



Tamworth Public Sector Commissioning Framework

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Approvals

Name	Title	Approved
Robert Mitchell	Deputy Director Communities, Planning & Partnerships	2012
Fleur Fernando / Karen Adderley	Partnership Support & Development Manager	2012
TSP Board		17 May 2012
TBC Cabinet		13 June 2012
TBC Cabinet		11 Dec 2014

Document Review Plans

Document review and updates shall be made in accordance with business requirements and changes will be with the agreement of the document owner.

Distribution

The document will be available on Tamworth Borough Council's website:

<http://www.tamworth.gov.uk/commissioning>

Security Classification

This document is classified as SEC 1 Routine.

For further information on this Framework please contact Karen Adderley details below.

Karen Adderley
Head of Partnerships and Commissioning
Tamworth Borough Council,
Marmion House,
Lichfield Street,
Tamworth,
B79 7BZ.

01827 709569

Email: karen-adderley@tamworth.gov.uk

Service outlines will be posted on InTend the Tamworth Borough Council's tendering system.

Acknowledgements

The commissioning process contained in this document has been developed from Tamworth Borough Council's Voluntary and Community Sector Commissioning Framework, which was developed in consultation with the Voluntary and Community Sector, including Tamworth Council for Voluntary Service, Tamworth Voluntary and Community Sector Forum, Staffordshire & Stoke on Trent Consortium of Infrastructure Organisations (SCIO) as well as Tamworth Borough Council and Staffordshire County Council Officers involved in commissioning services.

This Framework has drawn upon good practice from other local authorities and particular acknowledgement is given to the Newcastle under Lyme Borough Council Third Sector Commissioning Framework and Sutton Commissioning Framework.

If you, or someone you know, would like this information in alternative languages or formats such as large print or Braille, please contact the Communities, Planning & Partnerships Team on 01827 709615 or e-mail tsp@tamworth.gov.uk

Contents

	Number	Page
1	Introduction	5
1.1	Contextual Information	5
1.2	Strategic Integrated Commissioning	6
2	Scope of the Framework	6
3	Service Identification and use of the Commissioning Framework	7
4	Tamworth TSP Commissioning Proposal	9
4.1	Tamworth Procurement Process	11
5	Commissioning	13
6	Commissioning Process Management	14
7	Risk Identification and Management	15
8	Marketing	16
9	Award Criteria	17
10	Performance Measurement and Service Specification	18
11	Contract Award	19
12	Contract Length	19
13	Contract Management and Performance Review	20
14	Dispute Resolution	20
15	Legal and Compliance Issues	20
16	TUPE	21

Glossary	22
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APPENDICES

- Appendix A: Priorities for Tamworth
- Appendix B: Eight Principles of Good Commissioning
- Appendix C: Intelligent Commissioning Model
- Appendix D: De-commissioning Guidance

1. Introduction

Tamworth Strategic Partnership (herein after referred to as Tamworth TSP) recognises the importance of a fair and transparent, COMPACT compliant process that enables equal access and opportunity for all sectors in the provision of commissioned services. We wish to secure longer-term support to deliver essential services to improve the quality of life of the Borough's communities, focusing on the priorities agreed by the Tamworth Strategic Partnership Board, Tamworth Borough Council (herein after referred to as TBC) and our Commissioning partners.

This Public Sector Commissioning Framework is a combination of Tamworth Borough Council's Voluntary and Community Sector Commissioning Framework and the TSP Commissioning Framework. It helps to demonstrate the TSP's genuine commitment to collaborative working and will apply to the allocation of TBC and TSP funding. This framework will bring a new level of transparency and consistency to future funding agreements.

The target audience who may read this Commissioning Framework ranges from the voluntary and community sector, businesses to Council Members and Officers at all levels within our partner organisations.

This framework is aligned with wider work being undertaken on joint commissioning between agencies such as the County Council, Public Health, Clinical Commissioning Groups and Police and Crime Commissioner and will, in the future, integrate with other commissioning frameworks. It is therefore important to note that it could be subject to change and may serve as a bridge to a more joined up approach that realises better efficiencies and value for money.

This framework has drawn on Government guidance and from existing examples of best practice and has taken account of responses from consultation.

1.1 Contextual Information

The partnership working arena in Tamworth is thriving and diverse. It covers the whole spectrum of statutory organisation responsibilities and embraces organisations from all sectors.

Commissioning as a means to deliver services not only harnesses the advantages of more effective, better quality, customer focused services for users but also provides opportunities to achieve wider local social and economic objectives such as increasing local employment, improving local skills and increasing the self-esteem and confidence of local communities by meeting the needs of the communities.

The commissioning process can be defined as:

The process of assessing needs, procurement, allocating resources, defining priorities and choices, determining how they are best delivered, overseeing implementation and delivery, evaluating impact

The commissioning process contained in this document has been developed with the Strategic Partnership which has a wide range of organisations as members including, Fire, Police, County Council, Health, and the local Clinical Commissioning Group.

'We want the best local partnership working between all partners to be the rule, not the exception.'

The Tamworth Locality Commissioning Hub which will oversee selected elements of the commissioning process on behalf of the Council and the TSP will strive to achieve this aim and will embed the eight principles of good commissioning¹ as identified in the Partnership in Public Services: An action plan for Third Sector involvement in its commissioning arrangements with the Third Sector. (Appendix B) These principles can be transferred and relevant to all commissioning.

1.2 Strategic Integrated Commissioning

The Tamworth Public Sector Commissioning Framework has the ability to provide a flexible framework for multi-agency joint and integrated commissioning activity.

The Tamworth Locality Commissioning Hub will hold a strategic overview of commissioning requirements for the borough based on an enhanced Joint Strategic Needs Assessment (eJSNA) and local needs analysis. Key members of the Hub will be involved in developing service outlines and specifications alongside the appropriate lead professional/commissioner, this will align multi-agency activity and maximise the investment in the borough. The Locality Commissioning Hub's membership will reflect the services being commissioned at any one time and the budget holders' requirements when carrying out the tender evaluation. The Locality Commissioning Hub will receive an overview of contract/performance monitoring reports to ensure that services being delivered in Tamworth are delivering the outcomes required.

The TSP and its Locality Commissioning Hub will play an important strategic role in ensuring effective and integrated commissioning within the borough.

2. Scope of the Framework

This Framework has been designed to apply to the commissioning of priority services that have been identified as being potentially suitable for delivery by the

¹ Partnership in Public Services: An action plan for Third Sector involvement, Office of the Third Sector, 2006

voluntary, community, public, private and business sectors. Due regard will be taken of any EU procurement regulations in force at the time which would cover the services being commissioned. The EU Procurement rules create a legal obligation on contracting authorities and services.

The framework does not replace the procedures for applying for small grants which may be implemented by TBC and partner organisations but works alongside these procedures.

Application of the framework

TSP partners are responsible for delivering services on behalf of the residents of Tamworth. Partners will be encouraged to procure services in line with this framework and involve the Locality Commissioning Hub wherever possible to maximise investment and secure joint and collaborative opportunities for commissioning more effectively.

Recording the decision to use the Public Sector Framework

The TSP approved the Public Sector Commissioning Framework on the 17 May 2012. To enhance the transparency and accountability of the process the Framework will be available for scrutiny via TSP Board and the TSP/Council website. The updated Framework to take account of locality commissioning was approved at Council on 11 December 2014.

Links to Tamworth COMPACT

This Commissioning Framework has been drawn up using COMPACT principles and was Equality Impact assessed to ensure it does not have a potential adverse impact on particular groups of people in Tamworth.

The purpose of COMPACT is to improve working relationships between statutory agencies and the voluntary and community sectors.

The Council are committed to the development of relationships with all partner organisations including the voluntary and community sector, and will adhere wherever possible to COMPACT principles. We will endeavour to:

- **Facilitate the engagement of local community groups in the Commissioning Process**
- **Support the sustainable development of Voluntary and Community organisations by introducing, where possible, longer term funding.**
- **Set up and maintain a process of transparent and competitive tendering for services to recognise that they can be supplied by a range of agencies, whether from the Public, Private, Voluntary or Community Sectors.**
- **Provide, where appropriate, access to technical advice and support, training, transport, accommodation and other resources.**
- **Recognise that effective management and governance, and the involvement of volunteers require adequate resourcing.**
- **Recognise the importance of infrastructure to the Voluntary and Community Sectors and volunteering, and where appropriate provide support to its development.**
- **Allocate funding, contracts and other resources against clear, relevant and consistent criteria. Applications will be judged against funding organisations strategic commissioning objectives.**
- **Accept the principle of full cost recovery (as promoted by the Treasury) in funding voluntary and community organisations, to help them to meet the true cost of providing services, while acknowledging the practical difficulties of achieving this.**
- **Establish clear and transparent arrangements for agreeing and evaluating objectives, performance indicators and other targets.**
- **Give honest and timely feedback to funded organisations about successes or deficiencies in performance.**

- **Work towards the alignment of policies and systems across and within funding agencies.**
- **Ensure prompt payment of grants and contracts (including payment in advance, where appropriate).**
- **Give timely information to voluntary and community groups about funding opportunities and decisions (before the end of the current grant/contract period).**
- **Design application systems to meet the needs of smaller voluntary and community groups.**

There has been a long-running debate about the merits of grants or contracts, as the means of funding for service delivery. The decision on the right mechanism is an integral part of intelligent commissioning.

