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To: Commissioning and Procurement Select Committee

Subject: Commissioning and Procurement Topic Review

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Summary: To discuss and agree proposed Terms of Reference, scope and general approach of the Commissioning and Procurement Topic Review.

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## **1. Introduction**

1.1 Public Services are changing as previous models of service delivery are no longer affordable in a time of reductions in public spending, future significant increase in demand for services and increased public expectation about quality of services. This poses a real challenge as efficiencies alone will not solve issue of increasing demand at time of reduced funding and is driving 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.

1.2 Commissioning is increasingly central to the approach to redesign services, joining up resources to focus on outcomes in the most efficient and effective way, taking a whole-system approach, the totality of resources and different ways of achieving improved outcomes.

1.3 Facing the Challenge: Whole Council Transformation commits KCC to becoming a commissioning authority. The transformation programme sets out a direction of travel for the authority to become a commissioning authority, but this requires KCC to actively improve its skills and approach to commissioning, increasingly undertaking both market shaping and market development activity – which Facing the Challenge identified as areas for corporate improvement.

1.4 KCC needs to become a better commissioning authority, optimising resources, targeting resources, choosing the right mechanism to best achieve desired outcomes, and removing barriers from entry to the market for the provision of KCC services, particularly small to medium sized enterprises (SMEs) and members of the voluntary, community and social enterprise sector (VCSE). This review will inform the transformational work ongoing in Kent.

## **2. The Committee**

2.1 The Select Committee conducting this review will be operating over a short period, with pre Christmas desk research and a programme of meetings in January. It will need to establish clear objectives and retain a sharp focus on them in order to complete the work within the allocated time and therefore it is important that the Terms of reference and scope are discussed and agreed at the outset.

2.2 The Select Committee Membership is detailed below.

**Conservative (5)**

Mike Angell (chairman designate)  
Matthew Balfour  
Nick Chard  
Tom Gates  
Clive Pearman

**UKIP (2)**

Mike Baldock  
Hod Birkby

**Lab (1)**

Gordon Cowan

**Lib Dem (1)**

Martin Vye

### 3. Terms of Reference – for decision

3.1 The purpose and objective of the review is to make recommendations to KCC to support the improvement in commissioning KCC services as set out in Facing the Challenge, and to support the strategic direction of KCC becoming a commissioning authority.

3.2 The proposed Terms of Reference and scope are :-

- 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.

Scope - The issues to be explored are

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

The review will highlight commissioning practice both in established services areas (e.g. social care) and new services areas (e.g. public health) in order to understand the range and breadth of commissioning activity across KCC.

### **3.3 Exclusions:**

Public Health: The terms of reference will consider the experiences of the Public Health team in commissioning services and contracts inherited from the NHS, it will however not cover the detail of the Public Health Grant and its investment in services or the public Health outcome framework as part of this review.

Procurement and Providers: The review will consider evidence of examples of commissioning models and providers but will not consider the tendering outcomes for individual companies. Providers involved in any tendering process with KCC at the time of the review should not approach the Committee. **The Committee or individual Members of the Committee must not approach individual providers involved in any ongoing tendering/procurement process to provide Kent services as this is prohibited in procurement law.**

## **4 Scope: The issues to be explored in more detail – for discussion**

4.1 This section gives a flavour of the issues and the questions that the Committee might wish to explore.

**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 and don't want?
- How do we balance our service requirements and budget of council and using the VCSE sector?
- Where can County Council Members add most benefit within a commissioning organisation?

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

**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?**

## **5 Key Evidence – for discussion**

5.1 It is proposed that six/seven half day Select Committee Hearings are held over a three week period in January (dates canvassed). It is proposed to carry out a number of ½ day sessions with 3 45minute interviews. It is proposed that Members remain for 30 minutes after the hearings to ensure all views, key points and emerging recommendations (from interviews and written evidence) are captured. Hearings are normally open to the public unless there is a specific requirement to hold a closed session – as some of these sessions may be commercially sensitive they will be closed where appropriate.

5.2 Details of the suggested witnesses/organisations to invite to hearings are outlined below. Others maybe identified as the research process progresses. Written evidence may be requested from those who are unable to attend or cannot be included in the timetable. This will be further refined prior to the meeting of the Committee.

