

People Committee

15 September 2022

Voluntary, Community and Social Enterprise Sector Commissioning 2023

Report by: Sarah Ireland, Executive Director of Corporate and Communities, and Sharon Houlden, Executive Director of Adult Social Care and Health

Relevant Portfolio Holders: Councillor Andreas Kirsch, Leader of the Council and Portfolio Holder for Finance; Councillor Noel Hadjimichael, Portfolio Holder for Assets, Leisure and Commissioning; Councillor Sabah Hamed, Portfolio Holder for Adult Social Care and Public Health; Councillor Stephanie Archer, Portfolio Holder for Children's Services including Education

Purpose of Report

This report sets out the proposals for the commissioning and procurement of Council contracts with the Voluntary Community and Social Enterprise (VCSE) sector for 2023 onwards.

Recommendation(s)

The Committee is asked to RESOLVE that:

1. The proposed contracts, services and delivery phases of the commissioning programme for the VCSE sector, as set out in the report, be approved.
2. The proposal to proceed with the procurement of the contracts in phase one be approved.
3. The procurement strategy set out in the report for the phase one contracts, including the deviation from the standard weightings for the reasons set out in paragraph 39, be approved, resulting in a competitive tender process under the Light Touch Regime for appointment of single providers.
4. Any contract variations or extensions required to existing contracts to facilitate the timescales for phases two and three are endorsed, with the authority to approve such variations or extensions delegated to the Executive Director of Corporate and Communities, in consultation with the Portfolio Holder for Assets, Leisure and Commissioning.
5. For the reasons set out in the report, authority to approve the contract awards arising from the proposed tendering exercise of phase one is delegated to the Executive Director of Corporate and Communities or the Executive Director of Adult Social Care as appropriate, in consultation with the Leader, the Portfolio Holder for Assets, Leisure and Commissioning, and the Portfolio Holder for Adult Social Care and Public Health.

Benefits to the Community:

The VCSE sector plays a vital role in Kingston supporting some of the borough's most vulnerable residents. The sector has played a crucial role in the Kingston Covid response and continued funding of local VCSE organisations is an important part of ensuring the Council has an effective approach to prevention, early help and early intervention. These proposals allow us to build strategic partnerships in the new health landscape, learn from the Covid response, the priorities of the Communities Taskforce, the recommendations from Seizing the Moment community engagement, and sector best practice. The service priorities, specification requirements and monitoring approach have been co-designed with the sector over the past few months.

Key Points

- A. The Council has a commitment to working in partnership with the voluntary sector, and supporting residents to become active participants in their communities. The proposals set out in this paper seek to support these aspirations.
- B. Extensive engagement with the sector has enabled the Council to design in partnership a range of contracts that meet the needs of Kingston residents and VCSE organisations. Consultation with internal stakeholders and partners has supported development of these contracts, to maximise use of our resources and streamline our processes and approach to our work with the sector.
- C. Existing contracts with the VCSE sector will expire on 31st March 2023. The proposals in this document set out a phased approach to future commissioning of these services, providing market stability and service continuity. Agreements to provide contract extension waivers will facilitate the delivery of this approach.
- D. A competitive tendering process will allow the sector to capitalise on its specialist subject knowledge to address the requirements as set out in the specifications. In addition, it is anticipated that the process will promote value for money and elicit innovative and creative solutions to meeting resident needs, as well as attracting new entrants to the market.

Context

1. In 2019 the Council commenced a review of relationships and commissioning models with the VCSE sector. This work was informed by feedback from the sector and engagement with partners to explore new ways of working. The work was disrupted by the impact of the pandemic. In order to provide time to co-design a new model for commissioning, in January 2021 the Response and Recovery Committee approved recommendations to extend existing commissioning relationships with the sector. Where there was contractual provision, agreements

were extended in line with the available extension option, with the majority extended to March 2023.

