

From: Cabinet

To: **Scrutiny Committee**, 25 September 2014

Subject: Response to the Recommendations of the Commissioning Select Committee 'Better Outcomes, Changing Lives, Adding Social Value'

Summary:

This report provides a response to the Commissioning Select Committee Report 'Better Outcomes, Changing Lives, Adding Social Value'. It provides an outline of proposed actions against each of the recommendations and indicative timescales.

1. Introduction:

1.1 This paper provides the Executive's response to the recommendations set out in the final report of the Commissioning Select Committee; 'Better Outcomes, Changing Lives, Adding Social Value'. It sets out proposed actions to deliver the recommendations within the final report and indicative timescales. A progress report will be sent to the Select Committee in one year.

1.2 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.

1.3 Whilst the Public Services (Social Value) Act 2012 requires the authority to consider '*how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area*' there are however limitations to the Act which must be considered. The Act only applies to public services above the relevant monetary thresholds in the Public

Contracts Regulations (2006) whether they fall under Part A or B of those regulations, this is £173,934. Although not covered commissioners could consider economic, social and environmental well-being in lower value contracts. The Act does not cover goods and works, but services only.

1.4 The 2014 EU procurement directives are also of considerable significance to the Commissioning Select Committee. These have now been adopted by the EU institutions and came into force on the 17 April. The implementation of the directives will need to take place over the next 2 years.

2. Findings and Recommendations:

2.1 The overall findings and recommendations of the Select Committee are strongly welcomed given the effective challenge the report provides to the organisation. The report acts a timely reminder that a shift in culture is critical to our success as we strive to become an excellent commissioning authority. We must embed a collaborative culture, working with other commissioners internally and externally to ensure we secure positive outcomes and value for money for residents, whilst better working relationships with providers will facilitate greater innovation and effective contract management.

We accept and support the six key points set out in the report that KCC can:

- Improve its commissioning
- 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 SME's
- Further support and encourage VCSE and SME's to provide services directly or as part of the supply chain
- Support social and micro enterprises to grow and deliver outcomes
- Improve contract monitoring and contract management
- Take more account of social value

2.2 'Facing the Challenge: Whole Council Transformation' approved by County Council in July 2013 and the more recent 'Towards a Strategic Commissioning Authority' paper which went to County Council on the 15th May, support these assertions and have set KCC on a path to strengthening our capability to become an excellent commissioning authority. The recommendations made by the Committee are therefore considered in the wider context of these papers and our proposed actions will support the strategic direction of the authority as defined within these reports, whilst acknowledging the financial challenge the local authority faces.

3. Response to the recommendations:

3.1 The committee made 27 recommendations and the detailed response to each of these is set out in **Appendix 1** of this report. Due to the number of recommendations we have provided a summary set out below, clustered by the key themes provided in the report.

Commissioning Landscape (Recommendation 1)

3.2 KCC spends £1billion on goods and services from external suppliers carrying out commissioning across a wide range of people and place based services. Our commissioning should not start with a preconception that services should be provided by a particular sector but through our commissioning we should find the most efficient and effective way to meet the needs of residents and achieve the identified outcomes, this should be based on sound customer intelligence and where appropriate through co-production.

3.3 Excellent commissioning will enable a mixed and vibrant economy in Kent and will ensure that KCC gets the right provider and that our services are innovative and efficient, offering value for money. In many cases the VCSE and SME may be the most effective provider and this should be identified by ensuring that KCC has the right skills and sufficient capacity to understand the market of potential providers, through comprehensive market engagement, including the benefits and expertise the VCSE and SME providers can offer. This will include looking at ways to breakdown silos between differing types of provision and exploring the potential for prime integration partners and local networks of supply; the VCSE will be a key partner in this. We will also be looking at how we can improve the skill base of our commissioners and the commissioning support specialisms needed to support them.

KCC as an excellent commissioner (Recommendation 2-7)

3.4 Whilst our commissioning and procurement arrangements have been appropriate to date, as we move towards a strategic commissioning authority model we recognise the need to strengthen our capacity and capability in these areas.

3.5 The May County Council paper recognised that there is a need to provide clarity on the strategic outcomes of the authority and to develop a council wide strategic commissioning framework. The development of these will help to define the roles and responsibilities within the commissioning cycle and will ensure that commissioning is carried out to the same high standard across the authority. The current review of both commissioning and procurement will provide an opportunity to strengthen these functions and ensure that the appropriate skills and resources are in place; this includes ensuring that there is a strong contract management function across the Council.

3.6 Whilst it is the responsibility of operational commissioners to work with potential providers to explore and encourage where appropriate opportunities for greater collaboration, it should not be the role of the County Council to dictate how the sector/potential providers should operate. It is however the responsibility of KCC to help shape the market in Kent and make it aware of

our commissioning intentions. Whilst sub- contracting can be a useful and effective way of commissioning services we recognise that we must put mechanisms in place to manage the supply chain and ensure that all providers are equally treated and that smaller VCSE entities can benefit from subcontracting arrangements. In our new commissioning framework we will make clear how we will support the VCSE sector to engage effectively in KCC procurement exercises, and what we expect of all providers both internal and external which are commissioned by KCC, this will include looking at how we can support sub- contracting and consortia arrangements.

3.7 We recognise that better engagement with partners provides opportunities to identify innovative models of service delivery and we are moving towards closer joint commissioning arrangements with colleagues in Health and we must ensure that we have the right arrangements in place to encourage greater collaboration in the future. We also expect commissioners to engage with providers who very often have innovative ideas about how to deliver services which are not focused on organisational boundaries. The adoption of a strategic outcomes framework will span client groups and define outcome which will drive commissioning and service activity, encouraging collaboration across the council.

