

# Good Practice Guide

## Commissioning, Contract Management, Grant funding and Procurement 2012

*'The process of commissioning services focuses on achieving outcomes for the service user and is a partnership between commissioners, service users, providers of services and the wider market. In order to achieve the service user's stated outcomes, good practice requires that each of the partners is involved in designing, specifying, contracting or funding and monitoring service delivery and improvement.'*

(Best Value Statutory Guidance, CLG September 2011)

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Portuguese

بەم زانیاریەش تەنێ ئێ بە □ □ تە گەهێ بەتێ دە یار مەر پ □ □ ویستیت بە گەئێ بە گە وە ی خوارەم ژمارەندی بە یو بە جزمەن □ □ کێ ئێر ئێکایە

Kurdish

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Polish

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Chinese

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Bengali

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Farsi

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Suffolk Design & Print, Saxon House, 1 Whittle Road, Hadleigh Road Industrial Estate, Ipswich IP2 0JB. Tel: 01473 260600 Fax: 01473 253370

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## PART ONE

### 1. Introduction

Suffolk County Council (the 'Council') is seeking to develop the delivery of services in line with the Council's objectives of improving value for money during a period of reduced budgets, personalisation (where the Council will act as a funder, but not necessarily the commissioner of services), early intervention and prevention and independence and the move towards improved local delivery of services. The Council will commission requirements in line with the community outcomes in '[Transforming Suffolk](#)' and, in particular, promote a prosperous and vibrant economy, develop our learning and skills, become the Greenest County and develop safe, healthy and inclusive communities and seeks to work with all providers who share and actively promote these ambitions in the delivery of services. The Council recognises that the opportunities provided by Small to Medium Sized Enterprises ('SME's') and the voluntary sector to help to deliver these objectives are significant, but require a clear and open partnership to turn the opportunities into reality.

The Guide sets out the principles of best practice for the commissioning process, including grant funding, procurement and the management of contracts. All of the Council's commissioning activities will be subject to best practice as set out in this document. In observing these principles the concept of proportionality should apply. The Guide also aligns with and supports the principles of the National Compact<sup>1</sup> and the Public Services (Social Value) Act 2012<sup>2</sup> in force from the 31<sup>st</sup> January 2013.

The Guide has been co-authored by officers from the Council, the Voluntary and Community Sector ('VCS'), Suffolk Chamber of Commerce and the Federation of Small Businesses. It provides a reference point for good practice, but is not a prescriptive set of rules for commissioning, procurement and contract management.

The Guide is intended to underpin a spirit of partnership working to achieve the best possible outcomes for service users in a context of reduced financial resource and heightened public expectations of services.

The Council will also engage in joint-commissioning with other statutory agencies. Where the County Council is not the lead commissioner, it will seek to influence the lead commissioner to follow the principles of this Guide.

A glossary of terms is included at the end of this document for reference.

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<sup>1</sup> (<http://www.compactvoice.org.uk/sites/default/files/thecomcompact.pdf>)

<sup>2</sup>[http://www.cabinetoffice.gov.uk/sites/default/files/resources/Public\\_Services\\_Social\\_Value\\_Act\\_2012\\_PPN.pdf](http://www.cabinetoffice.gov.uk/sites/default/files/resources/Public_Services_Social_Value_Act_2012_PPN.pdf)

## 2. The Principles of Working Together

The following principles represent the partners' shared vision for delivering sustainable, cost effective and service user outcome focused services. To deliver this vision together the partners will:

