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DATE: 5 June 2017

To: Members of the
CONTRACTS SUB-COMMITTEE

Councillor Stephen Wells (Chairman)
Councillor Neil Reddin FCCA (Vice-Chairman)
Councillors Simon Fawthrop, William Huntington-Thresher, Russell Mellor,
Keith Onslow and Angela Wilkins

A meeting of the Contracts Sub-Committee will be held at Bromley Civic Centre on
TUESDAY 13 JUNE 2017 AT 7.00 PM

MARK BOWEN
Director of Corporate Services

Copies of the documents referred to below can be obtained from
<http://cds.bromley.gov.uk/>

AGENDA

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

2 DECLARATIONS OF INTEREST

**3 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC
ATTENDING THE MEETING**

In accordance with the Council's Constitution, questions to the Chairman of this Sub-Committee must be received in writing 4 working days before the date of the meeting. Therefore please ensure questions are received by the Democratic Services Team by 5pm on Wednesday 7th June 2017.

**4 MINUTES OF THE MEETING OF CONTRACTS SUB-COMMITTEE HELD ON 11TH
APRIL AND MATTERS ARISING**
(Pages 1 - 4)

5 REVIEW OF WAIVERS AUDIT
(Pages 5 - 18)

6 COMMISSIONING AND PROCUREMENT DIVISION - ONE YEAR ON
(Pages 19 - 26)

7 WORK PROGRAMME 2017/18

(Pages 27 - 30)

8 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

Items of Business

Schedule 12A Description

9 EXEMPT MINUTES OF THE MEETING OF CONTRACTS SUB-COMMITTEE HELD ON 11TH APRIL 2017

(Pages 31 - 32)

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

10 ISSUES FROM AUDIT SUB-COMMITTEE

(Pages 33 - 128)

Information relating to any individual.
Information relating to the financial or business affairs of any particular person (including the authority holding that information)

CONTRACTS SUB-COMMITTEE

Minutes of the meeting held at 7.00 pm on 11 April 2017

Present:

Councillor Stephen Wells (Chairman)
Councillors Simon Fawthrop, William Huntington-Thresher,
Keith Onslow and Angela Wilkins

Also Present:

Councillor Graham Arthur

52 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillor Chris Pierce and Councillor Russell Mellor.

53 DECLARATIONS OF INTEREST

There were no declarations of interest.

54 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions had been received.

55 MINUTES OF THE MEETING HELD ON 9TH FEBRUARY 2017 AND MATTERS ARISING

RESOLVED that the minutes of the meeting held on 9th February 2017 be confirmed, subject to the addition of the word “substantial” before “additional works” in minute 48, Manorfields/Orchard and Shipman Contract.

56 CORPORATE CONTRACTS REGISTER

The Sub-Committee considered the latest version of the Corporate Contracts Register. This was now in a new format, having been generated from the Contracts Database for the first time, and included only contracts with a total contract value greater than £200k flagged as red or amber.

It was explained that more contracts were flagged as red or amber now, as the flag was automatically generated by the system and could not be overridden. For example a contract nearing its end would be flagged as red, even though a replacement contract was correctly in place. There were still a number of such caveats which needed to be taken into account while the system was being developed and populated. Further work included adding a risk indicator linked to

the Internal Audit Risk Register, and the addition of details of waivers. The system was still on course to be fully operational by September.

The Chairman urged that the Contracts Register should be considered by the next cycle of PDS Committee meetings, and that it should not just be an information item – Democratic Services would ensure that this was on each agenda. The Register would go through the Commissioning Board and the Corporate Leadership Team (CLT) before being submitted to PDS Committees.

The Chairman congratulated the officers involved in developing the contracts database system.

RESOLVED that the latest Contracts Register be noted, and that all PDS Committees be requested to consider their element of the Register at their next meetings.

57 WORK PROGRAMME
Report CSD17053

The Sub-Committee considered its work programme for the five scheduled meetings in 2017/18. There were already three issues flagged for future consideration – the follow-up Internal Audit report on Waivers, Exit Strategies and CAMHS (Child and Adolescent Mental Health Services). It was confirmed that a report on the new Commissioning Directorate was expected for the next meeting. In addition, the Sub-Committee asked for a report on processes around services being commissioned for the first time – it was suggested that this could include a list of examples and information about setting up frameworks for other authorities to join Bromley contracts. It was likely that Audit Sub-Committee would continue to be a source of issues relating to contracts that needed consideration.

