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## **STRATEGIC COMMISSIONING OUR PREFERRED RESPONSE TO NEW CHALLENGES**

### **Responsible Officer**

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### **1. Summary**

**1.1** This report sets out the benefits for local people of moving the Council's 'core' future role to become a 'strategic commissioner' of local public services. It seeks Members' approval for a range of actions to put these changes in place over the next 12 months, and to align the new arrangements with the work of other commissioners in Shropshire, including those for Health and Police functions.

**1.2** This paper has clear links with a separate report on the creation by the Council of a new, Council-owned company, as a vehicle for the delivery of a range of public services in Shropshire (and beyond the County's boundaries). Together, these proposals represent the culmination of the Council's agreed programme for the transformation of local public services, in order to retain their scope and quality during a long period of constraint on the level of available funding. The necessary changes will provide better public value for local people, through changes in the ways in which Council services are commissioned and provided in future.

**1.3** This report also makes clear the interplay between these key developments and the Council's strategic objectives of promoting Economic Growth and ensuring Flourishing Shropshire Communities, through the creation of sustainable local jobs for local people, and by the better engagement of our residents to enable them to take control and influence over the major decisions which affect their quality of life.

## 2. Recommendations

That Cabinet Members recommend to full Council that it:

- 2.1 Agrees the proposed new Strategic Commissioning Policy- linked to our strategic objectives of Economic Growth and Flourishing Shropshire Communities- and that the Chief Executive prepare a single, clear and simple overview of our commissioning process, and communicates it widely to staff, partners, and the public;
- 2.2 Provides guidance, and training/support, to elected Members on their new roles in the strategic and local commissioning process, as a key part of our ongoing arrangements for Member development;
- 2.3 Requests the Chief Executive to review the roles and responsibilities of senior management and related specialist posts, to split commissioner and provider functions, and improve Risk Management and that he formally initiates consultation with the Trade Unions on the organisational changes involved;
- 2.4 Requests the Chief Executive to take speedy and appropriate action to improve our capacity and capability to effectively 'market make', commission and procure, within our existing resources;
- 2.5 Establishes a new Shropshire Commissioners Forum (under the framework of the Shropshire Partnership) to align key decision making and resource allocation across all public services in the County;
- 2.6 Develops improved local governance frameworks to improve accountability to local people and establish Community Budgets and integrated service provision locally;
- 2.7 Enhance our Scrutiny arrangements, to cover all public service commissioning in Shropshire;
- 2.8 Requests the Chief Executive to complete work in hand on our strategic outcomes, targets and measures – and realign existing staffing resources to form a more effective Customer Intelligence Team, to inform our commissioning decisions;
- 2.9 Formally opens dialogue with the local Voluntary and Business sectors, and with Town and Parish Councils, to invite new providers, partners, and investors into our local marketplace;
- 2.10 Requests the Marches Local Enterprise Partnership to put in place a new local supply chain framework, including provision for new community micro-businesses;
- 2.11 Moves quickly to the use of outcome based contracts for all service provision, including payment by results where appropriate.

## REPORT

### 3. Commissioning – the new vogue

**3.1** As part of wider changes in their roles under recent new legislation from the Coalition Government, over 80% of local authorities are acknowledging that they will have to invest urgently in increasing their capacity and expertise in commissioning, in procurement, and in contract management, and this Council is no different. As we move to become a more “strategic council”, with a new focus on creating and managing a diverse marketplace of local providers, our future success depends particularly on the quality and effectiveness of the commissioning process we use.

**3.2** Good commissioning is not about reducing costs through acquiring cheaper provision; rather it is about getting costs down by doing things differently in achieving desired outcomes for local people. The public prioritise receiving effective, good value public services over who provides that service. So, commissioning activity also needs to be “sector-blind” or “sector-neutral”, focusing on the quality/cost of provision, rather than on which sector provides it.