2. The pandemic highlighted new ways of working, and the different approaches taken by all partners during the Covid response. The enhanced collaborative approach developed between the Council and the voluntary sector in response to the Covid-19 pandemic demonstrated a shared value base and commitment to delivering positive outcomes for vulnerable people in the borough. Furthermore, the pandemic has brought forward a new generation of voluntary and community groups which the Council may wish to work with differently to support the sustainability of a diverse local VCSE sector.
3. The Council is currently working with the sector to develop a new Community Investment and Citizen Action Strategy, which has informed the approach recommended in this report. The emerging principles of that strategy are focused around a partnership that places the VCSE at the heart of provision and the heart of communities. Relationships with the sector will be based on trust, increase transparency and support stronger sector collaboration. To support this, the Council will invest in the right infrastructure to support the VCSE sector and support opportunities for participation through formal and informal volunteering and resident action. The Council will also work in partnership with the sector to commission innovative and evidence-based services within a prudent and affordable financial framework leading to improved outcomes for residents.
4. To ensure the commissioning model and priorities are fit for purpose and responsive to future need, and in light of the previous extensions to current contracts, the Council has undertaken a review of the contracts commissioned with the VCSE sector. This review has taken account of the Seizing the Moment community engagement report, the findings of the state of the sector survey 2022, the new ways the VCSE sector is working, and the strategic objectives set out in the emerging VCSE Strategy currently being developed in partnership with the sector. In addition, the Council has considered its wider partnerships and joint commissioning arrangements, particularly as it is not the sole or direct funder of several contracts with the VCSE sector.
5. Having reflected on the timescales, the Council considers that, while it was beneficial to assess the needs and community outcomes for the sector as a whole, due to the complexity and breadth of services in the new commissioning model, a phased approach will need to be applied to the recommissioning of the new services. This phased approach will be more beneficial for both the council and the sector as it will enable the new service requirements to be fulfilled over a specified period of time, affording the sector greater opportunities to tender for the services in scope of the new model.
6. To support the delivery of the new commissioning model arrangements with the VCSE sector utilising a phased approach during 2023, the Council will need to consider the sustainability and stability of contracts that are planned to be

commissioned in the later phases of the new delivery model. Services to be commissioned in later phases will require the current contractual arrangement to be reviewed and may be subject to contract variations or extensions in order to provide continuity of services until they are recommissioned in Phase 2 and 3.

Current contracts and services

7. A wide range of services and organisations have historically been commissioned by the Council with the VCSE sector. There have been a number of different arrangements, variations and collaborative funding agreements developed over time. This has resulted in a complex portfolio of contracts that has been challenging to disaggregate. As part of the development of this proposal a full review of all contracts has been undertaken, including a detailed rationalisation of spend against demand and outcomes.
8. This report provides a detailed plan for delivery of these contracts, taking account current and future demand, organisational objectives and maximising resources.

Codesign approach

9. The council is committed to working in partnership with the voluntary sector, and supporting the findings of the Seizing the Moment community engagement review. A comprehensive set of co-design workshops have been delivered throughout June in order to facilitate the sector in shaping the future of the VCSE sector in Kingston for 2023.
10. Design events were open to all, with communications sent to all known VCSE providers in Kingston in order to ensure access for interested parties. A wide range of providers attended across the three sessions, and shared their design ideas. The design ideas captured in these workshops have fed directly into the development of the approach and design of the contract specifications. An additional workshop was delivered in August to further explore the infrastructure requirements of the sector, and develop the specification for the infrastructure contract.
11. A further series of workshops were held with internal stakeholders, commissioners and contract managers. These sessions were focussed on identifying areas of strength, and exploring areas that require further development or investment in order to meet resident outcomes.

Proposed contracts, services and delivery phases

12. A phased approach to the commissioning process is recommended, with some contracts falling into an initial Phase One, with the procurement commencing in September 2022, and the remaining services being sourced under further phases during 2023. A number of contracts have already been progressed via an earlier

phase as part of the Day Opportunities commissioning, which was approved by the [People Committee on 16 June 2022](#).

