

## For General Release

<b>REPORT TO:</b>	<b>CABINET 10 June 2019</b>
<b>SUBJECT:</b>	<b>Delivering for Residents through Sustainable and Ethical Commissioning</b>
<b>LEAD OFFICER:</b>	<b>Jacqueline Harris Baker – Executive Director of Resources</b> <b>Sarah Warman – Director of Commissioning &amp; Procurement</b> <b>Rakhee Dave-Shah – Head of Commissioning &amp; Procurement</b>
<b>CABINET MEMBER:</b>	<b>Councillor Simon Hall – Cabinet Member for Finance and Resources</b>
<b>WARDS:</b>	<b>All</b>

### **CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON**

The Corporate Plan outlines the improved outcomes that we want to achieve for our residents, structured across nine priorities. It also articulates how the Council will operate in a different way, to deliver against these ambitions at a time of reduced funding from Central Government.

Commissioning is an important enabler to deliver these ambitions and is an important part of what we do as a Council and shapes so many of our interactions with our residents and our community. The recommendations in this report will help to ensure the Council continues to adopt a best practice approach to commissioning. The new Commissioning Framework, Social Value Policy and revised Tenders and Contract Regulations build upon the achievements and progress made in commissioning to date and set a single coherent framework and approach for the next four years.

The Council is the biggest buyer in the borough with approximately £500 million per annum spent through third parties. Spend of this magnitude enables us to be strategic and harness the supply chain opportunities that our commissioning activity creates, with a strong focus on market stewardship and ethical purchasing. The Council has the opportunity to bring significant benefits to Croydon and its residents by delivering a social return, wherever possible, on every pound it spends.

### **FINANCIAL IMPACT**

Whilst the Commissioning Framework and the updated Tender & Contracts Regulations in themselves do not commit any resources, the Framework and the principles set out within it will shape our commissioning approach and investment decisions, ensuring our spend is focused on delivering the Council's priorities. The supporting Social Value Policy will also generate social value through our commissioning. A framework is being developed which will help to quantify the financial value these added benefits will bring in the future.

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below:

## **1. RECOMMENDATIONS**

The Cabinet is recommended to:

- 1.1 Approve and adopt the refreshed Commissioning Framework 2019-2023 (Appendix 1);
- 1.2 Approve and adopt the Council's Social Value Policy 2019-2023 (Appendix 2);
- 1.3 Recommend the adoption of the revised Tenders and Contracts Regulations, part 4 of the Constitution (Appendix 3) to Full Council; and
- 1.4 Delegate to the Director of Commissioning and Procurement, in consultation with the Cabinet Member for Finance and Resources, authority to make minor amendments to the documents presented to Full Council and any consequential amendments as necessary and to ensure publication of any amendments.

## **2. EXECUTIVE SUMMARY**

- 2.1 The Council adopted a new Corporate Plan in October 2018, which was based on the Labour Administration's manifesto – Ambitious for Croydon For the Many not the Few. This plan sets out the Council's promises to residents, business and partners across nine priority outcomes over the next four years (2018-2022). In order to deliver the Corporate Plan, the Council is seeking to radically change the way services are delivered, with a strong focus on prevention and locality based working. This approach will be evidence-led, recognising that services need to differentiate to respond to the differing needs across the borough. It also recognises the importance of collaboration and growing the local economy.
- 2.2 Commissioning is an important enabler to deliver these ambitions and is an important part of what we do as a Council and shapes so many of our interactions with our residents and our community. With an annual spend of approximately £500 million per annum spent through third parties, it is critical that the Council ensures:
  - Financial probity on external spend, including compliance with procurement regulations;
  - Value for money and that spend is delivering outcomes for residents;
  - Ethical and sustainable approach to commissioning, procurement and service delivery;
  - The Council's spend delivers social return and wider community benefit for our residents; and

- As the largest buyer in the Borough we lead the way and ensure fairness and equality are central to our commissioning processes and that these are embedded in our supply chain.

2.3 In 2016, the Council refreshed its Commissioning Framework, which has provided a clear approach and priorities for the last three years. So much has been achieved during this period, and through strong leadership, an ambitious vision, and commitment to our values, we have developed a strong reputation amongst our peers for leading best practice in commissioning nationally.

2.4 Our achievements include:

- Becoming a London Living Wage Council and expecting this of our contractors;
- Being one of the first local authorities to embrace Social Value by leveraging our purchasing power to get our suppliers to give back to the Croydon community;
- Being a reference for the Cabinet Office's Commissioning Academy;
- Taking the lead on tackling Modern Slavery;
- Developing and implementing the make or buy framework and successfully insourcing services and developing new and innovative models of delivery;
- Investing over £4m per annum in our Voluntary and Community Sector organisations, through commissioning and in addition to funding to the Sector;
- Establishing award winning partnerships such as the One Croydon Alliance and the South London Commissioning Programme to tackle cross-cutting issues; and
- Our new robust approach to contract management is also paying real dividends, helping to ensure that our suppliers deliver their services to the required standards expected by our residents.