**3.3** By focusing on what is strategically important in meeting the highest priority needs of local people, and by separating clearly the provision of services from the commissioning of them, there are opportunities in future to resolve any real or perceived conflict of interest in the Council’s role. This helps us make more objective commissioning decisions to benefit local people, rather than being constrained by the structures of our current services, which often hinder us in moving quickly to meeting changing public needs in new ways.

**3.4** On this basis, over the next few years, it is commissioning that will become the Council’s “core” business, though for some time to come, we will continue to provide a range of services directly in-house also, particularly in ‘sensitive’ areas of provision such as safeguarding vulnerable children and adults. We will also want to take advantage of new legal frameworks which give us the opportunity to create new delivery vehicles– whether these are trading companies, social enterprises, community interest companies, or staff mutuals. This will help shape the character of competition in the local marketplace, and contribute to its sustainability. But, over time, the majority of our “services” will be based on better identification of local needs through more effective engagement with local people, and will be delivered through outcome based contractual relationships with our providers, even where these remain in-house. The value of this approach lies in opportunities for encouraging both greater collaboration and (where appropriate) greater competition between providers, transferring some financial risk, and achieving greater efficiency by grouping contracts and commissioning outcomes in ways which encourage frontline experts to innovate and improve delivery, whilst also reducing our costs.

**3.5** The Council must look for new and innovative ways to develop the local provider market, by “seed funding” new enterprises, building capacity across a range of quality local providers (social enterprises and SMEs), and by attracting venture capital or new partners. It needs to be understood that, regardless of the nature of the provider, the Council will still be held accountable by local people for delivery and outcomes. The new complexity of a more diverse local marketplace puts a fresh premium on local regulation of providers and on associated risk management, as delivery failure remains as unacceptable as ever, (if not more so, given the absence of Council funded “safety nets” in the future).

**3.6** This is why commissioning must begin and end with the councillor’s relationship with local residents. It is also why we need to establish better local governance arrangements for devolved, local commissioning decisions, and extend scrutiny to cover all local commissioning activities, whether by the Council or by others.

#### **4. What do we mean by commissioning?**

**4.1** The commissioning process must span the breadth of the Council in a joined-up way. It must begin both at the top of the decision making structure and at community level at the same time. It must begin and end with the councillor’s democratic relationship with local residents, through a deeper and more effective approach to engaging and empowering local communities, so that local people have real influence over the key decisions which affect their lives.

**4.2** Strategic commissioning can be defined as “the process of identifying needs, and of developing policies and delivery models, as well as stimulating and managing a diverse local market of high quality providers, to meet those needs in the most cost-effective way”. It provides for a more localist understanding of ‘public value’. Commissioning is a “cycle” of activities which generally follows a sequence of stages:-

1. Assessing local public needs;
2. Agreeing the priority needs for action and investment;
3. Defining the outcomes required to meet those needs;
4. Designing the service specification which will achieve the required outcomes, (whilst leaving room for innovation by providers);
5. Sourcing the providers capable of meeting this specification;
6. Procuring the services of those providers;
7. (Contract) managing and monitoring the delivery of the required outcomes, (using risk/reward and payment by results to incentivise successful delivery); and
8. Reviewing and learning from the delivery and from user feedback (with the providers), to inform future commissioning decisions.

**4.3** From this whole process approach, it can be seen that, although they are essential elements, both procurement and contract management are different from commissioning and are subservient to it in the process. In other words, although these two elements need to be corporately determined and consistently applied across the Council, the overall commissioning process must be undertaken by those who have a deep understanding of and insight into the needs of the “clients” the process is designed to benefit.

## **5. Who will be a Commissioner?**

**5.1** With the increasing use of personal budgets, individuals now have a role to play as direct commissioners of their own services, with Voluntary and Community organisations and the Council facilitating and supporting this. Similarly, local communities themselves will be commissioners in future, supported by local councillors, and will also have the ability to directly provide local services and manage local public facilities. For these reasons, we need to put more time and resources into developing the new roles these changes entail for both officers and elected Members. (There is more on the new roles of elected Members in this context in paragraph 11 below).

