Decommissioning Toolkit
A best practice approach to meeting changing needs and delivering value for money
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What is in this guide?

This guidance has been developed to support commissioners across the Council with planning and managing the decommissioning of services, provision or systems. It can also give service providers in any sector an indication of how the Council will approach the decommissioning of activities.

Decommissioning is an important part of the ‘commissioning cycle’ and in most cases, particularly where users of services are directly affected, along with those employed in commissioned services, requires a high degree of sensitivity, planning and professionalism.

This document will provide readers with practical advice on the process and best practice principles when decommissioning. Due to the wide range of services arranged by the Council, there is no ‘one size fits all’ model and as such this document should be considered alongside advice from the Commissioning & Procurement, Legal, Communications and Human Resources teams to ensure specific service or departmental needs are fully considered.

How to get additional support

For more information about this guide please contact the Commissioning Support Team Commissioning@croydon.gov.uk
1. An introduction to decommissioning

**What is decommissioning?**

Councils should periodically review and adapt services to ensure they continue to meet any changing local needs or in response to changes being implemented through national policy. The decommissioning of services is one way in which these challenges can be met so as to ensure they reflect changing priorities and budgets, as well as to effectively deal with poor service performance and/or safeguarding concerns.

We are defining Decommissioning as the withdrawal from or closure of an internal or external service and funding arrangement by ceasing payment of grants or the ending of a contract, service level or charge-back agreement.

Decommissioning is part of the commissioning cycle and should be undertaken in a planned way to ensure that the most effective services are delivered, making best use of the resources available. In some instances service reviews will lead to a process of ending a service or part of a service and ensuring a smooth transition to new or alternative service delivery model in order to achieve the right outcomes for customers. This will enable us to invest in new services in accordance with our strategic commissioning plans.

It is important to fully evaluate the potential impact of decommissioning on demand in other areas of service or sectors. The approach set out in this document is often referred to as ‘strategic decommissioning’ which aims to describe a more outcome focused long-term approach.

**Strategic decommissioning**

Strategic decommissioning is about integrating the process of decommissioning former arrangements with the commissioning of new ones - not simply closing services or facilities but in parallel:

- developing new approaches to meeting customer needs;
- conducting a controlled shutdown of existing ways of working;
- appropriately signposting alternatives;
- ensuring that at the end of the process customer and organisational needs have been met.

The Council will always take a strategic approach to decommissioning. Any decommissioning plans must include details of alternative service provision, risk mitigation measures and comprehensive impact assessments including equalities impact assessments.
**Why should decommissioning take place?**

As part of the commissioning cycle, service managers undertaking decommissioning activities should assess the level of performance, strategic relevance and value for money being delivered by a service in order to inform decision making as to whether or not a service is fit for purpose. Factors leading to decommissioning can include the following:

- Current services are not delivering the desired outcomes;
- Current services are not meeting equality criteria leading to unlawful discrimination, for example, an existing provider not adhering to standards around safeguarding children or adults and is not actively eliminating likely events of unlawful discrimination;
- Economic circumstances requiring public sector organisations to review and change their service provision;
- A review of the needs of the population and recognition of the benefits of alternative service models (on an evidence-led basis) indicating a need for services to be reconfigured;
- The personalisation of services and introduction of individual budgets leading to changes in demand and the need for commissioners to reduce any over-supply of services;
- Increasing costs an efficiency review or audit, causing the authority to evaluate the value for money of current services they commission;
- Performance management issues in a service that cannot be resolved leading to decommissioning;
- Where services have been purchased on a block contract with an agreed volume of service, the local authority may need to decommission some volume if the number of people using the service falls and the authority remains liable for the costs;
- Providers may initiate the need to change a service if, for example, they experience major financial difficulties or their business plans require a change of focus (such as refocusing on their core business), and
- A natural end to the contract where the previous provider has not won the new contract.

As services are reviewed, reconfigured and potentially decommissioned, it is important to remember that decommissioning is only one of a number of options for commissioners to consider. Consideration should be given to maintaining and developing existing services, and negotiating changes in contracts to facilitate change.

**National policy context**

Decommissioning is not simply another way of talking about cuts; future service innovation will depend on not only being able to commission new arrangements by successfully decommissioning previous ways of working, but by freeing up the necessary resources to focus on core customer needs and demands. However, the current drive for efficiency savings places significant pressure on commissioners to ensure ever greater value for money.

