals to the new service. This is because people need to build up their understanding of

what we do. It can take time to get all CAF co-ordinators aware of the remit of a newly-contracted service.

How easy are services such as family mediation, Young Healthy Minds, etc, to get through to, to find help? An example that I've heard of is of a 13 year old who took her younger siblings to the local Police station and asked for them all to be taken into care.

(25) Cases such as that would be screened via a social worker. We get some step-down referrals for families who have previously had social work involvement. Our initial fear about the length of delays did not materialise, and delays now are not due to the CAF process, but people do go on a waiting list for services. They might have a very quick assessment but then still have to wait a while to access services.

Does this get in the way of delivering services to families who need them?

(26) No. We would like there to be a phone-in service for parents, which could run alongside our other services, but we do not have the capacity to set up and run such a service.

Is the lack of clarity around what the County Council wants still evident?

(27) Not at the contract specification stage, which is very clear (once the need and desired outcomes have been identified) but too rigid. I would like to be innovative and adaptable but I can't do this in the current system. The strength of the voluntary sector is its flexibility and the ability to innovate.

Is the County Council clear about why it is commissioning services?

(28) It isn't always clear about why it wants to commission services. It would help to have some detail about how a contract would link into other provision.

What is it that the County Council does not seem to know – whether it is commissioning something because it is a legal requirement, or because it is best practice, or just a good idea?

(29) I don't know – this is not clear.

Can you contact the Central Referral Unit directly if you have safeguarding concerns?

(30) Yes we can; we are given this responsibility as part of our contracts.

What staff do you have?

(31) I currently have a total of 40 staff. Some have left recently or switched to working part-time, so I need to recruit to replace them.

Are you able to access good quality trainees, for example from Canterbury Christ Church University?

(32) I get social work students from Canterbury Christ Church University and the University of Kent at Canterbury. Working with an organisation such as ours is part

of the training requirement on their degree course. We have a quality manual which sets out policy and procedure.

Do you find it difficult to recruit and retain staff?

(33) It's not too bad, but some staff leave to seek better-paid jobs. As a voluntary organisation, we lack the funding to provide good quality training but still we are expected to have high quality, well-trained staff.

As you are a partner of the County Council, could you ask it to help you with training for your staff?

(34) We offered to share with them, at a reduced rate, some mediation training that we were undertaking, but there was no take-up. We do share a bit of training but it is difficult to find the time to give to planning ahead about setting up joint training exercises.

You say in your written paper that those whom you feel are in danger of being lost are the children, young people and families who need support.

(35) Everyone working with children and families has safeguarding and support as their main aims, but if the process takes over, the flexibility that is necessary when working with young people can be lost. Also, the process can hamper the need for people to be able to access services quickly. If a family is being supported for a period of six or twelve weeks, there is no more opportunity beyond this time to continue to build a relationship. The process is too rigid, and there are only so many voluntary organisations available to work with clients.

Is there anything else you want to tell the Select Committee?

(36) Nothing that I can think of. Taking part in the Select Committee has been very helpful for me as it made me think through what we do and what could be different. I was very pleased to be asked.

(37) The Chairman thanked Ms McVittie for attending.

3. Interview with Thom Wilson, Head of Strategic Commissioning (Children's Services, KCC)
(Item. 5)

(1) The Chairman thanked Mr Wilson for attending, and those around the table introduced themselves. Mr Wilson said he had been interested to hear the last part of the previous interview, and he commented on a point raised about change management. He added his view that it is essential to have an exit strategy at the end of a period of family support, and that good handover is vital.

(2) He then responded to questions from the Select Committee.

Please tell us about your role.

(3) I am the Head of Strategic Commissioning for Children's Services, so I have a responsibility for children's social care transformation, 0 – 11 integrated service transformation and commissioning. In this role, I need to have a broad view across all these issues.

(4) The key points I would highlight from the written paper which I submitted previously are the importance of pathways, understanding journeys, the limitations of a 12-week involvement in supporting a family tackling issues which can be ingrained over generations, and the importance of community support in addressing issues of social value.

(5) Whereas, in adult social care, some 80% of spending on commissioning is with the external market, with 20% being in-house, in children's services, this pattern is reversed, with only 20 – 25 % of the spend being with the external market. This emphasis on in-house provision means that greater emphasis of children's commissioning is focused on the County Council's own practices, influencing what happens internally as well as making best use of the market.

(6) I have recently met some providers and heard their views on the frameworks we use to commission services. My view is that these meetings are a positive step as they allow the County Council the opportunity to work proactively with the market. However, as we become more sophisticated at commissioning, the County Council will need to be more sophisticated in the way it runs and uses the framework, ensuring providers know what to expect and how the framework will be used. For example, I recently met a national provider based in Kent that does very little work in Kent but a great deal elsewhere. The County Council has not seemed to be proactive at telling companies like them that it has many contracts in which they may be interested. It needs to focus on improving its communication and be clearer at telling providers what it wants them to do. The Council needs to be better at communicating with providers.

(7) There is a tendency among local authorities to see commissioning as a 'them and us' situation, but we need to realise and understand that we are all in the same business of seeking to support children and families. Relations between commissioner and provider can be tense, as shown by the reference to 'Head Teacher and pupil' relationship in the previous speaker's written submission. However, sometimes you can have too close a relationship between commissioner and provider. We need to work closely but be able to challenge. If the two are too close it can be difficult to criticise a provider over their performance or any other issue, if and when this is necessary, and hold them to account for not managing the situation.

(8) Regarding social value, I am not sure that many people yet have a clear understanding of what this means in practice. I think many people acknowledge that the voluntary sector brings social value but there is no clear understanding of how this can be calculated or quantified, and how we can identify which provider brings more impact. In children's services, our first priority is to keep a child safe. However, the second is too often to balance the budget before focusing on improving outcomes. As, at each budget cycle, it is usually only possible to know the next year's proposed savings, the wider budget and resources are not known. Social value will drive long-term improvements, and savings in the future, and so is difficult to prioritise in the short-term. There would need to be a strategic countywide approach to set out what must be taken into account to address social

value issues. Social value is easy to miss when focussing on a challenging savings target. The County Council could look at ways to evaluate social value in the procurement process, such as awarding scores for social return. However, it is important that, whilst social value might be easier to perceive in local services, large national organisations and companies can also add value through local investment, bringing opportunities and services which cannot be matched locally. The priority is to provide the best service not just the most local service.

(9) Children's commissioning has improved much in recent years. In my experience of starting at a new Council, I am used to finding chaos, but that has not been the case in Kent. In previous years, there was no monitoring of contracts, once let, but there has been much progress in this area and the County Council has a very good team. The County Council is getting the basics right but needs to move to the next level of sophistication, moving from monitoring outputs to monitoring outcomes. Especially in social care, a huge cultural shift is needed and it is harder to measure outcomes.

(10) We need to be more confident at listening to and working with the market, customers, families and children about what is needed then writing specifications, rather than the County Council taking a paternalistic view that it knows best. The market can be innovative, and the Council needs to take advantage of this. Providers in the market are experts in service needs, whereas the County Council is expert at processes. The County Council needs to be more confident of letting the market teach it about commercial understanding, and needs to listen to its customers as partners; it needs to acknowledge that it doesn't necessarily know best.

At what stage are the key activities that you list in your written paper? Are they planned, becoming embedded, etc?

(11) The *Independent Fostering Agency (IFA) framework* has been embedding since June 2013. This project is showing interesting progress. A social worker trying to place a child would previously have contracted with the first IFA which could offer a suitable place. Now they approach all providers on the framework to identify the best placement. The County Council has encouraged IFAs to sign up to a framework under which it has set out the specification for working with it, with a guarantee that they will work with the County Council in a certain way. There is much work planned on the *Children's Centres Market Review*, which follows on from 'Facing the Challenge'. The *Early Help Reviews* are starting now. The County Council agreed its Early Intervention and Prevention framework about 18 months ago and contracts have been 'called-off' it.

(12) There is a longitudinal study which was undertaken to understand the impact of early intervention on children. However, it is not always about whether services are responsible for the outcomes as no one service alone can keep a child out of care. Therefore we need to work with partners. For example, a social worker working with Families and Social Care would then arrange step- down from this intervention but would not cut off completely from giving any further support, if needed. There would need to be a pathway to allow further work if necessary, and the County Copuncil would need to be clear of its desired outcome.

(13) The County Council needs to work with providers to meet needs. When arranging market events, at which it meets and talks to potential partners, it needs

to ask how a provider can help meet the Council's key aims, and, as part of this, it should make clear its intention to include social value in commissioning and seek potential partners' views on this.

I attended a 'meet the market' event for care leavers, which covered issues such as accommodation and support. The next stage after this is to talk about potential partners' ideas, but providers get concerned about this as they think others might copy their ideas and use them to win a contract at their expense.

(14) If I were a provider, I would try to be guarded at giving away too much. I would feed in comments and be helpful in discussions about what would be good to do to build a specification but would keep my commercial secrets to myself. Then, at the procurement stage, at which prospective contractors are asked for expressions of interest and method statements, I would set out my delivery ideas and unique selling point to make me stand out from others tendering.

(15) The London Borough of Croydon Council has established a social value framework and process which it describes as offering a 'competitive dialogue'. I have never tried this method of identifying and engaging with potential contractors, and it has some risks, but it could be useful, particularly to address challenging issues such as provision of services to people with mental health issues. Having a competitive dialogue with potential contractors (weeding out unsuitable providers first) could allow the County Council to explore possibilities for future service provision and shape its model to a jointly-agreed service, to allow innovation, rather than undertake market engagement and then produce a set, rigid specification.

In the joint needs assessment which is prepared by social care and health colleagues, the County Council may have to change what it requires from the agencies with which it works. How would this change be built into an existing contract? Is there provision for an existing contractor to engage another provider in order to address a new requirement, for instance?

(16) The key method for the assessment of need is the common assessment framework (CAF). This method is not specified as mandatory in guidance but it is clear that Ofsted expects to see a similar model. One agency would be identified as a lead in providing a service but would be able to engage other providers (who have already been approved by the County Council) to meet specific or specialised areas of need, for example domiciliary care or services dealing with drug dependency. We would not ask any provider to meet a need which is beyond their specialism, ie to subcontract. However, one option we would explore would be to use a 'prime contractor' model.

In your view, what role could elected Members have in scrutinising the commissioning process? Transformation brings an opportunity to review Members' role. What change in role would you like to see and how should this change happen?

(17) My view is that we are lucky in children's services to have a very strong portfolio holder who actively scrutinises our work. There is potential for elected Members to have more of an oversight of the commissioning process as they do elsewhere. Transparency is important, and everything should be open to scrutiny.

(18) There should be outcome-based methodology and accountability. A good test would be the 'town square' test: what would someone in the town square make of what the County Council does, and would its actions seem clear and comprehensible to them?

(19) An effective model I have seen elsewhere is for one portfolio holder to sign off all contracts above a certain value. An option could be to set up a Members Board to oversee contracting and see which services are due for review, renewal or decommissioning. This would raise Members' understanding of what is being commissioned, how performance is being monitored and the general direction that the County Council is taking. Members should be able to call us to account for what we do and why we do it. I have a view that, whenever an approach is exposed to daylight, it improves. If someone knows that what they are doing will be scrutinised regularly, it will encourage them to sharpen their processes and be ready to account for what they are doing.

I agree that it is good to measure outcomes (for example, with smoking cessation, the aim would be to reduce the incidence of smoking-related illnesses), but I would not want to see the measure of outputs be completely lost.

When commissioning any service, there is a hierarchy of priorities. What if the two bodies in a joint commissioning arrangement have different priorities; how could these be reconciled?

(20) In outcome-based accountability, there are three questions to be asked:- How much do we do? How well do we do it? Is anyone better off as a result? Joint commissioning should have a set of agreed targets and outcomes agreed before contracting the service. There should also be one person monitoring performance and outcomes on behalf of both partners. If having two commissioning bodies is a challenge, consider that there are seven clinical commissioning groups (CCGs)! An integration conference looked at improving joint commissioning. We need to get the governance right and talk about agreeing priorities.

We have heard that local choice is good and a 'postcode lottery' is bad, but sometimes these can be the same thing. When there is a disparity in service provision between East and West Kent, does this demonstrate local choice, a postcode lottery or different priorities in the two areas?

(21) When considering choice, we need to consider that people do not necessarily always want choice. What they want most of all is high-quality services. Having a choice and having to choose can sometimes be very stressful. We have to consider to what extent localism is the right approach. Desired outcomes in Margate could be quite different from desired outcomes in Sevenoaks, and different sorts of interventions may be needed in each area.

Those answers were helpful, and raise good points to think about. The County Council has to bear in mind whether it wants to embrace localism or risk being/appearing patrician.

(22) Strategy is important. The County Council would need to define the approach it is going to take and decide what it most believes in. This will give officers a framework within which to deliver.

In your written submission you set out six actions that are needed to address key challenges. Does the County Council currently do any of these six things or are they all new tasks?

(23) 1. *Focus on key priorities ...* our priority is to keep children safe and prevent them from needing to enter care. However in the past there has been a lack of key focus on what are the most important priorities.
2. *Improve as commissioners ...* – we have been delivering IPC training to all commissioning staff to help them develop, and this has been excellent. We need to continue development and give people opportunities to use their skills.
3. *Focus on integration ...* – we don't yet do this sufficiently, so this is an area for development. We need to move away from silos to more of an understanding of which needs can be met jointly
4. *Engage more with service providers ...* – currently, we don't do enough of this. We need to view providers more as partners rather than the way in which we may view utility companies
5. *Embed transformation ...* – this basically describes the role of my post.
6. *Support the voluntary sector away from grant funding ...* – some voluntary organisations are still firmly reliant on grants. They still have a role to play but need to be transparent about grants and arrangements.

What I have noted from what you have said so far is a role for elected Members, the need for trust when engaging with organisations and the issue of shared or conflicting priorities between people who are commissioning or delivering services jointly. If the commissioning side were to become fractured, with an unbridgeable gap, would the current level of engagement with partners be lost?

(24) There is always some level of risk that relationships will go wrong. It is important to achieve a balance between supporting and challenging, and I don't think the County Council has the balance quite right yet. The Council has made changes but some providers probably don't feel as valued as they could be, and are not clear about what the Council needs from them. There is a risk that, if we do not integrate with partners, this will weaken the ability to get things done. For example, it is our strategy to enhance our in-house fostering team to meet the needs of the majority of children, but to work in partnership with external providers to help us meet specialised needs which some children may have. We need to work together effectively to knit together a high quality service to children. In local areas this needs to be balanced and would need to be taken on by a local manager.

When the County Council is unclear about what it wants or needs to commission, is there scope to add more details to a contract specification later, after it has started? Is the Council's lack of clarity due to unclear priorities or the reason for commissioning - for example, whether provision of the service is a legal requirement, discretionary or best practice?

(25) My view is that we need a clear understanding of the benefit a service will bring to the service user prior to procuring it. Local authorities are not good at identifying how to improve outcomes and we need to get better. My team looks at other local authorities' approaches, and what works well, from which the County

Council could learn, and seeks their views also on what Kent could do. This approach will be a key part of projects for this year.

Your paper says the County Council spends £175million on Specialist Children's Services. How much of that spend is on services which are a legal requirement, how much on discretionary and how much on best practice?

(26) The majority of services are statutory. However, for others, there is still a legal requirement to consult on changes to service provision - for example, the review of Children Centres provision. In addition, services such as the Early Help Strategy were developed in response to a recommendation from Ofsted. Some of the services commissioned by Specialist Children's Services are non-statutory but this sort of provision - for example, support to a family in crisis - is invaluable in helping to avoid the need for statutory provision later. There are 1,000 children in care in Kent, and this figure has increased in recent years. Without prevention it will increase further.

Is it possible to take account of social value at all stages of contracting, or can it only be an outcome of service provision?

(27) I am not sure on the technicalities – it depends how you intend to include social value in scoring. This is an interesting question, and something I could look into.

Is there anything else you want to tell the Select Committee?

(28) No, nothing I can think of. The Committee's questions have been very helpful in making me reflect on what my team does and why we do it.

(29) The Chairman thanked Mr Wilson for attending.

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KENT COUNTY COUNCIL

SELECT COMMITTEE - COMMISSIONING

MINUTES of a meeting of the Select Committee - Commissioning held at Swale 1, Sessions House, County Hall, Maidstone on Monday, 3 February 2014.

PRESENT: Mr M J Angell (Chairman), 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

IN ATTENDANCE: Mrs P Cracknell (Research Officer Scrutiny & Evaluation, Business Intelligence), Ms J Sage (Assisting Research & Business Intelligence) and Mrs C A Singh (Democratic Services Officer)

UNRESTRICTED ITEMS

7. 10.00am - Angela Slaven, Director of Service Improvement (KCC) (Item. 3)

(1) The Chairman welcomed Angela Slaven to the meeting.

(2) Angela Slaven gave an overview of her role and responsibility for commissioning which she explained spanned 20 years. She advised that she had worked across statutory services and provider agencies. She explained that her experience was predominantly in the provision of services that required demonstrable outcomes that improved the lives of people in communities – drug and alcohol treatment services, supporting people, housing related support services, services to prevent offending or re-offending 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.

(3) Angela explained that commissioning was the process through which the need for service was assessed, shaped and designed based upon a needs analysis – defined by the needs of the service user group; the required outcomes and available budget. She went on to explain that procurement was the process through which appropriate services are achieved – the tendering and awarding of contracts and the legal process of commissioning. Angela concluded her statement by flagging up service user input at both the provider and the governance level for example they are represented at and are part of the Drug and Alcohol Board

QUESTION - How does the voluntary sector achieve what we at KCC are looking for in the local community - for example a lady that had voluntarily run a local youth club for 30 years is now expected to take on additional business-like responsibilities - managing the accounts and keys to the premises etc? How do you feel the voluntary sector is dealt with?

(4) Angela responded that KCC describes the voluntary sector as an a homogenous group and they aren't! Competitiveness comes into play and organisations can begin to focus on perpetuating themselves 'existence above all else' with a real risk they lose sight of their outcomes. She explained that

commissioning is always achieved more successfully when an agreement focuses on service user and outcomes.

(5) Small organisations are always going to struggle as KCC is too bureaucratic – we need to streamline and simplify. It is always necessary to demonstrate how the Council's money is spent responsibly but need to make our routes for accountability / delivery / demonstrability as simple as possible with a strong focus on building relationships with the sectors we commission from. on out. Procurement should simplify things further for the commissioning and contracting of services provision of services but in some circumstances grant funding is still appropriate.

QUESTION - When we commission a service – how do we monitor? How do we put right when things go wrong? Is there a facility within the contract if there are concerns?

(6) Angela replied by advising that when she had arrived at KCC seven years Kent Probation Service was not hitting the mark – no VFM, no performance values, no need analysis. KCC was performing in the bottom of the national league table and the Home Office had intervened. The KCC Commissioning team were restructured with a real focus on needs analysis and rigorous contract monitoring working with the provider not simply procurement.

(7) Angela added that a clear assessment of contracts was needed, if it had not been performance managed correctly and there was no indication of value for money or how the needs of the community had been ascertained and met then analysis methods was not being used correctively. Improvement was needed and this had been achieved by creating teams with a clear understanding of what was required. Commissioning priorities were agreed and put out to external tender. This brought competition into Kent and the market. Two contracts were subsequently re-commissioned with clear outcome defined and agreed. Angela advised that the Commissioners would continue to assess and monitor and if there were any areas of concern a clear period of improvement notice would be served and appropriate support given where required. Contract monitoring should include the viability of the contract as well as compliance and service users should always be asked for their judgement.

(8) Angela advised the Committee that KCC needs to be careful not to change provider too often as the service can lose momentum and more importantly service users.

QUESTION - Reference has been made to two contracts across the County. Many voluntary organisations are doing good jobs – should we not be thinking more locally?

(9) Angela replied that her heart absolutely says yes! She believed that if Kent is able to offer contracts within service specifications and encourage small groups to form consortiums then this could be the way forward. She referred to Supporting People, Drug and Alcohol, and Youth Justice consortiums which had been encouraged to be part of bigger contracts.

(10) Angela emphasised that grant aiding is distinct and a completely different agenda to Commissioning - it is about working out exactly what is required and the viability of organisations. She explained that the problem with grants was that organisations are just left to get on with it and there need to be mechanisms of support. Angela advised that Kent has a responsibility to ensure that the sector is developed to enable best practice for commissioning. But, the sector also has a responsibility to get their own house in order to support their communities.

QUESTION - If we were to recommend in favour of voluntary sector – how would you react?

(11) Angela replied that her expectation would be for the best organisation to deliver the best outcomes.

QUESTION - Service user is paramount; if service delivery is failing and you have to re-commission how long it does take?

(12) Angela explained that there were a number of ways of managing – the hope would be that performance management would be carried out well and would prevent abject service failure. If the situation did develop into a critical state it would mean the Commissioners had initially got it wrong or not done their job properly i.e. the organisation not capable of delivering the service or incorrect staff etc. She explained that there is always an opportunity to novate but there should never be a break in service delivery as there is always an opportunity to use another organisation. If a contract has broken down then contract conditions can be applied. It is all about having adult conversations about our concerns as it is not in any organisations interest to fail. Equally we must recognise that it can also be the model that has failed.

QUESTION - What if there is not another provider?

(13) Angela responded that when re-commissioning is necessary the original details do not need to be altered and you can go out to tender quite quickly (if it is within 12 months) and this could therefore be achieved within three months.

QUESTION - Would there ever be off the record talks with another provider?

(14) Angela replied emphatically that this would never happen. She explained that the Sector knows itself extremely well – if failing point is ever reached a clear “Notice of Improvement” would be served. All agreements and safe transfer of personal data etc would be correctly administered.

QUESTION – Is the sector robust enough to keep going?

(15) Angela explained that Supporting People contracts had endured the most significant changes. This sent the right message to the sector if we deliver performance management effectively and well. Angela went onto advise that she had attended a meeting the previous week regarding Pilot Areas for Drugs/Alcohol – “Payment by Results Model”. This had been flawed so adjustments would be needed.

QUESTION - Continuing with help and supporting providers. At what point would the Commissioning partnership/management of the contract be put at

risk? Reference was made to the KCC Enterprise / Amey Partnership Contracts?)

(16) Angela responded by advising that the commissioner role boundary must not be crossed. It is not our role to get too involved, otherwise who is managing whom? Help and support should include advice giving together with action to be taken and clear contract management.

(17) Angela stated did not know enough about the highways partnerships contract referred to, to comment.

QUESTION - Angela was asked by the Chairman to give some thought to member involvement within the process – he advised that Member's needed clarity and guidance as to how they could become more involved.

QUESTION - The success of the contract is the success of the contract management wrapped up in the relationship between the commissioner and the provider – would we not be better to commission the commissioner?

(18) Angela explained the key is better value and a number of the services that she was responsible for had a number of different issues regarding KCC statutory obligations and responsibilities. There were significant obligations around safeguarding and clinical guidance which required specialist knowledge. Governance was critical. Angela advised that she couldn't think of any organisation that would be able to do this and therefore didn't see it as a solution.

QUESTION - Why is it better to Commission than to deliver in-house?

(19) Angela replied that if KCC retained all services the organisation would be even larger.

QUESTION – Should KCC retain services in-house?

(20) Angela responded yes. It is important to retain some in-house provision.

QUESTION - If we do need to de-commission a service what is in place to take over or provide backup; and with reference to Page 8 – Ensuring Quality of Service – is this untested? What is put in place to test?

(21) Angela advised that the Supporting People contracts had remained untested for a long time the contract register provided accurate and up to date information and services were now being tendered and commissioned with redrafted service specifications and models of provision. She advised the risk was that the demand was managed. Angela explained that the numbers of contracts particularly Supporting People were originally in excess of 400 individual contracts – she advised that she was moving that forward and there were now 281. A three year Commissioning Plan had been implemented. Previously provision had been unmanageable due to volume / types of contracts and ring fencing of certain funds. Through due diligence and market testing the team had an understanding of the services needed and the knowledge to take commissioning and contracting process forward.

QUESTION - Would it be possible to terminate a contract and the company reinvent itself and come back under a different name?

(22) Angela responded by advising that the voluntary sector was interesting - DWP contracts get re-cycled, the voluntary sector had different agendas under Charity Law and the Charity Commission – company's limited by guarantee have a different relationship to the private sector.

QUESTION - Do you think we are good at getting suppliers to innovate?

(23) Angela explained that the services providers she was responsible for were all real innovators. The specifications required all organisations to demonstrate what they would bring in terms of VFM / innovation – this was part of the core requirement not just a tick box exercise. Angela used the Drug and Alcohol Project as an example - in the West of the county and in conjunction with Royal Society of Arts, the whole model of delivery had changed. They had created access to services on the High Street. This was also the same with Housing and Supporting People – boundaries are pushed and innovation is always key. The difficulty is how do you performance manage innovation? .

QUESTION – How do we get the best outcome for our service users and not just best price?

(24) Angela responded that the Supporting People programme had made savings of £8million over the past 3 years. The procurement rules currently say best price wins although this may change. It is all part of the relationship built up with the sector and recognition that we do not have an open cheque book. and there are economies of scale. Angela mentioned she was also a trustee and a real impact on many organisations was that salaries were reducing particularly in the care sector.

QUESTION - What is the percentage split between grant funds and commissioning?

(25) Angela replied that she could not really answer but that all Drug & Alcohol and Supporting People services were contracted: commissioned and tendered - no grants were given.

Question: Could you do a rough/ready split regarding the amount of funding for statutory/discretionary?

(26) Angela advised that statutory would be a very small - for example less than 3% in youth provision, as distinct from Public Health which had no statutory spend

QUESTION - The Chairman returned to his question about Member involvement that he had raised earlier in the session.

(27) Angela responded that the Supporting People Commissioning Body was Member led and this is how she anticipated it should move forward. Angela thought that Members have a role to play in the governance of commissioning – the decisions to act and to hold everyone to account.

QUESTION - Is the management of the process going the right way?

(28) Angela replied that governance is the decision to act in that way and deliver services. But KCC needs a clear definition of commissioning.

(29) The Chairman thanked Angela.

8. 11.00am - Nigel Baker, Head of Integrated Youth Services with Andy Jones Planning and Development Manager (KCC) (Item. 4)

1. The Chairman of the Select Committee welcomed Nigel (Nigel) and Andy (Andy) to the meeting and asked Members in attendance to introduce themselves.

2. Nigel, and Andy, had received questions and themes that the Select Committee were investigating in preparation for the meeting. A copy of their response was included in the papers and considered by the Select Committee.

3. Nigel began by explaining the Youth Service Transformation Model. He advised that a meeting was held with Customer and Communities senior management team, approximately 4 years ago, to discuss how to evolve the delivery of Youth Services over the forthcoming years. The discussions were not financially led, but how to be more effective, how to deliver a more appropriate service that meets the needs of young people, what is our relationship with the voluntary sector - especially with the number of grants which tended to have a lack of appropriate monitoring. The discussions and subsequent thinking evolved into a commissioning model, where KCC would keep a core number of services and commission private and voluntary sector organisations to compliment that core. It was clear that the commissioning model should be attractive to organisations of different sizes as the voluntary youth sector is a diverse market.

4. The outline of the proposed model was discussed extensively with the Cabinet Member and the Corporate Board. The model included; having smaller directly delivered services (the same in each district with building, street and school based elements), community wide, from a range voluntary sector provision, which would compliment the model already operating and would increase the likelihood of smaller organisations bidding for contracts. .

5. Locality Boards were consulted on the process and all were signed up to the modelling. [This process was taking place during the development of the Locality Boards]. The Leader of the County Council directed the sign up of the Locality Boards to this model.

6. Nigel explained that it took time to get “sign up” to the model by Members on the newly established Locality Boards, which were not set up in all areas of the county. Initially, Boards were consulted on the model, and subsequently were asked to contribute to the detailed provision in each area. There were advantages and disadvantages to the process – it was extremely time consuming, but there was a lot of “buy in” from county and district members/officers.

7. The County Council approved the model and the holistic model was launched in January 2013. The successful 22 providers were local Kent based

organisations with one exception) ranging from small to countywide voluntary organisations delivering lots across the county.

8. The voluntary and community sector were provided with ongoing support which included training in the commissioning process.

9. Andy explained that the Service were using a Dynamic Purchasing Model which allowed new providers to join during the contractual period of the framework. With traditional Frameworks, an organisation either got on or they did not at the start. This model allowed flexibility allowing new providers the opportunity to join at anytime during the life of the Framework or reapply if they had previously been unsuccessful.