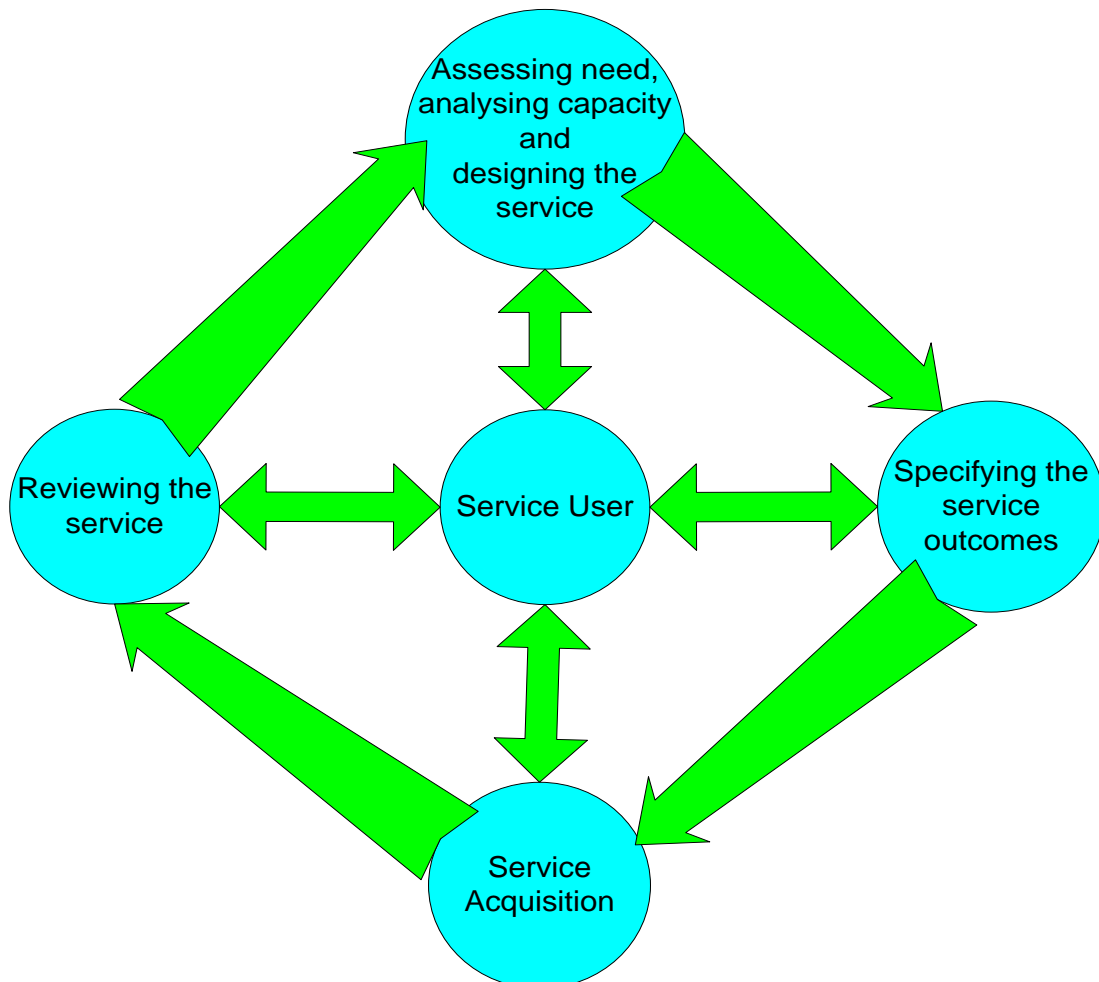
- Work to deliver the ambitions of Transforming Suffolk and value for money;
- Ensure that service users are central to commissioning activity;
- Operate in a culture of openness and transparency and keep appropriate records;
- Explore creative solutions to desired outcomes;
- Strengthen society, local communities and the economy through our work,
- Build community capacity to deliver unmet need and improve the wellbeing of Suffolk people;
- Deliver on equalities, diversity, health and safety and the environment, and embed this in commissioning and service delivery;
- Actively encourage any current and potential providers to participate in commissioning activities and competitive processes in a timely manner;
- Observe the principles of proportionality, equity and transparency;
- Assess outcomes constructively and learn from our involvement in the commissioning and procurement process;
- Be prepared to challenge poor practice;
- Acknowledge that we will not always agree on points of detail, but agree wherever possible to resolve disagreement through dialogue;
- Be flexible and adapt to changing circumstances.

## PART TWO

### 3. The Commissioning Process

The process of commissioning services focuses on achieving outcomes for the service user and is a partnership between commissioners, service users, providers of services and the wider market. In order to achieve the service user's stated outcomes good practice requires that each partner is involved in designing, specifying, contracting or funding and monitoring service delivery and improvement.<sup>3</sup>

The commissioning process can be illustrated as a continuous flow of activity.



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In simple terms, anyone spending public money by purchasing services or providing a grant needs to answer the following four basic questions:

<sup>3</sup> [Best Value Statutory Guidance, CLG September 2011.](#)

- 1) What is the evidence base for spending the money?
- 2) What outcomes do you want to achieve?
- 3) How will the money be spent?
- 4) Did the project/service funded achieve the outcomes?

#### **4. Assessing need, analysing capacity and designing the Service**

Before purchasing a service or providing a grant, commissioners should understand what is already happening within their service area. To achieve this, commissioners will need to:

- Talk with and listen to service users
- Undertake research
- Engage with existing providers and the wider market

In doing so, commissioners will get a better understanding of the need that already exists and what services work well. They will identify gaps in provision and recognise where improvement is needed. This doesn't necessarily need to be a lengthy task and proportionality should be adhered to.

##### **a) Assessing Need**

###### **Talk with and listen to service users**

In designing the service, the commissioner should discuss needs with a range of service users to ensure service outcomes are designed around them and take into account value for money.

Commissioners should make use of the wealth of knowledge available in the market by directly engaging with service users, advocates and service user focus groups at the earliest point. It may be necessary to work with service providers (and potential service providers) to achieve this.

###### **Undertake research**

In order to understand need commissioners should refer to a variety of research data e.g. needs analysis documents; performance information etc.