Authorities have been challenged to develop for example:

- Preventative measures that can defer or delay people needing longer-term services
- More cost-effective interventions that achieve better outcomes at lower costs – possibly requiring service redesign and decommissioning.
National drivers may further present themselves in the form of service specific policies, legislation or quality standard directives requiring implementation on a local level. Recent examples of these include the Localism Act, the Partnership Agreement led by the social care sector, Think Local, Act Personal and the mandatory Carbon Reduction Commitment Energy Efficiency Scheme for instance, and each of these has had a significant impact on how the Council runs and delivers its services.

The personalisation agenda

Through the Putting People First programme, the personalisation agenda is a significant driver for social care services. Personalisation has been further reinforced under the current government through the Health and Social Care Bill and white paper - ‘Caring for our Future: Reforming Care and Support’. Where individuals are now being supported to make individual choices about the service they wish to receive, Councils, the NHS and other organisations are now expected to re-engineer their assessment processes so individuals can have the option of commissioning and purchasing their own support and care arrangements.

As a result it is likely that demand for services commissioned directly by the council from social care providers (particularly those arranged through block contracts) will diminish, in favour of individuals contracting directly with providers, either personally or in groups. It is expected that the local authority will maintain investments in some types of provision and seek to shape markets, encourage and influence diversity and support the expansion of individual purchasing.

When should immediate decommissioning be considered?

The need to decommission a service should not come as a surprise. There may, however, be rare occasions when decommissioning has to take place in response to unanticipated events. Even in these circumstances decommissioning should always be well planned and managed through pre-emptive measures taken in effective contract management processes such as provider and commissioner contingency and business continuity plans. Unanticipated decommissioning may take place where:

- The current provider is failing to deliver the service. This could be due to poor performance/quality of service or where a provider has breached a contract, for instance as a result of a safeguarding failure;
- The current provider seeking early termination where they decide they can no longer provide the service as a possible result of financial difficulties;
- The current provider changing the nature of the service they provide without notice to the Council or strategically as part of a business plan review refocusing their core business;
- In-year budget cuts that render funding for a service to be unsustainable (this is only relevant when considering discretionary services).
General principles for decommissioning

The mark of well executed decommissioning will show that good communication, transparency, stakeholder involvement and change plan are well thought out and implemented.

The following six principles should be considered in any decommissioning decision making and planning process.

1. Understanding the commissioning cycle

» Decommissioning is an integral part of a commissioning cycle. The point at which decommissioning is more likely to take place is at the end of an agreed contract period or time-limited funding stream. Because all sorts of unforeseen eventualities can occur within a contract period, however, the terms of any contract entered into by the Council need to provide options for planned and unplanned decommissioning.

» Commissioners should never wait until the service contract is due for renewal before starting to review the contract and quality of provision or highlighting the need to review this through procurement.

2. Ensure transparency and fairness

» There should be transparency in the decision making process. It should be fully clear why a decision has been taken to decommission a service, and this needs to be understood and shared by all stakeholders.

» A comprehensive equality impact assessment (EQIA) will help to shape the decision on whether or not to decommission. It is not only good practice but it is part of the public sector equality duty to complete an initial EQIA when considering decommissioning.

However it is not simply about completing an EQIA, it is important to also consider whether by decommissioning it may eliminate the current equality of opportunity between people who share a protected characteristic or it creates an environment where unlawful discrimination is heighten.

Further information on the completion of an EQIA can be found on the Equalities intranet.

» Time for effective engagement should always be built into the decommissioning project plan. In advance of this, service / contract review engagement exercises should be planned and scheduled into the Public Consultation Engagement Calendar where they are then logged and managed through the engagement system and the corporate Forward Plan. More information on consultation and corporate support can be found on the Public Consultation page.

3. Maintain ongoing communication

» A sound communications strategy will help to ensure that the process of decommissioning is ultimately successful through the full engagement of users, staff, elected members, providers and the media, where appropriate.

» When decommissioning is considered, it is important to make contact with the Communications Team, particularly if the decommission of a service may attract media interest and always where vulnerable and protected groups of people are affected. The team will assess the level of support that will be needed from them in the decommissioning process and agree the appropriate communication channels with you.

» When developing a communications plan please consider what different messages may be needed for the following groups:
Service users
For service users, the decision to decommission a service may mean they start to use an alternative provider or that support is provided in a different way. Safeguarding the welfare of current and potential service users must be a key priority throughout the decommissioning process as the withdrawal of funding or change in the service they receive may have a significant impact on their lives. This may well require a phasing out period that is specific to service-users especially for very specialist input.

Service providers
Decommissioning may have an impact on a provider’s financial stability. Therefore it is important to ensure that a provider is involved early in the decommissioning process so that they can also plan and prepare for the change in their businesses.

