

Agenda

Corporate and Communities Overview and Scrutiny Panel

Tuesday, 23 October 2018, 2.00 pm
County Hall, Worcester

All County Councillors are invited to attend and participate

This document can be provided in alternative formats such as Large Print, an audio recording or Braille; it can also be emailed as a Microsoft Word attachment. Please contact Democratic Services on telephone number 01905 844963 or by emailing democraticservices@worcestershire.gov.uk

DISCLOSING INTERESTS

There are now 2 types of interests:
'Disclosable pecuniary interests' and **'other disclosable interests'**

WHAT IS A 'DISCLOSABLE PECUNIARY INTEREST' (DPI)?

- Any **employment**, office, trade or vocation carried on for profit or gain
- **Sponsorship** by a 3rd party of your member or election expenses
- Any **contract** for goods, services or works between the Council and you, a firm where you are a partner/director, or company in which you hold shares
- Interests in **land** in Worcestershire (including licence to occupy for a month or longer)
- **Shares** etc (with either a total nominal value above £25,000 or 1% of the total issued share capital) in companies with a place of business or land in Worcestershire.

NB Your DPIs include the interests of your spouse/partner as well as you

WHAT MUST I DO WITH A DPI?

- **Register** it within 28 days and
- **Declare** it where you have a DPI in a matter at a particular meeting
 - you must **not participate** and you **must withdraw**.

NB It is a criminal offence to participate in matters in which you have a DPI

WHAT ABOUT 'OTHER DISCLOSABLE INTERESTS'?

- No need to register them but
- You must **declare** them at a particular meeting where:
You/your family/person or body with whom you are associated have a **pecuniary interest** in or **close connection** with the matter under discussion.

WHAT ABOUT MEMBERSHIP OF ANOTHER AUTHORITY OR PUBLIC BODY?

You will not normally even need to declare this as an interest. The only exception is where the conflict of interest is so significant it is seen as likely to prejudice your judgement of the public interest.

DO I HAVE TO WITHDRAW IF I HAVE A DISCLOSABLE INTEREST WHICH ISN'T A DPI?

Not normally. You must withdraw only if it:

- affects your **pecuniary interests** **OR** relates to a **planning or regulatory** matter
- **AND** it is seen as likely to **prejudice your judgement** of the public interest.

DON'T FORGET

- If you have a disclosable interest at a meeting you must **disclose both its existence and nature** – 'as noted/recorded' is insufficient
- **Declarations must relate to specific business** on the agenda
 - General scattergun declarations are not needed and achieve little
- Breaches of most of the **DPI provisions** are now **criminal offences** which may be referred to the police which can on conviction by a court lead to fines up to £5,000 and disqualification up to 5 years
- Formal **dispensation** in respect of interests can be sought in appropriate cases.

Corporate and Communities Overview and Scrutiny Panel Tuesday, 23 October 2018, 2.00 pm, County Hall Worcester

Membership

Councillors:

Mr C B Taylor (Chairman), Mrs M A Rayner (Vice Chairman), Mr A D Kent, Mr R J Morris, Mr J A D O'Donnell, Prof J W Raine, Mr A Stafford, Mr R P Tomlinson, Mr R M Udall and Ms K J May (Cabinet Member with Responsibility)

Agenda

Item No	Subject	Page No
1	Apologies and Welcome	
2	Declarations of Interest and of any Party Whip	
3	Public Participation <i>Members of the public wishing to take part should notify the Head of Legal and Democratic Services in writing or by e-mail indicating the nature and content of their proposed participation no later than 9.00am on the working day before the meeting (in this case 22 October 2018). Enquiries can be made through the telephone number/e-mail address below.</i>	
4	Confirmation of the Minutes of the Previous Meeting	
5	Commissioning	1 - 14

Agenda produced and published by the Head of Legal and Democratic Services, County Hall, Spetchley Road, Worcester WR5 2NP. To obtain further information or hard copies of this agenda, please contact Samantha Morris 01905 844963 or Alyson Grice 01905 844962, email: scrutiny@worcestershire.gov.uk

All the above reports and supporting information can be accessed via the Council's website at [here](#)

Date of Issue: Monday, 15 October 2018

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CORPORATE AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL

23 OCTOBER 2018

COMMISSIONING

Summary

1. The Cabinet Member with Responsibility for Transformation and Commissioning and the Director of Commercial and Commissioning have been invited to the meeting to discuss the County Council's commissioning arrangements.
2. This Report aims to provide the Panel with:
 - Clarification on what is meant by Commissioning and definitions of the key terms
 - Details of the Council's Operating Model and the Commissioning process
 - Details of the Council's largest Contracts
 - An update on commissioning issues arising from recent audits considered by the Audit and Governance Committee.