13. This approach will allow us further time to shape and define our approach in key areas, whilst ensuring that statutory and priority services are commissioned as soon as possible. In addition this will ensure that key health and social care services are not destabilised during peak demand periods, and enables partners to contribute to multi-agency commissioning plans.
14. Whilst these proposals do not directly relate to services for childrens and families commissioned by Achieving for Children, where there are opportunities to work together, these will be further explored and developed. Furthermore, the Council's approach is to commission flexible, responsive and developmental contracts and this will provide the ability to refine services during the contract term to include provision for children and families where this is appropriate, affordable and will improve outcomes.
15. Through the codesign and stakeholder sessions, a focussed set of priority provision types and commissioning themes emerged. There are nine proposed 'commissioning themes', each with sub-groups setting out the 'provision type' This assists us in focussing our intentions into areas of need. The proposed commissioning themes and provision types for each phase are set out below:

Phase 0 - June 2022 to March 2023

Commissioning Theme 0: Day Opportunities and Meaningful occupations

16. A new model for Kingston, which enables people to have a choice between building based services and community based services. This will be supported by the use of a support broker. All services will change to be outcome focussed, encourage the use of universal services and support people to access volunteering, work and educational opportunities. The services in this theme include:
 - Building Based Day Opportunities and Meaningful Occupations
 - Community Based Day Opportunities and Meaningful Occupations
 - Preventative Day Opportunities and Meaningful Occupations
 - Buddy scheme
 - Supported Employment

Phase One - September 2022 to March 2023

Commissioning Theme 1: Infrastructure Support and Capacity Building

17. This theme provides specialist support to the VCSE sector and will enable citizens to engage with community action and volunteering.
18. The services in this theme include:
 - Volunteering and Participation Enablement Support

- Health, Care and Social Prescribing in the Voluntary Sector
- Sector Infrastructure Support

Commissioning Theme 2: Refugee, Asylum Seeker and Vulnerable Migrant Support

19. Specialist services for refugees, asylum seekers and vulnerable migrants to ensure that people know where to go for information, advice and advocacy that enables them to access specialist support, build social networks, engage in local activities, and participate in community life.
20. The services in this theme include:
 - English Provision for refugees and migrants
 - Refugee and Asylum Support; advocacy, information and advice, integration and destitution support
 - Advocacy, Information and Advice for Vulnerable Migrants

Commissioning Theme 3: Carers Support

21. Services to meet the Council's obligations under the Care Act to support carers and offer carer assessments. The contract will offer assessments, advice, guidance and support for Kingston adult carers aligned to the new Carers' Strategy.
22. The services in this theme include:
 - Adult Carers Support

Phase Two - February 2023 to September 2023

Commissioning Theme 4: Information Advice and Guidance

23. Provision of universal and specialist information and advice for Kingston residents to enable them to prevent escalation where possible and enable them to live independently. This is likely to include information, advice and casework around welfare benefits and tax credits, debt, housing, employment, consumer goods, immigration, health and relationships. It is proposed that existing services under this theme are extended to September 2023 whilst the commissioning model for this theme is further developed with the sector. This will ensure that providers can be focused on continuity of provision during the winter which is likely to be extremely challenging given the cost of living crisis and the specific challenges of escalating energy costs.
24. The services in this theme include:
 - Statutory Information and Advice
 - Equality, Inclusion and Diversity Information and Advice
 - Specific Cost of Living Crisis and Fuel Poverty Support

Commissioning Theme 5: Adult Social care

25. Provision of a range of specialist community based services for Kingston residents to enable them to live as independently as possible. These are a range of targeted preventative and specialist support services for people with social care needs. It is

proposed that existing services under this theme are extended to September 2023 to minimise disruption. This will ensure that providers can be focused on continuity of provision during the winter.

26. The services in this theme include:
- Transport
 - Dementia support
 - Information Advice and Guidance for Older People
 - Community Support for Older People
 - Personal Assistant Brokerage
 - Respite

Commissioning Theme 6: Mental Health Support, Wellbeing and Disabilities

27. Provision of a range of specialist community based services for Kingston residents with mental health problems and people with disabilities. It is proposed that existing services under this theme are extended to September 2023 to minimise disruption. This will ensure that providers can be focused on continuity of provision during the winter.