**5.2** In particular, we need to decide whether, in future, Council officers can be both commissioners and providers. Some people question whether being linked closely with the provision of services interferes with the “objectivity” of the strategic commissioning process. It is likely that the growing tendency to move service provision into a range of new delivery vehicles will enable senior managers to take a more strategic, place – shaping approach to commissioning, i.e. what is in the public interest, rather than the interest of the providers – not least through encouraging new and more innovative approaches to how services are delivered in future.

**5.3** There are a wide range of likely benefits from moving quickly (over the next 6 months) to a ‘hard’ split between commissioners and providers. These include the facts that it:

- Provides greater choice for local people;
- Increases public value and social capital, by unlocking resources within local communities;
- Enables service transformation, because providers are more able to deliver new and more innovative approaches, free from the normal council constraints;
- Allows greater efficiency by grouping contracts and integrating provision around outcomes for local people;
- Supports greater effectiveness by focussing not on ‘traditional’ services, but on joined up approaches to early intervention and prevention- reducing demand and costs over the longer term;
- Transfers (some) financial risk to providers;
- Encourages both greater collaboration and greater competition (as appropriate);

- Stimulates economic growth, by creating more local (sustainable) jobs; and
- Makes all public service providers more accountable to local people.

**5.4** There is a pressing need for us to look again at the roles of Corporate Directors, Area Managers, Group Directors and Corporate Heads of Service in this context, as well as the roles of many of the specialist staff who support them, to determine where the commissioning function best resides in our future structures, and whether a “hard split” between this and the provider role will be beneficial. In this, we also need to be clear where the “professional lead” for key functions lies – since it can be either in the client–side of the Council or with our providers.

**5.5** It needs to be remembered that shortly there will be other new strategic commissioners of local public services in Shropshire- for Health and Policing functions- and the Council will have major influence over their decisions too in future, to ensure that these are aligned with the priorities, preferences, and aspirations local people have articulated.

## **6. How will we undertake future commissioning?**

**6.1** In this new model, commissioning will not be constructed on the basis of standardised services, nor will it be concerned with a narrow set of social consequences. It will, however, have the wider goals of increasing public value/“social capital” and of minimising demand – through behaviour change, prevention and early intervention. It will also be concerned with tackling the wider causes of economic and social failure in our most disadvantaged local communities.

**6.2** In organisational terms, this means that, instead of commissioning provision separately in each service area as is done now, sets of experts will have to work together closely, if the overall commissioning process is to work effectively. Whilst this need not require the formation of a single integrated commissioning unit, it does mean that there needs to be clarity about where “authority” and accountability lies at each stage in the process, in what will need to be a more collaborative and holistic approach to meeting need, through cross-disciplinary “commissioning teams”, working together for the first time. Our planned work with ‘Troubled Families, under the Coalition Government’s new initiative, will provide a good example of this approach.

**6.3** Wherever services are amenable to commissioning, the process should be opened up and decentralised to local level, as far as possible. In practice, this means that, in Shropshire, commissioning needs to take place at several levels: - regionally/sub-regionally – county-wide – market town, village and neighbourhood.

**6.4** But, there is a risk that, without a clear strategic vision of the required outcomes for local people, piecemeal commissioning decisions could limit the scope for transformational change. For example, commissioning activity must drive delivery which over-arches both historic service silos within the Council

and separate public service organisations within Shropshire, to integrate new and innovative forms of provision locally. This means that the commissioning and budgeting structures of our local partners also increasingly need to be integrated, where that will achieve the best outcomes for local people. Similarly, the Council needs to confidently align itself with other new local commissioners, such as the Police and Crime Commissioner, when they are in place over the next 12 months.

**6.5** The ability of the Council (with its local partners) to shape our local places depends on our ability to shape the local services mix, making different decisions on the design and relative priority of all the public services provided in a particular locality. The wider the range of local services over which Shropshire Councillors have influence, the better we can tailor these to meet particular local needs, which have been identified and agreed through close engagement with local people.