We need to be clear about the purpose of funding awards. Joseph Rowntree Foundation identifies three different funding styles:

- 1) **'Giving' (contributing to the voluntary organisation's goals without expectations of return),**
- 2) **'Shopping' (buying services) and**
- 3) **'Investing' (building capacity for future benefit).**

Government recognises the importance of retaining a choice of funding mechanisms for procuring services. It is suggested that there is a benefit to maintaining a mix of grant funding open to small organisations, alongside the increasing opportunities for organisations to contract with local government for the delivery of public services.

TSP Executive Board support the principle of 'investing' in strengthening the services in Tamworth through infrastructure support.

We will adopt the principles of Intelligent Commissioning, Stages of Procurement as set out by the Office of the Third Sector. See Appendices C.

3. Service Identification and use of the Commissioning Framework

All commissioning will be premised on the fact that all parties want what is best for the local population of Tamworth.

The identification of services is extremely important. The Commissioning Team will endeavour to:

- Carry out needs assessments to establish funding priorities
- Use the Enhanced Joint Strategic Needs Assessment and other appropriate needs analyses to support commissioning decisions where appropriate.

4 Tamworth TSP's Commissioning Proposal

It is **proposed** that the following channels be made available for funding the activities/services in Tamworth:

- A. Grants and Small Grants (Giving)
- B. Procuring Specific Services (Shopping)
- C. Investing (building capacity)

A. Grants

"Grants" Explained

A grant is used to fund an activity of a recipient because that activity is in broad alignment with the Government's (or Council's) overall objectives. Project type grants of this kind, which are given to support the provision of specific services, will need to be treated as a 'restricted fund' in any accounts; it may only be used for defined purposes.

Definition – National Audit Office

There are a number of existing grant schemes provided by Tamworth Borough Council. These are:

1. Small Grants Scheme approved by Cabinet (grants) Sub-Committee
2. Arts Grants Scheme approved by Cabinet (grants) Sub-Committee
3. Sports Grants Scheme approved by Cabinet (grants) Sub-Committee

The Council currently intends to operate these schemes alongside the Public Sector Commissioning Framework.

Grant funding remains a valid way of buying some forms of community based services. Value for money, local knowledge and potential benefit to service users will all be key considerations in awarding grants.

B. Procurement

Definition of procurement

Procurement covers "the specific activities within the commissioning cycle that focuses on the process of buying services, from the initial advertising through to the final contract arrangements. It encompasses the lifetime of the activities/service provision and the performance management of contracts, through to continuation or decommissioning of the service.

C. Investment

The Council would seek to make investment decisions through the procurement process described in this document having identified at the Service Outline stage if we are looking to invest in an organisation.

4.1 Tamworth Borough Council's Procurement Process

The Commissioning Hub will oversee, influence and authorise spending decisions against the agreed priorities. However as the TSP and the Locality Commissioning Hub are not legal entities, the procurement of services and performance management requirements will follow the governance/financial regulations of the most appropriate or host organisation.

Should TBC be the accountable body the Council's financial guidance sets out the latest procurement requirements and can be found via the following link:

http://www.tamworth.gov.uk/sites/default/files/finance_docs/Financial-Guidance-2014-web.doc

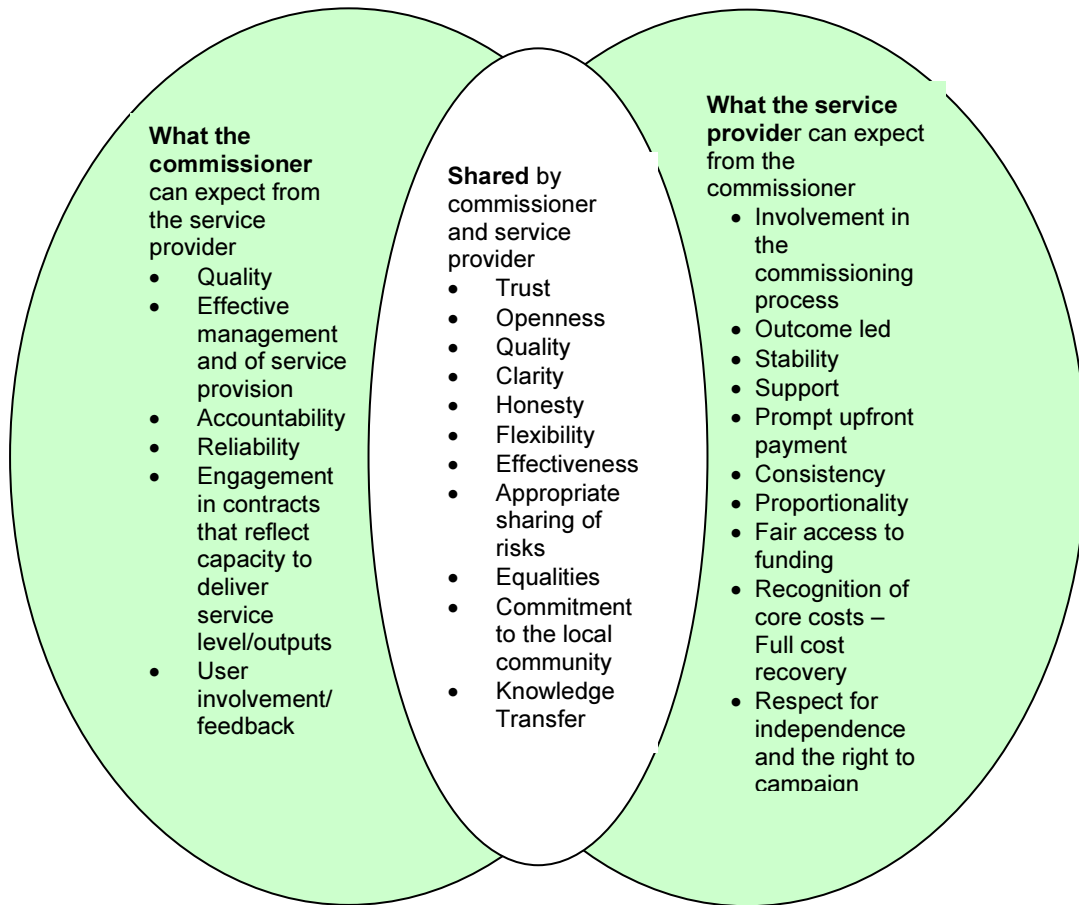
Services commissioned will deliver against the priorities for the Tamworth Strategic Partnership and funding partner priorities and requirements. The TSP's priorities are listed in Appendix A.

This involves the Council and all partners working together in an open, mutually respectful and honest manner to reach agreement on the delivery of services. This applies across the full funding spectrum. The objective for this method of commissioning is to ensure that both the Commissioner and the provider have joint ownership of the services delivered to the users, mutual respect for each other and contracts/SLAs that are driven by the performance of both parties and the mutually recognised needs of the clients. Partner organisations will be engaged in all parts of the Commissioning cycle from initial consultation and needs assessment through to monitoring and evaluation, where possible we will seek the views of the community and service users.

Successful partnership commissioning will enable an on-going successful relationship. The relationship and expectations of the parties is set out in **Figure 1. Expectations of commissioners and providers**²

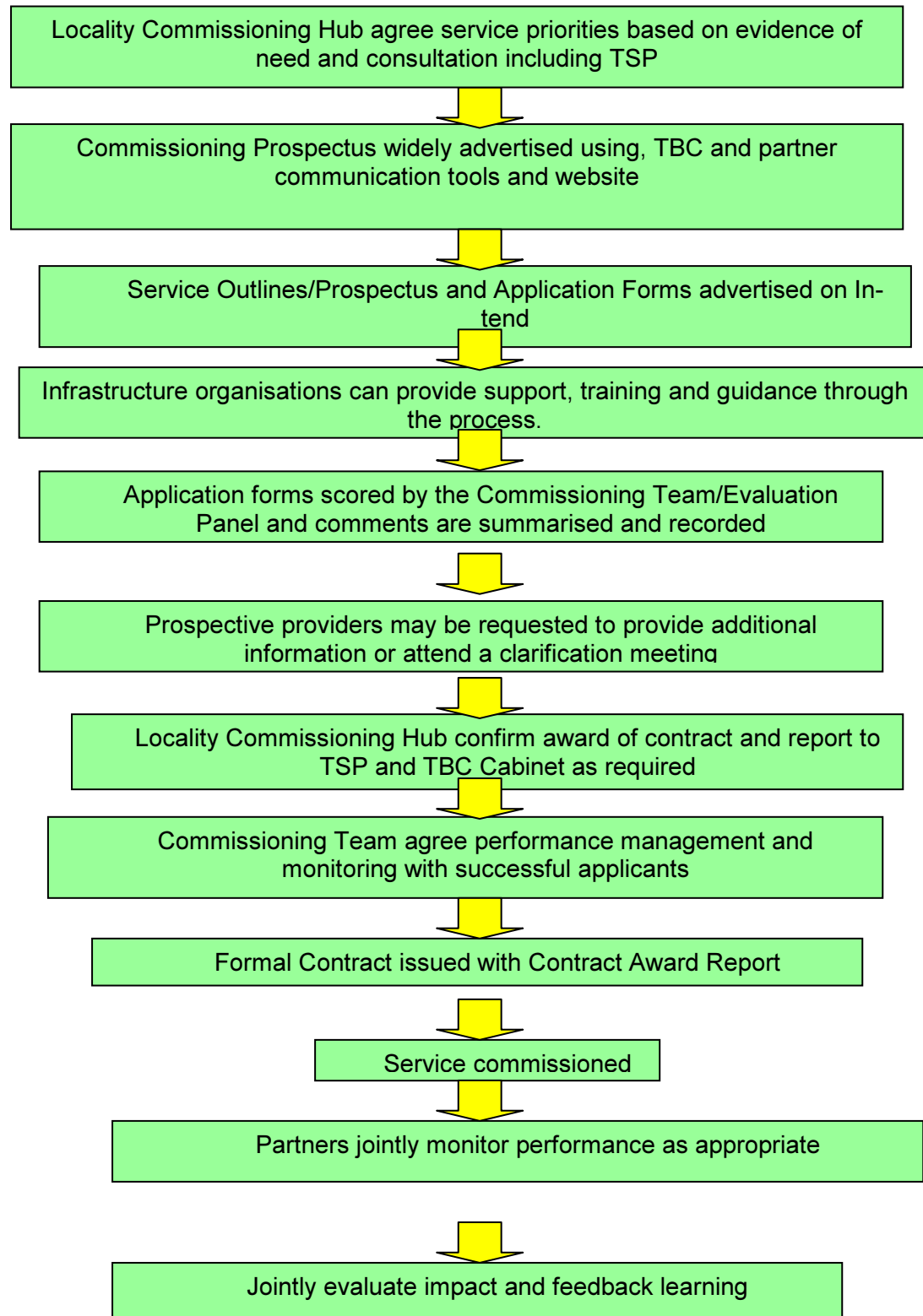
² Source: Tower Hamlets Third Sector Code of Practice (amended)