Engagement and Communication (Recommendation 8-13)

3.8 There are already some good examples of co-production across the local authority, where commissioners have worked with service users and the VCS to design services or develop contracting models. However, the development of a commissioning framework will provide a set of principles which will ensure that we are delivering excellent commissioning across the authority. This will be achieved by ensuring that we commission services based not only on the evidence of need, but also on intelligence gathered through engagement and co-production with residents who use our services, the VCS and private providers.

3.9 Fundamental to this will also be the development of quality service specifications and we acknowledge that we must get better at designing specifications, engaging providers and service users early so that they can inform their design. However it is vital that a balance is struck so that our specifications are proportionate and flexible enough to ensure that we do not limit the innovation of providers, nor limit the opportunity for smaller scale providers from the SME and VCS to become providers of KCC services. An outcomes focus to our specifications will help to ensure that we are clear about what KCC expects from the services commissioned but is not prescriptive about how these outcomes are achieved.

Procurement Process (Recommendation 14-17)

3.10 We agree with the principles set out around simplifying and standardising our procurement processes and we will be looking at how these

issues will be addressed within the Phase 2 review of procurement currently underway.

3.11 Whilst we understand the principle and reason for using lower value contracts (£5K), spending the Councils Money already allows officers to purchase or contract services under £8k without 3 quotes and without the need for a disproportionately resource intensive process. We agree that this should be done in a transparent manner and we will expect our procurement function to ensure that they hold the intelligence on a range of VCSE and SME providers and work with commissioning colleagues at an early stage to offer advice on who can provide these lower value services. We will also ensure that lower value contracts over £5k are reported and that this information is transparent in accordance with legislation.

Support to develop the market and build capacity (Recommendation 18)

3.12 The development of a VCS policy for KCC will provide a set of principles and guidance to commissioners working with the VCS. Within this we will set out our commitment to supporting the sector both as a service provider and in their role in supporting communities. Similarly the new KCC commissioning framework will make clear the role of commissioners in supporting all providers (including the VCS and SME's) to engage effectively with KCC procurement exercises for example through clear specifications and what commissioners can practically do (within legislative constraints) to support the local market and build capacity.

Contracts and Grants (Recommendation 19-25)

3.13 The County Council supports a mixed economy of provision, funded through grants and contracts as appropriate. KCC recognises that there will always be a place for grant funding and the vital role grants play in supporting the VCS to carry out activities and run services which benefit the residents of Kent. The KCC VCS policy being developed, will recognise the vital role the VCS plays in Kent and will set out our commitment to grant funding, delivering a set of principles which commissioners will be expected to follow when awarding grants. This will ensure that our grant funding is open, transparent, and accessible and that we can monitor the impact of our funding.

3.14 The management of contracts is integral to the success of a commissioning authority and we already have examples of good practice within the local authority, for example Highways. However we recognise that this is an area where we need to strengthen our skill set. It is essential that the contracts put in place are of a high quality and enable the authority to act when standards are not being met or to improve performance when needed through the close monitoring of contract delivery.

3.15 As set out in our Whole Council Transformation paper in 2013, KCC as a commissioning authority must have a strong understanding of the outcomes it wants to achieve and the capability of providers including in-house to deliver these. In- house providers will therefore be expected to deliver against service

specifications with no differentiation in the way our contracts are managed between internal and external providers.

3.16 KCC also supports the principle that our contract spend should be transparent and we will take forward as a matter of urgency the improvement of our contracts register. The Local Authorities (Data Transparency code) will require the local authority to publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000. We will expect our procurement function to put in place plans to ensure that this information is collected and made available.

Member Role (Recommendation 26)

3.17 It is recognised that becoming a commissioning authority will have implications on the role of Members and the way that they discharge their role. The move to a commissioning model presents an opportunity for all members to become actively involved in the design, contract and performance management and review of commissioned services through effective engagement at each stage of the commissioning cycle.

3.18 The May County Council paper accepted that there was a need to further examine the role of the Member in a commissioning authority. The Leader has established a cross-party Member Working Group, chaired by Eric Hotson, to examine the issues flagged in this recommendation, and report back through Selection and Member Services Committee to County Council on the changes that might be appropriate to secure and enhance the Member role in commissioning. The Member Working Group will recommend the most appropriate mechanism and approach for engaging all Members in commissioning decisions, in particular ensuring Members have the ability to influencing commissioning and procurement specifications as early in the commissioning process as possible.

Social Value (Recommendation 27)

3.19 KCC is committed to considering social value within our commissioning however there are limitations to the Social Value Act which must be acknowledged. The Act only applies to public services above the relevant monetary thresholds in the Public Contracts Regulations (2006) whether they fall under Part A or B of those regulations, this is £173,934. However the new commissioning framework will propose that social value is considered wherever appropriate to the service being commissioned (i.e. not just above OJEU thresholds). It is therefore for operational commissioners to determine how they will recognise social value where appropriate and evidence it on a case by case basis during the pre-procurement process.

3.20 We will expect all commissioning specifications, where appropriate to evidence how social value has been considered and what is being recommended in the specification with regards to social value and will amend

the standard specification template to incorporate considerations of social value. This must be relevant to what is proposed to be procured.

3.21 We are therefore committed to producing a social value toolkit which is being developed by operational commissioners to offer guidance to commissioners about how social value can be considered and evidenced within the procurement process. This will need to be clear and transparent so that all potential providers, regardless of the sector can demonstrate their added value.

Recommendation:

The Scrutiny Committee is asked to discuss and agree the actions set out in the implementation plan at Appendix 1.

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