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To: Scrutiny Committee – 11th June 2015

Subject: Commissioning Advisory Board

Summary: This report briefly explains the background of the Commissioning Advisory Board (CAB) and responds to the questions raised by Group Leaders.

1. Background & Context:

Before answering the specific questions set out by Scrutiny Committee regarding the progress to date and future role of the Commissioning Advisory Board (CAB), it is important to be clear about the background and wider context to the establishment of CAB.

The very first Facing the Challenge paper, '*Facing the Challenge: Whole Council Transformation*' considered by County Council in July 2013 was a response to the 2013 Spending Round, which made clear that because of sluggish economic growth, austerity would last beyond the 2010-2015 parliament and until at least 2019. Additional departmental spending reductions of 10% would be required in 2015/16, with the Comprehensive Spending Review delayed until after the 2015 General Election.

In response to this challenge, the County Council paper set out a vision for KCC in 2020 (the first non-austerity year) as a strategic commissioning authority focussed on customers and outcomes. It also set out five priorities for the Facing the Challenge transformation programme. These were:

- Integration of services around client groups or functions
- Single council approach to projects, programmes and review
- Active engagement of the market for solutions
- Creating viable business from traded services
- Embedding commissioning authority arrangements

Subsequently, the authority underwent a corporate restructure in 2013/14 to better align services around clients groups and customers, whilst the reviews undertaken by the Facing the Challenge transformation programme where the means by which an active engagement of the market for solutions, creating viable businesses from traded services and a single approach to projects, programmes and review were taken forward.

In regards to 'embedding commissioning authority arrangements' it is worth repeating what the paper actually said about KCC becoming a strategic commissioning authority:

“KCC will be a commissioning authority. This does not mean that it will have divested itself entirely of any role in providing services and have adopted a purely enabling approach. Instead, KCC will have a strong understanding of community and user needs, the outcomes it wants to achieve within the resources available, and the range of providers, either in-house or external, across the public, private and voluntary sector that have the capability to deliver these outcomes... being a commissioning authority will require KCC to actively engage in the market rather than be a passive purchaser of goods and services. As public service delivery becomes increasingly fragmented, KCC’s role as a commissioning authority to create, shape and develop markets will become essential to ensuring sustainable service provision. There will be no ideological or professional bias in regards to whom may provide services, with any appropriate provider able to deliver KCC services.”

This statement is important because it has shaped all future statements about what KCC believes a strategic commissioning authority means. In particular, that it is not simply about outsourcing to private providers, having a predominant focus on contracts, or that KCC will no longer provide services directly. Instead the purpose of adopting a strategic commissioning approach is to support better prioritisation of increasingly limited resources for the benefit of the Kent population. Importantly, the paper was also clear that it would take a number of years for KCC to transition into a strategic commissioning authority, given the significant structural, service and cultural changes that underpin an effective commissioning authority.

In May 2014 the County Council considered a paper entitled, *Facing the Challenge: Towards a Strategic Commissioning Authority*. That paper highlighted the areas that authority needed to strengthen to support becoming a strategic commissioning authority, including further development of the non-executive member role in commissioning. Subsequently, the Leader asked Mr Hotson to chair a Member Working Group on Commissioning. This reported to County Council in October 2014. Critically, it concluded that Cabinet Committees were not sufficiently developed to be able to undertake an extensive role in commissioning, and therefore recommended that a Commissioning Advisory Board be established to undertake this role, with it focussing on allowing non-executive members the opportunity to scrutinise commissioning (and transformation) decisions in depth as early as possible in the commissioning cycle, with Cabinet Committees focussing on examining contract and performance of contracts.

The Commissioning Advisory Board therefore emanated from a recommendation of a non-executive cross-party review into the role of Members in a strategic commissioning authority. It was agreed by County Council and the minutes record that no vote on the establishment of the Commissioning Advisory Board. It’s fundamental purpose is to support the organisation in moving towards becoming a strategic commissioning authority by providing non-executive members the opportunity to input and consider future commissioning decisions (including decisions emanating from the Transformation Programme) before decisions are made by executive Members.

Its approach is focussed on building relationships across the authority, not just with the executive, but also between non-executive members of different political groups

and between members and commissioning, who should increasingly feel comfortable with engaging CAB early in the commissioning process to seek non-executive member views and advice. The way CAB has been established means it cannot work effectively if it becomes overtly partly political in nature or some form of proxy scrutiny committee given it is supposed to be focussed collaborative relationships.

2. Clarification of member involvement – how are members being involved in the management of ongoing contracts and the development of planned contracts?

To be clear, becoming a strategic commissioning authority is not simply about the management of contracts or the development of planned contracts, as moving to a contract with an external provider is only one possible outcome of the commissioning process. As such, the question posed around contracts is but a single aspect of commissioning.

Executive members have always been involved through their Cabinet Portfolio responsibilities in the development of contract specifications and, if necessary, the management of contracts. Moreover, the council operates a Leader–Cabinet system and therefore it is the legal responsibility of executive members to make Key and Significant decisions on all matters not reserved to County Council, including on agreeing contracts. There is nothing in moving to becoming a strategic commissioning authority that changes the executive decision-making arrangements for the council, unless the council chooses to move to an alternative executive model.

