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To: County Council – 10 December 2015

Subject: Embedding strategic commissioning as business as usual

Summary: Moving KCC towards becoming a strategic commissioning authority has focussed, so far, on the Facing the Challenge transformation programme and agreeing the strategic policy framework through the outcomes and commissioning frameworks for the council. As the Facing the Challenge transformation programme concludes, this paper makes recommendations to further embed the strategic commissioning approach as business as usual.

RECOMMENDATIONS:

County Council is asked to:

1. Note the changes being made to the business planning arrangements which will require directorates to better identify the pipeline of future strategic commissioning decisions.
2. Agree to reform executive member governance arrangements so that it better fits the strategic commissioning cycle, including:
 - (a) The creation of a Strategic Commissioning Board through the merger of the existing Transformation Advisory Group (TAG) and the Procurement Board (PB).
 - (b) The creation of a Budget & Performance Board through the merger of existing Budget Programme Board (BPB) and the existing Performance & Evaluation Board (PEB).
3. Agree to the continuation of the Commissioning Advisory Board (CAB) as a vehicle for non-executive member engagement on strategic commissioning for a further 12 month period
4. Note the need for Cabinet Committees operating arrangements to change to ensure their role in the strategic commissioning cycle is secured and effective, and the engagement with Chairman of Cabinet Committee to consider options
5. Note the work undertaken and ongoing to ensure that there are clear roles, responsibilities and accountability to support strategic commissioning approach through:
 - (a) Better demarcating those officers with accountability for strategic commissioning of services and those responsible for the operational delivery of KCC services.
 - (b) Ensuring that opportunities for joint / integrated commissioning and service design with partners are optimised.

1. INTRODUCTION:

1.1 In May 2014 County Council considered and approved *Towards a Strategic Commissioning Authority: The Next Steps*. This paper set out three recommendations to support the development of a strategic commissioning approach in KCC. These were to:

- Agree an outcomes framework for the council;
- Agree a commissioning framework for the council; and
- Develop the commissioning support offer for the council.

1.2 All three recommendations have been, or are currently being, successfully taken forward. The commissioning framework was approved by County Council in December 2014, the outcomes framework likewise in March 2015, and the restructure of the Strategic and Corporate Services Directorate, and in particular the creation of a new Business Development and Intelligence Division will improve our strategic commissioning, commercial and contract management capability both corporately and as support offer to Directorates. Alongside these changes has been the successful development of the Commissioning Advisory Board (CAB), which has strengthened the non-executive role in strategic commissioning process, with a particular focus on considering the outcomes of the Facing the Challenge Phase 1 and Phase 2 service reviews.

1.3 However, as Facing the Challenge service reviews conclude, and in some cases move to either contract or programme mobilisation, and with a far greater focus of transformation activity now being delivered through our Portfolio Boards (Adults, 0-25, GET and Business Capability) than when the Facing the Challenge Programme began in September 2013, **we must move our approach to strategic commissioning beyond the Facing the Challenge transformation programme to become the new business as usual**, and in particular, to ensure KCC as a strategic commissioning authority remains an effective member-led authority. The risk to the authority is that whilst the strategy and policy framework for a strategic commissioning authority is agreed on paper, it has insufficient purchase and structure to drive activity across all directorates and services on an ongoing basis.

2. CURRENT ISSUES:

2.1 To effectively mitigate against this risk there must be clarity on a) what strategic commissioning decisions are forthcoming; b) where strategic commissioning issues are considered and by whom, c) who takes responsibility for strategic commissioning within Directorates and services. The following issues will need to be addressed if greater clarity is to be provided:

- a) **The business planning process doesn't sufficiently identify the pipeline of strategic commissioning decisions and where services are in the strategic commissioning cycle:** The 2014/15 business planning process made a number of changes to the directorate business plans, in particular identifying whether services are delivered in-house or externally and, where services are delivered externally, contract value and end-date. However, the directorate business plans are not yet built around the strategic commissioning cycle, and despite seeking to identify significant and major commissioning and service redesign decisions over

a three-year period, are too focussed on a short-term 12-month cycle. This limits member's ability to fully consider strategic commissioning options in sufficient time, including whether resident or community need still needs to be met by KCC, full evaluation of existing service arrangement and potential alternatives, and any possible future joint commissioning options with partners.