The Chairman urged Members to let him know about any other issues that could be added to the work programme.

RESOLVED that the work programme be updated in line with the comments set out above.

58 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during consideration of the item of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summary
refers to matters
involving exempt information**

59 ISSUES FROM AUDIT SUB-COMMITTEE ON 4TH APRIL 2017

The report concerned issues arising from Audit Sub-Committee's meeting on 4th April 2017 – the Sub-Committee decided to defer consideration to its next meeting on 13th June 2017.

The Meeting ended at 8.15 pm

Chairman

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FINAL INTERNAL AUDIT REPORT
CHIEF EXECUTIVE'S DEPARTMENT

REVIEW OF WAIVERS AUDIT 2016-17

Issued to: Lesley Moore, Director of Commissioning
Dave Starling, Head of Corporate Procurement
Alastair Baillie, Environmental Development Manager

Cc Peter Turner, Director of Finance

Prepared by: Principal Auditor

Date of Issue: 17 March 2017

Report No: CX/089/16/2016

INTRODUCTION

1. This report sets out the results of our systems based audit of the waiver process. The audit was carried out in quarter 4 as part of the programmed work specified in the 2016/17 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee. The controls we expect to see in place are designed to minimise the department's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be corrected to assist overall effective operations.
2. Contract Procedure Rules (CPR) (Paragraphs 3.1 – 3.4 and 23.7) set out the process to waive any CPR requirements for competitive bids when engaging in procurement activity. In addition to the guidance in Contract Procedure Rules, the Corporate Procurement Authorisation Template form contains guidance in each section of that form outlining the type and nature of the information required to be completed. This is available on OneBromley.

AUDIT SCOPE

3. The scope of the audit was outlined in the Terms of Reference issued on 14 October 2016. We have analysed a sample of completed waiver forms for completeness, accuracy and timeliness and examined the monitoring arrangements in place.

AUDIT OPINION

4. Overall, the conclusion of this audit was that limited assurance can be placed on the effectiveness of the controls over the completeness, accuracy and timeliness of the waiver forms submitted for authorisation and the recording and monitoring of waiver information. Definitions of the audit opinions can be found in Appendix C.

MANAGEMENT SUMMARY

5. Controls were in place and working well in the areas of guidance provided by the Head of Procurement in CPR on waivers and the advice on the waiver request template form. The authorisation of any waivers/extension requests where the contract

REVIEW OF WAIVERS AUDIT 2016-17

is due to expire within the next 6 months are now made by the relevant Portfolio Holder/PDS/Executive. The recording of the information of approved waivers in ECHS enables the waiver end date to be monitored and officers notified in sufficient time to carry out further tendering action

6 Our testing covered waivers submitted between March 2016 and October 2016. We sampled eight waivers submitted by a range of Directorates during that period. These were sourced from the binders of waivers retained by the PAs of the Directors of Environment and Community Services, Corporate Services and Finance, amounting to approximately 30 waivers. We also examined the arrangements for recording and monitoring waiver information. We identified the following issues which we would like to draw to management's attention:-

- Whilst waivers are sometimes subject to scrutiny by the Director of Commissioning and Commissioning Board, not all waivers are subject to formal scrutiny by procurement professionals to confirm that they have been completed accurately, timely and with required information in line with CPR.
- There is no single Corporate Register of completed waiver information and the forms are not uniquely referenced to enable them to be easily identified and to give assurance that all have been captured, processed and authorised. Information relating to waivers is kept in different locations and formats depending on the department.
- The current arrangements and format for recording and monitoring waiver information should be reviewed, together with the possibility of introducing an automated electronic alert process for waivers which are nearing their expiry date.
- Instructions and guidance have been provided to officers by Procurement, both via Contract Procedure Rules and on the waiver template, but there were numerous instances in our sample testing where the waiver forms had not been completed correctly. The sample of waiver forms which we examined contained examples of incomplete and inaccurate information and a lack of timeliness and evidence of appropriate authorisation. The introduction of an electronic waiver form with on-line authorisation at each stage of the process would improve existing controls.
- The form used for requesting agreement to waive a contract is also used to award a contract. A separate form for approving waivers should be considered.