Figure 1 Expectations of commissioners and providers



5. Commissioning Services

Figure 2: Commissioning Process Flow Diagram



The Locality Commissioning Hub will ensure that the rigour of the process **will be proportionate** to the value of the commission. **Therefore it is possible that not all stages of the process would apply to all commissions**, this decision would be made during the needs assessment stage before the Service Outlines or Commissioning Prospectus is advertised.

6. Commissioning Process Management

For the purpose of this Framework, the term commissioning process covers the process from the needs assessment to the monitoring and evaluation of services. Effective commissioning process management is critical to the commissioning of services whether it is from the private, public or voluntary and community Sector. The circumstances of the provision, its size, complexity and sensitivity will inform how the service should be run and how formal the decision-making and documentation needs to be.

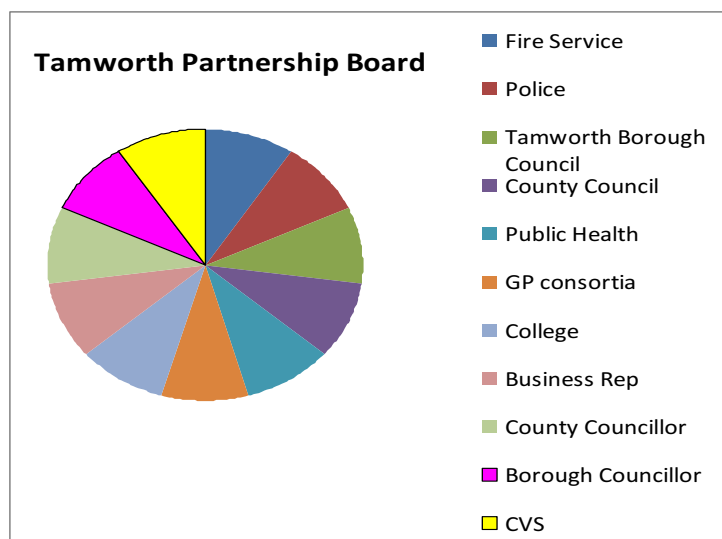
The commissioning process can involve the following roles:

Commissioning Sponsor: This role involves providing strategic direction for the commissioning of services. Internally, the role will interface with the TSP’s Executive Board and the Locality Commissioning Hub. The role may be empowered to authorise funding proposals.

Commissioning Manager and Team: This role, supported by a wider team including Procurement, HR, service professionals and commissioners from partner agencies, is responsible for the operational delivery of the commissioning processes.

Commissioning Support: This role will support the application process and also follow up on monitoring and evaluating the commissioned services.

Locality Commissioning Hub: The Hub includes representatives from the key partners from the TSP outlined below in addition to officers from TBC. Decisions will be made virtually and also formally at meetings. Dependent on the funds available and accountable body the membership of the Hub will vary accordingly. Terms of Reference of the Hub are part of this framework.



7. Risk Identification and Management

An important tenet of risk management is that risk “should be managed by the party best able to manage it”. Hence it is advisable not to try to transfer all risk to the provider. In fact it may be beneficial to retain as much risk as possible with the Public Sector Commissioner rather than attempting to transfer risks that are either not properly understood or cannot be effectively managed by providers. However, an equally important tenet of risk management concerns the ‘ownership of risk’. It is vital that each party accepts ownership of the risks they are responsible for, that these are clearly identified and an action plan is in operation to deal with significant risk.

There are several steps for risk to be fully addressed through the Commissioning Process:

1. The Locality Commissioning Hub has an up to date and annually reviewed risk assessment for the Commissioning process
2. The provider organisations carry out a risk assessment on the services they wish to provide and that this is submitted at tender stage.
3. When contractual arrangements are made with organisations joint risk assessments can be undertaken and subsequently monitored and reviewed.

Risk can be defined as uncertainty of outcome (whether opportunity or threat). Risk is inherent in any action the TSP takes. The most common reason for Services failing is that in the planning stage, a thorough risk profiling exercise is not carried out, resulting in poor management of significant risks. Risks should be considered in three specific categories:

- **Existing service risk.** The current strategic and operational risks within the existing in house service or service provider. The existing service should be reviewed to identify the risks already carried by the Council, their current impacts and likelihood of risk occurring and look to see if by redesign of the service delivery the risks could be mitigated or eliminated in a cost effective way. This review should include the identification of any relevant insurance cover carried by the authority in relation to the existing service.
- **Commissioning risk.** The risks that could occur during the Commissioning process that would damage the achievement of a successful outcome. Some risks are inherent in the contracting process; for example, poor tender specifications and evaluation criteria may lead to potential contractors not offering the level or quality of service envisaged and/or legal challenges being mounted against the results of the process.
- **New risk.** Any new risks that may emerge after the commencement of the contract. When the new provider of the goods or service is in place, there will be a new set of risks that the Council will have to address and these need to be categorised, documented and assessed; for example the provider may go out of business. This could include the impact on the charitable objects of the Voluntary and Community Sector organisations.

Once the risks have been identified it is important to establish their **significance** both in financial terms and with regard to their potential to cause damage to the

Councils reputation and ensure relevant steps are taken to reduce the likelihood of risk occurring.

8. Marketing

TSP wishes to work pro-actively to develop and support a varied supplier market. TSP wishes to act fairly to ensure that all prospective suppliers are able to bid for work where appropriate. This may include the packaging of services, use of umbrella groups and / or consortia. TSP will adhere wherever possible to the principles of COMPACT.

Some of the services TSP may seek to have delivered by the voluntary and community sector, public and business sectors will be either outside or peripheral to the current operations of the voluntary and community sector and business organisations in Tamworth. TSP needs to generate a wide interest from these sectors by marketing its commissioning activity. This can be undertaken in a number of ways however, the recommended process is as follows:

1. The Locality Commissioning Hub oversees the production of the **Service Outline or Commissioning Prospectus** for the services/priorities it wishes to commission. Important information for the Service Outline/Prospectus can be extracted from the needs assessment stage; this will include meeting corporate and sustainable community priorities, aims and objectives, specific desired outcomes, budget and the proposed timetable. It is good practice to identify (if possible) at this stage whether there may be a Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE, see section 16 for more information) or Asset transfer issue as part of the commissioning, or if the service provider will require specific types of insurance e.g. Professional Indemnity Insurance. An indication as to whether the Hub wishes to commission the services in a single or consortium package is also required.
2. The **Service Outline/Prospectus** will be advertised on In-Tend (the electronic procurement system) which can be accessed via www.in-tendhost.co.uk/tamworthbc. Infrastructure organisations, partners and a range of other networks will be advised of the tender opportunity. Press releases to local newspapers may also be used to promote the tender opportunity to the widest audience possible.
3. There will be various workshops after the tenders are put out to support the organisations through the application process and address any training requirements to ensure accessibility to the commissioning process and further develop and enhance the local market.

9. Award Criteria

Tender documentation issued will be proportionate to the value of prospective commissions.

An application form will be issued with the Service Outline/Prospectus as will the scoring criteria/weightings.

Bid documentation requested as part of any tendering process may include some or all of the following requirements:

- Proposal Submission form
- Service Delivery Plan
- Equality Impact Assessment
- Risk Assessment
- Health and Safety Policy
- Safeguarding Policies (Children and Vulnerable Adults)
- Equal Opportunities Policy

A check will be made to ascertain if appropriate insurances/DBS checks are in place.

Details will be provided in the tender documentation of the specific requirements for each commissioning activity.

A check may be made to ascertain what effect any award would have on the applicant's organisation/business and assess whether or not the applicant would have the capacity to deliver the contract/grant without incurring unreasonable financial risk(s).

Tender submissions will be evaluated by members of the Commissioning Team and recommendations will be considered by the Locality Commissioning Hub for approval. Clarification meetings may take place.

Award of contracts and grants will follow the financial regulations of the accountable body for each award.