Providers also have a responsibility to ensure that the decommissioning process is transparent to staff where appropriate and that the welfare of staff involved in providing the service is protected through proper consultation between the service provider and the commissioning authority.

Managing change where staff face uncertain prospects is always a challenge.

Commissioners need to ensure there is sufficient time allocated for providers to seek advice on employment and legal issues.

Stakeholders
Stakeholders may include referral agencies, linked services or statutory / strategic partners; all should be informed once a decision to decommission a service is made.

Commissioners should seek legal advice regarding information that can be shared with stakeholders at different stages of a decommissioning process to help ensure effective cooperation, planning and coordination.

4. Proactively identify and manage risks
- It is best practice to develop a risk assessment and management plan for all decommissioning processes with consideration given to proportionality in respect of scale and impact of the service.

There should be clarity with all involved parties about the risks involved in the process, and the approach being taken to manage such risks. The detailed decommissioning process provides guidance on risk assessment.

5. Consider partnerships
- The local authority should work with all internal and external stakeholders and / or strategic partners to achieve a smooth transition, with particular regard for service users and staff.

- We should consider any likely impact on partner organisations and involve them in the process.

- The concept of partnership working should be embedded in the contract management process and as such will also support the development of a new service, specification or quality standards if applicable.

6. Consider proportionality
- Decommissioning exercises should be proportionate to the scale of the service and degree of impact it has.

- The guidance set out in this document provides best practice guidance to be undertaken at each stage of the process.

- Some aspects, however, may be considered to be unnecessary or too laborious when decommissioning a small, generic and under-utilised service.
Decommissioning team – Roles & Responsibilities

Roles and responsibilities need to be clearly established in advance for the decommissioning of services. Whilst this is a decommissioning guideline, the following table is also relevant for the commissioning of services.

When decommissioning takes place, a named officer should be identified to manage the process and be the main contact for providers and service users. The appropriate governance arrangements need to be clearly understood to ensure any decisions are taken at the appropriate level and that progress is regularly reported. Commissioners need to consider the following roles on page 11.
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<th>Role</th>
<th>Responsibilities</th>
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| **Members (eg Scrutiny)**                 | • Review departmental commissioning plans  
• Review changes to policies appropriate to the commissioning activity                                                                                         |
| **Governance board**                      | • Determines the appropriate decision-making process  
• Approves the commissioning and decommissioning recommendations  
• Provides quality assurance and challenge to the commissioning and decommissioning process  
• Leads stakeholder engagement and communications                                                                                                           |
| **Lead Commissioner** (e.g. Director or Head of Service) | • Leads the decommissioning process and development of service review or strategy  
• Identifies the scope, requirements and makes recommendations to the Governance Board  
• Ensures that the data, evidence-base and other information is accurate and robust  
• Sign-off business cases for individual service decommissioning                                                                                           |
| **Service lead** (e.g. Commissioning Manager) | • Implements stakeholder engagement and communications plan  
• Manages communications with individual providers  
• Ensures the provision of performance data and details on emerging needs is available to inform the decommissioning process  
• Works with providers to develop the business case for change and present cases to the Contracts and Commissioning Board or if appropriate to the Corporate Services Committee for decision  
• Manages the operational decommissioning process  
• Manages a transition plan to the new service delivery arrangements                                                                                     |
| **Category Manager (SCPP)**               | • Leads on the spend and market analysis / development aspects in category and service strategic reviews  
• Manages the allocation of commissioning and procurement activities in the category wheel.  
• Provides a steer and guidance around the process  
• Provides a lead on sourcing strategy and best procurement route.                                                                                       |
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<thead>
<tr>
<th>Role</th>
<th>Responsibilities</th>
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<tr>
<td><strong>Finance officer</strong></td>
<td>• Ensures the availability/use of accurate data on existing spend and forecasted</td>
</tr>
<tr>
<td>(e.g. Departmental Finance representative)</td>
<td>available spend is accurate and inform commissioning and decommissioning possibility</td>
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<tr>
<td></td>
<td>• Supports the service lead in mitigating risks related to funding in contract</td>
</tr>
<tr>
<td></td>
<td>wind-down and transition to new arrangements</td>
</tr>
<tr>
<td><strong>Legal services</strong></td>
<td>• Provides legal advice when consulted by lead commissioner / contract manager /</td>
</tr>
<tr>
<td></td>
<td>procurement division / service lead</td>
</tr>
<tr>
<td><strong>Provider</strong></td>
<td>• Partnership working approach to ensure a smooth transition to new provider</td>
</tr>
<tr>
<td></td>
<td>• Ensure continuity of service until new provider commences</td>
</tr>
<tr>
<td></td>
<td>• TUPE implications realised and communicated to appropriate Commissioner</td>
</tr>
<tr>
<td></td>
<td>• Necessary transfer of data – HR, Health &amp; Safety, historical or site specific</td>
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<td><strong>Additional support:</strong></td>
<td>• Project and risk management support</td>
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<tr>
<td>Corporate Programme Office</td>
<td>• Engagement and public consultation guidance</td>
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<tr>
<td>Customer Strategy &amp; Development</td>
<td>• Advice on the Equality Impact Assessment</td>
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<td>Corporate Equalities team</td>
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Legal considerations and best practice