- b) **Executive Member governance and oversight isn't structured around the strategic commissioning cycle:** Currently executive member governance and oversight of commissioning is through a mixture of business as usual meetings (such as Budget Programme Board, Procurement Board) alongside ad-hoc arrangements that have supported the management of the transformation programme (Transformation Advisory Group and Transformation Board / Commissioning Advisory Board). Whilst the governance for transformation has been effective in steering a complex and ambitious programme to conclusion, it has led to duplication in agendas and confusion about the most appropriate governance route for officers to seek member engagement outside (and before) the formal Key Decision process. There has been a long standing ambition to rationalise the number of member boards and groups into something more manageable, and the opportunity to reboot executive member governance around the strategic commissioning cycle provides an opportunity to achieve this.
- c) **Non-executive member engagement in strategic commissioning through the Commissioning Advisory Board (CAB) is effective, but Cabinet Committees have not yet embedded contract / provider management and review into their work:** Whilst CAB is a very effective mechanism for non-executive member engagement in strategic commissioning, the aim is for all members to have a role in the strategic commissioning cycle and as such, the role of Cabinet Committees in providing non-executive member input and oversight of contract management and provider performance is crucial. However, Cabinet Committees have not yet fully developed this role and as such it is necessary to ensure that the future operation of Cabinet Committees is effective so that they have the capacity to discharge this important aspect of the strategic commissioning cycle.
- d) **Our structure needs to better set out responsibilities and accountabilities for strategic commissioning vis-à-vis operational service delivery:** As identified in the review of commissioning authority arrangements considered by Corporate Board in May 2015, there was clear appetite for greater clarity across the Director Group and Cabinet in regards to accountabilities for strategic commissioning, and for this to be achieved without the need for a restructure, but through clarifying responsibilities and within existing Directorate structures. However, given that strategic commissioning is as much about identifying opportunities for joint and integrated commissioning and service redesign with other public sector partners, who often operate on a different or specific sub-county geographic basis (e.g. District / CCG), we also need to be confident that our area/locality based operating arrangements are sufficient to support effective integration and joint working. As a result, work to clarify both strategic commissioning and operational responsibilities needs to be take place not just at tier 1 and 2 level of officers, but more deeply through each Directorate.

3. ADDRESSING THESE ISSUES:

Changes to the business planning process

3.1 The technical changes to improve the business planning process ability to identify the strategic commissioning pipeline have already been considered by the Policy & Resources Committee on the 10th September. The critical aim of the changes for the forthcoming business planning round (2016/17) is for Directorate business plans to identify where each service is within the commissioning cycle (analyse, plan, do, review) including in-house services, and when each service will move to the next stage of the commissioning cycle. The aim of incorporating in-house services into the commissioning cycle is to begin embedding the principle of contestability (the principle that all services should be subject to cyclical review to examine alternative options on an agnostic basis to ensure value for money) into the organisation as business as usual. To date, only services that have already been externalised have been subject to anything approaching contestability as providers/services are evaluated as contracts come to an end (although it is largely accepted that the quality of this review is, at best, variable). Yet the principle that all services are subject to contestability is a critical component of moving towards a strategic commissioning authority model, as set out in the very first Facing the Challenge paper, approved by County Council in July 2013.

3.2 Critically, by making Directorates responsible for the identification, through their business plan, of the strategic commissioning cycle for their own services, in particular when in-house services will be subject to contestability, and by making Directorates responsible for delivering contestability review as part of the analyse stage of the commissioning cycle, it should be possible to avoid the inherent flaws that have frequently hindered service reviews when corporate or external resources are used to review alternative delivery options (e.g. lack of service expertise/buy-in; optimism bias; failings as reviews transfer back to services for implementation). This, of course, presumes and is dependent on there being a greater distinction within Directorate structures between those responsible for commissioning of all services (whether in-house or externalised) and those with operational responsibility for services.

3.3 By making these simple changes to the business planning process (which will require the Directorate plans to follow a stronger corporate template than recent years) outlined in the P&R paper, it will be possible to build a whole council picture of where all KCC services are in the strategic commissioning cycle, but also drive a more disciplined 'internal' approach to following the strategic commissioning cycle within each Directorate, to which they can be held to account more thoroughly.

