

## **CORPORATE AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL**

**23 OCTOBER 2018**

### **COMMISSIONING**

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#### **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**

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### **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