## **A CHECKLIST FOR ASSESSING NEED**

- *Design the consultation and decision making processes to ensure the active participation of service users, relevant providers and other networks.*
- *Assess need by population and service user type where appropriate, taking into account current provision with the aid of needs assessment toolkits and case studies*
- *Identify unmet need and gaps in provision i.e. those communities not accessing the services.*
- *Access available research, good practice and policy guidance*
- *Is there a role for the Voluntary and Community Sector in supporting research or advocacy for service users?*
- *Is there a need for expert support / challenge in the needs analysis process?*
- *Assess the current level of activity, service users served, outcomes being met etc and identify gaps.*
- *Have all the relevant needs data/market information held by SCC been made available?*
- *Take advantage of demographic data sets already held by the Council or any other reputable sources of data/research including public health data e.g. [‘Suffolk Observatory’](#); Joint Strategic Needs Assessment (JSNA); Independent research e.g. ‘Hidden Needs Report: Hidden Deprivation and Community Need in Suffolk, 2011’.*

### **b) Analysing Capacity**

#### **Engage with existing providers and the wider market**

Commissioners must consider whether the market is ready to support the service outcomes identified from the service user needs analysis, considering any gaps in service take-up. This can help to identify what the market is capable of delivering and where it might need to be developed.

If there are no genuine networks to call upon, the Council may consider supporting capacity building in the market engaging with a wide provider base through targeted market engagement events.

In some circumstances the service may need to be supported by a combination of grant funding and service contracting. Further details are available in the Procurement Grant Funding Decision Tool:

<http://www.surveymonkey.com/s/TQK378Z>

To support this assessment, the commissioner will need to consider:

- Whether the service in question is a statutory responsibility of the Council.
- The number, size and capabilities of current and potential service providers. Commissioners should consider whether this could be supplemented by information already held by local infrastructure organisations.
- How much money is currently being spent with the third sector and how is it allocated e.g. grant funded or contracted through procurement?
- Is there a clear understanding of the split of spend between in-house and external provision?

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### **A CHECKLIST FOR ANALYSING MARKETS**

- *How large is the current or potential provider market?*
- *Who are the current providers, what level of service do they provide and what market capacity is being used, taking into account the 'community right to challenge' legislation?*
- *Has the potential for diversification of current service offerings been discussed with existing providers?*
- *How do we currently fund the service and, how will they be funded going forward?*
- *Are there any multiplier benefits of investing locally, for example through employment and local economy?*
- *Is the service suitable for Grant Funding and why?*
- *Is the service suitable for Procurement and why?*



- *Is there a commitment to fund longer term and if so how long for?*
- *Is there a transition plan to move from existing to future funding arrangements?*
- *Are there any negative impacts on the general capacity of provider(s) from withdrawing funding?*
- *Has the need or potential for capacity building been considered and if so, who is best placed to do it? Does there need to be investment in infrastructure organisations to support capacity building?*
- *Can the provider market offer a diverse range of products and services suitable to achieve the outcome required?*
- *Is there the potential to de-commission services from in-house providers as part of the process? If so, how is this to be achieved?*

### **c) Designing the service**

Having identified the need for service development and understood the capacity of the market, commissioners will need to design the service taking into account the following factors:

- Funding availability and sustainability
- Good practice and policy guidance
- Learning from pilot/pathfinder experience
- Service user experience and aspirations
- Clarity of desired outcomes

Increasingly services will be driven by the personalisation agenda, leaving individual service users/customers to specify the nature of the service they require. Particular services such as early intervention/prevention services may not be subject to personalisation.

### **A CHECKLIST FOR DESIGNING THE SERVICE**

- *Is there sufficient and clear needs information available to inform the nature of service required?*
- *Have service users got a view as to the model of service that would best meet their needs?*

- *Are there models of service that are known to have proved effective in meeting these needs?*
- *Has the market offered expertise in models of service that might be appropriate?*
- *Has a business case been built to secure funding for the service development, including its sustainability and what will happen if and when funding ends?*
- *Is there sufficient information available in order to write a specification for the intended service?*
- *Have the equality impacts of any service development proposals been considered?*
- *Are the required skills available within the workforce to provide the proposed service, or does the need for workforce development need to be factored into the designing of the service?*

Commissioners will need to engage with the provider market to support the design of services. This guide recognises that in competitive situations there is a potential for conflicts of interest for providers who support design and development of services. This risk must be managed on a case by case basis.

## **5. Developing Providers**

A healthy market indicates that a procurement opportunity should be considered, but procurement is not always appropriate where there is a need to develop capacity or where service outcomes are so specialised that the market is not available to support a competitive procurement process. In this case, the Council will actively consider whether grant funding is the most appropriate way of delivering the outcomes required in the short to medium term.

Grant funding plays a vital role in supporting and maintaining a healthy third sector. Grants should always be considered in the circumstances above and where there is an opportunity to pilot potential new services or where there is a need to develop provision. (See Section 7 b) – Grants)

Whether following a grant funding process or procurement, wherever possible the commissioner should aim to have a strong and informed supply base. The Council will do this in a number of ways.