Social Value

Ensuring value for money in public service delivery is now a more pressing concern than ever before. Measures of social value, which take into account wider 'value added' impacts and softer outcomes are becoming more sought after. The recent Best Value Guidance directs local authorities to consider social value when commissioning services. The guidance also provides a definition of Social Value.

Under the Duty of Best Value, therefore, authorities should consider overall value, including economic, environmental and social value, when reviewing service provision. As a concept, social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, above and beyond the benefit of merely the goods and services themselves.

DCLG, 2011

The additional benefits created may fall within the following seven domains³

Housing, Environment, Education, Health, Employment, Income and Crime

Social gains may be seen through increased social participation, civic engagement including volunteering, local employment, training, community cohesion etc. It is important however that social value is considered in relation to the service to be delivered and should be relevant to the contract.

This approach has been strengthened by the Public Services (Social Value) Act 2012 which came into force on 31 January 2013. This requires public authorities to have regard to economic, social and environmental well-being in connection with public service contracts. Public authorities are required to consider how what is procured may improve the social, economic and environmental wellbeing of the Borough, how the Council may secure any such improvement and to consider the need to consult. The Act applies to service contracts, which must be advertised through the EU Journal but, the principles can be of wider application and support the principles of this framework.

10. Performance Measurement and Service Specification

It is intrinsic to the success of the service, that the specification developed in partnership with the successful provider, identifies performance measures that will deliver against the TSP and funding partners' priorities.

An essential element in the development of commissioning partnerships is **the joint ownership** of the service specification and the outcomes/outputs of the service.

This process is a sensitive process between the successful applicant and the Commissioning Team. Both parties must acknowledge this fact and respect the confidentiality of the information shared⁴.

³ Seven Domains taken from the North West Social Value Foundation, Social Value Toolkit

⁴ The TSP must comply with the Freedom of Information Act 2000 in disclosing information to third parties. Please see Section 15 for further details.

Outcomes Based Service Outline

Many traditional contracts have been developed around the outputs (activities and processes) that should be delivered. Whilst this can provide clarity about the types of activity required it does not encourage sufficient attention to the outcomes of activity. It is important to know 'the difference' the work has made. Therefore an effective service outline will use outputs and both short and long term outcomes.

The Commissioning Team will negotiate the development of these with the organisation awarded the contract. Where possible we will seek to align reporting requirements with those of other Commissioners.

It is an acknowledged principal of good management that all effective organisations measure their performance in order to know how well they are performing and to identify opportunities for improvement. In the initial development of Key Performance Indicators (KPIs) a few matters are critical:

- Are the KPIs relevant to the required outcomes and outputs of the service or essential to its proper management?
- Are they measurable?
- Is the measurement objective enough to make comparison with some base position relevant?
- Can the KPI's be collected efficiently and cost-effectively?
- Are soft outcomes also being measured and evidenced?

The development of the Key Performance Indicators will be a collaborative process between the Commissioning Team and the successful service provider, although, there may be statutory and other performance indicators that must be met which may be listed in the Service Outline/Prospectus. This will enable an informative process to take place in which the TSP identifies its objectives and the prospective providers define their capability to meet these objectives in terms of measurable performance. Providers will be expected to demonstrate the results of their activity both in terms of the outputs and the short and longer term outcomes. As part of this process of developing a performance measurement framework the Contract/SLA for the service will also be developed. Additionally the resource implications for the provider may be confirmed through this negotiated process.

11. Contract Award

Following the evaluation of application the award of a Contract/SLA will be made. A **Contract** will be completed and signed by the relevant Director or other authorised officer. The ability to award contracts is set out in the Councils Financial Regulations and Standing Orders in relation to Contracts. We will publish the Commissioning decisions in order to be fair and transparent.

12. Contract Length

When commissioning services under this framework it is recommended that, where possible, contracts are for a **minimum period of 2 years**. However if either party is in breach of contract, early termination, as per the contract, is enforceable by either party. This period is chosen as this reflects the Council's Medium Term Financial Strategy. This enables the provider to recover any investment it makes to deliver the

service. Investment in this sense includes assets, training and additional management support. It also enables the provider to plan for the long term.

13. Contract Management and Performance Review

Effective contract management is fundamental to the delivery of high quality services. The Locality Commissioning Hub/Commissioning Team and the provider will **jointly monitor performance** as set out in the contract/funding agreement. To develop trust and reinforce transparency it is imperative that an open and honest procedure is in operation on both sides.

Locality Commissioning Hub reserves the right to carry out an audit of commissioned organisations at its sole discretion and cost.

14. Dispute Resolution

All agreements will incorporate a dispute resolution mechanism which needs to be time limited. This will follow the Dispute Resolution Procedure as set out in the contract or funding agreement.

15. Legal and Compliance Issues

All commissioning must comply with relevant TSP members' own Financial Regulations and Standing Orders in relation to Contracts.

The EC Procurement Directives are applicable to all procurements.

Where the value of the commission is less than the current thresholds for a Part B service, there is no need to advertise in the European Journal. However under EU law TBC is bound to act in an open and transparent manner and *not* discriminate against any organisation from outside Tamworth (including all the European Union) that may wish to bid for services. In the case of Part B services over the set threshold TBC must observe rules on specifications and place an award notice in the Official Journal of the European Journal (OJEU).

Data Protection Act 1998 and Freedom of Information Act 2000

The Locality Commissioning Hub is fully committed to compliance with the requirements of the Data Protection Act 1998 which came into force on 1 March 2000. The Locality Commissioning Hub will therefore follow procedures which aim to ensure that all employees, elected members, contractors, consultants, partners or other servants of the council who have access to any personal data held by or on behalf of the Locality Commissioning Hub, are fully aware of and abide by their duties under the Data Protection Act 1998.

The Locality Commissioning Hub regards the lawful and correct treatment of personal information as very important to its successful operations and to maintaining confidence between the Hub and those with whom it carries out business. The Locality Commissioning Hub will ensure that it treats personal information lawfully and correctly.

To this end the Locality Commissioning Hub fully endorses and adheres to the principles of Data Protection as set out in the Data Protection Act 1998.

The Freedom of Information Act 2000 (FOI) came into force in January 2005 and under it any member of the public, company, charity or organisation, may make a request for information to the Borough Council.

Voluntary and Community Sector organisations are exempt from the act. However, government would “expect charities to respond as openly and promptly as possible to reasonable requests for the information they hold”.⁵⁵

Protecting your organisational interests

When tendering or entering into a contract with the Authority, organisations may wish to ensure that their commercial interests are protected or this could result in sensitive information being disclosed. Applicants should consider what information may be confidential or sensitive and advise the Commissioning Team in writing.

Organisations may wish to identify sensitive information when tendering and forwarding material to the Council. It is the responsibility of the tenderer to clearly mark any information contained in their tender proposals or contracts that is commercially sensitive or may be:

- Classed as secret within their sector and bring this to the attention of the Commissioning Team in writing. Reasons why the information is sensitive and/or secret must also be included.
- Organisations may wish to agree a list of potentially exempt information to attach to a contract e.g. pricing, innovative or original processes.
- The Commission Team will also, where possible, notify organisations of information requests and seek the agreement of the organisation before disclosing the information to someone else.

The Freedom of Information Act 2000 is enforceable by the Information Commissioner, for more information please visit www.informationcommissioner.gov.uk. For specific procurement related guidance see the FOI (Civil Procurement) Policy and Guidance document.

16 TUPE

As part of the Commissioning process, due regard will be taken of any TUPE implications and commissioners and providers will be expected to abide by current TUPE regulations.

⁵ The Ministry of Justice 2009

Glossary

Best Value - The policy for delivering services of excellence within available resources which respond to both local and national priorities. 'A Best Value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness' (LGS 1999, section 3 [1]).

Commissioning Manager - The Commissioning Manager's responsibilities will include: Supporting and liaising with potential providers, managing the application and delivery process, resolving shortfalls in the delivery of the service.

Commissioning Team - The Commissioning Team refers to a virtual team who share responsibility for the operational delivery of the commissioning process and may comprise of Council representatives from the Commissioning Directorates, Legal Team, Human Resources the Commissioning Manager and the Partnership Funding Officer as well as Commissioners from partner agencies. This list is not exhaustive.

Community Groups Membership based member-led groups usually focussed on a neighbourhood, village or community interest which tend to be informal in structure, based on mutual support and have limited income.

Consultation The process of seeking and listening to views in order to assess opinions on a particular issue.

Contract/SLA The document awarded on the completion of the tendering process recording the agreement between the parties. It specifies the service to be delivered and the arrangements for delivery, paying for it together with arrangements for monitoring and ending the contract. This is a legally binding document.

eJSNA enhanced Joint Strategic Needs Assessment

Evaluation The assessment of the value of the service that is provided. It helps organisations to see whether they are achieving what they want to achieve or if they need to do anything in a different way.

Full Cost Recovery Full Cost Recovery is an essential financial management concept that gives accurate and complete project costing when applying for funding. Full cost recovery means the service provider must 'recover' the full cost of a project or service they provide including direct costs and a relevant proportion of the overhead costs of the organisation. Every organisation needs to recover all its costs to generate surplus to rent office space, pay employees and plan for the future and the continued development of its services. Full cost recovery will therefore include appropriate overhead costs activities or services provided. These costs may include:

- Premises – rent, mortgage, heat, light, management, insurance
- Equipment – telephone, fax, photocopying, IT
- Staffs costs
- Finance management
- Research and development
- Support of membership structure/volunteers/trustees

- Project management
- Monitoring and evaluation, quality assurance
- Travel and subsistence
- Training and supervision
- Human resources
- Fund-raising

Funding A general term used to describe money for a project, person, business etc. or the way in which that money is provided e.g. via a grant.

