

Business Change Scrutiny

24th November 2016



Report of: *Netta Meadows, Service Director, Strategic Commissioning & Commercial Relations*

Title: *Update on Procurement*

Ward: *All*

Officer Presenting Report: *Netta Meadows, Service Director, Strategic Commissioning & Commercial Relations*

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Recommendation

To note the changes being made as to how procurement and commissioning takes place across the Council, including the creation of a Commissioning & Procurement Group.

To note the short update on Social Value and how this is being implemented across the Council.

Summary

A Commissioning & Procurement Group has been created to offer an in-depth analysis of 3rd party spend and to provide a significant degree of challenge to the way we commissioning and procure services.

The significant issues in the report are:

The different approach being taken around commissioning and procurement governance.



Policy

1. Commissioning and Procurement activity is governed by the Councils Procurement regulations, our financial regulations and current EU Procurement law, as appropriate.

Consultation

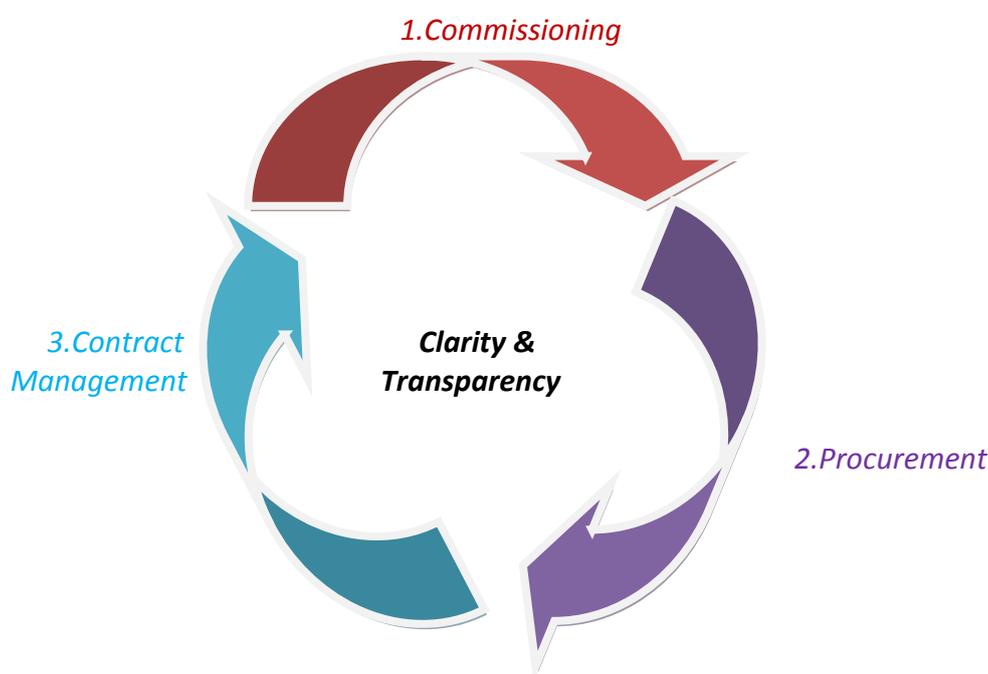
2. **Internal**
This information has been shared with the Strategic Leadership Team, and the Extended Leadership Team
3. **External**
None to date.

Context

4. The procurement service has historically worked to develop a common language and understanding in Bristol as to what strategic commissioning and procurement is, why it is effective, and how it should be undertaken.
5. The objective of the existing commissioning framework is to create a standardised approach to commissioning and to provide advice, guidance, tools, templates and examples of good practice. The commissioning process is broken down into the four stages of analyse, plan, do and review, with each stage being dealt with in turn.



6. Across the Council we use the existing commissioning cycle (Analyse, Plan, Do, Review) and it is well accepted as a way of undertaking commissioning. However, for some staff/areas, commissioning and contract management are functions that are “add ons” to their roles, meaning that these functions are not always given the focus, attention and expertise that is required to drive out the right outcomes in the most cost effective way. It is therefore perhaps helpful to consider the functions that surround this work more easily as **commissioning**, **procurement** and **contract management**.
7. It is important to note the order of these three functions and how they link to one another in the commissioning cycle. The work needed at the beginning of the cycle (commissioning) is critical in determining “what” we need to buy/commission, and at this stage the appropriate challenge needs to be given in order to influence efficiencies, costs and outcomes. The Procurement stage is simply the “how” stage – how we will buy the service or product, and therefore too late to influence the outcomes of the commissioning exercise.