28. The services in this theme include:
- Mental Health Support
 - Health and Wellbeing
 - Services for those with disabilities and Neurodevelopmental Disorders

Commissioning Theme 7: Domestic Abuse

29. Provision of community based services for Kingston residents affected by domestic abuse, including specialist accommodation for those needing housing and a safe space to escape domestic abuse. It is proposed that existing services under this theme are extended to September 2023 to minimise disruption. This will ensure that providers can be focused on continuity of provision and that we can work with the sector further to shape a new service model that responds to emerging needs.

30. The services in this theme include:
- Domestic Abuse Community Outreach Service
 - Domestic Abuse Accommodation

Commissioning Theme 8: Environment and Climate Change

31. Provision of community activities and projects which support the Council's climate action plan objectives and will enhance the borough's natural environment and biodiversity. It is proposed that existing services under this theme are extended to September 2023 to enable the Council to undertake further work with local groups to inform the priorities and funding model for the future.

32. The services in this theme include:

- Energy and Sustainability Projects

Phase Three - Timescales to be agreed

Commissioning Theme 9: Statutory Advocacy

33. Provision of statutory advocacy in line with the Council's obligations under the Care Act. It is proposed that existing services under this theme are extended to April 2024 to ensure that new provisions can be aligned with the new Liberty Protection Safeguards.
34. The services in this theme include:
- Statutory Advocacy

Phase One Options Considered

35. For the purposes of this exercise, the following options have been explored

Option 1: Do nothing	The services provided through the VCSE sector are very important to Kingston residents and there is a continued need for the provision. As a result, Option 1 has been discounted.
Option 2: Bring service in-house	<p>The option to bring the services in-house will need a lot more investment into internal capacity, resources and capabilities. VCSE providers are already established within Kingston and some nationally with many years of third sector experience. In order to promote innovative solutions and transformative services it is better for the council to go to market and work with the VCSE providers than to bring services in-house.</p> <p>Furthermore, bringing the services in-house would have a significant impact on the sector and result in £millions of disinvestment in local VCSE organisations at a time when the Council is keen to ensure the vitality and sustainability of the sector. Option 2 has been discounted as a result.</p>
Option 3: Call off under an existing framework, specify: i) a mini-competition or ii) direct award (detail which)	In order to support and promote the innovative solutions and transformative services RBK seeks for the future commissioning of VCSE services a bespoke solution is sought and this will not be achieved by utilising frameworks. Whilst there may be some existing national or regional frameworks for some elements of the provision, in most cases local VCSE organisations are not eligible providers under those frameworks. Accordingly, in order to meet the aim that the Council works with and invests in the VCSE sector, it is not recommended to utilise an existing framework.
Option 4: Run a competitive tender for the appointment of single providers.	The Council will seek to award contracts in the form of separate lots. Each contract will underpin a VCSE commissioning theme and the size and subject matter of the lots will vary depending on the commissioning theme of the contract. Each contract and lot will have a contract value assigned. The total value of each contract will be reflective of the individual value of each lot. A single provider will be awarded a contract for each lot.
Option 5: Establish a new Framework	To establish a new framework that would offer the ability to run mini competitions or make direct awards to providers over a possible 4 year period. This is not a requirement for the delivery of these services as the intention is to award individual contracts to single providers against individual service specifications.

Option 6: Commission with another local authority / other partners	Working with the local voluntary community and faith sector is a top priority for the council as this is the best way to deliver the right services for local people. Also understanding the residents through local familiarity gives us the best opportunity to achieve the right outcomes; as such option 6 has been discounted.
Option 7: Access or establish a Dynamic Purchasing System	There is limited time and digital capacity internally to set up, train and manage a Dynamic Purchasing System (DPS). Also, with such a diverse VCSE sector in Kingston there is a risk that the varying levels of digital capability would disadvantage some groups and organisations. Due to the nature of the providers (non profit/third sector) a DPS, which is usually on the more commercial procurement side for 'off the shelf' goods and services, is not recommended for highly complex requirements. As such option 7 has been discounted.