Grant A grant is a financial transfer used to fund activity that is in broad alignment with the Funder's objectives.

MEAT Most Economically Advantageous Tender often used in the same way as Best Value.

Monitoring The collection and recording of information against performance indicators on the activities of an organisation. It provides information on what the organisation is doing.

Participation A process in which individuals, groups and organisations can be actively involved with others in a variety of activities or processes.

Partnership Two or more organisations working together to achieve a shared goal. There is a clear understanding of what each organisation is contributing whilst taking into account their differences. There is equal respect for all partners and its success depends on the sharing of decision making and information.

Procurement The acquisition of goods or services from third party suppliers under legally binding contractual terms where all the conditions needed to form a contract have been met. Procurement is the process that public bodies use to obtain goods and services necessary for the delivery of the services it provides to the public. This may involve a competitive bidding process which any organisation has the right to bid on equal terms.

Public Sector Agencies Central and Local Government agencies established by statute or law.

Tamworth Strategic Partnership An overall partnership of people that brings together organisations from the public, private, community and voluntary sectors within a local authority areas, with the objective of improving people's quality of life.

Tender A competitive procedure by which a bid is made to provide goods, services and works at a certain price, volume and standard.

Third Sector Registered charities, voluntary organisations, and community groups, faith groups engaged in voluntary social action, not for profit organisations, community interest companies and social enterprises.

The Locality Commissioning Hub The group that is responsible for Commissioning Services and oversees the whole process.

TUPE Stands for Transfer of Undertakings (Protection of Employment) Regulations. These protect people when their employer changes such as when a company is taken over or a public service is contracted out.

Value for Money (VFM) The optimum combination of whole life costs and quality to meet the user requirement. VFM is an overarching principle of the UK Governments Procurement Policy and all public procurement decisions should be made on the basis of VFM.

Voluntary organisation An organisation which is non-profit distributing, non-statutory, autonomous and often of charitable status.

APPENDICES

APPENDIX A:

PRIORITIES FOR TAMWORTH

CORPORATE PRIORITIES

“One Tamworth, Perfectly Placed”
(the people) (the place)

Strategic Priority 1

To Aspire and Prosper in Tamworth

Primary Outcome

To create and sustain a thriving local economy and make Tamworth a more aspirational and competitive place to do business.

To achieve this, we will:

1a Raise the aspiration and attainment levels of young people

1b Create opportunities for business growth through developing and using skills and talent

1c Promote private sector growth and create quality employment locally

1d Brand and market “Tamworth” as a great place to “live life to the full”

1e Create the physical and technological infrastructure necessary to support the achievement of this primary outcome.

Strategic Priority 2

To be healthier and safer in Tamworth

Primary Outcome

To create a safe environment in which local people can reach their full potential and live longer, healthier lives.

To achieve this, we will:

2a Address the causes of poor health in children and young people;

2b Improve the health and well being of older people by supporting them to live active, independent lives;

2c Reduce the harm and wider consequences of alcohol abuse on individuals,

families and society;

2d Implement 'Total Place' solutions to tackling crime and ASB in designated localities;

2e Develop innovative early interventions to tackle youth crime and ASB; and

2f Create an integrated approach to protecting those most vulnerable in our local communities

Appendix B:

Eight Principles of Good Commissioning

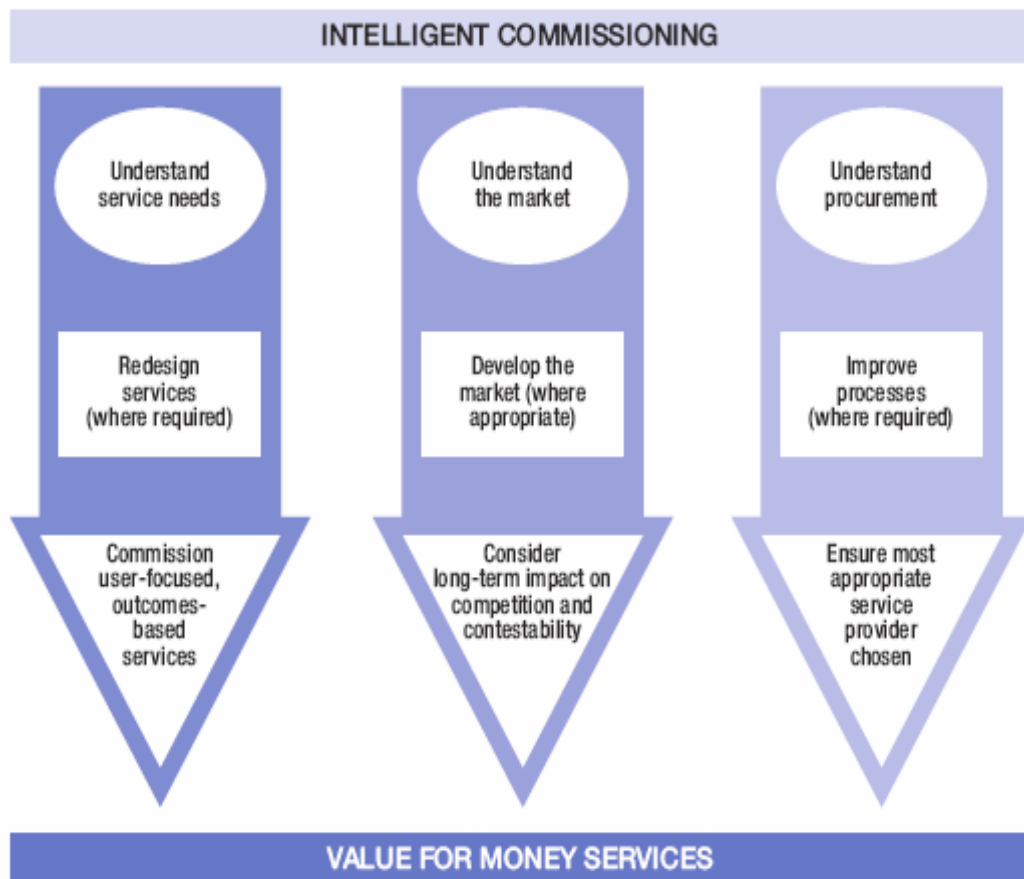
Partnership in Public Services: An action plan for Third Sector involvement, Office of the Third Sector, 2006

Eight principles of good commissioning

- 1. develop an understanding of the needs of users and communities by ensuring that, alongside other consultees, they engage with Third Sector organisations as advocates to access their specialist knowledge;**
- 2. consult potential provider organisations, including those from the Third Sector and local experts, well in advance of commissioning new services, working with them to set priority outcomes for that service;**
- 3. put outcomes for users at the heart of the strategic planning process;**
- 4. map the fullest practicable range of providers with a view to understanding the contribution they could make to delivering those outcomes;**
- 5. consider investing in the capacity of the provider base, particularly those working with hard-to-reach groups;**
- 6. ensure contracting processes are transparent and fair, facilitating the involvement of the broadest range of suppliers, including considering subcontracting and consortia-building where appropriate;**
- 7. seek to ensure long-term contracts and risk sharing wherever appropriate as ways of achieving efficiency and effectiveness; and**
- 8. seek feedback from service users, communities and providers in order to review the effectiveness of the commissioning process in meeting local needs.**

Appendix C:

Intelligent Commissioning Model



Appendix D:

**TAMWORTH PUBLIC SECTOR COMMISSIONING
DECOMMISSIONING GUIDANCE FOR ENDING A CONTRACT
COMMISSIONED, PROCURED OR GRANTS FUNDED**

Contents

1. Definitions
2. Introduction
3. Legal Considerations
4. Key Principles for Good Decommissioning
5. Risk
6. When to Decommission
7. Roles and Responsibilities
8. The Decommissioning Process
 - Strategic Commissioning and Decision Making
 - Operational Decommissioning Process
 - Exit Strategies and Planning Transition
9. Additional Considerations
10. Appendices
 - Appendix 1 Flowchart of Operational Decommissioning Process
 - Appendix 2 Key Related Policies to Consider
 - Appendix 3 IPC Commissioning Cycle
 - Appendix 4 Risk Matrix
 - Appendix 5 Additional Reading

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SCOPE OF GUIDANCE

This guidance forms part of the Public Sector Commissioning Framework, and sets out processes and standards to adhere to when reaching the end of a contract, end of grant funding arrangement and decommissioning services.

The process and considerations for decommissioning must be considered during the commissioning cycle and form part of any contract and service level agreement.

Implementation of this guidance will ensure that the expectations of all parties are clear and reduce the risks of failing to comply with legal or financial requirements, of letting down service users, or of destabilising the provider market.

This Policy applies to all services, including those jointly commissioned with partners, whether they are delivered internally or by an external contractor, and regardless of the 'sector' (e.g. VCS) in which the Provider is operating.

1. DEFINITION

The term decommissioning commonly covers all instances and is defined as:

“The process of planning and managing a reduction in service activity or terminating a [service or] contract in line with commissioning objectives.”

Improvement & Development Agency, IDeA

STRATEGIC / OPERATIONAL

Decommissioning can be considered as having two key stages that are used when defining the key roles, responsibilities and tasks

1. **Strategic Decommissioning:** the business case for change and decision-making.
2. **Operational Decommissioning:** implementing good change management, including contract termination and transition to new delivery arrangements.

