

Commissioning and Procurement Select Committee Briefing

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Introduction

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

Barriers for new providers

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

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

Provider Performance

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

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

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

Responsibilities Social Value Act

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

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

Social benefits and social value requirements

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

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

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

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