8. **Commissioning** should be the strategic planning process of how we decide to use and prioritise the resources we have, but this isn't always how commissioning is considered across the Council. Commissioning aims to deliver better outcomes in the most efficient, effective and sustainable way, and should include the use of intelligence, information on demand management and evidenced based policy to drive the commissioning process. Again, access and use of such intelligence to drive real focussed investment/commissioning decisions is used to varying degrees. We should see commissioning as an enabler to help us provide greater commercial (make or buy) challenge to both internal and external services. That said, it is important to note that commissioning can obviously also lead to internal service delivery decisions. It will not always be best to “buy” services in, and a good commissioning process will consider the delivery options carefully.
9. **Procurement** is the process of “acquisition” from third parties and across the Council covers goods, and services. Historically the procurement service has been seen as a “hand holder” at

best, and a complete “barrier” at worst. Some services are not procured with any involvement from Procurement, and there is no one central contracts register across the Council, mainly due to the fact that there is a separate ICT function which maintains separate and independent records. A good procurement function would span the whole life-cycle (from inception/concept to the end of life of product/service).

10. **Contract management** (or Supplier/Business Relationship Management) is the on-going monitoring and management of contracts. For some contracts across the Council there are dedicated posts that monitor specific contracts, but in many areas there is very little contract management that takes place, primarily down to a lack of investment in this end of the process. However, good contract management could pursue increased benefits and value from arrangements by maximising leverage, driving service improvement and exploiting innovation over the lifetime of the contract.

Changes we are Proposing – Increased Focus and Attention on 3rd Party Spend

11. Extensive analysis is being undertaken to consider all third party spend across the Council in order to ascertain any savings opportunities not yet identified. It is important to note that some commissioning/contract management savings have already been identified across Directorates and form part of the current savings proposals currently out to consultation.
12. However, it is believed that further significant opportunities may exist, or could exist in the future when contracts come up for renewal, and we need to capture and deliver these in a robust and transparent way. Better management of third party spend throughout the commissioning cycle is an integral way of ensuring value for money, and consistency in the way we engage with suppliers, providers and markets.
13. It was therefore recently proposed to the Strategic Leadership Team (SLT) that the Council should set up a Commissioning & Procurement Group (CPG) which will review projects and categories of spend across the council to ensure that these opportunities are realised. SLT agreed this recommendation at the end of October and the group has now been formed.
14. The CPG will address issues associated with commissioning and procurement, but more importantly will provide a place to challenge poor practice and drive out a more consistent approach to these crucial council roles.
15. The CPG have now met together for the first time and have agreed to undertake a number of key reviews in the short term, and then have some longer term aims, as follows:
 - a) **Review all contracts that are about to end with a view to ensuring that future commissioning has started and includes efficiencies within the contract.**

A list of all contracts is being considered that shows contracts that end in 3, 6, 9, and 12 months respectively. There is also a list of contracts which ends in more than 12 months’ time. This shows that there is over £240m worth of contracts currently in place, with £69m due to be renewed in the next 12 months. Table 1 shows the analysis of this information by Directorate.

Table 1

	3 months	6 months	9 months	12 months	+ 12 months
Business Change	£1.79m	£4.011m	£1.2m	£0.8m	£14.1m
Neighbourhoods	£5.035m	£5m	£0.3m	£0.04m	£60m
People	£15.8m	£21.7m	£1.6m	£0.58m	£39.8m
Place	0	£1.871m	£0.04m	£9.22m	£57.3m
City Director	<£7k	<£25k	£0	0	0
Total	£22.67m	£32.6m	£3.14m	£10.64m	£171.2m

b) Review and consider contracts that are in flight and consider whether there is provision for in contract negotiations with providers/suppliers.

We can consider whether negotiations are possible, especially with the £171m worth of contracts that have more than 12 months left to run.

c) Review all “off contract” spend that currently exists across the Council.

An analysis has been undertaken on spend where it appears that there is no contract in place. In order to produce this list a comparison was made between ABW transactions and the list of suppliers/providers on our Procurement system (ProContract). If transactions were on the ABW system and not on the ProContract then it was determined as off contract spend. This is currently being checked and validated within the directorates.

d) Review uplift/inflation clauses within contracts to ensure a consistent and affordable approach is taken.

The CPG is undertaking an analysis of inflationary uplift clauses.

e) Review the use, and therefore governance of Waivers.

The CPG will be the place where all future Procurement Waivers are considered/approved, to provide challenge and a more robust cross council consistent approach to how waivers are agreed.

f) Provide a series of “gateways” for future commissioning

This will mean improved practice, outcomes and efficiencies are considered. This would also enable the Council to have clearer Commissioning Intentions, and a procurement strategy that clearly tells our supplier markets of our intentions, whilst ensuring alignment with corporate priorities and corporate objectives. The 4 gateways will be:

- Gateway 1 - Identification of need
- Gateway 2 - Make or Buy decisions - savings /efficiencies, risk /resource
- Gateway 3 - Recommendation, Approval & Award
- Gateway 4 - Implementation and review.