10. He explained that 'mini competitions' could be held to engage the market quickly. This model:

- reduced the amount of paperwork which was particularly beneficial to smaller organisations - a 30 day turnaround with a 10 page (not 80page) terms & conditions document as an example
- led to organisations being paid up front rather than in arrears
- led to the ability to lease out KCC buildings at a peppercorn rent

11. The issues were that:

1. KCC wanted to offer more training as organisations cannot currently access a broad range of training as their staff and volunteers are not employed by KCC
2. With Quality at 40% of the overall score given to a bid and the remaining 60% divided equally between the 'number of young people worked with' and price, if the bidder got these two elements wrong they would not win the contract.

Question – Do you commission a Providerto grant fund certain organisations?

(12) The Integrated Youth Services gave direct support to commissioned providers and the commissioning of 'Young Kent' to support the wider voluntary sector in Kent who provided grants to the Scout and Guides.

Question – How do we support the market – those who are good service providers but not good bid writers?

(13) Andy gave an example of how contract management was used with one provider, which included a number of visits being made by the Integrated Youth Service Managers and Youth Workers when the service provided was not judged as good.

(14) He advised that organisations that wrote good bids won the commission and learnt from the process and were more likely to win again. It was identified that support was needed for those that were good at youth work but poor at writing bids.

(15) There were a number of organisations who reported their wish to move away from KCC funding as they saw that it was vulnerable given that recent large contracts had been bought in-house.

Question - In some parts of the county the services worked well but there was chaos in others; were the contracts written before the model was designed?

(16) Nigel said that he would not use the word “chaos” and explained that officers did not want to write this before the views of the young people etc were sought. The contracts were not written before the model was confirmed in its entirety. He considered that innovation was key. The process lead to looking at new ways to deliver the services and this was done through writing a specification around the outcomes. He stated that he would have the same expectation of KCC staff, he would expect them to look at new ways of doing their jobs. This was a way of challenging the market.

Question what about the issue of measuring the outcomes for young people are the interventions successful?

(17) Members were advised that the specifications terms included eference to ‘accredited’ outcomes or ‘recorded’ outcomes. Both are regularly monitored and provide an effective way of judging providers’ performance and their work with young people alongside other measures such as attendances and number of individual young people worked with.

Question - how are the youngsters with the greatest need reached?

(18) Nigel explained that officers had tried to design the model by specifically engaging young people from the beginning. Delivery takes place in a range of settings, especially street, school and building (youth centre). Schools have been identified based on previous GCSE performance. Many of the youth centres are located in areas of known deprivation. Street-based work is targeted according to a number of measures including rural isolation and crime.

(19) During the process of setting up the model a wide range of young people were spoken to including members of the Kent Youth County Council, some of whom now represent young people who are at risk and needy young people. Officers also engaged with young people who used open access youth services who tended to be more needy than average. Nigel felt a reasonable job had been carried out to meet what the young people wanted from the service.

Question – It is a shame that more schools had not took up the offer of having a Youth Worker working with their school. Will this be revisited?

(20) Nigel explained the Direct Delivery Model of the Community Youth Tutors (CYT) who were in approximately 20 Kent schools previously identified with KCC as “Club 25” where less than 25% of the cohort had achieved five A to C grades in their GCSEs. Members were reminded that some districts did not have many secondary schools, but in the new delivery model every district had at least one CYT. This would form part of the Services Transition. Each school had to buy in to the service. KCC contributed 60% and the school contributed 40% of the funding which was spent in the locality, which helped to secure buy in. This worked but

there were problems when a school was in financial difficulty which has happen to 4 or 5 schools over last ten years.

(21) There was no more 60% funding available from KCC and a minimal commitment of one CYT per district. This service was not offered to Grammar schools. Schools that converted to academy status continued with the service. In response to a question, Nigel advised that there was no reason why there could not be a school based model to include grammar schools. Members raised concerns regarding 60% KCC funding being received by academy schools and Nigel said this had been raised with previous chief officers and considered that this should be reviewed again as the number of academies grows.

Question regarding how KCC measuring the success of the contracts in terms of outputs - qualifications achieved rather than outcomes - opportunities for young people to 'hang out' and the negative impact that the new model had had on youth services in a village in the Tonbridge and Malling electoral division

(22) Nigel advised that officers held quarterly meetings with each organisation to monitor performance against agreed outcomes/targets, this included a footfall measure. The proximity and community safety measures were not part of the providers remit.

(23) Nigel identified that there were numerous examples and studies that showed a clear linkage to young people engaging in positive activity and community safety. Nigel referred to Kent being diverse and stated that this model reached 25%-30% more young people when compared to the former model. He acknowledged that some communities were less happy because of the impact the new model meant for them e.g. where a youth centre had closed. Andy added that the Youth Workers made observations through visiting and talking to young people and the outcome of those visits were brought to the quarterly meeting with the provider.

Question: measuring outcomes are difficult unless 'we' are on the ground seeing it, so have we got the financing right? Can you provide budgets to Members to spend so we can help?

(24) Nigel stated that if the Members' grant were to receive a small amount of funding from the Youth Services budget to directly fund youth service projects in their electoral division this would mean funding being withdrawn from another Youth Service activity area, making it an unviable. He recognised that Youth Services had been a benefactor of Member Grants and hoped Members would continue support through the Members' grants to youth service organisation within their local communities.

(25) Nigel spoke about the Kent Integrated Adolescent Support Services (KIASS). He stated that he hoped the new model would sustain 'open access' youth work providing invaluable early help to young people and there was no wish to create services that only dealt with extremely vulnerable young people. It was not clear yet how the model would operate in detail, including future commissioning models – this is work in progress; existing contracts would continue until the end of the contract i.e. March 2016. Nigel advised that he did not know how much of the new KIASS model would involve commissioning services.

Question: What are you doing to make things easier for the sector i.e. Kent Business Portal, to support smaller 'non business based' but quality organisations?

(26) Andy stated that KCC needed to work with / support small providers so they could use the Dynamic Purchasing System

(27) Nigel advised that they were still in a transition period. The use of the Dynamic Purchasing Model had been a quantum leap for the county council, previously used for the purchase of biros or contracting of transport – taxis. The modelling opened up opportunities for smaller providers to apply and brought in “buy in” from KCC Members and the District Councils. It was hoped that lessons could be learnt from work carried out in the process of developing this model, which included the attendance of hundreds of meetings (primarily due to Locality Boards but also with young people). It was hoped that the process and cost involved achieved results and that the council can learn from both the positive and negative outcomes

Question: Local Member oversight is critically important through the Youth Advisory Groups, but how do you manage de-commissioning?

(28) Nigel agreed that YAGs have a useful role to play in monitoring the local district 'Youth Offer'; he advised that where there was commissioning but there must be the ability to decommission. He gave the very recent example of a contract that was not working and agreement was reached with the provider to decommission. There was no Member involvement in the process.

(29) Nigel reaffirmed that the model was not financially lead. He confirmed that in some parts of the county there was still a journey in trying to develop the model in an under developed market and where some voluntary groups need more support than others.

(30) Nigel referred to contract management saying that the contract could be reviewed at any time and gave the example of two services that were under contract management. The contracts had been operating for one year which was a critical time in reviewing their performance and if they were not performing what should be done. Young People were part of the process as trained inspectors including 'mystery shoppers'.

(31) Nigel stated that he considered that the service was in a better place than in the past.

(32) Members of the Select Committee thanked Nigel and Andy for attending the meeting.

9. 12.00 - Jason Martin, Director - CAP Enterprise
(Item. 5)

(1) The Chairman welcomed Mr Martin to the meeting and asked him to introduce himself before answering questions from Members of the Committee.

(2) Mr Martin said he was attending the meeting in two capacities – as CEO of KentCan which had linked policy makers, commissioners and decision makers with 2,500 voluntary sector organisations until it ceased operating on 31 January 2014 and as Director of CAP Enterprise which provided business support to social enterprises.

(3) Mr Martin referred to the paper that had been circulated with the agenda for the meeting which was based on over ten years of experience. He said the voluntary and social sector was very diverse and all bar the very largest faced some risk from the change to a commissioning based environment. Reliance on grants should diminish as organisations increase, but the opposite is occurring.

(4) Mr Martin said it was essential to bring commissioners and frontline organisations closer together and in particular to develop and use a single independent point of access. He also said those commissioning services within KCC had to increase the amount of communication to enable frontline organisations to engage. There was also need to develop a framework to enable commissioners to understand the social impact of frontline services.

(5) Mr Martin said the development of consortia was not common and often when large national organisations facilitated the establishment of consortia smaller frontline organisations were used as “bid candy”. In addition the large organisations often creamed off the most profitable work and passed work with hard to reach groups to smaller voluntary organisations which in turn put the most vulnerable at increased risk.

(6) Mr Martin said an influx of commercial minds was needed on many boards of trustees. Many boards were risk averse and lacked the skill sets to undertake more commercial activities. He also said that most organisations in the sector did not have access to resources that would facilitate business development and found the process for the submission of tenders too onerous and time-consuming. For example, it had taken him over a week to prepare a tender for a two-year contract worth £50,000. Many organisations did not have this capacity and would be unable to compete.

(7) Mr Martin said the linkages within the sector were relatively weak and there was evidence of partnerships fragmenting, silos building, and organisations becoming isolated when should be working together. Infrastructure organisations tended to invest insufficient time to developing sector-led consortia possibly because to survive many were also delivering frontline services and competing against their peers. He also said that many board members had been in post for more than 20 years and in some cases moral and emotional fatigue had set in. He referred to an investment of £150K made by Suffolk County Council in 2011 to enable third sector organisations to develop their ability to secure public sector contracts.

(8) Mr Martin said it was a myth that third sector organisations could automatically access match funding or that there were significant numbers of capable people just waiting to volunteer. He said that the voluntary sector did not engage directly with the EU and that although 20% of the LEP’s work should be directed at addressing poverty it was essential to allocate technical assistance to enable frontline organisations to play a role. In a recent on-line survey over 70% of respondents thought they were not well connected with their strategic partners and wanted

better direct links with the county's commissioners, decision-makers and senior politicians..

(9) He concluded by saying that some smaller organisations would only get involved in the commissioning agenda by joining consortia that were lead and managed ethically by trusted lead organisations. He also emphasised that KCC needed to collaborate with social organisations to identify and measure the social value of each contract as part of the commissioning process.

Question – There are many professional people in the voluntary sector but is the red tape involving in bidding for tenders inhibiting activity?

(10) Yes. Making tender bids is complex and many organisations lacked the expertise, scale or capacity to bid. KCC needed to consider a budgetary mix of both grant aid and commissioned contracts. Such a mix could be highly effective but communication was vital. It was important to hear the voices of as many frontline organisations as possible, as they are the county's community-level experts. He felt that the aged model of representation was a flawed one; and that with appropriate use of technology and creativity the county's commissioners and procurement staff could benefit from better links with frontline community organisations.

Question – Are you saying that providing grants enables voluntary/social organisations to acquire professionals to deliver services whereas the commissioning model takes away this opportunity?

(11) Consultation and communication are essential early in the commissioning process to ensure the voluntary sector is not excluded and that the voices of those delivering the services are heard. Currently too many organisations are relying on "representatives" to speak on their behalf at County Hall, and frontline organisations have little opportunity to have their voices heard. If these voices were heard then more organisations could embrace the commissioning process more effectively.

Question – Could you give me a feel for Kent Can, how big was it? Could KCC assist CAP Enterprises to develop?

(12) KentCAN was established to be the voice of the voluntary sector and to network with strategic partners. KentCan represented over 12,000 organisations and 17 infrastructure organisations - CVSs and volunteer centres. By 2014 this structure had fragmented as a result of competition and reduced funding and Kent CAN no longer had the mandate to represent the whole sector. CAP Enterprise was set up in 2011 to help increase the number of Kent-based social enterprises through the delivery of specialist, accredited business support.

(13) There is a need for a single county-wide organisation which would work to establish a clear and highly accessible gateway to the voluntary and community sector – working to reduce the gap between commissioners and the frontline. It would act as an honest broker and would not require significant resources. Two people could run market events, grow a database and extend its reach.

Question – Social Enterprises operating as trading organisations - what successes / failures?

(14) In Medway £400k funding was allocated over four years to develop infrastructure organisations. Ten commercially minded voluntary sector organisations were assisted to move from being grant-oriented to being able to trade. In 2011 CAP was commissioned to help KCFN develop business processes which would lead to it increasing its turnover to £0.5m per annum.

Question – Are CVS effective? Are some service areas better at commissioning than others?

(15) Some CVS are excellent - they have a clear understanding of the environment and are very well connected with their member organisations. Others are less focussed on supporting their frontline members. The availability of expertise is patchy at best. A market event at which eighty organisations were represented was held in the early stages of the commissioning process for early years' services. Rather than using this event as an opportunity to co-design models of service and specification, KCC presented a model of best practice picked up from elsewhere in the UK. The end result was the disengagement of the majority of the organisations present and the loss of their combined knowledge and expertise.

Question – How do you think we should pull this together?

(16) Be brave. Consider radical change. A hub and spoke model is one possibility - a local presence coupled with a central hub providing quality expertise across the county on a range of issues such as intellectual property rights, governance, HR, social enterprise, training, and TUPE. Procure a service rather than funding an organisation.

Question – What should KCC be doing about commissioning with the voluntary sector? How can we assist with the formation of consortia?

(17) KCC should be investing in difference and facilitating some management processes for the voluntary sector. KCC should invest in infrastructure that narrows the communication gap between commissioners and frontline service providers. There is also a need to recognise and value the existing partially formed communications structures. The general feeling within the sector is that KCC tells them what to do rather than engaging in genuine consultation and co-operative working. Support a trusted and capable organisation to lead consortia.

Question – Why do grants become more important as organisations get bigger?

(18) Smaller organisations are often more experienced at managing a diverse income structure and at being lean. Larger organisations often lack adaptability and may face diseconomies of scale – one of them being the inability to adapt to change quickly enough.

Question – Do you think KCC should be organising the communication layer?

(19) No. An independent and dedicated organisation should be commissioned to take on this role with sensible targets of growing the data base to widen links with frontline VCSOs.

Question – Local government tends to use “approved lists”. Would the abolition of such lists broaden the market place?

(20) Barriers exist within the procurement process itself. Language is important in fostering good relationships between voluntary sector and commissioners. The procurement process appears to be daunting to the voluntary sector – 78% of KentCAN members do not like current procurement model.

Question – Would fear of ideas being stolen inhibit the coming together of commissioners and providers to brainstorm ideas and co-design service or would it be better to negotiate a contract?

(21) It would be possible to co-design. KentCAN was going to form a consortium to bid for a tender and 30 of its member organisations expressed an interest. In this instance KentCAN would have operated as the contract manager and would have sub-contracted work to its member organisations. In the end a confidentiality agreement was drawn up with 12 partners to cover the tender preparation process.

Question – How do you transfer risk?

(22) Risk is not transferred. It remains with the umbrella organisation, ie. the organisation proposing to lead the consortium.

Question – How do you see the elected member role in this process?

(23) Read the Voluntary Sector Compact and keep pressure on to sure it continues to be applied and push for change in the way the frontline voluntary sector is supported.

10. Wrap up/key points (Item. 6)

This Select Committee may wish to feed into the Compact group.

There is not a clear mechanism to amend and improve contracts as they near completion.

There is a lack of trust between providers and commissioners.

There needs to be a mechanism to review what is commissioned and to identify and deal with any issues at an early stage in the process.

Have heard about difficulty pulling performance back on track. There is no clear mechanism.

The voluntary sector is unable or unwilling to bid for tenders but wants to and is well able to deliver frontline services. It would be terrible to lose the voluntary sector just because they lack the capacity to bid for tenders.

The job descriptions and person specifications for those commissioning services need to be overhauled to include relationship building. They need to help the voluntary sector organisations doing the work on the ground to get contracts.

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KENT COUNTY COUNCIL

SELECT COMMITTEE - COMMISSIONING

MINUTES of a meeting of the Select Committee - Commissioning held at Swale 1, Sessions House, County Hall, Maidstone on Tuesday, 4 February 2014.

PRESENT: 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

IN ATTENDANCE: Mrs P Cracknell (Research Officer Scrutiny & Evaluation, Business Intelligence), Ms D Fitch (Democratic Services Manager (Council)), Ms J Sage (Assisting Research & Business Intelligence) and Mrs C A Singh (Democratic Services Officer)

UNRESTRICTED ITEMS

13. 2.00pm - Karen Sharp, Head of Public Health Commissioning (KCC) (Item. 3)

(1) The Chairman welcomed Karen Sharp to the meeting and invited her to outline to the Committee her role in supporting KCC, and to answer questions from Members of the Committee.

(2) Karen stated that she been in post since June 2013, as her role is a relatively new position. Public health has a £50m grant budget (increasing to £55m in 14/15) although KCC will spend far higher than this on a range of public health activities. The aim is to improve the health of the population, through a range of programmes including drugs and alcohol; sexual health; decrease inequalities and smoking with community intervention. 2 services have a budget of over £12 m each – Drugs and alcohol and sexual health. Currently, public health underperforms in health checks; infant feeding; and smoking cessation. Hoped the wider determinants of KCC can help meet health outcomes through examples such as - delivery of sport, targeted intervention with vulnerable groups, education.

Karen has worked in KCC, the NHS and in the voluntary sector both as a commissioner and also in provider organisations in the voluntary sector.

Question – Following the closure of the MIU - minor injury unit, would it be possible to combine such services with those provided by public health, NHS and Community Groups?

(3) Karen stated that although public health grants covered a wide range of services, Public health was not involved in the commissioning of MIU's as it is the responsibility of the CCG's. Better integration of NHS, CCG, Public Health, Social care will happen through the evolving structures of the Health and Wellbeing Boards. These structures are still relatively immature but progressing well. As go forward will see more joint commissioning and outcomes.

Question – With a £50m budget, how much involvement does the Government have in stating how that amount was spent and where; and

having taken over other contracts, was it possible to change more and adapt to KCC's liking?

(4) Karen explained that the public health grant came with conditions and was ring-fenced. There are 4 mandated services and a broad public health outcome framework crossing a range of services – but KCC decides the services to deliver these outcomes. KCC will need to demonstrate improvement in public health outcomes within the framework.

KCC is asked to assure that the grant is spent on what it is intended for, and provide assurance statements to ensure it is spent appropriately.

(5) Some services that KCC has inherited were already underperforming. Contracts were novated to KCC as part of transition. KCHT receives the highest spend (£20m.) to provide range of services, some are underperforming and none have gone to market. Part of the public Health team role is to separate out this contract and put services out to market to be competitively tendered over the next year. In the novated contracts there was detail about what service should look like, outputs but targets and outcome measures were not well detailed. Lot of work to prepare for next year as want to go to market to comply with KCC, EU and open up the market.

(6) £12m is the current budget for sexual health services. At market events collaboration of sectors – private, public, VCS, small was strongly encouraged. For some services the market is limited as these are clinical services, but have had proactive engagement and positive market events. The tender was broken into 7 lots, so was easier for smaller organisations to bid. Received number of collaborative bids and it was encouraging that the number of providers attending the market event was over 20.

Question – Will there be any Government testing?

(7) Public Health England has provides performance dashboards, which provide bench marking. Services will regularly be subject to inspection from the Care Quality Commission.

Question – Were there problems in contract management?

(8) Contract management is very important to public health especially as it has inherited contracts, and there is a lack of confidence in the arrangements around novated contracts.

(9) Resources used to contract manage needs to be balanced. We should commission outcomes and allow providers to decide the operational detail, and we should not incur heavy transaction costs through onerous performance management. We need to make contract management efficient and focused, and ensure it is not bureaucratic and taking up resource unnecessarily. However we need to be absolutely sharp about what is expected, pricing accordingly and only paying for what is delivered. The best example of contract management this year for public health is in the health checks contract. Improvements have been made and KCC has received a £700k credit note back from KCHT where it identified underperformance. The impact is that whilst there still underperformance, quarter 3 showed a 116% performance as opposed to 80% the previous quarter. This gives a

clear message that we will pay for what is delivered and contract manage delivery closely.

(10) To deliver more focus across the Council we should extend contact management training, the more procurement can train commissioners in approach is useful. The Challenger event was excellent on this.

Question – How important is the relationship between commissioning and CCG's?

(11) Public health has a statutory duty to be represented on the CCG's – from this we will automatically work together better to develop commissioning intentions. Relationships are key – in Public health many consultants are from PCT previously which often means they have good relationships with CCG colleagues and this enables joint work. Barriers to joint working to be overcome include competing priorities against a backdrop of financial pressure.

Question – How dealing with under performance? How work with Voluntary sector? how support re PQQs?

(12) Health checks is an example of where we performing better in who we invite – but not necessarily performing well in who attends. Need to shift this so can impact on behaviour. Real role for voluntary sector. E.g. go to local football club for checks (male unfit unlikely to go to GP surgery – need to think more locally about where target population may be and go to them).

(13) A particular focus is the PQQ process, and the necessity for standard questions. We need to test financial viability as organisations need a turnover 4 x higher than the contract value, so some organisations would not be able to respond to invite.

(14) Organisations need resource to be able to bid, it tends to be larger organisations with a big infrastructure that have a bidding arm within the company.

(15) This is a challenge as value of small organisations is huge in knowing community and flexing what they do – but have to ask for financial viability as need to ensure can deliver as if fail risk continuity of service. Voluntary sector can build resource by being involved in projects an example is the community chef programme – small but important work which gives real experience and leads to apprenticeships, now working to develop elsewhere by commissioning through the healthy living programme as have the infrastructure to assist them.

(16) Sexual health has been broken into 7 lots from £100k to £3.5m. are ways to work with VS/SME but KCC must balance ensuring continuity of services, as can't risk using provider without infrastructure to support.

(17) One key issue is past experience – why do we not take account of this? Why not take previous performance into account in tendering.

Question – A large amount of contracts are not renewed. Is it a question of re-tender at the end of each contract?

(18) There is a legal framework to what should be retendered and when. Under performing contracts should be retendered. If, at the end of a contract initial period, there are no significant issues with the operation of the contract and performance is high, and there was no budget pressure, then it is a good idea to think through the market process as decommissioning can increase instability in provision and disrupt workforce. However it is worth it if a) need to increase improvements to service and/ or b) there is budget pressure and need to look at different models.

Question – Has there been investment in mental health services to promote wellbeing. Was there any liaison with the British Legion and similar organisations?

(19) Preventative mental health money has been invested this year by KCC. This is for promotion of wellbeing to those that would not go anywhere near a service for example older men who might be isolated or depressed. The Voluntary sector has been awarded these projects through competitive tender - were men had determined what the projects looked, i.e. The Mens Sheds programme received match funding from The Labor Programme. The British Legion and similar organisations are involved as national partners.

Question – Why are alternatives looked at, at the end of a contract. What is the procedure for moving from one provider to another?

(20) KCC works within KCC guidelines – sometimes a +1, +2year extension. Contracts have end dates. EU require competitively tendering to ensure best spend and services meet the needs of public.

(21) To mitigate risk in transfer of contracts, different approaches can be used. For example sexual health is a large contract and KCC have allowed a 6 month period implementation period between award date and implementation of the new contract. This allows time for good communication to stakeholders and service clients, and for the preparatory work to be done with the workforce for the new model.

Question – What is the impact of contracting with non NHS people/organisations?

(22) Tendering in 13/14 has included awards to a number of organisations outside of the NHS. These contracts have been awarded to enterprises which offer a strong service model which they are keen to expand. Services will always need to be clinically appropriate and this must be rigorously tested. There are lots of examples of clinical services delivered by Non NHS organisations for example drug and alcohol services across Kent.

Question – How many tenders have there been in public health in 3 months? - Who decided to commence the procedure? -

(23) Public Health Commissioning decides in consultation in various meetings. Commissioning has been aligned with the Public health business plan in 13/14. If the contract amount is over £1m, it is submitted to the Procurement Board; if it was below £1m it is agreed with divisional management team and budget partners.

Once tenders were received, who made the decision? – A Panel which includes representation from Commissioning and Procurement Board; and budget partners.

What member involvement was there? - Graham Gibbens, Cabinet Member signs off. The investment in mental health was discussed at Corporate Board. Different models have been discussed at Cabinet Committee. Public health members and deputies were invited to the sexual health stakeholder event.

How many were a statutory obligation? – 1, the others were discretionary and went to the appropriate Board.

Was there any criteria applied to discretionary tenders? – A range of performance indicators in relation to the outcomes in the Public health framework.

(24) The Chairman thanked Karen for helping the Committee with their work and for answering questions from Members.

14. 3.00pm - Ryan Campbell, CEO and Karen Tyrell, Director, Development and Marketing, KCA
(Item. 4)

1. The Chairman of the Select Committee welcomed the Chief Executive Officer of KCA, Ryan Campbell, and the Director of Development and Marketing, KCA, Karen Tyrell, to the meeting.

2. Ryan and Karen had received questions and themes that the Select Committee were investigating in preparation for the meeting. A copy of their response was included in the papers and considered by the Select Committee.

3. Ryan began by explaining that KCA was a registered charity that provided drug and alcohol misuse and mental health services. KCA provided some mental health services in Kent but no longer provided adult and drug and alcohol services since new contracts were awarded to different providers. KCA provided a greater proportion of services outside Kent. He advised that the competitive market had worked in KCA's favour and its business had doubled in size through expansion.

4. Grants could be seen as providing voluntary organisations with an inbuilt predisposition not to have to change or innovate – which eventually restricts services.

5. Ryan advised that KCA's experiences with KCC and commissioning were pretty good – even when they not won contracts- and without issue regarding procurement processes. There was a tendency among providers to consider the commissioners as being good if they won a contract or the commissioner had a problem with them if they are unsuccessful in gaining a contract.

6. There was little public information on commissioning nationally; so unable to equate whether KCC, as a commissioner, was good or bad or cost effective at as no measurement. But commissioning is expensive for external organisations and for KCC.

7. Commissioning can be expensive, the principle part of which was unproductive in time and expensive to resource. For example from 5 bids tendered

for may win one contract. Subsequently the funding lost in failed bids had to be recouped within those contracts won. If there was a way that this process could be streamlined reducing the cost, money would be available for more projects in the community.

8. Ryan suggested that there had been a general unpleasantness since 2006 regarding the competition for contracts in the voluntary sector. KCA had 3-6 year contracts, which meant that a third of its business was at risk every year which was stressful as always looking down the barrel of a gun. For some smaller organisations this could equate to 100% of their funding and their continued existence.

9. Statistically, KCA and every provider will lose contracts, therefore there was a fast turn around to win contracts to keep the organisation running. With shorter contracts the reality is that staff were TUPED every few years so it was difficult to retain loyalty amongst frontline staff that are continually swapped between providers. Equally, senior staff could lose their jobs if they cannot maintain business levels so it was difficult to keep them motivated.

10. Ryan said that when he started in the voluntary service there was a friendlier environment which saw shared information and best practice across organisations. Now information was kept in-house and was closely guarded to ensure do not lose competitive edge - to keep or gain contracts.

11. This could be avoided with a change in process; if commissioners looked at having a more intelligent diverse approach. There were models being trialled where the process decided which provider best suited to the requirements based rather than choosing the best proposed provider based on the quality of their bid. Such a model is being trialled in Norfolk and other places.

12. Ryan suggested that it would be helpful if decisions for awarding contracts were made with consideration for past performance. Good performance protection would increase workforce motivation - frontline staff would be assured they were doing a good job.

13. Ryan suggested:

- A mixture of long and short contracts would be better for smaller providers so that there was not a constant contract turnover over.
- Longer contracts would mean continuity and a valued service.
- Incentive and bonuses as at present only the opposite applies if you fail to perform money is taken or you lose the contract. £5k would be a lot of money to a provider the size of KCA.
- A standard Pre Qualification Questionnaire (PQQ). He was unsure why case studies were included at that stage.
- The commissioner could undertake real dialogue with prospective provider instead of relying on a paper submission – organisations can look amazing on paper – but where is the commissioner engagement with service users, staff and site visits
- Why score contract price? Commissioners know what they want to spend – so should not be part of the award criteria. Contract price should be a given can then focusses on what added value will get from the contract / question where the savings made would be used.

- The commissioning process needed to be coordinated across the local authorities. At present the commissioning process all took place in the same timescale i.e. in the summer and over the Christmas holidays.

Question – How much is (re)tendering or bidding for a new contract a balancing act?