36. The preferred option is **Option 4: Run a competitive tender for the appointment of single providers**

Procurement Strategy - Phase One Commissioning Themes

37. The sourcing of the new services will be carried out in three phases as set out in paragraphs 16 to 34 of this report. This procurement strategy is in relation to Phase One only.
38. The proposed procurement will follow an open procedure under the Light Touch Regime of the Public Contract Regulations (74-76). Each commissioning theme will be split into separate lots. The Council will seek to award contracts in the form of separate lots. The size and subject matter of the lots will vary depending on the contract. Each lot will have a contract value assigned. The opportunity will be published via the London Tenders Portal.
39. The following contracts will be tendered under Phase One:

	Indicative annual contract value	Indicative total contract value (3+1+1)
Commissioning Theme 1: Infrastructure Support and Capacity Building		
Volunteering and Participation Enablement Support	£90,000	£450,000
Health, Care and Social Prescribing in the Voluntary Sector	£58,000	£290,000
Sector Infrastructure Support	£280,000	£1,400,000
Commissioning Theme 2: Refugee, Asylum and Vulnerable Migrant Support		
ESOL provision for Refugees and Migrants	£18,000	£90,000

Refugee & Asylum Support; advocacy, information and advice, integration and destitution support	£54,000	£270,000
Advocacy, Information and Advice for Vulnerable Migrants	£43,000	£215,000
Commissioning Theme 3: Carers Support		
Adult Carers Support	£100,000 RbK funding £140,000 (Health) Total £240,000 (indicative value - total value to be confirmed)	£1,200,000 (*subject to confirmation of Health funding)

40. Potential providers may bid for one or more, or all lots within the commissioning theme. Providers must be capable of providing all elements within a lot. Lots will not be further divided. Each contract will allow for iteration and innovation over its lifetime, and the proposed commissioning approach will ensure that there is flexibility to respond to emerging needs and evolve the service within permitted procurement rules.
41. Contracts awarded against lots will be awarded using the most economically advantageous tender evaluation method with a weighting of 75% for quality, including 15% social value, and a 25% weighting will be applied to price. Given the importance of the services and the sector, and the current financial pressures, there is no expectation of savings against the existing financial envelopes. It is anticipated that bidders will be able to price up to the budget envelope to demonstrate how they can deliver against the specification within the anticipated contract sum. With quality of service delivery as the main driver, and the anticipation that this is what will differentiate the bids, it is proposed to deviate from the standard weightings and place a higher weighting of 75% on quality criteria, inclusive of 15% for social value.
42. The evaluation of tenders received will be undertaken in three stages:
Stage 1 - Compliance
Stage 2 - Quality
Stage 3 - Price
43. Tenderers will be required to pass each stage of the evaluation before moving to the next stage of evaluation.
44. Contracts will be awarded for an initial term of 3 years plus 2 further extensions of up to 12 months each.

SSQ Compliance Criteria:

45. Tenderers will be required to meet the Council's suitability assessment at the Supplier Selection Questionnaire (SSQ) stage in order for their Tender to be considered against the Stage 2 Quality award criteria. The SSQ stage will be assessed on a pass/fail basis.
46. Tenderers at the SSQ stage will be subject to RBK financial checks. Tenderers will be required to confirm they have a minimum level of insurance cover in accordance to the risks associated with the service being provided. The insurance levels required will be proportionate and will be set out in the tender specification and Invitation to tender document.
47. London Living Wage is a requirement of this tender. It is considered that London Living Wage will promote social wellbeing of employees, including improved productivity and retention together with lower staff training costs which improves the social value of procurement overall in accordance with objectives of the Public Services Social Value Act 2012. A commitment to pay LLW (London Living Wage) directly to staff and any relevant subcontractors of the organisation will be a requirement of the contract.

Quality Criteria: 75%

48. Tenderers will be required to set out their proposal to meet the requirements of the service specification for the relevant lot and demonstrate their experience of and capability to deliver similar or related services. Providers will be required to respond to a set of core method statements and a number of lot specific method statements.