KCC Policy	<ul style="list-style-type: none"> <li>David Whittle, Liz Sanderson (written evidence)</li> </ul>
KCC	<ul style="list-style-type: none"> <li>Judy Doherty, <a href="#">Business Transformation and Programmes Manager Customer &amp; Communities</a></li> <li>John Burr, Director of Highways and Director of Transformation</li> <li>Mark Lobban, Director of Strategic Commissioning</li> <li>Henry Swan, Head of Procurement</li> <li>Christie Holden, Head of Strategic Commissioning (Care Homes)</li> <li>Thom Wilsen, Head of Strategic Commissioning (Childrens)</li> <li>Emma Hansen, Head of Strategic Commissioning (FSC)</li> <li>Di Wright, Head of Commissioned Services</li> <li>Angela Slaven, Director Service Improvement (Communities)</li> <li>Karen Sharp, Public Health</li> <li>Nigel Baker, Andy Jones, Youth Service</li> <li>David Beaver, Highways</li> </ul>
KCC - other	<ul style="list-style-type: none"> <li>Lucinda Mckenzie Ingle, Legal – procurement, HR implications, Tupe</li> <li>Internal Audit and Contract compliance– Sam Buckland, Andy Coveney</li> <li>Service commissioners ?</li> </ul>
VCS infrastructure orgs	<ul style="list-style-type: none"> <li>VCS infrastructure Orgs (e.g. Action with Communities in Rural Kent, CASE, Canterbury District Voluntary Action and Support, Voluntary Action Maidstone, NW Kent CVS, Swale CVS &amp; Volunteer Centre, Voluntary Action West Kent). All invited to submit written evidence.</li> <li>VOICE - new infrastructure partnership in the east of the county</li> </ul>
SME federations	<ul style="list-style-type: none"> <li>Federation of Small businesses</li> </ul>
VCS suppliers/Not for profit	<ul style="list-style-type: none"> <li>Communities/Voluntary Sector Forum (informal approach)</li> <li>3 – 4 VCS service providers, including consortiums</li> <li>E.g. Salus</li> </ul>
Social Enterprises	<ul style="list-style-type: none"> <li>2- 3 Social Enterprises e.g. Community Chef</li> <li>Social Enterprise Kent SEK</li> </ul>
Private suppliers	<ul style="list-style-type: none"> <li>2-3 private suppliers (identify top suppliers by level of spend) e.g. Newton Europe (current supplier)</li> </ul>

5.3 Written views/comments – in addition to that noted above, and in order to gain maximum input to the review it is proposed that summaries/key points from a number of officer interviews or desk based research are provided to Members.

5.4 All those attending the hearings will be invited to share a brief information paper or key documents prior to discussions with the Committee (to be published with committee papers). This will include a summary of evidence given to the Communities and Local government Committee, Central government Select Committee on Local government procurement (central govt).

## **6 General Approach and Timetable (Summary)**

6.1 The review proposed comprises of a short period of desk based research and member – led interviews. Written evidence will be obtained and may be provided to members outside of the meeting schedule to enable reading time.

6.2 Phase One – preparation and set up. Dec 16 – Jan 9:

### **Actions for Research Officer or Democratic Services Officer**

- Set up Select Committee ‘informal’ briefing, aimed at raising awareness of national research, and an overview of commissioning and procurement.
- Set up Select Committee Hearings for January. Identify questions/themes. Request briefing papers (to be submitted prior to hearings).
- Request written evidence (where applicable) to be submitted - Invite stakeholders not able to participate in the Hearings to express their views to the Select Committee.
- Desk top research.

### **Proposed Actions for Members**

- to read the information packs and prepare for the next meeting of the Select Committee in January. (To be given to Members at the meeting/or via members desk)

6.3 Phase Two – Jan: Evidence gathering

- Discussion of national research and Informal briefing to gain a good understanding of the national picture and overview of VCSE and commissioning and procurement.
- Select Committee meetings with key people, organisations or groups to gain a clear understanding and insight into the issues and how KCC can become a better commissioning authority and mitigate barriers.
- Written evidence received will be shared with the Committee at key points throughout the review.
- Wrap up sessions to capture views, key points and emerging recommendations

6.4 Phase 3 – Findings and Agreeing report

The Select Committee will meet to discuss their findings, agree recommendations, and comment on the draft report.

## 6.5 Timetable` (Summary)

Dec Preparation/Research/set up Hearings  
Jan Informal Briefing and Hearings

Tuesday 21 January - am, Thursday 30 January – am Thursday 6 February -am  
Wednesday 22 January - pm, Monday 3 February – am Friday 7 February - am  
Wednesday 29 January – am Tuesday 4 February - pm Tuesday 18 February - am

Early Feb	Select Committee meet to discuss key issues, report framework and agree recommendations
w/c 24/3 March	Select Committee finalise/agree report
19 Apr	Report published to Cabinet
28 Apr	Report considered by Cabinet
15 May	Report considered by County Council

## 7. Project Risks:

7.1 Allotted times for Hearings/meetings fall over a three week period in January and are subject to the availability of witnesses, and no severe/adverse weather conditions and will need to be reviewed if necessary.

### Recommendation:

To agree the Terms of Reference and general approach to the review on commissioning and procurement.

### Review contacts:

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