Executive member governance and oversight:

3.4 Better identification of the pipeline of commissioning decisions and building the strategic commissioning cycle into each Directorate's business plan is insufficient, in and of itself, to drive a more disciplined approach to following the commissioning cycle if there is not clear member governance to oversee it and hold Directorates to account for delivery against their business plan. As noted earlier, existing governance arrangements for the Executive below Corporate Board are fragmented with a number of existing boards and groups covering 'business as usual' and transformation activity, but increasingly each having overlapping agendas and

objectives (and membership) which is not only inefficient, but leads to a confused governance which weakens, rather than strengthens, accountability to members.

3.5 For example, as Phase 1 and Phase 2 of Facing the Challenge service reviews come to an end, the Transformation Advisory Group is increasingly focussed on receiving updates on progress of projects and programmes, which is more appropriately considered by Performance and Evaluation Board (PEB) or Budget Programme Board (BPB) given that the vast majority of transformation and commissioning decisions have significant budget implications. The Procurement Board (PB) increasingly sees its role as challenging and testing the commissioning specification, not just the right route to market or the effective management of the procurement process itself, whilst there is no existing executive member board which takes on responsibility for strategic contract management and provider review.

3.6 What is required is a reboot of executive governance below Corporate Board to better mirror the strategic commissioning cycle. Given the size and scale of KCC, it is probably not realistic for one board to cover the entire commissioning cycle itself, and as such two boards would likely be required, with one covering the ‘analyse’ and ‘plan’ stages of the commissioning cycle and the other the ‘do’ and ‘review’ stages. Both board’s agenda and workload would primarily be driven by the information and strategic commissioning timetable set out in the approved Directorate Business Plans, and would be supported corporately by the new business development and intelligence division, strategic policy, corporate assurance, internal audit and financial strategy functions.

3.7 The easiest way to create these two boards would be to merge pre-existing arrangements, with the Transformation Advisory Group and the Procurement Board merged to become a Strategic Commissioning Board, and the Budget Programme Board and Performance and Evaluation Board merging to become the Budget and Programme Delivery Board (all titles provisional). A draft broad division of responsibilities between these two new boards is set out in the table below:

Strategic Commissioning Board	Budget & Programme Delivery Board
<ul style="list-style-type: none"> • Link to strategic outcomes 	<ul style="list-style-type: none"> • Contract mobilisation and delivery
<ul style="list-style-type: none"> • Data, customer and market analysis 	<ul style="list-style-type: none"> • Provider and contract monitoring
<ul style="list-style-type: none"> • Draft service specification 	<ul style="list-style-type: none"> • Contract review
<ul style="list-style-type: none"> • Agree commissioning and procurement plans 	<ul style="list-style-type: none"> • Non-executive relationship: Cabinet Committees
<ul style="list-style-type: none"> • Non-executive relationship: Commissioning Advisory Board 	

Non-executive member engagement:

3.8 The opportunity of the changing the executive governance arrangements also provides an opportunity to formalise the non-executive member engagement with commissioning. On any objective analysis the Commissioning Advisory Board has been a success, meeting frequently on a non-partisan basis to consider and advise cabinet members and officers on a range of transformation decisions. Its membership has remained engaged and committed and there is a clear appetite from across all KCC political groups for it to continue for a further 12-month period (it was only established on an interim basis by County Council). In many respects, its role

would not change in the new structure, instead of its agenda largely mirroring TAG, it would mirror the new Strategic Commissioning Board, providing a non-executive member view and advising the Strategic Commissioning Board, Cabinet Members and commissioners on the analyse and planning stages of the strategic commissioning cycle.