Background

3. Commissioning is a key issue on the Panel's work programme and has also been discussed by the Audit and Governance Committee at its July and September 2018 meetings. Additionally, an update was provided by the Chairman of the Audit and Governance Committee at Council on 13 September.

What is Commissioning?

4. The Panel is reminded that commissioning is the process of ensuring that the outcomes identified in the Council's needs analysis are delivered through the right service and with the right models of delivery, whether that be through public sector, private or other sectors, voluntary service sector or through social enterprises. (Outcomes are a measure of what matters to the customer) *Local Government Association*
5. It is not just about buying services; it is about finding innovative solutions to deliver better outcomes for the public. As part of commissioning we should consider: *What we can Make, Buy, Borrow, Share, Adapt, Change, Join or Decommission.*
6. The outcome of a commissioning activity may be:

- The letting of a contract
- Outsourcing: Replacing internally provided services and goods with external providers. These could come from the voluntary or private sector (privatisation).
- Insourcing: Replacing externally provided services and goods with internal providers
- Retaining either an internal/external provision (this may mean a change of supplier if external)
- Ceasing provision.

7. A copy of the Local Government Association (LGA's) 'A Councillor's workbook on the Commissioning of Services' is attached at Appendix 1.

The Council's Position

8. The Council began the journey to become a "Commissioning Authority" in 2011 and currently has approximately 1500 contracts with suppliers and had a commercial spend of £494m in 2017/18 (this includes capital and revenue spend and pooled spending).

9. The current operating model and commissioning process for the Council are detailed at Appendix 2.

10. There are structures and tools in place to support commissioning within the Council. The Commercial and Commissioning Board meets weekly to optimise, align and ensure consistent commissioning, procurement and commercial activity across the Council. The terms of reference and membership of this Board are detailed at Appendix 3. In addition to financial data, this Board can draw upon tools such as the Contract Liquidity Data (the time when contracts expire or can be terminated) and Commissioning Plans. Going forward, we are looking at ways in which Members can become further engaged with key commissioning projects.

Key statistical Information

11. The breakdown of spend on services provided externally for 2017/18 is provided at Appendix 4. There is an in-county spend of approximately 65% and spend with private Small and Medium sized Enterprises (SMEs) of approximately 40%.

12. The top organisations we are buying services from are:

Supplier Name	Net Spend	% of Total Spend
Worcs Health & Care NHS Trust	£39,546,117	8.00%
Ringway Infrastructure Services	£34,277,964	6.94%
Mercia Waste	£30,465,865	6.17%
Bromsgrove Schools SPV Ltd	£10,249,227	2.07%
Matrix SCM Limited (Agency)	£9,863,545	2.00%
Alun Griffiths (Contractors) Ltd	£7,961,648	1.61%
Babcock Training Limited (Learning & Achievement)	£7,322,183	1.48%
Place Partnership Limited	£5,880,059	1.19%
West Mercia Energy	£5,687,324	1.15%
WLHC Projectco Limited (The Hive)	£4,893,017	0.99%
Halcrow Group Ltd (Civil Eng. Consultants)	£4,542,295	0.92%
Dimensions (UK) Ltd (Adult Social Care)	£4,398,499	0.89%
First Shared Services (Transport)	£3,835,593	0.78%
Swanswell (Drug and Alcohol)	£3,809,050	0.77%
Inclusion Care (Adult Social Care)	£3,429,623	0.69%
British Telecommunications Plc (ICT)	£3,194,331	0.65%
Sanctuary Care Property (1) Ltd (Adult Social Care)	£3,061,630	0.62%
Prysmian Cables & Systems Ltd (Street Lighting)	£2,939,280	0.59%
Diamond Bus Company Limited (Transport)	£2,893,593	0.59%

13. There are a broad range of services that continue to be provided internally e.g. Children with Disabilities, Transport Planning, Registration and Coroner Services.

14. It is important to note that, as a result of the commissioning process, there have been services that have gone out to market, but then following environment and market changes, have subsequently been brought back in house e.g. ICT services, effective October 2018.