14. Ryan advised that KCA was constantly changing and developing its services. With the different drivers such as new legislation providers needed to pitch their bids accordingly. KCA's was happy to state that it had very good services and challenged other providers to do better.

15. Commissioning was better now than it had been in the past. When a provider was in a contractual arrangement it was difficult to be critical of the commissioner. There needed to be a more grown up approach in communication and working relationships.

Question – Do you speak with commissioners?

16. Yes, but not necessarily on commissioning or design of services usually contractual matters where could be a catch 22 if critical issues. Providers, like KCA, had a broader overview of many authorities practices some of who were very inexperienced. So can alert to the pitfalls and common mistakes. It is right that we all want to improve services but reality is that many authorities are inexperienced in terms of their contractual knowledge or commissioning ability.

Question - Is Kent commissioning heading in the right direction?

17. KCA experience is:

- the procurement and commissioning by KCC were standard and competent, but needed to look at more interesting models for commissioning.
- KCC's used procurement as one of its cost cutting measures, which was handled well but was unusual when compared to other local authorities.
- There was little information on financing commissioning
- Family Intervention Service – new and politically visible service with lots of scrutiny and data prescriptive. This could be burdensome.

18. KCA would like to be in the position to offer a wider range of benefits to the communities that it served but time had to be focused on meeting targets and only after those targets were reached could other possible activities be looked at and following the procurement process there was little money left for innovation.

Question – are there too many providers in the market?

19. No, there are not too many providers in the market. Are seeing the consequence of changes to commissioning of contracts rather than grant giving. Tendency that smaller organisation are losing out, in reality if £20M organisation can cope with losing a percentage of contacts. If contract was 50 - 100% of your income, likelihood the organisation will cease trading and fold. Need to help those organisations you value, not just scoring removal.

Question – Would you favour longer contracts, but with agreement that there would be penalties if failed or didn't perform?

20. It is not straight forward as need a mixed portfolio of contracts of both short (two years) and long term (eight years). The three year cycle is difficult for both commissioners and providers, six years would allow opportunities for proper measurement of outcomes. Stretch targets would be good and would welcome the idea of reward incentives from outcome based results. Financial constraints such as the payment by results models have seen the loss of good quality providers.

Question – how maintain and manage client contact vs contract procurement / management?

21. KCA had retained its personal connection with its clients despite the changeable environment. Ryan and Karen considered that they were both still learning in terms of the voluntary organisation changeable environment. Voluntary organisations were more professionally run with a focus on competition and staff performance which they considered an improvement. One downside of this was; a loss of the opportunity to innovate from time to time and they were unsure how this could be overcome. Organisations were now organised around contractual money.

Question – How can voluntary sector facilitate KCC learning?

22. Ryan and Karen said that they were always willing to talk to local authorities regarding procurement. There had been an organisational move from caring and sharing to focus on contractual needs – staff performances, competition and new business approaches. This has brought both improvements but a loss in innovation

23. Talking to KCC commissioners and politicians facilitated learning. For example the select committee provided such an environment which would inform the procurement process.

24. Commissioners and providers need to engage before service are procured about what are the best outcomes and how best to commission them. Ryan suggested that there was willingness to talk but a lack of training in business management which did not sit naturally in the voluntary sector or local authorities.

25. We need to understand together and work together.

26. The Chairman and Members of the Select Committee thanked Ryan and Karen for attending the meeting.

**15. 4.00pm - Sean Kearns Chief Executive and Stephen Bell, Director of Business Development, CXK
(Item. 5)**

(1) The Chairman welcomed Sean and Stephen to the meeting and invited them to outline their roles and to answer questions from the Committee.

(2) Sean stated that he had been the Chief Executive of CXK for the past three and a half years, this organisation had previously been called Connexions Kent and Medway. This organisation had a long established relationship in Kent for delivering services firstly under GOSE (Government Office for the South East) and

under contract to KCC from 2008. Since 2012 CXK had procured contracts through the early intervention framework e.g. Parenting Services, Health & Wellbeing Services and a number of youth services e.g. detached youth service work. CXK merged with KCFN in April 2013 and are involved in a voluntary sector consortium delivering services to KCC.

(3) Stephen explained that both CXK and KCFN had similar backgrounds, KCFN was previously the Children's Fund. Kent was one of only two local authorities who had created a legacy from the Children's Fund. KCFN primarily contracted for participation and play work but had grown beyond that and had managed to grow services which had been a challenge in a recession. KCFN recognised that they needed to work closer with Connexions and therefore formed a partnership. Both of these organisations were able to offer family based services which complemented each other, KCFN tended to focus on the younger age group whereas CXK focused on young people and adults.

(4) Sean stated that CXK had obtained charitable status in 2008 and from that point they diversified their portfolio and aimed to provide a holistic offer around the family and supporting young people in readiness for training or the work market.

(5) Stephen confirmed that both organisations had moved away from grant funding streams to commissioning, and had looked at how they could maximise their work in this environment.

Question – The services that you provide are discretionary?

(6) Stephen stated that if local authorities focused solely on their statutory duty then they would be unsustainable as they would only be reacting to what was going wrong. It was essential that local authorities focused on the preventative agenda and there were cost savings to be made by local authorities from early intervention.

(7) Sean explained that CXK are commissioned providers for KCC, some services are discretionary and some form part of a statutory duty. For example specifically in the Connexions Contract we undertake the Councils statutory duty to track, record and report to the DFE on the activities of young people aged 16-18. One of the challenges was that there was no clear barometer regarding statutory provision i.e. what and how much.

Question – Why do you think that KCC not take a holistic approach to commissioning?

(8) Sean expressed the view that KCC did not have a mature commissioning process. Officers needed to understand that they can explore beyond the specification in order to get innovation and creativity as well as accountability from commissioned services. We supply a response to your tender based on what is in the specification there is no opportunity for us to explore innovation it is purely a paper exercise, we believe that this is a missed opportunity for KCC. Additionally there was also the issue of KCC retaining part or all services in house as well as commissioning. If KCC scoped to commission the whole service they would more likely achieve a keener price and avoid duplication of effort. Often in procurement there was a presumption that you have to retain something in house this is especially the case in Kent. There is a view that in house provision is needed for

checks and balances, but this does generate additional costs. Stephen stated that a poor specification equalled poor commissioning.

Question - In relation to mental health services for children and young people there are different providers across the 4 tiers of the service, which must make it difficult to know where the boundaries are, do you get involved in looking at the big picture and specification to make sure that there is clear accountability across these boundaries?

(9) Sean stated that the Sussex Partnership (who were responsible for the tier 2 and 3 CAMH services in Kent) negotiated and agreed with CXK (who provided tier 1 - 2 services) the measure for the type of referral i.e. tier 1 to tier 2. We agreed that it would depend on whether a long term intervention was required in which case it would be the tier 2, if it was short term then it would be a tier 1 CXK intervention, this had not been worked out by the commissioners but by the two organisations delivering the services. There had been two separate tenders for what should be a seamless service.

Question – Was the commissioning for the CAMHs service good?

(10) Stephen stated that he had seen better examples from across the country where successful commissioning of CAMHS had taken place.

Question – What is your perception of this?

(11) Stephen stated that a restart of the CAMH service needed to take place in order to completely restructure the service, the service now provided by CXK (Young Healthy Minds) did not previously exist. Once the best provider had been identified then there should be an open discussion regarding the redesign and integration of the two services. There were challenges regarding the specification for the service, for example in relation to the Common Assessment Framework (CAF) which became the means of accessing tier 1 and 2 services. CXK currently do not have waiting lists over 6 weeks. This service needed time to beddown, the 3 year contract should have been 5 years to give it time to do this, with a 3 year contract they would only be getting to grips with the service when it is time to retender a new contract.

(12) Sean explained that it was necessary to look at the quality of the CAHM service prior to the commissioning, e.g. how many individuals are delivering that service now who were previously engaged to deliver it? Have the Sussex Partnership been set up to fail? Are their practitioners and practices that need to change or be managed out? One of the things that CXK look at when we are considering whether to bid for a contract was what is the current quality of the service and what value could CXK add and what judgements would we have to make to turn the service from good to excellent. The Sussex Partnership were not working to fail but there was a need for additional measures to be put into place. There is an immature market in Kent from what has gone on before, only part of it is a commissioning issue the prime issue is a whole system issue.

Question – In relation to commissioning if there is a problem with the current service there is likely to be problems for the new providers at the start of the contract, do you have any suggestions as to how the time for the new providers to turn the service around can be made as short as possible?

(13) Stephen suggested that when running a procurement exercise, potential providers should be identified and the opportunity taken to speak to them about the service and their suggestions for innovations.

Question - This process is followed for Highways contracts but it is not consistent across KCC do you agree?

(14) Sean stated that every tender in Kent for people related services was between 1 – 3 years in length, this did not engender innovation or investment on the part of the provider.

Question – Do these contracts have an automatic extension if you achieve a set threshold?

(15) Sean replied that this was never the case for people related services, there was however the opportunity to negotiate an extension.

Question – You seem to be suggesting that contracts should be for longer than 3 years? Do you see signs that the market is growing up and will this develop organically?

(16) Sean stated that the procurement framework put out by KCC two years ago was poor. He questioned the purpose of suppliers being part of a framework. KCC's specifications asked for outcomes, not innovations. Providers were measured on cost of delivering as opposed to quality of outcomes. We ask for more 3 year contracts and the framework should be set so that in the submission you could see where the value added would be, this is not just an issue with Kent, the public sector tenders tend to have a closed procurement process as opposed to the private sector. The way that tenders are let predominately supports the single supplier. When we bid we look at the supply chain and look for complementary and additional skills sets that are not within our organisation. In KCC contracts there is no reference to the supply chain. We have brokered and delivered under a consortium for other contracts very successfully to extend the outcome that we would otherwise be able to achieve as a single organisation.

(17) Stephen said that if KCC wanted to invoke change within the market then they needed to be candid about the current situation and their ambitions for the future. The voluntary sector faces huge challenges, it was shrinking in size as the pot of money was shrinking. It was important to look at how to drive innovation. The procurement framework was a half-hearted attempt as it locked out new emerging providers for years to come.

Question – Having successfully bid for a large number of services in Kent are you able to have an open and honest conversation with commissioners in Kent.

(18) Sean referred to the youth service which was the best example of dynamic purchasing by KCC.

(19) Stephen expressed the view that there should be a central procurement process across the whole of KCC, there was a need for consistent professional procurement. It was important for KCC to take this approach as it became a

commissioning authority. It was about working with providers, establishing long term relationship and influencing the market place. KCC spends over £2 billion, it should use it's spend to influence the market place and should avoid in-house duplication of commissioned services.

(20) Sean stated that senior KCC officers did not know KCC contract standing orders which are on KCC's website. What was not on KCC's website was what the funding threshold is. KCC is exposing itself to risk by allowing officers to be involved with the procurement process who are not aware of KCC contract standing orders, and are not following KCC procurement process.

Question – What can KCC do to improve this process?

(21) Stephen stated that KCC needed to engage with the market more. Sean stated that there was a need to look at how to incorporate innovation before finalising the specification. This would give KCC the opportunity to see the maturity of the market that it wanted to engage with, it was important to look at what contractors could offer.

(22) Sean suggested that if funding was a driver then don't set a specification that scores finance at 40%, be open and transparent about it. Also if funding is a driver don't put contracts out for 3 years, a longer term is needed if there is going to be any added value delivered. Contracts should be 5 year with the option to review up to 10 years. If KCC spent £20m over 10 years we would be able to go to the banks and social investment funds. We can draw in £5m of additional revenue on the basis that we have got an ongoing contract. At the moment we don't go to the social investment funds because they want us to have contracts that are longer than 3 years. There is a fantastic market opportunity that KCC is not taking advantage of.

(23) Stephen stated that he and Sean loved Kent and spent most of their voluntary time supporting KCC via the various Boards that they sat on. They wanted to act as a critical friend in the best interests of the people of Kent as they believed that Kent had a lot to offer.

(24) Sean explained another issue was TUPE transfers. It cost CXK 15% extra for each KCC employee that was TUPE'd compared to their own employees the majority of this was additional pension costs. The terms of KCC's contract require them to put in place a bond for the pension of TUPE'd employees. They were one of the few employers required to do this who are in credit and yet you were still ask us to continue to pay. This money that we are putting into this bond could go to help a young person. There was no risk KCC in relation to CXK not meeting the pension costs as the initial bond that was paid would cover this.

Question – KCC is accountable to the public, you are a charitable organisation that is trying to provide the best level of service how can we improve the current situation?

(25) Stephen stated that the key to overcoming the financial challenges was the vibrant market. There were too many voluntary bodies and this had to change and we need to work this out together so that streamlining and rationalisation was in the best interests of beneficiaries.

(26) Sean stated that in their written response there was an element of uncertainty around the independence of the voluntary sector. There were voluntary sector organisations that were set up as brokers for other voluntary sector organisations, e.g. VAWK. What has happened in the last two years is that because the market has got smaller these brokering organisations are now tendering and delivering work and are therefore not independent of the market. KCC should ensure that there was an element of transparency in the market.

(27) Sean explained that the size of KCC and the budget funding that it has could be used to get better value in the supply chain which can be added into the commissioning process, and used to drive down prices. If there was a better procurement process we would be able to deliver a better service for you.

(28) Sean acknowledged that KCC needed to make £269m in savings, he stated that in his experience when organisations were in a tough situation they were more likely to play safe, they had seen signs of this in KCC officers. The reduction in the budget to CXK as a commissioned organisation was disproportionate to the reduction in internal services. When CXK were first commissioned by KCC their contract was £12m, next year it will be £1.3 which was a 70% reduction in 3 years (although there were some statutory changes that had impacted upon this), we do not see the same reduction in internally managed services.

(29) Sean asked Members to consider what proportion of turnover of KCC was commissioned vs internally delivered? Also what proportion of frontline worker costs vs management and support overhead. CXK work on a 5% ratio of their Management staff to front line staff.? We can't see this information transparently within your budget.

(30) Stephen stated that KCC was brave in terms of policy and strategy from the Leader, this needs to be matched by the culture and behaviour of officers. There was a contradiction between the statement that KCC was moving to a commissioning authority and officers pulling services in house. He believed that consideration should be given to moving commissioning and procurement away from the directorate that delivers the service so that there can be no cherry picking of services that are easy to deliver in-house.

(31) Sean and Stephen thanked the Committee for the opportunity to come to the meeting and express their views in a free and frank way. They stated that they believed passionately in doing the right thing for Kent families and young people to improve their outcomes. They viewed this as an emerging market and there was the need for KCC officers to understand what the voluntary sector can do well.

(32) The Chairman thanked Sean and Stephen for helping the Committee with their work.

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KENT COUNTY COUNCIL

SELECT COMMITTEE - COMMISSIONING

MINUTES of a meeting of the Select Committee - Commissioning held at Swale 2, Sessions House, County Hall, Maidstone on Thursday, 6 February 2014.

PRESENT: 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

IN ATTENDANCE: Mrs P Cracknell (Research Officer Scrutiny & Evaluation, Business Intelligence), Ms J Sage (Assisting Research & Business Intelligence), Mrs K Mannering (Democratic Services Officer) and Mrs C A Singh (Democratic Services Officer)

UNRESTRICTED ITEMS

19. **10.00am - Pete Turner, CEO Carers First (provide carers support in West Kent) Lorraine Williamson, CEO, Crossroads Care East Kent (provide respite services for carers in East Kent)**
(Item. 3)

(1) The Chairman welcomed Peter Turner and Lorraine Williamson to the meeting and invited them to outline to the Committee their roles in supporting KCC, and to answer questions from Members of the Committee.

(2) Lorraine introduced herself and explained that the role of Crossroads EK was to provide respite to family members who were carers. For more than twenty years the service had received grant funded from KCC and Health Authority - which have been consistently rolled over. Recognised the grant funding process has its own set of problems. But commissioning model has a new set of challenges and new ways of working which were not particularly useful to all voluntary agencies, particularly smaller organisations.

(3) Protracted consultation periods and contract roll over for the last four years have been both harrowing and stressful. Commissioning has brought change but rapid change.

(4) Commissioning modelling brought some concerns:

- Tendering process could have very restricted timeframes when introducing a new process and often held over Christmas break.
- Restricted timeframes affect current working arrangements and meant unable to properly consult with service users before tendering.
- Tendering process lacked opportunities to demonstrate the value and strengths of services
- Smaller charities are being encouraged to merge with larger organisations and parts of their quality bespoke work disappearing.
- Drive for voluntary agencies to 'partner up' - merger or consortia - ignored legalities (i.e. differing areas of benefit) or timeframes to enable merger and tender. Expectation is to complete and compete in a four week time frame.

- No recognition that Trustees were volunteers often without the business acumen required to operate as Directors; for example Crossroads have many ex-carers on their board who are rightly concerned of the changes in legality and their responsibilities. As a result many trustees are reluctant to merge with other organisations so organisations are at risk of folding.
- Call off contract unit cost pitted voluntary sector against the commercial / private sector who could subsidise their tenders / bids to ensure entry into these new business areas.
- Very complicated for organisations new to contractual and bidding processes. There is a general lack of knowledge in relation to tender procedures/specifications and very little help from authorities except regarding technical questions.
- Market events were a waste of time, KCC need to share specification but primarily seen as an opportunity to gauge your competitors
- Bidding processes limit organisations ability to demonstrate VFM / added value especially when only have 500 characters on the electronic forms. Cannot show the difference can make – accessing additional income streams, etc.
- Frameworks not working - i.e. have been on the Children's Services Framework for over a year with no business opportunities apparent.

(5) Peter introduced himself – he has been chief executive for last 2.5 years and is a former commissioner of children's services in Westminster. He agreed with much of what Lorraine had said that the contractual process can be onerous, time intensive and risky but also wanted to add a different slant.

(6) Recognised that both the country (UK) and the county (Kent) have financially difficult decisions to make; those decisions will unfortunately pit charity against charity and ultimately there will be winners and losers.

(7) But the third sector has a choice to bid for contracts - having four ways to raise charitable funds:

- I. Charitable giving - currently down 17% across the sector
- II. Grants - are diminishing and increasingly competitive
- III. Statutory funding vs commissioned service provision
- IV. Selling products

(8) As a sector we can work competitively and win contracts from the private sector by using their good (business) practice and competing by proving how what we do which adds value beyond the specification. Have 180,000 UK charities - expectation we all do good things. Now we need to prove it via VFM, social value and quantifying the financial input with outcomes.

(9) Infrastructure organisations need to enable and support the sector to compete. Currently the sector is not ready, we cannot make comparable measures across the third sector or with private sector competitors. We need to change.

(10) 177,000 carers estimated in Kent, carers organisations between them know about 15-20,000 carers. That means vast majority not getting a service – we need to ensure all carers can benefit from our services which means we need to change to accommodate their needs.

(11) Working smarter requires investment in IT to demonstrate our costs and measure our outcomes. Contracting with the third sector adding right pieces to the jigsaw = What / How / When:

- KCC specification
- Reflected in third sector business plans
- Performance management systems
- Demonstrable outcome measures
- Demonstrable Unit Cost

(12) Third sector must be able to demonstrate through tendering process social return / additional benefits measures which would enable it to compete with the private sector.

Question – Clearly there is an issue of unit costs vs flexibility of a grant. Can charities compete to deliver bids and tender or should KCC recognise professional in services but challenged by tendering / bidding processes?

(13) We choose to compete for contracts. Third sector needs to become more professional and recognise that it is in competition. The harsh reality is we cannot continue to expect financial mechanisms based on 'we do good things, give us money'.

(14) We must be able to prove it and evidence how we make a difference. Early intervention does reduce costs but need to prove that it could be done For example 40% of residential care admissions due to family care breakdown.

Question – Professionalization of trustees: to what extent could infrastructure organisations provide the support and help make up the deficit?

(15) Concerned organisations do not have the expertise themselves but do and can offer low level support. They need additional technical expertise of commissioning modelling, technical wording, bidding processes etc. Procurement training courses provided by purchasing in the expert training.

Question – Should you not be talking to Commissioners?

(16) Yes, we do but currently very one-sided not reached joint decision making re: specifications.

Question – Some smaller charities exist as larger charities were not working at their local level - how do we maintain that level of specialism?

(17) It is the choice of individual charities how they use their experience. Jointly, need to look at filling the gaps which may mean not completely squeezing the ability to seek grant funding - as bespoke organisations cease to exist if the localised area grants are removed. It was acknowledged that funds (i.e. small grants of £15K) are needed to help in identifying and support the needs of certain areas.

Question – being blunt KCC does not owe the voluntary sector a living and some organisations appear to have met the challenge by being dynamic and growing from that success?

(18) Must recognise there are average and below average across all sectors of service provision. We are all in a shake-up situation and better intelligence will ensure over time we have the best systems. But it is dependent on what KCC ultimately wants. Still believe there is a place for grants within a commissioning model with the correct modelling.

(19) The Chairman thanked Lorraine and Peter for helping the Committee with their work and for answering questions from Members.

20. 11.00am - Diane Aslett, Development Officer, Age UKs in Kent Consortium plus two Consortium Managers: Nigel Vian, CEO, Age UK North West Kent & Gillian Shepherd Coates, CEO, Age UK Sevenoaks and Tonbridge
(Item. 4)

1. The Chairman of the Select Committee welcomed Diane Aslett, Development Officer, Age UKs in Kent Consortium, accompanied by two Consortium Managers; Nigel Vian, CEO, Age UK North West Kent and Gillian Shepherd Coates, CEO, Age UK Sevenoaks and Tonbridge to the meeting.

2. They had received questions and themes that the Select Committee were investigating in preparation for the meeting. A copy of their response was included in the papers and considered by the Select Committee.

3. Age UKs in Kent Consortium encouraged by the positive engagement with KCC on building the joint commissioning offer. Each of the Age UKs in Kent are independent charities with affiliation to Age UK, the national charity, through a Brand Partner Agreement only.

4. However, there are a number of issues for consideration. Firstly, poor communication. Age UK NWK won a contract potentially worth £415,000 in March 2012 and to date no progress had been made since the original bid. Verbally they had received word that the funding was suddenly no longer available although they understood that attempts were being made to source alternative funding. After twelve months they were still waiting for official written communication on what had happened to the contract and whether they are going to have to bid again. Tendering was an expensive process for organisations. The market needed confidence in the bid process. This contract required multiple stakeholders' cooperation and dependencies. It later transpired that still no arrangements had been made with the Health Service in the NWK area/CCG to organise the referral route. Without the full commitment of the health service to organise processes, resources and procedures for service referrals then even if the money was available the Health Service would not be in a place to proceed now. Age UK NWK and the bid related subcontractors that were committed to providing the service locally were left hanging. There was no certainty of whether the funding would ever become available for the contract.

5. There was now more performance management requirements within tenders, contracts and grants to be cost effective. Contracts in principle were now outcome focused whereas in the past they were based on quantitative data for which staff spent a lot of time monitoring facts and figures for reports rather than ensuring that outcomes were delivered. Future tenders needed more emphasis on measuring outcomes not just outputs.

6. AGE UKs in Kent Consortium were proud of the Advocacy contract with KCC and this had proved to be a great success with high levels of collaborative working across agencies to meet the grant agreement.

7. Since the new KCC Commissioning Team had been in place there had been a dramatic change and Age UKs in Kent Consortium wanted to commend them for their high levels of engagement and honesty. Monthly meetings were held, they worked on the joint older peoples 'offer' specification together using the Age UKs in Kent Consortium networks to seek consistency throughout the county.

8. However, as yet they did not have a definitive picture of the future contracting arrangements. Debates have been had about grant v contract. The Consortium needed to settle outstanding issues with KCC soon to enable them to gear their organisations for future models of delivery and support. E.g.:

- How would the Consortium bid for a contract?
- Can a Consortium put in a tender for a grant or would it need to elect one of its Members and then subcontract. Who would own the contract?
- How does the Consortium bid against commercial companies?
- Are there restrictions on a Consortium?
- What was the risk to the Trustees?
- What was the impact of TUPE?

9. The national charity Age UK was supportive and backed the Consortium's initiative. Age UKs in Kent Consortium was unique in what it had achieved so far. KCC had already praised this development where up to now KCC which had been dealing with 16 Age Concerns and 12 Age UKs – previously 30 Age Concerns all competed with each other – all needing to be supported by KCC through complex and costly administration processes. The Consortium offered KCC a well organised and streamlined approach with a single point of contact for the county with significant proven reach to the Kent community. The cost of establishing the Consortium did not come free and would be a barrier for small or medium agencies if following suit. To date all costs related to developing the consortia had been met by the individual Age UKs in Kent involved.

10. Large contracts required different structures and governance to the smaller grant based processes. If these contracts were awarded to large (UK) providers the local knowledge may be lost.

Question – Age UK in Kent forming consortia and being business savvy. But, how do we protect the “heart of gold” reputation of the third sector?

11. The consortium are members of independent organisations who continue to share the same ethos and meet their charity objects – whilst there had been a significant change in business approach, this should not change the individual charities acting in the best interests of the public they serve. There was confidence

that the Consortium was geared to bid for a wider range of contracts and faced the future as opposed the past when not all Age Concerns were viable.

12. The Consortium gives the opportunity to win larger grants/contracts and for smaller providers within the Consortium to be offered some level of protection and survival. Those choosing not to collaborate risk disappearing literally overnight if grants are finally revoked and contracts/grants are no longer awarded to them.

Question – Does KCC have overlap or underlap – are our specifications clear about service boundaries?

13. The person should always be in the centre and we all work to ensure they get the right services that they need – either provided or signposted.

14. The role of the 6 lead Age UKs in Kent (Consortium) was to liaise with other services and to know what was happening in the local communities. A wide range of services were offered in the different stages of the clients needs.

15. Where possible Age UKs in Kent were trying to reduce their reliance on KCC provided incomes through grants and contracts. The 6 Age UKs in Kent Consortium were commissioners of their own services to meet local need as well as contractors and suppliers. *(Age UK NWK recently merged 4 Age Concerns and has reduced its dependency on KCC grant income to below 40%. Age UK Sevenoaks and Tonbridge had a 35% dependency).* Those with high dependencies on the income via grant were placing themselves at high risk in the event of further grant cuts, contract realignment or wholesale withdrawal of funding.

16. Charities were becoming much more diverse in the services they offered with a wider portfolio of funding streams via different charging mechanisms. Those services were either free or subsidised (grant funded) or chargeable on a full cost recovery basis. Need to do this or charities position is becomes tenuous if reliant on high percentages of grant funding. Charities could best identify gaps in services in their local communities.

17. “Mission creep” is becoming of greater concern as funding stream dwindle and change. Generic commissioning encourages collaboration and partnership working. For example Age UKs in Kent winning a pilot grant to set up a generic Befriending Scheme. The Consortium considered that it had strength in its existing offer and could look at wider solutions through collaborating with other organisations for generic contracts.

Question – what were the costs of setting up the consortia?

18. The cost of initially setting up the Consortium are £12k to date. In part due to the need for professional expertise for the memorandum and other contractual issues. To set up the Consortium meant dealing with 27 charities which was not easy. A steering group was set up to develop a criterion which identified who was eligible. All 6 Age UKs met the core criteria. But there was also now a wider network of potential subcontractors. The Development Worker ensures Consortium working – her costs are shared by the individual charities. Will need an additional post of Monitoring Officer to keep track of the contracts.

19. Kent Business and the SE Portal and the actual tender documents are not set up for the new emerging consortium organisations to bid. KCC had been advised of the inflexibility of the on-line portal formatting and core questions. The Consortium struggled to adapt the portals to the way the organisation was constituted.

Question – can you talk more about the issues of ethos within consortium arrangements?

20. The consortium operates a due diligence test which all organisations must pass to join. The test resulted in only six of the twenty seven currently fit to join. The consortium also needs to ensure their own subcontracting arrangements were robust and clear to ensure risk avoidance, due diligence and security.

Question – What are the benefits / dis-benefits of contracts vs grants?

21. When considering the merits of contracts over grants - the context should be the benefits to clients, a contract can be a better mechanism when truly outcome based with improved performance monitoring and performance management raising the quality and standards of the service.

22. Sustainability, namely the length of contracts could be an issue. If too short organisations are going to question building infrastructures that may only have a short-life. Whilst Day Opportunities grants have been rolled forward there remains major uncertainty about futures, particularly when nothing is known after 2015. This makes strategic planning very difficult. Longer contracts, geared to performance would make better sense - length of 3-5 years seems sensible for commissioner and provider.