Providers and interested stakeholders of existing services must be consulted and engaged with throughout the strategic decommissioning process.

Essentially, successful decommissioning is about good **change management**, ensuring that the transition to new ways of delivering services or the cessation of service delivery is well managed.

2. INTRODUCTION

Tamworth Borough Council has adopted, in its Public Sector Commissioning Framework, recognition that decommissioning is an integral part of the commissioning process.

Considerations for decommissioning must be carried out at the Analyse, Plan, Do and Review stages as shown in the diagram example in Appendix 3

The resources available to commissioners for investing in achieving outcomes will on the whole be finite¹, and in times of financial hardship funding may often be reduced.

This requires commissioners to look for the most efficient ways of investing to achieve the best outcomes for adults, children and young people in Tamworth; increasingly this will be seen in the integrating of budgets and frontline service delivery across partner organisations, seeking more efficient delivery models from existing suppliers as well as looking for new models of service delivery.

Inevitably, any decisions to change service delivery and move resources will require change to, or termination of the current service delivery. This can happen when a contract reaches the end of its agreed term, grant funding has finished, where national or local changes in priorities or funding requires a service review that alters the scope of work or poor performance by providers needs addressing.

In addition, immediate decommissioning can result where a provider has breached a contract, for instance where a service is not safe or compliant with legal duties.

Service cessation and contract termination could impact on provider sustainability and the future of their workforce affecting therefore the market's future availability of providers from which to commission.

Market development can be stifled by poor decommissioning practices, as providers are more wary of dealing with the Authority or are detrimentally impacted upon by commissioning decisions.

Robust exit strategies should be considered at both the tender and contract negotiation stages; in order to reduce any detrimental impact of commissioning or decommissioning and to best prepare parties for changes to funding or commissioning demand.

High quality and appropriate monitoring and evaluation requirements must also be in place to determine how well a current service is delivering outcomes. The evidence provided by good contract management must be used in all decommissioning processes.

¹ Although on occasion new funding streams are identified, these are on the whole short-term and overall the resources available are likely to remain the same or reduce over the next few years.

3. LEGAL CONSIDERATIONS

At the beginning of any contractual relationship it is essential to set out clear legal terms for the termination of contracts.

Before any decommissioning work commences it is **paramount** to check the legal position of the service under review and to adhere to contractual terms. Legal services must be consulted at all stages of the process.

4. KEY PRINCIPLES FOR GOOD DECOMMISSIONING

By undertaking the decommissioning process well we are seeking to:

- Prioritise the changing needs of service users, particularly the most vulnerable
- Improve service quality
- Continuity of service provision
- Secure transition to new delivery arrangements
- Managing the process of service cessation
- Make the best possible use of limited resources to secure positive outcomes
- Base change on a clear and evidence based business case
- Consider the impact of change on the 'whole system'
- Minimise risk of compliance failure with legal, financial and statutory duties
- Maintain good partnership working and relationships with providers and stakeholders
- Consider and mitigate the impact on equalities groups
- Maintain the skills, experience and knowledge of the workforce
- Support the future market
- Demonstrate transparency and openness in decision-making
- Be aware of the broader social and economic impact of change – e.g. on local employment and other investment
- Continue to meet our statutory duty

FOUR KEY PRINCIPLES

Good decommissioning embeds the following key principles and identified activity:

Principles	Processes
Focus on achieving outcomes	Base change on evidence of need and shared aspirations
	Effective inclusion of all, focusing on vulnerable and equalities groups
	Engage service users in decision making
Build Consensus	Communicate, within a clear structure and process, with all stakeholders
	Be open, transparent, timely and respectful

Principles	Processes
	Develop a shared understanding of both processes and outcomes
	Secure political and senior management ownership
	Manage expectations
Informed and robust decision making	Use accurate data in information, communications and documentation
	Establish a clear and credible evidence base
	Clarify ownership of the decision-making process
	Fully understand the impact of the 'whole-system'
	Clearly identify and forecast resources
	Understand the impact on equalities communities
	Be transparent
High quality project management	Set out and communicate a well planned process
	Clearly define roles and responsibilities
	Undertake good quality risk management
	Identify adequate timescales, resources and capacity for the process
	Undertake robust transition planning
	Review and learn for the process

5. RISK

All change has both intended and unintended consequences. It is important that commissioners are aware of the risks and the likely impacts of the decommissioning activity, and ensure that appropriate actions are taken to reduce the potential negative effects wherever possible.

A risk matrix is a useful tool to help clarify the importance of each action. It demonstrates in a grid format the level of likelihood against impact of each decision, highlighting clearly those in high and critical areas.

An example is shown in appendix 4.

Likelihood ↑	4	Green	Yellow	Red	Red
	3	Green	Yellow	Yellow	Red
	2	Green	Green	Yellow	Yellow
	1	Green	Green	Green	Yellow
		Green	Yellow		
		1	2	3	4
		Impact →			

Assessing the risk

The risks are listed down and then mapped on the grid in the appropriate sector. This starts to build a picture of how the process will affect the service to be decommissioned.

Examples of what questions should be considered are:

1. What will be the impact of loss of funding for the provider?
2. What are the impacts upon other services?
3. What will be the impacts upon working relationships between provider and the Council?
4. What will be the impacts upon the market of provision/altering the balance of power?

Whilst these risks cannot be mitigated because of the need to decommission has to happen, it is paramount that the implications are understood and accepted within the process.

6. WHEN TO DECOMMISSION

Service decommissioning can be initiated either by the actions of a provider or a commissioner / contracting officer.

1. Planned decommissioning

Results either from the scheduled end of an existing contract/funding arrangements and/or a service or strategy review process. Where the strategy review process

takes place during the life of the contract, the **legal** implications need to be checked first. Depending how the service was contracted will determine what type of exit strategy will need to be applied.

2. Unplanned decommissioning

May result where a current service or provision fails – this could be due to consistent poor performance; other difficulties for the provider which require them to pull out of delivery; or a major incident which places service users at immediate risk.

Unplanned decommissioning is likely to require swift and robust action and accentuates the need to have a process in place at the start up of a contract. Plans to aid decommissioning are part of the contract terms.

7. COMMISSIONING TEAM – THE FOLLOWING TABLE OUTLINES THE KEY ROLES AND RESPONSIBILITIES TO BE INVOLVED IN A COMMISSIONING TEAM

Role	Responsibilities	Timescale
Locality Commissioning Hub Defined by the specific commissioning / decommissioning process e.g. could be a Programme or Project Board, Work stream Group.	<ul style="list-style-type: none"> • Determines the appropriate decision making process • Approves the commissioning and decommissioning recommendations; • Provides quality assurance and challenge to the commissioning and decommissioning process 	At least 6 Months prior to end of contract
Lead Commissioner Service Manager or equivalent	<ul style="list-style-type: none"> • Leads stakeholder engagement and communications • Leads on the commissioning and decommissioning process and development of service review or strategy; • Develops, with providers, Business Case for Change and presents cases to the Commissioning Body for decision; • Identifies the scope, requirements and makes recommendations to the Commissioning Body; • Ensures that the data, evidence base and other information is accurate and robust; • Signoff business cases for individual service decommissioning; • Provides direction and support to the contract manager; • Implements stakeholder engagement and communications plan 	At least 6 Months

Role	Responsibilities	Timescale
Officer performance managing the contract	<ul style="list-style-type: none"> • Manages communications with individual providers; • Ensures existing information on performance and emerging needs informs the commissioning / decommissioning process; • Manages the operational decommissioning process; • Manages a transition plan to new service delivery arrangements. 	At least 3 months
Finance Officer	<ul style="list-style-type: none"> • Ensures availability and use of accurate information on existing spend and forecasted available spend to correctly inform commissioning and decommissioning; • Provides support to the contract manager in mitigating any risks related to funding in contract wind down and transition to new arrangements; 	As and when required
Legal Services	<ul style="list-style-type: none"> • Provide appropriate legal advice when consulted by lead commissioner /procurement/ contract manager. <p><i>Note: remember to factor in the costing for legal services</i></p>	As and when required

The Review Process

Whether the decommissioning requirement stems from a planned or unplanned occurrence the review process is still the same. The process consists of the following determinants:

Needs of Service Users (Demand)

- Changes in service users' needs
- Service user satisfaction or dissatisfaction
- Level and trend of demand from service users

Financial

- The need to improve value for money;
- Making required efficiency savings;
- A reduction in the available resources;
- Service costs become unsustainable

Policy and Practice

- Legislative, national or local policy changes
- Integration of services to increase efficiency and better meet needs, including the pooling of partners resources
- The drive for personalised budgets and devolving of resources to users
- New research or improved evidence base changes required practice

Market Provider Factors (Supply)

- Service landscape change – i.e. impact of change to other, related services
- Changes or developments within the market
- Ability of current service(s) to deliver expected outcomes
- New technology available to support delivery

8. THE DECOMMISSIONING PROCESS

Strategic Commissioning & Decision-Making

Clarity on the formal decision-making processes is essential for any decommissioning activity, and particularly when working in partnership.

However, depending on the scope of the decisions, investment level, funding source, degree of change and political sensitivity decisions may also require consideration at the Executive Board, Cabinet and/or Boards of individual partner agencies.

The decision-making process must be clearly set out to all parties, including the opportunities for influence or appeal by providers. It needs to have clear ownership by all those engaged and clear documentation (e.g. through Business Case for Change).