Recent Audit and Governance Committee activity regarding Commissioning

15. The Council's Commissioning arrangements have been subject to external audit by Grant Thornton through the statutory audit of the Council and preparation of the Council's financial statements for the year ended 31 March 2018. The Auditors concluded that:

While the Council is making progress in the area of commissioning there remains a risk that lessons learned from the implementation of major contracts are not being appropriately disseminated to all officers. There is a risk that commissioning departments do not have the necessary skills and expertise to secure the best outcome for the users of the service. As a result we are proposing an except for VFM conclusion.

16. At its meeting in July 2018, the Audit and Governance Committee considered issues arising from internal audits in relation to the Bromsgrove Rail project and the

Evesham Abbey Bridge project. Whilst receiving a high level summary of the outcome of these audits, a summary of the results of three other related audits (contracting, procurement and Place Partnership) was also provided to give a more rounded picture of key governance, control and risk issues relating to commissioning and contracting activity generally.

17. The Audit and Governance Report concluded that the report to Cabinet on the Bromsgrove project did not clearly set out the financial implications of the project and did not reflect the agreements made with partners. The key issues on the Evesham project were the Contractor's seriously under-priced bid and a skills deficit within the Council and as such this project shows the risks in accepting underpriced tenders i.e. those which offer the contractor no financial margin, especially where the contractor is also taking on significant cost risks. It also exposes the need for further skills development particularly around business case development and tender evaluation.

18. The Committee noted that it is important that contract monitoring arrangements are robust to ensure that benefits, both financial and quality, originally identified are being achieved and contractors held to account for poor performance. Whilst areas of good practice were identified in procurement and contract management, the audits identified a range of non-compliances and need for additional guidance and support. Whilst some noncompliance is inevitable given the scale of procurement activity within the Council, the audits indicate that improvements in processes and overall levels of compliance are required.

19. The audits taken together with known issues arising from other significant contracts (Liberata) suggest that more guidance, support and training (particularly around service specification, business case development and tender evaluation) and better quality assurance /compliance monitoring is required. The Committee was particularly concerned that lessons learned from both successful and less successful commissioning were shared and that reputational risk should be part of the consideration of projects. The Committee has noted the issues arising from internal audits on commissioning issues.

20. At its meeting in September 2018, the Audit and Governance Committee received an update on management action to date in response to the conclusions of the external audit's conclusion on the Councils Value for Money (VFM) arrangements. Details included:

- A review of the current strategies and structures to assess fit for purpose arrangements. This has identified a need to review the Procurement Regulations and practices, as well as the way contracting is planned and governed. As a result a Commissioning and Commercial Board has recently been established to oversee all arrangements, including reviewing how lessons are learnt.
- A review of the top 10 to 20 contracts is underway to assess the current position on contracts and value for money.
- A review of current contracts has been undertaken against lessons learnt from recent schemes. This has identified and required additional diligence in the replacement for the social care database that has resulted in improved planning

and review. It has also deferred the issuing of one tender to assess the opportunity for greater value for money.

- The methods used to commit spend are being reviewed to ensure there is greater opportunity for economies of scale from more joined up purchasing across the organisation.

Purpose of the meeting:

21. The Corporate and Communities Overview and Scrutiny Panel is asked to:

- Consider the detail in the Report about how the County Council currently commissions its services: and
- Taking into account the Reports of the Audit and Governance Committee, consider what further Scrutiny it would wish to carry out.

Supporting Information

- Appendix 1 – LGA - A [Councillors' Workbook](#) on the commissioning of services
- Appendix 2 - The current operating model and commissioning process for the Council
- Appendix 3 - The Commercial and Commissioning Board Terms of Reference and Board Members
- Appendix 4 - The breakdown of spend on services provided externally for 2017/18

Specific Contact Points for this Report

Andrew Spice, Director of Commercial and Commissioning 01905 846020

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Samantha Morris/Alison Spall Overview and Scrutiny Officers Tel: 01905 844963/ 01905 846607

Email: scrutiny@worcestershire.gov.uk

Background Papers

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) the following are the background papers relating to the subject matter of this report:

