

## **APPENDIX 5 - TRADE UNION COMMISSIONING AND PROCUREMENT PROTOCOL**

### **Version 2**

<b>Definitions</b>	
Strategic Commissioning	Describes a cycle of activity that begins by considering what evidence is telling us about our community, and then leads us to determine the needs of our local population and analyse what must be done to achieve the best possible outcomes within our available resources.
Service Commissioning	Incorporates an inclusive approach to the design, prioritisation, management, delivery and monitoring of services and is an ongoing, cycle which should focus on outcomes. It is not to be confused with outsourcing, however if service provision is potentially to be satisfied via a source external to the Council, it is often <i>procured</i> .
Procurement	Means the process by which we acquire goods, works, services and assets from external providers, spanning the whole life cycle from the identification of need (usually via a commissioning process), to the end of the useful life of an asset or contract or of the need for an activity
Outsourcing	Is where the Council has determined that service provision is to be satisfied by a source external to the Council or any of its associated companies.

### **1. Background**

- 1.1 Gateshead Council will involve and consult the recognised trade unions appropriately in the commissioning and procurement cycle and before any key decisions are made that may have an impact on employees.

- 1.2 The Council and the trade unions are committed to providing affordable, high quality services that meet the needs of local communities. The Council recognises that trade union involvement is positive for facilitating change (including transformational change), protecting the workforce, reducing costs, encouraging positive staff engagement and raising service standards.
- 1.3 There will be regular engagement and consultation with the trade unions throughout the commissioning process and trade unions will have an opportunity to input and comment on all aspects before key decisions are made. The parties will seek to agree structures and timetables that enable this to happen.
- 1.4 The Council will provide the trade Unions with access to any equality impact assessments, which include consideration of the impact on staff and on equal pay, to ensure 'due regard' to equalities considerations is taken.
- 1.5 A consistent and common approach, based on the principles of this protocol, will be applied by all Service and Strategic Directors to activities relating to commissioning that impact on employees.

## **2.0 Scope & Responsibilities**

- 2.1 All officers are required to follow this protocol in the key stages of any commissioning activities, service reviews, service transformation and/or procurement process involving changes to the number or terms and conditions of existing employees.

## **3 Service Review and Options appraisals**

- 3.1 Services will carry out a full options appraisal on a wide range of delivery models before any formal procurement process is commenced. Trade unions will be consulted over the appraisal method and assessment criteria as set out in the Commissioning Toolkit, and be consulted on the results of the options appraisal itself.
- 3.2 Prior to deciding to outsource any service, the Council will consider the implementation of a properly resourced in-house service improvement plan. This will form part of the options appraisal exercise.

## **4 The Procurement Process**

- 4.1 The Service Director for Corporate Commissioning and Procurement will send copies of the procurement work plan to the trade unions on a quarterly basis.
- 4.2 In the event that the Council decides to outsource a service, Trade unions will be invited to participate in the appropriate elements of the

selection or award process of contractors. The trade unions will be given the opportunity to play a role in the evaluation of specific and agreed areas of the tender, where the Council considers it appropriate to do so. This must be agreed upfront and potential bidders must be notified as part of the procurement process. Should any provider raise an objection to trade union representatives being involved in the appropriate elements of the selection or award process, the Service Director, Corporate Commissioning and Procurement will review this situation and if necessary facilitate their removal from the process.

## **5 Access to Information**

- 5.1 The trade unions will be given timely access to all of the relevant information at each stage of the service review options appraisal process.
- 5.2 Gateshead Council will seek agreement with bidders that will ensure appropriate and timely access by the trade unions to all relevant information following contract award for appropriate outsourced contracts.
- 5.3 Information that is provided to the trade unions, on the basis that they may use it for reasonable communication of relevant issues with their members and advisers will be clearly marked as such. All other information shared with the trade unions will remain confidential unless agreed otherwise with the relevant Service Director. The trade union(s) will be required to agree to ensure all information is kept securely.
- 5.4 Where the Council considers that any information is commercially confidential the union(s) will be informed that the information is being withheld and the reasons.
- 5.5 The Council will provide assistance to the trade unions in the interpretation of information and proposals if required.

## **6 Workforce Issues**

- 6.1 The Council is committed to workforce development which maximises opportunities for affordable training and development and recognises the positive role of trade unions and union learning reps in workforce development. A similar approach will be required from bidders for the local authority's contracts to provide services.
- 6.2 The Council will support its own compliance with the statutory public sector equality duty and its own equalities scheme(s) by including specific requirements for contractors to comply with equality legislation and improve equality for the workforce providing public services. Compliance with this requirement will be monitored as part of the overall contract monitoring arrangements.

- 6.3 Should the trade unions become aware of serious workforce issues between employees and their employing contractors, they will inform the Service Director, Corporate Commissioning and Procurement who will determine what, if any, action might be taken.
- 6.4 The Council will seek to ensure that employing contractors have appropriate methods of managing employee relations, to the extent permissible having regard to s.17 of the Local Government Act 1988 and the Local Government Best Value (Exclusion of Non-commercial Considerations) Order 2001/909,
- 6.5 The Council must ensure that where TUPE applies all contractors have Admitted Body Status (ABS) to the Local Government Pension Scheme (LGPS) or a pension scheme broadly comparable to, or better than the LGPS, in advance of the commencement of any contract.