A contract or partnership funding agreement with a service provider can be terminated during its life time using the termination clauses (where applied) and in the case of a contract when it comes to a natural end. It is important to understand the legal position regarding the terms of funding and whether there may be any legally enforceable expectation that funding will continue. Conversely, there may be provisions under which the Council can claw back some or all funding, in the event of early termination of the service.

The following provides an outline of the Council’s legal duties that commissioners must consider:

- **Legitimate expectation**: where an organisation could have a legitimate expectation of continued funding, commissioners should provide at least six month notice to the organisations to inform them that the contract is coming to an end;
- **Consultation**: where there is a duty to consult, sufficient time must be given to comment on the proposals and take place when these are still at a formative stage. The feedback of the consultation must be taken into account when making decisions;
- **Fairness**: There should be transparency and openness in the decision making. Where there are set procedures these should be followed, there must be no pre-determined issues and the Council must give reason/s for a decision;
- **Lawfulness**: The Council must not act beyond its powers and can only take action on what it is allowed by law to make;
- **Reasonableness**: The Council must not act irrationally and decisions must be reasonable and proportionate;
- **Equality**: If appropriate to the service the Council should undertake an equality impact assessment and ensure it considers the various equality issues fully.

Prior to commencing any decommissioning activity the following best practice principles should be undertaken in respect of ensuring basic legal implications are considered from the outset:

- Clear legal terms for the termination of contracts should be set out at the beginning of any contractual relationship, this will typically be in the contract Terms and Conditions;
- The contract should be checked at the start of any service decommissioning and ensure the agreed terms are understood and adhered to throughout the process – this should include the agreed end date and notice period. This is to minimise the risk of failing to comply with legal, financial and statutory duties;
- TUPE (Transfer of Undertakings & Protection of Employment) protects employees who belong to the undertaking of an organisation. Where this applies implications upon expiration or termination of the contract should be checked at the start of the decision process as any new supplier will need these details in advance of a transfer taking place. The implications will, in some cases, dictate timescales. Effective management of TUPE is essential and expertise should be brought in to avoid the exercise running into technical difficulties, over-running and incurring greater expense;
- Commissioners should ensure that any existing SLA’s (Service Level Agreement) and/or performance indicators are still valid or renegotiated and that they include the transition or decommissioning process.

For further advice on Legal considerations please contact the Council’s Corporate Legal Team.
Section 2 – The Decommissioning Process

The four stages of decommissioning

1. Prepare
These are the activities that should be undertaken before a decision to decommission a specific service is taken and will contribute to the success of the process when it is needed.

This is about ensuring there is the right environment for decommissioning, including the right policies and processes and the right levels of expertise.

2. Decide
This is the approach to making a decision about a particular service, and will include consideration of what services are needed, what are the financial implications, and whether there are any contractual restrictions.

There will need to be the appropriate level of consultation and engagement with stakeholders, particularly service users.

3. Do
This is the actual process of decommissioning a service, and includes the need to communicate effectively with a range of stakeholders, as well as ensuring smooth transitional arrangements.

4. Review
This ensures lessons learnt can be applied to any future decommissioning and should particularly inform the preparation stages of the process. The decommissioning of services should be undertaken against a background of ongoing performance management and the review of services. Equally, it is important to have developed a constructive relationship with providers. This will not only inform any decommissioning decision (given their knowledge of the service), but will also support the decommissioning process itself.
Decommissioning and the category wheel

The category wheel sets out the 21 typical activities to be undertaken within the overall commissioning cycle. As decommissioning is an integral part of the commissioning cycle, this also forms an integral part of the sections of the category wheel. The illustrated diagram shows where activities are focused across the category wheel. The information that follows provides guidance on how each stage of the decommissioning process fits with the relevant section of the category wheel.

- **Legacy issues**
  We may still be managing some legacy issues from decommissioned service.

- **Transition**
  Practical work at this stage possibly winding down one service and beginning another with an emphasis on minimizing disruption.