**6.6** This kind of integrated approach can better allow, for example, commissioners of adult services, children's social services, public transport, health services etc., to agree a common set of outcomes and to jointly commission providers to deliver these, based on local needs, in joined-up ways that are accountable to local people. This, in turn, depends on joined-up resources that finance pursuit of these outcomes, particularly through the development of Community Budgets. The new Health and Well-being Board for Shropshire is being asked to consider a similar paper on joint commissioning, as is our local Voluntary and Community sector, and these approaches have significant implications for our current partnership working arrangements, (as will the new Police and Crime Commissioner later this year).

**6.7** This approach assumes that new, multi-disciplinary teams will tackle the issues previously addressed by the various professions separately. This will be vital if we are to avoid confusing strategic commissioning with traditional outsourcing to the private sector. Commissioners will need to resist the temptation to simply transfer current forms of delivery to new providers, in order to simply reduce costs. Also, they will need to fully involve local communities in the design and development of local services, to create true community-led commissioning. This has the added advantage of unlocking additional resources within communities, through co-production and citizen – led innovation, thereby reducing their dependency on tax-funded provision.

**6.8** On this basis, strategic commissioning is central to our objective of ensuring flourishing Shropshire communities. It is a key part of creating a new partnership between the council and communities, based on better identification of long-term community interests and a shared responsibility with local people themselves for improving local quality of life.

## **7. “Market Making” and Improved Outcomes.**

**7.1** In its “market-making” role, the Council needs to adopt a variety of mechanisms to improve both service design and procurement. This should include innovative methods for supporting the building of capacity for local social enterprises in the Voluntary and Community sector and for local SMEs in the Business sector, prior to the procurement stage. As part of our key objective of Economic Growth, we should seek to favour these providers, (within the limits of legal constraints), so as to put even more of our business in the local economy, thereby creating more local jobs that are sustainable. We will also need to use new funding models to transform the way services are delivered, though the introduction of payment by results, and to change the timescales for which “services” are commissioned to enable investment in new working methods to pay off, (although longer contracts can create greater risks for commissioners).

**7.2** In establishing a local market of suitable providers of all shapes and sizes, we will need to redefine “acceptable risk”, to ensure that money is spent on those commissioned activities which deliver long term outcomes for local people. This will enable small, but stable and profitable local providers to be awarded contracts with values that are large relative to the size of the providers, thereby supporting local economic growth. Strategic commissioning must understand how public services interact with our communities more broadly. We need consciously to use our purchasing power to shape our local market and to facilitate greater user engagement with delivery.

**7.3** We need to build a better understanding of our local market, and of the potential future market, given that it is currently under-developed in Shropshire. We must attract a diverse range of high quality providers across all sectors. We will need to provide ‘seed funding’ for new enterprises, promote the creation of new community-owned micro-businesses, and attract new partners, venture capital and investment. Working with the Marches LEP, we will need to create a new framework of local supply chains/pipelines. Part of this will entail making creative use of data on providers and customer intelligence, to inform key decision making on procurement. We need quickly to acquire or to develop better expertise in all these areas.

**7.4** There are two main considerations in commissioning for improved outcomes. The first is how to measure impact and understand if local need is being addressed effectively. The second is to ensure that the provision commissioned to meet that need produces maximum value – for local communities as a whole, not just the direct users, and for the whole public sector. For this reason, almost all councils are moving to outcomes – focused contracts, though these are still relatively new, and they require a shift in organisational culture and approach. We need urgently to explore these new contractual frameworks and to review and recast our existing contracts.

**7.5** Our recent work on defining the key outcomes for local people needs to be quickly completed, so that we can better specify and measure outcomes,



as this will rightly direct all our commissioning decisions in future. We also need to quickly develop the ability to collate, analyse and actively use provider data and customer intelligence to inform our commissioning decisions.