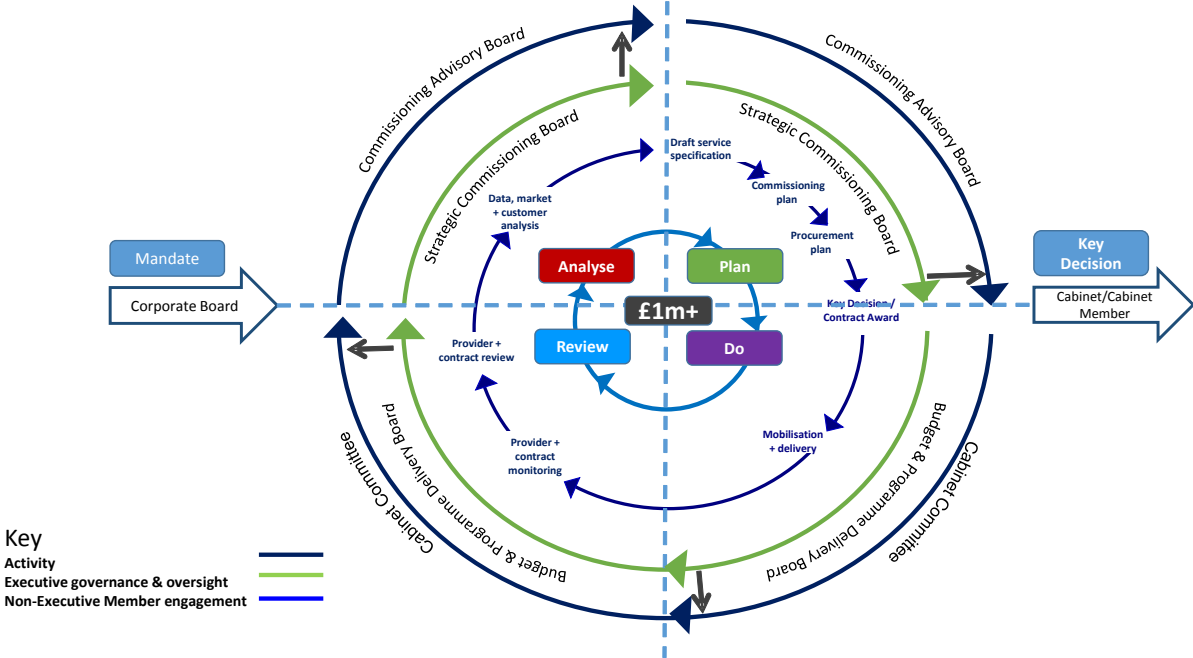
3.9 What CAB cannot do is provide a mechanism for all Members to engage in commissioning decisions being as the agenda is simply too big for a single group or board to consider by itself (although the open invitation from the Chair for all elected Members to attend CAB meetings if they wish will continue). This is why it was when agreeing to establish the Commissioning Advisory Board that it should be Cabinet Committees role to consider the 'do' and 'review' stages of the commissioning cycle, including scrutinising any necessary Key Decisions before they are made by Cabinet/Cabinet Member and providing oversight of contract monitoring arrangements and provider performance.

3.10 The issue to date has been that through Facing the Challenge programme, activity has not yet progressed to the 'do' and 'review' stages of the commissioning cycle. However, as we embed the strategic commissioning cycle into directorates through the business plans, and bring all council activity into the strategic commissioning cycle, it should be possible to better identify activity and services which are currently, or about to enter, the 'do' and 'review' stages of the commissioning cycle and for this to be included in Cabinet Committees forward agenda planning. Moreover, the Budget and Programme Delivery Board will invariably receive reports on contract management and review which it may wish to take to Cabinet Committees for their advice and consideration.

3.11 It is accepted that the requirement for Cabinet Committees to take a greater role in contract management and provider review of services under their purview is a significant additional responsibility, and it is recognised that some reform of Cabinet Committees operation will be necessary to create the capacity for them to undertake this important function. It may be that Cabinet Committees need to meet more often or for longer to deal with the volume of business, or that they form a contract monitoring and review sub-committee, or simply that the Committees themselves become more rigorous in agenda planning and only take items that are sufficiently substantive. The Leader has asked Mr Hotson, as Chair of the Commissioning Advisory Board, to work with Cabinet Committee chairman and report on options for ensuring Cabinet Committees are able to effectively discharge their role in the strategic commissioning cycle.

3.12 How executive member governance and oversight and non-executive member engagement would align to the strategic commissioning cycle is shown in the diagram below:

Strategic Commissioning Governance



Better demarcation between commissioning and operations:

3.13 The need for better demarcation between commissioning and operational delivery of services is critical if the principle of contestability is to be embedded within KCC, as services themselves cannot be agnostic about their relative value compared to alternative options for delivery, or indeed, ceasing delivery if the need being met is no longer required or can be met by another agency.