Question –what can members do to help?

23. Members of the Council could improve Commissioning by:
- publishing contract timetables twelve months in advance – i.e. the timescale and the contracts going to tender
 - provide more clarity –know what you want, be consistent in your purpose.
 - involvement in the process especially governance and member oversight.
 - Challenge your commissioning officers to better explain their thinking.
 - Challenge your Cabinet members who will be making the key decisions about future commissioning models

Question – are you looking for commissioners with on the ground knowledge / local engagement / communication?

24. Yes - better monitoring, communication and engagement.

Question - what types of funding - very closely monitored grants or unit commissioning?

25. KCC have to consider if grant funding enables charities to seek additional funding streams – for example for every £1.00 KCC gave, matched by £4.00 value provided by the charity.

24. The Chairman and Members thanked Diane Aslett, Nigel Vian, and Gillian Shepherd Coates, for attending the meeting

21. 12.00am - Emma Hanson, Head of Strategic Commissioning - Community Services
(Item. 5)

25. The Chairman of the Select Committee welcomed the Head of Strategic Commissioning, Adult Community Support Services, Emma Hanson, to the meeting and Members in attendance introduced themselves.

26. Emma had received questions and themes that the Select Committee was investigating in preparation for the meeting. A copy of her response was included in the papers and considered by the Select Committee.

27. Emma explained that the portfolio for Adult Community Support Services commissioned services were for the following adult client groups; older people, people with physical disabilities, people with learning disability, people with mental health needs, people with autism and people with sensory disabilities. The services were designed to support and enable people to live as independent as possible lives in their own homes in the community. This was done through Homecare contracts with the majority of the provision provided by the private and voluntary sector. There were now well established integrated commissioning groups (CCGs) whose focus was looking for opportunities to jointly commission support services.

28. The three distinct teams; Children's commissioning, Adult Community Support Services and Adult Accommodation Solutions all worked connectively.

Question: Costs of Entry – Voluntary Agencies have consistently raised concerns about the high costs involved in tendering, how can we mitigate these costs?

29. Emma acknowledged that some organisations had to employ bid writers or write themselves with little expertise. She had worked on creating a draft service specification headed "Adult Social Care Voluntary Sector Market Development Service" and recently submitted the document to the Departmental Management Team (DMT) and officers from the CCGs for discussion. The specification aimed to support the providers and develop their skills. Emma tabled the draft document and asked Members to forward their views on the draft document to her. Hopefully it will remove barriers. Emma advised that this document, when approved, [This document was urgently required in Adult Community Support Service] could be slightly amended to fit other services in the future. She had already spoken with Henry Swan and Meradin Peachey and David Whittle about moving this forward.

30. The Chairman of the Select Committee hoped that the specification of the draft document would be informed by the Select Committee's recommendations.

Question: is there a lack of understanding of autism or awareness of need?

31. Emma agreed there was a lack of understanding and awareness regarding autism. She considered that the Commissioning Strategy was there to encourage

an understanding of the conditions. The answer needed to be sought on whether an Autism Service was needed or whether other services needed have more awareness of Autism conditions. Emma likened this to the Select Committee for Dementia that recommended work being carried out with the acute trust and General Practitioners to make them more aware of the condition.

Question: Are grants useful for the commissioning of services?

32. Emma described the 'Carers Contract' work in 2013 moving from 37 grants to 4 contracts with three years terms via performance framework.. It had been a bumpy ride but all successful contractors were Kent based and already seeing a vast improvement in service provision and spread to an increased number of carers. Emma considered that there was room for both grants and contracts in commissioning services. Grants could be used when testing ideas and with the evidence base produce a contract. She considered that voluntary organisations feared competing with private providers. The way the criteria/evaluation was written could create a level playing field. Innovation and volunteer base should not be lost.

Question: how do we involve Members?

33. Emma advised that when a contract had been through the officer governance, Members would be then be informed. Members have an important role to ensure KCC funding is spend wisely.

Question: how to we incorporate social value?

34. Emma advised that social value was key. She tabled a document that gave an example of questions asked in the tendering process for commissioning a Carers short breaks service in which the provider was required to evidence how they would provide social value through the delivery of the service. 20% of the 60% quality score was based on social value. This answered the requirements of the Social Value Act within the evaluation of the tender. Training on the Social Value Act had been provided to officers by the National Association of Voluntary and Community Action (NAVCA) a national based charity. Want to be able to evidence that Best Value is no always all about lowest price and creates an opportunity to level the playing field.

Question regarding contracts vs. grants based on previous witnesses statements

35. Emma advised that she had met with chief officers of Age Concern and gave a presentation on grants versus contracts. All Carers Services were now contracted. She said that she was not anti grants but we have to know what was right to secure the right service.

36. Emma advised Members of her career path to the position she presently had as Head of Strategic Commissioner, Adult Community Support Service and how she required each Member of the Team to have an understanding of the clients' point of view. Commissioning was new and Emma was continually improving her team and considered that there was growth in the market for the voluntary sector.

37. Emma reaffirmed that the Carers short break contract had both the private and voluntary sector bidding for the contract. Crossroads won the bid. Members requested training on the Social Value Act and a list of grants given against the contracts given.

38. Emma suggested that the Croydon Commissioning Too Kit and the Birmingham Providers Charter were a good examples and that KCC could have something similar.

39. The Chairman and Members thanked Emma for attending the meeting.

KENT COUNTY COUNCIL

SELECT COMMITTEE - COMMISSIONING

MINUTES of a meeting of the Select Committee - Commissioning held at Wantsum Room, Sessions House, County Hall, Maidstone on Friday, 7 February 2014.

PRESENT: 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 and Mr M J Vye

IN ATTENDANCE: Mrs P Cracknell (Research Officer Scrutiny & Evaluation, Business Intelligence), Ms J Sage (Assisting Research & Business Intelligence), Ms C Holden (Head of Strategic Commissioning - Accommodation Solutions-FSC), Mrs A Hunter (Principal Democratic Services Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

25. 10.00am - Christy Holden, Head of Strategic Commissioning (Accommodation Solutions)
(Item. 3)

(1) Ms Holden introduced herself as the Head of the Accommodation Solutions Team of 24 FTEs. The Team's responsibilities are to commission accommodation for those who needed care homes / extra care / supported housing. One of her tasks was to review the current care home contracts. Most of these are twelve years old and as a consequence unfit for purpose. In particular, there is no link between cost and quality and homes that are just above 'adequate' regulatory provision are not receiving the support to improve from the Team.

(2) KCC has serious funding issues - currently spent £180m on residential care for adults and £100m on older people. It therefore has a responsibility to look at a fair cost of care and to look at demand for services. To this end, an Accommodation Strategy is being developed, based on people's needs. This does not necessarily mean new build, as care could also be provided in remodelled schemes.

(3) Question – Insufficient money has been spent on care homes over the years. Now these same homes are being required to provide higher quality, limiting the number of people who can be accommodated. KCC owns and manages 9 care homes and 5 for learning disability. How will it meet its obligations?

(4) The Accommodation Strategy will identify the amount and type of long term provision that will be required in the future. The Care Quality Commission (CQC) has introduced the requirement for all new builds to have ensembles. We would therefore expect ensuite provision to be available in most cases (bearing in mind that people have the right to choose not to have it). Our strategy is to inform the market of KCC's needs in the long term future.

(5) It is probably true to say that we started this process too late. We now have to ensure that we have sufficient care homes so that we can provide a managed

approach to arranging new accommodation whenever a home becomes unviable for an older person.

(6) We expect the number of Community Interest Companies to grow in future. We have already had expressions of interest from this sector (for example, Samson Court in Dover when that closed).

(7) Question – You say that you will introduce regular monitoring of performance indicators. This is to be carried out by KCC. Would it be better if we commissioned independent monitors who are not bound by cost concerns?

(8) When CQC rated their assessments, we would only place people in care homes that had an “Excellent”, “Good” or “Adequate” rating. KCC’s in-house services have recently received very good inspections. We have a responsibility to monitor and challenge any issue directly with the care home staff or manager. Our Case Management staff have been reporting to us rather than challenging bad practice directly. We are now giving front line staff the skills to do so.

(9) Question – How do you ensure that the Commissioning Body can have confidence in the standard and quality of the provision they have commissioned?

(10) It is important to remember that the Choice Directive enables people to choose their preferred accommodation. It is therefore difficult for KCC to inspect rigorously safeguarding concerns if there is no contract in place with the home. I therefore want to ensure that as many providers contract with KCC so the quality expectation through the tender will be based on their CQC registration. We have shared the new specs with the Trade Association and have also written to all the care home providers, as some are not computerised. We have also offered a number of ‘walk through’ events. The aim is to capture as many of them as possible.

(11) Question – The Kent Care Homes Panel makes the following statement on page 13 of the agenda papers: “There is a new reality now that (with some exceptions) is not evident on the ground from KCC staff. What is required is open, timely communications so providers can plan and work as effectively and efficiently as possible when tendering.” Is KCC capturing the value of the not-for-profit sector?

(12) There are mixed views on this question. The tendering process is restrictive on communication. We want open conversations outside of the tendering processes regarding co-production before the tender process commences. Our procurement colleagues are not as keen for KCC holding open discussions with potential providers. So we understand their (our providers) frustrations – we have them ourselves. Nevertheless, we are now talking more to that sector than we ever did in the past, but we simply do not have the resources to provide one to one meetings with each of them. But we do have to maintain a balance as the trade associations do not represent all residential care providers and have not always passed information on to them.

(13) Questions – Is there room in the contracts for variations? What is KCC’s position now that the contract is between the care provider and the individual?

(14) There is room for contract variation. The first one will run for 18 months and then be replaced in 2016, taking account of the provision for Direct Payments and funding cap contained in the Care Bill. KCC currently funds some 40% of the total places in the county. The remainder are funded by the NHS, other (out of county) LAs and self-funders - it is this group which will have implications for KCC. KCC needs to be able to inform people of those care homes it regards as poor. We want to work with CQC to provide this information. KCC is no more vulnerable than it was before the new arrangements came in. Direct Payments will present a logistical challenge for KCC, as they will not be our contracts especially if homes are chosen by next of kin on the bases of convenience and not quality.

(15) Question – In effect, KCC will become a “policeman” and an upholder of standards. How is KCC coping with this changed role?

(16) Yes, but we were anyway. Direct Payments will be one option - people may still wish KCC to organise their care. The restructure brought a number of people into Strategic Commissioning who found the complexities of the care market challenging. Our procurement colleagues are now getting to grips with it. We do not simply seek the lowest price as it is essential to ensure that we commission quality.

(17) Question – Is there an ideal ratio of in-house to external provision? Would internal provision lead to better market moderation?

(18) Our in-house services are shockingly expensive and are not that much better in terms of quality than some private provision. In my view, and without evidence to support this view, should KCC retain the four newer homes we currently run, we would also retain current valid position in the market.

(19) Question – I worked in a Job Centre and we used to send people to Care Homes. We found that people would be offered a post having received no training whatsoever. Does KCC accept this as good practice?

(20) KCC definitely does not consider this to be good practice. We will be inserting a clause into the spec that all staff must be appropriately trained.

(21) Question – We have lost a number of care homes either because there has been no en suite provision or because the rooms have not been large enough. However, on occasion, people do not want to move out of poor accommodation because they are settled and generally happy. Are standards being relaxed to take account of the Choice Directive.

(22) The CQC is not enforcing the en suite regulations. We have a very sensitive process in respect of care home closures. This will include keeping everyone informed at all stages. We are introducing a system which will require the care homes to share warning or sanction letters on the notice board and write letters to their residents.

(23) The new tender documents will ask the providers how much it costs to run the home and what they are able to deliver on behalf of KCC. We will then consider the quality issues based on the information that comes back. We will then provide all the relevant information to those who may wish to use the service. In this way, we will also be commissioning for outcomes.

26. 11.00am - Kent Care Homes Panel
(Item. 4)

(1) The Chairman welcomed Mr Adams, Ms Gibb, Ms Taylor and Ms Swan to the meeting and asked them to introduce themselves before answering questions from Members of the Committee.

(2) Mr Adams said elaborated on some of the points made in the briefing paper received by the Committee. In particular he said the care homes sector considered there was a “disconnect” within KCC between commissioning, operations and procurement as well as a “disconnect” between the commissioning officers and service providers. He said that when tenders were published they tended to be more prescriptive about methods and outcomes than anticipated during discussions. Frequently there were no references to social value or to the possibility of providing services in different or innovative ways in the tender documents.

(3) Ms Gibb said there was a need to consider long term outputs. For example her organisation had been very successful getting adults with learning difficulties into supported living arrangements but that it could take a very long time to do this. As a charity they could add extra value by looking at work and volunteering opportunities.

(4) Ms Gibb applauded the KCC Stakeholder Board but thought it was too bureaucratic and took too long to make decisions. She said collaboration was important and that she would like to see better quality outputs and recognition that commissioning services imposed a cost on charities.

(5) Ms Swan said that she represented the KCHA on the KCC quality board and worked as a provider of residential and nursing care with large and small providers. The creative and innovative work done by smaller providers could be overlooked and many such organisations had concluded they were not able to work with the local authority. She agreed that the KCC Stakeholder Board took a long time to reach decisions. She also thought that many of the commissioners of services were out of touch with reality particularly about the cost associated with providing services and expressed concern that no additional funding or “top-up” funding was available for support that would enhance an individual’s life.

Question – How could whole life care be achieved within the system?

(6) Usually care packages would be reviewed annually with the care manager, the provider, the individual and his/her family and usually more support was required initially.

Question – Does the care manager hold the budget?

(7) No. Care managers usually have to persuade the Care Committee that an individual needs a particular type of support and the process is bureaucratic and “clunky”.

(8) In the case of older people such decisions are taken by a panel and it is especially difficult when the support required is funded from health care budgets.

Question – Is the health and wellbeing architecture helping?

(9) The flexi-care contract gave care managers to re-act immediately to meet needs and it worked well as it built trust.

Question – In the written submission you talk about prime integration providers coming to dominate the market. What do you mean by that?

(10) This is terminology used by Newtons, the consultants employed by KCC. The big providers frequently undertake to provide services as a loss leader which makes it impossible for smaller providers to come together to develop an alternative offer. However once the big providers are in place the prices tend to increase.

Question – Is the market moderated by the continued existence of in-house services?

(11) There is only limited in-house provision. The sector is trying to talk to the local authority with a view to enabling small and medium organisations to come together as networks of supply that are able to respond to needs rather than relying on one big provider for all the services

Question – Is the structure Age Concern UK has adopted a suitable model?

(12) Yes. The sector is interested in establishing consortia to bid for services but commissioners could say “no” as such consortia do not have a track record of delivery as a group.

Question – How can you measure residents’ enjoyment or peace of mind in a qualitative way? How can it be monitored? How can it be included in a contract?

(13) There are tools, often produced by universities, to qualitatively evaluate the quality of life. If there was a better “connect” between the service provider and KCC, ways of measuring and monitoring performance and outcomes could be discussed and then written into contracts.

(14) It is important to talk to clients, their families and advocates and make sure they are involved in any proposed changes. Case studies of experiences of whole life care could be provided

Question – How could these qualitative measures be written into contracts?

(15) By asking providers for evidence of what is being claimed as well as Care Quality Commission reports and reports of activities relating to adult protection and health.

Question – We have heard from commissioners who think they engage with service providers and from service providers who say commissioners do not engage with them. How could they be brought together?

(16) It is a process and is primarily about trust. Some KCC officers are very committed to consultation but others are less so. It is important to work with service providers rather than just consult with them at times that are convenient to KCC. Issues about the attitude of some KCC staff have been raised with the Director for Strategic Commissioning. In some consultations it feels as if the decisions have already been made and the consultation is only about ticking a box. KCC also needs a better database of organisations as the organisations in the sector frequently need to advise each other of meetings coming up

Question – If members are to drive forward change it would be useful to have case studies of the impact of the “disconnect”. Could they be provided?

(17) Yes.

Question – How do you feel about negotiated contracts?

(18) We prefer negotiations as they build trust. We took legal advice about a contract for services for people with learning disabilities and when our concerns were raised with KCC we were told to “sign it or not get the contract”.

Question – How will the move to direct payments affect you?

(19) We already work with direct payments for community-based services and they will not apply for residential services.

Question – How can elected members help?

(20) By bringing common-sense to the table and by helping to develop trust between KCC and service providers. The sector is in “receive” mode and the emphasis must be on people and not process.

Findings of the Commissioning Select Committee

“Better Outcomes, Changing Lives, Adding Social Value”

The Commissioning Select Committee Report, which examines how KCC could become better at commissioning public services for better outcomes with a focus on the VCS and SME sector.

FINAL REPORT- FOR APPROVAL



FOREWORD TO THE SELECT COMMITTEE REPORT ON COMMISSIONING

The subject is very complex and the witnesses have given evidence in a way that has shown that they desire to help in developing improvements to the commissioning of services.

The Social Value element has been difficult to quantify but the report does show that much can be achieved by way of inclusion in contracts.

Some important issues are member involvement in oversight, simplification of process and relationship with providers. The latter point emphasises that service provision by sources outside the County Council is an extension of the Council's determination to provide high standards of service to our residents.

I hope that you enjoy reading the report and I look forward to receiving the action plan.

In presenting this report I thank the Members of the Committee for their time and commitment. Altogether the Members of the Committee have participated with energy and addressed the task in an example of cross party collaboration. I would like to thank the research team headed by Philippa Cracknell and assisted by Jude Sage. In addition Democratic Services have been very helpful in taking minutes and giving guidance with the process.

Mr Mike Angell (Chairman)

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Glossary and Acknowledgements

Activities	what an organisation does with its inputs in order to achieve its missions
Impact	any change resulting from an activity, project or organisation. It includes intended as well as unintended effects, negative as well as positive, and long term as well as short term
Inputs	resources that contribute to a programme or activity including income, staff, volunteers and equipment
IPC	Institute of Public Care
ITT	Invitation to Tender
NCVO	National Council of Voluntary Organisations
Outcomes	benefit or changes for participants or intended beneficiaries
Outputs	countable units and direct products of a programme or organisation's activities
PIN	Prior Information Notice
PQQ	Pre Qualification Questionnaire
PBR	Payment by results contracts
IFG	Institute for government
CGF	Calouste Gulbenkian Foundation
VCSE	voluntary, community and social enterprise sector

The Select Committee would like to thank ...

the external witnesses, organisations and KCC Officers who gave up their time to give evidence to assist with this review by attending hearings, submitting written evidence, or taking part in informal consultation or advice-giving.

All the information received, whether or not it has been included in the final report, has contributed to the Select Committee's knowledge and appreciation of the issues.

Our thanks go to our Research Officers, Philippa Cracknell and Jude Sage whose patient toil to inform views and opinions with evidence underpins all that follows, and to Democratic Services for their support.

Executive Summary

This report examines how KCC can improve the commissioning of KCC services, with a particular focus on removing barriers to entry for the provision of KCC services, particularly for small to medium sized enterprises (SMEs) and members of the voluntary, community and social enterprise sector (VCSE); how the voluntary, community and social enterprise sector (VCSE) can play a more important role in the provision of KCC services and considers if the authority is using its commissioning processes to ensure it meets its duties under the Social Value Act.

The issues considered include

- the strategic context and our role as a commissioning organisation,
- the costs of entry into KCC commissioning and procurement exercises,
- how any barriers to entry for new providers might be mitigated or removed,
- the extent to which KCC decommissions and re-commissions services based on provider performance,
- how KCC can best discharge its responsibilities through the Social Value Act and the extent that social value requirements be sought throughout the KCC supply chain

Commissioning and the Key Challenges:

A successful commissioning approach can be used to redesign services, join up resources to focus on outcomes in the most efficient and effective way; taking a whole-system approach and totality of resources to consider different ways of achieving improved outcomes. It has been identified as an area for corporate improvement that KCC actively improves its skills and approach to commissioning, increasingly undertaking both market shaping and market development activity. KCC needs to become better at commissioning, optimising and targeting resources, choosing the right mechanism to best achieve desired outcomes, ensuring open and fair competition for public sector contracts, across sectors, and removing barriers from entry to the market.

The key challenges for Kent are:

- Commissioning strategically, ensuring equitable services are available across Kent
- Ensuring KCC has a firm grip on cost and quality
- Ensuring KCC embeds a culture of performance management with all providers
- Developing a better understanding/evidence base regarding return on investment, including how to monitor preventative services for their impact in demand management and prevention,
- Promoting and supporting 'whole systems thinking'; collaboration and joint working with providers across sectors, developing 'circles' of support networks to support independence and reduce crisis situations.

The Commissioning Landscape in Kent and a blended approach

There is a range and breadth of commissioning activity across KCC in established service areas (e.g. Social care) and new service areas (e.g. public health). There are a large number of VCSE organisations and businesses in Kent, delivering services related to KCC's core business. There is no guarantee, that a) there are always VCSE organisations or SMEs available to deliver services in any particular area of business or b) that organisations have the capacity to deliver.

The drive is to get the best possible service for service users, with a focus on outcomes for individuals, within the budget set by the County Council and to seek additional social value. It is about choosing the right mechanism and best provider to deliver the services, whether in-house, private, VCSE or SME. It is not an automatic link between commissioning and outsourcing, or especially outsourcing problems, but using commissioning as a common base to commission both internally and externally delivered services. The key is linking the right service capability to the right objectives, and securing that capability.

The evidence encapsulated three things:

- commissioning is a very dynamic and changing process
- there is a big difference in commissioning a service and commissioning a product so need different approaches in recognition of this
- SMEs and the third sector are highly valued and bring significant added social value, but should be recognised that all sectors have a place and value to add, and as such there should be a balanced mixed economy of providers (private, VCS, SME and in-house), a blended approach.

There remains a tension between the need to aggregate demand in the market to achieve economies of scale, and the desire to promote local economic growth by focusing significant spending locally, and a balance to be found between larger long term contracts and SME and local supplier support, and a need to maximise added value.

However, either across the county or in individual localities VCSE and SME organisations COULD potentially provide the best value service and bring additional social value.

The potential of public sector spending to support added social value and local economic development is widely recognised, and KCC procurement has the potential to create significant business and growth opportunities through increased participation by small and medium sized businesses (SMEs), as well as improving access to their creativity and innovation. It is recognised that the Voluntary Sector makes key contributions for example to reducing crime, to the environment and has become a powerful agent for social inclusion and enhancing community capacity, breaking barriers, reaching families, building greater self-reliance and social mobility. The sector has enhanced knowledge and information about what is happening locally and insight into local needs; the ability to adapt

to changing needs and innovate, and is especially adept at developing connections and relationships.

Nationally small and medium sized business and VCS organisations have found that bidding for public sector contracts can be over bureaucratic, time-consuming and expensive. This has been recognised most recently by Lord Young's report, *Growing Your Business*, published in May 2013, and by Lord Heseltine's report *No Stone Unturned* which was published in March 2013. Although there is much good practice evident, small business and VSCE organisations still face hurdles to competing with larger firms for public sector contracts – therefore missing out on opportunities for business while the public sector misses opportunities for potential growth and innovation, (HM Govt.) and is an issue reflected in Kent.

The Committee, aware of the economic and social value voluntary, community not-for-profit organisations and SMEs provide, would like to maximise where appropriate the use of these organisations with the capacity and skills needed to achieve the outcomes KCC has determined to be important.

What is successful commissioning?

There is an increasingly complex commissioning environment with challenges and opportunities for commissioners and providers, not least in how to join up services better at a local level and meet needs in an integrated, holistic and transformative way that delivers results over the long term. Complex commissioning seeks to create integrated services that are co-designed with service users and take a more collaborative approach. The 'Beyond Big Contracts' (ISS and CGF) report emphasised this could include for instance more personalised support, co-designed cross-sector services with service users, providers, cross sector commissioners and agencies working together; an integrated front line and more flexible services.

There is need for an approach that builds 'whole systems' thinking, networks of supply and can utilise 'co-creation of value – ensuring services are innovative, have capacity to improve and be responsive and are integrated. To commission services successfully KCC will need to be outcomes focussed from needs assessment through to monitoring of contracts; joined up; excellent at specifying services with complex outcomes; and create space and environment for innovation and social value.

To take advantage of commissioning, KCC needs to explore how communities can define and shape their own outcomes; maximise the potential of the Social Value Act, and build skills and capacity.

Next Steps

The Select Committee heard evidence of the range and breadth of commissioning activity across KCC service areas and engagement to improve our commissioning practices and support providers including VCSE and SMEs – with examples of good practice, partnership, innovation and steps being taken to improve how KCC commission. There is much to be acknowledged but there is still a journey to make. To be an intelligent client

and commissioner, KCC has to adopt a number of different roles such as shaping markets, enabling social capital of local communities and promoting enterprise as well as procuring and providing services; linking the right source of capability (e.g. user led group, SME, VCSE, private provider or in-house service) for a particular objective and use the right mechanism to secure it (e.g. grant funding, commissioning model, contract).

Three significant themes emerged during the review – to promote opportunities, to remove barriers, and to build capacity.

VCSE and SMEs consistently highlighted a need for measures focused on process simplification, better promotion of opportunities, creating room for innovation, breaking down of contracts into smaller lots where feasible and their early and positive engagement.

As an organisation there is a need for us to focus on:

Clearly defining our Commissioning Policy/Strategy, Roles and Responsibilities

- defining our strategy and establishing the hierarchy of priorities and importance of social value,
- setting clear roles and responsibilities in the commissioning and procurement cycle and tasks to be undertaken
- becoming more complex in what we do, taking a cross-department approach to activities – looking at joined up commissioning and thinking across KCC
- strengthening the role for Member oversight within Contract management and Commissioning
- skills and behaviours are a concurrent theme that runs behind the key issues in this report – Market engagement, relationships, communication, contract management.

Excellent, appropriate and timely communication

- keeping providers informed and raising levels of awareness, and promotion of opportunities to engage SMEs, VCSE
- enabling planning and positive networking to build stronger bids by giving earlier notification and information to organisations regarding services authority wanting to commission

Excellent engagement and Market development

- building better working relationships between commissioning and providers, and culture of collaboration, encouraging partnership working with providers.
- greater understanding of capabilities of service sector, informed service design and improving quality of specifications, to ensure can commission intelligently and are an intelligent client, with excellent pre-market engagement and Co – design and Co –production of services and outcomes
- building capacity ahead of opportunities becoming available

- enabling of innovation (through market engagement, development of specifications, the choice of commissioning models and contract types)
- to support market development and improve the capability, skills and capacity of organisations to tender, and ensure have initiatives to support and develop potential of SMEs and VCSE
- seeking to use and promote VCSE and SMEs wherever possible but maintain mixed economy/ a blended approach

Simplifying and standardising procurement processes further

- removing existing barriers to both VCSE and SME and ensuring processes are proportionate, (adopting a standardised shorter PQQ; simplifying processes for smaller procurements/low value contracts; streamlining financial appraisal; adopting a 'lot' approach where possible; e-tendering easily navigable and simple to use)
- availability of opportunities for VCSE and increasing SME participation in procurement
- making it easier to enter into new markets
- taking greater account of social value in evaluation of tenders /services

Embedding outcome focus and excellent Contract management

- outcomes that are measureable, achievable yet challenging
- capabilities to contract manage with robust performance management, clear responsibilities, supportive and clear targets for improvement if needed
- work to get the personality processes right for collaboration internally and externally and to support culture change
- need to take some level of risk and be risk aware not risk averse

Maximising Social Value

- important to incorporate and recognise social value in our commissioning and procurement of services
- recognise that quantifying all social value can be difficult
- clarify the social value or social benefits KCC are looking for and importance of community influence and in deciding social value

The Recommendations of the Committee:

Our challenge to the whole of KCC and to the sectors involved is to work more collaboratively to shift culture and deliver better outcomes through a mixed economy.

The recommendations from this report seek to improve how KCC commissions services and mitigate some of the barriers for VCSE and SME Providers.

In the spirit of challenge to officers to drive improvement in our commissioning the evidence points directly to 6 key points:

- We can improve our commissioning
- Can develop a mixed economy – eclectic, using both big and small providers from all sectors and KCC in-house provider units, with key role for VCSE and SMEs
- Can further support and encourage VCSE and SMEs to provide services directly or as part of the supply chain.
- Can support social and micro enterprises to grow and deliver outcomes
- Can improve contract monitoring and contract management
- Can take more account of social value

Commissioning Landscape

1: Support the development of a balanced and mixed economy of potential service providers, balancing cost and maximising where appropriate the use of VCSE and SME organisations with the capacity and skills needed to achieve the outcomes required.