- By producing and regularly updating a plan of opportunities for grant funding and procurement which will be made available on the Council's website.
- By providing early notice of all opportunities and allowing organisations to register their interest on [Suffolk Sourcing](#) before formal advertising takes place.
- By including a link to [Suffolk Chamber business opportunity alert](#) from the Suffolk Sourcing site and vice versa.
- By appropriate use of targeted Market Engagement events to support the collaborative development of outcomes specifications and information around processes for funding and contracting.
- By actively engaging, working with and developing smaller businesses to encourage participation in commissioning activity, competitive funding opportunities and foster localism, economic benefits, employment and innovation.
- By providing training and support either directly or via representative groups/infrastructure support to develop provider capabilities around resources requirements, applying for funding, completing and submitting tenders and learning from feedback.

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### **A CHECKLIST FOR DEVELOPING PROVIDERS**

- *What opportunities exist for working with providers to develop their capacity and skills?*
- *What innovative solutions can smaller providers offer?*
- *What role might VCS infrastructure groups play in capacity development?*
- *What role might private sector infrastructure groups play in capacity development?*
- *How are the Council's requirements advertised well in advance?*
- *What opportunities are there for providers to input into the development of service outcomes?*

- *What opportunities are there for providers to 'market' themselves and their services?*
- *Have the concepts of flexibility, added value and innovation in the development of service outcomes been captured?*

## **6. Specifying the service outcomes**

Increasingly the Council will commission services through linking funding availability to the achievement of outcomes required. With this in mind, development of the service outcomes is a critical opportunity to work collaboratively with stakeholders and identify the added value that can be brought by providers in service delivery and achieving community/service user outcomes.

It is often possible to use a service specification to develop wider community outcomes and sustainability.

Where appropriate service outcomes should be written in such a way as to allow providers to demonstrate how they will address the needs of local service users, allocating risk where it is best managed. Service specifications should take account of how outcomes can be measured and reviewed.

In many cases the Council will want to actively encourage sub-contracting and consortia bids from providers where appropriate.

Guidance is available to commissioners on the development of specifications including the use of outcome based requirements and including policy requirements.

<http://www.suffolk.gov.uk/assets/suffolk.gov.uk/Business/Supplying%20Us/2012-11-08SpecificationWritingGuideV2%205.pdf>

### **A CHECKLIST FOR WRITING SERVICE SPECIFICATIONS**

- *Has a meaningful consultation take place to inform the development of your service specification?*
- *Does it clearly define what service users want and need?*
- *Does it clearly define those outcomes the provider can influence and those it cannot (for instance where these are influenced by external bodies or events)?*

- *As part of the development of specifications, is there a mechanism in place for obtaining constructive feedback on early drafts and principles, without giving unfair competitive advantage to incumbent providers?*
- *Does the specification concentrate on outcomes to allow providers greater flexibility in formulating service delivery offerings?*
- *Will providers be able to demonstrate how they have supported the service user to achieve the outcomes?*
- *Does the specification deal appropriately with issues of equality and diversity – is an Equality Impact Assessment needed?*  
<http://colin.suffolkcc.gov.uk/NR/rdonlyres/078227BC-6500-4AB2-A277-E78D3623363E/0/QuickEIAGuide12.doc>
- *Has an opportunity been provided to include community and social value outcomes and localism in your service delivery?*
- *Has consideration been given to the whole life costs of the contract and how Value for Money can be achieved by including wider social, economic and environmental objectives in the specification?*
- *What benefits will achieving the intended outcomes provide for other organisations?*

## **PART THREE**

### **7. Service Acquisition**

#### **a) Pre-Planning**

Funding of services is increasingly becoming a 'partnership' between the Council and other public sector bodies. In these relationships, whilst the Council may pay for a service, it might not always be the major funding partner. This guidance recognises that in such circumstances, there may be conditions placed on the provision of funding, affecting the way in which services are bought.

The first decision to be taken is whether to fund the service via grant, procurement or a combination of both. The Procurement Grant Funding Decision Tool: <http://www.surveymonkey.com/s/TQK378Z> can be used to identify the most appropriate route for each requirement.

#### **b) Grants**

If a grant funding route is the preferred option, the Grant Funding Flowchart: <http://www.suffolk.gov.uk/your-community/support-for-communities/funding/> explains how to go about the process.

