

<b>Decision maker:</b>	<b>Cabinet member contracts and assets</b>
<b>Decision date:</b>	<b>Thursday, 26 July 2018</b>
<b>Title of report:</b>	<b>Procurement and Commissioning Strategy</b>
<b>Report by:</b>	<b>Head of law and governance</b>

## **Classification**

Open

## **Decision type**

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## **Wards affected**

(All Wards);

## **Purpose and summary**

To consider and approve the council's Procurement and Commissioning Strategy which focuses on meeting local needs and delivering value for money. It sets out how the council will provide and arrange innovative and flexible, quality goods and services that are responsive to the needs of our community and deliver optimum value for money. This updated strategy: places a greater focus on what we will do, with defined objectives that reflect the requirements of the council's corporate plan; incorporates the requirements of the Public Services (Social Value) Act 2012; and, puts emphasis on compliance with the Equality Act.

## Recommendation(s)

That:

- (a) the Procurement and Commissioning Strategy 2018 at appendix 1 is approved.

## Alternative options

1. That the strategy is not adopted. Not to approve the Procurement and Commissioning Strategy is not advised due to the risks of creating a lack of consistent practice across the council leading to an increased risk of challenge from the marketplace.
2. That the strategy has different priorities. This is not recommended based on the consultation and discussion with relevant parties in terms of future plans and needs.

## Key considerations

3. The council's current procurement and commissioning strategy 2013-2016 requires refreshing. That strategy is largely procedural and internally focussed on routine work processes and roles rather than setting out where we want to be, how we might get there and by when.
4. The primary purpose of the strategy is to communicate clearly to all employees, partners, suppliers and stakeholders the council's vision for how procurement and commissioning of goods, works and services will be carried out, and to articulate the procedural framework within which all procurement will take place.
5. The strategy focuses on meeting local needs and delivering value for money. It sets out how the council will provide and arrange innovative and flexible, quality goods and services that are responsive to the needs of communities and deliver optimum value for money. The outcomes the council are aiming to achieve are:
  - a. To create the maximum benefit from public money
  - b. To achieve cost savings through the use of shared services, outsourcing opportunities and a reduction in the use of consultants
  - c. Delivery of value-for-money services with a modern diverse workforce.
6. The key changes in the proposed strategy are summarised as:
  - a. A greater focus on what we will do, with seven high level procurement and commissioning aims each with specific actions needed to be delivered to achieve the aim.
  - b. In turn, these actions allow for specific SMART (specific, measureable, achievable, relevant and time-bound) operational objectives to be set and monitored using the council's performance management processes.
  - c. Reflects the objectives of the council's corporate plan.
  - d. Incorporates the requirements of the Public Services (Social Value) Act 2012 (which came into effect on 31 January 2013) which had previously been published as a 'statement' outside of the strategy.
  - e. Puts emphasis on compliance with the Equality Act to ensure the advancement of equality, effectiveness and value for money, overlapping with social value to improve economic, social and environmental wellbeing.

7. Detailed decisions on the delivery of the specific elements of the strategy will be subject to the decision making process of the council, including cabinet member decisions; and activity monitored through the performance, risk and opportunity management framework. Progress relating to the delivery of the action plan within the strategy will be reported to the management board and the Cabinet Member annually and measured using existing service delivery and performance plan arrangements.

## Community impact

8. In order to achieve the council's vision of "*People, organisations and businesses working together to bring sustainable prosperity and well-being for all, in the outstanding natural environment of Herefordshire*" and deliver the corporate plan priorities effectively and efficiently, it is essential that a wide range of the council's services (from the building of new schools to employment support services to homecare for vulnerable residents) are procured by the council; Herefordshire Council's spend on external goods, services and works is £130m per annum. Decisions about when to outsource, who gets the contracts and what social value can be achieved can have a significant impact on the lives of people in the county and the businesses that operate in Herefordshire.
9. In accordance with our adopted code of corporate governance, Herefordshire Council achieves its intended outcomes by providing a mixture of legal, regulatory and practical interventions. Determining the right mix of these is an important strategic choice to make to ensure intended outcomes are achieved. The strategy will inform decision making to ensure our outcomes can be achieved in a way that provides the best use of resources while still enable efficient and effective operations. The requirements and responsibilities regarding compliance with health and safety, business continuity etc have been detailed within the contract procedure rules guidance document (subordinate to this strategy) to ensure that these are met wholly within our commissioned arrangements.

## Equality duty

10. 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.
11. The public sector equality duty (PSED), a 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 providers will be made aware of their contractual requirements in regards to equality legislation. The strategy supports the council in fulfilling its PSED by using its purchasing power as a way to advance equality

and, where appropriate, achieve wider social benefits, such as creating training or employment opportunities. Procurement regulations require equality of treatment for all prospective suppliers and service providers.

## **Resource implications**

12. There are no direct resource implications arising from the recommendation other than the need for an ongoing tailored training programme for all staff from the point of induction, drawing their attention to this strategy and associated contract procedure rules. The delivery of value for money through commissioning and procurement activity is a key theme in the strategy. The requirement to deliver social value and maximise best value from every pound spent by the council is detailed in aim one and places social value at the heart of the council's commissioning and procurement practices.

## **Legal implications**

13. The council has a duty under the Local Government Act 1999 to secure best value in the delivery of all of its functions and services. Further, as noted earlier in this report, the council has duties under the Public Services (Social Value) Act 2012 to demonstrate how it has considered economic, social and environmental wellbeing in the provision of its services. Applying a systematic commissioning methodology, as set out in this strategy, assists the council in demonstrating that it has met these legal responsibilities.
14. Public sector procurement is heavily regulated and the importance of compliance with legislative requirements is integral to the delivery of the strategy. Over the course of the strategy it is expected that issues such as fair trade and other accreditations, tax avoidance and evasion, zero hours contracts, avoiding child or slave labour will intensify. The council's contract procedure rules and standard procurement control documents will continuously be reviewed to ensure the highest levels of probity and ethical considerations are taken account of. There are no other significant legal implications arising from this report.

## **Risk management**

15. The risk of having no high-level strategy in place will lead to a lack of consistent practice across the council, and significant increased risk of challenge from the marketplace from unsuccessful bidders.
16. A lack of professional and commercial acumen from commissioners and procurement officers will result in lost opportunity to deliver social value, collaborate with partners to maximise council spending power and secure best value from the marketplace.

## **Consultees**

17. Political groups have been consulted and comments were received which have been incorporated in to the strategy.

## **Appendices**

Procurement and Commissioning Strategy 2018

## **Background papers**

None identified.