Core Method Statements

49. The tier one evaluation criteria are as below:
 - Service delivery - 30%
 - Prevention and resilience - 10%
 - Equalities, diversity and inclusion - 20%
 - Social value - 15%
50. Across each of the tier one evaluation criteria, there will be a small number of method statement questions, comprising core method statements required for all contracts and contract specific method statements that are related to the theme and lot.
51. As part of the evaluation criteria for this procurement exercise Tenderers will be assessed against selected social value indicators from the Council's [Social Value Framework](#) which is aligned to the National Themes, Outcomes and Measures (TOMs) Framework.

Price Criteria: 25%

52. Price will be evaluated on the annual cost for the service for each lot with the lowest tendered price receiving the maximum weighted price score of 25% and other tenders receiving a percentage based on their deviation from the lowest tendered price. The Council's Premier Supplier Programme (PSP) includes a freepay option for local micro suppliers with a Kingston postcode and a turnover amount of no more than £632k per annum. This entitles them to accelerated payment terms without application of the dynamic % fee rebate. Given that many of our local VCSE organisations are likely to meet the criteria for freepay, it has been determined that it would not be equitable or appropriate to include a PSP offer as an evaluation criteria within these tenders.

Overall Evaluation

53. Contracts will be awarded to the highest ranked provider for each lot. Whilst the award of any lot should not be dependent on the award of any other lot, the Council will reserve the right to review the awards to providers ranked highest across multiple lots to ensure capacity across all services, especially in cases where the same provider is ranked first against multiple lots.

Decommissioning strategy

54. All contracts have been reviewed internally and detailed analysis undertaken to establish risks and interdependencies associated with each provider and contract.
55. Current VCSE sector contracts are scheduled to expire in March 2023. Contracts awarded during Phase one will start from 1st April 2023. Providers with contracts falling into Phase 2 will be extended for 6 months up until 31st September 2023. Where permitted extensions do not apply, appropriate waivers will be sought.
56. Any providers affected by the outcome of Phase One will be supported by a transitional fund and package of support from April 2023. This will be replicated for subsequent phases.

Stakeholder Engagement

57. As outlined in the codesign section of this report a comprehensive programme of stakeholder engagement has taken place. The outcome of these design events and further engagement with the VCSE sector has informed the commissioning intentions and recommendations made within this report.

Timescale

58. The following table sets out the proposed timescales for the Phase One delivery of this programme. To ensure sufficient time to mobilise the new contracts it is recommended that where a contract value exceeds £1m, the authority to award contracts arising from the Phase One tendering is delegated to the Executive Director Corporate and Communities, in consultation with the Leader and Portfolio Holder for Assets, Leisure and Commissioning. This will provide sufficient

opportunity to work with providers for new services to commence on 1 April 2023, manage any required TUPE processes and ensure that the Council can work with any provider affected by the outcome to develop an appropriate transition support package. The outcome of the awards will be reported to the next appropriate Committee meeting in February 2023.

Activity	Proposed Date
Committee Approval	15 September 2022 (call in 29/09/22)
Specification agreed & tender documentation approved	23 September 2022
Issue Invitation to Tender	3 October 2022
Clarifications Close	21 October 2022
Clarification Response deadline	27 October 2022
Tender return deadline	2 November 2022
Tender evaluation	November/December 2022
Moderation	December 2022
Commissioning Board	5 January 2023
Decision to award taken under delegation	January 2023
Standstill period	January 2023
Contract award	End of January 2023
Update to Committee meeting regarding the process, outcomes and next steps	7 February 2023
Contract commencement	1st April 2023
FTS Contract Award Notice despatch (if applicable)	April 2023

Resource Implications

59. The budget for these contracts is part of the Adults Social Care and Health Directorate base budget and the proposal will not affect the financial position of the directorate. There are no MTFP savings against these contracts in 2022/23.
60. The key principles guiding finance and resourcing for this programme are outlined below:
 - Current contract values are to be used as a baseline for developing contract envelopes
 - That inflation will be at the Council's discretion based on local conditions, market intelligence and affordability
 - The intention is that the Council and providers will work in partnership to develop best value and use of resources over the life of the contract
61. For Carers support, the current contract value is being used as a baseline. Future contract value will be agreed in due time taking into account demand and inflation within existing parameters including NHS uplift, once agreed.