2.5 Our focus now is to build on what we have already done and to set out our vision and priorities for the coming four years and accelerate the progress and innovation in this area. We want to ensure that we commission services that support our ambitions for our residents, enabling individuals and communities to take a leading role in developing and delivering their own services. We are also committed to using our resources and those of our partners in a more joined up way, better connecting these to the needs of Croydon and ensuring we are achieving optimum value for money without compromising quality for local residents.

2.6 In order to support this approach, the associated commissioning policy, frameworks and regulations have been reviewed.

- The Commissioning Framework has been refreshed which set out the commissioning ambitions and priorities for the coming four years.
- The Social Value Policy - for the first time the Council will be publishing its Social Value Policy. Croydon Council has been recognised as an exemplar in achieving social value through our contracts. This policy will enable us to take this even further by clearly defining the social value that is important to the Borough.

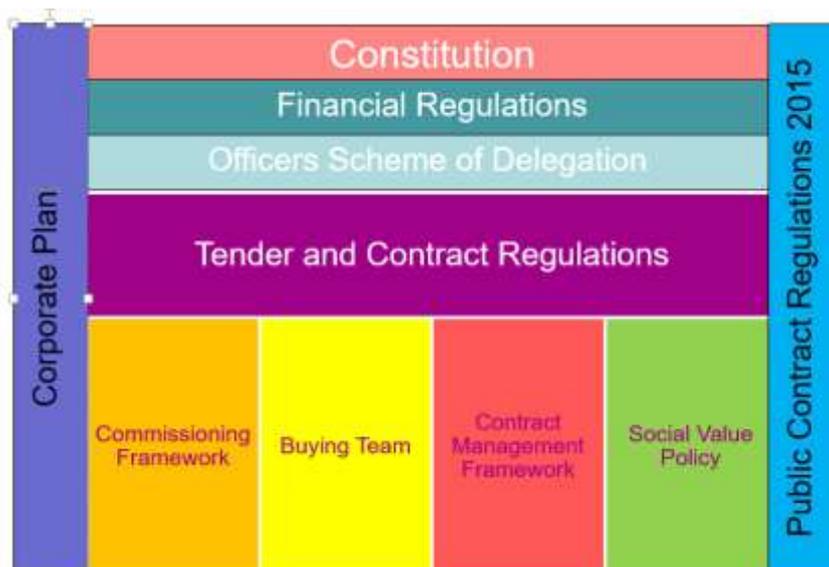
- The refreshed Tenders and Contract Regulations, which form part of the Councils' Constitution, will provide a stronger focus on quality in our tendering processes and how the social, environmental and economic wellbeing of our borough can be enhanced through delivery of each contract.

This report is asking Cabinet to approve and adopt these documents, which set out a coherent and ambitious framework and approach for the next four years.

### **3. DETAIL**

#### **Background and Context**

- 3.1 The Council adopted a new Corporate Plan in October 2018, which sets out the Council's promises to residents, business and partners across nine priority themes over the next four years (2018-2022). Commissioning is an important enabler to deliver these ambitions, is an important part of what we do as a Council and shapes so many of our interactions with our residents and our community.
- 3.2 In 2012, the Council set itself the objective of becoming an 'expert commissioner of services' and published a strategy supporting that aim. This was followed by a refreshed Commissioning Framework in 2016. So much has been achieved since then, including developing a strong reputation amongst our peers for leading excellence and innovation in our commissioning. Our approach is driven by our values and commitment to fairness, equality and delivering for residents. We have many highlights to be proud of, which are included in 2.4 of the report.
- 3.3 Our focus now is to build on what we have already done and to set out our vision and priorities for the coming four years. In order to support this approach, the associated policy, frameworks and regulations have been reviewed and an overview of the three documents – Commissioning Framework, Social Value Policy and the Tenders and Contracts Regulations are included in the remainder of the report.
- 3.4 These documents form part of the Council's constitutional framework, which includes the Councils Financial Regulations and Scheme of Officer Delegation. Together they identify the financial and decision making responsibilities of the Council, Cabinet, members and key officers. The Tenders and Contracts Regulations specifically are the rules governing how the Council procures goods, services and works. This is supported by the Commissioning Framework and Social Value Policy, which are included in this report.