Here are some points to bear in mind in relation to grants:

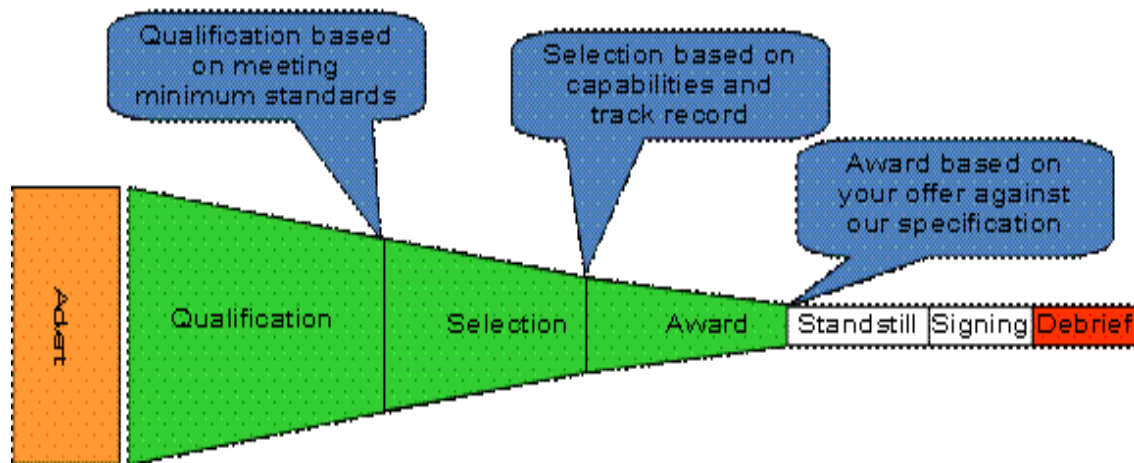
- Grants are for investment in the Voluntary Sector and organisations within it. They are also for testing new ideas over a specific time period (no more than 3 years) when we wish to utilise the sector to develop innovative solutions through testing new ideas or more efficient ways of meeting the needs of our customers. We are buying outcomes and outputs rather than specific services
- Grants should not be used to fund ongoing service delivery from the VCS; this should be procured.
- Grants can be used to fund the following activities:
  - Investment - building capacity in the sector by providing start up and growth funding, training funding and small capital investments
  - Innovative projects - testing out new and better service ideas
  - Community funding - building social capital including community engagement, preventative/ wellbeing works and increasing local volunteering

If a procurement route is to be followed, the guidance below details how to undertake the procurement process.

### c) Procurement - General Information

The Council uses a web based e-Sourcing System to undertake its procurement. Providers registered on the system will be able to view and apply for opportunities and download and submit tender documentation electronically.

The usual procurement process follows the pattern below:



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Procurement uses the following processes to decide on award of contract:

- The **'Open Process'** – when all providers responding to an advert are invited to submit tenders;
- The **'Restricted Process'** – when those providers who successfully complete the qualification and selection process (undertaken using a Pre-Qualification Questionnaire (PQQ)) will be invited to submit tenders;
- A **'Competitive Dialogue'** – where providers are invited to submit outline ideas on how to deliver a specific outcome. A Competitive Dialogue uses an initial pre-qualification process and permits negotiation ('Dialogue') to take place in successive rounds, during which the number of Providers in the process will be gradually reduced. Those left in the process after the final Dialogue, are then invited to submit final bids.



In aiming to simplify the procurement process consideration must be given to time and cost for providers in completing unnecessary process stages and paperwork.

Remember that the majority of services which provide personal care are 'Part B' Services under the European Directives or otherwise below threshold and will not require fully EU compliant procurement process.

For requirements below the EU threshold or in Part B Services an **Open Process** is used. This process is particularly helpful when there is a need to encourage/develop a competitive provider market. For providers this is a lower cost option because time and resource is not expended on the completion of PQQ's. Using an Open Process is in line with the Council's commitment to encourage and support small businesses, required by the Small Business Friendly Concordat, which the Council signed in 2005.

A **Restricted Process** using a PQQ will be considered where the size, value and complexity of the contract and size of the market warrant. If there are a substantial number of providers in the market, it is often inappropriate to ask all providers to complete both the PQQ and Tender documentation if they are unlikely to be successfully awarded the contract. However, a PQQ allows the Commissioner to identify the organisations that are most likely to be successful following submission of tenders.

A **Competitive Dialogue** is used in large and complex procurements. It can be particularly useful when it is difficult to specify the best way of achieving the outcomes required. It provides an opportunity to negotiate and shape alternative solutions before inviting final bids. This process requires a much more intensive input from both the Provider and Commissioner which means that it is normally reserved for very high value and complex requirements.

Where used, PQQ's must ask questions relevant and proportionate to the subject matter of the contract including; general business information, relevant policies and specific relevant experience.

#### **d) Planning for Procurement**

The way in which a contract is packaged (lots or single contract) and how the tendering process is undertaken can have a significant impact on the ability of providers to participate.

Commissioners should bear in mind the size, scope and duration of prospective contracts before the procurement process commences, bearing in mind that for the majority of service user focussed services, the Council wants to actively encourage participation from providers.