SIGNIFICANT FINDINGS (PRIORITY 1)

9 There are two significant findings.

- Whilst waivers are sometimes subject to scrutiny by the Director of Commissioning and Commissioning Board, not all waivers are subject to formal scrutiny by procurement professionals to confirm that they have been completed accurately, timely and with required information in line with CPR. We acknowledge that there is no requirement in Corporate Procedure Rules for all completed waiver forms to be submitted to the Corporate Procurement Team before they are authorised. There is no single Corporate Register of completed waiver information and the forms are not uniquely referenced to enable them to be easily identified and to give assurance that all have been captured, processed and authorised. Information relating to waivers is kept in different locations and formats depending on the department. We were unable to identify any formal waiver monitoring arrangements in place for HR, Finance and IT Directorates. A Corporate Register of waiver information and an automated electronic alert process for waivers which are nearing their expiry date would strengthen controls. This could be explored as part of the functionality of the new Contracts Database.
- Our examination of a sample of the waiver forms submitted found that, although instructions and guidance have been provided to officers by Procurement, both via Contract Procedure Rules and on the waiver template, there were numerous instances where the waiver forms had not been completed correctly. The sample of waiver forms which we examined contained examples of incomplete and inaccurate information and a lack of timeliness and evidence of appropriate authorisation. We saw instances in our sample of waiver forms examined where they had not been signed and dated and the 'Guidance' section had been removed. In one case a waiver to extend the existing contract had been requested approximately two weeks before the contract expiry date and insufficient time had been allowed to undertake the tendering process. In another case for Beckenham Town Centre improvements, the contract extension start date was January 2016 but the waiver was submitted in September 2016 due to a delay in awaiting funding from

REVIEW OF WAIVERS AUDIT 2016-17

TfL to proceed with the scheme. The introduction of an electronic waiver form with on-line authorisation at each stage of the process would improve existing controls. It would enable a unique reference to be applied to the form and provide an audit trail of who has authorised the form and when. Any subsequent changes to information contained on the form or edits of the form by individuals could then be identified. This could also be explored as part of the functionality of the new Contracts Database.

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

11. The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed in Appendix A. Any recommendations to management are raised and prioritised at Appendix B.

ACKNOWLEDGEMENT

- 12 Internal Audit would like to thank all staff contacted during this review for their help and co-operation.

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
1	<p>Whilst waiver forms are referred to the relevant Head of Finance, they are not referred to the Corporate Procurement Team. Therefore there is no evidence of procurement involvement to verify that the form has been completed correctly in line with CPR. For comparison purposes we searched the internet to identify waiver forms used in other authorities. We identified that in those authorities the Head of Procurement approves waiver requests, prior to approval by the Section 151 Officer.</p> <p>Information relating to waivers is kept in different locations and formats depending on the department. The process involves a waiver form being authorised at different stages by officers such as Directors, Head of Legal Services and Director of Finance. Copies of the form are retained by these officers at each stage. There is no single Corporate Register of completed waiver information and the forms are not all uniquely numbered to enable them to be easily identified for future reference. We cannot therefore guarantee that all waivers have been accounted for and hence reported to the Audit Sub-Committee.</p> <p>The format of the ECS and ECHS monitoring information is</p>	<p>Risk that a waiver form is not completed timely, accurately or with incomplete information. Value for money is not obtained due to poor timeliness in tendering for a service and the need for exemption from procurement rules.</p>	<p>Management should consider:-</p> <p>(i) introducing a process whereby all waiver requests are submitted to the Corporate Procurement Team, to verify that the form has been completed in line with Contract Procedure Rules and for approval by the Head of Procurement,</p> <p>(ii) the introduction of a Corporate Register for the recording and retention of all waivers as a single source of information. We consider that the location for this should be the Corporate Procurement Team,</p>

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Project Code: CX/089/16/2016

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Priority 1
Required to address major weaknesses and should be implemented as soon as possible

