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| Decision maker: | Cabinet member transport and roads |
| Meeting date: | Thursday, 21 September 2017 |
| Title of report: | Community Commissioning Model for Public Realm Services |
| Report by: | Commercial and contract manager |

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose and summary

To seek approval of the community commissioning model, an approach that enables communities to procure various public realm services through the council's service provider(s).

Recommendation(s)

That:

- (a) **The community commissioning model is approved and implemented with effect from the 1st October 2017.**

Alternative options

1. Not to implement the community commissioning model and allow community parties to continue to commission various services through ad hoc mechanisms: This option is not recommended as it will result in inherently inconsistent guidance and support for those communities who wish to invest in improvements to their public realm. The inevitable lack of consistency associated with these ad-hoc mechanisms has caused confusion and does not appropriately empower communities to commission services and support community development. If a community wished to commission an alternative provider to deliver

works, the public realm contract provider are be required to oversee the works and ensure the correct standards are met.

Key considerations

2. The commissioning model has been developed to provide a supportive, simplified process for communities to invest in public realm services. It has been designed to provide clear information regarding scope, service delivery, risk allocation, price and timescales (Community Commissioning Model Appendix 1).
3. The adoption of a formal commissioning process supports those communities who have identified matters and wish to fund projects that are important to them but the council are no longer able to resource in the short to medium term as a priority for its own investment or do not have a legal responsibility to pursue.
4. The standardised process of commissioning detailed in the model supports and encourages community investment. At a time when the council's own budgets will not enable the equivalent works or services to progress as a priority. This commissioning model will better enable the development and improvement of the public realm asset in line with the community's own expectations, as a consequence of their own investment decisions.
5. The amount of the council's own revenue budget that can be allocated for the delivery of various public realm services has had to reduce over recent years. The impact of this reduction has largely been accommodated by improvements in operational efficiencies and a focus on those works and services that are a priority in regard to the council's objectives. This has inevitably resulted in the reduction, delay and sometimes withdrawal of lower priority works or services. This has, in some communities, resulted in dissatisfaction with the progress that can be made on certain projects that matter to them.
6. A range of community funded services are already delivered through the public realm services contract. These vary from minor traffic / speed management measures such as the deployment of speed indicator devices (SIDs) to the provision of materials for public rights of way and lengthsman works.
7. The community commissioning model will empower communities to take action to meet local aspirations within acceptable timescales. This by providing a mechanism by which Parish Councils and community parties can fulfil local needs, whilst still being subject to the necessary democratic and statutory controls on what happens in the public realm. The community commissioning model can contribute to the strengthening of the role of local councils in the communities that they serve.
8. The proposed model sets out six distinct streams of works with a non-exclusive list of the types of services that might be included in each. The six streams are:
 - a. Traffic Regulation Orders such as speed limits, parking restrictions and weight limits
 - b. Traffic Engineering Schemes such as road markings, village gateways and traffic signs
 - c. Other Highways Works such as the installation of drainage, landscaping and street furniture

- d. Services such as grass cutting, bin emptying, temporary road closures and public rights of way diversions
 - e. Purchases such as grit bins, salt, sandbags and lengthsman / PROW materials
 - f. Licences such as skip, scaffold and dropped crossing licences
9. The model sets out a procedure, forms and a flow-chart illustrating how such services can be invested in and then commissioned by the council through the public realm services contract.
 10. Communities wishing to utilise the model will be required to raise funds and provide an agreed budget for the works being commissioned. The provider, on behalf of the council, will undertake an initial assessment before a decision is taken as to whether the proposal is viable. This assessment is paid for by the applicant and that the assessment fee is non-refundable. The proposed model allows for staged budgets to be agreed for works or services that may, for example, have to be delivered over a number of financial years. The provider will assess the viability of a project, on behalf of the council, if a project is deemed not viable the community may request a review from the councils Head of Highways and Communities.
 11. The model also enables the delivery of improvements to the public realm, of the type that the council would seek to fund from capital budgets. It is envisaged that in the majority of such cases the future maintenance liability for any new assets would become the responsibility of the council. That said, in some instances the community may be responsible for the future upkeep of the asset. Where this is so the agreement to do so will be made up front. In all cases the council's initial approval of any scheme will take account of whether future maintenance will be sustainable or not.
 12. Currently, payment for the equivalent services by third parties is inconsistent, with some payments being made to the council (e.g. skip and scaffold licences) and others direct to the provider (e.g. Temporary Road closures, s50 Street-work licences, SID installations and deployments). The model sets out clear standardised payment method, with budgets being handed to the council, who will then commission the services from their provider(s). The council will then make payment in accord with its contracts. There are indicative budgets included in the model to enable appropriate financial planning by communities and specific budgets will be agreed for each scheme. All indicative budgets will be regularly reviewed and approved by the council to ensure that they remain reasonable, based on the principle of full cost recovery.
 13. If desired, communities will maintain the ability to seek alternative providers, with relevant qualifications. The work of those providers will need to be subject to design approval and the agreement of the council to ensure that it meets all required regulatory, quality and safety standards. This principle ensures that communities have control over purchasing, costs are fair and the council has the appropriate control over the management of the assets for which it is responsible.
 14. A full review of the model will be undertaken within six to 12 months, dependant on level of uptake, to assess the effectiveness, along with case studies to share with members. Any required improvements will be managed through the change management process