- **Tender**
  At this stage we will know if service needs to be decommissioned and practical planning should start in earnest. This should include face-to-face meetings with existing provider.

- **Changing needs**
  Evidence-base or business requirements may indicate a need to consider decommissioning.

- **Spend analysis**
  May indicate need to consider decommissioning.

- **New entrants to the market**
  Or more effective models might be revealed. Consider decommissioning.

- **Category Strategy**
  Will capture the above and determine new sourcing strategy. Messages may be indicated to the market.
Stage one - Prepare

Preparation stage is about ensuring there is the right environment for decommissioning, including the right policies and processes and the right level of expertise.

Category wheel - activity link: Through ongoing contract performance management (Manage section), ensure regular engagement with suppliers. As part of the contract and service needs review (Review section), commissioners should assess the extent to which services are delivering the intended outcomes and providing optimum value for money. This is critical to informing decision making as to whether or not a service is fit for purpose and should be decommissioned.

Contract management review

Contract Management is the process that enables both parties of a contract to meet their obligations in order to deliver the objectives required from the contract. It is also an opportunity to build a good working relationship between the Council and its contractors. The Contract Management manual complements and should be used alongside this toolkit.

Initial discussions and contract negotiations with proposed service providers will offer an ideal opportunity to put in place clear specifications for the service and set out the mechanisms for managing any changes which are required. This process also offers an opportunity to formally agree criteria and a framework for possible future decommissioning. Building this in at an early stage may prevent difficulties later when services need to be reconfigured.

Commissioners should ensure appropriate monitoring and evaluation requirements are in place which are proportionate to the scale and impact of the service. Data here will help determine how well a current service is delivering outcomes, contributes to decisions around renewing the contract, changing the service and tendering for a new contract. A service provider will also often be aware of issues within a service before the commissioner does and so this highlights the need for regular communication outside of the review process to also help identify issues.
Communication plans

Any changes of a service provision will affect service users, the local authority and service providers including their staff. All stakeholders must be kept informed and consulted throughout the decommissioning process. Although stakeholders may differ for each service; however as a minimum the following stakeholders need to be informed:

- Providers (including their staff)
- Service users (i.e. residents, young people and carers if applicable)
- Internal Council staff (Category Manager, Commissioning Support Team)
- Commissioning partners (eg. NHS bodies, particularly joint commissioners)
- Elected Members, including portfolio holders, Scrutiny Committee
- Neighbouring local authorities where services are shared or there are interdependent dynamics such as overflow or re-commissioning impacts
- The wider public and the media (this should be approached via the Communications Team)

There are existing engagement and consultation mechanisms in place such as the public consultation engagement calendar and consultation management system, and it is important that these are recognised and utilised to avoid duplication and maximise transparency with our external partners and stakeholders.

The key here is to be clear what decisions have been made and why, and what are the areas subject to consultation and change. This will help to avoid unrealistic expectations and disappointment.

Risk Assessment

There are a number of risks associated with the review and reconfiguration of services and as part of this “Prepare” stage commissioners should prepare a risk assessment as part of the decommissioning exercise.

For capital and large scale projects, it is best practice to use the Council’s JCAD Risk system to record and manage risks. The Corporate Programme Office can provide guidance on risk assessments for all exercises. Alternatively a useful Guide to Risk Management can be found on the Risk Management intranet page.
Stage two - Decide

This stage sets out the approach to making a decision about a particular service, and will include consideration of what services are needed, what are the financial implications, and whether there are any contractual restrictions or requirements.

Category wheel - activity link: The development of a Category Strategy (Analyse section) provides the main opportunity to review decommissioning options. This means that decommissioning is not considered in isolation and the potential impact of decommissioning one service is considered in the context of the category or categories as a whole over the medium term.

A decommissioning options appraisal will help to draw on the conclusions from contract and category reviews as well as:

- **A needs analysis & business requirement (Identify Stage)** - undertaken to understand the needs of current and future service users and explore what services are required to meet these needs.

- **Market & supplier analysis (Analyse Stage)** - undertaken to assess the capacity of the market and identify potential alternative delivery models and service providers.

- **Resource analysis (Analyse Stage)** - undertaken to assess the availability of resources (i.e. people, budget, providers)

Although tendering is not a direct part of the decommissioning process itself, it is essential that at the tendering stage contract negotiations with potential service providers result in clear outcome based specifications for the service, and agree the criteria and framework for possible future decommissioning, including transition arrangements. This minimises difficulties in the future if services need to be decommissioned.