Note – It is proposed that at this stage Service Level Agreements and the giving of grants etc will not be within the sphere or responsibility of this group.

Relationship to other BCC Governance

- 16.** The CPG will report directly into SLT, and will provide “sign off” to commissioning reports that

are due to be presented to Cabinet and Health & Wellbeing Board.

17. It is not envisaged that the CPGs decisions would replace the need for appropriate commissioning reports to go through Directorates. The CPG would provide support and assurance that processes are being followed, or advise Directorates of areas of concern.
18. Normal democratic governance would obviously remain untouched.

Membership of CPG

19. It is proposed that the CPG would consist of:
 - Strategic Director Business Change - Chair
 - Service Director Strategic Commissioning and Procurement and Commercial relationships
 - A nominated Service Director from each Directorate
 - Procurement & Commercial Relations Manager
 - Nominated Finance Representative
 - Nominated Legal representative
 - Others to attend as required by specific items/approval sought
20. The CPG will hold, and be responsible for the development of a commissioning forward plan and ensuring that the Corporate Contracts Register is maintained (all contracts with a total value of £15k or above to be recorded)

Brief update on the progress of incorporating Social Value into Procurement Exercises

21. Business Change Scrutiny has stated a desire to consider Social Value as part of their work programme, and this is scheduled for early 2017. Therefore, the information below is just a short update on this area and how Social Value is being incorporated into our procurement exercises. More information will be presented at the 2017 Scrutiny session.
22. After the approval of the social value policy and associated toolkit by Cabinet in March 2016, commissioners are required to consider what additional social value can be sought in our external contracts. This must:
 - be linked to the subject matter of the requirement,
 - be included in the tender documentation, and
 - be included in as part of the tender evaluation
23. In appropriate exercises we require main contractors to include local companies in their supply chain. There is no standard percentage requirement that we apply to this. However, it has to be proportionate to the requirement and the way a particular market operates. By way of an example, we are currently evaluating bids which have offered between 60-90% of the contract value to be with local suppliers.
24. As Members will be aware, some of our commissioning and procurement exercises can be quite lengthy. Consequently there are a significant number of work streams “in flight” which have

identified social value opportunities but where market responses have not yet been received.

- 25.** A couple of small examples of where Social Value has been realised from procurement exercises are:
- Ashton Bridge – 5 Apprenticeships and 28% spend with SME's/VCS organisations.
 - Great Run - The provider will actively engage with the largest 150 employers in the South West to encourage them to enter teams into the Bristol events. This engagement will take place directly and through business forums such as South West Business.
 - Home Care - The provider will engage with schools and other educational establishments to ensure that employment opportunities are made available for younger people, including through an appropriate apprenticeship framework.

Communication of the Policy

- 26.** The communication of the Social Value Policy has been undertaken in a number of ways:
- 26.1** The social value working group continues and membership includes, in addition to officers, representatives from Voscur Federation of Small Businesses, a social enterprise and a representative from the Office for Civil Society (OCS) Local Government, who run the social value implementation and measurement project. The local external members promote the policy with their membership.
- 26.2** The group was considering holding a follow up event on the progress of implementation of the policy for Members, suppliers and staff with specific emphasis on lessons learned and next steps. This has been deferred whilst the restructuring exercise is in progress.
- 26.3** Staff briefing sessions on the policy and the toolkit have been held.
- 26.4** Specific project advice is provided by the Procurement team.
- 26.5** As part of our annual supplier survey, undertaken in July 2016, a question was asked regarding the awareness of the Council's Social value policy. 465 responses were received to this survey and of this 56% of respondents stated that they were aware of the policy and how it was incorporated into contract award criteria.

SME Spend

- 27** The level of contractual spend with SMEs continues to be monitored and for the period April to September 2016 36.95% of spend was with SMEs .

Proposal

- 28** That Business Change Scrutiny notes the content of this report.

Other Options Considered

- 29** None/not Applicable

Risk Assessment

- 30 One of the risks of implementing this dedicated focus and attention on commissioning and procurement is that it may further slow processes. However, whilst this is a risk, the benefits identified far outweigh this and therefore this risk should be accepted.

Public Sector Equality Duties

- 31 Current requirements to meet Public Sector Equalities Duties as part of the commissioning and procurement process remain unchanged by this proposal.

Legal and Resource Implications

Legal

The Service Director for Legal Services is a member of the CPG group.

Financial

(a) Revenue

This proposal is regarding identifying appropriate savings opportunities, and therefore is supported.

(b) Capital

Not applicable.

Land

Not Applicable

Personnel

Not applicable

Appendices:

None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None