KCC as an excellent Commissioner

2: Clarify KCC Commissioning objectives and approach, and develop a KCC Commissioning Strategy.

3: Define roles, responsibilities and relationships in the commissioning cycle, agree who is best placed to carry out the different tasks and decide when and how legal advice should be considered in the procurement cycle.

4: Develop the culture of commissioning and contract management, with an ethos of collaborative relationships.

5: Extend the Kent Compact or similar agreement to include private sector providers working with VCSE organisations.

6: Invest time defining the desired outcomes and measures (quantitative and qualitative), ensuring these are user and communities focused and evaluate impacts (not outputs), using Co-production of outcomes and measures where appropriate.

7: Improve how we join up commissioning across the authority. There is a need for better collaboration and partnership building across silos and with providers.

Engagement and Communication

8: Provide more opportunities to co-design and co-produce services where appropriate, to capture the value of what organisations are already doing, and ideas to innovate.

9: Need to ensure that specifications are 'fit for purpose' - reflect market engagement, identify level of need and desired outcomes, allow innovation and flexibility leading to better contracts.

10: Actively consider how service users and stakeholders can have greater input and influence in the specification, and service users in the evaluation of tenders.

11: Ensure appropriate and timely communication throughout the market engagement and tendering processes – about timeliness, communicating reasons for changes, levels of awareness.

12: Promote contracting opportunities to VCSE and SMEs and Better or enhanced promotion of the Kent Business Portal to increase awareness (including with small and micro enterprises), and for the Portal to be more easily navigable.

13: Extend the use of the portal to enable other local Authorities to promote contract and subcontracting opportunities, broadening potential access for VCSE and SMEs.

Procurement Process

14: Strengthen our processes to access and utilize knowledge of Commissioners and potential providers - KCC should consider within the current tendering process and complying with procurement law how KCC can strengthen our understanding of the local knowledge and experience of organisations, for example by incorporating

- visits to existing services of potential providers
- reflecting knowledge of past performance/experience of working with a provider, both good and not so good.

15: Simplify and standardise procurement processes further to remove or minimise procurement process barriers by:

- introducing reduced and less onerous requirements for low value contracts (e.g. financial evidence - self certification/documentation for low risk/low value followed by a more detailed analysis if proceed to award stage, proportionate pre qualification)
- simplifying and standardising the core and online PQQ, retaining the flexibility to add additional questions for more complex service areas
- having better co-ordination of Commissioning and co-ordinating the diary of tenders across KCC where possible and introducing a plan of tenders

- Giving earlier notice of intention to put contract out to tender and more time for the completion and submission of tenders.

16: Promote opportunities to VCSE and SMEs through publication of lower value contracts (i.e. £5K) and greater transparency regarding low value contracts that are available.

17: Reflect Social Value sufficiently in our procurement decisions – need to actively consider how much of each procurement decision should be assigned to Social Value, and not only between price and quality.

Support to develop the Market and build capacity

18: Actively consider how best to support the development of the market and build capacity, particularly how best to provide support to VCSE and to SMEs.

Contracts and Grants

19: Break down larger contracts into smaller lots, wherever practical.

20: Requirement for prompt payment terms all the way down our procurement supply chain continues to be built into contracts; and improve monitoring of this requirement to ensure compliance.

21: Recognise there is a clear role for ‘smart’ grants that are innovative and outcome based. Need to ensure that their use is transparent and are time and task specific, and monitored / evaluated for success.

22: Improve the capabilities to performance manage contracts; and ensure the capacity to monitor and evaluate performance and support improvement when appropriate.

23: Stipulate that all contracts have clearly scheduled performance reviews and evaluate outcomes/outcome evaluations – for instance ensure contracts have schedule of reviews

24: Complete the Contracts register to include all contracts over 50k – and include details of the named contract manager, and Lead Director.

25: Manage internally provided Services with as much rigour for outcomes, and performance management as other providers.

Member Role

26: Further work is undertaken to the member role and what mechanism would best strengthen member oversight of commissioning, procurement and contract management; and member involvement earlier in the process and pre market engagement; and members are supported through training.

Social Value

27: To maximise and give greater recognition to Social Value, incorporate consideration of social value questions in tender evaluation criteria and procurement decisions where possible, and develop a Social Value Charter.

1 Background

1.1 The Select Committee Membership (Conservative 5, UKIP 2, Lab 1, Lib Dem 1)



Mike Angell



Matthew Balfour



Nick Chard



Tom Gates



Clive Pearman



Mike Baldock



Hod Birkby



Gordon Cowan



Martin Vye

1.2 Terms of Reference and Scope of the Select Committee

The Select Committee on Commissioning and Procurement was established by the Scrutiny Committee on 12 November 2013 to make recommendations to KCC to support the improvement in commissioning KCC services.

The terms of reference agreed by the Select Committee on 16th December 2013 were:

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

The issues to explore are given in summary below and are expanded in Appendix 1 for reference:

- 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

1.3 Methodology

The review commenced by looking at existing research and national papers. The committee gathered evidence during January and early February 2014, through hearings, briefing papers and written evidence from providers including VCSE and SME, Infrastructure Organisations, representative bodies, and Officers with Commissioning or procurement roles.

A list of those who took part or were invited to submit written evidence is detailed in Appendix 2.

2 Introduction – Context and Overview

2.1 Definitions of Commissioning

- 2.1.1 There is no singular, overarching definition of commissioning and there are many associated terms such as ‘procurement’, ‘purchasing’ and ‘contracting’. Some popular definitions are

*“Commissioning is the cycle of assessing the needs of people in an area, designing and then achieving appropriate outcomes. The service may be delivered by the public, private or civil society sectors.”
(Modernising Commissioning Green paper 2011)*

“Assessing the needs of the population in an area, designing then securing the delivery of services” (Cabinet Office. LGA July 2013)

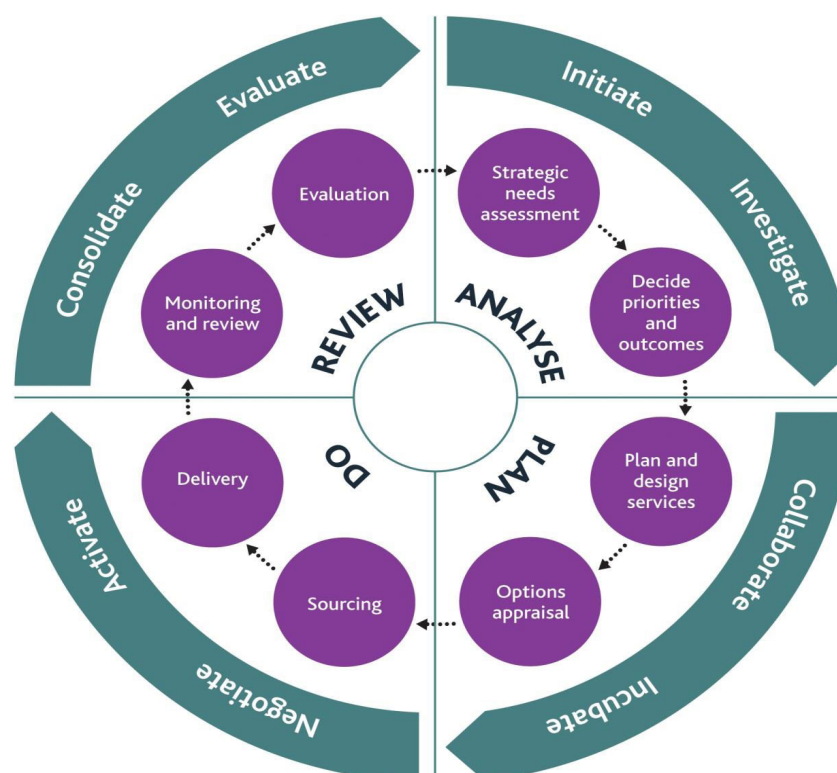
- 2.1.2 Commissioning describes the strategic process of designing services and choosing delivery agents. It is often described as a cycle of activities including assessment of needs, securing services, contract management and evaluating outcomes. Procurement is the means by which you secure the services needed.

“Procurement is the process of acquiring goods, works and services from third parties... the aim is to achieve best value for money, taking into account social value and ensuring quality of procurement decisions taking account of quality and cost” (LGA 2013)

Figure 1 shows a graphical representation of a commissioning cycle.

- 2.1.3 The term ‘Complex Commissioning’, signifies a change in the commissioning environment, driven by social, economic and operational shifts and refers to the emergence of collaborative arrangements that respond more effectively to a range of interrelated user needs – thinking across service boundaries to address the root causes of demand, such as family breakdown. (ISS CGF Beyond Big Contracts). The traditional ‘commissioning cycle’ is a more simple view of the complex commissioning process. Associated concepts are co-production, asset based approaches, market management, outcome based commissioning, social value, decommissioning. (CLLR June 13).

Figure 1: A graphical representation of a commissioning cycle



Source: CSM, 1999. Beyond Big Contracts

2.2 The Social Value Act and definition of Social Value

2.2.1 The Government has published the [revised Statutory 'Duty of Best Value'](#) and the 'Public Services (Social Value) Act' which both see more recognition of 'Social Value' in commissioning & procurement processes. The Act legislates to give charities, social enterprises and employee-led mutuals a better chance of competing for contracts, as there is a requirement for all public sector contracts to give consideration during the pre-procurement stage for provisions relating to social outcomes and 'Social Value'. However in doing this it does not exclude businesses - allowing small for-profit businesses run by local entrepreneurs and private sector companies who take their corporate social responsibility seriously and could be considered as undertaking a social role, to compete fairly, equitably and transparently for contracts in accordance with EU procurement rules.

2.2.2 The *Public Services (Social Value) Act*'s legislates that at the pre-procurement stage of the commissioning process local Authorities must consider:

1. "consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area" - section 1(3)(a);
2. "consider how, in conducting the process of procurement, [the authority] might act with a view to securing that improvement" - section 1(3)(b); and

3. "consider whether to undertake any consultation as to the matters that fall to be considered under subsection (3)" - clause 1(7).("the Social Value Duties")

2.2.3 'Social Value' is really the added value received when a supplier, as part of fulfilling a contract, also contributes to the public good in ways that go beyond simply meeting the basic contract terms. To use an analogy – it is the additional value gained from each £1 invested, a form of 'planning gain'. Some examples of 'Social Value' in practice might be sourcing food locally with impacts both on local employment and the environment; a transport company that tenders to run bus services and offers to provide added value through the delivery of a dial-a-ride service, or a housing management company which wins a contract to undertake property maintenance work and provides 'Social Value' by committing to employ local apprentices, quantified as for the interests of a community. The 'Social Value' outcomes desired may differ on a case by case basis.

2.2.4 The following definitions were offered by a 2009 NHS commissioned project into 'Social Value':

" 'Social Value' is the additional benefit to the community from a commissioning/procurement process over and above the direct purchasing of goods and services'."

"Social value can be distinguished from the wider notion of public value or the narrower concept of individual value. It represents delivery of the collective desired needs of individuals who share common expectations through increased social capital, citizen well-being and entrepreneurialism."

2.3 Local Context:

2.3.1 Public Service models are changing nationally. Local Authorities are facing reductions in public spending, future significant increase in demand for services and increased public expectation about quality of services.

2.3.2 It is a time of transformational change and redesign of services, new partnerships and ways of working, to potentially have better services in terms of results, value for money and efficiency.

2.3.3 Commissioning is fundamentally linked to the core themes of 'Bold Steps' and KCC's policy framework – to help the Kent economy grow (developing a mixed market economy, commissioning and procurement supporting Kent businesses and not for profit organisations by tendering in ways that allow them to be competitive and deliver value), to put the citizen in control by understanding needs and needs reflected in service (enabling communities to be more resilient, designing services) and to tackle disadvantage through commissioned services and social value, such as apprenticeships.

- 2.3.4 A successful commissioning approach can be used to redesign services, join up resources to focus on outcomes in the most efficient and effective way; taking a whole-system approach and totality of resources to consider different ways of achieving improved outcomes.
- 2.3.5 In meeting Facing the Challenge and Whole Council Transformation KCC is commissioning more of its services. The fundamental objective of the approach is to ensure KCC becomes an outcome focussed organisation – affecting how KCC undertakes service redesign, strategic planning and manage performance effectively. It has been identified as an area for Corporate improvement that KCC actively improves its skills and approach to commissioning, increasingly undertaking both market shaping and market development activity. Facing the Challenge proposes the establishment of a professional corporate team with a specific role to embed commissioning arrangements, ensure robust internal challenge, consider how to improve capacity to do market development and shaping activities, define skills required for staff engaged in commissioning activity, identify opportunities for joint commissioning across the authority (and with partner organisations) and develop a mechanism to monitor the effectiveness of our commissioning activity.
- 2.3.6 KCC needs to become better at commissioning, optimising and targeting resources, choosing the right mechanism to best achieve desired outcomes, ensuring open and fair competition for public sector contracts, across sectors, removing barriers from entry to the market for the provision of KCC services, particularly for small to medium sized enterprises (SMEs) and members of the voluntary, community and social enterprise sector (VCSE) who play a vital role in supplying goods and services. In October 2012 the new commissioning structure for Families and Social Care was established with three distinct teams; Children's commissioning, Adult Community Support and Adult Accommodation Solutions.
- 2.3.8 The key challenges for Kent include
- Commissioning strategically to end the postcode lottery and ensure equitable services are available across Kent
 - Ensuring have firm grip on cost and quality
 - Ensuring embed a culture of performance management with all providers
 - Developing a better understanding/evidence base regarding return on investment, including how to monitor preventative services for their impact in demand management and prevention, ensuring evaluation criteria includes social value and social return on investment.
 - Promoting and supporting 'whole systems thinking', collaboration and joint working with providers across sectors, developing 'circles' of support networks to support independence and reduce crisis situations.
 - Considering the best way to contract with providers that allow new providers to enter the Kent market, through duration of contract, including from Community Interest companies

Key Findings

3 The Commissioning Landscape

3.1 The Commissioning Landscape in Kent and a blended approach

- 3.1.1 There is a range and breadth of commissioning activity across KCC in established service areas (e.g. Social care) and new service areas (e.g. public health). There are a large number of VCSE organisations and businesses in Kent, delivering services related to KCC's core business.
- 3.1.2 There is no guarantee, that a) there are always VCSE organisations or SMEs available to deliver services in any particular area of business or b) that organisations have the capacity to deliver. The drive is to get the best possible service for service users, with a focus on outcomes for individuals, within the budget set by the County Council and to seek additional social value.
- 3.1.3 The evidence gathered by the Select Committee encapsulated three things:
- commissioning is a very dynamic and changing process,
 - there is a big difference in commissioning a service and commissioning a product so need different approaches in recognition of this,
 - SMEs and the third sector are highly valued and bring significant added social value, but should be recognised that all sectors have a place and value they can add. There should be a balanced mixed economy of private, VCSE, SME and in-house commissions, or blended approach, and a place for contracts and robustly monitored time and task specific grants.

There is a balance to be found between larger long term contracts and SME and local supplier support, and remains a tension between the need to aggregate demand in the market to achieve economies of scale, and the desire to promote local economic growth by focusing significant spending locally.

- 3.1.4 However, either across the county or in individual localities VCSE/SME organisations COULD potentially provide the best value service and bring additional social value.
- 3.1.5 The public sector in the UK spends £230 billion a year on the goods, services and works it needs to deliver public services (HM Govt). The potential of public sector spending to support local economic development is widely recognised. Public sector procurement has the potential to create significant business and growth opportunities through increased participation by small and medium sized businesses (SMEs), as well as improving the public sector's access to their creativity and innovation. SMEs are an important engine for growth, both nationally and for the Kent economy.

- 3.1.6 There are many examples of small suppliers delivering significant benefits to the public sector through greater innovation, at comparatively lower cost base than larger businesses. Recent data from the Office of National Statistics Annual Business Survey 2012 shows that, on average, SMEs create around £34 of gross value added to the UK economy for every £100 of turnover, while the comparative figure for large businesses is £27. Similarly research looking at effect of local spend found that every £1 spent by a local authority with local SMEs generated an additional 63p benefit for their local economy compared to 40p for larger firms. (Centre for Local Economic Strategies for the FSB.)
- 3.1.7 The voluntary sector is not a homogenous group and it should be recognised that there are considerable differences in their sizes and resources and levels of reliance on public funds. NCVO's 2013 almanac focuses on the 'voluntary sector,' comprising of 162,177 voluntary organisations, over half of which are micro-organisations with an income of less than £10,000, compared to 0.3% of the sector comprised of 507 major organisations with multi-million pound turnovers that generate 47% of its income (ISS Beyond Big Contracts report.)
- 3.1.8 The voluntary sector makes key contributions for example to reducing crime, to social inclusion, to the environment and has become a powerful agent for social inclusion and enhancing community capacity, breaking barriers, reaching families, building greater self-reliance and social mobility. The sector has enhanced knowledge and information about what is happening locally and insight into local needs; ability to adapt to changing needs and innovate and is especially adept at developing connections and relationships. It was reported that for some voluntary sector organisations that for every £1 spent there is match funding of £10 (Action with Communities in Rural Kent).

"Local VCSE organisations share the commitment to having strong communities, local people in skilled jobs, reduced crime and social isolation. They have "skin in the game" as their activities, and futures, are in Kent."

"We are able to draw on the support of our volunteer mentors who either provide office support, fundraising or use their knowledge and expertise to help move young people into positive progression."

- 3.1.9 Nationally the main barriers recognised include the
- Capacity and skills to bid for and deliver contracts effectively
 - Awareness of potential procurement opportunities
 - Lack of understanding or knowledge of operation of local government
 - Bureaucratic nature of local procurement practices

- Lack of awareness and understanding of SMEs , and how to engage with them and what they could offer
- Need for procurers to achieve economies of scale in their procurement practices

(FSB summary)

3.1.10 Small and medium sized business and VCSE organisations have found that bidding for public sector contracts can be over bureaucratic, time-consuming and expensive. This has been recognised most recently by Lord Young's report, *Growing Your Business*, published in May 2013, and by Lord Heseltine's report *No Stone Unturned* which was published in March 2013. Although there is much good practice evident, small business and VSCE organisations still face hurdles to competing with larger firms for public sector contracts – therefore missing out on opportunities for business while the public sector misses opportunities for potential growth and innovation, (HM Govt.) and is an issue reflected in Kent. Significantly if organisations are unable to win tenders and therefore not gain income from contracts their sustainability may be threatened.

3.1.11 The Committee, aware of the economic and social value voluntary and community not-for-profit organisations and SME provide, would like to maximise where appropriate the use of these organisations with the capacity and skills needed to achieve the outcomes KCC has determined to be important.

Recommendation 1:

Support the development of a balanced and mixed economy of potential service providers, balancing cost and maximising where appropriate the use of VCSE and SME organisations with the capacity and skills needed to achieve the outcomes required.

3.2 What is successful commissioning?

3.2.1 Successful commissioning ultimately means commissioning public services for better outcomes - delivering the right outcomes at the right cost. At the heart of which it is vital that the needs of service users and communities are put first and foremost.

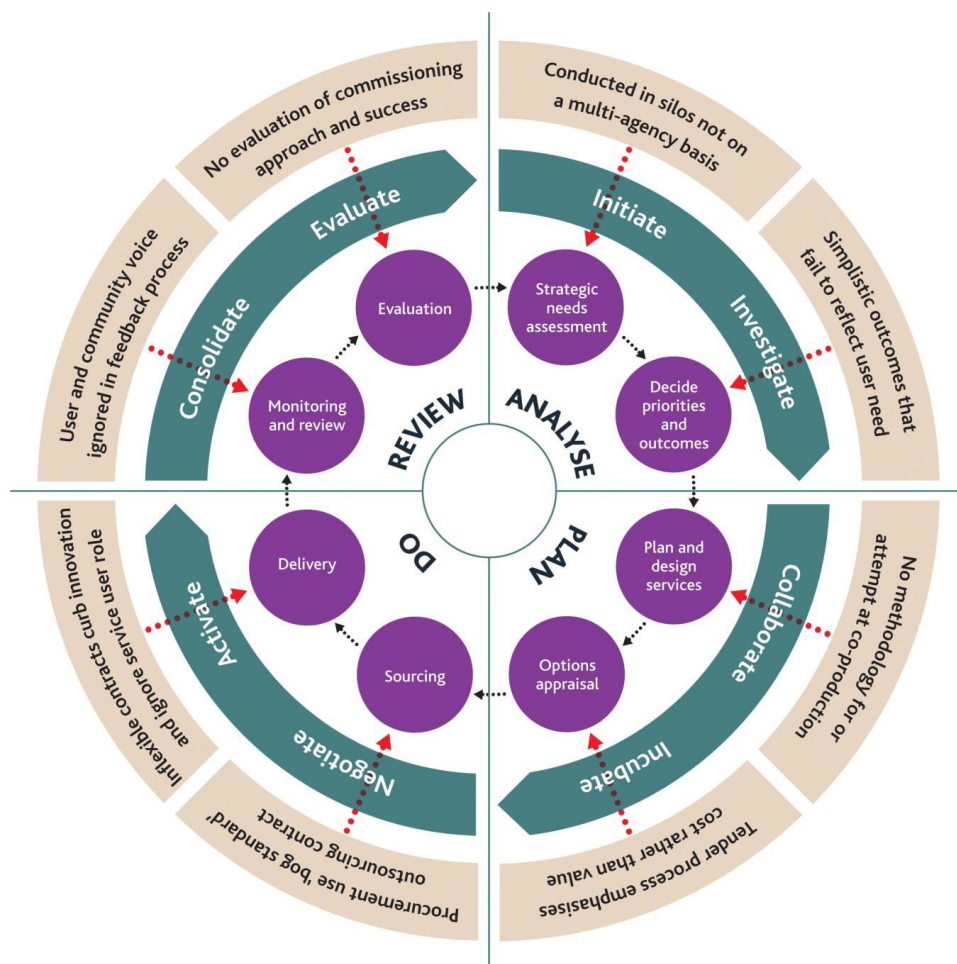
3.2.2 There is an increasingly complex commissioning environment with challenges and opportunities for commissioners and providers, not least in how to join up services better at a local level and meet needs in an integrated, holistic and transformative way that delivers results over the long term. Complex commissioning seeks to create integrated service that are co-designed with service users and take a more collaborative approach. The 'Beyond Big Contracts' (ISS and CGF) report emphasised this could include for instance more personalised support, co-designed

cross-sector services with service users, providers, cross sector commissioners and agencies working together; an integrated front line and more flexible services.

- 3.2.3 There is need for an approach that builds ‘whole systems’ thinking, networks of supply and can utilise ‘co-creation of value – ensuring services are innovative, have capacity to improve and be responsive and are integrated. To commission successfully KCC needs to be outcomes focussed from needs assessment through to monitoring of contracts; joined up; excellent at specifying services with complex outcomes; and create space and environment for innovation and social value. To take advantage of commissioning KCC need to explore how communities can define and shape their own outcomes (see market engagement), maximise the potential of the Social Value Act, and build skills and capacity.

Are KCC and the markets ready for a complex commissioning environment?

Figure 2: Structural weaknesses in the complex commissioning environment.



Source: Collaborate: CGF, IFG. Beyond Big Contracts. 2014

4 Making sure KCC is an Excellent Commissioner

4.1 Emerging themes

4.1.1 The Select Committee heard evidence of the range and breadth of commissioning activity across KCC service areas and engagement to improve our commissioning practices and support providers including VCSE and SMEs – with examples of good practice, partnership, innovation and steps being taken to improve how KCC commissions, for example:

- improved performance management - introduction of performance monitoring for some contracts through re-let, and re-let of inherited contracts; and financial reclaim for poor performance/non delivery of contract
- growth of new social enterprises and support to grow business, e.g. The Community Chef
- support to providers to understand the commissioning process
- introduction of the Kent online Business Portal
- shift to being outcome focused and improvement in raising standards of delivery
- drive and commitment of officers
- innovation from providers e.g. protecting gullies from theft, using tablets to share information directly.

4.1.2 There is much to be acknowledged but there is still a considerable journey to take. Three significant themes emerged during the review – to promote opportunities, to remove barriers, and to build capacity. VCSE and SMEs consistently highlighted a need for measures focused on process simplification, better promotion of opportunities, creating room for innovation, breaking down of contracts into smaller lots where feasible and early and positive engagement of VCSE and SMEs.

In summary as an organisation there is a need to

- bring up to date the terms and conditions and to introduce regular performance monitoring for some contracts (e.g. Accommodation Solutions)
- clearly define our commissioning strategy and hierarchy of priorities
- clarify roles and responsibilities in the commissioning and procurement cycle
- further mitigate existing barriers to both VCSE and SME (e.g. proportionate requirements to value of contract –PQQ, insurances, financial evidence)
- give flexibility and allow room for innovation within specifications
- improve joining-up of commissioning and thinking across KCC
- build better working relationships between commissioning and providers, and culture of collaboration
- ensure contract management is robust, and has the capacity to performance manage and evaluate services
- use frameworks in a more sophisticated way
- consider the role of members and Member oversight

- support market development and improve the capability, skills and capacity of organisations to tender, and consider how best to support and provide training for VCSE and SMEs
- improve communication, timeliness
- mitigate barriers of time, cost of legal advice and additional costs associated with TUPE, pensions, financial risk where possible

4.2 KCC's Commissioning Direction

4.2.1 Although KCC's key documents set out a path of transformation for KCC there is not enough clarity as an organisation about what KCC is trying to achieve through commissioning and the hierarchy of priorities, for example is it value for money, improved outcomes, budget delivery, local, using the voluntary sector and SME organisations; and whether KCC has clarity on local choices in service delivery being different to other areas in Kent.

4.2.2 Clarifying KCC's strategy will make it easier for officers to deliver the intended goal. A strategy could set out KCC's commissioning direction, objectives and commitment to excellent commissioning and core aims of KCC's commissioning approach; provide clarity around what KCC means by commissioning, procurement and contract management; outline basic principles of approach and the types of relationships wanted with providers. e.g. the London Borough of Croydon Strategy.

Recommendation 2:

Clarify KCC Commissioning objectives and approach, and develop a KCC Commissioning Strategy.

4.3 Roles, Responsibilities and Skills

4.3.1 There are some excellent commissioners in Kent, but this can vary. Commissioners have a clear mix of skills, some have expertise in contract management, some in needs analysis and service design. There is a lack of clarity and clear definition around roles and responsibilities of staff in the commissioning cycle, and it has been identified as an area for corporate improvement that KCC actively improves its skills and approach to commissioning and ensures capability to deliver excellent commissioning. The key points are:

- 'muddying' of commissioner/operations role. There is a tendency for some commissioners to be involved very closely undertaking a role more similar to that of a service manager, rather than a contract manager who gives support to a contracted provider.
- lack of clarity in roles and responsibilities for commissioning/procurement officers, and who is best placed to undertake which tasks in the cycle.
- unclear about when and how legal advice should be sought in the commissioning cycle

- difference in core goals for commissioning and procurement, although potentially a shared goal of best value. The perception is procurement are often driven by the need to procure service for the best price, with key drivers to save money, manage risk, and support Kent business.
- better reach of procurement to challenge and advise commissioners on risk, and generally good working relationships.
- an identified need to improve commissioning skills and capabilities to deliver excellent commissioning/contract cycle activities
- skills and behaviours is a concurrent theme that runs behind the key issues in this report – Market engagement, relationships, communication, contract management.

4.3.2 KCC used to run a "Procurement Forum" where all the contracts officers for the different Directorates, together with Legal, Finance and Procurement, would meet monthly to discuss current issues and planned future procurements. It was suggested a forum of this nature be reinstated.

"As KCC becomes more of a commissioning body it is essential that appropriately qualified staff are involved fully at the beginning of the process and this would include lawyers, commissioners, procurement specialists, and contract managers. This will ensure that there is effective sharing of information and learning at the outset. It will be easier then to establish when expertise is required and long term efficiencies would be created."

4.3.3 It is recognised that the social care commissioning function needs to modernise and transform, that roles are clearly defined and staff are supported to develop skills and capabilities for our evolving commissioning environment. There is a clear commitment to develop the necessary skills and capabilities within social care through a programme of training and development, based on the Institute of Public Care Certificate of Credit in Commissioning and Purchasing for Public Care (IPC).