Priority 2
Required to address issues which do not represent good practice

Priority 3
Identification of suggested areas for improvement

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>different. ECHS use a spreadsheet format whereas ECS use a database, which also includes waiver information for other Directorates such as HR, Finance and IT. Monitoring information recorded on the ECS team site showed an incorrect end date on the contract monitoring summary sheet for one waiver in our sample and an extension end date was not recorded in another case. In three other cases relating to ECS, HR and Finance there was no information for those waivers recorded. There were four cases in our sample where a copy of the authorised waiver form could not be seen on the ECS or ECHS team sites.</p> <p>We noted that in another Authority a uniquely referenced waiver form is issued by the procurement team each time, which enables it to be recorded and monitored from that point forward. This practice, if adopted by London Borough of Bromley, could help to identify at the first stage any instances of poor timeliness relating to tendering.</p>		<p>(iii) All forms should be uniquely numbered to ensure that they can be identified, and</p> <p>(iv) reviewing the current arrangements and format for monitoring waiver information to ensure that it is accurate and complete.</p> <p>[Priority 1]</p>

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Priority 1
Required to address major weaknesses and should be implemented as soon as possible

Priority 2
Required to address issues which do not represent good practice

Priority 3
Identification of suggested areas for improvement

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
2	<p>We selected and examined a sample of eight waiver forms submitted since April 2016 for timeliness, completeness and accuracy of information and appropriate authorisation. We identified the following issues:-</p> <ul style="list-style-type: none"> The format of the waiver template is multi-purpose and is required to be completed for agreement to be considered for awarding and waiving procurement. <p>The originating officer's name was typewritten in 1 case (sample 7) and signed but not dated in 2 other cases (samples 1 and 5)</p> <p>The budget holder's name was signed but not dated in two cases (samples 1 and 5)</p> <p>In one case the waiver form had been amended and adapted with the 'Guidance' section of the waiver form removed (sample 2).</p> <p>In two cases a waiver to extend the existing contract had been requested where it appeared insufficient time had been allowed to undertake the</p>	<p>Risk that a waiver form is not completed timely, accurately or with incomplete information. Value for money is not obtained due to poor timeliness in tendering for a service and the need for exemption from procurement rules.</p>	<p>The current version of the template waiver form is dated 2012-13. In view of the findings from our sample testing of completed forms it should be reviewed and revised to consider :-</p> <p>(i) introducing separate forms for awarding contracts and requesting to waive procurement rules,</p> <p>(ii) including boxes in those sections where a signature and date is required, to emphasise the need for officers to sign and date the form accordingly,</p>

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DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>tendering process (samples 1 and 3).</p> <p>In one case the title of the waiver was the same as a previous waiver submitted and appeared to have been copied and pasted from a previous waiver form (sample 2)</p> <p>In three cases the table of information for the contracts register had not been completed (samples 2, 5 and 7).</p>		<p>(iii) the inclusion of total expenditure made with the supplier, in addition to the budget and total contract value which are already included and</p> <p>(iv) the feasibility of operating the waiver process by an electronic method in future which would generate an indisputable record of the date when a waiver is authorised at each stage of the process and by whom. It would also prevent sections of the waiver request form being amended or removed.</p> <p>[Priority 1]</p>

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Priority 1
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Identification of suggested areas for improvement

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
1	<p>Management should consider:-</p> <p>(i) introducing a process whereby all waiver requests are submitted to the Corporate Procurement Team, to verify that the form has been completed in line with Contract Procedure Rules and for approval by the Head of Procurement,</p> <p>(ii) the introduction of a Corporate Register for the recording and retention of all waivers as a single source of information. We consider that the location for this should be the Corporate Procurement Team,</p>	1	<p>Agreed. The waiver form will be amended to include the signature of the Head of Procurement, who should be the first signature on the waiver form (subject to review concerning the numbers of waivers received).</p> <p>Agreed. Contracts Database will deliver in September 2017. Three waiver templates are envisaged covering:</p> <ul style="list-style-type: none"> • Extensions Beyond Term Waivers (establishes a parent-child relationship between the original contract and the extension contract) • Single Tender Waivers 	<p>All Directors</p> <p>Head of Procurement</p>	<p>End of April 2017</p> <p>Manual system: July 2017</p> <p>Database solution: Sept. 2017</p>

Priority 1
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Priority 3
 Identification of suggested areas for improvement

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
	<p>(iii) All forms should be uniquely numbered to ensure that they can be identified, and</p> <p>(iv) reviewing the current arrangements and format for monitoring waiver information to ensure that it is accurate and complete.</p>		<ul style="list-style-type: none"> Change Control Notices Agreed. Contracts Database will deliver this process, but until database fully operational it will need to be done manually <p>Proposed Contract Database solution will ensure all elements of the waiver are completed and all appropriate signatures secured.</p>	All Directors	<p>Manual system: July 2017</p> <p>Database solution: Sept. 2017</p> <p>April 2017</p>
2	<p>The current version of the template form is dated 2012-13. In view of the findings from our sample testing of completed forms it should be reviewed and revised to consider :-</p> <p>(i) introducing separate forms</p>	1			