It is important to identify and have early communications with your Executive

Member /sponsor to ensure buy in and alignment to decision making.

Stakeholder Participation

A good commissioning process clearly identifies the relevant stakeholders and undertakes a proportionate level of stakeholder mapping – their needs, requirements, issues and concerns. This is essential to building consensus amongst stakeholders to underpin likely change. The key stakeholders in the process may include:

- Service Users
- Service Users' family, carers or friends
- Wider community
- Provider organisation(s)
- Provider staff
- Provider forum organisations/groups
- Multiagency working partners
- Trade unions
- Senior management
- Lead Members and Councillors
- Locality Partnerships / neighbourhood Partnerships
- Other partnership bodies
- Agencies in neighbouring areas (to ensure permeable borders for service users; value added across borders; provider viability etc)
- Central government civil servants

Once decommissioning implications have been identified it is advisable for the Lead Commissioner and Contract Manager to revisit this stakeholder mapping to review the needs and concerns of stakeholders in light of these potential changes and identify the actions required.

Existing monitoring and evaluation information

Existing provision has a wealth of information to contribute to any service review. This underlines the importance of engaging existing providers throughout the strategic commissioning process and undertaking effective contract management. Information needed from existing providers will include:

- Provider specific performance data on outcomes achieved;
- Service user numbers, satisfaction and views;
- Depth and breadth of service reach and relationships, e.g. capacity to reach hard to engage/hard to reach groups;
- Pathways into and out of existing services and other multiagency working arrangements;
- Financial information – e.g. costs per service user, overall level of current investment;
- Qualitative information on emerging needs and gaps in current provision;

Resourcing and Planning Change

Commissioners need to consider the impact of the change process itself, including:

- Financial and nonfinancial costs of the change process;
- The potential risks of the change;
- The transition of service users, particularly where they may be vulnerable due to any break in service;
- Resources required for commissioning and decommissioning processes;
- Ensuring the pace of change delivers effectively and minimises risk to service users, without prolonging uncertainty and/or potentially poor performance by providers.

OPERATIONAL DECOMMISSIONING PROCESS

The operational decommissioning process can be divided into two main phases and is covered in more detail below:

1 Business Case for Change/Impact Assessment – some significant change to service delivery has been identified as an option (e.g. service cessation, re-tendering, service redesign), and the impact of that needs to be established and must be fed into strategic decision making before services are decommissioned.

2 Service Exit and Transition – formal decisions have been taken to end the service and either transition to new arrangements or cease delivery entirely.

BUSINESS CASE FOR CHANGE

Producing a clear business case or rationale for decommissioning a service is an essential part of the decision-making process, whether as an individual service or as part of a wider change strategy. It is important that there is dialogue with the existing provider to ensure that all relevant information on impact and risk has been considered in defining the change required.

The business case needs to provide robust information on the impact of changing

(decommissioning or remodelling) a service and offers the opportunity for the Contract Manager and existing Provider to:

- Focus on ensuring the changes proposed will improve the outcomes
- Gather intelligence to ensure the case for change is accurate and has considered all relevant information – e.g. impact on other services, match funding, vulnerable groups, unintended consequences of change
- Flag early, factors that need to be incorporated into transition and exit planning
- Identify training or development support that may be required by providers e.g. to compete for any re-commissioning opportunities
- Provide information on other contextual issues that will impact on service users and/or the provider organisation in light of the proposed decommissioning

There are no formal timescales for this process, however, it should always allow for effective dialogue with the provider and service users. The Staffordshire Compact provides guidance, for example, on the timeframes of best practice in consultation and engagement of VCS providers. This process may run parallel to a formal consultation on a new commissioning strategy and also be informed by the results of this.

EXIT STRATEGIES & PLANNING TRANSITION

Once a formal decision with regards to decommissioning has been made it will result in one of a number of options for individual services:

1. No change to service delivery required
2. Remodelling or variation of existing service, with existing provider
3. Service cessation
4. Tender or other procurement process to secure the new service

The Provider will require formal notification in each of these circumstances.

For external contracts the notice period, of extension, variation or termination will be in line with that given in the contract terms and conditions (usually a minimum of 3 months).

However, this is a minimum reasonable notice period and the length of time given for service wind down and/or transition to new arrangements will need to be appropriate to the individual situation and overall commissioning project plan.

Unless the decision is that absolutely no change is required to service delivery (an unlikely event as most review processes will require some modifications) some form of transition and/or exit plan will be required for the service.

An exit strategy or risk management plan will ideally have been put in place as part of the original contract negotiation, although it will need reviewing for appropriateness at this stage.

The dialogue with the provider on the Business Case for Change will have provided a lot of the information required for consideration in the exit plan or transition. An exit

or transition plan needs to be agreed between commissioner and provider.

It is important that, even if a service is to be retendered and a current provider will bid, a transition plan is in place in the event that they are not the successful provider. In this case it is important to consider TUPE implications – see information regarding TUPE in ‘additional considerations’ below.

IMMEDIATE DECOMMISSIONING

The need for immediate decommissioning may arise because of one of the following:

- 1 The Provider has failed to comply with an improvement action plan owing to poor performance
- 2 A significant service failure on the grounds of risk to service users and/or the organisation is no longer viable.
- 3 A swifter process of decommissioning may be required as a result of the withdrawal of external funding or policy, e.g. a government grant.

In any of these circumstances the same decommissioning principles and processes apply, but will need to be tailored to the individual situation and timescales. For example, the provider dialogue and exit planning are likely to occur at the same time.

In circumstances of poor performance, it is important that all actions that have been taken to address performance with the provider are clearly evidenced and that the provider has been informed with the appropriate information, in writing, that the contract is on performance related notice.

It is essential in such circumstances to prioritise the needs and outcomes of those using the service by producing a robust risk management strategy and appraising the options for moving service delivery to another provider, if required.

REVIEWING THE DECOMMISSIONING PROCESS

The Contract Manager should keep notes around challenges, learning and best practice throughout the process that will form both part of the evaluation and the method of reviewing this policy and process guidance.

9. ADDITIONAL CONSIDERATIONS

Equalities Impact Assessments

It is important that all decisions regarding change to services funded or delivered by Tamworth Borough Council are subject to the appropriate equalities impact assessment. The screening questions for the EqIA are built into the Business Case template but decisions will also be required on whether a full assessment is required in line with the EqIA guidance.

Providers with multiple contracts or multiple funding streams

It is not uncommon, particularly with VCS providers for organisations to be in receipt of a number of funding streams and/or contracts with Tamworth Borough Council. The Lead Commissioner and Contract Manager should ensure they are aware where this is the case and consider the impact of decommissioning with other relevant funders.

Where a provider has a number of contracts, where these are all at risk, it is also worth considering the cumulative impact of this on the provider and whether this requires a specific approach to managing the relationship.

Transfer of Undertakings Protection of Employment – TUPE

The potential impact of TUPE (cost and timings) should have been considered within the strategic commissioning process, as it is a criterion in assessing new delivery options. This is a complex legal area and legal advice should be sought if decommissioning involves the retendering, or other means of securing, the same or similar service as a provider currently delivers.

*Note: ensure that you consult with legal service for current advice.

Conflicts of Interest

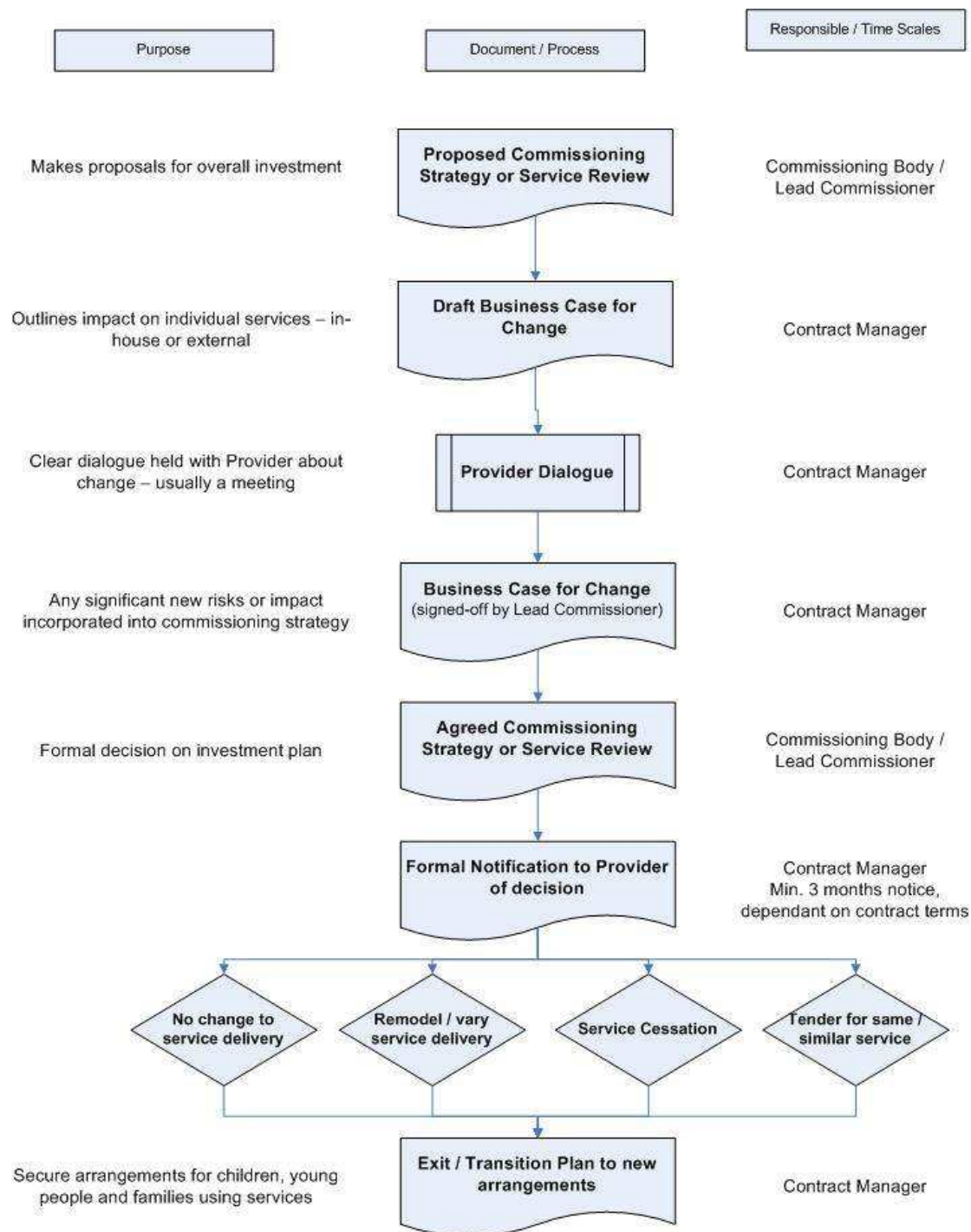
Both Lead Commissioners and Contract Managers should be careful to ensure that any potential conflicts of interest are carefully considered and steps taken to address these appropriately and transparently. For example, if the contract manager or other interested parties are also users of the service.