### The Commissioning Framework

- 3.5 The Commissioning Framework 2019-2023 builds upon and consolidates the progress that has been made by the Council to date. The Framework provides an overview of how we work. It is made up of two distinct parts:
- A set of **principles** that will enable commissioners to make decisions in the interests of the residents, communities and businesses of Croydon; and
  - A clear explanation of the **priorities** and **approach** that support the commissioning cycle, making them clear for suppliers and partners, promoting consistency and transparency in our approach to commissioning. It will help to outline the expectations of commissioners, partners and suppliers at each stage of the commissioning cycle.
- 3.6 Also included within the Framework is a Supplier Code of Conduct which outlines the standards and behaviours expected from suppliers and grant recipients.
- 3.7 The Framework encompasses an overarching commitment to 'Ethical and Sustainable Commissioning'. Through embedding these considerations in all aspects of commissioning practice, we will use the Council's purchasing power to maximise social value, foster local employment, promote fair pay, encourage local business growth and support community priorities.
- 3.8 In addition to this, the Framework includes a commitment to the following six commissioning principles:
- **Evidence Based** – We will use data and insights at the locality level, together with service user input, to inform robust decisions that aid our commissioning and procurement practices;
  - **Preventative** – We will focus on a preventative approach, in partnership with our communities, businesses and residents, enabling empowerment and self-resilience;
  - **Locality Based** – We will take a locality based commissioning approach, which takes account of the existing strengths, skills and resources to ensure that investment decisions support community empowerment;

- **Collaborations and Partnerships** – We will collaborate or work jointly with other organisations to ensure improved outcomes and value for money for our residents;
- **Resident Focused** – We will put residents at the centre of our commissioning approach. We will involve customers and service users in the co-production of services; and
- **Delivering Outcomes** – We will commission for sustainable and effective outcomes that deliver beyond service and organisational structures.

3.9 These principles are fundamental to our work with partners, local businesses, our communities and residents. Our commitment is to develop strong relationships that help us to achieve shared business objectives and outcomes that provide better value, high quality services for all.

### **Social Value Policy**

3.10 For the first time the Council will be publishing its Social Value Policy. Croydon Council has been recognised as an exemplar in achieving social value through our contracts. The Council has launched a range of initiatives and actions that have had a demonstrable effect in improving the generation of social value for the residents of the borough. This policy will enable us to take this even further by clearly defining the social value that is important to the Borough.

3.11 The Policy includes the introduction of a change in the Council's procurement rules. Social value will now contribute to a minimum of 10% of the quality evaluation assessment for all relevant procurements that use a ratio of quality and price in their evaluation.

3.12 Crucially, this policy statement is being accompanied by an updated Social Value Framework. The Framework is the Council's signal to providers about what social value contributions it is seeking when it commissions services. Commissioners will use the Framework as a tool to suggest proportionate and realistic Social Value commitments when procuring services, goods or works.

### **Tenders & Contract Regulations**

3.13 The updated Tender and Contracts Regulations, which form part of the Council's Constitution, provide a stronger focus on quality and how the social, environmental and economic wellbeing of our borough can be enhanced through delivery of each contract.

3.14 These Regulations will:

- Enable a change in the buying practices for below £100k spend, providing greater access for local suppliers to quote for works. The Councils under £100k spend equates to approximately £100m annual spend;
- Remove ambiguity around variations & extensions. Applying tighter controls and ensuring oversight of significant variations to larger contracts; and
- Ensure robust contract management practice to ensure that our suppliers are delivering their services to the required standards expected by our residents.

3.15 An overview of the principal amendments are included below:

- Regulation 11 - Procedures and Approval Process has been amended to reflect the new approval process for Low Value Spend (below £100,000). It now regulates the Council's 'Buy Local' principles and the use of the Council's new Business Directory for selection of suppliers:
  - **Contract values of up to £10,000** – officers are required to obtain at least one written quote from a local supplier if possible.
  - **Contract values from £10,000 and up to £100,000** – officers are required to obtain a minimum of three written quotes, with at least two from local suppliers, using the Council's e-tendering portal and processed via the Council's new Central Buying Team.
- Regulation 22 - Standards and Evaluation Criteria has been amended to encourage suppliers to provide better qualitative tender proposals with improved social value offers for Council services. **The evaluation criteria ratio has been changed to 60% Quality and 40% Price.** Social value has also been stipulated as being 10% of the quality score breakdown.

3.16 To ensure the successful implementation of these refreshed commissioning documents, it is vital that there is strong awareness across the Council. Once approved, these will be communicated and shared across the organisation.

#### **4. CONSULTATION**

4.1 The updated Commissioning Framework has been developed in consultation with officers across the Council, current suppliers, local businesses and the Voluntary, Community and Social Enterprise sector. Engagement with stakeholders will continue over the lifetime of the Framework to monitor progress and to further shape its development.