## **A CHECKLIST FOR PROCUREMENT PLANNING**

- *Is there a need to develop the market or to test a particular service configuration?*
- *Is the service suitable for Grant Funding?*
- *Consider carefully the impact your contract might have on the ability of the local market / smaller providers to participate.*
- *Has the potential for sub-contracting or consortia bids been considered?*
- *If so, how has this been encouraged during the market engagement phase?*
- *Does the length of contract allow sufficient time for Full Cost Recovery?*
- *Does the outcome based nature of the specification allow for payment by results / outcomes?*
- *Have community and social value outcomes and localism been incorporated as part of the process?*
- *Has consideration been given to the Whole Life costs of the contract and how Value for Money can be achieved by including wider social, economic and environmental objectives in the specification?*
- *Do Procurement process timescales allow sufficient time for providers to respond effectively, collaborate and provide innovation without being unduly extended and costly?*

### **e) The Tender Process**

The Tender process can be broken down into the following stages:

- **Advertising** – The Council advertises live tender opportunities using the [Government Opportunities Portal](#) and via [Suffolk Sourcing](#). The Suffolk Chamber also advertises opportunities on its [B2B](#) site. In addition opportunities will be published in the Council's forward plan (when developed) which will allow providers to register an interest in a future procurement opportunity and / or apply for Grant Funding.

- **Qualification and Selection** – Commissioners should ensure that qualification and selection criteria are set at a level proportionate to the risk and contract value. Care should be taken to set criteria which are not off-putting for smaller providers or consortia of smaller providers when there are opportunities for which they would otherwise be well suited.
- **The Tender** – Avoid producing overly complex documents that take a long time to read and are full of ‘jargon’. Tender documentation and contractual requirements should be proportionate to the level of risk and the value of the contract. Ensure that risk in the service provision is clearly identified and allocated to the provider or client, depending on where they are best managed. Include appropriate key performance indicators and monitoring arrangements which are proportionate to risk and not overly burdensome to compile.

The tender document must contain a full copy of the evaluation model showing the criteria that will be used for evaluation, the scoring mechanism and relative weightings.

- **Award** – Commissioners should avoid the use of overly complex evaluation models, but ensure that they are open and transparent and allow for providers to indicate full costs inclusive of management and overhead in the financial evaluation and, where appropriate, to allow for Full Cost Recovery.
- **Standstill and Debriefing** – Even with a simplified evaluation process, unsuccessful providers are entitled to de-briefing during the Standstill Period. The aim of de-briefing is to provide constructive information which is helpful to the provider for future submissions and should identify the characteristics of the winning bid that were missing from the providers unsuccessful bid. Consideration should be given as to whether a face to face de-brief would offer better support to the unsuccessful provider in developing and enhancing future bid submissions.

### **A CHECKLIST FOR THE TENDER PROCESS**

- *Have potential providers been alerted to the advertised opportunity and do they know how / where to find it?*
- *Is there a named contact for further information?*
- *Have you identified only those criteria for selection and award, which are absolutely essential to successful delivery of the service?*
- *Are your selection and award criteria proportionate to the value of the contract and level of risk?*
- *Have you considered holding an open event during the tender*

*process to allow providers to ask questions, receive advice on completion of the tender, the timetable and improve understanding of the service outcomes?*

- *Is the timetable, and evaluation model clearly set out in the tender document?*
- *Does the evaluation model reflect social outcomes?*
- *If TUPE applies, have you provided all of the relevant TUPE data with the tender document? Have you provided guidance to providers on where they can seek advice on assessing TUPE obligations and due diligence?*
- *Is the tender document kept to an absolute minimum relative to risk and value and are risks appropriately allocated?*
- *Has the contract document been minimised relative with risk and complexity?*
- *Have the payment terms been clearly stated so that providers understand when payments will be made for goods / services provided?*
- *Does the contract identify the contract monitoring arrangements including key performance indicators and frequency of reporting and is this proportionate to the risk?*
- *Do providers clearly understand the process for award, Standstill and de-briefing?*
- *Is the process for contract implementation clearly agreed?*

## **PART FOUR**

### **8. Reviewing the Service/Contract Management**

The partners will work together to review services in order to ensure that the desired outcomes of services are being met. Such review will be a combination of partnership working involving the key partners (including service users) concerned with the service and more formal contract monitoring.

In order to ensure effective partnership working, all interested stakeholders need to adopt an honest, open approach and commitment to achievement of the desired outcomes. Regular dialogue and mutual respect are fundamental to this.

Contract Management is used to review the service, risk, commercial and contractual performance. The process will ensure service user outcomes are being met in an efficient and cost effective way, allow for any variations to contract and drive continuous improvement. Contract management may involve a commissioner, supported where necessary by commercial advice, providers, the service users (or their representatives), other interested stakeholders (such as District/Borough Councils or health commissioners), the referring body, and advocacy groups, with the needs of the service user at its heart.

Effective contract management requires that the key performance indicators have been worked up and agreed jointly with the provider before the contract is finalised, are clearly linked to the service outcomes stated in the contract and agreed by all of the stakeholders. Performance indicators are used to demonstrate that intended outcomes are being met. Reporting on performance against the key performance indicators is the simplest way of evidencing that fact.