## **8. Barriers to effective commissioning.**

**8.1** Many of the potential barriers to strategic commissioning manifest themselves in the procurement aspect of the commissioning cycle, and can undermine this, by moving the focus away from service design and delivery issues. Tender and contract processes need to be proportionate to the size of the contracts, to ensure accessibility to suitable providers, and for local providers to be sub-contracted by larger companies if appropriate, as part of robust local supply chains and consortia of local providers who employ local people. The key here is integrating procurement into the broader commissioning process. The impact on required outcomes for local people must be clear when procurement is used to make efficiency savings, as we move from transactional to transformational services.

**8.2** Our current internal structures are likely to be barriers to strategic commissioning, as we do not yet act as a single entity. We need to articulate more clearly how the necessary changes align with the strategic direction we have already chosen under our Transformation Programme, in terms of our strategic objectives of Economic Growth, and Flourishing Shropshire Communities, as well as our new approach to designing and delivering services. In particular, we need to consider who should have input into the commissioning process and how, including local people themselves, as well as the new roles of elected Members in this context, which are covered below. We need urgently to enhance/acquire greater commercial capability and capacity in our commissioners, and make new arrangements for better managing risk. (See below).

## **9. Bottom Up” and Joint Commissioning**

**9.1** A good definition of a “strategic council” is one able to leverage and disperse all available local funds in line with the strategic goals and ambitions for its local communities. Whether as a strategic commissioner or in its place shaping role, the Council cannot do this alone.

**9.2** The development of community and neighbourhood budgets, and of integrated local public services, are the key to overcoming some of the barriers to creating a “single public service” for Shropshire. But, community based commissioning is also about engaging and empowering local people; redefining our relationship with our residents through devolving budgets and responsibilities for decision making about their application on the ground. We need urgently to design such a budgetary framework for Shropshire, even if it is only cross-Council resources that are devolved initially, (with those of our partners coming later).

**9.3** This is not about encouraging community groups to compete against each other to provide services more cheaply than the council, but rather is

changing our role from “provider” to “enabler”, and focusing on capacity building within the community to create greater co-production and self-sufficiency, thereby reducing costs. The development of community-owned micro-businesses should be a key part of this approach. We need, however, to ensure that local (community) commissioning and strategic (county-wide) commissioning are aligned and do not dissipate scarce resources. A clear focus on our agreed outcomes will help avoid conflict and contradiction.

**9.4** Councillors will retain their responsibilities for “safeguarding” and scrutiny under these new arrangements, but will in effect take on the role of “community organisers” for the purpose of local commissioning, and of “social entrepreneurs” in using this process to build social capital at community level.

## **10. Management of Risk**

**10.1** To be able to commission strategically, for the longer term, we need to have relative predictability and stability financially, if we are to provide the investments needed to support preventative approaches and tackle the causes of those things that undermine quality of life locally. Local government has long been characterised as being too risk adverse and this has often been seen as a barrier to innovation in service design and delivery. In our current context, however, to innovate and explore new approaches is actually the less risky option. We need to articulate this openly and honestly to staff and to the public, in order to win support for our strategic commissioning approach. We need a clear, simple overview of our commissioning process- for our staff, for our partners, and for local residents.

**10.2** We must, however, avoid major systemic failure and build sound risk management into our strategic commissioning process. This depends on having sufficient expertise both inside the Council’s “client-side” team and in our providers. There must also be clear contractual and financial consequences for failure, with a fresh focus on maintaining business continuity, through early identification of risk and swift intervention to remove it, regardless of who the provider is.

**10.3** Coupled with the high level of risk in delivering our Transformation agenda and meeting our reduced funding targets, we need to give priority to a review of our Risk Management arrangements, including enhancing the work of our Internal Audit team and the roles of our statutory officers.