- **Understanding what services are needed**

Decommissioning a service should be carried out in the context of a review of service provision required to address the needs of service users. This review can be used to assess whether the services currently offered are appropriate, effective and affordable and whether they continue to fit in with the strategic priorities of the local authority service. The review will need to consider the individual needs of existing service users and how these are currently being met through the service. It is important that all the alternative options for the service have been considered and there is a clear rationale for the decision taken.

One of the challenges for commissioners is the level of consultation about the decommissioning decision, particularly amongst existing service users. For some, it is helpful to differentiate between consultation on the decommissioning decision itself and consultation on what individual service users want in the future. It is important to be clear at the outset about what decisions have been made and why, and the areas that are subject to consultation and change. This will help to avoid unrealistic expectations and disappointment.

Risk assessment should be revisited and teased out further in this ‘Decide’ stage. If nothing, it enables the Commissioner to revise old and include new risks following discussions.
Provider issues

Government advice states that local authority representatives should meet with representatives of the service provider initially to address any issues before a formal process of decommissioning commences. A contract may be nearing its end so it may be appropriate to allow it to continue to its conclusion. However it is important to follow standard contract termination procedures as necessary; this is detailed further in the Formal Notification to Provider section below.

Finally, it may be necessary to terminate a contract if it can be demonstrated that a service has not been provided according to the contract terms and it is not likely that this can be put right. Such a process is likely to be disruptive to service users so it is important to ensure a mutual transitional agreement with the service provider can be achieved.
Stage three - Do

The ‘Do’ Stage covers the actual process of decommissioning a service, and includes the need to plan carefully and communicate effectively with the range of stakeholders to ensure smooth transitional arrangements.

Category wheel - activity link: The ‘Manage’ section of the Category Wheel sets out the planning and management of transition and contract implementation activities and as a critical part of the decommissioning process requires careful consideration to minimise risks and disruption to service delivery. Further detail is provided in the Transition Planning section below.

Regular engagement with service providers will help to prepare the way for the potential decommissioning of a particular service. Working closely with service providers provides an opportunity to address delivery issues in the first instance and plan and prepare for the implications of decommissioning.

▶ Project Plan

The complexity of the decommissioning process is such that it is critical to draw up a project plan as early as possible in the process, if only to highlight the areas needing further work and attention.

The project plan will need to map out key milestones and activities in relation to existing timescales and dates, and should include:

▶ An approach to understanding what existing service users need from future services;
▶ Development of a communication plan for staff, service users, elected members and other stakeholders;
▶ Development of a financial plan which includes the costs associated with decommissioning, and how any resources released during the process will be re-used;
▶ A review of any contractual issues relating to the service itself, i.e. buildings, physical assets and staff;
▶ Transitional and mobilisation (if applicable) arrangements for when the service is decommissioned (and re-commissioned as necessary), which include consideration of any safeguarding and data protection issues as well as the needs of service users if applicable;
▶ Development of an Equalities Impact Assessment that is proportionate and covers the impact on the vulnerable groups/protected characteristics as well as individual staff/service users. A further detail on the Equality Impact Assessment is provided overleaf.
Equalities Impact Assessment (EQIA)

An EQIA will consider whether the decommissioning will result in any unintended consequence for the protected groups that a service supports. The assessment will utilise any equality information gathered from consultation, performance monitoring and feedback from service managers and stakeholders. This information will help commissioners to understand the actual or potential effect of the decommissioning exercise, identify any practical steps to tackle negative effects or discrimination and also identify steps to positively advance equality and foster good relations.

Equality factors to consider when undertaking an EQIA on a decommissioning decision include:

- Does the service have a high relevance to equality and diversity?
- Is there evidence to show how the service impacts on different groups?
- Has service monitoring identified the benefit to the equality group affected?
- If the impact is positive, how will this be safeguarded?
- If the impact is negative, what solutions will be considered?

Council guidance states that an EQIA must be conducted in a systematic and consistent way across the Council. There are two stages to the assessment, an Initial EQIA (carried out as early as possible in the process) to identify whether in-depth assessment is needed and a second, full, EQIA which will assist the decision making-process. The EQIA guidance and templates can be found on the intranet.

Formal notification of the service provider

A key element throughout this process will be to keep the provider fully informed to ensure that the risk of a legal challenge is minimised. Depending on the type of service being provided the notice period could be as long as one year, and it is, therefore, good practice to maintain the contract on the London Contracts Register managed by the Commissioning and Procurement Team. Currently only contracts of £100k and above are published on this register. This register should be reviewed regularly to ensure that preparations for decommissioning (if required) commence on time.