4.3.4 IPC are supporting KCC Families and Social Care to:

' ... develop and adopt a Strategic Commissioning Operating Framework, based on best practice, to standardise commissioning arrangements across the Directorate and within localities.

This includes commissioning arrangements for both adults and children's services, but also specific operational teams such as Older People's and Physical Disabilities, and Learning Disabilities and Mental Health commissioner ... and to develop

- *a Strategic Commissioning Operating Framework*
- *a Strategic Commissioning Roles and Responsibilities diagram*

- *a Strategic Commissioning Skills Framework and Self-Assessment and analysis*
- *a programme of support and development, both generic to the whole group and specific to teams.*

Core to which is to

- *Ensure a common understanding of the principles and language of strategic commissioning*
- *Support and adopt good commissioning practice at every level and across every group*
- *Embed the Strategic Commissioning Operating Framework across the Directorate, and*
- *Encourage commissioning behaviours which actively support and facilitate the development of good quality care across Kent.'*

Recommendation 3:

Define roles, responsibilities and relationships in commissioning cycle, agree who is best placed to carry out the different tasks, and decide when and how legal advice should be considered in the procurement cycle.

4.4 Relationships

4.4.1 Relationships are changing, being broken and reformed, and are important throughout commissioning, from pre-market engagement to contract management. Social sector organisations are encouraged to collaborate and there is an increase in subcontracting through use of larger contracts. There is a concern that this growth in sub-contracting arrangements and provider consortia will lead to commissioners becoming less connected to smaller and social sector providers. Commissioners and providers need to work together to improve service co-ordination and outcomes, so collaborative relationships are key. It can take time to build trust.

4.4.2 It is evident that there is an awareness of what constitutes good practice, and evidence of that being realised in certain aspects of pre-market engagement, but evident there is

- a disconnect between commissioners and providers;
- much is dependent on capacity, trust and appetite for collaborative arrangements

- often no partnership between commissioners and providers , for example at tender stage specifications not always reflect the pre-procurement engagement and co-design that has taken place. (see market engagement)
- require open, timely communications so providers can plan and work as effectively and efficiently as possible when tendering

4.4.3 It is good practice in managing a contract that a good relationship between KCC and the contractor is built. 'Good' here means: insistent on delivering to contract, evidencing outcomes, but supportive at the same time. The relationships with and approaches of contract managers/commissioners are variable. Some were referred to more like a 'head teacher/pupil relationship', with monitoring meetings akin to 'a police interview', and low morale.

"with some commissioners there is a real sense of battle fatigue from so much change. This is not good for moral at any level"

4.4.4 It is not a partnership and need targets and outcomes but there is a balance, and those monitoring contracts need to have particular attitudes and skills. There is a need for better collaboration and partnership building. It is about the kind of culture KCC wants and needs as the backbone to its commissioning cycle and how KCC can challenge 'the human effect' and the issue that may have some officers who 'cannot communicate effectively or are rude'. It is paramount that work to get the personality processes right for collaboration internally and externally and support culture change.

".. recognise the need for SME social care providers to work together and be represented at a strategic level to generate a continuum of cost effective, flexible, responsive, and integrated and community facing services. However this is dependent upon the capacity, trust and appetite of not only suppliers but also KCC for collaborative working arrangements. To date in our experience there is limited evidence of any real desire to have a partnership between commissioners and providers. Culturally this needs addressing and local authority attitudes need changing through training and coaching." (A Provider Association).

4.4.5 Relationships are also changing within the voluntary sector. Some organisations are forming consortia, retaining their individuality but having a stronger market position and capability to tender and deliver contracts; others are not, some becoming lead organisations. It was reported commissioning to some extent is restricting the informal sharing of ideas that used to happen with other organisations as **they** are now 'competitors'.

"It is also stops organisations sharing information and best practice, as those who might benefit are usually business rivals."

4.4.6 With a growth in subcontracting arrangements, organisations can be more reliant on winning tenders from large contracted partners. Commissioners encourage larger organisations to utilise the services of SMEs and VCSE through the supply chain, and opportunities are advertised on the Kent Business Portal. The Kent Compact is an agreement between KCC and the voluntary sector and how they will work together. With the changing relationships and more sub-contracting it is perhaps time to invite the private sector to come to the 'Compact Table' so can reflect the Compact in subcontracting arrangements. For example

- Hampshire County Council has a small business friendly concordat - a voluntary non-statutory code of practice to make it easier for Small and Medium Sized Enterprises (SMEs) to do business.
- Herefordshire has a compact and makes it clear this does not apply to the private sector (p4) but there is an expectation that private contractors wishing to deliver public services will adhere to the Compact.

4.4.7 With regards to National providers there is a fear and perception of them having the resources to place 'loss leader bids' to gain control or take a foothold in the market. There is a concern of KCC commissioning via prime providers (whether national private or national VCSE organisations) and that smaller VCSE entities do not benefit from subcontracting, being offered only the hardest cases or those which are not profitable. Subcontracting can work, but needs monitoring in early stages with regard to quality and amounts expected for different organisations, and that management fees are reasonable.

Recommendation 4:

Develop the culture of commissioning and contract management, with an ethos of collaborative relationships.

Recommendation 5:

Extend the Kent Compact or similar agreement to include private sector providers working with the VCSE organisations.

4.5 Outcome Focused

4.5.1 There is a genuine shift and embedding of outcomes focus through outcomes-based contracts. However, there are still concerns about some being more output focused; and the ability to measure and difficulties in tracking provider impact.

4.5.2 Difficulties with measuring outcomes and impacts include for example:

- the causal issues are not straightforward
- it takes scarce time to undertake
- it takes time before some results are apparent
- it's difficult to measure prevention

Evaluation is nevertheless important to understand the impacts services have, identifying the contribution to build resilience and manage demand.

4.5.3 It was reported that often when evaluating or monitoring there is a tendency to look at outcomes by quantitative metrics that look at scale rather than impact of service. Evaluation needs to include qualitative measures and impact of service. It is a culture change.

'targets need to be achievable but be challenging, clear and agree how it is going to be measured' (Provider)

"The tender did not focus on quality outcomes ... and current 1 year .. tender remains focused on the lowest cost for a time and task orientated service" (Provider Association)

Also targets can work both ways, especially in collaborative relationships and showing that as a client we are equally committed.

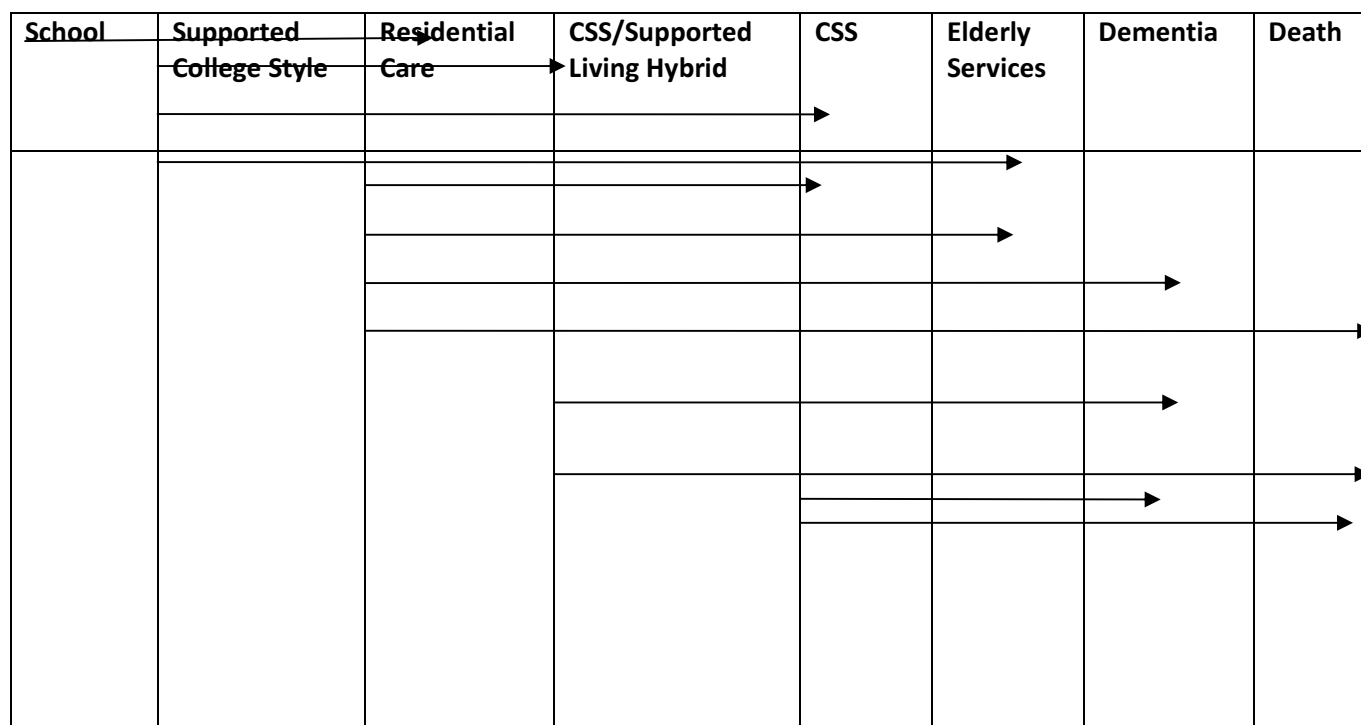
'in spirit of partnership included target measures for KCC as a client – accuracy of details, information' (Amey Contract)

4.5.4 Understanding the community needs and defining the outcomes is critical for specifying and securing the right services to achieve them. The outcomes need to be defined through insight, and understanding communities, taking account of community needs, provider models, community assets and resources to give more user-focused commissioning. There is a move nationally towards the co-production of outcomes.

4.5.5 In responding around the tender for Supporting Independence a case study outlined the care and opportunities a provider could offer to support independence as a continuum of services that can be accessed by individuals as appropriate to changing needs and circumstances over the course of their life cycle, or as a journey (Figure 3). The case study exemplifies the case for longer-term

commissioning, and may mean taking some risks and looking at longer term outcomes.

Figure 3: WHOLE OF LIFE CARE CYCLE **Age 18 - ?? transition**



Source: a provider case study, submitted as additional information. February 2014.

4.5.6 The key messages to ensure we define the right outcomes and secure the right services are to

- invest time in understanding the community, gathering insights and knowledge including from providers;
- recognize it can take several years of dedication and care to develop someone to be more independent and needs recognising;
- working to co-produce outcomes, involving service users and communities in defining outcomes;
- to look longer term and at continuum of services for an individual.

Recommendation 6:

Invest time defining the desired outcomes and measures (quantitative and qualitative), ensuring these are user and communities focused and evaluate impacts (not outputs), using Co-production of outcomes and measures where appropriate.

4.6 Joined up Commissioning

- 4.6.1 A more complex commissioning environment requires an approach that responds effectively to a range of interrelated user needs – thinking across service boundaries, creating integrated services that are co-designed, are more collaborative and join up the commissioning of services. ‘Facing the Challenge’ reflects the importance of joined-up commissioning as part of KCCs’ transformation.
- 4.6.2 Strategic Commissioners and a recent contract review identified a number of examples where providers were delivering the same or very similar work commissioned by Directorates across the Authority, and some different. There is a current lack of joined up thinking, and an opportunity to avoid duplication of services by looking across the Authority. It is about being person centred and ensuring commissioning strategies focus on the client and bridge across directorates, so no silo working and better linkages.
- 4.6.3 There is a need to improve how we join up commissioning across the Authority, with agreed outcomes and metrics, and one Lead to monitor performance. It is not only about linking up across directorates but how KCC could effectively pool funds with partners to join up across sectors to achieve outcomes. It was highlighted that as commissioning becomes more sophisticated and community-led there are opportunities to consider what else a provider can do when while they are with a particular client, group or in an area. There is potential to work more collaboratively, pool budgets, resources and expertise in pursuit of improved services and outcomes.

Recommendation 7:

Improve how we join up commissioning across the authority. There is a need for better collaboration and partnership building across silos and with providers.

5 Engagement & Communication

5.1 Market Engagement

5.1.1 The importance of engagement with providers and service users is critical.

Embedding community engagement and influence and engaging with the market are essential in order to understand needs, capabilities and improve services. Through a better understanding of needs, and capabilities of the sector Commissioners can secure the most appropriate, effective and efficient outcomes. Providers and VCSE particularly play a key role in the knowledge they have and understanding of localities and local needs, and in shaping services to improve outcomes.

5.1.2 Engagement with potential suppliers is carried out on a project by project basis. Supplier engagement or 'Meet the Market' events are undertaken for all major procurement activity, and SMEs and social enterprises are invited to attend so that where appropriate businesses can be encouraged to work together in consortia. This pre-procurement market sounding also provides an important opportunity to engage with potential suppliers on the jobs and skills, training issues and supply chain opportunities.

5.1.3 'Meet the Market' events are used to engage with the market, encourage networking, and importantly to gather ideas to inform specifications. They provide a useful walk through for providers of the process to follow, and are a useful mechanism through which to encourage VCSE and SMEs to register an interest in providing a service. Equally engagement with the Market and potential service providers is essential in truly understanding what the sector is capable of.

5.2 Engagement for better commissioning

5.2.1 Better commissioning through better understanding of needs and better specifications will mean the right services are commissioned and procured – need this right before procure services. Pre market engagement is vital in designing and commissioning excellent services and having real and meaningful pre engagement with providers including the VCSE and SME sector is important for service design ahead of tender, and the detail and quality of specifications to allow service innovation and added social value.

5.2.2 It was reported that

Final specifications that come out for tender often

- do not reflect the pre-market discussions
- are too rigid, imposing ideas, limiting the room for innovation and additional value to be added.

and

- Market Events although useful are not as inclusive as perhaps they could be, inviting those known to services and not advertised or communicated widely, giving rise to a concern that SMEs and smaller organisations may miss opportunities.
- there is a reluctance to share innovative ideas in open forum with 'competitors present' as these may be a unique selling point for a service, and is an issue acknowledged by providers and commissioners

"appears to be a disconnect within KCC between commissioning, Operations and procurement – this is frustrating for providers, who after extensive negotiations and attempts at co-production with commissioners are then faced with tenders that do not represent the understandings they believe to have been developed in the run up to the process"

"It is also stops organisations sharing information and best practice, as those who might benefit are usually business rivals."

One of the "main reasons could not proceed to tender ... our ethos of co-producing and personalising services means we begin by working alongside people closely to shape the direction a service takes. We recognised that the service specifications were prepared with contributions from people currently being supported ... however without being able to visit the services to meet people face to face, listen to views ... felt could not prepare a tender of the quality expected and that was true to our principles"

5.2.3 It is essential that we have real and meaningful engagement between commissioners and providers. Pre-market engagement and importantly, listening to service users adds real benefit in the designing of services and outcomes prior to specifications being published. Understanding needs and engaging to inform specifications is imperative, as providers commented service commissioners often are not clear what service is wanted moving forward. Specifications should have a good level of need and outcomes identified and not be too rigid as need to allow innovation and flexibility, leading to better contracts with the right specifications, flexibility and leverages.

5.2.4 With regard to greater transparency and service design the possibility of launching a new service "Solutions Exchange", to help public sector organisations go the market to ask for ideas and solutions to problems before they commence the formal procurement process was highlighted. This would provide an opportunity for SMEs to pitch new proposals to public bodies and have the opportunity to understand what contracts the public bodies were considering procuring in the short to medium term.

- 5.2.5 A different approach through greater co-design and co production: Co-production and co-creation are a key component part to a successful commissioning approach. The focus should not be about whether the service is public, private or social but about how design service and secure services and obtain maximum benefit, hold providers to account on performance and how innovation is supported to deliver improved social outcomes. (CGF, IFG).
- 5.2.6 It is evident in both research literature and through experience that it is essential to consider how service users and stakeholders are included in the development of the intended service and specification. The best solutions potentially come from the people who are closest to the issue; this could be service users, residents, or frontline staff/providers. In developing the best possible specifications and services in Kent, community consultation and provider engagement could potentially go further to actively involve people in the design of services that they are going to use or deliver.
- 5.2.7 Within Adult Community Support co-production is at the heart of their ethos:

‘ seek to work with wide range of stakeholders to understand need and ensure that services are developed to reflect what people need to live independent lives.

... working with providers and people using services to develop our commissioning strategies, service specifications and evaluation criteria.

In recent commissioning activities people using our services formed part of the evaluation process with their perspective being weighted and used as part of the overall scoring.’

- 5.2.8 The work of the KCC Social Innovation Lab (SILK) supports this approach, and the SILK methodology for example provides creative and innovative ways to engage with people and approach projects, and enables a collective ownership and responsibility for project design, delivery and outcomes for projects. SILK and the Strategic Commissioning Unit in Families and Social Care are using a person-centred co-production method to develop Kent as a Dementia Friendly Community. This programme is working across Kent from which it is anticipated a range of collaborative service design and sustainable community projects will emerge cutting across education, health, care, housing, voluntary, arts and leisure, faith, business, community and family. (see Appendix 3: further details about the SILK methodology).
- 5.2.9 If KCC wishes to capture the value of what organisations are already doing, and ideas to innovate then it should and needs to offer more opportunities to co-design

services. Using a different model of engagement such as a Co-design method of commissioning would utilize the full potential and skills of the market including VCSE and SMEs and the insights of service users in co-production.

Recommendation 8:

Provide more opportunities to co-design and co-produce services where appropriate, to capture the value of what organisations are already doing, and ideas to innovate.

Recommendation 9:

Need to ensure that specifications are 'fit for purpose' and reflect market engagement, identify level of need and desired outcomes, allow innovation and flexibility, leading to better contracts.

Recommendation 10:

Actively consider how service users and stakeholders can have greater input and influence in the specification, and service users in the evaluation of tenders.

5.3 Improving Communication

5.3.1 Good communications between KCC and providers is vital, and important whether for instance to invite them to attend an event or feedback on a recent tender. The evidence highlighted a need:

- for appropriate communication about changes to process or withdrawing contract tender, especially after providers have written tender submissions
- to raise levels of awareness to potential providers in the VCSE and SME community.
- for timeliness of communications, for example giving early notification of tenders coming out, timely feedback

5.3.2 The need for excellent, appropriate and timely communication and engagement is vital to

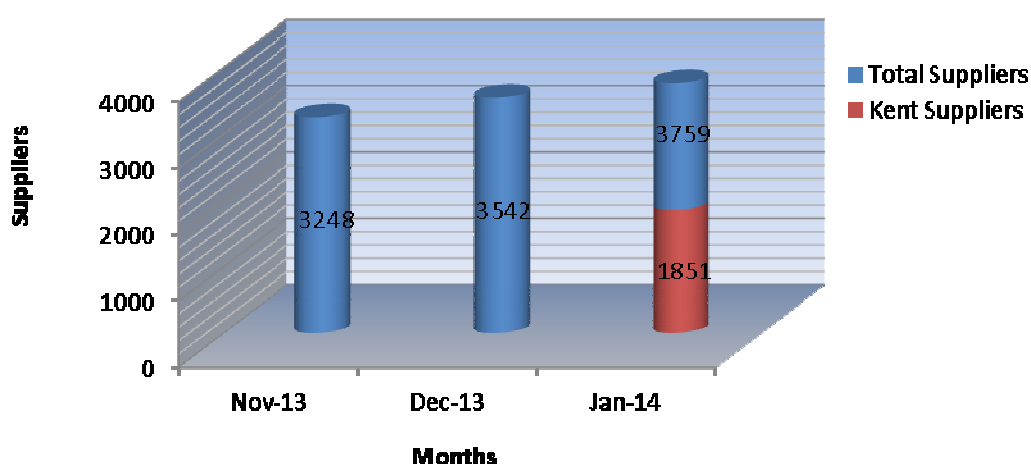
- **Keep providers informed** of changes to process or reasons for withdrawal of contract tender after providers have spent time writing submissions
- **Raise level of awareness** to potential providers in VCSE/SME community, and give early notification and information to organisations regarding services wanting to commission, and to **promote opportunities** to VCSE and SMEs.
- to ensure pre market engagement allows **greater understanding of the potential** of the service sector, informs service design and quality of specifications and allows room for innovation.

5.3.4 Advertising Tenders and e-Communication

The 'Kent Business portal' (www.kentbusinessportal.org.uk) was developed to advertise tender opportunities with not only KCC but also several of Kent District Councils, Medway Council and the Kent Fire and Rescue Service. KCCs main contractors can now also advertise sub-contract opportunities, and this allows both VCSE organisations and SMEs to see sub-contract opportunities on larger projects that might otherwise be out of their reach.

5.3.5 There has been a steady increase in the number of suppliers registering on the portal. (Figure 3).

Figure 3: Number of Suppliers on the Kent Business Portal



5.3.6 It is important that potential service providers of all sizes and from all sectors of the market are aware of the Kent portal, and that KCC continues to promote it. For example KCC Economic Development sponsored the Kent Construction Expo in November 2013 in association with the Kent Invicta Chamber of Commerce. One of the main highlights of the Expo event was the showcasing of the developing Business Portal and an opportunity for small businesses to have face to face meetings with most of the major companies that have recently secured large contracts with the County Council.

5.3.7 Making it easier to engage, find opportunities & use the Kent Business Portal

Although the picture of numbers of businesses registering on the portal is a positive one it remains a concern that some of those the Committee spoke with (both SME and VCSE providers) were unaware of the Kent business portal and generally referred to the SE portal. There is a concern that many of the smaller and micro social enterprises are not 'hooked' in to this and are therefore potentially missing opportunities for their businesses.

- 5.3.8 Despite the positive figures there was a lack of awareness of the Kent Business portal and also confusion evident around the SE portal and Kent Business portal. It was also reportedly difficult to navigate. Promoting opportunities by extending the use of the portal, allowing registered organisations to advertise their sub-contracting opportunities to other suppliers is a positive step. Work to develop and extend the use of the Kent portal further should be supported.
- 5.3.9 Currently all Kent County Council opportunities with a life value of £50,000 or above are advertised online via the Kent Business Portal. The Committee deliberated whether there should be a consideration of the value of contracts to be included in the portal and tendering, and whether the level should remain the same or be raised leaving the flexibility to the Local Authority to find solutions for low value contracts through informal processes to reduce bureaucracy and costs. Currently for transactions valued at more than £8,000 but less than £50,000 at least 3 written quotations must be sought). However as reflected previously to assist Small and organisations and micro enterprises there is also a need for publication of lower value contracts (i.e. £5K) and greater transparency regarding low value contracts that are available.

Recommendation 11:

Ensure appropriate and timely communication throughout the market engagement and tendering processes – about timeliness, communicating reasons for changes, levels of awareness.

Recommendation 12:

Promote contracting opportunities to VCSE and SMEs and Better or enhanced promotion of the Kent Business Portal to increase awareness (including with small and micro enterprises), and for the Portal to be more easily navigable.

Recommendation 13:

Extend the use of the portal to enable other local Authorities to promote contract and subcontracting opportunities, broadening potential access for VCSE and SMEs.

6 KCC's approach to procuring goods, services and works

6.1 Our procurement processes

- 6.1.1 The County Council's procurement processes have a key focus on supporting Kent businesses. Procurement recognise the need to be open, transparent and proportionate in order to reduce barriers to entry for small and medium sized businesses and social enterprises. Procurements three drivers are firstly to save money, then to manage risk, and then support Kent business. Following its recent report, *Local procurement: making the most of small businesses*, the FSB produced a charter designed to promote positive procurement between small businesses and local authorities. The charter sets out 15 best practice recommendations to encourage a better procurement process for local small firms. It was reported that the approach to procurement taken by the County Council is consistent with the charter's recommendations.
- 6.1.2 For all procurements over £50,000 in value, it is a County Council requirement that a procurement plan must be prepared. The plan has a wide ranging check list of requirements that include Social Value and how the procurement will support Kent businesses.
- 6.1.3 The County Council has a target of 60% for contract expenditure with first and second tier Kent businesses (where second tier comprises sub-contractors or suppliers to the main contractor that KCC is paying directly). In 2012-13 for example, KCC's expenditure with Kent suppliers (first tier) was £571million, which represents about 58% of contract expenditure, and increases through use of sub-contractors or local suppliers in the second tier.
- 6.1.4 The two figures below illustrate spend by business size and sector.

Figure 1: Spend on Kent Business by size for 2013

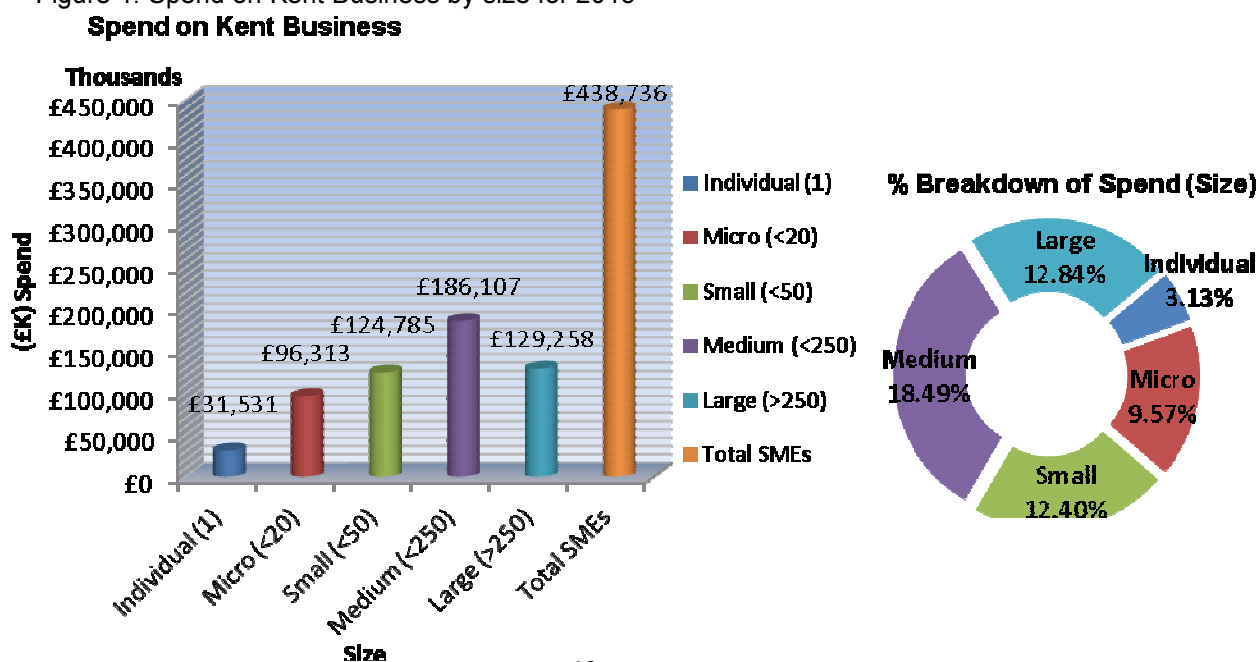
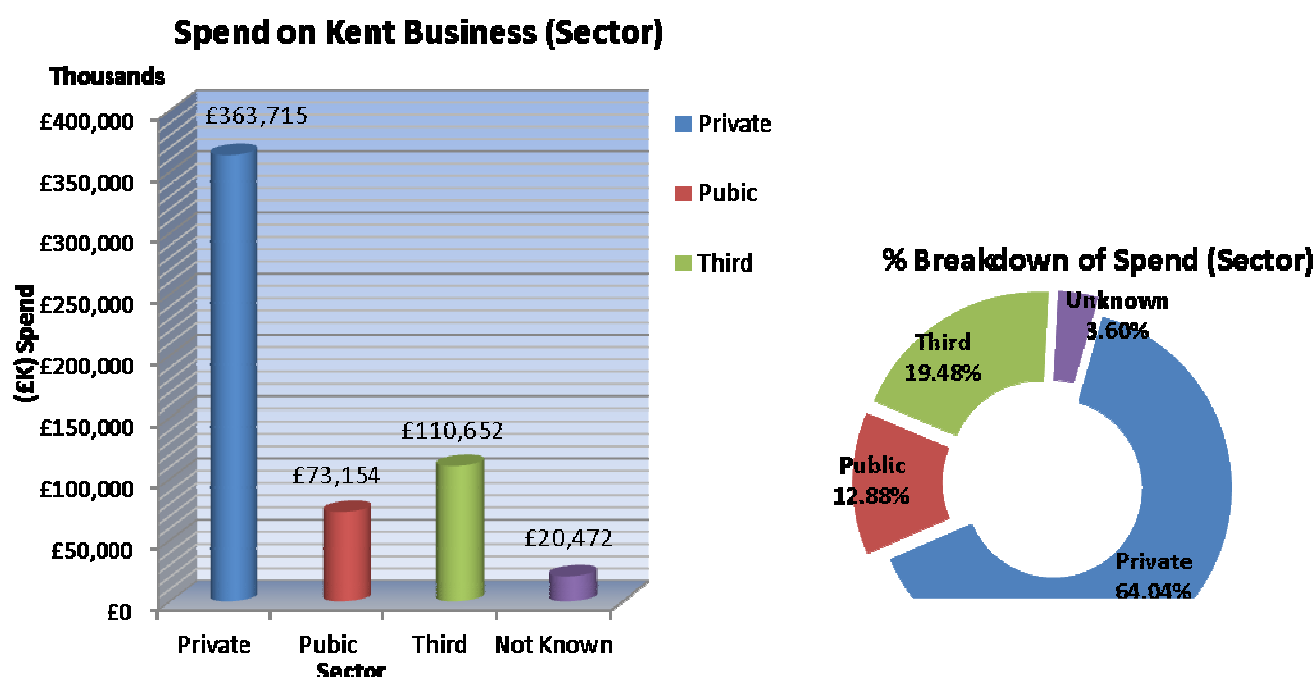


Figure 2: Spend on Kent Business by Sector for 2013:



6.2 Making it easier to tender to supply Kent services

- 6.2.1 There is evidence of significant improvements in Kent's procurement, however both the VCSE and SME sectors still face some hurdles in accessing opportunities through our tendering processes. If these can be addressed it would help to ensure it is easier for potential providers to enter the market and be able to compete for contracts.