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MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
	<p>for awarding contracts and requesting to waive procurement rules,</p> <p>(ii) including boxes in those sections where a signature and date is required, to emphasise the need for officers to sign and date the form accordingly,</p> <p>(iii) the inclusion of total expenditure made with the supplier, in addition to the budget and total contract value which are already included and</p> <p>(iv) the feasibility of operating the waiver process by an electronic method in future which would generate an indisputable record of the date</p>		<p>Agreed</p> <p>Agreed</p> <p>Will review feasibility (within Oracle Financials and Contract Database).</p> <p>Agreed. Contract Database will create a controlled system specifically for waivers to:</p> <ul style="list-style-type: none"> • hold templates (three types) • provide on-line guidance • provide a unique reference 	<p>Head of Procurement</p> <p>Head of Procurement</p> <p>Director of Commissioning</p> <p>Head of Procurement</p>	<p>July 2017</p> <p>July 2017</p> <p>September 2017</p> <p>September 2017</p>

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MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
	<p>when a waiver is authorised at each stage of the process and by whom. It would also prevent sections of the waiver request form being amended or removed.</p>		<p>system</p> <ul style="list-style-type: none"> • ensure all fields are completed • generate staged workflows (virtually circulate the document for electronic signature according to the value concerned – all date-stamped) • securely store the final document in one location (the database) 		

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As a result of their audit work auditors should form an overall opinion on the extent that actual controls in existence provide assurance that significant risks are being managed. They grade the control system accordingly. Absolute assurance cannot be given as internal control systems, no matter how sophisticated, cannot prevent or detect all errors or irregularities.

Assurance Level	Definition
Full Assurance	There is a sound system of control designed to achieve all the objectives tested.
Substantial Assurance	While there is a basically sound systems and procedures in place, there are weaknesses, which put some of these objectives at risk. It is possible to give substantial assurance even in circumstances where there may be a priority one recommendation that is not considered to be a fundamental control system weakness. Fundamental control systems are considered to be crucial to the overall integrity of the system under review. Examples would include no regular bank reconciliation, non-compliance with legislation, substantial lack of documentation to support expenditure, inaccurate and untimely reporting to management, material income losses and material inaccurate data collection or recording.
Limited Assurance	Weaknesses in the system of controls and procedures are such as to put the objectives at risk. This opinion is given in circumstances where there are priority one recommendations considered to be fundamental control system weaknesses and/or several priority two recommendations relating to control and procedural weaknesses.
No Assurance	Control is generally weak leaving the systems and procedures open to significant error or abuse. There will be a number of fundamental control weaknesses highlighted.

Report No.
CEO1629

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: CONTRACTS SUB COMMITTEE

Date: 13 June 2017

Decision Type: Non-Urgent Non- Executive Non - Key

Title: COMMISSIONING & PROCUREMENT DIVISION – 1 YEAR ON

Contact Officer: Lesley Moore, Director of Commissioning
[Tel:0208 313 4633](tel:02083134633) E-mail: Lesley.moore@bromley.gov.uk

Chief Officer: Director of Commissioning

Ward: N/A

1. Reason for report

- 1.1 The Commissioning & Procurement Division was established a year ago to provide help and support to members and officers as the Council moves to becoming a commissioning organisation.
 - 1.2 This report provides an update on the work undertaken by the team in the last year to provide the governance arrangements that have been put in place and highlights potential risks if officers fail to follow this guidance.
-

2. **RECOMMENDATION**

- 2.1 **Members of the Contract Sub Committee are asked to note and comment on this report.**

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority:
-

Financial

1. Cost of proposal/A
 2. Ongoing costs: Recurring Cost:
 3. Budget head/performance centre: Commissioning & Procurement
 4. Total current budget for this head: £1.3m
 5. Source of funding: Core
-

Staff

1. Number of staff (current and additional): 26.35 ftes current team
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement:
 2. Call-in: Applicable:
-