4.2 The Tender and Contract Regulations have been produced in consultation with colleagues from across the Council including Legal, Governance, Finance, Audit, Risk and Insurance.

#### **5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

5.1 There are no direct financial commitments as a result of the recommendations in this report.

##### **5.2 Future Savings/Efficiencies**

Whilst the Commissioning Framework itself does not commit any financial resources, the Framework and the principles set out within it will shape our commissioning approach and investment decisions. The approach set out in the Framework will focus spend decisions on delivering value for money, local priorities and outcomes.

5.3 There have been no risks identified.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk and S151 Officer

## **6. LEGAL CONSIDERATIONS**

- 6.1 The Director of Law and Governance comments that Members are requested to note that approval of changes to the Constitution are reserved to full Council and accordingly the proposed amendments to the Tender and Contract Regulations, are for onward recommendation to full Council for approval under the Constitutional processes.

Approved by: Sean Murphy Director of Law and Governance and Deputy Monitoring Officer

## **7. HUMAN RESOURCES IMPACT**

- 7.1 Where an employee or employees of the Council may be affected by a transfer arrangement, consideration must be given as to whether the change may invoke the Transfer of Undertakings (Protection of Employment) 2006 (amended 2014) Legislation; otherwise known as TUPE.
- 7.2 The appropriate TUPE protocols must be followed, such as the duty to provide information and consult as appropriate with the recognised trade unions and affected staff. Pension's issues must be considered and advice sought from the Pensions Team at an early stage particularly where employees are members of the Local Government Pension Scheme (LGPS) or Teachers Pensions scheme.
- 7.3 Where the Council is not the employer (either the current employer or the new employer) the application of TUPE, or otherwise, would be determined between the service providers. Nevertheless, where there is a service provision change for which the Council is the client, on that basis the role of the Council would usually extend no further than facilitating the process.
- 7.4 Advice and guidance on TUPE must be sought at an early stage from the relevant departmental Head of HR.

Approved by: Gillian Bevan, Head of HR Resources on behalf of the Director of Human Resources

## **8. EQUALITIES IMPACT**

- 8.1 An Equality Analysis has been undertaken to ascertain the potential impact the proposed change will have on protected groups. The new Commissioning Framework, Social Value Policy and revised Tenders and Contract regulations builds upon the achievements and progress made in commissioning to date and sets a single coherent framework and approach for the next four years

- 8.2 The Framework and the principles set out within it, will shape our commissioning approach and investment decisions, ensuring our spend is focused on delivering the Council's priorities. This approach will be evidence-led, recognising that services need to differentiate to respond to the differing needs across the borough. Officers' responsibilities including ensuring compliance with council policies and the Equality Act 2010.
- 8.3 Principles that will enable commissioners to make decisions in the interests of the residents, communities and businesses of Croydon. The supplier code of conduct has the principles and values below in relation to equalities and diversity.

#### Values

##### Valuing Diversity

Embracing equality and inclusivity and making the most of the many perspectives that make Croydon distinctive.

#### Principles

##### Equality and Inclusion

- We expect our suppliers to comply with the Equality Act 2010 when discharging their services and to promote greater equality and inclusion across the Croydon.
  - Suppliers should record equalities information and be prepared to share this with the Council when requested.
  - Staff should receive equalities training and records should be kept.
- 8.4 As the largest buyer in the Borough we lead the way and ensure fairness and equality are central to our commissioning processes and that these are embedded in our supply chain.

Approved by: Yvonne Okiyo, Equalities Manager

## **9. ENVIRONMENTAL IMPACT**

- 9.1 The Commissioning Framework, the Tender and Contract Regulations and the Social Value Policy have been designed to align with the Council's commitment to address environmental sustainability as an integral part of all activity.
- 9.2 As a result of the implementation of the Social Value Policy, it is expected that there will be a positive environmental impact.

## **10. CRIME AND DISORDER REDUCTION IMPACT**

- 10.1 There are no implications for these documents.

## **11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 11.1 Adopting the Commissioning Framework, Social Value Policy and the Tender and Contract Regulations sets a clear vision and direction for sustainable and ethical commissioning and procurement. This will also enable the Council to

achieve its corporate aims as set out in the Council's Corporate Plan 2018-2022.

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**CONTACT OFFICER:** Rakhee Dave-Shah, Head of Commissioning and Procurement (Corporate)

**APPENDICES:** Appendix 1 – Commissioning Framework 2019-2023  
Appendix 2 – Social Value Policy 2019-2023  
Appendix 3 – Tender and Contract Regulations

**BACKGROUND PAPERS:** None