Transparency – “Extending the reach of the Mystery Shopper scheme so that it spot-checks public bodies, to make sure that their procurement is small business friendly. This scheme currently only investigates reports of unfair treatment”

6.2.2 Local Knowledge and Bid writing:

The importance of ensuring local understanding and knowledge is factored into the tendering process was highlighted. There is a concern that some organisations have teams of experienced central bid writers, giving them an advantage. In order to drill into evidence of quality of provision and understanding rather than quality of central bid writers, Commissioners and Procurement Officers ask/ensure that the local managers are present for interviews (not only central bid writers) who if successful will deliver and manage the service.

- 6.2.3 To strengthen understanding of local knowledge and experience of organisations, it was suggested as potentially beneficial if KCC considered how to incorporate visits to existing services of potential providers as part of the tender process to get a real flavour of what was delivered on the ground as opposed to only on paper. There was a similar concern raised by Commissioners that knowledge of past

performance/experience of working with a provider (either good or not so good) is not reflected or taken into account in considering tenders for new work.

6.2.4 It was commented that there was still a need for plain language to be used in documentation, supporting guidance, ITTs etc. This is a KCC standard.

6.2.5 Capacity of SMEs and VCSE's to tender.

There are issues around the capacity of VCSE and small /medium organisations to tender. Organisations commented that the time taken for the process remains disproportionate for a small organisation, and a considerable length of time is required to complete the PQQ and tenders. Kent's PQQ is currently long compared to some other LA's.

"Our estimate is that we spend around £20,000k per annum in staff time monitoring, exploring and developing bids. While successful bids include some management costs this cost of being active in the tender process can't be recovered. This capacity is beyond the reach of most smaller voluntary sector organisations."

6.2.6 'Small business: Great Ambition' sets out actions government plan to take to assist SMEs to grow and remove barriers they face to access public contracts. The possible legislation in 2014 – includes abolishing PQQ for low value contracts and standardising core PQQ for high value contracts to reduce complexity and cost. When this is applied to procurement to make public sector contracts more accessible for Small-Medium Enterprises (SMEs) the changes implemented will remove some of the barriers that SMEs face when bidding for public contracts.

6.2.7 The size of the PQQ Kent uses is about and is a reflection of the level of risk and willingness of KCC to take risk. Procurement are working to standardise the PQQ and this needs to continue at pace. An option is to consider self-certification on low value contracts and then more detailed analysis if proceed to award stage.

"Some of the tenders take so long to complete and it becomes unviable. We are a small CIC and don't have the time required to spend on ITT's only to find it wasn't suitable for us, or we didn't get any success in our application."

"Time involved to wade through the processes is disproportionate for a small organisation. ... The true cost has not been recognised ... have agreed not to go ahead with trying to secure commissioned services as a result. However there is still a need for the work to be done and we are still recognised as being able to do it"

"Commissioning is top heavy on admin and this knocks out the small organisations despite their flexibility and excellent front line knowledge"

"If it was more efficient and easier there would be more small organisations taking part but we have only to look around and see that these organisations are not taking part in the commissioning process in large numbers, squeezed out by bigger groups."

"Small and local still has a useful presence if allowed to survive!"

6.2.8 Timescales are a significant issue for both VCSE and SMEs, and present a significant challenge to VCSE organisations and SMEs without tender writing teams:

- Invitations to Tender (ITT) often come out at the same time for different services, and can be especially the case and demanding for organisations which work across Directorates, resulting in several to complete at same time.
- The timing for completing/submitting tenders most often falls over key holiday breaks like Christmas when officers are away, and is reported as a recurrent pattern.
- The length of time to complete and return tenders is often short – often only three weeks. Presenting particular difficulties for consortium bids.
- Time between award of contract and mobilisation is often short and could be longer for more complex services and where more complex bid arrangements.
- PIN notice period could be longer, raising awareness and allowing time for supply chain preparation in time to tender, consortia bids etc.
- Slipping timescales, for example where the process has changed along route, or appeals are made prior to final award of Contract, so the length of time before funded to supply a service is longer than anticipated. This funding and time delay may be critical to a smaller business or organisation.
- More time for consideration of TUPE issues, transition of staff. Commissioning needs to be planned more carefully - enough time needs to be built in to the process to allow for the procurement to be carried out correctly. On larger procurements, more consideration should be given to employment (TUPE) and pensions matters.
- Give sufficient time for mobilisation – recruiting staff safely takes time, some can deploy existing staff temporarily to help with set-up, but this should not exclude new providers from the marketplace.

"If tenders are too long or do not allow enough time to respond this will make it hard for smaller organisations to put in a response."

The staff time needed has costs for the organisations and offering a support package alongside tenders may prove beneficial. (The cultural arts tender around wellbeing festivals and interventions is a recent example of this approach)"

- 6.2.9 Bidding for a contract with KCC can be of significant cost to contractors and a barrier to smaller providers, with no guarantee of success. Costs include time, the development of expertise in order to compete in a tender process, seeking legal advice, and any resultant TUPE and pension requirements if successful. The complexities of bidding are recognised by large providers and they will often have the infrastructure that allows them to participate, but smaller providers often do not have this.

Financial arrangements, insurances or other thresholds being set at an unnecessarily high level within specifications etc. can deter new providers." (Written Evidence - KCC Staff)"

"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 ... most of this expenditure is unproductive and is loaded into the cost of successful bids" ... "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."

The transfer of TUPE staff can also create an inequality in an organisations workforce as different Terms and conditions to those already there. Also once successfully on a framework these have not necessarily led to the levels of work anticipated. There should be a clear understanding about size and amount of work expected, and for our frameworks to become more sophisticated.

" It should be made clear to bidders that there is no guarantee of work if they are successful in gaining access to a Framework Agreement. Many of the other large P&IS contracts specifically exclude guaranteed work for the contractor. Once potential bidders know these limitations, they can weigh up whether it is worth them taking part in the procurement exercise."
(Written evidence - Legal, KCC)

"The transfer of TUPE staff creating an inequality in organisations workforce as currently unable to meet public sector pension benefits."

TUPE – " this was one of the deciding factors not to tender as not prepared to award some members of staff these benefits and not others, and are not in a financial position to take these costs on."

6.2.10 Evidence for New providers

Kent supports a mixed economy of providers with genuine roles for both the VCSE and SMEs. There is however on balance a difficulty for new organisations to win new contracts and also for organisations to enter markets without specifically related previous experience and evidence of what they could do and is inherently linked to KCCs appetite for risk. There is an opportunity perhaps on frameworks to gain experience through smaller lots of work, or through working as part of a second tier supply chain. It was also suggested that developing a new rating service for small firms could be useful. It could give an opportunity for providers to rate public bodies on their procurement processes but also for Public bodies to have the opportunity to rate their suppliers so that small businesses that win contracts can start to build up their reputations.

“New providers suffer from the ‘chicken and egg’ scenario – they can’t win tenders as they do not have references from previous providers. Perhaps eligibility onto smaller contracts such as Frameworks may be won on a ‘provisional’ basis to allow new providers to ‘prove’ themselves”

- 6.2.11 Smaller contracts could be used to help micro small enterprises to gain evidence and make the step up – KCC need to offer opportunities for this to happen. There is a need to make contract opportunities easier to find by the publication of lower value contracts (i.e. £5K) and greater transparency regarding low value contracts that are available. For SME’s – including the voluntary sector – contracts as low as £5,000 can be of considerable interest, yet tend not to be publicised. However, an opposing view is that (in consensus to consultation) is that the threshold for publishing contract opportunities should be increased from £10,000 so that, for very low value contacts, public bodies would retain the flexibility to carry out their own informal process, reducing bureaucracy and costs. Any process must be transparent and promote opportunities for small and micro businesses and smaller VCSE.

“Part of the education process for new businesses is to learn how to work up the ladder. Small businesses need to start with low value, low risk contracts and the challenge for commissioners is to publicise such contracts.” FSB

Procurement Decisions and analysis

The ratio of analysis used in procurement decisions is variable across the organisation. Price is a significant driver within our decisions with a 70:30 split, and sometimes a more even split of 60:40. To provide an opportunity to maximise Social Value there should be a consideration of how much of each procurement decision should be given to Social Value considerations, and how this could be achieved in practice.

6.2.12 The Adult Community Support Team have included stipulations in all recent evaluation criteria regarding the Social Value Act. In for example the Carers Short Breaks specification 20% of the 60% quality score was based on social value, and is a welcome step in decisions to reflect potential added Social Value. On the other side Social Value is increasingly difficult when have to balance budget, so need to consider cross directorate policy to move from cost/quality analysis to consider 40% cost + 40% quality + 20% social value within specification/tender where appropriate.

Recommendation 14:

Strengthen our processes to access and utilize knowledge of Commissioners and potential providers - KCC should consider within the current Tendering process and complying with procurement law how KCC can strengthen our understanding of the local knowledge and experience of organisations, for example by incorporating

- visits to existing services of potential providers
- reflecting knowledge of past performance/experience of working with a provider,

both good and not so good.

Recommendation 15:

Simplify and standardise procurement processes further to remove or minimise procurement process barriers by:

- introducing reduced and less onerous requirements for low value contracts (e.g. financial evidence - self certification/documentation for low risk/low value followed by a more detailed analysis if proceed to award stage, proportionate pre papers or discontinuing PQQ where appropriate)
- simplifying and standardising the core and online PQQ, retaining the flexibility to add additional questions for more complex service areas
- better co-ordination of Commissioning and co-ordinating the diary of tenders across KCC where possible and introducing a plan of tenders
- giving earlier notice of intention to put contract out to tender and more time for the completion and submission of tenders.

Recommendation 16:

Promote opportunities to VCSE and SMEs through publication of lower value contracts (i.e. £5K) and greater transparency regarding low value contracts that are available

Recommendation 17:

Reflect Social Value sufficiently in our procurement decisions – need to actively consider how much of each procurement decision should be assigned to Social Value, and not only between price and quality.

7 Market Development

7.1 Support to VCSE and SMEs

- 7.1.1 It is essential that the market develops and is supported to have the skills, capacity and capability to deliver the services that are needed for the future. The key question is how should and can KCC best support VCSE and SMEs?
- 7.1.2 There are a number of organisations that support the voluntary and community sector at national, regional and a local level.

National Infrastructure

Two of the most significant are the National Council for Voluntary Organisations (NCVO) and the National Association for Voluntary and Community Action (NAVCA)

Regional Infrastructure

RAISE is the main organisation operating at a regional level. It was established in 1999 and is the support organisation for the voluntary and community sector in South East England. Its remit is to work in partnership with policy-makers, stakeholders and funders to increase the potential of the sector and to improve quality of life within the communities they serve. RAISE has a particular focus on supporting health and social care.

Local Infrastructure (LIOs)

The term Local Infrastructure Organisations (LIO's) is generally understood to refer to Councils for Voluntary Service (CVS's) and Volunteer Centres (VC's). These organisations provide local infrastructure support to voluntary and community sector groups and organisations and contribute to overall community capacity.

In Kent there are six CVS's that together cover the whole of the county. They vary in size with some serving one district and others serving up to four districts. Three CVS's have integrated Volunteer Centres and there are also seven separate local Volunteer Centres. All receive some funding from KCC and some receive district council funding.

Other organisations operating in and providing support services to the sector in Kent includes Action for Communities in Rural Kent which has a focus on rural communities. The latter is a voluntary organisation but supports rural business as well as community and volunteer-led groups.

- 7.1.3 It was noted that KCC provides feedback to suppliers, as required under the Remedies Directive, but offers to spend additional time where requested with small businesses and social enterprises to help ensure that their tendering

capability might be improved for future procurement calls. Micro and small enterprises often lack understanding of the procurement process including an understanding of which contracts they should and should not bid for and the mechanics of completing tender documents. Procurement is also considering the re-introduction of bidder training days to provide help to Kent businesses on how to complete tender documentation.

“It would be helpful to advise small business about what is available and what would be good to bid for as well as what not to bid for. Training could be offered at procurement workshops and “meet the buyer” events.” FSB

7.1.4 The key points raised are that there is

- a focus on how the sector can support KCC – but little about what may help commissioners understand about sector, or shared experience of how operate
 - a clear need in the sector for support regarding the tender process
 - a need for support for VCSE and SMEs importantly on how to complete a tender and tender information, what to include, how much, what information to provide and how, particularly for organisations as ‘frontline experts’, with no central bid writing teams.
 - support provided for VCSE by infrastructure organisations across Kent. Although these organisations provide valuable information and training to the sector it is not necessarily equitable,
 - provision of some direct community services under contract by LIO’s, and as a result some providers believe that the support work suffers and are conflicting remits.
 - a view that some local infrastructure organisations do not fully represent or network for other VCSE in the wider sector
 - a concern around the closure of the recent Kent CAN, an organisation that operated in and provided support services to the sector in Kent, which had a county wide focus,
 - a significant skills gap for some organisations
 - a value in providing assistance to organisations once successfully tendered, to enable them to deliver a good service under contract e.g. shared training opportunities between provider and client
- and
- although market events provide a useful walk through the procurement process they cannot and do not however provide enough support on how to actually complete a tender

7.1.5 There is a shift in relationship between the public sector and VCSE sector with increasing need for organisations to have the ability to tender successfully within a mixed market, and play a key role in managing demand and building resilience.

Therefore it is important that consideration is given to how best to support VCSE within an evolving and complex commissioning environment.

- 7.1.6 The key question is how can KCC best provide infrastructure support for the VCSE and SMEs to enable the market to develop? How should KCC ensure that everywhere in Kent has access to good support to develop the market, build capacity and improve tendering skills – infrastructure grants? consortia? framework contracts? market development specialists?
- 7.1.7 Other authorities have considered the issue of support and market development for VCSE for example:
- **Worcestershire** moved away from a grant to a consortium of infrastructure bodies and replaced this with £750,000 investment to build a managed market of support and build capacity in VCSE, commissioning support from a framework contract with providers from private, public and voluntary sectors. It provides support for financial sustainability, marketing, procurement, outcomes, professional support (HR, Legal).
 - **Oxfordshire** moved to a single contract for infrastructure services in April 2012
- 7.1.8 Adult Social Care are preparing a specification for the purchase of a new time limited Adult Social Care Voluntary Sector Market Development Service to work with voluntary and community sector organisations. It should play an important contribution to the infrastructure support that Families and Social Care commission or provide to support voluntary and community organisations to be sustainable and deliver positive outcomes for vulnerable adults. It is anticipated that this will provide key support for
- training or 1-1 mentoring to identify potential funding opportunities; writing bids and completing the tender process.
 - enabling networking and collaborations amongst VCSE
 - developing and sharing professional skills
 - information, advice and guidance website offering portal access to e-learning, workshop details, links to best practice and guidance, how to access the Kent Business Portal, examples of tender submissions
- 7.1.9 It was evident that there is much support existing and is clearly valued, and experience of different models within the Country, but on balance this needs to be looked at with providers to ensure the support is the best it can be. There is an intrinsic value in ensuring the VCSE sector **and SMEs have** the support **needed** to build capacity and develop. There needs to be further consideration of this issue in greater detail to ensure that both VCSE and SMEs have the support needed, and potential for joined up commissioning.

Recommendation 18:

Actively consider how best to support the development of the market and build capacity, particularly how best to provide support to VCSE and to SMEs.

8 Contracts, Risks, Grants,

8.1 Length of Contracts

- 8.1.1 The length of contracts is important as they need to be commissioned with an optimum length to seek innovation and for a provider to make a fair return. It was highlighted that increasing contract awards to 3 years in length is a vast improvement that allows services to fully develop their models of delivery and integrate them with other relevant services. It supports small organisations with sustainability and enables them to work with service users and communities to achieve long term outcomes and mutually supportive environments. It is an improvement on the historic yearly rolling contracts, often with no formal review of the contract taking place.
- 8.1.2 It was commented on that some contracts do tend to change hands every 3-6 years. It is then hard to engender loyalty amongst frontline staff, who are likely to be TUPEd to someone else in the future however well or poorly they perform. Senior staff have to repeatedly win new contracts to replace likely losses in order to retain work and their positions.

“ 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.”

- 8.1.3 The length of contract also impacts on how effectively a contract can be managed regarding performance or measured regarding outcomes of a new model of service. There needs to be confidence in baseline data of inherited contracts and time to work with a provider to improve performance if need be before a re-let is on the horizon. It is a balance - if contracts are not long enough can we get the innovation are looking for? There are early contract costs for a provider from TUPE, redundancy costs etc in year one of a contract so organisations need time to cover costs and make a return.
- 8.1.4 With regards to risk, moving away from annual contracts to 2, 3 or 5 year contracts creates more certainty, allows time for innovation, providers to plan, build capability and improve services.

8.2 Aggregation and Disaggregation

- 8.2.1 There is sometimes a balance to be found between larger long term contracts and SME and local supplier support. There is a clear tension between need to aggregate to achieve economies of scale and need to disaggregate to promote local growth. Dis-aggregation of contracts into smaller lots that are accessible to SME's is increasingly common across the UK – with LA's such as Basingstoke and Deane Borough Council leading the

way in this process to the point where they have won an award for their “small business friendly” approach to procurement. The recently announced changes to EU Procurement Legislation will also include “encouragement” to split large contracts in to small lots.

- 8.2.2 In following a policy of supporting smaller Kent businesses in its approach to procurement it might be argued that KCC is missing out on economies of scale. But it should be recognised that aggregation does not always result in better value, and each procurement needs to be assessed in its own rights.

“... the aggregation of contracts to the point where their value excludes small suppliers”

“Arguably, the bigger organisations have a more efficient base. Certainly they have greater leverage to negotiate a contract but they do not necessarily provide a more efficient service!”

As outlined earlier in the report additional benefit generated for every £1 invested can be greater from smaller businesses than large organisations. The increased use of Kent suppliers and contractors is due partly to the consideration of contract size and breaking down procurements into packages which not only deliver value for KCC but also enable small and medium sized businesses to compete.

“Breaking potentially a very large contract into smaller, more manageable contracts is a key method of reducing barriers to entry especially for smaller organisations.”

8.2.3 Key points:

- Acknowledge there is a challenge in delivering services at a provider volume which is efficient for KCC to manage
- Contracts vary in size for example from district, CCG area and county- wide
- Aggregation excludes small suppliers
- Disaggregation into accessible or smaller lots increases availability of low value contracts, to enable smaller organisations and SMEs to tender.
- Emerging role of VCSE as subcontractor on larger contracts, and concerns regarding this new relationship
- Contracts can be too large for an individual VCSE, so need time to build relationships and consortia to strengthen bid and opportunity for success
- small or specialist providers – sector is forming partnerships but takes time
- Risk/disaggregation: Many LA’s are now introducing contract terms that are proportionate to the risk involved in that particular procurement exercise

Recommendation 19:

Break down larger contracts into smaller lots, wherever practical.

8.3 Working with Consortia

- 8.3.1 It is recognised that it can be difficult to manage a very large number of small contracts or for small organisations to bid for larger contracts. Organisations are encouraged to network, work together and strengthen their position and capacity to deliver for larger contracts through collaborative bids and establishing a consortia. To enable smaller organisations to work with the Council and compete for larger projects it is important that we enable them to work with other smaller organisations to combine their resources. This is applicable to both private sector SMEs and VCSE organisations, and is encouraged for example through 'Meet the Market events', however the Council needs to manage its risk with clear rules on how to address this.
- 8.3.2 The key issue for the authority that needs to be considered is the Council can only contract with one lead organisation, so if a consortium is being proposed prior to contract award the consortia must set its self, up as a formal partnership or joint venture. An alternative option is the Council contract with a lead body that then sub-contracts their partners. There have been issues with this type of arrangement in the past where the lead body has decided not to continue working with its partners post tender, or do not split work/finances evenly/fairly. VCSE can be hesitant around Consortia with regards to their long-term interest, as organisations need to retain their individuality and there are both good and not so good consortiums depending how they have been set up.

“lead organisation takes the cream, gives little work to others or leaves the VCSE organisations with the risks or most difficult challenges.”

- 8.3.3 It also needs to be recognised that it takes considerable amount of time to form Consortia and set up the necessary agreements, legalities and deciding on who is the lead person/organisation. There need to be better timescales to build partnerships and consortia reflected in procurement process and timelines. Although organisations are encouraged to collaborate and establish consortia there is a requirement of KCC to contract with one body, so these need to be set up as a formal partnership or joint venture.

8.4 Incentives, Payment by Results (PBR) and type of contract

- 8.4.1 A key question is how providers can be rewarded or incentivised to continually perform well - if an organisation is performing well, should there be a presumption that it will be re-commissioned?
- 8.4.2 Payment by Results while serving to increase quality and competitive services in the market place may also act as a barrier to access to smaller organisations. Particularly when the PBR period crosses to a new financial year, the uncertain financial income may automatically eliminate smaller and newly established providers from entering the process.

8.4.3 There is also concern that Payment by Results,

“ if brought in too aggressively as has happened on some contracts elsewhere in the country, effectively bars everyone but the national private (and some VCSE) organisations from tendering due to the risk to income and cash flow that this brings. Charities especially have a legal duty to safeguard their assets and activities, and are traditionally very risk-averse.”

“ 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?”

- 8.4.4 It is agreed there should be a consideration of rewards if a provider performs well, but not through automatic extensions. There should be the possibility of negotiating an extension of contract if a provider has performed excellently, delivered outcomes, and brought innovation and/or additional social value. Some contracts have included possible extensions. De-commissioning is always a possibility at the end of a contract, but de-commissioning just to test the market is damaging to VCSE organisations and SMEs.

“Some consideration of protection for good performance, and provision for positive bonuses and incentives, might help create a more aspirational and productive market.”

- 8.4.5 It was highlighted that KCC should invest now in an approach that will generate the necessary innovation across the independent care sector to drive up standards and drive down costs in services by building strategic ‘whole systems’ thinking across the service supply side; as currently much innovation is restricted through tight specifications or models used. To reflect the need for encouraging best service design and innovation the Committee considered the value of using a different approach to procuring services and contract type by using a more negotiated style contract, where design of initial specifications is followed by the design of detailed models with selected providers to co-design service and outcome specifications in detail.

“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.”

"The lack of engagement or providing dynamic purchasing opportunities to the VCSE restricts the opportunity for innovation"

"The use of a three year commissioning framework at early stages of commissioning protected existing providers but blocked all new entrants including charities and voluntary sector organisations in Kent."

"KCC need to keep frameworks more open to accommodate new and emerging VCSE organisations and at the least have an annual framework intake or review"

8.5 Contracts

8.5.1 Other barriers to entering a tender include the financial costs that organisations incur in seeking external advice on contract law. This is an area of support required to ensure organisations can enter arrangements confidently. Contracts should set out rights and responsibilities on both sides, with clear protections and the remedies in event of problems. With a risk a-verse nature and uncertainty around contracts, organisations need to seek costly legal advice. Having successfully tendered for a service there are concerns around the subsequent contracts and KCCs approach and that contract terms can be disproportionate to risk involved. For example in a particular contract evidenced there was a concern highlighted by a provider from their legal advice regarding a bias in KCC's favour giving unilateral abilities to change terms within the contract, areas being contradictory of others, and no course to discuss these. Contracts should be to be more proportionate to the risks involved (see also 8.8).

" The financial costs that we would incur in seeking external advice on contract law. We do not have this expertise in house."

" Solicitors identified 11 areas which raise concern for us .."

"wrote regarding concerns... the outcome was a letter from KCC insisting sign the contract and suggesting when tendered had tacitly accepted all terms and conditions. If they didn't sign they would jeopardise their providing of services and accordingly they signed as felt had no choice."

8.5.2 The concerns in summary included

- KCC entirely controlling order/price – little scope for any negotiation
- Contradiction over travel expenses and price
- Time limits are short and possibly should be more realistic
- Need for several indemnities, their appropriateness, and risk of event occurring

- Rights of KCC to unilaterally change terms of an order- 'unusual, unfair and not advised'. Need clear terms for this and also for provider to have withdrawal without liability
- Unilateral rights to decide what is in an invoice
- Must comply with 'fussy payment procedures'
- Whilst a 5 year agreement – is really a rolling contract with 3 months' notice servable by either party at any time.

8.6 Payment Practices

- 8.6.1 Payment practices have traditionally been a controversial area for local authorities. The County Council will usually contract on 30 days net payment, but now has a target of paying contractors in 14 days which has been delivered in 90% of contracts. The FSB confirmed that this did not appear as an issue with Kent. KCC also has clauses in its contracts to require contractors to pay their subcontractors/suppliers in a timely manner. However, Procurement commented that there is always room for improvement and the need to improve monitoring and ensure compliance is recognised.
- 8.6.2 Requiring prompt payment terms all the way down a public procurement supply chain will ensure that SMEs have access to money when it is due. SMEs and smaller VCSE do not have the same access to credit that larger companies do and can be unfairly prejudiced when payments are not made within a reasonable period impacting on their cash flow.

Recommendation 20:

Requirement for prompt payment terms all the way down our procurement supply chain continues to be built into contracts; and improve monitoring of this requirement to ensure compliance.

8.7 Use of grants

- 8.7.1 There is much transition for the VCSE sector from KCC funding being grant based to a commissioning focus and need to tender for contracts. Some organisations commented that although grants are really useful there had been issues around uncertainty year to year if a grant would continue or not, often only being agreed at the very last minute, making it difficult to manage expectations, delivery etc. Three year contracts giving more certainty and time to innovate were welcome.
- 8.7.2 There is a significant concern if grants were to disappear as they support many organisations doing valuable work, and who may not yet have the capacity/skills to tender. In some circumstances grant funding may have a role in capacity building.

"Put in place a grant scheme for SME's that are contributing to KCC's work but that do not have the infrastructure or experience to bid for larger contracts. This would be about recognition of social and community value."

Some organisations, due to the uncertainty and shift to Commissioning have sought different revenue so are not reliant on KCC. KCC Adults Social Care funded a total of £19,173,673.27 in 2013-14 in grants, ranging from the smallest of £536.75 (West Kent) to largest of £1,006,305.22 (Thanet & South Kent). The grants length of agreements, ranges from 3 months to 3 years, (the smallest and largest grants are for a year).

- 8.7.3 There is a clear vital role and place for grants in our blended approach - blended in terms of provider sectors delivering services and also in nature of funding models. Grants can provide support to innovate services, pilot ideas and then if proved successful can then move project to a contract basis. It is a held view that although grants have a significant role they should be time and task specific to support the innovation or development of services, enabling services to try out something new, be clearly monitored for performance and outcomes, with a clear and transparent process supporting their use.

Recommendation 21:

Recognise there is a clear role for 'smart' grants that are innovative, and outcome based. Need to ensure that their use is transparent and are time and task specific, and monitored /evaluated for success.