Customer Impact

1. N/A
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The new division was established to oversee the development of **all** commissioning proposals across the Council and review progress against key commissioning programme priorities. This new governance approach has improved transparency and knowledge of the Councils commissioning and contracting arrangements across the organisation.
- 3.2. As a result there has been a significant improvement in the proper consideration of commissioning/contracting proposals being made: their content and the solutions being proposed. The division prepares guidance notes on best practice, provides quality assurance on the approach and a much needed role in scrutinising and co-ordinating commissioning activities across the Council. The division also monitors all social care contracts.
- 3.3 Officers across the Council are now clear on who they need to approach to discuss any commissioning issues and are generally engaging with the division at a much earlier stage, so avoiding abortive work, which will help achieve improved outcomes.
- 3.4 The division identified early on that there was a lack of visibility and consistency in the approach taken to recording contracting information and its use as an aid to good management. As a result a new contract database has been developed and is now being rolled out across the organisation. The database, not only covers contract information, but includes links to finance, committee and other management systems which can be easily accessed in one place. This effectively provides a Council wide business system to aid effective management and visibility and provides assurance that the necessary actions are taken.
- 3.5 Within the division a small Programme and Project management team has also been set up to aid and support all commissioning and contracting activity across the organisation. This will either involve direct project management support & expertise for the larger/complex contracts or through the provision of practice notes.
- 3.6 Training has also been rolled out to Members and Officers around the Commissioning & Contracting Journey and statutory training will be undertaken over the next year broken down as follows:
- Gateway 1 – Commissioning and the need for a Business Case to consider the most appropriate route going forward
 - Tendering and issues that need to be considered – including timescales
 - Award of contract
 - Contract Management & Contract Monitoring
 - Managers Toolkit and where to find information
 - Contract Procedure Rules (CPRs).

This training is supplemented by the provision of extensive Practice Notes.

4. GOVERNANCE ARRANGEMENTS THE DIVISION HAS PUT IN PLACE IN THE LAST YEAR

- 4.1 Effective governance is about having the right arrangements in place to make sure things are done in the right way, at the right time and by the right people. Having this in place will allow us to co-ordinate and drive forward strategic commissioning.

- 4.2 Around **£200m** (96% of the Councils net budget or 41% gross budget) is currently being spent on Third Party payments. This figure is likely to increase significantly in the next few years as more services are outsourced. It is therefore important that going forward we ensure our service and performance requirements are clearly set out and embedded within all contracts, that these contracts have been robustly challenged and scrutinised, so are sustainable in the longer term.
- 4.3 A common issue identified by the Commissioning Team over the last year has been the lack of consistency around contracting proposals and particularly their onward management together with the proper consideration of the governance arrangements in place. Clear governance arrangements will embed confidence in processes, ensuring accountability and compliance, and ensure that Best Practice and Value for Money is part of normal working practice with key risks identified, quantified and managed.
- 4.4 Performance management and regular monitoring of all service provision is essential and needs to measure the impact of services on outcomes, as far as possible. As more complex services are outsourced strong governance and monitoring becomes even more critical and is required to ensure that the organisation has robust arrangements in place for the delivery of services to the required standards (determined by price and quality).
- 4.5 In the last year a number of important documents (Practice Notes) providing guidance on all contracting and commissioning issues have been provided to Directors and their staff covering the following:-
- Contract Monitoring & Contract Management – roles & responsibilities
 - KPIs and Performance Measures
 - Timetable for Commissioning & Contracting
 - Issues to consider when outsourcing
 - Role of Commissioners and how to become an expert
 - Criteria to be used when reviewing or awarding contracts (both officers and members)
 - Contract Monitoring Framework for Service Contracts – guidance for officers
 - Weighting to be used for contract evaluations and issues to consider
- 4.6 The new Contract Database has gone live from April 2017 and will be fully operational from September 2017, which will alert officers on key dates. Summary sheets for all contracts are now available which provides key information on budget and service issues
- 4.7 Commissioning Board now see all contracting activity above £200k
- 4.8 All services now being reviewed in detail (above £200k) to ensure VFM
- 4.9 Services recently outsourced or to be market tested are:-
- Recruitment of In-house Fostering
 - Residential Placements for 13-17 year olds
 - Remaining IT services (26 ftes)
 - Libraries
 - Modular Homes – temporary accommodation
- 4.10 Standard documentation for all contract specifications now used by all officers across the organisation – this will ensure a consistent approach and provide flexibility to move resources, if required, to support the larger more complex contracts