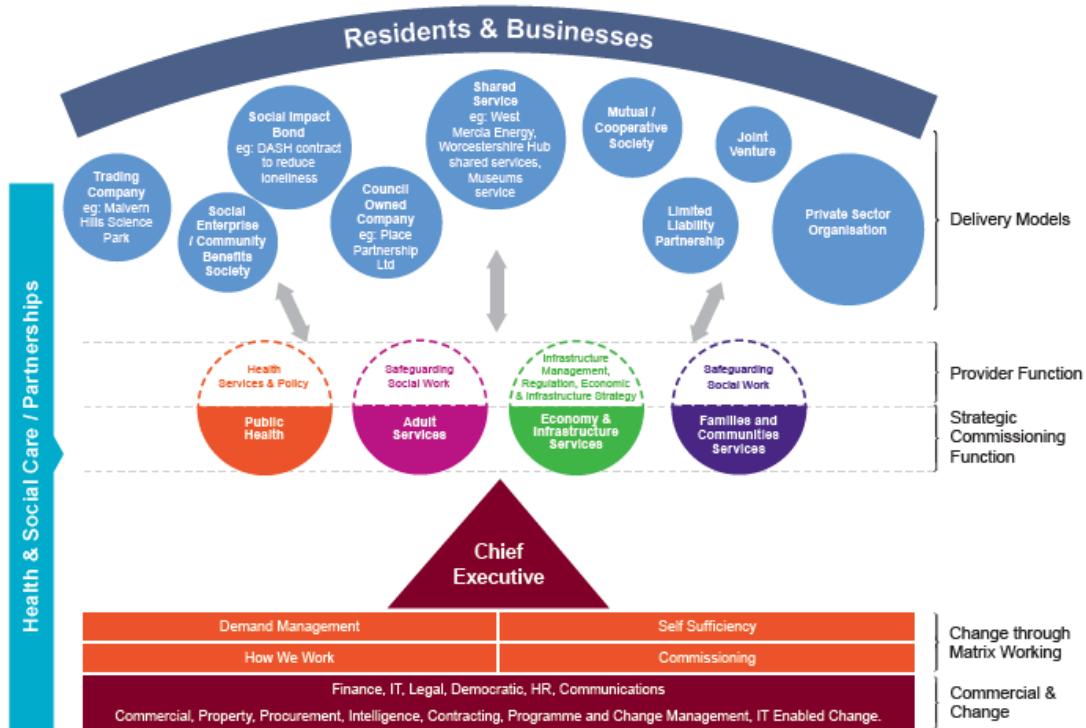
Agendas and Minutes for the [Audit and Governance Committee](#) dated 26 July and 21 September 2018

Agenda and Minutes for [County Council](#) dated 13 September 2018

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OPERATING MODEL

July 2016



EVALUATION

Assess the needs and determine the desired outcomes. Consider demand management. Research and engage with the Market

DESIGN ("Make/Buy/Cease" Decision)

Explore alternative delivery and procurement and recommend appropriate models to meet needs. This may involve co-production with providers

SOURCE

Manage the process of engaging the provider(s) in line with the recommended delivery model

REVIEW

Manage the contract(s) and provider(s). Proactively manage and collaborate with provider(s) to achieve high performance and identify savings



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Commercial and Commissioning Board – Terms of Reference

Document Owner	David Griffiths – Strategic Procurement Manager		
Version / Date	0.1 23 rd Aug 2018		
Status	Draft		
Version	Date	Summary of Changes	Document Status
0.1	23/08/18	Document Created	Draft

1. PURPOSE OF GROUP

We have a duty to our communities to apply controls and consistent standards across all of our commercial activities. Applying good leadership and governance ensures that our key decisions, processes and procedures are legal, reflect best practice and manages risk.

Our procurement is subject to European law and we have to demonstrate that it is compliant with legislation and the principles of fairness, non-discrimination and equality. It is essential that all procurement complies with the Council's policies, procedures and transparency code.

2. ROLES

The Board represents all spend undertaken by the Council with third parties. Its remit is to:

- Review the Commissioning Plan
- Realise the outcomes of the Commercial strategy and to review and authorise:
 - Revisions to the Strategy, ensuring it aligns with the Council's approach to Strategic Commissioning
 - Procurement, Contract and Supplier Management Policies and Procedures
 - Category & Procurement Plans
- Own the targets, milestones and cost savings stated within the Commercial Strategy
- Identify and approve procurement projects to undergo a Health Check / Gateway review process (Local Partnerships Worcestershire Internal Assurance Toolkit (IAT))
- Review and approve all Contract Reviews
- Resolve major procurement project escalation issues as they arise
- Ensure all procurement complies with the Council's policies and procedures and transparency code.