Review frequency must be sufficient to ensure outcomes are consistently met but not disproportionate to the risk and continued cost effectiveness of the contract. Commissioners should ensure that reporting arrangements are simple enough not to place too greater burden on the provider to gather extensive data where it is unnecessary.

Where service is falling below expectation, corrective actions will be agreed between the Council and the Provider at the earliest opportunity to ensure future service is at an acceptable level.

During regular reviews of the contract, opportunities arise to ensure that the outcomes specified remain appropriate and to make minor variations by mutual consent using a mutually agreed 'Change Control Process'.

## **A CHECKLIST FOR REVIEWING THE SERVICE/CONTRACT MANAGEMENT**

- *Have you sought involvement from service users and providers in establishing the key performance indicators and the design of contract management processes to ensure they are proportionate to the risk and value of the contract?*
- *Is there a mechanism for having regular contact with the provider to discuss service issues?*
- *Is the reporting requirement kept to a minimum?*
- *Has the Change Control Process been agreed in advance?*
- *Are there sufficient incentives within the contract for providers to come forward with new ideas and innovation in service delivery?*
- *Is the contract delivering on continuous improvement?*
- *Does the contract have sufficient opportunity to resolve disputes in a way that is accessible to providers?*
- *Are service users fully engaged in the review process and feel confident that their needs and opinions are taken seriously by the commissioner and the provider?*
- *Does feedback allow opportunities to capture and reflect 'soft outcomes' from service users?*

## Glossary of Terms

The following terms appear throughout this document:

'Advocate(s)' – means a person (or persons) appointed to make decisions, representations or to speak on behalf of a service user(s).

'Change Control' – means the process of agreeing minor variations to contract by mutual consent between the Provider and the Commissioner.

'Commissioner' – means the person(s) responsible for the commissioning process.

'Commissioning' – means the process of assessing need, specifying the outcomes required, planning how to best use resources, securing and managing delivery and may include commissioning by one or more public authority's (often referred to as 'joint commissioning').

'Community Right to Challenge' – means The Localism Act 2011 provides for a new power which allows local communities the right to challenge how local authorities provide and run services. The Act allows relevant bodies – including voluntary or community bodies, parish councils, and two or more employees of a relevant authority, to challenge the provision of that service by a relevant authority – which includes county and district councils and London Boroughs. This must be done in the form of an expression of interest which the relevant authority must consider. If the relevant authority agrees to accept the expression of interest, it must run a procurement exercise, which would then be open to other bodies that did not provide the initial expression of interest. The provisions of the Act came into force on 27 June 2012.

'Equality' – means equality of opportunity and access for all regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation<sup>4</sup>.

'Federation of Small Businesses' (FSB) – means the Suffolk based Federation of Small Businesses who represent the interests of small to medium sized enterprises in Suffolk.

'Diverse' – means a varied range of goods and services with which to satisfy service user outcomes.

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<sup>4</sup> See also Equality Act 2010

'Full Cost Recovery' – means the principle that when a third sector organisation provides a service for a public body it should be able to recover all the costs of delivering that service. This includes not just the direct costs of the service but also the relevant proportion of all overhead costs. These overhead costs may include: premises and related costs; central functions, such as, human resources; governance and strategic development; provision for inflation and depreciation; and regulatory costs.<sup>5</sup>

'Grant Funding' – means the funding of organisations for the purpose of developing a common purpose objective.

'Market Engagement' - means the process of focussed discussions with market providers about future commissioning intentions and the development of suitable outcomes.

'National Compact' - is the agreement between the government and the Third Sector (independent voluntary organisations, charities, community groups, etc.). It outlines a way of working to improve their relationship for mutual advantage. It is also accompanied with an [Accountability and Transparency Guide](#) which outlines steps to take at national and local level, including dispute resolution, internal complaints procedures and ombudsman functions.

'Part B Services' – means services classified under the EU procurement regime as being 'Part B', including 'Health and Social Care', 'Legal Services' etc. and which require application of the EU treaty principles but not full application of the EU procurement rules.

'Procurement' - means the process of acquiring goods, services or works via quotation or tender.

'Provider(s)' – means any providers of services who by definition could include Small to Medium Sized Enterprises (SME's) employing fewer than 250 employees and, Voluntary Sector providers who, by definition, are non-governmental, value driven and principally re-invest surpluses to further social, environmental or cultural objectives, including the voluntary and community sector, social enterprises and community interest companies.

Public Services (Social Value) Act 2012 – from the 31<sup>st</sup> January 2013 the Act will require commissioners and procurers at the pre-procurement stage too consider how what is to be procured may improve the social, economic and environmental wellbeing of the relevant area, how they might secure any such improvement and to consider the need too consult.

'Service User' – means the person or people whose outcomes are to be satisfied through the delivery of the goods / services.

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<sup>5</sup> [National Audit Office definition](#)



‘Small Business Friendly Concordat’ – means the government sponsored concordat recognising the specific benefits brought by contracting with small businesses. Suffolk County Council became signatories to this agreement in 2005.