- 4.11 The division has ensured a consistent & efficient process for considering all Business Cases adopted by the Commissioning Board to review services and other activities submitted to the Board for consideration. This is linked into the Gateway Review processes reported to management & members. There is a requirement that officers provide sufficient evidence for their commissioning proposals, and they consider future service demand and changes in models of service delivery for any proposals made. Contract Procedure Rules have been amended to reflect the new management arrangements.
- 4.12. The visibility of commissioning activity has improved – a consolidated pipeline of commissioning activity is now available which brings together for the first time commissioning activity across the Council. It details all the separate areas of commissioning activity underway in the Council.
- 4.13 A commissioning library has been developed to hold commissioning information such as model specifications, structures for Client Units, approach around pension liabilities, SPVs, Joint Ventures, Best Practice and other guidance.
- 4.14 The Commissioning Board chaired by the Director of Commissioning is an enabling and facilitating group to challenge and support strategic commissioners and therefore provides a peer review. Membership of the board also includes legal, finance and procurement officers to ensure a consistent approach, particularly with regard to Financial Regulations and Contract Procedure Rules.
- 4.15 On-going training in place to improve the skills and capability of commissioners to support them as the organisation moves towards being a commissioning organisation on a much larger scale. Quarterly (mandatory) meetings are in place with all commissioners across the organisation to share information, new guidance and any lessons learnt.
- 4.16 The new centralised structure also ensures that procurement advice is consistent and supports procurement activity for complex commissioning, contracting models and their placement with the market.
- 4.17 Centralisation of ECHS contract monitoring arrangements is also managed within the Commissioning & Contracting Division which together with providing an independent QA role of the outsourced services also covers reduced risks as key controls are undertaken by these officers, which are separate from the Contract Management activity which sits within the service.
- 4.18. Clear governance arrangements will embed confidence in processes, ensuring accountability and compliance, and that Best Practice and Value for Money is part of normal working practice with key risks identified, quantified and managed4 .

Risks

- 4.19 There are a number of risks that the Council is exposed to if commissioning activity is not channelled through the Commissioning Team / Board, some of which are listed below:-
- Proposals not sufficiently robust
 - Quality assurance not undertaken for Business Case and specification (particularly from finance, legal and procurement)
 - Toolkit for commissioning (Analyse, Plan, Do and Review) may not be applied consistently
 - Whole-system thinking from our “experts” in commissioning not been applied
 - Danger of double counting budget savings, if departments work in silos
 - Robust “challenge” has been missed

- Compliance with contracting and procurement regulations
- Draft reports being pulled at late stage causing additional work for officers
- Failure to follow legal requirements on contracting and subsequent risk of challenge

4.20 The important factor here is that regardless of the levels of commissioning and the services being commissioned, the same consistent approach should always apply set against an agreed set of outcomes such as:-

- To drive out inequalities
- Deliver Quality Services
- Deliver Outcomes
- Have a Customer Focus
- Join up what we do
- Be sustainable
- Deliver value for money
- Be open and transparent
- Manage Risk

4.21 Another risk for the Council is failure by Directors to implement the guidance & best practice documents. Recent internal audit reports have highlighted issues around contract documentation, defaults, change controls, collecting income in a timely manner etc. The guidance clearly sets out what is required around contract management/contract monitoring – and the responsibility for ensuring this is implemented sits with the Directors.

4.22 The Director of Commissioning will help support the organisation through providing training to all staff involved in commissioning & contracting issues and will also advise on the skills and expertise required for the Client Units.

5. Financial Considerations

5.1 Commissioning will play a significant role in helping the Council on its transformation journey. The impact of the Comprehensive Spending Review 2010 means that all of the public sector need to deliver better value for money, be more productive, deliver efficiency savings and facilitate delivery of services more tailored to local needs. Effective commissioning (and resulting client arrangements) should help the council to meet all of these challenges.