8.8 Risk

- 8.8.1 For start-up organisations the biggest issue is absence of a financial track record. For Local Authorities it is a matter of mitigating risk. Both sides need to build trust. The Appetite for risk is a significant barrier, demonstrated in KCCs non-willingness to take risk illustrated in current requirements for providers for low value contracts; very tight specifications limiting innovation; and VCSE organisations Trustees or Board traditionally are very risk averse, and often 'feeling out of its depth in entering into a contract'.

"Trustees can be very risk averse – it is imperative for organisation to have the correct trustee skill mix (including commercial savvy)."

- 8.8.2 There is a need to take some level of risk, and KCC 'Won't progress or innovate services if doesn't take an element of risk'. One of the key aims from Bold Steps for Kent is to manage risk through developing clear processes and appropriate governance (not being risk averse but risk aware). A contractor is responsible for the delivery of services, but ultimately KCC as contract holder has responsibility for failure of a contract.

"There needs to be a sense of realism that outsourcing does not discharge the Authority to deliver against its statutory or moral duty, furthermore the Authority will be held to account by the general public for any failures of outsourced services, examples such as G4S in providing security at the Olympic games and failures in providing adult social care by Castlebeck Care even impacted on the Care Quality Commission."

"Finding the right partner organisation who will share risk and protect the reputation of the Authority, Client and therefore customers is paramount - identifying such qualities must be fundamental at all levels of the engagement and then procurement process."

Both KCC processes to secure services and contract providers should be more proportionate to the risks involved for particular contracts.

"Many LA's are now introducing contract terms that are proportionate to the risk involved in that particular procurement exercise."

- 8.8.3 Financial risk is being transferred to providers, and providers are concerned with their own financial viability. They are concerned about the financial risks of payment by results contracts (PBR) and can be unwilling to try different approaches. The VCSE are generally risk averse and PBR type of contract may prevent sector applying if too aggressively introduced. The VCSE have a duty to safeguard their assets and own core activities of charity.

" .. concern that Payment by Results, if brought in too aggressively as has happened on some contracts elsewhere in the country, effectively bars everyone but the national private (and some VCSE)organisations from tendering due to the risk to income and cash flow that this brings. Charities especially have a legal duty to safeguard their assets and activities, and are traditionally very risk-averse."

- 8.8.4 KCC is bound by the Public Procurement Regulations and its own Constitution and cannot unilaterally mitigate or remove barriers set by them, including financial barriers and how these might be eased. Legal, Finance and Procurement have met to discuss how the financial barriers might be eased and reportedly have adopted a more flexible system recently. This system still recognises that KCC must protect public money and is under a duty to get the best deal for its council tax payers that it can. There is a value in supporting organisations and small enterprises to tender and the offer of interest-free loans to enable an organisation to get started on delivering the service is a real benefit but has implications for KCC.

“Broadly speaking, new providers are a riskier proposition than established entities and KCC has to recognise that - we cannot support new businesses at the expense of a more robust deal we could get with another provider.”

“Financial checks need to ensure that companies that are new or have a low income are not prevented from applying”

There is obviously a clear tension between the levels of risk taken and the need to ease financial requirements, and support the small and micro enterprises.

8.8.5 Bonds:

There is a need to balance risk, take some risks and support/incentivise risk taking to improve outcomes. Work by CGF and IFG highlight the need to specify types of innovation sought and incentivise them through partnership models, and payment and funding arrangements. Risk can be balanced by specifying for example the proportions of payment at risk if PBR targets are not met; payment of interim outcomes, looking at levels of risk transfer through the supply chain.

For example:

The Greater London Authority Social Impact Bond supporting rough sleepers, pays providers a significant sum if those on the programme are in non-hostel accommodation for 6 months as well as longer term outcomes. (From CGF ISS)

- 8.8.6 Offering a bond against productivity / performance could support small businesses to bid for and successfully deliver a contract. Contract terms need to be proportionate to the value of the contract. (Appendix 4 gives more details about Bonds).

“For example it is not reasonable to require £10m public liability insurance to bid for a contract for small value contracts.”

- 8.8.7 Recent Consultation “Making public sector procurement more accessible to SMEs” stated that there is some evidence that the requirement, at the selection stage of procurements, for a performance bond to provide contracting authorities with a financial guarantee in the event of contractual problems, is excessive and often not proportionate to contract values and risk. It also may discriminate against smaller businesses. Larger businesses which have access to substantial capital and assets, or other sources of finance, find it much easier to provide such bonds. But for SMEs, such bonds may only be obtained at the expense of overdraft facilities. This can prevent them from bidding. Respondents commented that performance bonds should only be considered for very high value complex procurements and believed

that better guidance on the use of financial guarantees that advocated a more risk based approach would be a sensible way of addressing the topic.

8.9 Effective contract management

- 8.9.1 Effective contract management is vital to ensure that resources are used effectively and best value obtained. Contract monitoring that is robust is essential to ensure priorities as set out in contracts with strategic partners are delivered effectively. Successful contract management is integrally linked to the culture and mind-set of both the manager and the provider; the capabilities and relationships.
- 8.9.2 The capability and skills to manage contracts, is variable and there is scope for improvement. Important have consistency and excellence in contract management - some contracts have not had regular monitoring of performance indicators (e.g. residential care), contract monitoring that is remote and impersonal, or where changes in the process take place without consultation. Contract management expertise is needed. KCC need to ensure contracts are well procured, set up and managed.
- 8.9.3 Although there is some excellent practice and recent re-lets of some contracts introducing robust performance management, there is a need
- for clearly defined roles and responsibilities for contract managers
 - for people monitoring to be as skilled as the provider, but who do not take responsibility for service
 - to ensure both the capabilities of Contract Managers, with continued support via training/guidance; and also to ensure the capacity to monitor and evaluate performance. KCC is still accountable and owns risk
 - to understand outputs and measures to be used, ensuring set meaningful outcomes, and ensure quality of measures
 - to ensure that all contracts have performance reviews and evaluate outcomes – for instance a schedule of reviews, building a range of monitoring mechanisms into contracts, including for example quarterly and annual reporting and periodic benchmarking.
 - to ensure the Contracts Register is completed. Although much improved there is still work to do regarding number of contracts KCC has and for what services. The Contract register should include all contracts over £50k – and it is proposed this includes details of the named contract manager, and lead director
- 8.9.4 How KCC manages underperforming contracts to improve is vital. Some contracts may not be performing as well as they could, but are not underperforming to an extent they need to be cancelled. Ultimately it is in the best interests to support a provider to improve through the management steps taken when a contract is not

performing at optimum level. It is important that the necessary sanctions are in place for underperforming contracts, for instance agreed improvement plans with clear targets. It is not always about financial sanctions and ultimately it is about improving service.

- 8.9.5 There is a perception that internal services are not performance managed in the same way as external contracts. Internal services should be managed with as much rigour for outcomes, treated on a level playing field as external providers. The need for establishing robust internal challenge has also been identified in Facing the Challenge as a role for the new proposed central team.

Recommendation 22:

Improve the capabilities to performance manage contracts; and ensure the capacity to monitor and evaluate performance and support improvement when appropriate.

Recommendation 23:

Stipulate that all contracts have clearly scheduled performance reviews and evaluate outcomes/outcome evaluations – for instance ensure contracts have schedule of reviews.

Recommendation 24:

Complete the Contracts register to include all contracts over 50k – and include details of the named contract manager, and Lead Director

Recommendation 25:

Manage internally provided Services with as much rigour for outcomes, and performance management as other providers.

9 Member Role

9.1 Governance of Contract Management

- 9.1.1 Members play a vital role to ensure commissioning and procurement deliver savings, improve outcomes and support SMEs and VCSE; maximising benefits of contracting with SME, VCSE underpinned by social value. Procurement, commissioning and contract management are an integral part of council business and spending, and are critical to delivery of services and strategic importance. Members have a vital part to play in that process. If KCC is to maximise the value it can obtain from the VCSE and SMEs then clear guidelines need to be established from the top of the organisation.
- 9.1.2 Clearly, Cabinet Members and Cabinet Committees play a crucial role, and there is oversight provided by portfolio holders and Procurement Board - However, there is a role for all elected members:
- having greater oversight of contract management
 - being involved earlier, being involved in discussions of new service models and engaging the market and communities, tapping into for example connection with Kent residents – around specification stage dependent on contracts, size etc
 - engaging with small or new providers
- 9.1.3 The key questions are:
- What is the Member oversight of contracts?
 - What is the oversight of reviews undertaken with providers at key stages of the contracts? What does evaluation show? Where we are at?
 - Where are we with de-commissioning – or what next?
 - Through what mechanism should Member oversight be strengthened?
- 9.1.4 It is worth exploring the concept of having a cross-party strategic group, that can examine the work of commissioning throughout the organisation, and the contracts that result to see whether guidelines are being followed. There needs to be increased transparency. For example in Harrow contracts have to be signed off by another portfolio holder with commercial responsibilities. There is a role for a clearly defined Member Group or Contracts Board feeding into the process. It would need to be clearly defined through strong terms of reference, and agreed where it could add most value and have clear purpose.
- 9.1.5 The Group or Board should have access (confidential) to any contracts, and re-mitt to talk with both commissioners and procurement teams; would need a committed leader as chairman; and jointly set their Group or Board agenda. All Members

should be encouraged to acquaint themselves with the commissioning outcomes in their local areas, and their specialist areas of interest; referring any concerns to the strategic group. There should be a focus on:

- Contract management – 3 key aspects (cost reduction, performance and service improvement).
- Working with Members and officers to ensure Social Value Act embedded in everything
- Considering what evidence there is of
 - investigation of work being done by VCSE SME organisations in the area of interest to the commissioners?
 - commissioners taking regard of the scope and value of this work?
 - commissioners having had dialogue with potential providers from these sectors?
 - the procurement process allowing for co-design of the service that will achieve the outcomes desired?
- Whether the specification /contract reflect pre-procurement work.
- Is there an understanding that innovation by providers during the duration of a contract will be rewarded?
- Is there consistent contract monitoring and performance management, without frequent changes of process, which is both rigorous and supportive?

9.2 Training

9.2.1 In order to support the changing landscape and increased role of commissioning it was agreed that training, to raise awareness and understanding should be available to all Members. This will support and better equip them in their roles locally regarding commissioning and create knowledge - getting people to understand what is happening now. Training for Members around commissioning, procurement, contract management is in the early stages of being developed in co-ordination with Democratic Services.

Recommendation 26:

Further work is undertaken to the member role and what mechanism would best strengthen member oversight of commissioning, procurement and contract management; and member involvement earlier in the process and pre market engagement; and members are supported through training.

10 Social Value

10.1 Embedding Social Value

- 10.1.1 Social value is key to the success of having strong and safe communities, a skilled and employed local workforce, good quality of life for Kent citizens, and reduced crime and social isolation. VCSE and SMEs are a major part of achieving this.

"A number of recent reports – including the 2013 Federation of Small Businesses report on Public Sector Procurement – have shown that procuring from small, local, organisations has a major impact on the economic sustainability of the area, both in pure fiscal and social terms.

Pan-European research showed that as a country emerges from recession 84% of business is generated by SMEs which are more likely to take on new staff, recruit staff locally and therefore have a greater impact on the employment of young. KCC needs to support and enable SMEs to employ young people. "

"Supporting the development of key life skills and harder outcomes in disadvantaged young people not only delivers a social benefit but economic benefit as well. In addition to improving life chances and wellbeing, commissioning services that address these issues will bring a clear economic gain to Kent County Council through an increase in economic activity and a decrease in welfare claims."

"VCS can bring significant value through things such as match funding, volunteer time ... a wide network of partners who add value to programmes, through providing referrals, programme delivery, work experience, education, training opportunities and provide specialist support for young people where additional needs are identified."

- 10.1.2 As we move to an ever more complex and joined up commissioning environment there needs to be 'Whole systems thinking across service supply looking at co-creation of value'. It was reported 'Social Value' is recognised on a case-by-case basis, and that the breadth and diversity of our services mean that a one-size-fits-all definition of 'Social Value' may not be appropriate or practical to encompass all KCC services. However, KCC must comply with the legislative requirements of 'Statutory Duty of Best Value', the Public Services (Social Value) Act and the 'Community Right to Challenge'. This means it is important for KCC to consider how best to incorporate and recognise 'Social Value' in its commissioning and procurement framework. There are a number of successful examples that have helped KCC to achieve both better value for money and enhanced social outcomes for services in our contracting process, for example:

Highways – the recent re-let of the contract saved the council money whilst providing more local apprenticeships and opportunities to sub-contract to local businesses;

Youth Service – negotiations were held with Locality Boards to use an outcomes based local commissioning framework and dynamic purchasing model to reduce the burden on small VCSE organisations (e.g. reducing PPQ criteria and requirements for proof for several years accounts history). Creating smaller, shorter contracts that appeal to local VCSE providers – enhancing chance of success at procurement stage.

- 10.1.3 There is evidence of added social value through access to funding, creation of jobs and apprenticeships:

"We have successfully applied for additional funding from various charitable organisations and trusts, and received hundreds of donations from individuals over the years bringing many extra thousands of pounds worth of support to Kent's Carers and into the Kent economy."

"We only used Kent businesses unless the specialist skills were not available in Kent, on a practical level it was easier for them as a company to use local business."

"As a company ... we employed 8 or 9 apprentices and last year ran an Apprentice of the Year award, the winner of that award was rewarded with a permanent job organising all our training. ... All apprentices brought value to contract and the majority end up being employed full time and the approach was worthwhile and builds for the future."

"..... a focus on the quality of an apprenticeship, a basic apprenticeship is a million miles away from the additional resources that third sector organisations often put into them"

- 10.1.4 Although some excellent examples are highlighted, Social Value however does not yet appear to be embedded in what KCC do at strategic or commissioning level, and can at times be difficult to quantify. It was highlighted that many of our tenders have not specifically mentioned social value, or the added value an organisation could bring. It is evident that some companies have listened to conversations at market engagement events and included information in their tenders despite no set specific questions around social value. This perhaps shows expertise in tendering, listening acutely but there is a concern that processes need to ensure all companies can demonstrate the additional value they could bring.
- 10.1.5 Within Adult Services commissioning for community support all recent commissioning activities have included stipulations in evaluation criteria regarding the Social Value Act. The recently commissioned Carers short breaks service

tender required providers to evidence how they will provide social value through the delivery of the service. The question formed part of the quality section of the evaluation. Quality was weighted @60% of total score and of this 20% weight was allocated to social value questioning (price being 40%). Could this be included on all tenders (unless contract of size going out to OJEC) to ensure social value is reflected and recognised on a case-by-case basis in individual tender specifications and contracts? The question included was

“Q3. Describe how your service delivery model considers social value and shall improve the social, economic and environmental well-being of Kent society?”

- 10.1.6 The Social Value Act is an important factor in public sector commissioning, and reflecting this other authorities have established Social Value Charters or produced ‘social value toolkits’, to inspire and create social value and indicate intention to maximise social value available from commissioning or procurement activities, for example ‘Inspiring and creating Social Value in Croydon’. A Social-Value toolkit for commissioners’. Strategic Commissioning (Community Support) are working with Corporate Procurement to understand and develop commissioning guidelines, including adopting the Birmingham City Council approach and having a Charter that all contractors sign up to.

Birmingham Social Value Act Charter sets out guiding principles to which Birmingham City Council adheres to and invites its contracted suppliers, the wider business community other public sector bodies and third sector organisations to adopt. It includes how they can improve economic, social and environmental well-being and describe social outcomes that will result from their activities.

- 10.1.7 A charter and guidelines could raise the profile of social value strategically, emphasise KCCs own priority of social value in commissioning and ensure it is embedded. KCC are in early stages of considering developing a toolkit for commissioners and /or charter for providers. Is this something KCC should put in place?

10.2 Measuring Social Value

- 10.2.1 There is an expectation for all providers to demonstrate how their work makes a difference and adds social value. As this becomes embedded into commissioning processes organisations need to measure and evidence how they create social value. NAVCA stated there are number of different tools and approaches being used and developed, and implications for smaller providers. Providers need to keep up-to-date with how social value requirements are factored into KCC commissioning and procurement processes, the different approaches to social value, and the use of monetary and non-monetary values. For example Social Return on Investment (SROI) is one model used which can evaluate what has happened or estimate potential value created; another, ‘Your Value!’ developed by

Community Matters so that voluntary and community groups can demonstrate their social value.

- 10.2.2 NAVCA states that it is unclear what will be the most appropriate ways for organisations to think about, choose and evidence added social value or how measuring progress or achievement should be incorporated within contracts, grants. Research by the Third Sector Research Centre (NAVCA) indicates there are benefits and limits to different approaches, and uncertainty around judgement, potential for manipulation of what is measured through what indicators are used, and how it is reported.
- 10.2.3 There needs to be clear discussion about what value is sought for specific contracts with providers and service users, and how this will be measured. The SROI network promotes the involvement of stakeholders in both prioritising what is to be valued, discovering what outcomes have arisen, and in developing indicators.

"We should forget that social value is objective, fixed, and stable, when in fact it is subjective, malleable, and variable. We cannot have a generic approach to all commissioning and procurement activity. Do we have a social value framework? The Competitive Dialogue procedure of procurement offers more flexibility during the dialogue stage to discuss the fulfilment of social benefit objectives as a two-way dialogue matching KCC's aspirations with each bidder's although I recognise that this can only be used for certain types of commissioning activity."

"Recent tenders have not asked about wage levels or aspirations, about the % of skilled management posts which will be located in Kent for example. Some have not even mentioned Social Value at all. Whilst unfortunately this area will ultimately become another easy one for larger companies to pay lip service to, KCC can ensure at least some minimum criteria which will benefit Kent citizens are adhered to. Minimum proposals here would include ensuring a high profile of Social Value throughout the tender documentation; including a mention of KCC's own priority of Social Value in commissioning (eg through skilled local jobs, improving wages etc.); and mentioning a commitment to a diversity of providers (subject to the usual legal limitations in tenders) to include national and local organisations, charities etc."

- 10.2.4 The evidence highlighted there is a need to

- give greater recognition of the social value VCSE brings and the role that they can play in working with the council to discharge its responsibilities through the Social Value Act

- look at approaches to measure social values - social return on investment
- recognise 'Social Value' outcomes desire may differ on a case by case basis
- clarify the social value KCC is looking for and strategic direction
- engage with the community and local knowledge about what the issues are to be resolved – greater understanding of the types of social benefits to be sought – skilled training, apprenticeships, local management posts, wage levels, % of local suppliers, fair payment - meaningful consultation with communities would allow significant specifications to be put to ITT.
- consider how KCC could incorporate and reflect social value in tender questions, evaluation criteria, and procurement decisions, raising its profile and level of importance

"KCC needs to decide what benefits it requires and whether these are compatible with the Public Procurement Regulations - there can be no discrimination based on Kent businesses or people."

Recommendation 27:

To maximise and give greater recognition to Social Value, incorporate consideration of social value questions in tender evaluation criteria and procurement decisions where possible, and develop a Social Value Charter.

Appendices

Appendix One: The Scope of the Review

Scope: The issues are explored in more detail to give a broader picture of the questions that the Committee considered when exploring this topic.

What can we learn from current experience?

What do we need to do next to become a better commissioning authority – to remove barriers to entry for providers?

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

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 organisation 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 and 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 & 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?

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?

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/VCSE's? What might we do to support large private suppliers and VCSE sector working together?
- How is Kent actively shaping and developing the market, what else might we do?
- How have consortiums been successful in entering the market? How have these worked in practice - what might they/we do differently?
- 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?

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/supplier? 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?

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

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?

What can we learn from current experience? What do we need to do next to become a better commissioning authority?

Appendix Two: Evidence Gathering

A list of those who attended meetings with the committee. All also provided written evidence prior to meeting with the Committee.

Tuesday 14th January 2014

Judy Doherty, Business Transformation and Programmes Manager, KCC

Tuesday 21st January 2014

John Burr, Principal Director of Transformation, KCC

Mark Lobban, Director of Strategic Commissioning, KCC

Henry Swan, Head of Procurement, KCC

Wednesday 22nd January 2014

Dean Benson, Contract Director - Transportation, Amey

Sam Buckland, Audit Manager, Internal Audit, KCC

Wednesday 29 January 2014

Keith Harrison, Chief Executive Action with Communities in Rural Kent

Roger House, Chairman, Kent & Medway Federation of Small Businesses with

Tim Colman, Director of Partnership Working Limited &

Alison Parmar, Development Manager, Kent & Medway Federation of Small Businesses

Jan Perfect, Chief Executive, Case Kent

Thursday 30th January 2014

Peter Heckel, Director, Project Salus

Carolyn McVittie, Managing Director, Stepahead Support

Thom Wilson, Head of Strategic Commissioning (Children's), KCC

Monday 3rd February 2014

Angela Slaven, Director of Service Improvement , KCC

Nigel Baker, Head of Integrated Youth Services, KCC &

Andy Jones, Planning and Development Manager, KCC

Jason Martin, Director, CAP Enterprise

Tuesday 4th February 2014

Karen Sharp, Head of Public Health Commissioning, KCC

Ryan Campbell, Chief Executive, KCA &

Karen Tyrell, Director, Development and Marketing, KCA

Sean Kearns, Chief Executive. CXK &

Stephen Bell, Director of Business Development, CXK

Thursday 6th February 2014

Peter Turner, Chief Executive, Carers First &

Lorraine Williamson, Chief Executive, Crossroads Care East Kent

Diane Aslett, Development Officer, Age UKs in Kent Consortium with

Nigel Vian, Chief Executive, Age UK North West Kent &

Gillian Shepherd Coates, Chief Executive, Age UK Sevenoaks and Tonbridge

Emma Hanson, Head of Strategic Commissioning - Community Services, KCC

Friday 7th February 2014

Christy Holden, Head of Strategic Commissioning (Accommodation Solutions), KCC

Adrian Adams, Chief Operating Officer, Kent & Medway Care Association / Research Fellow at University of Kent with

Gill Gibb, Member of the Kent Care Homes Association &

Ann Taylor, Chair of the Kent and Medway Care Alliance Board &

Clare Swan, Member of the Board of the Kent Care Homes Association

Comments received as written evidence.

Evidence gathering - Written Evidence to the Select Committee.

To complement evidence heard by members of this Select Committee during their witness hearings; KCC commissioners from across the directorates and a selection of organisations from across Kent were invited to submit their views regarding “How KCC can become a better commissioning authority – in particular removing barriers to small to medium businesses, voluntary agencies and the social enterprise sector?” for the final session on written evidence , Friday 7th February 2014.

Twenty-two organisations from across Kent were invited to send in written evidence. The organisations invited to comment were:

1. A range of Voluntary Agencies and Social Enterprises: both providers and infrastructure organisations;
2. Contracted Youth Services providers;
3. Organisations who had been both successful and unsuccessful in procuring KCC contracts

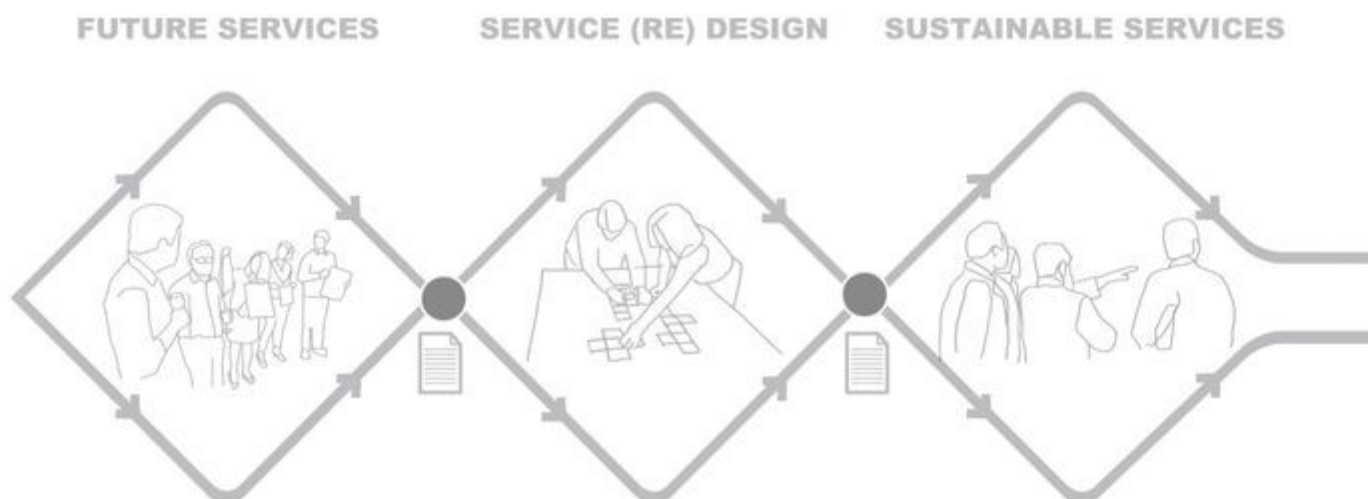
Appendix Three: Social Innovation Lab for Kent

SILK is a small team based within Kent County Council that was set up in 2007 to ‘do policy differently’. Over the past 4 years they have been doing projects which have demonstrated the benefits of working in a different way and have developed a Methodology and Toolkit which provide a structure for the way they work.

SILK believe that the best solutions come from the people who are closest to the issue; this could be service users, residents or frontline staff. SILK go much further than community consultation and believe that people should be actively involved in the design of services that they are going to use or deliver. The SILK Methodology provides creative and innovative ways to engage with people and approach projects, and enables a collective ownership and responsibility for project design, delivery and outcomes.

Methodology

Each project will fall into one of three diamonds: **Strategic / Policy**, **Service Re-design**, or **Creating Sustainable Communities**:



Once the type of project has been identified it will follow four phases:

Initiate | Create | Test | Define. This is illustrated in the SILK Project Planner:

Silk Project Planner: The four phases:

Initiate

- Get the right people involved
- Collectively create a project plan
- Decide who else needs to know about the project

Create

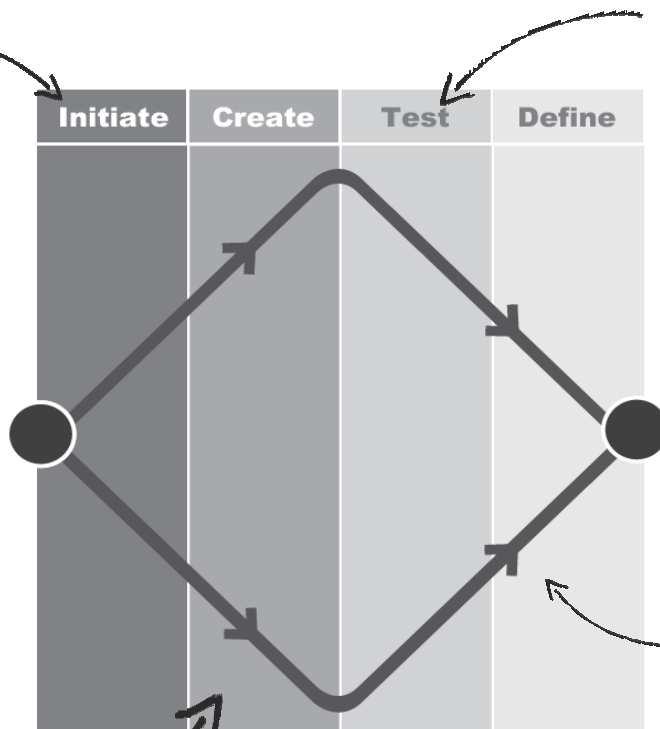
- Gather as many insights as possible
- Involve a wide range of people
- Create ideas that can be tested in the next phase

Test

- Test the ideas that were suggested in the Create phase
- You will need to keep testing until a model that works is found
- Testing can involve trial runs, prototypes or 'mock ups'

Define

- Once a model has been tested and is known to work it can be defined and consolidated
- The final output may be a report that captures what has been done alongside



The **Method Deck**, designed by SILK can then be used to choose which methods should be used during each phase of the project. The Method Deck and Project Planner allow for the project to be planned collectively in groups, with everyone having ownership over the decisions and course the project will take. It is a flexible project methodology and can be adapted as the project progresses.

Appendix Four: About Bonds

A bond is a form of loan or IOU: the holder of the bond is the lender (creditor), the issuer of the bond is the borrower (debtor), and the coupon is the interest. Bonds provide the borrower with external funds to finance long-term investments, or, in the case of government bonds, to finance current expenditure.

Bonds usually have a defined term, or maturity, after which the bond is redeemed.

Being a creditor, bondholders have absolute priority and will be repaid before stockholders (who are owners) in the event of bankruptcy.

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