Once a decision to decommission is confirmed, the provider should be notified in writing with a Formal Notice of Contract Termination. The notice must be in line with agreements in the contract terms and conditions. A minimum notice period is three months, but the length of time required for a service wind-down and transition to new arrangements may need to be longer, depending on the individual situation and overall decommissioning project plan.

- The notice will reduce the risk of the provider learning of the decision through informal channels, potentially damaging their working relationship with the local authority and affecting the service provided to users.
- The final contract payment will need to be agreed taking into account the contract end date (as specified in the contract) and incorporating any processes to verify the payment into the agreed timescales. For contracts providing services to all departments (i.e. Facilities management) an internal audit may need to be carried out to ensure there are no outstanding works or services.
Information to be included in the notification would should include:

- Advice of the formal decision to decommission the service;
- Confirmation that the notification constitutes notice of termination under the terms of the contract, and the date the notice period runs from;
- Information about any appeal procedure and a formal statement that this appeal period has commenced;
- Details of other organisations and individuals to be informed;
- Advice on dealing with any new referrals to the service provider;
- The name and contact details for the officer responsible for the decommissioning process.

### Agree transitional arrangements

Where a decommissioning process is likely to occur over a standard 3-6 month period it will be useful to agree a plan with the service provider to ensure a smooth exit and transition.

The exit strategy or risk management plan will ideally have been put in place as part of the original contract negotiation and at this stage it will need reviewing for appropriateness. The original contract should include a clause on ‘Transition to another Contractor’. This can provide guidance as to what the current provider should provide and comply/assist with.

A transition plan (sample template is in the annex) will draw upon learning points obtained through review meetings, consultation and impact assessments. It will identify all risks and be tailored to the individual contract however specific consideration should be given to the following elements:

- Continuation of agreed service standards, with particular regard to service users;
- The proposed timescale for the decommissioning process;
- Agreement to share and transfer full information with the local authority or new service providers. This is often difficult to achieve in practice and needs attention early in discussions with the provider to minimise disruption for service users;
- Handover and future use of buildings, physical assets and staff;
- Where decanting (transfer of service or emptying accommodation) has been identified, this will need to be reflected in the transitional contract arrangements. Commissioners may want to consider an interim spot contract arrangement for instance where payments to a decommissioned provider are reduced as services are closed through review (sample template is in the annex);

- Arrangements for staff involvement/redeployment as required, including TUPE considerations where appropriate;
- A plan for both parties to respond to press and public enquiries;
- Confirmation of arrangements for financial settlement at the conclusion of the contract.

It should be noted that even if a service is to be re-tendered and a current provider will bid, a transition plan needs to be in place in case they are not successful. TUPE implications must also be considered.
Decommissioning can sometimes involve re-tendering for a new approved list or a framework which allows the Council to call-off providers from that list when required using a call off procedure. In some cases the current providers may not win the opportunity to be on the list; an example is Home Care Services where some current providers who have our residents on their books were unsuccessful in making it onto an approved list. In such a case we refer to this as a ‘legacy provider’.

As the duty of care remains with the Council it is important to pre-empt risks that can be associated to such situations, these may include:

- Lack of resources of a legacy provider leading to a closure of the business;
- A backlog of service users on the system that are waiting to be reallocated if closure occurs;
- Carers of the legacy provider may wish to move on elsewhere to seek employment which may result in inconsistency in the care or familiarities that service users are used to receiving;
- Increased complaints from service users if the quality of care falls;
- Service users may not wish to move to a new provider on the approved list or may not want to stay with the legacy provider.

The Council needs to be able to continue to ensure quality service is provided; as such any arrangements with legacy providers must be clear. Commissioners should prepare to mitigate any risks by providing guidance for legacy providers that include:

- An agreement that sets out the expectations of the Council and provider going forward;
- Advise that the Care Quality Commission (CQC) inspections will continue to take place to ensure safeguarding procedures meet requirements, and where there are pre-placement contracts, the safeguarding procedures within this should be meet;
- Confirm any moving arrangements of service users if the unforeseen occurs;
- Confirm communication arrangements such as how and who to contact for assistance and ongoing feedback or monitoring;
- Offer the opportunities to take part in future tendering.

- Conflicts of interest

Both Lead Commissioners and Contract Manager should be careful to ensure that any potential conflicts of interest are managed 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

The need for confidentiality throughout the process must be made 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.

- Environmental impact

Clarify any environmental impact, risks and mitigating actions needed to be addressed due to change in services.

- Legislative requirements

Identify and adhere with any service specific legislative requirements, obtaining a legal viewpoint if necessary to mitigate risks to the Council.
Stage four - Review

The ‘Review’ Stage seeks to feed learning into the process and apply to any decommissioning activity in the future. It ensures that lessons learnt can be applied and performance management is being captured to inform the Council’s data management and performance information.