Confidentiality

It is important that the need for confidentiality throughout the process is clear – providers should not be in a position where information is shared regarding their organisation unnecessarily or without their permission. Similarly, they should be clearly notified of any decisions or proposals prior to other parties as far as possible within the decision-making process.

APPENDICES

Appendix 1: Flowchart of Operational Decommissioning Process



Appendix 2: Key Related Policies to Consider

Tamworth Public Sector Commissioning Framework

Staffordshire Compact – The Staffordshire Compact is the agreement between Staffordshire’s public sector and voluntary, community and social enterprise sector, which described standards and best practice in relationships and partnership activities.

<http://www.staffordshirepartnership.org.uk/Compactandcodesofpractice.htm>

Tamworth Borough Council Financial and Procurement Regulations – these regulations define the required financial practice and level of decision-making required for purchasing services for the Local Authority; which in itself is dependent on the level of investment, source of funding and the type of services being commissioned. It is therefore important that Lead Commissioners are clear about the required level of decision-making and related obligations within these regulations.

http://www.tamworth.gov.uk/sites/default/files/finance_docs/Financial-Guidance-2014-web.doc

Change Policy – this policy governs the process of making change to services delivered by Bristol City Council where these changes will affect the terms, employment or roles of employees. This policy has been agreed with Trade Unions and must be complied with where changes are made to internal services. This Decommissioning Guidance does not replace or affect the Managing Change Policy and where and Lead Commissioners will, therefore, need to ensure that any decommissioning of internal services incorporates the Managing Change Policy clearly and complies with all of the necessary requirements.

Equality Impact Assessment – Equality Impact Assessments are required in law for any change that the Local Authority makes which may impact on service users and stakeholders.

Community Impact Assessment – Are a wider impact assessment and consider social value and the wider community

Environmental Impact Checklist – this checklist seeks to clarify any environmental impact, risks and mitigating actions needed to be addressed due to change in services.

<http://intranet.bcc.lan/ccm/content/filestorage/cyps/infomationforcypsstaff/rt-environmentimpactchecklist.en>

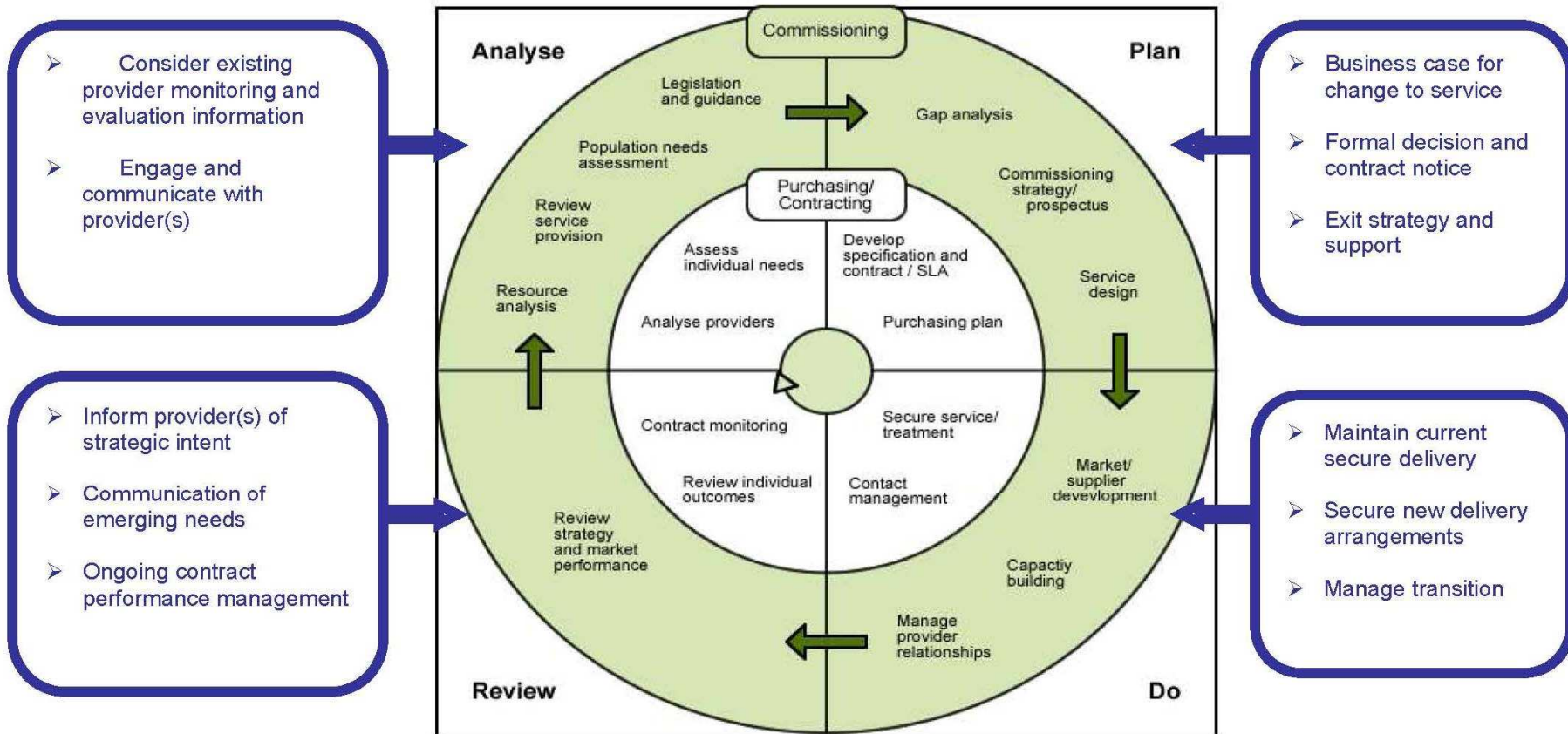
The Social Value Act - An Act that requires public authorities to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes.

<http://www.legislation.gov.uk/ukpga/2012/3/contents/enacted>

Appendix 3
IPC Commissioning Cycle with Decommissioning Actions areas

Key areas for consideration when decommissioning

Page 59



Appendix 4 Risk Matrix

Likelihood ↑	4				
	3				
	2				
	1				
		1	2	3	4
		Impact			

Appendix 5: Useful Additional Reading

BCC Select Committee on Third Sector Commissioning
<http://www.bristolcompact.org.uk/publicsector/contractsvcs>

Change Management – Business Balls – current –
<http://www.businessballs.com/changemanagement.htm>

Risk Management http://en.wikipedia.org/wiki/Risk_Matrix

World Class decommissioning – October 2009 – Paul Corrigan –
<http://www.paulcorrigan.com/Blog/octs/worldclasdecommissioning>

Social Return on Investment – all publications and network membership – current – the SROI network
<http://www.sroiuk.org>

Staffordshire Compact – Making the Staffordshire Compact a reality – new codes of practice.
<http://www.staffordshirepartnership.org.uk/Compactandcodesofpractice.htm>

The Challenge of CoProduction – NESTA Dec 2009 –
http://www.nesta.org.uk/areas_of_work/public_services_lab/assets/features/the_challenge_of_coproduction

Public Services Inside Out – New Economics Foundation – April 2010 –
<http://www.neweconomics.org/publications/publicservicesinsideout>

A Risk Management Standard AIRMIC (The Association of Insurance and Risk Managers) ALARM (The National Forum for Risk management in the Public Sector), & IRM (Inst of Risk Management) – 2002
http://www.theirm.org/publications/documents/Risk_Management_Standard_030820.pdf

A Practical Guide to integrated Working (2nd edition) – Integrated Care Network and care Services Improvement Partnership – 2007
<http://icn.csip.org.uk/library/ICNdocument.pdf>

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