3. OBJECTIVES

The objectives of the Board are to:

- Optimise, align and ensure consistent commissioning, procurement and commercial activity across the Council
- Develop and champion the Council's approach to strategic commissioning and procurement
- Align strategic commissioning activities with those of strategic procurement
- Review, challenge and approve the cost savings opportunities
- Review all contract reviews to determine the likelihood of successful delivery of the contract and forecasted benefits, including value for money
- Ensure robust cross-directorate scrutiny of all relevant contracts and projects is undertaken with full appraisal of relevant options.



4. MEMBERSHIP

All core members are to prioritise the Commercial and Commissioning Board and make a commitment to contribute to all meetings. Suitably briefed delegates will be accepted.

If a core member is unable to attend a meeting he/she should notify the Chair as soon as possible.

Core Members	
Name	Role
Andrew Spice (Chair)	Director – Commercial and Commissioning <ul style="list-style-type: none"> • Chair of Board • Executive direction
Michael Hudson	Chief Financial Officer – Finance <ul style="list-style-type: none"> • Executive direction
Sarah Wilkins/Hannah Needham	Children, Families and Communities Commissioning (Service Head) <ul style="list-style-type: none"> • Commissioning direction
Elaine Carolan	Adult Social Care Commissioning (Service Head) <ul style="list-style-type: none"> • Commissioning direction
Rachel Hill/Nigel Hudson/Paul Smith	Economy and Infrastructure Commissioning (Service Head) <ul style="list-style-type: none"> • Commissioning direction
Liz Altay	Public Health Commissioning (Service Head) <ul style="list-style-type: none"> • Commissioning direction
David Griffiths	Strategic Procurement Manager <ul style="list-style-type: none"> • Procurement expertise
Andrea Blake	Commercial Contracting Manager <ul style="list-style-type: none"> • Contracting expertise
Katie Beddows	Project Manager <ul style="list-style-type: none"> • Project management

The Board may invite additional participation from Directorates, as considered appropriate for the agenda.

A minimum of four Board members in total must be in attendance. This must include:

- Chair (Director of Commercial and Commissioning or Finance)
- 2 Service Heads (or authorised deputy)
- Strategic Procurement or Commercial Contracting Manager

5. FREQUENCY OF MEETINGS

The Board will meet weekly (face to face / conference call).

Documentation will be circulated 2 days prior to meetings. An action and decision log will be kept; the Strategic Procurement Manager will have responsibility for capturing and monitoring actions and decisions.

6. ACCOUNTABILITY

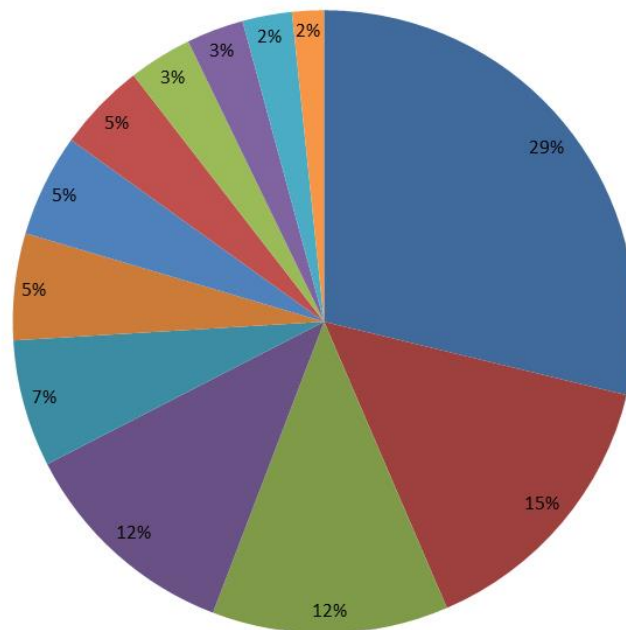
The board is accountable to SLT



7. STANDARD AGENDA ITEMS

- Welcome and Introductions
- Actions from previous meetings
- Contract review updates
- Procurement spend and savings
- Contract performance, targets and milestones
- Commissioning plan update
- Category and procurement plan update
- Commercial strategy update (quarterly)
- Category plan reviews (quarterly)
- AOB

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Category	Spend
Adult's Social Care	£142,227,291
Children Services	£72,939,868
Construction	£60,606,297
Health & Wellbeing	£57,465,863
Environmental Service	£32,615,538
Facilities Management	£27,371,903
Transport	£26,336,510
Commercial Services	£22,776,821
Education	£16,249,495
ICT	£14,679,855
Financial Services	£12,714,782
Other	£8,144,949

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