**Category wheel - activity link:** at this stage there is no specific activity link from the Category wheel. However once the decommissioning process is complete it is important that time and resources are allowed for a review of its effectiveness and for any lessons learnt to be shared.

The review should ideally include the main stakeholders in the process, i.e. service users, representatives of the service provider, council staff and elected members. It should be directed towards ensuring that the procedures in place for decommissioning are robust and effective.

The review should consider key stages of the decommissioning process and ask the following questions:

- Was there sufficient preparation for the decommissioning activity, with the right policies and resources in place?
- Was the decision making process appropriate and effective?
- Was the right level of communication applied at each stage of the process? Were any communication difficulties managed effectively?
- Was there sufficient support for the process in terms of decision making and resources?
- Did the service contract help or hinder the process?
- Were there any barriers to implementing the process effectively and on time?

Once the decommissioning process has been reviewed it is important that any learning from the process is shared and feed into the planning of subsequent decommissioning exercises.

1. Figures based on initial scoping
Key related documents to consider

▶ Internal links

Contract Management Handbook
http://intranet.croydon.net/finance/procurement/publications-documents/handbook/

Corporate Programme Office
http://intranet.croydon.net/finance/CPO/default.asp

Equalities Guidance
http://intranet.croydon.net/corpdept/equalities-cohesion/eia/

Procurement – Useful Procurement Links
http://intranet.croydon.net/finance/Procurement/contacts/useful-links.asp

Public Consultation
http://intranet.croydon.net/finance/customerservices/public_consultation/

Risk Assessment
http://intranet.croydon.net/Finance/Performance/risk-management/default.asp

▶ External links

London Contracts Register
http://www.londoncontractsregister.co.uk/public_crs/

For a more detailed advice regarding decommissioning of a specific service please contact your relevant Category Manager, alternatively you can contact the Commissioning Support Team at commissioning@croydon.gov.uk
Good practice decommissioning – a checklist for commissioners

- Has a lead officer or project manager been identified who has access to support as needed?
- Is there a clear project plan for the decommissioning including clear milestones which fit with stakeholder decision making structures, and allow time for effective communication? Is there scope for some flexibility within it?
- Is it clear what the legal requirements of the process are, and how they will impact on timescales in particular?
- Is there a clear communication plan which includes all stakeholders?
- Is there ownership of the project plan both corporately and politically?
- Does the project plan allow for an impact assessment and a risk assessment (if not already completed)?
- Have all of the key stakeholders been identified and is it clear what their role will be in the process? When and how will they be involved?
- Is the process appropriate and proportionate to the size and impact of the services, their complexity or sensitivity?
- Is the decommissioning process fair and transparent with equality and impact assessments and engagement plans well-planned?
- Has a risk been agreed and a process put in place to proactively manage the risks?
- Are there clear transitional agreements for service users which have been agreed with the provider, and minimise impact on service users? Do these include proposed timescales, ongoing communication arrangements, and an agreed approach to the sharing of information?
- Is there an agreed approach to the evaluation of the decommissioning process?
- Does this evaluation process include other stakeholders?
- Is there a mechanism for sharing any learning from this evaluation process?
Appendix B

Good practice decommissioning – a set of templates for commissioners

- This planning template sets out themes of consideration for each service transition exercise.
- It should be completed at least 6 months before the contract is due to end.
- Officers are asked to consider sub tasks specific to their work area and each exercise. These are then to have lead officers allocated to each with the target completion date entered under the relevant Month / Week section.
- This plan is to be reviewed at least monthly, progress against tasks is to be updated with the following RAG status. This plan will form part of the CCB progress reporting process.
This planning template sets out themes of consideration for each service transition exercise. It should be completed at least 6 months before the contract is due to end. Officers are asked to consider sub tasks specific to their work area and each exercise.

These are then to have lead officers allocated to each with the target completion date entered under the relevant Month / Week section.

This plan is to be reviewed at least monthly, progress against tasks is to be updated with the following RAG status. This plan will form part of the CCB progress reporting process.

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### Transition Plan

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This template has been designed to support officers with the decommissioning and decanting of accommodation-based services / contracts which require resident transition (typically social care / housing). A well-managed service decant is critical to the timely delivery of a decommissioning exercise.

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Appendix 2 | 28
Who can I contact for more information?

If you would like further information on this strategy please e-mail: commissioning@croydon.gov.uk
To speak to someone please call 020 8726 6000 and ask for the Commissioning and Procurement Team.