## **11. The Role of Elected Members**

**11.1** Particularly in relation to services for the most vulnerable, there need to be clear lines of accountability, transparency (through open data and greater public participation), and democratic oversight of our new commissioning arrangements by elected Members. Members need to be supported to take-up effective scrutiny of the commissioning process and its outcomes, as a priority. The future role of Members in this context needs to be clear, and improved local governance arrangements are needed to account for public

spending which is devolved to community level. We must strengthen, not weaken, the relationship between councillors and residents through these changes. Strategic commissioning can also enhance the Council's key role as a 'local democratic hub' for all Shropshire's public services.

**11.2** A move to strategic commissioning must provide a central role for the Cabinet, in driving and setting the strategic direction which informs all stages of the commissioning cycle. This will be done through the development of new policies, the determination of our strategic outcomes framework, and decisions on prioritisation for investment in new forms of service delivery.

**11.3** Our frontline Members will play a crucial role in ensuring the involvement of service users and local communities, to identify, understand, and respond appropriately to their particular needs. This intelligence gathering should inform the commissioning process at all stages. The democratic relationship between councillors and local residents must be one of the most important routes for local people to engage with public services. It strengthens the role of elected Members, making them more "relevant" as "commissioners" in their own patch and, by ensuring the proper representation of all local interests, it facilitates greater community involvement in the provision of local public services.

**11.4** Elected Members will need support and development to understand, and carry out with confidence, this more active role and their responsibility to "represent the community to the Council and its partners, rather than the Council to the community". This provides the context for the next stage of our Focused Local Learning project with Members, but we need also to clarify the role of the Area Directors as the actual commissioners of local services, in this context. Where delivery contracts are well constructed, we should be able to avoid any sense for Members of "loss of sovereignty" over the provision of services, particularly where there are long-term contracts for statutory services, as Members focus on their local communities and move away from a tendency to act as "elected service managers",.

## **12. The Need for Training and for Public Understanding**

**12.1** We need new skills sets for both officers and Members, which will provide confidence in embracing these changes. There needs to be a single clear, simple overview of our commissioning process, so that staff understand the difference between this and procurement, and can see how their expertise contributes to the former. In terms of new delivery models, this needs to extend to a willingness by staff to adapt to the development and roll-out of these. There is no doubt, however, that in the short term we need rapidly to acquire and develop more commissioning and market-making expertise, (as well as more procurement expertise).

**12.2** Strategic commissioning must not be confused with traditional private sector outsourcing. We already have a 'mixed economy' of service provision, but the balance between different providers will be likely to change over time. Our choice has been to create a flexible model, which facilitates a mix of

approaches – including in-house provision, traded and co-produced services, and some outsourced provision. We now need a redefined structure which allows high level strategic priorities and a focus on local outcomes to join-up at all stages of the commissioning process. This also needs to provide new scope for quickly ‘thawing out’ our large ‘frozen’ service blocks, to enable greater innovation in service design and delivery.

**12.3** As we look to develop our role as a “gateway” to services (rather than as the main provider), and in quality assurance and guiding service users through the choices of the new marketplace, we will need strong public understanding and trust in the Council’s changing future role as a strategic commissioner. To do this, we need to have a clear view of our core purpose and future operating model, and how it is meant to feel to our customers and citizens, in their relationships with us. Our work on “branding” the “new” Council, therefore, needs to be given priority. Otherwise there is a danger that, because local people have a fondness for more ‘traditional’ forms of provision which are no longer affordable, they will reject the many benefits of these changes or will fail to give us credit for their success, because they mistakenly see us as an unnecessary and costly ‘middle man’ that they could live without.

### **13. Conclusion**

Without strategic commissioning, there is a risk that the traditional local government model is retained (even though it is no longer affordable), albeit with frontline staff working for outsourced providers as our costs are driven down. As a result, an unhelpful emphasis on rationing (rather than transforming) services could remain, as could structures that limit effective prevention and personalisation. At the same time, a greater reliance on “independent contractors” could increase the distance between our democratic decision makers and service outcomes, making provision less accountable to local people.

<b>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</b>
<b>Cabinet Member (Portfolio Holder)</b> Mr K R Barrow
<b>Local Member</b> N/A
<b>Appendices</b> None