The implication of this question is that non-executive Members should have a greater role in the development and management of contracts. In the commissioning authority model, the aim is for earlier engagement with non-executive Members to allow them to comment upon and influence the development of commissioning specifications (not just contract specifications, as the commissioning decision may not be to move to procurement the service externally). However, given that contracts already exist it is simply not possible to consider all service specifications or contracts in one big bang approach given the extensive volume of what KCC commissions and procures. This is one of the fundamental reasons why a commissioning authority can only be transitioned to over a number of years.

One of the issues in preventing members from considering contracts and the performance of contracts is the relative inaccessibility of information about what contracts support our service delivery. Directorate Business Plans now set out, for the first time, which services are delivered in-house, which services are delivered by external providers and when those contracts end. It is hoped that this transparency will provide members with the information they need to request reports through relevant Cabinet Committees on the performance and evaluation of contracts, and scrutinising both commissioners and providers for contract delivery.

Embedding this change approach will take time, but as an example the Policy and Resources Committee recently considered the contractual performance of the new Total Facilities Management (TFM) contract. There was cross-party acceptance that the information provided was exactly the type of role that Cabinet Committees

should undertake, and that the TFM example provided a blueprint for other Cabinet Committees future consideration of contract performance.

3. What has Commissioning Advisory Board achieved? What is its current status and what will it do in the future?

In its relatively short lifespan, CAB has considered a number of transformation and commissioning issues, including:

- Property LATCO proposal/business case
- Proposal for a Library Trust (including public consultation and outcome based specification)
- Business case for the back office procurement exercise
- Business case for the legal service procurement exercise
- Development of the KCC Commissioning Framework
- Proposals in regards to SEN Transport
- Proposals for Public Health Commissioning Strategy
- Options for future commissioning and drug and alcohol services
- Options for procurement of a new Waste Contract
- Options for new LED street lighting
- Business case for Adults Transformation Phase 2

However, measuring CAB success or achievement in terms of the volume of issues it has considered is only one part of the story. Through its engagement with the Officer Working Group on Commissioning the aim of the group has been to build a stronger direct working relationship with commissioning officers, whilst members of CAB have now undertaken some rapporteur work on areas of interest that will feed future CAB work plan and discussions.

The above is not to suggest there are no issues with the Commissioning Advisory Board. In particular, whilst CAB gives its membership a far greater understanding and opportunity to consider commissioning and transformation issues at a depth not possible in a Cabinet Committee setting, as a mechanism it cannot discharge the ambition for all Members to be able to influence commissioning decisions. Whilst the meetings are open to all Members, and there is an expectation that Members (in particular opposition group members) will feedback to their political groups the debate and discussion at CAB, it is only a proxy for all Member engagement. The role of CAB and Cabinet Committees in providing the most appropriate mechanism for member engagement in commissioning is a fundamental tension that will need to be addressed through the future review of CAB (see below), but there needs to be an acceptance that there is no easy solution to this particularly difficult conundrum.

The agreement at County Council was to establish CAB for a period of 12 months, with a review at the end of the period (autumn 2015) to determine whether CAB should continue in its current or revised form, or whether alternative arrangements (including its role being taken forward by Cabinet Committee) might be more appropriate. It is still the intention to undertake this review and have a broad debate about next steps. The long-term future of CAB is dependent on the outcome of that

review. In the meantime, CAB's work programme over the summer months will be extensive, with items including:

- Early Help
- Legal Services procurement –
- Back office procurement
- SEND options

4. Any plans for additional training for Members on contract management?

Member training is a matter for the Democratic Services and the appropriate Cabinet Member, with the Selection & Members Services Committee having specific oversight responsibility for member training. However, the role of an elected Member in a Strategic Commissioning Authority is the fundamental component of the Member Development Programme. A number of bespoke training events and briefings on aspects of the Commissioning process have been arranged and will continue to be organised and repeated to support elected Members in providing them with the skills and knowledge for operating within a commissioning authority. Last autumn over 60 members attended a session delivered by Professor Tony Bovaird of INLOGOV on what it could mean for an elected member as the Council moves towards a Commissioning Authority. Other sessions have been held on procurement, the various models of service delivery and shortly some sessions on performance management of contracts will be provided.

The cross party Member Development Steering Group has recently started a dialogue with officers in Organisation and Development and Democratic Services to determine those skills or aspects of member development an elected Member will need for discharging this role.

One of the modules of the Workforce Development Plan for developing a commission ready workforce is a workshop for all Members and Corporate Directors to enable a joint understanding of our ambition to become a strategic commissioning authority including effective engagement with local communities to encourage innovation, flexibility and creativity to identify and agree service priorities and maximise community benefits working within the Social Value Act.

At the next cycle of Cabinet Committee meetings there will be an opportunity to discuss the Cabinet Committee role in performance management. A bespoke training session for all Members is being developed.

5. Guidance on whether other Authorities have not adopted a Commissioning approach and how KCC may be compared with them?

Many authorities are increasingly adopting a strategic commissioning approach, just as all authorities already have a mix of in-house and external service provision provided by a mix of voluntary, community or private sector providers. No specific research has been undertaken on how KCC might be compared with authorities that have not adopted (or specifically stated that they are not adopting) a strategic commissioning approach. For such research to be undertaken there would need to be absolute clarity on what specific factors / issues should be compared and for what

purpose, together with a deep understanding of the fundamental factors that may skew any such comparison (such as size, base budget position etc).