	Funding Source*	Estimated Annual Value	Contract Value over 5 years
	£'000	£'000	£'000
Phase One Revenue Budget available	General fund £642 ; NHS funding £140	783	3,915
Existing cost of service **		783	3,915
Proposed Contract Costs		783	3,915
Difference		0	0

*Funding Source i.e. general fund, HRA, DSG, grant, other.

**if applicable

Savings/ Efficiencies

Saving Type (please include cashable savings only)	Total
	Year 1 £0 Year 2 £0 Year 3 £0

Approved by: Al Mawji (on behalf of AD for Finance)

Legal Implications

62. As per the main body of this report, the procurement strategy is an open procedure to procure the services. The services to be called off fall under the Light Touch Regime (LTR) and as they are being aggregated into one procurement then the contract value will mean that they are above the LTR threshold.
63. Under the Public Contracts Regulations (PCR 2015), there is no prescribed procedure for the procurement of light touch services. Contracting Authorities have flexibility to use any process or procedure they choose to run the procurement for light touch services. Notwithstanding this, any procedure designed and used must be in compliance with the UK's public sector procurement principles and the mandatory requirements set out in the PCR 2015 summarised below:
1. Find a Tender Service (FTS) Advertising: The publication of a contract notice (CN) or prior information notice (PIN). Except where the grounds for using the negotiated procedure without a call for competition could have been used, for example where there is only one provider capable of supplying the services required.
 2. The publication of a contract award notice following the procurement.
 3. Compliance with the UK's public sector procurement principles of transparency, non-discrimination, and equal treatment.
 4. Conducting the procurement in conformance with the information provided in the FTS advert (CN or PIN) regarding: any conditions for participation; time

limits for contacting/responding to the authority; and the award procedure to be applied.

5. Time limits imposed by authorities on suppliers, such as for responding to adverts and tenders, must be reasonable and proportionate. There are no stipulated minimum time periods in the Light Touch Regime rules, and guidance suggests that contracting authorities should use their discretion and judgement on a case by case basis.

63. It is important that a proper audit trail is maintained throughout the procurement process to evidence the above process is followed.
64. The TUPE Regulations must be taken into consideration as part of the preparations for the commissioning and any subsequent re-commissioning of these services.
65. The procurement process proposed in the main body of the report provides a compliant route to market under PCR 2015 and also the Council's Contract Regulations.
66. With regards the variations or extensions in recommendation 4 above, if the values of the contract when exercising the extension or variation is above threshold then the Council will need to comply with Regulation 72 of the Public Contracts Regulations. If the values are below threshold then the Council will need to comply with the Council's Contract Regulations 16. The extension or variation of these contracts must be able to demonstrate that the extension and/or variations will offer Best Value to the Council and that the contract will continue to meet the Council's requirements.
67. The Council must ensure that for the contracts awarded under Phase 1 are placed on the Council's Contracts Register and for those extended or varied the Contracts Register is updated accordingly.
68. The recommendation above, relating to the delegation to the Executive Director of Corporate and Communities, is permissible under s.101 of the Local Government Act 1972.

Human Resources Impact

69. TUPE may apply if it is fundamentally or essentially the same service as the current service; and 2) with the current providers there are dedicated teams of staff (one person or more) whose principal purpose would be considered to be delivering the service that is transferring. Tupe will need to be considered on a case by case basis in a number of the contract lots. Incumbent providers will be required to provide anonymised TUPE data which will be shared with potential bidders upon receipt of a signed NDA agreement.
70. As regards the requirement to offer an LGPS pension this will also depend upon provision within the current arrangements if TUPE is applicable as well as the nature of the service being delivered. LGPS is a defined benefit pension scheme

which may also be made available, usually by way of admission agreements, to those employed by organisations that work for or with local authorities providing services for them; for services that were compulsorily transferred from the public sector under New Deal arrangements there is a need to continue to offer LGPS membership to those who were transferred out, even in subsequent transfers. Whether or not LGPS provision will need to be considered on a case by case basis in respect of each of the services concerned.