‘Standstill’ – means the period of time between the provisional award of a contract and the final contract signing, during which unsuccessful providers receive a de-briefing. The Standstill is normally for a minimum of ten (10) calendar days.

‘Social Outcomes’ – means the delivery of benefits to society as an outcome from commissioning activity and can include the improvement of issues affecting a specific locality or more broadly across a wider area.

‘Suffolk Chamber of Commerce’ – means the Suffolk Branch of the British Chamber of Commerce, who represent the interests of Suffolk based private sector businesses.

‘Sustainable’ (‘Sustainability’) – means the satisfaction of needs in a way that achieves value for money, considers, where appropriate, whole life costs and generates benefits to society, the economy and the environment.

‘Third Sector’ – The Government defines the third sector as non-governmental organisations that are value-driven and which principally reinvest their surpluses to further social, environmental or cultural objectives. It includes voluntary and community organisations, charities, social enterprises, cooperatives and mutual’s.<sup>6</sup>

‘Transforming Suffolk’ – means the vision contained in Suffolk’s Community Strategy 2002 – 2028. This sets out how local authorities including the County Council together with Police, Health and other agencies working in partnership tackle the opportunities and problems facing Suffolk’s communities between now and 2028.

The vision is based around 5 key themes:-

- 1) Creating a strong and dynamic jobs market;
- 2) Transforming learning and skills in Suffolk;
- 3) Protecting vulnerable people and reducing inequalities;
- 4) Being the greenest county;
- 5) Delivering great services at exceptional value

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<sup>6</sup> [National Audit Office definition](#)



'TUPE' – means the Transfer of Undertakings (Protection of Employment) legislation which governs the process of transferring staff from one entity to another as a result of a contractual re-provisioning of service.

'VCS' – means the Voluntary and Community Sector in Suffolk.

'VCS Congress' – means the network of Voluntary Sector organisations in Suffolk, established in 2010, in response to the Governments 'Big Society' agenda and budgetary pressures faced by Suffolk County Council. Membership of the VCS Congress is open to any VCS organisation in Suffolk and administers its affairs through the Congress Organising Group (COG).

'Value for Money' – means the optimum combination of whole-life cost and quality (or fitness for purpose) to meet the user's requirement as assessed by the National Audit Office using the criteria of economy, efficiency and effectiveness.<sup>7</sup>

'Whole Life Cost' – means the full cost to an organisation of a solution to a requirement over the full period that the requirement will exist. Whole life costs will take into account running costs such as energy usage, maintenance requirements, staff training needs, and disposal costs such as recycling, as well as the initial purchase price. The life span of the product will also need to be considered.<sup>8</sup>

'Working Together Forum' – means the body with membership drawn from Suffolk County Council and the VCS Suffolk Congress. Members include: the Council's Portfolio Holder for the VCS, Council Officers and member organisations of the VCS Suffolk Congress Organising Group. Its role is to facilitate collaboration and co-production, address specific issues of mutual interest or concern, unblock barriers to these where they occur and promote the learning which emerges.

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<sup>7</sup> [National Audit Office definition](#)

<sup>8</sup> [National Audit Office definition](#)

## Acknowledgements

Much of the advice here is based on specific guidance on working with Third Sector Organisations produced by the National Audit Office<sup>9</sup>, which has been adapted to meet local needs. It also draws on information from other sources notably 'Pathways Through the Procurement Maze'<sup>10</sup> prepared for the National Council for Voluntary Organisations (NCVO) and the National Association for Voluntary and Community Action (NAVCA), Good Practice Guides on commissioning from the Third Sector, produced by Voluntary Norfolk<sup>11</sup>, the Supporting People Eastern Regional Group (SPERG) Commissioning Toolkit<sup>12</sup>, the Department for Education (DfE) Commissioner Support Programme<sup>13</sup> and the South West Regional Improvement and Excellence Programme (RIEP) Toolkit for developing a Market Position.<sup>14</sup>

Significant support has been provided by SCC Commissioners, our Voluntary Sector and Local business Partners in particular the Federation of Small Businesses (FSB), Suffolk Chamber of Commerce and the VCS Suffolk Congress in tailoring the approach to developing a working partnership through this document.

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<sup>9</sup> National Audit Office – Successful Commissioning Toolkit

[http://www.nao.org.uk/sectors/third\\_sector/successful\\_commissioning/toolkit\\_home/toolkit\\_home.aspx](http://www.nao.org.uk/sectors/third_sector/successful_commissioning/toolkit_home/toolkit_home.aspx)

<sup>10</sup> 'Pathways through the Procurement Maze'- Anthony Collins Solicitors LLP.

<sup>11</sup> Voluntary Norfolk <http://www.voluntarynorfolk.org.uk/commissioning>

<sup>12</sup> [SPERG Commissioning Toolkit](#)

<sup>13</sup> DfE Commissioner Support Programme – DfE 2008.

<sup>14</sup> [Toolkit for Developing a Market Position Statement](#)