5.2 When delivered and managed in the right way strategic commissioning offers an enormous number of benefits. It allows authorities to:-

- Implement demand management and service delivery disciplines
- Focus on core competencies
- Potentially reduce in-house headcount
- Reallocate core staff to more prioritised outcomes
- Refine project/program management, risk management, contract management and service delivery skills
- Move risk, responsibility, and accountability for the delivery of benefits realisation to a third party contractor
- Set-up a strong governance discipline and predict longer term expenses for the outsourced function against pre-defined business objectives
- Facilitate joint and proactive problem-solving and innovation practices.
- Drive down costs of services and management of services to target available resources to those most in need.

- 5.3 All of the above will help the Council drive down costs and deliver significant financial savings over the next few years. Officers will be looking ahead at future service demands and considering how to manage these pressures within the resources available, rather than being reactive with limited time to implement change
- 5.4 Becoming an expert commissioner is a cultural shift that will require us to develop new ways of working within the council as well as with our local communities, partners and service providers.

Non-Applicable Sections:	Legal, HR
Background Documents: (Access via Contact Officer)	Various documents held on the Managers Toolkit and within commissioning & procurement division.

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Report No.
CSD17075

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **CONTRACTS SUB-COMMITTEE**

Date: **13th June 2017**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **WORK PROGRAMME 2017/18**

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: N/A

1. Reason for report

- 1.1 This report offers the Sub-Committee an opportunity to consider its work programme and prioritise issues that should be scrutinised; five dates are scheduled in 2017/18 as part of the Council's programme of meetings.
-

2. **RECOMMENDATION**

That the Sub-Committee considers its work programme and indicates any particular issues that it wishes to consider.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Not Applicable
 4. Total current budget for this head: Not Applicable
 5. Source of funding: Not Applicable
-

Personnel

1. Number of staff (current and additional): 8 (7.2fte)
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: None:
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

3.1 This report offers the Sub-Committee an opportunity to consider its future work programme and prioritise the key issues that need consideration.

3.2 A draft work programme is set out in Appendix A. For 2017/18, five dates are included in the main programme of meetings – Members can add, change or remove these dates as necessary. At present, mainly the standard items (Work Programme and Contracts Register) are listed, and Members are invited to consider which are the key issues that they need to focus on for the coming year. The following issues have been mentioned for follow up or investigation at future meetings –

- Total Facilities Management Contract (Amey) – Service Requests
(from E&R PDS on 1st February 2017)
- Exit Strategies
(Contracts Sub-Committee on 9th February 2017)
- CAMHS (Child and Adolescent Mental Health Services)
(from the Chairman, March 2017)
- Processes for services being commissioned for the first time
(Contracts Sub-Committee on 11th April 2017)
- Recruitment and Staff Development for the commissioning Council
(from the Chairman, May 2017)
- Adecco Agency Staff Contract
(from E&R PDS on 18th May 2017)
- Cushman and Wakefield - Property Disposal/Feasibility
(from Executive and Resources PDS Committee on 18th May 2017)

3.3 Members will recall that the Director of Commissioning and Head of Corporate Procurement have previously run briefing sessions for Members on Contracts and Commissioning, providing key information about procedures in Bromley and an update on the latest information and approaches. The sessions were well received, and thirty nine out of sixty Councillors attended one of the sessions. The last session was on Thursday 13th October 2016, and attracted four Members. Further sessions can be arranged if necessary to encourage the remaining twenty one Councillors to attend one of these sessions.

Non-Applicable Sections:	Policy/Financial/Legal/Personnel/Impact on Vulnerable People & Children/Commissioning
Background Documents: (Access via Contact Officer)	None

Work Programme

Proposed Date	Issue	Officer
2017/18		
<u>Meeting 1</u> 13 th June 2017	Review of the Commissioning Directorate	Director of Commissioning
	Waivers – Internal Audit Update Report	(From Audit Sub-Cttee)
	Waste Services – Internal Audit Report (Pt 2)	(From Audit Sub-Cttee)
	Work Programme	DS Manager
<u>Meeting 2</u> 21 st September 2017	Corporate Contracts Register	Head of Corporate Procurement
	Work Programme	DS Manager
<u>Meeting 3</u> 30 th November 2017	Corporate Contracts Register	Head of Corporate Procurement
	Work Programme	DS Manager
<u>Meeting 4</u> 6 th February 2018	Corporate Contracts Register	Head of Corporate Procurement
	Work Programme	DS Manager
<u>Meeting 5</u> 29 th March 2018	Corporate Contracts Register	Head of Corporate Procurement
	Work Programme	DS Manager

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of the Local Government Act 1972.

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