Community impact

15. The model empowers communities to enhance services and deliver works that they see as making a positive change to their locality. This will enable them to better fulfil their aspirations, and make improvements locally, whilst aligning with the councils current health and safety protocols, therefore reducing the risk of impact on the community at large.
16. The demand for the service to date, the communities have 3 completed projects, 9 projects are in progress and a further 5 communities have expressed an interest in progressing a project.
17. The council will continue to commission services, in line with its statutory obligations, and corporate priorities.
18. The model complements the current principles as outlined in the Summary Guidance for devolving services which states 'the need for the local authority to operate differently, often refining, reducing services or ceasing services altogether' with the aim of 'allowing local councils using their existing powers and precepts to be more involved in running services. This creates the benefit of services being shaped directly by the community with local commitment to sustain and develop activity in their area.'

Equality duty

19. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
20. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our provider will be made aware of their contractual requirements in regards to equality legislation.

Resource implications

21. The model is designed to secure payment in advance from communities who wish to commission services and the implementation of the model will not impact on the current or projected budgets.
22. Due to the expected low value and low number of projects, there is very little additional resource required to manage the process. Any required resource will be absorbed within the existing contract management team and the information included as part of the model review in due course.

Legal implications

23. The council has the power to adopt this model under the general power of competence granted by Section 1 of the Localism Act 2011.
24. The council in relying on the general power of competence is not obliged to identify a particular benefit accruing to their areas and is able to charge.
25. The services will be directly undertaken using existing Council contracts. The original OJEU Notice for this contract included the scope for the community commissioning model and a review of the existing contracts will be undertaken to consider if they need to be varied to take account of the new arrangements.

Risk management

26. There are low levels risks with the implementation of the community commissioning model, which are detailed below:

| Risk / opportunity | Mitigation |
|--|---|
| Financial risk: relating to increasing future maintenance liability of the council with no balancing increase in budget to meet that liability. | The evaluation of future maintenance need as part of the approval process together with the inclusion, where appropriate, of licence conditions or similar requiring the community to take on these liabilities will mitigate this risk. |
| Reputational risk: Public perception could be that the council are transferring too much responsibility to the communities to save funding, due to financial pressure. | Effective communications setting out the context and rationale behind the introduction of the community commissioning model will be implemented prior to the full adoption of the model, which include members, parish councils and the general public. A review of the service and the outcomes achieved, and the health and safety impact on the community, will be reviewed and case studies will be publicised to improve understanding, service delivery and perception. |

27. Risks will be regularly reviewed and required actions will be undertaken to mitigate, where ever possible, in a timely manner. Risks will be reviewed at the council and Balfour Beatty Living Places joint Operational Board for the public realm services contract. If a risk requires escalation, it will follow the due process and contractual mechanisms.

Consultees

28. The model has been developed over a number of months, based on demand for service from communities. The council and Balfour Beatty Living Places carry out regular briefings with local councils and ward members, the principles that have supported the development of the community commissioning model have been communicated. The council and Balfour Beatty Living Places will undertake a final consultation with parishes before the model is adopted.

Appendices

29. Appendix 1: Community Commissioning Model
30. Appendix 2: EIA

Background papers

31. None