Approved by: *Fiona Ginty, Senior HRBP* on behalf of the AD of OD and People

Risk Assessment

Risk	Risk Score	Mitigations
Gap in service provision between the end of the existing contract and the start of the new service if a new provider is appointed.	Low	Contracts will be awarded to run consecutively. Transitional arrangements can be made where required during the mobilisation period.
Communications	Low	Changes to the current service model will occur with the recommissioning of the aligned services. Therefore, it is imperative that there is good communication with existing stakeholders, such as primary care and service users throughout the recommissioning process to avoid any major disruption to service.
TUPE	Low	TUPE is likely to apply. TUPE data and LGPS consideration will be shared with HR colleagues for review and sign off. Prospective bidders will be required to sign a NDA prior to the receipt of the TUPE information. TUPE will be built into the mobilisation period.
Contracts that have aligned funding from the NHS.	Medium	We will continue to work locally through place partnership arrangements to agree funding in line with the developing governance arrangements.
Inflationary Pressures impacting the providers to deliver with envelope	Medium	The Council will review pressures flagged by providers through contract monitoring and support to create and develop the service delivery plan. Provision of a contract to an infrastructure provider to support the sector itself in easing pressures and attracting funding
Inflationary pressures impacting financial priorities and stability of organisations	Medium	The Council will review pressures flagged by providers through contract monitoring and support to create and develop the service delivery plan. Provision of a contract to an infrastructure provider to support the sector itself in easing pressures and attracting funding

Equalities Analysis

71. This programme represents a very complex equalities picture. Many services in scope work with vulnerable populations. Equality impact and management not only aims to mitigate disproportionate impacts on service users with protected characteristics, it also aims to enable the council to design and deliver services that meet the needs of all residents.

72. In preparation for this exercise, a service status report has been prepared for each service. This has included:
- a. A review of the initial EQIA produced for each commissioned service (where available)
 - b. Consideration of who is likely to be affected were the service to be de-commissioned and how they are likely to be affected
 - c. A broad review of potential impacts of changes to the service.
73. Further to this, each individual piece of commissioning will be subject to its own equality impact process, with the overall cumulative impact being monitored through review and consolidation of these individual assessments and over the life of the programme.

Data protection

74. Providers will be required to demonstrate that they have policies and procedures in place to comply with UK GDPR and Data Protection Act 2018. In particular providers should demonstrate how they: will protect personal data; comply with the exercise of data subject rights; handle data incidents and breaches; and cooperate with the Council and any other third parties to ensure compliance with data protection legislation.
75. Information Security Management and GDPR is a priority due to third party handling of service users' data; this has been addressed in the relevant completed Data Protection Impact Assessment completed for each service.

Health Implications

76. The themes and method statements included within this document, once applied by services, are likely to have a positive impact on health, wellbeing and tackling inequalities amongst the Royal Borough of Kingston's local population. The statements comply with the Council's commitment to be a Marmot Borough ([link](#)), the Council's commitment to take action on Climate Change ([link](#)) and the borough's Health and Wellbeing Strategy, The Kingston Local Health and Care Plan 2022-2024 ([link](#)).

Sustainable Transport Implications

77. There are no direct impacts arising from the recommendations made in this report. Providers will be required to demonstrate how they are delivering their services sustainably including through appropriate travel plans for staff, volunteers and service users.

Sustainability Implications

78. Ethical Procurement Screening Forms have been completed.

79. It is not anticipated that there will be any significant environmental sustainability impacts of this proposal. However, tender applications will evidence how the proposed service will meet the Councils' environment and sustainability objectives in relation to sustainable transport, energy management and procuring goods and services locally.
80. Additionally this proposal includes a Commissioning Theme under phase two of the project specifically addressing environmental and climate change priorities

Background papers

None

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Note: Any hyperlinks contained within the report were live at the time of publication of the agenda. The information contained within them does not form part of the agenda documentation and the Council cannot guarantee the maintenance of links to external web sites.