3.14 In some authorities that are adopting the strategic commissioning model, the commissioner vs. operations / provider split has been taken literally, with the demarcation between strategic commissioning and operational service delivery being made through major structural reform to the organisation with a subsequent redrawing of top tier posts to reflect different responsibilities. It is important to reflect the inherent benefit to a formal demarcation between strategic commissioning and operational services is not just the strengthening of the commissioning function, but also increasing the freedom of in-house operational services to redesign their offer meet the internal commissioning specification in the most optimal way. Consequently, this freedom also increases accountability for service delivery.

3.15 The review of the commissioning framework carried out in May 2015 identified that whilst there was a clear appetite for greater clarity between commissioning and operations, there was little appetite for significant structural reform, as it was felt this would be disruptive and counterproductive given the significant level of transformational change ongoing across the authority.

3.16 Given this, there can be no corporate or universal template for how the demarcation between commissioning and operational service responsibility might be implemented in each Directorate. It should therefore be for each Directorate to determine how best this demarcation can be delivered within their existing arrangements and that they would reflect:

- a) **That those responsible for strategic commissioning within the Directorate are responsible for commissioning all services including those that are delivered in-house:** The key principle underpinning contestability and moving towards a strategic commissioning model is that in-house services are treated in the same way as services provided by external providers. As such, fragmented commissioning arrangements between internal and external providers would likely be unacceptable. This may or may not include the transfer of budgets from services to commissioners.
- b) **That those designated as having responsibility for strategic commissioning are of appropriate seniority to engage directly in discussions with Members (e.g. through the new Strategic Commissioning Board or Commissioning Advisory Board):** it is accepted that the lack of appetite for major structural reform to support the commissioner / operations split may mean that the demarcation between the commissioners and operations takes place further down each Directorates hierarchy than at the Director level. Corporate Directors however will have to have confidence that those officers can be engaged, and engage directly with, Members in discussions on strategic commissioning matters.
- c) **How the proposed demarcation for each Directorate strengthens the arrangements for engagement and potential joint commissioning or service integration with partners:** moving towards becoming a strategic commissioning authority has always meant consideration as to how the total resources available in Kent, whether owned by the council or by partner agencies, can be harnessed and used more effectively and efficiently when targeting the same client group or seeking to achieve the similar outcomes. Concerns have recently been expressed by a number of partners that 'there is no clear front door' within KCC in which to have a strategic discussion about commissioning and service integration opportunities. Making the demarcation in commissioning and operations within each Directorate should seek to improve transparency for our partners about who they can and should engage.

3.17 Beyond these requirements, it would be up to each Directorate to decide how the demarcation between commissioning and service operations applies to it. This may be through a dedicated commissioning function/unit, but also it might simply be designating particular officers as primarily responsible for advisory/strategy/commissioning issues as opposed to direct service delivery. In any event, it is expected that to comply with the wishes for there to be no major structural changes when demarcating commissioning and service responsibilities, that any changes to JDs are minor or consequential.

4. NEXT STEPS:

4.1 Moving towards becoming a strategic commissioning authority is a journey in changing the systems, culture and approach the organisation takes to achieving its strategic objectives, with a sequential and iterative process that builds up through a series of step changes, rather than a single big-bang change which, on past evidence, simply doesn't succeed in KCC. The Facing the Challenge transformation programme has woken the organisation up to increasingly challenge its assumptions about how and why its services are structured in the way that they are, but as it ends the risk is that momentum will be lost. It is therefore important to make another step change and build on the momentum gained so far.

4.2 If the rationale in this paper is accepted, and the recommendations agreed by County Council, then the next steps will be to:

- a) Fully implement the proposed changes to the business planning process for 2016/17.
- b) Develop and agree membership and terms of reference for the new Strategic Commissioning Board and the Budget & Programme Delivery Board, with the intention that new arrangements will be in place by the end of March 2016, at the latest.
- c) Continue the work to require all Directorates to set out optimal arrangements for a clear demarcation between commissioning of all their services and service operations.

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